

ORDINANCE NO.	<u>2025- 42</u>	FIRST READING	<u>August 11, 2025</u>
		SECOND READING	<u>Waived</u>
INTRODUCED BY:	<u>MARK PORTER</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;

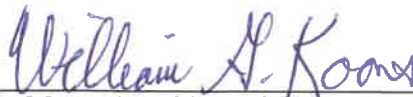
NOW, THEREFORE, BE IT ORDAINED, by the Council of the Village of South Russell, Geauga, County, Ohio that:

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 2025 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. 2025 - 42 was duly enacted on the 11th day of August, 2025, by the Council of the Village of South Russell, and published in accordance with the Codified Ordinances of the Village.

Danielle Romanowski
Fiscal Officer

INSTRUCTIONS FOR INSERTING
2025 REPLACEMENT PAGES
FOR THE CODIFIED ORDINANCES OF SOUTH RUSSELL, OHIO

All new replacement pages bear the footnote “2025 Replacement.” Please discard old pages and insert these new replacement pages as directed in the following table.

Discard Old Pages

Insert New Pages

PRECEDING PRELIMINARY UNIT

Cover and Certification Page

Cover and Certification Page

PRELIMINARY UNIT

11, 12
13 through 20
22A through 24
29 through 32
42A, 42B

11, 12
13 through 20
22A through 24
29 through 32
42A, 42B

ADMINISTRATION CODE

21, 22
25, 26
29, 30

21, 22
25, 26
29, 30

TRAFFIC CODE

Table of Contents through 4
7, 8
12A through 14
65 through 70
73 through 76B
87 through 88D
95, 96
103 through 106
121, 122
153, 154
165, 166

Table of Contents through 4
7, 8
12A through 14
65 through 70
73 through 76B
87 through 88D
95, 96
103 through 106
121, 122
153, 154
165 through 168

Discard Old Pages

Insert New Pages

GENERAL OFFENSES CODE

8A through 10B
23, 24
30A, 30B
30G through 30H-4
30K through 30N
30Q through 30X
37 through 40
46I, 46J
46-O, 46P
49 through 50B
52M through 54
71 through 76
78E, 78F
97, 98

8A through 10B
23, 24
30A, 30B
30G through 30H-4
30K through 30N
30Q through 30V
37 through 40
46I, 46J
46-O through 46T
49 through 50B
52M through 54
71 through 76
78E through 78H
97, 98

PLANNING AND ZONING CODE

9, 10
23 through 34

9, 10
23 through 34

**CODIFIED
ORDINANCES
OF
SOUTH RUSSELL
OHIO**

Local legislation current through January 13, 2025
State legislation current through December 31, 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 January 13, 2025.

/s/ William Koons
Mayor

/s/ Danielle Romanowski
Fiscal Officer

BINGO

definitions	624.01(r) et seq.
exceptions	624.13
instant bingo	
charitable organizations	624.09
conduct	624.07
electronic	624.17
prohibited conduct	624.17
location	624.10
veteran's or fraternal organization	624.14
methods of conducting	624.06
operator prohibitions	624.12
raffles	624.08
records	624.11

BLASTING AGENTS (see also WEAPONS AND EXPLOSIVES)

1602.04

BLIND PERSON

assistance dog	618.12
right of way	416.02

BLOCKADING STREETS

412.05

BOARDS AND COMMISSIONS (see individual subject involved)**BOND**

building, performance	1440.02
contractors	1446.10
officers and employees	230.02
storm water management	1486.13
work involving public ways	1010.05

BOW AND ARROW

672.15

BOXING MATCH

660.03

BRAKES

bicycle	474.05
engine retarders	440.08
motor vehicle and motorcycle	438.18

BRICKLAYING

registration	1446.05
--------------	---------

BUILDING (see also CONSTRUCTION)

condominium (see CONDOMINIUM)	
inspections Ch. 1442, 1460.01, 1462.02	
permits, fees, bonds	Ch. 1440
prefabricated, industrial or modular homes	Ch. 1460
unsafe	Ch. 1462
violations; remedies	1444.07

BUILDING CODE (see also OHIO BUILDING CODE)

appeal application; fee	1448.06
Appeals Board	
Chairman	1448.04
conflict of interest	1448.09
decisions	1448.08, 1448.10
meetings	1448.03
members	1448.02
purposes	1448.01
rules; regulations	1448.11
secretary	1448.05
construction deposits and certificates	1440.06
contractors (see CONTRACTORS)	
dwellings (see OHIO RESIDENTIAL CODE)	
foundation or slab elevation check	1466.11
insulation (see INSULATION)	
penalty	1450.01, 1450.02
variance; modification	1448.07

BUILDING DEPARTMENT

certification authority	1444.05
conflict of interest	1444.06
established	1444.01
functions	1444.03
members	1444.02
rules and procedures	1444.04

BUILDING INSPECTOR

alternate	1444.17
appointment	1444.07
budget statement	1444.14
duties	1444.10 et seq.

BUILDING INSPECTOR (Cont.)

notice from Architectural Review Board	264.07
records; reports	1444.10, 1444.13
residency requirement	1444.09
right of entry	1444.15
stop work order	1444.16

BUILDING PERMITS

contractors, issuing to	1446.09
fees	1444.05 et seq.
generally	1440.04
surcharge, unauthorized work	1440.12

BUMPERS 438.25**BURNERS** 660.01**BURNING** 660.13**BUS**

school stopping for	432.30
------------------------	--------

CAMPING PROHIBITED 660.22**CANNABIS, ADULT USE**

control of	620.02
limitations on conduct by individuals	620.02

**CANVASSERS (see PEDDLERS,
VENDORS, CANVASSERS AND
CHARITABLE SOLICITATIONS)****CATTLE (see ANIMALS)****CELL PHONE**

texting while driving prohibited	434.11
use prohibited while driving	436.032

CEMENT-LAYING

registration	1446.05
--------------	---------

CEMETERY

Bell Road interment	1058.01
---------------------	---------

CEMETERY**Rules and Regulations**

burial regulations for South Russell Village Cemetery	1058.10
definitions	1058.03
general regulations	1058.14
hours of the cemeteries	1058.04
indigent burials	1058.11
interment/inurnment rights at the South Russell Village Cemetery, sale and purchase of	1058.07
maintenance of the cemeteries	1058.09
memorialization regulations	1058.13
modifications and amendments	1058.15
ownership	1058.05
purpose	1058.02
Rarick Cemetery, no further internments or inurnments permitted in	1058.08
scattering/memorial garden	1058.12
supervision of the cemeteries	1058.06

**CENTRAL SANITARY SEWER
DISTRICT**

Ch. 1024

CERTIFICATE OF TITLE 436.08**CESSPOOLS (see SEPTIC TANKS)****CHAGRIN FALLS AIRPORT** Ch. 1054**CHAINS** 440.07**CHARDON MUNICIPAL
COURT**

Ch. 280

**CHARITABLE DONATION
POLICY**

220.09

CLASSIFICATION OF OFFENSES	606.03	COMPENSATION	
		Architectural Review Board	264.09
		improper	606.18
CODIFIED ORDINANCES	Ch. 202	COMPLICITY	606.23
COERCION	636.09	COMPOUNDING A CRIME	606.11
COIN MACHINES	642.13, 642.16	CONCRETE	
COMMERCIAL AND HEAVY VEHICLES (see also MOTOR VEHICLES)		placement	Ch. 1474
braking noises	440.08	CONFLICT OF INTEREST	606.17
definitions	442.01	CONSERVATION DISTRICT (see SOIL AND WATER CONSERVATION DISTRICT)	
explosives, transporting	440.04, 1602.07	CONSPIRACY	606.21
highway maintenance vehicle	402.161	CONSTRUCTION	
loads dropping or leaking	440.06	concrete placement	Ch. 1474
maximum width, height and length	440.02	deposits; certificates	1440.06
permit	440.01	materials, fire limits	1472.02
road service vehicle	402.321, 434.031	parking lots	1476.02
safety lighting	438.06	site, traffic control at	412.06
slow-moving		vehicular assault in a construction zone	636.021
intensity of lights	438.15	CONSTRUCTION, RULES OF	202.03, 202.05, 606.05
lights required	438.10	CONTAGIOUS DISEASE	660.02
spikes, lugs, chains	440.07	CONTRACTORS	
State route, use	440.01	bond	1446.10
towing requirements	440.05	defined	1446.08
weight limits	440.01	insurance	1446.01
wheel protectors	440.03	license; registration	
COMMERCIAL DRIVERS		eligibility	1446.04, 1446.05
criminal offenses	442.05	expiration; renewal	1446.03
definitions	442.01	fees	1446.02
employment	442.06	required	1446.01, 1446.08
exemptions	442.02	revocation	1446.10
operation	442.03	valid, other	
penalty	442.99	jurisdiction	1446.06
prohibitions	442.04	permit issuance	1446.09
COMMISSIONS (see individual subject involved)			
COMMITTEES, COUNCIL	220.05		

CONTRACTS, UNLAWFUL INTEREST IN	606.17	DAMAGING	642.10
CONTROLLED SUBSTANCE (see DRUGS)		DANGEROUS ORDNANCE (see EXPLOSIVES)	
CORONER'S VEHICLE		DEATH	
exemptions	404.11	failure to report	606.12
right of way	432.19	DECEPTION (see FRAUD)	
COUNCIL	Ch. 220, 406.07	DEFINITIONS	
COUNTY SANITARY ENGINEERING CODE	Ch. 1020	alcoholic beverages	612.01
COURT	Ch. 280	all purpose vehicle	476.01
CREDIT CARDS	642.15	Codified Ordinances	202.02
CREDITORS, DEFRAUDING	642.21	commercial and heavy vehicles	442.01
CRIME		contractor	1446.08
compounding	606.11	earned income tax	880.02
failure to report	606.12	flood control	1468.02
CRIMINAL, APPREHENSION OF	606.13 et seq.	gambling	624.01
CRIMINAL DAMAGING OR ENDANGERING	642.10	General Offenses	606.01
CRIMINAL MISCHIEF	642.11	knowingly	606.02
CRIMINAL TOOLS	642.25	negligently	606.02
CROSSWALK		obscene	666.01
moving in, pedestrian	416.04	property offenses	642.01
obstructing	432.31	purposely	606.02
pedestrian right of way	416.01	recklessly	606.02
CULPABLE MENTAL STATES	606.02	sex offenses	666.01
CULVERT (see DRIVEWAY)		snowmobile	476.01
CURFEW	630.04	Traffic Code	Ch. 402
		weapons and explosives	672.01
		DEPARTMENTS (see individual subject involved)	
		DERELICTION OF DUTY	606.19
		DESECRATION	642.23
		DETENTION	
		shoplifters; disorderly person	606.24
		DEXTROMETHORPHAN	
		sale of	620.15
		DISABLED SPECIAL ASSISTANCE OFFICE	
		established	254.02

DISEASE	660.02	DRIVING (see also DWI; RECKLESS OPERATIONS; SPEED; VEHICULAR HOMICIDE)	
DISORDERLY CONDUCT		approaching stationary public safety,	
detention of offenders	606.24	emergency, road	
prohibited	648.04	service vehicle	434.031
DISTURBING THE PEACE	Ch. 648	assured clear distance	434.03
DITCH		cell phone use prohibited	436.032
obstruction	1010.06	certificate of title required	436.08
DOGS (see ANIMALS)		closed road, on	432.26, 432.44
DOMESTIC VIOLENCE	636.14	construction zone, vehicular	
DOORS, OPENING	452.07	assault	636.021
DRAG RACING	434.07	control of vehicle	434.09
DRAINAGE		divided roadway	432.29
lots	1466.10	drag racing	434.07
DRIVER'S LICENSE		drunk or drugged	434.01
allowing another to drive	436.01, 436.05	electronic wireless communication	
all purpose vehicle		device use prohibited	
operator	476.05	while driving	436.032
display	436.06	emergency or public safety	
lending	436.04	vehicles	432.25
misrepresentation	436.04	following and parking	
motorcycle, off-highway	476.05	near	432.25
Ohio license required for		stop signals or signs,	
in state residents	436.021	effect	432.18
permitting operation without	436.02	fire hose, over	432.26
possession of more than one	436.02	following too closely	432.09
probationary; curfew	436.031	hazardous or no passing zones	432.07
required	436.01	immobilization order	434.10
snowmobile operator	476.05	lanes	432.08
suspended or revoked	436.07, 436.074	manufactured or mobile home	
temporary	436.03	occupying while in motion	432.35
DRIVEWAY		one-way streets	432.28
aprons	1482.01	operate defined	402.202
culvert		operation at stop signs	432.17
grading	1010.08	OVI suspension, under	436.071
obstructions	1010.09	passing	
parking in front of	452.03	left of centerline	
right or way at	432.20	permitted	432.05
		prohibited	432.06
		left; driver's duties	432.03
		no passing zone	432.07
		right or left	432.04
		traffic in opposite	
		directions	432.02
		periods of thaw or	
		excessive moisture	
		during	440.01(d)

DRIVING (Cont.)

public safety vehicles right of way	416.08, 432.19
reckless	434.02
right of way	
intersections	432.15
left turns	432.16
private drive, alley, building	432.20
through streets	432.17
right side of roadway; exceptions	432.01
rotary traffic islands	432.28
safety zone	432.27
signals	
hand and arm	432.14
required	432.13
speed	
bridges, on	434.05
emergency and public safety vehicles	434.06
maximum	434.03
minimum	434.04
starting, backing vehicle	432.12
stopping for school bus	432.30
stopping vehicle	434.04
stop sign (see TRAFFIC CONTROL DEVICE)	
street closed for repair	432.24
street takeovers	434.07
stunt driving	434.07
suspended license	436.074
texting prohibited	434.11
traffic signal indications	414.03
travel trailer and fifth wheel vehicle	
occupying while in motion	432.35
turning at intersections	432.10
unobstructed view	432.23
unsafe vehicle	438.01
“U” turns	432.11
vehicular homicide	434.08
water covered street, on	432.44
wrongful entrustment of a motor vehicle	436.05

DRUGGED DRIVING 434.01**DRUGS**

abuse	620.03, 620.05
cannabis, adult use	
control of	620.02
limitations on conduct by individuals	620.02
counterfeit controlled substance	620.13
dangerous, obtaining	620.06
definitions	620.01
dextromethorphan, sale of	620.15
driving under influence	434.01
drug paraphernalia	620.12, 620.121
harmful intoxicants	
possession or use	620.07
trafficking in	620.11
hypodermic, possession and dispensing	620.04, 620.10
instruments, possession	620.04
labels, prescription	620.09
marihuana	
illegal cultivation	620.06
paraphernalia	620.121
possession or use	620.03
samples; illegal dispensing	620.08
steroids	620.03

DWELLING CODE (see ONE AND TWO FAMILY DWELLING CODE)**DWI 434.01****EARNED INCOME TAX Ch. 880****E CIGARETTES 636.16****ELECTRICAL CODE Ch. 1404****ELECTRICIAN**

licensing	1446.04
lighting fixtures; insulating	1470.03
outlets, fixtures; installation	1440.07
residential wiring material	1404.04
wiring; use of metal raceways	1404.05

ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICE	416.12	EROSION AND SEDIMENT CONTROL	
		abbreviated stormwater pollution prevention plan	1466.08
ELECTRONIC WIRELESS COMMUNICATION DEVICE		appeals	1466.10
texting while driving prohibited	434.11	definitions	1466.04
use prohibited while driving	436.032	deposit	1466.12
EMERGENCY		disclaimer	1466.02
misconduct at	648.07	fees	1466.05(e)
snow	452.08	final plot plan	1466.09
EMERGENCY MEDICAL SERVICES		foundation check	1466.15
rates	236.06	maps and plans	1466.05
EMERGENCY SERVICE RESPONDER		nuisances	1466.03
impeding public passage of	648.12	penalty	1466.99
EMERGENCY VEHICLE (see also PUBLIC SAFETY VEHICLE)		plot plan required	1466.09
approaching when stationary	434.031	purpose	1466.01
exceptions	404.11	stop work orders	1466.14
following, parking near	432.25	SWP3 requirements and performance standards	1466.07
speed exceptions	434.06	temporary occupancy permits	1466.13
stop signs, effect	432.18		
EMPLOYEES, MUNICIPAL		ETHNIC INTIMIDATION	642.26
Employee Handbook	252.01	EXCAVATIONS	
ENDANGERING	642.10	generally	Ch. 1014
ENFORCEMENT (see under individual subject)		registration	1446.05
ENGINEER, MUNICIPAL	Ch. 246	EXPENDITURES	
ENGINEERING CODE	Ch. 1020	by department heads without purchase orders	230.04
ENGINE RETARDERS	440.08	EXPLOSIVES (see also WEAPONS AND EXPLOSIVES)	
ENTRY, RIGHT OF		blasting regulations	672.16
Building Inspector	1444.15	defined	402.13
EQUIPMENT (see VEHICLE EQUIPMENT)		storage limits	1602.04
		transporting	440.04, 1602.07
		EXTERIOR SIDING	
		registration	1446.05
		FALSE ALARM	648.09
		FALSE INFORMATION	
		to police	404.10
		FALSIFICATION	606.10
		FAMILY, ABUSE OF	636.14

FEEES

air conditioning, ventilation	
installation	1440.11
appeal, professional	260.05
Building Code appeal	1448.06
building permits	1440.05 et seq.
charitable solicitations license	830.06
electrical installation	1440.07
erosion and sediment control	1466.05(e)
gas piping installation	1440.10
heating installation	1440.09
internet sweepstakes café	870.13
peddler, solicitor license	830.06
plumbing installation	1440.08
stormwater management	1486.12
subdivision, minor	260.04
video service providers	860.01
Zoning Inspector's	1466.09

FENCES

electrical	660.18
swimming pool	1464.02

FIREARMS (see also WEAPONS AND EXPLOSIVES)

warning signs	612.07
---------------	--------

FIRE CODE

Ch. 1602

FIRE DEPARTMENT

Chief Fire Prevention Officer	240.02
fee schedule	240.03
Fire Inspection Bureau	240.01

FIRE EQUIPMENT

sale and use of	1602.10
-----------------	---------

FIRE HOSE

driving over	432.26
--------------	--------

FIRE INSPECTION BUREAU

240.01

FIRE LANES

1602.08

FIRE LIMITS

construction material	1472.02
established	1472.01
penalty	1472.99
smoke detectors	1472.03

FIRE PREVENTION APPLICATION

PERMITS	1628.01
----------------	---------

FIRES (see also ARSON)

setting	1602.07
unfriendly; discovery	1602.08

FIRE SAFETY INSPECTOR

1602.04

FIREWORKS (see also WEAPONS AND EXPLOSIVES)

application	1614.05
definitions	1614.01
discharge	1614.04
penalty	1614.99
possession	1614.04
public exhibition permit	1614.02
sale of	1614.04
unlawful conduct	1614.03

FLAMMABLE LIQUIDS

1602.05

FLASHING SIGNALS (see also TRAFFIC CONTROL DEVICE)

414.06

FLEEING

404.01

FLOOD CONTROL

administration	1468.03
appeals	1468.05
definitions	1468.02
enforcement	1468.06
purpose	1468.02
standards	1468.04
variances	1468.05

FOOD, PLACING HARMFUL SUBSTANCE IN

636.13

FOUNDATION

elevation check	1466.11
-----------------	---------

FRAUD		GRADE CROSSINGS	
bad check	642.14	obstructing	432.31
cheating	624.05	pedestrians	416.07
credit card	642.15		
creditor	642.21	GRADING	
deception to obtain		driveway culverts	1010.07
dangerous drugs	620.06		
matter harmful to juveniles	666.12	GROOMING	666.16
generally	Ch. 642		
identity fraud	642.29	GUNS (see WEAPONS AND EXPLOSIVES)	
income tax	881.15		
insurance	642.27	HALLOWEEN	636.13
securing writings by deception	642.19		
FREEWAY (see under STREET)		HALLUCINOGEN (see DRUGS)	
FUNDS	236.03	HAND AND ARM SIGNALS	432.14
Village		HANDICAPPED PERSONS	254.01,
investment of	Ch. 235		416.12, 452.04
FUNERAL PROCESSION	432.21, 432.22	HAZARDOUS AREAS	432.07
GAMBLING	Ch. 624	HEATING	
GARAGE SALES	850.01	apparatus; inspection	1444.11
GARBAGE AND REFUSE	660.04,	gas heaters	660.01
660.15 et seq., Ch. 1050		installation fee	1440.09
GAS	Ch. 1032	installers, registration	1446.05
GAS INSPECTOR	1032.03	license	1446.04
GAS PIPING		HIGHWAY (see STREET)	
installation fees	1440.10	HITCHHIKING	416.06
license	1446.04	HIT SKIP (see ACCIDENT)	
GEAUGA COUNTY SANITARY ENGINEERING CODE	Ch. 1020	HOME SALES	850.01
GLUE SNIFFING	620.07, 660.08	HOMICIDE	
GOLF CARTS		negligent	636.01
definitions	478.01	vehicular	636.02
inspection of	478.02	HORNS	438.19
penalty	478.99	HORSES (see ANIMALS)	
usage and restrictions	478.03	HOTELS	
		disturbing sounds and	
		intoxication	648.11

HUNTING	618.15	INCOME TAX EFFECTIVE	
HYPODERMICS (see DRUGS)		JANUARY 1, 2016 (Cont.)	
IDENTIFICATION CARD		Board of Tax Review	881.18
forgery of	642.28	collection at source	881.05
ILLICIT DISCHARGE AND ILLEGAL		confidentiality	881.14
CONNECTION CONTROL		credit	881.08
administration	1068.06	definitions	881.03
applicability	1068.02	effective date	881.02
conflicts	1068.05	estimated tax; declaration of	881.07
definitions	1068.03	fees and charges	881.10
disclaimer	1068.04	fraud	881.15
enforcement	1068.09	income subject to tax	
monitoring	1068.08	individuals	881.04
nuisances	1068.05	net profit	881.06
prohibitions	1068.07	penalty and interest	881.10
purpose	1068.01	rounding	881.12
remedies	1068.10	rules	881.20
severability	1068.05	statute of limitations	881.19
scope	1068.01	Tax Administrator	881.13, 881.16
IMMOBILIZATION ORDER	434.10	violations; penalty	881.99
IMPERSONATION		INCOME TAX ELECTION	
identity fraud	642.29	EFFECTIVE JANUARY 31, 2018	
law enforcement officer, to		amended returns	882.13
defraud	642.20	annual return, filing	882.05
public servant	606.26	apportionment	882.03
IMPORTUNING	666.05	assessments	882.11
IMPOSITION	666.04	confidentiality	882.04
IMPOUNDING		consolidated returns	882.07
bicycles	474.10	credits	882.15
motor vehicles	404.06, 452.02	definitions	882.02
IMPROVEMENTS		electronic filing	882.06
land	1466.01 et seq.	estimated taxes	882.09
INCOME TAX EFFECTIVE		failure to pay	882.08
JANUARY 1, 2016		net profit taxes; filing	882.01
annual return	881.09	penalties	882.10
assessment	881.17	records	882.14
audit	881.11	refunds	882.12
authority to levy	881.01	remittance	882.05
		taxable situs	882.03
		violations	882.16
		INDECENCY, PUBLIC	666.07
		INDUCING PANIC	648.08
		INDUSTRIAL HOMES	Ch. 1460

MOTOR VEHICLES (Cont.)

- emergency vehicle (see EMERGENCY VEHICLE)
- equipment (see VEHICLE EQUIPMENT)
- exceptions to Traffic
 - Code 404.03 et seq.
- failure to control 434.09
- firearms in 672.04
- immobilization order 436.05(c)
- impounding 404.06 et seq., 452.02
- junk 452.05, 660.17
- license plate (see LICENSE PLATE)
- licensing Ch. 436
- lights (see VEHICLE LIGHTS)
- loads (see LOADS, VEHICLE)
- parking (see PARKING)
- preschool children's 438.26
- public safety vehicle (see PUBLIC SAFETY VEHICLE)
- reckless operation 434.02
- registration within thirty days
 - of residency 436.111

MOTOR VEHICLES (Cont.)		OFFENSES, CLASSIFICATION OF	606.03
riding on outside	416.06	OFFENSES RELATING TO PERSONS	Ch. 636
selling on street	452.09	OFFENSES RELATING TO PROPERTY	Ch. 642
speed	434.03	OFFICERS AND EMPLOYEES (see EMPLOYEES, MUNICIPAL; PUBLIC SERVANT)	
starting, backing	432.12	OFFICIAL STANDARDS	Ch. 204
theft	Ch. 444	OHIO BUILDING CODE	
unattended	452.06	adopted	1406.01
unauthorized use	642.04	application	1406.03
vehicular vandalism	642.07	building use; maintenance	1406.05
wrongful entrustment of	436.05	compliance	1406.04
MUD, TRACKING	440.06	conflicts	1406.08
MUFFLERS	438.20	copies	1406.07
MUNICIPAL BUILDING		penalty	1406.99
use	1066.01, 1066.02	purposes	1406.02
MUNICIPAL COURT	Ch. 280	violations; stop work order	1406.06
NARCOTIC (see DRUGS)		OHIO FIRE CODE	Ch. 1602
NATIONAL ELECTRICAL CODE	Ch. 1404	OHIO RESIDENTIAL CODE	1402.01 et seq.
NATURAL RESOURCE OFFICER		OHIO SUBDIVISION FUND	236.05
defined	402.201	OPEN BURNING	
NOISE DISTURBANCES		bonfires	1621.05
braking noises	440.08	definitions	1621.01
definitions	650.01	in restricted areas	1621.03
noise producing instruments/ sound amplifying devices	650.03	notice	1621.04
penalty	650.99	penalty	1621.99
sound amplification systems		portable outdoor fireplaces	1621.05
in motor vehicles	650.02	relation to other	
specific noise exemptions	650.04	prohibitions	1621.02
vehicle equipment		OPEN MEETINGS	Ch. 206
excessive noise	438.20	OPERATION (see DRIVING)	
NURSERY SCHOOL VEHICLES	438.26	OPERATOR'S LICENSE (see DRIVER'S LICENSE)	
OBSCENITY	Ch. 666	ORDINANCES AND RESOLUTIONS	
OBSTRUCTIONS		(see also COUNCIL)	Ch. 222
ditch; driveway culvert	1010.08		
justice	606.15		
official business	606.14		
public ways	412.01, 648.04		
stopping vehicle	434.04		
ODORS, NOXIOUS	660.04		

ORDNANCE (see WEAPONS AND EXPLOSIVES)**ORGANIZATIONS**

liability	606.08
penalty	698.04
personal accountability	606.09

OVI

driving under suspension	436.071
prohibitions	434.01

PANIC, INDUCING 648.08**PARKING**

advertising purposes, for	452.09
emergency or public safety	
vehicle, near	432.25
front yards, in	1480.02(e)
handicapped, locations for	452.04
illegally, police may remove	
vehicle	404.06, 452.02
leaving vehicle	452.05
liability of owner	452.10
parallel	452.04
private property, posted	452.12
prohibited places	452.03
snow emergency, during	452.08
streets or highways	452.01
waiver of violations	452.11

PARKING LOTS

construction	1476.02
penalty	1476.99
plan	1476.01

PARKS 646.01 et seq.**PARKS COMMITTEE**

established	272.01
membership	272.03
powers and duties	272.02

PEACE DISTURBANCES Ch. 648**PEACE OFFICER**

compliance with lawful order;	
fleeing	404.01
disposition of property	606.25
false information given to	404.10
misconduct, false allegation of	606.28
personating	642.20
resisting	404.02, 606.16
traffic control	Ch. 406

PEDDLERS, VENDORS, CANVASSERS AND CHARITABLE SOLICITATIONS

appeals	830.13
compliance with state law	830.09
definitions	830.01
Do-Not-Solicit list	830.12
exceptions	830.08
falsification	830.10
fees	830.06
hours	830.11
investigation	830.05
license or registration	830.02 et seq.
misrepresentation	830.10
penalty	830.99
prohibited soliciting	830.12

PEDESTRIAN

bridges, on	416.07
electric personal assistive	
mobility device	416.12(b)
freeway use prohibited	404.05
grade crossings, crossing	416.07
hitchhiking	416.06
intoxicated	416.10
jaywalking	416.03, 416.05
low-speed micromobility	
devices	416.13
moving in crosswalk	416.04
riding on outside of vehicle	416.06
right of way	
blind person	416.02
crosswalk, in	416.01
public safety vehicle	416.08
sidewalks, on	416.09
yielding	416.03
soliciting rides or business	416.06
stepping into street	416.01, 416.03, 416.04
traffic control signals	414.05
walking on streets and sidewalks	416.05

