



ORDINANCE 2024-18

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF POWELL, OHIO TO PROVIDE AMENDMENTS TO GENERAL OFFENSES POWELL CITY CODE SECTIONS 501.01, 501.99, 509.04, 509.06, 513.01, 513.04, 513.12, 513.121, 517.08, 525.05, 525.15, 533.01, 533.05, 533.06, 537.03, 537.06, 537.07, 537.15, 537.16, 545.05, 549.04, 549.10; TO PROVIDE FOR PENALTIES; TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the duly elected governing authority of the City of Powell, Ohio is authorized by ORC § 715.01 to adopt ordinances relating to its property, affairs and local government.

NOW THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF POWELL, STATE OF OHIO:

Section 1. That the Code of Ordinances of the City of Powell, Ohio (meaning City Municipal Code) is hereby amended by adding the provisions as provided below.

Section 2. The addition, amendment, or removal of Powell City Code Sections when passed in such form as to indicate the intention of the governing authority of the City of Powell, Ohio to make the same a part of the Municipal Code shall be deemed to be incorporated in the Municipal Code, so that reference to the Municipal Code includes the additions, amendments, and removals.

Section 3. The codifier (meaning the person, agency or organization authorized to prepare the supplement to the Code of Ordinances of the City of Powell, Ohio) is authorized to exclude and omit any provisions of this ordinance that are inapplicable to the City's Municipal Code.

Section 4. Supplementation of Code.

(a) In preparing a supplement to the City's Municipal Code, all portions of this ordinance which have been repealed shall be excluded from the City's Municipal Code by the omission thereof from reprinted pages.

(b) When preparing a supplement to the City's Municipal Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, non-substantive changes in this ordinance and parts of this ordinance included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

- (1) Organize the ordinance material into appropriate subdivisions;
- (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the City's Municipal Code printed in the supplement, and make changes in such catchlines, headings, and titles;
- (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the City's Municipal Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;

(4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ to _____" (inserting section numbers to indicate the sections of the City's Municipal Code which embody the substantive sections, or the ordinance incorporated into the Code); and

(5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the City's Municipal Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the City's Municipal Code.

(c) In preparing a supplement to the City's Municipal Code, the pages of a supplement shall be so numbered that they will fit properly into the City's Municipal Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the City's Municipal Code will be current through the date of the adoption of the latest ordinance included in the supplement.

Section 5. Provisions of Section 6 that duplicate or track State statutes which do not become effective until after the effective date of this ordinance, shall not take effect until such statutes take effect.

Section 6. The following sections and of the Municipal Code are new or have been amended with new matter in the Municipal Code, and are hereby approved, adopted, and enacted:

501.01 DEFINITIONS.

As used in the Codified Ordinances:

- (a) *Force* means any violence, compulsion or constraint physically exerted by any means upon or against a person or thing.
- (b) *Deadly force* means any force that carries a substantial risk that it will proximately result in the death of any person.
- (c) *Physical harm to persons* means any injury, illness or other physiological impairment, regardless of its gravity or duration.
- (d) *Physical harm to property* means any tangible or intangible damage to property that, in any degree, results in loss to its value or interferes with its use or enjoyment. "Physical harm to property" does not include wear and tear occasioned by normal use.
- (e) *Serious physical harm to persons* means any of the following:
 - (1) Any mental illness or condition of such gravity as would normally require hospitalization or prolonged psychiatric treatment;
 - (2) Any physical harm that carries a substantial risk of death;
 - (3) Any physical harm that involves some permanent incapacity, whether partial or total, or that involves some temporary, substantial incapacity;
 - (4) Any physical harm that involves some permanent disfigurement, or that involves some temporary, serious disfigurement;
 - (5) Any physical harm that involves acute pain of such duration as to result in substantial suffering, or that involves any degree of prolonged or intractable pain.
- (f) *Serious physical harm to property* means any physical harm to property that does either of the following:
 - (1) Results in substantial loss to the value of the property, or requires a substantial amount of time, effort or money to repair or replace;

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- (2) Temporarily prevents the use or enjoyment of the property, or substantially interferes with its use and enjoyment for an extended period of time.
- (g) *Risk* means a significant possibility, as contrasted with a remote possibility, that a certain result may occur or that certain circumstances may exist.
- (h) *Substantial risk* means a strong possibility, as contrasted with a remote or significant possibility, that a certain result may occur or that certain circumstances may exist.
- (i) *Offense of violence* means any of the following:
- (1) A violation of O.R.C. §§ 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.18, 2903.21, 2903.211, 2903.22, 2905.01, 2905.02, 2905.11, 2905.32, 2907.02, 2907.03, 2907.05, 2909.02, 2909.03, 2909.24, 2911.01, 2911.02, 2911.11, 2917.01, 2917.02, 2917.03, 2917.31, 2917.321, 2919.25, 2921.03, 2921.04, 2921.34, 2923.161, 2911.12(A)(1) to (3) or 2919.22(B)(1) to (4), or felonious sexual penetration in violation of former O.R.C. § 2907.12;
 - (2) A violation of an existing or former municipal ordinance or law of this or any other state or the United States, substantially equivalent to any section listed in subsection (i)(1) hereof;
 - (3) An offense, other than a traffic offense, under an existing or former municipal ordinance or law of this or any other state or the United States, committed, purposely or knowingly, and involving physical harm to persons or a risk of serious physical harm to persons;
 - (4) A conspiracy or attempt to commit, or complicity in committing any offense under subsection (i)(1), (2) or (3) hereof;
 - (5) A violation of O.R.C. § 959.131.
- (j) (1) *Property* means any property, real or personal, tangible or intangible, and any interest or license in that property. "Property" includes, but is not limited to, cable television service, other telecommunications service, telecommunications devices, information service, computers, data, computer software, financial instruments associated with computers, other documents associated with computers, or copies of the documents, whether in machine or human readable form, trade secrets, trademarks, copyrights, patents, and property protected by a trademark, copyright, or patent. "Financial instruments associated with computers" include, but are not limited to, checks, drafts, warrants, money orders, notes of indebtedness, certificates of deposit, letters of credit, bills of credit or debit cards, financial transaction authorization mechanisms, marketable securities, or any computer system representations of any of them.
- (2) As used in this section, "trade secret" has the same meaning as in O.R.C. § 1333.61, and "telecommunications service" and "information service" have the same meanings as in O.R.C. § 2913.01.
 - (3) As used in this section, "cable television service," "computer," "computer software," "computer system," "computer network," "data," and "telecommunications device" have the same meanings as in O.R.C. § 2913.01.
- (k) *Law enforcement officer* means any of the following:
- (1) A sheriff, deputy sheriff, constable, police officer of a township or joint police district, marshal, deputy marshal, municipal police officer, member of a police force employed by a metropolitan housing authority under O.R.C. § 3735.31(D) or State highway patrol trooper;
 - (2) An officer, agent or employee of the State or any of its agencies, instrumentalities or political subdivisions, upon whom, by statute, Charter or ordinance, a duty to conserve the peace or to enforce all or certain laws is imposed and the authority to arrest violators is conferred, within the limits of that statutory duty and authority;
 - (3) A mayor or manager in the mayor's or manager's capacity as chief conservator of the peace within the mayor's or manager's municipal corporation;

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- (4) A member of an auxiliary police force organized by county, township or municipal law enforcement authorities, within the scope of the member's appointment or commission;
 - (5) A person lawfully called pursuant to O.R.C. § 311.07 to aid a sheriff in keeping the peace, for the purposes and during the time when the person is called;
 - (6) A person appointed by a mayor pursuant to O.R.C. § ~~737.04~~ 737.10 as a special patrolling officer during riot or emergency, for the purposes and during the time when the person is appointed;
 - (7) A member of the organized militia of this state or the Armed Forces of the United States, lawfully called to duty to aid civil authorities in keeping the peace or protect against domestic violence;
 - (8) A prosecuting attorney, assistant prosecuting attorney, secret service officer or municipal prosecutor;
 - (9) A veterans' home police officer appointed under O.R.C. § 5907.02;
 - (10) A member of a police force employed by a regional transit authority under O.R.C. § 306.35(Y);
 - (11) A special police officer employed by a port authority under O.R.C. § 4582.04 or 4582.28;
 - (12) The Senate Sergeant of Arms and or Assistant Sergeant at Arms;
 - (13) A special police officer employed by a municipal corporation at a municipal airport, or other municipal air navigation facility, that has scheduled operations, as defined in Section 119.3 of Title 14 of the Code of Federal Regulations, 14 C.F.R. 119.3, as amended, and that is required to be under a security program and is governed by aviation security rules of the transportation security administration of the United States Department of Transportation as provided in Parts 1542 and 1544 of Title 49 of the Code of Federal Regulations, as amended.
- (l) *Privilege* means an immunity, license or right conferred by law, or bestowed by express or implied grant, or arising out of status, position, office or relationship, or growing out of necessity.
- (m) *Contraband* means any property that is illegal for a person to acquire or possess under a statute, ordinance, or rule, or that a trier of fact lawfully determines to be illegal to possess by reason of the property's involvement in an offense. "Contraband" includes, but is not limited to, all of the following:
- (1) Any controlled substance, as defined in O.R.C. § 3719.01, or any device, or paraphernalia;
 - (2) Any unlawful gambling device, or paraphernalia;
 - (3) Any dangerous ordnance or obscene material.
- (n) A person is "not guilty by reason of insanity" relative to a charge of an offense only if the person proves, in the manner specified in O.R.C. § 2901.05, that at the time of the commission of the offense, the person did not know, as a result of a severe mental disease or defect, the wrongfulness of the person's acts.
- (o) (1) A. Subject to subsection (o)(2) hereof, as used in any section contained in Part Five— General Offenses Code that sets forth a criminal offense, "person" includes all of the following:
- 1. An individual, corporation, business trust, estate, trust, partnership, and association;
 - 2. An unborn human who is viable.
- B. As used in any section contained in Part Five - General Offenses Code that does not set forth a criminal offense, "person" includes an individual, corporation, business trust, estate, trust, partnership and association.
- C. As used in subsection (o)(1)A. hereof:

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1. *Unborn human* means an individual organism of the species *Homo sapiens* from fertilization until live birth.
 2. *Viable* means the stage of development of a human fetus at which there is a realistic possibility of maintaining and nourishing of a life outside the womb with or without temporary artificial life-sustaining support.
- (2) Notwithstanding subsection (o)(1)A. hereof, in no case shall the portion of the definition of the term "person" that is set forth in subsection (o)(1)A.2. hereof be applied or construed in any section contained in Part Five—General Offenses Code that sets forth a criminal offense in any of the following manners:
- A. Except as otherwise provided in subsection (o)(2)A. hereof, in a manner so that the offense prohibits or is construed as prohibiting any pregnant woman or her physician from performing an abortion with the consent of the pregnant woman, with the consent of the pregnant woman implied by law in a medical emergency, or with the approval of one otherwise authorized by law to consent to medical treatment on behalf of the pregnant woman. An abortion that violates the conditions described in the immediately preceding sentence may be punished as a violation of O.R.C. § 2903.01, 2903.02, 2903.03, 2903.04, 2903.05, 2903.06, 2903.08, 2903.11, 2903.12, 2903.13, 2903.14, 2903.21, or 2903.22, as applicable. An abortion that does not violate the conditions described in the second immediately preceding sentence, but that does violate O.R.C. § 2919.12, division (B) of O.R.C. § 2919.13, or O.R.C. §§ 2919.15, 2919.151, 2919.17 or 2919.18, may be punished as a violation of O.R.C. § 2919.12, division (B) of O.R.C. § 2919.13, or O.R.C. §§ 2919.15, 2919.151, 2919.17 or 2919.18, as applicable. Consent is sufficient under this subsection if it is of the type otherwise adequate to permit medical treatment to the pregnant woman, even if it does not comply with O.R.C. § 2919.12.
 - B. In a manner so that the offense is applied or is construed as applying to a woman based on an act or omission of the woman that occurs while she is or was pregnant and that results in any of the following:
 1. Her delivery of a stillborn baby;
 2. Her causing, in any other manner, the death in utero of a viable, unborn human that she is carrying;
 3. Her causing the death of her child who is born alive but who dies from one or more injuries that are sustained while the child is a viable, unborn human;
 4. Her causing her child who is born alive to sustain one or more injuries while the child is a viable, unborn human;
 5. Her causing, threatening to cause, or attempting to cause, in any other manner, an injury, illness or other physiological impairment, regardless of its duration or gravity, or a mental illness or condition, regardless of its duration or gravity, to a viable, unborn human that she is carrying.
- (p) *School safety zone* consists of a school, school building, school premises, school activity, and school bus.
- (q) *School, school building* and *school premises* have the same meaning as in O.R.C. § 2925.01.
- (r) *School activity* means any activity held under the auspices of a board of education of a city, local, exempted village, joint vocational, or cooperative education school district; a governing authority of a community school established under O.R.C. Ch. 3314; a governing body of an educational service center; or the governing body of a nonpublic school for which the ~~State Board~~ Director of Education and Workforce prescribes minimum standards under O.R.C. § 3301.07.
- (s) *School bus* has the same meaning as in O.R.C. § 4511.01.

