



## ORDINANCE O-18-2020

### AN ORDINANCE TO AMEND SECTION 351.03 OF THE NEW ALBANY CODIFIED ORDINANCES ENTITLED "PROHIBITED STANDING OR PARKING PLACES" SO AS TO LIMIT THE PARKING OF RECREATIONAL VEHICLES ON PUBLIC STREETS OR ALLEYS LOCATED IN ZONING DISTRICTS WHERE RESIDENCES ARE A PERMITTED USE

**WHEREAS**, the long term parking of recreational vehicles on public streets or alleys located in zoning districts where residences are a permitted use has a negative impact on residents' quality of life; and

**WHEREAS**, limiting the amount of time recreational vehicles that can be parked on such public streets will enhance the residents' quality of life and safety; and

**WHEREAS**, it is council's desire to protect the health, safety and welfare of New Albany's residents by enacting a parking law.

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of New Albany, Counties of Franklin, and Licking, State of Ohio, that:

**Section 1:** Existing Section 351.03 of the New Albany Codified Ordinances, entitled "PROHIBITED STANDING OR PARKING PLACES" is hereby amended to include the following deletion and additions shown in redline:

#### 351.03 - PROHIBITED STANDING OR PARKING PLACES.

- (a) No person shall stand or park a vehicle, except when necessary to avoid conflict with other traffic or to comply with the provisions of this Traffic Code, or while obeying the directions of a police officer or a traffic control device, in any of the following places:
  - (1) On a sidewalk, curb or street lawn area, except a bicycle;
  - (2) In front of a public or private driveway;
  - (3) Within an intersection;
  - (4) Within ten (10) feet of a fire hydrant;
  - (5) On a crosswalk;
  - (6) Within twenty (20) feet of a crosswalk at an intersection;
  - (7) Within thirty (30) feet of, and upon the approach to, any flashing beacon, stop sign or traffic control device;

- (8) Between a safety zone and the adjacent curb or within thirty (30) feet of points on the curb immediately opposite the end of a safety zone, unless a different length is indicated by a traffic control device;
  - (9) Within fifty (50) feet of the nearest rail of a railroad crossing;
  - (10) Within twenty (20) feet of a driveway entrance to any fire station and, on the side of the street opposite the entrance to any fire station, within seventy-five (75) feet of the entrance when it is properly posted with signs;
  - (11) Alongside or opposite any street excavation or obstruction when such standing or parking would obstruct traffic;
  - (12) Alongside any vehicle stopped or parked at the edge or curb of a street;
  - (13) Upon any bridge or other elevated structure upon a street, or within a street tunnel;
  - (14) At any place where signs prohibit stopping, standing or parking, or where the curbing or street is painted yellow, or at any place in excess of the maximum time limited by signs;
  - (15) Within one foot of another parked vehicle;
  - (16) On the roadway portion of a freeway, expressway or thruway.
- (b) **Parking of Commercial Vehicles.**
- (1) **Definitions.** As used in this section: "Commercial Vehicle" means any vehicle, trailer, with or without motive power, designed or used for carrying merchandise, freight, professional materials and/or equipment, or used as a commercial tractor or motor bus, with a gross vehicle weight greater than one thousand four hundred (1,400) pounds.
  - (2) **Prohibitions.** No person shall stand or park a ~~recreational or~~ commercial vehicle except when necessary to avoid conflict with other traffic or while obeying the direction of a police officer on a residential street.
  - (3) **Exceptions.** This parking prohibition shall not apply to such vehicles used for conveying the necessary tools and materials to a premises where labor, using such tools and materials, is to be performed, during the time of parking such vehicles or to the time during which such vehicle is being loaded or unloaded or used to deliver or hoist property or merchandise for completion of delivery, if such loading and unloading or other activities referred to in this provision are conducted diligently and without unnecessary delay.

(c) **Parking of Recreational Vehicles.**

Travel trailers, motor homes, pick-up campers, folding tent trailers, boats or boat trailers and similar recreational equipment shall not be parked on streets or alleys in any zoning district where residences are a permitted use, for a period of time exceeding twelve (12) hours.

- ~~(e)~~(d) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two (2) or more

predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

**Section 5.** It is hereby found and determined that all formal actions of this council concerning and relating to the adoption of this legislation were adopted in an open meeting of council, and that all deliberations of the council and or any of its committees that resulted in such formal action were in meetings open to the public, in compliance with Section 121 of the Ohio Revised Code, and further pursuant to Ohio General Assembly 133 – House Bill 197 effective March 27, 2020.

**Section 6.** Pursuant to Article VI, Section 6.07(B) of the Charter of the City of New Albany, this ordinance shall be in effect on and after the earliest period allowed by law.

**CERTIFIED AS ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

**Attest:**

\_\_\_\_\_  
Sloan T. Spalding  
Mayor

\_\_\_\_\_  
Jennifer H. Mason  
Clerk of Council

**Approved as to form:**

\_\_\_\_\_  
Mitchell H. Banchefsky  
Law Director

**Legislation dates:**

Prepared: 10/09/2020

Introduced: 10/20/2020

Revised:

Adopted:

Effective:

**CERTIFICATION BY CLERK OF COUNCIL  
OF PUBLICATION OF LEGISLATION**

I certify that copies of Ordinance **O-18-2020** were posted in accordance with Section 6.12 of the Charter, for 30 days starting on \_\_\_\_\_, 2020.

\_\_\_\_\_  
Jennifer Mason, Clerk of Council

\_\_\_\_\_  
Date



## ORDINANCE O-19-2020

### APPROPRIATION AMENDMENT ORDINANCE

#### **AN ORDINANCE TO AMEND APPROPRIATIONS FOR CURRENT EXPENSES AND OTHER EXPENDITURES RELATED TO THE CARES ACT DURING THE FISCAL YEAR ENDING DECEMBER 31, 2020**

**WHEREAS**, on June 16, 2020 council passed RES-23-2020 "A Resolution Requesting 'Coronavirus Aid, Relief, and Economic Security Act', Also Known as 'CARES Act' Funding to be Distributed by Franklin County and Declaring Such Funds Shall be Used Only for Allowable Purposes" in relation to the funds provided by the "Coronavirus Aid, Relief, and Economic Security Act" in House Bill 481 of the 133<sup>rd</sup> General Assembly (HB481); and

**WHEREAS**, the City of New Albany received an initial distribution in the amount of \$65,230 in relation to the CARES Act, which was appropriated as part of Ordinance O-12-2020, approved on July 21, 2020; and

**WHEREAS**, additional CARES Act funding has been made available through HB 481 and newly adopted House Bill 614 of the 133<sup>rd</sup> General Assembly (HB 614) totaling \$418,702; and

**WHEREAS**, HB 481 and HB 614 require subdivisions receiving funds under the aforementioned acts to expend such funds only to cover costs of the subdivision consistent with the requirements of sections 5001 of the CARES Act as described in 42 U.S.C. 801, and any applicable regulations; and

**WHEREAS**, it is necessary to make adjustments to the 2020 appropriations to ensure compliance with budgetary requirements and reflect proposed and actual spending within the Local Coronavirus Relief fund.

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of New Albany, Counties of Franklin and Licking, State of Ohio, that:

**Section 1.** Council hereby authorizes an appropriation of the unappropriated balance of the Local Coronavirus Relief Fund in the amount of \$418,702.

**Section 2.** Council hereby authorizes the appropriated funds within the Local Coronavirus Relief fund may be used for the following purposes:



- a. Excess administrative pay otherwise known as "Pandemic Pay", as established by the City Manager's state of emergency dated April 8, 2020, or other emergency leave related to COVID-19.
- b. Automation of plan review, permitting and inspection process within the development department to improve telework capabilities for employees to enable compliance with COVID-19 public health precautions; social distancing, remote work, touchless exchange of plans, and enhanced remote building inspections.
- c. A community grant program to provide assistance in the form of personal protective equipment and financial aid to businesses and residents that meet federal and state requirements for CARES Act funds.
- d. Other COVID-19 related costs including, but not limited to, personal protective equipment, enhanced cleaning and sanitization services and supplies, remote access to public and administrative meetings, improving telework capabilities and providing for social distancing, and other miscellaneous expenses allowable under federal guidelines.

**Section 3.** It is hereby found and determined that all formal actions of this council concerning and relating to the adoption of this legislation were adopted in an open meeting of council, and that all deliberations of the council and or any of its committees that resulted in such formal action were in meetings open to the public, in compliance with Section 121 of the Ohio Revised Code, and further pursuant to Ohio General Assembly 133 – House Bill 197 effective March 27, 2020.

**Section 4.** Pursuant to Article VI, Section 6.07 of the Charter of the City of New Albany, this ordinance shall be in effect on and after the earliest period allowed by law.

**CERTIFIED AS ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

**Attest:**

\_\_\_\_\_  
Sloan T. Spalding  
Mayor

\_\_\_\_\_  
Jennifer H. Mason  
Clerk of Council

**Approved as to form:**

\_\_\_\_\_  
Mitchell H. Banchevsky  
Law Director

**Legislation dates:**

Prepared:	10/11/2020
Introduced:	10/20/2020
Revised:	
Adopted:	
Effective:	



**ORDINANCE O-20-2020**

**AN ORDINANCE TO ACCEPT A RIGHT OF WAY DEDICATION OF  
0.087 ACRES AT 6000 KITZMILLER ROAD AS REQUESTED BY BRAD  
GLUMAC**

**WHEREAS**, the land parcel currently extends to the centerline of Kitzmiller Road and has historically been served by a highway easement. The property owner requests to dedicate the highway easement area to the city as public right-of-way; and

**WHEREAS**, the city will be the recipient (grantee) of the right of way dedication of 0.087 acres; and

**WHEREAS**, the city engineer has reviewed the right of way dedication and has commented this dedication is appropriate; and

**WHEREAS**, the city will benefit from this dedication of right of way.

**NOW, THEREFORE, BE IT RESOLVED** by Council for the City of New Albany, Counties of Franklin and Licking, State of Ohio, that:

**Section 1.** The city manager is hereby authorized to accept a right of way dedication of 0.087 as depicted on Exhibit A.

**Section 2.** It is hereby found and determined that all formal actions of this council concerning and relating to the adoption of this legislation were adopted in an open meeting of council, and that all deliberations of the council and or any of its committees that resulted in such formal action were in meetings open to the public, in compliance with Section 121 of the Ohio Revised Code, and further pursuant to Ohio General Assembly 133 – House Bill 197 effective March 27, 2020.

**Section 3.** Pursuant to Article 6.07(B) of the New Albany Charter, this ordinance shall become effective thirty (30) days after adoption.

**CERTIFIED AS ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

**Attest:**

\_\_\_\_\_  
Sloan T. Spalding

\_\_\_\_\_  
Jennifer H. Mason

Mayor

Clerk of Council

**Approved as to form:**

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Mitchell H. Banchefsky  
Law Director

**Legislation dates:**

Prepared: 10/07/2020

Introduced: 10/20/2020

Revised:

Adopted:

Effective:

Portion above reserved for State of Ohio Auditor, Engineer and Recorder's Offices use

**LIMITED WARRANTY DEED**

(O.R.C. 5302.07 – 5302.08)

KNOW ALL PERSONS BY THESE PRESENTS that Bradley Glumac and Jenna Glumac (the "Grantors") for good and valuable consideration paid, grant, with limited warranty covenants, to the City of New Albany, an Ohio municipal corporation (the "Grantee"), whose tax mailing address is 99 West main Street, New Albany, Ohio 43054, the real property more particularly described as follows:

BEING A SPLIT FROM FRANKLIN COUNTY PARCEL No.: 222-001959-00 AND BEING MORE PARTICULARLY DESCRIBED ON EXHIBIT A (THE "PROPERTY") AND DEPICTED ON EXHIBIT B BOTH ATTACHED HERETO AND MADE A PART HEREOF.

INSTRUMENT REFERENCES: 202001070002431; RECORDER'S OFFICE; FRANKLIN COUNTY, OHIO

The grant of the Property is subject to easements, conditions, covenants, restrictions and reservations of record, zoning ordinances and legal highways, and real estate taxes and assessments not yet due and payable.

**THE REAL PROPERTY DESCRIBED IN EXHIBITS "A" and "B" IS INTENDED BY GRANTEE TO BE HELD FOR PUBLIC RIGHT OF WAY.**

IN WITNESS WHEREOF, Grantors voluntarily caused this instrument's execution on this 9th day of September, 2020.

**GRANTORS**

**Bradley Glumac**

Printed Name: Bradley Glumac

**Jenna Glumac**

Printed Name: Jenna Glumac

{ACKNOWLEDGEMENT ON THE FOLLOWING PAGE}

STATE OF OHIO                    )  
COUNTY OF FRANKLIN        ) SS:

BE IT REMEMBERED that on this 9<sup>th</sup> day of September 2020 before me, the subscriber, a Notary Public in and for said County, personally came the above named Bradley Glumac and Jenna Glumac, Grantors in the foregoing Limited Warranty Deed, and acknowledged the signing of the same to their voluntary act and deed.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, on the day and year last aforesaid.



Amanda L. Bonfield

Notary Public

My commission expires: June 6, 2025

This Instrument Prepared By:  
Mitchell H. Banchevsky  
City of New Albany Law Director  
99 West Main Street, P.O. Box 188  
New Albany, Ohio 43054

EXHIBIT A

DESCRIPTION  
0.087 ACRE PARCEL,  
30' RIGHT OF WAY DEDICATION

Situated in the Lot 9, Quarter Township 4, Township 4N, Range 16W, USML, Plain Township, City of New Albany, County of Franklin, State of Ohio, and being part of the Bradley and Jenna Glumac parcel, as recorded in Instrument Number 202001070002431, all references are the Records of the Franklin County Recorder, said parcel being further described as follows:

Beginning at Franklin County Geodetic Survey Monument 2258, at the centerline intersection of Central College Road and Kitzmiller Road (60 feet wide);

Thence, South  $13^{\circ} 30' 20''$  West, 2371.50 feet, along the centerline of Kitzmiller Road, to a Franklin County Geodetic Survey Monument 5579 found, at a Point of Curvature;

Thence, continuing along said centerline of Kitzmiller Road and along a curve to the right, having a Delta of  $10^{\circ} 42' 57''$ , a Radius of 1910.00 feet, an arc length of 357.22 feet, a chord length of 356.70 feet, which bears South  $18^{\circ} 51' 49''$  West, to a point at the southwest corner of the Jamey Sinai parcel, as recorded in Instrument Number 201609130122607, said point being the **True Point of Beginning** for the parcel herein described;

Thence, South  $86^{\circ} 24' 20''$  East, 32.02 feet, along the southerly line of said Sinai parcel to a  $5/8''$  dia. iron pin found at the existing right-of-way line of Kitzmiller Road;

Thence, along the easterly Right of Way line of Kitzmiller Road and a curve to the right, having a Delta of  $03^{\circ} 50' 21''$ , a Radius of 1940.00 feet, an arc length of 129.99 feet, a chord length of 129.97 feet, which bears South  $25^{\circ} 48' 29''$  West to a  $5/8''$  dia. iron pin found on the northerly line of the Douglas L. and Dawn Auld parcel, as recorded in Instrument Number 200610110203711;

Thence, North  $74^{\circ} 32' 22''$  West, 30.72 feet, along the north line of said Auld parcel, to a point on the centerline of said Kitzmiller Road;

Thence, along the centerline of Kitzmiller Road and a curve to the left, having a Delta of  $03^{\circ} 42' 07''$ , a Radius of 1910.00 feet, an arc length of 123.40 feet, a chord length of 123.38 feet, which bears North  $26^{\circ} 04' 21''$  East, to the **True Point of Beginning**.

Containing 0.087 Acres, more or less, subject to all legal highways, all limitations of public access to highways, leases, zoning regulations, easements of record and restrictive covenants.

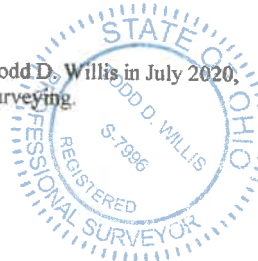
Bearings are based on State Plane Grid, South Zone NAD83(2011). Bearings based on monuments FCGS 2258 and FCGS 5579, having a bearing of South  $13^{\circ} 30' 20''$  West, as established by the Franklin county Engineering Department using Global Positioning System procedures and equipment.

PART OF PARCEL: 220-001959-00

This Description is based on a survey made under the direct supervision of Todd D. Willis in July 2020, Reg. Surveyor No. 7996. Phone No. 740-739-4030, Willis Engineering & Surveying.

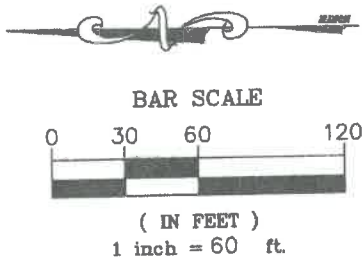
*Todd D. Willis*

8-19-2020



**EXHIBIT "B"**  
**PLAT OF SURVEY**  
**GLUMAC PARCEL**  
**30' R/W DEDICATION**

SITUATED IN LOT 9, QTR. TWP 4,  
 TWP 2N, RNG 16W, U.S.M.L., PLAIN TWP,  
 CITY OF NEW ALBANY, FRANKLIN COUNTY, OHIO



Jamey Sindt  
 PAR: 222-001964-00  
 IN: 201609130122607  
 1.480 Ac.

Bradley & Jenna Glumac  
 PAR: 222-001959-00  
 IN: 202001070002431  
 1.580 Ac.

Douglas L. & Dawn Auld  
 PAR: 222-002272-00  
 IN: 200610110203711  
 1.920 Ac.

Abercrombie & Fitch Management Co.  
 PAR: 222-001950-00

FLOOD PLANE  
 LIMIT

CENTRAL  
 COLLEGE  
 ROAD

PT OF CURVATURE  
 KITZMILLER ROAD,  
 FCGS 5579  
 IN F.C. MON. BOX

POC CL INT.,  
 CENTRAL COLLEGE RD. &  
 KITZMILLER ROAD,  
 FCGS 2258  
 IN F.C. MON. BOX

T POB

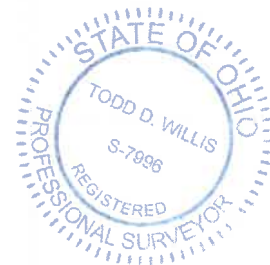
R/W DEDICATION

60' B/L

30' B/L

R/W

KITZMILLER ROAD  
 (60')



**LEGEND**

- ⊗ Franklin County Monument Box Found
- 5/8" Dia. Iron Pin Found
- ⊙ 3/4" O.D. Iron Pipe Found
- Iron Pin Set 5/8" Dia x 30" L rebar w Org ID Cap

**BASIS OF BEARINGS**

Ohio State Plane Grid, South Zone, NAD83(2011). Bearings based on monuments FCGS 2258 and FCGS 5579, having a bearing of South 13° 30' 20" West, as established by the Franklin county Engineering Department using Global Positioning System procedures and equipment.

PROJ. NO. 20085

I hereby certify that this plat represents a true and accurate survey made under my direct supervision of the parcel herein shown and all measurements were made in accordance with Chapter 4733-37 of the Ohio Administrative Code.

*Todd D. Willis*  
 8-19-2020  
 Todd D. Willis, PS  
 Reg. No. S-7996  
 Willis Engineering & Surveying  
 740-739-4030



## ORDINANCE O-21-2020

**AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF NEW ALBANY, OHIO TO PROVIDE AMENDMENTS TO GENERAL OFFENSES NEW ALBANY CITY CODE SECTIONS 501.06, 501.99, 513.01, 513.02, 513.03, 513.04, 513.05, 513.06, 513.07, 513.08, 513.11, 537.051, 537.10, 537.15, 537.17, 537.19, 537.20, 541.02, 541.09, 545.10, 549.04, 549.11; TO PROVIDE FOR PENALTIES; TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES**

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

**WHEREAS**, the city wishes to adopt these updates to the appropriate sections to maintain consistency with State of Ohio and modernize city code.

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of New Albany, Counties of Franklin, and Licking, State of Ohio, that:

**Section 1:** That the Code of Ordinances of the City of New Albany, Ohio is hereby amended by adding the provisions as provided under Section 6, below.

**Section 2:** The addition, amendment, or removal of New Albany City Code Sections when passed in such form as to indicate the intention of the council to make the same a part of the city's municipal code shall be deemed to be incorporated in the municipal code, so that reference to the municipal code includes the additions, amendments, and removals.

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

**Section 4.** Supplementation of Code

- (a) In preparing a supplement to city's municipal code, all portions of this ordinance which have been repealed shall be excluded from the city's municipal code by the omission thereof from reprinted pages.
- (b) When preparing a supplement to the city's municipal code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, non-substantive changes in this ordinance and parts of this ordinance



included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

- (1) Organize the ordinance material into appropriate subdivisions;
  - (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the city's municipal code printed in the supplement, and make changes in such catchlines, headings and titles;
  - (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the city's municipal code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
  - (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections \_\_\_\_\_ to \_\_\_\_\_" (inserting section numbers to indicate the sections of the city's municipal code which embody the substantive sections or the ordinance incorporated into the code); and
  - (5) Make other non-substantive changes necessary to preserve the original meaning of ordinance sections inserted into the city's municipal code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the city's municipal code.
- (c) In preparing a supplement to the city's municipal code, the pages of a supplement shall be so numbered that they will fit properly into the city's municipal code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the city's municipal code will be current through the date of the adoption of the latest ordinance included in the supplement.

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

**Section 6.** The sections attached hereto as Exhibit A are new or have been amended with new matter in the Municipal Code, and are hereby approved, adopted and enacted.

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

**Section 8.** If any section, subsection, sentence, clause, phrase or portion of the ordinance or its application to any person or circumstance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the

remaining portions of this ordinance or its application to other persons or circumstances. The governing authority of the City of New Albany, Ohio hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional and, to that end, the provisions hereof are hereby declared to be severable.

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

**Section 10.** It is hereby found and determined that all formal actions of this council concerning and relating to the adoption of this legislation were adopted in an open meeting of council, and that all deliberations of council and or any of its committees that resulted in such formal action were in meetings open to the public, in compliance with Section 121 of the Ohio Revised Code, and further pursuant to Ohio General Assembly 133 – House Bill 197 effective March 27, 2020.

**Section 11.** Pursuant to Article VI, Section 6.07(B) of the City of New Albany Charter, this ordinance shall become effective thirty (30) days after adoption.

**CERTIFIED AS ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

**Attest:**

\_\_\_\_\_  
Sloan T. Spalding  
Mayor

\_\_\_\_\_  
Jennifer H. Mason  
Clerk of Council

**Approved as to form:**

\_\_\_\_\_  
Mitchell H. Banchefsky  
Law Director

**Legislation dates:**

Prepared: 10/23/2020

Introduced: 11/05/2020

Revised:

Adopted:

Effective:

**501.06 LIMITATION OF CRIMINAL PROSECUTION.**

- (a) (1) 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:
- A. For a felony, six (6) years;
  - B. For misdemeanor other than a minor misdemeanor, two (2) years;
  - C. For a minor misdemeanor, six (6) months.
- (2) There is no period of limitation for the prosecution of a violation of ORC 2903.01 or ORC 2903.02.
- (3) Except as otherwise provided in divisions (b) to (h) of this section, a prosecution of any of the following offenses shall be barred unless it is commenced within twenty (20) years after the offense is committed:
- A. A violation of ORC 2903.03, 2903.04, 2905.01, 2905.32, 2907.02, 2907.03, 2907.04, 2907.05, 2907.21, 2909.02, 2909.22, 2909.23, 2909.24, 2909.26, 2909.27, 2909.28, 2909.29, 2911.01, 2911.02, 2911.11, 2911.12, or 2917.02, a violation of ORC 2903.11 or 2903.12 if the victim is a peace officer, a violation of ORC 2903.13 that is a felony, or a violation of former ORC 2907.12.
  - B. A conspiracy to commit, attempt to commit, or complicity in committing a violation set forth in division (a)(3)A. of this section.
- (4) Except as otherwise provided in divisions (D) to (L) of this section, a prosecution of a violation of section 2907.02 or 2907.03 of the Revised Code or a conspiracy to commit, attempt to commit, or complicity in committing a violation of either section shall be barred unless it is commenced within twenty-five years after the offense is committed.
- (b) (1) Except as otherwise provided in division (b)(2) of this section, if the period of limitation provided in division (a)(1) or (a)(3) of this section has expired, prosecution shall be commenced for an offense of which an element is fraud or breach of 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.
- (2) If the period of limitation provided in division (a)(1) or (a)(3) of this section has expired, prosecution for a violation of ORC 2913.49 shall be commenced within five (5) years after discovery of the offense either by an aggrieved person or the aggrieved person's legal representative who is not a party to the offense.
- (c) (1) If the period of limitation provided in division (a)(1) or (a)(3) of this section subsection (a) hereof 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 (2) 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 (2) years thereafter.
- (2) As used in this division:
- A. The phrase "offense is directly related to the misconduct in office of a public servant" includes, but is not limited to, a violation of ORC 101.71, 101.91, 121.61

or 2921.13, 102.03(F) or (H), 2921.02(A), 2921.43(A) or (B), or 3517.13(F) or (G), that is directly related to an offense involving misconduct in office of a public servant, or a violation of any municipal ordinance substantially equivalent to those Ohio Revised Code sections listed in this division (c)(2)A.

B. "Public servant" has the same meaning as in ORC 2921.01.

- (d) (1) If a DNA record made in connection with the criminal investigation of the commission of a violation of section 2907.02 or 2907.03 of the Revised Code is determined to match another DNA record that is of an identifiable person and if the time of the determination is later than twenty-five years after the offense is committed, prosecution of that person for a violation of the section may be commenced within five years after the determination is complete.
- (2) If a DNA record made in connection with the criminal investigation of the commission of a violation of section 2907.02 or 2907.03 of the Revised Code is determined to match another DNA record that is of an identifiable person and if the time of the determination is within twenty-five years after the offense is committed, prosecution of that person for a violation of the section may be commenced within the longer of twenty-five years after the offense is committed or five years after the determination is complete.
- (3) As used in this division, "DNA record" has the same meaning as in section 109.573 of the Revised Code.
- (e) An offense is committed when every element of the offense occurs. In the case of an offense of which an element is a continuing course of conduct, the period of limitation does not begin to run until such course of conduct or the accused's accountability for it terminates, whichever occurs first.
- (f) ~~(f)~~ A prosecution is commenced on the date an indictment is returned or an information filed, or on the date a lawful arrest without a warrant is made, or on the date a warrant, summons, citation or other process is issued, whichever occurs first. A prosecution is not commenced by the return of an indictment or the filing of an information unless reasonable diligence is exercised to issue and execute process on the same. A prosecution is not commenced upon issuance of a warrant, summons, citation or other process, unless reasonable diligence is exercised to execute the same.
- ~~(f)~~ (g) The period of limitation shall not run during any time when the corpus delicti remains undiscovered.
- ~~(g)~~ (h) 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)~~ (i) The period of limitation shall not run during any time a prosecution against the accused based on the same conduct is pending in this State, even though the indictment, information, or process that commenced the prosecution is quashed or the proceedings on the indictment, information, or process are set aside or reversed on appeal.
- ~~(i)~~ (j) The period of limitation for a violation of this Part 6 or ORC Tit. XIX that involves a physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of a child under eighteen (18) years of age or of a ~~mentally retarded, developmentally disabled, or physically impaired~~ child with developmental disability or physical impairment under twenty-one (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.
- ~~(j)~~ (j) As used in this section, "peace officer" has the same meaning as in ORC 2935.01.
- ~~(k)~~ (k) This section shall not apply to prosecutions commenced within the period of limitations set forth in ORC 718.12(B) for violations of the Municipal income tax ordinance.
- (L) The amendments to divisions (A) and (D) of this section apply to a violation of section 2907.02 or 2907.03 of the Revised Code committed on and after July 16, 2015 and apply to a violation of either of those sections committed prior to July 16, 2015, if prosecution for that violation was not barred under this section as it existed on the day prior to July 16, 2015.

**State Law reference—** ORC 2901.13

### **501.99 PENALTIES FOR MISDEMEANORS.**

(a) Considerations in Misdemeanor Sentencing.

- (1) A court that sentences an offender for a misdemeanor or minor misdemeanor violation of any provision of the Ohio Revised Code, or of any municipal ordinance that is substantially equivalent to a misdemeanor or minor misdemeanor violation of a provision of the Ohio Revised Code, shall be guided by the overriding purposes of misdemeanor sentencing. The overriding purposes of misdemeanor sentencing are to protect the public from future crime by the offender and others and to punish the offender. To achieve those purposes, the sentencing court shall consider the impact of the offense upon the victim and the need for changing the offender's behavior, rehabilitating the offender, and making restitution to the victim of the offense, the public, or the victim and the public.
- (2) A sentence imposed for a misdemeanor or minor misdemeanor violation of an Ohio Revised Code provision or for a violation of a municipal ordinance that is subject to division (a)(1) of this section shall be reasonably calculated to achieve the two (2) overriding purposes of misdemeanor sentencing set forth in division (a)(1) of this section, commensurate with and not demeaning to the seriousness of the offender's conduct and its impact upon the victim, and consistent with sentences imposed for similar offenses committed by similar offenders.
- (3) A court that imposes a sentence upon an offender for a misdemeanor or minor misdemeanor violation of an Ohio Revised Code provision or for a violation of a municipal ordinance that is subject to division (a)(1) of this section shall not base the sentence upon the race, ethnic background, gender, or religion of the offender.
- (4) Divisions (a)(1) and (a)(2) of this section shall not apply to any offense that is disposed of by a traffic violations bureau of any court pursuant to Traffic Rule 13 and shall not apply to any violation of any provision of the Ohio Revised Code that is a minor misdemeanor and that is disposed of without a court appearance. Divisions (a)(1) to (a)(3) of this section do not affect any penalties established by the Municipality for a violation of its ordinances that are not substantially equivalent to a misdemeanor or minor misdemeanor violation of a provision of the Ohio Revised Code.

(b) Jail Terms.

- (1) Except as provided in ORC 2929.22 or 2929.23 of the Revised Code, or division (b)(5) or (b)(6) of this section 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 one hundred eighty (180) days;
  - B. For a misdemeanor of the second degree, not more than ninety (90) days;
  - C. For a misdemeanor of the third degree, not more than sixty (60) days;
  - D. For a misdemeanor of the fourth degree, not more than thirty (30) days.
- (2) A. A court that sentences an offender to a jail term under division (b) of this section may permit the offender to serve the sentence in intermittent confinement or may authorize a limited release of the offender as provided in division (d)(2) of this section. 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 ORC 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 ORC 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 ORC 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 ORC 307.93, 341.14, 341.19, 341.21, 341.23, 753.02, 753.04, 753.16, 2301.56, or 2947.19 and ORC 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 ORC 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 ORC 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.
- (5) If an offender who is convicted of or pleads guilty to a violation of ORC 4511.19(B), or any substantially equivalent municipal ordinance, also is convicted of or also pleads guilty to a specification of the type described in ORC 2941.1414 and if the court imposes a jail term on the offender for the underlying offense, the court shall impose upon the offender an additional definite jail term of not more than six (6) months. The additional jail term shall not be reduced pursuant to any provision of the Ohio Revised Code. The offender shall serve the additional jail term consecutively to and prior to the jail term imposed for the underlying offense and consecutively to any other mandatory term imposed in relation to the offense.
- (6) A. If an offender is convicted of or pleads guilty to a misdemeanor violation of ORC 2907.23, 2907.24, 2907.241, or 2907.25, or any substantially equivalent municipal ordinance, and to a specification of the type described in ORC 2941.1421 and if the court imposes a jail term on the offender for the misdemeanor violation, the court may impose upon the offender an additional definite jail term as follows:
1. Subject to division (b)(6)A.2. of this section, an additional definite jail term of not more than sixty (60) days;
  2. If the offender previously has been convicted of or pleaded guilty to one or more misdemeanor or felony violations of ORC 2907.22, 2907.23, 2907.24, 2907.241, or 2907.25, or any substantially equivalent municipal ordinance, and also was convicted of or pleaded guilty to a specification of the type described in ORC 2941.1421 regarding one or more of those violations, an additional definite jail term of not more than one hundred twenty (120) days.
- B. In lieu of imposing an additional definite jail term under division (b)(6)A. of this section, the court may directly impose on the offender a sanction that requires the offender to wear a real-time processing, continual tracking electronic monitoring device during the period of time specified by the court. The period of time specified by the court shall equal the duration of an additional jail term that the court could have imposed upon the offender under division (b)(6)A. of this section. A sanction imposed under this division shall commence on the date specified by the court, provided that the sanction shall not commence until after the offender has served the jail term imposed for the misdemeanor violation of ORC 2907.23, 2907.24, 2907.241, or 2907.25, or any substantially equivalent municipal ordinance, and any residential sanction imposed for the violation under division (d) of this section or ORC 2929.26. A sanction imposed under this division shall be considered to be a community control sanction for purposes of division (c) of this section or ORC 2929.25, and all provisions of this Code and the Ohio Revised Code that pertain to community control sanctions shall apply to a sanction imposed under this division, except to the extent that they would by their nature be clearly inapplicable. The offender shall pay all costs associated with a sanction imposed under this division, including the cost of the use of the monitoring device.
- (7) If an offender is convicted of or pleads guilty to a misdemeanor violation of ORC 2903.13 and also is convicted of or pleads guilty to a specification of the type described in ORC 2941.1423 that charges that the victim of the violation was a

woman whom the offender knew was pregnant at the time of the violation, the court shall impose on the offender a mandatory jail term that is a definite term of at least thirty (30) days.

- (8) If a court sentences an offender to a jail term under this division (b), the sentencing court retains jurisdiction over the offender and the jail term. Upon motion of either party or upon the court's own motion, the court, in the court's sole discretion and as the circumstances warrant, may substitute one or more community control sanctions under division (d) or (e) of this section for any jail days that are not mandatory jail days.

(c) Misdemeanor Community Control Sanctions .

- (1) A. Except as provided in Section 533.99 of this Code or ORC 2929.22 and 2929.23 or when a jail term is required by law, in sentencing an offender for a misdemeanor, other than a minor misdemeanor, the sentencing court may do either of the following:

1. Directly impose a sentence that consists of one or more community control sanctions authorized by divisions (d), (e), or (f) of this section. The court may impose any other conditions of release under a community control sanction that the court considers appropriate. If the court imposes a jail term upon the offender, the court may impose any community control sanction or combination of community control sanctions in addition to the jail term.
2. Impose a jail term under division (b) of this section from the range of jail terms authorized under that division for the offense, suspend all or a portion of the jail term imposed, and place the offender under a community control sanction or combination of community control sanctions authorized under divisions (d), (e), or (f) of this section.

- B. The duration of all community control sanctions imposed upon an offender and in effect for an offender at any time shall not exceed five (5) years.

- C. At sentencing, if a court directly imposes a community control sanction or combination of community control sanctions pursuant to division (c)(1)A.1. of this section, the court shall state the duration of the community control sanctions imposed and shall notify the offender that if any of the conditions of the community control sanctions are violated the court may do any of the following:

1. Impose a longer time under the same community control sanction if the total time under all of the offender's community control sanctions does not exceed the five-year limit specified in division (c)(1)B. of this section;
2. Impose a more restrictive community control sanction under division (d), (e), or (f) of this section, but the court is not required to impose any particular sanction or sanctions;
3. Impose a definite jail term from the range of jail terms authorized for the offense under division (b) of this section.

- (2) If a court sentences an offender to any community control sanction or combination of community control sanctions pursuant to division (c)(1)A.1. of this section, the sentencing court retains jurisdiction over the offender and the period of community control for the duration of the period of community control. Upon the motion of either party or on the court's own motion, the court, in the court's sole discretion and as the circumstances warrant, may modify the community control sanctions or conditions of release previously imposed, substitute a community control sanction or



condition of release for another community control sanction or condition of release previously imposed, or impose an additional community control sanction or condition of release.