PEEPING TOMS 666.06**PENALTY**

classification of traffic	
misdemeanors; fines	408.01
general Code	202.99
General Offenses Code	Ch. 698
Ohio Basic Building Code	1406.99
organizational	698.04
Traffic Code	Ch. 408

TAX, EARNED INCOME	Ch. 880	TRAFFIC CONTROL	
TELEPHONES		authority and considerations	406.01
harassment	636.10	device (see TRAFFIC CONTROL DEVICE)	
TEMPORARY INSTRUCTION PERMITS	436.03	powers	
TEMPORARY PROTECTION ORDER	636.15	Chief of Police	406.03, 406.05
TENANT INFORMATION	236.02	Council	406.09
TEXTING		records	406.06
prohibited while driving	434.11	violations	406.08
THEFT		work sites, at	412.06
criminal tools	642.25	TRAFFIC CONTROL DEVICE	
detention of thieves	606.24	advertising on	414.07
generally	642.02, 642.03	alteration, injury, removal	414.08
motor vehicle offenses	Ch. 444	ambiguous	414.10
THROUGH STREET (see also STREET)		conformity to State Manual	406.02
defined	402.44	control of lane direction	
designation by signs	414.02	of travel	414.04
right of way	432.17	flashing signals	414.06
TIRES	440.07	highway traffic signal	402.162
TOBACCO		obedience	414.01
minor, illegal distribution	636.16	pedestrian signals	414.05
restrictions in public buildings, vehicles	660.21	placement	406.01, 406.03
TOWING	440.05	portable signal preemption	
TOY VEHICLES		devices prohibited	414.12
attaching to vehicle	474.03	posting required	406.04
roadway, on	412.04	purchase, possession or sale of	414.11
TRACKING DEVICE OR APPLICATION		signal terms and lights	414.03
illegal use of	636.17	stop and yield signs	414.02
TRACKING MUD	440.06	unauthorized, hiding from view	414.07
TRAFFIC CODE		unfolded stop signs	414.13
definitions	Ch. 402	TRAFFIC CONTROL MAP	406.09
general penalty	408.02	TRAILERS	440.08
		TREASURY INVESTMENT BOARD	236.04
		TREES (see also WEEDS)	
		injury	642.06
		TRESPASS	
		land or premises	642.12
		stalking, by	642.121
		vehicle	642.04
		voyeurism	666.06
		TRICK OR TREAT	636.13

TRUCKS (see COMMERCIAL AND HEAVY VEHICLE)**TURNING**

generally 432.10 et seq.
right on red 414.09

“U” TURN 432.11

UNATTENDED VEHICLES 452.06

UTILITIES (see also individual subject involved)

VAGRANTS 648.10

VANDALISM (see PROPERTY DESTRUCTION)**VARIANCE**

Building Code 448.07
septic tank
requirements 1024.06(b)

VEHICLES (see MOTOR VEHICLES)**VEHICLE EQUIPMENT**

bicycles 474.05
brakes 438.18
bumpers 438.25
directional signals 438.30
exceptions to Traffic Code 404.03
excessive noise 438.20
horn, siren, theft alarm 438.19
lights (see VEHICLE LIGHTS)
loads (see LOADS, VEHICLE)
motorcycles Ch. 438, 474.02
muffler 438.20
rear-view mirror 438.21
red light or flag on load 438.08
seat belts 438.28
snowmobiles and all purpose
vehicles 476.02
suncreening materials 438.29
unsafe vehicles 438.01
windshield 438.22

VEHICLE LIGHTS

auxiliary 438.11
back-up 438.12
cowl 438.12
electric personal assistive
mobility device 416.12(b)
fender 438.12
headlight beams use 438.14
headlights
focus and aim 438.17
required 438.03
illumination of rear
license plate 438.04
lighted; required 438.02
number permitted 438.16
obscured on vehicles in
combination 438.07
parked, stopped vehicles 438.09
rear red reflectors 438.05
red and flashing 438.16
safety, commercial vehicles 438.06
slow-moving vehicle
intensity 438.15
requirements; emblem 438.10
spotlight 438.11
stop lights 438.24
tail light 438.04
two displayed 438.13

VEHICULAR HOMICIDE 434.08

VENDING MACHINES

cigarettes, tobacco or alternate
nicotine products 636.16

VENDORS (see PEDDLERS, VENDORS, CANVASSERS AND CHARITABLE SOLICITATIONS)**VENTILATION**

heaters and burners 660.01
installer, registration 1446.05
installation fee 1440.11
license 1446.04

VIDEO SERVICE PROVIDERS 860.01

VILLAGE ENGINEER (see ENGINEER, MUNICIPAL)

VILLAGE FUNDS			WELLS	
investment of	Ch. 235		water	
VILLAGE HALL (see MUNICIPAL BUILDING)			drilling	
VILLAGE SECRETARY	Ch. 231		permit	1030.01
VIOLENCE, INCITING	648.011		registration	1446.05
VOYEURISM	666.06		report	1030.03
WAIVER			health standards	1030.02
parking violations	452.09		operation	1030.04
WARNING LIGHTS (see also TRAFFIC CONTROL DEVICES; VEHICLE EQUIPMENT) 1014.02 et seq.			permit denied	1030.06
WARRANT			permit fee	1030.07
arrest without	606.24		supply approved	1030.05
WATER			WHEELCHAIR, MOTORIZED	
central supply system			defined	402.54
adequate supply	1028.05		electric personal assistive	
contaminants	1028.04		mobility device	416.12
outside municipality	1028.08		operation	416.11
penalty	1028.99		WILDLIFE OFFICER	
pollution, remedies	669.19		defined	402.54
regulations	1028.02, 1028.09		WIRELESS SUPPORT STRUCTURES	
reports	1028.07			1012.01 et seq.
study required	1028.01		WIRING (see ELECTRICITY)	
testing	1028.03, 1028.10		WORK SITES	
unsafe supply	1028.06		traffic control at	412.06
drainage, erosion control	1446.10		WRESTLING MATCH	660.03
sprinkling bans	660.20		WRITINGS	642.19
wells (see WELLS)			YARD SALES	850.01
WATERCOURSES	660.04		YIELD SIGNS (see TRAFFIC CONTROL DEVICE)	
WEAPONS AND EXPLOSIVES (see also EXPLOSIVES)	Ch. 672		ZONES OF QUIET	412.02
WEEDS	Ch. 678		ZONING APPEALS, BOARD OF	Ch. 262
WEIGHT LIMITS	440.01		ZONING CODE	1220.01
			administration	
			amendments	Ch. 1220, App. A, 3.06
			appeals	Ch. 1220, App. A, 3.07

ZONING CODE (Cont.)

conditional use	
permits	Ch. 1220, App. A, 3.05
development	
approval	Ch. 1220, App. A, 3.04
Director of	
Transportation	
Review	Ch. 1220, App. A, 3.03
effective approval	Ch. 1220, App. A, 3.11
fees	Ch. 1220, App. A, 3.10
intent	Ch. 1220, App. A, 3.00
penalties	Ch. 1220, App. A, 3.09
violations	Ch. 1220, App. A, 3.08
zoning permits	Ch. 1220, App. A, 3.01
business districts	
area, yard and	
height	
regulations	Ch. 1220, App. A, 5.02
development	
regulations	Ch. 1220, App. A, 5.03
intent	Ch. 1220, App. A, 5.00
parking	
regulations	Ch. 1220, App. A, 5.05
performance	
regulations	Ch. 1220, App. A, 5.04
sign regulations	Ch. 1220, App. A, 5.06
use regulations	Ch. 1220, App. A, 5.01
conditional use	
regulations	
general	
standards	Ch. 1220, App. A, 7.01

ZONING CODE (Cont.)

conditional use (Cont.)	
intent	Ch. 1220, App. A, 7.00
regulations	Ch. 1220, App. A, 7.02
definitions	Ch. 1220, App. A, Ch. 2
development	
regulations	
intent	Ch. 1220, App. A, 10.00
regulation	Ch. 1220, App. A, 10.02
regulations	Ch. 1220, App. A, 10.01
fees	Ch. 1220, App. A, Schedule 1
food truck	
regulations	
definitions	Ch. 1220, App. A, 13.01
exceptions	Ch. 1220, App. A, 13.05
general	
regulations	Ch. 1220, App. A, 13.02
intent	Ch. 1220, App. A, 13.00
specific	
regulations	Ch. 1220, App. A, 13.04
zoning districts	Ch. 1220, App. A, 13.03
general provisions	
annexed	
territory	Ch. 1220, App. A, 1.07
conflict	Ch. 1220, App. A, 1.09
district boundaries	Ch. 1220, App. A, 1.06

<u>Ord. No.</u>	<u>Date</u>	<u>C.O. Section</u>	<u>Ord. No.</u>	<u>Date</u>	<u>C.O. Section</u>
2012-23	7-9-13	2012 Replacement Pages	2017-32	10-9-17	1482.01
2013-16	5-20-13	2013 Replacement Pages	2017-33	10-23-17	1440.05
2013-21	7-8-13	618.19	2017-39	11-27-17	Ch. 252 Editor's Note (Repealed)
2013-32	8-12-13	Ch. 1220, App. A, 4.01, 4.02, 4.07, 4.08, 5.01, 5.02, 5.05, 5.06, 6.01, 6.02, 6.05, 6.06	2018-17	4-9-18	882.01 to 882.16
			2018-22	5-14-18	2018 Replacement Pages
			2018-29	7-9-18	264.09(a)
			2018-30	7-9-18	1012.01 to 1012.33, 1012.99
2014-1	1-13-14	Ch. 1220, App. A, 4.06	2018-36	9-10-18	646.01 to 646.07 (Repealed)
2014-10	3-31-14	1440.05	2018-39	10-22-18	440.08
2014-20	5-12-14	1440.05	2019-10	2-11-19	414.13
2014-21	5-27-14	2014 Replacement Pages	2019-17	4-8-19	1012.01 to 1012.32, 1012.99
2014-50	11-10-14	830.01 to 830.13, 830.99	2019-21	4-8-19	Ch. 1220, App. A, 2.01
2014-52	12-12-14	618.13	2019-36	6-10-19	1444.08
2015-1	1-26-15	630.04	2019-37	6-10-19	618.01(a)
2015-10	4-13-15	618.19	2019-38	6-10-19	648.05(b) to (d)
2015-27	6-8-15	2015 Replacement Pages	2019-43	7-8-19	650.01 to 650.04, 650.99
2015-35	11-9-15	881.01 to 881.20, 881.97, 881.98, 881.99	2019-44	8-12-19	2019 Replacement Pages
2016-01	1-11-16	406.09	2019-56	10-14-19	646.02 (Repealed)
2016-02	1-25-16	881.99(D)	2019-63	10-28-19	262.01
2016-08	3-28-16	1602.01 to 1602.03	2019-65	11-25-19	1483.01, 1483.02
2016-11	3-28-16	1440.05	2020-01	1-13-20	220.01
2016-15	5-23-16	Repeals Ch. 270	2020-03	1-13-20	260.02
2016-16	5-23-16	2016 Replacement Pages	2020-20	4-13-20	1010.08
2016-18	6-22-16	Ch. 1220, App. A, 3.07	2020-28	6-18-20	230.05
2016-26	9-12-16	618.01	2020-29	6-18-20	230.06
2016-27	9-12-16	618.18	2020-33	7-13-20	646.08 (Repealed)
2016-29	9-12-16	881.051, 881.091	2020-40	9-14-20	1024.09
2016-40	12-12-16	1466.01 to 1466.15, 1466.99, 1486.01 to 1486.18, 1486.99	2020-50	10-26-20	230.07
			2021-23	4-12-21	1464.02
2017-03	1-23-17	452.11	2021-24	4-12-21	1602.01 to 1602.03
2017-13	5-22-17	2017 Replacement Pages	2021-35	5-10-21	240.03
2017-24	8-14-17	230.05	2021-36	5-10-21	1602.04, 1602.05, 1602.11, 1602.12, 1602.99
			2021-49	7-12-21	Ch. 1220, App. A, 13.00 to 13.05
			2021-50	7-12-21	Ch. 1220, App. A, 2.01

<u>Ord. No.</u>	<u>Date</u>	<u>C.O. Section</u>	<u>Ord. No.</u>	<u>Date</u>	<u>C.O. Section</u>
2021-51	7-12-21	Ch. 1220, Ap. A, 3.01	2024-55	5-13-24	Ch. 1220, App. A, 1.05
2021-52	8-9-21	230.08	2024-56	5-13-24	Ch. 1220, App. A, 3.01
2021-57	9-13-21	648.05	2024-57	5-13-24	Ch. 1220, App. A, 3.04
2021-61	9-13-21	660.21	2024-58	5-13-24	Ch. 1220, App. A, 3.05
2022-01	1-10-22	262.01	2024-59	5-13-24	Ch. 1220, App. A, 3.06
2022-02	1-10-22	220.05	2024-60	5-13-24	Ch. 1220, App. A, 3.07
2022-03	1-10-22	220.04	2024-86	9-23-24	646.01 to 646.07
2022-07	1-10-22	254.01	2025-01	1-13-25	478.01 to 478.03, 478.99
2022-08	1-10-22	268.01			
2022-20	2-28-22	220.01			
2022-25	3-14-22	1440.06			
2022-26	3-14-22	272.03			
2022-54	6-13-22	660.17			
2022-66	8-8-22	Ch. 1220, App. A, 3.04, 3.05, 3.06, 3.07, 3.10, Schedule 1			
2022-69	8-8-22	230.03			
2022-70	8-8-22	235.02, 235.03 (Repealed), 235.05			
2022-71	9-12-22	252.12 (Repealed)			
2022-72	9-12-22	220.03			
2022-73	9-12-22	252.03 (Repealed)			
2022-74	9-12-22	1440.04			
2022-80	9-26-22	222.01 (Repealed)			
2022-94	11-14-22	1066.01, 1066.02, 1066.03			
2022-95	11-28-22	235.02			
2022-102	12-12-22	1440.06			
2023-09	2-13-23	252.01, Repeals 252.01 to through 252.14			
2023-14	2-13-23	1440.06			
2023-32	6-12-23	260.02			
2023-39	8-14-23	618.01			
2023-48	9-11-23	1440.04			
2023-51	9-11-23	1058.02 to 1058.15			
2023-53	9-11-23	642.05			
2023-54	9-11-23	660.22			
2023-56	9-25-23	222.01			
2023-70	11-13-23	235.03			
2023-76	11-27-23	881.062, 881.094, 881.10			
2023-85	12-11-23	252.01			
2024-54	5-13-24	Ch. 1220, App. A, 3.11			

CHAPTER 238

Police Department

238.01	Composition.	238.04	Waiver of residency requirement for Chief.
238.02	Classification of personnel.	238.05	Hours of Police Chief and Lieutenant.
238.03	Chain of command.		

CROSS REFERENCES

Distribution of obscenity statutes by Attorney General - see Ohio R.C. 109.40
 Assistance of State Criminal Bureau - see Ohio R.C. 109.51 et seq.
 Forwarding fingerprints and other data to State Criminal Bureau - see Ohio R.C. 109.58 et seq.
 Peace officer training certificate required for permanent employment - see Ohio R.C. 109.77
 Police protection contracts - see Ohio R.C. 505.441, 737.04
 General powers and duties - see Ohio R.C. 737.11, 737.18
 Appointment of Chief - see Ohio R.C. 737.15
 Composition - see Ohio R.C. 715.05, 737.16
 Auxiliary police unit - see Ohio R.C. 737.161
 Powers and duties of Chief - see Ohio R.C. 737.161, 737.19
 Probationary period; final appointment - see Ohio R.C. 737.17
 Removal and appeal - see Ohio R.C. 737.171
 Recovered property and disposition - see Ohio R.C. 737.29 et seq., 4513.61; GEN. OFF. 606.25
 Police Pension and Disability Fund - see Ohio R.C. Ch. 742
 Police officer may arrest on view - see Ohio R.C. 2935.03, 2935.05, 2935.07

238.01 COMPOSITION.

The Police Department shall be composed of a Chief of Police and such other officers and personnel as Council shall from time to time determine.

238.02 CLASSIFICATION OF PERSONNEL.

For purposes of this chapter there shall be three classifications of the position of Patrolman, namely, First, Second and Third Class. In addition thereto, there shall be established the designation of Probationary Officer. All personnel appointed to the Village Police Department, regardless of position, shall serve first in a probationary capacity for a period of six months.

After an officer has been appointed to the position of Patrolman, he must serve a minimum of six months in his particular classification before he is eligible for a change in grade.

A change in grade shall be accomplished by the officer involved being recommended by the Chief of Police and Chairman of the Safety Committee of Council, and upon such recommendations, the new appointment shall then be subject to action by the Mayor and approval of Council. (Ord. 1970-16. Passed 9-28-70.)

238.03 CHAIN OF COMMAND.

(a) The Chief of Police shall be the chief officer of the Village Police Department.

(b) The Lieutenant of Police shall be second in command and the Acting Chief of the Department upon the absence of the Chief of Police.

(c) The Sergeant of Police shall be third in command and the Acting Chief of the Department upon the absence of the Lieutenant and Chief of Police.

(d) Upon the absence of the Chief of Police, the Lieutenant and the Sergeant, the Chief shall designate which Patrolman shall be the acting head of the Department.
(Ord. 1980-45. Passed 11-10-80.)

238.04 WAIVER OF RESIDENCY REQUIREMENT FOR CHIEF.

(EDITOR'S NOTE: Pursuant to Ordinance No. 1998-5, the residency requirement for the Chief of Police is hereby waived.)

238.05 HOURS OF POLICE CHIEF AND LIEUTENANT.

(a) From and after the effective date of this section, the duty hours of the Chief of Police and Lieutenant shall be twenty-four hours a day, seven days per week; the Chief of Police and Lieutenant shall be on call at all times.

(b) Notwithstanding the provisions of subsection (a) hereof, the Chief of Police and Lieutenant shall receive no more compensation than their present rate of pay, as adjusted from time to time. (Ord. 1981-13. Passed 2-23-81.)

CHAPTER 242
Service Department

EDITORS NOTE: There are no sections in Chapter 242. This chapter has been established to provide a place for cross references and any future legislation.

CROSS REFERENCES

Wages and hours on public works - see Ohio Const.,
Art. II, Sec. 37; Ohio R.C. Ch. 4115
Employees generally - see ADM. Ch. 252
Sidewalk maintenance and repair - see GEN. OFF.
660.05
Garbage and refuse collection and disposal - see
S.U. & P.S. Ch. 1050

CHAPTER 244
Street Commissioner

244.01 Waiver of residency requirement.

CROSS REFERENCES

Appointment - see Ohio R.C. 735.31

Duties- see Ohio R.C. 735.32

Assistants - see Ohio R.C. 735.33

Clerical help - see ADM. 230.01

Approval of Mayor's Permit for work involving public ways,
drainage, water and sewer systems - see S.U. & P.S. 1010.03

244.01 WAIVER OF RESIDENCY REQUIREMENT.

(EDITOR'S NOTE: Pursuant to Ordinance No. 1998-5, the residency requirement for the Street Commissioner is hereby waived.)

CHAPTER 250
Zoning Inspector

250.01 Residency requirements.

CROSS REFERENCES

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

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

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

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

250.01 RESIDENCY REQUIREMENT.

(EDITOR'S NOTE: Pursuant to Ordinance No. 1998-5, the residency requirement for the Zoning Inspector is hereby waived.)

CHAPTER 252 Employees Generally

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

252.01 Employee Handbook.

CROSS REFERENCES

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

CODIFIED ORDINANCES OF SOUTH RUSSELL

PART FOUR - TRAFFIC CODE

TITLE TWO - Administration, Enforcement and Penalties

- Chap. 402. Definitions.
- Chap. 404. Enforcement; Impounding.
- Chap. 406. Traffic Control.
- Chap. 408. Penalties.

TITLE FOUR - Public Ways and Traffic Control Devices

- Chap. 412. Obstruction and Special Uses of Public Ways.
- Chap. 414. Traffic Control Devices.
- Chap. 416. Pedestrians.

TITLE SIX - Vehicles and Operation

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

TITLE EIGHT - Parking

- Chap. 452. Parking Generally.

TITLE TEN - Bicycles, Motorcycles and Snowmobiles

- Chap. 474. Bicycles and Motorcycles.
- Chap. 476. Snowmobiles, Off-Highway Motorcycles and All Purpose Vehicles.
- Chap. 478. Golf Carts.

CODIFIED ORDINANCES OF SOUTH RUSSELL

PART FOUR - TRAFFIC CODE

TITLE TWO - Administration, Enforcement and Penalties

Chap. 402. Definitions.

Chap. 404. Enforcement; Impounding.

Chap. 406. Traffic Control.

Chap. 408. Penalties.

CHAPTER 402

Definitions

402.01	Meaning of words and phrases.	402.202	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.
402.201	Natural resource officer.	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.
		402.54	Wildlife officer.

CROSS REFERENCES

See sectional histories for similar State law
Funeral procession defined - see TRAF. 432.24
Street racing, stunt driving and street takeovers 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)

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))

402.162 HIGHWAY TRAFFIC SIGNAL.

"Highway traffic signal" means a power-operated traffic control device by which traffic is warned or directed to take some specific action. "Highway traffic signal" does not include a power-operated sign, steadily illuminated pavement markers, warning light, or steady burning electric lamp. (ORC 4511.01(MMM))

402.17 INTERSECTION.

"Intersection" means:

- (a) The area embraced within the prolongation or connection of the lateral curb lines, or, if none, the lateral boundary lines of the roadways of two highways that join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways that join at any other angle might come into conflict. The junction of an alley or driveway with a roadway or highway does not constitute an intersection unless the roadway or highway at the junction is controlled by a traffic control device.
- (b) If a highway includes two roadways that are thirty feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway constitutes a separate intersection. If both intersecting highways include two roadways thirty feet or more apart, then every crossing of any two roadways of such highways constitutes a separate intersection.
- (c) At a location controlled by a traffic control signal, regardless of the distance between the separate intersections as described in subsection (b) of this section:
 - (1) If a stop line, yield line, or crosswalk has not been designated on the roadway within the median between the separate intersections, the two intersections and the roadway ~~and median~~ constitute one intersection.
 - (2) Where a stop line, yield line, or crosswalk line is designated on the roadway on the intersection approach, the area within the crosswalk and any area beyond the designated stop line or yield line constitute part of the intersection.
 - (3) Where a crosswalk is designated on a roadway on the departure from the intersection, the intersection includes the area that extends to the far side of the crosswalk. (ORC 4511.01(KK))

402.18 LANED STREET OR HIGHWAY.

"Laned street or highway" means a street or highway the roadway of which is divided into two or more clearly marked lanes for vehicular traffic.
(ORC 4511.01(GG))

402.181 LOW-SPEED MICROMOBILITY DEVICE.

"Low-speed micromobility device" means a device weighing less than 100 pounds that has handlebars, is propelled by an electric motor or human power, and has an attainable speed on a paved level surface of not more than 20 miles per hour when propelled by the electric motor.
(R.C. § 4511.01(WWW))

402.182 MEDIAN.

"Median" means the area between two roadways of a divided highway, measured from edge of traveled way to edge of traveled way, but excluding turn lanes. The width of a median may be different between intersections, between interchanges, and at opposite approaches of the same intersection. (ORC 4511.01(NNN))

402.19 MOTORCYCLE.

"Motorcycle" means every motor vehicle, other than a tractor, having a seat or saddle for the use of the operator and designed to travel on not more than three wheels in contact with the ground, including but not limited to, motor vehicles known as "motor-driven cycle," "motor scooter," "autocycle," "cab-enclosed motorcycle" or "motorcycle" without regard to weight or brake horsepower. (ORC 4511.01(C))

402.20 MOTOR VEHICLE.

"Motor vehicle" means every vehicle propelled or drawn by power other than muscular power, except motorized bicycles, electric bicycles, road rollers, traction engines, power shovels, power cranes and other equipment used in construction work and not designed for or employed in general highway transportation, hole-digging machinery, well-drilling machinery, ditch-digging machinery, farm machinery, and trailers 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 no more than ten miles and at a speed of twenty-five miles per hour or less. (ORC 4511.01(B))

402.201 NATURAL RESOURCES OFFICER.

An officer appointed pursuant to Ohio R.C. 1501.24.
(ORC 4511.01(XXX))

402.202 OPERATE.

"Operate" means to cause or have caused movement of a vehicle on any public or private property used by the public for purposes of vehicular travel or parking.
(ORC 4511.01(HHH))

402.21 PARK OR PARKING.

"Operate" means to cause or have caused movement of a vehicle.
(ORC 4511.01(HHH))

402.22 PEDESTRIAN.

"Pedestrian" means any natural person afoot. (ORC 4511.01(X))

402.23 PERSON.

"Person" means every natural person, firm, copartnership, association or corporation. (ORC 4511.01(W))

402.24 POLE TRAILER.

"Pole trailer" means every trailer or semitrailer attached to the towing vehicle by means of a reach, pole or by being boomed or otherwise secured to the towing vehicle, and ordinarily used

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))

402.54 WILDLIFE OFFICER.

An officer designated pursuant to Ohio R.C. 1531.13.
(ORC 4511.01(YYY))

CHAPTER 404

Enforcement; Impounding

404.01	Compliance with lawful order of police officer; fleeing.	404.07	Impounding vehicles on private residential or agricultural property.
404.02	Resisting an enforcing official.	404.08	Private tow-away zones.
404.03	Road workers, motor vehicles and equipment excepted.	404.09	Release of vehicle; records; charges.
404.04	Application to persons riding, driving animals upon roadway.	404.10	Providing false information to police officer.
404.05	Freeway use prohibited by pedestrians, bicycles and animals.	404.11	Emergency, public safety and coroner's vehicles exempt.
404.06	Impounding of vehicles; redemption.		

CROSS REFERENCES

See sectional histories for similar State law
Disposition of unclaimed vehicles - see Ohio R.C. 737.32, 4513.62 et seq.
Citations for minor misdemeanors - see Ohio R.C. 2935.26 et seq.
Power of trial court of record to suspend or revoke license for certain violations - see Ohio R.C. 4507.16, 4507.34
State point system suspension - see Ohio R.C. 4507.40
Uniform application of Ohio Traffic Law - see Ohio R.C. 4511.06
Marking motor vehicles used by traffic officers - see Ohio R.C. 4549.13
Distinctive uniform required for traffic officers - see Ohio R.C. 4549.15
Exceptions for emergency or public safety vehicles - see TRAF. 432.20, 434.06

404.01 COMPLIANCE WITH LAWFUL ORDER OF POLICE OFFICER; FLEEING.

(a) No person shall fail to comply with any lawful order or direction of any police officer invested with authority to direct, control or regulate traffic.

(b) No person shall operate a motor vehicle so as willfully to elude or flee a police officer after receiving a visible or audible signal from a police officer to bring the person's motor vehicle to a stop.

(c) Whoever violates this section is guilty of failure to comply with an order or signal of a police officer. A violation of subsection (a) is a misdemeanor of the first degree. A violation of subsection (b) is a misdemeanor of the first degree, unless the jury or judge as trier of fact finds any one of the following by proof beyond a reasonable doubt:

- (1) In committing the offense, the offender was fleeing immediately after the commission of a felony;
- (2) The operation of the motor vehicle by the offender was a proximate cause of serious physical harm to persons or property;
- (3) The operation of the motor vehicle by the offender caused a substantial risk of serious physical harm to persons or property.

(d) In addition to any other sanction imposed for a violation of division (a) of this section, the court shall impose a class five suspension from the range specified in Ohio R.C. 4510.02(A)(5). If the offender previously has been found guilty of an offense under this section or under Ohio R.C. 2921.331 or any other substantially equivalent municipal ordinance, in addition to any other sanction imposed for the offense, the court shall impose a class one suspension as described in Ohio R.C. 4510.02(A)(1). The court may grant limited driving privileges to the offender on a suspension imposed for a misdemeanor violation of this section as set forth in Ohio R.C. 4510.021. No judge shall suspend any portion of the suspension under a class one suspension of an offender's license, permit, or privilege required by this division. (ORC 2921.331)

404.02 RESISTING AN ENFORCING OFFICIAL.

(a) No person shall resist, hinder, obstruct or abuse any official while such official is attempting to arrest offenders under this Traffic Code. No person shall interfere with any person charged under such sections with the enforcement of the law relative to public streets. (ORC 4513.36; Ord. 1974-13. Passed 9-9-74.)

