

ADOPTING ORDINANCE
GENERAL OFFENSES

City of Gahanna

State of Ohio

ORDINANCE No. _____

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF GAHANNA, OHIO TO PROVIDE AMENDMENTS TO GENERAL OFFENSES GAHANNA CITY CODE SECTIONS 533.03, 533.04, 533.05, 537.02, 537.021, 545.07; 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 Gahanna, Ohio is authorized by ORC § 715.01 to adopt ordinances relating to its property, affairs and local government; and

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE MUNICIPALITY OF GAHANNA, STATE OF OHIO:

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

Section 2. The addition, amendment, or removal of Gahanna City Code Sections when passed in such form as to indicate the intention of the governing authority of the City of Gahanna, 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 Gahanna, 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(a) In preparing a supplement to the City's Municipal Code, all portions of this ordinance which have been repealed shall be excluded from the City's Municipal Code by the omission thereof from reprinted pages.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:

Codifier: Added material is underlined, deleted material is struck through.

- (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:

533.03 UNLAWFUL SEXUAL CONDUCT WITH A MINOR.

- (a) No person, who is 18 years of age or older, shall engage in sexual conduct with another, ~~who is not the spouse of the offender~~, when the offender knows the other person is 13 years of age or older but less than 16 years of age, or the offender is reckless in that regard.
- (b) Whoever violates this section is guilty of unlawful sexual conduct with a minor:
 - (1) Except as otherwise provided in subsections (b)(2), (3), and (4) of this section, unlawful sexual conduct with a minor is a felony of the fourth degree and shall be prosecuted under appropriate State law.

- (2) Except as otherwise provided in subsection (b)(4) of this section, if the offender is less than four years older than the other person, unlawful sexual conduct with a minor is a misdemeanor of the first degree.
- (3) Except as otherwise provided in subsection (b)(4) of this section, If the offender is ten or more years older than the other person, unlawful sexual conduct with a minor is a felony of the third degree and shall be prosecuted under appropriate State law.
- (4) If the offender has previously been convicted of or pleaded guilty to a violation of Ohio R.C. 2907.02, 2907.03 or 2907.04, or former Ohio R.C. 2907.12, unlawful sexual conduct with a minor is a felony and shall be prosecuted under appropriate State law.

(Ord. No. 0002-2022, § 1(Exh. A), 2-22-22)

State Law reference— (ORC 2907.04)

533.04 SEXUAL IMPOSITION.

- (a) No person shall have sexual contact with another, ~~not the spouse of the offender;~~ cause another, ~~not the spouse of the offender,~~ to have sexual contact with the offender; or cause two or more persons to have sexual contact when any of the following applies:
 - (1) The offender knows that the sexual contact is offensive to the other person, or one of the other persons, or is reckless in that regard.
 - (2) The offender knows that the other person's or one of the other person's ability to appraise the nature of or control the offender's or touching person's conduct is substantially impaired.
 - (3) The offender knows that the other person or one of the other persons submits because of being unaware of the sexual contact.
 - (4) The other person or one of the other persons is 13 years of age or older but less than 16 years of age, whether or not the offender knows the age of such person, and the offender is at least 18 years of age and four or more years older than such other person.
 - (5) The offender is a mental health professional, the other person or one of the other persons is a mental health client or patient of the offender, and the offender induces the other person who is the client or patient to submit by falsely representing to the other person who is the client or patient that the sexual contact is necessary for mental health treatment purposes.
- (b) No person shall be convicted of a violation of this section solely upon the victim's testimony unsupported by other evidence.
- (c) Whoever violates this section is guilty of sexual imposition, a misdemeanor of the third degree. If the offender previously has been convicted of or pleaded guilty to a violation of this section or of Ohio R.C. 2907.02, 2907.03, 2907.04, or 2907.05, or former Ohio R.C. 2907.12 or a substantially similar municipal ordinance, a violation of this section is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to three or more violations of this section or Ohio R.C. 2907.02, 2907.03, 2907.04, or 2907.05, or former Ohio

R.C. 2907.12 or of any combination of those sections, a violation of this section is a misdemeanor of the first degree and, notwithstanding the range of jail terms prescribed in Ohio R.C. 2929.24, the court may impose on the offender a definite jail term of not more than one year.

(Ord. No. 0002-2022, § 1(Exh. A), 2-22-22)

State Law reference— (ORC 2907.06)

533.05 GROOMING~~IMPORTUNING~~.

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

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

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

(1) Entice, coerce, or solicit the minor to engage in sexual activity, and when the person's purpose in engaging in the pattern of conduct is to entice, coerce, or solicit the minor to engage in sexual activity with the person or a third person;

(2) Prepare the minor to engage in sexual activity, and when the person's purpose in engaging in the pattern of conduct is to prepare the minor to engage in sexual activity with the person or a third person that would be a violation of section 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, or 2907.07 of the Ohio Revised Code or any substantially similar municipal offense.