- (3) A. If a court sentences an offender to any community control sanction or combination of community control sanctions authorized under division (d), (e), or (f) of this section, the court shall place the offender under the general control and supervision of the court or of a department of probation in the jurisdiction that serves the court for purposes of reporting to the court a violation of any of the conditions of the sanctions imposed. If the offender resides in another jurisdiction and a department of probation has been established to serve the Municipal Court or County Court in that jurisdiction, the sentencing court may request the Municipal Court or the County Court to receive the offender into the general control and supervision of that department of probation for purposes of reporting to the sentencing court a violation of any of the conditions of the sanctions imposed. The sentencing court retains jurisdiction over any offender whom it sentences for the duration of the sanction or sanctions imposed.
- B. The sentencing court shall require as a condition of any community control sanction that the offender abide by the law and not leave the State without the permission of the court or the offender's probation officer. In the interests of doing justice, rehabilitating the offender, and ensuring the offender's good behavior, the court may impose additional requirements on the offender. The offender's compliance with the additional requirements also shall be a condition of the community control sanction imposed upon the offender.
- (4) A. If the court imposing sentence upon an offender sentences the offender to any community control sanction or combination of community control sanctions authorized under division (d), (e), or (f) of this section, and the offender violates any of the conditions of the sanctions, the public or private person or entity that supervises or administers the program or activity that comprises the sanction shall report the violation directly to the sentencing court or to the department of probation or probation officer with general control and supervision over the offender. If the public or private person or entity reports the violation to the department of probation or probation officer, the department or officer shall report the violation to the sentencing court.
- B. If an offender violates any condition of a community control sanction, the sentencing court may impose upon the violator one or more of the following penalties:
1. A longer time under the same community control sanction if the total time under all of the community control sanctions imposed on the violator does not exceed the five-year limit specified in division (c)(1)B. of this section;
  2. A more restrictive community control sanction;
  3. A combination of community control sanctions, including a jail term.
- C. If an offender was acting pursuant to division (B)(2)(b) of section 2925.11 of the Revised Code and in so doing violated the conditions of a community control sanction based on a minor drug possession offense, as defined in section 2925.11 of the Revised Code, the sentencing court may consider the offender's conduct in seeking or obtaining medical assistance for another in good faith or for self or may consider the offender being the subject of another person seeking or obtaining medical assistance in accordance with that division as a mitigating

factor before imposing any of the penalties described in division (D)(2) of this section.

D. If the court imposes a jail term upon a violator pursuant to division (c)(4)B. of this section, the total time spent in jail for the misdemeanor offense and the violation of a condition of the community control sanction shall not exceed the maximum jail term available for the offense for which the sanction that was violated was imposed. The court may reduce the longer period of time that the violator is required to spend under the longer sanction or the more restrictive sanction imposed under division (c)(4)B. of this section by all or part of the time the violator successfully spent under the sanction that was initially imposed.

- (5) Except as otherwise provided in this division, if an offender, for a significant period of time, fulfills the conditions of a community control sanction imposed pursuant to division (d), (e), or (f) of this section in an exemplary manner, the court may reduce the period of time under the community control sanction or impose a less restrictive community control sanction. Fulfilling the conditions of a community control sanction does not relieve the offender of a duty to make restitution under division (f) of this section.

(d) Community Residential Sanction.

- (1) Except when a mandatory jail term is required by law, the court imposing a sentence for a misdemeanor, other than a minor misdemeanor, may impose upon the offender any community residential sanction or combination of community residential sanctions under this division (d). Community residential sanctions include, but are not limited to, the following:
- A. A term of up to one hundred eighty (180) days in a halfway house or a term in a halfway house not to exceed the longest jail term available for the offense, whichever is shorter, if the political subdivision that would have responsibility for paying the costs of confining the offender in a jail has entered into a contract with the halfway house for use of the facility for misdemeanor offenders;
  - B. If the offender is an eligible offender, as defined in ORC 307.932, a term of up to sixty (60) days in a community alternative sentencing center or district community alternative sentencing center established and operated in accordance with that section, in the circumstances specified in that section, with one of the conditions of the sanction being that the offender complete in the center the entire term imposed.
- (2) A sentence to a community residential sanction under division (d)(1)C. of this section shall be in accordance with ORC 307.932. In all other cases, the court that sentences an offender to a community residential sanction under this division (d) may do either or both of the following:
- A. Permit the offender to serve the offender's sentence in intermittent confinement, overnight, on weekends or at any other time or times that will allow the offender to continue at the offender's occupation or care for the offender's family;
  - B. Authorize the offender to be released so that the offender may seek or maintain employment, receive education or training, receive treatment, perform community service, or otherwise fulfill an obligation imposed by law or by the court. A release pursuant to this division shall be only for the duration of time that is needed to fulfill the purpose of the release and for travel that reasonably is necessary to fulfill the purposes of release.

- (3) The court may order that a reasonable portion of the income earned by the offender upon a release pursuant to division (d)(2) of this section be applied to any financial sanction imposed under division (f) of this section.
  - (4) No court shall sentence any person to a prison term for a misdemeanor or to a jail term for a minor misdemeanor.
  - (5) If a court sentences a person who has been convicted of or pleaded guilty to a misdemeanor to a community residential sanction as described in division (d)(1) of this section, at the time of reception and at other times the person in charge of the operation of the halfway house, community alternative sentencing center, district community alternative sentencing center, or other place at which the offender will serve the residential sanction determines to be appropriate, the person in charge of the operation of the halfway house, community alternative sentencing center, district community alternative sentencing center, or other place may cause the convicted offender to be examined and tested for tuberculosis, HIV infection, hepatitis, including, but not limited to, hepatitis A, B, and C, and other contagious diseases. The person in charge of the operation of the halfway house, community alternative sentencing center, district community alternative sentencing center, or other place at which the offender will serve the residential sanction may cause a convicted offender in the halfway house, community alternative sentencing center, district community alternative sentencing center, or other place who refuses to be tested or treated for tuberculosis, HIV infection, hepatitis, including, but not limited to, hepatitis A, B, and C, or another contagious disease to be tested and treated involuntarily.
  - (6) The Municipality may enter into a contract with a halfway house for use of the halfway house to house misdemeanor offenders under a sanction imposed under division (d)(1)A. of this section.
- (e) Nonresidential Sanction Where Jail Term is not Mandatory.
- (1) Except when a mandatory jail term is required by law, the court imposing a sentence for a misdemeanor, other than a minor misdemeanor, may impose upon the offender any nonresidential sanction or combination of nonresidential sanctions authorized under this division. Nonresidential sanctions include, but are not limited to, the following:
    - A. A term of day reporting;
    - B. A term of house arrest with electronic monitoring or continuous alcohol monitoring or both electronic monitoring and continuous alcohol monitoring, a term of electronic monitoring or continuous alcohol monitoring without house arrest, or a term of house arrest without electronic monitoring or continuous alcohol monitoring;
    - C. A term of community service of up to five hundred (500) hours for misdemeanor of the first degree or two hundred (200) hours for a misdemeanor of the second, third, or fourth degree;
    - D. A term in a drug treatment program with a level of security for the offender as determined necessary by the court;
    - E. A term of intensive probation supervision;
    - F. A term of basic probation supervision;
    - G. A term of monitored time;

- H. A term of drug and alcohol use monitoring, including random drug testing;
- I. A curfew term;
- J. A requirement that the offender obtain employment;
- K. A requirement that the offender obtain education or training;
- L. Provided the court obtains the prior approval of the victim, a requirement that the offender participate in victim-offender mediation;
- M. If authorized by law, suspension of the offender's privilege to operate a motor vehicle, immobilization or forfeiture of the offender's motor vehicle, a requirement that the offender obtain a valid motor vehicle operator's license, or any other related sanction;
- N. A requirement that the offender obtain counseling if the offense is a violation of ORC 2919.25 or a substantially equivalent municipal ordinance or a violation of ORC 2903.13 or a substantially equivalent municipal ordinance involving a person who was a family or household member at the time of the violation, if the offender committed the offense in the vicinity of one or more children who are not victims of the offense, and if the offender or the victim of the offense is a parent, guardian, custodian, or person in loco parentis of one or more of those children. This division does not limit the court in requiring that the offender obtain counseling for any offense or in any circumstance not specified in this division.

- (2) If the court imposes a term of community service pursuant to division (e)(1)C. of this section, the offender may request that the court modify the sentence to authorize the offender to make a reasonable contribution, as determined by the court, to the general fund of the county, municipality, or other local entity that provides funding to the court. The court may grant the request if the offender demonstrates a change in circumstances from the date the court imposes the sentence or that the modification would otherwise be in the interests of justice. If the court grants the request, the offender shall make a reasonable contribution to the court, and the clerk of the court shall deposit that contribution into the general fund of the county, municipality, or other local entity that provides funding to the court. If more than one entity provides funding to the court, the clerk shall deposit a percentage of the reasonable contribution equal to the percentage of funding the entity provides to the court in that entity's general fund.
- (3) In addition to the sanctions authorized under division (e)(1) of this section, the court imposing a sentence for a misdemeanor, other than a minor misdemeanor, upon an offender who is not required to serve a mandatory jail term may impose any other sanction that is intended to discourage the offender or other persons from committing a similar offense if the sanction is reasonably related to the overriding purposes and principles of misdemeanor sentencing.
- (4) The court imposing a sentence for a minor misdemeanor may impose a term of community service in lieu of all or part of a fine. The term of community service imposed for a minor misdemeanor shall not exceed thirty (30) hours. After imposing a term of community service, the court may modify the sentence to authorize a reasonable contribution, as determined by the court, to the appropriate general fund as provided in division (e)(2) of this section.

(f) Financial Sanctions.

- (1) In addition to imposing court costs pursuant to ORC 2947.23, the court imposing a sentence upon an offender for a misdemeanor, including a minor misdemeanor, may sentence the offender to any financial sanction or combination of financial sanctions authorized under this division (f). If the court in its discretion 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:

A. Restitution.

1. 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, in an amount based upon the victim's economic loss. The court may not impose restitution as a sanction pursuant to this division 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.
2. If the court imposes restitution, 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 amount the court orders as restitution shall not exceed the amount of economic loss suffered by the victim as a direct and proximate result of the commission of the offense. If the court decides to impose restitution, the court shall hold an evidentiary hearing on restitution if the offender, victim, or survivor disputes the amount of restitution. If the court holds an evidentiary hearing, at the hearing the victim or survivor has the burden to prove by a preponderance of the evidence the amount of restitution sought from the offender.
3. 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 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 ORC 3937.18.
4. If the court imposes restitution, the court may order that the offender pay a surcharge, of not more than five percent (5%) of the amount of the restitution otherwise ordered, to the entity responsible for collecting and processing restitution payments.
5. The victim or survivor of the victim 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.

B. Fines. A fine of the type described in divisions (f)(1)B.1. and 2. of this section payable to the appropriate entity as required by law:

1. 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).

2. A State fine or cost as defined in ORC 2949.111.

C. Reimbursement.

- 1. Reimbursement by the offender of any or all of the costs of sanctions incurred by the government, including, but not limited to, the following:
    - a. All or part of the costs of implementing any community control sanction, including a supervision fee under ORC 2951.021;
    - b. 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;
    - c. All or part of the cost of purchasing and using an immobilizing or disabling device, including a certified ignition interlock device, or a remote alcohol monitoring device that a court orders an offender to use under ORC 4510.13.
  - 2. The amount of reimbursement under division (f)(1)C.1. 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 division. If the court does not order reimbursement under that division, confinement costs may be assessed pursuant to a repayment policy adopted under ORC 2929.37. In addition, the offender may be required to pay the fees specified in ORC 2929.38 in accordance with that section.
- (2) A. If the court determines a hearing is necessary, the court may hold a hearing to determine whether the offender is able to pay the financial sanction imposed pursuant to this division (f) or court costs or is likely in the future to be able to pay the sanction or costs.
- B. If the court determines that the offender is indigent and unable to pay the financial sanction or court costs, the court shall consider imposing and may impose a term of community service under division (e)(1) of this section in lieu of imposing a financial sanction or court costs. If the court does not determine that the offender is indigent, the court may impose a term of community service under division (e)(1) of this section in lieu of or in addition to imposing a financial sanction under this division (f) and in addition to imposing court costs. The court may order community service for a minor misdemeanor pursuant to division (e)(4) of this section in lieu of or in addition to imposing a financial sanction under this section and in addition to imposing court costs. If a person fails to pay a financial sanction or court costs, the court may order community service in lieu of the financial sanction or court costs.

- (3) A. The offender shall pay reimbursements imposed upon the offender pursuant to division (f)(1)C. of this section to pay the costs incurred by a county pursuant to any sanction imposed under division (d), (e), or (f) of this section or in operating a facility used to confine offenders pursuant to a sanction imposed under division (d) of this section to the County Treasurer. The County Treasurer shall deposit the reimbursements in the County's General Fund. The County shall use the amounts deposited in the fund to pay the costs incurred by the County pursuant to any sanction imposed under division (d), (e), or (f) of this section or in operating a facility used to confine offenders pursuant to a sanction imposed under division (d) of this section.
- B. The offender shall pay reimbursements imposed upon the offender pursuant to division (f)(1)C. of this section to pay the costs incurred by a municipal corporation pursuant to any sanction imposed under division (d), (e), or (f) of this section or in operating a facility used to confine offenders pursuant to a sanction imposed under division (d) of this section to the Treasurer of the municipal corporation. The Treasurer shall deposit the reimbursements in the municipal corporation's General Fund. The municipal corporation shall use the amounts deposited in the fund to pay the costs incurred by the municipal corporation pursuant to any sanction imposed under division (d), (e), or (f) of this section or in operating a facility used to confine offenders pursuant to a sanction imposed under division (d) of this section.
- C. The offender shall pay reimbursements imposed pursuant to division (f)(1)C. of this section for the costs incurred by a private provider pursuant to a sanction imposed under division (d), (e), or (f) of this section to the provider.
- D. In addition to any other fine that is or may be imposed under this section, the court imposing sentence upon an offender for misdemeanor domestic violence or menacing by stalking may impose a fine of not less than seventy nor more than five hundred dollars, which shall be transmitted to the treasurer of state to be credited to the address confidentiality program fund created by section 111.48 of the Revised Code.
- (4) A. Except as otherwise provided in this division (f)(4), a financial sanction imposed under division (f)(1) of this section is a judgment in favor of the state or the political subdivision that operates the court that imposed the financial sanction, and the offender subject to the financial sanction is the judgment debtor. A financial sanction of reimbursement imposed pursuant to division (f)(1)C.1.a. of this section upon an offender is a judgment in favor of the entity administering the community control sanction, and the offender subject to the financial sanction is the judgment debtor. A financial sanction of reimbursement imposed pursuant to division (f)(1)C.1.b. of this section upon an offender confined in a jail or other residential facility is a judgment in favor of the entity operating the jail or other residential facility, and the offender subject to the financial sanction is the judgment debtor. A financial sanction of restitution imposed pursuant to division (f)(1)A. of this section is an order in favor of the victim of the offender's criminal act that can be collected through a certificate of judgment as described in division (f)(4)B.1. of this section, through execution as described in division (f)(4)B.2. of this section or through an order as described in division (f)(4)B.3. of this section and the offender shall be considered for purposes of the collection as a judgment debtor.

- B. Once a financial sanction is imposed as a judgment or order under this division, the victim, private provider, state, or political subdivision may do any of the following:
1. Obtain from the Clerk of the court in which the judgment was entered a certificate of judgment that shall be in the same manner and form as a certificate of judgment issued in a civil action;
  2. Obtain execution of the judgment or order through any available procedure, including any of the procedures identified in ORC 2929.18(D)(1) and (D)(2) or a substantially equivalent municipal ordinance.
  3. Obtain an order for the assignment of wages of the judgment debtor under ORC 1321.33 or a substantially equivalent municipal ordinance.
- (5) The civil remedies authorized under division (f)(4) of this section for the collection of the financial sanction supplement, but do not preclude, enforcement of the criminal sentence.
- (6) Each court imposing a financial sanction upon an offender under this division (f) may designate the Clerk of the Court or another person to collect the financial sanction. The Clerk, or another person authorized by law or the court to collect the financial sanction may do the following:
- A. Enter into contracts with one or more public agencies or private vendors for the collection of amounts due under the sanction. Before entering into a contract for the collection of amounts due from an offender pursuant to any financial sanction imposed pursuant to this division (f), a court shall comply with ORC 307.86 to 307.92.
  - B. Permit payment of all or any portion of the sanction in installments, by financial transaction device if the court is a County Court or a Municipal Court operated by a county, or by any other reasonable method, in any time, and on any terms that the court considers just, except that the maximum time permitted for payment shall not exceed five (5) years. If the court is a County Court or a Municipal Court operated by a county, the acceptance of payments by any financial transaction device shall be governed by the policy adopted by the Board of County Commissioners of the county pursuant to ORC 301.28. If the court is a Municipal Court not operated by a county, the Clerk may pay any fee associated with processing an electronic transfer out of public money or may charge the fee to the offender.
  - C. To defray administrative costs, charge a reasonable fee to an offender who elects a payment plan rather than a lump sum payment of any financial sanction.
- (7) No financial sanction imposed under this division (f) shall preclude a victim from bringing a civil action against the offender.
- (g) Organizations.
- (1) Regardless of the other penalties provided in this section, an organization convicted of an offense pursuant to Section 501.11 shall be fined by the court as follows:
    - A. For a misdemeanor of the first degree, not more than five thousand dollars (\$5,000.00);
    - B. For a misdemeanor of the second degree, not more than four thousand dollars (\$4,000.00);



- C. For a misdemeanor of the third degree, not more than three thousand dollars (\$3,000.00);
  - D. For a misdemeanor of the fourth degree, not more than two thousand dollars (\$2,000.00);
  - E. For a minor misdemeanor, not more than one thousand dollars (\$1,000.00);
  - F. For a misdemeanor not specifically classified, not more than two thousand dollars (\$2,000.00);
  - G. For a minor misdemeanor not specifically classified, not more than one thousand dollars (\$1,000.00).
- (2) 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 (g).
  - (3) 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 (g), then the penalty imposed shall be pursuant to the penalty provided for the violation of the section defining the offense.
  - (4) This subsection (g) 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 (g).

**State Law reference—** ORC 2929.21; ORC 2929.24; ORC 2929.25; ORC 2929.26; ORC 2929.27; ORC 2929.28; ORC 2929.31

### **513.01 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Words, terms and phrases and their derivatives used in this chapter which are not defined in this section shall have the meanings given to them in the Ohio Revised Code.

- (a) "Administer." The direct application of a drug, whether by injection, inhalation, ingestion, or any other means to a person or an animal.
- (b) "Adulterate." To cause a drug to be adulterated as described in ORC 3715.63.
- (c) "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 ~~analogs~~, marihuana, cocaine, L.S.D., heroin, any fentanyl-related compound, and hashish and except as provided in division (2), ~~or (5), or (6)~~ of this definition, whichever of the following is applicable:
    - A. An amount equal to or exceeding ten (10) grams or twenty-five (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 (10) 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 thirty (30) grams or ten (10) 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 twenty (20) grams or five (5) 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 (5) grams or ten (10) unit doses of a compound, mixture, preparation, or substance that is or contains any amount of phencyclidine;
  - F. An amount equal to or exceeding one hundred twenty (120) grams or thirty (30) times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule II stimulant that is in a final dosage form manufactured by a person authorized by the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq., as amended) and the Federal drug abuse control laws, as defined in this section, that is or contains any amount of a Schedule II depressant substance or a Schedule II hallucinogenic substance;
  - G. An amount equal to or exceeding three (3) grams of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule II stimulant, or any of its salts or isomers, that is not in a final dosage form manufactured by a person authorized by the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq., as amended) and the Federal drug abuse control laws;
- (2) An amount equal to or exceeding one hundred twenty (120) grams or thirty (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 twenty (20) grams or five (5) 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 two hundred fifty (250) milliliters or two hundred fifty (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 two hundred (200) solid dosage units, sixteen (16) grams, or sixteen (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 section 2925.11 of the Revised Code and the sentencing provisions set forth in divisions (C)(10)(b) and (C)(11) of that section will not apply regarding the defendant and the violation, the bulk amount of the controlled substance for purposes of the violation is the amount specified in division (D)(1), (2),

(3), (4), or (5) of this section for the other schedule III, IV, or V controlled substance that is combined with the fentanyl-related compound.

- (d) "Certified grievance committee." A duly constituted and organized committee of the Ohio State Bar Association or of one or more local bar associations of the State that complies with the criteria set forth in Rule V, Section 6 of the Rules for the Government of the Bar of Ohio.
- (e) "Cocaine." Any of the following:
- (1) A cocaine salt, isomer, or derivative, a salt of a cocaine isomer or derivative, or the base form of cocaine.
  - (2) Coca leaves or a salt, compound, derivative, or preparation of coca leaves, including ecgonine, a salt, isomer, or derivative of ecgonine, or a salt of an isomer or derivative of ecgonine.
  - (3) A salt, compound, derivative, or preparation of a substance identified in division (1) or (2) of this definition that is chemically equivalent to or identical with any of those substances, except that the substances shall not include decocainized coca leaves or extraction of coca leaves if the extractions do not contain cocaine or ecgonine.
- (f) "Committed in the vicinity of a juvenile." An offense is "committed in the vicinity of a juvenile" if the offender commits the offense within one hundred (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 one hundred (100) feet of or within view of the juvenile, or whether the juvenile actually views the commission of the offense.
- (g) "Committed in the vicinity of a school." 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 one thousand (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 one thousand (1,000) feet of the boundaries of any school premises.
- (h) "Controlled substance." A drug, compound, mixture, preparation, or substance included in Schedule I, II, III, IV, or V of ORC 3719.41.
- (i) "Controlled substance analog."
- (1) The phrase means, except as provided in division (2) of this definition, a substance to which both of the following apply:
    - A. The chemical structure of the substance is substantially similar to the structure of a controlled substance in Schedule I or II.
    - B. One of the following applies regarding the substance:
      1. The substance has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II.
      2. With respect to a particular person, that person represents or intends the substance to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II.

- (2) The phrase does not include any of the following:
- A. A controlled substance;
  - B. Any substance for which there is an approved new drug application;
  - C. With respect to a particular person, any substance if an exemption is in effect for investigational use for that person pursuant to federal law to the extent that conduct with respect to that substance is pursuant to that exemption;
  - D. Any substance to the extent it is not intended for human consumption before the exemption described in division (2)C. of this definition takes effect with respect to that substance.
- (3) Except as otherwise provided in ORC 2925.03 or 2925.11, a "controlled substance analog", to the extent intended for human consumption, shall be treated for purposes of any provision of this Code or the Ohio Revised Code as a controlled substance in Schedule I.
- (j) "Counterfeit controlled substance." Any of the following:
- (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 the trademark, trade name, or identifying mark.
  - (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.
  - (3) Any substance that is represented to be a controlled substance but is not a controlled substance or is a different controlled substance.
  - (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 markings, labeling, packaging, distribution, or the price for which it is sold or offered for sale.
- (k) "Crack cocaine." A compound, mixture, preparation, or substance that is or contains any amount of cocaine that is analytically identified as the base form of cocaine or that is in a form that resembles rocks or pebbles generally intended for individual use.
- (l) "Cultivate." Includes planting, watering, fertilizing or tilling.
- (m) "Dangerous drug." Any of the following:
- (1) Any drug to which either of the following applies:
    - A. Under the Federal Food, Drug, and Cosmetic Act, is required to bear a label containing the legend "Caution: Federal law prohibits dispensing without a 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 may be dispensed only upon a prescription.
    - B. Under ORC Ch. 3715 or 3719, may be dispensed only upon a prescription.
  - (2) Any drug that contains a Schedule V controlled substance and that is exempt from ORC 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.
- (n) "Deception." Has the same meaning as in ORC 2913.01.

- (o) "Disciplinary counsel." The disciplinary counsel appointed by the Board of Commissioners on Grievances and Discipline of the Ohio Supreme Court under the Rules for the Government of the Bar of Ohio.
- (p) "Dispense." Means to sell, leave with, give away, dispose of, or deliver.
- (q) "Distribute." Means to deal in, ship, transport or deliver, but does not include administering or dispensing a drug.
- (r) "Drug." Any of the following:
  - (1) Any article recognized in the official United States pharmacopeia, national formulary, or any supplement intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or other animals.
  - (2) Any other article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or other animals.
  - (3) Any article, other than food, intended to affect the structure or any function of the body of humans or other animals.
  - (4) Any article intended for use as a component of any article specified in division (1), (2), or (3) above; but does not include devices or their components, parts, or accessories.
- (s) "Drug abuse offense." Any of the following:
  - (1) A violation of ORC 2913.02(A) that constitutes theft of drugs, or any violation of ORC 2925.02, 2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.11, 2925.12, 2925.13, 2925.22, 2925.23, 2925.24, 2925.31, 2925.32, 2925.36, or 2925.37.
  - (2) A violation of an existing or former law of any municipality, State, or of the United States, that is substantially equivalent to any section listed in division (1) of this definition.
  - (3) An offense under an existing or former law of any municipality, 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 to commit, attempt to commit, or complicity in committing or attempting to commit, any offense under division (1), (2), or (3) of this definition.
- (t) "Drug dependent person." Any person who, by reason of the use of any drug of abuse, is physically and/or psychologically dependent upon the use of such drug to the detriment of the person's health or welfare.
- (u) "Drug of abuse." Any controlled substance, any harmful intoxicant, and any dangerous drug, as defined in this section.
- (v) "Federal drug abuse control laws." The "Comprehensive Drug Abuse Prevention and Control Act of 1970," 21 U.S.C. 801 et seq., as amended.
- (w) "Felony drug abuse offense." Any drug abuse offense that would constitute a felony under the laws of this State, any other State, or the United States.
- (x) "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.

(y) "Hashish." 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.

(z) "Hypodermic." A hypodermic syringe or needle, or other instrument or device for the injection of medication.

(aa) "Juvenile." A person under eighteen (18) years of age.

(bb) "Laboratory." A laboratory approved by the State Board of Pharmacy as proper to be entrusted with the custody of controlled substances and the use of controlled substances for scientific and clinical purposes and for purposes of instruction.

~~(cc) "Lawful prescription." 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.~~

(dd) "Licensed health professional authorized to prescribe drugs" or "prescriber." An individual who is authorized by law to prescribe drugs or dangerous drugs or drug therapy related devices in the course of the individual's professional practice, including only the following:

(1) A dentist licensed under ORC Ch. 4715.

(2) A clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner who holds a certificate to prescribe issued under ORC 4723.48.

(3) An optometrist licensed under ORC Ch. 4725 to practice optometry under a therapeutic pharmaceutical agents certificate.

(4) A physician authorized under ORC Ch. 4731 to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery.

(5) A physician assistant who holds a certificate to prescribe issued under ORC Ch. 4730.

(6) A veterinarian licensed under ORC Ch. 4741.

(ee) "L.S.D." Lysergic acid diethylamide.

(ff) "Major drug offender." Has the same meaning as in ORC 2929.01.

(gg) "Mandatory prison term." Has the same meaning as in ORC 2929.01.

(hh) "Manufacture." 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.

- (ii) "Manufacturer." A person who manufactures a controlled substance, as "manufacture" is defined by this section.
- (jj) "Marihuana." 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. "Marihuana" does not include "hashish."
- (kk) "Methamphetamine." 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.
- (ll) "Minor drug possession offense." Either of the following:
  - (1) A violation of ORC 2925.11 as it existed prior to July 1, 1996, or a substantially equivalent municipal ordinance.
  - (2) A violation of ORC 2925.11 as it exists on and after July 1, 1996, or a substantially equivalent municipal ordinance, that is a misdemeanor or a felony of the fifth degree.
- (mm) "Official written order." 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.
- (nn) "Person." Means any individual, corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership, association or other legal entity.
- (oo) "Pharmacist." A person licensed under ORC Ch. 4729 to engage in the practice of pharmacy.
- (pp) "Pharmacy." Except when used in a context that refers to the practice of pharmacy, means any area, room, rooms, place of business, department, or portion of any of the foregoing, where the practice of pharmacy is conducted.
- (qq) "Possess" or "possession." 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.
- (rr) "Prescription." A written, electronic or oral order for drugs or combination or mixtures of drugs to be used by a particular individual or for treating a particular animal, issued by a licensed health professional authorized to prescribe drugs.
- (ss) "Presumption for a prison term" or "presumption that a prison term shall be imposed." A presumption as described in ORC 2929.13(D) that a prison term is a necessary sanction for a felony in order to comply with the purposes and principles of sentencing under ORC 2929.11.
- (tt) "Professional license." Any license, permit, certificate, registration, qualification, admission, temporary license, temporary permit, temporary certificate, or temporary registration that is described in ORC 2925.01(W)(1) to (36) and that qualifies a person as a professionally licensed person.
- (uu) "Professionally licensed person." Any of the following:

- (1) ~~A person who has obtained a license as a manufacturer of controlled substances or a wholesaler of controlled substances under ORC Ch. 3719;~~
- (2) ~~A person who has received a certificate or temporary certificate as a certified public accountant or who has registered as a public accountant under ORC Ch. 4701 and who holds an Ohio permit issued under that chapter;~~
- (3) (2) A person who holds a certificate of qualification to practice architecture issued or renewed and registered under ORC Ch. 4703;
- (4) (3) A person who is registered as a landscape architect under ORC Ch. 4703 or who holds a permit as a landscape architect issued under that chapter;
- (5) (4) A person licensed under ORC Ch. 4707;
- (6) (5) A person who has been issued a certificate of registration as a registered barber under ORC Ch. 4709;
- (7) (6) A person licensed and regulated to engage in the business of a debt pooling company by a legislative authority, under authority of ORC Ch. 4710;
- (8) (7) A person who has been issued a cosmetologist's license, hair designer's license, manicurist's license, esthetician's license, natural hair stylist's license, ~~managing~~ advanced cosmetologist's license, ~~managing~~ advanced hair designer's license, ~~managing~~ advanced manicurist's license, ~~managing~~ advanced esthetician's license, ~~managing~~ advanced natural hair stylist's license, cosmetology instructor's license, hair design instructor's license, manicurist instructor's license, esthetics instructor's license, natural hair style instructor's license, independent contractor's license, or tanning facility permit under ORC Ch. 4713;
- (9) (8) A person who has been issued a license to practice dentistry, a general anesthesia permit, a conscious intravenous sedation permit, a limited resident's license, a limited teaching license, a dental hygienist's license, or a dental hygienist's teacher's certificate under ORC Ch. 4715;
- (10) (9) A person who has been issued an embalmer's license, a funeral director's license, a funeral home license, or a crematory license, or who has been registered for an embalmer's or funeral director's apprenticeship under ORC Ch. 4717;
- (11) (10) A person who has been licensed as a registered nurse or practical nurse, or who has been issued a certificate for the practice of nurse-midwifery under ORC Ch. 4723;
- (12) (11) A person who has been licensed to practice optometry or to engage in optical dispensing under ORC Ch. 4725;
- (13) (12) A person licensed to act as a pawnbroker under ORC Ch. 4727;
- (14) (13) A person licensed to act as a precious metals dealer under ORC Ch. 4728;
- (15) (14) A person licensed under Chapter 4729 of the Revised Code as a pharmacist, a or pharmacy intern, a wholesale distributor of dangerous drugs, or a terminal distributor of dangerous drugs or registered under that chapter as a registered pharmacy technician, certified pharmacy technician, or pharmacy technician trainee ~~ORC Ch. 4729;~~
- (15) A person licensed under Chapter 4729. of the Revised Code as a manufacturer of dangerous drugs, outsourcing facility, third-party logistics provider, repackager of dangerous drugs, wholesale distributor of dangerous drugs, or terminal distributor of dangerous drugs;



- (16) A person who is authorized to practice as a physician assistant under ORC Ch. 4730;
- (17) A person who has been issued a certificate license to practice medicine and surgery, osteopathic medicine and surgery, a limited branch of medicine, or podiatric medicine and surgery ~~pediatry~~ under ORC Ch. 4731 or has been issued a certificate to practice a limited branch of medicine under that chapter;
- (18) A person licensed as a psychologist or school psychologist under ORC Ch. 4732;
- (19) A person registered to practice the profession of engineering or surveying under ORC Ch. 4733;
- (20) A person who has been issued a license to practice chiropractic under ORC Ch. 4734;
- (21) A person licensed to act as a real estate broker or real estate salesperson under ORC Ch. 4735;
- (22) A person registered as a registered sanitarian under ORC Ch. 4736;
- (23) A person licensed to operate or maintain a junkyard under ORC Ch. 4737;
- (24) A person who has been issued a motor vehicle salvage dealer's license under ORC Ch. 4738;
- (25) A person who has been licensed to act as a steam engineer under ORC Ch. 4739;
- (26) A person who has been issued a license or temporary permit to practice veterinary medicine or any of its branches, or who is registered as a graduate animal technician under ORC Ch. 4741;
- (27) A person who has been issued a hearing aid dealer's or fitter's license or trainee permit under ORC Ch. 4747;
- (28) A person who has been issued a class A, class B, or class C license or who has been registered as an investigator or security guard employee under ORC Ch. 4749;
- (29) A person licensed and registered to practice as a nursing home administrator under ORC Ch. 4751;
- (30) A person licensed to practice as a speech-language pathologist or audiologist under ORC Ch. 4753;
- (31) A person issued a license as an occupational therapist or physical therapist under ORC Ch. 4755;
- (32) A person who is licensed as a licensed professional clinical counselor, ~~or licensed professional counselor, licensed as a social worker, or independent social worker, independent marriage and family therapist, or marriage and family therapist,~~ or registered as a social work assistant under ORC Ch. 4757;
- (33) A person issued a license to practice dietetics under ORC Ch. 4759;
- (34) A person who has been issued a license or limited permit to practice respiratory therapy under ORC Ch. 4761;
- (35) A person who has been issued a real estate appraiser certificate under ORC Ch. 4763;
- (36) A person who has been issued a home inspector license under Chapter 4764 of the Revised Code;
- (37) A person who has been admitted to the bar by order of the Ohio Supreme Court in compliance with its prescribed and published rules.

- (vv) "Public premises." Any hotel, restaurant, tavern, store, arena, hall, or other place of public accommodation, business, amusement, or resort.
- (ww) "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.
- (xx) "Sample drug." A drug or pharmaceutical preparation that would be hazardous to health or safety if used without the supervision of a licensed health professional authorized to prescribe drugs, or a drug of abuse, and that, at one time, had been placed in a container plainly marked as a sample by a manufacturer.
- (yy) "Schedule I, II, III, IV or V." Controlled substance Schedules I, II, III, IV, and V established pursuant to ORC 3719.41, as amended pursuant to ORC 3719.43 or 3719.44.
- (zz) "School." Any school operated by a board of education, any community school established under ORC Ch. 3314, or any nonpublic school for which the State Board of Education prescribes minimum standards under ORC 3301.07, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted at the time a criminal offense is committed.
- (aaa) "School building." Any building in which any of the instruction, extracurricular activities, or training provided by a school is conducted, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted in the school building at the time a criminal offense is committed.
- (bbb) "School premises." Either of the following:
- (1) The parcel of real property on which any school is situated, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted on the premises at the time a criminal offense is committed.
  - (2) Any other parcel of real property that is owned or leased by a board of education of a school, the governing authority of a community school established under ORC Ch. 3314, or the governing body of a nonpublic school for which the State Board of Education prescribes minimum standards under ORC 3301.07 and on which some of the instruction, extracurricular activities, or training of the school is conducted, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted on the parcel of real property at the time a criminal offense is committed.
- (ccc) "Standard Pharmaceutical Reference Manual." The current edition, with cumulative changes if any, of references that are approved by the State of Board of Pharmacy.
- (ddd) "Theft offense." Has the same meaning as in ORC 2913.01.
- (eee) "Unit dose." An amount or unit or a compound, mixture, or preparation containing a controlled substance that is separately identifiable and in a form that indicates that it is the amount or unit by which the controlled substance is separately administered to or taken by an individual.
- (fff) "Wholesaler." 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 "wholesale distributor of dangerous drugs," which means a person engaged in the sale of dangerous drugs at wholesale and includes any agent or employee of that person authorized by that person to engage in the sale of dangerous drugs at wholesale.

**State Law reference—** ORC 2925.01, 3719.01, 3719.011, 3719.013, 4729.01

**513.02 TRAFFICKING IN CONTROLLED SUBSTANCES; GIFT OF MARIHUANA.**

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

- (1) Sell or offer to sell a controlled substance or a controlled substance analog;
- (2) Prepare for shipment, ship, transport, deliver, prepare for distribution, or distribute a controlled substance or a controlled substance analog, when the offender knows or has reasonable cause to believe that the controlled substance or a controlled substance analog is intended for sale or resale by the offender or another person.

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

- (1) Manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies, and other persons whose conduct is in accordance with ORC Chs. 3719, 4715, 4723, 4729, 4730, 4731, and 4741.
- (2) 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.
- (3) 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" (21 U.S.C. 301 et seq., as amended), and is sold, offered for sale, prescribed, dispensed, or administered for that purpose in accordance with that Act.

(c) Whoever violates division (a) of this section is guilty of the following:

- (1) Except as otherwise provided in division (c)(2) of this section, trafficking in controlled substances is a felony to be prosecuted under appropriate state law.
- (2) Except as otherwise provided in this division, if the offense involves a gift of twenty (20) grams or less of marihuana, trafficking in marihuana is a minor misdemeanor upon a first offense and a misdemeanor of the third degree upon a subsequent offense. If the offense involves a gift of twenty (20) grams or less of marihuana and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in marihuana is a misdemeanor of the third degree.

(d) In addition to any prison term authorized or required by division (c) of this section and ORC 2929.13 and 2929.14, and in addition to any other sanction imposed for the offense under this section or ORC 2929.11 through 2929.18, the court that sentences a person who is convicted of or pleads guilty to a violation of division (a) of this section shall do all of the following that are applicable regarding the offender:

- (1) The court shall suspend the driver's or commercial driver's license or permit of the offender in accordance with ORC 2925.03(G).
- (2) If the offender is a professionally licensed person, the court immediately shall comply with ORC 2925.38.

