

Pride ~ Progress ~ Possibilities

**Riverside Municipal Building
5200 Springfield Street, Suite 100
Riverside, Ohio 45431**

December 7, 2023

Council Meeting

6:00 P.M.

City Council

PETER J. WILLIAMS, MAYOR

**MIKE DENNING
APRIL FRANKLIN
BRENDA FRY
ZACHARY JOSEPH
SARA LOMMATZSCH
JESSE MAXFIELD**

Josh Rauch, City Manager

Katie Lewallen, Clerk of Council

Calendar for year 2023 (United States)



January

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Council meetings in aubergine.

Work sessions in pale yellow.

Jan 1 • New Year's Day
Jan 2 • 'New Year's Day' day off
Jan 16 • Martin Luther King Jr. Day
Feb 20 • Presidents' Day
May 29 • Memorial Day

Jun 19 • Juneteenth
Jul 4 • Independence Day
Sep 4 • Labor Day
Oct 9 • Columbus Day
Nov 10 • 'Veterans Day' day off

Nov 11 • Veterans Day
Nov 23 • Thanksgiving Day
Dec 25 • Christmas Day

AGENDA

Please place all cell phones in silent mode before the meeting begins.

RIVERSIDE CITY COUNCIL

**Riverside Administrative Offices
5200 Springfield Street, Suite 100
Riverside, Ohio 45431**

**Thursday, December 7, 2023
Business Meeting 6:00 P.M.**

- 1) CALL TO ORDER
- 2) ROLL CALL
- 3) EXCUSE ABSENT MEMBERS
- 4) ADDITIONS OR CORRECTIONS TO AGENDA
- 5) APPROVAL OF AGENDA
- 6) PLEDGE OF ALLEGIANCE/MOMENT OF SILENCE
- 7) PROCLAMATION – Former councilwoman Shirley Reynolds.
- 8) MINUTES – Approval of minutes from the November 9, 2023, council work session, and the November 16, 2023, council business meeting.
- 9) ACCEPTANCE OF CITIZEN PETITIONS
- 10) DEPARTMENT UPDATES:
 - A) Finance Department
 - B) Community Development Department
 - C) Administration Department/City Manager Report
- 11) PUBLIC COMMENT ON AGENDA ITEMS
- 12) NEW BUSINESS
 - A) ORDINANCES
 - I) **Ordinance No. 23-O-841** – An ordinance to amend the Code of Ordinances, City of Riverside, Ohio, to provide amendments to the City Code, General Offenses Code, and Traffic Code, and approve current replacement pages to the Codified Ordinances of Riverside, Ohio, and declaring an emergency. (1st reading)
 - II) **Ordinance No. 23-O-842** – An ordinance providing for the issuance of not to exceed \$4,565,000 Building Acquisition and Improvements Special Obligation Bond Anticipation Notes, 2024 renewal, by the City of Riverside, Ohio, in

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please notify the City of Riverside at least 72 hours in advance by calling 937.233.1801.*

anticipation of the issuance of bonds, providing for the pledge of revenues for the payment of such notes, and declaring an emergency. (1st reading)

- III) **Ordinance No. 23-O-843** – An ordinance to make supplemental appropriations for current expenses and other expenditures of the City of Riverside, State of Ohio, for the period January 1 through December 31, 2023. (1st reading)
- IV) **Ordinance No. 23-O-844** – An ordinance to make permanent appropriations for current expenses and other expenditures of the City of Riverside, State of Ohio, for the period January 1 through December 31, 2024. (1st reading)

B) RESOLUTIONS

- I) **Resolution No. 23-R-2896** – A resolution by the Council of the City of Riverside, Ohio, declaring it necessary to levy a tax in excess of the Ten Mill limitation.
- II) **Resolution No. 23-R-2897** – A resolution authorizing the city manager to enter into an interlocal mutual aid agreement for public works services.
- III) **Resolution No. 23-R-2898** – A resolution authorizing the city manager to enter into a sixth amendment to the generation supply agreement for electricity supply with Interstate Gas Supply (IGS) LLC.

13) PUBLIC COMMENT ON NON-AGENDA ITEMS

14) COUNCIL MEMBER COMMENTS

- 15) EXECUTIVE SESSION - 103.01(1) Unless the City employee or official requests a public hearing; to consider the appointment, employment, dismissal, discipline, promotion, demotion or compensation of a city employee or official or the investigation of charges or complaints against a City employee or official.

16) RECONVENE

17) ADJOURNMENT

WORK SESSION MINUTES

CALL TO ORDER: Deputy Mayor Lommatzsch called the Riverside, Ohio City Council Work Session to order at 6:00 p.m. at the Riverside Administrative Offices located at 5200 Springfield Street, Suite 100, Riverside, Ohio, 45431.

ROLL CALL: Council attendance was as follows: Mr. Denning, absent; Mrs. Franklin, absent; Ms. Fry, present; Mr. Joseph, present; Ms. Lommatzsch, present; Mr. Maxfield, absent; and Mayor Williams, present.

Staff present were as follows: Josh Rauch, City Manager; Kim Baker, Finance Director; and Katie Lewallen, Clerk of Council.

EXCUSE ABSENT MEMBERS: Mr. Joseph moved, seconded by Mr. Maxfield, to excuse Mayor Williams. All were in favor. **Motion carried.**

PLEDGE OF ALLEGIANCE: Deputy Mayor Lommatzsch led the pledge of allegiance.

ADDITIONS OR CORRECTIONS TO AGENDA: No changes were made to the agenda.

APPROVAL OF AGENDA: Mr. Joseph moved, seconded by Mr. Maxfield, to approve the agenda as presented. All were in favor. **Motion carried.**

WORK SESSION ITEMS:

I. FY2024 Budget Discussion – Mr. Rauch

CITY MANAGER UPDATES: Mr. Rauch stated that they are all working in the city to deploy the taxpayer's resources to achieve the strategic goals that council has described in the strategic plan and the land use plan. The budget is the tool that lets them do that. He added that when there are a bunch of resources that taxpayers have given them and those resources are finite, they operate within very firm walls when it comes to resources and moving money from column 'A' and putting it in column 'B', it has real impacts across the entire budget. Choices made in one part of the budget impact other parts of the budget. This is true in every part of the country.

Mr. Rauch stated that the bottom line with the 2024 budget is that they are continuing to transition to a more effective budgeting and financial management process. He stated that some revenues are up but so are expenses. The budget is impacted by three significant structural constraints: Wright Point buildings, public service subsidy, and police subsidy. He added that public safety is the bulk of the city's personnel and the bulk of the expenditures. The income tax alone cannot pay for it; the general fund still subsidizes public safety. Next year, they will need to make important decisions for the community on monitoring revenue and expenses and what they can do to fill the structural holes, get ahead of the curve, and start to run and win races.

Mr. Rauch stated that this year they have gone through a number of transitions: implemented SSI VIP financial software, renumbered chart of accounts, implemented ClearGov, and made significant staffing changes. He presented the total income tax collection from 2022, the projected for 2023, and the actual for 2023, to date. They had projected \$8.6 million in revenue for 2023; actual collections are likely to come in closer to \$9.8 million. This is the number they are using going forward into next year's budget. They had a conversation with CCA and they suggested that next year's revenues are likely going to look a lot like this year's revenues. The \$9.8 million is a reasonable and somewhat conservative estimate for next year's revenue. All of the numbers they discuss will be based on the assumption of \$9.8 million in revenue for 2024. He reviewed the distribution for the Income Tax: 30% Police Fund, 30% Fire Fund, and 40% General Fund. He added that the police and fire departments require more money than is generated by the income tax and is subsidized by the general fund.

Mr. Rauch continued that while the revenue is up, expenses are as well. In the 2024 budget, they are preserving the positions added in public safety last year, adding a couple of positions in the fire department, and reducing staffing on the administrative side. Additionally, they have contractual increases negotiated with CWA, and there is an unknown quantity of increases coming because a bulk of the employees still haven't negotiated their contracts. The health insurance increase was competitive and has about a 3 – 4.35 percent increase. He stated that the State of Ohio continues to impact the money that they get and the money that they spend as there are now unfunded mandates from the State with about a 4.5 percent increase (~\$106,000) in Ohio Police & Fire Retirement costs to bring police up to 24 percent. There is also an additional 4.0 percent (~\$72,000) in Ohio Public Employees Retirement System costs. Those two costs together are about the cost of adding a new police officer. With having to pay the state these funds, he can't hire anyone. These are forces outside of their control, even though they are bringing in more money; they are being obligated to give that money away in other places. Ms. Fry asked if the additional costs they are incurring affected the city this year. Mr. Rauch stated these are coming next year. Mr. Denning asked where they were with the SAFER grants from the fire department as they need to take those three firefighters on fully once the grant is complete. Mr. Rauch stated the grant fell off this year and they have incurred the costs for next year, already.

Mr. Rauch stated that the money that they received most recently was through the ARP Act grant process. A year ago, their approach was to take the money allocated and apply it to capital projects to cover costs as inflation was increasing. After approving that budget, they received the SS4A grant for the Woodman corridor. They continue to spend pieces of the funding on infrastructure projects and to help cover inflation. He added that when their projects go to bid, they continue to come in well over the engineering estimates by about 15 – 30 percent. He stated they will go into 2024 with several \$100,000 in unobligated ARP money. The other ARP money that is obligated is the local match for the project with the land bank to take down 4032 Linden and some

of the other blighted nuisance properties. There are also several capital infrastructure projects ready to go for next year where ARP funds will be used. The other thing about capital is that Ms. Bartlett has done an admiral job of getting a number of grants lined up to redo Woodman Phase I. They have about enough grant money to cover the engineering cost of that project, but there is more engineering that needs to be done and then the project has to bid. This is a \$6.0 million project and if bids come in over they would be on the hook for the additional money. They do not intend to use ARP for any operating costs. The auditor has also pushed for them to get rid of the capital equipment and capital improvement funds. They want funds to be specific. They will rearrange how the capital costs look as far as the funds go. Mr. Joseph asked if each project would have its own fund or are the funds they are used to seeing seem more like an expense. Mr. Rauch stated he can not give a clear answer on that at the moment, but it will depend on how they fund a specific infrastructure project. Ms. Baker stated that they have specific monies come in that can only be spent in specific ways, they have to ask the state if they can have a fund for that. When the state approves it, they are then required to keep all that money separate. It looked like the infrastructure and capital projects were separate but when they reviewed the financials, everything would really roll back into the fund that they were putting it back into. The auditors stated that even though the city is saying it's this project, it's really not. It really does belong in the street, or fire, or police, or wherever that asset actually belongs unless it's a special revenue type. It has to do with sources and uses. Discussion was held on a big purchase in a main fund. Mr. Rauch stated they are building to a place where they will be more efficient on how to do the reporting.

Mr. Rauch stated that there are five major operating funds that have the largest impact on the budget: Wright Point, Fire, Police, Street, and General Fund. He stated that the Wright Point Fund brings in about \$5.8 million in revenue against \$5.9 million in expenses. The challenge with the Wright Pont Fund is that they have taken out notes to roll this debt every year and that is why the number is so large. They are budgeting for \$4.5 million in debt next year. They should have about \$700,000 come in in terms of rents and leases. They will use that \$4.5 million to pay off last year's note, which cost \$4.735 million plus interest or \$5.0 million, but again, they are only going to make \$4.5 million. Next year, they will have to pay around six percent interest on \$4.5 million. This is not an ideal way to maintain the buildings; this is a structural challenge. The general fund puts in about \$600,000. Wright Point may end the year with a small fund balance, but the goal is to have it zero out. Mr. Maxfield asked why they continue to do this year after year as they are losing funds. This has to be fixed. Mr. Rauch stated they will have a work session about that in December or January. He has four ideas on how they could move past this. Mr. Maxfield stated he is done talking about this, he wants some action. There has to be a better way. Discussion was held on how much money they were losing on the buildings and the inflation factor. Mr. Rauch stated that the other reason they haven't dealt with it already is that if they don't bring in \$4.5 million in a bond note, they have to come up with the money. If they sell it for less than \$4.5 million, then the city

would have to pay the balance and the city could not have taken that last year or this year based on the subsidy they would have to do in other funds and other places. Discussion was held on the original rationale behind garnering the buildings years ago.

Mr. Rauch stated that the Fire Department revenue is \$4.56 million with the expenditures being \$4.57 million, a small deficit. He thanked Chief Miller for diving in and reviewing the fire budget and finding ways where some funds may be reallocated to be more productive. Mr. Rauch stated that even with the transfer in of \$2.8 million for the income tax, there still needs to be a subsidy of about \$230,000 from the general fund to round out the fire costs for 2024. This is the estimate before negotiating labor costs. Discussion was held on estimates and the budget for 2024 and how they will refine the numbers. Deputy Mayor Lommatzsch asked if the large fire equipment had been paid off. Mr. Rauch stated they had not. He presented the debt loans for equipment. He added that this is another area where the legwork and trying to streamline this budget comes from because before these have been paid out of different funds in different places at different times. They are now trying to bring them all into one place so that they have an idea about what this actually costs and then plan more effectively for the department's needs. Discussion was held on loans and equipment.

Mr. Rauch stated that the story is similar for the Police Department. They consistently have loans for police cruisers. There is one final loan for a cruiser that will roll off in early 2024, and then the leases will remain ongoing. Mr. Joseph asked if it was an asset if they did not actually own it. Ms. Baker replied that a lease is an asset and software-based IT is also an asset. Discussion was held on assets. Mr. Rauch stated that the police property tax levy rolls off and that is around \$1.0 million or 20 percent of the overall police budget. If they lose that, it will cripple the operation. They will either be out-of-pocket in the General Fund or there would be very substantive changes to this department or another department to cover the costs. They cannot afford to lose this property tax levy. He stated they are budgeting the 30 percent share from the Income Tax, but even with both those streams of revenue, the police department still needs almost \$1.0 million from the General Fund to remain solvent.

Mr. Rauch stated that the Public Service Department does not get a lot of money from anything aside from transfers in from the General Fund. They are budgeting \$1.7 million to cover its typical expenditures. The bulk of the expenditures are related to personnel. Personnel is always the most expensive category in any budget. They do have debt for facilities, the backhoe, trucks, and prior loans for projects related to facilities.

Mr. Rauch stated that the General Fund has to take \$1.0 million out of its reserves to keep all the other funds operating at present rates. They have a \$1.0 million structural deficit in the budget because of all the holes they have been talking about. He stated that the revenue includes the new income tax assumption, but in expenditures, they show where they will send all the money to all the other funds to keep them afloat. He

expects the deficit to get bigger as they have not yet talked about capital assets. Over the next week, he has to figure out in the other funds like state highway, permissive tax, and ARP how they are going to take those resources and deploy them to capital projects and if they have any extra needs after that they will have to come out of the General Fund.

Mr. Rauch presented estimated fund balances. He stated they have added to the General Fund this year because they have had a number of vacancies and have not had to pay people. This, however, is not sustainable. They can't continue to maintain service levels while keeping vacancies. The estimates assume they aren't going to dip into any fund balance that they have put into other departments. Police and Fire are likely to end the year with \$1.0 million. To that point, if they go buy another fire truck at \$1.5 million, the fire will not have that \$1.0 by end of year and will need to find \$500,000 more. He stated there is a reason why he has set it up to preserve some funding when capital expenses come up. He stated that Wright Point will be discussed later, but they want to keep the balance as close to zero as possible and keep transfers as low as possible until they are able to deal with that entirely. Mr. Joseph asked what percentage state law requires the city to have for operating. Mr. Rauch stated they needed to have two months of expenditures and operating expenses. There are also some other requirements. In order to maintain the two-month mark, it is between \$600,000 to \$1.0 million. He added that they are maintaining fund balances that are above the minimum, but they cannot continue to do this forever or they will be spent through the reserves. Mr. Joseph stated they are dangerously close to not being able to provide police, fire, street, and administrative services; or at the levels that they have funding for it, the level of services are they able to provide. He wants the public to be aware of the situation. Mr. Rauch stated part of the equation is that as things come into focus and they can discuss, it helps inform the conversation. Next year, they will have to have some difficult conversations and have to make some tough decisions. The levy situation for the police department is critical to keeping that department operational. He is having some conversations regarding the buildings that he will dive into for that. The focus next year will also be to address setting up the stormwater utility fee and getting a system up to speed so that they can project the revenue in 2025 and be able to offset some of the costs. These are all critical conversations. The extent to which the council will decide when and how to approach this will impact what numbers we can carry into next year's budget in terms of offsetting general funds and subsidizing other funds and departments. He stated one of their priorities in the strategic plan was fiscal sustainability; without that, they will not get anything else done and 2024 will be the year they make decisions that make an impact on fiscal sustainability. This will be a lot of the work sessions. By the time they are in 2025, they will hopefully have a much more pleasant conversation and be ahead of the curve. Mr. Maxfield stated they would still need to have a conversation about a road levy. Discussion was held on the replacement police levy.

Mrs. Franklin stated that citizens need to pay attention to state-level legislation. This does not come down to personnel policies; it comes down to every time it seems they are moving one step forward, the state removes more money. When the state removes more money, that one step forward now fills in the hole. She asked that citizens pay attention to the legislators and what they are pushing. She added that this state, not all states, but Ohio has made it such that the only way to get additional revenue is to go back to the people. She stated that the Ohio Municipal League, OML, is a great place to look at what the state is doing.

Mr. Rauch stated that what he is going to ask them to adopt next year is pretty much what they have adopted in prior years; a budget ordinance that lists the funds and the appropriations at a category level. This will be sent to the county and the state. They will continue to work on the digital budget book next year. The intention next year will be that they will be at a place to start the process in October and have a much more engaging conversation. At that time, they will adopt the budget book and ordinance. He thanked the voters for the income tax, because without that they would not be having this conversation.

CITY MANAGER UPDATES: Mr. Rauch stated city offices are closed on November 10, 2023, in observance of Veteran's Day. He thanked all the veterans who have served. He added that on October 15, 2023, ODOT will close Woodman Drive at SR35 to do work from 10 pm – 5 am.

COUNCIL MEMBER COMMENTS: Mr. Maxfield stated that Hometown Holiday is this weekend from 3 – 7 pm. He added that this is his last meeting with Mrs. Franklin and wished her good luck in Wisconsin. Mr. Joseph thanked Mr. Rauch and Ms. Baker for their work on the budget. Deputy Mayor Lommatzsch stated that Santa arrives at Stebbins High School for Hometown Holiday at 3 pm this Saturday. Mr. Denning stated that flags are going up this week for Veteran's Day. They will try to put a star on top of the tree at Stebbins tomorrow. He thanked Mr. Rauch and Ms. Baker for their work on the budget and for making it understandable.

ADJOURNMENT: Mrs. Franklin moved, seconded by Mr. Joseph to adjourn. Council adjourned at 7:12 p.m.

Peter J. Williams, Mayor

Clerk of Council

MINUTES

CALL TO ORDER: Mayor Williams called the Riverside, Ohio, City Council Meeting to order at 6:01 p.m. at the Riverside Administrative Offices, 5200 Springfield Street, Suite 100, Riverside, Ohio, 45431.

ROLL CALL: Council attendance was as follows: Mr. Denning, present; Mrs. Franklin, present; Ms. Fry, present; Mr. Joseph, present; Ms. Lommatzsch, present; Mr. Maxfield, absent; and Mayor Williams, present.

Staff present were as follows: Josh Rauch, City Manager; and Katie Lewallen, Communications Manager/Clerk of Council.

EXCUSE ABSENT MEMBERS: Mr. Denning moved, seconded by Mr. Joseph, to excuse Mr. Maxfield. All were in favor. **Motion carried.**

ADDITIONS OR CORRECTIONS TO THE AGENDA: There were no changes to the agenda.

APPROVAL OF AGENDA: Deputy Mayor Lommatzsch moved, seconded by Mr. Denning, to approve the agenda. All were in favor. **Motion carried.**

PLEDGE OF ALLEGIANCE/MOMENT OF SILENCE: Mayor Williams led the pledge of allegiance.

SWEAR-IN: Mayor Williams gave the oath of office to Officer Brett Waler.

MINUTES: Mr. Denning moved, seconded by Mrs. Franklin, to approve the November 2, 2023, council business meeting minutes. All were in favor. **Motion carried.**

WRITTEN CITIZEN PETITIONS: Mayor Williams stated that anyone wishing to speak should fill out a form located in the back of the room, fill it out, and hand it to the clerk.

DEPARTMENT UPDATES

Fire Department – Chief Miller stated they have completed all staff interviews, and as actionable items arise they have been able to implement them. The bid opening for the exhaust systems for the fire stations will happen next week. They received a 90/10 grant for that purchase. As part of a BWC grant, they have purchased an electric stair chair, which will allow them to ascend and descend steps with the push of a button. Their first leased vehicle is currently being up-fitted and should be on the road by the end of the month.

Public Service Department – Ms. Bartlett stated that three people were interviewed for the second foreman position that has been created. Brian Hawkey, who has 30 years of service with the city was selected to fill that role. No bids were received for outsourcing for snow plowing. They have had contact with the City of Centerville for a possible

mutual aid contract. She stated there will be more lane reductions on Route 35 for Sunday, Monday, and Tuesday from 8 pm – 6 am. This week the crews installed 16 new ‘no parking’ signs on the east side of Orinoco. This was due to a complaint by Republic Services as they were unable to make it down the street and trash was not being picked up. It also causes problems for emergency vehicles and snowplows. Mr. Rauch added that four new staff members have been hired in the service department and not all of them come with the same level of experience with respect to snowplowing. Not all of them have CDLs; over the next weeks and months, they will be getting them up to speed with learning how to run a snowplow, particularly along major arterials and thoroughfares, which is what they pay the most attention to during the snow season. He stated he would bring a resolution in December to have mutual aid agreements as many cities have them. It is not meant to be for plowing as when there is snow, all city personnel will be busy in their city; it is more for when a vehicle is down or if a specific need has to be done for a short time. He added that staffing is an issue in the region for public works and public service. This job is in high demand, but there aren’t a lot of people for that. Deputy Mayor Lommatzsch added that as they get into the snow season should other trucks with different names be assisting, it can be put out that they are working with neighboring communities. Mr. Rauch stated that should they get to that point; he, Ms. Bartlett, and Ms. Lewallen would get ahead of trying to get the information to the public.

City Manager Report – Mr. Rauch stated that next week city offices would be closed on Thursday, November 23 and 24, 2023, in observance of the Thanksgiving holiday.

PUBLIC COMMENT ON AGENDA ITEMS: No one wished to speak on an agenda item.

NEW BUSINESS

A. RESOLUTIONS

- I) Resolution No. 23-R-2894 – A resolution declaring certain property owned by the City to be surplus and no longer needed for city purposes and authorizing its disposition.**

Mr. Denning moved, seconded by Mrs. Franklin, to approve Resolution No. 23-R-2894.

All were in favor. **Motion carried.**

- II) Resolution No. 23-R-2895 – A resolution authorizing the city manager to enter into a renewal agreement with Colliers International for professional services as the commercial listing agent for the Wright Point Office Park, 5100 and 5200 Springfield Street, Riverside, Ohio.**

Mr. Denning moved, seconded by Mrs. Franklin, to approve Resolution No. 23-R-2895.

All were in favor. **Motion carried.**

PUBLIC COMMENT ON NON-AGENDA ITEMS: A petition had been received, but when called no one came forward to speak.

DISCUSSION ITEM - BUDGET 2024: Mr. Rauch stated they recently spoke on the operating budget, and now he would like to review the capital portion of the budget. He stated the more they work the budget and start to touch portions of the budget it affects things in other parts of the budget. The problems they face are significant but are surmountable. They can attack the problems and solve them by taking just pieces one thing at a time. He quickly reviewed the operating budget stating that the general fund transfers monies to fire, police, service, and Wright Point funds in order to keep funds solvent throughout the year. They anticipate running a structural deficit in the general fund. They will have to spend some reserves in order to make this happen next year. In order to reduce that deficit, they need to resolve the situation with Wright Point, going forward on the stormwater utility fee creating more revenue for public service, focus on public safety funding - particularly the police levy, and reevaluate how they are taking the monies that are being used for capital costs and allocating those funds in future years. The practice has been to take a lot of motor vehicle taxes, gas taxes, and permissive taxes and to allocate those monies to infrastructure. They will evaluate whether there are opportunities to divert more of those funds to the operating budget to help reduce the stress on that side of the budget, but this will be a process of trying to analyze and work through.

Mr. Rauch stated there are five projects they are committed to in 2024, one in 2025, and one in 2026. He presented their approach to budgeting for these projects. He stated that the 2025 project, Woodman Phase I, is estimated at \$6.4 million with almost \$500,000 for construction inspection costs. Estimates and bids are often very different amounts, so a 25 percent inflation factor has been added in. This makes the total estimated cost of the project nearly \$8.7 million for this project. Ms. Bartlett and her staff have been able to identify and marshal grants to offset some of the costs totaling \$6.3 million. That means the city needs to cover potentially \$2.3 million. They have taken the same approach to the other projects: estimate + additional costs the city may pay, then inflate it – grants, and that is the out-of-pocket total. He presented the five projects for 2024 that included one-time costs and loans. He explained that OPWC loans are attractive as they are often at zero percent interest over a 20-year payment. He stated in 2024, they have already committed to \$1.1 million in capital expenses. By the end of 2025, they need to have \$3.6 million in order to proceed with the capital improvement plan as that is the major hit for Woodman Phase I. He stated he was showing the expense side of the equation as based on the revenues that come in from state highway progressive tax and the motor vehicle and gas taxes, they have to find a way to bridge

the \$3.6 million hole over the next 18 months in order to make good on what they planned. He stated that they have a few funds they can marshal to reach the needed \$3.6 million: 2237 – Local Fiscal Recovery (ARP) Fund, 2205 – State Highway Fund, 2209 – Permissive Tax Fund, and 2202 – Service Fund. They will be deactivating the Capital Improvement Fund as per the recommendation of the auditor and rolling everything into the Service Fund. He reviewed each of the funds and the uses of the money from each fund for next year. All ARP money needs to be obligated by the end of next year or else they have to return some of the funds. The ARP money will be able to cover three projects next year: Spinning Road Phase 2, Olentangy Bridge, and Harshman/Beatrice/Valley. This fund will end with a zero balance. The State Highway Fund requires that at least 7.5 percent of the motor vehicle and gas tax be allocated to this fund, and it can only be spent on state highways. In 2024, the Urban Paving Program involves state highways. They will have approximately \$737,000 in that fund next year and be able to pay for the Urban Paving Program repaving and ramps, and traffic signal and highway maintenance/supplies. This will end the year with a balance of approximately \$157,500. This balance cannot be used on the Woodman Drive project as that is not a state highway. The Permissive Tax Fund is projected to have \$790,000 at the beginning of 2024. The approach is to use this fund to pay for the OPWC loans. The loans that will be paid total \$93,400 leaving an end-of-year balance of \$696,000. This balance can be applied to the Woodman Phase I balance, but they have to save it. By following this plan, thus far, all the budgeted capital projects for 2024 will be paid for, approximately \$696,000 will be saved to put towards Woodman Phase I, and they still need to find \$1.65 million for the remaining Woodman Phase I balance. This brings them to the Service Fund. It is believed there will be \$500,000 in that fund at the end of 2023. A balance transfer from the Capital Improvement Fund to close that account to the Service Fund will be \$730,000. Any gas tax and motor vehicle tax will go into the Service Fund estimated at \$758,000. This gives a balance of \$1.9 million for the Service Fund that can be used to offset costs for the Woodman Phase I project. If they adopt this plan, they are likely to meet their goal of paying for Woodman Phase I out-of-pocket. This means they are committing to this plan for two years as this doesn't kick off until 2025. Discussion was held on Woodman Phase 2 and Phase 3, and the future improvements to Riverside were discussed. He stated the goal is to take this approach and strategy and incorporate it into the budget ordinance. The budget ordinance is the start of the process; they start a budget ordinance to get going into next year and spend next year plugging the holes and improving their process.