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

(1) Entice, coerce, or solicit the minor to engage in sexual activity, and when the person's purpose in engaging in the pattern of conduct is to entice, coerce, or solicit the minor to engage in sexual activity with the person or a third person;

(2) Prepare the minor to engage in sexual activity, and when the person's purpose in engaging in the pattern of conduct is to prepare the minor to engage in sexual activity with the person or a third person that would be a violation of section 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, or 2907.07 of the Ohio Revised Code or any substantially similar municipal offense.

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

(1) Except as otherwise provided in this division, a violation of division (B) of this section is a misdemeanor of the second degree. If the victim of the offense is less than thirteen years of age or if the offender supplied alcohol or a drug of abuse to the victim of the offense, a violation of division (B) of this section is a felony of the fifth degree. If the victim of the offense is less than thirteen years of age and if the offender previously has been convicted of or pleaded guilty to a violation of this section or a sexually oriented offense or a child-victim oriented offense or the offender supplied alcohol or a drug of abuse to the victim of the offense, a violation of division (B) of this section is a felony of the fourth degree. If the offender previously has been convicted of or pleaded guilty to a violation of this section or a sexually oriented offense or a child-victim oriented offense and the offender supplied alcohol or a drug of abuse to the victim of the offense, a violation of division (B) of this section is a felony of the third degree.

(2) Except as otherwise provided in this division, a violation of division (C) of this section is a misdemeanor of the first degree. If the offender supplied alcohol or a drug of abuse to the victim of the offense, a violation of division (C) of this section is a felony of the fifth degree. If the victim of the offense is less than thirteen years of age or if the offender previously has been convicted of or pleaded guilty to a violation of this section or a sexually oriented offense or a child-victim oriented offense, a violation of division (C) of this section is a felony of the fourth degree. If the victim of the offense is less than thirteen years of age and if the offender previously has been convicted of or pleaded guilty to a violation of this section or a sexually oriented offense or a child-victim oriented offense or the offender supplied alcohol or a drug of abuse to the victim of the offense, a violation of division (C) of this section is a felony of the third degree.

(E) 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.

State Law Reference – (ORC 2907.071)

537.02 VEHICULAR HOMICIDE AND MANSLAUGHTER.

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

(1) ~~A. As the proximate result of committing an OVI offense, a violation of division (A) of Ohio R.C. 4511.19 or of a substantially equivalent municipal ordinance;~~

~~B. As the proximate result of committing a violation of division (A) of Ohio R.C. 1547.11 or of a substantially equivalent municipal ordinance;~~

~~C. As the proximate result of committing a violation of division (A)(3) of Ohio R.C. 4561.15 or of a substantially equivalent municipal ordinance.~~

(2) In one of the following ways:

A. Recklessly;

- B. As the proximate result of committing, while operating or participating in the operation of a motor vehicle, utility vehicle, mini truck, or motorcycle in a construction zone, a reckless operation offense, provided that this subsection applies only if the person whose death is caused or whose pregnancy is unlawfully terminated is in the construction zone at the time of the offender's commission of the reckless operation offense in the construction zone and does not apply as described in subsection (f) of this section.
- (3) In one of the following ways:
- A. Negligently;
- B. As the proximate result of committing, while operating or participating in the operation of a motor vehicle, utility vehicle, mini truck, or motorcycle in a construction zone, a speeding offense, provided that this division applies only if the person whose death is caused or whose pregnancy is unlawfully terminated is in the construction zone at the time of the offender's commission of the speeding offense in the construction zone and does not apply as described in subsection (f) of this section.
- (4) As the proximate result of committing a violation of any provision of any section contained in Title XLV of the Revised Code that is a minor misdemeanor or of a municipal ordinance that, regardless of the penalty set by ordinance for the violation, is substantially equivalent to any provision of any section contained in Title XLV of the Revised Code that is a minor misdemeanor.
- (b) (1) Whoever violates subsection (a)(1) or (2) of this section is guilty of aggravated vehicular homicide and shall be punished as provided in subsection (b)(2) and (3) of this section.
- (2) A. Except as otherwise provided in subsection (b)(2)~~B or C,~~ C, or D of this section, aggravated vehicular homicide committed in violation of subsection (a)(1) of this section is a felony and shall be prosecuted under appropriate State law ~~and the court shall impose a mandatory prison term on the offender as described in subsection (e) of this section.~~
- B. Except as otherwise provided in subsection (b)(2)~~C or D~~ C or D of this section, aggravated vehicular homicide committed in violation of subsection (a)(1) of this section is a felony and shall be prosecuted under appropriate State law, and the court shall impose a mandatory prison term on the offender as described in subsection (e) of this section, if any of the following apply:
1. At the time of the offense, the offender was driving under a suspension or cancellation imposed under Ohio R.C. Chapter 4510. or any other provision of the Revised Code or was operating a motor vehicle or motorcycle, did not have a valid driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege, and was not eligible for renewal of the offender's driver's license or commercial driver's license without examination under Ohio R.C. 4507.10.
 2. The offender previously has been convicted of or pleaded guilty to ~~a violation of this section~~ one prior OVI offense within the previous twenty years.