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(Ord. No. 2020-07 , §§ 1, 6, 5-19-2020)

State Law reference— (O.R.C. § 2901.01)

501.99 PENALTIES FOR MISDEMEANORS.

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

(1) *Restitution.* Unless the misdemeanor offense ~~is a minor misdemeanor or~~ could be disposed of by the traffic violations bureau serving the court under Traffic Rule 13, restitution by the offender to the victim of the offender's crime or ~~any survivor of the victim's estate,~~ in an amount based on the victim's economic loss. The court may not impose restitution as a sanction pursuant to this section ~~if the offense is a minor misdemeanor or~~ could be disposed of by the traffic violations bureau serving the court under Traffic Rule 13. If the court requires restitution, the court shall order that the restitution be made to the victim in open court or to the adult probation department that serves the jurisdiction or the clerk of the court on behalf of the victim.

~~If the court imposes restitution, the~~ The court shall determine the amount of restitution to be paid by the offender. ~~If the court imposes restitution, the court may base the amount of restitution it orders on an amount recommended by the victim, the offender, a presentence investigation report, estimates or receipts indicating the cost of repairing or replacing property, and other information, provided that the~~ The victim, victim's representative, victim's attorney, if applicable, the prosecutor or the prosecutor's designee, and the offender may provide information relevant to the determination of the amount of restitution. The amount the court orders as restitution shall not exceed the amount of the economic loss suffered by the victim as a direct and proximate result of the commission of the offense. If the court imposes restitution for the cost of accounting or auditing done to determine the extent of economic loss, the court may order restitution for any amount of the victim's costs of accounting or auditing provided that the amount of restitution is reasonable and does not exceed the value of property or services stolen or damaged as a result of the offense. If the court decides to or is required to impose restitution, the court shall hold an evidentiary hearing on restitution if the offender, victim ~~or survivor~~ victim's representative, victim's attorney, if applicable, or victim's estate disputes the amount of restitution. ~~If the~~ The court holds an evidentiary hearing, ~~at the hearing the victim or survivor has the burden to prove~~ shall determine the amount of full restitution by a preponderance of the evidence ~~the amount of restitution sought from the~~ offender.

All restitution payments shall be credited against any recovery of economic loss in a civil action brought by the victim or ~~any survivor of the victim's estate~~ against the offender. No person may introduce evidence of an award of restitution under this section in a civil action for purposes of imposing liability against an insurer under Ohio R.C. 3937.18.

If the court imposes restitution, the ~~The~~ court may order that the offender pay a surcharge, of not more than five percent of the amount of the restitution otherwise ordered, to the entity responsible for collecting and processing restitution payments.

The victim ~~or survivor of the victim~~ victim's representative, victim's attorney, if applicable, or victim's estate may request that the prosecutor in the case file a motion, or the offender may file a motion, for modification of the payment terms of any restitution ordered. If the court grants the motion, it may modify the payment terms as it determines appropriate but shall not reduce the amount of restitution ordered, except as provided in Division (A) of Ohio R.C. 2929.281.

(2) *Fines.* A fine in the following amount:

- A. For a misdemeanor of the first degree, not more than \$1,000.00;
- B. For a misdemeanor of the second degree, not more than \$750.00;
- C. For a misdemeanor of the third degree, not more than \$500.00;
- D. For a misdemeanor of the fourth degree, not more than \$250.00;
- E. For a minor misdemeanor, not more than \$150.00.

(3) *Reimbursement of costs of sanctions.*

- A. Reimbursement by the offender of any or all of the costs of sanctions incurred by the government, including, but not limited to, the following:
 - 1. All or part of the costs of implementing any community control sanction, including a supervision fee under O.R.C. § 2951.021 and the costs of global positioning system device monitoring;
 - 2. All or part of the costs of confinement in a jail or other residential facility, including, but not limited to, a per diem fee for room and board, the costs of medical and dental treatment, and the costs of repairing property damaged by the offender while confined.
- B. The amount of reimbursement ordered under subsection (a)(3)A. of this section shall not exceed the total amount of reimbursement the offender is able to pay and shall not exceed the actual cost of the sanctions. The court may collect any amount of reimbursement the offender is required to pay under that subsection. If the court does not order reimbursement under that subsection, confinement costs may be assessed pursuant to a repayment policy adopted under O.R.C. § 2929.37. In addition, the offender may be required to pay the fees specified in O.R.C. § 2929.38 in accordance with that section.

State Law reference— (O.R.C. § 2929.28(A))

(b) *Jail Terms.*

- (1) Except as provided in O.R.C. § 2929.22 or 2929.23, and unless another term is required or authorized pursuant to law, if the sentencing court imposing a sentence upon an offender for a misdemeanor elects or is required to impose a jail term on the offender pursuant to this General Offenses Code, the court shall impose a definite jail term that shall be one of the following:
 - A. For a misdemeanor of the first degree, not more than 180 days;
 - B. For a misdemeanor of the second degree, not more than 90 days;
 - C. For a misdemeanor of the third degree, not more than 60 days;
 - D. For a misdemeanor of the fourth degree, not more than 30 days.
- (2) A. A court that sentences an offender to a jail term under this section may permit the offender to serve the sentenced in intermittent confinement or may authorize a limited release of the offender as provided in O.R.C. § 2929.26(B). The court retains jurisdiction over every

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offender sentenced to jail to modify the jail sentence imposed at any time, but the court shall not reduce any mandatory jail term.

- B. 1. If a prosecutor, as defined in O.R.C. § 2935.01, has filed a notice with the court that the prosecutor wants to be notified about a particular case and if the court is considering modifying the jail sentence of the offender in that case, the court shall notify the prosecutor that the court is considering modifying the jail sentence of the offender in that case. The prosecutor may request a hearing regarding the court's consideration of modifying the jail sentence of the offender in that case, and, if the prosecutor requests a hearing, the court shall notify the eligible offender of the hearing.
- 2. If the prosecutor requests a hearing regarding the court's consideration of modifying the jail sentence of the offender in that case, the court shall hold the hearing before considering whether or not to release the offender from the offender's jail sentence.
- (3) If a court sentences an offender to a jail term under this section and the court assigns the offender to a county jail that has established a county jail industry program pursuant to O.R.C. § 5147.30, the court shall specify, as part of the sentence, whether the offender may be considered for participation in the program. During the offender's term in the county jail, the court retains jurisdiction to modify its specification regarding the offender's participation in the county jail industry program.
- (4) If a person is sentenced to a jail term pursuant to this section, the court may impose as part of the sentence pursuant to O.R.C. § 2929.28 a reimbursement sanction, and, if the local detention facility in which the term is to be served is covered by a policy adopted pursuant to O.R.C. §§ 307.93, 341.14, 341.19, 341.21, 341.23, 753.02, 753.04, 753.16, 2301.56, or 2947.19 and O.R.C. § 2929.37, both of the following apply:
 - A. The court shall specify both of the following as part of the sentence:
 - 1. If the person is presented with an itemized bill pursuant to O.R.C. § 2929.37 for payment of the costs of confinement, the person is required to pay the bill in accordance with that section.
 - 2. If the person does not dispute the bill described in subsection (b)(4)A.1. of this section and does not pay the bill by the times specified in O.R.C. § 2929.37, the clerk of the court may issue a certificate of judgment against the person as described in that section.
 - B. The sentence automatically includes any certificate of judgment issued as described in subsection (b)(4)A.2. of this section.

State Law reference— (O.R.C. § 2929.24)

(c) *Organizations.* Regardless of the penalties provided in subsections (a) and (b) hereof, an organization convicted of an offense pursuant to Section 501.11 shall be fined, in accordance with this section. The court shall fix the fine as follows:

<u>Type of Misdemeanor</u>	<u>Maximum Fine</u>
First degree	\$5,000.00
Second degree	4,000.00
Third degree	3,000.00
Fourth degree	2,000.00

Minor	1,000.00
Misdemeanor not specifically classified	2,000.00
Minor misdemeanor not specifically classified	1,000.00

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

State Law reference— (O.R.C. 2929.31)

(Ord. No. 2017-52 , §§ 1, 6 (Exh. A), 10-17-2017)

509.04 DISTURBING A LAWFUL MEETING.

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

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

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

(1) The violation is committed with the intent to disturb or disquiet any assemblage of people met for religious worship at a tax-exempt place of worship, regardless of whether the conduct is within the place at which the assemblage is held or is on the property on which that place is located and disturbs the order and solemnity of the assemblage.

(2) The violation is committed with the intent to prevent, disrupt, or interfere with a virtual meeting or gathering of people for religious worship, through use of a computer, computer system, telecommunications device, or other electronic device or system, or in any other manner.

(C) As used in this section:

(1) "Computer," "computer system," and "telecommunications device" have the same meanings as in O.R.C. §2913.01.

(2) "Virtual meeting or gathering" means a meeting or gathering by interactive video conference or teleconference, or by a combination thereof.

State Law reference— (O.R.C. § 2917.12)

509.06 INDUCING PANIC.

- (a) No person shall cause the evacuation of any public place, or otherwise cause serious public inconvenience or alarm, by doing any of the following:
 - (1) Initiating or circulating a report or warning of an alleged or impending fire, explosion, crime or other catastrophe, knowing that such report or warning is false;
 - (2) Threatening to commit any offense of violence;
 - (3) Committing any offense, with reckless disregard of the likelihood that its commission will cause serious public inconvenience or alarm.
- (b) Division (a) hereof does not apply to any person conducting an authorized fire or emergency drill.
- (c) Whoever violates this section is guilty of inducing panic, a misdemeanor of the first degree. If inducing panic results in physical harm to any person, economic harm of \$1,000.00 or more, if the public place involved in a violation of this section is a school or an institution of higher education, or if the violation pertains to a purported, threatened or actual use of a weapon of mass destruction, inducing panic is a felony and shall be prosecuted under appropriate state law.
- (d) Any act that is a violation of this section and any other section of the Codified Ordinances may be prosecuted under this section, the other section, or both sections.
- (e) As used in this section:
 - (1) *Economic harm* means any of the following:
 - A. All direct, incidental, and consequential pecuniary harm suffered by a victim as a result of criminal conduct. "Economic harm" as described in this division includes, but is not limited to, all of the following:
 - 1. All wages, salaries, or other compensation lost as a result of the criminal conduct;
 - 2. The cost of all wages, salaries, or other compensation paid to employees for time those employees are prevented from working as a result of the criminal conduct;
 - 3. The overhead costs incurred for the time that a business is shut down as a result of the criminal conduct;
 - 4. The loss of value to tangible or intangible property that was damaged as a result of the criminal conduct.
 - B. All costs incurred by the Municipality as a result of, or in making any response to, the criminal conduct that constituted the violation of this section or Section 509.07, including, but not limited to, all costs so incurred by any law enforcement officers, firefighters, rescue personnel, or emergency medical services personnel of the state or the political subdivision.
 - (2) *School* means any school operated by a board of education or any school for which the state board director of education and workforce prescribes minimum standards under O.R.C. § 3301.07, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted at the time a violation of this section is committed.
 - (3) *Weapon of mass destruction* means any of the following:
 - A. Any weapon that is designed or intended to cause death or serious physical harm through the release, dissemination, or impact of toxic or poisonous chemicals, or their precursors;

- B. Any weapon involving a disease organism or biological agent;
 - C. Any weapon that is designed to release radiation or radioactivity at a level dangerous to human life;
 - D. Any of the following, except to the extent that the item or device in question is expressly excepted from the definition of "destructive device" pursuant to 18 U.S.C. 921(a)(4) and regulations issued under that section:
 - 1. Any explosive, incendiary, or poison gas bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter ounce, mine, or similar device;
 - 2. Any combination of parts either designed or intended for use in converting any item or device into any item or device described in division (e)(3)D.1. of this section and from which an item or device described in that division may be readily assembled.
- (4) *Biological agent* has the same meaning as in O.R.C. § 2917.33.
- (5) *Emergency medical services personnel* has the same meaning as in O.R.C. § 2133.21.
- (6) *Institution of higher education* means any of the following:
- A. A state university or college as defined in O.R.C. § 3345.12(A)(1), community college, state community college, university branch, or technical college;
 - B. A private, nonprofit college, university or other post-secondary institution located in this state that possesses a certificate of authorization issued by the Ohio Board of Regents chancellor of higher education pursuant to O.R.C. Ch. 1713.
 - C. A post-secondary institution with a certificate of registration issued by the State Board of Career Colleges and Schools under O.R.C. Ch. 3332.