(e) (1) Notwithstanding any contrary provision of ORC 3719.21 and except as provided in ORC 2925.03(H), the Clerk of the Court shall pay any mandatory fine imposed pursuant to this section and any fine other than a mandatory fine that is imposed for a violation of this section pursuant to ORC 2929.18(A) or (B)(5) to the County, Township, Municipality, park district, as created pursuant to ORC 511.18 or 1545.04, or state law enforcement agencies in this State that primarily were responsible for or involved in making the arrest of, and in prosecuting, the offender. However, the Clerk

shall not pay a mandatory fine so imposed to a law enforcement agency unless the agency has adopted a written internal control policy under division (e)(2) of this section that addresses the use of the fine moneys that it receives. Each agency shall use the mandatory fines so paid to subsidize the agency's law enforcement efforts that pertain to drug offenses, in accordance with the written internal control policy adopted by the recipient agency under division (e)(2) of this section.

- (2) ~~A.~~ Prior to receiving any fine moneys under division (e)(1) of this section or ORC 2925.42(B), a law enforcement agency shall adopt a written internal control policy that addresses the agency's use and disposition of all fine moneys so received and that provides for the keeping of detailed financial records of the receipts of those fine moneys, the general types of expenditures made out of those fine moneys, and the specific amount of each general type of expenditure. The policy shall not provide for or permit the identification of any specific expenditure that is made in an ongoing investigation. All financial records of the receipts of those fine moneys, the general type of expenditures made out of those fine moneys, and the specific amount of each general type of expenditure by an agency are public records open for inspection under ORC 149.43. Additionally, a written internal control policy adopted under this division is such a public record, and the agency that adopted it shall comply with it.

~~B. Each law enforcement agency that receives in any calendar year any fine moneys under division (e)(1) of this section or ORC 2925.42(B) shall prepare a report covering the calendar year that cumulates all of the information contained in all of the public financial records kept by the agency pursuant to division (e)(2)A. of this section for that calendar year, and shall send a copy of the cumulative report, no later than the first day of March in the calendar year following the calendar year covered by the report, to the Attorney General. Each report received by the Attorney General is a public record open for inspection under ORC 149.43.~~

- (3) As used in division (e) of this section:

A. "Law enforcement agencies" includes, but is not limited to, the State Board of Pharmacy and the office of a prosecutor.

B. "Prosecutor" has the same meaning as in ORC 2935.01.

- (f) As used in this section, "drug" includes any substance that is represented to be a drug.

**State Law reference—** ORC 2925.03

### **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:

~~(1)~~ a) Manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies and other persons whose conduct was in accordance with ORC Chs. 3719, 4715, 4729, 4730, 4731 and 4741.

~~(2)~~ 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;

(3 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;

(4 d) Any person who obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs- if the prescription was issued for a legitimate medical purpose and not altered, forged, or obtained through deception or commission of a theft offense.

As used in division (B)(1)(d) of this section, "deception" and "theft offense" have the same meanings as in section 2913.01 of the Revised Code.

(2)(a) As used in division (B)(2) of this section:

(i) "Community addiction services provider" has the same meaning as in section 5119.01 of the Revised Code.

(ii) "Community control sanction" and "drug treatment program" have the same meanings as in section 2929.01 of the Revised Code.

(iii) "Health care facility" has the same meaning as in section 2919.16 of the Revised Code.

(iv) "Minor drug possession offense" means a violation of this section that is a misdemeanor or a felony of the fifth degree.

(v) "Post-release control sanction" has the same meaning as in section 2967.28 of the Revised Code.

(vi) "Peace officer" has the same meaning as in section 2935.01 of the Revised Code.

(vii) "Public agency" has the same meaning as in section 2930.01 of the Revised Code.

(viii) "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 division (B)(2)(b) of this section.

(ix) "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 division (B)(2)(f) 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 if all of the following apply:

(i) The evidence of the obtaining, possession, or use of the controlled substance or controlled substance analog 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.

(ii) Subject to division (B)(2)(g) of this section, within thirty 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.

- (iii) Subject to division (B)(2)(g) of this section, the qualified individual who obtains a screening and receives a referral for treatment under division (B)(2)(b)(ii) 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 division. 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 section 2929.13, 2929.15, or 2929.25 of the Revised Code, 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:
- (i) Seeking or obtaining medical assistance in good faith for another person who is experiencing a drug overdose;
- (ii) 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 division (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 section 2929.141 or 2967.28 of the Revised Code, 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:
- (i) Seeking or obtaining medical assistance in good faith for another person who is experiencing a drug overdose;
- (ii) 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 division (B)(2)(b) of this section.
- (e) Nothing in division (B)(2)(b) of this section shall be construed to do any of the following:
- (i) 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 division (B)(2)(b) of this section or with regards to any crime other than a minor drug possession offense committed by a person who qualifies for protection pursuant to division (B)(2)(b) of this section for a minor drug possession offense;
- (ii) Limit any seizure of evidence or contraband otherwise permitted by law;
- (iii) 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 division;
- (iv) Limit, modify, or remove any immunity from liability available pursuant to law in effect prior to the September 13, 2016 to any public agency or to an employee of any public agency.
- (f) Division (B)(2)(b) of this section does not apply to any person who twice previously has been granted an immunity under division (B)(2)(b) of this section. No person shall be granted an immunity under division (B)(2)(b) of this section more than two times.

(g) 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) Except as otherwise provided in divisions (c)(2), (c)(3), (c)(4), and (c)(5), if the drug involved in the violation is a compound, mixture, preparation, or substance included in Schedule I or II of ORC 3719.41, with the exception of marihuana, or is cocaine, L.S.D., heroin, a controlled substance analog, or a compound, mixture or preparation containing such drug, drug abuse is a felony to be prosecuted under appropriate state law.
- (2) If the drug involved is a compound, mixture, preparation, or substance included in Schedule III, IV, or V of ORC 3719.41, whoever violates division (a) of this section is guilty of possession of drugs. The penalty for the offense shall be determined as follows:
  - A. Except as otherwise provided in the following division, possession of drugs is a misdemeanor of the first degree or, if the offender previously has been convicted of a drug abuse offense, it is a felony to be prosecuted under appropriate state law.
  - B. If the amount of the drug involved equals or exceeds the bulk amount, possession of drugs is a felony to be prosecuted under appropriate state law.
- (3) If the drug involved in the violation is marihuana or a compound, mixture, preparation or substance containing marihuana other than hashish, whoever violates division (a) of this section is guilty of possession of marihuana. The penalty for the offense shall be determined as follows:
  - A. Except as otherwise provided in the following divisions, possession of marihuana is a minor misdemeanor.
  - B. If the amount of the drug involved equals or exceeds one hundred (100) grams but is less than two hundred (200) grams, possession of marihuana is a misdemeanor of the fourth degree.
  - C. If the amount of the drug involved equals or exceeds two hundred (200) grams, possession of marihuana is a felony to be prosecuted under appropriate state law.
- (4) If the drug involved in the violation is hashish or a compound, mixture, preparation or substance containing hashish, whoever violates division (a) of this section is guilty of possession of hashish. The penalty for the offense shall be determined as follows:
  - A. Except as otherwise provided in the following divisions, possession of hashish is a minor misdemeanor.
  - B. If the amount of the drug involved equals or exceeds five (5) grams but is less than ten (10) grams of hashish in a solid form or equals or exceeds one gram but is less than two (2) grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form, possession of hashish is a misdemeanor of the fourth degree.

- C. If the amount of the drug involved equals or exceeds ten (10) grams of hashish in a solid form or equals or exceeds two (2) grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form, possession of hashish is a felony to be prosecuted under appropriate state law.
- (d) 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.
- (e) In addition to any prison term or jail term authorized or required by division (c) of this section and ORC 2929.13, 2929.14, 2929.22, 2929.24, and 2929.25, or any substantially equivalent municipal ordinance, and in addition to any other sanction that is imposed for the offense under this section or ORC 2929.11 through 2929.18, or ORC 2929.21 to 2929.28, or any substantially equivalent municipal ordinance, the court that sentences an offender who is convicted of or pleads guilty to a violation of division (a) of this section may suspend the offender's driver's or commercial driver's license or permit for not more than five years. However, if the offender pleaded guilty to or was convicted of a violation of section 4511.19 of the Revised Code 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 applicable, the court also shall do the following if applicable regarding the offender:
- (1) Notwithstanding any contrary provision of ORC 3719.21, the Clerk of Court shall pay a fine imposed for a violation of this section pursuant to ORC 2929.18(A) in accordance with and subject to the requirements of ORC 2925.03(F). The agency that receives the fine shall use the fine as specified in ORC 2925.03(F).
- (2) ~~The court shall suspend for not less than six (6) months nor more than five (5) years the offender's driver's or commercial driver's license or permit.~~
- (3) 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 ORC 2925.38.
- (f) Any offender who received a mandatory suspension of the offender's driver's or commercial driver's license or permit under this section prior to the September 13, 2016 may file a motion with the sentencing court requesting the termination of the suspension. However, an offender who pleaded guilty to or was convicted of a violation of section 4511.19 of the Revised Code or a substantially similar municipal ordinance or law of another state or the United States that arose out of the same set of circumstances as the violation for which the offender's license or permit was suspended under this section shall not file such a motion.
- Upon the filing of a motion under division (I) of this section, the sentencing court, in its discretion, may terminate the suspension.

**State Law reference—** 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) 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 ORC Chs. 3719, 4715, 4729, 4730, 4731 and 4741.

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

(d)(1) In addition to any other sanction imposed upon an offender for a violation of this section, the court may suspend for not ~~less than six (6) months or~~ more than five (5) 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 section 4511.19 of the Revised Code 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) Any offender who received a mandatory suspension of the offender's driver's or commercial driver's license or permit under this section prior to the effective date of this amendment may file a motion with the sentencing court requesting the termination of the suspension. However, an offender who pleaded guilty to or was convicted of a violation of section 4511.19 of the Revised Code or a substantially similar municipal ordinance or law of another state or the United States that arose out of the same set of circumstances as the violation for which the offender's license or permit was suspended under this section shall not file such a motion.

Upon the filing of a motion under division (D)(2) of this section, the sentencing court, in its discretion, may terminate the suspension.

State Law reference— ORC 2925.12

### **513.05 PERMITTING DRUG ABUSE.**

- (a) No person, who is the owner, operator or person in charge of a locomotive, watercraft, aircraft or other vehicle as defined in ORC 4501.01(A), shall knowingly permit the vehicle to be used for the commission of a felony drug abuse offense.
- (b) No person, who is the owner, lessee or occupant, or who has custody, control or supervision of premises, or real estate, including vacant land, shall knowingly permit the premises, or real estate, including vacant land, to be used for the commission of a felony drug abuse offense by another person.

- (c) Whoever violates this section is guilty of permitting drug abuse, a misdemeanor of the first degree. If the felony drug abuse offense in question is a violation of ORC 2925.02 or 2925.03, permitting drug abuse is a felony and shall be prosecuted under appropriate state law.
- (d) In addition to any other sanction imposed for an offense under this section, the court that sentences a person who is convicted of or pleads guilty to a violation of this section may suspend for not ~~less than six (6) months or~~ more than five (5) 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 section 4511.19 of the Revised Code 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) Any offender who received a mandatory suspension of the offender's driver's or commercial driver's license or permit under this section prior September 13, 2016 may file a motion with the sentencing court requesting the termination of the suspension. However, an offender who pleaded guilty to or was convicted of a violation of section 4511.19 of the Revised Code or a substantially similar municipal ordinance or law of another state or the United States that arose out of the same set of circumstances as the violation for which the offender's license or permit was suspended under this section shall not file such a motion.
- Upon the filing of a motion under division (D)(2) of this section, the sentencing court, in its discretion, may terminate the suspension.
- (e) Any premises or real estate that is permitted to be used in violation of subsection (b) hereof constitutes a nuisance subject to abatement pursuant to ORC Ch. 3767.

**State Law reference—** ORC 2925.13

### **513.06 ILLEGAL CULTIVATION OF MARIHUANA.**

- (a) No person shall knowingly cultivate marihuana.
- (b) This section does not apply to any person listed in ORC 2925.03(B)(1) to (3) to the extent and under the circumstances described in those divisions.
- (c) Whoever commits a violation of subsection (a) hereof is guilty of illegal cultivation of marihuana.
- (1) Except as otherwise provided in subsection (c)(2) hereof, illegal cultivation of marihuana is a minor misdemeanor, or if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, a misdemeanor of the fourth degree.
- (2) If the amount of marihuana involved equals or exceeds one hundred (100) grams but is less than two hundred (200) grams, illegal cultivation of marihuana is a misdemeanor of the fourth degree, or if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, a misdemeanor of the third degree.
- (3) If the amount of marihuana involved equals or exceeds two hundred (200) grams, illegal cultivation of marihuana is a felony to be prosecuted under appropriate state law.
- (d) In addition to any other sanction imposed for an offense under division (c) of this section and ORC 2929.13 and 2929.14, and in addition to any other sanction imposed for the offense under this section or ORC 2929.11 through 2929.18, the court that sentences an

offender who is convicted of or pleads guilty to a violation of division (a) of this section may suspend the offender's driver's or commercial driver's license or permit in accordance with division (G) of section 2925.03 of the Revised Code. However, if the offender pleaded guilty to or was convicted of a violation of section 4511.19 of the Revised Code 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 in accordance with division (G) of section 2925.03 of the Revised Code. If applicable, the court also shall do all of the following that are applicable regarding the offender:

- ~~(1) The court shall suspend the offender's driver's or commercial driver's license or permit in accordance with ORC 2925.03(G). If an offender's driver's or commercial driver's license or permit is suspended in accordance with that division, the offender may request termination of, and the court may terminate, the suspension in accordance with that division.~~
- ~~(2) If the offender is a professionally licensed person, the court immediately shall comply with ORC 2925.38.~~
- (e) Arrest or conviction for a minor misdemeanor violation of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries about the person's criminal record, including any inquiries contained in an application for employment, a license, or any other right or privilege or made in connection with the person's appearance as a witness.
- (f)(1) If the sentencing court suspends the offender's driver's or commercial driver's license or permit under this section in accordance with division (G) of section 2925.03 of the Revised Code, the offender may request termination of, and the court may terminate, the suspension of the offender in accordance with that division.
- (2) Any offender who received a mandatory suspension of the offender's driver's or commercial driver's license or permit under this section prior to September 13, 2016 may file a motion with the sentencing court requesting the termination of the suspension. However, an offender who pleaded guilty to or was convicted of a violation of section 4511.19 of the Revised Code or a substantially similar municipal ordinance or law of another state or the United States that arose out of the same set of circumstances as the violation for which the offender's license or permit was suspended under this section shall not file such a motion.

Upon the filing of a motion under division (H)(2) of this section, the sentencing court, in its discretion, may terminate the suspension.

**State Law reference—** ORC 2925.04

**513.07 POSSESSING OR USING HARMFUL INTOXICANTS.**

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

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

(c) (1) In addition to any other sanction imposed upon an offender for a violation of this section, the court may suspend for not less than six (6) months or more than five (5) 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 section 4511.19 of the Revised Code 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) Any offender who received a mandatory suspension of the offender's driver's or commercial driver's license or permit under this section prior to the effective date of this amendment may file a motion with the sentencing court requesting the termination of the suspension. However, an offender who pleaded guilty to or was convicted of a violation of section 4511.19 of the Revised Code or a substantially similar municipal ordinance or law of another state or the United States that arose out of the same set of circumstances as the violation for which the offender's license or permit was suspended under this section shall not file such a motion.

Upon the filing of a motion under division (C)(2) of this section, the sentencing court, in its discretion, may terminate the suspension.

State Law reference— ORC 2925.31

**513.08 ILLEGALLY DISPENSING DRUG SAMPLES.**

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

(b) Subsection (a) hereof does not apply to manufacturers, wholesalers, pharmacists, owners of pharmacies, licensed health professionals authorized to prescribe drugs, and other persons whose conduct is in accordance with ORC Chs. 3719, 4715, 4729, 4730, 4731, and 4741.

(c) Whoever violates this section is guilty of illegal dispensing of drug samples. If the drug involved in the offense is a dangerous drug or a compound, mixture, preparation, or

substance included in Schedule III, IV, or V, or is marihuana, the penalty for the offense shall be determined as follows:

(1) Except as otherwise provided in subsection (c)(2) hereof, illegal dispensing of drug samples is a misdemeanor of the second degree.

(2) If the offense was committed in the vicinity of a school or in the vicinity of a juvenile, illegal dispensing of drug samples is a misdemeanor of the first degree.

(d) In addition to any other sanction imposed for an offense under this section, the court that sentences an offender who is convicted of or pleads guilty to a violation of this section may shall suspend for not ~~less than six (6) months~~ or more than five (5) 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 section 4511.19 of the Revised Code 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.

Any offender who received a mandatory suspension of the offender's driver's or commercial driver's license or permit under this section prior to September 13, 2016 may file a motion with the sentencing court requesting the termination of the suspension. However, an offender who pleaded guilty to or was convicted of a violation of section 4511.19 of the Revised Code or a substantially similar municipal ordinance or law of another state or the United States that arose out of the same set of circumstances as the violation for which the offender's license or permit was suspended under this section shall not file such a motion.

Upon the filing of a motion under division (D)(2) of this section, the sentencing court, in its discretion, may terminate the suspension.

State Law reference— ORC 2925.36

### **513.11 HARMFUL INTOXICANTS; POSSESSING NITROUS OXIDE IN MOTOR VEHICLE.**

(a) As used in this section, "motor vehicle", "street" and "highway" have the same meanings as in ORC 4511.01.

(b) Unless authorized under ORC Ch. 3719, 4715, 4729, 4731, 4741 or 4765, no person shall possess an open cartridge of nitrous oxide in either of the following circumstances:

(1) While operating or being a passenger in or on a motor vehicle on a street, highway, or other public or private property open to the public for purposes of vehicular traffic or parking;

(2) While being in or on a stationary motor vehicle on a street, highway, or other public or private property open to the public for purposes of vehicular traffic or parking.

(c) Whoever violates this section is guilty of possessing nitrous oxide in a motor vehicle, a misdemeanor of the fourth degree.

(d) In addition to any other sanction imposed upon an offender for possessing nitrous oxide in a motor vehicle, the court may suspend for not more than five years the offender's driver's or commercial driver's license or permit.

State Law reference— ORC 2925.33

### **537.051 MENACING BY STALKING.**

(a) (1) No person by engaging in a pattern of conduct shall knowingly cause another person to believe that the offender will cause physical harm to the other person or a family or household member of the other person or cause mental distress to the other person or a family or household member of the other person. In addition to any other basis for the other person's belief that the offender will cause physical harm to the other person or the other person's family or household member or mental distress to the other person or the other person's family or household member, the other person's belief or mental distress 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, through the use of any form of written communication or any electronic method of remotely transferring information, including, but not limited to, any computer, computer network, computer program, ~~or~~ computer system, or telecommunication device shall post a message or use any intentionally written or verbal graphic gesture with purpose to urge do either of the following:

(a) Violate division (A)(1) of this section:

(b) Urge or incite another to commit a violation of subsection (a)(1) of this section.

(3) No person, with a sexual motivation, shall violate division (a)(1) or (a)(2) of this section.

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

(1) Except as otherwise provided in subsections (b)(2) and (3) of this section, menacing by stalking is a misdemeanor of the first degree.

(2) Menacing by stalking is a felony and shall be prosecuted under appropriate state law if any of the following applies:

A. The offender previously has been convicted of or pleaded guilty to a violation of this section or a violation of Section 541.051.

B. In committing the offense under division (a)(1), (a)(2) or (a)(3) of this section, the offender made a threat of physical harm to or against the victim, or as a result of an offense committed under division (a)(1)B. or (a)(3) of this section, a third person induced by the offender's posted message made a threat of physical harm to or against the victim.

- C. In committing the offense under division (a)(1), (a)(2) or (a)(3) of this section, the offender trespassed on the land or premises where the victim lives, is employed, or attends school, or as a result of an offense committed under division (a)(1)B. or (a)(1)C. of this section, a third person induced by the offender's posted message trespassed on the land or premises where the victim lives, is employed, or attends school.
  - D. The victim of the offense is a minor.
  - E. The offender has a history of violence toward the victim or any other person or a history of other violent acts toward the victim or any other person.
  - F. While committing the offense under division (a)(1)A. of this section or a violation of division (a)(1)C. of this section based on conduct in violation of division (a)(1)A. of this section, the offender had a deadly weapon on or about the offender's person or under the offender's control. Division (a)(2)B.6. of this section does not apply in determining the penalty for a violation of division (a)(1)B. of this section or a violation of division (a)(1)C. of this section based on conduct in violation of division (a)(1)B. of this section.
  - G. At the time of the commission of the offense, the offender was the subject of a protection order issued under ORC 2903.213 or 2903.214, regardless of whether the person to be protected under the order is the victim of the offense or another person.
  - H. In committing the offense under division (a)(1)A., (a)(1)B. or (a)(1)C. of this section, the offender caused serious physical harm to the premises at which the victim resides, to the real property on which that premises is located, or to any personal property located on that premises, or as a result of an offense committed under division (a)(1)B. of this section or an offense committed under division (a)(1)C. of this section based on a violation of division (a)(1)B. of this section, a third person induced by the offender's posted message caused serious physical harm to that premises, that real property, or any personal property on that premises.
  - I. Prior to committing the offense, the offender had been determined to represent a substantial risk of physical harm to others as manifested by evidence of then-recent homicidal or other violent behavior, evidence of then-recent threats that placed another in reasonable fear of violent behavior and serious physical harm, or other evidence of then-present dangerousness.
- (3) If the victim of the offense is an officer or employee of a public children services agency or a private child placing agency and the offense relates to the officer's or employee's performance or anticipated performance of official responsibilities or duties, or, if the offender previously has been convicted of or pleaded guilty to an offense of violence, the victim of that prior offense was an officer or employee of a public children services agency or private child placing agency, and that prior offense related to the officer's or employee's performance or anticipated performance of official responsibilities, or duties, menacing by stalking is a felony and shall be prosecuted under appropriate state law.
- (c) ORC 2919.271 applies in relation to a defendant charged with a violation of this section.
- (d) As used in this section:
- (1) "Pattern of conduct" means two (2) or more actions or incidents closely related in time, whether or not there has been a prior conviction based on any of those actions or incidents, or two or more actions or incidents closely related in time, whether or

not there has been a prior conviction based on any of those actions or incidents directed at one or more persons employed by or belonging to the same corporation, association, or other organization. Actions or incidents that prevent, obstruct, or delay the performance by a public official, firefighter, rescuer, emergency medical services person, or emergency facility person of any authorized act within the public official's, firefighter's, rescuer's, emergency medical services person's, or emergency facility person's official capacity, or the posting of messages, use of intentionally written or verbal graphic gestures, or receipts of information or data through the use of any form of written communication or an electronic method of remotely transferring information, including, but not limited to, a computer, computer network, computer program, computer system, or telecommunications device, may constitute a "pattern of conduct".

(2) "Mental distress" means any of the following:

- A. Any mental illness or condition that involves some temporary substantial incapacity;
- B. Any mental illness or condition that would normally require psychiatric treatment, psychological treatment, or other mental health services, whether or not any person requested or received psychiatric treatment, psychological treatment, or other mental health services.

(3) "Emergency medical services person" is the singular of "emergency medical services personnel" as defined in ORC 2133.21.

(4) "Emergency facility person" is the singular of "emergency facility personnel" as defined in ORC 2909.04.

(5) "Public official" has the same meaning as in ORC 2921.01.

(6) "Computer", "computer network", "computer program", "computer system" and "telecommunications device" have the same meanings as in ORC 2913.01.

(7) "Post a message" means transferring, sending, posting, publishing, disseminating or otherwise communicating, or attempting to transfer, send, post, publish, disseminate or otherwise communication, any message or information, whether truthful or untruthful, about an individual, and whether done under one's own name, under the name of another, or while impersonating another.

(8) "Third person" means, in relation to conduct as described in subsection (a)(2) of this section, an individual who is neither the offender nor the victim of the conduct.

(9) "Sexual motivation" has the same meaning as in ORC 2971.01.

(10) "Organization" includes an entity that is a governmental employer.

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

(a) Any of the following who is residing or has resided with the person against whom the act prohibited in division (A)(1) of this section is committed:

(i) A spouse, a person living as a spouse, or a former spouse of the person;

(ii) A parent, a foster parent, or a child of the person, or another person related by consanguinity or affinity to the person;

(iii) A parent or a child of a spouse, person living as a spouse, or former spouse of the person, or another person related by consanguinity or affinity to a spouse, person living as a spouse, or former spouse of the person.



- (b) The natural parent of any child of whom the person against whom the act prohibited in division (A)(1) of this section is committed is the other natural parent or is the putative other natural parent.
- (12) "Person living as a spouse" means a person who is living or has lived with the person against whom the act prohibited in division (A)(1) of this section is committed in a common law marital relationship, who otherwise is cohabiting with that person, or who otherwise has cohabited with the person within five years prior to the date of the alleged commission of the act in question.
- (e) The Municipality does not need to prove in a prosecution under this section that a person requested or received psychiatric treatment, psychological treatment, or other mental health services in order to show that the person was caused mental distress as described in subsection (d)(2)B. of this section.
- (f) (1) This section does not apply to a person solely because the person provided access or connection to or from an electronic method of remotely transferring information not under that person's control, including having provided capabilities that are incidental to providing access or connection to or from the electronic method of remotely transferring the information, and that do not include the creation of the content of the material that is the subject of the access or connection. In addition, any person providing access or connection to or from an electronic method of remotely transferring information not under that person's control shall not be liable for any action voluntarily taken in good faith to block the receipt or transmission through its service of any information that it believes is, or will be sent, in violation of this section.
- (2) Subsection (f)(1) of this section does not create an affirmative duty for any person providing access or connection to or from an electronic method of remotely transferring information not under that person's control to block the receipt or transmission through its service of any information that it believes is, or will be sent, in violation of this section except as otherwise provided by law.
- (3) Subsection (f)(1) of this section does not apply to a person who conspires with a person actively involved in the creation or knowing distribution of material in violation of this section or who knowingly advertises the availability of material of that nature.

**State Law reference—** ORC 2903.211

### **537.10 TELECOMMUNICATION HARASSMENT.**

- (a) No person shall knowingly make or cause to be made a telecommunication, or knowingly permit telecommunication to be made from a telecommunications device under the person's control, to another, if the caller does any of the following:
- (1) ~~Fails to identify the caller to the recipient of the telecommunication and~~ makes the telecommunication with purpose to harass, intimidate, or abuse, any person at the premises to which the telecommunication is made, whether or not actual communication takes place between the caller and a recipient;
- (2) Describes, suggests, requests, or proposes that the caller, the recipient of the telecommunication, or any other person engage in sexual activity, and the recipient or another person at the premises to which the telecommunication is made has requested, in a previous telecommunication or in the immediate telecommunication, that the caller not make a telecommunication to the recipient or to the premises to which the telecommunication is made;

- (3) During the telecommunication, violates ORC 2903.21;
- (4) Knowingly states to the recipient of the telecommunication that the caller intends to cause damage to or destroy public or private property, and the recipient, any member of the recipient's family, or any other person who resides at the premises to which the telecommunication is made owns, leases, resides, or works in, will at the time of the destruction or damaging be near or in, has the responsibility of protecting, or insures the property that will be destroyed or damaged;
- (5) Knowingly makes the telecommunication to the recipient of the telecommunication, to another person at the premises to which the telecommunication is made, or to those premises, and the recipient or another person at those premises previously has told the caller not to make a telecommunication to those premises or to any person at those premises.
- (6) Knowingly makes any comment, request, suggestion, or proposal to the recipient of the telecommunication that is threatening, intimidating, menacing, coercive, or obscene with the intent to abuse, threaten, or harass the recipient;
- (7) Without a lawful business purpose, knowingly interrupts the telecommunication service of any person;
- (8) Without a lawful business purpose, knowingly transmits to any person, regardless of whether the telecommunication is heard in its entirety, any file, document, or other communication that prevents that person from using the person's telephone service or electronic communication device;
- (9) Knowingly makes any false statement concerning the death, injury, illness, disfigurement, reputation, indecent conduct, or criminal conduct of the recipient of the telecommunication or family or household member of the recipient with purpose to abuse, threaten, intimidate, or harass the recipient;
- (10) Knowingly incites another person through a telecommunication or other means to harass or participate in the harassment of a person;
- (11) Knowingly alarms the recipient by making a telecommunication without a lawful purpose at an hour or hours known to be inconvenient to the recipient and in an offensive or repetitive manner.
- (b) (1) No person shall make or cause to be made a telecommunication, or permit a telecommunication to be made from a telecommunications device under the person's control, with purpose to abuse, threaten, or harass another person.
- (2) No person shall knowingly post a text or audio statement or an image on an internet web site or web page for the purpose of abusing, threatening, or harassing another person.
- (c) (1) ~~Whoever violates divisions (a) or (b) of this section is guilty of telecommunications harassment.~~
- (2) A violation of division (a)(1), (a)(2), (a)(3) or (a)(5), ~~(6), (7), (8), (9), (10), or (11)~~ or (b) of this section is a misdemeanor of the first degree on a first offense and a felony on each subsequent offense, which shall be prosecuted under appropriate state law.
- (3) Except as otherwise provided in this division (c)(3), a violation of division (a)(4) of this section is a misdemeanor of the first degree on a first offense and a felony on each subsequent offense, to be prosecuted under appropriate state law. If a violation of division (a)(4) of this section results in economic harm of one thousand dollars

(\$1,000.00) or more, telecommunications harassment is a felony to be prosecuted under appropriate state law.

- (d) No cause of action may be asserted in any court of this State against any provider of a telecommunications service, interactive computer service as defined in section 230 of Title 47 of the United States Code, or information service, or against any officer, employee, or agent of a telecommunication service, interactive computer service as defined in section 230 of Title 47 of the United States Code, or information service, for any injury, death, or loss to person or property that allegedly arises out of the provider's, officer's, employee's, or agent's provision of information, facilities, or assistance in accordance with the terms of a court order that is issued in relation to the investigation or prosecution of an alleged violation of this section or ORC 4931.31. A provider of a telecommunications service, interactive computer service as defined in section 230 of Title 47 of the United States Code, or information service, or an officer, employee, or agent of a telecommunications service, interactive computer service as defined in section 230 of Title 47 of the United States Code, or information service, is immune from any civil or criminal liability for injury, death, or loss to person or property that allegedly arises out of the provider's, officer's, employee's, or agent's provision of information, facilities or assistance in accordance with the terms of a court order that is issued in relation to the investigation or prosecution of an alleged violation of this section or ORC 4931.31.
- (e) (1) This section does not apply to a person solely because the person provided access or connection to or from an electronic method of remotely transferring information not under that person's control, including having provided capabilities that are incidental to providing access or connection to or from the electronic method of remotely transferring the information, and that do not include the creation of the content of the material that is the subject of the access or connection. In addition, any person providing access or connection to or from an electronic method of remotely transferring information not under that person's control shall not be liable for any action voluntarily taken in good faith to block the receipt or transmission through its service of any information that the person believes is, or will be sent, in violation of this section.
- (2) Division (E)(1) of this section does not create an affirmative duty for any person providing access or connection to or from an electronic method of remotely transferring information not under that person's control to block the receipt or transmission through its service of any information that it believes is, or will be sent, in violation of this section except as otherwise provided by law.
- (3) Division (E)(1) of this section does not apply to a person who conspires with a person actively involved in the creation or knowing distribution of material in violation of this section or who knowingly advertises the availability of material of that nature.
- (4) A provider or user of an interactive computer service, as defined in section 230 of Title 47 of the United States Code, shall neither be treated as the publisher or speaker of any information provided by another information content provider, as defined in section 230 of Title 47 of the United States Code, nor held civilly or criminally liable for the creation or development of information provided by another information content provider, as defined in section 230 of Title 47 of the United States Code. Nothing in this division shall be construed to protect a person from liability to the extent that the person developed or created any content in violation of this section.
- (F) Divisions (A)(5) to (11) and (B)(2) of this section do not apply to a person who, while employed or contracted by a newspaper, magazine, press association, news agency, news wire service, cable channel or cable operator, or radio or television station, is gathering, processing, transmitting, compiling, editing, or disseminating information for the general

public within the scope of the person's employment in that capacity or the person's contractual authority in that capacity.

(g) As used in this section:

- (1) "Economic harm" means all direct, incidental, and consequential pecuniary harm suffered by a victim as a result of criminal conduct. "Economic harm" includes, but is not limited to, all of the following:
  - A. All wages, salaries, or other compensation lost as a result of the criminal conduct;
  - B. The cost of all wages, salaries or other compensation paid to employees for time those employees are prevented from working as a result of the criminal conduct;
  - C. The overhead costs incurred for the time that a business is shut down as a result of the criminal conduct;
  - D. The loss of value to tangible or intangible property that was damaged as a result of the criminal conduct.

(2) "Caller" means the person described in subsection (a) hereof who makes or causes to be made a telecommunication or who permits a telecommunication to be made from a telecommunications device under that person's control.

(3) "Telecommunication" and "telecommunications device" have the same meanings as in ORC 2913.01.

(4) "Sexual activity" has the same meaning as in ORC 2907.01.

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

(a) Any of the following who is residing or has resided with the recipient of the telecommunication against whom the act prohibited in division (A)(9) of this section is committed:

(i) A spouse, a person living as a spouse, or a former spouse of the recipient;

(ii) A parent, a foster parent, or a child of the recipient, or another person related by consanguinity or affinity to the recipient;

(iii) A parent or a child of a spouse, person living as a spouse, or former spouse of the recipient, or another person related by consanguinity or affinity to a spouse, person living as a spouse, or former spouse of the recipient.

(b) The natural parent of any child of whom the recipient of the telecommunication against whom the act prohibited in division (A)(9) of this section is committed is the other natural parent or is the putative other natural parent.

(6) "Person living as a spouse" means a person who is living or has lived with the recipient of the telecommunication against whom the act prohibited in division (A)(9) of this section is committed in a common law marital relationship, who otherwise is cohabiting with the recipient, or who otherwise has cohabited with the recipient within five years prior to the date of the alleged commission of the act in question.

(7) "Cable operator" has the same meaning as in section 1332.21 of the Revised Code.

~~(f)~~ (h) Nothing in this section prohibits a person from making a telecommunication call to a debtor that is in compliance with the "Fair Debt Collection Practices Act", 91 Stat. 874 (1977), 15 U.S.C. 1692, as amended, or the "Telephone Consumer Protection Act", 105 Stat. 2395 (1991), 47 U.S.C. 227, as amended.

**State Law reference—** ORC 2917.21

**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 ORC 2919.26 or 3113.31;

(2) A protection order issued pursuant to ORC 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) If Violating a protection order is a felony of the fifth degree if the offender previously has been convicted of, pleaded guilty to, or been adjudicated a delinquent child for a any of the following:

(a) A violation of a protection order issued or consent agreement approved pursuant to ORC 2151.34, 2903.213, ~~or~~ 2903.214, 2919.26, or 3113.31;

(b) two (2) or more violations of ORC 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, ~~or one;~~

(c) One or more violations of this section, ~~violating a protection order is a felony and shall be prosecuted under appropriate state law.~~

(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 ORC 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 (5) years by a law enforcement agency designated by the court. If the court requires under this division 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 ORC 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 ORC 2743.191. The total amount paid from the Reparations Fund created pursuant to ORC 2743.191 for electronic monitoring under ORC 2151.34, 2903.214 and 2919.27 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.

State Law reference— ORC 2919.27

### **537.17 CRIMINAL CHILD ENTICEMENT.**

(a) No person, by any means and without privilege to do so, shall knowingly solicit, coax, entice or lure any child under fourteen (14) years of age to accompany the person in any manner, including entering into any vehicle, or onto any vessel, whether or not the offender knows the age of the child, if both of the following apply:

(1) The actor does not have the express or implied permission of the parent, guardian or other legal custodian of the child in undertaking the activity;

(2) The actor is not a law enforcement officer, medic, firefighter, or other person who regularly provides emergency services, and is not an employee or agent of, or a volunteer

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

acting under the direction of any Board of Education, or the actor is any of such persons, but, at the time the actor undertakes the activity, the actor is not acting within the scope of the actor's lawful duties in that capacity.

(b) No person, with a sexual motivation, shall violate division (a) of this section.

(c) It is an affirmative defense to a charge under division (a) of this section that the actor undertook the activity in response to a bona fide emergency situation or that the actor undertook the activity in a reasonable belief that it was necessary to preserve the health, safety or welfare of the child.

(d) Whoever violates this section is guilty of criminal child enticement, a misdemeanor of the first degree. If the offender has previously been convicted of a violation of ORC 2905.05, 2907.02, 2907.03 or 2907.12, or ORC 2905.01 or 2907.05 when the victim of that prior offense was under seventeen (17) years of age at the time of the offense, criminal child enticement is a felony and shall be prosecuted under appropriate state law.