3. The offender previously has been convicted of or pleaded guilty to ~~any one prior~~ traffic-related homicide, manslaughter, or assault offense within the previous twenty years.
- C. ~~Aggravated~~ Except as otherwise provided in division (b)(2)(D) of this section, aggravated vehicular homicide committed in violation of subsection (a)(1) of this section is a felony and shall be prosecuted under appropriate State law, and the court shall sentence the offender to a mandatory prison term as provided in Ohio R.C. 2929.142 and described in subsection (e) of this section if any of the following apply:
1. The offender previously has been convicted of or pleaded guilty to ~~three or more two prior violations of division (A) Ohio R.C. 4511.19 or of a substantially equivalent municipal ordinance~~ OVI offenses within the previous ~~ten~~ twenty years.
 2. The offender previously has been convicted of or pleaded guilty to ~~three or more two prior violations of division (A) of Ohio R.C. 1547.11 or of a substantially equivalent municipal ordinance~~ traffic-related homicide, manslaughter, or assault offenses within the previous ~~ten~~ twenty years.
 3. The offender previously has been convicted of or pleaded guilty to ~~three or more two prior violations of division (A)(3) of Ohio R.C. 4561.15 or of a substantially equivalent municipal ordinance~~ any combination of the offenses listed in division (b)(2)(C)(1) and (2) of this section within the previous ~~ten~~ twenty years.
 4. (D) Aggravated vehicular homicide committed in violation of division (a)(1) of this section is a felony of the first degree, and the court shall sentence the offender to a mandatory prison term as provided in Ohio R.C. 2929.142 and described in division (e) of this section if any of the following apply:
 - (1) The offender previously has been convicted of or pleaded guilty to three or more prior ~~violations of division (a)(1) of this section~~ OVI offenses within the previous ~~ten~~ twenty years.
 5. (2) The offender previously has been convicted of or pleaded guilty to three or more prior ~~violations of division (A)(1) of Ohio R.C. 2903.08~~ traffic-related homicide, manslaughter, or assault offenses within the previous ~~ten~~ twenty years.
 6. (3) The offender previously has been convicted of or pleaded guilty to three or more prior violations of ~~Ohio R.C. 2903.04~~ any combination of the offenses listed in divisions (b)(2)(D)(1) and (2) of this section within the previous ~~ten~~ twenty years in circumstances in which division (D) of that section applied regarding the violations.
 7. ~~The offender previously has been convicted of or pleaded guilty to three or more violations of any combination of the offenses listed in subsection (b)(2)C.1, 2, 3, 4, 5, or 6 of this section within the previous ten years.~~
 8. ~~The offender previously has been convicted of or pleaded guilty to a second or subsequent felony violation of division (A) of Ohio R.C. 4511.19.~~

~~DE~~. In addition to any other sanctions imposed pursuant to subsection (b)(2)A, B, ~~or C~~, or D of this section for aggravated vehicular homicide committed in violation of subsection (a)(1) of this section, the court shall impose upon the offender a class one suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege as specified in division (A)(1) of Ohio R.C. 4510.02.

Divisions (A)(1) to (3) of Ohio R.C. 4510.54 apply to a suspension imposed under subsection (b)(2)~~BE~~ of this section.

F. Notwithstanding Ohio R.C. 2929.18, and in addition to any other sanctions imposed pursuant to division (b)(2) of this section for aggravated vehicular homicide committed in violation of division (a)(1) of this section, the court shall impose upon the offender a fine of not more than twenty-five thousand dollars.

- (3) Except as otherwise provided in this division, aggravated vehicular homicide committed in violation of subsection (a)(2) of this section is a felony and shall be prosecuted under appropriate state law. Aggravated vehicular homicide committed in violation of subsection (a)(2) of this section is a felony and shall be prosecuted under appropriate state law if, at the time of the offense, the offender was driving under a suspension or cancellation imposed under Ohio R.C. Chapter 4510. or any other provision of the Ohio Revised Code or was operating a motor vehicle or motorcycle, did not have a valid driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege, and was not eligible for renewal of the offender's driver's license or commercial driver's license without examination under Ohio R.C. 4507.10 or if the offender previously has been convicted of or pleaded guilty to a violation of this section or any traffic- related homicide, manslaughter, or assault offense. The court shall impose a mandatory prison term on the offender when required by subsection (e) of this section.