State Law reference— (O.R.C. § 2917.31)

513.01 DEFINITIONS.

As used in this chapter, certain terms are defined as follows:

Administer means the direct application of a drug, whether by injection, inhalation, ingestion or any other means to a person or an animal.

Controlled substance means a drug, compound, mixture, preparation or substance included in Schedule I, II, III, IV, or V.

Dispense means sell, leave with, give away, dispose of or deliver.

Distribute means to deal in, ship, transport or deliver but does not include administering or dispensing a drug.

Hypodermic means a hypodermic syringe or needle, or other instrument or device for the injection of medication.

Manufacturer means a person who manufactures a controlled substance as "manufacture" is defined in O.R.C. § 3715.01 and includes a "manufacturer of dangerous drugs" as defined in section 4729.01 of the Revised Code.

Except as provided in subsection (1) hereof:

Marihuana means all parts of a plant of the genus *cannabis*, whether growing or not, the seeds of a plant of that type; the resin extracted from a part of a plant of that type; and every compound, manufacture, salt, derivative, mixture or preparation of a plant of that type or of its seeds or resin. "Marihuana" does not include the mature stalks of the plant, fiber produced from the stalks, oils or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or

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preparation of the mature stalks, except the resin extracted from the mature stalks, fiber, oil or cake, or the sterilized seed of the plant that is incapable of germination. "Marihuana" does not include "hemp" or a "hemp product" as those terms are defined in section 928.01 of the Revised Code.

State Law reference— (O.R.C. § 3719.01)

(1) *Marihuana* does not include hashish.

State Law reference— (O.R.C. § 2925.01)

Controlled substance analog has the same meaning as provided in O.R.C. § 3719.01.

Official written order means an order written on a form provided for that purpose by the Director of the United States Drug Enforcement Administration, under any laws of the United States making provision for the order, if the order forms are authorized and required by Federal law.

Pharmacist means a person licensed under O.R.C. Ch. 4729 to engage in the practice of pharmacy.

Pharmacy has the same meaning as in O.R.C. § 4729.01.

Poison means any drug, chemical, or preparation likely to be deleterious or destructive to adult human life in quantities of four grams or less.

Licensed health professional authorized to prescribe drugs, prescriber and prescription have the same meanings as in O.R.C. § 4729.01.

Sale includes delivery, barter, exchange, transfer or gift, or offer thereof, and each transaction of those natures made by any person, whether as principal, proprietor, agent, servant or employee.

Schedule I, Schedule II, Schedule III, Schedule IV and Schedule V mean controlled substance Schedules I, II, III, IV, and V respectively, as established by rule adopted under O.R.C. § 3719.41, as amended pursuant to O.R.C. § 3719.43 or 3719.44, or as established by emergency rule adopted under section 3719.45 of the Revised Code.

Wholesaler means a person who, on official written orders other than prescriptions, supplies controlled substances that the person has not manufactured, produced or prepared personally and includes a "wholesale distributor of dangerous drugs" as defined in O.R.C. § 4729.01.

State Law reference— (O.R.C. § 3719.01)

Drug of abuse means any controlled substance as defined in subsection (b) hereof, any harmful intoxicant as defined in subsection (x) hereof and any dangerous drug as defined in subsection (r) hereof.

State Law reference— (O.R.C. § 3719.011)

Dangerous drug means any of the following:

(1) Any drug to which either of the following applies:

A. Under the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, the drug is required to bear a label containing the legend "Caution: Federal law prohibits dispensing without prescription" or "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian" or any similar restrictive statement, or the drug may be dispensed only upon a prescription;

B. Under O.R.C. ch. 3715 or 3719, the drug may be dispensed only upon a prescription.

(2) Any drug that contains a Schedule V narcotic drug and that is exempt from O.R.C. ch. 3719 or to which that chapter does not apply;

- (3) Any drug intended for administration by injection into the human body other than through a natural orifice of the human body.

State Law reference— (O.R.C. § 4729.02)

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 subsection (2), (5), or (6) hereof, 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, 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, and the Federal Drug Abuse Control laws as defined in O.R.C. § 3719.01, 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 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.

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- (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 section 2925.11 of the Revised Code and the sentencing provisions set forth in divisions (C)(10)(b) and (C)(11) of that section will not apply regarding the defendant and the violation, the bulk amount of the controlled substance for purposes of the violation is the amount specified in division (D)(1), (2), (3), (4), or (5) of this section for the other schedule III, IV, or V controlled substance that is combined with the fentanyl-related compound.

Unit dose means an amount or unit of 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.

Cultivate includes planting, watering, fertilizing or tilling.

Drug abuse offense means any of the following:

- (1) A violation of O.R.C. §§ 2925.02, 2925.03, 2925.04—2925.06, 2925.11, 2925.12, 2925.13, 2925.22, 2925.23, 2925.24, 2925.31, 2925.32, 2925.36 or 2925.37; or a violation of O.R.C. § 2913.02(A) that constitutes theft of drugs;
- (2) A violation of an existing or former law of this or any other state or of the United States, that is substantially equivalent to any section listed in subsection (1) hereof;
- (3) An offense under an existing or former law of this or any other state, or of the United States, of which planting, cultivating, harvesting, processing, making, manufacturing, producing, shipping, transporting, delivering, acquiring, possessing, storing, distributing, dispensing, selling, inducing another to use, administering to another, using or otherwise dealing with a controlled substance is an element;
- (4) A conspiracy or attempt to commit, or complicity in committing or attempting to commit any offense under subsection (1), (2) or (3) hereof.

Felony drug abuse offense means any drug abuse offense that would constitute a felony under the laws of this state, any other state or the United States.

Harmful intoxicant does not include beer or intoxicating liquor, but means any of the following:

- (1) Any compound, mixture, preparation or substance the gas, fumes or vapor of which when inhaled can induce intoxication, excitement, giddiness, irrational behavior, depression, stupefaction, paralysis, unconsciousness, asphyxiation or other harmful physiological effects, and includes, but is not limited to, any of the following:
 - A. Any volatile organic solvent, plastic cement, model cement, fingernail polish remover, lacquer thinner, cleaning fluid, gasoline, or other preparation containing a volatile organic solvent;
 - B. Any aerosol propellant;
 - C. Any fluorocarbon refrigerant;
 - D. Any anesthetic gas.
- (2) Gamma Butyrolactone;
- (3) 1,4 Butanediol.

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

Possess or possession means having control over a thing or substance but may not be inferred solely from mere access to the thing or substance through ownership or occupation of the premises upon which the thing or substance is found.

Sample drug means 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.

Standard pharmaceutical reference manual means the current edition, with cumulative changes if any, of references that are approved by the State Board of Pharmacy.

Juvenile means a person under 18 years of age.

School means any school operated by a board of education or any school for which the ~~State Board~~ Director of Education and Workforce prescribes minimum standards under O.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.

School premises means 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 or the governing body of a school for which the ~~State Board~~ Director of Education and Workforce prescribes minimum standards under O.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.

School building means 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.

Counterfeit controlled substance means:

- (1) Any drug that bears, or whose container or label bears, a trademark, trade name or other identifying mark used without authorization of the owner of rights to that trademark, trade name or identifying mark; or
- (2) Any unmarked or unlabeled substance that is represented to be a controlled substance manufactured, processed, packed or distributed by a person other than the person that manufactured, processed, packed or distributed it; or
- (3) Any substance that is represented to be a controlled substance but is not a controlled substance or is a different controlled substance; or
- (4) Any substance other than a controlled substance that a reasonable person would believe to be a controlled substance because of its similarity in shape, size and color, or its marking, labeling, packaging, distribution or the price for which it is sold or offered for sale.

An offense is *committed in the vicinity of a school* if the offender commits the offense on school premises, in a school building, or within 1,000 feet of the boundaries of any school premises, regardless of whether the offender knows the offense is being committed on school premises, in a school building, or within 1,000 feet of the boundaries of any school premises.

An offense is *committed in the vicinity of a juvenile* if the offender commits the offense within 100 feet of a juvenile or within the view of a juvenile, regardless of whether the offender knows the age of the juvenile, whether the offender knows the offense is being committed within 100 feet of or within view of the juvenile, or whether the juvenile actually views the commission of the offense.

Hashish means the resin or a preparation of the resin contained in marihuana, whether in solid form or in a liquid concentrate, liquid extract, or liquid distillate form.

Public premises means any hotel, restaurant, tavern, store, arena, hall, or other place of public accommodation, business, amusement, or resort.

Methamphetamine means methamphetamine, any salt, isomer, or salt of an isomer of methamphetamine, or any compound, mixture, preparation, or substance containing methamphetamine or any salt, isomer or salt of an isomer of methamphetamine.

Lawful prescription means a prescription that is issued for a legitimate medical purpose by a licensed health professional authorized to prescribe drugs, that is not altered or forged, and that was not obtained by means of deception or by the commission of any theft offense.

Deception and theft offense have the same meanings as in O.R.C. § 2913.01.

Outsourcing facility, repackager of dangerous drugs, and third-party logistics provider have the same meanings as in O.R.C. § 4729.01.

(Ord. No. 2020-07 , §§ 1, 6, 5-19-2020)

State Law reference— (O.R.C. § 2925.01)

513.04 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 O.R.C. chs. 3719, 4715, 4729, 4730, 4731 and 4741.
- (2) O.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) In addition to any other sanction imposed upon an offender for a violation of this section, the court may suspend for not less than six months or more than five years the offender's driver's or commercial driver's license or permit.

State Law reference— (O.R.C. § 2925.12)

513.12 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 O.R.C. ch. 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:

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- (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 O.R.C. ch. 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 O.R.C. ch. 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 O.R.C. ch. 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;

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- (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 subsection (d)(2), (3), and (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 O.R.C. chs. 3719, 4715, 4729, 4730, 4731, and 4741. This section shall not be construed to prohibit the possession or use of a hypodermic as authorized by Section 513.10.
- (2) Subsection (c)(1) of this section does not apply to a person's use, or possession with purpose to use, any drug paraphernalia that is equipment, a product, or material of any kind that is used by the person, intended by the person for use, or designed for use in storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body marihuana.
- (3) Division (B)(2) of section O.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 O.R.C. ch. 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 O.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) In addition to any other sanction imposed upon an offender for a violation of this section, the court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of O.R.C. § 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of

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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.

(Ord. No. 2017-52 , §§ 1, 6, 10-17-2017)

State Law reference— (O.R.C. § 2925.14)

513.121 MARIHUANA DRUG PARAPHERNALIA.

- (a) As used in this section, "drug paraphernalia" has the same meaning as in Section 513.12.
- (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 513.12.
- (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 513.12 and it shall not be construed to prohibit the possession or use of a hypodermic as authorized by Section 513.10.
- (e)(1) Subsection (e) of Section 513.12 applies with respect to any drug paraphernalia that was used or possessed in violation of this section.
- (2) Division (B)(2) of O.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:
 - (g) ~~In addition to any other sanction imposed upon an offender for a violation of this section, if 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.~~
- (2) ~~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. (Ord. No. 2017-52 , §§ 1, 6, 10-17-2017)~~

State Law reference— (O.R.C. § 2925.141)

517.08 RAFFLES.

(a) (1) Subject to division (a)(2) of this section, a person or entity may conduct a raffle to raise money for the person or entity and does not need a license to conduct bingo in order to conduct a raffle drawing that is not for profit if the person or entity is any of the following:

A. Exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code;

B. A school district, community school established under Chapter 3314. of the Revised Code, STEM school established under Chapter 3326. of the Revised Code, college-preparatory boarding school established under Chapter 3328. of the Revised Code, or chartered nonpublic school;

C. Subject to subsection (a)(2) of this section, a charitable organization, a public school, a chartered nonpublic school, a community school, or a veteran's organization, fraternal organization, or sporting organization that is exempt Exempt from federal income taxation under subsection 501(a) and is described in subsection 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7), 501(c)(8), 501(c)(10), or 501(c)(19) of the Internal Revenue Code may conduct a raffle to raise money for the organization or school and does not need a license to conduct bingo in order to conduct a raffle drawing that is not for profit.