(b) Whoever violates any provision of 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.

404.03 ROAD WORKERS, MOTOR VEHICLES AND EQUIPMENT EXCEPTED.

(a) The provisions of this Traffic Code do not apply to persons, teams, motor vehicles, and other equipment while actually engaged in work upon the surface of a highway within an area designated by traffic control devices, but apply to such persons and vehicles when traveling to or from such work.

(b) The driver of a highway maintenance vehicle owned by this state or any political subdivision of this state, while the driver is engaged in the performance of official duties upon a street or highway, provided the highway maintenance vehicle is equipped with flashing lights and such other markings as are required by law, and such lights are in operation when the driver and vehicle are so engaged, shall be exempt from criminal prosecution for violations of Sections 432.01 to 432.04, 432.06 to 432.08, 432.31, 434.04, 438.01 and Ohio R.C. 4511.66 and 5577.01 to 5577.09.

(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 50 feet, but not less than 15 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 or other on-track equipment.
 - B. A crossing gate is lowered.
 - C. A flagperson gives or continues to give a signal of the approach or passage of a train or other on-track equipment.
 - 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.
 - G. 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 on-track equipment.
 - H. Approaching on-track equipment is emitting an audible signal or is plainly visible and is in hazardous proximity to the crossing.
- (2) A. 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 (a)(1)F. of this section exist at the crossing.
- B. A person who is driving a vehicle and who approaches a railroad grade crossing shall not recklessly proceed as long as any of the circumstances described in division (a)(1)G. or (a)(1)H. 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) (1) Whoever violates this section is guilty of a misdemeanor of the fourth degree.
- (2) In lieu of a fine or jail term for a violation of this section, a court may instead order the offender to attend and successfully complete a remedial safety training or presentation regarding rail safety that is offered by an authorized and qualified organization that is selected by the court. The offender shall complete the presentation within a time frame determined by the court, not to exceed 180 days after the court issues the order. The offender shall notify the court of the successful completion of the presentation. When the offender notifies the court of the successful completion of the presentation, the court shall waive any fine or jail term that it otherwise would have imposed for a violation of this section. (ORC 4511.62)

432.40 STOPPING AT GRADE CROSSING.

- (a) (1) Except as provided in division (a)(2) of this section, the operator of any bus, any school vehicle, or any vehicle transporting a material or materials required to be placarded under 49 C.F.R. Parts 100 through 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 or other on-track equipment, and for signals indicating the approach of a train or other on-track equipment, 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.
- (2) This section does not apply at grade crossings when the Ohio Public Utilities Commission has authorized and approved an exempt crossing as provided in this subsection.
- A. Any local authority may file an application with the Commission requesting the approval of an exempt crossing. Upon receipt of such a request, the Commission shall authorize a limited period for the filing of comments by any party regarding the application and then shall conduct a public hearing in the community seeking the exempt crossing designation. The Commission shall provide appropriate prior public notice of the comment period and the public hearing. By registered mail, the Commission shall notify each railroad operating over the crossing of the comment period.
- B. After considering any comments or other information received, the Commission may approve or reject the application. By order, the Commission may establish conditions for the exempt crossing designation, including compliance with division (b) of 49 C.F.R. Part 392.10, when applicable. An exempt crossing designation becomes effective only when appropriate signs giving notice of the exempt designation are erected at the crossing as ordered by the Commission and any other conditions ordered by the Commission are satisfied.
- C. By order, the Commission may rescind any exempt crossing designation made under this section if the Commission finds that a condition at the exempt crossing has changed to such an extent that the continuation of the exempt crossing designation compromises public safety. The Commission may conduct a public hearing to investigate and determine whether to rescind the exempt crossing designation. If the Commission rescinds the designation, it shall order the removal of any exempt crossing signs and may make any other necessary order.
- (3) As used in this section:
- A. "School vehicle" means any vehicle used for the transportation of pupils to and from a school or school-related function if the vehicle is owned or operated by, or operated under contract with, a public or nonpublic school.
- B. "Bus" means any vehicle originally designed by its manufacturer to transport sixteen or more passengers, including the driver, or carries sixteen or more passengers, including the driver.
- C. "Exempt crossing" means a highway rail grade crossing authorized and approved by the Public Utilities Commission under subsection (a)(2) hereof at which vehicles may cross without making the stop otherwise required by this section.

- (4) Except as otherwise provided in this subsection (a)(4), whoever violates subsection (a) hereof is guilty of a minor misdemeanor. If the offender previously has been convicted of or pleaded guilty to one or more violations of subsection (a) hereof or Ohio R.C. 4511.76, 4511.761, 4511.762, 4511.764, 4511.77 or 4511.79, or a municipal ordinance that is substantially similar to any of those sections, whoever violates subsection (a) hereof is guilty of a misdemeanor of the fourth degree. (ORC 4511.63)
- (b)
 - (1) When authorized stop signs are erected at railroad grade crossings, the operator of any vehicle shall stop within fifty but not less than fifteen feet from the nearest rail of the railroad tracks and shall exercise due care before proceeding across such grade crossing.
 - (2) Except as otherwise provided in this subsection, whoever violates this subsection (b)(1) hereof is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 408.02 of the Traffic Code. (ORC 4511.61)

432.41 SHORTCUTTING; AVOIDING TRAFFIC CONTROL DEVICES.

(a) No person shall operate a vehicle across public or private property marked with signs "No Through Traffic" or words of similar import for the purpose of passing from one roadway to another.

(b) No person shall operate a vehicle across public or private property for the purpose of avoiding compliance with a traffic control device.

(c) It shall be prima-facie evidence of a violation of this section for the operator of a vehicle to cross public or private property as provided herein without using the service of such property, stopping the engine or both.

(d) 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.

432.42 LITTERING FROM MOTOR VEHICLE.

(a) No operator or occupant of a motor vehicle shall, regardless of intent, throw, drop, discard or deposit litter from any motor vehicle in operation upon any street, road or highway, except into a litter receptacle in a manner that prevents its being carried away or deposited by the elements.

(b) No operator of a motor vehicle in operation upon any street, road or highway shall allow litter to be thrown, dropped, discarded or deposited from the motor vehicle, except into a litter receptacle in a manner that prevents its being carried away or deposited by the elements.

(c) As used in this section, "litter" means garbage, trash, waste, rubbish, ashes, cans, bottles, wire, paper, cartons, boxes, automobile parts, furniture, glass or anything else of an unsightly or unsanitary nature.

(d) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4511.82)

432.43 WEARING EARPLUGS OR EARPHONES PROHIBITED.

(a) As used in this section:

- (1) "Earphones." Any device that covers all or a portion of both ears and that does either of the following:
 - A. Through either a physical connection to another device or a wireless connection, provides the listener with radio programs, music, or other information;
 - B. Provides hearing protection."Earphones" does not include speakers or other listening devices that are built into protective headgear.
- (2) "Earplugs." Any device that can be inserted into one or both ears and that does either of the following:
 - A. Through either a physical connection to another device or a wireless connection, provides the listener with radio programs, music, or other information;
 - B. Provides hearing protection.

(b) No person shall operate a motor vehicle while wearing earphones over, or earplugs in, both ears.

(c) This section does not apply to:

- (1) Any person wearing a hearing aid;
- (2) Law enforcement personnel while on duty;
- (3) Fire Department personnel and emergency medical service personnel while on duty;
- (4) Any person engaged in the operation of equipment for use in the maintenance or repair of any highway;
- (5) Any person engaged in the operation of refuse collection equipment;
- (6) Any person wearing earphones or earplugs for hearing protection while operating a motorcycle.

(d) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
(R.C. § 4511.84)

432.44 VEHICULAR OPERATION ON STREET CLOSED DUE TO RISE IN WATER LEVEL.

(a) No person shall operate a vehicle on or onto a public street or highway that is temporarily covered by a rise in water level, including groundwater or an overflow of water, and that is clearly marked by a sign that specifies that the road is closed due to the rise in water level and that any person who uses the closed portion of the road may be fined up to two thousand dollars (\$2,000).

(b) A person who is issued a citation for a violation of subsection (a) hereof is not permitted to enter a written plea of guilty and waive the person's right to contest the citation in court, but instead must appear in person in the proper court to answer the charge.

- (c) (1) Whoever violates subsection (a) hereof is guilty of a minor misdemeanor.
(2) In addition to the financial sanctions authorized or required under Section 698.02 and to any costs otherwise authorized or required under any provision of law, the court imposing the sentence upon an offender who is convicted of or pleads guilty to a violation of subsection (a) hereof shall order the offender to reimburse one or more rescuers for the cost any such rescuer incurred in rescuing the person, excluding any cost of transporting the rescued person to a hospital or other facility for treatment of injuries, up to a cumulative maximum of two thousand dollars (\$2,000). If more than one rescuer was involved in the emergency response, the court shall allocate the reimbursement proportionately, according to the cost each rescuer incurred. A financial sanction imposed under this section is a judgment in favor of the rescuer and, subject to a determination of indigency under division (B) of Ohio R.C. 2929.28, a rescuer may collect the financial sanction in the same manner as provided in Ohio R.C. 2929.28.
- (d) As used in this section:
(1) "Emergency medical service organization", "firefighting agency" and "private fire company" have the same meanings as in Ohio R.C. 9.60.
(2) "Rescuer" means a state agency, political subdivision, firefighting service, private fire company, or emergency medical service organization.
(ORC 4511.714.)

CHAPTER 434
OVI; Willful Misconduct; Speed

434.01	Driving or physical control while under the influence.	434.06	Speed exceptions for emergency or safety vehicles.
434.02	Operation in willful or wanton disregard of safety.	434.07	Street racing, stunt driving and street takeovers prohibited.
434.03	Maximum speed limits; assured clear distance ahead.	434.08	Vehicular homicide.
434.031	Approaching a stationary public immobilization order.	434.09	Failure to control vehicle.
434.04	Stopping vehicle; slow speed; posted minimum speeds.	434.10	Operation in violation of safety, emergency or road service vehicle.
434.05	Speed limitations over bridges.	434.11	Texting while driving prohibited.

CROSS REFERENCES

See sectional histories for similar State law

Drug of abuse defined - see Ohio R.C. 3719.011(A)

Alcohol defined - see Ohio R.C. 4301.01(B)(1)

Alteration of prima-facie speed limits - see Ohio R.C. 4511.21, 4511.22(B), 4511.23

Failure to control vehicle - see TRAF. 432.34

Walking on highway while under the influence - see TRAF. 416.09

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- 434.01 DRIVING OR PHYSICAL CONTROL WHILE UNDER THE INFLUENCE.**
- (a) (1) Operation Generally. No person shall operate any vehicle within this Municipality, if, at the time of the operation, any of the following apply:
- A. The person is under the influence of alcohol, a drug of abuse, or a combination of them.
 - B. The person has a concentration of eight-hundredths of one per cent or more but less than seventeen-hundredths of one per cent by weight per unit volume of alcohol in the person's whole blood.
 - C. The person has a concentration of ninety-six-thousandths of one per cent or more but less than two hundred four-thousandths of one per cent by weight per unit volume of alcohol in the person's blood serum or plasma.
 - D. The person has a concentration of eight-hundredths of one gram or more but less than seventeen-hundredths of one gram by weight of alcohol per two hundred ten liters of the person's breath.
 - E. The person has a concentration of eleven-hundredths of one gram or more but less than two hundred thirty-eight-thousandths of one gram by weight of alcohol per one hundred milliliters of the person's urine.

- F. The person has a concentration of seventeen-hundredths of one per cent or more by weight per unit volume of alcohol in the person's whole blood.
- G. The person has a concentration of two hundred four-thousandths of one per cent or more by weight per unit volume of alcohol in the person's blood serum or plasma.
- H. The person has a concentration of seventeen-hundredths of one gram or more by weight of alcohol per two hundred ten liters of the person's breath.
- I. The person has a concentration of two hundred thirty-eight-thousandths of one gram or more by weight of alcohol per one hundred milliliters of the person's urine.
- J. Except as provided in subsection (m) of this section, the person has a concentration of any of the following controlled substances or metabolites of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds any of the following:
 - 1. The person has a concentration of amphetamine in the person's urine of at least five hundred nanograms of amphetamine per milliliter of the person's urine or has a concentration of amphetamine in the person's whole blood or blood serum or plasma of at least one hundred nanograms of amphetamine per milliliter of the person's whole blood or blood serum or plasma.
 - 2. The person has a concentration of cocaine in the person's urine of at least one hundred fifty nanograms of cocaine per milliliter of the person's urine or has a concentration of cocaine in the person's whole blood or blood serum or plasma of at least fifty nanograms of cocaine per milliliter of the person's whole blood or blood serum or plasma.
 - 3. The person has a concentration of cocaine metabolite in the person's urine of at least one hundred fifty nanograms of cocaine metabolite per milliliter of the person's urine or has a concentration of cocaine metabolite in the person's whole blood or blood serum or plasma of at least fifty nanograms of cocaine metabolite per milliliter of the person's whole blood or blood serum or plasma.
 - 4. The person has a concentration of heroin in the person's urine of at least two thousand nanograms of heroin per milliliter of the person's urine or has a concentration of heroin in the person's whole blood or blood serum or plasma of at least fifty nanograms of heroin per milliliter of the person's whole blood or blood serum or plasma.
 - 5. The person has a concentration of heroin metabolite (6-monoacetyl morphine) in the person's urine of at least ten nanograms of heroin metabolite (6-monoacetyl morphine) per milliliter of the person's urine or has a concentration of heroin metabolite (6-monoacetyl morphine) in the person's whole blood or blood serum or plasma of at least ten nanograms of heroin metabolite (6-monoacetyl morphine) per milliliter of the person's whole blood or blood serum or plasma.

- 3. Except as provided in subsection (d)(3) of this section, the person has a concentration of a listed controlled substance or a listed metabolite of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds the concentration specified in subsection (a)(1)J. hereof.
- B. No person under twenty-one years of age shall be in physical control of a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them or while the person's whole blood, blood serum or plasma, breath, or urine contains at least the concentration of alcohol specified in subsection (b)(1) to (4) hereof.
- (3) Subsection (d)(2)A.3. of this section does not apply to a person who is in physical control of a vehicle while the person has a concentration of a listed controlled substance or a listed metabolite of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds the amount specified in subsection (a)(1)J. hereof, if both of the following apply:
 - A. The person obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs.
 - B. The person injected, ingested, or inhaled the controlled substance in accordance with the health professional's directions.
- (e) Evidence; Tests.
 - (1) A. In any criminal prosecution or juvenile court proceeding for a violation of division (a)(1)A. of this section or for an equivalent offense that is vehicle-related, the result of any test of any blood, oral fluid, or urine withdrawn and analyzed at any health care provider, as defined in Ohio R.C. 2317.02, may be admitted with expert testimony to be considered with any other relevant and competent evidence in determining the guilt or innocence of the defendant.
 - B. In any criminal prosecution for a violation of division (a) or (b) of this section or for an equivalent offense that is vehicle-related, the court may admit evidence on the presence and concentration of alcohol, drugs of abuse, controlled substances, metabolites of a controlled substance, or a combination of them in the defendant's whole blood, blood serum or plasma, breath, urine, oral fluid, or other bodily substance at the time of the alleged violation as shown by chemical analysis of the substance withdrawn within three hours of the time of the alleged violation. The three-hour time limit specified in this division regarding the admission of evidence does not extend or affect the two-hour time limit specified in Ohio R.C. 4511.192(A) as the maximum period of time during which a person may consent to a chemical test or tests as described in that section. The court may admit evidence on the presence and concentration of alcohol, drugs of abuse, or a combination of them as described in this division when a person submits to a blood, breath, urine, oral fluid, or other bodily substance test at the request of a law enforcement officer under Ohio R.C. 4511.191 or a substantially equivalent municipal ordinance, or a blood or urine sample is obtained pursuant to a search warrant. Only a physician, a registered nurse, an emergency medical technician-intermediate, an emergency medical technician-paramedic, or a qualified technician, chemist, or phlebotomist shall withdraw a blood sample for the purpose of determining the alcohol, drug, controlled substance, metabolite of a controlled substance, or combination content of the whole blood, blood serum, or blood plasma. This limitation does not apply to the

taking of breath, oral fluid, or urine specimens. A person authorized to withdraw blood under this division may refuse to withdraw blood under this division, if in that person's opinion, the physical welfare of the person would be endangered by the withdrawing of blood. The bodily substance withdrawn under this division (d)(1)B. shall be analyzed in accordance with methods approved by the Director of Health by an individual possessing a valid permit issued by the Director pursuant to Ohio R.C. 3701.143.

- C. As used in subsection (e)(1)B. of this section, "emergency medical technician-intermediate" and "emergency medical technician-paramedic" have the same meanings as in Ohio R.C. 4765.01.
- (2) In a criminal prosecution or juvenile court proceeding for violation of subsection (a) of this section or for an equivalent offense that is vehicle related, if there was at the time the bodily substance was withdrawn a concentration of less than the applicable concentration of alcohol specified in subsections (a)(1)B., C., D. and E. of this section, or less than the applicable concentration of a listed controlled substance or a listed metabolite of a controlled substance specified for a violation of subsection (a)(1)J. of this section, that fact may be considered with other competent evidence in determining the guilt or innocence of the defendant. This subsection does not limit or affect a criminal prosecution or juvenile court proceeding for a violation of subsection (b) of this section or for an equivalent offense that is substantially equivalent to that subsection.
- (3) Upon the request of the person who was tested, the results of the chemical test shall be made available to the person or the person's attorney, immediately upon the completion of the chemical test analysis.
- If the chemical test was obtained pursuant to subsection (e)(1)B. hereof, the person tested may have a physician, a registered nurse, or a qualified technician, chemist or phlebotomist of the person's own choosing administer a chemical test or tests, at the person's expense, in addition to any administered at the request of a law enforcement officer. If the person was under arrest as described in division (A)(5) of Ohio R.C. 4511.191, the arresting officer shall advise the person at the time of the arrest that the person may have an independent chemical test taken at the person's own expense. If the person was under arrest other than described in division (A)(5) of Ohio R.C. 4511.191, the form to be read to the person to be tested, as required under Ohio R.C. 4511.192, shall state that the person may have an independent test performed at the person's expense. The failure or inability to obtain an additional chemical test by a person shall not preclude the admission of evidence relating to the chemical test or tests taken at the request of a law enforcement officer.
- (4) A. As used in subsections (e)(4)B. and C. of this section, "national highway traffic safety administration" means the National Traffic Highway Safety Administration established as an administration of the United States Department of Transportation under 96 Stat. 2415 (1983), 49 U.S.C.A. 105.
- B. In any criminal prosecution or juvenile court proceeding for a violation of division (a) or (b) of this section, of a municipal ordinance relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, or of a municipal ordinance relating to 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, oral fluid, or urine, if a law enforcement officer has administered a field sobriety test to the operator of the vehicle involved in the violation and if it is shown by clear and convincing evidence that the officer administered the test in substantial compliance with the testing standards for any reliable, credible, and generally accepted field sobriety tests that were in effect at the time the tests were administered, including but not limited to any testing standards then in effect that were set by the National Highway Traffic Safety Administration, all of the following apply:

1. The officer may testify concerning the results of the field sobriety test so administered.
 2. The prosecution may introduce the results of the field sobriety test so administered as evidence in any proceedings in the criminal prosecution or juvenile court proceeding.
 3. If testimony is presented or evidence is introduced under subsection (e)(4)B.1. or 2. of this section and if the testimony or evidence is admissible under the Rules of Evidence, the court shall admit the testimony or evidence and the trier of fact shall give it whatever weight the trier of fact considers to be appropriate.
- C. Subsection (e)(4)B. of this section does not limit or preclude a court, in its determination of whether the arrest of a person was supported by probable cause or its determination of any other matter in a criminal prosecution or juvenile court proceeding of a type described in that subsection, from considering evidence or testimony that is not otherwise disallowed by subsection (e)(4)B. of this section. (ORC 4511.19; 4511.194)

(f) Forensic Laboratory Reports.

- (1) Subject to subsection (f)(3) of this section, in any criminal prosecution or juvenile court proceeding for a violation of subsection (a)(1)B., C., D., E., F., G., H., I., or J. or (b)(1), (2), (3) or (4) of this section or for an equivalent offense that is substantially equivalent to any of those subsections, a laboratory report from any laboratory personnel issued a permit by the Department of Health authorizing an analysis as described in this subsection that contains an analysis of the whole blood, blood serum or plasma, breath, urine, or other bodily substance tested and that contains all of the information specified in this subsection shall be admitted as prima-facie evidence of the information and statements that the report contains. The laboratory report shall contain all of the following:
- A. The signature, under oath, of any person who performed the analysis;
 - B. Any findings as to the identity and quantity of alcohol, a drug of abuse, a controlled substance, a metabolite of a controlled substance, or a combination of them that was found;
 - C. A copy of a notarized statement by the laboratory director or a designee of the director that contains the name of each certified analyst or test performer involved with the report, the analyst's or test performer's employment relationship with the laboratory that issued the report, and a notation that performing an analysis of the type involved is part of the analyst's or test performer's regular duties;
 - D. An outline of the analyst's or test performer's education, training, and experience in performing the type of analysis involved and a certification that the laboratory satisfies appropriate quality control standards in general and, in this particular analysis, under rules of the Department of Health.

- (2) Notwithstanding any other provision of law regarding the admission of evidence, a report of the type described in subsection (f)(1) of this section is not admissible against the defendant to whom it pertains in any proceeding, other than a preliminary hearing or a grand jury proceeding, unless the prosecutor has served a copy of the report on the defendant's attorney or, if the defendant has no attorney, on the defendant.
- (3) A report of the type described in subsection (f)(1) of this section shall not be prima-facie evidence of the contents, identity, or amount of any substance if, within seven days after the defendant to whom the report pertains or the defendant's attorney receives a copy of the report, the defendant or the defendant's attorney demands the testimony of the person who signed the report. The judge in the case may extend the seven-day time limit in the interest of justice.

(g) Immunity From Liability For Withdrawing Blood. Except as otherwise provided in this subsection, any physician, registered nurse, emergency medical technician-intermediate, emergency medical technician-paramedic, or qualified technician, chemist, or phlebotomist who withdraws blood from a person pursuant to this section or Ohio R.C. 4511.191 or 4511.192, and any hospital, first-aid station, or clinic at which blood is withdrawn from a person pursuant to this section or Ohio R.C. 4511.191 or 4511.192, is immune from criminal liability and civil liability based upon a claim of assault and battery or any other claim that is not a claim of malpractice, for any act performed in withdrawing blood from the person. The immunity provided in this subsection also extends to an emergency medical service organization that employs an emergency medical technician-intermediate or emergency medical technician-paramedic who withdraws blood under this section. The immunity provided in this subsection is not available to a person who withdraws blood if the person engaged in willful or wanton misconduct.

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

(h) Penalty for Driving Under the Influence.

- (1) Whoever violates any provisions of divisions (a)(1)A. through (a)(1)I. or (a)(2) of this section is guilty of operating a vehicle under the influence of alcohol, a drug of abuse, or a combination of them. Whoever violates division (a)(1)J. of this section is guilty of operating a vehicle while under the influence of a listed controlled substance or a listed metabolite of a controlled substance. The court shall sentence the offender for either offense under R.C. Chapter 2929, except as otherwise authorized or required by divisions (h)(1)A. through (h)(1)E. of this section:
 - A. Except as otherwise provided in division (h)(1)B., (h)(1)C., (h)(1)D. or (h)(1)E. of this section, the offender is guilty of a misdemeanor of the first degree and the court shall sentence the offender to all of the penalties and sanctions provided in R.C. § 4511.19(G)(1)(a)(i) to (G)(1)(a)(iv).
 - B. Except as otherwise provided in division (h)(1)E. of this section, an offender who, within ten years of the offense previously has been convicted of or pleaded guilty to one violation of division (a) of this section, or one other equivalent offense is guilty of a misdemeanor of the first degree. The court shall sentence the offender to all of the penalties and sanctions provided in R.C. § 4511.19(G)(1)(b)(i) to (G)(1)(b)(v).

- C. Except as otherwise provided in division (h)(1)E. of this section, an offender who, within ten years of the offense, previously has been convicted of or pleaded guilty to two violations of division (a) of this section or other equivalent offenses is guilty of a misdemeanor. The court shall sentence the offender to all of the penalties and sanctions provided in R.C. § 4511.19(G)(1)(c)(i) to (G)(1)(c)(vi).
 - D. Except as otherwise provided in division (h)(1)E. of this section, an offender who, within ten years of the offense, previously has been convicted of or pleaded guilty to three or more violations of division (a) of this section or other equivalent offenses or an offender who, within 20 years of the offense, previously has been convicted of or pleaded guilty to five or more violations of that nature, or an offender who previously has been convicted of or pleaded guilty to a specification of the type described in R.C. § 2941.1413, is guilty of a felony to be prosecuted under appropriate state law.
 - E. An offender who previously has been convicted of or pleaded guilty to a violation of R.C. § 4511.19(A) that was a felony, regardless of when the violation and the conviction or guilty plea occurred, is guilty of a felony to be prosecuted under appropriate state law.
- (2) An offender who is convicted of or pleads guilty to a violation of division (a) of this section and who subsequently seeks reinstatement of the driver's or occupational driver's license or permit or nonresident operating privilege suspended under this section or R.C. § 4511.19 as a result of the conviction or guilty plea shall pay a reinstatement fee as provided in R.C. § 4511.191(F)(2).
 - (3) A. If an offender is sentenced to a jail term under R.C. § 4511.19(G)(1)(b)(i) or (G)(1)(b)(ii) or (G)(1)(c)(i) or (G)(1)(c)(ii) and if, within 60 days of sentencing of the offender, the court issues a written finding on the record that, due to the unavailability of space at the jail where the offender is required to serve the term, the offender will not be able to begin serving that term within the 60-day period following the date of sentencing, the court may impose an alternative sentence as specified in R.C. § 4511.19(G)(3) that includes a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring.
 - B. As an alternative to the mandatory jail terms as required by R.C. § 4511.19(G)(1), the court may sentence the offender as provided in R.C. § 4511.19(G)(3).
- (4) If an offender's driver's or occupational driver's license or permit or nonresident operating privilege is suspended under division (h) of this section or R.C. § 4511.19(G) and if R.C. § 4510.13 permits the court to grant limited driving privileges, the court may grant the limited driving privileges in accordance with that section. If division (A)(7) of that section requires the court impose as a condition of the privileges that the offender must display on the vehicle that is driven subject to the privileges restricted license plates that are issued under R.C. § 4503.231, except as provided in division (B) of that section, the court shall impose that condition as one of the conditions of the limited driving privileges granted to the offender, except as provided in R.C. § 4503.231(B).
 - (5) Fines imposed under this section for a violation of division (a) of this section shall be distributed as provided in R.C. § 4511.19(G)(5).

- (6) If title to a motor vehicle that is subject to an order of criminal forfeiture under division (h)(1)C., (h)(1)D. or (h)(1)E. of this section is assigned or transferred and R.C. § 4503.234(B)(2) or (B)(3) applies, in addition to or independent of any other penalty established by law, the court may fine the offender the value of the vehicle as determined by publications of the National Automobile Dealers Association. The proceeds of any fine so imposed shall be distributed in accordance with division (C)(2) of that section.
- (7) In all cases in which an offender is sentenced under division (h) of this section, the offender shall provide the court with proof of financial responsibility as defined in R.C. § 4509.01. If the offender fails to provide that proof of financial responsibility, the court, in addition to any other penalties provided by law, may order restitution pursuant to R.C. § 2929.18 or 2929.28 in an amount not exceeding \$5,000 for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during, or after committing the offense for which the offender is sentenced under division (h) of this section.
- (8) A court may order an offender to reimburse a law enforcement agency for any costs incurred by the agency with respect to a chemical test or tests administered to the offender if all of the following apply:
 - A. The offender is convicted of or pleads guilty to a violation of division (a) of this section.
 - B. The test or tests were of the offender's whole blood, blood serum or plasma, oral fluid, or urine.
 - C. The test or tests indicated that the offender had one of the following at the time of the offense:
 - 1. A prohibited concentration of a controlled substance or a metabolite of a controlled substance in the offender's whole blood, blood serum or plasma, or urine;
 - 2. A drug of abuse or a metabolite of a drug of abuse in the offender's oral fluid.
- (9) A court may warn any person who is convicted of or who pleads guilty to a violation of division (a) of this section or an equivalent offense that a subsequent violation of this section or an equivalent offense that results in the death of another or the unlawful termination of another's pregnancy may result in the person being guilty of aggravated vehicular homicide under R.C. § 2903.06. The court may warn the person of the applicable penalties for that violation under R.C. §§ 2903.06 and 2929.142.
- (10) As used in division (h) of this section, "electronic monitoring" has the same meaning as in R.C. § 2929.01.