In addition to any other sanctions imposed pursuant to this section for a violation of subsection (a)(2) of this section, the court shall impose upon the offender a class two suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(2) of Ohio R.C. 4510.02 or, if the offender previously has been convicted of or pleaded guilty to a traffic- related murder, felonious assault, or attempted murder offense, a class one suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege as specified in division (A)(1) of Ohio R.C. 4510.02.

- (c) Whoever violates subsection (a)(3) of this section is guilty of vehicular homicide. Except as otherwise provided in this section, vehicular homicide is a misdemeanor of the first degree. Vehicular homicide committed in violation of subsection (a)(3) of this section is a felony and shall be prosecuted under appropriate State law, if, at the time of the offense, the offender was driving under a suspension or cancellation imposed under Ohio R.C. Chapter 4510. or any other provision of the Revised Code or was operating a motor vehicle or motorcycle, did not have a valid driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege, and was not eligible for renewal of

the offender's driver's license or commercial driver's license without examination under Ohio R.C. 4507.10 or if the offender previously has been convicted of or pleaded guilty to a violation of this section or any traffic-related homicide, manslaughter, or assault offense. The court shall impose a mandatory jail term or a mandatory prison term on the offender when required by subsection (e) of this section.

In addition to any other sanctions imposed pursuant to this division, the court shall impose upon the offender a class four suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(4) of Ohio R.C. 4510.02, or, if the offender previously has been convicted of or pleaded guilty to a violation of this section or any traffic-related homicide, manslaughter, or assault offense, a class three suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(3) of that section, or, if the offender previously has been convicted of or pleaded guilty to a traffic-related murder, felonious assault, or attempted murder offense, a class two suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege as specified in division (A)(2) of that section.

- (d) Whoever violates subsection (a)(4) of this section is guilty of vehicular manslaughter. Except as otherwise provided in this division, vehicular manslaughter is a misdemeanor of the second degree. Vehicular manslaughter is a misdemeanor of the first degree if, at the time of the offense, the offender was driving under a suspension or cancellation imposed under Ohio R.C. Chapter 4510. or any other provision of the Revised Code or was operating a motor vehicle or motorcycle, did not have a valid driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege, and was not eligible for renewal of the offender's driver's license or commercial driver's license without examination under Ohio R.C. 4507.10 or if the offender previously has been convicted of or pleaded guilty to a violation of this section or any traffic-related homicide, manslaughter, or assault offense.

In addition to any other sanctions imposed pursuant to this division, the court shall impose upon the offender a class six suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(6) of Ohio R.C. 4510.02 or, if the offender previously has been convicted of or pleaded guilty to a violation of this section, any traffic-related homicide, manslaughter, or assault offense, or a traffic-related murder, felonious assault, or attempted murder offense, a class four suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(4) of that section.

- (e) (1) The court shall impose a mandatory prison term on an offender who is convicted of or pleads guilty to a violation of subsection (a)(1) of this section. Except as otherwise provided in this division, the mandatory prison term shall be a definite term from the range of prison terms provided in division (A)(1)(b) of Ohio R.C. 2929.14 for a felony of the first degree or from division (A)(2)(b) of that section for a felony of the second degree, whichever is applicable, except that if the violation is committed on or after March 22, 2019, the court shall impose as the minimum prison term for the offense a mandatory prison term that is one of the minimum terms prescribed for a felony of the first degree

in division (A)(1)(a) of Ohio R.C. 2929.14 or one of the terms prescribed for a felony of the second degree in division (A)(2)(a) of that section, whichever is applicable. If subsection (b)(2)~~C.1, 2, 3, 4, 5, 6, 7,~~ or D8 of this section applies to an offender who is convicted of or pleads guilty to the violation of subsection (a)(1) of this section, the court shall impose the mandatory prison term pursuant to division (A) or (B) of Ohio R.C. 2929.142, as applicable. The court shall impose a mandatory jail term of at least 15 days on an offender who is convicted of or pleads guilty to a misdemeanor violation of subsection (A)(3)(b) of this section and may impose upon the offender a longer jail term as authorized pursuant to Ohio R.C. 2929.24.

- (2) The court shall impose a mandatory prison term on an offender who is convicted of or pleads guilty to a violation of division (a)(2) or (3)A of this section or a felony violation of division (a)(3)B of this section if either division (e)(2)A or B of this section applies. The mandatory prison term shall be a definite term from the range of prison terms provided in division (A)(3)(a) of Ohio R.C. 2929.14 for a felony of the third degree or from division (A)(4) of that section for a felony and shall be prosecuted under appropriate State law, whichever is applicable. The court shall impose a mandatory prison term on an offender in a category described in this division if either of the following applies:

- A. The offender previously has been convicted of or pleaded guilty to a violation of this section or Ohio R.C. 2903.08.
- B. At the time of the offense, the offender was driving under suspension or cancellation under Ohio R.C. Chapter 4510. or any other provision of the Revised Code or was operating a motor vehicle or motorcycle, did not have a valid driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege, and was not eligible for renewal of the offender's driver's license or commercial driver's license without examination under Ohio R.C. 4507.10.