(2) If a charitable organization that is described in subsection (a)(1) of this section, but that is not also described in subsection 501(c)(3) of the Internal Revenue Code of this section, conducts a raffle, the charitable organization shall distribute at least 50 percent of the net profit from the raffle to a charitable purpose described in Section 517.01(v) or to a department or agency of the federal government, the state, or any political subdivision.

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

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

State Law reference— (O.R.C. § 2915.092)

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

(a) (1) Except as provided in subsection (a)(2) hereof, no person, knowing that a felony has been or is being committed, shall knowingly fail to report such information to law enforcement authorities.

(2) No person, knowing that a violation of division (B) of O.R.C. § 2913.04 has been, or is being committed or that the person has received information derived from such a violation, shall knowingly fail to report the violation to law enforcement authorities.

(b) Except for conditions that are within the scope of subsection (e) hereof, no person who is a physician, limited practitioner, nurse or other person giving aid to a sick or injured person, shall negligently fail to report to law enforcement authorities any gunshot or stab wound that the person treated or observed, or any serious physical harm to persons that the person knows or has reasonable cause to believe resulted from an offense of violence.

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

- (d) No person shall fail to provide upon request of the person to whom the person has made a report required by subsection (c) hereof, or to any law enforcement officer who has reasonable cause to assert the authority to investigate the circumstances surrounding the death, any facts within the person's knowledge that may have a bearing on the investigation of the death.
- (e) (1) As used in this subsection (e), "burn injury" means any of the following:
- A. Second or third degree burns;
 - B. Any burns to the upper respiratory tract or laryngeal edema due to the inhalation of super-heated air;
 - C. Any burn injury or wound that may result in death.
- (2) No physician, nurse or limited practitioner who, outside a hospital, sanitarium or other medical facility, attends or treats a person who has sustained a burn injury inflicted by an explosion or other incendiary device, or that shows evidence of having been inflicted in a violent, malicious or criminal manner, shall fail to report the burn injury immediately to the local arson bureau, if there is such a bureau in the jurisdiction in which the person is attended or treated, or otherwise to local law enforcement authorities.
- (3) No manager, superintendent or other person in charge of a hospital, sanitarium or other medical facility in which a person is attended or treated for any burn injury inflicted by an explosion or other incendiary device, or that shows evidence of having been inflicted in a violent, malicious, or criminal manner, shall fail to report the burn injury immediately to the local arson bureau, if there is such a bureau in the jurisdiction in which the person is attended or treated, or otherwise to local law enforcement authorities.
- (4) No person who is required to report any burn injury under subsection (e)(2) or (3) hereof shall fail to file, within three working days after attending or treating the victim, a written report of the burn injury with the Office of the State Fire Marshal. The report shall be made on a form provided by the State Fire Marshal.
- (5) Anyone participating in the making of reports under subsection (e) hereof or anyone participating in a judicial proceeding resulting from the reports is immune from any civil or criminal liability that otherwise might be incurred or imposed as a result of such actions. Notwithstanding O.R.C. § 4731.22, the physician-patient relationship is not a ground for excluding evidence regarding a person's burn injury or the cause of the burn injury in any judicial proceeding resulting from a report submitted pursuant to subsection (e) hereof.
- (f) (1) Any doctor of medicine or osteopathic medicine, hospital intern or resident, registered or licensed practical nurse, psychologist, social worker, independent social worker, social work assistant, licensed professional clinical counselor, licensed professional counselor, independent marriage and family therapist or marriage and family therapist who knows or has reasonable cause to believe that a patient or client has been the victim of domestic violence, as defined in O.R.C. § 3113.31, shall note that knowledge or belief and the basis for it in the patient's or client's records.
- (2) Notwithstanding O.R.C. § 4731.22, the doctor-patient privilege shall not be a ground for excluding any information regarding the report containing the knowledge or belief noted under subsection (f)(1) of this section, and the information may be admitted as evidence in accordance with the rules of evidence.
- (g) Subsections (a) and (d) of this section do not require disclosure of information, when any of the following applies:
- (1) The information is privileged by reason of the relationship between attorney and client; doctor and patient; licensed psychologist or licensed school psychologist and client; licensed professional clinical counselor, licensed professional counselor, independent social worker, social worker, independent marriage and family therapist, or marriage and family therapist and client; member of the clergy, rabbi, minister, or priest and any person communicating information confidentially to the member of the clergy, rabbi, minister, or priest for a religious counseling purpose of a

professional character; husband and wife; or a communications assistant and those who are a party to a telecommunications relay service call.

- (2) The information would tend to incriminate a member of the actor's immediate family.
 - (3) Disclosure of the information would amount to revealing a news source, privileged under O.R.C. § 2739.04 or 2739.12.
 - (4) Disclosure of the information would amount to disclosure by a member of the ordained clergy of an organized religious body of a confidential communication made to that member of the clergy in that member's capacity as a member of the clergy by a person seeking the aid or counsel of that member of the clergy.
 - (5) Disclosure would amount to revealing information acquired by the actor in the course of the actor's duties in connection with a bona fide program of treatment or services for persons with drug dependent persons dependencies or persons in danger of drug dependence, which program is maintained or conducted by a hospital, clinic, person, agency, or services provider certified pursuant to O.R.C. § 5119.36.
 - (6) Disclosure would amount to revealing information acquired by the actor in the course of the actor's duties in connection with a bona fide program for providing counseling services to victims of crimes that are violations of O.R.C. § 2907.02 or 2907.05, or to victims of felonious sexual penetration in violation of former O.R.C. § 2907.12. As used in this subsection, "counseling services" include services provided in an informal setting by a person who, by education or experience, is competent to provide such services.
- (h) No disclosure of information pursuant to this section gives rise to any liability or recrimination for a breach of privilege or confidence.
- (i) Whoever violates subsection (a) or (b) of this section is guilty of failure to report a crime. Violation of subsection (a)(1) of this section is a misdemeanor of the fourth degree. Violation of subsection (a)(2) or (b) of this section is a misdemeanor of the second degree.
- (j) Whoever violates subsection (c) or (d) hereof is guilty of failure to report knowledge of a death, a misdemeanor of the fourth degree.
- (k) (1) Whoever negligently violates subsection (e) hereof is guilty of a minor misdemeanor.
(2) Whoever knowingly violates subsection (e) hereof is guilty of a misdemeanor of the second degree.

State Law reference— (O.R.C. § 2921.22)

525.15 ASSAULTING POLICE DOG OR HORSE OR AN ASSISTANCE DOG.

- (a) No person shall knowingly cause, or attempt to cause, physical harm to a police dog or horse in either of the following circumstances:
- (1) The police dog or horse is assisting a law enforcement officer in the performance of the officer's official duties at the time the physical harm is caused or attempted.
 - (2) The police dog or horse is not assisting a law enforcement officer in the performance of the officer's official duties at the time the physical harm is caused or attempted, but the offender has actual knowledge that the dog or horse is a police dog or horse.
- (b) No person shall recklessly do any of the following:
- (1) Taunt, torment, or strike a police dog or horse;
 - (2) Throw an object or substance at a police dog or horse;
 - (3) Interfere with or obstruct a police dog or horse, or interfere with or obstruct a law enforcement officer who is being assisted by a police dog or horse, in a manner that does any of the following:

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

a police dog or horse is a felony of the third degree and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the third degree. If the violation results in serious physical harm to the police dog or horse other than its death, assaulting a police dog or horse is a felony of the fourth degree. If the violation results in physical harm to the police dog or horse other than death or serious physical harm, assaulting a police dog or horse is a misdemeanor of the first degree.

- B. In addition to any other sanction imposed for assaulting a police dog or horse, if the violation of subsection (a) of this section results in the death of the police dog or horse, the sentencing court shall impose as a financial sanction a mandatory fine under O.R.C. § 2929.18(B)(10). The fine shall be paid to the law enforcement agency that was served by the police dog or horse that was killed, and shall be used by that agency only for one or more of the following purposes:
1. If the dog or horse was not owned by the agency, the payment to the owner of the dog or horse of the cost of the dog or horse and the cost of the training of the dog or horse to qualify it as a police dog or horse, if that cost has not previously been paid by the agency;
 2. After payment of the costs described in subsection (e)(1)B.1. of this section, if applicable, payment of the cost of replacing the dog or horse that was killed;
 3. After payment of the costs described in subsection (e)(1)B.1. of this section, if applicable, payment of the cost of training the replacement dog or horse to qualify it as a police dog or horse;
 4. After payment of the costs described in subsection (e)(1)B.1. of this section, if applicable, payment of the cost of further training of the replacement dog or horse that is needed to train it to the level of training that had been achieved by the dog or horse that was killed.
- (2) Whoever violates subsection (b) of this section is guilty of harassing a police dog or horse. Except as otherwise provided in this section, harassing a police dog or horse is a misdemeanor of the second degree. If the violation results in the death of the police dog or horse, harassing a police dog or horse is a felony of the third degree. If the violation results in serious physical harm to the police dog or horse, but does not result in its death, harassing a police dog or horse, is a felony of the fourth degree. If the violation results in physical harm to the police dog or horse, but does not result in its death or in serious physical harm to it, harassing a police dog or horse is a misdemeanor of the first degree.
- (3) Whoever violates subsection (c) of this section is guilty of assaulting an assistance dog. Except as otherwise provided in this section, assaulting an assistance dog is a misdemeanor of the second degree. If the violation results in the death of the assistance dog, assaulting an assistance dog is a felony of the third degree. If the violation results in serious physical harm to the assistance dog other than its death, assaulting an assistance dog is a felony of the fourth degree. If the violation results in physical harm to the assistance dog other than death or serious physical harm, assaulting an assistance dog is a misdemeanor of the first degree.
- (4) Whoever violates subsection (d) of this section is guilty of harassing an assistance dog. Except as otherwise provided in this section, harassing an assistance dog is a misdemeanor of the second degree. If the violation results in the death of the assistance dog, harassing an assistance dog is a felony of the third degree. If the violation results in serious physical harm to the assistance dog, but does not result in its death, harassing an assistance dog is a felony of the fourth degree. If the violation results in physical harm to the assistance dog, but does not result in its death or in serious physical harm to it, harassing an assistance dog is a misdemeanor of the first degree.
- (5) In addition to any other sanction or penalty imposed for the offense under this section, O.R.C. ch. 2929, or any other provision of the Ohio Revised Code, whoever violates subsection (a), (b), (c), or (d) of this section is responsible for the payment of all of the following:

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- A. Any veterinary bill or bill for medication incurred as a result of the violation by the police department regarding a violation of subsection (a) or (b) of this section or by the person who is blind, deaf, or hearing impaired; or a person with a mobility impaired-person impairment assisted or served by the assistance dog regarding a violation of subsection (c) or (d) of this section;
 - B. The cost of any damaged equipment that results from the violation;
 - C. If the violation did not result in the death of the police dog or horse or the assistance dog that was the subject of the violation and if, as a result of that dog or horse being the subject of the violation, the dog or horse needs further training or retraining to be able to continue in the capacity of a police dog or horse or an assistance dog, the cost of any further training or retraining of that dog or horse by a law enforcement officer or by the person who is blind, deaf, or hearing impaired; or a person with a mobility impaired-person impairment assisted or served by the assistance dog;
 - D. If the violation resulted in the death of the assistance dog that was the subject of the violation or resulted in serious physical harm to the police dog or horse or the assistance dog or horse that was the subject of the violation to the extent that the dog or horse needs to be replaced on either a temporary or a permanent basis, the cost of replacing that dog or horse and of any further training of a new police dog or horse or a new assistance dog by a law enforcement officer or by the person who is blind, deaf, or hearing impaired; or a person with a mobility impaired-person impairment assisted or served by the assistance dog, which replacement or training is required because of the death of or the serious physical harm to the dog or horse that was the subject of the violation.
- (f) This section does not apply to a licensed veterinarian whose conduct is in accordance with O.R.C. ch. 4741.
- (g) This section only applies to an offender who knows or should know at the time of the violation that the police dog or horse or assistance dog that is the subject of a violation under this section is a police dog or horse or an assistance dog.
- (h) As used in this section:
- (1) *Physical harm* means any injury, illness, or other physiological impairment, regardless of its gravity or duration.
 - (2) *Police dog or horse* means a dog or horse that has been trained, and may be used, to assist law enforcement officers in the performance of their official duties.
 - (3) *Serious physical harm* means any of the following:
 - A. Any physical harm that carries a substantial risk of death;
 - B. Any physical harm that causes permanent maiming or that involves some temporary, substantial maiming;
 - C. Any physical harm that causes acute pain of a duration that results in substantial suffering.
 - (4) *Assistance dog, blind, and person with a mobility impaired-person-impairment* have the same meanings as in O.R.C. § 955.011.