- (d) (1) 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.
- (2) Notwithstanding Section 408.01(b), upon a finding that a person operated a motor vehicle in violation of subsection (c) of this section, the court, in addition to all other penalties provided by law, shall impose a fine of two times the usual amount imposed for the violation.
- (3) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 408.02 of the Traffic Code.

(e) The offense established under this section is a strict liability offense and Ohio 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. (ORC 4511.213)

434.04 STOPPING VEHICLE; SLOW SPEED; POSTED MINIMUM SPEEDS.

(a) No person shall stop or operate a vehicle at such an unreasonably slow speed as to impede or block the normal and reasonable movement of traffic, except when stopping or reduced speed is necessary for safe operation or to comply with law.

(b) Whenever, in accordance with Ohio R.C. 4511.22(B), the minimum speed limit of a controlled-access highway, expressway or freeway has been declared and the appropriate signs giving notice have been erected as required, operators of motor vehicles shall be governed by the speed limitations set forth on such signs. No person shall operate a motor vehicle below the speed limits posted upon such signs except when necessary for safe operation or in compliance with law.

(c) In a case involving a violation of this section, the trier of fact, in determining whether the vehicle was being operated at an unreasonably slow speed, shall consider the capabilities of the vehicle and its operator.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 408.02 of the Traffic Code. (ORC 4511.22)

434.05 SPEED LIMITATIONS OVER BRIDGES.

(a) No person shall operate a vehicle over any bridge or other elevated structure constituting a part of a street at a speed which is greater than the maximum speed that can be maintained with safety to such bridge or structure, when such structure is posted with authorized signs stating such maximum speed. Such signs shall be erected and maintained at a distance of at least 100 feet before each end of such structure.

(b) Upon the trial of any person charged with a violation of this section, proof of the determination of the maximum speed and the existence of such signs shall constitute prima-facie evidence of the maximum speed which can be maintained with safety to such bridge or structure.

(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.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 408.02 of the Traffic Code. (ORC 4511.23)

434.06 SPEED EXCEPTIONS FOR EMERGENCY OR SAFETY VEHICLES.

The prima-facie speed limitations set forth in Section 434.03 do not apply to emergency vehicles or public safety vehicles when they are responding to emergency calls and are equipped with and displaying at least one flashing, rotating or oscillating light visible under normal atmospheric conditions from a distance of 500 feet to the front of the vehicle and when the drivers thereof sound audible signals by bell, siren or exhaust whistle. This section does not relieve the driver of an emergency vehicle or public safety vehicle from the duty to drive with due regard for the safety of all persons using the street or highway. (ORC 4511.24)

434.07 STREET RACING, STUNT DRIVING AND STREET TAKEOVERS PROHIBITED.

(a) As used in this section:

- (1) "Burnout." A maneuver performed while operating a vehicle whereby the vehicle is kept in a stationary position, but the wheels of the vehicle are spun, which may cause the tires of the vehicle to become heated and emit smoke from the friction.
- (2) "Doughnut." A maneuver performed while operating a vehicle whereby the front or rear of the vehicle is rotated around the opposite set of wheels in a continuous motion, which may cause a circular skid-mark pattern of rubber on the driving surface, or the tires of the vehicle to become heated and emit smoke from the friction, or both.
- (3) "Drifting." A maneuver performed while operating a vehicle whereby the vehicle is driven in a manner that causes a controlled, sideways skid during a turn, with the front wheels pointing in a direction that is the opposite of the direction of the turn.
- (4) "Street racing." The operation of two or more vehicles from a point side by side at accelerating speeds in a competitive attempt to out-distance each other or the operation of one or more vehicles over a common selected course, from the same point to the same point, wherein timing is made of the participating vehicles involving competitive accelerations or speeds. The operation of two or more vehicles side by side either at speeds in excess of prima-facie lawful speeds established by R.C. § 4511.21(B)(1)(a) to (B)(9) or rapidly accelerating from a common starting point to a speed in excess of such prima-facie lawful speeds shall be prima-facie evidence of street racing.
- (5) "Street takeover." Blocking or impeding the regular flow of vehicle or pedestrian traffic on a public road, street, or highway or on private property that is open to the general public for the purpose of street racing or stunt driving.
- (6) "Stunt driving." Performing or engaging in burnouts, doughnuts, drifting, or wheelies, or allowing a passenger to ride either partially or fully outside of the vehicle while operating that vehicle.

- (7) "Wheelie." A maneuver performed while operating a vehicle whereby the front wheel or wheels of the vehicle are raised off of the ground or whereby two wheels that are on the same side of the vehicle are raised off of the ground.

(b) No person shall knowingly participate in street racing, stunt driving, or street takeover upon any public road, street, or highway, or on private property that is open to the general public.

(c) Whoever violates this section is guilty of street racing, stunt driving, or street takeover, a misdemeanor of the first degree. In addition to any other sanctions, the court shall suspend the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege for not less than 30 days or more than three years. No judge shall suspend the first 30 days of any suspension of an offender's license, permit, or privilege imposed under this division.

(d) Persons rendering assistance in any manner to street racing, stunt driving, or street takeover shall be equally charged as the participants.

(e) This section does not apply to the competitive operation of vehicles on public or private property when the political subdivision with jurisdiction of the location or owner of the property knowingly permits such operation thereon.
(ORC 4511.251)

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)

(d) The filing of a sworn complaint against a person for a violation of Ohio R.C. 4511.205 does not preclude the filing of a sworn complaint for a violation of a substantially equivalent municipal ordinance for the same conduct. However, if a person is adjudicated a delinquent child or a juvenile traffic offender for a violation of Ohio R.C. 4511.205 and is also adjudicated a delinquent child or a juvenile traffic offender for a violation of a substantially equivalent municipal ordinance for the same conduct, the two offenses are allied offenses of similar import under Ohio R.C. 2941.25.

(e) As used in this section, "electronic wireless communications device" includes any of the following:

- (1) A wireless telephone;
- (2) A personal digital assistant;
- (3) A computer, including a laptop computer and a computer tablet;
- (4) A text-messaging device;
- (5) Any other substantially similar electronic wireless device that is designed or used to communicate via voice, image, or written word.
(ORC 4511.205)

436.04 CERTAIN ACTS PROHIBITED.

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

- (1) Display, or cause or permit to be displayed, or possess any identification card, driver's or commercial driver's license, temporary instruction permit or commercial driver's license temporary instruction permit knowing the same to be fictitious, or to have been canceled, suspended or altered;
- (2) Lend to a person not entitled thereto, or knowingly permit a person not entitled thereto to use any identification card, driver's or commercial driver's license, temporary instruction permit or commercial driver's license temporary instruction permit issued to the person so lending or permitting the use thereof;
- (3) Display or represent as one's own, any identification card, driver's or commercial driver's license, temporary instruction permit or commercial driver's license temporary instruction permit not issued to the person so displaying the same;
- (4) Fail to surrender to the Registrar of Motor Vehicles, upon the Registrar's demand, any identification card, driver's or commercial driver's license, temporary instruction permit or commercial driver's license temporary instruction permit that has been suspended or canceled;
- (5) In any application for an identification card, driver's or commercial driver's license, temporary instruction permit or commercial driver's license temporary instruction permit or any renewal, reprint, or duplicate thereof, knowingly conceal a material fact or present any statement required under R.C. §§ 4507.08 or 4507.081 when knowing the same to be false or fictitious.

(b) Whoever violates this section is guilty of a misdemeanor of the first degree.
(ORC 4507.30)

436.05 WRONGFUL ENTRUSTMENT OF A MOTOR VEHICLE.

(a) No person shall permit a motor vehicle owned by the person or under the person's control to be driven by another if any of the following apply:

- (1) The offender knows or has reasonable cause to believe that the other person does not have a valid driver's or commercial driver's license or permit or valid nonresident driving privileges.
- (2) The offender knows or has reasonable cause to believe that the other person's driver's or commercial driver's license or permit or nonresident operating privileges have been suspended or canceled under Ohio R.C. Chapter 4510, or any other provision of the Ohio Revised Code or this Traffic Code.
- (3) The offender knows or has reasonable cause to believe that the other person's act of driving the motor vehicle would violate any prohibition contained in Ohio R.C. Chapter 4509.
- (4) The offender knows or has reasonable cause to believe that the other person's act of driving would violate Ohio R.C. 4511.19 or any substantially equivalent municipal ordinance.
- (5) The offender knows or has reasonable cause to believe that the vehicle is the subject of an immobilization waiver order issued under Ohio R.C. 4503.235 and the other person is prohibited from operating the vehicle under that order.

(b) Without limiting or precluding the consideration of any other evidence in determining whether a violation of subsection (a)(1), (2), (3), (4) or (5) of this section has occurred, it shall be prima-facie evidence that the offender knows or has reasonable cause to believe that the operator of the motor vehicle owned by the offender or under the offender's control is in a category described in subsection (a)(1), (2), (3), (4) or (5) of this section if any of the following applies:

- (1) Regarding an operator allegedly in the category described in subsection (a)(1), (3) or (5) of this section, the offender and the operator of the motor vehicle reside in the same household and are related by consanguinity or affinity.
- (2) Regarding an operator allegedly in the category described in subsection (a)(2) of this section, the offender and the operator of the motor vehicle reside in the same household, and the offender knows or has reasonable cause to believe that the operator has been charged with or convicted of any violation of law or ordinance, or has committed any other act or omission, that would or could result in the suspension or cancellation of the operator's license, permit or privilege.
- (3) Regarding an operator allegedly in the category described in subsection (a)(4) of this section, the offender and the operator of the motor vehicle occupied the motor vehicle together at the time of the offense.

(c) Whoever violates this section is guilty of wrongful entrustment of a motor vehicle and shall be punished as provided in subsections (c) to (h) of this section.

- (1) Except as provided in subsection (c)(2) of this section, whoever violates subsection (a)(1), (2) or (3) of this section is guilty of an unclassified misdemeanor. When the offense is an unclassified misdemeanor, the offender shall be sentenced pursuant to Ohio R.C. 2929.21 to 2929.28, except that the offender shall not be sentenced to a jail term; the offender shall not be sentenced to a community residential sanction pursuant to Ohio R.C. 2929.26; notwithstanding division (A)(2)(a) of Ohio R.C. 2929.28, the offender may be fined up to one thousand dollars (\$1,000); and, notwithstanding division (A)(3) of Ohio R.C. 2929.27, the offender may be ordered pursuant to division (C) of that section to serve a term of community service of up to five hundred hours. The failure of an offender to complete a term of community service imposed by the court may be punished as indirect criminal contempt under division (A) of Ohio R.C. 2705.02.

- (2) An order for immobilization and impoundment of a vehicle under this section shall be issued and enforced in accordance with Ohio R.C. 4503.233 and 4507.02, as applicable. The court shall not release a vehicle from immobilization ordered under this section unless the court is presented with current proof of financial responsibility with respect to that vehicle.
 - (3) An order for criminal forfeiture of a vehicle under this section shall be issued and enforced under Ohio R.C. 4503.234. Upon receipt of a copy of the order from the court, neither the Registrar of Motor Vehicles nor a Deputy Registrar shall accept any application for the registration or transfer of registration of any motor vehicle owned or leased by the person named in the declaration of forfeiture. The period of registration denial shall be five years after the date of the order unless, during that period, the court having jurisdiction of the offense that led to the order terminates the forfeiture and notifies the Registrar of the termination. The Registrar then shall take the necessary measures to permit the person to register a vehicle owned or leased by the person or to transfer registration of the vehicle. (ORC 4510.161)
- (h) As used in this section:
- (1) "Electronic monitoring" has the same meaning as in Ohio R.C. 2929.01.
 - (2) "Equivalent offense" means any of the following:
 - A. A violation of a municipal ordinance, law of another state, or law of the United States that is substantially equivalent to subsection (a) of this section;
 - B. A violation of a former law of this State that was substantially equivalent to subsection (a) of this section.
 - (3) "Jail" has the same meaning as in Ohio R.C. 2929.01.
 - (4) "Mandatory jail term" means the mandatory term in jail of three, ten, or thirty consecutive days that must be imposed under subsection (b)(1), (2) or (3) of this section upon an offender convicted of a violation of subsection (a) of this section and in relation to which all of the following apply:
 - A. Except as specifically authorized under this section, the term must be served in a jail.
 - B. Except as specifically authorized under this section, the term cannot be suspended, reduced, or otherwise modified pursuant to any provision of the Ohio Revised Code. (ORC 4510.14)

436.072 DRIVING UNDER FINANCIAL RESPONSIBILITY LAW SUSPENSION OR CANCELLATION; DRIVING UNDER A NONPAYMENT OF JUDGEMENT SUSPENSION.

(a) No person, whose driver's or commercial driver's license or temporary instruction permit or nonresident's operating privilege has been suspended or canceled pursuant to R.C. Chapter 4509, shall operate any motor vehicle within this municipality, or knowingly permit any motor vehicle owned by the person to be operated by another person in the municipality, during the period of the suspension or cancellation, except as specifically authorized by R.C. Chapter 4509.

(b) No person shall operate any motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking in this Municipality if the person's driver's or commercial driver's license or temporary instruction permit or nonresident operating privilege has been suspended pursuant to Ohio R.C. 4509.37 or 4509.40 for nonpayment of a judgment.

(c) Upon the request or motion of the prosecuting authority, a noncertified copy of the law enforcement automated data system report or a noncertified copy of a record of the Registrar of Motor Vehicles that shows the name, date of birth and social security number of a person charged with a violation of subsection (a) or (b) of this section may be admitted into evidence as prima-facie evidence that the license of the person was under either a financial responsibility law suspension at the time of the alleged violation of subsection (a) of this section or a nonpayment of judgment suspension at the time of the alleged violation of subsection (b) of this section. The person charged with a violation of subsection (a) or (b) of this section may offer evidence to rebut this prima-facie evidence.

(d) Whoever violates division (a) of this section is guilty of driving under financial responsibility law suspension or cancellation and shall be punished as provided in division (d)(1) to (d)(3) of this section. Whoever violates division (b) of this section is guilty of driving under a nonpayment of judgment suspension and shall be punished as provided in division (d)(1) to (d)(3) of this section.

- (1) Except as otherwise provided in subsection (d)(2) of this section, the offense is an unclassified misdemeanor. When the offense is an unclassified misdemeanor, the offender shall be sentenced pursuant to Ohio R.C. 2929.21 to 2929.28, except that the offender shall not be sentenced to a jail term; the offender shall not be sentenced to a community residential sanction pursuant to Ohio R.C. 2929.26; notwithstanding division (A)(2)(a) of Ohio R.C. 2929.28, the offender may be fined up to one thousand dollars (\$1,000); and, notwithstanding division (A)(3) of Ohio R.C. 2929.27, the offender may be ordered pursuant to division (C) of that section to serve a term of community service of up to five hundred hours. The failure of an offender to complete a term of community service imposed by the court may be punished as indirect criminal contempt under division (A) of Ohio R.C. 2705.02 that may be filed in the underlying case.
- (2) If, within three years of the offense, the offender previously was convicted of or pleaded guilty to two or more violations of Ohio R.C. 4510.16, or any combination of two violations of Ohio R.C. 4510.16 or Ohio R.C. 4510.11 or 4510.111, or a substantially equivalent municipal ordinance, the offense is a misdemeanor of the fourth degree.
- (3) The offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.28 in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during or after committing the offense for which the offender is sentenced under this section. (ORC 4510.16)

(e) No person who has knowingly failed to maintain proof of financial responsibility in accordance with Ohio R.C. 4509.101 shall produce any document or present to a peace officer an electronic wireless communications device that is displaying any text or images with the purpose to mislead a peace officer upon the request of a peace officer for proof of financial responsibility made in accordance with Ohio R.C. 4509.101. Whoever violates this subsection (e) hereof is guilty of falsification, a misdemeanor of the first degree. (ORC 4509.102)

436.073 DRIVING WITHOUT COMPLYING WITH LICENSE REINSTATEMENT REQUIREMENTS.

(a) No person whose driver's license, commercial driver's license, temporary instruction permit, or nonresident's operating privilege has been suspended shall operate any motor vehicle upon a public road or highway or any public or private property after the suspension has expired unless the person has complied with all license reinstatement requirements imposed by the court, the Bureau of Motor Vehicles, or another provision of the Ohio Revised Code.

(b) Upon the request or motion of the prosecuting authority, a noncertified copy of the law enforcement automated data system report or a noncertified copy of a record of the Registrar of Motor Vehicles that shows the name, date of birth, and social security number of a person charged with a violation of subsection (a) of this section may be admitted into evidence as prima-facie evidence that the license of the person had not been reinstated by the person at the time of the alleged violation of subsection (a) hereof. The person charged with a violation of subsection (a) hereof may offer evidence to rebut this prima-facie evidence.

(c) Whoever violates this section is guilty of failure to reinstate a license and shall be punished as follows:

- (1) Except as provided in subsection (c)(2) of this section, whoever violates subsection (a) hereof is guilty of an unclassified misdemeanor. When the offense is an unclassified misdemeanor, the offender shall be sentenced pursuant to Ohio R.C. 2929.21 to 2929.28, except that the offender shall not be sentenced to a jail term; the offender shall not be sentenced to a community residential sanction pursuant to Ohio R.C. 2929.26; notwithstanding division (A)(2)(a) of Ohio R.C. 2929.28, the offender may be fined up to one thousand dollars (\$1,000); and, notwithstanding division (A)(3) of Ohio R.C. 2929.27, the offender may be ordered pursuant to division (C) of that section to serve a term of community service of up to five hundred hours. The failure of an offender to complete a term of community service imposed by the court may be punished as indirect criminal contempt under division (A) of Ohio R.C. 2705.02 that may be filed in the underlying case.
- (2) If, within three years of a violation of subsection (a) of this section, the offender previously has pleaded guilty to or been convicted of two or more violations of Ohio R.C. 4510.21(A) or a substantially equivalent municipal ordinance, the offender is guilty of a misdemeanor of the first degree.
- (3) In all cases, the court may impose upon the offender a class seven suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary driver's license, or nonresident operating privilege from the range specified in division (A)(7) of Ohio R.C. 4510.02. (ORC 4510.21)

436.074 DRIVING UNDER LICENSE FORFEITURE OR CHILD SUPPORT SUSPENSION.

(a) No person shall operate any motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking in this municipality whose driver's or commercial driver's license has been suspended pursuant to Ohio R.C. 2151.354, 2935.27, 3123.58, 4301.99, 4510.032, 4510.22, or 4510.33, or a substantially equivalent municipal ordinance.

(b) Upon the request or motion of the prosecuting authority, a noncertified copy of the law enforcement automated data system report or a noncertified copy of a record of the Registrar of Motor Vehicles that shows the name, date of birth, and social security number of a person charged with a violation of subsection (a) of this section may be admitted into evidence as prima-

facie evidence that the license of the person was under suspension at the time of the alleged violation of subsection (a) of this section. The person charged with a violation of subsection (a) of this section may offer evidence to rebut this prima-facie evidence.

(c) Whoever violates subsection (a) of this section is guilty of driving under suspension and shall be punished as provided in subsection (c) of this section.

- (1) Except as otherwise provided in subsection (c)(2) of this section, the offense is an unclassified misdemeanor. The offender shall be sentenced pursuant to Ohio R.C. 2929.21 to 2929.28, except that the offender shall not be sentenced to a jail term; the offender shall not be sentenced to a community residential sanction pursuant to Ohio R.C. 2929.26; notwithstanding division (A)(2)(a) of Ohio R.C. 2929.28, the offender may be fined up to one thousand dollars (\$1,000); and, notwithstanding division (A)(3) of Ohio R.C. 2929.27, the offender may be ordered pursuant to division (C) of that section to serve a term of community service of up to five hundred hours. The failure of an offender to complete a term of community service imposed by the court may be punished as indirect criminal contempt under division (A) of Ohio R.C. 2705.02 that may be filed in the underlying case.
- (2) If, within three years of the offense, the offender previously was convicted of or pleaded guilty to two or more violations of subsection (A) of Ohio R.C. 4510.111, or any combination of two or more violations of subsection (A) of Ohio R.C. 4510.111, or Ohio R.C. 4510.11 or 4510.16, or a substantially equivalent municipal ordinance, the offense is a misdemeanor of the fourth degree and the offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.28 in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during or after committing the offense for which the offender is sentenced under this section. (ORC 4510.111)

436.08 OPERATION OR SALE WITHOUT CERTIFICATE OF TITLE.

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

- (1) Operate in this Municipality a motor vehicle for which a certificate of title is required without having that certificate in accordance with Ohio R.C. Chapter 4505 or, if a physical certificate of title has not been issued for a motor vehicle, operate the motor vehicle in this Municipality knowing that the ownership information relating to the vehicle has not been entered into the automated title processing system by a clerk of a court of common pleas;
- (2) Display or display for sale or sell as a dealer or acting on behalf of a dealer, a motor vehicle without having obtained a manufacturer's or importer's certificate, a certificate of title, or an assignment of a certificate of title for it as provided in Ohio R.C. Chapter 4505;
- (3) Fail to surrender any certificate of title or any certificate of registration or license plates upon cancellation of the same by the Registrar of Motor Vehicles and notice of the cancellation as prescribed in Ohio R.C. Chapter 4505;
- (4) Fail to surrender the certificate of title to a clerk of a court of common pleas as provided in Ohio R.C. Chapter 4505 in case of the destruction or dismantling or change of a motor vehicle in such respect that it is not the motor vehicle described in the certificate of title;

(g) The failure of an operator of a motor vehicle to secure a child in a child restraint system, a booster seat or an occupant restraining device as required by this section is not negligence imputable to the child, is not admissible as evidence in any civil action involving the rights of the child against any other person allegedly liable for injuries to the child, is not to be used as a basis for a criminal prosecution of the operator of the motor vehicle other than a prosecution for a violation of this section, and is not admissible as evidence in any criminal action involving the operator of the motor vehicle other than a prosecution for a violation of this section.

(h) This section does not apply when an emergency exists that threatens the life of any person operating or occupying a motor vehicle that is being used to transport a child who otherwise would be required to be restrained under this section. This section does not apply to a person operating a motor vehicle who has an affidavit signed by a physician licensed to practice in this state under R.C. Chapter 4731, a clinical nurse specialist or certified nurse practitioner licensed to practice in this state under R.C. Chapter 4723, or a chiropractor licensed to practice in this state under R.C. Chapter 4734 that states that the child who otherwise would be required to be restrained under this section has a physical impairment that makes use of a child restraint system, booster seat, or an occupant restraining device impossible or impractical, provided that the person operating the vehicle has safely and appropriately restrained the child in accordance with any recommendations of the physician, nurse, or chiropractor as noted on the affidavit.

(i) Nothing in this section shall be construed to require any person to carry with the person the birth certificate of a child to prove the age of the child, but the production of a valid birth certificate for a child showing that the child was not of an age to which this section applies is a defense against any ticket, citation or summons issued for violating this section.

(j) Whoever violates subsection (a), (b), (c) or (d) of this section shall be punished as follows, provided that the failure of an operator of a motor vehicle to secure more than one child in a child restraint system, booster seat, or occupant restraining device as required by this section that occurred at the same time, on the same day, and at the same location is deemed to be a single violation of this section:

- (1) Except as otherwise provided in subsection (j)(2) of this section, the offender is guilty of a minor misdemeanor and shall be fined not less than twenty-five dollars (\$25.00) nor more than seventy-five dollars (\$75.00).
- (2) If the offender previously has been convicted of or pleaded guilty to a violation of subsection (a), (b), (c) or (d) of this section or of a state law or municipal ordinance that is substantially similar to any of those subsections, the offender is guilty of a misdemeanor of the fourth degree.
(ORC 4511.81)

438.27 DRIVERS AND PASSENGERS REQUIRED TO WEAR SEAT BELTS.

(a) As used in this section:

- (1) "Automobile" means any commercial tractor, passenger car, commercial car or truck that is required to be factory-equipped with an occupant restraining device for the operator or any passenger by regulations adopted by the United States Secretary of Transportation pursuant to the "National Traffic and Motor Vehicle Safety Act of 1966," 80 Stat. 719, 15 U.S.C.A. 1392.
- (2) "Occupant restraining device" means a seat safety belt, shoulder belt, harness or other safety device for restraining a person who is an operator of or passenger in an automobile and that satisfies the minimum Federal vehicle safety standards established by the United States Department of Transportation.
- (3) "Passenger" means any person in an automobile, other than its operator, who is occupying a seating position for which an occupant restraining device is provided.

- (4) "Commercial tractor," "passenger car," and "commercial car" have the same meanings as provided in Ohio R.C. 4501.01.
 - (5) "Vehicle" and "motor vehicle", as used in the definitions of the terms set forth in subsection (a)(4) hereof, have the same meanings as provided in Chapter 402.
 - (6) "Tort action" means a civil action for damages for injury, death, or loss to person or property. "Tort action" includes a product liability claim, as defined in Ohio R.C. 2307.71 and an asbestos claim, as defined in Ohio R.C. 2307.91, but does not include a civil action for damages for breach of contract or another agreement between persons.
- (b) No person shall do either of the following:
- (1) Operate an automobile on any street or highway unless that person is wearing all of the available elements of a properly adjusted occupant restraining device, or operate a school bus that has an occupant restraining device installed for use in its operator's seat unless that person is wearing all of the available elements of the device, as properly adjusted;
 - (2) Operate an automobile on any street or highway unless each passenger in the automobile who is subject to the requirement set forth in subsection (b)(3) hereof is wearing all of the available elements of a properly adjusted occupant restraining device;
 - (3) Occupy, as a passenger, a seating position on the front seat of an automobile being operated on any street or highway unless that person is wearing all of the available elements of a properly adjusted occupant restraining device;
 - (4) Operate a taxicab on any street or highway unless all factory-equipped occupant restraining devices in the taxicab are maintained in usable form.
- (c)
- (1) Subsection (b)(3) hereof does not apply to a person who is required by Section 337.26 to be secured in a child restraint device or booster seat.
 - (2) Subsection (b)(1) hereof does not apply to a person who is an employee of the United States Postal Service or of a newspaper home delivery service, during any period in which the person is engaged in the operation of an automobile to deliver mail or newspapers to addressees.
 - (3) Subsections (b)(1) and (3) hereof do not apply to a person who has an affidavit signed by a physician licensed to practice in this State under Ohio R.C. Chapter 4731 or a chiropractor licensed to practice in this State under Ohio R.C. Chapter 4734 that states the following:
 - A. That the person has a physical impairment that makes use of an occupant restraining device impossible or impractical;
 - B. Whether the physical impairment is temporary, permanent or reasonably expected to be permanent;
 - C. If the physical impairment is temporary, how long the physical impairment is expected to make the use of an occupant restraining device impossible or impractical.
 - (4) Subsections (b)(1) and (3) of this section do not apply to a person who has registered with the Registrar of Motor Vehicles in accordance with subsection (c)(5) of this section.

TITLE TEN - Bicycles, Motorcycles and Snowmobiles
 Chap. 474. Bicycles and Motorcycles.
 Chap. 476. Snowmobiles, Off-Highway Motorcycles, and All Purpose Vehicles.
 Chap. 478. Golf Carts.

CHAPTER 474
Bicycles and Motorcycles

474.01	Code application to bicycles.	474.08	Reckless operation; control, course and speed.
474.02	Riding upon seats; handle bars; helmets and glasses.	474.09	Parking of bicycle.
474.03	Attaching bicycle or sled to vehicle.	474.10	Motorized bicycle operation, equipment and license.
474.04	Riding bicycles and motor-cycles abreast.	474.11	Paths exclusively for bicycles.
474.05	Signal device on bicycle.	474.12	Riding bicycles upon sidewalks.
474.06	Lights and reflector on bicycle; brakes.	474.13	Safe riding regulations for bicycles.
474.07	Riding bicycle on right side of roadway; obedience to traffic rules; passing.	474.14	Parking; locks.
		474.15	Parent's responsibility.
		474.16	Suspension of riding privileges; impounding of bicycles.
		474.17	Electric bicycles.