- (f) Subsections (a)(2)B and (3)B of this section do not apply in a particular construction zone unless signs of the type described in Ohio R.C. 2903.081 are erected in that construction zone in accordance with the guidelines and design specifications established by the director of transportation under Ohio R.C. 5501.27. The failure to erect signs of the type described in Ohio R.C. 2903.081 in a particular construction zone in accordance with those guidelines and design specifications does not limit or affect the application of subsection (a)(1), (a)(2)A, (a)(3)A, or (a)(4) of this section in that construction zone or the prosecution of any person who violates any of those divisions in that construction zone.

- (g) (1) As used in this section:

- A. *Mandatory prison term* and mandatory jail term have the same meanings as in Ohio R.C. 2929.01.
- B. *Traffic-related homicide, manslaughter, or assault offense* means a violation of Ohio R.C. 2903.04 in circumstances in which division (D) of that section applies, a violation of Ohio R.C. 2903.06 or Ohio R.C. 2903.08, or a violation of Ohio R.C. 2903.06, 2903.07, or 2903.08 as they existed prior to March 23, 2000.
- C. *Construction zone* has the same meaning as in Ohio R.C. 5501.27.

- D. *Reckless operation offense* means a violation of Ohio R.C. 4511.20 or a municipal ordinance substantially equivalent to Ohio R.C. 4511.20.
- E. *Speeding offense* means a violation of Ohio R.C. 4511.21 or a municipal ordinance pertaining to speed.
- F. *Traffic-related murder, felonious assault, or attempted murder offense* means a violation of Ohio R.C. 2903.01 or 2903.02 in circumstances in which the offender used a motor vehicle as the means to commit the violation, a violation of division (a)(2) of Ohio R.C. 2903.11 in circumstances in which the deadly weapon used in the commission of the violation is a motor vehicle, or an attempt to commit aggravated murder or murder in violation of Ohio R.C. 2923.02 in circumstances in which the offender used a motor vehicle as the means to attempt to commit the aggravated murder or murder.
- G. *Motor vehicle, utility vehicle, and mini truck*, has the same meanings as in Ohio R.C. 4501.01.
- H. *OVI offense* means a violation of Ohio R.C. 4511.19(A), a violation of Ohio R.C. 1547.11(A), a violation of Ohio R.C. 4561.15(A)(3), or a substantially equivalent municipal ordinance.

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

(Ord. No. 0002-2022, § 1(Exh. A), 2-22-22; Ord. No. 0054-2024, § 6, 10-7-24)

State Law reference— (ORC 4510.07)

537.021 VEHICULAR ASSAULT IN A CONSTRUCTION ZONE.

- (a) No person, while operating or participating in the operation of a motor vehicle, motorcycle, utility vehicle, mini-truck, snowmobile, locomotive, watercraft, or aircraft, shall cause serious physical harm to another person or another's unborn in any of the following ways:
- (1) A. As the proximate result of committing a violation of division (A) of Ohio R.C. 4511.19 or of a substantially equivalent municipal ordinance;
 - B. As the proximate result of committing a violation of division (A) of Ohio R.C. 1547.11 or of a substantially equivalent municipal ordinance;
 - C. As the proximate result of committing a violation of division (A)(3) of Ohio R.C. 4561.15 or of a substantially equivalent municipal ordinance.
- (2) In one of the following ways:
- A. As the proximate result of committing, while operating or participating in the operation of a motor vehicle, utility vehicle, mini-truck, or motorcycle in a construction zone, a reckless operation offense, provided that this division applies only if the person to

whom the serious physical harm is caused or to whose unborn the serious physical harm is caused is in the construction zone at the time of the offender's commission of the reckless operation offense in the construction zone and does not apply as described in subsection (e) of this section;