Discussion was held on the reserve fund balance policy. Mr. Rauch stated he believed the policy only addresses the General Fund and not a reserve in each individual fund. He will double-check on that. He will have that to them before the December 7, 2023, meeting.

Deputy Mayor Lommatzsch asked if they would be having a work session on December 14, 2023, as the Chamber is having its annual Christmas event as the council is invited to

that. Mr. Rauch stated he had some things penciled in, but they could move them. He reviewed the ordinances that would be coming to them in December.

COUNCILMEMBER COMMENTS: Mr. Denning stated it has been great having Mrs. Franklin on council, and he understands she is moving on. He has appreciated her opinion even when they didn't see eye-to-eye. He thanked the fire department for getting Santa to the Hometown Holiday. He thanked all those who attended and made it a success. The tree is beautiful and is in a place where everyone can see it. He thanked the Chamber for their contribution as well. He wished everyone a Happy Thanksgiving.

Ms. Fry stated to Mrs. Frankling that people who know them through council meetings have seen that they have a lot of different opinions, especially in verbal sparring in the early days, but a lot of people don't know that they are good friends. She has appreciated her authenticity and honesty as it has been a treasure to her. She will be missed.

Mrs. Lommatzsch echoed the comments. She stated to Mrs. Franklin that they are very different in a lot of ways. She has brought a lot of different thoughts to the group over the last four years, and they probably needed it. She wished her luck in her new endeavors; Wisconsin is lucky to get her. She asked the council to remember the Chamber event on December 14 and to put it on their calendar. She thanked the many organizations in the city for their participation at Hometown Holiday as no one was sure the change of venue would work, but she thinks it has been a positive as the turnout was amazing. She thanked the Jaycees and the Chamber for making it happen.

Mayor Williams shared the thanks with the organizations that made Hometown Holiday a success. He stated at the December 7, 2023, council meeting they will be honoring former councilwoman Shirley Reynolds, who was a long-time community advocate. She had recently passed away, and her family has been invited to the meeting to receive the honor council will bestow. He stated that he and Mrs. Franklin started together four years ago. He added that Mrs. Franklin has provided a tremendous sounding board and balance for him. She has been honest with him about how he is at meetings. He took it to heart when he was running for office that the people he interacted with who had met her shared that they answered questions similarly even though they did not know one another. By charter, they are all non-partisan, so they can't say they vote for a Democrat, a Republican, or whoever. Decisions made by party lines have little to do with the city. He found when he shared this answer that others indicated she said the same thing. He knows that the decisions she made and the principles she made decisions with were always governed by what she thought was best, not by a party. It was what she thought was best for the 25,000 residents of the city. He stated that while he talks a lot; April certainly says a lot. It is the approach she brought to her position. She has put in a lot of work with rewriting the council procedure and handbook to try to make them better at

what they do. He stated she would be missed, and their loss is another community's gain. He stated that she is just a doer, and they need more doers.

Mr. Joseph stated that he appreciated the level of patience Mrs. Franklin has bestowed on him many times. He stated that she had many things she could be doing in her life, but that she committed herself to being there three Thursdays a month because she thought so much of the community, and she wanted to make a difference. She didn't do this for the money or for notoriety as none of them do; she serves on council as a selfless service. He stated that she has a level of care and compassion that comes naturally to her. He will always keep the lessons learned from her in the back of his head. He wished her good luck and stated she would be missed.

Mrs. Franklin stated that by doing this for the last four years, she has grown and learned so much. It is so important to go out and to read everything else that you can. Some things they'll agree with some things they won't, but she thinks that the more knowledge a person is about city government and state government that person will start to understand better how the process works and know that process is really what helps make these decisions. She stated it is easy to say yes or no in a vote, but a person could be saying yes or no and not even understand it. One thing she did when coming on council was make the effort to learn. She has learned a lot and has learned a lot through council members. Patience is probably the one thing she has learned the most from Brenda. She knows she is outspoken and has always tried to be as prepared as possible when she speaks. She said what she needed to say to make her point. She added that most of all, she will miss all of them. It has been a great job with the people she has been able to meet.

Mr. Rauch stated as a first-time manager he could not have asked for a better council person to give the kudos when it was needed and to man up when it was needed. He thanked her for being those winds of encouragement and for being an ear as much as being an oracle of advice. He has appreciated her.

Ms. Lewallen stated she would miss her.

ADJOURNMENT: Deputy Mayor Lommatzsch moved, seconded by Mrs. Franklin, to adjourn; council adjourned at 7:01 p.m.

Pete Williams, Mayor

Clerk of Council

CITY COUNCIL CALENDAR

2023 COUNCIL CALENDAR

November 9, 2023 – Work Session

- FY2024 Budget Work Session

November 16, 2023

- Monthly Update: Police, Fire, Public Services, and CM Report
- Swearing-In: Officer Waler
- Resolution: WP Leasing Contract Renewal (Josh)
- Resolution: Surplus – Fire Department (Mark)

December 7, 2023

- Monthly Update: Finance, Administration, Community Development, and CM Report
- Proclamation: Shirley Reynolds, former councilwoman
- Ordinance: Permanent Appropriations – Budget (1st reading)
- Ordinance: Supplemental Appropriations (1st reading)
- Ordinance: Annual Codification (Katie) (1st reading)
- Ordinance: Wright Point Note Renewal (1st reading)
- Resolution: Police Levy Replacement ballot (Katie)
- Resolution: Public Works Mutual Aid Agreement (Kathy)
- Resolution: MVCC Municipal Facilities Electric Aggregation Renewal (Josh)

December 14, 2023 – Work Session

- Area-wide Rezoning (Nia)
- Land Use Development Moratoria (Nia)

December 21, 2023

- Swearing in of Mayor and two council members
- Monthly Update: Police, Fire, Public Services, and CM Report
- Ordinance: Property Registration and Rental Code – 1st Reading (Nia)
- Ordinance: Annual Codification (Katie)(2nd reading)
- Ordinance: Permanent Appropriations – Budget (2nd reading)
- Ordinance: Supplemental Appropriations (2nd reading)
- Ordinance: Wright Point Note Renewal (2nd reading)
- Resolution: Business Moratoria (Nia)
- Resolution: Area-Wide Rezoning (Nia)

Going into 2024:

- Remembrance of Corporal Dixon & PFC Ullmer
- Resolution for 2024 Charter Commission Appointments
- Ordinance: Property Registration and Rental Code – 2nd Reading (Nia)

LEGISLATION



MEETING DATE: December 7, 2023

AGENDA ITEM: New Business

TO: Riverside City Council

FROM: Katie Lewallen, Communications Manager/Clerk of Council

SUBJECT: **Ordinance No. 23-O-841** – An ordinance to amend the Code of Ordinances, City of Riverside, Ohio, to provide amendments to the City Code, General Offenses Code, and Traffic Code, and approve current replacement pages to the Codified Ordinances of Riverside, Ohio, and declaring an emergency.

EXPLANATION

This is an annual housekeeping item to update our codified ordinances with legislation that has been passed since the last codification and includes legal review of the state law in general offenses and traffic code.

RECOMMENDATION

It is respectfully recommended that the Mayor and City Council approve the attached legislation.

EXHIBITS

Ordinance 23-O-84, Exhibits A and B

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF RIVERSIDE, OHIO, TO PROVIDE AMENDMENTS TO THE CITY CODE, GENERAL OFFENSES CODE, AND TRAFFIC CODE, AND APPROVE CURRENT REPLACEMENT PAGES TO THE CODIFIED ORDINANCES OF RIVERSIDE, OHIO, AND DECLARING AN EMERGENCY.

WHEREAS, certain provisions within the Codified Ordinances should be amended to conform with current State law as required by the Ohio Constitution; and

WHEREAS, various ordinances of a general and permanent nature have been passed by Council which should be included in the Codified Ordinances; and

WHEREAS, the City has heretofore entered into a contract with Municode (now CivicPlus) to prepare and publish such revision which is before Council.

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

Section 1: That the ordinances of the City of Riverside, Ohio, of a general and permanent nature, as revised, recodified, rearranged and consolidated into component codes, titles, chapters and sections within the 2023 Replacement Pages (Supplement No. 4) to the Codified Ordinances are hereby approved and adopted.

Section 2: The addition, amendment, or removal of the City of Riverside City Code Sections when passed in such form as to indicate the intention of the governing authority of the City of Riverside, 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; and that the following sections and chapters are hereby added, amended or repealed as respectively indicated in order to comply with current State law:

Riverside, Ohio City Code

Sections: 131, 135, 137, 149, 182.26, 935, 1105, 1109, 1115.01, 1331, 1341, and 1343.

Traffic Code

Sections: 301.52, 331.35, 333.01, 333.03, 333.11, 337.10, 337.16, 337.22, 341.01, 351.03, and 351.04; included in Exhibit A.

General Offenses Code

Sections: 501.01, 501.06, 501.99, 509.04, 513.01, 513.03, 513.04, 513.12, 513.121, 517.08, 525.05, 525.15, 533.01, 533.06, 537.03, 537.06, 537.07, 537.15, 545.05, and 549.04; included in Exhibit B.

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

Section 4: The provisions of this ordinance that are applicable to sections of the Municipal Code, the codifier shall apply the following in preparing a supplement to the Municipal Code:

(a) All portions of this ordinance which have been repealed shall be excluded from the Municipal Code by the omission thereof from reprinted pages.

(b) The codifier 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 catch lines, headings and titles for sections and other subdivisions of the Municipal Code printed in the supplement, and make changes in such catch lines, headings and titles;
- (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the 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 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 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 Municipal Code.

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

Section 5: Unless another penalty is expressly provided with regard to the Traffic Code, Exhibit A, and the General Offenses Code, Exhibit B, 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 6: 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 Riverside, 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 7: All ordinances and parts of ordinances in conflict herewith are expressly repealed.

Section 8: That this ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health and safety of the Municipality and its inhabitants for the reason that there exists an imperative necessity for the earliest publication and distribution of current Replacement Pages to the officials and residents of the Municipality, so as to facilitate administration, daily operation and avoid practical and legal entanglements. Therefore, the ordinance shall go into immediate effect upon its passage

PASSED THIS DAY OF _____.

APPROVED:

MAYOR

ATTEST:

CLERK

23-O-841

CERTIFICATE OF THE CLERK

I, _____, Clerk of the City of Riverside, Ohio, do hereby certify that the foregoing Ordinance is a true and correct copy of Ordinance No. 23-O-841 passed by the Riverside City Council on _____.

IN TESTIMONY WHEREOF, witness my hand and official seal this day
_____.

CLERK

301.52 Wheelchair, motorized.

Motorized wheelchair means any self-propelled vehicle designed for, and used by, a ~~handicapped~~ person with a disability and that is incapable of a speed in excess of eight miles per hour. (ORC 4511.01(EEE))

331.35 Occupying a moving trailer or manufactured or mobile home.

(a) ~~No~~ Except as provided in division (B) of this section, no person shall occupy any travel trailer, fifth wheel trailer, or manufactured or mobile home while it is being used as a conveyance upon a street or highway.

(b) Division (A) of this section does not apply to a fifth wheel trailer when both of the following apply:

(1) Any child riding in the fifth wheel trailer is properly secured in the manner provided in section 4511.81 of the Revised Code.

(2) The operator of the vehicle towing the fifth wheel trailer has some means of viable communication with the passengers riding in the trailer.

As used in this division, "viable communication" includes a cellular or satellite telephone, a radio, or any other similar electronic wireless communications device.

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

(2) The offense established under this section is a strict liability offense and section 2901.20 of the Revised Code does not apply. The designation of this offense as a strict liability offense shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense. (ORC 4511.701)

333.01 Driving or physical control while under the influence.

(a) (1) Operation generally. No person shall operate any vehicle within this Municipality, if, at the time of the operation, any of the following apply:

A. The person is under the influence of alcohol, a drug of abuse, or a combination of them.

B. The person has a concentration of eight-hundredths of one percent or more but less than seventeen-hundredths of one percent by weight per unit volume of alcohol in the person's whole blood.

C. The person has a concentration of ninety-six-thousandths of one percent or more but less than two hundred four-thousandths of one percent by weight per unit volume of alcohol in the person's blood serum or plasma.

D. The person has a concentration of eight-hundredths of one gram or more but less than seventeen-hundredths of one gram by weight of alcohol per 210 liters of the person's breath.

- E. The person has a concentration of eleven-hundredths of one gram or more but less than two hundred thirty-eight-thousandths of one gram by weight of alcohol per 100 milliliters of the person's urine.
- F. The person has a concentration of seventeen-hundredths of one percent or more by weight per unit volume of alcohol in the person's whole blood.
- G. The person has a concentration of two hundred four-thousandths of one percent or more by weight per unit volume of alcohol in the person's blood serum or plasma.
- H. The person has a concentration of seventeen-hundredths of one gram or more by weight of alcohol per 210 liters of the person's breath.
- I. The person has a concentration of two hundred thirty-eight-thousandths of one gram or more by weight of alcohol per 100 milliliters of the person's urine.
- J. Except as provided in subsection (m) of this section, the person has a concentration of any of the following controlled substances or metabolites of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds any of the following:
 - 1. The person has a concentration of amphetamine in the person's urine of at least 500 nanograms of amphetamine per milliliter of the person's urine or has a concentration of amphetamine in the person's whole blood or blood serum or plasma of at least 100 nanograms of amphetamine per milliliter of the person's whole blood or blood serum or plasma.
 - 2. The person has a concentration of cocaine in the person's urine of at least 150 nanograms of cocaine per milliliter of the person's urine or has a concentration of cocaine in the person's whole blood or blood serum or plasma of at least 50 nanograms of cocaine per milliliter of the person's whole blood or blood serum or plasma.
 - 3. The person has a concentration of cocaine metabolite in the person's urine of at least 150 nanograms of cocaine metabolite per milliliter of the person's urine or has a concentration of cocaine metabolite in the person's whole blood or blood serum or plasma of at least 50 nanograms of cocaine metabolite per milliliter of the person's whole blood or blood serum or plasma.
 - 4. The person has a concentration of heroin in the person's urine of at least 2,000 nanograms of heroin per milliliter of the person's urine or has a concentration of heroin in the person's whole blood or blood serum or plasma of at least 50 nanograms of heroin per milliliter of the person's whole blood or blood serum or plasma.
 - 5. The person has a concentration of heroin metabolite (6-monoacetyl morphine) in the person's urine of at least ten nanograms of heroin metabolite (6-monoacetyl morphine) per milliliter of the person's urine or has a concentration of heroin metabolite (6-monoacetyl morphine) in the person's whole blood or blood serum or plasma of at least ten nanograms of heroin metabolite (6-monoacetyl morphine) per milliliter of the person's whole blood or blood serum or plasma.
 - 6. The person has a concentration of L.S.D. in the person's urine of at least 25 nanograms of L.S.D. per milliliter of the person's urine or a concentration of L.S.D. in the person's whole blood or blood serum or plasma of at least ten nanograms of L.S.D. per milliliter of the person's whole blood or blood serum or plasma.
 - 7. The person has a concentration of marihuana in the person's urine of at least ten nanograms of marihuana per milliliter of the person's urine or has a concentration of marihuana in

the person's whole blood or blood serum or plasma of at least two nanograms of marihuana per milliliter of the person's whole blood or blood serum or plasma.

8. Either of the following applies:

- a. The person is under the influence of alcohol, a drug of abuse or a combination of them, and the person has a concentration of marihuana metabolite in the person's urine of at least 15 nanograms of marihuana metabolite per milliliter of the person's urine or has a concentration of marihuana metabolite in the person's whole blood or blood serum or plasma of at least five nanograms of marihuana metabolite per milliliter of the person's whole blood or blood serum or plasma.
- b. The person has a concentration of marihuana metabolite in the person's urine of at least 35 nanograms of marihuana metabolite per milliliter of the person's urine or has a concentration of marihuana metabolite in the person's whole blood or blood serum or plasma of at least 50 nanograms of marihuana metabolite per milliliter of the person's whole blood or blood serum or plasma.

9. The person has a concentration of methamphetamine in the person's urine of at least 500 nanograms of methamphetamine per milliliter of the person's urine or has a concentration of methamphetamine in the person's whole blood or blood serum or plasma of at least 100 nanograms of methamphetamine per milliliter of the person's whole blood or blood serum or plasma.

10. The person has a concentration of phencyclidine in the person's urine of at least 25 nanograms of phencyclidine per milliliter of the person's urine or has a concentration of phencyclidine in the person's whole blood or blood serum or plasma of at least ten nanograms of phencyclidine per milliliter of the person's whole blood or blood serum or plasma.

11. The State Board of Pharmacy has adopted a rule pursuant to Ohio R.C. 4729.041 that specifies the amount of salvia divinorum and the amount of salvinorin A that constitute concentrations of salvia divinorum and salvinorin A in a person's urine, in a person's whole blood, or in a person's blood serum or plasma at or above which the person is impaired for purposes of operating any vehicle within this Municipality, the rule is in effect, and the person has a concentration of salvia divinorum or salvinorin A of at least that amount so specified by rule in the person's urine, in the person's whole blood, or in the person's blood serum or plasma.

(2) No person who, within 20 years of the conduct described in subsection (a)(2)A. of this section, previously has been convicted of or pleaded guilty to a violation of Ohio R.C. 4511.19(A) ~~or (B)~~, or any other equivalent offense shall do both of the following:

- A. Operate any vehicle within this Municipality while under the influence of alcohol, a drug of abuse or a combination of them;
- B. Subsequent to being arrested for operating the vehicle as described in subsection (a)(2)A. of this section, being asked by a law enforcement officer to submit to a chemical test or tests under Ohio R.C. 4511.191, and being advised by the officer in accordance with Ohio R.C. 4511.192 of the consequences of the person's refusal or submission to the test or tests, refuse to submit to the test or tests.

(b) *Operation After Under-Age Consumption.* No person under 21 years of age shall operate any vehicle within this Municipality, if, at the time of the operation, any of the following apply:

- (1) The person has a concentration of at least two-hundredths of one percent but less than eight-hundredths of one percent by weight per unit volume of alcohol in the person's whole blood.
 - (2) The person has a concentration of at least three-hundredths of one percent but less than ninety-six-thousandths of one percent by weight per unit volume of alcohol in the person's blood serum or plasma.
 - (3) The person has a concentration of at least two-hundredths of one gram but less than eight-hundredths of one gram by weight of alcohol per 210 liters of the person's breath.
 - (4) The person has a concentration of at least twenty-eight one-thousandths of one gram but less than eleven-hundredths of one gram by weight of alcohol per 100 milliliters of the person's urine.
- (c) *One Conviction Limitation.* In any proceeding arising out of one incident, a person may be charged with a violation of subsection (a)(1)A. or (a)(2) and a violation of subsection (b)(1), (2) or (3) of this section, but the person may not be convicted of more than one violation of these subsections. (ORC 4511.99)
- (d) *Physical Control.*
- (1) As used in this subsection, "physical control" means being in the driver's position of the front seat of a vehicle and having possession of the vehicle's ignition key or other ignition device.
 - (2) A. No person shall be in physical control of a vehicle if, at the time of the physical control, any of the following apply:
 1. The person is under the influence of alcohol, a drug of abuse, or a combination of them.
 2. The person's whole blood, blood serum or plasma, breath, or urine contains at least the concentration of alcohol specified in subsection (a)(1)B., C., D. or E. hereof.
 3. Except as provided in subsection (d)(3) of this section, the person has a concentration of a listed controlled substance or a listed metabolite of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds the concentration specified in subsection (a)(1)J. hereof.
 - B. No person under 21 years of age shall be in physical control of a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them or while the person's whole blood, blood serum or plasma, breath, or urine contains at least the concentration of alcohol specified in subsection (b)(1) to (4) hereof.
- (3) Subsection (d)(2)A.3. of this section does not apply to a person who is in physical control of a vehicle while the person has a concentration of a listed controlled substance or a listed metabolite of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds the amount specified in subsection (a)(1)J. hereof, if both of the following apply:
- A. The person obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs.
 - B. The person injected, ingested, or inhaled the controlled substance in accordance with the health professional's directions.
- (e) *Evidence; Tests.*
- (1) A. In any criminal prosecution or juvenile court proceeding for a violation of (a)(1)A. of this section or for any equivalent offense, that is vehicle-related the result of any test of any blood or urine withdrawn and analyzed at any health care provider, as defined in Ohio R.C. 2317.02, may be admitted with expert testimony to be considered with any other relevant and competent evidence in determining the guilt or innocence of the defendant.

B. In any criminal prosecution or juvenile court proceeding for a violation of subsection (a) or (b) of this section or for an equivalent offense that is vehicle related, the court may admit evidence on the concentration of alcohol, drugs of abuse, controlled substances, metabolites of a controlled substance, or a combination of them in the defendant's whole blood, blood serum or plasma, breath, urine or other bodily substance at the time of the alleged violation as shown by chemical analysis of the substance withdrawn within three hours of the time of the alleged violation. The three-hour time limit specified in this subsection regarding the admission of evidence does not extend or affect the two-hour time limit specified in Ohio R.C. 4511.192(A) as the maximum period of time during which a person may consent to a chemical test or tests as described in that section.

The court may admit evidence on the concentration of alcohol, drugs of abuse, or a combination of them as described in this section when a person submits to a blood, breath, urine or other bodily substance test at the request of a law enforcement officer under Ohio R.C. 4511.191, or a blood or urine sample is obtained pursuant to a search warrant. Only a physician, a registered nurse, an emergency medical technician-intermediate, an emergency medical technician-paramedic or a qualified technician, chemist, or phlebotomist shall withdraw a blood sample for the purpose of determining the alcohol, drug, controlled substance, metabolite of a controlled substance, or combination content of the whole blood, blood serum, or blood plasma. This limitation does not apply to the taking of breath or urine specimens. A person authorized to withdraw blood under this subsection may refuse to withdraw blood under this subsection, if in that person's opinion, the physical welfare of the person would be endangered by the withdrawing of blood.

The bodily substance withdrawn under subsection (e)(1)B. hereof shall be analyzed in accordance with methods approved by the Director of Health by an individual possessing a valid permit issued by the Director pursuant to Ohio R.C. 3701.143.

C. As used in subsection (e)(1)B. of this section, "emergency medical technician-intermediate" and "emergency medical technician-paramedic" have the same meanings as in Ohio R.C. 4765.01.

- (2) In a criminal prosecution or juvenile court proceeding for violation of subsection (a) of this section or for an equivalent offense that is vehicle related, if there was at the time the bodily substance was withdrawn a concentration of less than the applicable concentration of alcohol specified in subsections (a)(1)B., C., D. and E. of this section, or less than the applicable concentration of a listed controlled substance or a listed metabolite of a controlled substance specified for a violation of subsection (a)(1)J. of this section, that fact may be considered with other competent evidence in determining the guilt or innocence of the defendant. This subsection does not limit or affect a criminal prosecution or juvenile court proceeding for a violation of subsection (b) of this section or for an equivalent offense that is substantially equivalent to that subsection.
- (3) Upon the request of the person who was tested, the results of the chemical test shall be made available to the person or the person's attorney, immediately upon the completion of the chemical test analysis.

If the chemical test was obtained pursuant to subsection (e)(1)B. hereof, the person tested may have a physician, a registered nurse, or a qualified technician, chemist or phlebotomist of the person's own choosing administer a chemical test or tests, at the person's expense, in addition to any administered at the request of a law enforcement officer. If the person was under arrest as described in Ohio R.C. 4511.191(A)(5), the arresting officer shall advise the person at the time of the arrest that the person may have an independent chemical test taken at the person's own expense. If the person was under arrest other than described in Ohio R.C. 4511.191(A)(5), the

form to be read to the person to be tested, as required under Ohio R.C. 4511.192, shall state that the person may have an independent test performed at the person's expense. The failure or inability to obtain an additional chemical test by a person shall not preclude the admission of evidence relating to the chemical test or tests taken at the request of a law enforcement officer.

- (4) A. As used in subsections (e)(4)B. and C. of this section, "national highway traffic safety administration" means the National Traffic Highway Safety Administration established as an administration of the United States Department of Transportation under 96 Stat. 2415 (1983), 49 U.S.C.A. 105.
- B. In any criminal prosecution or juvenile court proceeding for a violation of subsection (a), (b) or (d) of this section, of a municipal ordinance relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, or of a municipal ordinance relating to operating a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath or urine, if a law enforcement officer has administered a field sobriety test to the operator or person in physical control of the vehicle involved in the violation and if it is shown by clear and convincing evidence that the officer administered the test in substantial compliance with the testing standards for any reliable, credible, and generally accepted field sobriety tests that were in effect at the time the tests were administered, including, but not limited to, any testing standards then in effect that were set by the National Highway Traffic Safety Administration, all of the following apply:
1. The officer may testify concerning the results of the field sobriety test so administered.
 2. The prosecution may introduce the results of the field sobriety test so administered as evidence in any proceedings in the criminal prosecution or juvenile court proceeding.
 3. If testimony is presented or evidence is introduced under subsection (e)(4)B.1. or 2. of this section and if the testimony or evidence is admissible under the Rules of Evidence, the court shall admit the testimony or evidence and the trier of fact shall give it whatever weight the trier of fact considers to be appropriate.
- C. Subsection (e)(4)B. of this section does not limit or preclude a court, in its determination of whether the arrest of a person was supported by probable cause or its determination of any other matter in a criminal prosecution or juvenile court proceeding of a type described in that subsection, from considering evidence or testimony that is not otherwise disallowed by subsection (e)(4)B. of this section. (ORC 4511.19; 4511.194)

(f) Forensic Laboratory Reports.

- (1) Subject to subsection (f)(3) of this section, in any criminal prosecution or juvenile court proceeding for a violation of subsection (a)(1)B., C., D., E., F., G., H., I., or J. or (b)(1), (2), (3) or (4) of this section or for an equivalent offense that is substantially equivalent to any of those subsections, a laboratory report from any laboratory personnel issued a permit by the Department of Health authorizing an analysis as described in this subsection that contains an analysis of the whole blood, blood serum or plasma, breath, urine, or other bodily substance tested and that contains all of the information specified in this subsection shall be admitted as prima-facie evidence of the information and statements that the report contains. The laboratory report shall contain all of the following:
- A. The signature, under oath, of any person who performed the analysis;
 - B. Any findings as to the identity and quantity of alcohol, a drug of abuse, a controlled substance, a metabolite of a controlled substance, or a combination of them that was found;

- C. A copy of a notarized statement by the laboratory director or a designee of the director that contains the name of each certified analyst or test performer involved with the report, the analyst's or test performer's employment relationship with the laboratory that issued the report, and a notation that performing an analysis of the type involved is part of the analyst's or test performer's regular duties;
 - D. An outline of the analyst's or test performer's education, training, and experience in performing the type of analysis involved and a certification that the laboratory satisfies appropriate quality control standards in general and, in this particular analysis, under rules of the Department of Health.
- (2) Notwithstanding any other provision of law regarding the admission of evidence, a report of the type described in subsection (f)(1) of this section is not admissible against the defendant to whom it pertains in any proceeding, other than a preliminary hearing or a grand jury proceeding, unless the prosecutor has served a copy of the report on the defendant's attorney or, if the defendant has no attorney, on the defendant.
 - (3) A report of the type described in subsection (f)(1) of this section shall not be prima-facie evidence of the contents, identity, or amount of any substance if, within seven days after the defendant to whom the report pertains or the defendant's attorney receives a copy of the report, the defendant or the defendant's attorney demands the testimony of the person who signed the report. The judge in the case may extend the seven-day time limit in the interest of justice.
- (g) *Immunity From Liability For Withdrawing Blood.* Except as otherwise provided in this subsection, any physician, registered nurse, emergency medical technician-intermediate, emergency medical technician-paramedic, or qualified technician, chemist, or phlebotomist who withdraws blood from a person pursuant to this section or Ohio R.C. 4511.191 or 4511.192, and any hospital, first-aid station, or clinic at which blood is withdrawn from a person pursuant to this section or Ohio R.C. 4511.191 or 4511.192, is immune from criminal liability and civil liability based upon a claim of assault and battery or any other claim that is not a claim of malpractice, for any act performed in withdrawing blood from the person. The immunity provided in this subsection also extends to an emergency medical service organization that employs an emergency medical technician-intermediate or emergency medical technician-paramedic who withdraws blood under this section. The immunity provided in this subsection is not available to a person who withdraws blood if the person engaged in willful or wanton misconduct.