(e) As used in this section:

(1) "Sexual motivation" has the same meaning as in ORC 2971.01.

(2) "Vehicle" has the same meaning as in ORC 4501.01.

(3) "Vessel" has the same meaning as in ORC 1546.01 ~~1547.01~~.

State Law reference— ORC 2905.05

### **537.19 NONSUPPORT OF DEPENDENTS.**

(a) No person shall abandon, or fail to provide adequate support to:

(1) His or her spouse, as required by law;

(2) His or her legitimate or illegitimate child who is under age eighteen (18), or mentally or physically disabled child who is under age twenty-one (21);

(3) His or her aged or infirm parent or adoptive parent, who from lack of ability and means is unable to provide adequately for his or her own support.

(b) ~~(1) No person shall abandon or fail to provide support as established by court order to another person whom, by court order or decree, the person is :~~

(A) Is legally obligated to support-; or

(B) Was legally obligated to support, and an amount for support:

(i) Was due and owing prior to the date the person's duty to pay current support terminated; and

(ii) Remains unpaid.

- (2) The period of limitation under ORC section 2901.13 applicable to division (b)(1)(B) of this section shall begin to run on the date the person's duty to pay current support terminates.
- (c) No person shall aid, abet, induce, cause, encourage or contribute to a child or a ward of the juvenile court becoming a dependent child, as defined in ORC 2151.04, or a neglected child, as defined in ORC 2151.03.
- (d) It is an affirmative defense to a charge of failure to provide adequate support under division (a) of this section or a charge of failure to provide support established by a court order under division (b) of this section that the accused was unable to provide adequate support or the established support, but did provide the support that was within his or her ability and means.
- (e) It is an affirmative defense to a charge under division (a)(3) of this section that the parent abandoned the accused, or failed to support the accused as required by law, while the accused was under age eighteen (18), or was mentally or physically disabled and under age twenty-one (21).
- (f) It is not a defense to a charge under division (b) of this section that the person whom a court has ordered the accused to support is being adequately supported by someone other than the accused.
- (g) (1) Except as otherwise provided in this division, whoever violates division (a) or (b) of this section is guilty of nonsupport of dependents, a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to a violation of division (a)(2) or (b) of this section or a substantially equivalent state law or municipal ordinance, or if the offender has failed to provide support under division (a)(2) or (b) of this section for a total accumulated period of twenty-six (26) weeks out of one hundred four (104) consecutive weeks, whether or not the twenty-six (26) weeks were consecutive, then a violation of division (a)(2) or (b) of this section is a felony to be prosecuted under appropriate state law. If the offender previously has been convicted of or pleaded guilty to a felony violation of this section or a substantially equivalent state law or municipal ordinance, a violation of division (a)(2) or (b) of this section is a felony to be prosecuted under appropriate state law.
- (2) If the offender is guilty of nonsupport of dependents by reason of failing to provide support to his or her child as required by a child support order issued on or after April 15, 1985, pursuant to ORC 2151.23, 2151.231, 2151.232, 2151.33, 3105.21, 3109.05, 3111.13, 3113.04, 3113.31 or 3115.31, the court, in addition to any other sentence imposed, shall assess all court costs arising out of the charge against the person and require the person to pay any reasonable attorney's fees of any adverse party other than the state, as determined by the court, that arose in relation to the charge.
- (3) Whoever violates division (c) of this section is guilty of contributing to the nonsupport of dependents, a misdemeanor of the first degree. Each day of a violation of division (c) of this section is a separate offense.

**State Law reference—** ORC 2919.21

### **537.20 INTERFERENCE WITH CUSTODY.**

- (a) No person, knowing the person is without privilege to do so or being reckless in that regard, shall entice, take, keep or harbor a person identified in paragraph (a)(1), (2) or (3) hereof from the parent, guardian or custodian of the person identified in paragraph (a)(1), (2) or (3) hereof:



- (1) A child under the age of eighteen (18) or a mentally or physically handicapped child under the age of twenty-one (21);
  - (2) A person committed by law to an institution for delinquent, unruly, neglected or dependent children;
  - (3) A person committed by law to an institution for the mentally ill or ~~mentally retarded~~ an institution for persons with intellectual disabilities.
- (b) No person shall aid, abet, induce, cause or encourage a child or a ward of the Juvenile Court who has been committed to the custody of any person, department or public or private institution to leave the custody of that person, department or institution without legal consent.
- (c) It is an affirmative defense to a charge of enticing or taking under paragraph (a)(1) hereof that the actor reasonably believed that the actor's conduct was necessary to preserve the child's health or safety. It is an affirmative defense to a charge of keeping or harboring under subsection (a) hereof that the actor in good faith gave notice to law enforcement or judicial authorities within a reasonable time after the child or committed person came under the actor's shelter, protection or influence.
- (d) Whoever violates any of the provisions of paragraph (a)(1) or subsection (b) hereof is guilty of a misdemeanor of the first degree, provided that the child who is the subject of a violation of paragraph (a)(1) hereof is not removed from the State and provided that the offender has not previously been convicted of an offense under this section and provided that the child who is the subject of a violation of paragraph (a)(1) hereof does not suffer physical harm as a result of the violation. A violation of paragraph (a)(2) or (a)(3) hereof is a misdemeanor of the third degree. A violation of subsection (b) hereof is a misdemeanor of the first degree. The penalty shall be as provided in Section 501.99. A separate offense shall be deemed committed each day during or on which a violation of subsection (b) hereof occurs or continues.

**State Law reference—** ORC 2919.23

#### **541.02 ARSON.**

(a) No person, by means of fire or explosion, shall knowingly cause or create a substantial risk of physical harm to any property of another without the other person's consent.

(b) No person, by means of fire or explosion, shall knowingly do any of the following:

(1) Cause, or create a substantial risk of, physical harm to any structure of another that is not an occupied structure;

(C)(1) It is an affirmative defense to a charge under division (b)(1) of this section that the defendant acted with the consent of the other person.

(d) Whoever violates this section is guilty of arson. Except as otherwise provided in this division, violation of this section is a misdemeanor of the first degree. If the value of the property or the amount of physical harm involved is one thousand dollars (\$1,000.00) or more, then the violation is a felony to be prosecuted under appropriate state law.

State Law reference— ORC 2909.03

**541.09 VEHICULAR VANDALISM.**

(a) As used in this section:

- (1) "Highway" means any highway as defined in Section 301.42 of the Traffic Code or any lane, road, street, alley, bridge, or overpass.
- (2) "Alley", "street", and "vehicle" have the same meanings as in Chapter 301 of the Traffic Code.
- (3) "Vessel" and "waters in this State" have the same meanings as in ORC 1546.01 ~~1547.01~~.

(b) No person shall knowingly, and by any means, drop or throw any object at, onto, or in the path of any of the following:

- (1) Any vehicle on a highway;
- (2) Any boat or vessel on any of the waters in this State that are located in the Municipality.

(c) Whoever violates this section is guilty of vehicular vandalism. Except as otherwise provided in this subsection, vehicular vandalism is a misdemeanor of the first degree. If the violation of this section creates a substantial risk of physical harm to any person, serious physical harm to property, physical harm to any person or serious physical harm to any person, vehicular vandalism is a felony and shall be prosecuted under appropriate state law.

State Law reference— ORC 2909.09

**545.10 MISUSE OF CREDIT CARDS.**

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

- (1) Practice deception for the purpose of procuring the issuance of a credit card, when a credit card is issued in actual reliance thereon;
- (2) Knowingly buy or sell a credit card from or to a person other than the issuer.
- (3) As an officer, employee, or appointee of a political subdivision or as a public servant as defined under section 2921.01 of the Revised Code, knowingly misuse a credit card account held by a political subdivision.

(b) No person, with purpose to defraud, shall do any of the following:

- (1) Obtain control over a credit card as security for a debt;
- (2) Obtain property or services by the use of a credit card, in one or more transactions, knowing or having reasonable cause to believe that the card has expired or been revoked, or was obtained, is retained or is being used in violation of law;

- (3) Furnish property or services upon presentation of a credit card, knowing that the card is being used in violation of law;
- (4) Represent or cause to be represented to the issuer of a credit card that property or services have been furnished, knowing that the representation is false.
- (c) No person, with purpose to violate this section, shall receive, possess, control or dispose of a credit card.
- (d) Whoever violates this section is guilty of misuse of credit cards.
  - (1) Except as otherwise provided in division (d)(3) of this section, a violation of division (a), (b)(1) or (c) of this section is a misdemeanor of the first degree.
  - (2) Except as otherwise provided in this division or division (d)(3) of this section, a violation of division (b)(2), (b)(3) or (b)(4) of this section is a misdemeanor of the first degree. If the cumulative retail value of the property and services involved in one or more violations of division (b)(2), (b)(3) or (b)(4) of this section which violations involve one or more credit card accounts and occur within a period of ninety (90) consecutive days commencing on the date of the first violation, is one thousand dollars (\$1,000.00) or more, misuse of credit cards is a felony to be prosecuted under appropriate state law.
  - (3) If the victim of the offense is an elderly person or disabled adult, and if the offense involves a violation of division (b)(1) or (b)(2) of this section, misuse of credit cards is a felony to be prosecuted under appropriate state law.

**State Law reference—** ORC 2913.21

#### **549.04 IMPROPERLY HANDLING FIREARMS IN A MOTOR VEHICLE.**

- (a) No person shall knowingly discharge a firearm while in or on a motor vehicle.
- (b) Unless in compliance with ORC 2923.16, no person shall knowingly transport or have a loaded firearm in a motor vehicle in such a manner that the firearm is accessible to the operator or any passenger without leaving the vehicle.
- (c) 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 that 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 twenty-four (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 eighteen (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.
- (d) No person shall knowingly transport or have a loaded handgun in a motor vehicle if, at the time of that transportation or possession, any of the following applies:
  - (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 a concentration of alcohol, a listed controlled substance, or a listed metabolite of a controlled substance prohibited for persons operating a vehicle, as specified in ORC 4511.19(A), regardless of whether the person at the time of the transportation or possession as described in this division is the operator of or a passenger in the motor vehicle.
- (e) No person who has been issued a concealed handgun license, who is the driver or an occupant of a motor vehicle that is stopped as a result of a traffic stop or a stop for another law enforcement purpose or is the driver or an occupant of a commercial motor vehicle that is stopped by an employee of the motor carrier enforcement unit for the purposes defined in ORC 5503.34, and who is transporting or has a loaded handgun in the motor vehicle or commercial motor vehicle in any manner, shall do any of the following:
- (1) Fail to promptly inform any law enforcement officer who approaches the vehicle while stopped that the person has been issued a concealed handgun license and that the person then possesses or has a loaded handgun in the motor vehicle;
  - (2) Fail to promptly inform the employee of the unit who approaches the vehicle while stopped that the person has been issued a concealed handgun license and that the person then possesses or has a loaded handgun in the commercial motor vehicle;
  - (3) Knowingly fail to remain in the motor vehicle while stopped, or knowingly fail to keep the person's hands in plain sight at any time after any law enforcement officer begins approaching the person while stopped and before the law enforcement officer leaves, unless the failure is pursuant to and in accordance with directions given by a law enforcement officer;
  - (4) Knowingly 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.
- (f) (1) Divisions (a), (b), (c) and (e) of this section do 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 ORC 109.801, unless the appointing authority of the person has expressly specified that the exemption provided in this division (f)(1)B. does not apply to the person.
- (2) Division (a) of this section does not apply to a person if all of the following circumstances apply:
- A. The person discharges a firearm from a motor vehicle at a coyote or groundhog, the discharge is not during the deer gun hunting season as set by the Chief of the Division of Wildlife of the Department of Natural Resources, and the

discharge at the coyote or groundhog, but for the operation of this section, is lawful.

- B. The motor vehicle from which the person discharges the firearm is on real property that is located in an unincorporated area of a township and that is either zoned for agriculture or is used for agriculture.
  - C. The person owns the real property described in division (f)(2)B. of this section, is the spouse or a child of another person who owns that real property, is a tenant of another person who owns that real property, or is the spouse or a child of a tenant of another person who owns that real property.
  - D. The person does not discharge the firearm in any of the following manners:
    - 1. While under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse;
    - 2. In the direction of a street, highway or other public or private property used by the public for vehicular traffic or parking;
    - 3. At or into an occupied structure that is a permanent or temporary habitation;
    - 4. In the commission of any violation of law, including but not limited to a felony that includes, as an essential element, purposely or knowingly causing or attempting to cause the death of or physical harm to another and that was committed by discharging a firearm from a motor vehicle.
- (3) Division (a) of this section does not apply to a person if all of the following apply:
- A. The person possesses a valid ~~electric-powered~~ all-purpose vehicle permit issued under ORC 1533.103 by the Chief of the Division of Wildlife.
  - B. The person discharges a firearm at a wild quadruped or game bird as defined in ORC 1531.01 during the open hunting season for the applicable wild quadruped or game bird.
  - C. The person discharges a firearm from a stationary ~~electric-powered~~ all-purpose vehicle as defined in ORC 1531.01 from private or publicly owned lands or from a motor vehicle that is parked on a road that is owned or administered by the Division of Wildlife, ~~provided that the road is identified by an electric-powered all-purpose vehicle sign.~~
  - D. The person does not discharge the firearm in any of the following manners:
    - 1. While under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse;
    - 2. In the direction of a street, a highway or other public or private property that is used by the public for vehicular traffic or parking;
    - 3. At or into an occupied structure that is a permanent or temporary habitation;
    - 4. In the commission of any violation of law, including but not limited to a felony that includes, as an essential element, purposely or knowingly causing or attempting to cause the death of or physical harm to another and that was committed by discharging a firearm from a motor vehicle.
- (4) Divisions (b) and (c) of this section do not apply to a person if all of the following circumstances apply:
- A. At the time of the alleged violation of either of those divisions, the person is the operator of or a passenger in a motor vehicle.

- B. The motor vehicle is on real property that is located in an unincorporated area of a township and that is either zoned for agriculture or is used for agriculture.
  - C. The person owns the real property described in division (f)(4)B. of this section, is the spouse or a child of another person who owns that real property, is a tenant of another person who owns that real property, or is the spouse or a child of a tenant of another person who owns that real property.
  - D. The person, prior to arriving at the real property described in division (f)(4)B. of this section, did not transport or possess a firearm in the motor vehicle in a manner prohibited by division (b) or (c) of this section while the motor vehicle was being operated on a street, highway or other public or private property used by the public for vehicular traffic or parking.
- (5) Divisions (b) and (c) of this section do not apply to a person who transports or possesses a handgun in a motor vehicle if, at the time of that transportation or possession, both of the following apply:
- A. The person transporting or possessing the handgun is carrying a valid concealed handgun license.
  - B. The person transporting or possessing the handgun is not knowingly in a place described in ORC 2923.126(B).
- (6) Divisions (b) and (c) of this section do not apply to a person if all of the following apply:
- A. The person possesses a valid ~~electric-powered~~ all-purpose vehicle permit issued under ORC 1533.103 by the Chief of the Division of Wildlife.
  - B. The person is on or in an ~~electric-powered~~ all-purpose vehicle as defined in ORC 1531.01 or a motor vehicle during the open hunting season for a wild quadruped or game bird.
  - C. The person is on or in an ~~electric-powered~~ all-purpose vehicle as defined in ORC 1531.01 on private or publicly owned lands or on or in a motor vehicle that is parked on a road that is owned or administered by the Division of Wildlife, ~~provided that the road is identified by an electric-powered all-purpose vehicle sign.~~
- (g) (1) The affirmative defenses authorized in ORC 2923.12(D)(1) and (D)(2) are affirmative defenses to a charge under division (b) or (c) of this section that involves a firearm other than a handgun.
- (2) It is an affirmative defense to a charge under division (b) or (c) of this section 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 this 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 division (b) or (c) of this section while the motor vehicle was being operated on a street, highway or other public or private property used by the public for vehicular traffic.
- (h) (1) No person who is charged with a violation of division (b), (c) or (d) of this section shall be required to obtain a concealed handgun license as a condition for the dismissal of the charge.
- (2) A. If a person is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of division (e) 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 division (e) of this section on or after September 30, 2011, the person may file an application under ORC 2953.37 requesting the expungement of the record of conviction.

- B. If a person is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of division (b) or (c) of this section as the division existed prior to September 30, 2011 and if the conduct that was the basis of the violation no longer would be a violation of division (b) or (c) of this section on or after September 30, 2011 due to the application of division (f)(5) of this section as it exists on and after September 30, 2011, the person may file an application under ORC 2953.37 requesting the expungement of the record of conviction.
- (i) Whoever violates this section is guilty of improperly handling firearms in a motor vehicle. Violation of division (a) of this section is a felony to be prosecuted under appropriate state law. Violation of division (c) of this section is a misdemeanor of the fourth degree. A violation of division (d) of this section is a felony to be prosecuted under appropriate state law and, if the loaded handgun is concealed on the person's person, it is also a felony to be prosecuted under appropriate state law. Except as otherwise provided in this division, a violation of division (e)(1) or (e)(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 ORC 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 ORC 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 division (e)(1) or (e)(2) of this section is a minor misdemeanor, and the offender's concealed handgun license shall not be suspended pursuant to ORC 2923.128(A)(2). A violation of division (e)(4) of this section is a felony to be prosecuted under appropriate state law. A violation of division (e)(3) or (e)(5) 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 division (e)(3) or (e)(5) of this section or any substantially equivalent state law or municipal ordinance, a felony to be prosecuted under appropriate state law. In addition to any other penalty or sanction imposed for a misdemeanor violation of division (e)(3) or (e)(5) of this section, the offender's concealed handgun license shall be suspended pursuant to ORC 2923.128(A)(2). A violation of division (b) of this section is a felony to be prosecuted under appropriate state law.
- (j) 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 division, ORC 2923.163(B) applies.
- (k) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.
- (1) "Agriculture." Has the same meaning as in ORC 519.01.
  - (2) "Commercial motor vehicle." Has the same meaning as in ORC 4506.25(A).

- (3) "Motor carrier enforcement unit." The Motor Carrier Enforcement Unit in the Department of Public Safety, Division of State Highway Patrol, that is created by ORC 5503.34.
- (4) "Motor vehicle," "street" and "highway." Have the same meaning as in ORC 4511.01.
- (5) "Occupied structure." Has the same meaning as in ORC 2909.01.
- (6) "Tenant." Has the same meaning as in ORC 1531.01.
- (7) "Unloaded."
  - A. With respect to a firearm other than a firearm described in division D. of this definition, means that no ammunition is in the firearm in question, no magazine or speed loader containing ammunition is inserted into the firearm, and one of the following applies:
    - 1. 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.
    - 2. 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.
  - B. For the purposes of division A.2. of this definition, a "container that provides complete and separate enclosure" includes, but is not limited to, any of the following:
    - 1. 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;
    - 2. 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.
  - C. For the purposes of divisions A. and B. of this definition, ammunition held in stripper-clips or in en-bloc clips is not considered ammunition that is loaded into a magazine or speed loader.
  - D. "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.
- (I) Divisions A. and B. of the definition of "unloaded" in division (k) of this section do 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 those divisions, 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. 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.

(Ord. [ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=781051&datasource=ordbank" web="yes">O-07-2014](http://newords.municode.com/readordinance.aspx?ordinanceid=781051&datasource=ordbank) [</ulink>](#). Passed 3-18-14.)

**State Law reference—** ORC 2923.16

**549.11 CONCEALED HANDGUN LICENSES: POSSESSION OF A REVOKED OR SUSPENDED LICENSE; ADDITIONAL RESTRICTIONS; POSTING OF SIGNS PROHIBITING POSSESSION.**

(a) Possession of a Revoked or Suspended Concealed Handgun License .

- (1) No person, except in the performance of official duties, shall possess a concealed handgun license that was issued and that has been revoked or suspended.
- (2) Whoever violates this division (a) is guilty of possessing a revoked or suspended concealed handgun license, a misdemeanor of the third degree.

(b) Additional Restrictions . Pursuant to ORC 2923.126:

- (1) A. A concealed handgun license that is issued under ORC 2923.125 shall expire five (5) years after the date of issuance. A licensee who has been issued a license under that section shall be granted a grace period of thirty (30) days after the licensee's license expires during which the licensee's license remains valid. Except as provided in divisions (b)(2) and (b)(3) of this section, a licensee who has been issued a concealed handgun license under ORC 2923.125 or 2923.1213 may carry a concealed handgun anywhere in this State if the licensee also carries a valid license ~~and valid identification~~ when the licensee is in actual possession of a concealed handgun. The licensee shall give notice of any change in the licensee's residence address to the sheriff who issued the license within forty-five (45) days after that change.

- B. If a licensee is the driver or an occupant of a motor vehicle that is stopped as the result of a traffic stop or a stop for another law enforcement purpose and if the licensee is transporting or has a loaded handgun in the motor vehicle at that time, the licensee shall promptly inform any law enforcement officer who approaches the vehicle while stopped that the licensee has been issued a concealed handgun license and that the licensee currently possesses or has a loaded handgun; the licensee shall not knowingly disregard or fail to comply with lawful orders of a law enforcement officer given while the motor vehicle is stopped, knowingly fail to remain in the motor vehicle while stopped, or knowingly fail to keep the licensee's hands in plain sight after any law enforcement officer begins approaching the licensee while stopped and before the officer leaves, unless directed otherwise by a law enforcement officer; and the licensee shall not knowingly have contact with the loaded handgun by touching it with the licensee's hands or fingers, in any manner in violation of ORC 2923.16(E), after any law enforcement officer begins approaching the licensee while stopped and before the officer leaves. Additionally, if a licensee 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 ORC 5503.04 and if the licensee is transporting or has a loaded handgun in the commercial motor

vehicle at that time, the licensee shall promptly inform the employee of the unit who approaches the vehicle while stopped that the licensee has been issued a concealed handgun license and that the licensee currently possesses or has a loaded handgun.

- C. If a licensee is stopped for a law enforcement purpose and if the licensee is carrying a concealed handgun at the time the officer approaches, the licensee shall promptly inform any law enforcement officer who approaches the licensee while stopped that the licensee has been issued a concealed handgun license and that the licensee currently is carrying a concealed handgun; the licensee shall not knowingly disregard or fail to comply with lawful orders of a law enforcement officer given while the licensee is stopped or knowingly fail to keep the licensee's hands in plain sight after any law enforcement officer begins approaching the licensee while stopped and before the officer leaves, unless directed otherwise by a law enforcement officer; and the licensee shall not knowingly remove, attempt to remove, grasp, or hold the loaded handgun or knowingly have contact with the loaded handgun by touching it with the licensee's hands or fingers, in any manner in violation of ORC 2923.12(B), after any law enforcement officer begins approaching the licensee while stopped and before the officer leaves.
- (2) A valid concealed handgun license does not authorize the licensee to carry a concealed handgun in any manner prohibited under ORC 2923.12(B) or in any manner prohibited under ORC 2923.16. A valid license does not authorize the licensee to carry a concealed handgun into any of the following places:
- A. A police station, sheriff's office, or State highway patrol station, premises controlled by the Bureau of Criminal Identification and Investigation, a State correctional institution, jail, workhouse, or other detention facility, an airport passenger terminal, or an institution that is maintained, operated, managed, and governed pursuant to ORC 5119.02(A) or ORC 5123.03(A)(1);
  - B. A school safety zone if the licensee's carrying the concealed handgun is in violation of ORC 2923.122;
  - C. A courthouse or another building or structure in which a courtroom is located, if the licensee's carrying the concealed handgun is in violation of ORC 2923.123;
  - D. Any premises or open air arena for which a D permit has been issued under ORC Ch. 4303 if the licensee's carrying the concealed handgun is in violation of ORC 2923.121;
  - E. Any premises owned or leased by any public or private college, university, or other institution of higher education, unless the handgun is in a locked motor vehicle or the licensee is in the immediate process of placing the handgun in a locked motor vehicle;
  - F. Any church, synagogue, mosque, or other place of worship, unless the church, synagogue, mosque, or other place of worship posts or permits otherwise;
  - G. A child day-care center, a type A family day-care home, or a type B family day-care home, except that this division does not prohibit a licensee who resides in a type A family day-care home, or a type B family day-care home from carrying a concealed handgun at any time in any part of the home that is not dedicated or used for day-care purposes, or from carrying a concealed handgun in a part of the home that is dedicated or used for day-care purposes at any time during which no children, other than children of that licensee, are in the home;

- H. An aircraft that is in, or intended for operation in, foreign air transportation, interstate air transportation, intrastate air transportation, or the transportation of mail by aircraft;
  - I. Any building that is a government facility of this state or a political subdivision of this state and that is not a building that is used primarily as a shelter, restroom, parking facility for motor vehicles, or rest facility and is not a courthouse or other building or structure in which a courtroom is located that is subject to division (b)(2)C. of this section;
  - J. A place in which federal law prohibits the carrying of handguns.
- (3) A. Nothing in this division (b) shall negate or restrict a rule, policy, or practice of a private employer that is not a private college, university, or other institution of higher education concerning or prohibiting the presence of firearms on the private employer's premises or property, including motor vehicles owned by the private employer. Nothing in this division (b) shall require a private employer of that nature to adopt a rule, policy, or practice concerning or prohibiting the presence of firearms on the private employer's premises or property, including motor vehicles owned by the private employer.
- B. 1. A private employer shall be immune from liability in a civil action for any injury, death, or loss to person or property that allegedly was caused by or related to a licensee bringing a handgun onto the premises or property of the private employer, including motor vehicles owned by the private employer, unless the private employer acted with malicious purpose. A private employer is immune from liability in a civil action for any injury, death, or loss to person or property that allegedly was caused by or related to the private employer's decision to permit a licensee to bring, or prohibit a licensee from bringing, a handgun onto the premises or property of the private employer. As used in this division, "private employer" includes a private college, university, or other institution of higher education.
2. A political subdivision shall be immune from liability in a civil action, to the extent and in the manner provided in ORC Ch. 2744, for any injury, death, or loss to person or property that allegedly was caused by or related to a licensee bringing a handgun onto any premises or property owned, leased, or otherwise under the control of the political subdivision. As used in this division, "political subdivision" has the same meaning as in ORC 2744.01.
- C. 1. Except as provided in division (b)(3)C.2. of this section and ORC section 2923.1214, the owner or person in control of private land or premises, and a private person or entity leasing land or premises owned by the state, the United States, or a political subdivision of the state or the United States, may post a sign in a conspicuous location on that land or on those premises prohibiting persons from carrying firearms or concealed firearms on or onto that land or those premises. Except as otherwise provided in this division, a person who knowingly violates a posted prohibition of that nature is guilty of criminal trespass in violation of ORC 2911.21(A)(4) and is guilty of a misdemeanor of the fourth degree. If a person knowingly violates a posted prohibition of that nature and the posted land or premises primarily was a parking lot or other parking facility, the person is not guilty of criminal trespass in violation of ORC 2911.21(A)(4) and instead is subject only to a civil cause of action for trespass based on the violation.

2. A landlord may not prohibit or restrict a tenant who is a licensee and who on or after September 9, 2008 enters into a rental agreement with the landlord for the use of residential premises, and the tenant's guest while the tenant is present, from lawfully carrying or possessing a handgun on those residential premises.
3. As used in division (b)(3)C. of this section:
  - a. "Residential premises" has the same meaning as in ORC 5321.01, except "residential premises" does not include a dwelling unit that is owned or operated by a college or university.
  - b. "Landlord", "tenant", and "rental agreement" have the same meanings as in ORC 5321.01.
- (4) A person who holds a concealed handgun license issued by another State that is recognized by the Attorney General pursuant to a reciprocity agreement entered into pursuant to ORC 109.69 has the same right to carry a concealed handgun in this State as a person who was issued a concealed handgun license under ORC 2923.125 and is subject to the same restrictions that apply to a person who carries a license issued under that section.
- (5) A. A peace officer has the same right to carry a concealed handgun in this State as a person who was issued a concealed handgun license under ORC 2923.125, provided that the officer when carrying a concealed handgun under authority of this division is carrying validating identification. For purposes of reciprocity with other States, a peace officer shall be considered to be a licensee in this State.  
B. A tactical medical professional who is qualified to carry firearms while on duty under section 109.771 of the Revised Code has the same right to carry a concealed handgun in this state as a person who was issued a concealed handgun license under section ORC 2923.125.
- (6) A. A qualified retired peace officer who possesses a retired peace officer identification card issued pursuant to division (b)(6)B. of this section and a valid firearms requalification certification issued pursuant to division (b)(6)C. of this section has the same right to carry a concealed handgun in this State as a person who was issued a concealed handgun license under ORC 2923.125 and is subject to the same restrictions that apply to a person who carries a license issued under that section. For purposes of reciprocity with other States, a qualified retired peace officer who possesses a retired peace officer identification card issued pursuant to division (b)(6)B. of this section and a valid firearms requalification certification issued pursuant to division (b)(6)C. of this section shall be considered to be a licensee in this State.  
  
B. 1. Each public agency of this State or of a political subdivision of this State that is served by one or more peace officers shall issue a retired peace officer identification card to any person who retired from service as a peace officer with that agency, if the issuance is in accordance with the agency's policies and procedures and if the person, with respect to the person's service with that agency, satisfies all of the following:
  - a. The person retired in good standing from service as a peace officer with the public agency, and the retirement was not for reasons of mental instability.
  - b. Before retiring from service as a peace officer with that agency, the person was authorized to engage in or supervise the prevention, detection,

investigation, or prosecution of, or the incarceration of any person for, any violation of law and the person had statutory powers of arrest.

- c. At the time of the person's retirement as a peace officer with that agency, the person was trained and qualified to carry firearms in the performance of the peace officer's duties.
  - d. Before retiring from service as a peace officer with that agency, the person was regularly employed as a peace officer for an aggregate of fifteen (15) years or more, or, in the alternative, the person retired from service as a peace officer with that agency, after completing any applicable probationary period of that service, due to a service-connected disability, as determined by the agency.
2. A retired peace officer identification card issued to a person under division (b)(6)B.1. of this section shall identify the person by name, contain a photograph of the person, identify the public agency of this state or of the political subdivision of this State from which the person retired as a peace officer and that is issuing the identification card, and specify that the person retired in good standing from service as a peace officer with the issuing public agency and satisfies the criteria set forth in divisions (b)(6)B.1.a. to (b)(6)B.1.d. of this section. In addition to the required content specified in this division, a retired peace officer identification card issued to a person under division (b)(6)B.1. of this section may include the firearms requalification certification described in division (b)(6)C. of this section, and if the identification card includes that certification, the identification card shall serve as the firearms requalification certification for the retired peace officer. If the issuing public agency issues credentials to active law enforcement officers who serve the agency, the agency may comply with division (b)(6)B.1. of this section by issuing the same credentials to persons who retired from service as a peace officer with the agency and who satisfy the criteria set forth in divisions (b)(6)B.1.a. to (b)(6)B.1.d. of this section, provided that the credentials so issued to retired peace officers are stamped with the word "RETIRED".
  3. A public agency of this state or of a political subdivision of this State may charge persons who retired from service as a peace officer with the agency a reasonable fee for issuing to the person a retired peace officer identification card pursuant to division (b)(6)B.1. of this section.
- C. 1. If a person retired from service as a peace officer with a public agency of this state or of a political subdivision of this state and the person satisfies the criteria set forth in divisions (b)(6)B.1.a. to (b)(6)B.1.d. of this section, the public agency may provide the retired peace officer with the opportunity to attend a firearms requalification program that is approved for purposes of firearms requalification required under ORC 109.801. The retired peace officer may be required to pay the cost of the course.
2. If a retired peace officer who satisfies the criteria set forth in divisions (b)(6)B.1.a. to (b)(6)B.1.d. of this section attends a firearms requalification program that is approved for purposes of firearms requalification required under ORC 109.801, the retired peace officer's successful completion of the firearms requalification program requalifies the retired peace officer for purposes of division (b)(6) of this section for five (5) years from the date on which the program was successfully completed, and the requalification is valid during that five-year period. If a retired peace officer who satisfies the

criteria set forth in divisions (b)(6)B.1.a. to (b)(6)B.1.d. of this section satisfactorily completes such a firearms requalification program, the retired peace officer shall be issued a firearms requalification certification that identifies the retired peace officer by name, identifies the entity that taught the program, specifies that the retired peace officer successfully completed the program, specifies the date on which the course was successfully completed, and specifies that the requalification is valid for five (5) years from that date of successful completion. The firearms requalification certification for a retired peace officer may be included in the retired peace officer identification card issued to the retired peace officer under division (b)(6)B. of this section.

3. A retired peace officer who attends a firearms requalification program that is approved for purposes of firearms requalification required under ORC 109.801 may be required to pay the cost of the program.

A. "Government facility of this State or a political subdivision of this State" means any of the following:

1. A building or part of a building that is owned or leased by the government of this State or a political subdivision of this State and where employees of the government of this State or the political subdivision regularly are present for the purpose of performing their official duties as employees of the State or political subdivision;
2. The office of a deputy registrar serving pursuant to ORC Ch. 4503 that is used to perform deputy registrar functions.

B. "Qualified retired peace officer" means a person who satisfies all of the following:

1. The person satisfies the criteria set forth in divisions (b)(6)B.1.a. to (b)(6)B.1.d. of this section.
2. The person is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance.
3. The person is not prohibited by Federal law from receiving firearms.

C. "Retired peace officer identification card" means an identification card that is issued pursuant to division (b)(6)B. of this section to a person who is a retired peace officer.

D. "Tactical medical professional" has the same meaning as in ORC 109.71.

E. "Validating identification" means a photographic identification issued by the agency for which an individual serves as a peace officer that identifies the individual as a peace officer of the agency.

(c) Posting of Signs Prohibiting Possession . Pursuant to ORC 2923.1212:

- (1) The following persons, boards, and entities, or designees, shall post in the following locations a sign that contains a statement in substantially the following form: "Unless otherwise authorized by law, pursuant to the Ohio Revised Code, no person shall knowingly possess, have under the person's control, convey, or attempt to convey a deadly weapon or dangerous ordnance onto these premises."

A. The Director of Public Safety or the person or board charged with the erection, maintenance, or repair of police stations, municipal jails, and the municipal courthouse and courtrooms in a conspicuous location at all police stations, municipal jails, and municipal courthouses and courtrooms;

- B. The Sheriff or Sheriff's designee who has charge of the Sheriff's office in a conspicuous location in that office;
  - C. The Superintendent of the State Highway Patrol or the Superintendent's designee in a conspicuous location at all State highway patrol stations;
  - D. Each Sheriff, Chief of Police, or person in charge of every County, Multi-County, municipal, municipal-County, or multi-County/municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or other local or State correctional institution or detention facility within the State, or that person's designee, in a conspicuous location at that facility under that person's charge;
  - E. The board of trustees of a regional airport authority, chief administrative officer of an airport facility, or other person in charge of an airport facility in a conspicuous location at each airport facility under that person's control;
  - F. The officer or officer's designee who has charge of a courthouse or the building or structure in which a courtroom is located in a conspicuous location in that building or structure;
  - G. The Superintendent of the Bureau of Criminal Identification and Investigation or the Superintendent's designee in a conspicuous location in all premises controlled by that Bureau;
  - H. The owner, administrator, or operator of a child day-care center, a type A family day-care home, or a type B family day-care home;
  - I. The officer of this State or of a political subdivision of this State, or the officer's designee, who has charge of a building that is a government facility of this State or the political subdivision of this State, as defined in ORC 2923.126, and that is not a building that is used primarily as a shelter, restroom, parking facility for motor vehicles, or rest facility and is not a courthouse or other building or structure in which a courtroom is located that is subject to ORC 2923.126(B)(3).
- (2) The following boards, bodies, and persons, or designees, shall post in the following locations a sign that contains a statement in substantially the following form: "Unless otherwise authorized by law, pursuant to ORC 2923.122, no person shall knowingly possess, have under the person's control, convey, or attempt to convey a deadly weapon or dangerous ordnance into a school safety zone."
- A. A board of education of a city, local, exempted village, or joint vocational school district or that board's designee in a conspicuous location in each building and on each parcel of real property owned or controlled by the board;
  - B. A governing body of a school for which the State Board of Education prescribes minimum standards under ORC 3301.07 or that body's designee in a conspicuous location in each building and on each parcel of real property owned or controlled by the school;
  - C. The principal or chief administrative officer of a nonpublic school in a conspicuous location on property owned or controlled by that nonpublic school.

**State Law reference—** ORC 2923.126; ORC 2923.1211(B), (C); ORC 2923.1212



## ORDINANCE O-22-2020

**AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF NEW ALBANY, OHIO TO PROVIDE AMENDMENTS TO TRAFFIC NEW ALBANY CITY CODE SECTIONS 301.04, 301.19, 301.20, 301.22, 301.51, 301.251, 301.365, 303.04, 303.081, 313.01, 313.09, 331.03, 331.21, 331.28, 331.40, 333.01, 333.03, 335.031, 335.09, 335.10, 335.12, 337.27, 341.01, 341.03, 341.04, 341.05, 341.06, 341.07, 351.04, 351.07, 371.02, 373.02, 375.03, 375.06; TO ESTABLISH SECTION 303.98; TO PROVIDE FOR PENALTIES; TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES**

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

**WHEREAS**, the city wishes to adopt these updates to the appropriate sections to maintain consistency with State of Ohio and code.