CROSS REFERENCES

See sectional histories for similar State law
 Motorcycle protective equipment - see OAC Ch. 4501-17
 Motorized bicycle equipment - see OAC Ch. 4501-23
 Bicycle defined - see TRAF. 402.04
 Motorcycle defined - see TRAF. 402.19
 Bicycles prohibited on freeways - see TRAF. 404.06
 Hand and arm signals - see TRAF. 432.15
 Motorcycle operator's license required - see TRAF. 436.01(a)
 Motorcycle headlight - see TRAF. 438.03
 Motorcycle brakes - see TRAF. 438.18(b)

474.01 CODE APPLICATION TO BICYCLES.

(a) The provisions of this Traffic Code that are applicable to bicycles and electric bicycles apply whenever a bicycle or electric bicycle is operated upon any street or upon any path set aside for the exclusive use of bicycles.

(b) Except as provided in subsection (d) of this section, a bicycle operator or electric bicycle operator who violates any section of this Traffic Code described in subsection (a) of this section that is applicable to bicycles or electric bicycles may be issued a ticket, citation or summons by a law enforcement officer for the violation in the same manner as the operator of a motor vehicle would be cited for the same violation. A person who commits any such violation while operating a bicycle or electric bicycle shall not have any points assessed against the person's driver's license, commercial driver's license, temporary instruction permit, or probationary license under Ohio R.C. 4510.036.

(c) Except as provided in subsection (d) of this section, in the case of a violation of any section of this Traffic Code described in subsection (a) of this section by a bicycle operator, electric bicycle operator, or motor vehicle operator when the trier of fact finds that the violation by the motor vehicle operator endangered the lives of bicycle riders or electric bicycle riders at the time of the violation, the court, notwithstanding any provision of this Traffic Code to the contrary, may require the bicycle operator, electric bicycle operator or motor vehicle operator to take and successfully complete a bicycling skills course approved by the court in addition to or in lieu of any penalty otherwise prescribed by the Traffic Code for that violation.

(d) Subsections (b) and (c) of this section do not apply to violations of Section 434.01 of this Traffic Code. (ORC 4511.52)

(e) The provisions of this Traffic Code shall apply to bicycles and electric bicycles except those which by their nature are not applicable.

474.02 RIDING UPON SEATS; HANDLEBARS; HELMETS AND GLASSES.

(a) For purposes of this section "snowmobile" has the same meaning as given that term in Ohio R.C 4519.01.

(b) No person operating a bicycle or electric bicycle shall ride other than upon or astride the permanent and regular seat attached thereto, or carry any other person upon such bicycle or electric bicycle other than upon a firmly attached and regular seat thereon, and no person shall ride upon a bicycle or electric bicycle other than upon such a firmly attached and regular seat.

(c) No person operating a motorcycle shall ride other than upon or astride the permanent and regular seat or saddle attached thereto, or carry any other person upon such motorcycle other than upon a firmly attached and regular seat or saddle thereon, and no person shall ride upon a motorcycle other than upon such a firmly attached and regular seat or saddle.

(d) No person shall ride upon a motorcycle that is equipped with a saddle other than while sitting astride the saddle, facing forward, with one leg on each side of the motorcycle.

(e) No person shall ride upon a motorcycle that is equipped with a seat other than while sitting upon the seat.

(f) No person operating a bicycle or electric bicycle shall carry any package, bundle or article that prevents the driver from keeping at least one hand upon the handlebars.

(g) No bicycle, electric bicycle, or motorcycle shall be used to carry more persons at one time than the number for which it is designed and equipped. No motorcycle shall be operated on a highway when the handlebars rise higher than the shoulders of the operator when the operator is seated in the operator's seat or saddle.

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

476.08 CERTIFICATE OF TITLE.

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

- (1) Operate in this Municipality an off-highway motorcycle or all-purpose vehicle without having a certificate of title for the off-highway motorcycle or all-purpose vehicle, if such a certificate is required by Ohio R.C. Chapter 4519 to be issued for the off-highway motorcycle or all-purpose vehicle, or, if a physical certificate of title has not been issued for it, operate an off-highway motorcycle or all-purpose vehicle knowing that the ownership information relating to the motorcycle or vehicle has not been entered into the automated title processing system by a clerk of a court of common pleas;
- (2) Operate in this Municipality an off-highway motorcycle or all-purpose vehicle if a certificate of title to the off-highway motorcycle or all-purpose vehicle has been issued and then has been canceled;
- (3) Fail to surrender any certificate of title upon cancellation of it by the Registrar of Motor Vehicles and notice of the cancellation as prescribed in Ohio R.C. Chapter 4519;
- (4) Fail to surrender the certificate of title to a clerk of the court of common pleas as provided in Ohio R.C. Chapter 4519, in case of the destruction or dismantling of, or change in, the off-highway motorcycle or all-purpose vehicle described in the certificate of title;
- (5) Violate any provision of Ohio R.C. 4519.51 to 4519.70 or any lawful rules adopted pursuant to those sections;
- (6) Operate in this Municipality an off-highway motorcycle or all-purpose vehicle knowing that the certificate of title to or ownership of the motorcycle or vehicle as otherwise reflected in the automated title processing system has been canceled.

(b) 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 4519.66)

CHAPTER 478 Golf Carts

478.01	Definitions.	478.03	Usage and restrictions.
478.02	Inspection of golf carts.	478.99	Penalty.

478.01 DEFINITIONS.

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

- (a) "Golf cart" is a motor vehicle as that term is defined under Ohio R.C. 4501.01(B).
- (b) "Motor vehicle" has the same meaning as set forth in Ohio R.C. 4501.01(B).
- (c) "Operator" has the same meaning as set forth in Ohio R.C. 4501.01(X).
- (d) "Vehicle" has the same meaning as set forth in Ohio R.C. 4501.01(A).

(Ord. 2025-01. Passed 1-13-25.)

478.02 INSPECTION OF GOLF CARTS.

(a) No person shall operate a golf cart on the streets within the Village unless it has been inspected and approved by the Chief of Police, or his/her designee or by another agent designated and approved by the State of Ohio, for compliance with the applicable safety/equipment requirements of the State of Ohio relative to motor vehicles. For the purposes of this chapter, "golf cart" means a motor vehicle that has not less than three wheels in contact with the ground, that has an unladen weight of less than 1,800 pounds, that is powered by gas or electricity, is the type of vehicle typically operated on a golf course, designed to be and is operated at not more than 25 miles per hour and that is designed to carry not more than six persons including the driver.

(b) If the Chief of Police, or his/her designee, or another agent designated and approved by the State of Ohio, determines that the golf cart complies with the State of Ohio's statutory requirements that are applicable to motor vehicles, the Chief of Police shall issue the owner or operator a certificate of compliance entitling the owner or operator to operate the golf cart on certain streets within the Village. The owner or operator shall also show the Chief of Police or designee proof of liability insurance for the golf cart before a certificate of compliance is issued. Any certificate issued pursuant to this Section by the Chief of Police expires after five years and the Chief of Police will designate the issuing date and expiration date on each certificate. The Chief of Police shall keep a copy of each certificate issued pursuant to this section and maintain such copy in accordance with the Village's record retention schedule. The Chief of Police shall issue a sticker or other similar device to the owner of each golf cart once it is inspected. The sticker shall signify compliance with this section and the expiration of the current inspection period. The owner of each golf cart shall display the sticker in a conspicuous place on the rear of the golf cart.

(c) The owner of a golf cart shall also comply with all requirements of Ohio law regarding proper title, registration and license plates prior to operating a golf cart on certain streets within the Village. Compliance with this section shall be in addition to, rather than in lieu of, any applicable provisions of State law relative to the operation of motor vehicles.
(Ord. 2025-01. Passed 1-13-25.)

478.03 USAGE AND RESTRICTIONS.

(a) No golf carts shall be permitted to travel on any Village street where the speed limit is greater than 35 mph.

(b) No golf carts may be operated on Chillicothe Road or Bell Road or any designated bike path within the Village.

(c) The operator of a golf cart must be at least 16 years of age and have a valid driver's license.

(d) Any child who falls under the child restraint criteria set by Ohio R.C. 4511.81 is prohibited from being a passenger in a golf cart operated on any Village street, right-of-way or public area in the Village. That specifically includes children who are up to four years old and less than 40 pounds who are required to be in a child safety seat or any child who is eight years old or less and under four feet, nine inches in height who are required to be in a booster seat.

(e) Golf carts must be operated in accord with all State of Ohio traffic laws in addition to all applicable sections of the Village of South Russell Codified Ordinances.

(f) Village owned low speed and under speed vehicles being used to perform Village maintenance or related work are exempt from this Chapter.

(g) Emergency Vehicles equipped with lights and sirens are exempt from this Chapter. (Ord. 2025-01. Passed 1-13-25.)

478.99 PENALTY.

Whoever violates this Chapter 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; and each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

(Ord. 2025-01. Passed 1-13-25.)

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

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

606.03 CLASSIFICATION OF OFFENSES.

As used in the Codified Ordinances:

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

606.04 OFFENSES DEFINED.

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

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

606.05 RULES OF CONSTRUCTION.

(a) Except as otherwise provided in subsection (c) hereof, sections of the Codified Ordinances defining offenses or penalties shall be strictly construed against the Municipality and liberally construed in favor of the accused.

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

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

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

606.06 LIMITATION ON CRIMINAL PROSECUTIONS.

- (a) (1) Except as provided in division (a)(2), (a)(3), (a)(4), (a)(5), or (a)(6) of this section or as otherwise provided in this section, a prosecution shall be barred unless it is commenced within the following periods after an offense is committed:
- A. For a felony, six years;
 - B. For a misdemeanor other than a minor misdemeanor, two years;
 - C. For a minor misdemeanor, six months.
- (2) There is no period of limitation for the prosecution of a violation of R.C. § 2903.01 or 2903.02 or for the prosecution of a conspiracy to commit, attempt to commit, or complicity in committing a violation of R.C. § 2903.01 or R.C. § 2903.02.
- (3) Except as otherwise provided in divisions (b) to (j) of this section, a prosecution of any of the following offenses shall be barred unless it is commenced within 20 years after the offense is committed:
- A. A violation of R.C. § 2903.03, 2903.04, 2905.01, 2905.32, 2907.04, 2907.05, 2907.21, 2909.02, 2909.22, 2909.23, 2909.24, 2909.26, 2909.27, 2909.28, 2909.29, 2911.01, 2911.02, 2911.11, 2911.12 or 2917.02, a violation of R.C. § 2903.11 or 2903.12 if the victim is a peace officer, a violation of R.C. § 2903.13 that is a felony, or a violation of former R.C. § 2907.12.
 - B. A conspiracy to commit, attempt to commit, or complicity in committing a violation set forth in division (a)(3)A. of this section.
- (4) Except as otherwise provided in divisions (d) to (l) of this section, a prosecution of a violation of R.C. § 2907.02 or 2907.03 or a conspiracy to commit, attempt to commit, or complicity in committing a violation of either section shall be barred unless it is commenced within 25 years after the offense is committed.
- (5) A. Except as otherwise provided in divisions (a)(5)B. and (e) to (i) of this section, a prosecution of a violation of R.C. § 2907.13 shall be barred unless it is commenced within five years after the offense is committed.
- B. Prosecution that would otherwise be barred under division (a)(5)A. of this section may be commenced within five years after the date of the discovery of the offense by either an aggrieved person or the aggrieved person's legal representative who is not a party to the offense.
- C. As used in division (a)(5)B. of this section, "aggrieved person" includes any of the following individuals with regard to a violation of R.C. § 2907.13:

1. A patient who was the victim of the violation;
 2. The spouse or surviving spouse of a patient who was the victim of the violation;
 3. Any child born as a result of the violation.
- (6) A prosecution for a violation of R.C. § 2151.421(A)(1) or (A)(4), which is a misdemeanor of the fourth degree, or a misdemeanor of the first degree under circumstances specified in R.C. § 2151.99, is barred unless it is commenced within four years after the violation is committed.
- (b) (1) Except as otherwise provided in division (b)(2) of this section, if the period of limitation provided in division (a)(1) or (a)(3) of this section has expired, prosecution shall be commenced for an offense of which an element is fraud or breach of fiduciary duty within one year after discovery of the offense either by an aggrieved person or by the aggrieved person's legal representative who is not a party to the offense.
- (2) If the period of limitation provided in division (a)(1) or (a)(3) of this section has expired, prosecution for a violation of R.C. § 2913.49 shall be commenced within five years after discovery of the offense either by an aggrieved person or the aggrieved person's legal representative who is not a party to the offense.
- (c) (1) If the period of limitation provided in division (a)(1) or (a)(3) of this section has expired, prosecution shall be commenced for the following offenses during the following specified periods of time:
- A. For an offense involving misconduct in office by a public servant at any time while the accused remains a public servant, or within two years thereafter;
 - B. For an offense by a person who is not a public servant but whose offense is directly related to the misconduct in office of a public servant, at any time while that public servant remains a public servant, or within two years thereafter.
- (2) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.
- A. "Offense is directly related to the misconduct in office of a public servant." The phrase includes but is not limited to a violation of R.C. § 101.71, 101.91, 121.61 or 2921.13, 102.03(F) or (H), 2921.02(A), 2921.43(A) or (B), or 3517.13(F) or (G), that is directly related to an offense involving misconduct in office of a public servant, or a violation of any municipal ordinance substantially equivalent to those Ohio Revised Code sections listed in this division (c)(2)A.
 - B. "Public servant" has the same meaning as in R.C. § 2921.01.
- (d) (1) If a DNA record made in connection with the criminal investigation of the commission of a violation of R.C. § 2907.02 or 2907.03 is determined to match another DNA record that is of an identifiable person and if the time of the determination is later than 25 years after the offense is committed, prosecution of that person for a violation of the section may be commenced within five years after the determination is complete.
- (2) If a DNA record made in connection with the criminal investigation of the commission of a violation of R.C. § 2907.02 or 2907.03 is determined to match another DNA record that is of an identifiable person and if the time of the determination is within 25 years after the offense is committed, prosecution of that

person for a violation of the section may be commenced within the longer of 25 years after the offense is committed or five years after the determination is complete.

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

(e) An offense is committed when every element of the offense occurs. In the case of an offense of which an element is a continuing course of conduct, the period of limitation does not begin to run until the course of conduct or the accused’s accountability for it terminates, whichever occurs first.

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

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

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

(i) The period of limitation shall not run during any time a prosecution against the accused based on the same conduct is pending in this state, even though the indictment, information or process that commenced the prosecution is quashed or the proceedings on the indictment, information or process are set aside or reversed on appeal.

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

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

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

- (l) (1) The amendments to divisions (a) and (d) of this section that took effect on July 16, 2015, apply to a violation of R.C. § 2907.02 or 2907.03 committed on and after July 16, 2015, and apply to a violation of either of those sections committed prior to July 16, 2015, if prosecution for that violation was not barred under this section as it existed on July 16, 2015.

- (2) The amendment to division (a)(2) of this section that took effect on April 4, 2023, applies to a conspiracy to commit, attempt to commit, or complicity in committing a violation of R.C. § 2903.01 or R.C. § 2903.02 if the conspiracy, attempt, or complicity is committed on or after April 4, 2023, and applies to a conspiracy to commit, attempt to commit, or complicity in committing a violation of either of those sections if the conspiracy, attempt, or complicity was committed prior to April 4, 2023, and prosecution for that conspiracy, attempt, or complicity was not barred under this section as it existed on the day prior to April 4, 2023. (R.C. § 2901.13)

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

606.07 REQUIREMENTS FOR CRIMINAL LIABILITY.

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

- (1) The person's liability is based on conduct that includes either a voluntary act, or an omission to perform an act or duty that the person is capable of performing;
- (2) The person has the requisite degree of culpability for each element as to which a culpable mental state is specified by the language defining the offense.

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

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

(d) Voluntary intoxication may not be taken into consideration in determining the existence of a mental state that is an element of a criminal offense. Voluntary intoxication does not relieve a person of a duty to act if failure to act constitutes a criminal offense. Evidence that a person was voluntarily intoxicated may be admissible to show whether or not the person was physically capable of performing the act with which the person is charged.

(e) As used in this section:

- (1) Possession is a voluntary act if the possessor knowingly procured or received the thing possessed, or was aware of the possessor's control of the thing possessed for a sufficient time to have ended possession.

- (2) Reflexes, convulsions, body movements during unconsciousness or sleep, and body movements that are not otherwise a product of the actor's volition, are involuntary acts.
- (3) "Culpability" means purpose, knowledge, recklessness or negligence, as defined in Section 606.08.
- (4) "Intoxication" includes, but is not limited to, intoxication resulting from the ingestion of alcohol, a drug, or alcohol and a drug.
(ORC 2901.21)

606.08 ORGANIZATIONAL CRIMINAL LIABILITY.

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

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

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

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

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

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

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

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

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

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

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

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

(R.C. § 4301.99(D))

612.021 PURCHASE BY MINOR; MISREPRESENTATION.

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

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

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

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

CHAPTER 620

Drugs

620.01	Definitions.	620.09	Controlled substance or prescription labels.
620.02	Adult use cannabis control; limitations on conduct by individuals.	620.10	Hypodermic possession, display and dispensing.
620.03	Drug abuse; controlled substance possession or use.	620.11	Harmful intoxicants; possessing nitrous oxide in motor vehicle.
620.04	Possessing drug abuse instruments.	620.12	Drug paraphernalia.
620.05	Permitting drug abuse.	620.121	Marihuana drug paraphernalia.
620.06	Illegal cultivation of marihuana.	620.13	Counterfeit controlled substances.
620.07	Possessing or using harmful intoxicants.	620.14	Offender may be required to pay for controlled substance tests.
620.08	Illegally dispensing drug samples.	620.15	Sale of dextromethorphan.
		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 barber's license, barber instructor's license, assistant barber instructor's license, or independent contractor's license 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 license to practice cosmetology, advanced license to practice hair design, advanced license to practice manicuring, advanced license to practice esthetics, advanced license to practice natural hair styling, 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;
- (38) A person who has been issued a license to practice as a certified mental health assistant under R.C. Chapter 4772.
- (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 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 Ohio 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 Ohio 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 Ohio 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.
(ORC 3780.36)

(h) Penalties.

- (1) Except as otherwise provided in Ohio R.C. Chapter 3796, Ohio 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 Ohio 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 Ohio R.C. 3780.10(A), or 3780.29(F), is guilty of the illegal trafficking in drugs under Ohio R.C. 2925.03 and the illegal manufacture of drugs under Ohio 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 Ohio R.C. 2925.03.
- (8) Any individual who violates Ohio R.C. 3780.20(B) is guilty of illegal dispensing of drug samples under Ohio 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.
(ORC 3780.99)

620.03 DRUG ABUSE; CONTROLLED SUBSTANCE POSSESSION OR USE.

(a) No person shall knowingly obtain, possess or use a controlled substance or a controlled substance analog.

(b) (1) This section does not apply to the following:

- A. Manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies, and other persons whose conduct is in accordance with R.C. Chapters 3719, 4715, 4723, 4729, 4730, 4731, 4741, and 4772.
 - B. If the offense involves an anabolic steroid, any person who is conducting or participating in a research project involving the use of an anabolic steroid if the project has been approved by the United States Food and Drug Administration;
 - C. Any person who sells, offers for sale, prescribes, dispenses or administers for livestock or other nonhuman species an anabolic steroid that is expressly intended for administration through implants to livestock or other nonhuman species and approved for that purpose under the "Federal Food, Drug and Cosmetic Act", 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, and is sold, offered for sale, prescribed, dispensed or administered for that purpose in accordance with that Act;
 - D. Any person who obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs if the prescription was issued for a legitimate medical purpose and not altered, forged or obtained through deception or commission of a theft offense.
As used in subsection (b)(1)D. of this section, "deception" and "theft offense" have the same meanings as in Ohio R.C. 2913.01.
- (2) A. As used in subsection (b)(2) of this section:
- 1. "Community addiction services provider" has the same meaning as in Ohio R.C. 5119.01.

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

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

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

620.04 POSSESSING DRUG ABUSE INSTRUMENTS.

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

- (b) (1) This section does not apply to manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies and other persons whose conduct was in accordance with R.C. Chapters 3719, 4715, 4723, 4729, 4730, 4731, 4741, and 4772.
- (2) Division (B)(2) of R.C. § 2925.11 applies with respect to a violation of this section when a person seeks or obtains medical assistance for another person who is experiencing a drug overdose, a person experiences a drug overdose and seeks medical assistance for that overdose, or a person is the subject of another person seeking or obtaining medical assistance for that overdose.

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

- (d) (1) If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with R.C. § 2925.38.
- (2) If the offender has a driver's or commercial driver's license or permit, R.C. § 2929.33 applies
- (3) A. Any offender who received a mandatory suspension of the offender's driver's or commercial driver's license or permit under this section prior to September 13, 2016, may file a motion with the sentencing court requesting the termination of the suspension. However, an offender who pleaded guilty to or was convicted of a violation of R.C. § 4511.19 or a substantially equivalent municipal ordinance or law of another state or the United States that arose out of the same set of circumstances as the violation for which the offender's license or permit was suspended under this section shall not file such a motion.
- B. Upon the filing of a motion under division (d)(3) of this section, the sentencing court, in its discretion, may terminate the suspension.
(R.C. § 2925.12)

620.05 PERMITTING DRUG ABUSE.

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

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

(c) Whoever violates this section is guilty of permitting drug abuse, a misdemeanor of the first degree. If the felony drug abuse offense in question is a violation of Ohio R.C. 2925.02, 2925.03, 2925.04 or 2925.041 as provided in Ohio R.C. 2925.13, permitting drug abuse is a felony and shall be prosecuted under appropriate State law.

- (d) (1) If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with Ohio R.C. 2925.38.
- (2) If the offender has a driver's or commercial driver's license or permit, Ohio R.C. 2929.33 applies.

- (3) A. Any offender who received a mandatory suspension of the offender's driver's or commercial driver's license or permit under this section prior to September 13, 2016, may file a motion with the sentencing court requesting the termination of the suspension. However, an offender who pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or law of another state or the United States that arose out of the same set of circumstances as the violation for which the offender's license or permit was suspended under this section shall not file such a motion.
- B. Upon the filing of a motion under division (d)(3) of this section, the sentencing court, in its discretion, may terminate the suspension.

(e) Notwithstanding any contrary provision of Ohio R.C. 3719.21, the clerk of the court shall pay a fine imposed for a violation of this section pursuant to Ohio R.C. 2929.18(A) in accordance with and subject to the requirements of Ohio R.C. 2925.03(F). The agency that receives the fine shall use the fine as specified in Ohio R.C. 2925.03(F).

(f) Any premises or real estate that is permitted to be used in violation of subsection (b) hereof constitutes a nuisance subject to abatement pursuant to Ohio R.C. Chapter 3767. (ORC 2925.13)

620.06 ILLEGAL CULTIVATION OF MARIHUANA.

(a) No person shall knowingly cultivate marihuana.

(b) This section does not apply to any person listed in Ohio R.C. 2925.03(B)(1) to (3) to the extent and under the circumstances described in those divisions.

(c) Whoever commits a violation of subsection (a) hereof is guilty of illegal cultivation of marihuana. Illegal cultivation of marihuana is a misdemeanor if the amount of marihuana involved does not exceed 200 grams.

- (1) Except as otherwise provided in subsection (c)(2) hereof, illegal cultivation of marihuana is a minor misdemeanor, or if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, a misdemeanor of the fourth degree.
- (2) If the amount of marihuana involved equals or exceeds 100 grams but is less than 200 grams, illegal cultivation of marihuana is a misdemeanor of the fourth degree, or if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, a misdemeanor of the third degree.

(d) In addition to any other sanction imposed for an offense under this section, the court that sentences an offender who is convicted of or pleads guilty to a violation of this section may suspend the offender's driver's or commercial driver's license or permit in accordance with division (G) of Ohio R.C. 2925.03. If an offender's driver's or commercial driver's license or permit is suspended in accordance with that division, the offender may request termination of, and the court may terminate, the suspension in accordance with that division.

(e) Arrest or conviction for a minor misdemeanor violation of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries about the person's criminal record, including any inquiries contained in an application for employment, a license, or any other right or privilege or made in connection with the person's appearance as a witness. (ORC 2925.04)

620.07 POSSESSING OR USING HARMFUL INTOXICANTS.

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

(b) Whoever violates this section is guilty of abusing harmful intoxicants, a misdemeanor of the first degree. If the offender previously has been convicted of a drug abuse offense, abusing harmful intoxicants is a felony and shall be prosecuted under appropriate State law.

- (c) (1) If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with Ohio R.C. 2925.38.
- (2) If the offender has a driver's or commercial driver's license or permit, Ohio R.C. 2929.33 applies.
- (3) A. Any offender who received a mandatory suspension of the offender's driver's or commercial driver's license or permit under this section prior to the September 13, 2016 may file a motion with the sentencing court requesting the termination of the suspension. However, an offender who pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially equivalent municipal ordinance or law of another state or the United States that arose out of the same set of circumstances as the violation for which the offender's license or permit was suspended under this section shall not file such a motion.
- B. Upon the filing of a motion under division (c)(3) of this section, the sentencing court, in its discretion, may terminate the suspension. (ORC 2925.31)

620.08 ILLEGALLY DISPENSING DRUG SAMPLES.

(a) No person shall knowingly furnish another a sample drug.

(b) Subsection (a) of this section does not apply to manufacturers, wholesalers, pharmacists, owners of pharmacies, licensed health professionals authorized to prescribe drugs, and other persons whose conduct is in accordance with R.C. Chapters 3719, 4715, 4723, 4725, 4729, 4730, 4731, 4741, and 4722.

(c) Whoever violates this section is guilty of illegal dispensing of drug samples. If the drug involved in the offense is a dangerous drug or a compound, mixture, preparation, or substance included in Schedule III, IV, or V, or is marihuana, the penalty for the offense shall be determined as follows:

- (1) Except as otherwise provided in subsection (c)(2) hereof, illegal dispensing of drug samples is a misdemeanor of the second degree.
- (2) If the offense was committed in the vicinity of a school or in the vicinity of a juvenile, illegal dispensing of drug samples is a misdemeanor of the first degree.

(d) In addition to any other sanction imposed for an offense under this section, the court that sentences an offender who is convicted of or pleads guilty to a violation of this section may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. (ORC 2925.36)

620.09 CONTROLLED SUBSTANCE OR PRESCRIPTION LABELS.

(a) As used in this section, "repackager" and "outsourcing facility" have the same meanings as in ORC 4729.01.

620.12 DRUG PARAPHERNALIA.

(a) As used in this section, "drug paraphernalia" means any equipment, product or material of any kind that is used by the offender, intended by the offender for use or designed for use, in propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body, a controlled substance in violation of this chapter or Ohio R.C. Chapter 2925. "Drug paraphernalia" includes, but is not limited to, any of the following equipment, products or materials that are used by the offender, intended by the offender for use or designated by the offender for use, in any of the following manners:

- (1) A kit for propagating, cultivating, growing or harvesting any species of a plant that is a controlled substance or from which a controlled substance can be derived;
- (2) A kit for manufacturing, compounding, converting, producing, processing or preparing a controlled substance;
- (3) Any object, instrument, or device for manufacturing, compounding, converting, producing, processing, or preparing methamphetamine;
- (4) An isomerization device for increasing the potency of any species of a plant that is a controlled substance;
- (5) Testing equipment for identifying, or analyzing the strength, effectiveness, or purity of, a controlled substance, except for those exempted in division (d)(4) of this section;
- (6) A scale or balance for weighing or measuring a controlled substance;
- (7) A diluent or adulterant, such as quinine hydrochloride, mannitol, mannite, dextrose or lactose, for cutting a controlled substance;
- (8) A separation gin or sifter for removing twigs and seeds from, or otherwise cleaning or refining, marihuana;
- (9) A blender, bowl, container, spoon or mixing device for compounding a controlled substance;
- (10) A capsule, balloon, envelope or container for packaging small quantities of a controlled substance;
- (11) A container or device for storing or concealing a controlled substance;
- (12) A hypodermic syringe, needle or instrument for parenterally injecting a controlled substance into the human body;
- (13) An object, instrument or device for ingesting, inhaling or otherwise introducing into the human body, marihuana, cocaine, hashish or hashish oil, such as a metal, wooden, acrylic, glass, stone, plastic or ceramic pipe, with or without a screen, permanent screen, hashish head or punctured metal bowl; water pipe; carburetion tube or device; smoking or carburetion mask; roach clip or similar object used to hold burning material, such as a marihuana cigarette, that has become too small or too short to be held in the hand; miniature cocaine spoon, or cocaine vial; chamber pipe; carburetor pipe; electric pipe; air driver pipe; chillum; bong; or ice pipe or chiller.