(Ord. No. 2017-52 , §§ 1, 6 (Exh. A), 10-17-2017)

State Law reference— (O.R.C. § 2921.321)

533.01 DEFINITIONS.

As used in this chapter:

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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.

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.

Sexual activity means sexual conduct or sexual contact, or both.

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.

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.

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.

Sexual excitement means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

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.

Juvenile means an unmarried person under the age of 18.

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

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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.

Performance means any motion picture, preview, trailer, play, show, skit, dance or other exhibition performed before an audience.

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 O.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.

Minor means a person under the age of 18 years.

Mental health client or patient has the same meaning as in O.R.C. § 2305.51.

Mental health professional has the same meaning as in O.R.C. § 2305.115.

Sado-masochistic abuse means flagellation or torture by or upon a person or the condition of being fettered, bound, or otherwise physically restrained.

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.

Private area means the genitals, pubic area, buttocks, or female breast below the top of the areola, where nude or covered by an undergarment.

State Law reference— (O.R.C. § 2907.01)

533.05 IMPORTUNING.

Editor's note— Former Section 533.05 has been deleted from the Codified Ordinances. Section 533.05 was identical to O.R.C. § 2907.07(B) which the Ohio Supreme Court held to be unconstitutional in *State v. Thompson*, 95 Ohio St. 3rd 264 (2002).

533.06 VOYEURISM.

- (a) No person, for the purpose of sexually arousing or gratifying the person's self, shall commit trespass or otherwise surreptitiously invade the privacy of another, to spy or eavesdrop upon another.
- (b) No person, ~~for the purpose of sexually arousing or gratifying himself or herself,~~ shall knowingly commit trespass or otherwise surreptitiously invade the privacy of another to secretly or surreptitiously videotape, film, photograph, broadcast, stream, or otherwise record another person, in a state of nudity if place where a person has a reasonable expectation of privacy.
- (c) 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.
- (d) (1) Whoever violates this section is guilty of voyeurism.
 - (2) A violation of subsection (a) hereof is a misdemeanor of the third degree.
 - (3) A violation of subsection (b) hereof is a misdemeanor of the second degree.

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(4) A violation of subsection (c) hereof is a misdemeanor of the first degree.

State Law reference— (O.R.C. § 2907.08)

537.03 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) (1) Whoever violates this section is guilty of assault, a misdemeanor of the first degree, and the court shall sentence the offender as provided in subsection (c) hereof. If the assault was committed under the circumstances provided in subsection (c)(2), (3), (4), (5), (6), (7), (8) or (9) hereof, assault is a felony and shall be prosecuted under appropriate State law.
- (2) Except as otherwise provided in this subsection, if the offense is committed by a caretaker against a ~~functionally impaired person~~ person with a functional impairment under the caretaker's care.
- (3) If the offense occurs in or on the grounds of a state correctional institution or an institution of the Department of Youth Services, the victim of the offense is an employee of the Department of Rehabilitation and Correction or the Department of Youth Services, and the offense is committed by a person incarcerated in the state correctional institution or by a person institutionalized in the Department of Youth Services Institution pursuant to a commitment to the Department of Youth Services.
- (4) If the offense is committed in any of the following circumstances:
 - A. The offense occurs in or on the grounds of a local correctional facility, the victim of the offense is an employee of the local correctional facility or a probation department or is on the premises of the facility for business purposes or as a visitor, and the offense is committed by a person who is under custody in the facility subsequent to the person's arrest for any crime or delinquent act, subsequent to the person's being charged with or convicted of any crime, or subsequent to the person's being alleged to be or adjudicated a delinquent child.
 - B. The offense occurs off the grounds of a state correctional institution and off the grounds of an institution of the Department of Youth Services, the victim of the offense is an employee of the Department of Rehabilitation and Correction, the Department of Youth Services, or a probation department, the offense occurs during the employee's official work hours and while the employee is engaged in official work responsibilities, and the offense is committed by a person incarcerated in a state correctional institution or institutionalized in the Department of Youth Services who temporarily is outside of the institution for any purpose, by a parolee, by an offender under transitional control, under a community control sanction, or on an escorted visit, by a person under post-release control, or by an offender under any other type of supervision by a government agency.
 - C. The offense occurs off the grounds of a local correctional facility, the victim of the offense is an employee of the local correctional facility or a probation department, the offense occurs during the employee's official work hours and while the employee is engaged in official work responsibilities, and the offense is committed by a person who is under custody in the facility subsequent to the person's arrest for any crime or delinquent act, subsequent to the person being charged with or convicted of any crime, or subsequent to the person being alleged to be or adjudicated a delinquent child and who temporarily is outside of the facility for any purpose or by a parolee, by an offender under transitional control, under a community control sanction, or on an escorted visit, by a person under post-release control, or by an offender under any other type of supervision by a government agency.
 - D. The victim of the offense is a school teacher or administrator or a school bus operator, and the offense occurs in a school, on school premises, in a school building, on a school bus or while the victim is outside of school premises or a school bus and is engaged in duties or official

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responsibilities associated with the victim's employment or position as a school teacher or administrator or a school bus operator, including, but not limited to, driving, accompanying, or chaperoning students at or on class or field trips, athletic events, or other school extracurricular activities or functions outside of school premises.

(5) If the assault is committed in any of the following circumstances, assault is a felony of the fourth degree:

~~(5) If the a. The victim of the offense is a peace officer or an investigator of the Bureau of Criminal Identification and Investigation, a firefighter, or a person performing emergency medical service, while in the performance of their official duties.~~

b. The victim of the offense is an emergency service responder, the offender knows or reasonably should know that the victim is an emergency service responder, and it is the offender's specific purpose to commit the offense against an emergency service responder.

c. The victim of the offense is a family or household member or co-worker of a person who is an emergency service responder, the offender knows or reasonably should know that the victim is a family or household member or co-worker of an emergency service responder, and it is the offender's specific purpose to commit the offense against a family or household member or co-worker of an emergency service responder.

(6) If the offense is a felony of the fourth degree under division (c)(5)A of this section, if the victim of the offense is a peace officer or an investigator of the Bureau of Criminal Identification and Investigation, and if the victim suffered serious physical harm as a result of the commission of the offense.

(7) If the victim of the offense is an officer or employee of a public children services agency or a private child placing agency and the offense relates to the officer's or employee's performance or anticipated performance of official responsibilities or duties.

(8) If the victim of the offense is a health care professional of a hospital, a health care worker of a hospital, or a security officer of a hospital whom the offender knows or has reasonable cause to know is a health care professional of a hospital; a health care worker of a hospital, or a security officer of a hospital, if the victim is engaged in the performance of the victim's duties, and if the hospital offers de-escalation or crisis intervention training for such professionals, workers or officers, assault is one of the following:

A. Except as otherwise provided in subsection (c)(8)B. of this section, assault committed in the specified circumstances is a misdemeanor of the first degree. Notwithstanding the fine specified in division (A)(2)(~~b~~) of O.R.C. § 2929.28 for a misdemeanor of the first degree, in sentencing the offender under this subsection and if the court decides to impose a fine, the court may impose upon the offender a fine of not more than \$5,000.00.

B. If the offender previously has been convicted of or pleaded guilty to one or more assault or homicide offenses committed against hospital personnel, assault committed in the specified circumstances is a felony.

(9) If the victim of the offense is a judge, magistrate, prosecutor or court official or employee whom the offender knows or has reasonable cause to know is a judge, magistrate, prosecutor or court official or employee, and if the victim is engaged in the performance of the victim's duties, assault is one of the following:

A. Except as otherwise provided in subsection (c)(9)B. of this section, assault committed in the specified circumstances is a misdemeanor of the first degree. In sentencing the offender under this subsection, if the court decides to impose a fine, notwithstanding the fine specified in division (A)(2)(~~b~~) of O.R.C. § 2929.28 for a misdemeanor of the first degree, the court may impose upon the offender a fine of not more than \$5,000.00.

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B. If the offender previously has been convicted of or pleaded guilty to one or more assault or homicide offenses committed against justice system personnel, assault committed in the specified circumstances is a felony.

(10) 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 O.R.C. § 2941.1423 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 division (GF) of O.R.C. § 2929.24.

(d) A prosecution for a violation of this section does not preclude a prosecution of a violation of any other section of the Revised Code. One or more acts, a series of acts, or a course of behavior that can be prosecuted under this section or any other section of the Revised Code may be prosecuted under this section, the other section of the Revised Code, or both sections. However, if an offender is convicted of or pleads guilty to a violation of this section and also is convicted of or pleads guilty to a violation of O.R.C. § 2903.22 based on the same conduct involving the same victim that was the basis of the violation of this section, the two offenses are allied offenses of similar import under O.R.C. § 2941.25.

(e) As used in this section:

(1) *Peace officer* has the same meaning as in O.R.C. § 2935.01.

(2) ~~*Firefighter* has the same meaning~~ means any person who is a firefighter as defined in O.R.C. § 3937.41 and, for purposes of division (e)21 of this section, also includes a member of a fire department as defined in O.R.C. § 742.01.

(3) *Emergency medical service* has the same meaning as in O.R.C. § 4765.01.

(4) *Local correctional facility* means a county, multicounty, municipal, municipal-county or multicounty-municipal jail or workhouse. A minimum security jail established under O.R.C. § 341.23 or 753.21, or another county, multicounty, municipal, municipal-county, or multicounty- municipal facility used for the custody of persons arrested for any crime or delinquent act, persons charged with or convicted of any crime, or persons alleged to be or adjudicated a delinquent child.

(5) *Employee of a local correctional facility* means a person who is an employee of the political subdivision or of one or more of the affiliated political subdivisions that operates the local correctional facility and who operates or assists in the operation of the facility.

(6) *School teacher or administrator* means either of the following:

A. A person who is employed in the public schools of the State under a contract described in O.R.C. § 3311.77 or 3319.08 in a position in which the person is required to have a certificate issued pursuant to O.R.C. § 3319.22 to 3319.311.

B. A person who is employed by a nonpublic school for which the ~~State Board~~ Director of Education and Workforce prescribes minimum standards under O.R.C. § 3301.07 and who is certified in accordance with O.R.C. § 3301.071.

(7) *Community control sanction* has the same meaning as in O.R.C. § 2929.01.

(8) *Escorted visit* means an escorted visit granted under O.R.C. § 2967.27.

(9) *Post-release control* and *transitional control* have the same meanings as in O.R.C. § 2967.01.

(10) *Investigator of the Bureau of Criminal Identification and Investigation* has the same meaning as in O.R.C. § 2903.11.

(11) *Health care professional* and *health care worker* have the same meanings as in O.R.C. § 2305.234.

(12) *Assault or homicide offense committed against hospital personnel* means a violation of this section or O.R.C. §§ 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13 or 2903.14 committed in circumstances in which all of the following apply:

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- A. The victim of the offense was a health care professional of a hospital, a health care worker of a hospital or a security officer of a hospital.
- B. The offender knew or had reasonable cause to know that the victim was a health care professional of a hospital, a health care worker of a hospital, or a security officer of a hospital;
- C. The victim was engaged in the performance of the victim's duties.
- D. The hospital offered de-escalation or crisis intervention training for such professionals, workers or officers.

(13) *De-escalation or crisis intervention training* means de-escalation or crisis intervention training for health care professionals of a hospital, health care workers of a hospital, and security officers of a hospital to facilitate interaction with patients, members of a patient's family, and visitors, including those with mental impairments.

(14) "Assault or homicide offense committed against justice system personnel" means a violation of this section or of O.R.C. §§ 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13 or 2903.14 committed in circumstances in which the victim of the offense was a judge, magistrate, prosecutor, or court official or employee whom the offender knew or had reasonable cause to know was a judge, magistrate, prosecutor, or court official or employee, and the victim was engaged in the performance of the victim's duties.

(15) *Court official or employee* means any official or employee of a court created under the constitution or statutes of this state or of a United States court located in this state.

(16) *Judge* means a judge of a court created under the constitution or statutes of this state or of a United States court located in this state.

(17) *Magistrate* means an individual who is appointed by a court of record of this state and who has the powers and may perform the functions specified in Civil Rule 53, Criminal Rule 19, or Juvenile Rule 40, or an individual who is appointed by a United States court located in this state who has similar powers and functions.

(18) *Prosecutor* has the same meaning as in O.R.C. § 2935.01.

(19) A. *Hospital* means, subject to subsection (d)(19)B. of this section, an institution classified as a hospital under O.R.C. § 3701.01 in which are provided to patients diagnostic, medical, surgical, obstetrical, psychiatric, or rehabilitation care or a hospital operated by a health maintenance organization.