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of New Albany, Counties of Franklin, and Licking, State of Ohio, that:

**Section 1:** That the Code of Ordinances of the City of New Albany, Ohio is hereby amended by adding the provisions as provided under Section 6, below.

**Section 2:** The addition, amendment, or removal of New Albany City Code Sections when passed in such form as to indicate the intention of the council to make the same a part of the city's municipal code shall be deemed to be incorporated in the municipal code, so that reference to the municipal code includes the additions, amendments, and removals.

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

**Section 4.** Supplementation of Code

- (a) In preparing a supplement to city's municipal code, all portions of this ordinance which have been repealed shall be excluded from the city's municipal code by the omission thereof from reprinted pages.
- (b) When preparing a supplement to the city's municipal code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make



formal, non-substantive changes in this ordinance and parts of this ordinance included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

- (1) Organize the ordinance material into appropriate subdivisions;
  - (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the city's municipal code printed in the supplement, and make changes in such catchlines, headings and titles;
  - (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the city's municipal code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
  - (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections \_\_\_\_\_ to \_\_\_\_\_" (inserting section numbers to indicate the sections of the city's municipal code which embody the substantive sections or the ordinance incorporated into the code); and
  - (5) Make other non-substantive changes necessary to preserve the original meaning of ordinance sections inserted into the city's municipal code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodies in the city's municipal code.
- (c) In preparing a supplement to the city's municipal code, the pages of a supplement shall be so numbered that they will fit properly into the city's municipal code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the city's municipal code will be current through the date of the adoption of the latest ordinance included in the supplement.

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

**Section 6.** The sections attached hereto as Exhibit A are new or have been amended with new matter in the Municipal Code, and are hereby approved, adopted and enacted.

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

**Section 8.** If any section, subsection, sentence, clause, phrase or portion of the ordinance or its application to any person or circumstance is for any reason held to be invalid or unconstitutional by

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

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

**Section 10.** It is hereby found and determined that all formal actions of this council concerning and relating to the adoption of this legislation were adopted in an open meeting of council, and that all deliberations of council and or any of its committees that resulted in such formal action were in meetings open to the public, in compliance with Section 121 of the Ohio Revised Code, and further pursuant to Ohio General Assembly 133 – House Bill 197 effective March 27, 2020.

**Section 11.** Pursuant to Article VI, Section 6.07(B) of the City of New Albany Charter, this ordinance shall become effective thirty (30) days after adoption.

**CERTIFIED AS ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

**Attest:**

\_\_\_\_\_  
Sloan T. Spalding  
Mayor

\_\_\_\_\_  
Jennifer H. Mason  
Clerk of Council

**Approved as to form:**

\_\_\_\_\_  
Mitchell H. Banchefsky  
Law Director

**Legislation dates:**

Prepared: 10/23/2020

Introduced: 11/05/2020

Revised:

Adopted:

Effective:

**301.04 BICYCLE; MOTORIZED BICYCLE.**

- (a) "Bicycle" means every device, other than a ~~tricycle~~ device that is designed solely for use as a play vehicle by a child, that is propelled solely by human power, upon which any a person may ride having and that has either two (2) tandem or more wheels or one wheel in the front and two (2) wheels in the rear, or two (2) (wheels in the front and one wheel in the rear, any of which is more than fourteen (14) inches in diameter.
- (b) "~~Motorized motorized bicycle~~" means ~~any vehicle having either two tandem wheels or one wheel in the front and two wheels in the rear, that is capable of being pedaled and is equipped with a helper motor of not more than fifty cubic centimeters piston displacement that produces no more than one brake horsepower and is capable of propelling the vehicle at a speed of no greater than twenty miles per hour on a level surface.~~

"Motorized bicycle" or "moped" means any vehicle having either two tandem wheels or one wheel in the front and two wheels in the rear, that may be pedaled, and that is equipped with a helper motor of not more than fifty cubic centimeters piston displacement that produces not more than one brake horsepower and is capable of propelling the vehicle at a speed of not greater than twenty miles per hour on a level surface. "Motorized bicycle" or "moped" does not include an electric bicycle.

**State Law reference—** ORC 4511.01(G); ORC 4511.01(H)

**301.19 MOTORCYCLE.**

"Motorcycle" means every motor vehicle, other than a tractor, having a seat or saddle for the use of the operator and designed to travel on not more than three (3) wheels in contact with the ground, including but not limited to, motor vehicles known as "motor-driven cycle," "motor scooter," "autocycle," "cab-enclosed motorcycle," or "motorcycle" without regard to weight or brake horsepower.

**State Law reference—** ORC 4511.01(C)

**301.20 MOTOR VEHICLE.**

"Motor vehicle" means every vehicle propelled or drawn by power other than muscular power, except motorized bicycles, electric bicycles, road rollers, traction engines, power shovels, power cranes and other equipment used in construction work and not designed for or employed in general highway transportation, hole-digging machinery, well-drilling machinery, ditch-digging machinery, farm machinery, and trailers designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a street or highway for a distance of no more than ten (10) miles and at a speed of twenty-five (25) miles per hour or less.

**State Law reference—** ORC 4511.01(B)

**301.22 PEDESTRIAN.**

"Pedestrian" means any natural person afoot. "Pedestrian" includes a personal delivery device as defined in section 4511.513 of the Revised Code unless the context clearly suggests otherwise.

**State Law reference— ORC 4511.01(X)****301.51 VEHICLE.**

"Vehicle" means every device, including a motorized bicycle and an electric bicycle, in, upon, or by which any person or property may be transported or drawn upon a highway, except that "vehicle" does not include any motorized wheelchair, any electric personal assistive mobility device, any personal delivery device as defined in section 4511.513 of the Revised Code, any device that is moved by power collected from overhead electric trolley wire or that is used exclusively upon stationary rails or tracks, or any device, other than a bicycle, that is moved by human power.

**State Law reference— ORC 4511.01(A)****301.251 PREDICATE MOTOR VEHICLE OR TRAFFIC OFFENSE.**

"Predicate motor vehicle or traffic offense" means any of the following:

- (a) A violation of ORC 4511.03, 4511.051, 4511.12, 4511.132, 4511.16, 4511.20, 4511.201, 4511.21, 4511.211, 4511.213, 4511.22, 4511.23, 4511.25, 4511.26, 4511.27, 4511.28, 4511.29, 4511.30, 4511.31, 4511.32, 4511.33, 4511.34, 4511.35, 4511.36, 4511.37, 4511.38, 4511.39, 4511.40, 4511.41, 4511.42, 4511.43, 4511.431, 4511.432, 4511.44, 4511.441, 4511.451, 4511.452, 4511.46, 4511.47, 4511.48, 4511.481, 4511.49, 4511.50, 4511.511, 4511.522, 4511.53, 4511.54, 4511.55, 4511.56, 4511.57, 4511.58, 4511.59, 4511.60, 4511.61, 4511.64, 4511.66, 4511.661, 4511.68, 4511.70, 4511.701, 4511.71, 4511.711, 4511.712, 4511.713, 4511.72, 4511.73, 4511.763, 4511.771, 4511.78 or 4511.84;
- (b) A violation of division (A)(2) of ORC 4511.17, divisions (A) to (D) of ORC 4511.51, or division (A) of ORC 4511.74;
- (c) A violation of any provision of ORC 4511.01 to 4511.76 for which no penalty otherwise is provided in the section that contains the provision violated;
- (d) ~~A violation of a municipal ordinance that is substantially similar to any section or provision set forth or described in subsection (a) to (c) of this section;~~  
A violation of ORC 4511.214;
- (e) A violation of a municipal ordinance that is substantially similar to any section or provision set forth or described in 301.251(a)(b)(c) or (d) of this section.

**State Law reference— ORC 4511.01(III)****301.365 SHARED-USE PATH.**

"Shared-use path" means a bikeway outside the traveled way and physically separated from motorized vehicular traffic by an open space or barrier and either within the highway right-of-way or within an independent alignment. A shared-use path also may be used by pedestrians, including skaters, joggers, users of manual and motorized wheelchairs, and other authorized motorized and non-motorized users. A shared-use path does not include any trail that is intended to be used primarily for mountain biking, hiking, equestrian use, or other similar uses, or any other single track or natural surface trail that has historically been reserved for nonmotorized use.

**State Law reference— ORC 4511.01(PPP)****303.04 ROAD WORKERS, MOTOR VEHICLES AND EQUIPMENT EXCEPTED.**

- (a) The provisions of this Traffic Code do not apply to persons, teams, motor vehicles, and other equipment while actually engaged in work upon the surface of a highway within an area designated by traffic control devices, but apply to such persons and vehicles when traveling to or from such work.
- (b) The driver of a highway maintenance vehicle owned by this state or any political subdivision of this state, while the driver is engaged in the performance of official duties upon a street or highway, provided the highway maintenance vehicle is equipped with flashing lights and such other markings as are required by law, and such lights are in operation when the driver and vehicle are so engaged, shall be exempt from criminal prosecution for violations of ORC 331.01 to 331.04, 331.06 to 331.08, 331.31, 333.04, 337.01 and ORC 4511.66 and 5577.01 to 5577.09.
- (c) (1) This section does not exempt a driver of a highway maintenance vehicle from civil liability arising from a violation of Sections 331.01 to 331.04, 331.06 to 331.08, 331.31, 333.04, 337.01 or ORC 4511.66 or 5577.01 to 5577.09.  
(2) This section does not exempt the driver of a vehicle who is not a state employee and who that is engaged in the transport of highway maintenance equipment from criminal liability for a violation of ORC 5577.01 to 5577.09.
- (d) As used in this section, "engaged in the performance of official duties" includes driving a highway maintenance vehicle to and from the manufacturer or vehicle maintenance provider and transporting a highway maintenance vehicle, equipment, or materials to and from a work location. ~~"highway maintenance vehicle" means a vehicle used in snow and ice removal or road surface maintenance, including a snow plow, traffic line striping, road sweeper, mowing machine, asphalt distributing vehicle, or other such vehicle designed for use in specific highway maintenance activities.~~

**State Law reference— ORC 4511.04****303.081 IMPOUNDING VEHICLES ON PRIVATE PROPERTY; PRIVATE TOW-AWAY ZONES; RELEASE OF VEHICLES.**

- (a) If an owner of private property posts on the property in a conspicuous manner a prohibition against parking on the property or conditions and regulations under which parking is permitted, no person shall do either of the following:
  - (1) Park a vehicle on the property without the owner's consent;
  - (2) Park a vehicle on the property in violation of any condition or regulation posted by the owner.
- (b) Whoever violates division (a) of this section is guilty of a minor misdemeanor.
- (c) ~~(1) The owner of private property may establish a private tow-away zone only if all of the following conditions are satisfied:~~
  - ~~A. The owner posts on the owner's property a sign that is at least eighteen (18) inches by twenty-four (24) inches in size, that is visible from all entrances to the property, and that contains at least all of the following information:~~
    - ~~1. A notice that the property is a private tow away zone and that vehicles not authorized to park on the property will be towed away;~~

2. The telephone number of the person from whom a towed-away vehicle can be recovered and the address of the place to which the vehicle will be taken and the place from which it may be recovered;
3. A statement that the vehicle may be recovered at any time during the day or night upon the submission of proof of ownership and the payment of a towing charge, in an amount not to exceed ninety dollars (\$90.00), and a storage charge, in an amount not to exceed twelve dollars (\$12.00) per 24-hour period; except that the charge for towing shall not exceed one hundred fifty dollars (\$150.00), and the storage charge shall not exceed twenty dollars (\$20.00) per 24-hour period, if the vehicle has a manufacturer's gross vehicle weight rating in excess of ten thousand (10,000) pounds and is a truck, bus or a combination of a commercial tractor and trailer or semitrailer.
- B. The place to which the towed vehicle is taken and from which it may be recovered is conveniently located, is well lighted and is on or within a reasonable distance of a regularly scheduled route of one or more modes of public transportation, if any public transportation is available in the municipality in which the private tow-away zone is located.
- (2) If a vehicle is parked on private property that is established as a private tow-away zone in accordance with division (c)(1) without the consent of the owner of the property or in violation of any posted parking condition or regulation, the owner or the owner's agent may remove, or cause the removal of, the vehicle, the owner and the operator of the vehicle shall be deemed to have consented to the removal and storage of the vehicle and to the payment of the towing and storage charges specified in division (c)(1)A.3. of this section, and the owner, subject to division (d) of this section, may recover a vehicle that has been so removed only in accordance with division (f) of this section.
- (3) If the municipality requires tow trucks and tow truck operators to be licensed, no owner of private property located within the municipality shall remove or shall cause the removal and storage of any vehicle pursuant to division (c)(2) of this section by an unlicensed tow truck or unlicensed tow truck operator.
- (4) Divisions (c)(1) through (c)(3) of this section do not affect or limit the operation of ORC 4513.60 through 4513.65 as they relate to property other than private property that is established as a private tow-away zone under division (c)(1) of this section.
- (d) If the owner or operator of a vehicle that has been ordered into storage pursuant to division ORC 4513.60(A) or of a vehicle that is being removed under authority of division (c)(2) of this section arrives after the vehicle has been prepared for removal but prior to its actual removal from the property, the towing service shall give the owner or operator shall be given the opportunity to oral or written notification at the time of such arrival that the vehicle owner or operator may pay a fee of not more than one-half of the charge fee for the removal of the motor vehicles established by the public utilities commission in rules adopted under ORC 4921.25 4513.60(A) or of vehicles under division (c)(2) of this section, whichever is applicable, that normally is assessed by the person who has prepared the vehicle for removal, in order to obtain release of the motor vehicle. However, if the vehicle is within a municipal corporation and the municipal corporation has established a vehicle removal fee, the towing service shall give the owner or operator oral or written notification that the owner or operator may pay not more than one-half of that fee to obtain release of the motor vehicle. That fee may be paid by use of a major credit card unless the towing service uses a mobile credit card processor and mobile service is not available at the time of the transaction.
- Upon payment of that the applicable fee, the towing service shall give the vehicle owner or operator a receipt showing both the full amount normally assessed and the actual amount received and shall release the motor vehicle shall be released to the owner or operator, and upon . Upon its release, the owner or operator immediately shall move it so that:

- ~~(1) If the motor vehicle was ordered into storage pursuant to ORC 4513.60(A), it is not on the private residential or private agricultural property without the permission of the person having the right to possession of the property, or is not at the garage or place of storage without the permission of the owner, whichever is applicable;~~
- ~~(2) If the vehicle was being removed under authority of division (c)(2) of this section, it is not parked on the private property established as a private tow-away zone without the consent of the owner or in violation of any posted parking condition or regulation.~~
- (e) (2) The Police Chief shall maintain a record of vehicles that the Police Chief orders into storage pursuant to ORC 4513.60(A) ~~and of vehicles removed from private property in the Police Chief's jurisdiction that is established as a private tow-away zone of which the Police Chief has received notice under division (e)(1) of this section.~~ The record shall include an entry for each such vehicle that identifies the vehicle's license number, make, model and color, the location from which it was removed, the date and time of its removal, the telephone number of the person from whom it may be recovered, and the address of the place to which it has been taken and from which it may be recovered. The Police Chief shall provide Any information in the record that pertains to a particular vehicle shall be provided to any person who, either in person or pursuant to a telephone call, identifies self as the owner or operator of the vehicle and requests information pertaining to its location.
- (3) Any person who registers a complaint that is the basis of the Police Chief's order for the removal and storage of a vehicle under ORC 4513.60(A) shall provide the identity of the law enforcement agency with which the complaint was registered to any person who identifies self as the owner or operator of the motor vehicle and requests information pertaining to its location.
- (f) The owner or lienholder of a vehicle that is ordered into storage pursuant to ORC 4513.60(A) ~~or of a vehicle that is removed under authority of division (c)(2) of this section may reclaim it upon payment of any expenses or charges incurred in its removal, in an amount not to exceed ninety dollars (\$90.00), and storage, in an amount not to exceed twelve dollars (\$12.00) per 24-hour period; except that the charge for towing shall not exceed one hundred fifty dollars (\$150.00), and the storage charge shall not exceed twenty dollars (\$20.00) per 24-hour period, if the vehicle has a manufacturer's gross vehicle weight rating in excess of ten thousand (10,000) pounds and is a truck, bus or a combination of a commercial tractor and trailer or semitrailer. Both of the following:~~
- (a) Payment of all applicable fees established by the public utilities commission in rules adopted under section 4921.25 of the Revised Code or, if the vehicle was towed within a municipal corporation that has established fees for vehicle removal and storage, payment of all applicable fees established by the municipal corporation.
- (b) Presentation of proof of ownership, which may be evidenced by a certificate of title to the vehicle also shall be required for reclamation of the vehicle, a certificate of registration for the motor vehicle, or a lease agreement.
- When the owner of a vehicle towed under this section retrieves the vehicle, the towing service or storage facility in possession of the vehicle shall give the owner written notice that if the owner disputes that the motor vehicle was lawfully towed, the owner may be able to file a civil action under section 4513.611 of the Revised Code.
- (2) Upon presentation of proof of ownership as required under division (d)(1)(b) of ORC 4513.60, the owner of a motor vehicle that is ordered into storage under division (A)(1) of this section may retrieve any personal items from the motor vehicle without retrieving the vehicle and without paying any fee. However, a towing service or storage facility may charge an after-hours retrieval fee established by the public utilities commission in rules adopted under section 4921.25 of the Revised Code if the owner retrieves the personal items after hours, unless the towing service or storage facility fails to provide

the notice required under division (B)(3) of section 4513.69 of the Revised Code, if applicable. The owner of a motor vehicle shall not do either of the following:

- (a) Retrieve any personal item that has been determined by the sheriff or chief of police, as applicable, to be necessary to a criminal investigation;
- (b) Retrieve any personal item from a vehicle if it would endanger the safety of the owner, unless the owner agrees to sign a waiver of liability.

For purposes of division (D)(2) of this section, "personal items" do not include any items that are attached to the motor vehicle.

- (3) If a vehicle that is ordered into storage pursuant to ORC 4513.60(A) remains unclaimed by the owner for thirty (30) days, the procedures established by ORC 4513.61 and 4513.62 shall apply.
- (g) (1) No person shall remove, or cause the removal of, any vehicle from private property that is established as a private tow-away zone under division (c)(1) of this section other than in accordance with division (c)(2) of this section, and no person shall remove, or cause the removal of, any motor vehicle from any other private residential or private agricultural property other than in accordance with ORC 4513.60 through 4513.65.
- (2) No towing service or storage facility shall fail to comply with the requirements of this section.
- (h) This section does not apply to any private residential or private agricultural property that is established as a private tow-away zone in accordance with section 4513.601 of the Revised Code.
- (h) i) Whoever violates division (c)(3) or (g) of this section is guilty of a minor misdemeanor.

**State Law reference—** ORC 4511.681; ORC 4513.60

**303.98 Enhanced penalty for committing moving violation while distracted if distraction is contributing factor to commission of violation.**

(a) As used in this section and each section referenced in division (b) of this section, all of the following apply:

(1) "Distracted" means doing either of the following while operating a vehicle:

- a. Using a handheld electronic wireless communications device, as defined in Ohio R.C. 4511.204, except when utilizing any of the following:
  - i. The device's speakerphone function;
  - ii. A wireless technology standard for exchanging data over short distances;
  - iii. A "voice-operated or hands-free" device that allows the person to use the electronic wireless communications device without the use of either hand except to activate, deactivate, or initiate a feature or function;

iv. Any device that is physically or electronically integrated into the motor vehicle.

b. Engaging in any activity that is not necessary to the operation of a vehicle and impairs, or reasonably would be expected to impair, the ability of the operator to drive the vehicle safely.

(2) "Distracted" does not include operating a motor vehicle while wearing an earphone or earplug over or in both ears at the same time. A person who so wears earphones or earplugs may be charged with a violation of Ohio R.C. 4511.84.

(3) "Distracted" does not include conducting any activity while operating a utility service vehicle or a vehicle for or on behalf of a utility, provided that the driver of the vehicle is acting in response to an emergency, power outage, or a circumstance affecting the health or safety of individuals.

As used in division (a)(3) of this section:

(1) "Utility" means an entity specified in division (A), (C), (D), (E), or (G) of Ohio R.C. 4905.03.



(2) “Utility service vehicle” means a vehicle owned or operated by a utility.

(b) If an offender violates Ohio R.C. 4511.03, 4511.051, 4511.12, 4511.121, 4511.132, 4511.21, 4511.211, 4511.213, 4511.22, 4511.23, 4511.25, 4511.26, 4511.27, 4511.28, 4511.29, 4511.30, 4511.31, 4511.32, 4511.33, 4511.34, 4511.35, 4511.36, 4511.37, 4511.38, 4511.39, 4511.40, 4511.41, 4511.42, 4511.43, 4511.431, 4511.44, 4511.441, 4511.451, 4511.46, 4511.47, 4511.54, 4511.55, 4511.57, 4511.58, 4511.59, 4511.60, 4511.61, 4511.64, 4511.71, 4511.711, 4511.712, 4511.713, 4511.72, or 4511.73 or a substantially equivalent municipal ordinance while distracted and the distracting activity is a contributing factor to the commission of the violation, the offender is subject to the applicable penalty for the violation and, notwithstanding Ohio R.C. 2929.28, is subject to an additional fine of not more than one hundred dollars as follows:

(1) Subject to Traffic Rule 13, if a law enforcement officer issues an offender a ticket, citation, or summons for a violation of any of the aforementioned sections of the Revised Code that indicates that the offender was distracted while committing the violation and that the distracting activity was a contributing factor to the commission of the violation, the offender may enter a written plea of guilty and waive the offender's right to contest the ticket, citation, or summons in a trial provided that the offender pays the total amount of the fine established for the violation and pays the additional fine of one hundred dollars. In lieu of payment of the additional fine of one hundred dollars, the offender instead may elect to attend a distracted driving safety course, the duration and contents of which shall be established by the director of public safety. 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 be required to pay the total amount of the fine established for the violation, but shall not be required to pay the additional fine of one hundred dollars, so long as the offender submits to the court both the offender's payment in full and such written evidence.

(2) If the offender appears in person to contest the ticket, citation, or summons in a trial and the offender pleads guilty to or is convicted of the violation, the court, in addition to all other penalties provided by law, may impose the applicable penalty for the violation and may impose the additional fine of not more than one hundred dollars.

If the court imposes upon the offender the applicable penalty for the violation and an additional fine of not more than one hundred dollars, the court shall inform the offender that, in lieu of payment of the additional fine of not more than one hundred dollars, the offender instead may elect to attend the distracted driving safety course described in division (B)(1) of this section. If the offender elects the course option and attends and successfully completes the course, the offender shall be issued written evidence that the offender successfully completed the course. The offender shall be required to pay the total amount of the fine established for the violation, but shall not be required to pay the additional fine of not more than one hundred dollars, so long as the offender submits to the court the offender's payment and such written evidence. (ORC 4511.991)

### **313.01 OBEDIENCE TO TRAFFIC CONTROL DEVICES.**

(a) (1) No pedestrian or driver of a vehicle shall disobey the instructions of any traffic control device placed in accordance with the provisions of this Traffic Code, unless at the time otherwise directed by a police officer.

(2) No provisions of this Traffic Code for which signs are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section of this Traffic Code does not state that signs are required, that section shall be effective even though no signs are erected or in place.

(b) (1) Except as provided in division (c) of this section, any operator of a commercial motor vehicle, upon approaching a scale location established for the purpose of determining the weight of the vehicle

and its load, shall comply with any traffic control device or the order of a peace officer directing the vehicle to proceed to be weighed or otherwise inspected.

- (2) Any operator of a commercial motor vehicle, upon bypassing a scale location in accordance with division (c) of this section, shall comply with an order of a peace officer to stop the vehicle to verify the use and operation of an electronic clearance device.
- (c) Any operator of a commercial motor vehicle that is equipped with an electronic clearance device authorized by the Superintendent of the State Highway Patrol under ORC 4549.081 may bypass a scale location, regardless of the instruction of a traffic control device to enter the scale facility, if either of the following apply:
- (1) The in-cab transponder displays a green light or other affirmative visual signal and also sounds an affirmative audible signal;
- (2) Any other criterion established by the Superintendent of the State Highway Patrol is met.
- (d) Any peace officer may order the operator of a commercial motor vehicle that bypasses a scale location to stop the vehicle to verify the use and operation of an electronic clearance device.
- (e) As used in this section, "commercial motor vehicle" means any combination of vehicles with a gross vehicle weight rating or an actual gross vehicle weight of more than ten thousand (10,000) pounds if the vehicle is used in interstate or intrastate commerce to transport property and also means any vehicle that is transporting hazardous materials for which placarding is required pursuant to 49 C.F.R. Parts 100 to 180.
- (f) No person shall use an electronic clearance device if the device or its use is not in compliance with rules of the Superintendent of the State Highway Patrol.
- (g) (1) Except as otherwise provided in this division, whoever violates division (a) of 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 division (a) of 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 (2) or more predicate motor vehicle or traffic offenses, whoever violates division (a) of this section is guilty of a misdemeanor of the third degree.
- (2) Whoever violates division (b) of 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 a violation of division (b) of this section or any substantially equivalent state law or municipal ordinance, whoever violates division (b) of 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 or pleaded guilty to two (2) or more violations of division (b) of this section or any substantially equivalent state law or municipal ordinance, whoever violates division (b) of this section is guilty of a misdemeanor of the third degree.
- If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.98.
- (3) Whoever violates division (f) of this section is guilty of a misdemeanor of the fourth degree on a first offense and a misdemeanor of the third degree on each subsequent offense.

**State Law reference—** ORC 4511.121(A)-(C), (E); ORC 4511.12(A); ORC 4549.081(B); ORC 4511.12(B); ORC 4511.121(D); ORC 4549.081(C)

**313.09 DRIVER'S DUTIES UPON APPROACHING AMBIGUOUS OR NON-WORKING TRAFFIC SIGNAL.**

- (a) The driver of a vehicle who approaches an intersection where traffic is controlled by traffic control signals shall do all of the following, if the signal facing the driver either exhibits no colored lights or colored lighted arrows or exhibits a combination of such lights or arrows that fails to clearly indicate the assignment of right-of-way:
- (1) Stop at a clearly marked stop line, but if none, stop before entering the crosswalk on the near side of the intersection, or, if none, stop before entering the intersection;
  - (2) Yield the right-of-way to all vehicles in the intersection or approaching on an intersecting road, if the vehicles will constitute an immediate hazard during the time the driver is moving across or within the intersection or junction of roadways.
  - (3) Exercise ordinary care while proceeding through the intersection.
- (b) 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 (2) or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.98.

State Law reference— ORC 4511.132

**331.03 OVERTAKING, PASSING TO LEFT; DRIVER'S DUTIES.**

- (a) The following rules govern the overtaking and passing of vehicles proceeding in the same direction:
- (1) The operator of a vehicle overtaking another vehicle proceeding in the same direction shall, except as provided in subsection (a)(3) hereof, signal to the vehicle to be overtaken, shall pass to the left thereof at a safe distance, and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle. When a motor vehicle or trackless trolley overtakes and passes a bicycle or electric bicycle, three feet or greater is considered a safe passing distance.
  - (2) Except when overtaking and passing on the right is permitted, the operator of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle at the latter's audible signal, and the operator shall not increase the speed of the operator's vehicle until completely passed by the overtaking vehicle.
  - (3) The operator of a vehicle overtaking and passing another vehicle proceeding in the same direction on a divided street or highway as defined in Section 331.31, a limited access highway as defined in ORC 5511.02 or a highway with four (4) or more traffic lanes, is not required to signal audibly to the vehicle being overtaken and passed.
- (b) 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 (2) or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.98.

**State Law reference—** ORC 4511.27

### **331.21 RIGHT-OF-WAY OF PUBLIC SAFETY OR CORONER'S VEHICLE.**

- (a) Upon the approach of a public safety vehicle or coroner's vehicle, equipped with at least one flashing, rotating or oscillating light visible under normal atmospheric conditions from a distance of five hundred (500) feet to the front of the vehicle and the driver is giving an audible signal by siren, exhaust whistle or bell, no driver of any other vehicle shall fail to yield the right-of-way, immediately drive if practical to a position parallel to and as close as possible to, the right edge or curb of the street clear of any intersection, and stop and remain in that position until the public safety vehicle or coroner's vehicle has passed, except when otherwise directed by a police officer.
- (b) This section does not relieve the driver of a public safety vehicle or coroner's vehicle from the duty to drive with due regard for the safety of all persons and property upon the street.
- (c) This section applies to a coroner's vehicle only when the vehicle is operated in accordance with ORC 4513.171. As used in this section, "coroner's vehicle" means a vehicle used by a coroner, deputy coroner or coroner's investigator that is equipped with a flashing, oscillating or rotating red or blue light and a siren, exhaust whistle, or bell capable of giving an audible signal.
- (d) Except as otherwise provided in this subsection or in ORC 4511.454, whoever violates subsection (a) of this section is guilty of a misdemeanor of the fourth degree on a first offense. On a second offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree, and, on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the second degree.

**State Law reference—** ORC 4511.45

### **331.28 DRIVING OVER FIRE HOSE.**

- (a) No vehicle shall, without the consent of the Fire Chief or fire official in command, be driven over any unprotected fire hose that is laid down on any street or private driveway to be used at any fire or alarm of fire.
- (b) 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 (2) or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.98.

**State Law reference—** ORC 4511.73

### **331.40 STOPPING AT GRADE CROSSING.**

- (a) (1) Except as provided in subsection (a)(2) hereof, the operator of any bus, any school vehicle, or any vehicle transporting material required to be placarded under 49 CFR Parts 100-185, before crossing at grade any track of a railroad, shall stop the vehicle, and, while so stopped, shall listen through an open door or open window and look in both directions along the track for any approaching train, and for signals indicating the approach of a train, and shall proceed only upon exercising due care after stopping, looking and listening as required by this section. Upon proceeding, the operator of such a vehicle shall cross only in a gear that will ensure there will be no necessity for changing gears while traversing the crossing and shall not shift gears while crossing the tracks.
- (2) This section does not apply at grade crossings when the Ohio Public Utilities Commission has authorized and approved an exempt crossing as provided in this subsection.
- A. Any local authority may file an application with the Commission requesting the approval of an exempt crossing. Upon receipt of such a request, the Commission shall authorize a limited period for the filing of comments by any party regarding the application and then shall conduct a public hearing in the community seeking the exempt crossing designation. The Commission shall provide appropriate prior public notice of the comment period and the public hearing. By registered mail, the Commission shall notify each railroad operating over the crossing of the comment period.
- B. After considering any comments or other information received, the Commission may approve or reject the application. By order, the Commission may establish conditions for the exempt crossing designation, including compliance with division (b) of 49 C.F.R. Part 392.10, when applicable. An exempt crossing designation becomes effective only when appropriate signs giving notice of the exempt designation are erected at the crossing as ordered by the Commission and any other conditions ordered by the Commission are satisfied.
- C. By order, the Commission may rescind any exempt crossing designation made under this section if the Commission finds that a condition at the exempt crossing has changed to such an extent that the continuation of the exempt crossing designation compromises public safety. The Commission may conduct a public hearing to investigate and determine whether to rescind the exempt crossing designation. If the Commission rescinds the designation, it shall order the removal of any exempt crossing signs and may make any other necessary order.
- (3) As used in this section:
- A. "School vehicle" means any vehicle used for the transportation of pupils to and from a school or school-related function if the vehicle is owned or operated by, or operated under contract with, a public or nonpublic school.
- B. "Bus" means any vehicle originally designed by its manufacturer to transport sixteen (16) or more passengers, including the driver, or carries sixteen (16) or more passengers, including the driver.

C. "Exempt crossing" means a highway rail grade crossing authorized and approved by the Public Utilities Commission under subsection (a)(2) hereof at which vehicles may cross without making the stop otherwise required by this section.

- (4) Except as otherwise provided in this subsection (a)(4), whoever violates subsection (a) hereof is guilty of a minor misdemeanor. If the offender previously has been convicted of or pleaded guilty to one or more violations of subsection (a) hereof or ORC 4511.76, 4511.761, 4511.762, 4511.764, 4511.77 or 4511.79, or a municipal ordinance that is substantially similar to any of those sections, whoever violates subsection (a) hereof is guilty of a misdemeanor of the fourth degree.
- (b) (1) When authorized stop signs are erected at railroad grade crossings, the operator of any vehicle shall stop within fifty (50) but not less than fifteen (15) feet from the nearest rail of the railroad tracks and shall exercise due care before proceeding across such grade crossing.
- (2) Except as otherwise provided in this subsection, whoever violates this subsection (b)(1) hereof is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two (2) or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.98.

**State Law reference—** ORC 4511.61; ORC 4511.63

### **333.01 DRIVING OR PHYSICAL CONTROL OF VEHICLE WHILE UNDER THE INFLUENCE OF ALCOHOL OR DRUGS.**

#### **(a) Driving Under the Influence.**

- (1) 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 0.08% or more but less than 0.17% by weight per unit volume of alcohol in the person's whole blood.
  - C. The person has a concentration of 0.096% or more but less than 0.204% by weight per unit volume of alcohol in the person's blood serum or plasma.
  - D. The person has a concentration of 0.08 grams or more but less than 0.17 grams by weight of alcohol per two hundred ten (210) liters of the person's breath.
  - E. The person has a concentration of 0.11 grams or more but less than 0.238 grams by weight of alcohol per one hundred (100) milliliters of the person's urine.
  - F. The person has a concentration of 0.17% or more by weight per unit volume of alcohol in the person's whole blood.
  - G. The person has a concentration of 0.204% or more by weight per unit volume of alcohol in the person's blood serum or plasma.

- H. The person has a concentration of 0.17 grams or more by weight of alcohol per two hundred ten (210) liters of the person's breath.
- I. The person has a concentration of 0.238 grams or more by weight of alcohol per one hundred (100) milliliters of the person's urine.
- J. Except as provided in division (k) of this section, the person has a concentration of any of the following controlled substances or metabolites of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds any of the following:
1. The person has a concentration of amphetamine in the person's urine of at least five hundred (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 one hundred (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 one hundred fifty (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 fifty (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 one hundred fifty (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 fifty (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 two thousand (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 fifty (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 (10) 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 (10) 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 twenty-five (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 (10) 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 (10) 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 (2) 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, ~~as measured by gas chromatography mass spectrometry,~~ the person has a concentration of marihuana metabolite in the person's urine of at least fifteen

- (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 (5) nanograms of marihuana metabolite per milliliter of the person's whole blood or blood serum or plasma.
- b. ~~As measured by gas chromatography mass spectrometry,~~ the person has a concentration of marihuana metabolite in the person's urine of at least thirty-five (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 fifty (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 five hundred (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 one hundred (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 twenty-five (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 (10) 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 ORC 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, streetcar, or trackless trolley within this state, 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 twenty (20) years of the conduct described in division (a)(2)A. of this section, previously has been convicted of or pleaded guilty to a violation of this division or a substantially equivalent state law or municipal ordinance, a violation of division (a)(1) or (b) of this section or a substantially equivalent state law or municipal ordinance, 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 division (a)(2)A. of this section, being asked by a law enforcement officer to submit to a chemical test or tests under ORC 4511.191 or any substantially equivalent municipal ordinance, and being advised by the officer in accordance with ORC 4511.192 or any substantially equivalent municipal ordinance of the consequences of the person's refusal or submission to the test or tests, refuse to submit to the test or tests.
- (b) Underage Alcohol Consumption . No person under twenty-one (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 0.02% but less than 0.08% by weight per unit volume of alcohol in the person's whole blood;



- (2) The person has a concentration of at least 0.03% but less than 0.096% by weight per unit volume of alcohol in the person's blood serum or plasma;
  - (3) The person has a concentration of at least 0.02 grams but less than 0.08 grams by weight of alcohol per two hundred ten (210) liters of the person's breath;
  - (4) The person has a concentration of at least 0.028 grams but less than 0.11 grams by weight of alcohol per one hundred (100) milliliters of the person's urine.
- (c) Prosecution; Limitation on Convictions . In any proceeding arising out of one incident, a person may be charged with a violation of division (a)(1)A. or (a)(2) and a violation of division (b)(1), (2), or (3) of this section, but the person may not be convicted of more than one violation of these divisions.
- (d) Evidence; Tests .
- (1) A. In any criminal prosecution or juvenile court proceeding for a violation of division (a)(1)A. of this section or for an equivalent offense that is vehicle-related, the result of any test of any blood or urine withdrawn and analyzed at any health care provider, as defined in ORC 2317.02, may be admitted with expert testimony to be considered with any other relevant and competent evidence in determining the guilt or innocence of the defendant.
  - B. In any criminal prosecution for a violation of division (a) or (b) of this section or for an equivalent offense that is vehicle-related, the court may admit evidence on the 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 (3) hours of the time of the alleged violation. The three-hour time limit specified in this division regarding the admission of evidence does not extend or affect the two-hour time limit specified in ORC 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 division when a person submits to a blood test at the request of a law enforcement officer under ORC 4511.191 or a substantially equivalent municipal ordinance, or a blood or urine sample is obtained pursuant to a search warrant. Only a physician, a registered nurse, an emergency medical technician-intermediate, an emergency medical technician-paramedic, or a qualified technician, chemist, or phlebotomist shall withdraw a blood sample for the purpose of determining the alcohol, drug, controlled substance, metabolite of a controlled substance, or combination content of the whole blood, blood serum, or blood plasma. This limitation does not apply to the taking of breath or urine specimens. A person authorized to withdraw blood under this division may refuse to withdraw blood under this division, if in that person's opinion, the physical welfare of the person would be endangered by the withdrawing of blood. The bodily substance withdrawn under this division (d)(1)B. shall be analyzed in accordance with methods approved by the Director of Health by an individual possessing a valid permit issued by the Director pursuant to ORC 3701.143.
  - C. As used in division (d)(1)B. of this section, "Emergency medical technician-intermediate" and "Emergency medical technician-paramedic" have the same meanings as in ORC 4765.01.
- (2) In a criminal prosecution for a violation of division (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 divisions (a)(1)B., (a)(1)C., (a)(1)D. and (a)(1)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 division (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 division does not limit or affect a criminal prosecution for a violation of division (b) of this section.