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

(h) *General OVI Penalty.*

- (1) Whoever violates any provision of subsections (a)(1)A. to I. or (a)(2) of this section is guilty of operating a vehicle under the influence of alcohol, a drug of abuse, or a combination of them. Whoever violates subsection (a)(1)J. of this section is guilty of operating a vehicle while under the influence of a listed controlled substance or a listed metabolite of a controlled substance. The court shall sentence the offender for either offense under Ohio R.C. Chapter 2929, and this Traffic Code, except as otherwise authorized or required by subsections (h)(1)A. to E. of this section:
 - A. Except as otherwise provided in subsections (h)(1)B., C., D. or E. of this section, the offender is guilty of a misdemeanor of the first degree, and the court shall sentence the offender to all of the following:
 - 1. If the sentence is being imposed for a violation of subsections (a)(1)A., B., C., D., E., or J. of this section, a mandatory jail term of three consecutive days. As used in this subsection, three consecutive days means 72 consecutive hours. The court may sentence

an offender to both an intervention program and a jail term. The court may impose a jail term in addition to the three-day mandatory jail term or intervention program. However, in no case shall the cumulative jail term imposed for the offense exceed six months.

The court may suspend the execution of the three-day jail term under this subsection if the court, in lieu of that suspended term, places the offender under a community control sanction pursuant to Ohio R.C. 2929.25 and requires the offender to attend, for three consecutive days, a drivers' intervention program certified under Ohio R.C. 5119.38.

The court also may suspend the execution of any part of the three-day jail term under this subsection if it places the offender under a community control sanction pursuant to Ohio R.C. 2929.25 for part of the three days, requires the offender to attend for the suspended part of the term a drivers' intervention program so certified, and sentences the offender to a jail term equal to the remainder of the three consecutive days that the offender does not spend attending the program. The court may require the offender, as a condition of community control and in addition to the required attendance at a drivers' intervention program, to attend and satisfactorily complete any treatment or education programs that comply with the minimum standards adopted pursuant to Ohio R.C. Chapter 5119 by the Director of Mental Health and Addiction Services that the operators of the drivers' intervention program determine that the offender should attend and to report periodically to the court on the offender's progress in the programs. The court also may impose on the offender any other conditions of community control that it considers necessary.

If the court grants unlimited driving privileges to a first-time offender under Ohio R.C. 4510.022, all penalties imposed upon the offender by the court under subsection (h)(1)A.1. of this section for the offense apply, except that the court shall suspend any mandatory or additional jail term imposed by the court under subsection (h)(1)A.1. of this section upon granting unlimited driving privileges in accordance with Ohio R.C. 4510.022.

2. If the sentence is being imposed for a violation of subsection (a)(1)F., G., H. or I. or (a)(2) of this section, except as otherwise provided in this subsection, a mandatory jail term of at least three consecutive days and a requirement that the offender attend, for three consecutive days, a drivers' intervention program that is certified pursuant to Ohio R.C. 5119.38. As used in this subsection, three consecutive days means 72 consecutive hours. If the court determines that the offender is not conducive to treatment in a drivers' intervention program, if the offender refuses to attend a drivers' intervention program, or if the jail at which the offender is to serve the jail term imposed can provide a drivers' intervention program, the court shall sentence the offender to a mandatory jail term of at least six consecutive days.

If the court grants unlimited driving privileges to a first-time offender under Ohio R.C. 4510.022, all penalties imposed upon the offender by the court under subsection (h)(1)A.2. of this section for the offense apply, except that the court shall suspend any mandatory or additional jail term imposed by the court under subsection (h)(1)A.2. of this section upon granting unlimited driving privileges in accordance with Ohio R.C. 4510.022.

The court may require the offender, under a community control sanction imposed under Ohio R.C. 2929.25, to attend and satisfactorily complete any treatment or education programs that comply with the minimum standards adopted pursuant to Ohio R.C. Chapter 5119 by the Director of Mental Health and Addiction Services, in addition to the required attendance at drivers' intervention program, that the operators of the drivers' intervention program determine that the offender should attend and to report periodically to the court on the offender's progress in the programs. The court also may impose any other conditions of community control on the offender that it considers necessary.

3. In all cases, a fine of not less than three hundred seventy-five dollars (\$375.00) and not more than one thousand seventy-five dollars (\$1,075.00).
 4. In all cases, a suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege for a definite period of one to three years. The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.13. The court may grant unlimited driving privileges with an ignition interlock device relative to the suspension and may reduce the period of suspension as authorized under Ohio R.C. 4510.022.
- B. Except as otherwise provided in subsection (h)(1)E. of this section, an offender who, within ten years of the offense, previously has been convicted of or pleaded guilty to one violation of subsection (a) ~~or (b)~~ of this section or one other equivalent offense is guilty of a misdemeanor of the first degree. The court shall sentence the offender to all of the following:
1. If the sentence is being imposed for a violation of subsection (a)(1)A., B., C., D., E., or J. of this section, a mandatory jail term of ten consecutive days. The court shall impose the ten-day mandatory jail term under this subsection unless, subject to subsection (h)(3) of this section, it instead imposes a sentence under that subsection consisting of both a jail term and a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition to the ten-day mandatory jail term. The cumulative jail term imposed for the offense shall not exceed six months.

In addition to the jail term or the term of house arrest with electronic monitoring or continuous alcohol monitoring or both types of monitoring and jail term, the court shall require the offender to be assessed by a community addiction services provider that is authorized by Ohio R.C. 5119.21, subject to subsection (k) of this section, and shall order the offender to follow the treatment recommendations of the services provider. The purpose of the assessment is to determine the degree of the offender's alcohol usage and to determine whether or not treatment is warranted. Upon the request of the court, the services provider shall submit the results of the assessment to the court, including all treatment recommendations and clinical diagnoses related to alcohol use.
 2. If the sentence is being imposed for a violation of subsection (a)(1)F., G., H. or I. or (a)(2) of this section, except as otherwise provided in this subsection, a mandatory jail term of 20 consecutive days. The court shall impose the 20-day mandatory jail term under this subsection unless, subject to subsection (h)(3) of this section, it instead imposes a sentence under that subsection consisting of both a jail term and a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in

addition to the 20-day mandatory jail term. The cumulative jail term imposed for the offense shall not exceed six months.

In addition to the jail term or the term of house arrest with electronic monitoring or continuous alcohol monitoring or both types of monitoring and jail term, the court shall require the offender to be assessed by a community addiction services provider that is authorized by Ohio R.C. 5119.21, subject to subsection (k) of this section, and shall order the offender to follow the treatment recommendations of the services provider. The purpose of the assessment is to determine the degree of the offender's alcohol usage and to determine whether or not treatment is warranted. Upon the request of the court, the services provider shall submit the results of the assessment to the court, including all treatment recommendations and clinical diagnoses related to alcohol use.

3. In all cases, notwithstanding the fines set forth in Section 303.99, a fine of not less than five hundred twenty-five dollars (\$525.00) and not more than one thousand six hundred twenty-five dollars (\$1,625.00).
 4. In all cases, a suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege for a definite period of one to seven years. The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.13. (ORC 4511.19)
 5. In all cases, if the vehicle is registered in the offender's name, immobilization of the vehicle involved in the offense for ninety days in accordance with Ohio R.C. 4503.233 and impoundment of the license plates of that vehicle for 90 days. (ORC 4511.193)
- C. Except as otherwise provided in subsection (h)(1)E. of this section, an offender who, within ten years of the offense, previously has been convicted of or pleaded guilty to two violations of subsection (a) ~~or (b)~~ of this section or other equivalent offenses is guilty of a misdemeanor. The court shall sentence the offender to all of the following:
1. If the sentence is being imposed for a violation of subsection (a)(1)A., B., C., D., E., or J. of this section, a mandatory jail term of 30 consecutive days. The court shall impose the 30-day mandatory jail term under this subsection unless, subject to subsection (h)(3) of this section, it instead imposes a sentence under that subsection consisting of both a jail term and a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition to the 30-day mandatory jail term. Notwithstanding the jail terms set forth in Section 303.99, the additional jail term shall not exceed one year, and the cumulative jail term imposed for the offense shall not exceed one year.
 2. If the sentence is being imposed for a violation of subsection (a)(1)F., G., H. or I. or (a)(2) of this section, a mandatory jail term of 60 consecutive days. The court shall impose the 60-day mandatory jail term under this subsection unless, subject to subsection (h)(3) of this section, it instead imposes a sentence under that subsection consisting of both a jail term and a term of electronically monitored house arrest with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition to the 60-day mandatory jail term. Notwithstanding the terms of imprisonment set forth in Section 303.99, the additional jail term shall not exceed one year, and the cumulative jail term imposed for the offense shall not exceed one year.

3. In all cases, notwithstanding the fines set forth in Section 303.99, a fine of not less than eight hundred fifty dollars (\$850.00) and not more than two thousand seven hundred fifty dollars (\$2,750.00).
4. In all cases, a suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege for a definite period of two to 12 years. The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.13. (ORC 4511.19)
5. In all cases, if the vehicle is registered in the offender's name, criminal forfeiture of the vehicle involved in the offense in accordance with Ohio R.C. 4503.234. Subsection (h)(5) of this section applies regarding any vehicle that is subject to an order of criminal forfeiture under this subsection. (ORC 4511.193)
6. In all cases, the court shall order the offender to participate with a community addiction services provider authorized by Ohio R.C. 5119.21, subject to subsection (k) of this section, and shall order the offender to follow the treatment recommendations of the services provider. The operator of the services provider shall determine and assess the degree of the offender's alcohol dependency and shall make recommendations for treatment. Upon the request of the court, the services provider shall submit the results of the assessment to the court, including all treatment recommendations and clinical diagnoses related to alcohol use.

D. Except as otherwise provided in subsection (h)(1)E. of this section, an offender who, within ten years of the offense, previously has been convicted of or pleaded guilty to three or four violations of subsection (a) ~~or (b)~~ of this section or other equivalent offenses ~~or~~, an offender who, within 20 years of the offense, previously has been convicted of or pleaded guilty to five or more violations of that nature, or an offender who previously has been convicted of or pleaded guilty to a specification of the type described in Ohio R.C. section 2941.1413 is guilty of a felony of the fourth degree and shall be prosecuted under appropriate state law.

E. An offender who previously has been convicted of or pleaded guilty to a violation of Ohio R.C. 4511.19(A) that was a felony, regardless of when the violation and the conviction or guilty plea occurred, is guilty of a felony of the third degree and shall be prosecuted under appropriate state law.

- (2) An offender who is convicted of or pleads guilty to a violation of subsection (a) of this section and who subsequently seeks reinstatement of the driver's or occupational driver's license or permit or nonresident operating privilege suspended under this section as a result of the conviction or guilty plea shall pay a reinstatement fee as provided in Ohio R.C. 4511.191(F)(2).
- (3) If an offender is sentenced to a jail term under subsection (h)(1)B.1. or 2. or (h)(1)C.1. or 2. of this section and if, within 60 days of sentencing of the offender, the court issues a written finding on the record that, due to the unavailability of space at the jail where the offender is required to serve the term, the offender will not be able to begin serving that term within the 60-day period following the date of sentencing, the court may impose an alternative sentence under this subsection that includes a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring.

As an alternative to a mandatory jail term of ten consecutive days required by subsection (h)(1)B.1. of this section, the court, under this subsection, may sentence the offender to five consecutive days in jail and not less than 18 consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and

continuous alcohol monitoring. The cumulative total of the five consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring, or both types of monitoring shall not exceed six months. The five consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.

As an alternative to the mandatory jail term of twenty consecutive days required by subsection (h)(1)B.2. of this section, the court, under this subsection, may sentence the offender to ten consecutive days in jail and not less than 36 consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of the ten consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring or both types of monitoring shall not exceed six months. The ten consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.

As an alternative to a mandatory jail term of 30 consecutive days required by subsection (h)(1)C.1. of this section, the court, under this subsection, may sentence the offender to 15 consecutive days in jail and not less than 55 consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of the fifteen consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring or both types of monitoring shall not exceed one year. The 15 consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.

As an alternative to the mandatory jail term of 60 consecutive days required by subsection (h)(1)C.2. of this section, the court, under this subsection, may sentence the offender to 30 consecutive days in jail and not less than 110 consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of the 30 consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring, or both types of monitoring shall not exceed one year. The 30 consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.

- (4) If an offender's driver's or occupational driver's license or permit or nonresident operating privilege is suspended under subsection (h) of this section and if Ohio R.C. 4510.13 permits the court to grant limited driving privileges, the court may grant the limited driving privileges in accordance with that section. If division (A)(7) of that section requires that the court impose as a condition of the privileges that the offender must display on the vehicle that is driven subject to the privileges restricted license plates that are issued under Ohio R.C. 4503.231, except as provided in division (B) of that section, the court shall impose that condition as one of the conditions of the limited driving privileges granted to the offender, except as provided in Ohio R.C. 4503.231(B).
- (5) If title to a motor vehicle that is subject to an order of criminal forfeiture under this section is assigned or transferred and Ohio R.C. 4503.234(B)(2) or (3) applies, in addition to or independent of any other penalty established by law, the court may fine the offender the value of the vehicle as determined by publications of the national auto dealers association. The proceeds of any fine so imposed shall be distributed in accordance with division (C)(2) of that section.
- (6) In all cases in which an offender is sentenced under subsection (h) of this section, the offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, the court, in addition to any other penalties provided by law, may order restitution pursuant to Ohio R.C. 2929.18 or 2929.28 in an amount not exceeding five thousand dollars (\$5,000.00) for any economic loss arising from an

accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during or after committing the offense for which the offender is sentenced under subsection (h) of this section.

- (7) A court may order an offender to reimburse a law enforcement agency for any costs incurred by the agency with respect to a chemical test or tests administered to the offender if all of the following apply:
- A. The offender is convicted of or pleads guilty to a violation of subsection (a) of this section.
 - B. The test or tests were of the offender's whole blood, blood serum or plasma, or urine.
 - C. The test or tests indicated that the offender had a prohibited concentration of a controlled substance or a metabolite of a controlled substance in the offender's whole blood, blood serum or plasma, or urine at the time of the offense.
- (8) As used in subsection (h) of this section, "electronic monitoring", "mandatory prison term" and "mandatory term of local incarceration" have the same meanings as in Ohio R.C. 2929.01.
- (i) *Vehicle Operation After Underage Alcohol Consumption Penalty.* Whoever violates subsection (b) of this section is guilty of operating a vehicle after underage alcohol consumption and shall be punished as follows:
- (1) Except as otherwise provided in subsection (i)(2) of this section, the offender is guilty of a misdemeanor of the fourth degree. In addition to any other sanction imposed for the offense, the court shall impose 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 Ohio R.C. 4510.02(A)(6).
- The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.13. The court may grant unlimited driving privileges with an ignition interlock device relative to the suspension and may reduce the period of suspension as authorized under Ohio R.C. 4510.022. If the court grants unlimited driving privileges under Ohio R.C. 4510.022, the court shall suspend any jail term imposed under subsection (i)(1) of this section as required under that section.
- (2) If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one or more violations of subsection (a) or (b) of this section or other equivalent offenses, the offender is guilty of a misdemeanor of the third degree. In addition to any other sanction imposed for the offense, the court shall impose 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 Ohio R.C. 4510.02(A)(4). The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.13.
- (3) ~~If the offender also is convicted of or also pleads guilty to a specification of the type described in Ohio R.C. 2941.1416 and if the court imposes a jail term for the violation of subsection (b) of this section, the court shall impose upon the offender an additional definite jail term pursuant to Ohio R.C. 2929.249(E).~~
- (4) The offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then, in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.28, in an amount not exceeding five thousand dollars (\$5,000.00) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during or after committing the violation of subsection (b) of this section. (ORC 4511.19)

- (j) *Physical Control Penalty.* Whoever violates subsection (d) hereof is guilty of having physical control of a vehicle while under the influence, a misdemeanor of the first degree. In addition to other sanctions imposed, the court may impose on the offender a class seven suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in Ohio R.C. 4510.02(A)(7). (ORC 4511.194)
- (k) *Compliance With Ohio R.C. Chapter 5119 Standards.*
- (1) No court shall sentence an offender to an alcohol treatment program under this section unless the treatment program complies with the minimum standards for alcohol treatment programs adopted under Ohio R.C. Ch. 5119 by the Director of Mental Health and Addiction Services.
 - (2) An offender who stays in a driver's intervention program or in an alcohol treatment program under an order issued under this section shall pay the cost of the stay in the program. However, if the court determines that an offender who stays in an alcohol treatment program under an order issued under this section is unable to pay the cost of the stay in the program, the court may order that the cost be paid from the court's indigent drivers' alcohol treatment fund.
- (l) *Appeal Does Not Stay Operation of License Suspension.* If a person whose driver's or commercial driver's license or permit or nonresident operating privilege is suspended under this section files an appeal regarding any aspect of the person's trial or sentence, the appeal itself does not stay the operation of the suspension.
- (m) Subsection (a)(1)J. of this section does not apply to a person who operates a vehicle while the person has a concentration of a listed controlled substance or a listed metabolite of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds the amount specified in that subsection, if both of the following apply:
- (1) The person obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs.
 - (2) The person injected, ingested, or inhaled the controlled substance in accordance with the health professional's directions.
- (n) The prohibited concentrations of a controlled substance or a metabolite of a controlled substance listed in subsection (a)(1)J. of this section also apply in a prosecution of a violation of Ohio R.C. 2923.16(D) in the same manner as if the offender is being prosecuted for a prohibited concentration of alcohol.
- (o) *Conflict of Terms.* All terms defined in Ohio R.C. 4510.01 apply to this section. If the meaning of a term defined in Ohio R.C. 4510.01 conflicts with the meaning of the same term as defined in Ohio R.C. 4501.01 or this Traffic Code, the term as defined in Ohio R.C. 4510.01 applies to this section. (ORC 4511.19)
- (p) *Indigent Drivers Alcohol Treatment Fund.* Twenty-five dollars (\$25.00) of any fine imposed for a violation of subsection (a) hereof shall be deposited into the municipal or county indigent drivers alcohol treatment fund pursuant to Ohio R.C. 4511.193. (ORC 4511.193)
- (q) *Definitions.* As used in this section:
- (1) *Equivalent offense* means any of the following:
 - A. A violation of Ohio R.C. 4511.19(A)(B);
 - B. A violation of a municipal OVI ordinance;
 - C. A violation of Ohio R.C. 2903.04 in a case in which the offender was subject to the sanctions described in division (D) of that section;

- D. A violation of division (A)(1) of Ohio R.C. 2903.06 or 2903.08 or a municipal ordinance that is substantially equivalent to either of those divisions;
 - E. A violation of Ohio R.C. 2903.06(A)(2), (3) or (4), Ohio R.C. 2903.08(A)(2), or former Ohio R.C. 2903.07, or a municipal ordinance that is substantially equivalent to any of those divisions or that former section, in a case in which a judge or jury as the trier of fact found that the offender was under the influence of alcohol, a drug of abuse, or a combination of them;
 - F. A violation of Ohio R.C. 1547.11(A) ~~or (B)~~;
 - G. A violation of a municipal ordinance prohibiting a person from operating or being in physical control of any vessel underway or from manipulating any water skis, aquaplane or similar device on the waters of this State while under the influence of alcohol, a drug of abuse, or a combination of them or prohibiting a person from operating or being in physical control of any vessel underway or from manipulating any water skis, aquaplane or similar device on the waters of this State 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;
 - H. A violation of an existing or former municipal ordinance, law of another state, or law of the United States that is substantially equivalent to Ohio R.C. 4511.19(A) ~~or (B)~~ or Ohio R.C. 1547.11(A) ~~or (B)~~;
 - I. A violation of a former law of this State that was substantially equivalent of Ohio R.C. 4511.19(A) ~~or (B)~~ or Ohio R.C. 1547.11(A) ~~or (B)~~;
- (2) *Mandatory jail term* means the mandatory term in jail of three, six, ten, 20, 30, or 60 days that must be imposed under subsection (h)(1)A., B. or C. upon an offender convicted of a violation of subsection (a) hereof and in relation to which all of the following apply:
- A. Except as specifically authorized under this section, the term must be served in a jail.
 - B. Except as specifically authorized under this section, the term cannot be suspended, reduced or otherwise modified pursuant to Ohio R.C. 2929.21 to 2929.28, or any other provision of the Ohio Revised Code.
- (3) *Municipal OVI ordinance* and *municipal OVI offense* mean any municipal ordinance prohibiting a person from operating a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them or prohibiting a person from operating a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum, or plasma, breath or urine.
- (4) *Community residential sanction, continuous alcohol monitoring, jail, mandatory prison term, mandatory term of local incarceration, sanction* and *prison term* have the same meanings as in Ohio R.C. 2929.01.
- (5) *Drug of abuse* has the same meaning as in Ohio R.C. 4506.01.
- (6) *Equivalent offense that is vehicle-related* means an equivalent offense that is any of the following:
- A. A violation described in subsection (q)(1), (2), (3), (4) or (5) hereof;
 - B. A violation of an existing or former municipal ordinance, law of another state, or law of the United States that is substantially equivalent to Ohio R.C. 4511.19(A) ~~or (B)~~;
 - C. A violation of a former law of this state that was substantially equivalent to Ohio R.C. 4511.19(A) ~~or (B)~~. (ORC 4511.181)

333.03 Maximum speed limits; assured clear distance ahead.

- (a) No person shall operate a motor vehicle at a speed greater or less than is reasonable or proper, having due regard to the traffic, surface and width of the street or highway and any other conditions, and no person shall drive any motor vehicle in and upon any street or highway at a greater speed than will permit the person to bring it to a stop within the assured clear distance ahead.
- (b) It is prima-facie lawful, in the absence of a lower limit declared or established pursuant to Ohio R.C. 4511.21 by the Ohio Director of Transportation or Council, for the operator of a motor vehicle to operate the same at a speed not exceeding the following:
 - (1) A. Twenty miles per hour in school zones during school recess and while children are going to or leaving school during the opening or closing hours, and when 20 miles per hour school speed limit signs are erected; except, that on controlled-access highways and expressways, if the right-of-way line fence has been erected without pedestrian opening, the speed shall be governed by subsection (b)(4) hereof and on freeways, if the right-of-way line fence has been erected without pedestrian opening, the speed shall be governed by subsection (b)(7) hereof. The end of every school zone may be marked by a sign indicating the end of the zone. Nothing in this section or in the manual and specifications for a uniform system of traffic control devices shall be construed to require school zones to be indicated by signs equipped with flashing or other lights, or giving other special notice of the hours in which the school zone speed limit is in effect.
 - B. As used in this section, "school" means any school chartered under Ohio R.C. 3301.16 and any nonchartered school that during the preceding year filed with the Department of Education in compliance with rule 3301-35-08 of the Ohio Administrative Code, a copy of the school's report for the parents of the school's pupils certifying that the school meets Ohio minimum standards for nonchartered, nontax-supported schools and presents evidence of this filing to the jurisdiction from which it is requesting the establishment of a school zone.
 - C. As used in this section, "school zone" means that portion of a street or highway passing a school fronting upon the street or highway that is encompassed by projecting the school property lines to the fronting street or highway. Upon request from the Municipality for streets and highways under its jurisdiction, the Ohio Director of Transportation may extend the traditional school zone boundaries. The distances in subsections (b)(1)C.1. to 3. hereof shall not exceed 300 feet per approach per direction and are bounded by whichever of the following distances or combinations thereof the Director approves as most appropriate:
 - 1. The distance encompassed by projecting the school building lines normal to the fronting highway and extending a distance of 300 feet on each approach direction;
 - 2. The distance encompassed by projecting the school property lines intersecting the fronting highway and extending a distance of 300 feet on each approach direction;
 - 3. The distance encompassed by the special marking of the pavement for a principal school pupil crosswalk plus a distance of 300 feet on each approach direction of highway;Nothing in this section shall be construed to invalidate the Director's initial action on August 9, 1976, establishing all school zones at the traditional school zone boundaries defined by projecting school property lines, except when those boundaries are extended as provided in subsections (b)(1)A. and C. hereof.
 - D. As used in this subsection, "crosswalk" has the meaning given that term in Section 301.09. The Director may, upon request by resolution of Council, and upon submission by the Municipality of such engineering, traffic and other information as the Director considers

necessary, designate a school zone on any portion of a State route lying within the Municipality that includes a crosswalk customarily used by children going to or leaving a school during recess and opening and closing hours, whenever the distance, as measured in a straight line, from the school property line nearest the crosswalk to the nearest point of the crosswalk is no more than 1,320 feet. Such a school zone shall include the distance encompassed by the crosswalk and extending 300 feet on each approach direction of the State route;

- (2) Twenty-five miles per hour in all other portions of the Municipality, except on State routes outside business districts, through highways outside business districts and alleys;
 - (3) Thirty-five miles per hour on all State routes or through highways within the Municipality outside business districts, except as provided in subsections (b)(4) and (5) hereof;
 - (4) Fifty miles per hour on controlled-access highways and expressways within the Municipality;
 - (5) Fifty miles per hour on State routes within the Municipality outside urban districts unless a lower prima-facie speed is established as further provided in this section;
 - (6) Fifteen miles per hour on all alleys within the Municipality;
 - (7) Fifty-five miles per hour at all times on freeways with paved shoulders inside the Municipality other than freeways as provided in subsection (b)(10) and (12);
 - (8) Sixty miles per hour for operators of any motor vehicle at all times on all portions of rural divided highways;
 - (9) Sixty-five miles per hour for operators of any motor vehicle at all times on rural expressways without traffic control signals;
 - (10) Seventy miles per hour for operators of any motor vehicle at all times on all rural freeways.
 - (11) Fifty-five miles per hour for operators of any motor vehicle at all times on all portions of freeways in congested areas as determined by the Director and that are part of the interstate system and are located within a municipal corporation or within an interstate freeway outerbelt;
 - (12) Sixty-five miles per hour for operators of any motor vehicle at all times on all portions of freeways in urban areas as determined by the Director and that are part of the interstate system and are part of an interstate freeway outerbelt;
- (c) It is prima-facie unlawful for any person to exceed any of the speed limitations in subsection (b)(1)A. to (b)(6) hereof, or any declared or established pursuant to this section by the Director or local authorities and it is unlawful for any person to exceed any of the speed limitations in subsection (d) hereof. No person shall be convicted of more than one violation of this section for the same conduct, although violations of more than one provision of this section may be charged in the alternative in a single affidavit.
- (d) No person shall operate a motor vehicle upon a street or highway as follows:
- (1) At a speed exceeding 55 miles per hour, except upon a highway, expressway or freeway as provided in subsection (b)(8), (9), (10) and (12) hereof;
 - (2) At a speed exceeding 60 miles per hour upon a highway as provided in subsection (b)(8) hereof;
 - (3) At a speed exceeding 65 miles per hour upon an expressway as provided in subsection (b)(9) hereof, except upon a freeway as provided in subsection (b)(10) hereof;
 - (4) At a speed exceeding 70 miles per hour upon a freeway as provided in subsection (b)(10) hereof;

- (5) At a speed exceeding the posted speed limit upon a highway, expressway or freeway for which the Director has determined and declared a speed limit pursuant to Ohio R.C. 4511.21(I)(2) or (L)(2).
- (e) In every charge of violation of this section the affidavit and warrant shall specify the time, place and speed at which the defendant is alleged to have driven, and in charges made in reliance upon subsection (c) hereof also the speed which subsections (b)(1)A. to (b)(6) hereof, or a limit declared or established pursuant to this section declares is prima-facie lawful at the time and place of such alleged violation, except that in affidavits where a person is alleged to have driven at a greater speed than will permit the person to bring the vehicle to a stop within the assured clear distance ahead the affidavit and warrant need not specify the speed at which the defendant is alleged to have driven.
- (f) When a speed in excess of both a prima-facie limitation and a limitation in subsection (d) hereof is alleged, the defendant shall be charged in a single affidavit, alleging a single act, with a violation indicated of both subsections (b)(1)A. to (b)(6) hereof, or of a limit declared or established pursuant to this section by the Director or local authorities, and of the limitation in subsection (d) hereof. If the court finds a violation of subsection (b)(1)A. to (b)(6) hereof, or a limit declared or established pursuant to this section has occurred, it shall enter a judgment of conviction under such subsection and dismiss the charge under subsection (d) hereof. If it finds no violation of subsections (b)(1)A. to (b)(6) hereof or a limit declared or established pursuant to this section, it shall then consider whether the evidence supports a conviction under subsection (d) hereof.
- (g) Points shall be assessed for violation of a limitation under subsection (d) hereof in accordance with Ohio R.C. 4510.036.
- (h) Whenever, in accordance with Ohio R.C. 4511.21 or this section, the speed limitations as established herein have been altered, either higher or lower, and the appropriate signs giving notice have been erected as required, operators of motor vehicles shall be governed by the speed limitations set forth on such signs. It is prima-facie unlawful for any person to exceed the speed limits posted upon such signs.
- (i) As used in this section:
- (1) *Interstate system* has the same meaning as in 23 U.S.C.A. 101.
 - (2) *Commercial bus* means a motor vehicle designed for carrying more than nine passengers and used for the transportation of persons for compensation.
 - (3) *Noncommercial bus* includes but is not limited to a school bus, or a motor vehicle operated solely for the transportation of persons associated with a charitable or non-profit organization.
 - (4) *Outerbelt* means a portion of a freeway that is part of the interstate system and is located in the outer vicinity of a major municipal corporation or group of municipal corporations, as designated by the Director.
 - (5) *Rural* means outside urbanized areas, as designated in accordance with 23 USC 101, and outside of a business or urban district.
- (j) (1) A violation of any provision of this section is one of the following:
- A. Except as otherwise provided in subsections (j)(1)B., (1)C., (2) and (3) of this section, a minor misdemeanor;
 - B. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to two violations of any provision of this section or of any provision of Ohio R.C. 4511.21 or a municipal ordinance that is substantially similar to any provision of this section, a misdemeanor of the fourth degree;
 - C. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to three or more violations of any provision of this section or of any provision of Ohio

R.C. 4511.21 or a municipal ordinance that is substantially similar to any provision of this section, a misdemeanor of the third degree.