(b) In determining if any equipment, product or material is drug paraphernalia, a court or law enforcement officer shall consider, in addition to other relevant factors, the following:

- (1) Any statement by the owner, or by anyone in control, of the equipment, product or material, concerning its use;
- (2) The proximity in time or space of the equipment, product or material, or of the act relating to the equipment, product or material, to a violation of any provision of this chapter or Ohio R.C. Chapter 2925;

- (3) The proximity of the equipment, product or material to any controlled substance;
 - (4) The existence of any residue of a controlled substance on the equipment, product or material;
 - (5) Direct or circumstantial evidence of the intent of the owner, or of anyone in control, of the equipment, product or material, to deliver it to any person whom the owner or person in control of the equipment, product or material knows intends to use the object to facilitate a violation of any provision of this chapter or Ohio R.C. Chapter 2925. A finding that the owner, or anyone in control, of the equipment, product or material, is not guilty of a violation of any other provision of this chapter or Ohio R.C. Chapter 2925, does not prevent a finding that the equipment, product or material was intended or designed by the offender for use as drug paraphernalia;
 - (6) Any oral or written instruction provided with the equipment, product or material concerning its use;
 - (7) Any descriptive material accompanying the equipment, product or material and explaining or depicting its use;
 - (8) National or local advertising concerning the use of the equipment, product or material;
 - (9) The manner and circumstances in which the equipment, product or material is displayed for sale;
 - (10) Direct or circumstantial evidence of the ratio of the sales of the equipment, product or material to the total sales of the business enterprise;
 - (11) The existence and scope of legitimate uses of the equipment, product or material in the community;
 - (12) Expert testimony concerning the use of the equipment, product or material.
- (c) (1) Subject to divisions (d)(2), (d)(3), and (d)(4) of this section, no person shall knowingly use, or possess with purpose to use, drug paraphernalia.
- (2) No person shall knowingly sell, or possess or manufacture with purpose to sell, drug paraphernalia, if the person knows or reasonably should know that the equipment, product or material will be used as drug paraphernalia.
- (3) No person shall place an advertisement in any newspaper, magazine, handbill or other publication that is published and printed and circulates primarily within this State, if the person knows that the purpose of the advertisement is to promote the illegal sale in the State of the equipment, product or material that the offender intended or designed for use as drug paraphernalia.
- (d) (1) This section does not apply to manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies and other persons whose conduct is in accordance with R.C. Chapters 3719, 4715, 4723, 4729, 4730, 4731, 4741, and 4772. This section shall not be construed to prohibit the possession or use of a hypodermic as authorized by Ohio R.C. 3719.172.
- (2) Subsection (c)(1) of this section does not apply to a person's use, or possession with purpose to use, any drug paraphernalia that is equipment, a product, or material of any kind that is used by the person, intended by the person for use, or designed for use in storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body marijuana.
- (3) Division (B)(2) of R.C. § 2925.11 applies with respect to a violation of division (c)(1) of this section when a person seeks or obtains medical assistance for another person who is experiencing a drug overdose, a person experiences a drug overdose and seeks medical assistance for that overdose, or a person is the subject of another person seeking or obtaining medical assistance for that overdose.

- (4) Division (c)(1) of this section does not apply to a person's use, or possession with purpose to use, any drug testing strips to determine the presence of fentanyl or a fentanyl-related compound.

(e) Notwithstanding Ohio R.C. Chapter 2981, any drug paraphernalia that was used, possessed, sold or manufactured in violation of this section shall be seized, after a conviction for that violation shall be forfeited, and upon forfeiture shall be disposed of pursuant to Ohio R.C. 2981.12.

- (f)
 - (1) Whoever violates subsection (c)(1) hereof is guilty of illegal use or possession of drug paraphernalia, a misdemeanor of the fourth degree.
 - (2) Except as provided in subsection (f)(3) hereof, whoever violates subsection (c)(2) hereof is guilty of dealing in drug paraphernalia, a misdemeanor of the second degree.
 - (3) Whoever violates subsection (c)(2) hereof by selling drug paraphernalia to a juvenile is guilty of selling drug paraphernalia to juveniles, a misdemeanor of the first degree.
 - (4) Whoever violates subsection (c)(3) hereof is guilty of illegal advertising of drug paraphernalia, a misdemeanor of the second degree.
- (g)
 - (1) If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with R.C. § 2925.38.
 - (2) If the offender has a driver's or commercial driver's license or permit, R.C. § 2929.33.
 - (3)
 - A. Any offender who received a mandatory suspension of the offender's driver's or commercial driver's license or permit under this section prior to September 13, 2016, may file a motion with the sentencing court requesting the termination of the suspension. However, an offender who pleaded guilty to or was convicted of a violation of R.C. § 4511.19 or a substantially equivalent municipal ordinance or law of another state or the United States that arose out of the same set of circumstances as the violation for which the offender's license or permit was suspended under this section shall not file such a motion.
 - B. Upon the filing of a motion under division (g)(3) of this section, the sentencing court, in its discretion, may terminate the suspension.
(R.C. § 2925.14)

620.121 MARIHUANA DRUG PARAPHERNALIA.

(a) As used in this section, "drug paraphernalia" has the same meaning as in Section 620.12.

(b) In determining if any equipment, product, or material is drug paraphernalia, a court or law enforcement officer shall consider, in addition to other relevant factors, all factors identified in subsection (b) of Section 620.12.

(c) No person shall knowingly use, or possess with purpose to use, any drug paraphernalia that is equipment, a product, or material of any kind that is used by the person, intended by the person for use, or designed for use in storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body marihuana.

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

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

620.13 COUNTERFEIT CONTROLLED SUBSTANCES.

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

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

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

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

620.15 SALE OF DEXTROMETHORPHAN.

(a) As used in this section:

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

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

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

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

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

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

CHAPTER 636

Offenses Relating to Persons

636.01	Negligent homicide.	636.10	Telecommunication harassment.
636.02	Vehicular homicide and manslaughter.	636.11	Threatening or harassing telephone calls.
636.021	Vehicular assault in a construction zone.	636.12	Misuse of 9-1-1 system.
636.03	Assault.	636.13	Adulterating of or furnishing adulterated food or confection.
636.04	Negligent assault.	636.14	Domestic violence.
636.05	Aggravated menacing.	636.15	Temporary protection order.
636.051	Menacing by stalking.	636.16	Illegal distribution of cigarettes, other tobacco products or alternate nicotine products.
636.06	Menacing.	636.17	Illegal use of a tracking device or application.
636.07	Endangering children.	636.99	Penalty.
636.08	Unlawful restraint.		
636.09	Coercion.		

CROSS REFERENCES

See sectional histories for similar State law

Physical harm to persons defined - see GEN. OFF.

606.01 (c), (e)

Fighting; provoking violent response - see GEN. OFF. 648.03

636.01 NEGLIGENT HOMICIDE.

(a) No person shall negligently cause the death of another or the unlawful termination of another's pregnancy by means of a deadly weapon or dangerous ordnance as defined in Section 672.01.

(b) Whoever violates this section is guilty of negligent homicide, a misdemeanor of the first degree. (ORC 2903.05)

636.02 VEHICULAR HOMICIDE AND MANSLAUGHTER.

(a) No person, while operating or participating in the operation of a motor vehicle, motorcycle, utility vehicle, mini-truck, snowmobile, locomotive, watercraft, or aircraft, shall cause the death of another or the unlawful termination of another's pregnancy in any of the following ways:

(1) A. Negligently;

B. As the proximate result of committing, while operating or participating in the operation of a motor vehicle, utility vehicle, mini-truck, or motorcycle in a construction zone, a reckless operation offense, provided that this division applies only if the person whose death is caused or whose pregnancy is unlawfully terminated is in the construction zone at the time of the offender's commission of the reckless operation offense in the construction zone and does not apply as described in division (d) of this section.

- (2) As the proximate result of committing a violation of any provision of any section contained in Title XLV of the Ohio Revised Code that is a minor misdemeanor or of a municipal ordinance that, regardless of the penalty set by ordinance for the violation, is substantially equivalent to any provision of any section contained in Title XLV of the Ohio Revised Code that is a minor misdemeanor.
- (b) (1) Whoever violates subsection (a)(1) of this section is guilty of vehicular homicide. Except as otherwise provided in this subsection, vehicular homicide is a misdemeanor of the first degree. Vehicular homicide is a felony and shall be prosecuted under appropriate State law if, at the time of the offense, the offender was driving under a suspension or cancellation imposed under Ohio R.C. Chapter 4510 or any other provision of the Ohio Revised Code or was operating a motor vehicle or motorcycle, did not have a valid driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege, and was not eligible for renewal of the offender's driver's license or commercial driver's license without examination under Ohio R.C. 4507.10 or if the offender previously has been convicted of or pleaded guilty to a violation of this section or any traffic-related homicide, manslaughter or assault offense. The court shall impose a mandatory jail term on the offender when required by Ohio R.C. 2903.06(E).
- (2) Whoever violates subsection (a)(2) of this section is guilty of vehicular manslaughter. Except as otherwise provided in this subsection, vehicular manslaughter is a misdemeanor of the second degree. Vehicular manslaughter is a misdemeanor of the first degree if, at the time of the offense, the offender was driving under a suspension or cancellation imposed under Ohio R.C. Chapter 4510 or any other provision of the Ohio Revised Code or was operating a motor vehicle or motorcycle, did not have a valid driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege, and was not eligible for renewal of the offender's driver's license or commercial driver's license without examination under Ohio R.C. 4507.10 or if the offender previously has been convicted of or pleaded guilty to a violation of this section or any traffic-related homicide, manslaughter, or assault offense.
- (c) The court shall impose a mandatory jail term of at least fifteen days on an offender who is convicted of or pleads guilty to a violation of subsection (a)(1)B. of this section and may impose upon the offender a longer jail term as authorized pursuant to Section 698.02. The court shall impose a mandatory prison term on an offender who is convicted of or pleads guilty to a violation of subsection (a)(1)A. hereof if either of the following applies:
- (1) The offender previously has been convicted of or pleaded guilty to a violation of this section or Ohio R.C. 2903.06 or 2903.08.
- (2) At the time of the offense, the offender was driving under suspension or cancellation under Ohio R.C. Chapter 4510 or any other provision of the Ohio Revised Code or was operating a motor vehicle or motorcycle, did not have a valid driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege, and was not eligible for renewal of the offender's driver's license or commercial driver's license without examination under Ohio R.C. 4507.10.

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

(e) As used in this section:

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

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

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

636.021 VEHICULAR ASSAULT IN A CONSTRUCTION ZONE.

(a) No person, while operating or participating in the operation of a motor vehicle, motorcycle, utility vehicle, or mini-truck, shall cause serious physical harm to another person or another's unborn as the proximate result of committing, while operating or participating in the operation of a motor vehicle, utility vehicle, mini-truck, or motorcycle in a construction zone, a speeding offense, provided that this division applies only if the person to whom the serious physical harm is caused or to whose unborn the serious physical harm is caused is in the construction zone at the time of the offender's commission of the speeding offense in the construction zone and does not apply as described in subsection (d) of this section.

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

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

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

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

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

(e) As used in this section:

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

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

636.03 ASSAULT.

(a) No person shall knowingly cause or attempt to cause physical harm to another or to another's unborn.

(b) No person shall recklessly cause serious physical harm to another or to another's unborn.

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

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

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

636.13 ADULTERATING OF OR FURNISHING ADULTERATED FOOD OR CONFECTION.

(a) No person shall do either of the following, knowingly or having reasonable cause to believe that any person may suffer physical harm or be seriously inconvenienced or annoyed thereby:

- (1) Place a pin, needle, razor blade, glass, laxative, drug of abuse, or other harmful or hazardous object or substance in any food or confection;
- (2) Furnish to any person any food or confection which has been adulterated in violation of subsection (a)(1) hereof. (ORC 3716.11)

(b) Whoever violates this section is guilty of a misdemeanor of the first degree. (ORC 3716.99(C))

636.14 DOMESTIC VIOLENCE.

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

(b) No person shall recklessly cause serious physical harm to a family or household member.

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

(d) (1) Whoever violates this section is guilty of domestic violence.

(2) Except as otherwise provided in subsection (d)(3) to (5) of this section, a violation of subsection (c) of this section is a misdemeanor of the fourth degree, and a violation of subsection (a) or (b) of this section is a misdemeanor of the first degree.

(3) Except as otherwise provided in subsection (d)(4) of this section, if the offender previously has pleaded guilty to or been convicted of domestic violence, a violation of an existing or former municipal ordinance or law of this or any other state or the United States that is substantially similar to domestic violence, a violation of Ohio R.C. 2903.14, 2909.06, 2909.07, 2911.12, 2911.211, or 2919.22 if the victim of the violation was a family or household member at the time of the violation, a violation of an existing or former municipal ordinance or law of this or any other state or the United States that is substantially similar to any of those sections if the victim of the violation was a family or household member at the time of the commission of the violation, or any offense of violence if the victim of the offense was a family or household member at the time of the commission of the offense, a violation of subsection (a) or (b) of this section is a felony and shall be prosecuted under appropriate state law, and a violation of subsection (c) of this section is a misdemeanor of the second degree.

(4) If the offender previously has pleaded guilty to or been convicted of two or more offenses of domestic violence or two or more violations or offenses of the type described in division (d)(3) of this section involving a person who was a family or household member at the time of the violations or offenses, a violation of division (a) or (b) of this section is a felony to be prosecuted under appropriate state law. A violation of division (c) of this section is a misdemeanor of the first degree. If the offender previously has pleaded guilty to or been convicted of two or more offenses of domestic violence or two or more violations or offenses of the type described in division (d)(3) of this section involving a person who was a family or household member at the time of the violations or offenses, and the offender knew that the victim of the violation was pregnant at the time of the violation, a violation of division (a) or (b) of this section is a felony to be prosecuted under appropriate state law.

- (5) Except as otherwise provided in subsection (d)(3) or (4) of this section, if the offender knew that the victim of the violation was pregnant at the time of the violation, a violation of subsection (a) or (b) of this section is a felony and shall be prosecuted under appropriate State law, and a violation of subsection (c) of this section is a misdemeanor of the third degree.

(e) Notwithstanding any provision of law to the contrary, no court or unit of local government shall charge any fee, cost, deposit, or money in connection with the filing of charges against a person alleging that the person violated this section or in connection with the prosecution of any charges so filed.

(f) As used in this section:

(1) "Family or household member" means any of the following:

A. Any of the following who is residing or has resided with the offender:

1. A spouse, a person living as a spouse or a former spouse of the offender;
2. A parent, a foster parent or a child of the offender, or another person related by consanguinity or affinity to the offender;
3. A parent, or a child of a spouse, person living as a spouse, or former spouse of the offender; or another person related by consanguinity or affinity to a spouse, person living as a spouse or former spouse of the offender.

B. The natural parent of any child of whom the offender is the other natural parent or is the putative other natural parent.

(2) "Person living as a spouse" means a person who is living or has lived with the offender in a common law marital relationship, who otherwise is cohabiting with the offender, or who otherwise has cohabited with the offender within five years prior to the date of the alleged commission of the act in question. (ORC 2919.25)

(g) The same relief available under the Ohio Revised Code for filing a complaint for violation of Ohio R.C. 2919.25 shall be available for filing a complaint for violation of this section.

636.15 TEMPORARY PROTECTION ORDER.

(a) No person shall recklessly violate the terms of any of the following:

- (1) A protection order issued or consent agreement approved pursuant to Ohio R.C. 2919.26 or 3113.31;
- (2) A protection order issued pursuant to Ohio R.C. 2151.34, 2903.213 or 2903.214;
- (3) A protection order issued by a court of another state.

(b) (1) Whoever violates this section is guilty of violating a protection order.

(2) Except as otherwise provided in subsection (b)(3) of this section, violating a protection order is a misdemeanor of the first degree.

(3) Violating a protection order is a felony and shall be prosecuted under State law if the offender previously has been convicted of, pleaded guilty to, or been adjudicated a delinquent child for any of the following:

- (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) (1) Notwithstanding R.C. § 2929.28(A)(2), if an offender is convicted of or pleads guilty to a violation of division (a)(2)A. of this section, the court shall impose a fine in the following amount:
 - A. Except as otherwise provided in divisions (h)(1)B., (h)(1)C., (h)(1)D., and (h)(1)E. of this section, not more than \$250;
 - B. Except as otherwise provided in divisions (h)(1)C., (h)(1)D., and (h)(1)E. of this section, if an offender has previously been convicted of or pleaded guilty to a violation of division (b)(1) of this section or a substantially equivalent state law or municipal ordinance, not more than \$500;
 - C. Except as otherwise provided in divisions (h)(1)D. and (h)(1)E. of this section, if an offender previously has been convicted of or pleaded guilty to two or more violations of division (b)(1) of this section or a substantially equivalent state law or municipal ordinance, \$500;
 - D. Except as otherwise provided in division (h)(1)E. of this section, if an offender previously has been convicted of or pleaded guilty to three or more violations of division (b)(1) of this section or a substantially equivalent state law or municipal ordinance, \$1,000;
 - E. If an offender previously has been convicted of or pleaded guilty to four or more violations of division (b)(1) of this section or a substantially equivalent state law or municipal ordinance, \$1,500.

- (2) The financial sanctions required by division (h)(1) of this section are in lieu of the financial sanctions described in R.C. § 2929.28(A)(2), but are in addition to any other sanctions or penalties that may apply to the offender, including other financial sanctions under that section or a jail term under R.C. § 2929.24.

(i) 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.

(j) 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 ILLEGAL USE OF A TRACKING DEVICE OR APPLICATION.

(a) As used in this section:

- (1) "Business entity." Means any form of corporation, partnership, association, cooperative, joint venture, business trust, or sole proprietorship that conducts business in this state.
- (2) "Business of private investigation." Has the same meaning as in R.C. § 4749.01.
- (3) "Disabled adult." Has the same meaning as in R.C. § 2913.01.
- (4) "Elderly person." Has the same meaning as in R.C. § 2913.01.
- (5) "Electronic monitoring." Has the same meaning as in R.C. § 2929.01.
- (6) "Electronic monitoring device." Has the same meaning as in R.C. § 2929.01.
- (7) "Law enforcement agency." Means any organization or unit comprised of law enforcement officers, and also includes any federal or military law enforcement agency.
- (8) "Ohio protection order." Means a protection order filed or issued or a consent agreement approved pursuant to R.C. § 2919.26 or 3113.31, a protection order filed or issued pursuant to R.C. § 2151.34, 2903.213, or 2903.214, or a no contact order issued as any of the following:
 - A. As part of a person's sentence under a community control sanction imposed under R.C. § 2929.16, 2929.17, 2929.26, or 2929.27;
 - B. As a term or condition of a person's release under R.C. § 2929.20;
 - C. As a post-release control sanction imposed as a condition of a person's post-release control under R.C. § 2967.28;
 - D. As a term of supervision for a person transferred to transitional control under R.C. § 2967.26;
 - E. As a term or condition of the intervention plan of a person granted intervention in lieu of conviction under R.C. § 2951.041.
- (9) "Person." Means an individual, but does not include a business entity.
- (10) "Private investigator." Has the same meaning as in R.C. § 4749.01.
- (11) "Protection order issued by a court of another state." Has the same meaning as in R.C. § 2919.27.
- (12) "Tracking application." Means any software program that permits a person to remotely determine or track the position or movement of another person or another person's property.
- (13) "Tracking device." Means an electronic or mechanical device that permits a person to remotely determine or track the position or movement of another person or another person's property, including an electronic monitoring device.

(b) Except as otherwise provided in division (d) of this section, no person shall knowingly do either of the following:

- (1) Install a tracking device or tracking application on another person's property without the other person's consent or cause a tracking device or tracking application to track the position or movement of another person or another person's property without the other person's consent;
- (2) If the person installed a tracking device or tracking application on another's property with the other person's consent and the other person subsequently revokes that consent, fail to remove or ensure the removal of the device or application after the other person revokes the consent.

(c) (1) For purposes of this section, if a person has given consent for another to install a tracking device or tracking application on the consenting person's property, it is presumed that the consenting person has revoked that consent if any of the following applies:

- A. The consenting person and the person to whom consent was given are lawfully married and one of them files a complaint for divorce or a petition for dissolution of marriage from the other. Not later than 72 hours after being served with a complaint for divorce or a petition for dissolution of marriage, the person to whom consent was given shall lawfully uninstall or discontinue use of the tracking device or tracking application. If the person to whom consent was given cannot lawfully uninstall or discontinue use of the tracking device or tracking application, the person to whom consent was given shall notify the court in which the complaint for divorce or the petition for dissolution of marriage was filed in writing.
 - B. The consenting person or the person to whom consent was given files an Ohio protection order against the other person or an Ohio protection order is issued against the other person, and the person to be protected under the order is the consenting person. Not later than 72 hours after being served with the Ohio protection order, the person to whom consent was given shall lawfully uninstall or discontinue use of the tracking device or tracking application. If the person to whom consent was given cannot lawfully uninstall or discontinue use of the tracking device or tracking application, the person to whom consent was given shall notify the court that issued the Ohio protection order in writing that the person to whom consent was given has installed or is using a tracking device or tracking application on the previously consenting person's person or the person's property and cannot uninstall or discontinue its use without violating the Ohio protection order.
- (2) Revocation of consent under this division is effective upon the service of the petition or motion or an Ohio protection order.

(d) This section does not apply to any of the following:

- (1) A law enforcement officer, or any law enforcement agency, that installs a tracking device or tracking application on another person's property or causes a tracking device or tracking application to track the position or movement of another person or another person's property as part of a criminal investigation, or a probation officer, parole officer, or employee of the department of rehabilitation and correction, a halfway house, or a community-based correctional facility when engaged in the lawful performance of the officer's or employee's official duties;
- (2) A parent or legal guardian of a minor child who installs or uses a tracking device or tracking application to track the minor child if any of the following applies:
 - A. The parents or legal guardians of the child are lawfully married to each other and are not separated or otherwise living apart, and either of those parents or legal guardians consents to the installation of the tracking device or tracking application;

- B. The parent or legal guardian of the child is the sole surviving parent or legal guardian of the child;
 - C. The parent or legal guardian of the child has sole custody of the child;
 - D. The parents or legal guardians of the child are divorced, separated, or otherwise living apart and neither parent has sole custody of the child, and both consent to the installation of the tracking device or tracking application;
 - E. The parents or legal guardians of the child are divorced, separated, or otherwise living apart, neither parent has sole custody of the child, and either only one parent consents to the installation of the tracking device or tracking application or one parent revokes consent, if the consenting parent only uses the tracking device or tracking application during that parent's parenting or custodial time and disables or removes the tracking device or application during the nonconsenting parent's parenting or custodial time.
- (3) A caregiver of an elderly person or disabled adult, if the elderly person's or disabled adult's treating physician certifies that the installation of a tracking device or tracking application onto the elderly person's or disabled adult's property is necessary to ensure the safety of the elderly person or disabled adult;
- (4) A person acting in good faith on behalf of a business entity for a legitimate business purpose, provided that this division does not apply to a private investigator engaged in the business of private investigation on behalf of another person;
- (5) A. A private investigator or other person licensed under R.C. § 4749.03, who is acting in the normal course of the investigator's business of private investigation on behalf of another person and who has the consent of the owner of the property upon which the tracking device or tracking application is installed, for the purpose of obtaining information with reference to any of the following:
- 1. Criminal offenses committed, threatened, or suspected against the United States, a territory of the United States, a state, or any person or legal entity;
 - 2. Locating an individual known to be a fugitive from justice;
 - 3. Locating lost or stolen property or other assets that have been awarded by the court;
 - 4. Investigating claims related to workers' compensation.
- B. This division does not apply if the person on whose behalf the private investigator is working is the subject of an Ohio protection order or a protection order issued by a court of another state or if the private investigator knows or reasonably should know that the person on whose behalf the private investigator is working seeks the investigator's services to aid in the commission of a crime.
- (6) An owner or lessee of a motor vehicle who installs, or directs the installation of, a tracking device or tracking application on the vehicle during the period of ownership or lease, if any of the following applies:
- A. The tracking device or tracking application is removed before the vehicle's title is transferred or the vehicle's lease expires;
 - B. The new owner of the vehicle, in the case of a sale, or the lessor of the vehicle, in the case of an expired lease, consents in writing to the non-removal of the tracking device or tracking application;
 - C. The owner of the vehicle at the time of the installation of the tracking device or tracking application was the original manufacturer of the vehicle.
- (7) A person who installs a tracking device or application on property in which the person has an ownership or contractual interest, unless the person is the subject of a protective order and the property is likely to be used by the person who obtained the protective order;

- (8) A person or business entity that installs a tracking device or tracking application on any fixed wing aircraft or rotorcraft operated or managed by the person or business entity pursuant to 14 C.F.R. part 91 or part 135 to track the position or movement of the fixed wing aircraft or rotorcraft;
 - (9) A surety bail bond agent, or any employee or contractor of a surety bail bond agent, that installs a tracking device or tracking application on another person's property or causes a tracking device or tracking application to track the position or movement of another person or another person's property as part of the surety bail bond agent's, employee's, or contractor's official responsibilities or duties.
- (e) For purposes of division (d)(1) of this section, a probation officer, parole officer, or employee of the department of rehabilitation and correction, a halfway house, or a community-based correctional facility is engaged in the lawful performance of the officer's or employee's duties if both of the following apply:
- (1) The court or the Department of Rehabilitation and Correction imposes electronic monitoring on a person.
 - (2) The officer or employee installs or uses an electronic monitoring device on that person in accordance with the court's or department's imposition of electronic monitoring of that person.
- (f) Whoever violates this section is guilty of illegal use of a tracking device or application.
- (1) Except as otherwise provided in division (f)(2) of this section, illegal use of a tracking device or application is a misdemeanor of the first degree.
 - (2) Illegal use of a tracking device or application is a felony to be prosecuted under state law if any of the following applies:
 - A. The offender previously has been convicted of or pleaded guilty to a violation of this section, R.C. § 2903.216, or R.C. § 2903.211 or any substantially equivalent municipal ordinance.
 - B. At the time of the commission of the offense, the offender was the subject of a protection order issued under R.C. § 2903.213 or 2903.214, regardless of whether the person to be protected under the order is the victim of the offense or another person.
 - C. Prior to committing the offense, the offender had been determined to represent a substantial risk of physical harm to others as manifested by evidence of then-recent homicidal or other violent behavior, evidence of then-recent threats that placed another in reasonable fear of violent behavior and serious physical harm, or other evidence of then-present dangerousness.
 - D. The offender has a history of violence toward the victim or a history of other violent acts towards the victim.
(R.C. § 2903.216)

636.99 PENALTY.

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

- (k) "Theft offense" means any of the following:
 - (1) A violation of Ohio R.C. 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2911.31, 2911.32, 2913.02, 2913.03, 2913.04, 2913.041, 2913.08, 2913.11, 2913.21, 2913.31, 2913.32, 2913.33, 2913.34, 2913.40, 2913.42 to 2913.45, 2913.47, 2913.48, 2913.51, 2915.05, 2915.06 or 2921.41.
 - (2) A violation of an existing or former municipal ordinance or law of this or any other state or the United States substantially equivalent to any section listed in subsection (k)(1) hereof or a violation of Ohio R.C. 2913.41, 2913.81 or 2915.06 as it existed prior to July 1, 1996;
 - (3) An offense under an existing or former municipal ordinance or law of this or any other state or the United States involving robbery, burglary, breaking and entering, theft, embezzlement, wrongful conversion, forgery, counterfeiting, deceit or fraud;
 - (4) A conspiracy or attempt to commit, or complicity in committing any offense under subsection (k)(1), (2) or (3) hereof.
- (l) "Computer services" includes, but is not limited to, the use of a computer system, computer network, computer program, data that is prepared for computer use or data that is contained within a computer system or computer network.
- (m) "Computer" means an electronic device that performs logical, arithmetic and memory functions by the manipulation of electronic or magnetic impulses. "Computer" includes, but is not limited to, all input, output, processing, storage, computer program or communication facilities that are connected or related, in a computer system or network to an electronic device of that nature.
- (n) "Computer system" means a computer and related devices, whether connected or unconnected, including, but not limited to, data input, output and storage devices, data communications links, and computer programs and data that make the system capable of performing specified special purpose data processing tasks.
- (o) "Computer network" means a set of related and remotely connected computers and communication facilities that includes more than one computer system that has the capability to transmit among the connected computers and communication facilities through the use of computer facilities.
- (p) "Computer program" means an ordered set of data representing coded instructions or statements that when executed by a computer cause the computer to process data.
- (q) "Computer software" means computer programs, procedures and other documentation associated with the operation of a computer system.
- (r) "Data" means a representation of information, knowledge, facts, concepts or instructions that are being or have been prepared in a formalized manner and that are intended for use in a computer, computer system or computer network. For purposes of Section 545.07, "data" has the additional meaning set forth in subsection (a) of that section.
- (s) "Cable television service" means any services provided by or through the facilities of any cable television system or other similar closed circuit coaxial cable communications system, or any microwave or similar transmission service used in connection with any cable television system or other similar closed circuit coaxial cable communications system.
- (t) "Gain access" means to approach, instruct, communicate with, store data in, retrieve data from or otherwise make use of any resources of a computer, computer system or computer network.