- (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 division (d)(1)B. of this section, 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 ORC 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 ORC 4511.191(A)(5), the form to be read to the person to be tested, as required under division (g) of this section, 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 division (d)(4)B. and C. of this section, "National Highway Traffic Safety Administration" means the National Highway Traffic Safety Administration established as an administration of the United States Department of Transportation under 96 Stat. 2415 (1983), 49 U.S.C. 105.
- B. In any criminal prosecution or juvenile court proceeding for a violation of division (a) or (b) of this section, of a municipal ordinance relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, or of a municipal ordinance relating to operating a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the blood, whole blood, blood serum or plasma, breath, or urine, if a law enforcement officer has administered a field sobriety test to the operator of the vehicle involved in the violation and if it is shown by clear and convincing evidence that the officer administered the test in substantial compliance with the testing standards for any reliable, credible, and generally accepted field sobriety tests that were in effect at the time the tests were administered, including, but not limited to, any testing standards then in effect that were set by the National Highway Traffic Safety Administration, all of the following apply:
1. The officer may testify concerning the results of the field sobriety test so administered.
  2. The prosecution may introduce the results of the field sobriety test so administered as evidence in any proceedings in the criminal prosecution or juvenile court proceeding.
  3. If testimony is presented or evidence is introduced under division (d)(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. Division (d)(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 division, from considering evidence or testimony that is not otherwise disallowed by division (d)(4)B. of this section.

(e) Laboratory report.

- (1) Subject to division (e)(3) of this section, in any criminal prosecution or juvenile court proceeding for a violation of division (a)(1)B., (a)(1)C., (a)(1)D., (a)(1)E., (a)(1)F., (a)(1)G., (a)(1)H., (a)(1)I. or (a)(1)J. or (b)(1), (b)(2), (b)(3), or (b)(4) of this section or for an equivalent offense that is substantially equivalent to any of those divisions, a laboratory report from any laboratory personnel issued a permit by the Department of Health authorizing an analysis as described in this division 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 division 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 division (e)(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 division (e)(1) of this section shall not be prima facie evidence of the contents, identity, or amount of any substance if, within seven (7) 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.

(f) Limitation of liability.

- (1) Except as otherwise provided in this division, 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 ORC 4511.19, 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 ORC 4511.19, 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 division 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 division is not available to a person who withdraws blood if the person engages in willful or wanton misconduct.
- (2) As used in division (f)(1), "Emergency medical technician-intermediate" and "Emergency medical technician-paramedic" have the same meanings as in ORC 4765.01.

(g) Implied Consent.

(1) Definitions. As used in this section:

A. "Alcohol monitoring device" means any device that provides for continuous alcohol monitoring, any ignition interlock device, any immobilizing or disabling device other than an ignition interlock device that is constantly available to monitor the concentration of alcohol in a person's system, or any other device that provides for the automatic testing and periodic reporting of alcohol consumption by a person and that a court orders a person to use as a sanction imposed as a result of the person's conviction of or plea of guilty to an offense.

B. "Physical control" has the same meaning as in ORC 4511.194.

(2) Implied consent to chemical tests. Any person who operates a vehicle upon a highway or any public or private property used by the public for vehicular travel or parking within this Municipality or who is in physical control of a vehicle shall be deemed to have given consent to a chemical test or tests of the person's whole blood, blood serum or plasma, breath, or urine to determine the alcohol, drug of abuse, controlled substance, metabolite of a controlled substance, or combination content of the person's whole blood, blood serum or plasma, breath, or urine if arrested for a violation of division (a), (b) or (c) of this section, ORC 4511.19(A) or (B), ORC 4511.194 or a substantially equivalent municipal ordinance, or any other municipal O.V.I. ordinance.

(3) The chemical test or tests under division (g)(2) of this section shall be administered at the request of a law enforcement officer having reasonable grounds to believe the person was operating or in physical control of a vehicle in violation of a division, section, or ordinance identified in division (g)(2) of this section. The law enforcement agency by which the officer is employed shall designate which of the tests shall be administered.

(4) Effect of death or unconsciousness. Any person who is dead or unconscious, or who otherwise is in a condition rendering the person incapable of refusal, shall be deemed to have consented as provided in division (g)(2) of this section and the test or tests may be administered, subject to ORC 313.12 to 313.16.

(5) A. If a law enforcement officer arrests a person for a violation of ORC 4511.19(A) or (B), 4511.194 or a substantially equivalent municipal ordinance, or a municipal OVI ordinance and if the person if convicted would be required to be sentenced under ORC 4511.19(G)(1)(c), (d), or (e), the law enforcement officer shall request the person to submit, and the person shall submit, to a chemical test or tests of the person's whole blood, blood serum or plasma, breath, or urine for the purpose of determining the alcohol, drug of abuse, controlled substance, metabolite of a controlled substance, or combination content of the person's whole blood, blood serum or plasma, breath, or urine. A law enforcement officer who makes a request pursuant to this division that a person submit to a chemical test or tests is not required to advise the person of the consequences of submitting to, or refusing to submit to, the test or tests and is not required to give the person the form described in division (g)(7) of this section, but the officer shall advise the person at the time of the arrest that if the person refuses to take a chemical test the officer may employ whatever reasonable means are necessary to ensure that the person submits to a chemical test of the person's whole blood or blood serum or plasma. The officer shall also 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. Divisions (g)(3) and (g)(4) of this section apply to the administration of a chemical test or tests pursuant to this division.

B. If a person refuses to submit to a chemical test upon a request made pursuant to division (g)(5)A. of this section, the law enforcement officer who made the request may employ

whatever reasonable means are necessary to ensure that the person submits to a chemical test of the person's whole blood or blood serum or plasma. A law enforcement officer who acts pursuant to this division to ensure that a person submits to a chemical test of the person's whole blood or blood serum or plasma is immune from criminal and civil liability based upon a claim for assault and battery or any other claim for the acts, unless the officer so acted with malicious purpose, in bad faith, or in a wanton or reckless manner.

(6) Advice required. Except as provided in division (g)(5) of this section, the arresting law enforcement officer shall give advice in accordance with this division to any person under arrest for a violation of division (a), (b) or (c) of this section, ORC 4511.19(A) or (B), 4511.194 or a substantially equivalent municipal ordinance, or any other municipal O.V.I. ordinance. The officer shall give that advice in a written form that contains the information described in division (g)(7) of this section and shall read the advice to the person. The form shall contain a statement that the form was shown to the person under arrest and read to the person by the arresting officer. One or more persons shall witness the arresting officer's reading of the form, and the witnesses shall certify to this fact by signing the form. The person must submit to the chemical test or tests, subsequent to the request of the arresting officer, within two (2) hours of the time of the alleged violation and, if the person does not submit to the test or tests within that two-hour time limit, the failure to submit automatically constitutes a refusal to submit to the test or tests.

(7) Certification of arrest. Except as provided in division (g)(5) of this section, if a person is under arrest as described in division (g)(6) of this section, before the person may be requested to submit to a chemical test or tests to determine the alcohol, drug of abuse, controlled substance, metabolite of a controlled substance, or combination content of the person's whole blood, blood serum or plasma, breath, or urine, the arresting officer shall read the following form to the person:

"You now are under arrest for (specifically state the offense under state law or a substantially equivalent municipal ordinance for which the person was arrested - operating a vehicle under the influence of alcohol, a drug, or a combination of them; operating a vehicle while under the influence of a listed controlled substance or a listed metabolite of a controlled substance; operating a vehicle after underage alcohol consumption; or having physical control of a vehicle while under the influence).

"If you refuse to take any chemical test required by law, your Ohio driving privileges will be suspended immediately, and you will have to pay a fee to have the privileges reinstated. If you have a prior conviction of O.V.I., O.V.U.A.C., or operating a vehicle while under the influence of a listed controlled substance or a listed metabolite of a controlled substance under State or municipal law within the preceding twenty (20) years, you are now under arrest for State O.V.I., and, if you refuse to take a chemical test, you will face increased penalties if you subsequently are convicted of the State O.V.I. (Read this part unless the person is under arrest for solely having physical control of a vehicle while under the influence.) If you take any chemical test required by law and are found to be at or over the prohibited amount of alcohol, a controlled substance, or a metabolite of a controlled substance in your whole blood, blood serum or plasma, breath, or urine as set by law, your Ohio driving privileges will be suspended immediately, and you will have to pay a fee to have the privileges reinstated.

"If you take a chemical test, you may have an independent chemical test taken at your own expense."

(8) Actions required by arresting officer. If the arresting law enforcement officer does not ask a person under arrest as described in division (g)(5) or (g)(6) of this section to submit to a chemical test or tests under ORC 4511.191 or this section, the arresting officer shall seize the Ohio or out-of-state driver's or commercial driver's license or permit of the person and immediately forward it to the

court in which the arrested person is to appear on the charge. If the arrested person is not in possession of the person's license or permit or it is not in the person's vehicle, the officer shall order the person to surrender it to the law enforcement agency that employs the officer within twenty-four (24) hours after the arrest, and, upon the surrender, the agency immediately shall forward the license or permit to the court in which the person is to appear on the charge. Upon receipt of the license or permit, the court shall retain it pending the arrested person's initial appearance and any action taken under ORC 4511.196.

- (9) A. If a law enforcement officer asks a person under arrest as described in division (g)(5) of this section to submit to a chemical test or tests under that division and the test results indicate a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the person's whole blood, blood serum or plasma, breath, or urine at the time of the alleged offense, or if a law enforcement officer asks a person under arrest as described in division (g)(6) of this section to submit to a chemical test or tests under ORC 4511.191 or this section, if the officer advises the person in accordance with this section of the consequences of the person's refusal or submission, and if either the person refuses to submit to the test or tests or, unless the arrest was for a violation of division (o) of this section, ORC 4511.194 or a substantially equivalent municipal ordinance, the person submits to the test or tests and the test results indicate a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the person's whole blood, blood serum or plasma, breath, or urine at the time of the alleged offense, the arresting officer shall do all of the following:
1. On behalf of the Registrar of Motor Vehicles, notify the person that, independent of any penalties or sanctions imposed upon the person, the person's Ohio driver's or commercial driver's license or permit or nonresident operating privilege is suspended immediately, that the suspension will last at least until the person's initial appearance on the charge, which will be held within five (5) days after the date of the person's arrest or the issuance of a citation to the person, and that the person may appeal the suspension at the initial appearance or during the period of time ending thirty (30) days after that initial appearance;
  2. Seize the driver's or commercial driver's license or permit of the person and immediately forward it to the Registrar. If the arrested person is not in possession of the person's license or permit or it is not in the person's vehicle, the officer shall order the person to surrender it to the law enforcement agency that employs the officer within twenty-four (24) hours after the person is given notice of the suspension, and, upon the surrender, the officer's employing agency immediately shall forward the license or permit to the Registrar;
  3. Verify the person's current residence and, if it differs from that on the person's driver's or commercial driver's license or permit, notify the Registrar of the change;
  4. Send to the Registrar, within forty-eight (48) hours after the arrest of the person, a sworn report that includes all of the following statements:
    - a. That the officer had reasonable grounds to believe that, at the time of the arrest, the arrested person was operating a vehicle in violation of ORC 4511.19(A) or (B) or a municipal O.V.I. ordinance or for being in physical control of a stationary vehicle in violation of ORC 4511.194 or a substantially equivalent municipal ordinance;
    - b. That the person was arrested and charged with a violation of ORC 4511.19(A) or (B), 4511.194 or a substantially equivalent municipal ordinance, or a municipal O.V.I. ordinance;

- c. Unless division (g)(9)A.4.e. of this section applies, that the officer asked the person to take the designated chemical test or tests, advised the person in accordance with this section of the consequences of submitting to, or refusing to take, the test or tests, and gave the person the form described in division (g)(7) of this section;
    - d. Unless division (g)(9)A.4.e. of this section applies, that either the person refused to submit to the chemical test or tests or, unless the arrest was for a violation of ORC 4511.194 or a substantially equivalent municipal ordinance, the person submitted to the chemical test or tests and the test results indicate a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the person's whole blood, blood serum or plasma, breath, or urine at the time of the alleged offense;
    - e. If the person was under arrest as described in division (g)(5) of this section and the chemical test or tests were performed in accordance with that division, that the person was under arrest as described in that division, that the chemical test or tests were performed in accordance with that division, and that test results indicated a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the person's whole blood, blood serum or plasma, breath, or urine at the time of the alleged offense.
  - B. Division (g)(9)A. of this section does not apply to a person who is arrested for a violation of division (o) of this section, ORC 4511.194 or a substantially equivalent municipal ordinance, or any other substantially equivalent municipal ordinance, who is asked by a law enforcement officer to submit to a chemical test or tests under this section, and who submits to the test or tests, regardless of the amount of alcohol, a controlled substance, or a metabolite of a controlled substance that the test results indicate is present in the person's whole blood, blood serum or plasma, breath, or urine.
- (10) Sworn report of arresting officer.
- A. The arresting officer shall give the officer's sworn report that is completed under this section to the arrested person at the time of the arrest, or the Registrar of Motor Vehicles shall send the report to the person by regular first class mail as soon as possible after receipt of the report, but not later than fourteen (14) days after receipt of it. An arresting officer may give an unsworn report to the arrested person at the time of the arrest provided the report is complete when given to the arrested person and subsequently is sworn to by the arresting officer. As soon as possible, but not later than forty-eight (48) hours after the arrest of the person, the arresting officer shall send a copy of the sworn report to the court in which the arrested person is to appear on the charge for which the person was arrested.
  - B. The sworn report of an arresting officer completed under this section is prima facie proof of the information and statements that it contains. It shall be admitted and considered as prima facie proof of the information and statements that it contains in any appeal under ORC 4511.197 relative to any suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege that results from the arrest covered by the report.
- (11) Suspension effective immediately. A suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege under this section for the time described in ORC 4511.191(B) or (C) is effective immediately from the time at which the arresting officer serves the notice of suspension upon the arrested person. Any subsequent finding that the person is not guilty of the charge that resulted in the person's being requested to take the chemical test or tests under division (g)(1) through (g)(5) of this section does not affect the suspension.

- (12) Initial appearance. If a person arrested for operating a vehicle in violation of division (a) or (b) of this section, ORC 4511.19(A) or (B), or any other municipal O.V.I. ordinance, or for being in physical control of a vehicle in violation of division (o) of this section or ORC 4511.194 or a substantially equivalent municipal ordinance, regardless of whether the person's driver's or commercial driver's license or permit or nonresident operating privilege is or is not suspended under ORC 4511.191(B) or (C) or ORC Ch. 4510, the person's initial appearance on the charge resulting from the arrest shall be held within five (5) days of the persons' arrest or the issuance of the citation to him or her, subject to any continuance granted by the court pursuant to ORC 4511.197 regarding the issues specified in that section.

(h) Penalty for Driving Under the Influence.

- (1) Whoever violates any provisions of divisions (a)(1)A. through (a)(1)I. or (a)(2) of this section is guilty of operating a vehicle under the influence of alcohol, a drug of abuse, or a combination of them. Whoever violates division (a)(1)J. of this section is guilty of operating a vehicle while under the influence of a listed controlled substance or a listed metabolite of a controlled substance. The court shall sentence the offender for either offense under ORC Ch. 2929, except as otherwise authorized or required by divisions (h)(1)A. through (h)(1)E. of this section:
- A. Except as otherwise provided in division (h)(1)B., 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 penalties and sanctions provided in ORC 4511.19(G)(1)(a)(i) to (iv).
  - B. Except as otherwise provided in division (h)(1)E. of this section, an offender who, within six (6) years of the offense previously has been convicted of or pleaded guilty to one violation of division (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 penalties and sanctions provided in ORC 4511.19(G)(1)(b)(i) to (v).
  - C. Except as otherwise provided in division (h)(1)E. of this section, an offender who, within six (6) years of the offense, previously has been convicted of or pleaded guilty to two (2) violations of division (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 penalties and sanctions provided in ORC 4511.19(G)(1)(c)(i) to (vi).
  - D. Except as otherwise provided in division (h)(1)E. of this section, an offender who, within six (6) years of the offense, previously has been convicted of or pleaded guilty to three (3) or more violations of division (a) or (b) of this section or other equivalent offenses or an offender who, within twenty (20) years of the offense, previously has been convicted of or pleaded guilty to five (5) or more violations of that nature is guilty of a felony to be prosecuted under appropriate state law.
  - E. An offender who previously has been convicted of or pleaded guilty to a violation of ORC 4511.19(A) that was a felony, regardless of when the violation and the conviction or guilty plea occurred, is guilty of a felony to be prosecuted under appropriate state law.
- (2) An offender who is convicted of or pleads guilty to a violation of division (a) of this section and who subsequently seeks reinstatement of the driver's or occupational driver's license or permit or nonresident operating privilege suspended under this section or ORC 4511.19 as a result of the conviction or guilty plea shall pay a reinstatement fee as provided in ORC 4511.191(F)(2).
- (3) A. If an offender is sentenced to a jail term under ORC 4511.19(G)(1)(b)(i) or (ii) or (G)(1)(c)(i) or (ii) and if, within sixty (60) days of sentencing of the offender, the court issues a written finding on the record that, due to the unavailability of space at the jail where the offender is required to serve the term, the offender will not be able to begin serving that term within the



60-day period following the date of sentencing, the court may impose an alternative sentence as specified in ORC 4511.19(G)(3) that includes a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring.

- B. As an alternative to the mandatory jail terms as required by ORC 4511.19(G)(1), the court may sentence the offender as provided in ORC 4511.19(G)(3).
- (4) If an offender's driver's or occupational driver's license or permit or nonresident operating privilege is suspended under division (h) of this section or ORC 4511.19(G) and if ORC 4510.13 permits the court to grant limited driving privileges, the court may grant the limited driving privileges in accordance with that section. If division (A)(7) of that section requires the court impose as a condition of the privileges that the offender must display on the vehicle that is driven subject to the privileges restricted license plates that are issued under ORC 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 ORC 4503.231(B).
- (5) Fines imposed under this section for a violation of division (a) of this section shall be distributed as provided in ORC 4511.19(G)(5).
- (6) If title to a motor vehicle that is subject to an order of criminal forfeiture under division (h)(1)C., D., or E. of this section is assigned or transferred and ORC 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 Automobile Dealers Dealer's Association. The proceeds of any fine so imposed shall be distributed in accordance with division (C)(2) of that section.
- (7) In all cases in which an offender is sentenced under division (h) of this section, the offender shall provide the court with proof of financial responsibility as defined in ORC 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 Section 501.99(f) or ORC 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 division (h) of this section.
- (8) A court may order an offender to reimburse a law enforcement agency for any costs incurred by the agency with respect to a chemical test or tests administered to the offender if all of the following apply:
- (a) The offender is convicted of or pleads guilty to a violation of division (A) of this section.
- (b) The test or tests were of the offender's whole blood, blood serum or plasma, 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.
- (9) As used in division (g) of this section, "electronic monitoring" has the same meaning as in ORC 2929.01.
- (i) Penalty for Operating a Vehicle After Underage Alcohol Consumption. Whoever violates division (b) of this section is guilty of operating a motor vehicle after underage alcohol consumption and shall be punished as follows:
- (1) Except as otherwise provided in division (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 (6) 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 ORC 4510.02(A)(6). The court may grant limited driving privileges relative to the suspension under sections 4510.021 and 4510.13 of the Revised Code. 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 section 4510.022 of the Revised Code. If the court grants unlimited driving privileges under section 4510.022 of the Revised Code, the court shall suspend any jail term imposed under division (H)(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 division (a) or (b) of this section or other equivalent offense or 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 (4) 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 ORC 4510.02(A)(4). The court may grant limited driving privileges relative to the suspension under sections 4510.021 and 4510.13 of the Revised Code.
- (3) If the offender also is convicted of or also pleads guilty to a specification of the type described in ORC 2941.1414 and if the court imposes a jail term for the violation of division (b) of this section, the court shall impose upon the offender an additional definite jail term pursuant to ORC 2929.24(E).
- (4) The offender shall provide the court with proof of financial responsibility as defined in ORC 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 Section 501.99(f) or ORC 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 division (b) of this section.
- (j) (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 ORC Ch. 3793 by the Director of Alcohol and Drug Addiction Services.
- (2) An offender who stays in a drivers' 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.
- (k) If a person whose driver's or commercial driver's license or permit or nonresident operating privilege is suspended under this section or ORC 4511.19 files an appeal regarding any aspect of the person's trial or sentence, the appeal itself does not stay the operation of the suspension.
- (l) Division (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 division, 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.
- (m) The prohibited concentrations of a controlled substance or a metabolite of a controlled substance listed in division (a)(1)J. of this section also apply in a prosecution of a violation of ORC 2923.16(D) in the same manner as if the offender is being prosecuted for a prohibited concentration of alcohol.
- (n) All terms defined in ORC 4510.01 apply to this section. If the meaning of a term defined in ORC 4510.01 conflicts with the meaning of the same term as defined in ORC 4501.01 or 4511.01, the term as defined in ORC 4510.01 applies to this section.

(o) Physical Control of Vehicle While Under the Influence.

- (1) Definition. As used in this division, "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) Generally. No person shall be in physical control of a vehicle if, at the time of the physical control, 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's whole blood, blood serum or plasma, breath, or urine contains at least the concentration of alcohol specified in divisions (a)(1)B., (a)(1)C., (a)(1)D., or (a)(1)E. of this section.
  - C. Except as provided in division (o)(5) 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 division (a)(1)J. of this section.
- (3) A. In any criminal prosecution or juvenile court proceeding for a violation of this section, if a law enforcement officer has administered a field sobriety test to the 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 acceptable 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 what 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 division (o)(3)A.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.
- B. Division (o)(3)A. 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 division, from considering evidence or testimony that is not otherwise disallowed by division (o)(3)A. of this section.
- (4) Penalty. Whoever violates this division (o) 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 (7) 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 ORC 4510.02(A)(7).

- (5) Exception. Division (o)(2)C. 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 division (a)(1)J. of this section 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.

(p) As used in this section:

- (1) "Community residential sanction", "continuous alcohol monitoring", "jail", "mandatory prison term", "mandatory term of local incarceration", "prison term", and "sanction" have the same meanings as in ORC 2929.01.
- (2) "Drug of abuse" has the same meaning as in ORC 4506.01.
- (3) "Equivalent offense" means any of the following:
  - A. A violation of ORC 4511.19(A) or (B);
  - B. A violation of a municipal O.V.I. ordinance;
  - C. A violation of ORC 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 ORC 2903.06(A)(1) or ORC 2903.08 or a municipal ordinance that is substantially equivalent to either of those divisions;
  - E. A violation of ORC 2903.06(A)(2), (A)(3), or (A)(4), ORC 2903.08(A)(2), or former ORC 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 ORC 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 ORC 4511.19(A) or (B) or 1547.11(A) or (B);
  - I. A violation of a former law of this state that was substantially equivalent to ORC 4511.19(A) or (B) or 1547.11(A) or (B).
- (4) "Equivalent offense that is vehicle-related" means an equivalent offense that is any of the following:

- A. A violation described in division A., B., C., D., or E. of the definition for "equivalent offense" provided in this division (p);
  - 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 ORC 4511.19(A) or (B);
  - C. A violation of a former law of this State that was substantially equivalent to ORC 4511.19(A) or (B).
- (5) "Mandatory jail term" means the mandatory term in jail of 3, 6, 10, 20, 30, or sixty (60) days that must be imposed under ORC 4511.19(G)(1)(a), (G)(1)(b), or (G)(1)(c) upon an offender convicted of a violation of division (A) of that section and in relation to which all of the following apply:
- A. Except as specifically authorized under ORC 4511.19, the term must be served in a jail.
  - B. Except as specifically authorized under ORC 4511.19, the term cannot be suspended, reduced, or otherwise modified pursuant to ORC 2929.21 through 2929.28 or any other provision of the Ohio Revised Code.
- (6) "Municipal O.V.I. ordinance" and "municipal O.V.I. 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.

**State Law reference**— Disposition of fines, immobilization of vehicle and impoundment of license plates, criminal forfeiture for municipal ordinance conviction, see ORC 4511.193

Effect of refusal to submit to test, seizure of license, suspension periods, appeal procedures, occupational driving privileges, and indigent drivers alcohol treatment funds, see ORC 4511.191

Judicial pretrial suspension, initial appearance, see ORC 4511.196

Mayor's Court to suspend driver's license, see ORC 1905.201

Seizure of vehicles upon arrest, see ORC 4511.195

Trial judge to suspend driver's license, see ORC 4510.05

**State Law reference**— ORC 4511.19(A)—(F); ORC 4511.19(G)—(M); ORC 4511.181; ORC 4511.191(A); ORC 4511.191(D); ORC 4511.192; ORC 4511.194

### **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 ORC 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 (20) 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 twenty (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 subsections ~~(b)(9)~~ and ~~(b)(10)~~ and (11) 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 ORC 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. "School" also includes a special elementary school that in writing requests the County Engineer to create a school zone at the location of the school. Upon receipt of such written request, the County Engineer shall create a school zone at that location by erecting appropriate signs.

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 and that portion of a State highway under the jurisdiction of the Ohio Director of Transportation or a request from a County Engineer in the case of a school zone for a special elementary school, the Director may extend the traditional school zone boundaries. The distances in subsections (b)(1)C.1. to 3. hereof shall not exceed three hundred (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 three hundred (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 three hundred (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 three hundred (300) feet on each approach direction of highway;

D. 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.

E. 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 one thousand three hundred twenty (1,320) feet. Such a school zone shall include the distance encompassed by the crosswalk and extending three hundred (300) feet on each approach direction of the State route;

F. The Director may, upon request by resolution of the Legislative Authority 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 a crosswalk is no more than one thousand three hundred twenty (1,320) feet. Such a school zone shall include the distance encompassed by the crosswalk and extending three hundred (300) feet in each appropriate direction of the State route.

G. As used in this section, "special elementary school" means a school that meets all of the following:

1. It is not chartered and does not receive tax revenue from any source.
  2. It does not educate children beyond the eighth grade.
  3. It is located outside the limits of a municipal corporation.
  4. A majority of the total number of students enrolled at the school are not related by blood.
  5. The principal or other person in charge of the special elementary school annually sends a report to the superintendent of the school district in which the special elementary school is located indicating the total number of students enrolled at the school, but otherwise the principal or other person in charge does not report any other information or data to the superintendent.
- (2) Twenty-five (25) 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 (35) miles per hour on all State routes or through highways within the Municipality outside business districts, except as provided in subsections (b)(4) and (b)(6) hereof;
- (4) Fifty (50) miles per hour on controlled-access highways and expressways within the Municipality, except as provided in divisions (b)(12), (13), (14), (15), and (16) of this section;
- (5) Fifty-five (55) miles per hour on highways outside the municipality, other than highways within island jurisdictions as provided in division (b)(8) of this section, highways as provided in division (b)(9) and (10) of this section, and highways, expressways, and freeways as provided in divisions (b)(12), (13) and (b)(14), and (16) of this section;
- (6) Fifty (50) 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;
- (7) Fifteen (15) miles per hour on all alleys within the Municipality;
- (8) Thirty-five (35) miles per hour on highways outside the Municipality that are within an island jurisdiction;

- (9) Thirty-five miles per hour on through highways, except state routes, that are outside municipal corporations and that are within a national park with boundaries extending through two or more counties;
- (10) Sixty miles per hour on two-lane state routes outside municipal corporations as established by the director under division (h)(2) of this section;
- (11) Fifty-five (55) miles per hour at all times on freeways with paved shoulders inside the municipality, other than freeways as provided in divisions (b)(13) and (b)(14) and (16) of this section;
- ~~(1012) Fifty-five (55) miles per hour at all times on freeways outside the municipality, other than freeways as provided in divisions (b)(13) and (b)(14);~~
- (11) Fifty-five (55) ~~Sixty~~ miles per hour on rural expressways with traffic control signals and at all times on portions of freeways that are part of the interstate system and on all portions of rural divided highways, except as provided in divisions (b)(13) and (14) of this section ~~freeways that are not part of the interstate system, but are built to the standards and specifications that are applicable to freeways that are part of the interstate system for operators of any motor vehicle weighing in excess of eight thousand (8,000) pounds empty weight and any noncommercial bus, except as provided in division (b)(14) of this section;~~
- ~~(1213) Fifty-five (55) ~~Sixty-five~~ miles per hour for operators of any motor vehicle weighing eight thousand (8,000) pounds or less empty weight and any commercial bus at all times on all portions of freeways that are part of the interstate system and that had such a speed limit established prior to October 1, 1995, and freeways that are not part of the interstate system, but are built to the standards and specifications that are applicable to freeways that are part of the interstate system and that had such a speed limit established prior to October 1, 1995, unless a higher speed limit is established under ORC 4511.21(L); on all rural expressways without traffic control signals;~~
- ~~(1314) ~~Sixty-five (65) Seventy miles per hour for operators of any motor vehicle weighing eight thousand (8,000) pounds or less empty weight and any commercial bus at all times on all rural freeways; portions of the following:~~~~
- A. ~~Freeways that are part of the interstate system and that had such a speed limit established prior to October 1, 1995, and freeways that are not part of the interstate system, but are built to the standards and specifications that are applicable to freeways that are part of the interstate system and that had such a speed limit established prior to October 1, 1995;~~
- B. ~~Freeways that are part of the interstate system and freeways that are not part of the interstate system but are built to the standards and specifications that are applicable to freeways that are part of the interstate system, and that had such a speed limit established under ORC 4511.21(L);~~
- C. ~~Rural, divided, multi-lane highways that are designated as part of the national highway system under the "National Highway System Designation Act of 1995", 109 Stat. 568, 23 U.S.C.A. 103, and that had such a speed limit established under ORC 4511.21(M);~~
- ~~(14) ~~Sixty-five (65) (15) Fifty-five miles per hour on all portions of freeways or expressways in congested areas as determined by the director and that are located within a municipal corporation or within an interstate freeway outerbelt, except as provided in division (b)(16) of this section;~~~~
- ~~(16) Sixty-five miles per hour on all portions of freeways or expressways without traffic control signals in urbanized areas.~~
- ~~miles per hour at all times on all portions of freeways that are part of the interstate system and that had such a speed limit on July 1, 2009 for operators of any motor vehicle weighing in excess of eight thousand (8,000) pounds empty weight and any noncommercial bus.~~



- (c) It is prima-facie unlawful for any person to exceed any of the speed limitations in subsections (b)(1)A., (b)(2), (b)(3), (b)(4), (b)(6), (b)(7) and (b)(8), and (9) 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 fifty-five (55) miles per hour, except upon a two-lane state route as provided in division (b)(10) of this section and upon a highway, expressway, or freeway as provided in divisions (b)(12), (13), and (b)(14), and (16) of this section;
  - (2) At a speed exceeding sixty miles per hour upon a two-lane state route as provided in division (b)(10) of this section and upon a highway as provided in division (b)(13) of this section;
  - (3) At a speed exceeding sixty-five miles per hour upon an expressway as provided in division (b)(13) or upon a freeway as provided in division (B)(16) of this section, except upon a freeway as provided in division (b)(14) of this section;
  - (4) At a speed exceeding sixty-five (65) seventy miles per hour upon a freeway as provided in divisions division (b)(13) and (b)(14) (b)(14) of this section;
  - (3) ~~5) If a motor vehicle weighing in excess of eight thousand (8,000) pounds empty weight or a noncommercial bus as prescribed in subsection (b)(11) hereof, at a speed exceeding fifty-five (55) miles per hour upon a freeway as provided in that subsection.~~
  - (4) ~~At a speed exceeding the posted speed limit upon a freeway for which the Director has determined and declared a speed limit of not more than sixty-five (65) miles per hour pursuant to ORC 4511.21(L)(2) or (M);~~
  - (5) ~~At a speed exceeding sixty-five (65) miles per hour upon a freeway for which such a speed limit has been established through the operation of ORC 4511.21(L)(3);~~
  - (6) 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 ORC 4511.21(I)(2) or (L)(2).
- (e) Pursuant to ORC 4511.21(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., (b)(2), (b)(3), (b)(4), (b)(6), (b)(7) ~~or (b)(8), or (9)~~ of, or a limit declared or established pursuant to this section or ORC 4511.21 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) Pursuant to ORC 4511.21(F), when a speed in excess of both a prima-facie limitation and a limitation in subsection (d)(1), (d)(2), (d)(3), (d)(4), (d)(5) ~~or (d)(6)~~ 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., (b)(2), (b)(3), (b)(4), (b)(6), (b)(7) ~~or (b)(8), or (9)~~ hereof, or of a limit declared or established pursuant to this section or ORC 4511.21 by the Director or local authorities, and of the limitation in subsection (d)(1), (d)(2), (d)(3), (d)(4), (d)(5) ~~or (d)(6)~~ hereof. If the court finds a violation of subsection (b)(1)A., (b)(2), (b)(3), (b)(4), (b)(6), (b)(7) ~~or (b)(8), or (9)~~ or a limit declared or established pursuant to this section or ORC 4511.21 has occurred, it shall enter a judgment of conviction under such subsection and dismiss the charge under subsection (d)(1), (d)(2), (d)(3), (d)(4), (d)(5) ~~or (d)(6)~~ hereof. If it finds no violation of subsections (b)(1)A., (b)(2), (b)(3), (b)(4), (b)(6), (b)(7) or (b)(8) of, or a limit declared or established

pursuant to, this section or ORC 4511.21, it shall then consider whether the evidence supports a conviction under subsection (d)~~(2)~~, ~~(d)(3)~~, ~~(d)(4)~~, ~~(d)(5)~~ or ~~(d)(6)~~ hereof.

(g) Points shall be assessed for violation of a limitation under subsection (d) hereof in accordance with ORC 4510.036.

(h) Whenever, in accordance with ORC 4511.21(H) though (N), the maximum prima facie 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 (9) 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 nonprofit organization.

(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 (2) violations of any provision of this section or of any provision of ORC 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 (3) or more violations of any provision of this section or of any provision of ORC 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 ORC 4511.21 or of any provision of a municipal ordinance that is substantially similar to ORC 4511.21 and operated a motor vehicle faster than thirty-five (35) miles an hour in a business district of a municipal corporation, faster than fifty (50) miles an hour in other portions of a municipal corporation, or faster than thirty-five (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.

(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 ORC 4511.98, the court, in addition to all other penalties provided by law, shall impose upon the offender a fine of two (2) times the usual amount imposed for the violation. No court shall impose a fine of two (2) 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 section 303.98.

**State Law reference—** ORC 4511.20; ORC 4511.21(A)—(G); ORC 4511.21(O); ORC 4511.21(P)

### 335.031 DRIVING WITH PROBATIONARY LICENSE.

(a) (1) A. No holder of a probationary driver's who has held ~~not attained the age of seventeen (17) years~~ license for less than twelve months shall operate a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking between the hours of midnight and 6:00 a.m. unless the holder is accompanied by the holder's parent or guardian.

B. No holder of a probationary driver's license who has ~~attained the age of seventeen (17) years but has not attained the age of eighteen (18) years~~ held the license for twelve months or longer shall operate a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking between the hours of 1:00 a.m. and 5:00 a.m. unless the holder is accompanied by the holder's parent or guardian.

(2) A. Subject to division (c)(1)A. of this section, division (a)(1)A. of this section does not apply to the holder of a probationary driver's license who is doing either of the following:

(i) traveling to or from work between the hours of midnight and 6:00 a.m., provided that the holder and has in the holder's immediate possession written documentation from the holder's employer.