(2) If the offender ~~has not previously been convicted of or pleaded guilty to a violation of any provision of Ohio R.C. 4511.21 or of any provision of a municipal ordinance that is substantially similar to Ohio R.C. 4511.21 and~~ operated a motor vehicle faster than 35 miles an hour in a business district of a municipal corporation, faster than 50 miles an hour in other portions of a municipal corporation, or faster than 35 miles an hour in a school zone during recess or while children are going to or leaving school during the school's opening or closing hours, a misdemeanor of the fourth degree. Division (P)(2) of this section does not apply if penalties may be imposed under division (P)(1)(b) or (c) of this section.

(3) Notwithstanding subsection (j)(1) of this section, if the offender operated a motor vehicle in a construction zone where a sign was then posted in accordance with Ohio R.C. 4511.98, the court, in addition to all other penalties provided by law, shall impose upon the offender a fine of two times the usual amount imposed for the violation. No court shall impose a fine of two times the usual amount imposed for the violation upon an offender if the offender alleges, in an affidavit filed with the court prior to the offender's sentencing, that the offender is indigent and is unable to pay the fine imposed pursuant to this subsection and if the court determines that the offender is an indigent person and unable to pay the fine.

(4) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Ohio R.C. 4511.991. (ORC 4511.21)

(Ord. No. 20-O-716 , § 2(Exh. A), 2-20-20; Ord. No. 21-O-770 , § 1, 7-8-21)

333.11 Texting while driving prohibited.

(a) No person shall ~~drive~~ operate a motor vehicle on any street, highway, or property open to the public for vehicular traffic while using ~~a handheld, holding, or physically supporting with any part of the person's body an~~ an electronic wireless communications device ~~to write, send, or read a text-based communication.~~

(b) Subsection (a) of this section does not apply to any of the following:

(1) A person using ~~a handheld~~ an electronic wireless communications device ~~in that manner for emergency purposes, including an emergency to make contact, for emergency purposes,~~ with a law enforcement agency, hospital or health care provider, fire department, or other similar emergency agency or entity;

(2) A person driving a public safety vehicle ~~who uses a handheld~~ while using an electronic wireless communications device ~~in that manner~~ in the course of the person's duties;

(3) A person using ~~a handheld~~ an electronic wireless communications ~~device in that manner whose~~ when ~~the person's~~ motor vehicle is in a stationary position and ~~who~~ is outside a lane of travel , at a traffic control signal that is currently directing traffic to stop, or parked on a road or highway due to an emergency or road closure;

(4) A person ~~reading, selecting, or entering a name or telephone number in a handheld~~ using and holding an electronic wireless communications device directly near the person's ear for the purpose of making ~~or~~ receiving, or conducting a telephone call, provided that the person does not manually enter letters, numbers, or symbols into the device;

(5) A person receiving wireless messages on ~~a~~ an electronic wireless communications device regarding the operation or navigation of a motor vehicle; safety-related information, including emergency, traffic or weather alerts; or data used primarily by the motor vehicle, provided that the person does not hold or support the device with any part of the person's body;

(6) A person ~~receiving wireless messages via radio waves~~ using the speaker phone function of the electronic wireless communications device, provided that the person does not hold or support the device with any part of the person's body;

(7) A person using ~~a~~ an electronic wireless communications device for navigation purposes, provided that the person does not do either of the following during the use:

(A) Manually enter letters, numbers, or symbols into the device;

(B) Hold or support the device with any part of the person's body;

(8) A person ~~conducting wireless interpersonal communication with a device that does not require manually entering letters, numbers, or symbols or reading text messages, except to activate, deactivate, or initiate the device or~~ using a feature or function of the electronic wireless communication device with a single touch or single swipe, provided that the person does not do either of the following during the use:

(A) Manually enter letters, numbers, or symbols into the device;

(B) Hold or support the device with any part of the person's body;

(9) A person operating a commercial truck while using a mobile data terminal that transmits and receives data;

(10) A person ~~using a handheld electronic wireless communications device in conjunction with a voice-operated or hands-free device feature or function of the vehicle.~~ operating a utility service vehicle or a vehicle for or on behalf of a utility, if the person is acting in response to an emergency, power outage, or circumstance that affects the health or safety of individuals;

(11) ~~(11) A person using a handheld~~ an electronic wireless communications device in conjunction with a voice-operated or hands-free device feature or function of the vehicle or of the device without the use of either hand except to activate, deactivate, or initiate the feature or function with a single touch or swipe, provided the person does not hold or support the device with any part of the person's body;

(12) A person using technology that physically or electronically integrates the device into the motor vehicle, provided that the person does not do either of the following during the use:

(a) Manually enter letters, numbers, or symbols into the device;

(b) Hold or support the device with any part of the person's body.

(13) A person storing an electronic wireless communications device in a holster, harness, or article of clothing on the person's body.

~~(c) Notwithstanding any provision of law to the contrary, no law enforcement officer shall cause an operator of an automobile being operated on any street or highway to stop the automobile for the sole purpose of determining whether a violation of subsection (a) of this section has been or is being committed or for the sole purpose of issuing a ticket, citation or summons for a violation of that nature or causing the arrest of or commencing a prosecution of a person for a violation of that nature, and no law~~

~~enforcement officer shall view the interior or visually inspect any automobile being operated on any street or highway for the sole purpose of determining whether a violation of that nature has been or is being committed.~~

(c) If a law enforcement officer issues an offender a ticket, citation, or summons for a violation of division (A) of this section, the officer shall do both of the following:

- (a) Report the issuance of the ticket, citation, or summons to the officer's law enforcement agency;
- (b) Ensure that such report indicates the offender's race.

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

(a) Except as provided in divisions (D)(1)(b), (c), (d), and (2) of this section, the court shall impose upon the offender a fine of not more than one hundred fifty dollars.

(b) If, within two years of the violation, the offender has been convicted of or pleaded guilty to one prior violation of this section or a substantially equivalent municipal ordinance, the court shall impose upon the offender a fine of not more than two hundred fifty dollars.

(c) If, within two years of the violation, the offender has been convicted of or pleaded guilty to two or more prior violations of this section or a substantially equivalent municipal ordinance, the court shall impose upon the offender a fine of not more than five hundred dollars. The court also may impose a suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege for ninety days.

(d) Notwithstanding divisions (D)(1)(a) to (c) of this section, if the offender was operating the motor vehicle at the time of the violation in a construction zone where a sign was posted in accordance with section 4511.98 of the Revised Code, the court, in addition to all other penalties provided by law, shall impose upon the offender a fine of two times the amount imposed for the violation under division (D)(1)(a), (b), or (c) of this section, as applicable.

(2) In lieu of payment of the fine of one hundred fifty dollars under division (D)(1)(a) of this section and the assessment of points under division (D)(4) of this section, the offender instead may elect to attend the distracted driving safety course, as described in section 4511.991 of the Revised Code. If the offender attends and successfully completes the course, the offender shall be issued written evidence that the offender successfully completed the course. The offender shall not be required to pay the fine and shall not have the points assessed against that offender's driver's license if the offender submits the written evidence to the court.

(3) The court may impose any other penalty authorized under sections 2929.21 to 2929.28 of the Revised Code. However, the court shall not impose a fine or a suspension not otherwise specified in division (D)(1) of this section. The court also shall not impose a jail term or community residential sanction.

(4) Except as provided in division (D)(2) of this section, points shall be assessed for a violation of division (A) of this section in accordance with section 4510.036 of the Revised Code.

(5) The offense established under this section is a strict liability offense and section 2901.20 of the Revised Code does not apply. The designation of this offense as a strict liability offense shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense.

(e) A prosecution for an offense in violation of this section does not preclude a prosecution for an offense in violation of a substantially equivalent municipal ordinance based on the same conduct. However, if an offender is convicted of or pleads guilty to a violation of this section and is also convicted of or pleads guilty to a violation of a substantially equivalent municipal ordinance based on the same conduct, the two offenses are allied offenses of similar import under Ohio R.C. 2941.25.

(f) (1) A law enforcement officer does not have probable cause and shall not stop the operator of a motor vehicle for purposes of enforcing this section unless the officer visually observes the operator using, holding, or physically supporting with any part of the person's body the electronic wireless communications device.

(2) A law enforcement officer who stops the operator of a motor vehicle, trackless trolley, or streetcar for a violation of division (A) of this section shall inform the operator that the operator may decline a search of the operator's electronic wireless communications device. The officer shall not do any of the following:

(a) Access the device without a warrant, unless the operator voluntarily and unequivocally gives consent for the officer to access the device;

(b) Confiscate the device while awaiting the issuance of a warrant to access the device;

(c) Obtain consent from the operator to access the device through coercion or any other improper means. Any consent by the operator to access the device shall be voluntary and unequivocal before the officer may access the device without a warrant.

(fg) As used in this section:

(1) *Electronic wireless communications device* includes any of the following:

A. A wireless telephone;

B. A text-messaging device;

C. A personal digital assistant;

D. A computer, including a laptop computer and a computer tablet;

E. Any device capable of displaying a video, movie, broadcast television image, or visual image;

~~E~~F. Any other substantially similar wireless device that is designed or used to communicate text, initiate or receive communication, or exchange information or data.

An "electronic wireless communications device" does not include a two-way radio transmitter or receiver used by a person who is licensed by the federal communications commission to participate in the amateur radio service.

(2) *Voice-operated or hands-free ~~device~~ feature or function* means a ~~device~~ feature or function that allows ~~the user to vocally compose or send, or to listen to a text-based communication~~ a person to use an electronic wireless communications device without the use of either hand, except to activate, ~~or deactivate a~~, or initiate the feature or function ~~with a single touch or single swipe~~.

(3) *~~Write, send or read a text-based communication~~* means to manually write or send, or read a text-based communication using an electronic wireless communications device, including manually writing or sending, or reading communications referred to as text messages, instant messages, or ~~electronic mail~~. *Utility* means an entity specified in divisions (A), (C), (D), (E), or (G) in ORC 49.0503.

(4) *Utility service vehicle* means a vehicle owned or operated by a utility. (ORC 4511.204)

(Ord. No. 20-O-716 , § 2(Exh. A), 2-20-20; Ord. No. 21-O-770 , § 1, 7-8-21)

337.10 Lights on slow-moving vehicles; emblem required.

- (a) ~~All vehicles other than bicycles, including animal drawn vehicles and vehicles referred to in Section 337.01(c), not specifically required to be equipped with lights or other lighting devices by Sections 337.02 to 337.09, shall at all times specified in Section 337.02, be equipped with at least one light displaying a white light visible from a distance of not less than 1,000 feet to the front of the vehicle, and also shall be equipped with two lights displaying red light visible from a distance of not less than 1,000 feet to the rear of the vehicle, or as an alternative, one light displaying a red light visible from a distance of not less than 1,000 feet to the rear and two red reflectors visible from all distances of 600 feet to 100 feet to the rear when illuminated by the lawful lower beams of headlights.~~

~~Lights and reflectors required or authorized by this section shall meet standards adopted by the Ohio Director of Public Safety.~~

- (b) ~~All boat trailers, farm machinery and other machinery, including all road construction machinery, upon a street or highway, except when being used in actual construction and maintenance work in an area guarded by a flagperson, or where flares are used, or when operating or traveling within the limits of a construction area designated by the Ohio Director of Transportation, or the Municipal or County Engineer, when such construction area is marked in accordance with requirements of the Director and the Manual of Uniform Traffic Control Devices, as set forth in Ohio R.C. 4511.09, which is designed for operation at a speed of 25 miles per hour or less shall be operated at a speed not exceeding 25 miles per hour, and shall display a triangular slow moving vehicle emblem (SMV). The emblem shall be mounted so as to be visible from a distance of not less than 500 feet to the rear. The Ohio Director of Public Safety shall adopt standards and specifications for the design and position of mounting the SMV emblem. The standards and specifications for SMV emblems referred to in this section shall correlate with and, so far as possible, conform with those approved by the American Society of Agricultural Engineers.~~

~~A unit of farm machinery that is designed by its manufacturer to operate at a speed greater than 25 miles per hour may be operated on a street or highway at a speed greater than 25 miles per hour provided it is operated in accordance with this section.~~

~~As used in this subsection (b), "machinery" does not include any vehicle designed to be drawn by an animal.~~

- (c) ~~The use of the SMV emblem shall be restricted to animal drawn vehicles, and to the slow moving vehicles specified in subsection (b) hereof operating or traveling within the limits of the highway. Its use on slow moving vehicles being transported upon other types of vehicles or on any other type of vehicle or stationary object on the highway is prohibited.~~
- (d) (1) ~~No person shall sell, lease, rent or operate any boat trailer, farm machinery or other machinery defined as a slow moving vehicle in subsection (b) hereof, except those units designed to be completely mounted on a primary power unit, which is manufactured or assembled on or after April 1, 1966, unless the vehicle is equipped with a slow moving vehicle emblem mounting device as specified in subsection (b) hereof.~~
- (2) ~~No person shall sell, lease, rent, or operate on a street or highway any unit of farm machinery that is designed by its manufacturer to operate at a speed greater than 25 miles per hour unless the unit displays a slow moving vehicle emblem as specified in subsection (b) of this section and a speed identification symbol that meets the specifications contained in the American Society of Agricultural Engineers Standard ANSI/ASAE S584 JAN2005, agricultural equipment; speed identification symbol (SIS).~~

~~(e) Any boat trailer, farm machinery, or other machinery defined as a slow moving vehicle in subsection (b) of this section, in addition to the use of the slow moving vehicle emblem, and any unit of farm machinery that is designed by its manufacturer to operate at a speed greater than 25 miles per hour, in addition to the display of a speed identification symbol may be equipped with a red flashing light that shall be visible from a distance of not less than 1,000 feet to the rear at all times specified in Section 337.02. When a double faced light is used, it shall display amber light to the front and red light to the rear.~~

~~In addition to the lights described in this subsection, farm machinery and motor vehicles escorting farm machinery may display a flashing, oscillating or rotating amber light, as permitted by Section 337.16, and also may display simultaneously flashing turn signals or warning lights, as permitted by that section.~~

~~(f) Every animal drawn vehicle upon a street or highway shall at all times be equipped in one of the following ways:~~

- ~~(1) With a slow moving vehicle emblem complying with subsection (b) hereof;~~
- ~~(2) With alternate reflective material complying with rules adopted under this subsection (f);~~
- ~~(3) With both a slow moving vehicle emblem and alternate reflective material as specified in this subsection (f).~~

~~The Ohio Director of Public Safety, subject to Ohio R.C. Chapter 119, shall adopt rules establishing standards and specifications for the position of mounting of the alternate reflective material authorized by this subsection (f). The rules shall permit, as a minimum, the alternate reflective material to be black, gray or silver in color. The alternate reflective material shall be mounted on the animal drawn vehicle so as to be visible at all times specified in Section 337.02, from a distance of not less than 500 feet to the rear when illuminated by the lawful lower beams of headlamps.~~

~~(g) Every unit of farm machinery that is designed by its manufacturer to operate at a speed greater than 25 miles per hour shall display a slow moving vehicle emblem and a speed identification symbol that meets the specifications contained in the American Society of Agricultural Engineers Standard ANSI/SAE S584 JAN2005, agricultural equipment; speed identification symbol (SIS) when the unit is operated upon a street or highway, irrespective of the speed at which the unit is operated on the street or highway. The speed identification symbol shall indicate the maximum speed in miles per hour at which the unit of farm machinery is designed by its manufacturer to operate. The display of the speed identification symbol shall be in accordance with the standard prescribed in this subsection.~~

~~If an agricultural tractor that is designed by its manufacturer to operate at a speed greater than 25 miles per hour is being operated on a street or highway at a speed greater than 25 miles per hour and is towing, pulling or otherwise drawing a unit of farm machinery, the unit of farm machinery shall display a slow moving vehicle emblem and a speed identification symbol that is the same as the speed identification symbol that is displayed on the agricultural tractor.~~

~~(h) When an agricultural tractor that is designed by its manufacturer to operate at a speed greater than 25 miles per hour is being operated on a street or highway at a speed greater than 25 miles per hour, the operator shall possess some documentation published or provided by the manufacturer indicating the maximum speed in miles per hour at which the manufacturer designed the agricultural tractor to operate.~~

~~(i) As used in this sections ORC 4513.11 to 1513.115:~~

~~(a) "boat trailer" means any vehicle designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a street or highway for a distance of no more than ten miles and at a speed of 25 miles per hour or less.~~

(b) *Slow-moving vehicle and SMV* mean a boat trailer, unit of farm machinery, road construction machinery, or other machinery designed by the manufacturer to operate at a speed of twenty-five miles per hour or less. “Slow-moving vehicle” and “SMV” do not include a bicycle, motorized bicycle, electric bicycle, or animal-drawn vehicle.

~~(j) Whoever violates this section is guilty of a minor misdemeanor. (ORC 4513.11)~~

337.16 Number of lights; limitations on flashing, oscillating or rotating lights.

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

(b) Any lighted light or illuminating device upon a motor vehicle, other than headlights, spotlights, signal lights or auxiliary driving lights, that projects a beam of light of an intensity greater than 300 candle power, shall be so directed that no part of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than 75 feet from the vehicle.

(c) (1) Flashing lights are prohibited on motor vehicles, except as a means for indicating a right or a left turn, or in the presence of a vehicular traffic hazard requiring unusual care in approaching, or overtaking or passing. This prohibition does not apply to emergency vehicles, road service vehicles servicing or towing a disabled vehicle, stationary waste collection vehicles actively collecting garbage, refuse, trash, or recyclable materials on the roadside, rural mail delivery vehicles, vehicles transporting preschool children as provided in Ohio R.C. 4513.182, highway maintenance vehicles, ~~funeral hearses, funeral escort vehicles~~ and similar equipment operated by the department or local authorities, which shall be provided such vehicles are equipped with and display, when used on a street or highway for the special purpose necessitating such lights, a flashing, oscillating or rotating amber light, but shall not display a flashing, oscillating or rotating light of any other color, nor to vehicles;

(2) Vehicles or machinery permitted by Section 337.10 to have a flashing red light.

(2) When used on a street or highway, farm machinery and vehicles escorting farm machinery, ~~may be provided such machinery and vehicles are~~ equipped with and display, when used on a street or highway, a flashing, oscillating, or rotating amber light, and the prohibition contained in subsection (c)(1) hereof does not apply to such machinery or vehicles. Farm machinery also may display the lights described in Section 337.10.

(3) Division (C)(1) of this section does not apply to animal-drawn vehicles subject to Ohio R.C. section 4513.114.

(4) A funeral hearse or funeral escort vehicle, provided that the funeral hearse or funeral escort vehicle is equipped with and displays, when used on a street or highway for the special purpose necessitating such lights, a flashing, oscillating, or rotating purple or amber light.

(d) Except a person operating a public safety vehicle, as defined in Section 301.27, or a school bus, no person shall operate, move or park upon or permit to stand within the right-of-way of any public street or highway any vehicle or equipment that is equipped with and displaying a flashing red or a flashing combination red and white light, or an oscillating or rotating red light, or a combination red and white oscillating or rotating light; and except a public law enforcement officer, or other person sworn to enforce the criminal and traffic laws of the State or Municipality, operating a public safety vehicle

when on duty, no person shall operate, move or park upon, or permit to stand within the right-of-way of any street or highway any vehicle or equipment that is equipped with, or upon which is mounted, and displaying a flashing blue or a flashing combination blue and white light, or an oscillating or rotating blue light, or a combination blue and white oscillating or rotating light.

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

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

(Ord. No. 20-O-716 , § 2(Exh. A), 2-20-20; Ord. No. 21-O-770 , § 1, 7-8-21)

337.22 Windshield and windshield wiper; sign or poster thereon.

(a) No person shall drive any motor vehicle on a street or highway, other than a motorcycle or motorized bicycle, that is not equipped with a windshield.

(b) (1) No person shall drive any motor vehicle, other than a bus, with any sign, poster or other nontransparent material upon the front windshield, sidewings, side or rear windows of such vehicle other than a certificate or other paper required to be displayed by law, except that there may be in the lower left-hand or right-hand corner of the windshield a sign, poster or decal not to exceed four inches in height by six inches in width. No sign, poster or decal shall be displayed in the front windshield in such a manner as to conceal the vehicle identification number for the motor vehicle when in accordance with federal law, that number is located inside the vehicle passenger compartment and so placed as to be readable through the vehicle glazing without moving any part of the vehicle.

(2) Subsection (b)(1) of this section does not apply to a person who is driving a passenger car with an electronic device, including an antenna, electronic tolling or other transponder, camera, directional navigation device, or other similar electronic device located in the front windshield if ~~the device meets both~~ either of the following apply to the device:

A. It is a "vehicle safety technology" as defined in 49 C.F.R. 393.5. and complies with 49 C.F.R. 393.60(e)(1)(ii).

B. It does not restrict the vehicle operator's sight lines to the road and highway signs and signals.

~~B. It , and it~~ does not conceal the vehicle identification number.

(3) Subsection (b)(1) of this section does not apply to a person who is driving a commercial car with an electronic device, including an antenna, electronic tolling or other transponder, camera, directional navigation device, or other similar electronic device located in the front windshield if ~~the device meets both~~ either of the following apply to the device:

A. It is a "vehicle safety technology" as defined in 49 C.F.R. 393.5. and complies with 49 C.F.R. 393.60(e)(1)(ii).

B. It does not restrict the vehicle operator's sight lines to the road and highway signs and signals.

~~B. It , and it is mounted not more than six~~ eight and one-half inches below the upper edge of the windshield ~~and is outside the area swept by the vehicle's windshield wipers.~~

- (c) The windshield on every motor vehicle shall be equipped with a device for cleaning rain, snow or other moisture from the windshield. The device shall be maintained in good working order and so constructed as to be controlled or operated by the operator of the vehicle.
- (d) Whoever violates this section is guilty of a minor misdemeanor. (ORC 4513.24)

341.01 Definitions.

As used in this chapter:

Alcohol concentration means the concentration of alcohol in a person's blood, breath or urine. When expressed as a percentage, it means grams of alcohol per the following:

- (1) One hundred milliliters of whole blood, blood serum, or blood plasma;
- (2) Two hundred ten liters of breath;
- (3) One hundred milliliters of urine.

Commercial driver's license means a license issued in accordance with Ohio R.C. Chapter 4506 that authorizes an individual to drive a commercial motor vehicle. Except as otherwise specifically provided, "commercial driver's license" includes an "enhanced commercial driver's license."

Enhanced commercial driver's license means a commercial driver's license issued in accordance with Ohio R.C. sections 4507.021 and 4506.072 that denotes citizenship and identity and is approved by the United States secretary of homeland security or other designated federal agency for purposes of entering the United States.

Commercial motor vehicle means any motor vehicle designed or used to transport persons or property that meets any of the following qualifications:

- (1) Any combination of vehicles with a gross vehicle weight or combined gross vehicle weight rating of 26,001 pounds or more, provided the gross vehicle weight or gross vehicle weight rating of the vehicle or vehicles being towed is in excess of 10,000 pounds;
- (2) Any single vehicle with a gross vehicle weight or gross vehicle weight rating of 26,001 pounds or more;
- (3) Any single vehicle or combination of vehicles that is not a class A or class B vehicle, but is designed to transport 16 or more passengers including the driver;
- (4) Any school bus with a gross vehicle weight or gross vehicle weight rating of less than 26,001 pounds that is designed to transport fewer than 16 passengers including the driver;
- (5) Is transporting hazardous materials for which placarding is required under subpart F of 49 C.F.R. part 172, as amended;
- (6) Any single vehicle or combination of vehicles that is designed to be operated and to travel on a public street or highway and is considered by the Federal Motor Carrier Safety Administration to be a commercial motor vehicle, including, but not limited to, a motorized crane, a vehicle whose function is to pump cement, a rig for drilling wells, and a portable crane.