B. *Hospital* does not include any of the following:

1. A facility licensed under O.R.C. Ch. 3721, a health care facility operated by the Department of Mental Health and Addiction Services or the Department of Developmental Disabilities, a health maintenance organization that does not operate a hospital, or the office of any private, licensed health care professional, whether organized for individual or group practice;
2. An institution for the sick that is operated exclusively for patients who use spiritual means for healing and for whom the acceptance of medical care is inconsistent with their religious beliefs, accredited by a national accrediting organization, exempt from federal income taxation under Section 501 of the "Internal Revenue Code of 1986", 100 Stat. 2085, 26 U.S.C. 1, as amended, and providing 24-hour nursing care pursuant to the exemption in division (E) of O.R.C. § 4723.32 from the licensing requirements of O.R.C. Ch. 4723.

(20) *Health maintenance organization* has the same meaning as in O.R.C. § 3727.01.

(21) *Emergency service responder* means any law enforcement officer, first responder, emergency medical technician-basic, emergency medical technician-intermediate, emergency medical technician-paramedic, firefighter, or volunteer firefighter.

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

(a) Any of the following who is residing or has resided with a person who is employed as an emergency service responder:

(i) A spouse, a person living as a spouse, or a former spouse of a person who is employed as an emergency service responder;

(ii) A parent, a foster parent, or a child of a person who is employed as an emergency service responder, or another person related by consanguinity or affinity to a person who is employed as an emergency service responder;

(iii) A parent or a child of a spouse, person living as a spouse, or former spouse of a person who is employed as an emergency service responder, or another person related by consanguinity or affinity to a spouse, person living as a spouse, or former spouse of a person who is employed as an emergency service responder.

(b) The natural parent of any child of whom a person who is employed as an emergency service responder is the other natural parent or is the putative other natural parent.

(23) First responder, emergency medical technician-basic, emergency medical technician-intermediate, and "emergency medical technician-paramedic" have the same meanings as in O.R.C. § 4765.01.

(24) Volunteer firefighter has the same meaning as in O.R.C. § 146.01.

(25) Person living as a spouse means a person who is living or has lived with a person who is employed as an emergency service responder in a common law marital relationship, who otherwise is cohabiting with a person who is employed as an emergency service responder, or who otherwise has cohabited with a person who is employed as an emergency service responder within five years prior to the date of the alleged commission of the act in question.

(26) Co-worker means a person who is employed by the organization or entity that is served by a person who is employed as an emergency service responder.

State Law reference— (O.R.C. § 2903.13)

537.06 MENACING.

(a)(1) No person shall knowingly cause another to believe that the offender will cause physical harm to the person or property of the other person, the other person's unborn, or a member of the other person's immediate family. In addition to any other basis for the other person's belief that the offender will cause physical harm to the person or property of the other person, the other person's unborn, or a member of the other person's immediate family, the other person's belief may be based on words or conduct of the offender that are directed at or identify a corporation, association, or other organization that employs the other person or to which the other person belongs.

(2) No person shall knowingly place or attempt to place another in reasonable fear of physical harm or death by displaying a deadly weapon, regardless of whether the deadly weapon displayed is operable or inoperable, if either of the following applies:

(A) The other person is an emergency service responder, the person knows or reasonably should know that the other person is an emergency service responder, and it is the person's specific purpose to engage in the specified conduct against an emergency service responder.

(B) The other person is a family or household member or co-worker of an emergency service responder, the person knows or reasonably should know that the other person is a family or household member or co-worker of an emergency service responder, and it is the person's specific purpose to engage in the specified conduct against a family or household member or co-worker of an emergency service responder.

(b) Whoever violates this section is guilty of menacing.

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

(b2) Whoever violates this section is guilty of menacing. Except as otherwise provided in this subsection (b), menacing is a misdemeanor of the fourth degree. If the victim of the offense is an officer or employee of a public children services agency or a private child placing agency and the offense relates to the officer's or employee's performance or anticipated performance of official responsibilities or duties, or, if the offender previously has been convicted of or pleaded guilty to an offense of violence, the victim of that prior offense was an officer or employee of a public children services agency or private child placing agency or an emergency service responder, and that prior offense related to the officer's or employee's performance or anticipated performance of official responsibilities or duties or the responder's performance of the responder's official duties, menacing is a felony and shall be prosecuted under appropriate State law.

(c) A prosecution for a violation of this section does not preclude a prosecution of a violation of any other section of the Revised Code. One or more acts, a series of acts, or a course of behavior that can be prosecuted under this section or any other section of the Revised Code may be prosecuted under this section, the other section of the Revised Code, or both sections. However, if an offender is convicted of or pleads guilty to a violation of this section and also is convicted of or pleads guilty to a violation of Ohio R.C. 2903.13 based on the same conduct involving the same victim that was the basis of the violation of this section, the two offenses are allied offenses of similar import under O. R.C. § 2941.25.

(d) As used in this section:

(1) "Emergency service responder," "family or household member," and "co-worker" have the same meanings as in O.R.C. § 2903.13.

(e2) As used in this section, "organization" "Organization" includes an entity that is a governmental employer.

State Law reference— (O.R.C. § 2903.22)

537.07 ENDANGERING CHILDREN.

(a) No person, who is the parent, guardian, custodian, person having custody or control, or person in loco parentis of a child under 18 years of age or a ~~mentally or physically handicapped child~~ child with a mental or physical disability under 21 years of age, shall create a substantial risk to the health or safety of the child, by violating a duty of care, protection or support. It is not a violation of a duty of care,

protection or support under this subsection when the parent, guardian, custodian or person having custody or control of a child treats the physical or mental illness or ~~defect~~ disability of the child by spiritual means through prayer alone, in accordance with the tenets of a recognized religious body.

- (b) No person shall abuse a child under 18 years of age or a ~~mentally or physically handicapped child~~ with a mental or physical disability under 21 years of age.
- (c) (1) No person shall operate a vehicle in violation of Section 333.01(a) of the Traffic Code when one or more children under 18 years of age are in the vehicle. Notwithstanding any other provision of law, a person may be convicted at the same trial or proceeding of a violation of subsection (c) hereof and a violation of Section 333.01(a) of the Traffic Code that constitutes the basis of the charge of the violation of subsection (c) hereof. For purposes of O.R.C. §§ 4511.191—4511.197 and all related provisions of law, a person arrested for a violation of subsection (c) hereof shall be considered to be under arrest for operating a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them or for operating a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath, or urine.
- (2) As used in subsection (c) hereof:
- A. "Controlled substance" has the same meaning as in O.R.C. § 3719.01.
- B. "Vehicle" has the same meaning as in O.R.C. § 4511.01.
- (d) Whoever violates this section is guilty of endangering children.
- (1) Whoever violates subsection (a) or (b) hereof is guilty of a misdemeanor of the first degree. If the violation results in serious physical harm to the child involved, or if the offender previously has been convicted of an offense under this section, O.R.C. § 2919.22 or of any offense involving neglect, abandonment, contributing to the delinquency of or physical abuse of a child, endangering children is a felony and shall be prosecuted under appropriate state law.
- (2) Whoever violates subsection (c) hereof is guilty of a misdemeanor of the first degree. Endangering children is a felony and shall be prosecuted under appropriate state law if either of the following applies:
- A. The violation results in serious physical harm to the child involved or the offender previously has been convicted of an offense under O.R.C. § 2919.22 or any offense involving neglect, abandonment, contributing to the delinquency of, or physical abuse of a child.
- B. The violation results in serious physical harm to the child involved and the offender previously has been convicted of a violation of O.R.C. § 2919.22(C) or subsection (c) hereof, O.R.C. § 2903.06, or 2903.08, O.R.C. § 2903.07 as it existed prior to March 23, 2000, or O.R.C. § 2903.04 in a case in which the offender was subject to the sanctions described in division (D) of that section.
- (3) In addition to any term of imprisonment, fine, or other sentence, penalty, or sanction it imposes upon the offender pursuant to subsection (d)(2) hereof, or pursuant to any other provision of law, the court also may impose upon the offender any of the sanctions provided under O.R.C. § 2919.22(E)(5)(d).
- (e) (1) If a person violates subsection (c) hereof and if, at the time of the violation, there were two or more children under 18 years of age in the motor vehicle involved in the violation, the offender may be convicted of a violation of subsection (c) hereof for each of the children, but the court may sentence the offender for only one of the violations.
- (2) A. If a person is convicted of or pleads guilty to a violation of subsection (c) hereof but the person is not also convicted of and does not also plead guilty to a separate charge charging the violation of Section 333.01(a) of the Traffic Code that was the basis of the charge of the violation of subsection (c) hereof, both of the following apply:

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1. For purposes of the provisions of the Traffic Code penalty that set forth the penalties and sanctions for a violation of Section 333.01(a) of the Traffic Code, the conviction of or plea of guilty to the violation of subsection (c) hereof shall not constitute a violation of Section 333.01(a) of the Traffic Code.
 2. For purposes of any provision of law that refers to a conviction of or plea of guilty to a violation of Section 333.01(a) of the Traffic Code and that is not described in subsection (e)(2)A.1. hereof, the conviction of or plea of guilty to the violation of subsection (c) hereof shall constitute a conviction of or plea of guilty to a violation of Section 333.01(a) of the Traffic Code.
- B. If a person is convicted of or pleads guilty to a violation of subsection (c) hereof and the person also is convicted of or pleads guilty to a separate charge charging the violation of Section 333.01(a) of the Traffic Code that was the basis of the charge of the violation of subsection (c) hereof, the conviction of or plea of guilty to the violation of subsection (c) hereof shall not constitute, for purposes of any provision of law that refers to a conviction of or plea of guilty to a violation of Section 333.01(a) of the Traffic Code, a conviction of or plea of guilty to a violation of Section 333.01(a) of the Traffic Code.

State Law reference— (O.R.C. § 2919.22)

537.15 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 O.R.C. § 2919.26 or 3113.31;
- (2) A protection order issued pursuant to O.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 of the fifth degree if the offender previously has been convicted of, pleaded guilty to, or been adjudicated a delinquent child for any of the following:
 - A. A violation of a protection order issued or consent agreement approved pursuant to O.R.C. § 2151.34, 2903.213, 2903.214, 2919.26, or 3113.31;
 - B. Two or more violations of O.R.C. § 2903.21, 2903.211, 2903.22, or 2911.211, or any combination of those offenses, that involved the same person who is the subject of the protection order or consent agreement;
 - C. One or more violations of this section.

(4) If the offender violates a protection order or consent agreement while committing a felony offense, violating a protection order is a felony and shall be prosecuted under appropriate state law.

(5) If the protection order violated by the offender was an order issued pursuant to O.R.C. § 2151.34 or 2903.214 that required electronic monitoring of the offender pursuant to that section, the court may require in addition to any other sentence imposed upon the offender that the offender be electronically monitored for a period not exceeding five years by a law enforcement agency designated by the court. If the court requires under this subsection that the offender be electronically monitored, unless the court determines that the offender is indigent, the court shall order that the offender pay the costs of the installation of the electronic monitoring device and the cost of monitoring the electronic monitoring device. ~~If the court determines that the offender is indigent and subject to the maximum amount allowable and the rules promulgated by the Attorney~~

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~~General under O.R.C. § 2903.214, the costs of the installation of the electronic monitoring device and the cost of monitoring the electronic monitoring device may be paid out of funds from the reparations fund created pursuant to O.R.C. § 2743.191. The total amount paid from the reparations fund created pursuant to O.R.C. § 2743.191 for electronic monitoring under this section and O.R.C. § 2151.34 and 2903.214 shall not exceed \$300,000.00 per year.~~

- (c) It is an affirmative defense to a charge under subsection (a)(3) of this section that the protection order issued by a court of another state does not comply with the requirements specified in 18 U.S.C. 2265(b) for a protection order that must be accorded full faith and credit by a court of this state or that it is not entitled to full faith and credit under 18 U.S.C. 2265(c).
- (d) In a prosecution for a violation of this section, it is not necessary for the prosecution to prove that the protection order or consent agreement was served on the defendant if the prosecution proves that the defendant was shown the protection order or consent agreement or a copy of either or a judge, magistrate, or law enforcement officer informed the defendant that a protection order or consent agreement had been issued, and proves that the defendant recklessly violated the terms of the order or agreement.
- (e) As used in this section, "protection order issued by a court of another state" means an injunction or another order issued by a criminal court of another state for the purpose of preventing violent or threatening acts or harassment against, contact or communication with, or physical proximity to another person, including a temporary order, and means an injunction or order of that nature issued by a civil court of another state, including a temporary order and a final order issued in an independent action or as a pendente lite order in a proceeding for other relief, if the court issued it in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection. "Protection order issued by a court of another state" does not include an order for support or for custody of a child issued pursuant to the divorce and child custody laws of another state, except to the extent that the order for support or for custody of a child is entitled to full faith and credit under the laws of the United States.

