

AN ORDINANCE AMENDING SECTION 545.03 OF CHAPTER 545, "THEFT AND FRAUD," SECTIONS 549.01, 549.02, 549.06, 549.08, AND 549.09 OF CHAPTER 549, "WEAPONS AND EXPLOSIVES," OF THE CODIFIED ORDINANCES TO CONFORM TO STATE LAW, AND DECLARING AN EMERGENCY

WHEREAS, Amended Substitute House Bill Number 228 (Am. Sub. H.B. 228) was passed by the General Assembly, signed into law by the governor, and became effective on March 28, 2018; and

WHEREAS, Am. Sub. H.B. 228 amended multiple sections in the Ohio Revised Code with respect to rights of gun owners, concealed carry, self-defense, and other matters; and

WHEREAS, Am. Sub. H.B. 228 preempts any local ordinance that further restricts a person's right to own, possess, purchase, acquire, transport, store, carry, sell, transfer, manufacture or keep any firearm; and

WHEREAS, Chapter 545 "Theft and Fraud" and Chapter 549, "Weapons and Explosives," therefore must be amended to conform to the amendments contained in Am. Sub. H.B. 228; and

WHEREAS, this Council desires to amend Section 545.03 of Chapter 545, "Theft and Fraud," and Sections 549.01, 549.02, 549.06, 549.08, and 549.09 of Chapter 549, "Weapons and Explosives," of the Codified Ordinances as set forth in this Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of Richfield, Summit County, State of Ohio, that:

SECTION 1. Section 545.03, "Property Exceptions as Felony Offense" of the Village's Codified Ordinances is hereby amended as follows:

"545.03 PROPERTY EXCEPTIONS AS FELONY OFFENSE.

Regardless of the value of the property involved, and regardless of whether the offender has previously been convicted of a theft offense, the provisions of Section 545.05 or 545.18 do not apply if the property involved is any of the following:

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

- (d) A blank form for a certificate of title or a manufacturer's or importer's certificate to a motor vehicle, as prescribed by Ohio R.C. 4505.07;
- (e) A blank form for any license listed in Ohio R.C. 4507.01(A).

(ORC 2913.71)”

SECTION 2. Section 545.03, “Property Exceptions as Felony Offense” of the Village’s Codified Ordinances as it existed prior to the effective date of this Ordinance is hereby repealed.

SECTION 3. Section 549.01, “Definitions” of the Village’s Codified Ordinances is hereby amended as follows:

“549.01 DEFINITIONS.

As used in this chapter:

* * *

- (f) “Sawed-off firearm” means a shotgun with a barrel less than eighteen inches long, or a rifle with a barrel less than sixteen inches long, or a shotgun or rifle less than twenty-six inches long overall. “Sawed-off firearm” does not include any firearm with an overall length of at least twenty-six inches that is approved for sale by the federal bureau of alcohol, tobacco, firearm, and explosives under the “Gun Control Act of 1968,” 82 Stat. 1213, 18 U.S.C. 921(a)(3), but that is found by the bureau not to be regulated under the “National Firearms Act,” 68A Stat. 725 (1934), 26 U.S.C. 5845(a).

* * *

- (k) “Dangerous ordnance” means any of the following, except as provided in subsection (l) hereof:

* * *

- (7) Any firearm with an overall length of at least twenty-six inches that is approved for sale by the federal bureau of alcohol, tobacco, firearm, and explosives under the “Gun Control Act of 1968,” 82 Stat. 1213, 18 U.S.C. 921(a)(3), but that is found by the bureau not to be regulated under the “National Firearms Act,” 68A Stat. 725 (1934), 26 U.S.C. 5845(a).

* * *

- (s)(1) “Law enforcement officer” means any of the following who is employed, commissioned, disposed, appointed, or elected in a capacity specified in (s)(1)(A), (B), or (C) of this section for the state, a political subdivision of the

state, or an agency, department, or instrumentality of the state or a political subdivision of the state:

- A. Any law enforcement officer, as defined in section 2901.01 of the Revised Code;
- B. Any peace officer, as defined in section 2935.01 of the Revised Code;
- C. Any person who is employed in this state, who is authorized to carry firearms, and who is subject to and in compliance with the requirements of section 109.801 of the Revised Code.

(2) For purposes of the Revised Code, both of the following apply regarding a law enforcement officer who, by virtue of the officer's employment, commissioning, disposition, appointment, or election as that law enforcement officer, has a responsibility to enforce all or certain laws:

- A. The officer holds public office on a continuing basis and has a continuing duty to enforce those laws.
- B. The officer is always on duty, regardless of whether the officer is, or is not, officially within work hours or officially on the clock. (ORC 9.69)

(ORC 2923.11)”

SECTION 4. Section 549.01, “Definitions,” of the Village’s Codified Ordinances as it existed prior to the effective date of this Ordinance is hereby repealed.

SECTION 5. Section 549.02, “Carrying Concealed Weapons,” of the Village’s Codified Ordinances is hereby amended as follows:

“549.02 CARRYING CONCEALED WEAPONS.

* * *

(h) Each person, board, or entity that owns or controls any place or premises identified in division (B) of section 2923.126 of the Revised Code as a place into which a valid license does not authorize the licensee to carry a concealed handgun, or a designee of such a person, board, or entity, shall post in the following one or more conspicuous locations in the premises a sign that contains a statement in substantially the following form: "Unless otherwise authorized by law, pursuant to the Ohio Revised Code, no person shall knowingly possess, have under the person's control, convey, or attempt to convey a deadly weapon or dangerous ordnance onto these premises." (ORC 2923.1212)”

SECTION 6. Section 549.02, “Carrying Concealed Weapons,” of the Village’s Codified Ordinances as it existed prior to the effective date of this Ordinance is hereby repealed.