Controlled substance means all of the following:

- (1) Any substance classified as a controlled substance under the "Controlled Substances Act," 80 Stat. 1242 (1970), 21 U.S.C.A. 802(6), as amended;
- (2) Any substance included in schedules I through V of 21 C.F.R. part 1308, as amended;
- (3) Any drug of abuse.

Disqualification means any of the following:

- (1) The suspension, revocation, or cancellation of a person's privileges to operate a commercial motor vehicle;
- (2) Any withdrawal of a person's privileges to operate a commercial motor vehicle as the result of a violation of state or local law relating to motor vehicle traffic control other than parking, vehicle weight, or vehicle defect violations;
- (3) A determination by the Federal Motor Carrier Safety Administration that a person is not qualified to operate a commercial motor vehicle under 49 C.F.R. 391.

Drive means to drive, operate or be in physical control of a motor vehicle.

Driver means any person who drives, operates or is in physical control of a commercial motor vehicle or is required to have a commercial driver's license.

Driver's license means a license issued by the Ohio Bureau of Motor Vehicles that authorizes an individual to drive.

Drug of abuse means any controlled substance, dangerous drug as defined in Ohio R.C. 4729.01, harmful intoxicant as defined in ORC 2925.01 or over-the-counter medication that, when taken in quantities exceeding the recommended dosage, can result in impairment of judgment or reflexes.

Employer means any person, including the Federal Government, any state and a political subdivision of any state, that owns or leases a commercial motor vehicle or assigns a person to drive such a motor vehicle.

Endorsement means an authorization on a person's commercial driver's license that is required to permit the person to operate a specified type of commercial motor vehicle.

Farm truck means a truck controlled and operated by a farmer for use in the transportation to or from a farm, for a distance of not more than 150 miles, of products of the farm, including livestock and its products, poultry and its products, floricultural and horticultural products, and in the transportation to the farm, from a distance of not more than 150 miles, of supplies for the farm, including tile, fence, and every other thing or commodity used in agricultural, floricultural, horticultural, livestock and poultry production, and livestock, poultry and other animals and things used for breeding, feeding, or other purposes connected with the operation of the farm, when the truck is operated in accordance with this subsection and is not used in the operations of a motor carrier, as defined in Ohio R.C. 4923.01.

Fatality means the death of a person as the result of a motor vehicle accident occurring not more than 365 days prior to the date of a death.

Felony means any offense under federal or state law that is punishable by death or specifically classified as a felony under the law of this State, regardless of the penalty that may be imposed.

Foreign jurisdiction means any jurisdiction other than a state.

Gross vehicle weight rating means the value specified by the manufacturer as the maximum loaded weight of a single or a combination vehicle. The gross vehicle weight rating of a combination vehicle is the gross vehicle weight rating of the power unit plus the gross vehicle weight rating of each towed unit.

Hazardous materials means any material that has been designated as hazardous under 49 U.S.C. 5103 and is required to be placarded under subpart F of 49 C.F.R. part 172 or any quantity of a material listed as a select agent or toxin in 42 C.F.R. part 73, as amended.

Motor vehicle means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power used on highways, except that such term does not include a vehicle, machine, tractor, trailer or semitrailer operated exclusively on a rail.

Out-of-service order means a declaration by an authorized enforcement officer of a federal, state, local, Canadian or Mexican jurisdiction declaring that a driver, commercial motor vehicle or commercial motor carrier operation is out of service as defined in 49 C.F.R. 390.5.

Public safety vehicle has the same meaning as in Ohio R.C. 4511.01(E)(1) and (3).

Recreational vehicle includes every vehicle that is defined as a recreational vehicle in Ohio R.C. 4501.01 and is used exclusively for purposes other than engaging in business for profit.

School bus has the same meaning as in Ohio R.C. 4511.01.

State means a state of the United States and includes the District of Columbia.

Tester means a person or entity acting pursuant to a valid agreement entered into pursuant to Ohio R.C. 4506.09.

United States means the 50 states and the District of Columbia.

Vehicle has the same meaning as in Ohio R.C. 4511.01. (ORC 4506.01)

351.04 Parking near curb; handicapped locations on public and private lots and garages.

- (a) Every vehicle stopped or parked upon a roadway where there is an adjacent curb shall be stopped or parked with the curb side wheels of the vehicle parallel with and not more than 12 inches from the curb, unless it is impossible to approach so close to the curb; in such case the stop shall be as close to the curb as possible and only for the time necessary to discharge and receive passengers or to load or unload merchandise.
- (b) (1) This subsection does not apply to streets or parts thereof where angle parking is lawfully permitted. However, no angle parking shall be permitted on a state route unless an unoccupied roadway width of not less than 25 feet is available for free-moving traffic.
 - (2) A. No angled parking space that is located on a state route within a municipal corporation is subject to elimination, irrespective of whether there is or is not at least 25 feet of unoccupied roadway width available for free-moving traffic at the location of that angled parking space, unless the municipal corporation approves of the elimination of the angled parking space.
 - B. Replacement, repainting or any other repair performed by or on behalf of the municipal corporation of the lines that indicate the angled parking space does not constitute an intent by the municipal corporation to eliminate the angled parking space.
- (c) (1) A. Except as provided in subsection (c)(1)B. hereof, no vehicle shall be stopped or parked on a road or highway with the vehicle facing in a direction other than the direction of travel on that side of the road or highway.
 - B. The operator of a motorcycle may back the motorcycle into an angled parking space so that when the motorcycle is parked it is facing in a direction other than the direction of travel on the side of the road or highway.

- (2) The operator of a motorcycle may back the motorcycle into a parking space that is located on the side of, and parallel to, a road or highway. The motorcycle may face any direction when so parked. Not more than two motorcycles at a time shall be parked in a parking space as described in subsection (c)(2) of this section irrespective of whether or not the space is metered.
- (d) Notwithstanding any provision of this Code or any rule, air compressors, tractors, trucks and other equipment, while being used in the construction, reconstruction, installation, repair or removal of facilities near, on, over or under a street, may stop, stand or park where necessary in order to perform such work, provided a flagperson is on duty, or warning signs or lights are displayed as may be prescribed by the Ohio Director of Transportation.
- (e) ~~Special~~ Accessible parking locations and privileges for persons with disabilities that limit or impair the ability to walk, ~~also known as handicapped parking spaces or disability parking spaces~~ shall be provided and designated by the Municipality and all agencies and instrumentalities thereof at all offices and facilities, where parking is provided, whether owned, rented or leased, and at all publicly owned parking garages. The locations shall be designated through the posting of an elevated sign, whether permanently affixed or movable, imprinted with the international symbol of access and shall be reasonably close to exits, entrances, elevators and ramps. All elevated signs posted in accordance with this subsection and Ohio R.C. 3781.111 (C) shall be mounted on a fixed or movable post, and the distance from the ground to the bottom edge of the sign shall measure not less than five feet. If a new sign or a replacement sign designating ~~a special~~ an accessible parking location is posted on or after October 14, 1999, there also shall be affixed upon the surface of that sign or affixed next to the designating sign a notice that states the fine applicable for the offense of parking a motor vehicle in the ~~special~~ designated accessible parking location if the motor vehicle is not legally entitled to be parked in that location.
- (f) (1) A. No person shall stop, stand or park any motor vehicle at ~~special~~ accessible parking locations provided under subsection (e) hereof, or at ~~special~~ accessible clearly marked parking locations provided in or on privately owned parking lots, parking garages, or other parking areas and designated in accordance with subsection (e) hereof, unless one of the following applies:
1. The motor vehicle is being operated by or for the transport of a person with a disability that limits or impairs the ability to walk and is displaying a valid removable windshield placard or ~~special~~ accessible license plates;
 2. The motor vehicle is being operated by or for the transport of a ~~handicapped~~ person with a disability and is displaying a parking card or ~~special handicapped~~ accessible license plates.
- B. Any motor vehicle that is parked in a ~~special~~ accessible marked parking location in violation of subsection (f)(1)A. of this section may be towed or otherwise removed from the parking location by the Police Department. A motor vehicle that is so towed or removed shall not be released to its owner until the owner presents proof of ownership of the motor vehicle and pays all towing and storage fees normally imposed by the Municipality for towing and storing motor vehicles. If the motor vehicle is a leased vehicle, it shall not be released to the lessee until the lessee presents proof that that person is the lessee of the motor vehicle and pays all towing and storage fees normally imposed by the Municipality for towing and storing motor vehicles.
- C. If a person is charged with a violation of subsection (f)(1)A. of this section, it is an affirmative defense to the charge that the person suffered an injury not more than 72 hours prior to the time the person was issued the ticket or citation and that, because of the injury, the person meets at least one of the criteria contained in Ohio R.C. 4503.44(A)(1).

- (2) No person shall stop, stand or park any motor vehicle in an area that is commonly known as an access aisle, which area is marked by diagonal stripes and is located immediately adjacent to a ~~special~~ an accessible parking location provided under subsection (e) of this section or at a ~~special~~ an accessible clearly marked parking location provided in or on a privately owned parking lot, parking garage, or other parking area and designated in accordance with that subsection.
- (g) When a motor vehicle is being operated by or for the transport of a person with a disability that limits or impairs the ability to walk and is displaying a removable windshield placard or a temporary removable windshield placard or ~~special~~ accessible license plates, or when a motor vehicle is being operated by or for the transport of a ~~handicapped~~ person with a disability and is displaying a parking card or ~~special handicapped~~ accessible license plates, the motor vehicle is permitted to park for a period of two hours in excess of the legal parking period permitted by local authorities, except where local ordinances or police rules provide otherwise or where the vehicle is parked in such a manner as to be clearly a traffic hazard.
- (h) As used in this section:
- (1) "~~Handicapped person~~ Person with a disability" means any person who has lost the use of one or both legs, or one or both arms, who is blind, deaf or ~~so severely handicapped as to be unable to~~ move without the aid of crutches or a wheelchair, or whose mobility is restricted by a permanent cardiovascular, pulmonary or other ~~handicapping~~ disabling condition.
 - (2) "Person with a disability that limits or impairs the ability to walk" has the same meaning as in Ohio R.C. 4503.44.
 - (3) "~~Special~~ Accessible license plates" and "removable windshield placard" mean any license plates or removable windshield placard or temporary removable windshield placard issued under Ohio R.C. 4503.41 or 4503.44, and also mean any substantially similar license plates or removable windshield placard or temporary removable windshield placard issued by a state, district, country or sovereignty.
- (i) (1) Whoever violates subsection (a) or (c) of this section is guilty of a minor misdemeanor.
- (2) A. Whoever violates subsection (f)(1)A.1. or 2. of this section is guilty of a misdemeanor and shall be punished as provided in subsection (i)(2)A. and B. of this section. Except as otherwise provided in subsection (i)(2)A. of this section, an offender who violates subsection (f)(1)A.1. or 2. of this section shall be fined not less than two hundred fifty dollars (\$250.00) nor more than five hundred dollars (\$500.00). An offender who violates subsection (f)(1)A.1. or 2. of this section shall be fined not more than one hundred dollars (\$100.00) if the offender, prior to sentencing, proves either of the following to the satisfaction of the court:
1. At the time of the violation of subsection (f)(1)A.1. of this section, the offender or the person for whose transport the motor vehicle was being operated had been issued a removable windshield placard that then was valid or special license plates that then were valid but the offender or the person neglected to display the placard or license plates as described in subsection (f)(1)A.1. of this section.
 2. At the time of the violation of subsection (f)(1)A.2. of this section, the offender or the person for whose transport the motor vehicle was being operated had been issued a parking card that then was valid or special handicapped license plates that then were valid but the offender or the person neglected to display the card or license plates as described in subsection (f)(1)A.2. of this section.
- B. In no case shall an offender who violates subsection (f)(1)A.1. or 2. of this section be sentenced to any term of imprisonment.

An arrest or conviction for a violation of subsection (f)(1)A.1. or 2. of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries contained in any application for employment, license, or other right or privilege, or made in connection with the person's appearance as a witness.

- (3) Whoever violates subsection (f)(2) of this section shall be fined not less than two hundred fifty dollars (\$250.00) nor more than five hundred dollars (\$500.00).

In no case shall an offender who violates subsection (f)(2) of this section be sentenced to any term of imprisonment. An arrest or conviction for a violation of subsection (f)(2) of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries contained in any application for employment, license, or other right or privilege, or made in connection with the person's appearance as a witness. (ORC 4511.69)

501.01 Definitions.

As used in the Codified Ordinances:

Force means any violence, compulsion or constraint physically exerted by any means upon or against a person or thing.

Deadly force means any force that carries a substantial risk that it will proximately result in the death of any person.

Physical harm to persons means any injury, illness or other physiological impairment, regardless of its gravity or duration.

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.

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.

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;
- (2) Temporarily prevents the use or enjoyment of the property, or substantially interferes with its use and enjoyment for an extended period of time.

Risk means a significant possibility, as contrasted with a remote possibility, that a certain result may occur or that certain circumstances may exist.

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.

Offense of violence means any of the following:

- (1) A violation of Ohio 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, 2903.04(A)(1), 2911.12(A)(1) to (3) or 2919.22(B)(1) to (4), or felonious sexual penetration in violation of former Ohio 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 (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 (1), (2) or (3) hereof;

(5) (e) A violation of division (C) of section 959.131 of the Revised Code.

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.

As used in this section, "trade secret" has the same meaning as in Ohio R.C. 1333.61, and "telecommunications service" and "information service" have the same meanings as in Ohio R.C. 2913.01.

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 Ohio R.C. 2913.01.

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 Ohio 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;
- (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 Ohio 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 Ohio R.C. ~~737.04~~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 Ohio R.C. 5907.02;

- (10) A member of a police force employed by a regional transit authority under Ohio R.C. 306.35(Y);
- (11) A special police officer employed by a port authority under Ohio 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.

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.

Contraband means any property that is illegal for a person to acquire or possess under a statute, ordinance, or rule, or that a trier of fact lawfully determines to be illegal to possess by reason of the property's involvement in an offense. "Contraband" includes, but is not limited to, all of the following:

- (1) Any controlled substance, as defined in Ohio R.C. 3719.01, or any device, or paraphernalia;
- (2) Any unlawful gambling device, or paraphernalia;
- (3) Any dangerous ordnance or obscene material.

[Not guilty by reason of insanity.] 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 Ohio 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.

[Person.]

- (1) A. Subject to subsection (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 (1)A. hereof:
 - 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 (1)A. hereof, in no case shall the portion of the definition of the term "person" that is set forth in subsection (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 (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 Ohio 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 Ohio R.C. 2919.12, Ohio R.C. 2919.13(B), or Ohio R.C. 2919.15, 2919.151, 2919.17 or 2919.18, may be punished as a violation of Ohio R.C. 2919.12, Ohio R.C. 2919.13(B), or Ohio 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 Ohio 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.

School safety zone consists of a school, school building, school premises, school activity, and school bus.

School, school building and *school premises* have the same meaning as in Ohio R.C. 2925.01.

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 Ohio R.C. Chapter 3314; a governing body of an educational service center; or the governing body of a nonpublic school for which the State Board of Education prescribes minimum standards under Ohio R.C. 3301.07.

School bus has the same meaning as in Ohio R.C. 4511.01. (ORC 2901.01)

(Ord. No. 20-O-716 , § 2(Exh. B), 2-20-20; Ord. No. 21-O-770 , § 1, 7-8-21)

501.06 Limitation of criminal prosecution.

(a) Except as otherwise provided in this section, a prosecution shall be barred unless it is commenced within the following periods after an offense is committed:

- (1) For misdemeanor other than a minor misdemeanor, two years;
- (2) For a minor misdemeanor, six months.

(3)A. Except as otherwise provided in divisions (a)(3)(B) and (d) to (h) of this section, a prosecution of a violation of Ohio R.C. section 2907.13 shall be barred unless it is commenced within five years after the offense is committed.

B. Prosecution that would otherwise be barred under division (a)(3)(A) of this section may be commenced within five years after the date of the discovery of the offense by either an aggrieved person or the aggrieved person's legal representative who is not a party to the offense.

C. "aggrieved person" includes any of the following individuals with regard to a violation of Ohio R.C. section 2907.13:

(i) A patient who was the victim of the violation;

(ii) The spouse or surviving spouse of a patient who was the victim of the violation;

(iii) Any child born as a result of the violation.

(b) If the period of limitation provided in subsection (a) hereof has expired, prosecution shall be commenced for an offense of which an element is fraud or breach of a fiduciary duty, within one year after discovery of the offense either by an aggrieved person, or by his legal representative who is not himself a party to the offense.

(c) (1) If the period of limitation provided in this section has expired, prosecution shall be commenced for the following offenses during the following specified periods of time:

A. For an offense involving misconduct in office by a public servant at any time while the accused remains a public servant, or within two years thereafter;

B. For an offense by a person who is not a public servant but whose offense is directly related to the misconduct in office of a public servant, at any time while that public servant remains a public servant, or within two years thereafter.

(2) As used in this subsection:

A. *An offense is directly related to the misconduct in office of a public servant* includes, but is not limited to, a violation of Ohio R.C. 101.71, 101.91, 121.61 or 2921.13, Ohio R.C. 102.03(F) or (H), Ohio R.C. 2921.02(A), Ohio R.C. 2921.43(A) or (B), or Ohio R.C. 3517.13(F) or (G), that is directly related to an offense involving misconduct in office of a public servant.

B. *Public servant* has the same meaning as in Section 525.01.

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

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

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

(g) The period of limitation shall not run during any time when the accused purposely avoids prosecution. Proof that the accused absented himself from this Municipality or concealed his identity or whereabouts is prima-facie evidence of his purpose to avoid prosecution.

- (h) The period of limitation shall not run during any time a prosecution against the accused based on the same conduct is pending in this State, even though the indictment, information or process that commenced the prosecution is quashed or the proceedings on the indictment, information or process are set aside or reversed on appeal.
- (i) The period of limitation for a violation of any provision of this General Offenses Code that involves a physical or mental wound, injury, disability or condition of a nature that reasonably indicates abuse or neglect of a child under 18 years of age or of a child with a developmental disability or physical impairment under 21 years of age shall not begin to run until either of the following occurs:
 - (1) The victim of the offense reaches the age of majority.
 - (2) A public children services agency, or a municipal or county peace officer that is not the parent or guardian of the child, in the county in which the child resides or in which the abuse or neglect is occurring or has occurred has been notified that abuse or neglect is known, suspected, or believed to have occurred. (ORC 2901.13)
- (j) This section shall not apply to prosecutions commenced within the period of limitations set forth in Ohio R.C. 718.12(B) for violations of the Municipal income tax ordinance.

501.99 Penalties for misdemeanors.

(a) *Financial Sanctions.* In addition to imposing court costs pursuant to Ohio 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 section Ohio R.C. 2930.01 shall sentence the offender to make restitution pursuant to this section and section Ohio 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~~ 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 decides 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~~ 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~~ , victim's attorney, if applicable, or the attorney for the victim's estate may request that the prosecutor in the case file a motion, or the offender may file a motion, for modification of the payment terms of any restitution ordered. If the court grants the motion, it may modify the payment terms as it determines appropriate but shall not reduce the amount of restitution ordered, except as provided in division (A) of section Ohio R.C. 2929.281.

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

- A. For a misdemeanor of the first degree, not more than one thousand dollars (\$1,000.00);
- B. For a misdemeanor of the second degree, not more than seven hundred fifty dollars (\$750.00);
- C. For a misdemeanor of the third degree, not more than five hundred dollars (\$500.00);
- D. For a misdemeanor of the fourth degree, not more than two hundred fifty dollars (\$250.00);
- E. For a minor misdemeanor, not more than one hundred fifty dollars (\$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 Ohio 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 Ohio R.C. 2929.37. In addition, the offender may be required to pay the fees specified in Ohio R.C. 2929.38 in accordance with that section. (ORC 2929.28)

(b) *Jail Terms.*

- (1) Except as provided in Ohio 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 Ohio R.C. 2929.26(B). The court retains jurisdiction over every offender sentenced to jail to modify the jail sentence imposed at any time, but the court shall not reduce any mandatory jail term.
- B. 1. If a prosecutor, as defined in Ohio R.C. 2935.01, has filed a notice with the court that the prosecutor wants to be notified about a particular case and if the court is considering modifying the jail sentence of the offender in that case, the court shall notify the prosecutor that the court is considering modifying the jail sentence of the offender in that case. The prosecutor may request a hearing regarding the court's consideration of modifying the jail sentence of the offender in that case, and, if the prosecutor requests a hearing, the court shall notify the eligible offender of the hearing.
2. If the prosecutor requests a hearing regarding the court's consideration of modifying the jail sentence of the offender in that case, the court shall hold the hearing before considering whether or not to release the offender from the offender's jail sentence.
- (3) If a court sentences an offender to a jail term under this section and the court assigns the offender to a county jail that has established a county jail industry program pursuant to Ohio R.C. 5147.30, the court shall specify, as part of the sentence, whether the offender may be considered for participation in the program. During the offender's term in the county jail, the court retains jurisdiction to modify its specification regarding the offender's participation in the county jail industry program.
- (4) If a person is sentenced to a jail term pursuant to this section, the court may impose as part of the sentence pursuant to Ohio R.C. 2929.28 a reimbursement sanction, and, if the local detention facility in which the term is to be served is covered by a policy adopted pursuant to Ohio R.C. 307.93, 341.14, 341.19, 341.21, 341.23, 753.02, 753.04, 753.16, 2301.56, or 2947.19 and Ohio R.C. 2929.37, both of the following apply:
- A. The court shall specify both of the following as part of the sentence:
 - 1. If the person is presented with an itemized bill pursuant to Ohio R.C. 2929.37 for payment of the costs of confinement, the person is required to pay the bill in accordance with that section.
 - 2. If the person does not dispute the bill described in subsection (b)(4)A.1. of this section and does not pay the bill by the times specified in Ohio R.C. 2929.37, the clerk of the court may issue a certificate of judgment against the person as described in that section.
 - B. The sentence automatically includes any certificate of judgment issued as described in subsection (b)(4)A.2. of this section. (ORC 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:

Type of Maximum	Misdemeanor Fine
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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). (ORC 2929.31)

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 the 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 section 2913.01 of the Revised Code.

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

(ORC 2917.12)

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 Ohio R.C. 3715.01.

[*Marihuana.*] Except as provided in subsection (2) hereof:

(1) *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 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. (ORC 3719.01)

(2) *Marihuana* does not include hashish. (ORC 2925.01)

Controlled substance analog has the same meaning as provided in Ohio 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 Ohio R.C. Ch. 4729 to engage in the practice of pharmacy.

Pharmacy has the same meaning as in Ohio 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 Ohio 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, established pursuant to Ohio R.C. 3719.41, as amended pursuant to Ohio R.C. 3719.43 or 3719.44.

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 Ohio R.C. 4729.01. (ORC 3719.01)

Drug of abuse and person with a drug dependency means any controlled substance as defined in subsection (b) hereof, any harmful intoxicant as defined in "harmful intoxicant" hereof and any dangerous drug as defined in "dangerous drug" hereof. (ORC 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 Ohio 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 Ohio 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. (ORC 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 (s)(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 Ohio 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.
 - (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 Ohio R.C. 2925.11 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 Ohio R.C. 2925.02, 2925.03, 2925.04 to 2925.06, 2925.11, 2925.12, 2925.13, 2925.22, 2925.23, 2925.31, 2925.32, 2925.36 or 2925.37; or a violation of Ohio 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, any community school established under Ohio R.C. Ch. 3314, or any nonpublic school for which the State Board of Education prescribes minimum standards under Ohio 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, any community school established under Ohio R.C. Ch. 3314, or the governing body of a nonpublic

school for which the State Board of Education prescribes minimum standards under Ohio 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 Ohio R.C. 2913.01. (ORC 2925.01)

(Ord. No. 20-O-716 , § 2(Exh. B), 2-20-20; Ord. No. 21-O-770 , § 1, 7-8-21)

513.03 Drug abuse; controlled substance possession or use.

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

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

- A. Manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies and other persons whose conduct was in accordance with Ohio R.C. Ch. 3719, 4715, 4729, 4730, 4731 and 4741.
- B. If the offense involves an anabolic steroid, any person who is conducting or participating in a research project involving the use of an anabolic steroid if the project has been approved by the United States Food and Drug Administration;
- C. Any person who sells, offers for sale, prescribes, dispenses or administers for livestock or other nonhuman species an anabolic steroid that is expressly intended for administration through implants to livestock or other nonhuman species and approved for that purpose under the "Federal Food, Drug and Cosmetic Act", 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, and is sold, offered for sale, prescribed, dispensed or administered for that purpose in accordance with that Act;
- D. Any person who obtained the controlled substance pursuant to a lawful prescription issued by a licensed health professional authorized to prescribe drugs.

(2) A. As used in subsection (b)(2) of this section:

- 1. *Community addiction services provider* has the same meaning as in Ohio R.C. 5119.01.
- 2. *Community control sanction* and *drug treatment program* have the same meanings as in Ohio R.C. 2929.01.
- 3. *Health care facility* has the same meaning as in Ohio R.C. 2919.16.
- 4. *Minor drug possession offense* means a violation of this section that is a misdemeanor or a felony of the fifth degree.
- 5. *Post-release control sanction* has the same meaning as in Ohio R.C. 2967.28.
- 6. *Peace officer* has the same meaning as in Ohio R.C. 2935.01.
- 7. *Public agency* has the same meaning as in Ohio R.C. 2930.01.
- 8. *Qualified individual* means a person who is ~~not on community control or post-release control and is a person~~ acting in good faith who seeks or obtains medical assistance for another person who is experiencing a drug overdose, a person who experiences a drug overdose and who seeks medical assistance for that overdose, or a person who is the subject of another person seeking or obtaining medical assistance for that overdose as described in subsection (b)(2)B. of this section.
- 9. *Seek or obtain medical assistance* includes, but is not limited to making a 9-1-1 call, contacting in person or by telephone call an on-duty peace officer, or transporting or presenting a person to a health care facility.

B. Subject to subsection ~~(b)(2)F~~ (b)(2)E of this section, a qualified individual shall not be arrested, charged, prosecuted, convicted or penalized pursuant to this chapter for a minor drug possession offense or a violation of section 2925.12, division (C)(1) of Ohio R.C. section 2925.14, or section 2925.141 if all of the following apply:

1. The evidence of the obtaining, possession or use of the controlled substance or controlled substance analog, drug abuse instruments, or drug paraphernalia

that would be the basis of the offense was obtained as a result of the qualified individual seeking the medical assistance or experiencing an overdose and needing medical assistance.

2. Subject to subsection ~~(b)(2)G~~ (b)(2)F. of this section, within 30 days after seeking or obtaining the medical assistance, the qualified individual seeks and obtains a screening and receives a referral for treatment from a community addiction services provider or a properly credentialed addiction treatment professional.

3. Subject to subsection ~~(b)(2)G~~ (b)(2)F. of this section, the qualified individual who obtains a screening and receives a referral for treatment under subsection (b)(2)B.1. of this section, upon the request of any prosecuting attorney, submits documentation to the prosecuting attorney that verifies that the qualified individual satisfied the requirements of that subsection. The documentation shall be limited to the date and time of the screening obtained and referral received.