(Ord. No. 2017-52 , §§ 1, 6, 10-17-2017)

State Law reference— (O.R.C. § 2919.27)

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

(a) As used in this section:

(1) *Age verification* means a service provided by an independent third party (other than a manufacturer, producer, distributor, wholesaler, or retailer of cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes) that compares information available from a commercially available database, or aggregate of databases, that regularly are used by government and businesses for the purpose of age and identity verification to personal information provided during an internet sale or other remote method of sale to establish that the purchaser is 21 years of age or older.

(2) A. *Alternative nicotine product* means, subject to subsection (a)(2)B. of this section, an electronic cigarette or any other product or device that consists of or contains nicotine that can be ingested into the body by any means, including, but not limited to, chewing, smoking, absorbing, dissolving or inhaling.

B. *Alternative nicotine product* does not include any of the following:

- 1. Any cigarette or other tobacco product;
- 2. Any product that is a "drug" as that term is defined in 21 U.S.C. 321(g)(1);
- 3. Any product that is a "device" as that term is defined in 21 U.S.C. 321(h);

4. Any product that is a "combination product" as described in 21 U.S.C. 353(g).
- (3) *Child* has the same meaning as in O.R.C. § 2151.011.
- (4) *Cigarette* includes clove cigarettes and hand-rolled cigarettes.
- (5) *Distribute* means to furnish, give, or provide cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to the ultimate consumer of the cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes.
- (6) A. *Electronic cigarette* means, subject to subsection (a)(6)B. of this section, any electronic product or device that produces a vapor that delivers nicotine or any other substance to the person inhaling from the device to simulate smoking and that is likely to be offered to or purchased by consumers as an electronic cigarette, electronic cigar, electronic cigarillo or electronic pipe.
- B. *Electronic cigarette* does not include any item, product or device described in subsections (a)(2)B. 1. to 4. of this section.
- (7) *Person under 21* means, for purposes of this section, a person who has reached the age of 18 years but has not yet reached the age of 21 years.
- (8) *Proof of age* means a driver's license, a commercial driver's license, a military identification card, a passport, or an identification card issued under O.R.C. §§ 4507.50 to 4507.52 that shows that a person is ~~18~~ 21 years of age or older.
- (9) *Tobacco product* means any product that is made from tobacco, including, but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco or snuff.
- (10) *Vending machine* has the same meaning as "coin machine" in O.R.C. § 2913.01.
- (b) No manufacturer, producer, distributor, wholesaler, or retailer of cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes, no agent, employee, or representative of a manufacturer, producer, distributor, wholesaler, or retailer of cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes, and no other person shall do any of the following:
- (1) Give, sell or otherwise distribute cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes ~~to any child;~~
- A. To any person under 21 years of age; or
- B. Without first verifying proof of age
- (2) Give away, sell or distribute cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes in any place that does not have posted in a conspicuous place a sign stating that giving, selling or otherwise distributing cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to a person under 21 years of age is prohibited by law;
- (3) Knowingly furnish any false information regarding the name, age or other identification of any child or person under 21 with purpose to obtain cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes for that child or person under 21;
- (4) Manufacture, sell or distribute in this state any pack or other container of cigarettes containing fewer than 20 cigarettes or any package of roll-your-own tobacco containing less than six-tenths of one ounce of tobacco;
- (5) Sell cigarettes or alternative nicotine products in a smaller quantity than that placed in the pack or other container by the manufacturer;
- (6) Give, sell or otherwise distribute alternative nicotine products, papers used to roll cigarettes, or tobacco products other than cigarettes over the internet or through another remote method without age verification.

(7) Give, sell or otherwise distribute cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to any person under 21.

(8) Allow an employee under eighteen years of age to sell any tobacco product;

(9) Give away or otherwise distribute free samples of cigarettes, other tobacco products, alternative nicotine products, or coupons redeemable for cigarettes, other tobacco products, or alternative nicotine products.

(c) No person shall sell or offer to sell cigarettes, other tobacco products or alternative nicotine products by or from a vending machine, except in the following locations:

(1) An area within a factory, business, office, or other place not open to the general public;

(2) An area to which children are not generally permitted access;

(3) Any other place not identified in subsection (c)(1) or (2) of this section, upon all of the following conditions:

A. The vending machine is located within the immediate vicinity, plain view, and control of the person who owns or operates the place, or an employee of that person, so that all cigarettes, other tobacco product and alternative nicotine product purchases from the vending machine will be readily observed by the person who owns or operates the place or an employee of that person. For the purpose of this section, a vending machine located in any unmonitored area, including an unmonitored coatroom, restroom, hallway or outer-waiting area, shall not be considered located within the immediate vicinity, plain view, and control of the person who owns or operates the place, or an employee of that person.

B. The vending machine is inaccessible to the public when the place is closed.

(d) The following are affirmative defenses to a charge under subsection (b)(1) or (b)(7) of this section:

(1) The child or person under 21 was accompanied by a parent, spouse who is 18 years of age or older, or legal guardian of the child.

(2) The person who gave, sold or distributed cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to a child or to a person under 21 under division (b)(7) of this section under subsection (b)(1) of this section is a parent, spouse who is 18 years of age or older, or legal guardian of the child or person under 21 under division (b)(7) of this section.

(e)(1) It is not a violation of subsection (b)(1), (b)(2), or (b)(7) of this section for a person to give or otherwise distribute to a child or person under 21 cigarettes, other tobacco products, alternative nicotine products or papers used to roll cigarettes while the child or person under 21 is participating in a research protocol if all of the following apply:

~~(1)~~ A. The parent, guardian or legal custodian of the child has consented in writing to the child participating in the research protocol, or the person under 21 has consented in writing on his or her own behalf;

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

~~(3)~~ C. The child or person under 21 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 (2) of this section for an employer to permit an employee eighteen, nineteen, or twenty 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 twenty-one 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.

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(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 (f)(1)(a) to (c) of this section.

- (f) It is not a violation of (b)(7) of this section to give a person under 21 cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes if the transfer is done in the course of the person under 21 employment and the person under 21 is not the end consumer of the cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes.
- (g) (1) Whoever violates subsection (b)(1), (2), (4), (5), ~~or (6), (7), or (8), (c) or (e)~~ of this section is guilty of illegal distribution of cigarettes, other tobacco products, or alternative nicotine products. Except as otherwise provided in this subsection, 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 a violation of subsection (b)(1), (2), (4), (5) or (6) or (c) of this section, or pleaded guilty to illegal distribution of cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the third degree.
- (2) Whoever violates subsection (b)(3) of this section is guilty of permitting children to use cigarettes, other tobacco products, or alternative nicotine products. Except as otherwise provided in this subsection, permitting children 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 subsection (b)(3) of this section, permitting children to use cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the third degree.
- (3) Whoever violates division (b)(7) of this section is guilty of illegal distribution of cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to a person under 21. Except as otherwise provided in this division, illegal distribution of cigarettes, other tobacco products, or alternative nicotine products to a person under 21 shall be an unclassified misdemeanor, punishable by a fine up to \$500.00. If the offender previously has been convicted of a violation of any division of this section, or a substantially equivalent offense, then violation of division (b)(7) of this section shall be an unclassified misdemeanor punishable by a fine of no less than \$300.00, which shall not be suspended, and up to \$750.00. If the offender has two or more previous convictions under this section, or for any substantially equivalent offense, then a violation of division (b)(7) shall be an unclassified misdemeanor punishable by a fine of no less than \$750.00, which shall not be suspended, and up to \$1,000.00.
- (4) It is the purpose of this section to impose organizational liability for violation of division (b)(7) of this section. Such liability shall apply to the corporation, limited liability company, partnership, sole proprietorship, or other entity or natural person acting as the principal or employer to the agent or employee who actually sells, gives, or otherwise distributes cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to a person under 21. It shall be the policy of the City of Powell to prefer citation of the organization selling, distributing, or otherwise giving cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to a person under 21. Provided, however, that this shall not preclude citation of an individual agent or employee for violation of division (b)(7).
- (h) Any cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes that are given, sold or otherwise distributed to a child in violation of this section and that are used, possessed, purchased or received by a child in violation of O.R.C. § 2151.87 are subject to seizure and forfeiture as contraband under O.R.C. Ch. 2981.

(Ord. No. 2017-24, § 1, 6-20-2017)

State Law reference— (O.R.C. § 2927.02)

545.05 PETTY THEFT.

- (a) No person, with purpose to deprive the owner of property or services, shall knowingly obtain or exert control over either the property or services in any of the following ways:
 - (1) Without the consent of the owner or person authorized to give consent;
 - (2) Beyond the scope of the express or implied consent of the owner or person authorized to give consent;
 - (3) By deception;
 - (4) By threat;
 - (5) By intimidation.
- (b) Whoever violates this section is guilty of petty misdemeanor theft, a misdemeanor of the first degree. Petty theft is a felony and shall be prosecuted under appropriate state law if:
 - (1) The value of the property or services stolen is \$1,000.00 or more; or
 - (2) The victim of the offense is an elderly person, disabled adult, active duty service member, or spouse of an active duty service member, or
 - (3) The property stolen is a firearm or dangerous ordnance, or
 - (4) The property stolen is a motor vehicle, or
 - (5) The property stolen is any dangerous drug, or
 - (6) The property stolen is a police dog or horse or an assistance dog and the offender knows or should know that the property stolen is a police dog or horse or an assistance dog, or
 - (7) The property stolen is anhydrous ammonia, or
 - (8) The property stolen is a special purpose article as defined in O.R.C. § 4737.04 or a bulk merchandise container as defined in O.R.C. § 4737.012.
- (c) In addition to the penalties described in subsection (b) of this section, if the offender committed the violation by causing a motor vehicle to leave the premises of an establishment at which gasoline is offered for retail sale without the offender making full payment for gasoline that was dispensed into the fuel tank of the motor vehicle or into another container, the court may do one of the following:
 - (1) Unless subsection (c)(2) of this section applies, suspend for not more than six months the offender's driver's license, probationary driver's license, commercial driver's license, temporary instruction permit, or nonresident operating privilege;
 - (2) If the offender's driver's license, probationary driver's license, commercial driver's license, temporary instruction permit, or nonresident operating privilege has previously been suspended pursuant to subsection (c)(1) of this section, impose a class seven suspension of the offender's license, permit, or privilege from the range specified in O.R.C. § 4510.02(A)(7), provided that the suspension shall be for at least six months.
 - (3) The court, in lieu of suspending the offender's driver's or commercial driver's license, probationary driver's license, temporary instruction permit, or nonresident operating privilege pursuant to subsections (c)(1) or (2) of this section, instead may require the offender to perform community service for a number of hours determined by the court.
- (d) In addition to the penalties described in subsection (b) hereof, if the offender committed the violation by stealing rented property or rental services, the court may order that the offender make restitution pursuant to O.R.C. § 2929.18 or 2929.28. Restitution may include, but is not limited to, the cost of repairing or replacing the stolen property, or the cost of repairing the stolen property and any loss of revenue resulting from deprivation of the property due to theft of rental services that is less than or equal to the actual value of the property at the time it was rented. Evidence of intent to commit theft of rented property or rental services shall be determined pursuant to the provisions of O.R.C. § 2913.72.