(ii) Traveling to or from an official function sponsored by the school the holder attends between the hours of midnight and six a.m., provided that the holder has in the holder's immediate possession written documentation from an appropriate official of the school;

(iii) Traveling to or from an official religious event between the hours of midnight and six a.m., provided that the holder has in the holder's immediate possession written documentation from an appropriate official affiliated with the event.

B. Division (a)(1)B. of this section does not apply to the holder of a probationary driver's license who is doing either of the following:

(i) traveling to or from work between the hours of 1:00 a.m. and 5:00 a.m. and has in the holder's immediate possession written documentation from the holder's employer.

(ii) Traveling to or from an official function sponsored by the school the holder attends between the hours of one a.m. and five a.m., provided that the holder has in the holder's immediate possession written documentation from an appropriate official of the school;

(iii) Traveling to or from an official religious event between the hours of one a.m. and five a.m., provided that the holder has in the holder's immediate possession written documentation from an appropriate official affiliated with the event.

(3) An employer, school official, or official affiliated with a religious event is not liable in damages in a civil action for any injury, death, or loss to person or property that allegedly arises from, or is related to, the fact that the employer, school official, or official affiliated with a religious event provided ~~an employee who is~~ the holder of a probationary driver's license with the written documentation described in division (a)(2) of this section.

The Registrar of Motor Vehicles has available at no cost a form to serve as the written documentation described in division (a)(2) of this section, and employers, school officials, officials affiliated with religious events, and holders of probationary driver's licenses may utilize that form or may choose to utilize any other written documentation to meet the requirements of that division.

(4) No holder of a probationary driver's license who is ~~less than seventeen (17) years of age~~ has held the license for less than twelve months shall operate a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking with more than one person who is not a family member occupying the vehicle unless the probationary license holder is accompanied by the probationary license holder's parent, guardian, or custodian.

(b) It is an affirmative defense to a violation of subsection (a)(1)A. or (a)(1)B. hereof if, at the time of the violation, ~~the holder of the probationary driver's license was traveling to or from an official function sponsored by the school the holder attends, or an emergency existed that required the holder of the probationary driver's license to operate a motor vehicle in violation of subsection (a)(1)A. or (a)(1)B. hereof, or the holder was an emancipated minor.~~

(c) (1) A. ~~Except as otherwise provided in division (c)(2) of this section,~~ if a person is issued a probationary driver's license prior to attaining the age of seventeen (17) years and the person pleads guilty to, is convicted of, or is adjudicated in juvenile court of having committed a moving violation during the six-month period commencing on the date on which the person is issued the probationary driver's license, the court with jurisdiction over the violation may order that the holder must be accompanied by the holder's parent or guardian whenever the holder is operating a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking during whichever of the following time periods applies:

1. ~~If, on the date the holder of the probationary driver's license pleads guilty to, is convicted of, or is adjudicated in juvenile court of having committed the moving violation, the holder has not attained the age of sixteen and one-half (16.5) years, during the six-month period commencing on that date;~~

2. ~~If, on the date the holder pleads guilty to, is convicted of, or is adjudicated in juvenile court of having committed the moving violation, the holder has attained the age of sixteen and one-half (16.5) years but not seventeen (17) years, until the person attains the age of seventeen (17) years.~~

B. ~~If the holder of a probationary driver's license commits a moving violation during the six-month period after the person is issued the probationary driver's license and before the person attains the age of seventeen (17) years and on the date the person pleads guilty to, is convicted of, or is adjudicated in juvenile court of having committed the moving violation the person has attained the age of seventeen (17) years, or if the person commits the moving violation during the six-month period after the person is issued the probationary driver's license and after the person attains the age of seventeen (17) years, the holder is not subject to the restriction described in divisions (c)(1)A.1. and (c)(1)A.2. of this section unless the court or juvenile court imposes such a restriction upon the holder. For a period not to exceed six months or the date the holder attains the age of seventeen years, whichever occurs first.~~

(2) Any person who is subject to the operating restrictions established under division (c)(1) of this section as a result of a first moving violation may petition the court for ~~occupational or educational~~ driving privileges without being accompanied by the holder's parent or guardian during the period of time ~~specified in~~ determined by the court under that division. ~~The court may grant the person such driving privileges if the court finds reasonable cause to believe that the restrictions established in division (c)(1) will seriously affect the person's ability to continue in employment or educational training or will cause undue hardship on the license holder or a family member of the license holder. In granting the driving privileges, the court shall specify the purposes, times, and places of the privileges and shall issue the person appropriate forms setting forth the privileges granted. Occupational or educational driving privileges under this division shall not be granted to the same person more than once. If a person is convicted of, pleads guilty to, or is adjudicated in~~

juvenile court of having committed a second or subsequent moving violation, the court with jurisdiction over the violation may terminate any driving privileges previously granted under this division are terminated upon the subsequent conviction, plea, or adjudication.

- (3) No person shall violate ~~division (c)(1)A. of this section~~ any operating restriction imposed under division (c)1 or (2) of this section.
- (d) No holder of a probationary license shall operate a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking unless the total number of occupants of the vehicle does not exceed the total number of occupant restraining devices originally installed in the motor vehicle by its manufacturer, and each occupant of the vehicle is wearing all of the available elements of a properly adjusted occupant restraining device.
- (e) A restricted license may be issued to a person who is fourteen (14) or fifteen (15) years of age under proof of hardship satisfactory to the Registrar of Motor Vehicles.
- (f) Notwithstanding any other provision of law to the contrary, no law enforcement officer shall cause the operator of a motor vehicle being operated on any street or highway to stop the motor vehicle for the sole purpose of determining whether each occupant of the motor vehicle is wearing all of the available elements of a properly adjusted occupant restraining device as required by subsection (d) hereof, or for the sole purpose of issuing a ticket, citation, or summons if the requirement in that subsection has been or is being violated, or for causing the arrest of or commencing a prosecution of a person for a violation of that requirement.
- (g) Notwithstanding any other provision of law to the contrary, no law enforcement officer shall cause the operator of a motor vehicle being operated on any street or highway to stop the motor vehicle for the sole purpose of determining whether a violation of subsection (a)(1)A. or (a)(1)B. hereof has been or is being committed or for the sole purpose of issuing a ticket, citation, or summons for such a violation or for causing the arrest of or commencing a prosecution of a person for such violation.
- (h) As used in this section:
- (1) "Family member" of a probationary license holder includes any of the following:
- A. A spouse;
  - B. A child or stepchild;
  - C. A parent, stepparent, grandparent, or parent-in-law;
  - D. An aunt or uncle;
  - E. A sibling, whether of the whole or half blood or by adoption, a brother-in-law, or a sister-in-law;
  - F. A son or daughter of the probationary license holder's stepparent if the stepparent has not adopted the probationary license holder;
  - G. An eligible adult, as defined in ORC 4507.05.
- (2) "Moving violation" means any violation of any statute or ordinance that regulates the operation of vehicles on the highways or streets. "Moving violation" does not include a violation of ORC 4513.263 or a substantially equivalent municipal ordinance, or a violation of any statute or ordinance regulating pedestrians or the parking of vehicles, vehicle size or load limitations, vehicle fitness requirements, or vehicle registration.
- (3) "Occupant restraining device" has the same meaning as in ORC 4513.263.
- (i) Whoever violates divisions (a)(1), (a)(4), (c)(3), or (d) of this section is guilty of a minor misdemeanor.

**State Law reference— ORC 4507.071(B) - (J)****335.09 DISPLAY OF LICENSE PLATES.**

**Editor's Note:** This section effective until 7-1-2020.

(a) (1) No person who is the owner or operator of a motor vehicle shall fail to properly display in plain view on the front and rear of the motor vehicle a license plate that bears the distinctive number and registration mark assigned to the motor vehicle by the director of public safety, including any county identification sticker and any validation sticker issued under ORC 4503.19 and 4503.191, furnished by the Ohio Director of Public Safety, except as follows: that a

(A) A manufacturer of motor vehicles or dealer therein, the holder of an in-transit permit, and the owner or operator of a motorcycle, autocycle, motorized bicycle or moped, motor-driven cycle or motor scooter, cab-enclosed motorcycle, manufactured home, mobile home, trailer or semitrailer shall display a license plate on the rear only.

(B) A motor vehicle that is issued two (2) license plates shall display the validation sticker on the rear license plate. A commercial tractor that does not receive an apportioned license plate under the international registration plan shall be issued one license plate and one validation sticker, which license plate and validation sticker shall be displayed on the front of the commercial tractor.

(3) No person to whom a temporary license placard or windshield sticker has been issued for the use of a motor vehicle under ORC 4503.182, and no operator of that motor vehicle, shall fail to display the temporary license placard in plain view from the rear of the vehicle either in the rear window or on an external rear surface of the motor vehicle, or fail to display the windshield sticker in plain view on the rear window of the motor vehicle. No temporary license placard or windshield sticker shall be covered by any material that obstructs its visibility.

(b) Whoever A law enforcement officer shall only issue a ticket, citation, or summons, or cause the arrest or commence a prosecution, for the failure to display a license plate in plain view on the front of a parked motor vehicle if the officer first determines that another offense has occurred and either places the operator or vehicle owner under arrest or issues a ticket, citation, or summons to the operator or vehicle owner for the other offense.

(c)(1) Except as provided in division (c)(2) of this section, whoever violates division (a) of this section is guilty of a minor misdemeanor.

(2) Whoever violates division (A) of this section by failing to display a license plate in plain view on the front of a motor vehicle as required under division (A) of this section while the motor vehicle is otherwise legally parked is guilty of a minor misdemeanor and may be fined not more than one hundred dollars.

A person who is subject to the penalty prescribed in division (C)(2) of this section is not subject to the charging of points under section 4510.036 of the Revised Code.

(3) The offense established under division (A) of 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.

**State Law reference— ORC 4503.21**

**335.09 DISPLAY OF LICENSE PLATES.**

Editor's Note: This section effective 7-1-2020.

(A)(1) No person who is the owner or operator of a motor vehicle shall fail to display in plain view on the rear of the motor vehicle a license plate that displays the distinctive number and registration mark assigned to the motor vehicle by the director of public safety, including any county identification sticker and any validation sticker issued under sections 4503.19 and 4503.191 of the Revised Code, except that a commercial tractor shall display the license plate and validation sticker on the front of the commercial tractor.

(2) The license plate shall be securely fastened so as not to swing, and shall not be covered by any material that obstructs its visibility.

(3) No person to whom a temporary license placard or windshield sticker has been issued for the use of a motor vehicle under section 4503.182 of the Revised Code, and no operator of that motor vehicle, shall fail to display the temporary license placard in plain view from the rear of the vehicle either in the rear window or on an external rear surface of the motor vehicle, or fail to display the windshield sticker in plain view on the rear window of the motor vehicle. No temporary license placard or windshield sticker shall be covered by any material that obstructs its visibility.

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

(C) The offense established under division (A) of 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.

State Law reference— ORC 4503.21

**335.10 EXPIRED OR UNLAWFUL LICENSE PLATES.**

- (a) Except as otherwise provided by ORC 4503.103, 4503.173, 4503.41, 4503.43 and 4503.46, no person who is the owner or chauffeur of a motor vehicle operated or driven upon the public roads or highways shall fail to file annually the application for registration or to pay the tax therefor.
- (b) No person shall operate or drive upon the highways of this municipality a motor vehicle acquired from a former owner who has registered the motor vehicle, while the motor vehicle displays the distinctive number or identification mark assigned to it upon its original registration.
- (c) No person who is the owner of a motor vehicle and a resident of this state shall operate or drive the motor vehicle upon the highways of this municipality while it displays a distinctive number or identification mark issued by or under the authority of another state, without complying with the laws of this state relating to the registration and identification of motor vehicles.

- (d) No person shall park or operate any vehicle upon any public street or highway upon which are displayed any license plates for any period of time which has expired, or any license plates issued in another state for which the period of reciprocal agreement with the state of issue has expired.
- (e) No person shall park or operate any vehicle upon any public street or highway upon which are displayed any license plates not legally registered and issued for the vehicle, or upon which are displayed any license plates that were issued on an application for registration that contains any false statement by the applicant.
- (f) No person shall operate a motor vehicle, upon which license plates are required by law to be displayed, unless the license plates legally registered and issued for the vehicle are fastened in such a manner, and not covered, obscured or concealed by any part or accessory of the vehicle, to be readable in their entirety from left to right.
- (g) (1) Whoever violates division (a) of this section is guilty of a minor misdemeanor ~~of the fourth degree~~.
- (2) Whoever violates division (b) of this section is guilty of operation of a motor vehicle bearing license plates or an identification mark issued to another, a minor misdemeanor on a first offense and a misdemeanor of the fourth degree on each subsequent offense.
- (3) Whoever violates division (c) of this section is guilty of illegal operation by a resident of this state of a motor vehicle bearing the distinctive number or identification mark issued by a foreign jurisdiction, a minor misdemeanor.

**State Law reference—** ORC 4503.11(A); ORC 4503.11(D); ORC 4549.11(A); ORC 4549.11(B); ORC 4549.12(A); ORC 4549.12(B)

### **335.12 STOPPING AFTER ACCIDENT UPON STREETS; COLLISION WITH UNATTENDED VEHICLE.**

- (a) (1) In ~~the case of a motor vehicle accident to or collision with persons or property upon any of the on a public roads or highways, due to the driving or operation thereon of any motor vehicle, the person driving or operating road or highway, the operator of the motor vehicle, having knowledge of the accident or collision, immediately shall stop the driver's or operator's motor vehicle at the scene of the accident or collision. The operator and shall remain at the scene of the accident or collision until the driver or operator has given the driver's or operator's name and address and, if the driver or operator is not the owner, the name and address of the owner of that motor vehicle, together with the registered number of that motor vehicle, to any all of the following:~~
  - (A) Any person injured in the accident or collision or to the :
  - (B) The operator, occupant, owner, or attendant of any motor vehicle damaged in the accident or collision, or to any ;
  - (C) The police officer at the scene of the accident or collision.
- (2) In the event ~~the an~~ injured person is unable to comprehend and record the information required to be given by under division (a)(1) of this section, the other ~~driver operator~~ involved in the accident or collision ~~forthwith~~ shall notify the nearest police authority concerning the location of the accident or collision, and the ~~driver's operator's~~ name, address and the registered number of the motor vehicle the ~~driver operator~~ was operating, ~~and then~~ The operator shall remain at the scene of the accident or collision until a police officer arrives, unless removed from the scene by an emergency vehicle operated by a political subdivision or an ambulance.



- (3) If the accident or collision is with an unoccupied or unattended motor vehicle, the operator who collides with the motor vehicle shall securely attach the information required to be given in this section, in writing, to a conspicuous place in or on the unoccupied or unattended motor vehicle.
- (b) (1) Whoever violates subsection (a) of this section is guilty of failure to stop after an accident; Except as otherwise provided in division (b)(2) or (3) of this section, failure to stop after an accident is a misdemeanor of the first degree.
- (2) If the accident or collision results in serious physical harm or death to a person, failure to stop after an accident is whichever of the following is applicable:
- (A) Except as otherwise provided in division (b)(2)(B) of this section, a felony and shall be prosecuted under appropriate state law.
- (B) if the offender knew that the accident or collision resulted in the death of a person, a felony of the second degree.
- (4) In all cases, The court, in addition to any other penalties provided by law, shall impose upon the offender a class five suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(5) of ORC 4510.02. No judge shall suspend the first six (6) months of suspension of an offender's license, permit, or privilege required by this subsection.
- (2) The offender shall provide the court with proof of financial responsibility as defined in ORC 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 Section 501.99(f) or ORC 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 motor vehicle before, during, or after committing the offense charged under this section.

**State Law reference—** ORC 4549.02

### **337.27 DRIVERS AND PASSENGERS REQUIRED TO WEAR SEAT BELTS.**

(a) As used in this section:

- (1) "Automobile" means any commercial tractor, passenger car, commercial car or truck that is required to be factory-equipped with an occupant restraining device for the operator or any passenger by regulations adopted by the United States Secretary of Transportation pursuant to the "National Traffic and Motor Vehicle Safety Act of 1966," 80 Stat. 719, 15 U.S.C.A. 1392.
- (2) "Occupant restraining device" means a seat safety belt, shoulder belt, harness or other safety device for restraining a person who is an operator of or passenger in an automobile and that satisfies the minimum Federal vehicle safety standards established by the United States Department of Transportation.
- (3) "Passenger" means any person in an automobile, other than its operator, who is occupying a seating position for which an occupant restraining device is provided.
- (4) "Commercial tractor," "passenger car," and "commercial car" have the same meanings as provided in ORC 4501.01.
- (5) "Vehicle" and "motor vehicle", as used in the definitions of the terms set forth in subsection (a)(4) hereof, have the same meanings as provided in Chapter 301.

- (6) "Tort action" means a civil action for damages for injury, death, or loss to person or property. "Tort action" includes a product liability claim, as defined in ORC 2307.71 and an asbestos claim, as defined in ORC 2307.91, but does not include a civil action for damages for breach of contract or another agreement between persons.

(b) No person shall do either of the following:

- (1) Operate an automobile on any street or highway unless that person is wearing all of the available elements of a properly adjusted occupant restraining device, or operate a school bus that has an occupant restraining device installed for use in its operator's seat unless that person is wearing all of the available elements of the device, as properly adjusted;
- (2) Operate an automobile on any street or highway unless each passenger in the automobile who is subject to the requirement set forth in subsection (b)(3) hereof is wearing all of the available elements of a properly adjusted occupant restraining device;
- (3) Occupy, as a passenger, a seating position on the front seat of an automobile being operated on any street or highway unless that person is wearing all of the available elements of a properly adjusted occupant restraining device;
- (4) Operate a taxicab on any street or highway unless all factory-equipped occupant restraining devices in the taxicab are maintained in usable form.

(c) (1) Subsection (b)(3) hereof does not apply to a person who is required by Section 337.26 to be secured in a child restraint device or booster seat.

(2) Subsection (b)(1) hereof does not apply to a person who is an employee of the United States Postal Service or of a newspaper home delivery service, during any period in which the person is engaged in the operation of an automobile to deliver mail or newspapers to addressees.

(3) Subsections (b)(1) and (3) hereof do not apply to a person who has an affidavit signed by a physician licensed to practice in this State under ORC Ch. 4731 or a chiropractor licensed to practice in this State under ORC Ch. 4734 that states ~~that the following:~~

(A) ~~That~~ the person has a physical impairment that makes use of an occupant restraining device impossible or impractical;

(B) Whether the physical impairment is temporary, permanent, or reasonably expected to be permanent;

(C) If the physical impairment is temporary, how long the physical impairment is expected to make the use of an occupant restraining device impossible or impractical.

(4) Divisions (B)(1) and (3) of this section do not apply to a person who has registered with the registrar of motor vehicles in accordance with division (C)(5) of this section.

(5) A person who has received an affidavit under division (C)(3) of this section stating that the person has a permanent or reasonably expected to be permanent physical impairment that makes use of an occupant restraining device impossible or impracticable may register with the registrar attesting to that fact. Upon such registration, the registrar shall make that information available in the law enforcement automated data system. A person included in the database under division (C)(5) of this section is not required to have the affidavit obtained in accordance with division (C)(3) of this section in their possession while operating or occupying an automobile.

(6) A physician or chiropractor who issues an affidavit for the purposes of division (C)(3) or (4) of this section is immune from civil liability arising from any injury or death sustained by the person who was issued the affidavit due to the failure of the person to wear an occupant restraining device unless the physician or chiropractor, in issuing the affidavit, acted in a manner that constituted willful, wanton, or reckless misconduct.

- (7) The registrar shall adopt rules in accordance with Chapter 119. of the Revised Code establishing a process for a person to be included in the database under division (C)(5) of this section. The information provided and included in the database under division (C)(5) of this section is not a public record subject to inspection or copying under section 149.43 of the Revised Code.
- (d) 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 (b) hereof 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.
- (e) All fines collected for violations of subsection (b) hereof shall be forwarded to the Treasurer of State for deposit as provided in ORC 4513.263.
- (f) (1) Subject to subsection (f)(2) of this section, the failure of a person to wear all of the available elements of a properly adjusted occupant restraining device in violation of subsection (b)(1) or (3) or the failure of a person to ensure that each minor who is a passenger of an automobile being operated by that person is wearing all of the available elements of a properly adjusted occupant restraining device, in violation of subsection (b)(2) of this section, shall not be considered or used by the trier of fact in a tort action as evidence of negligence or contributory negligence. But the trier of fact may determine based on evidence admitted consistent with the Ohio rules of evidence that the failure contributed to the harm alleged in the tort action and may diminish a recovery of compensatory damages that represents noneconomic loss, as defined in ORC 2307.011 in a tort action that could have been recovered but for the plaintiff's failure to wear all of the available elements of a properly adjusted occupant restraining device. Evidence of that failure shall not be used as a basis for a criminal prosecution of the person other than a prosecution for a violation of this section; and shall not be admissible as evidence in a criminal action involving the person other than a prosecution for a violation of this section.
- (2) If, at the time of an accident involving a passenger car equipped with occupant restraining devices, any occupant of the passenger car who sustained injury or death was not wearing an available occupant restraining device, was not wearing all of the available elements of such a device, or was not wearing such a device as properly adjusted, then, consistent with the Rules of Evidence, the fact that the occupant was not wearing the available occupant restraining device, was not wearing all of the available elements of such a device, or was not wearing such a device as properly adjusted is admissible in evidence in relation to any claim for relief in a tort action to the extent that the claim for relief satisfies all of the following:
- A. It seeks to recover damages for injury or death to the occupant.
  - B. The defendant in question is the manufacturer, designer, distributor or seller of the passenger car.
  - C. The claim for relief against the defendant in question is that the injury or death sustained by the occupant was enhanced or aggravated by some design defect in the passenger car or that the passenger car was not crashworthy.
- (g) (1) Whoever violates subsection (b)(1) of this section shall be fined thirty dollars (\$30.00).
- (2) Whoever violates subsection (b)(3) of this section shall be fined twenty dollars (\$20.00).
- (3) Except as otherwise provided in this subsection, whoever violates subsection (b)(4) of this section is guilty of a minor misdemeanor. If the offender previously has been convicted of or pleaded

guilty to a violation of subsection (b)(4) of this section, whoever violates subsection (b)(4) of this section is guilty of a misdemeanor of the third degree.

**State Law reference— ORC 4513.263**

**341.01 DEFINITIONS.**

As used in this chapter:

- (a) "Alcohol concentration." 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 (100) milliliters of whole blood, blood serum, or blood plasma;
  - (2) Two hundred ten (210) liters of breath;
  - (3) One hundred (100) milliliters of urine.
- (b) "Commercial driver's license." A license issued in accordance with ORC Ch. 4506 that authorizes an individual to drive a commercial motor vehicle.
- (c) "Commercial driver's license information system." The information system established pursuant to the requirements of the "Commercial Motor Vehicle Safety Act of 1986," 100 Stat. 3207-171, 49 U.S.C. App. 2701.
- (d) "Commercial motor vehicle." Except when used in ORC 4506.25, 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 twenty-six thousand one (26,001) pounds or more, provided that the gross vehicle weight or gross vehicle weight rating of the vehicle or vehicles being towed is in excess of ten thousand (10,000) pounds;
  - (2) Any single vehicle with a gross vehicle weight or gross vehicle weight rating of twenty-six thousand one (26,001) pounds or more, ~~or any such vehicle towing a vehicle having a gross vehicle weight rating that is not in excess of ten thousand (10,000) pounds~~;
  - (3) Any single vehicle or combination of vehicles that is not a Class A or Class B vehicle, but is designed to transport sixteen (16) or more passengers including the driver;
  - (4) Any school bus with a gross vehicle weight or gross vehicle weight rating of less than twenty-six thousand one (26,001) pounds that is designed to transport fewer than sixteen (16) passengers including the driver;
  - (5) Is transporting hazardous materials for which placarding is required under 49 C.F.R. Part 172, Subpart F, as amended; or
  - (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.
- (e) "Controlled substance." Includes 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. 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.
- (f) "Conviction." An unvacated adjudication of guilt or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended or probated.
- (g) "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.
- (h) "Downgrade." Any of the following, as applicable:
- (1) A change in the commercial driver's license, or commercial driver's license temporary instruction permit, holder's self-certified status as described in ORC 4506.10(A)(2 1);
  - (2) A change to a lesser class of vehicle;
  - (3) Removal of commercial driver's license privileges from the individual's driver's license.
- (i) "Drive." To drive, operate or be in physical control of a motor vehicle.
- (j) "Driver." 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.
- (k) "Driver's license." A license issued by the Bureau of Motor Vehicles that authorizes an individual to drive.
- (l) "Drug of abuse." Any controlled substance, dangerous drug as defined in ORC 4729.01, or over-the-counter medication that, when taken in quantities exceeding the recommended dosage, can result in impairment of judgment or reflexes.
- (m) "Electronic device." Includes a cellular telephone, a personal digital assistant, a pager, a computer, and any other device used to input, write, send, receive, or read text.
- (n) "Eligible unit of local government." A village, township, or county that has a population of not more than three thousand (3,000) persons according to the most recent Federal census.
- (o) "Employer." 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.
- (p) "Endorsement." 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.
- (q) "Farm truck." 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 one hundred fifty (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 one hundred fifty (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 definition and is not used in the operations of a motor carrier, as defined in ORC 4923.01.

- (r) "Fatality." The death of a person as the result of a motor vehicle accident occurring not more than three hundred sixty-five (365) days prior to the date of death.
- (s) "Felony." Any offense under Federal or state law that is punishable by death or imprisonment for a term exceeding one year and includes any offense specifically classified as a felony under the law of this State, regardless of the penalty that may be imposed.
- (t) "Foreign jurisdiction." Any jurisdiction other than a state.
- (u) "Gross vehicle weight rating." 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.
- (v) "Hazardous materials." Any material that has been designated as hazardous under 49 U.S.C. 5103 and is required to be placarded under 49 C.F.R. Part 172, Subpart F or any quantity of a material listed as a select agent or toxin in 42 C.F.R. Part 73, as amended.
- (w) "Imminent hazard." The existence of a condition that presents a substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment may occur before the reasonably foreseeable completion date of a formal proceeding begun to lessen the risk of death, illness, injury, or endangerment.
- (x) "Medical variance." One of the following received by a driver from the Federal Motor Carrier Safety Administration that allows the driver to be issued a medical certificate:
  - (1) An exemption letter permitting operation of a commercial motor vehicle under 49 C.F.R. part 381, subpart C or 49 C.F.R. 391.64;
  - (2) A skill performance evaluation certificate permitting operation of a commercial motor vehicle pursuant to 49 C.F.R. 391.49.
- (y) "Motor vehicle." 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.
- (z) "Out-of-service order." A declaration by an authorized enforcement officer of a Federal, State, local, Canadian, or Mexican jurisdiction declaring that the driver, commercial motor vehicle, or commercial motor carrier operation is out of service as defined in 49 C.F.R. 390.5.
- (aa) "Peace officer." Has the same meaning as in ORC 2935.01.
- (bb) "Portable tank." A liquid or gaseous packaging designed primarily to be loaded on or temporarily attached to a vehicle and equipped with skids, mountings, or accessories to facilitate handling of the tank by mechanical means.
- (cc) "Public safety vehicle." Has the same meaning as in ORC 4511.01(E)(1) and (E)(3).
- (dd) "Recreational vehicle." Includes every vehicle that is defined as a recreational vehicle in ORC 4501.01 and is used exclusively for purposes other than engaging in business for profit.
- (ee) "Residence." Any person's residence determined in accordance with standards prescribed in the rules adopted by the Registrar.
- (ff) "School bus." Has the same meaning as in ORC 4511.01.
- (gg) "Serious traffic violation." Any of the following:

- (1) A conviction arising from a single charge of operating a commercial motor vehicle in violation of any provision of ORC 4506.03
- (2) (a) Except as provided in division (III)(2)(b) of this section, a A violation while operating a commercial motor vehicle of a law of this state, or any municipal ordinance or county or township resolution ~~prohibiting texting while driving~~, or any other substantially similar law of another state or political subdivision of another state; ~~prohibiting either of the following:~~
- (i) Texting while driving;
- (ii) Using a handheld mobile telephone.
- (b) It is not a serious traffic violation if the person was texting or using a handheld mobile telephone to contact law enforcement or other emergency services.
- (3) A conviction arising from the operation of any motor vehicle that involves any of the following:
- A. A single charge of any speed in excess of the posted speed limit by fifteen (15) miles per hour or more;
- B. Violations of ORC 4511.20 or 4511.201 or any substantially equivalent ordinance or resolution, or of any substantially equivalent law of another state or political subdivision of another state;
- C. Violation of a law of this State or an ordinance or resolution relating to traffic control, other than a parking violation, or of any substantially equivalent law of another state or political subdivision of another state, that results in a fatal accident;
- D. Violation of ORC 4506.03 or a substantially equivalent municipal ordinance or county or township resolution, or of any substantially equivalent law of another state or political subdivision of another state, that involves the operation of a commercial motor vehicle without a valid commercial driver's license with the proper class or endorsement for the specific vehicle group being operated or for the passengers or type of cargo being transported;
- E. Violation of ORC 4506.03 or a substantially equivalent municipal ordinance or county or township resolution, or of any substantially equivalent law of another state or political subdivision of another state, that involves the operation of a commercial motor vehicle without a valid commercial driver's license being in the person's possession;
- F. Violation of ORC 4511.33 or 4511.34, or any municipal ordinance or county or township resolution substantially equivalent to either of those sections, or any substantially equivalent law of another state or political subdivision of another state;
- G. Violation of any other law of this State ~~or an~~ , any law of another state, or any ordinance or resolution relating of a political subdivision of this state to another state that meets both of the following requirements:
- (i) It related to traffic control, other than a parking violation, ~~that;~~
- (ii) It is determined to be a serious traffic violation by the United States Secretary of Transportation and is designated by the Ohio Director of Public Safety ~~designates~~ as such by rule.
- (hh) "State." A state of the United States and includes the District of Columbia.
- (ii) "Tank vehicle." Any commercial motor vehicle that is designed to transport any liquid ~~and has a maximum capacity greater~~ or gaseous materials within a tank or tanks that are either permanently or temporarily attached to the vehicle or its chassis and have an individual rated capacity of more than one hundred nineteen (119) gallons ~~or is designed to transport gaseous materials and has a water and an aggregate rated capacity greater than~~ of one thousand (1,000) pounds ~~within a tank that is~~

~~either permanently or temporarily attached to the vehicle or its chassis~~ gallons or more. "Tank vehicle" does not include any of the following:

- ~~(1) Any portable tank having a rated capacity of less than one thousand (1,000) gallons;~~
- ~~(2) Tanks used exclusively as a fuel tank for the motor vehicle to which it is attached;~~
- ~~(3) An a commercial motor vehicle transporting an empty storage container tank that is not designed for transportation and that is readily distinguishable from a transportation tank;~~
- ~~(4) Ready-mix concrete mixers , has a rated capacity of one thousand gallons or more, and is temporarily attached to a flatbed trailer.~~

(jj) "Tester." Means a person or entity acting pursuant to a valid agreement entered into pursuant to ORC 4506.09(B).

(kk) "Texting." Manually entering alphanumeric text into, or reading text from, an electronic device. "Texting" includes short message service (SMS), e-mail, instant messaging, a command or request to access a world wide web page, pressing more than a single button to initiate or terminate a voice communication using a mobile telephone, or engaging in any other form of electronic text retrieval or entry, for present or future communication. "Texting" does not include the following:

- ~~(1) Reading, selecting, or entering a telephone number, an extension number, or voicemail retrieval codes and commands into an electronic device for the purpose of initiating or receiving a telephone call or using voice commands to initiate or , receive, or terminate a voice communication using a mobile telephone call;~~
- ~~(2) Inputting, selecting, or reading information on a global positioning system or navigation system- ;~~
- ~~(3) Pressing a single button to initiate or terminate a voice communication using a mobile telephone;~~  
~~or~~
- ~~(4) Using, for a purpose that is not otherwise prohibited by law, a device capable of performing multiple functions, such as a fleet management system, a dispatching device, a mobile telephone, a citizens band radio, or a music player.~~

(ll) "Texting while driving." Texting while operating a commercial motor vehicle, with the motor running, including while temporarily stationary because of traffic, a traffic control device, or other momentary delays, ~~but .~~ Texting while driving does not include operating a commercial motor vehicle with or without the motor running when the driver has moved the vehicle to the side of, or off, a highway and is stopped in a location where the vehicle can safely remain stationary.

(mm) "United States." Means the fifty (50) states and the District of Columbia.

(nn) "Upgrade." A change in the class of vehicles, endorsements, or self-certified status as described in ORC 4506.10(A)(2) that expands the ability of a current commercial driver's license holder to operate commercial motor vehicles under this chapter or ORC Ch. 4506.

(oo) "Vehicle." Has the same meaning as in ORC 4511.01.

#### **State Law reference— ORC 4506.01**

### **341.03 PREREQUISITES TO OPERATION OF A COMMERCIAL MOTOR VEHICLE.**

(a) On and after April 1, 1992, the following shall apply:



- (1) No person shall drive a commercial motor vehicle on a highway in this Municipality unless the person holds any of the following:
- (a) a valid commercial driver's license with proper endorsements for the motor vehicle being driven, issued by the registrar of motor vehicles, or by another jurisdiction recognized by this state;
  - (b) a valid examiner's commercial driving permit issued under ORC 4506.13;
  - (c) a valid restricted commercial driver's license and waiver for farm-related service industries issued under ORC 4506.24 or a;
  - (d) A valid commercial driver's license temporary instruction permit issued by the Registrar, provided that the person is and is accompanied by an authorized state driver's license examiner or tester or a person who has been issued and has in his immediate possession a current, valid commercial driver's license with proper endorsements for the motor vehicle being driven and who meets the requirements of division (B) of section 4506.06 of the revised code.
- (2) No person who has been a resident of this State for thirty (30) days or longer shall drive a commercial motor vehicle under the authority of a commercial driver's license issued by another jurisdiction.
- (b) As used in this section, "tester" means a person or entity acting pursuant to a valid agreement entered into under ORC 4506.09(B).
- (c) Whoever violates this section is guilty of a misdemeanor of the first degree.

**State Law reference—** ORC 4506.03

### **341.04 PROHIBITIONS.**

- (a) No person shall do any of the following:
- (1) Drive a commercial motor vehicle while having in the person's possession or otherwise under the person's control more than one valid driver's license issued by this State, any other state or by a foreign jurisdiction;
  - (2) Drive a commercial motor vehicle on a highway in this Municipality in violation of an out-of-service order, while the person's driving privilege is suspended, revoked or canceled, or while the person is subject to disqualification;
  - (3) Drive a motor vehicle on a highway in this Municipality under authority of a commercial driver's license issued by another state or a foreign jurisdiction, after having been a resident of this State for thirty (30) days or longer.
  - (4) Knowingly give false information in any application or certification required by ORC 4506.07.
- (b) The Municipality shall give every conviction occurring out of this State and notice of which was received by the State Department of Public Safety after December 31, 1989, full faith and credit and treat it for sanctioning purposes under this chapter as though the conviction had occurred in this State.
- (c) No person shall drive any commercial motor vehicle for which an endorsement is required under ORC 4506.12 unless the proper endorsement appears on the person's commercial driver's license or commercial driver's license temporary instruction permit. No person shall drive a commercial motor vehicle in violation of a restriction established under this section that appears on the person's commercial driver's license or commercial driver's license temporary instruction permit.

- (d) (1) Whoever violates division (a)(1), (2) or (3) of this section is guilty of a misdemeanor of the first degree.
- (2) Whoever violates division (a)(4) of this section is guilty of falsification, a misdemeanor of the first degree. In addition, the provisions of ORC 4507.19 apply.
- (3) Whoever violates division (c) of this section is guilty of a misdemeanor of the first degree.

**State Law reference—** ORC 4506.04(A), (B), (C); ORC 4506.12(I), (J) ~~(E), (F)~~

### **341.05 CRIMINAL OFFENSES.**

- (a) No person who holds a commercial driver's license or commercial driver's license temporary instruction permit or who operates a motor vehicle for which a commercial driver's license or permit is required shall do any of the following:
- (1) Drive a commercial motor vehicle while having a measurable or detectable amount of alcohol or of a controlled substance in the person's blood, breath, or urine;
  - (2) Drive a commercial motor vehicle while having an alcohol concentration of 0.04% or more by whole blood or breath;
  - (3) Drive a commercial motor vehicle while having an alcohol concentration of .048% or more by blood serum or blood plasma;
  - (4) Drive a commercial motor vehicle while having an alcohol concentration of .056% or more by urine;
  - (5) Drive a motor vehicle while under the influence of a controlled substance;
  - (6) Drive a motor vehicle in violation of ORC 4511.19 or a municipal O.V.I. ordinance as defined in ORC 4511.181;
  - (7) Use a vehicle in the commission of a felony;
  - (8) Refuse to submit to a test under ORC 4506.17 or ORC 4511.191, or any substantially similar municipal ordinance;
  - (9) Operate a commercial motor vehicle while the person's commercial driver's license or permit or other commercial driving privileges are revoked, suspended, cancelled or disqualified;
  - (10) Cause a fatality through the negligent operation of a commercial motor vehicle, including but not limited to the offenses of aggravated vehicular homicide, vehicular homicide and vehicular manslaughter;
  - (11) Fail to stop after an accident in violation of ORC 4549.02 to 4549.03, or any substantially similar municipal ordinance;
  - (12) Drive a commercial motor vehicle in violation of any provision of ORC 4511.61 to 4511.63 or any federal or local law or ordinance pertaining to railroad-highway grade crossings;
  - (13) Use a motor vehicle in the commission of a felony involving the manufacture, distribution, or dispensing of a controlled substance as defined in ORC 3719.01 or the possession with intent to manufacture, distribute, or dispense a controlled substance.
- (b) Whoever violates this section is guilty of a misdemeanor of the first degree.