~~C. If a person is found to be in violation of any community control sanction and if the violation is a result of either of the following, the court shall first consider ordering the person's participation or continued participation in a drug treatment program or mitigating the penalty specified in Ohio R.C. 2929.13, 2929.15, or 2929.25, whichever is applicable, after which the court has the discretion either to order the person's participation or continued participation in a drug treatment program or to impose the penalty with the mitigating factor specified in any of those applicable sections:~~

~~1. Seeking or obtaining medical assistance in good faith for another person who is experiencing a drug overdose;~~

~~2. Experiencing a drug overdose and seeking medical assistance for that overdose or being the subject of another person seeking or obtaining medical assistance for that overdose as described in subsection (b)(2)B. of this section.~~

~~D. If a person is found to be in violation of any post release control sanction and if the violation is a result of either of the following, the court or the parole board shall first consider ordering the person's participation or continued participation in a drug treatment program or mitigating the penalty specified in Ohio R.C. 2929.141 or 2967.28, whichever is applicable, after which the court or the parole board has the discretion either to order the person's participation or continued participation in a drug treatment program or to impose the penalty with the mitigating factor specified in either of those applicable sections:~~

~~1. Seeking or obtaining medical assistance in good faith for another person who is experiencing a drug overdose;~~

~~2. Experiencing a drug overdose and seeking medical assistance for that emergency or being the subject of another person seeking or obtaining medical assistance for that overdose as described in subsection (b)(2)B. of this section.~~ If a person who is serving a community control sanction or is under a sanction on post-release control acts pursuant to division (B)(2)(b) of this Ohio R.C. section, then division (B) of section 2929.141, division (B)(2) of section 2929.15, division (D)(3) of section 2929.25, or division (F)(3) of section 2967.28 applies to the person with respect to any violation of the sanction or post-release control sanction based on a minor drug possession offense, as defined in section 2925.11 of the Revised Code, or a violation of section 2925.12, division (C)(1) of Ohio R.C. section 2925.14, or section 2925.141.

~~ED.~~ Nothing in subsection (b)(2)B. of this section shall be construed to do any of the following:

1. Limit the admissibility of any evidence in connection with the investigation or prosecution of a crime with regards to a defendant who does not qualify for the protections of subsection (b)(2)B. of this section or with regards to any crime other than a minor drug possession offense or a violation of Ohio R.C. section 2925.12, division (C)(1) of section 2925.14, or section 2925.141 committed by a person who qualifies for protection pursuant to subsection (b)(2)B. of this section ~~for a minor drug possession offense~~;
2. Limit any seizure of evidence or contraband otherwise permitted by law;
3. Limit or abridge the authority of a peace officer to detain or take into custody a person in the course of an investigation or to effectuate an arrest for any offense except as provided in that subsection;
4. Limit, modify or remove any immunity from liability available pursuant to law in effect prior to the effective date of this amendment to any public agency or to an employee of any public agency.

~~FE.~~ Subsection (b)(2)B. of this section does not apply to any person who twice previously has been granted an immunity under subsection (b)(2)B. of this section. No person shall be granted an immunity under subsection (b)(2)B. of this section more than two times.

~~GE.~~ Nothing in this section shall compel any qualified individual to disclose protected health information in a way that conflicts with the requirements of the "Health Insurance Portability and Accountability Act of 1996", 104 Pub. L. No. 191, 110 Stat. 2021, 42 U.S.C. 1320d et seq., as amended, and regulations promulgated by the United States Department of Health and Human Services to implement the act or the requirements of 42 C.F.R. Part 2.

(c) Whoever violates subsection (a) hereof is guilty of one of the following:

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

- B. If the amount of the drug involved equals or exceeds five grams but is less than ten grams of hashish in a solid form or equals or exceeds one gram but is less than two grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form, possession of hashish is a misdemeanor of the fourth degree.
- (d) In addition to any other sanction that is imposed for an offense under this section, the court that sentences an offender who is convicted of or pleads guilty to a violation of this section may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years.
- (e) Arrest or conviction for a minor misdemeanor violation of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries about the person's criminal record, including any inquiries contained in any application for employment, license, or other right or privilege, or made in connection with the person's appearance as a witness. (ORC 2925.11)

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 Ohio R.C. Ch. 3719, 4715, 4729, 4730, 4731 and 4741.
- (2) Division (B)(2) of Ohio R.C. section 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 more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. (ORC 2925.12)

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 Ohio 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:

- (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, except for those exempted in division (d)(4) of this section;
- (5) Testing equipment for identifying, or analyzing the strength, effectiveness or purity of, a controlled substance;
- (6) A scale or balance for weighing or measuring a controlled substance;
- (7) A diluent or adulterant, such as quinine hydrochloride, mannitol, mannite, dextrose or lactose, for cutting a controlled substance;
- (8) A separation gin or sifter for removing twigs and seeds from, or otherwise cleaning or refining, marihuana;
- (9) A blender, bowl, container, spoon or mixing device for compounding a controlled substance;
- (10) A capsule, balloon, envelope or container for packaging small quantities of a controlled substance;
- (11) A container or device for storing or concealing a controlled substance;
- (12) A hypodermic syringe, needle or instrument for parenterally injecting a controlled substance into the human body;
- (13) An object, instrument or device for ingesting, inhaling or otherwise introducing into the human body, marihuana, cocaine, hashish or hashish oil, such as a metal, wooden, acrylic, glass, stone, plastic or ceramic pipe, with or without a screen, permanent screen, hashish head or punctured metal bowl; water pipe; carburetion tube or device; smoking or carburetion mask; roach clip or similar object used to hold burning material, such as a marihuana cigarette, that has become too small or too short to be held in the hand; miniature cocaine spoon, or cocaine vial; chamber pipe; carburetor pipe; electric pipe; air driver pipe; chillum; bong; or ice pipe or chiller.
- (b) In determining if any equipment, product or material is drug paraphernalia, a court or law enforcement officer shall consider, in addition to other relevant factors, the following:
 - (1) Any statement by the owner, or by anyone in control, of the equipment, product or material, concerning its use;
 - (2) The proximity in time or space of the equipment, product or material, or of the act relating to the equipment, product or material, to a violation of any provision of this chapter or Ohio R.C. 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 Ohio 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 Ohio 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;
 - (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 subsections (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 Ohio 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 Ohio R.C section 2925.11 applies with respect to a violation of division (c)(1) of this section when a person seeks or obtains medical assistance for another person who is experiencing a drug overdose, a person experiences a drug overdose and seeks medical assistance for that overdose, or a person is the subject of another person seeking or obtaining medical assistance for that overdose.
- (4) Division (c)(1) of this section does not apply to a person's use, or possession with purpose to use, any drug testing strips to determine the presence of fentanyl or a fentanyl-related compound.

- (e) Notwithstanding Ohio R.C. 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 Ohio R.C. 2981.12.
- (f) (1) Whoever violates subsection (c)(1) hereof is guilty of illegal use or possession of drug paraphernalia, a misdemeanor of the fourth degree.
 - (2) Except as provided in subsection (f)(3) hereof, whoever violates subsection (c)(2) hereof is guilty of dealing in drug paraphernalia, a misdemeanor of the second degree.
 - (3) Whoever violates subsection (c)(2) hereof by selling drug paraphernalia to a juvenile is guilty of selling drug paraphernalia to juveniles, a misdemeanor of the first degree.
 - (4) Whoever violates subsection (c)(3) hereof is guilty of illegal advertising of drug paraphernalia, a misdemeanor of the second degree.
- (g) 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 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. 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. (ORC 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 Ohio R.C. section 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) 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 shall do the following if applicable:

(1) 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. (ORC 2925.141)

517.08 Raffles.

(a) (1) 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 from federal income taxation under subsection 501(a) and is described in subsection 501(c)(3), 501(c)(4), 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 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) Exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(4), 501(c)(6), 501(c)(7), 501(c)(8), 501(c)(10), or 501(c)(19) of the Internal Revenue Code.

(ORC 2022)

(2) If a charitable organization that is described in subsection (a)(1)(C) of this section, ~~but that is not also described in subsection 501(c)(3) of the Internal Revenue Code,~~ 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. (ORC 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 Ohio R.C. 2913.04(B) 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) of this section, no person giving aid to a sick or injured person shall negligently fail to report to law enforcement authorities any gunshot or stab wound treated or observed by the person, 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 or advanced practice registered nurse 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, an ambulance service, an 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. For purposes of this subsection (c), "advanced practice registered nurse" does not include a certified registered nurse anesthetist.
- (d) No person shall fail to provide upon request of the person to whom a report required by subsection (c) of this section was made, 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, "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 superheated air;
 - C. Any burn injury or wound that may result in death;
 - D. Any physical harm to persons caused by or as the result of the use of fireworks, novelties and trick noisemakers, and wire sparklers, as each is defined by Ohio R.C. 3743.01.
- (2) No physician, nurse, physician assistant, or limited practitioner who, outside a hospital, sanitarium, or other medical facility, attends or treats a person who has sustained a burn injury that is 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, or fire and explosion investigation, bureau, if there is a bureau of this type 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 that is 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, or fire and explosion investigation, bureau, if there is a bureau of this type 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) of this section 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 comply with the uniform standard developed by the State Fire Marshal pursuant to Ohio R.C. 3737.22(A)(15).
- (5) Anyone participating in the making of reports under subsection (e) of this section 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 Ohio R.C. 4731.22, the physician-patient relationship or advanced practice

registered nurse-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 under subsection (e) of this section.

- (f) (1) Any doctor of medicine or osteopathic medicine, hospital intern or resident, 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 Ohio 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 Ohio R.C. 4731.22, the physician-patient privilege or advanced practice registered nurse-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; physician and patient; advanced practice registered nurse 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 Ohio 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 ~~drug dependent~~ persons with drug dependencies or persons in danger of drug dependence, which program is maintained or conducted by a hospital, clinic, person, agency, or community addiction services provider whose alcohol and drug addiction services are certified pursuant to Ohio 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 Ohio R.C. 2907.02 or 2907.05 or to victims of felonious sexual penetration in violation of former Ohio 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 those 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) of this section is guilty of failure to report knowledge of a death, a misdemeanor of the fourth degree.
- (k) (1) Whoever negligently violates subsection (e) of this section is guilty of a minor misdemeanor.
(2) Whoever knowingly violates subsection (e) of this section is guilty of a misdemeanor of the second degree.
- (l) As used in this section, "nurse" includes an advanced practice registered nurse, registered nurse, and licensed practical nurse. (ORC 2921.22)

525.15 Assaulting police dog or horse or service 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 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 is assisting or serving a blind, deaf or hearing impaired, or mobility impaired person at the time the physical harm is caused or attempted.
 - (2) The dog is not assisting or serving a blind, deaf or hearing impaired, or mobility impaired person at the time the physical harm is caused or attempted, 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 blind, deaf or hearing impaired, or mobility impaired person 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, the police dog or horse is assisting or serving a blind, deaf or hearing impaired, or mobility impaired person or that the person knows is an assistance dog.
- (e) (1) Whoever violates subsection (a) hereof is guilty of assaulting a police dog or horse. If the violation results in physical harm to the police dog or horse, assaulting a police dog or horse is a misdemeanor of the first degree. If the violation does not result in death, serious physical harm, or physical harm to the police dog or horse, assaulting a police dog or horse is a misdemeanor of the second degree. If the violation results in death or serious physical harm to the police dog or horse, such violation is a felony and shall be prosecuted under appropriate State law.
- (2) Whoever violates subsection (b) hereof is guilty of harassing a police dog or horse. Except as otherwise provided in this subsection, 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 or 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 and shall be prosecuted under appropriate State law. 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) hereof is guilty of assaulting an assistance dog. If the violation results in physical harm to the dog other than death or serious physical harm, assaulting an assistance dog is a misdemeanor of the first degree. If the violation does not result in death, serious physical harm, or physical harm to the dog, assaulting an assistance dog is a misdemeanor of the second degree. If the violation results in death or serious physical harm to the dog, such violation is a felony and shall be prosecuted under appropriate State law.

- (4) Whoever violates subsection (d) of this section is guilty of harassing an assistance dog. Except as otherwise provided in this subsection, harassing an assistance dog is a misdemeanor of the second degree. If the violation results in the death of or serious physical harm to the assistance dog but does not result in its death, harassing an assistance dog is a felony and shall be prosecuted under appropriate State law. 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, whoever violates subsection (a), (b), (c) or (d) of this section is responsible for the payment of all of the following:
- 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 the 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 the 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 the 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 Ohio 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 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 ~~mobility impaired person~~ person with a mobility impairment* have the same meanings as in Ohio R.C. 955.011. (ORC 2921.321)

533.01 Definitions.

As used in this chapter:

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.

[*Obscene.*] 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 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 Ohio R.C. 3103.06;
- (2) During the pendency of an action between the parties for annulment, divorce, dissolution of marriage or legal separation;
- (3) In the case of an action for legal separation, after the effective date of the judgment for legal separation.

Minor means a person under the age of 18 years.

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

Mental health professional has the same meaning as in Ohio 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. (ORC 2907.01)

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 the person's self,~~ shall knowingly commit trespass or otherwise secretly or surreptitiously invade the privacy of another to videotape, film, photograph, broadcast, stream, or otherwise record ~~the other person in a state of nudity another person, in~~

a place where a person has a reasonable expectation of privacy, for the purpose of viewing the private areas of that person.

- (c) No person shall 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.
 - (4) A violation of subsection (c) hereof is a misdemeanor of the first degree. (ORC 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 with a function 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 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:

- (a) 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 the officer's, investigator's, firefighter's, or person's 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 Ohio R.C. 2929.28(A)(2)(b) 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 five thousand dollars (\$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 Ohio R.C. 2929.28(A)(2)(b) for a misdemeanor of the first degree, the court may impose upon the offender a fine of not more than five thousand dollars (\$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 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 Ohio 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 Ohio R.C. 2929.24(GF).

(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 section 2903.22 of the Revised Code 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 section 2941.25 of the Revised Code.

~~(d)~~ As used in this section:

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

~~(2) Firefighter has the same meaning as~~ means any person who is a firefighter as defined in Ohio 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 section Ohio R.C. 742.01.

(3) *Emergency medical service* has the same meaning as in Ohio 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 Ohio 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 Ohio R.C. 3311.77 or 3319.08 in a position in which the person is required to have a certificate issued pursuant to Ohio R.C. 3319.22 to 3319.311.
 - B. A person who is employed by a nonpublic school for which the State Board of Education prescribes minimum standards under Ohio R.C. 3301.07 and who is certified in accordance with Ohio R.C. 3301.071.
- (7) *Community control sanction* has the same meaning as in Ohio R.C. 2929.01.
- (8) *Escorted visit* means an escorted visit granted under Ohio R.C. 2967.27.
- (9) *Post-release control* and *transitional control* have the same meanings as in Ohio R.C. 2967.01.
- (10) *Investigator of the Bureau of Criminal Identification and Investigation* has the same meaning as in Ohio R.C. 2903.11.
- (11) *Health care professional* and *health care worker* have the same meanings as in Ohio R.C. 2305.234.
- (12) *Assault or homicide offense committed against hospital personnel* means a violation of this section or Ohio 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:
 - 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 Ohio 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 Ohio R.C. 2935.01.

(19) A. *Hospital* means, subject to subsection (d)(19)B. of this section, an institution classified as a hospital under Ohio 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 Ohio R.C. Ch. 3721, a health care facility operated by the Department of Mental Health and additional 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 twenty-four-hour nursing care pursuant to the exemption in Ohio R.C. 4723.32(E) from the licensing requirements of Ohio R.C. Chapter 4723.

(20) *Health maintenance organization* has the same meaning as in Ohio 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.

(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 section 4765.01 of the Revised Code.

(24) "Volunteer firefighter" has the same meaning as in section 146.01 of the Revised Code.

(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.

(ORC 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 immediately 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 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 victim of the offense is an emergency service responder in the performance of the responder's official 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 to 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 section 2903.13 of the Revised Code 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 section 2941.25 of the Revised Code.

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

(1) “Emergency service responder,” “family or household member,” and “co-worker” have the same meanings as in section 2903.13 of the Revised Code.

(ORC 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 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, streetcar, or trackless trolley 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. (ORC 2022)

For purposes of Ohio R.C. 4511.191 to 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 Ohio R.C. 3719.01.

B. *Vehicle, streetcar, and trackless trolley* have the same meaning as in Ohio R.C. 4511.01. (ORC 2022)

(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, Ohio 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 Ohio 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 Ohio R.C. 2919.22(C) or subsection (c) hereof, Ohio R.C. 2903.06, or 2903.08, Section 2903.07 as it existed prior to March 23, 2000, or Ohio 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 Ohio 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:
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. (ORC 2919.22)

(Ord. No. 21-O-782 , § 2(Exh. B), 12-2-21)

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 Ohio R.C. 2919.26 or 3113.31;
 - (2) A protection order issued pursuant to Ohio R.C. 2151.34, 2903.213 or 2903.214;
 - (3) A protection order issued by a court of another state.
- (b) (1) Whoever violates this section is guilty of violating a protection order.

- (2) Except as otherwise provided in subsection (b)(3) of this section, violating a protection order is a misdemeanor of the first degree.
- (3) Violating a protection order is a felony and shall be prosecuted under State law if the offender previously has been convicted of, pleaded guilty to, or been adjudicated a delinquent child for any of the following:
 - A. A violation of a protection order issued or consent agreement approved pursuant to Ohio R.C. 2151.34, 2903.213, 2903.214, 2919.26, or 3113.31;
 - B. Two or more violations of Ohio 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 Ohio 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 General under Ohio 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 Ohio R.C. 2743.191. The total amount paid from the reparations fund created pursuant to Ohio R.C. 2743.191 for electronic monitoring under this section and Ohio R.C. 2151.34 and 2903.214 shall not exceed three hundred thousand dollars (\$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. (ORC 2919.27)

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 one thousand dollars (\$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 Ohio R.C. 4737.04 or a bulk merchandise container as defined in Ohio 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 Ohio 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 Ohio 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 Ohio R.C. 2913.72.
- (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 Ohio R.C. Ch. 4510. (ORC 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, or who is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in Ohio R.C. 2923.125(G)(1), 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 Ohio 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) Before or at the time a law enforcement officer asks if the person is carrying a concealed handgun, knowingly fail to disclose that the person then possesses or has a loaded handgun in the motor vehicle, provided that it is not a violation of this division if the person fails to disclose that fact to an officer during the stop and the person already has notified another officer of that fact during the same stop;
 - (2) Before or at the time an employee of the motor carrier enforcement unit asks if the person is carrying a concealed handgun, knowingly fail to disclose that the person then possesses or has a loaded handgun in the commercial motor vehicle, provided that it is not a violation of this division if the person fails to disclose that fact to an employee of the unit during the stop and the person already has notified another employee of the unit of that fact during the same stop;
 - (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 have contact with the loaded handgun by touching it with the person's hands or fingers in the motor vehicle at any time after the law enforcement officer begins approaching and before the law enforcement officer leaves, unless the person has contact with the loaded handgun pursuant to and in accordance with directions given by the law enforcement officer;
 - (5) 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 Ohio 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 either carrying a valid concealed handgun license or is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in Ohio R.C. 2923.125(G)(1).
 - B. The person transporting or possessing the handgun is not knowingly in a place described in Ohio R.C. 2923.126(B).
- (3) Subsection (a) of this section does not apply to a person if all of the following apply:
- A. The person possesses a valid all-purpose vehicle permit issued under Ohio R.C. 1533.103 by the Chief of the Division of Wildlife.
 - B. The person is on or in an all-purpose vehicle as defined in Ohio R.C. 1531.01 on private or publicly owned lands or on or in a motor vehicle during the open hunting season for a wild quadruped or game bird.
 - C. The person is on or in an all-purpose vehicle as defined in Ohio R.C. 1531.01 or a motor vehicle that is parked on a road that is owned or administered by the Division of Wildlife.
- (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 Ohio 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 Ohio 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 Ohio 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 Ohio 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 Ohio R.C. 2923.128(A)(2). 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 Ohio R.C. 2923.128(A)(2).

(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, Ohio R.C. 2923.163(B) applies.

(h) As used in this section:

(1) *Motor vehicle*, *street* and *highway* have the same meanings as in Ohio 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 Ohio 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 Ohio 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 Ohio 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 Ohio R.C. Ch. 2923. (ORC 2923.16; ORC 2022)

(Ord. No. 21-O-770 , § 1, 7-8-2)



MEETING DATE: December 7, 2023

AGENDA ITEM: New Business

TO: Riverside City Council

FROM: Josh Rauch, City Manager

SUBJECT: Ordinance No. 23-O-842 – An ordinance providing for the issuance of not to exceed \$4,565,000 Building Acquisition and Improvements Special Obligation Bond Anticipation Notes, 2024 renewal, by the City of Riverside, Ohio, in anticipation of the issuance of bonds, providing for the pledge of revenues for the payment of such notes, and declaring an emergency.

EXPLANATION

In FY2023, the City issued bond anticipation notes (BAN) for approximately \$4.735 million to continue carrying debt associated with Wright Point. These notes must be repaid in full, along with approximately \$300,000 in interest, by March 2024.

After conferring with the City's bond counsel and financial advisors, staff recommend reissuing the BAN in an amount not to exceed \$4.565 million in FY2024. This amount will continue the City's past practice of "paying down" debt associated with Wright Point, while still providing significant revenue toward repaying the prior year's notes.

The attached ordinance will enable the City to pursue BAN reissuance early next year well in advance of the FY2023 BAN expiration.

It is important to emphasize that continuing to issue BAN each year is not a sustainable practice for the City in the long term. However, proceeding with this issuance in FY2024 will provide the City with more time to develop a sustainable long-term solution for Wright Point. Additional details on our overall Wright Point strategy will be discussed at a future work session (likely January once new Councilmembers are seated).

RECOMMENDATION

It is respectfully recommended that the Mayor and City Council approve the attached legislation.

FISCAL IMPACT

Assuming a successful sale of the BAN, the City will receive \$4.565 million which will be applied toward repaying the previous note issuance of \$4.735 million. Without these funds, the City would be required to repay the previous notes and interest out of the General Fund.

SOURCE OF FUNDS

New note issuance

EXHIBITS

None

CERTIFICATE OF MEMBERSHIP

CITY OF RIVERSIDE, OHIO

hereby certifies that the following were the officers and members of Council during the period proceedings were taken authorizing the issuance of not to exceed \$4,565,000 Building Acquisition and Improvements Special Obligation Bond Anticipation Notes, 2024 Renewal, dated their date of issuance:

Mayor	<u>Peter J. Williams</u>
City Manager	<u>Joshua Rauch</u>
Finance Director	<u>Kim Baker</u>
Deputy Mayor	<u>Sara Lommatzsch</u>
Member of Council	<u>Mike Denning</u>
Member of Council	<u>Zachary Joseph</u>
Member of Council	<u>Brenda Fry</u>
Member of Council	<u>April Franklin</u>
Member of Council	<u>Jesse Maxfield</u>
Solicitor	<u>Dalma Grandjean</u>

Clerk of Council

TRANSCRIPT CERTIFICATE

The undersigned, Clerk of Council of said City, hereby certifies that the following is a true and complete transcript of all proceedings relating to the authorization and issuance of the above-identified notes.

Clerk of Council

CITY OF RIVERSIDE, OHIO

ORDINANCE NO. 23-O-842

AN ORDINANCE PROVIDING FOR THE ISSUANCE OF NOT TO EXCEED \$4,565,000 BUILDING ACQUISITION AND IMPROVEMENTS SPECIAL OBLIGATION BOND ANTICIPATION NOTES, 2024 RENEWAL, BY THE CITY OF RIVERSIDE, OHIO, IN ANTICIPATION OF THE ISSUANCE OF BONDS, PROVIDING FOR THE PLEDGE OF REVENUES FOR THE PAYMENT OF SUCH NOTES, AND DECLARING AN EMERGENCY.

WHEREAS, the fiscal officer (hereinafter called "Finance Director") of the City of Riverside (hereinafter called the "City") has heretofore estimated that the life of the hereinafter described improvements is at least five (5) years, and certified that the maximum maturity of the bonds is twenty-four (24) years, and of the notes to be issued in anticipation thereof is nine (9) years;

WHEREAS, the City has previously issued bond anticipation notes which are outstanding in the amount of \$4,565,000, which are about to mature, and which should be renewed in a reduced principal amount; and

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Riverside, County of Montgomery, Ohio (the "Council") at least five (5) members elected thereto concurring:

SECTION 1. That it is hereby declared necessary to issue bonds of the City of Riverside, County of Montgomery, Ohio, in the principal amount of not to exceed \$4,565,000, bearing interest estimated at eight per centum (8.00%) per annum and maturing over a period of twenty-four (24) years for the purpose of (i) refinancing outstanding notes originally issued for the purpose of acquiring and improving buildings for economic development in the City; and (ii) improving buildings for economic development in the City, under authority of the general laws of the State of Ohio, and all necessary costs in connection therewith.

SECTION 2. That it is hereby determined that notes (hereinafter called the "Notes") in the principal amount of not to exceed \$4,565,000 shall be issued in anticipation of the issuance of said bonds.

SECTION 3. Said anticipatory Notes of the City of Riverside shall be issued under the provisions of the Ohio Revised Code, in the principal amount of not to exceed \$4,565,000. Said Notes shall be dated as of their date of issuance, be payable at maturity, and shall mature on such date, not later than one year from their date of issuance, as is selected by the Finance Director, without call for prior redemption. Said Notes shall bear interest at such rate not to exceed eight percent (8.00%) per annum, as accepted by the City Manager or the Finance Director and shall be of such number and denomination as requested by the purchaser; however, such denomination shall be \$100,000 or integral multiple of \$5,000 in excess of \$100,000. The final terms of the Notes shall be set forth in a certificate of award (the "Certificate of Award") which is hereby authorized, and which shall be executed by the Finance Director without further legislative action of this Council.

SECTION 4. That the Notes shall be executed by the City Manager and the Finance Director and may but shall not be required to bear the seal of the corporation provided that either (but not both) of such officers' signatures and the seal may be facsimiles. The Notes shall be designated "Building Acquisition and Improvements Special Obligation Bond Anticipation Notes, 2024 Renewal," and shall be payable at the office of the Finance Director or such bank or trust company designated by the Finance Director and acceptable to the purchaser, to act, as paying agent, registrar and transfer agent (the "Paying Agent and Registrar") for the Notes, as set forth in the Certificate of Award, and shall express upon their face the purpose for which they are issued and that they are issued in pursuance of this Ordinance.

The principal amount of each Note shall be payable at the office of the Paying Agent and Registrar, and interest thereon shall be paid at maturity.

The Notes shall be transferable by the registered holder thereof in person or by his attorney duly authorized in writing at the principal office of the Paying Agent and Registrar upon presentation and surrender thereof to the Paying Agent and Registrar. The City and the Paying Agent and Registrar shall not be required to transfer any note during the 15-day period preceding the maturity date, and no such transfer shall be effective until entered upon the registration records maintained by the Paying Agent and Registrar. Upon such transfer, a new note or notes of authorized denominations of the same maturity and for the same aggregate principal amount will be issued to the transferee in exchange therefor.

The City and the Paying Agent and Registrar may deem and treat the registered holder of the Notes as the absolute owner thereof for all purposes, and neither the City nor the Paying Agent and Registrar shall be affected by any notice to the contrary.

SECTION 5. That the Notes shall be sold at public or private sale by the Finance Director of the City, at a price of not less than ninety-seven percent of the par value of such notes together with accrued interest thereon, if any, and the proceeds from such sale, except any premium or accrued interest hereon, shall be paid into the proper fund and used for the purpose aforesaid and for no other purpose.

SECTION 6. That the Notes shall be special obligations of the City, and only revenue of the City received from sources other than moneys raised by taxation and lawfully available for such purpose, including proceeds realized from the rental of the property, (the "Revenues") are pledged for the payment of the same. The Revenues are hereby pledged for the payment of the principal of and interest on the Notes. The par value received from the sale of bonds anticipated by the Notes, and any excess funds resulting from the issue of the Notes, shall, to the extent necessary, be used only for the retirement of the Notes at maturity, together with interest thereon and is hereby pledged for such purpose.