B. Recklessly.

- (3) As the proximate result of committing, while operating or participating in the operation of a motor vehicle, utility vehicle, mini-truck, or motorcycle in a construction zone, a speeding offense, provided that this division applies only if the person to whom the serious physical harm is caused or to whose unborn the serious physical harm is caused is in the construction zone at the time of the offender's commission of the speeding offense in the construction zone and does not apply as described in subsection (e) of this section.
- (b) (1) Whoever violates subsection (a)(1) of this section is guilty of aggravated vehicular assault. Except as otherwise provided in this division, aggravated vehicular assault is a felony and shall be prosecuted under appropriate state law. Aggravated vehicular assault is a felony and shall be prosecuted under appropriate state law if any of the following apply:
- A. At the time of the offense, the offender was driving under a suspension imposed under Ohio R.C. Chapter 4510 or any other provision of the Ohio Revised Code.
 - B. The offender previously has been convicted of or pleaded guilty to a violation of this section.
 - C. The offender previously has been convicted of or pleaded guilty to any traffic-related homicide, manslaughter, or assault offense.
 - D. The offender previously has been convicted of or pleaded guilty to three or more prior violations of division (A) Ohio R.C. 4511.19 or a substantially equivalent municipal ordinance within the previous ten years.
 - E. The offender previously has been convicted of or pleaded guilty to three or more prior violations of division (A) of Ohio R.C. 1547.11 or of a substantially equivalent municipal ordinance within the previous ten years. The offender previously has been convicted of or pleaded guilty to three or more prior violations of division (A)(3) of Ohio R.C. 4561.15 or of a substantially equivalent municipal ordinance within the previous ten years.
 - F. The offender previously has been convicted of or pleaded guilty to three or more prior violations of any combination of the offenses listed in subsection (b)(1)C, D, or E of this section.
 - G. The offender previously has been convicted of or pleaded guilty to a second or subsequent felony violation of division (A) of Ohio R.C. 4511.19.
- (2) In addition to any other sanctions imposed pursuant to subsection (b)(1) of this section, except as otherwise provided in this division, the court shall impose upon the offender a class three suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(3) of Ohio R.C. 4510.02. If the offender previously has been convicted of or pleaded guilty to a violation of this section, any

traffic-related homicide, manslaughter, or assault offense, or any traffic-related murder, felonious assault, or attempted murder offense, the court shall impose either a class two suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(2) of that section or a class one suspension as specified in division (A)(1) of that section.

(c) (1) Whoever violates subsection (a)(2) or (3) of this section is guilty of vehicular assault and shall be punished as provided in subsections (c)(2) and (3) of this section.

(2) Except as otherwise provided in this section, vehicular assault committed in violation of subsection (A)(2) of this section is a felony and shall be prosecuted under appropriate State law. Vehicular assault committed in violation of subsection (A)(2) of this section is a felony and shall be prosecuted under appropriate State law, if, at the time of the offense, the offender was driving under a suspension imposed under Ohio R.C. Chapter 4510. or any other provision of the Revised Code, if the offender previously has been convicted of or pleaded guilty to a violation of this section or any traffic-related homicide, manslaughter, or assault offense, or if, in the same course of conduct that resulted in the violation of subsection (a)(2) of this section, the offender also violated Ohio R.C. 4549.02, 4549.021, or 4549.03.

In addition to any other sanctions imposed, the court shall impose upon the offender a class four suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(4) of Ohio R.C. 4510.02 or, if the offender previously has been convicted of or pleaded guilty to a violation of this section, any traffic-related homicide, manslaughter, or assault offense, or any traffic-related murder, felonious assault, or attempted murder offense, a class three suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(3) of that section.

(3) Except as otherwise provided in this division, vehicular assault committed in violation of subsection (A)(3) of this section is a misdemeanor of the first degree. Vehicular assault committed in violation of subsection (a)(3) of this section is a felony and shall be prosecuted under appropriate State law if, at the time of the offense, the offender was driving under a suspension imposed under Ohio R.C. Chapter 4510. or any other provision of the Revised Code or if the offender previously has been convicted of or pleaded guilty to a violation of this section or any traffic-related homicide, manslaughter, or assault offense.

In addition to any other sanctions imposed, the court shall impose upon the offender a class four suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(4) of Ohio R.C. 4510.02 or, if the offender previously has been convicted of or pleaded guilty to a violation of this section, any traffic-related homicide, manslaughter, or assault offense, or any traffic-related murder, felonious assault, or attempted murder offense, a class three suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary

license, or nonresident operating privilege from the range specified in division (A)(3) of Ohio R.C. 4510.02 of the Revised Code.