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

State Law reference— (O.R.C. § 2913.02)

549.04 IMPROPERLY HANDLING FIREARMS IN A MOTOR VEHICLE.

- (a) No person shall knowingly transport or have a firearm in a motor vehicle, unless the person may lawfully possess that firearm under applicable law of this state or the United States, the firearm is unloaded, and the firearm is carried in one of the following ways:
 - (1) In a closed package, box or case;
 - (2) In a compartment which can be reached only by leaving the vehicle;
 - (3) In plain sight and secured in a rack or holder made for the purpose;
 - (4) If the firearm is at least 24 inches in overall length as measured from the muzzle to the part of the stock furthest from the muzzle and if the barrel is at least 18 inches in length, either in plain sight with the action open or the weapon stripped, or, if the firearm is of a type on which the action will not stay open or which cannot easily be stripped, in plain sight.
- (b) No person who has been issued a concealed handgun license, who is the driver or an occupant of a motor vehicle that is stopped as a result of a traffic stop or a stop for another law enforcement purpose or is the driver or an occupant of a commercial motor vehicle that is stopped by an employee of the motor carrier enforcement unit for the purposes defined in O.R.C. § 5503.34, and who is transporting or has a loaded handgun in the motor vehicle or commercial motor vehicle in any manner, shall do any of the following:
 - (1) Fail to promptly inform any law enforcement officer who approaches the vehicle while stopped that the person has been issued a concealed handgun license and that the person then possesses or has a loaded handgun in the motor vehicle;
 - (2) Fail to promptly inform the employee of the unit who approaches the vehicle while stopped that the person has been issued a concealed handgun license and that the person then possesses or has a loaded handgun in the commercial motor vehicle.
 - (3) Knowingly fail to remain in the motor vehicle while stopped, or knowingly fail to keep the person's hands in plain sight at any time after any law enforcement officer begins approaching the person while stopped and before the law enforcement officer leaves, unless the failure is pursuant to and in accordance with directions given by a law enforcement officer.
 - (4) Knowingly disregard or fail to comply with any lawful order of any law enforcement officer given while the motor vehicle is stopped, including, but not limited to, a specific order to the person to keep the person's hands in plain sight.
- (c) (1) This section does not apply to any of the following:
 - A. An officer, agent or employee of this or any other state or the United States, or a law enforcement officer, when authorized to carry or have loaded or accessible firearms in motor vehicles and acting within the scope of the officer's, agent's or employee's duties;
 - B. Any person who is employed in this state, who is authorized to carry or have loaded or accessible firearms in motor vehicles, and who is subject to and in compliance with the requirements of O.R.C. § 109.801, unless the appointing authority of the person has expressly specified that the exemption provided in subsection (c)(1)B. does not apply to the person.
- (2) Subsection (a) of this section does not apply to a person who transports or possesses a handgun in a motor vehicle if, at the time of that transportation or possession, both of the following apply:

- A. The person transporting or possessing the handgun is carrying a valid concealed handgun license.
- B. The person transporting or possessing the handgun is not knowingly in a place described in division (B) of O.R.C. § 2923.126.
- (3) Subsection (a) of this section does not apply to a person if all of the following apply:
- A. The person possesses a valid electric-powered all-purpose vehicle permit issued under O.R.C. § 1533.103 by the Chief of the Division of Wildlife.
- B. The person is on or in an electric-powered all-purpose vehicle as defined in O.R.C. § 1531.01 or a motor vehicle during the open hunting season for a wild quadruped or game bird.
- C. The person is on or in an electric-powered all-purpose vehicle as defined in O.R.C. § 1531.01 or a motor vehicle that is parked on a road that is owned or administered by the Division of Wildlife, provided that the road is identified by an electric-powered all-purpose vehicle sign.
- (d) (1) The affirmative defenses authorized in Section 549.02(d)(1) and (2) are affirmative defenses to a charge under subsection (a) that involves a firearm other than a handgun.
- (2) It is an affirmative defense to a charge under subsection (a) of improperly handling firearms in a motor vehicle that the actor transported or had the firearm in the motor vehicle for any lawful purpose and while the motor vehicle was on the actor's own property, provided that the affirmative defense is not available unless the person, immediately prior to arriving at the actor's own property, did not transport or possess the firearm in a motor vehicle in a manner prohibited by subsection (a) while the motor vehicle was being operated on a street, highway, or other public or private property used by the public for vehicular traffic.
- (e) (1) No person who is charged with a violation of subsection (a) shall be required to obtain a concealed handgun license as a condition for the dismissal of the charge.
- (2) If a person is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of subsection (b) of this section as it existed prior to September 30, 2011, and if the conduct that was the basis of the violation no longer would be a violation of subsection (b) of this section on or after September 30, 2011, the person may file an application under O.R.C. § ~~2953.37~~ 2953.35 requesting the expungement of the record of conviction.
- If a person is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of subsection (a) of this section as the subsection existed prior to September 30, 2011, and if the conduct that was the basis of the violation no longer would be a violation of subsection (a) of this section on or after September 30, 2011, due to the application of subsection (b)(4) of this section as it exists on and after September 30, 2011, the person may file an application under O.R.C. § ~~2953.37~~ 2953.35 requesting the expungement of the record of conviction.
- (f) Whoever violates this section is guilty of improperly handling firearms in a motor vehicle. Violation of subsection (a) of this section is a misdemeanor of the fourth degree. Except as otherwise provided in this subsection, a violation of subsection (b)(1) or (b)(2) of this section is a misdemeanor of the first degree, and, in addition to any other penalty or sanction imposed for the violation, the offender's concealed handgun license shall be suspended pursuant to O.R.C. § 2923.128(A)(2). If at the time of the stop of the offender for a traffic stop, for another law enforcement purpose, or for a purpose defined in O.R.C. § 5503.34 that was the basis of the violation any law enforcement officer involved with the stop or the employee of the motor carrier enforcement unit who made the stop had actual knowledge of the offender's status as a licensee, a violation of subsection (b)(1) or (b)(2) of this section is a minor misdemeanor, and the offender's concealed handgun license shall not be suspended pursuant to division (A)(2) of O.R.C. § 2923.128. A violation of subsection (b)(3) or (4) of this section is a misdemeanor of the first degree or, if the offender previously has been convicted of or pleaded guilty to a violation of subsection (b)(3) or (4) of this section, a felony and shall be prosecuted under appropriate State law. In addition to any other penalty or sanction imposed for a misdemeanor violation of subsection (b)(3) or (4) of this section, the offender's concealed handgun license shall be suspended pursuant to O.R.C. § 2923.128(A)(2).

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- (g) If a law enforcement officer stops a motor vehicle for a traffic stop or any other purpose, if any person in the motor vehicle surrenders a firearm to the officer, either voluntarily or pursuant to a request or demand of the officer, and if the officer does not charge the person with a violation of this section or arrest the person for any offense, the person is not otherwise prohibited by law from possessing the firearm, and the firearm is not contraband, the officer shall return the firearm to the person at the termination of the stop. If a court orders a law enforcement officer to return a firearm to a person pursuant to the requirement set forth in this subsection, division (B) of O.R.C. § 2923.163 applies.
- (h) As used in this section:
- (1) *Motor vehicle, street and highway* have the same meanings as in O.R.C. § 4511.01.
 - (2) A. *Unloaded* means:
 1. With respect to a firearm other than a firearm described in subsection (h)(2)B. of this section, that no ammunition is in the firearm in question, no magazine or speed loader containing ammunition is inserted into the firearm in question and one of the following applies:
 - a. There is no ammunition in a magazine or speed loader that is in the vehicle in question and that may be used with the firearm in question.
 - b. Any magazine or speed loader that contains ammunition and that may be used with the firearm in question is stored in a compartment within the vehicle in question that cannot be accessed without leaving the vehicle or is stored in a container that provides complete and separate enclosure.
 2. For the purposes of subsection (h)(2)A.1.b. of this section, a *container that provides complete and separate enclosure* includes, but is not limited to, any of the following:
 - a. A package, box or case with multiple compartments, as long as the loaded magazine or speed loader and the firearm in question either are in separate compartments within the package, box, or case, or, if they are in the same compartment, the magazine or speed loader is contained within a separate enclosure in that compartment that does not contain the firearm and that closes using a snap, button, buckle, zipper, hook and loop closing mechanism, or other fastener that must be opened to access the contents or the firearm is contained within a separate enclosure of that nature in that compartment that does not contain the magazine or speed loader;
 - b. A pocket or other enclosure on the person of the person in question that closes using a snap, button, buckle, zipper, hook and loop closing mechanism, or other fastener that must be opened to access the contents.
 3. For the purposes of subsection (h)(2)A. of this section, ammunition held in stripper-clips or in en-bloc clips is not considered ammunition that is loaded into a magazine or speed loader.
 - B. *Unloaded* means, with respect to a firearm employing a percussion cap, flintlock, or other obsolete ignition system, when the weapon is uncapped or when the priming charge is removed from the pan.
- (3) *Commercial motor vehicle* has the same meaning as in O.R.C. § 4506.25(A).
 - (4) *Motor carrier enforcement unit* means the motor carrier enforcement unit in the Department of Public Safety, Division of State Highway Patrol, that is created by O.R.C. § 5503.34.
- (i) Subsection (h)(2) of this section does not affect the authority of a person who is carrying a valid concealed handgun license to have one or more magazines or speed loaders containing ammunition anywhere in a vehicle, without being transported as described in that subsection, as long as no ammunition is in a firearm, other than a handgun, in the vehicle other than as permitted under any other provision of this chapter or O.R.C. Ch. 2923. A person who is carrying a valid concealed handgun license may

have one or more magazines or speed loaders containing ammunition anywhere in a vehicle without further restriction, as long as no ammunition is in a firearm, other than a handgun, in the vehicle other than as permitted under any provision of this chapter or O.R.C. Ch. 2923.

State Law reference— (O.R.C. § 2923.16)

549.10 POSSESSING REPLICIA FIREARM IN SCHOOL.

- (a) No person shall knowingly possess an object in a school safety zone if both of the following apply:
- (1) The object is indistinguishable from a firearm, whether or not the object is capable of being fired.
 - (2) The person indicates that the person possesses the object and that it is a firearm, or the person knowingly displays or brandishes the object and indicates that it is a firearm.
- (b) Subsection (a) hereof does not apply to premises upon which home schooling is conducted. Subsection (a) hereof also does not apply to a school administrator, teacher, or employee who possesses an object that is indistinguishable from a firearm for legitimate school purposes during the course of employment, a student who uses an object that is indistinguishable from a firearm under the direction of a school administrator, teacher, or employee, or any other person who with the express prior approval of a school administrator possesses an object that is indistinguishable from a firearm for a legitimate purpose, including the use of the object in a ceremonial activity, a play, reenactment, or other dramatic presentation, or a ROTC activity or another similar use of the object.
- (c) Whoever violates subsection (a) hereof is guilty of illegal possession of an object indistinguishable from a firearm in a school safety zone. Except as otherwise provided in this subsection, illegal possession of an object indistinguishable from a firearm in a school safety zone is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of O.R.C. § 2923.122, illegal possession of an object indistinguishable from a firearm in a school safety zone is a felony and shall be prosecuted under appropriate state law.
- (d) (1) In addition to any other penalty imposed upon a person who is convicted of or pleads guilty to a violation of this section and subject to subsection (d)(2) of this section, if the offender has not attained 19 years of age, regardless of whether the offender is attending or is enrolled in a school operated by a board of education or for which the State Board Director of Education and Workforce prescribes minimum standards under O.R.C. § 3301.07, the court shall impose upon the offender a class four suspension of the offender's probationary driver's license, restricted license, driver's license, commercial driver's license, temporary instruction permit, or probationary commercial driver's license that then is in effect from the range specified in division (A)(4) of O.R.C. § 4510.02 and shall deny the offender the issuance of any permit or license of that type during the period of the suspension.
- If the offender is not a resident of this state, the court shall impose a class four suspension of the nonresident operating privilege of the offender from the range specified in division (A)(4) of O.R.C. § 4510.02.
- (2) If the offender shows good cause why the court should not suspend one of the types of licenses, permits, or privileges specified in subsection (d)(1) of this section or deny the issuance of one of the temporary instruction permits specified in that subsection, the court in its discretion may choose not to impose the suspension, revocation, or denial required in that subsection, but the court, in its discretion, instead may require the offender to perform community service for a number of hours determined by the court.
- (e) As used in this section, "object that is indistinguishable from a firearm" means an object made, constructed, or altered so that, to a reasonable person without specialized training in firearms, the object appears to be a firearm.

State Law reference— (O.R.C. § 2923.122)

Section 7. Unless another penalty is expressly provided, every person convicted of a violation of any provision of the Code or any ordinance, rule, or regulation adopted or issued in pursuance thereof shall be punished by a fine or imprisonment, or both. The fine shall not exceed five hundred dollars (\$500.00) and imprisonment shall not exceed six months.

Section 8. If any section, subsection, sentence, clause, phrase or portion of the Ordinance or its application to any person or circumstance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances. The governing authority of the City of Powell, Ohio hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional and, to that end, the provisions hereof are hereby declared to be severable.

Section 9. All ordinances and parts of ordinances in conflict herewith are expressly repealed.

Section 10. The adoption date of this ordinance is 5/21/2024 and the effective date of this ordinance shall be 6/21/2024.

ORDAINED this 21 day of May, 2024.

City of Powell, Ohio

X [Signature]
Mayor

ATTEST:

X [Signature]
City Clerk

I certify that the foregoing ordinance was duly passed by the governing authority of the said City Council on this 21 day of May, 2024.

X [Signature]
City Clerk

APPROVED AS TO FORM:

X [Signature]
City Attorney