In order to better secure the payment of the principal of, premium, if any, and interest on the Notes as the same shall become due and payable, the City Manager and the Finance Director are each authorized and directed to take any and all actions and to execute such documents, financing statements, assignments, certificates and other instruments that may be necessary or appropriate in the opinion of Dinsmore & Shohl LLP, as Bond Counsel, in order to perfect the

pledge of and to secure the Revenues for the benefit of the Noteholders and to effect the issuance of the Notes and the intent of this Legislation.

The Notes are not general obligations of the City; Noteholders shall have no right to have any taxes levied or collected for the repayment of the Notes.

Anything in this legislation or the Notes notwithstanding, neither this legislation nor the Notes constitute a debt, or a pledge of the faith or credit, or taxing power of the City, the State or any political subdivision thereof, and the holders or owners of the notes shall have no right to have taxes levied by the City, the General Assembly of the State, or the taxing authority of any political subdivision of the State for the payment of the principal of and interest on the Notes, and the Notes shall contain on their faces a statement to that effect. Nothing herein shall be deemed to prohibit the City from lawfully using, of its own volition, any of its general resources for the fulfillment of any of the terms and conditions of this legislation or the Notes.

SECTION 7. The final terms of the Notes, which shall not be inconsistent with this Ordinance, shall be set forth in a Certificate of Award herein authorized in Section 3. The execution of such Certificate of Award by such authorized official shall evidence acceptance of the final terms of the Notes and that such terms are consistent with this Ordinance.

SECTION 8. The funds derived from the sale of the Notes and bonds authorized by this ordinance become and they are hereby set aside and appropriated for the payment as described in this ordinance.

SECTION 9. The proceeds of the sale of the Notes, plus other lawfully available funds of the City as set forth in the Certificate of Award, and except for accrued interest, shall be used to retire the outstanding notes and to be used to pay all costs and items of expense incurred by the City in connection with the issuance of the Notes, including without limitation costs of bond counsel and other legal, accounting and management services and services of other consultants and professional and related charges, fees and disbursements; bond rating fees; costs of issuance; printing and reproduction costs; filing and recording fees; initial fees and charges of the Paying Agent and Registrar; and costs of preparation, execution, transportation and safekeeping of the Notes (the "Cost of Issuance"). The City shall transfer to the Note Retirement Account any moneys remaining from the proceeds of the Notes upon determination by the Finance Director that all the costs described above have been received and paid by the City.

Any accrued interest on the Notes shall be transferred to the Note Retirement Account and shall be applied only to the payment of the interest and principal of the Notes and for no other purpose.

SECTION 10. From and after the date of issuance of the Notes, the annual Revenues shall first be used to pay Annual Debt Service, as defined herein, on the Notes and then shall be used for any legal purpose of the Revenues.

Annual Debt Service shall be the annual interest due on the Notes plus an amount equal to a principal payment as if the Notes had been issued as 24 year Bonds.

SECTION 11. That sums which are expended from the above appropriations and which are proper charges against and are repaid by any other department, any firm, person or corporation, shall be considered reappropriated for such original purpose; provided that the total appropriation as increased by any such repayment shall not be exceeded.

SECTION 12. That the Finance Director of the City of Riverside be and she is hereby authorized to draw her warrants of the City Treasury or Depository for payments from any of the foregoing appropriations upon receiving proper approval in accordance with the Charter, the Administrative Code, or other ordinances of the City of Riverside.

SECTION 13. Interest on the Notes hereby authorized shall be subject to federal income taxation under the Internal Revenue Code of 1986, as amended, unless the Notes are accompanied by an opinion of nationally recognized bond counsel to the effect that such interest is exempt from federal income tax.

SECTION 14. So long as any Notes are outstanding, the City shall have the right to issue, on a parity with the Notes, any additional notes, bonds or other obligations payable from the sources enumerated in Section 6 above so long as such sources of revenue are at least 1.25 times the annual debt service on the Notes and any additional notes. The City shall also have the unrestricted right to issue additional notes, bonds or other obligations subordinate to the Notes, or payable from taxes or other revenues of the City, other than the sources enumerated in Section 6 above.

SECTION 15. The City hereby covenants and agrees with the holders of the Notes from time to time, so long as any notes are outstanding, as follows:

- (a) The City will, at any and all times, cause to be done all such further acts and things and cause to be executed and delivered all such further instruments as may be necessary to carry out the purpose of the Notes and this legislation.
- (b) All of the obligations set forth and covenants made under this legislation are hereby established as duties specifically enjoined by law and resulting from an office, trust or station upon the City within the meaning of Section 2731.01 of the Ohio Revised Code.
- (c) The City will observe and will satisfactorily and punctually perform all its agreements and obligations provided for by the notes and this legislation.

SECTION 16. That the Finance Director is hereby authorized to apply, if she deems it appropriate, for a rating on the Notes from either Standard & Poor's Corporation or Moody's Investors Service, and to pay the fee for said rating to the extent authorized by law and approved by bond counsel.

SECTION 17. The Finance Director is hereby further authorized to take such actions as may be reasonably requested by the purchaser of the Notes in order to make the Notes eligible for the services of The Depository Trust Company, New York, New York.

SECTION 18. All appropriate officers of the City are further authorized to make, execute, acknowledge and deliver such closing certificates, financing statements and other instruments or agreements as are, in the opinion of bond counsel, necessary or appropriate, in order to effect the issuance of the Notes and to carry out the purposes of this Ordinance, including a note purchase agreement between the City and the purchaser of the Note, if requested by said purchaser.

SECTION 19. That the firm of Dinsmore & Shohl LLP ("Dinsmore") or their successor is hereby engaged as the City's "bond counsel" pursuant to the engagement letter of Dinsmore on file with the City.

SECTION 20. That the Finance Director is hereby directed to forward a certified copy of this ordinance to the County Auditor.

SECTION 21. That it is found and determined that all formal actions of this Council concerning and relating to the 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 all legal requirements.

SECTION 22. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety in the City for the reason that the immediate issuance of said Notes is required to provide for the timely refinancing of the project including obtaining a favorable interest rate, and it shall take effect immediately upon its adoption.

ADOPTED: _____.

Presiding Officer

Attest:

Clerk of Council

CERTIFICATE

The undersigned, Clerk of Council, Riverside, Ohio, hereby certifies the foregoing to be a true and correct copy of Ordinance No. **23-O-842** adopted _____.

Clerk of Council

CERTIFICATE

The undersigned, Finance Director, Riverside, Ohio, hereby certifies that Ordinance No. **23-O-842** was filed with the County Auditor of Montgomery County, Ohio, on _____.

Finance Director

RECEIPT

The undersigned, County Auditor of Montgomery County, Ohio, acknowledges receipt of Ordinance No. **23-O-842** of the City of Riverside, Ohio, on _____, 2023.

County Auditor

**CERTIFICATE AS TO MAXIMUM MATURITY OF
BONDS AND BOND ANTICIPATION NOTES**

Based upon information provided by and in reason to the request of the City Council of the City of Riverside, Ohio, the Finance Director of the City of Riverside, Ohio, being the fiscal officer of the City of Riverside, Ohio, within the meaning of Section 133.01 of the Uniform Public Securities Law of the Ohio Revised Code, hereby certifies that the estimated life of the improvements to be acquired with the proceeds of the sale of not to exceed \$4,565,000 of bonds, for the purpose of (i) refinancing outstanding notes originally issued for the purpose of acquiring and improving buildings for economic development in the City; and (ii) improving buildings for economic development in the City, and related costs, is at least five (5) years and that the maximum maturity of said bonds, calculated in accordance with Section 133.20 of the Uniform Public Securities Law of the Ohio Revised Code, is twenty-four (24) years and notes issued in anticipation thereof is nine (9) years.

IN WITNESS WHEREOF, I have hereunto set my hand this day _____.

Finance Director

MEETING DATE: December 7, 2023

AGENDA ITEM: New Business

TO: Riverside City Council

FROM: Kim Baker, Finance Director

SUBJECT: 23-O-843 An ordinance to make supplemental appropriations for current expenses and other expenditures of the City of Riverside, State of Ohio, for the period January 1 through December 31, 2023.

EXPLANATION

Changes since January have prompted the need to authorize additional appropriations for the FY2023 Budget. These include:

General Fund

- \$4,100 additional operating expense related to upfront costs required for a demolition
- \$500 additional operating expense related increased data storage needs for the permitting and code enforcement system
- \$10,000 additional operating expense related to increased legal fees due to labor negotiations
- \$245 additional operating expense for Munipro

\$14,845 in additional appropriation in the General Fund is requested to be paid using current fund balance.

Airway/Woodman Improvement Fund

- \$74.93 increase in operating expense to cover underestimated auditor/treasurer fees.

This amount will be paid using available fund balance.

Local Fiscal Recovery Fund

- \$150,270.51 increase in personal expense to pay out EMA ARPA Retention Bonuses

This amount was paid out using the funds received from the EMA for this purpose.

RECOMMENDATION

It is respectfully recommended that the Mayor and City Council approve the attached legislation.

EXHIBITS

Ordinance 23-O-843

December 2023 Supplemental Exhibit A

23-O-843

AN ORDINANCE TO MAKE SUPPLEMENTAL APPROPRIATIONS FOR CURRENT EXPENSES AND OTHER EXPENDITURES OF THE CITY OF RIVERSIDE, STATE OF OHIO, FOR THE PERIOD JANUARY 1 THROUGH DECEMBER 31, 2023.

WHEREAS, the Finance Director does report and recommend that certain supplemental appropriations be made.

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

Section 1: That the Council of the City of Riverside, State of Ohio, to provide for current and other expenditures for the period January 1 through December 31, 2023, the following additional sums and amounts as listed in Exhibit "A" attached hereto and incorporated herein by this Ordinance be and they are hereby set aside and appropriated as a supplemental appropriation to the existing appropriation.

Section 2: That the Finance Director is hereby authorized to draw warrants on the City Treasury for payments from the foregoing supplemental appropriation as authorized by legislation of Council to make appropriations.

Section 3: That this Ordinance, being an Appropriation Ordinance, shall take effect immediately upon its passage as provided for in the Charter.

PASSED THIS DAY OF _____.

APPROVED:

MAYOR

ATTEST:

CLERK

CERTIFICATE OF THE CLERK

I, _____, Clerk of the City of Riverside, Ohio, do hereby certify that the foregoing Ordinance is a true and correct copy of Ordinance No. 23-O-843 passed by the Riverside City Council on _____.

IN TESTIMONY WHEREOF, witness my hand and official seal this day _____.

CLERK

That there be appropriated within and from the General Fund the following:

General Fund (1101)

Operating Expense	Increase by \$14,845
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That there be appropriated within and from the Airway/Woodman Improvement Fund the following:

Airway/Woodman Improvement Fund (2407)

Operating Expense	Increase by \$74.93
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That there be appropriated within and from the Local Fiscal Recovery Fund the following:

Local Fiscal Recovery Fund (2237)

Personal Expense	Increase by \$150,270.51
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MEETING DATE: December 7, 2023

AGENDA ITEM: New Business

TO: Riverside City Council

FROM: Kim Baker, Finance Director

SUBJECT: 23-O-844 An ordinance to make permanent appropriations for current expenses and other expenditures of the City of Riverside, State of Ohio, for the period January 1 through December 31, 2024.

EXPLANATION

Permanent appropriations required for the city to run effectively in fiscal year 2024 as outlined in two previous council meetings are detailed in the attached Exhibit A. These appropriations were adjusted from previous discussions based on three findings discovered after those public meetings. Those were:

- A reimbursable grant was included in two separate funds in error. One has been eliminated from our request, so these appropriations are no longer overstated
- A part-time administrative assistant role was re-evaluated and is now on track to be a full-time position in 2024
- Additional needs were found in the administration contract services line

The effect of these changes moves our previous expected General Fund deficit for 2024 down to \$317,120 from the expected deficit of about \$900,000 discussed in the work sessions. This deficit can comfortably be absorbed by the fund balance reserve expected at the end of fiscal year 2023.

RECOMMENDATION

It is respectfully recommended that the Mayor and City Council approve the attached legislation.

EXHIBITS

Ordinance 23-O-844

2024 Appropriations Exhibit A

23-O-844

AN ORDINANCE TO MAKE PERMANENT APPROPRIATIONS FOR CURRENT EXPENSES AND OTHER EXPENDITURES OF THE CITY OF RIVERSIDE, STATE OF OHIO, FOR THE PERIOD JANUARY 1 THROUGH DECEMBER 31, 2024.

WHEREAS, the City Council of Riverside, Ohio has appointed the City Manager to prepare and submit a proposed budget to said governing body at the proper time; and

WHEREAS, the City Manager has submitted a proposed budget to this governing body for its consideration.

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

Section 1: That to provide for the current expenses and other expenditures of the City of Riverside, State of Ohio for the period January 1 through December 31, 2024, the sums and amounts as listed in Exhibit "A" attached hereto and incorporated herein by reference thereto under appropriations; be and the same are hereby set aside and appropriated from the General Fund and various Departments and other Funds.

Section 2: That the Finance Director is hereby authorized to draw the warrants for payments from any of the foregoing appropriations upon receiving proper certificates and vouchers therefore, approved by the board of officers authorized by law to approve the same, or an ordinance or resolution of council to make the expenditures, provided that no warrants shall be drawn or paid for salaries or wages except to persons employed by authority of and in accordance with law or ordinance.

Section 3: That the City Manager be and is hereby authorized and directed to implement the appropriations as detailed above.

Section 4: That this Ordinance, being an appropriation ordinance, shall go into immediate effect as provided by the Charter and Ordinance.

PASSED THIS DAY OF _____.

APPROVED:

MAYOR

ATTEST:

CLERK

23-O-844

CERTIFICATE OF THE CLERK

I, _____, Clerk of the City of Riverside, Ohio, do hereby certify that the foregoing Ordinance is a true and correct copy of Ordinance No. 23-O-844 passed by the Riverside City Council on _____.

IN TESTIMONY WHEREOF, witness my hand and official seal this day _____.

CLERK

That there be appropriated within and from the General Fund \$6,396,848 as follows:

General Fund (1101)

City Clerk

Personal Services	\$ 156,779
Other	\$ 51,925

Administration

Personal Services	\$ 422,794
Other	\$ 170,740

Finance

Personal Services	\$ 334,267
Other	\$ 4,109,060

Legal

Other	\$ 350,000
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Community Development

Personal Services	\$ 435,104
Other	\$ 267,850

Public Service

Other	\$ 98,329
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That there be appropriated within and from the Fire Fund \$4,552,259 as follows:

Fire Fund (2201)

Fire

Personal Services	\$ 3,671,758
Other	\$ 880,501

That there be appropriated within and from the Street Fund \$2,301,796 as follows:

Street Fund (2202)

Public Service

Personal Services	\$ 1,334,819
Other	\$ 966,977

That there be appropriated within and from the Police Fund \$5,120,050 as follows:

Police Fund (2203)

Police

Personal Services	\$ 4,212,293
Other	\$ 907,757

That there be appropriated within and from the State Highway Fund \$579,500 as follows:

State Highway Fund (2205)

Public Service

Other	\$ 579,500
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That there be appropriated within and from the Permissive Tax Fund \$93,400 as follows:

Permissive Tax Fund (2209)

Public Service

Other	\$ 93,400
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That there be appropriated within and from the OPWC Union Schoolhouse Fund \$4,490 as follows:

OPWC Union Schoolhouse Fund (2210)

Public Service

Other	\$ 4,490
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That there be appropriated within and from the General Assessments Fund \$200,350 as follows:

General Assessments Fund (2212)

Finance

Other	\$ 200,350
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That there be appropriated within and from the OPWC Valley Pike Fund \$8,659 as follows:

OPWC Valley Pike Fund (2213)

Public Service

Other	\$ 8,659
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That there be appropriated within and from the OPWC Needmore Rd Fund \$11,234 as follows:

OPWC Needmore Rd Fund (2214)

Public Service

Other	\$ 11,234
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That there be appropriated within and from the Brantwood II Subdivision Fund \$75,000 as follows:

Brantwood II Subdivision Fund (2216)

Community Development

Other	\$ 75,000
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That there be appropriated within and from the Brantwood I Subdivision Fund \$170,000 as follows:

Brantwood I Subdivision Fund (2218)

Community Development

Other	\$ 170,000
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That there be appropriated within and from the CDBG Projects Fund \$19,887 as follows:

CDBG Projects Fund (2223)

Public Service

Other	\$ 19,887
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That there be appropriated within and from the Local Fiscal Recovery Fund \$580,000 as follows:

Local Fiscal Recovery Fund (2237)

Finance

Other	\$ 30,000
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Public Service

Other	\$ 550,000
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That there be appropriated within and from the Wright Point Fund \$5,903,406 as follows:

Wright Point Fund (2402)

Community Development

Other	\$ 5,903,406
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That there be appropriated within and from the Center of Flight Fund \$2,600 as follows:

Center of Flight Fund (2406)

Community Development

Other	\$ 2,600
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That there be appropriated within and from the Airway/Woodman Improvement Fund \$800 as follows:

Airway/Woodman Improvement Fund (2407)

Community Development

Other	\$ 800
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That there be appropriated within and from the Fire/EMS & Police Income Tax Fund \$5,880,000 as follows:

Fire/EMS & Police Income Tax Fund (2410)

Finance

Other	\$ 5,880,000
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That there be appropriated within and from the G.O. Debt Retirement Fund \$224,225 as follows:

G.O. Debt Retirement Fund (3300)

Finance

Other	\$ 224,225
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That there be appropriated within and from the Insurance Deposits Fund \$70,000 as follows:

Insurance Deposits Fund (7804)

Fire

Other	\$ 70,000
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MEETING DATE: December 7, 2023

AGENDA ITEM: New Business

TO: Riverside City Council

FROM: Josh Rauch, City Manager

SUBJECT: Resolution No. 23-R-2896 – A resolution by the Council of the City of Riverside, Ohio, declaring it necessary to levy a tax in excess of the Ten Mill limitation.

EXPLANATION

Council previously passed Resolution No. 23-R-2890 requesting the county auditor to certify the total current tax valuation of the City of Riverside and the dollar amount of revenue that would be generated by a 4.95 mill replacement levy to operate the police department. The current revenue collected at 4.95 millage generates approximately \$1.0 million or 20 percent of the police department's budget. The valuation has been received and certified indicating that the replacement levy of the same millage and the same term of 4.95 mill over five years would generate \$1.9 million in revenue dedicated to the Police Department. The attached resolution allows for the replacement levy to go before the voters on the March 19, 2024, election.

A 'yes' vote by the voters would stabilize the Police Department's budget and significantly reduce the need to transfer money from the General Fund to the Police Fund each year. General Fund support is still likely should the levy pass as labor negotiations are ongoing and the full impact of personnel costs increases in FY2024.

A 'no' vote by the voters would cause the Police Department to lose 20 percent of its funding without a clear replacement source of funds. The Police Department's annual operating deficit would expand from \$0.9 million to more than \$1.9 million in FY2025 just to maintain current operations.

RECOMMENDATION

It is respectfully recommended that the Mayor and City Council approve the attached legislation.

FISCAL IMPACT

No immediate impact.

SOURCE OF FUNDS

Not Applicable

EXHIBITS

Exhibit A – Certificate of Estimated Property Tax Revenue

**A RESOLUTION BY THE COUNCIL OF THE CITY OF RIVERSIDE,
MONTGOMERY COUNTY, OHIO, DECLARING IT NECESSARY TO LEVY A
TAX IN EXCESS OF THE TEN MILL LIMITATION.**

WHEREAS, the Council of the City of Riverside, Montgomery County, Ohio, met in regular session on _____ at the City of Riverside Administration Offices with the following members present:

_____ moved to adopt the following Resolution:

WHEREAS, the Council through the adoption of Resolution No. 23-R-2890 declared the necessity of a five-year replacement levy in excess of the ten-mill limitation for the purpose of providing and maintaining motor vehicles, communications, and other equipment used directly in the operation of the police department, or the payment of salaries of permanent police personnel; and

WHEREAS, the Council pursuant to Section 5705.03(b) of the Ohio Revised Code, requested and received the total current tax valuation of the City of Riverside and the dollar amount of revenue that would be generated by a 4.95 mill replacement levy for a five-year period; and

WHEREAS, the amount of taxes which may be raised within the ten-mill limitation will be insufficient to provide an adequate amount for the necessary requirements of said City of Riverside, Montgomery County, Ohio;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF RIVERSIDE, STATE OF OHIO:

Section 1: That this Council of the City of Riverside, Montgomery County, Ohio, by two-thirds of all members elected thereto concur, that it is necessary that the replacement tax be levied in excess of the ten-mill limitation for the purpose of operating and maintaining the police department and for all other purposes authorized by O.R.C. 5705.19 (J).

Section 2: The question of passage of said replacement tax levy shall be submitted to the electors of the City of Riverside at an election to be held on March 19, 2024. If a majority of the voters voting on this replacement levy vote in favor thereof, this levy shall be first placed

23-R-2896

on the tax list and duplicate for the tax year of 2024, for collection in calendar year 2025.

Section 3: That the Clerk of this Council of the City of Riverside, Ohio, is hereby directed to certify a copy of this Resolution to the Board of Elections, Montgomery County, Ohio, at least 90 days prior to the election to be held March 19, 2024, and notify said Board of Elections to cause notice of election on the question of levying said tax to be given as required by law.

_____ seconded the Motion and the roll being called upon its adoption the vote resulted as follows:

_____	_____
_____	_____
_____	_____

PASSED THIS DAY _____.

APPROVED:

MAYOR

ATTEST:

CLERK

CERTIFICATE OF THE CLERK

I, _____, Clerk of the City of Riverside, Ohio, do hereby certify that the foregoing Resolution is a true and correct copy of Resolution No. 23-R-2896 passed by the Riverside City Council on _____.

IN TESTIMONY WHEREOF, witness my hand and official seal this day of _____.

CLERK

Certificate of Estimated Property Tax Revenue For Riverside City

(Use this form when a taxing authority certifies a millage rate and requests the revenue produced by that rate.)

The County Auditor of Montgomery County, Ohio, does hereby certify the following:

1. On November 7, 2023, the taxing authority of Riverside City, certified a copy of its resolution or ordinance adopted October 19, 2023, requesting the county auditor to certify the current taxable value of the taxing district and the amount of revenue that would be produced by four and ninety five hundredths (4.95) mills, to levy a tax outside the 10-mill limitation for the purpose of the Police Department, pursuant to Revised Code §5705.19(J), to be placed on the ballot at the March 19, 2024 general election. The levy type is a 4.95 Mill Replacement Levy for a five year period of time.
2. The estimated property tax revenue that will be produced by the stated millage, assuming the taxable value of the subdivision remains constant throughout the life of the levy, is calculated to be \$1,925,480.
3. The total taxable value of the subdivision used in calculating the estimated property tax revenue is \$388,985,860.
4. The millage for the requested levy is four and ninety five hundredths (4.95) mills per \$1 of taxable value, which amounts to \$173.00 for each \$100,000 of the county auditor's appraised value.

Karl L. Keith
Auditor, Montgomery County, Ohio

By:

Gloria A. Butler, Deputy

RIVERSIDE CITY				
100% Home Value	Taxable Value (35%)	Proposed Millage	Replacement/ New	Renewal
20,000	7,000	4.950000	34.65	30.32
40,000	14,000	4.950000	69.30	60.64
60,000	21,000	4.950000	103.95	90.96
80,000	28,000	4.950000	138.60	121.28
100,000	35,000	4.950000	\$173	151.59
120,000	42,000	4.950000	207.90	181.91
140,000	49,000	4.950000	242.55	212.23
160,000	56,000	4.950000	277.20	242.55
180,000	63,000	4.950000	311.85	272.87
200,000	70,000	4.950000	346.50	303.19
220,000	77,000	4.950000	381.15	333.51
240,000	84,000	4.950000	415.80	363.83
260,000	91,000	4.950000	450.45	394.14
280,000	98,000	4.950000	485.10	424.46
300,000	105,000	4.950000	519.75	454.78
320,000	112,000	4.950000	554.40	485.10
340,000	119,000	4.950000	589.05	515.42
360,000	126,000	4.950000	623.70	545.74
380,000	133,000	4.950000	658.35	576.06
400,000	140,000	4.950000	693.00	606.38

*(ROUNDED TO THE NEAREST \$1)

173.25

RIVERSIDE CITY ESTIMATED REVENUE 4.95 MILL REPLACEMENT POLICE LEVY				
PROPERTY CLASS	* ASSESSED VALUATION	MILLAGE RATE	DOLLARS GENERATED @100%	DOLLARS GENERATED @95%
Class 1 Res/Agr	323,342,820	4.95	1,600,547	1,520,520
Class 2 Com/Ind	56,373,810	4.95	279,050	265,098
Public Utility Personal Property	9,226,720	4.95	45,672	43,389
Public Utility/Real	42,510	4.95	210	200
General Tangible Personal Property	0	4.95	0	0
TOTAL:	388,985,860	TOTAL:	1,925,480	1,829,206
USE THIS NUMBER				

*Note: Revenue Projections Based on ESTIMATED Values for Tax Year 2023/2024

MEETING DATE: December 7, 2023

AGENDA ITEM: New Business

TO: Riverside City Council

FROM: Josh Rauch, City Manager

SUBJECT: Resolution No. 23-R-2897 - A resolution authorizing the city manager to enter into an interlocal mutual aid agreement for public works services.

EXPLANATION

Earlier this year, area City Managers negotiated an interlocal agreement for public works mutual aid. The process was coordinated by Jay Weiskircher, Executive Director of the Miami Valley Communications Council (MVCC), and discussed at roundtable meetings sponsored by MVCC.

The agreement is designed to cover emergency incidents (e.g., tornadoes) as well as non-emergency public works services. Requests for aid may be initiated by the City Manager (or equivalent executive position) of participating agencies. The agreement specifies insurance coverages and liabilities for participating organizations. It provides that mutual aid should generally be provided free of charge unless charges are negotiated in advance.

The general intent of the agreement is to cover isolated or emergency requests for aid that are unique to individual communities. For example, if a tornado were to touch down in Riverside while leaving most of the metro unscathed, the agreement provides a framework where other organizations could lend us assistance while maintaining appropriate legal coverage. However, invoking the agreement is likely not appropriate or feasible during large-scale events that impact the entire metro area, such as a major snowstorm.

Participating in the agreement provides us with the ability to borrow assets or services from neighbors, along with the responsibility to give assets and services if they are requested of us.

RECOMMENDATION

It is respectfully recommended that the Mayor and City Council approve the attached legislation.

FISCAL IMPACT

None

SOURCE OF FUNDS

Not Appl

EXHIBITS

Exhibit A – Public Works Mutual Aid Contract

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN INTERLOCAL MUTUAL AID AGREEMENT FOR PUBLIC WORKS SERVICES.

WHEREAS, communities across southwest Ohio and the Greater Dayton region have recognized the importance of mutual aid and cooperation in the provision of public services; and,

WHEREAS, several communities neighboring Riverside have agreed to enter into mutual aid agreement for the provision of public works services during emergency and non-emergency situations; and,

WHEREAS, the City Manager recommends adopting and entering into said mutual aid agreement for the benefit of the City of Riverside, its operations, and the region at large; and,

WHEREAS, this Council affirms and supports the benefits of interlocal agreements and desires to offer and receive public works services as needed through said agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF RIVERSIDE, STATE OF OHIO:

Section 1: The City Manager is hereby authorized to enter into the “Public Works Mutual Aid Contract” interlocal agreement attached hereto as “Exhibit A”.