- (d) (1) The court shall impose a mandatory prison term, as described in subsection (d)(4) of this section, on an offender who is convicted of or pleads guilty to a violation of subsection (a)(1) of this section.
- (2) The court shall impose a mandatory prison term, as described in subsection (d)(4) of this section, on an offender who is convicted of or pleads guilty to a violation of subsection (a)(2) of this section or a felony violation of subsection (a)(3) of this section if either of the following applies:
 - A. The offender previously has been convicted of or pleaded guilty to a violation of this section or Ohio R.C. 2903.06.
 - B. At the time of the offense, the offender was driving under suspension under Ohio R.C. Chapter 4510. or any other provision of the Revised Code.
- (3) The court shall impose a mandatory jail term of at least seven days on an offender who is convicted of or pleads guilty to a misdemeanor violation of division (a)(3) of this section and may impose upon the offender a longer jail term as authorized pursuant to Ohio R.C. 2929.24 of the Revised Code.
- (4) A mandatory prison term required under subsection (d)(1) or (2) of this section shall be a definite term from the range of prison terms provided in division (A)(2)(b) of Ohio R.C. 2929.14 of the Revised Code for a felony of the second degree, from division (A)(3)(a) of that section for a felony of the third degree, or from division (A)(4) of that section for a felony of the fourth degree, whichever is applicable, and shall be prosecuted under appropriate State law except that if the violation is a felony of the second degree committed on or after March 22, 2019, the court shall impose as the minimum prison term for the offense a mandatory prison term that is one of the minimum terms prescribed for a felony of the second degree in division (A)(2)(a) of Ohio R.C. 2929.14 of the Revised Code.
- (e) Subsections (a)(2)A and (3) of this section do not apply in a particular construction zone unless signs of the type described in Ohio R.C. 2903.081 are erected in that construction zone in accordance with the guidelines and design specifications established by the director of transportation under Ohio R.C. 5501.27. The failure to erect signs of the type described in Ohio R.C. 2903.081 in a particular construction zone in accordance with those guidelines and design specifications does not limit or affect the application of subsection (a)(1) or (2)B of this section in that construction zone or the prosecution of any person who violates either of those subsections in that construction zone.
- (f) As used in this section:
 - (1) *Mandatory prison term* and *mandatory jail term* have the same meanings as in Ohio R.C. 2929.01 of the Revised Code.
 - (2) *Traffic-related homicide, manslaughter, or assault offense* and *traffic-related murder, felonious assault, or attempted murder offense* have the same meanings as in Ohio R.C. 2903.06 of the Revised Code.

- (3) *Construction zone* has the same meaning as in Ohio R.C. 5501.27 of the Revised Code.
- (4) *Reckless operation offense* and *speeding offense* have the same meanings as in Ohio R.C. 2903.06 of the Revised Code.
- (g) For the purposes of this section, when a penalty or suspension is enhanced because of a prior or current violation of a specified law or a prior or current specified offense, the reference to the violation of the specified law or the specified offense includes any violation of any substantially equivalent municipal ordinance, former law of this state, or current or former law of another state or the United States.

(Ord. No. 0002-2022, § 1(Exh. A), 2-22-22; Ord. No. 0054-2024, § 6, 10-7-24)

State Law reference— (ORC 2903.08)

541.04 CRIMINAL MISCHIEF.

(a) No person shall:

- (1) Without privilege to do so, knowingly move, deface, damage, destroy or otherwise improperly tamper with either of the following:
 - A. The property of another;
 - B. One's own residential real property with the purpose to decrease the value of or enjoyment of the residential real property, if both of the following apply:
 1. The residential real property is subject to a mortgage.
 2. The person has been served with a summons and complaint in a pending residential mortgage loan foreclosure action relating to that real property. As used in this division, "pending" includes the time between judgment entry and confirmation of sale.
- (2) With purpose to interfere with the use or enjoyment of property of another employ a tear gas device, stink bomb, smoke generator or other device releasing a substance that is harmful or offensive to persons exposed, or that tends to cause public alarm;
- (3) Without privilege to do so, knowingly move, deface, damage, destroy or otherwise improperly tamper with a bench mark, triangulation station, boundary marker or other survey station, monument or marker.
- (4) Without privilege to do so, knowingly move, deface, damage, destroy or otherwise improperly tamper with any safety device, the property of another or the property of the offender when required or placed for the safety of others, so as to destroy or diminish its effectiveness or availability for its intended purpose;
- (5) With purpose to interfere with the use or enjoyment of the property of another, set a fire on the land of another or place personal property that has been set on fire on the land of another, which fire or personal property is outside and apart from any building, other structure or personal property that is on that land.