- (u) "Credit card" includes, but is not limited to, a card, code, device or other means of access to a customer's account for the purpose of obtaining money, property, labor or services on credit, or for initiating an electronic fund transfer at a point-of-sale terminal, an automated teller machine or a cash dispensing machine.
- (v) "Electronic fund transfer" has the same meaning as in 92 Stat. 3728, 15 U.S.C.A. 1693a, as amended.
- (w) "Rented property" means personal property in which the right of possession and use of the property is for a short and possibly indeterminate term in return for consideration; the rentee generally controls the duration of possession of the property, within any applicable minimum or maximum term; and the amount of consideration generally is determined by the duration of possession of the property.
- (x) "Telecommunication" means the origination, emission, dissemination, transmission, or reception of data, images, signals, sounds, or other intelligence or equivalence of intelligence or any nature over any communications system by any method, including, but not limited to, a fiber optic, electronic, magnetic, optical, digital, or analog method.
- (y) "Telecommunications device" means any instrument, equipment, machine, or other device that facilitates telecommunication, including, but not limited to, a computer, computer network, computer chip, computer circuit, scanner, telephone, cellular telephone, pager, personal communications device, transponder, receiver, radio, modem, or device that enables the use of a modem.
- (z) "Telecommunications service" means the providing, allowing, facilitating, or generating of any form of telecommunication through the use of a telecommunications device over a telecommunications system.
- (aa) "Counterfeit telecommunications device" means a telecommunications device that, alone or with another telecommunications device, has been altered, constructed, manufactured, or programmed to acquire, intercept, receive, or otherwise facilitate the use of a telecommunications service or information service without the authority or consent of the provider of the telecommunications service or information service. "Counterfeit telecommunications device" includes, but is not limited to, a clone telephone, clone microchip, tumbler telephone, or tumbler microchip; a wireless scanning device capable of acquiring, intercepting, receiving, or otherwise facilitating the use of telecommunications service or information service without immediate detection; or a device, equipment, hardware, or software designed for, or capable of, altering or changing the electronic serial number in a wireless telephone.
- (bb) (1) "Information service" means, subject to subsection (bb)(2) hereof, the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, including, but not limited to, electronic publishing.
(2) "Information service" does not include any use of a capability of a type described in subsection (bb)(1) hereof for the management, control, or operation of a telecommunications system or the management of a telecommunications service.
- (cc) "Elderly person" means a person who is sixty-five years of age or older.
- (dd) "Disabled adult" means a person who is eighteen years of age or older and has some impairment of body or mind that makes the person unfit to work at any substantially remunerative employment that the person otherwise would be able to perform and that will, with reasonable probability, continue for a period of at least twelve months without any present indication of recovery from the impairment, or who is eighteen years of age or older and has been certified as permanently and totally disabled by an agency of this State or the United States that has the function of so classifying persons.
- (ee) "Firearm" and "dangerous ordnance" have the same meanings as in Ohio R.C. 2923.11.
- (ff) "Motor vehicle" has the same meaning as in Ohio R.C. 4501.01.
- (gg) "Dangerous drug" has the same meaning as in Ohio R.C. 4729.01.
- (hh) "Drug abuse offense" has the same meaning as in Ohio R.C. 2925.01.
- (ii) "Police dog or horse" and "service dog" have the same meanings as in Ohio R.C. 2921.321.

- (jj) "Anhydrous ammonia" is a compound formed by the combination of two gaseous elements, nitrogen and hydrogen, in the manner described in this subsection. Anhydrous ammonia is one part nitrogen to three parts hydrogen (NH₃). Anhydrous ammonia by weight is fourteen parts nitrogen to three parts hydrogen, which is approximately eighty-two per cent nitrogen to eighteen per cent hydrogen.
- (kk) "Assistance dog" has the same meaning as in Ohio R.C. 955.011.
- (ll) "Active duty service member" means any member of the armed forces of the United States performing active duty under Title 10 of the United States Code. (ORC 2913.01)

642.02 THEFT.

- (a) No person, with purpose to deprive the owner of property or services, shall knowingly obtain or exert control over either the property or services in any of the following ways:
 - (1) Without the consent of the owner or person authorized to give consent;
 - (2) Beyond the scope of the express or implied consent of the owner or person authorized to give consent;
 - (3) By deception;
 - (4) By threat;
 - (5) By intimidation.
- (b)
 - (1) Whoever violates this section is guilty of theft. Except as otherwise provided in this division, a violation of this section is misdemeanor theft, a misdemeanor of the first degree. If the elements set forth in R.C. § 2913.02(B) for felony theft, grand theft, or aggravated theft are met, then a violation of this section is a felony to be prosecuted under appropriate state law.
 - (2) In addition to the penalties described in division (b)(1) of this section, if the offender committed the violation by causing a motor vehicle to leave the premises of an establishment at which gasoline is offered for retail sale without the offender making full payment for gasoline that was dispensed into the fuel tank of the motor vehicle or into another container, the court may do one of the following:
 - A. Unless division (b)(2)B. of this section applies, suspend for not more than six months the offenders driver's license, probationary driver's license, commercial driver's license, temporary instruction permit, or nonresident operating privilege;
 - B. If the offender's driver's license, probationary driver's license, commercial driver's license, temporary instruction permit, or nonresident operating privilege has previously been suspended pursuant to division (b)(2)A. of this section, or any other substantially equivalent state or local law, impose a class seven suspension of the offender's license, permit, or privilege from the range specified in R.C. § 4510.02(A)(7), provided that the suspension shall be at least six months;
 - C. The court, in lieu of suspending the offender's driver's or commercial driver's license, probationary driver's license, temporary instruction permit, or nonresident operating privilege pursuant to division (b)(2)A. or (b)(2)B of this section, instead may require the offender to perform community service for a number of hours determined by the court.
 - (3) In addition to the penalties described in division (b)(1) of this section, if the offender committed the violation by stealing rented property or rental services, the court may order that the offender make restitution pursuant to R.C. § 2929.18 or R.C. § 2929.28. Restitution may include, but is not limited to, the cost of repairing or replacing the stolen property, or the cost of repairing the stolen property and any loss of revenue resulting from deprivation of the property due to theft of rental services that is less than or equal to the actual value of the property at the time it was rented. Evidence of intent to commit theft of rented property or rental services shall be determined pursuant to the provisions of R.C. § 2913.72.

(c) The sentencing court that suspends an offender's license, permit, or nonresident operating privilege under division (b)(2) of this section may grant the offender limited driving privileges during the period of the suspension in accordance with R.C. Chapter 4510. (ORC 2913.02)

642.03 DEGREE OF OFFENSE WHEN CERTAIN PROPERTY INVOLVED.

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

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

CHAPTER 646
Parks

646.01	Reservations to use park pavilion.	646.04	Amendments.
646.02	Application review.	646.05	Village exempted.
646.03	Agreement to use village park pavilion.	646.06	Park rules and regulations.
		646.07	Enforcement.

646.01 USE BY LARGE GROUPS.

(a) Any person or entity who wishes to reserve for use the Park Pavilion shall submit a reservation request form ("Reservation Form") to the Village of South Russell Building Department along with the nonrefundable \$50 deposit if a resident of the Village of South Russell or the nonrefundable \$100 deposit if not a resident of the Village of South Russell. A copy of the Reservation Form is attached to Ordinance 2024-86 as Attachment 1 and incorporated herein by reference as if set out in full. The Reservation Form is available online under the Parks page of the Village's website at southrussell.com.

(b) A person or entity shall indicate on the Reservation Form any of the following six special conditions that apply to the requested reservation:

- (1) There will be over 50 people in attendance;
- (2) There will be bounce house or entertainment props;
- (3) There will be food trucks or food catering;
- (4) There will be live music, including but not limited to bands or concerts;
- (5) There will be the promotion of any private business, including but not limited to for-profit and not-for-profit; or
- (6) The person or entity is requesting assistance from the Village Police Department or the Village Street Department.

(c) Any Reservation Form in which any of the six special conditions are checked by the person or entity requesting to reserve for use the Park Pavilion, as provided in Section 646.01(b)(1) through (6), shall be forwarded by the Village Building Department to the Mayor, who may consult with the Village Police Chief and/or the Village Street Commissioner, before making a decision, which decision is within the Mayor's reasonable discretion, regarding the Reservation Form. The Mayor shall notify the Village Building Department Administrative Assistant of his/her decision.

(d) Any Reservation Form that is not typical or includes other requests not listed in Section 646.01(b)(1) through (6) shall be presented to Village Council for consideration at its next regular meeting or a special meeting for this purpose.

(e) The Village Building Department shall notify any person or entity submitting a Reservation Form as to whether the requested reservation for use is confirmed: (i) on the first-come, first serve basis when none of the six (6) special conditions in Section 646.01(b)(1) through (6) are checked on the Reservation Form; (ii) on the decision of the Mayor when any of the six special conditions in Section 646.01(b)(1) through (6) are checked; or (iii) on approval of Council, as the case may be.

(Ord. 2024-86. Passed 9-23-24.)

646.02 APPLICATION REVIEW.

Review of any Reservation Form submitted shall be guided by the following standards:

- (a) No likely adverse public health and/or safety impacts, including on adjacent properties.
- (b) No likely adverse environmental impacts on the park from such event.
- (c) The terms and conditions of the conservation easement applicable to the park.
- (d) Prior experience with the applicant or group, if any. If no prior experience, references may be requested and investigated prior to a decision.
- (e) Space and date availability.

(Ord. 2024-86. Passed 9-23-24.)

646.03 AGREEMENT TO USE VILLAGE PARK PAVILION.

Provided the requested reservation for use of the Park Pavilion has been approved, the person or entity requesting such reservation shall execute the "Agreement for Use of Village Park Pavilion" which is available under the parks page of the Village's website at southrussell.com. A copy of the Agreement for Use of Village Park Pavilion is attached to Ordinance 2024-86 as Attachment 2 and incorporated herein by reference as if set out in full. Failure to execute such Agreement for Use of Village Park Pavilion shall void the approval.

(Ord. 2024-86. Passed 9-23-24.)

646.04 AMENDMENTS.

Minor, non-substantive changes to "The "Reservation Form" and the "Agreement for Use of Village Park Pavilion" may be amended by Council by Motion; however, all other changes that amend any of the provisions in this Chapter 646 must be approved through legislation of Council.

(Ord. 2024-86. Passed 9-23-24.)

646.05 VILLAGE EXEMPTED.

Sections 646.01 and 646.02 shall not be applicable to any Village sponsored event or activity.

(Ord. 2024-86. Passed 9-23-24.)

646.06 PARK RULES AND REGULATIONS.

Any person who violates any of the following Village of South Russell Park Rules and Regulations where another penalty is not otherwise provided by law shall be guilty of a minor misdemeanor, as defined by the Ohio Revised Code, punishable of a fine up to \$150 for a first offense and of a misdemeanor of the fourth degree for each subsequent violation, punishable up to 30 days in jail and a \$250 fine:

- (a) Park hours - dawn to dusk.
- (b) Please do not disturb the habitat, wildlife, or our neighbors' privacy.
- (c) No alcoholic beverages, camping, campfires, littering or motorized vehicles permitted except authorized Village vehicles.

- (d) Dogs are required to be on leash in the entire park at all times.
- (e) All visitors to the park assume any and all risk of injury, loss, or damage to themselves and/or personal property which might occur at the park.
(Ord. 2024-86. Passed 9-23-24.)

646.07 ENFORCEMENT.

If an event is held at the Park Pavilion without approval as set forth in this chapter by a person or entity otherwise required to comply, the Village Police Chief is authorized to order the immediate cessation of such event and the removal of persons participating in same from the Park Pavilion. Failure to comply with such orders shall constitute a misdemeanor of the third degree.
(Ord. 2024-86. Passed 9-23-24.)

CHAPTER 648
Peace Disturbances

648.01	Riot.	648.07	Misconduct at an emergency.
648.011	Inciting to violence.	648.08	Inducing panic
648.02	Failure to disperse.	648.09	Making false alarms.
648.03	Justifiable use of force to suppress riot.	648.10	Loitering.
648.04	Disorderly conduct.	648.11	Disturbing sounds or noises in public places.
648.05	Disturbing the peace.	648.12	Impeding public passage of an emergency service responder.
648.06	Disturbing a lawful meeting.		

CROSS REFERENCES

See section histories for similar State law

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

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

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

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

648.01 RIOT.

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

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

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

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

648.011 INCITING TO VIOLENCE.

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

- (1) The conduct takes place under circumstances that create a clear and present danger that any offense of violence will be committed;
- (2) The conduct proximately results in the commission of any offense of violence.

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

648.02 FAILURE TO DISPERSE.

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

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

- (c) (1) Whoever violates this section is guilty of failure to disperse.
- (2) Except as otherwise provided in subsection (c)(3) hereof, failure to disperse is a minor misdemeanor.
- (3) Failure to disperse is a misdemeanor of the fourth degree if the failure to obey the order described in subsection (a) hereof, creates the likelihood of physical harm to persons or is committed at the scene of a fire, accident, disaster, riot, or emergency of any kind. (ORC 2917.04)

648.03 JUSTIFIABLE USE OF FORCE TO SUPPRESS RIOT.

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

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

648.04 DISORDERLY CONDUCT.

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

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

CHAPTER 666 Sex Related Offenses

666.01	Definitions.	666.091	Loitering to engage in solicitation.
666.02	Presumption of knowledge; actual notice and defense.	666.10	Prostitution.
666.03	Unlawful sexual conduct with a minor.	666.11	Disseminating matter harmful to juveniles.
666.04	Sexual imposition.	666.12	Deception to obtain matter harmful to juveniles.
666.05	Importuning.	666.13	Displaying matter harmful to juveniles.
666.06	Voyeurism.	666.14	Unlawful advertising of massage.
666.07	Public indecency.	666.15	Dissemination of private sexual images.
666.08	Procuring; engagement in sexual activity for hire.	666.16	Grooming.
666.09	Soliciting.	666.99	Penalty.

CROSS REFERENCES

See sectional histories for similar State law
 Complicity - see GEN. OFF. 606.23
 Offensive conduct - see GEN. OFF. 648.04
 Telephone harassment - see GEN. OFF. 636.10, 636.11
 Criminal trespass - see GEN. OFF. 642.12

666.01 DEFINITIONS.

As used in this chapter:

- (a) "Sexual conduct" means vaginal intercourse between a male and female; anal intercourse, fellatio and cunnilingus between persons regardless of sex; and, without privilege to do so, the insertion, however slight, of any part of the body or any instrument, apparatus or other object into the vaginal or anal opening of another. Penetration, however slight, is sufficient to complete vaginal or anal intercourse.
- (b) "Sexual contact" means any touching of an erogenous zone of another, including without limitation the thigh, genitals, buttock, pubic region, or, if such person is a female, a breast, for the purpose of sexually arousing or gratifying either person.
- (c) "Sexual activity" means sexual conduct or sexual contact, or both.
- (d) "Prostitute" means a male or female who promiscuously engages in sexual activity for hire, regardless of whether the hire is paid to the prostitute or to another.
- (e) "Harmful to juveniles" means that quality of any material or performance describing or representing nudity, sexual conduct, sexual excitement, or sado-masochistic abuse in any form to which all of the following apply:

- (1) The material or performance, when considered as a whole, appeals to the prurient interest of juveniles in sex.
- (2) The material or performance is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable for juveniles.
- (3) The material or performance, when considered as a whole, lacks serious literary, artistic, political and scientific value for juveniles.
- (f) When considered as a whole, and judged with reference to ordinary adults, or, if it is designed for sexual deviates or other specially susceptible group, judged with reference to such group, any material or performance is "obscene" if any of the following apply:
 - (1) Its dominant appeal is to prurient interest;
 - (2) Its dominant tendency is to arouse lust by displaying or depicting sexual activity, masturbation, sexual excitement or nudity in a way which tends to represent human beings as mere objects of sexual appetite;
 - (3) Its dominant tendency is to arouse lust by displaying or depicting bestiality or extreme or bizarre violence, cruelty or brutality;
 - (4) Its dominant tendency is to appeal to scatological interest by displaying or depicting human bodily functions of elimination in a way which inspires disgust or revulsion in persons with ordinary sensibilities, without serving any genuine scientific, educational, sociological, moral or artistic purpose;
 - (5) It contains a series of displays or descriptions of sexual activity, masturbation, sexual excitement, nudity, bestiality, extreme or bizarre violence, cruelty or brutality, or human bodily functions of elimination, the cumulative effect of which is a dominant tendency to appeal to prurient or scatological interest, when the appeal to such interest is primarily for its own sake or for commercial exploitation, rather than primarily for a genuine scientific, educational, sociological, moral or artistic purpose.
- (g) "Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.
- (h) "Nudity" means the showing, representation or depiction of human male or female genitals, pubic area or buttocks with less than a full, opaque covering, or of a female breast with less than a full, opaque covering of any portion thereof below the top of the nipple, or of covered male genitals in a discernibly turgid state.
- (i) "Juvenile" means an unmarried person under the age of eighteen.
- (j) "Material" means any book, magazine, newspaper, pamphlet, poster, print, picture, figure, image, description, motion picture film, phonographic record, or tape, or other tangible thing capable of arousing interest through sight, sound, or touch and includes an image or text appearing on a computer monitor, television screen, liquid crystal display, or similar display device or an image or text recorded on a computer hard disk, computer floppy disk, compact disk, magnetic tape or similar data storage device.
- (k) "Performance" means any motion picture, preview, trailer, play, show, skit, dance or other exhibition performed before an audience.
- (l) "Spouse" means a person married to an offender at the time of an alleged offense, except that such person shall not be considered the spouse when any of the following apply:
 - (1) When the parties have entered into a written separation agreement authorized by Ohio R.C. 3103.06;

- (2) During the pendency of an action between the parties for annulment, divorce, dissolution of marriage or legal separation;
- (3) In the case of an action for legal separation, after the effective date of the judgment for legal separation.
- (m) "Minor" means a person under the age of eighteen years.
- (n) "Mental health client or patient" has the same meaning as in Ohio R.C. 2305.51.
- (o) "Mental health professional" has the same meaning as in Ohio R.C. 2305.115.
- (p) "Sado-masochistic abuse" means flagellation or torture by or upon a person or the condition of being fettered, bound, or otherwise physically restrained.
- (q) "Place where a person has a reasonable expectation of privacy" means a place where a reasonable person would believe that the person could fully disrobe in private.
- (r) "Private area" means the genitals, pubic area, buttocks, or female breast below the top of the areola, where nude or covered by an undergarment.
- (s) "Licensed medical professional." Any of the following medical professionals:
 - (1) A physician assistant licensed under R.C. Chapter 4730;
 - (2) A physician authorized under R.C. Chapter 4731 to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery;
 - (3) A massage therapist licensed under R.C. Chapter 4731.(ORC 2907.01)

666.02 PRESUMPTION OF KNOWLEDGE; ACTUAL NOTICE AND DEFENSE.

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

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

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

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

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

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

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

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

(ORC 2907.35)

666.03 UNLAWFUL SEXUAL CONDUCT WITH A MINOR.

(a) No person who is eighteen years of age or older shall engage in sexual conduct with another when the offender knows the other person is thirteen years of age or older but less than 16 years of age, or the offender is reckless in that regard.

(b) Whoever violates this section is guilty of unlawful sexual conduct with a minor, a misdemeanor of the first degree. If the offender is four years older or more than the other person, or if the offender has previously been convicted of or pleaded guilty to a violation of Ohio R.C.

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

666.04 SEXUAL IMPOSITION.

(a) No person shall have sexual contact with another; cause another to have sexual contact with the offender; or cause two or more other persons to have sexual contact when the offender knows that the sexual contact is offensive to the other person, or one of the other persons, or is reckless in that regard.

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

(c) Whoever violates this section is guilty of sexual imposition, a misdemeanor of the third degree. If the offender previously has been convicted of or pleaded guilty to a violation of Ohio R.C. 2907.02, 2907.03, 2907.04, 2907.05, 2907.06 or former Section 2907.12, or a substantially similar municipal ordinance, a violation of this section is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to three or more violations of Ohio R.C. 2907.02, 2907.03, 2907.04 or 2907.05, 2907.06 or former Section 2907.12 or of any combination of those sections, a violation of this section is a misdemeanor of the first degree and, notwithstanding the range of jail terms prescribed in Ohio R.C. 2929.24, the court may impose on the offender a definite jail term of not more than one year.
(ORC 2907.06)

666.05 IMPORTUNING.

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

666.06 VOYEURISM.

(a) No person, for the purpose of sexually arousing or gratifying himself or herself, shall commit trespass or otherwise surreptitiously invade the privacy of another, to spy or eavesdrop upon another.

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

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

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

(e) Whoever violates this section is guilty of voyeurism.

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

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

(3) A violation of division (d) of this section is a misdemeanor of the first degree.

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

(R.C. § 2907.08)

666.07 PUBLIC INDECENCY.

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

(1) Expose the person's private parts;

(2) Engage in sexual conduct or masturbation;

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

(b) No person shall knowingly do any of the following, under circumstances in which the person's conduct is likely to be viewed by and affront another person who is in the person's physical proximity, who is a minor, and who is not the spouse of the offender:

(1) Engage in masturbation;

(2) Engage in sexual conduct;

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

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

(c) (1) Whoever violates this section is guilty of public indecency and shall be punished as provided in subsections (c)(2), (3), (4) and (5) of this section.

(2) Except as otherwise provided in subsection (c)(2) of this section, a violation of subsection (a)(1) of this section is a misdemeanor of the fourth degree. If the offender previously has been convicted of or pleaded guilty to one violation of this section, a violation of subsection (a)(1) of this section is a misdemeanor of the third degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a misdemeanor of the second degree. If the

(7) The image is disseminated for the purpose of medical treatment or examination.

(d) The following entities are not liable for a violation of this section solely as a result of an image or other information provided by another person:

- (1) A provider of interactive computer service;
- (2) A mobile service;
- (3) A telecommunications carrier;
- (4) An internet provider;
- (5) A cable service provider;
- (6) A direct-to-home satellite service;
- (7) A video service provider.

(e) Any conduct that is a violation of this section and any other section of the General Offenses Code, or the Revised Code may be prosecuted under this section, the other section, or both sections.

- (f) (1) A. Except as otherwise provided in subsection (f)(1)B., C., or D. of this section, whoever violates this section is guilty of nonconsensual dissemination of private sexual images, a misdemeanor of the third degree.
- B. If the offender previously has been convicted of or pleaded guilty to a violation of this section, nonconsensual dissemination of private sexual images is a misdemeanor of the second degree.
- C. If the offender previously has been convicted of or pleaded guilty to two or more violations of this section, nonconsensual dissemination of private sexual images is a misdemeanor of the first degree.
- D. If the offender is under eighteen years of age and the person in the image is not more than five years older than the offender, the offender shall not be prosecuted under this section.
- (2) In addition to any other penalty or disposition authorized or required by law, the court may order any person who is convicted of a violation of this section or who is adjudicated delinquent by reason of a violation of this section to criminally forfeit all of the following property to the state under Ohio R.C. Chapter 2981.
- A. Any profits or proceeds and any property the person has acquired or maintained in violation of this section that the sentencing court determines to have been acquired or maintained as a result of the violation;
- B. Any interest in, securities of, claim against, or property or contractual right of any kind affording a source of influence over any enterprise that the person has established, operated, controlled or conducted in violation of this section that the sentencing court determines to have been acquired or maintained as a result of the violation.

(g) A victim of a violation of this section may commence a civil cause of action against the offender, as described in Ohio R.C. 2307.66.
(ORC 2917.211)

666.16 GROOMING.

(a) As used in this section, "pattern of conduct" has the same meaning as in R.C. § 2903.211.

(b) No person who is 18 years of age or older shall engage in a pattern of conduct with a minor who is less than 16 years of age and who is four or more years younger than the person, when the pattern of conduct would cause a reasonable adult person to believe that the person is communicating with the minor with purpose to do either of the following:

- (1) Entice, coerce, or solicit the minor to engage in sexual activity, and when the person's purpose in engaging in the pattern of conduct is to entice, coerce, or solicit the minor to engage in sexual activity with the person or a third person;
- (2) Prepare the minor to engage in sexual activity, and when the person's purpose in engaging in the pattern of conduct is to prepare the minor to engage in sexual activity with the person or a third person that would be a violation of R.C. § 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, or 2907.07.

(c) No person who is 18 years of age or older shall engage in a pattern of conduct with a minor if the person and the minor are in any of the relationships described in R.C. § 2907.03(A)(5) to (A)(13), when the pattern of conduct would cause a reasonable adult person to believe that the person is communicating with the minor with purpose to do either of the following:

- (1) Entice, coerce, or solicit the minor to engage in sexual activity, and when the person's purpose in engaging in the pattern of conduct is to entice, coerce, or solicit the minor to engage in sexual activity with the person or a third person;
- (2) Prepare the minor to engage in sexual activity, and when the person's purpose in engaging in the pattern of conduct is to prepare the minor to engage in sexual activity with the person or a third person that would be a violation of R.C. §§ 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, or 2907.07.

(d) Whoever violates this section is guilty of grooming.

- (1) Except as otherwise provided in this division, a violation of division (b) of this section is a misdemeanor of the second degree. If the victim of the offense is less than 13 years of age or if the offender supplied alcohol or a drug of abuse to the victim of the offense, a violation of division (b) of this section is a felony to be prosecuted under appropriate state law. If the victim of the offense is less than 13 years of age and if the offender previously has been convicted of or pleaded guilty to a violation of this section or a sexually oriented offense or a child-victim oriented offense or the offender supplied alcohol or a drug of abuse to the victim of the offense, a violation of division (b) of this section is a felony to be prosecuted under appropriate state law. If the offender previously has been convicted of or pleaded guilty to a violation of this section or a sexually oriented offense or a child-victim oriented offense and the offender supplied alcohol or a drug of abuse to the victim of the offense, a violation of division (b) of this section is a felony to be prosecuted under appropriate state law.
- (2) Except as otherwise provided in this division, a violation of division (c) of this section is a misdemeanor of the first degree. If the offender supplied alcohol or a drug of abuse to the victim of the offense, a violation of division (c) of this section is a felony to be prosecuted under appropriate state law. If the victim of the offense is less than 13 years of age or if the offender previously has been convicted of or pleaded guilty to a violation of this section or a sexually oriented offense or a child-victim oriented offense, a violation of division (c) of this section is a felony to be prosecuted under appropriate state law. If the victim of the offense is less than 13 years of age and if the offender previously has been

convicted of or pleaded guilty to a violation of this section or a sexually oriented offense or a child-victim oriented offense or the offender supplied alcohol or a drug of abuse to the victim of the offense, a violation of division (c) of this section is a felony to be prosecuted under appropriate state law.