Section 2: That the Clerk be and is hereby authorized and directed to forward a certified copy of this resolution to the City Manager, who will submit a certified copy to other agencies that have adopted the agreement, and to the Director of Finance.

Section 3: That this Resolution shall take effect and be in full force from and after the date of its passage.

PASSED THIS DAY OF _____.

APPROVED:

MAYOR

23-R-2897

ATTEST:

CLERK

CERTIFICATE OF THE CLERK

I, _____, Clerk of the City of Riverside, Ohio, do hereby certify that the foregoing Resolution is a true and correct copy of Resolution No. 23-R-2897 passed by the Riverside City Council on _____.

IN TESTIMONY WHEREOF, witness my hand and official seal this day
_____.

CLERK

Public Works Mutual Aid Contract

WHEREAS, it is the expressed desire of municipalities located in the southwest Ohio area, to agree to unite by contract for the purpose of rendering mutual aid, assistance, manpower and equipment, to each other in the event of both non-emergency events and emergency situations arising within their individual jurisdictions wherein their own non-safety Public Works manpower and equipment is deemed inadequate; and,

WHEREAS, this mutual aid agreement is both an attempt, prior to the actual occurrence of a disaster or an event, to facilitate recognition of emergency and non-emergency demands and make the response of participating communities more effective; and,

WHEREAS, the citizens served by all parties having the desire to contract as aforementioned will be better protected both in life and limb as well as in property by having available the mutual aid, assistance, manpower and equipment of the other parties to this contract should an emergency or non-emergency event arise wherein their respective forces are deemed inadequate to meet such emergencies or events; and,

WHEREAS, in addition to non-emergency events, the preservation of life, limb and property of the citizens of the various communities desiring to contract herein depends upon having available all possible aid, assistance, manpower, equipment, and knowledge.

NOW THEREFORE, this contract is entered into upon the following terms and conditions, by and between the parties hereto set forth below, with the mutual promise of each to the other as consideration therefor:

I. DEFINITIONS

For the purpose of this contract, a disaster will be defined as the occurrence, or imminent threat, of widespread or severe damage or loss of property or life which exceeds the routine capabilities of local government, health care, and other community agencies. The most common disasters include floods, major fires, earthquakes, tornadoes, and other emergencies which occur with little or no warning. While these disasters cannot be foreseen, their effects on a community can be anticipated and planned for in order to expedite the community's return to normal conditions. Actions taken to cope with an emergency may prevent a disaster from becoming a tragedy.

For the purposes of this contract, non-emergency events or just events shall be any non-emergency events that allows a local jurisdiction to seek assistance from another jurisdiction for non-emergency public works equipment or services.

II. PRIMARY RESPONSIBILITY

No provision of this contract shall be construed to place liability upon any other

party hereto for failure to respond to a request for assistance hereunder, if, in the sole discretion of the party being requested, their services are considered necessary to the community or are for which they are primarily responsible.

Further, it is agreed that each party hereto bears the burden of protecting that area through which it gains its compensation and authority, and that any decision to render aid to another party hereto requesting same must bear on this principle.

III. REQUESTS FOR AID

A request for aid, assistance, manpower, or equipment under the provisions of this contract shall be made only by the chief executive of the requesting jurisdiction or his/her designee(s) as a party to this contract.

IV. RESPONSE TO REQUESTS FOR AID

A request for aid, assistance, manpower, or equipment under the provisions of this contract shall be made to the person or agency having the responsibility of dispatching such requested party on calls within its own area of jurisdiction. Such requests shall be made, insofar as practicable, in the following manner:

- a.) The authority requesting assistance shall specify the aid, assistance, manpower, or equipment requested;
- b.) The nature and location of the non-emergency event or emergency where such aid is requested;
- c.) The respondent shall then cause an entry of the request to be made on appropriate departmental records, stating the time, pieces of equipment, personnel and the duration of time each was utilized. A copy of the entry shall be forwarded to the requesting jurisdiction at the earliest convenience.
- d.) Each jurisdiction shall provide the requesting party with the name and public service number of the dispatching authority for the particular department. Such lists shall be combined into one item and distributed to all parties hereto as the need demands.

V. CHARGES

No charge shall be made to or by any party to this contract for the services rendered under this contract unless agreed upon by the jurisdiction in advance, it being the expressed intention of the parties hereto that the sole consideration is the mutual promises, each to the other, of rendering aid, assistance, manpower or equipment.

In the event that charges for the services may be reimbursed through third parties, such as FEMA, each jurisdiction may be entitled to such reimbursement and is responsible for providing documentation for receipt of those funds.

No part of this contract, however, shall be construed as to avoid or nullify any other valid and existing contract which may be in effect between parties hereto or with parties not subject to this contract.

VI. DAMAGES – LOSSES – INJURIES

The parties hereto mutually agree that no party rendering aid, assistance, manpower, or equipment under the provisions of this contract shall seek damages or reimbursement for loss or injury to equipment from any party requesting such aid, assistance, manpower, or equipment, unless the actions of the requesting party or its employees caused the damage; further, that there shall be no reimbursement for any indemnity award or premium contribution assessed against the employing party for Workers' Compensation or other benefits arising by reason of injury or death to a member of a force of such party while engaged in rendering services under the terms of this contract, it being mutually agreed between the parties hereto that the responding party shall be solely responsible for any loss or damages sustained by third parties injured or damaged by any act of said responding party in rendering aid, assistance, manpower, or equipment under the terms of this contract.

VII. MINIMUM COVERAGES

Each party shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the insured party, its agents, representatives, employees, or subcontractors.

1. **Commercial General Liability (CGL)**, with limits not less than \$2,000,000 per occurrence, for bodily injury, property damage, personal & advertising injury.
2. **Automobile Liability** covering any auto, with minimum limits of \$2,000,000 per accident for bodily injury and property damage.
3. **Workers' Compensation** insurance as required by the State of Ohio, with statutory limits, and Employers' Liability with limits not less than \$1,000,000 per accident for bodily injury and disease.

Each party shall cover the other parties, including their officials, agents, employees, and volunteers as Additional Insureds with respect to liability arising out of work or operations performed by the primary insured party including materials, parts, or equipment furnished in connection with such work or operations and automobiles owned, leased, hired, or borrowed by the primary insured party.

For claims related to this project, the primary insured party's insurance coverage shall be primary and non-contributing with respect to the additional insureds.

Upon request, each party shall provide the others with a certificate of insurance evidencing compliance with the requirements herein.

VIII. TERM OF CONTRACT

This agreement shall be in effect for a period of three (3) years from the effective date hereof and shall be automatically renewed for successive periods of three (3) years as to all parties, unless termination and notice to withdrawal is completed in accordance with the terms herein.

IX. TERMINATION

It is mutually agreed by the parties that any party may terminate this agreement at any time upon written notice served by either certified mail, return receipt requested, or electronically via email to the other party or parties at least sixty (60) days in advance of such effective termination. Such notice shall be sent to the attention of the Chief Executive to the address or email address set forth below for each party and is deemed served once mailed or sent. Such termination or withdrawal, however, shall not be deemed termination of the entire contract and agreement as to the remaining parties hereto and as to those remaining, this agreement will continue in full force and effect with the mutual promise of such parties remaining as the consideration.

X. EXECUTION

This agreement may be executed in any number of counterparts, all of which together shall be considered a single instrument.

XI. ADDITIONAL PARTIES TO CONTRACT

It is mutually agreed by the parties hereto that from time-to-time new parties to this agreement may be added, provided other requirements are met as specified herein. The date of the initial term shall coincide with the then existing term of this contract, whether within the initial term or successive automatic renewal term hereof, and from that time shall be for the same term as other parties to this contract.

XII. EFFECTIVE DATE

This agreement shall become effective upon execution by each chief executive of each jurisdiction and will be effective on that date as to all parties who have executed the agreement in accordance with law. The administrator, when making initial distribution of the agreement counterparts, shall indicate the dates set forth herein to all parties.

XIII. SEPARABILITY OF CLAUSES

It is mutually agreed by the parties hereto that should any part, section, clause or specification herein be decided unlawful or unconstitutional, the remaining parts, sections, clauses and specifications shall continue to operate as if independent thereof.

IN WITNESS WHEREOF, the undersigned, through its duly authorized agent(s) or representative(s), hereunto set its hand this day _____.

CITY OF RIVERSIDE

By: Joshua Rauch
Its: City Manager

Approved as to form:

Dalma Grandjean
Municipal Attorney, City of Riverside



MEETING DATE: December 7, 2023
AGENDA ITEM: New Business

TO: Riverside City Council

FROM: Josh Rauch, City Manager

SUBJECT: Resolution No. 23-R-2898 A resolution authorizing the city manager to enter into a sixth amendment to the generation supply agreement for electricity supply with Interstate Gas Supply (IGS) LLC.

EXPLANATION

The City has participated in an electric aggregation program for municipally-owned facilities (e.g. 1791 Harshman, Station 6) for the last several years. The aggregation program is coordinated by the Miami Valley Communications Council (MVCC). The current contract for electricity supply is through Interstate Gas Supply (IGS).

The initial contract was entered into in 2011 and is on its fifth renewal, which expires in May 2024. MVCC recommends participants enter into a sixth renewal with IGS based on a quoted rate of \$0.05995/kWh for June 2024 through December 2026. This represents a 37% increase over the current rate of \$0.04387/kWh; however, the current AES utility rate is north of \$.10/kWh and market conditions have favored higher rates in recent months. The quoted rate from IGS is very competitive given these recent market trends.

Locking in this rate will provide the City with stability in electricity supply costs for its municipal facilities. Additional information about IGS and rates quoted to MVCC can be provided upon Council request.

RECOMMENDATION

It is respectfully recommended that the Mayor and City Council approve the attached legislation.

FISCAL IMPACT

Assuming an average annual usage of 475,493 kWh, the anticipated cost increase is approximately \$8,000 per year:

kWh Usage	\$0.04387/kWh	\$0.05995/kWh
475,493	\$20,859.88	\$28,505.81

Note: Wright Point is covered by a separate electricity supply agreement through Freepoint Energy Systems at a rate of \$0.0652/kWh. The estimate above does not include Wright Point.

SOURCE OF FUNDS

General, Fire, Police, Service Funds as appropriate based on billing accounts.

EXHIBITS

Exhibit A – Generation Supply Agreement

23-R-2898

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A SIXTH AMENDMENT TO THE GENERATION SUPPLY AGREEMENT FOR ELECTRICITY SUPPLY WITH INTERSTATE GAS SUPPLY (IGS) LLC.

WHEREAS, the City of Riverside is party to an aggregation agreement coordinated by the Miami Valley Communications Council (MVCC) for electricity supply for municipal facilities; and,

WHEREAS, the City has previously renewed this agreement five times with IGS for electricity supply; and

WHEREAS, the current agreement expires in May 2024; and

WHEREAS, IGS has offered a competitive rate of \$0.05995/kWh for electricity supply from May 2024 through December 2026.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF RIVERSIDE, STATE OF OHIO:

Section 1: The City Manager is hereby authorized to enter into a Sixth Amendment to the Generation Supply Agreement with IGS as described in “Exhibit A”.

Section 2: That the Clerk be and is hereby authorized and directed to forward a certified copy of this resolution to the City Manager, who will submit a certified copy to the MVCC, IGS, and to the Director of Finance.

Section 3: That this Resolution shall take effect and be in full force from and after the date of its passage.

PASSED THIS DAY OF _____.

APPROVED:

MAYOR

ATTEST:

CLERK

23-R-2898

CERTIFICATE OF THE CLERK

I, _____, Clerk of the City of Riverside, Ohio, do hereby certify that the foregoing Resolution is a true and correct copy of Resolution No. 23-R-2898 passed by the Riverside City Council on _____.

IN TESTIMONY WHEREOF, witness my hand and official seal this day
_____.

CLERK

GENERATION SUPPLY AGREEMENT

AMENDMENT NO. 6

Customer: City of Riverside
Supplier: Interstate Gas Supply, LLC
Effective Date: 05/01/2024

Definitions

"Agreement" means the Generation Supply Agreement dated March 1, 2011 between Customer and DPL Energy Resources, Inc. as modified by any applicable amendments.

Background

Customer and Supplier desire to amend the Agreement as of the Effective Date above.

Agreement

In consideration of the mutual promises below Customer and Supplier agree to the following:

1. **Term:** Section 3 of the Agreement will be amended as follows:

Service will continue from Customer's meter reading date in May 2024 through the Customer's meter reading date in December 2026 (the "Renewal Term").

2. **Price:** The price for the Renewal Term will be \$0.05995 per kWh. For any capacity planning year for which the Base Residual Auction rate has not been established as of the execution date of this Amendment, Supplier will pass through to Customer any change in capacity cost, positive or negative, resulting from changes to Customer's capacity rate as assessed by Customer's EDC or RTO/ISO.

3. **Contract Volumes:** The Contract Volumes on Appendix 2 will be amended as follows:

Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
42,261	37,856	39,612	35,927	38,033	39,547	45,571	42,941	37,774	38,274	37,571	40,700

For the avoidance of doubt, in the event of any conflict whatsoever between this Amendment (including its Appendix) and the Agreement, then this Amendment will control.

Except as set forth above, nothing else has changed with respect to the Agreement, and all of its provisions remain in full force.

Each individual signing this Amendment on behalf of a Party below represents that he or she has the full authority and power to sign this Amendment on behalf of that Party.

City of Riverside:

Interstate Gas Supply LLC:

Name:

Title:

Name:

Title:

Dalma Grandjean, Law Director
City of Riverside, OH

CITY MANAGER

PREVIOUS

UPDATES

MEMORANDUM

TO: Honorable Mayor and Councilmembers
FROM: Josh Rauch, City Manager
DATE: November 17, 2023
SUBJECT: Weekend Update
CC: City Clerk, Law Director, City Staff

City Manager's Office/Administration

- I attended the Dayton Defense Luncheon this week and listened to a helpful update from Col. Meeker.
- I also attended a meeting with the Mayor and a representative from United Way to learn more about their services and involvement in our area. United Way will likely present to Council next February.
- City offices will be closed next Thursday and Friday, November 23 and 24, in observance of Thanksgiving.
- Thanks to April Davis for coordinating today's employee Thanksgiving potluck, and thanks to all the staff who helped prepare food and shared fellowship! I particularly enjoyed the (virtual) fire.
- My primary focus will now shift to finalizing budget deliverables with Finance for the December 7th Council meeting.
- **In the spirit of Thanksgiving:** I am very grateful to all of our staff for your hard work and diligence. We've had a great year so far and I firmly believe we're heading in the right direction. We wouldn't be able to keep moving without your efforts each day. **Thank you.**

Communications/Public Relations

- Attended online State of Ohio 3-hour public records training; received the certificate of training under ORC 109.43(B).
- Worked MVMAA Annual Member Dinner; elected as Vice-President of MVMAA Executive Board.
- Created Facebook posts ODOT update on 35/Woodman closure, FD/PD community appreciation.
- Answered website questionnaire for a new website to begin planning and kick-off process with Revize.
- Started formatting CM/Clerk/Council Calendar for 2024.

Community Development Department

Code Enforcement:

- A public nuisance case has been started on 3223 Carlton Ave.

Economic Development:

- Nia attended the Chamber of Commerce meeting this week.

- This week the Land Bank announced the formal process for the Ohio Department of Development Revitalization and Demolition 2024 Program. Lori is working with the Land Bank to submit a list of properties to the State by the December 1, 2023 deadline.
- Lori attended the *Crafting Success: The Economic, Community, and Branding Influence of Ohio's Craft Beer Industry* at Sinclair this week.

Planning & Zoning:

- The packet for the November 20th Planning Commission have been uploaded to the [City Website](#).
- There will be three (3) cases on the Board of Zoning Appeals agenda on November 28, 2023.

Finance Department

- EMA Retention monies for first responders have been received and policy has been drafted. Expected pay-out date for qualified first responders is November 29th.
- 2024 budget conversations have been ongoing for a couple weeks. Thank you to Nia, Katie, Chief Robinson, Chief Miller, Major Sturgeon, Major Jackson, Kathy, Kevin, and Jim for all your patience and time helping pull numbers together. It really does take a village, or in our case, a city.
- Supplemental appropriation requests are due the week following Thanksgiving. Please reach out if you need help submitting your requests through VIP for the final supplemental of 2023.
- Thank you to everyone that participated in the carry-in. Everything was delicious!!
- HUGE shout-out to Josh for all the time and effort he takes to keep us moving forward. His dedication to our teams is often done behind the scenes but we see you, Josh. Thanks for all your hard work helping finance, and other departments, work through budget numbers so we can pave the way for our best tomorrow.
- A time and attendance program demo is planned later this month so police, fire and finance can work to find a solution to help manage time in a more efficient way.
- Make it a great Thanksgiving!!

Fire Department

Administration:

- Chief Miller attended the Can You Take the Heat program at the Great Oaks campus in Hamilton County on Saturday the 11th. This is an all-female firefighting camp that introduces 14–20-year-old women with the fire service. This was a great recruitment event for the RFD.
- Chief Miller met with Chief Kitzmiller at the Wright Patterson Air Force Base
- Chief Miller and BC Hart attended the Montgomery County Fire Chief's luncheon on Wednesday the 15th.
- Shift meetings were held across all three-unit days with the command staff to update staff on our current progress and how we will move forward after the first of the year.

Incidents and Staffing:

- Crews responded to 79 EMS incidents and 19 Fire incidents.
 - Averaged 14 incidents per day.

- The RFD averaged 7.64 personnel working per day.
- Crews responded to the 1000 block of Woodman Dr. for a vehicle into the building with injuries. Crews located a single vehicle that had gone into the building dropping debris onto occupants within. Crews assisted in securing the structure and treating three patients which all refused transportation.

Community Outreach:

- On Monday, the 13th crews met with Riverside Senior Citizens at the Overlook Community Center to discuss fire and EMS safety and the operations of the RFD.
- On Thursday staff met with the Riverside Seniors who delivered lunch bags to the RPD and RFD. They also shared stories of their time in Riverside and interactions with first responders.

Training:

- Crews trained on the new stair chairs that were purchased with grant funding. The chairs are battery operated and will aid staff in moving patients up and down flights of steps. This will create safer patient transfers for our personnel and the patient.

Police Department

- Both Sergeant and Patrol Officer contract negotiations have continued this week.
- We got news that the new cruisers are estimated to be ready by the middle of December.
- We did complete a purchase of a 2020 cruiser to fill in the gaps in our fleet.
- Bicyclist hit on Airway at the bike path last night 11/15 (currently critical) fault has not been determined yet.
- Conditional offer to Aaron Moffitt. (Lateral MVH). If we hire him, we will be down 1 officer.
- SWAG order for 2024 with Ohio Drug Fund money
- Purchase back of totaled cruiser 216 for the motor.
- Submitted for a grant through Attorney General's Office for Bullet Proof Vest.
- Officer Stafford attended the Hometown Holiday event.
- K-9 Tina is making plans for a sweep at East Dayton Christian Schools
- Huber's cyber-attack effected our MDT's. Officer Schmidt was able to get us temporarily fixed so reports could be taken in the cruiser.
- Officer Newton completed evidence photography, his first part of training for Evidence Technician.

Public Service Department

Engineering/Administration:

- Interviewed 3 people for the Working Foreman position. Brian Hawkey, with 30 years of City service, was selected.
- Contacted ODOT about northbound potholes on Woodman within their construction zone. ODOT took care of them.
- Did not receive any bids for our outsourcing of snowplowing. We have had contact with the City of Centerville for possible mutual aid contract.

- Received another complaint about the dangers of the Kroger drive turning left onto Burkhardt. A number have been received to date.
- Kickoff meeting for SS4A:Woodman Corridor Safety Study project being scheduled for the last week of November by Woolpert.
- Received construction estimate from CMT to repair collapsed tile off Needmore.

Projects:

- Airway bridge replacement is still under construction.
- Woodman & 35 overpass has had overnight lane closures. More lane reductions on US 35 expected Sunday, Monday and Tuesday.
- Barrett & Bayside water main replacement phase 3 is scheduled to start towards the end of the month.
- Working with Golden Touch Landscaping to install a new sidewalk in the right of way.

Crews:

- Mowed the Parks for a final time before Winter
- Winterized mowing equipment and put it away for Winter storage
- Received 3 skids of Perma Patch for emergency pot hole patching over the winter
- Installed 16 new **NO PARKING ANY TIME** signs on the East side of Orinoco from the Cul de sac to the dead end to alleviate access issues for trash trucks, emergency vehicles and snow plows
- Cleaned the street sweeper debris bin, hauled away 11 truckloads of debris
- Moved part of our salt to gain access to the asphalt below; cut and excavated the asphalt to expose the lid for the septic tank so that it could be pumped/cleaned (scheduled for Friday 11/17). What we thought was the tank last week was actually an overflow tank. Actual tank sits partially under salt dome.
- Used Perma Patch to fill pot holes on 202
- Cleaned the parks at the beginning and end of the week
- Fence that was cut at Lorella Pond is scheduled to be fixed Friday

MEMORANDUM

TO: Honorable Mayor and Councilmembers

FROM: Josh Rauch, City Manager

DATE: December 1, 2023

SUBJECT: Weekend Update

CC: City Clerk, Law Director, City Staff

City Manager's Office/Administration

- This week Kim and I met with staff from the Shared Resource Center (SRC). We'll be working with the SRC over the coming year to continue reviewing and improving financial processes.
- I attended a work session for the Wright-Patt Regional Council of Governments (WPRCOG) this week. The consultants continue to progress on the base land use planning and installation resiliency studies. We hope to use these studies to inform our own comprehensive zoning code rewrite next year.
- I virtually attended a Board of Directors meeting for SOPEC, our residential electric and gas aggregator.
- Much of the week was devoted to finalizing the FY2024 Budget and beginning to draft the FY2024 Budget Book in ClearGov. We are ready for Council to act on the budget appropriations ordinance at the December 7th meeting, but will continue to flesh out the budget book with the goal of releasing and adopting it in January.

Communications/Public Relations

- Attended kick-off process with Revize to begin framework and design work on new website.
- Drafted and finalized press release for 4032 Linden Demolition; attended demolition commencement for video/photos.
- Created Facebook posts Happy Thanksgiving (reel), City offices closed, 4032 Linden video for demolition, BZA meeting announcement, and fire department recruitment.
- Created a flyer for the Fire Department to use for recruitment.
- Attended planning commission meeting and typed minutes.

Community Development Department

- Of course the big news was the start of demolition at 4032 Linden. Nia was interviewed by WHIO & WDTN on Tuesday and Lori was quoted in today's Dayton Daily News.
- Nia, Taryn, all Planning Commissioners, and 2 BZA members attended the Planning & Zoning Workshop at Sinclair today
- Lori submitted the next list of potential candidates for grant funded demolition to the Land Bank yesterday.
- Lori attended the DDC Q4 LEDO meeting Wednesday.

- The BZA voted to grant all variance requests on the agenda and upheld the staff determination that was appealed to the Board.
- Code Enforcement:
 - New Cases = 19
 - Closed Cases = 104 (1098 for the year so far)
 - Total Open = 398

Finance Department

- This week was primarily spent finalizing the FY2024 Budget and related exhibits in preparation for next week's Council meeting.

Fire Department

Administration:

- Engine 5 had preventative maintenance and annual pump testing completed. We now have all three RFD engine companies back in-service.
- Two part-time firefighter/EMT's were hired by the RFD and will be going through the orientation onboarding process. We have three more interviews set for the upcoming days. A new part-time hiring flyer was put together by Katie Lewallen with our updated pay scale for part-time members.
- BC Hart and Chief Miller attended a scheduling software demo with Finance and the RPD. This software would streamline time management and payroll across all city departments.
- BC Hart and Chief Miller attended a meeting with Huber Dispatch. This was to address ongoing issues as well as make incremental changes to our response policies as opportunities present.
- Chief Miller is working on the 2024 Fire Lieutenant process that will commence in January. We anticipate having seven RFD employees apply for the positions.

Incidents and Staffing:

- Crews responded to 82 EMS incidents and 14 Fire incidents.
 - Averaged 13.71 incidents per day.
- The RFD averaged 7.57 personnel working per day.
- On November 25th crews responded to a reported vehicle fire next to an occupied dwelling on Prince Albert Boulevard. The incident was quickly updated to a structure fire response. Engine 5 and Medic 5 arrived and quickly extinguished the fire with minimal extension into the structure.
- On November 28th Station 6 crews responded to Airway Drive and Hayden Ave. for a report of a person struck. Battalion 6 had command. Crews located a subject who was struck while riding his bicycle. He was transported to the trauma center by RFD paramedics.

Community Outreach:

- Due to the holiday, there were no community outreach programs scheduled during this period.

Training:

- Crews conducting strategy and tactic training in-house. This training is essential to ensure all RFD personnel are operating the same at emergency incidents.
- Crews began working with the two new part-time hires on their orientation packets. Both new hires are already certified as firefighter/EMT-Basics; however, they still need to understand RFD equipment and operations.

Police Department

- Thank You to the Anglers Club for donating food. We were able to deliver 4 turkey dinners to families in Riverside.
- On Friday November 17th there was a crash into the McDonalds on Valley. The Riverside Fire Department did an amazing job with a driver that had a medical condition causing the accident. The Police Officers on scene did a great job maintaining and investigating the scene. Nice reconstruction done by Officers Wargo and Waler.
- On Saturday November 18th there was a vehicle crash into the front of Manor Wine and Spirits at Page Manor. The driver accidentally put his car in drive instead of reverse and drove into the front of the store, he subsequently backed out hitting another car in the parking lot. Ironically no alcohol was involved.
- Submitted Quarterly Subgrant Report for the ARPA grant involving FLOCK cameras.
- Homicide trial regarding suspect Conelius Brogan and victim Scott Hannah. (Guilty 11/30/2023)
- 11/21 Collin Hansford was sentenced to 25 years regarding a child rape and child pornography.
- Payments made to officers regarding receipt of the ARPA retention COVID grant.
- Officer Waler completed his FTO training and is assigned to day watch.
- Breakfast with Santa at Mad River Middle Saturday.
- Bomb scare at Mad River Middle School. (No device) investigation ongoing.
- Golden Tickets distributed to student for Christmas Shop with a Cop night.

Public Service Department

Engineering/Administration

- Snow Plow/De-Icing training has begun with 2 new service workers.
- We have another service worker starting next Monday. We will have to send him to get his CDL license.
- Staffing is working with some retirees to fill vacant positions in case of a prolonged snowfall event.
- A field observation by CMT was completed on 11/28/23 at the Kroger access on Burkhardt Road, staff is discussing the results.

Projects

- Street Lighting on Beatrice should be completed sometime in January.
- Airway bridge replacement is in the final stages of completion.
- Source Water protection signs have been purchased and are scheduled to be installed by staff next month.

- Staff is still working with ODOT on a couple of outstanding punch-list items on Springfield Street reconstruction.
- The Woodman & 35 overpass project is still ongoing.

Crews

- Installed new batteries on Truck 31.
- Cleaned up City parks.
- Completed outskirt mowing on 201,202, Harshman, Valley, Union Schoolhouse.
- Removed the Highway mower off the Tractor and Put the Reach arm mower on.
- Completed Blacktop repair in Salt dome from septic tank repair.
- Raised flags on Thursday and Picked up Trash on Woodman Dr. From Burkhardt to the south ramp to Springfield St.
- Moved and tested pickup plows and started repairs.
- New employees received Backhoe Training for loading salt.