- (6) Without privilege to do so, and with intent to impair the functioning of any computer, computer system, computer network, computer software, or computer program, all as defined in Ohio R.C. 2909.01, knowingly do any of the following:
- A. In any manner or by any means, including, but not limited to, computer hacking, alter, damage, destroy, or modify a computer, computer system, computer network, computer software, or computer program or data contained in a computer, computer system, computer network, computer software, or computer program;
 - B. Introduce a computer contaminant into a computer, computer system, computer network, computer software or computer program.
- (b) As used in this section, "safety device" means any fire extinguisher, fire hose or fire axe, or any fire escape, emergency exit or emergency escape equipment, or any life line, life-saving ring, life preserver or life boat or raft, or any alarm, light, flare, signal, sign or notice intended to warn of danger, or emergency, or intended for other safety purposes, or any guard railing or safety barricade, or any traffic sign or signal, or any railroad grade crossing sign, signal or gate, or any first aid or survival equipment, automated external defibrillator, or any other device, apparatus, or equipment intended for protecting or preserving the safety of persons or property.
- (c) (1) Whoever violates this section is guilty of criminal mischief, and shall be punished as provided in subsection (c)(2), ~~or (3), or (4)~~ of this section.
- (2) Except as otherwise provided in this subsection, criminal mischief committed in violation of subsection (a)(1), (2), (3), (4) or (5) of this section is a misdemeanor of the third degree. Except as otherwise provided in this subsection, if the violation of subsection (a)(1), (2), (3), (4) or (5) of this section creates a risk of physical harm to any person, criminal mischief committed in violation of subsection (a)(1), (2), (3), (4) or (5) of this section is a misdemeanor of the first degree. If the property involved in the violation of subsection (a)(1), (2), (3), (4) or (5) of this section is an aircraft, an aircraft engine, propeller, appliance, spare part, fuel, lubricant, hydraulic fluid, any other equipment, implement, or material used or intended to be used in the operation of an aircraft, or any cargo carried or intended to be carried in an aircraft, criminal mischief committed in violation of subsection (a)(1), (2), (3), (4) or (5) of this section is a felony and shall be prosecuted under appropriate State law.
- (3) If the property involved in the violation of subsection (a)(4) of this section is an automated external defibrillator, criminal mischief committed in violation of subsection (a)(4) is a misdemeanor of the first degree.
- (4) Except as otherwise provided in this subsection, criminal mischief committed in violation of subsection (a)(6) of this section is a misdemeanor of the first degree. If the value of the computer, computer system, computer network, computer software, computer program or data involved in the violation of subsection (a)(6) of this section or the loss to the victim resulting from the violation is \$1,000.00 or more, or if the computer, computer system, computer network, computer software, computer program or data involved in the violation of subsection (a)(6) of this section is used or intended to be used in the operation of an aircraft and the violation creates a risk of physical harm

to any person, criminal mischief committed in violation of subsection (a)(6) of this section is a felony and shall be prosecuted under appropriate State law.

(Ord. No. 0002-2022, § 1(Exh. A), 2-22-22)

State law reference(s)—(ORC 2909.07)

545.07 INSURANCE FRAUD.

(a) As used in this section:

- (1) *Data* has the same meaning as in Section 545.01 and additionally includes any other representation of information, knowledge, facts, concepts or instructions that are being or have been prepared in a formalized manner.
- (2) *Deceptive* means that a statement, in whole or in part, would cause another to be deceived because it contains a misleading representation, withholds information, prevents the acquisition of information or by any other conduct, act or omission creates, confirms or perpetuates a false impression, including, but not limited to, a false impression as to law, value, state of mind or other objective or subjective fact.
- (3) *Insurer* means any person that is authorized to engage in the business of insurance in this State under Title XXXIX of the Ohio Revised Code; The Ohio Fair Plan Underwriting Association created under Ohio R.C. 3929.43; the assigned risk plan created under Ohio R.C. 4509.70 any health insuring corporation; and any legal entity that is self-insured and provides benefits to its employees or members.
- (4) *Policy* means a policy, certificate, contract or plan that is issued by an insurer.
- (5) *Statement* includes, but is not limited to, any notice, letter or memorandum; proof of loss; bill of lading; receipt for payment; invoice, account or other financial statement; estimate of property damage; bill for services; diagnosis or prognosis; prescription; hospital, medical or dental chart or other record; X-Ray, photograph, videotape or movie film; test result; other evidence of loss, injury or expense; computer-generated document; and data in any form.

(b) No person, with purpose to defraud or knowing that the person is facilitating a fraud, shall do either of the following:

- (1) Present to, or cause to be presented to, an insurer any written or oral statement that is part of, or in support of, an application for insurance, a claim for payment pursuant to a policy or a claim for any other benefit pursuant to a policy, knowing that the statement, or any part of the statement, is false or deceptive;
- (2) Assist, aid, abet, solicit, procure or conspire with another to prepare or make any written or oral statement that is intended to be presented to an insurer as part of, or in support of, an application for insurance, a claim for payment pursuant to a policy, or a claim for any other benefit pursuant to a policy, knowing that the statement, or any part of the statement, is false or deceptive.

(c) Whoever violates this section is guilty of insurance fraud a misdemeanor of the first degree. If the amount of the claim that is false or deceptive is \$1,000.00 or more, insurance fraud is a felony and shall be prosecuted under appropriate State law.

(d) This section shall not be construed to abrogate, waive or modify Ohio R.C. 2317.02(A).

State Law reference— (ORC 2913.47)

Section 7. 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 Gahanna, 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 8. All ordinances and parts of ordinances in conflict herewith are expressly repealed.

Section 9. The adoption date of this ordinance is _____ and the effective date of this ordinance shall be _____.

ORDAINED this ____ day of _____, _____.

City of Gahanna, Ohio

X

President of Council

ATTEST:

X

Mayor

I certify that the foregoing ordinance was duly passed by the governing authority of the said city council on this ____ day of _____, _____.

X

Clerk of Council

APPROVED AS TO FORM:

X

City Attorney