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

(R.C. § 2907.071)

666.99 PENALTY.

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

G. The offender's military service record.

- (2) In determining the appropriate sentence for a misdemeanor, if the offender enters an Alford plea, the sentencing court shall not consider whether the offender showed genuine remorse for the offense.
- (3) In determining the appropriate sentence for a misdemeanor, in addition to complying with division (b)(1) of this section, the court may consider any other factors that are relevant to achieving the purposes and principles of sentencing set forth in R.C. § 2929.21.

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

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

698.04 ORGANIZATIONAL PENALTIES.

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

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

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

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

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

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

698.05 MULTIPLE SENTENCES.

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

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

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

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

698.06 MODIFICATION OF SENTENCE.

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

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

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

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

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

1.04 ESTABLISHMENT OF REGULATIONS.

The definitions, administrative provisions, district regulations, conditional use regulations, parking and loading regulations, sign regulations, development regulations, performance regulations, nonconforming use regulations and all other regulations, procedures, schedules, forms, figures and maps set forth or referred to in this Code are hereby established. Except as otherwise provided herein, no structure or land shall be used, and no structure shall be erected, altered or moved in whole or part, without compliance with this Code.

1.05 ESTABLISHMENT OF ZONING MAP.

The aforesaid districts are designated by symbols and the location and boundaries of said districts are established on the map entitled "Zoning Map of the Village of South Russell Ohio." The Zoning Map, certified by the Commission Chairman and Secretary, shall be on file in the Village Building Department and/or with the Village records and no change thereon shall be made without legislative authority.

(Ord. 2024-55. Passed 5-13-24.)

1.06 DISTRICT BOUNDARIES.

District boundaries established on the Zoning Map enclose areas of a designated district. Such boundaries generally follow the center line of streets, lot lines or their extensions, provided:

- (a) Where a district boundary is shown by dimension or relationship as being located a specific distance from or parallel to a street or property line, such distance shall control.
- (b) Where a district boundary divides a parcel of land, the location of such boundary, unless related to fixed points on the property boundary, shall be determined by scale, and the parts of the lot shall comply with the regulations of the district in which each part is located.
- (c) Where the Zoning Inspector cannot determine a district boundary according to the above rules, the Commission shall determine the exact location.

1.07 ANNEXED TERRITORY.

All zoned territory which may hereafter be annexed to the municipality shall continue under existing zoning regulations until such regulations are amended by the municipality. If zoning regulations are not established in such territory at the time of annexation, the annexed territory shall be classified as an R-1-A District and the regulations of this Code shall govern.

1.08 INTERPRETATION.

Provisions of this Code shall be considered minimum requirements and shall be construed to further its underlying purpose and objectives. They shall apply uniformly to each district, lot and structure. Where provisions of this Code impose restrictions upon structures or land more restrictive than those imposed or required by other regulations, covenants, easements or restrictions running with the land, this Code shall govern and conversely, other regulations or covenants shall govern if they are more restrictive than this Code.

1.09 CONFLICT.

Nothing in this Code shall remove, abrogate or render inoperative any covenant running with the land, easement or other agreement between parties. Provisions of this Code shall apply to all structures and land of any political subdivision, district, taxing unit or bond-issuing authority located within the corporate limits of the municipality to the extent allowed by law. Municipal officials with the authority to issue legal documents, shall not issue permits or certificates which would result in conflict with this Code. However, should such a permit or certificate be issued and be in conflict with this Code, it shall be deemed null and void.

1.10 SEPARABILITY.

Should any provision of this Code be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of the Code other than the provision declared to be invalid nor shall such decision affect the application of any provision to different facts or circumstances.

1.11 TEMPORARY USES.

Temporary living space or space used until a dwelling is completed, including basements, garages, or mobile homes, shall not be permitted in any district. A zoning permit shall be required for any other temporary use or structure except for temporary structures for construction operations which meet the following criteria: Temporary structures for construction operations, including field offices, storage of materials and work shop for assembly of components, may be permitted on undeveloped lots, if such structures are found necessary for the construction operations for which a building permit has been issued, provided such temporary structures shall be located at least 200 feet from the nearest occupied residential dwelling and shall be removed within thirty days after the completion or discontinuance of the work.

1.12 SOIL REMOVAL.

Soil, sand or gravel shall not be stripped or removed in any district except in conformity with the requirements of Chapter 1466, Erosion and Sediment Control of the Codified Ordinances of the Village of South Russell.

CHAPTER 3 Administration

3.00	Intent.	3.06	Amendments.
3.01	Zoning permits.	3.07	Appeals.
3.02	(Reserved)	3.08	Violations.
3.03	Director of Transportation Review.	3.09	Penalties.
3.04	Development approval.	3.10	Fees.
3.05	Conditional use permits.	3.11	Effective approval.

3.00 INTENT.

Provisions are herein established to achieve effective, efficient and uniform administration of this Code.

3.01 ZONING PERMITS.

No structure or sign shall be erected, enlarged or moved in whole or in part, and no use shall be established or changed prior to the issuance of a zoning permit by the Zoning Inspector, except for the use set forth in Chapter 13. Furthermore, any change of occupancy of a portion or all of a structure in a business or industrial district shall require the issuance of a new zoning permit. Zoning permits shall be issued according to the following procedures:

- (a) Application: Applications for zoning permits shall include the following data:
 - (1) One copy of Form Z-1 completed by the applicant and required data specified thereon.
 - (2) The fee specified on Schedule 1.
- (b) Notification: Within five working days after receipt of a completed application, the Zoning Inspector shall notify the applicant on Form Z-1 that one of the following actions is required:
 - (1) Approval by Zoning Inspector only.
 - (2) Highway Director review according to Section 3.03.
 - (3) Development approval according to Section 3.04.
 - (4) Issuance of a conditional use permit according to Section 3.05.
- (c) Action:
 - (1) If approval by the Zoning Inspector without other action is required, the Zoning Inspector shall approve or disapprove said application within five working days after receipt of a completed application. If another approval is needed as a condition precedent to action by the Zoning Inspector, the Zoning Inspector shall have five working days after the date of notification of such other prior approval, before approving or disapproving the application. Approval shall be granted only if the application complies with all provisions of this Code, and other applicable

municipal, county or state law. No building permit shall be issued by the Building Inspector prior to the issuance of a zoning permit.

- (2) No building permit shall be issued prior to the applicant obtaining approval from the Architectural Review Board when required in Chapter 264 of the Codified Ordinances of South Russell. The Zoning Inspector shall not grant variances and shall not approve any application which requires a variance until it has been granted by the appropriate board.
- (d) Permit Issued: The zoning permit shall be issued by the Zoning Inspector immediately after his approval of the application. Such permit shall become void if use is not established or work has not materially commenced within 12 months after the date of issuance unless an extension is obtained by applicant from the Board or Commission, as the case may be, if completion is not possible within 12 months. Any such request for an extension shall be accompanied by an additional fee of twenty-five dollars (\$25.00) and shall be deemed to be a request for a zoning permit under Schedule 1. (Ord. 2021-51. Passed 7-12-21; Ord. 2024-56. Passed 5-13-24.)

3.02 (RESERVED)

3.03 DIRECTOR OF TRANSPORTATION REVIEW.

No application for a zoning permit involving land within 300 feet of the centerline of a certified, proposed new or altered state highway, or within 500 feet of the point of intersection of such centerline with any other street, shall be approved by the Zoning Inspector prior to review by the State Director of Transportation according to the following procedure.

- (a) Referral: Within five working days after receipt of a completed application for a zoning permit the Zoning Inspector shall forward a copy thereof to the Director.
- (b) Review: If within 120 days after the date of referral the Director notifies the municipality that land acquisition shall proceed, the application shall be disapproved. If the Director notifies the municipality that land acquisition shall not proceed, or upon the expiration of 120 days, the Zoning Inspector may approve the application.

3.04 DEVELOPMENT APPROVAL.

- (a) (1) Other than as to the exception set out in division (a)(2) of this section, no application for a zoning permit involving a multi-family residential, private cluster residential development, or envelope, residential neighborhood, elderly assisted living facility, any one-family structure exceeding thirty feet maximum height and not requiring a variance, business or industrial structure or use, or any property located in a groundwater sensitive zone in which the applicant seeks to develop the property and the future occupants potable water needs will be supplied by using groundwater from the property, shall be approved by the Zoning Inspector prior to approval by the Commission according to the following procedure and development regulation of this Code. (Amended by Ord. No. 1993-37, passed 8-16-93)

- (2) A. Where there has been a change of occupancy only, in all or a portion of a structure in a business or industrial district, and there has been no change in the use of said structure or relevant portion thereof, nor any erection or enlargement of said structure, then the Planning Commission review is not necessary and the Zoning Inspector may issue the zoning permit without prior Commission approval.
- B. Where a zoning permit has already been issued for a "residential neighborhood" development, the Zoning Inspector may thereafter issue any required zoning permits without prior Commission review or approval.

- (b) Application: Applications for development approval shall include the following data:
 - (1) One copy of Form Z-1 completed by the applicant and Zoning Inspector and required data specified thereon.
 - (2) The fee specified on Schedule 1.

(c) Review: Upon receipt of a completed application the Secretary shall forward a copy to the Engineer and place it on the agenda of the next regular Commission meeting. The filing date of the application shall be the date of this meeting. The Planning Commission may defer action, as set forth in division (d) of this section, upon such application, until the date of the next regularly scheduled Planning Commission meeting, but in no event later than forty days after the filing date, unless the applicant agrees to a further extension of time for Planning Commission action.

(d) Action: Following a review of the application and reports thereon, the Commission shall within the time limit as set forth in paragraph (c) approve, conditionally approve or disapprove the application. Within five business days of the Commission action, the Secretary shall certify such Commission action, including any conditions thereto on Form Z-1 to the applicant and the Zoning Inspector.

(e) Permit Issued: Unless specifically authorized otherwise by Planning Commission, the applicant shall comply with all conditions imposed by any permit prior to commencement of development where possible. Before a zoning permit is issued, the Commission in its discretion may require a performance bond in an amount determined by the engineer and in form approved by the Solicitor which shall be placed with the municipality to assure that grading, landscaping, paving, storm drainage and other improvements shall conform to the approved development and all laws and regulations of the municipality.

(f) Review Standards: It shall be the duty of the Planning Commission to investigate and ascertain if the plans for the development comply with the following conditions, which conditions must be complied with by the applicant in order to receive a zoning permit to develop their property:

- (1) That the proposed development is harmonious with the Subdivision Regulations, if applicable, of the Village of South Russell.
- (2) That it will not adversely affect neighboring properties.

- (3) That the plan of the development provides for integrated and harmonious design of buildings and structures and for adequate and properly arranged facilities for internal traffic circulation, off-street parking and loading, landscaping and such other features and facilities as may be necessary to make the project attractive and efficient from the standpoint of the applicant as well as from the standpoint of the adjoining or surrounding, existing or potential developments.
- (4) That an adequate water supply sufficient for the reasonable needs of the proposed development is available to the development without unduly burdening the already existing water users in the vicinity or endangering the water supply or recharge area of the Village. There are hereby created groundwater sensitive zones in the undeveloped and under developed portions of the municipality known as The Two Acre Groundwater Zone (GW-2), The Three Acre Groundwater Zone (GW-3), The Four Acre Groundwater Zone (GW-4) and The Five Acre Groundwater Zone (GW-5) as designated on the map hereinafter described. Said zones are created in areas where further development of the land is possible and where the potential development may adversely affect the available groundwater for the present and future consumers of the groundwater. Any property located in a groundwater sensitive zone shall be developed in accordance with the minimum lot area requirements of such zone which are displayed and set forth in the Groundwater Sensitive Zone Map dated September 1, 1988 and as may be amended from time to time, which shall be on file and maintained at the office of the Village Clerk. If any parcel of land is located in more than one zone, the minimum lot area for the entire parcel shall be the larger minimum lot area of the zones unless the Commission finds that the proposed use of the parcel of land can be located in such a fashion as to utilize the groundwater in a less restrictive zone. In such event, the less restrictive zone shall govern. However, the Commission, upon the applicant's request, may permit development in accordance with the minimum lot area requirements set forth in Section 4.02, 5.02, 6.02 and 7.02 when presented with evidence satisfactory to the Commission the groundwater conditions located on and under the proposed development are adequate to service the future occupants of the proposed development without adversely affecting the rights of other consumers of the groundwater contained in the same aquifer(s), considering the density allowances of Section 4.02, 5.02, 6.02 and 7.02 or that the proposed development will be serviced by a municipal or county water distribution system adequate to service such needs. If the Commission determines that the services of a hydrogeologist or hydrologist are needed to advise the Commission, the Commission may hire such person or firm at the cost of the applicant. If the applicant intends to obtain water from a public water supply for the proposed development, the entire cost of providing the improvements to the municipal or county water distributing system shall be borne by the applicant. In the event the applicant intends to use the groundwater as the potable water supply, and the Commission determined the groundwater conditions permit minimum lot areas

smaller than permitted by the Groundwater Sensitive Zone Map on any part or all of the proposed development but larger than the minimum lot area permitted in Sections 4.02, 5.02, 6.02 and 7.02, the Commission may permit minimum lot areas on any part or all of the proposed development to be compatible with the groundwater capabilities but not less than those set forth in the pertinent regulation found in Sections 4.02, 5.02, 6.02 and 7.02. Density allowance for the purpose of this division shall mean minimum lot area requirements of the Village Zoning Code. (Ord. 1988-59, adopted October 24, 1988; Ord. 2001-19.)

(g) Expenses of Inspection or Investigation for Compliance: The applicant shall be responsible for all expenses incurred by the Village for engineering, legal, and other costs of experts arising from any inspection and/or investigation reasonably necessary for the Village to assure compliance with any developmental approval or to determine whether or not any Village action is required prior to the expiration of any performance bond issued pursuant to division (d) of this section.

(Ord. 2022-66. Passed 8-8-22; Ord. 2024-57. Passed 5-13-24.)

3.05 CONDITIONAL USE PERMITS.

No conditional use specified in this Code shall be established prior to the issuance of conditional use permit by the Zoning Inspector according to the following procedure and conditional use regulations of this Code.

- (a) Application: Applications for conditional use permits shall include the following data:
 - (1) One copy of Form Z-1 and Z-3 or Z-3-A completed by the applicant and required data specified thereon.
 - (2) The fee specified on Schedule 1.
- (b) Review & Hearing: Upon receipt of a completed application the Secretary shall place the application on the agenda of the next regular Commission meeting. The filing date of the application shall be the date of this meeting. At such meeting the Commission shall schedule a public hearing within sixty days thereafter. Notice shall be given in at least one publication of a newspaper of general circulation in the municipality and mailed by the Secretary to the applicant and property owners contiguous to and across the street from the lot involved at least twenty days before the hearing. Failure to deliver such notice, however, shall not invalidate any Commission action. (Ord. 2001-19.)
- (c) Action: Within 35 days after the public hearing, or continuations thereof, the Commission shall approve, conditionally approve or disapprove the application. Within five business days of the Commission action, the Secretary shall certify such Commission action, including any conditions thereto, on Form Z-3 or Z-3-A and one copy shall be returned to the applicant and one copy forwarded to the Zoning Inspector.

- (d) Permit Issued: Unless specifically authorized by Planning Commission, the applicant shall comply with all conditions imposed by any permit prior to commencement of development. Such permit shall authorize only one conditional use and shall become void if all work is not started within 180 days and is not completed within one year after the date of issuance unless an extension is obtained from the Commission or if the conditional use ceases for more than 180 days. Before a zoning permit is issued, the Commission in its discretion may require a performance bond in an amount determined by the Engineer and in form approved by the Solicitor which shall be placed with the municipality to assure that grading, landscaping, paving, storm drainage, and other improvements shall conform to the approved development and all laws and regulations of the municipality and other conditions for which a performance bond is appropriate and have been required by the Commission.
- (Ord. 2022-66. Passed 8-8-22; Ord. 2024-58. Passed 5-13-24.)

3.06 AMENDMENTS.

Whenever the public necessity, general welfare or good zoning practice require, Council may, after receipt of a Commission recommendation amend or repeal any provision of this Code. Amendments may be initiated by Council or the Commission or by property owner within the area to be changed or affected by the amendment according to the following procedure.

- (a) (1) If initiated by Council, Clerk shall forward a copy of the proposed amendment to the Secretary who shall place it on the agenda of the next regular Commission meeting.
- (2) If initiated by a property owner, the Secretary shall place the proposed amendment on the next regularly-scheduled Planning Commission meeting provided the property owner has submitted to the Secretary:
- A. One copy of the Form Z-5 completed by the applicant and required data specified thereon.
- B. The fee specified on Schedule 1. In the event the actual cost and fees exceeds the amount of the fee, the applicant shall pay such additional costs and fees to the Clerk upon receipt of an invoice for such additional fees or costs and no amendment shall be adopted until the same has been paid to the municipality. The Zoning Map, certified by the Commission Chairman and Secretary, shall be on file in the Village Building Department and/or with the Village records and no change thereon shall be made without legislative authority. (Ord. 2001-19.)
- (3) In all cases, the filing date of the proposed amendment shall be the date when it first appears on the agenda.
- (b) Director of Transportation Review: If the proposed amendment involves land within 300 feet of the centerline of a certified proposed new or altered state highway, or within 500 feet of the point of intersection of such centerline with any other street, the Secretary shall forward a copy to the State Director of Transportation. The Commission may thereafter proceed to act on the amendment, but Council shall not approve it for

120 days after referral to the Director. If during this period the Director notifies the municipality that land acquisition shall proceed, Council shall deny the amendment. If the Director notifies the municipality that land acquisition shall not proceed or upon the expiration of 120 days, Council may approve the amendment.

- (c) Recommendation: The Commission may hold a public hearing within 30 days after the filing date of the proposed amendment by giving notice on Form Z-4 and at least one publication in a newspaper of general circulation in the municipality at least ten days before such hearing. Form Z-4 shall also be mailed by the Secretary at least ten days before the hearing to the applicant and property owners within, contiguous to, and across the street from any lot of record involved in an amendment to this Code. The proponent of the amendment may require the Commission to recommend approval or disapproval of the amendment exactly as proposed or may consent to modifications of the amendment recommended by the Commission or may request the Commission to recommend approval of an amendment with modifications agreed to and those not consented to by the proponent. Within 35 days after the hearing or 45 days after the filing date if no hearing is held, the Commission shall recommend approval, disapproval, or modification of the amendment. Commission action including any conditions thereto shall be certified by the Secretary on Form Z-5 within five business days of such Commission action and the Secretary shall return one to the property owner and forward one to the Clerk.
- (d) Council Hearing: Upon receipt of the Commission recommendation, the Clerk shall place the proposed amendment on the agenda of the next regular Council meeting. At such meeting Council shall schedule a public hearing giving thirty days notice thereafter. Notice of the hearing on Form Z-4 shall be given in at least one publication of a newspaper of general circulation in the municipality at least thirty days before such hearing. If the amendment involves rezoning or redistricting of ten or less parcels listed on a tax duplicate, Form Z-4 shall also be mailed by the Clerk at least thirty days before the hearing to property owners within, contiguous to or across the street from the area involved.
- (e) Council Action: Within thirty days after the completion of the required readings, or any waiver thereof, Council shall by ordinance adopt, modify or deny the amendment. No Council action however, shall overrule a Commission recommendation except by an affirmative vote of three-fourths of the Council members.
(Ord. 2022-66. Passed 8-8-22; Ord. 2024-59. Passed 5-13-24.)

3.07 APPEALS.

The Board shall hear and determine any question or dispute involving the interpretation of the provisions of this Code and may grant variances (other than as to the height of any residential dwelling) according to the following procedure, standards and criteria. The Planning Commission shall hear and determine any variance to the maximum height regulations of Chapter 4 according to the following procedure, standards and criteria. Any party adversely affected may file an appeal

to the Board from any administrative action including the granting or denial of a zoning permit or occupancy permit, however, the Board shall not hear appeals from any final decision of the Commission requesting a variance to the maximum height regulations of Chapter 4. (Amended by Ord. No. 1993-37, passed 8-16-93)

- (a) Application: Applications shall be filed with the Secretary within twenty days after the date of any action to be appealed from and shall include the following data:
 - (1) One copy of Form Z-6 completed by the applicant.
 - (2) The fee specified on Schedule 1. In the event the actual cost and fees exceeds the amount of the fee, the applicant shall pay such additional costs and fees to the Clerk upon receipt of an invoice for such additional fees or costs and no permit shall be issued until the same has been paid to the municipality. (Ord. 2001-19.)
- (b) Review & Hearing: Upon receipt of a complete application, the Secretary shall notify the Chairman of the Board, or the Commission as to residential height variances, who shall schedule a public hearing within thirty-five days of the filing date of the application. Notice of the hearing on Form Z-4 shall be given at least one publication in a newspaper of general circulation in the municipality at least ten days before such hearing. Form Z-4 shall be mailed by the Secretary of the Board, or the Commission, as the case may be, at least ten days before the hearing to the applicant and property owners contiguous to and/or across the street from, and all others within 250 feet of any yard of the property involved. Failure to deliver such notice, however, shall not invalidate any Board or Commission action. (Amended by Ord. No. 1993-37, passed 8-16-93.)
- (c) Action: Within 35 days after the public hearing, the Board, or the Commission, as the case may be, shall approve, conditionally approve or disapprove the application. Board or Commission action, including any conditions thereto, shall be certified by the Secretary on Form Z-6 within five business days of the approval of the meeting minutes of the Board or Commission action and one copy shall be returned to the applicant and one forwarded to the Zoning Inspector. Any rights obtained by variance and any permit issued shall become void if such permit would become void under Section 3.01(d). In determining whether or not an application for a height variance should be approved, the Commission shall be guided by the provisions of Section 4.02 and divisions (c)(1), (c)(2), (c)(3) and (c)(4) of this section. In determining whether or not the application should be approved, conditionally approved, or disapproved, the action of the Board shall be based on the following standards and criteria: (Amended by Ord. No. 1993-37, passed 8-16-93.)
 - (1) Variances to use regulations may be granted only to the following extent:
 - A. The property cannot be used for any permitted use within the district;
 - B. The variance would not be detrimental to the public welfare or injurious to the property or improvements in the neighborhood in which the property is located; and
 - C. The variance shall be the minimum necessary in order to provide adequate relief to the property owner.

- (2) Where the appellant seeks a variance pertaining to an area requirement otherwise applicable to the property, no variance may be granted unless the appellant has demonstrated the literal enforcement of the provisions or requirements of the Zoning Code pertaining to area requirements would cause the appellant practical difficulties. The factors to be considered and weighed in determining whether an appellant seeking an area variance has encountered practical difficulties in the proposed use of his property include, but are not limited to:
 - A. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;
 - B. Whether the variance is substantial;
 - C. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;
 - D. Whether the variance would adversely affect the delivery of governmental services (e. g., water, sewer, garbage);
 - E. Whether the appellant purchased the property with knowledge of the zoning restrictions;
 - F. Whether the appellant's predicament feasibly can be obviated through some method other than a variance;
 - G. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.
- (3) Where the Board has determined that literal enforcement of the requirements of the Zoning Code would involve practical difficulties or would cause undue hardship, unnecessary to carry out the spirit and purpose of the Zoning Code, the Board shall have power to authorize a variance from such strict application so as to relieve such hardship or practical difficulties so that the spirit and purpose of the Zoning Code shall be observed and substantial justice done. In authorizing a variance the Board may attach thereto such conditions regarding the location, character and other features of the proposed structure or use as it deems necessary in the interest of the furtherance of the purpose of the Zoning Code and in the public interest. In authorizing a variance with attached conditions the Board shall require such evidence and guaranty or bond as it may deem to be necessary to ensure that the conditions attached are being and will be complied with.
- (4) No such variance in the provisions or requirements of the Zoning Code shall be authorized by the Board unless the Board finds that the authorizing of such variance will not be of substantial detriment to adjacent property and will not materially impair the purposes of the Zoning Code or the public interest. (Ord. 2001-19.)
- (5) Variances to area regulations may be granted only to the following extent:
 - A. A lot of record held in single and separate ownership on the effective date of this Code may be used as a site for a single-family dwelling as provided for in the Code, provided the owner cannot acquire at a reasonable cost additional vacant land adjoining the lot.

- B. The Board may vary minimum floor area regulations of dwellings, but by no more than ten percent, if by reason of conformance to lot frontage, area or yards specified in the Code, or by exceptionally skillful arrangement of site design, the result of such a variance would be in harmony with the character of the neighborhood.
- (6) Variances to yard regulations may be granted only to the following extent:
 - A. The Board may permit as may be necessary for the appropriate development of a lot, or because of peculiar shape or topographical reasons, variances to the required yards, provided light and ventilation will be adequate, and privacy will not be impaired, and provided the owner cannot acquire at a reasonable cost additional vacant land adjoining the lot.
 - B. The Board may permit a modification of required side yard so as to allow a garage to be attached to a one-family dwelling constructed before the effective date of this Code to project into a required side yard, providing the resulting side yard is not less than five feet and further providing that the distance to a building or structure on the adjoining lot is greater than ten feet.
- (7) The Board may permit an increase in height of a proposed or existing structure or part thereof to the same height as adjacent structures, except the Board may not grant any increases in height to any residential dwellings permitted in Chapter 4. (Amended by Ord. No. 1993-37, passed 8-16-93.)
- (8) Nothing in this Code shall be deemed to prohibit any municipal official from appealing to the appropriate court from any Board decision.
- (9) In the event the Board grants a variance, in so doing the Board shall in writing specify the findings of facts in support of such a variance.
- (d) Decisions of the Board shall be final within the municipality, except that an appeal therefrom may be taken to the Court of Common Pleas for Geauga County in accordance with the laws of the State of Ohio, by any proper and interested party, including the municipality. A notice of appeal shall be filed with the Secretary of the Board. (Added by Ord. No. 1992-46, passed 9-14-92.)
(Ord. 2016-18. Passed 6-22-16; Ord. 2022-66. Passed 8-8-22; Ord. 2024-60. Passed 5-13-24.)

3.08 VIOLATIONS.

Failure to obtain permits specified in this Code or comply with any other provisions of the Code shall constitute a violation. Any person may file a complaint in regard to an alleged violation. All such complaints shall be in writing and shall be filed with the Zoning Inspector, who shall record and investigate such complaints. If the Zoning Inspector finds a violation, he shall notify the person responsible on Form Z-7 and take further action as directed by the Solicitor which may include the revocation of a permit on Form Z-8 or ordering the discontinuance of the violation.

3.09 PENALTIES.

A violation of this Code shall constitute a misdemeanor. Any person who violates the Code or fails to comply with any of its requirements shall upon conviction thereof be fined not more than two hundred fifty dollars (\$250.00) or imprisoned for not more than thirty days, or both. Each day such violation continues after notification thereof shall be considered a separate offense. The owner or tenant of any structure, premises or part thereof, and any architect, builder, developer, agent or other person who commits, participates in or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided. Nothing in this Code shall prevent the municipality from taking such other lawful action necessary to prevent or remedy a violation. Any person who violates the provisions of Chapter 7 or fails to comply with any of its requirements shall upon conviction thereof be subject to fines and penalties set forth in Section 7.02.

3.10 FEES.

Fees specified on Schedule 1 shall be paid by the applicant to the municipality before the applicable application is processed. Prior to making application for a conditional use permit, development approval, zoning amendment or variance the applicant shall pay the fee specified on Schedule 1 with the Clerk to cover advertising costs, court reporter fees, other recording fees, legal fees, engineering and hydrology fees, other expert fees necessary to review the proposed development and all other administrative costs and review fees. No zoning permit shall be issued until all such costs and fees incurred are paid to the municipality.
(Ord. 2022-66. Passed 8-8-22.)

3.11 EFFECTIVE APPROVAL.

Except for administrative appeals or variances granted by the Board of Zoning Appeals, approvals from the Board or Commission granted under Chapter 3 of the Zoning Code shall expire within 12 months if the use authorized by the approval is not established or the work authorized by the approval has not materially commenced unless otherwise provided by the Board or Commission. Upon a reasonable request for an extension accompanied by an additional fee of twenty-five dollars (\$25.00), the Board or Commission, may, in its respective discretion, extend the date of its effective approval.
(Ord. 2024-54. Passed 5-13-24.)