SECTION 7. Section 549.06, “Unlawful Transactions in Weapons,” of the Village’s Codified Ordinances is hereby amended as follows:

“549.06 UNLAWFUL TRANSACTIONS IN WEAPONS.

(a) No person shall do any of the following

(1) Except as otherwise provided in division (b) of this section, knowingly solicit, persuade, encourage, or entice a federally licensed firearms dealer or private seller to transfer a firearm or ammunition to any person in a manner prohibited by state or federal law;

(2) Except as otherwise provided in division (b) of this section, with an intent to deceive, knowingly provide materially false information to a federally licensed firearms dealer or private seller;

(3) Except as otherwise provided in division (b) of this section, knowingly procure, solicit, persuade, encourage, or entice a person to act in violation of division (a)(3) or (4) of this section;

~~(1)~~(4) Manufacture, possess for sale, sell, or furnish to any person other than a law enforcement agency for authorized use in police work, any brass knuckles, cestus, billy, blackjack, sandbag, switchblade knife, springblade knife, gravity knife, or similar weapon;

~~(2)~~(5) When transferring any dangerous ordnance to another, negligently fail to require the transferee to exhibit such identification, license, or permit showing him the transferee to be authorized to acquire dangerous ordnance pursuant to section 2923.17 of the Revised Code, or negligently fail to take a complete record of the transaction and forthwith forward a copy of that record to the sheriff of the county or safety director or police chief of the municipality where the transaction takes place;

~~(3)~~(6) Knowingly fail to report to law enforcement authorities forthwith the loss or theft of any firearm or dangerous ordnance in the person's possession or under the person's control.~~(ORC 2923.20)~~

(b) Divisions (a)(1), (2), and (5) of this section do not apply to any of the following:

(1) A law enforcement officer who is acting within the scope of the officer's duties;

(2) A person who is acting in accordance with directions given by a law enforcement officer described in division (b)(1) of this section.

~~(b)(c)~~ Whoever violates this section is guilty of unlawful transactions in weapons. Violation of subsections (a)(1) or (2) hereof is a misdemeanor of the second degree. Violation of subsection (a)(3) hereof is a misdemeanor of the fourth degree. A violation of division (a)(1), (2), or (3) of this section is a felony of the third degree. A violation of division (a) (4) or (5) of this section is a misdemeanor of the second degree. A violation of division (a) (6) of this section is a misdemeanor of the fourth degree.

(d) As used in this section:

(1) “Ammunition” has the same meaning as in section 2305.401 of the Revised Code.

- (2) “Federally licensed firearms dealer” has the same meaning as in section 5502.63 of the Revised Code.
- (3) “Materially false information” means information regarding the transfer of a firearm or ammunition that portrays an illegal transaction as legal or a legal transaction as illegal.
- (4) “Private seller” means a person who sells, offers for sale, or transfers a firearm or ammunition and who is not a federally licensed firearms dealer.

(ORC 2923.20)”

SECTION 8. Section 549.06, “Unlawful Transactions in Weapons,” of the Village’s Codified Ordinances as it existed prior to the effective date of this Ordinance is hereby repealed.

SECTION 9. Section 549.08, “Discharging Firearms,” of the Village’s Codified Ordinances is hereby amended as follows:

“549.08 DISCHARGING FIREARMS.

(a) No person shall unlawfully discharge any air gun, rifle, shotgun, revolver, pistol or other firearm within the corporate limits of the Village.

(b) This section does not apply when firearms are used in self-defense in defense of any person, in the discharge of official duty within and in compliance with the rules and regulations applicable to an Indoor Shooting Range as defined in Section 1103.03 and pursuant to Section 1159.03 and Section 1173.15 of the Codified Ordinances, or when otherwise lawfully authorized.

(1) A person is allowed to act in self-defense, defense of another, or defense of that person's residence. If, at the trial of a person who is accused of an offense that involved the person's use of force against another, there is evidence presented that tends to support that the accused person used the force in self-defense, defense of another, or defense of that person's residence, the prosecution must prove beyond a reasonable doubt that the accused person did not use the force in self-defense, defense of another, or defense of that person's residence, as the case may be. (ORC 2901.05)

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SECTION 10. Section 549.08, “Discharging Firearms,” of the Village’s Codified Ordinances as it existed prior to the effective date of this Ordinance is hereby repealed.

SECTION 11. Section 549.09, “Throwing or Shooting Missiles,” of the Village’s Codified Ordinances is hereby amended as follows:

“549.09 THROWING OR SHOOTING MISSILES.

(a) No person shall throw, shoot or propel an arrow, missile, pellet, stone, metal or other similar substance capable of causing physical harm to persons or property, in or on any public place, in or on the property of another, or from any private property into or onto any public place or the property of another. This section does not apply to supervised archery ranges or instruction nor when otherwise lawfully authorized nor to the lawful use of firearms as defined in ORC 2923.11 nor any component of or ammunition for the same.

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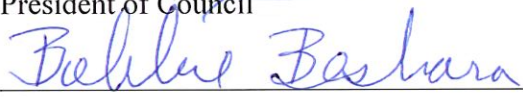
SECTION 12. Section 549.09, "Throwing or Shooting Missiles," of the Village's Codified Ordinances as it existed prior to the effective date of this Ordinance is hereby repealed:

SECTION 13. It is found and determined that all formal actions of this Council concerning and relating to adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 14. That this Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health and safety, such necessity existing by reason of the fact that current replacement pages to the Codified Ordinances should be adopted and distributed immediately so as to facilitate administration, daily operation and avoid practical and legal entanglements; wherefore, this Ordinance shall take effect immediately upon its passage and approval by the Mayor.

PASSED: 12-3-19


President of Council


Mayor

12-3-19
Date

ATTEST:

Clerk of Council