**State Law reference—** ORC 4506.15

**341.06 EMPLOYMENT OF DRIVERS OF COMMERCIAL VEHICLES.**

- (a) Each employer shall require every applicant for employment as a driver of a commercial vehicle to provide the applicant's employment history for the ten (10) years preceding the date the employment application is submitted to the prospective employer. The following information shall be submitted:
- (1) A list of the names and addresses of the applicant's previous employers for which the applicant was the operator of a commercial motor vehicle;
  - (2) The dates the applicant was employed by these employers;
  - (3) The reason for leaving each of these employers.
- (b) No employer shall knowingly permit or authorize any driver employed by the employer to drive a commercial motor vehicle during any period in which any of the following apply:
- (1) The driver's commercial driver's license is suspended, revoked or canceled by any state or a foreign jurisdiction;
  - (2) The driver has lost the privilege to drive, or currently is disqualified from driving, a commercial motor vehicle in any state or foreign jurisdiction;
  - (3) The driver, the commercial motor vehicle the driver is driving, or the motor carrier operation is subject to an out-of-service order in any state or a foreign jurisdiction;
  - (4) The driver has more than one driver's license.
- (c) No employer shall knowingly permit or authorize a driver to operate a commercial motor vehicle in violation of Section 341.05.
- (d) No employer shall knowingly permit or authorize a driver to operate a commercial motor vehicle if the driver does not hold a valid, current commercial driver's license or commercial driver's license temporary instruction permit bearing the proper class or endorsements for the vehicle. No employer shall knowingly permit or authorize a driver to operate a commercial motor vehicle in violation of the restrictions on the driver's commercial driver's license or commercial driver's license temporary instruction permit.
- (e) Whoever violates subsection (c) of this section may be assessed a fine not to exceed ten thousand dollars (\$10,000.00).

**State Law reference—** ORC 4506.20

**341.07 PHYSICAL QUALIFICATION TO OPERATE COMMERCIAL MOTOR VEHICLES.**

- (a) No person who holds a valid commercial driver's license shall drive a commercial motor vehicle unless he or she is physically qualified to do so.
- (1) ~~Prior to January 30, 2012, each person who drives or expects to drive a commercial motor vehicle in interstate or foreign commerce or is otherwise subject to 49 C.F.R. 391, et seq., as amended, shall certify to the Registrar of Motor Vehicles at the time of application for a commercial driver's license that he or she is in compliance with these standards. Any person who is not subject to 49 C.F.R. 391, et seq., as amended, shall also certify at the time of application that he or she is not subject to these standards.~~
  - (2) Beginning on January 30, 2012, any person applying for a commercial driver's license or commercial driver's license temporary instruction permit, renewing the renewal or upgrade of a

commercial driver's license or commercial driver's license temporary instruction permit, or ~~transferring the transfer of a commercial driver's license~~ from out of state shall self-certify to the Registrar for purposes of 49 C.F.R. 383.71 one of the following in regard to the applicant's operation of a commercial motor vehicle, as applicable:

- A. 1. If the applicant operates or expects to operate a commercial motor vehicle in interstate or foreign commerce and is subject to and meets the requirements under 49 C.F.R. part 391, the applicant shall self-certify that the applicant is non-excepted interstate and shall provide the Registrar with the original or a copy of a medical examiner's certificate and each subsequently issued medical examiner's certificate prepared by a qualified medical examiner to maintain a medically certified status on the applicant's commercial driver licensing system driver record;
- 2. If the applicant operates or expects to operate a commercial motor vehicle in interstate commerce, but engages in transportation or operations excepted under 49 C.F.R. 390.3(f), 391.2, 391.68, or 398.3 from all or parts of the qualification requirements of 49 C.F.R. part 391, the applicant shall self-certify that the applicant is excepted interstate and is not required to obtain a medical examiner's certificate;
- B. 1. If the applicant operates only in intrastate commerce and is subject to state driver qualification requirements, the applicant shall self-certify that the applicant is non-excepted intrastate;
- 2. If the applicant operates only in intrastate commerce and is excepted from all or parts of the state driver qualification requirements, the applicant shall self-certify that the applicant is excepted intrastate.

~~(3)~~(2) Notwithstanding the expiration date on a person's commercial driver's license or commercial driver's license temporary instruction permit, every commercial driver's license or commercial driver's license temporary instruction permit holder shall provide the Registrar with the certification required by this section, on or after January 30, 2012, but prior to January 30, 2014.

- (b) Whoever violates this section is guilty of a misdemeanor of the first degree and shall be subject to the penalty provided in Section 303.99.

**State Law reference—** ORC 4506.10(A); ORC 4506.99(A)

### **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 twelve (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) 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 twenty-five (25) feet is available for free-moving traffic.
- (c) (1)(A) Except as provided in division ~~(c)(2)-(1)(b)~~ of this section, no vehicle shall be stopped or parked on a road or street with the vehicle facing in a direction other than the direction of travel on that side of the road or street.

- (2) ~~(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 division (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 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 ORC 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 (5) feet. If a new sign or a replacement sign designating a special 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 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 parking locations provided under subsection (e) hereof, or at special 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:
- A. (i) 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 license plates;
- B. (ii) The motor vehicle is being operated by or for the transport of a handicapped person and is displaying a parking card or special handicapped license plates.
- ~~(2)~~ (B) Any motor vehicle that is parked in a special marked parking location in violation of subsection (f)(1) 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.
- ~~(3)~~ (C) If a person is charged with a violation of subsection (f)(1)~~(A)~~(i) or (ii) of this section, it is an affirmative defense to the charge that the person suffered an injury not more than seventy-two (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 ORC 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 parking location provided under division (E) of this section or at a special 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 division.
- (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 license plates, or when a motor vehicle is being operated by or for the transport of a handicapped person and is displaying a parking card or special handicapped license plates, the motor vehicle is permitted to park for a period of two (2) 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) No owner of an office, facility or parking garage where special parking locations are required to be designated in accordance with division (e) of this section shall fail to properly mark the special parking locations in accordance with that division or fail to maintain the markings of the special locations, including the erection and maintenance of the fixed or movable signs.
- (i) Nothing in this section shall be construed to require a person or organization to apply for a removable windshield placard or special license plates if the parking card or special license plates issued to the person or organization under prior law have not expired or been surrendered or revoked.
- (j) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.
- (1) "Handicapped person" 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 condition.
- (2) "Person with a disability that limits or impairs the ability to walk" has the same meaning as in ORC 4503.44.
- (3) "Special license plates" and "removable windshield placard" mean any license plates or removable windshield placard or temporary removable windshield placard issued under ORC 4503.41 or 4503.44, and also mean any substantially equivalent license plates or removable windshield placard or temporary removable windshield placard issued by a state, district, country or sovereignty.
- (k) Penalty.
- (1) Whoever violates subsection (a) or (c) 9of this section is guilty of a minor misdemeanor.
- (2) A. Whoever violates subsection (f)(1)A(i) or (ii) ~~or B.~~ 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(i) or (ii) ~~or B.~~ 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. or B. 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(iii). 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(ii). of this section.

2. At the time of the violation of subsection (f)(1)B. 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)B. of this section.
- B. In no case shall an offender who violates subsection (f)(1)A(i) or (ii) ~~or B.~~ of this section be sentenced to any term of imprisonment.
- C. An arrest or conviction for a violation of subsection (f)(1)A. ~~(i) or (ii) or B.~~ 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.
- D. The Clerk of the Court shall pay every fine collected under divisions (k)(2) and (3) of this section to the municipality. Except as provided in division (k)(2) of this section, the municipality shall use the fine moneys it receives under divisions (k)(2) and (3) of this section to pay the expenses it incurs in complying with the signage and notice requirements contained in division (e) of this section. The municipality may use up to fifty percent (50%) of each fine it receives under divisions (k)(2) and (3) of this section to pay the costs of educational, advocacy, support and assistive technology programs for persons with disabilities, and for public improvements within the municipality that benefit or assist persons with disabilities, if governmental agencies or nonprofit organizations offer the programs.
- (3) Whoever violates division (F)(2) of this section shall be fined not less than two hundred fifty nor more than five hundred dollars.
- In no case shall an offender who violates division (F)(2) of this section be sentenced to any term of imprisonment. An arrest or conviction for a violation of division (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.
- (4) Whoever violates division (h) of this section shall be punished as follows:
  - A. Except as otherwise provided in division (k)~~(3)~~ (4) of this section, the offender shall be issued a warning.
  - B. If the offender previously has been convicted of or pleaded guilty to a violation of division (h) of this section or of a municipal ordinance that is substantially equivalent to that division, the offender shall not be issued a warning but shall be fined not more than twenty-five dollars (\$25.00) for each parking location that is not properly marked or whose markings are not properly maintained.

**State Law reference—** ORC 4511.69

### **351.07 UNATTENDED VEHICLE: DUTY TO STOP ENGINE, REMOVE KEY, SET BRAKE AND TURN WHEELS.**

- (a) No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition, removing the key from the ignition, effectively setting the parking brake,

and, when the motor vehicle is standing upon any grade, turning the front wheels to the curb or side of the highway.

The requirements of this section relating to the stopping of the engine, locking of the ignition and removing the key from the ignition of a motor vehicle ~~shall~~ do not apply to any of the following:

- (1) A motor vehicle that is parked on residential property;
  - (2) A motor vehicle that is locked, regardless of where it is parked;
  - (3) An emergency vehicle;
  - (4) A ~~or~~ a public safety vehicle.
- (b) 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 (2) or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

**State Law reference—** ORC 4511.661

### **371.02 RIGHT-OF-WAY OF BLIND PERSON.**

- (a) As used in this section "blind person" or "blind pedestrian" means a person having not more than 20/200 visual acuity in the better eye with correcting lenses or visual acuity greater than 20/200 but with a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than twenty degrees (20°).

The driver of every vehicle shall yield the right-of-way to every blind pedestrian guided by a guide dog, or carrying a cane which is predominately white or metallic in color, with or without a red tip.

- (b) No person, other than a blind person, while on any public highway, street, alley or other public thoroughfare shall carry a white metallic cane, with or without a red tip.
- (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 (2) or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.98.

**State Law reference—** ORC 4511.47

### **373.02 RIDING UPON SEATS; HANDLE BARS; HELMETS AND GLASSES.**

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



- (b) (1) No person operating a bicycle or electric bicycle shall ride other than upon or astride the permanent and regular seat attached thereto or carry any other person upon such bicycle or electric bicycle other than upon a firmly attached and regular seat thereon, and no person shall ride upon a bicycle or electric bicycle other than upon such a firmly attached and regular seat.
- (2) No person operating a motorcycle shall ride other than upon or astride the permanent and regular seat or saddle attached thereto, or carry any other person upon such motorcycle other than upon a firmly attached and regular seat or saddle thereon, and no person shall ride upon a motorcycle other than upon such a firmly attached and regular seat or saddle.
- (3) No person shall ride upon a motorcycle that is equipped with a saddle other than while sitting astride the saddle, facing forward, with one leg on each side of the motorcycle.
- (4) No person shall ride upon a motorcycle that is equipped with a seat other than while sitting upon the seat.
- (5) No person operating a bicycle or electric bicycle shall carry any package, bundle, or article that prevents the driver from keeping at least one hand upon the handlebars.
- (6) No bicycle, electric bicycle, or motorcycle shall be used to carry more persons at one time than the number for which it is designed and equipped. No motorcycle shall be operated on a highway when the handlebars rise higher than the shoulders of the operator when the operator is seated in the operator's seat or saddle.
- (c) (1) Except as provided in division (c)(2) of this section, no person shall operate or be a passenger on a snowmobile or motorcycle without using safety glasses or other protective eye device. Except as provided in division (c)(2) of this section, no person who is under the age of eighteen (18) years, or who holds a motorcycle operator's endorsement or license bearing a "novice" designation that is currently in effect as provided in ORC 4507.13, shall operate a motorcycle on a highway, or be a passenger on a motorcycle, unless wearing a United States Department of Transportation-approved protective helmet on the person's head, and no other person shall be a passenger on a motorcycle operated by such a person unless similarly wearing a protective helmet. The helmet, safety glasses, or other protective eye device shall conform with rules adopted by the Director of Public Safety. The provisions of this paragraph or a violation thereof shall not be used in the trial of any civil action.
- (2) Division (c)(1) of this section does not apply to a person who operates or is a passenger in an autocycle or ~~operating~~ a cab- enclosed motorcycle when the occupant compartment top is in place enclosing the occupants.
- (3) A. No person shall operate a motorcycle with a valid temporary instruction permit and temporary instruction permit identification card issued by the Registrar of Motor Vehicles pursuant to ORC 4507.05 unless the person, at the time of such operation, is wearing on the person's head a protective helmet that has been approved by the United States Department of Transportation that conforms with rules adopted by the Director.
- B. No person shall operate a motorcycle with a valid temporary instruction permit and temporary instruction permit identification card issued by the Registrar pursuant to ORC 4507.05 in any of the following circumstances:
1. At any time when lighted lights are required by ORC 4513.03(A)(1);
  2. While carrying a passenger;
  3. On any limited access highway or heavily congested roadway.

- (d) Nothing in this section shall be construed as prohibiting the carrying of a child in a seat or trailer that is designed for carrying children and is firmly attached to the bicycle or electric bicycle.
- (e) Except as otherwise provided in this subsection, whoever violates division (b) or (c)(1) or (c)(3) of 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 division (b) or (c)(1) or (c)(3) of 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 (2) or more predicate motor vehicle or traffic offenses, whoever violates division (b) or (c)(1) or (c)(3) of this section is guilty of a misdemeanor of the third degree.

**State Law reference—** ORC 4511.53

### **375.03 CODE APPLICATION; PROHIBITED OPERATION.**

- (a) The applicable provisions of this Traffic Code ~~shall be applied~~ apply to the operation of snowmobiles, off-highway motorcycles, and all purpose vehicles; except that no person shall operate a snowmobile, off-highway motorcycle, or all purpose vehicle ~~shall be operated as follows~~:
- (1) On any street or highway except for emergency travel only during such time and in such manner as the State or local authority having jurisdiction over such street or highway shall designate, and except as provided in Section 375.04;
  - (2) Upon any property owned or leased by the Municipality except in areas designated for such purposes;
  - (3) On any private property, or in any nursery or planting area, without the permission of the owner or other person having the right to possession of the property;
  - (4) On any land or waters controlled by the State, except at those locations where a sign has been posted permitting such operation;
  - (5) On tracks or right-of-way of any operating railroad;
  - (6) While transporting any firearm, bow or other implement for hunting, that is not unloaded and securely encased;
  - (7) For the purpose of chasing, pursuing, capturing or killing any animal or wild fowl;
  - (8) During the time from sunset to sunrise, unless displaying lighted lights as required by Section 375.02.
- (b) Whoever violates this section shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00), imprisoned not less than three (3) nor more than thirty (30) days, or both.

**State Law reference—** ORC 4519.40

### **375.06 REGISTRATION OF VEHICLES.**

- (a) (1) Except as provided in division (b), (c) and (d) of this section, no person shall operate any snowmobile, off-highway motorcycle, or all purpose vehicle unless the snowmobile, off-highway motorcycle, or all purpose vehicle is registered and numbered in accordance with ORC 4519.03 and 4519.04.

- (2) Except as provided in ORC 4511.215 or a substantially equivalent municipal ordinance, no registration is required for a mini-truck that is operated within this state. A mini-truck may be operated only in accordance with ORC 4511.215 and ORC 4519.401, or any substantially equivalent municipal ordinance. This division (a)(2) shall take effect on January 1, 2017.
- (b) (1) No registration is required for a snowmobile or off-highway motorcycle that is operated exclusively upon lands owned by the owner of the snowmobile or off- highway motorcycle, or on lands to which the owner of the snowmobile or off- highway motorcycle has a contractual right.
- (2) No registration is required for an all-purpose vehicle that is used primarily for agricultural purposes when the owner qualifies for the current agricultural use valuation tax credit, unless it is to be used on any public land, trail, or right-of-way.
- (3) Any all-purpose vehicle exempted from registration under division (b)(2) of this section and operated for agricultural purposes may use public roads and rights-of-way when traveling from one farm field to another, when such use does not violate ORC 4519.41.
- (c) No registration is required for a snowmobile, off-highway motorcycle, or all-purpose vehicle owned and used in this State by a resident of another state whenever that state has in effect a registration law similar to ORC Ch. 4519 and the snowmobile, off-highway motorcycle, or all-purpose vehicle is properly registered under that state's law. Any snowmobile, off-highway motorcycle, or all-purpose vehicle owned and used in this State by a resident of a state not having a registration law similar to ORC Ch. 4519 shall comply with ORC 4519.09.
- (d) No registration is required for a snowmobile, off-highway motorcycle, or all-purpose vehicle owned and used in this Municipality by the United States, another state or a political subdivision thereof, but the snowmobile, off-highway motorcycle, or all-purpose vehicle shall display the name of the owner thereon.
- (e) The owner or operator of any all-purpose vehicle operated or used upon the waters in this Municipality shall comply with ORC Ch. 1547 and ORC Ch. 1548 relative to the operation of watercraft.
- (f) Whoever violates subsection (a) of this section shall be fined not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00).

**State Law reference—** ORC 4519.02



## ORDINANCE O-23-2020

**AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF NEW ALBANY BY AMENDING THE ZONING MAP TO REZONE 1.92 +/- ACRES OF LAND LOCATED AT 10087 JOHNSTOWN ROAD FROM ITS CURRENT ZONING OF RESIDENTIAL ESTATE (R-1) TO LIMITED OFFICE (L-O) AS REQUESTED BY JOSHUA & KRISTA BODMAN**

**WHEREAS**, Council of the City of New Albany has determined that it is necessary to rezone certain property located in the city to promote orderly growth and development of lands; and

**WHEREAS**, the Rocky Fork Blacklick Accord Panel, Planning Commission and city council on separate occasions have held public hearings and received public input into the amendment of the zoning ordinance; and

**WHEREAS**, pursuant to the application by Joshua & Krista Bodman, the Rocky Fork Blacklick Accord and the Planning Commission have reviewed the proposed ordinance amendment and recommended its approval.

**NOW, THEREFORE, BE IT ORDAINED** by Council for the City of New Albany, Counties of Franklin and Licking, State of Ohio, that:

**Section 1.** Council hereby amends the Zoning Ordinance Map of the City of New Albany to change the zoning classification of the following described site:

- A. A 1.92 ± acre area of land located at 10087 Johnstown Road from its current zoning of Residential Estate District (R-1) to Limited Office District (L-O).
- B. The zoning district's limitation text and map are hereby attached and marked Exhibit A.

**Section 2.** It is hereby found and determined that all formal actions of this council concerning and relating to the adoption of this legislation were adopted in an open meeting of the council, and that all deliberations of the council and or any of its committees that resulted in such formal action were in meetings open to the public, in compliance with Section 121 of the Ohio Revised Code, and further pursuant to Ohio General Assembly 133 – House Bill 197 effective March 27, 2020.

**Section 3.** Pursuant to Article 6.07(B) of the New Albany Charter, this ordinance shall become effective thirty (30) days after adoption.

CERTIFIED AS ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

**Attest:**

\_\_\_\_\_  
Sloan T. Spalding  
Mayor

\_\_\_\_\_  
Jennifer H. Mason  
Clerk of Council

**Approved as to form:**

\_\_\_\_\_  
Mitchell H. Banchefsky  
Law Director

**Legislation dates:**

Prepared: 10/23/2020

Introduced: 11/03/2020

Revised:

Adopted:

Effective:

## **EXHIBIT A - O-23-2020**

### **BOLD REACH DEVELOPMENT**

#### **OFFICE LIMITATION TEXT**

**October 6, 2020**

**I. Introduction:** The real property subject to this limitation text is located at 10087 Johnstown Road, New Albany Ohio 43054; Parcel No. 222-000612-00 (Prior Deed Reference: Official Deed Book 3212, Page C09 Recorder's Office, Franklin County, Ohio). This rezoning provides zoning designations of O (Office District) for the property.

**II. Zoning Designation:** O, Office District (Chapter 1143 of the Codified Ordinances of the City of New Albany).

**III. Permitted Uses:** Uses in the zoning district shall include the permitted and conditional uses contained and described in the Codified Ordinances of the City of New Albany, O (Office District), Chapter 1143.02 and conditional uses listed in Chapter 1143.03, provided that the conditional uses comply with Chapter 1115.

**IV. Current Development Standards Prior to Redevelopment**

A. **Existing Non-Conformities:** The existing non-conforming status of the primary structure with respect to required minimum building setback from Johnstown Road, shall be permitted to remain as part of this rezoning in accordance with section 1117 of the Codified Ordinances of New Albany. In accordance with Codified Ordinance 1117.06, if more than 50% of the market value of the existing building is lost, the building or structure may not be restored or rebuilt in a manner so as to continue existing non-conformities. No improvements or changes shall be made to the site or building to cause either the building or the site to become more non-conforming in accordance with section 1117 of the Codified Ordinances of New Albany. In the event that any improvements are made to the existing building or site, the development standards of Codified Ordinances Chapter 1143 and other applicable chapters apply.

**V. Standards for Future Redevelopment**

A. **Redevelopment of the Property:** If the site is redeveloped the standards of Ordinances Chapter 1143 apply unless otherwise addressed in this text. For the purposes of this text, redevelopment shall be defined as construction involving the removal and replacement of an existing primary structure or the addition a new primary structure.

B. **Lot and Setback Commitments**

1. Johnstown Road (US Route 62): There shall be a minimum 50 foot pavement and building setback from the right-of-way of U.S. Route 62/Johnstown Road.

2. Lot Coverage: There shall be a maximum lot coverage of 80% in this Zoning District.

C. Access, Loading, Parking and Other Traffic Commitments

1. Vehicular Parking: Vehicular parking for each use shall be provided per Section 1167 of the Codified Ordinances.

2. Bicycle Parking: Bicycle parking shall be provided at the rate of one space per 2,500 square feet of gross building floor area located on that parcel, provided that in no circumstance shall more than 10 bicycle parking spaces be required.

3. Vehicular Access: One full access curb cut is permitted along Johnstown Road. In the event that the site is redeveloped and there is an existing private drive built up to this property line on an adjacent site, as envisioned on exhibit A accompanying this text, the existing curb cut along Johnstown Road shall be removed and a connection to the drive shall be established to provide access to this site and neighboring sites.

4. Pedestrian Access: A leisure trail shall be located along Johnstown Road. A 5-foot wide concrete private sidewalk shall be provided along any private drive that is built within this zoning district and individual parcels shall establish at least one pedestrian connection to the sidewalk in some form. If such connection crosses a parking area it should be striped. Each building shall have a concrete sidewalk between its front façade and adjacent parking areas.

D. Architectural Standards:

1. Application of DGRs: The City's Design Guidelines and Requirements shall apply to this Zoning District.

2. Style: Buildings shall be designed to be seen from 360 degrees with the same caliber of finish on all facades/elevations. Building additions, whether attached or detached, shall be of similar design, materials, and construction.

3. Height: The maximum building height (as measured per the Codified Ordinances) shall not exceed 35 feet. Architectural elements such as monitors, chimneys, and cupolas may exceed the height limitations of this text as permitted by the Codified Ordinances.

4. Features: The following architectural features shall be required and shall be scaled according to the size of the individual tenant. These features may be scaled to a group of smaller side-by-side tenants when architecturally appropriate:

- a. Roofs may be sloped or flat, provided that flat roofs utilize a heavy cornice;
- b. Roof elements that emphasize and reduce the building scale at the building storefront such as, but not limited to, dormers, cupolas, roof spires, and hip and gable roofs;
- c. Complete screening of all roof-mounted equipment shall be required on all four sides of buildings with materials that are consistent and harmonious with the building's façade and character. Such screening shall be provided in order to screen the equipment from off-site view and to buffer sound generated by such equipment; and

5. Exterior Elevations: All exterior elevations of each building shall be required to have the following characteristics:

- a. Consistency of Finish: The same palette of exterior finishes and color shall be used on all sides of a building. Unfinished rear facades of buildings shall be prohibited.
- b. Exterior Wall Finish: Brick, brick veneer, metal, cementitious products such as Hardiplank or its equivalent, wood, EIFS and composite material may be used as exterior wall finish materials where appropriate. Exterior wall finish materials must be used to complete massing elements. The application of brick or brick veneer to a single building façade is prohibited. Tinted glass shall be permitted, reflective or mirrored glass shall be prohibited.
- c. Roofs: General roof massing shall incorporate pitched or flat roofs. If a flat roof is used, strong cornice lines must be integrated. Acceptable roof materials include dimensional asphalt shingles, natural and synthetic slate, cedar shake, and standing seam metal.
- d. Parapets: Parapets shall use a classical cornice with molded shapes made of any of the following durable materials: stone, cast stone, architectural pre-cast concrete, gypsum fiber reinforced concrete, expanded insulation finish system (EIFS), or similar materials.



- e. Fascias: Roof fascias shall be proportioned to the scale of the roof element and shall employ classical molding details such as crown molding. The same material shall be used for fascias and cornices.
- f. Gutters and Downspouts: Sloped roofs shall be required to employ gutters and downspouts for drainage. All gutters shall be of a metal type and shall be painted to match fascias.
- g. Exterior Doors: All exterior doors other than doors whose primary purpose is for the entry or exit of customers shall be made of a heavy gauge metal.
- h. Prefabricated Buildings: Prefabricated metal buildings, untreated masonry block structures, and buildings featuring an exterior finish entirely of glass are also prohibited.

E. Buffering, Landscaping, Open Space and Screening Commitments

1. Landscape Standards Along Public Rights-of-Way & Private Roads:

- a. Street Trees: Deciduous street trees are required within the rights-of-way along Johnstown Road. Trees are to be a minimum of three inch caliper and shall be spaced at a minimum distance of thirty feet on center. If any additional street trees are not currently installed within the zoning district, they are required to be shall be installed using the same species of existing trees along that frontage and with similar spacing as the existing trees. The street trees required of this section also applies to private roads and common drives used to connect sites. Street trees shall not obstruct site distance or signage.
- b. Fencing: A four-board white horse fence shall be installed along Johnstown Road except where vehicular or pedestrian access points for the Zoning District are provided.
- c. Screening of Parking from Streets and Drives: Any surface parking areas adjacent to Johnstown Road or a private drive shall be screened with a minimum of a 48-inch tall continuous planting hedge. The 48-inch height shall be measured from the adjacent parking area. Within the required minimum pavement setback area along Johnstown Road there shall be a minimum of 6 trees per 100 lineal feet. Trees may be deciduous, ornamental, evergreens, or any combination thereof. This planting requirement shall not apply in areas where pedestrian or vehicular ingress and/or egress are provided, or where existing trees are found.

3. Tree Preservation: Reasonable and good faith efforts will be made to preserve existing trees within this subarea. Consideration will be given to laying out service roads, lots, structures and parking areas to avoid the unnecessary destruction of existing trees. Additionally, standard tree preservation practices will be in place to preserve and protect trees during all phases of construction, including the installation of snow fencing at the drip line.

4. General.

a. Minimum Tree Size.

<u>Tree</u>	<u>Perimeter Minimum Tree Size</u>	<u>Parking Lot Minimum Tree Size</u>
Ornamental Tree	2" Caliper	2" Caliper
Deciduous Shade Trees	2 ½" Caliper	2 ½" Caliper
Evergreen Trees	6' – 8' tall	4' tall

b. Perimeter Shrubbery. Deciduous and evergreen shrubs are permitted and shall be a minimum size of 24 inches in height at installation.

c. Interior Parking Lot Landscaping. The required amount of interior landscaping shall be a minimum of eight percent (8%) of the total area of parking lot pavement. The landscaping areas shall include both shrubs and parking lot trees as required by Codified Ordinance 1171.06(a)(3) and be arranged in such a manner so as to visually break up large expanses of pavement.

F. Dumpsters, Lighting, Outdoor Display Areas and other Environmental Commitments

1. Mechanical Equipment: Any external mechanical equipment shall be screened at ground level from all adjacent public streets and from properties which are outside of but adjacent to this Zoning District with materials that are similar to or the same as used on the majority of the building, or with fencing or landscaping. Complete screening of all roof-mounted equipment shall be required on all four sides of buildings with materials that are consistent and harmonious with the building's façade and character. Such screening shall be provided in

order to screen the equipment from off-site view and to buffer sound generated by such equipment. The screening of the mechanical equipment should be coordinated with the rest of the architecture so as to avoid being seen as an “add-on”.

2. Service Areas and Dumpsters: All service areas (including, without limitation, loading docks) and dumpsters shall be fully screened from all public roads and from adjacent properties located outside of this Zoning District at ground level with walls, fencing, or landscaping in accordance with Codified Ordinance 1171. Walls shall be of the same materials used on the building walls and shall be complemented with landscaping. Exterior storage of materials, supplies, equipment, or products is prohibited.

3. Lighting:

a. Parking Lots and Driveways: All parking lot and private driveway lighting shall be cut-off type fixtures and down cast. Light poles within this subarea shall be black or New Albany green and constructed of metal and shall be consistent with the fixture shown in the attached Exhibit B. Parking lot lighting shall not exceed 18 feet in height. Parking lot lighting shall be from a controlled source in order to eliminate light spillage beyond the boundaries of the site.

b. Ground-Mounted Lighting: Landscape uplighting from a concealed source shall not be permitted. Any ground lighting that is permitted shall be shielded and landscaped.

c. Prohibited Lighting: No permanent colored lights or neon lights shall be used on the exterior of any building.

d. Security Lighting: Security lighting, when used, shall be of a motion-sensor type.

e. Consistent Appearance: Exterior lighting fixtures shall be similar in appearance throughout this subarea. All exterior lighting mounted to a building shall be located on the first floor only. Uplighting of a building is prohibited.

f. Other Requirements: All other lighting on the site shall be in accordance with the City’s Codified Ordinances.

G. Graphics and Signage Commitment

1. Specifications: Permitted sizes, designs, colors, shapes, and other specifications for ground and building signs shall be consistent with the 2013 Trust Corp Signage Recommendations Plan which was approved by the City in 2013 for the real property located to the southeast of this Zoning District across U.S. Route 62/Johnstown Road. Any changes to or deviations from that plan shall require the review and approval of the Board of Zoning Appeals.
2. Illumination: Backlighting of individual letters on wall-mounted signage shall be permitted. Internally illuminated wall-mounted and ground-mounted signage shall be prohibited.
3. Prohibited Signs: No signs shall be painted directly on the surface of the building, wall or fence. No wall murals shall be allowed. No roof signs or parapet signs shall be permitted nor shall a sign extend higher than the roof of a building. No flashing, traveling animated or intermittently illuminated signs or banners, tethered balloons or pennants shall be used. Temporary interior window advertisements are prohibited.

The following signs are not permitted as permanent signs: Banner or streamers, sidewalk or curb signs (sandwich type), portable displays or mobile signs, gas filled devices, roof-mounted signs, revolving or rotating signs, and neon signs

4. Other Requirements: All signage shall conform to the standards set forth in Section 1169 of the Codified Ordinances, unless otherwise stated above.

H. Utilities: All new utilities in this subarea shall be installed underground.

HOY LAND SURVEYING  
1767 McCorkle Blvd #1767  
Westerville, Ohio 43086  
Phone: 614-679-1186



JOB NUMBER #: 5440-2019 S DATE OF DRAWING 11-06-19

CERTIFIED TO GREAT AMERICAN TITLE AGENCY

LENDER CAPITAL HOME LOANS, LLC.

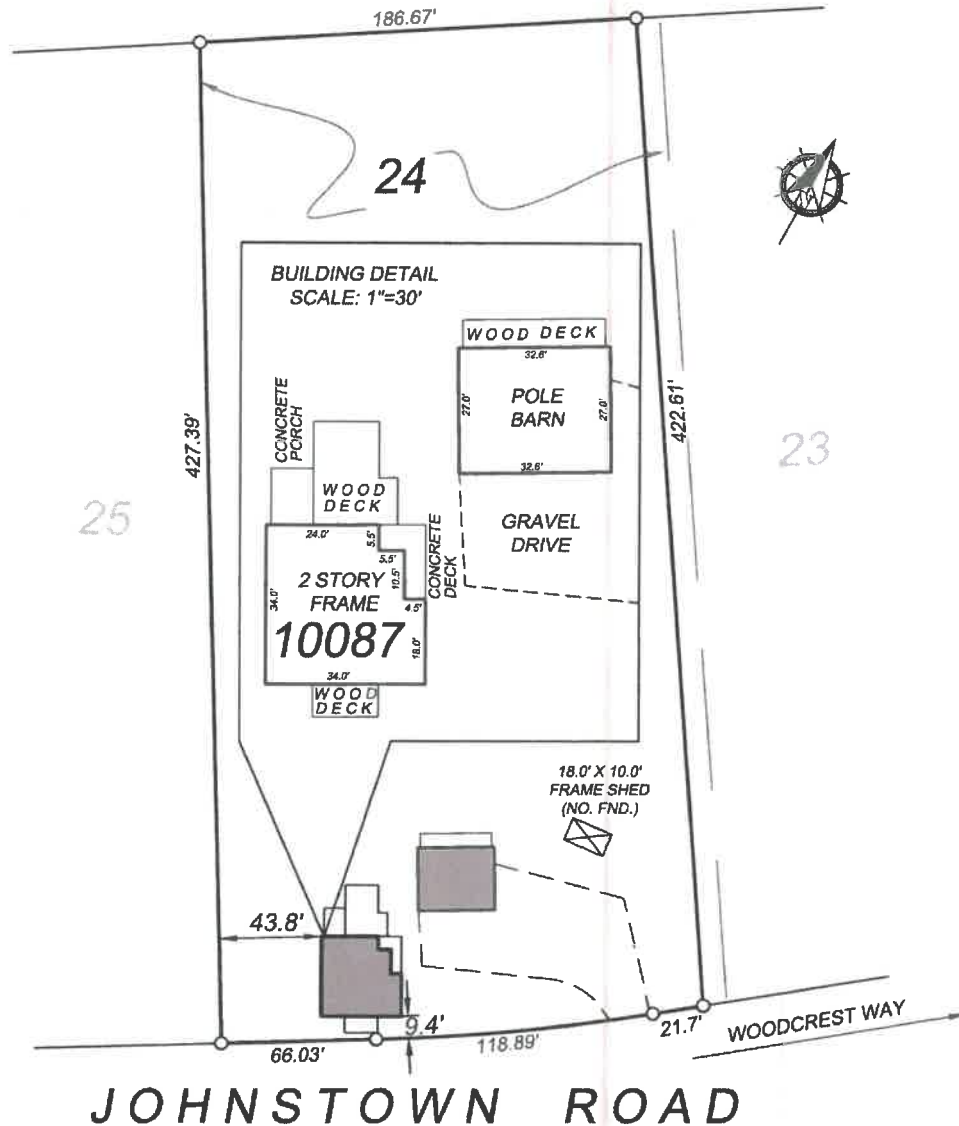
BUYER BODMAN

LEGAL DESC. PART OF LOT 24 ~ PLAIN VIEW FARMS NO. 2

P.B. 34 PG. 22

CITY/TWP. PLAIN TOWNSHIP COUNTY FRANKLIN DRN. SJH CK. SS DRAWING SCALE 1" = 60'

FEMA INFORMATION: FLOOD ZONE X MAP PANEL INFO 39049C 0206K & 0208K MAP DATE 06-17-08



ENCROACHMENT INFORMATION  
**NONE NOTED**

I / WE HAVE RECEIVED A COPY OF THIS SURVEY  
AND FIND THE CONDITIONS ACCEPTABLE.

BUYER / OWNER

BUYER / OWNER

We hereby certify that the foregoing MORTGAGE LOCATION SURVEY was prepared in accordance with Chapter 4733-38, Ohio Administrative Code, and is not a Boundary Survey pursuant to Chapter 4733-37, Ohio Administrative Code. This plat is prepared for mortgage loan and title purposes only and is not to be construed as having been prepared for the owner and is not to be used to erect fences or other structures. Easements shown on this plat were taken from the subdivision plat of record. Additional easements affecting this property may exist.

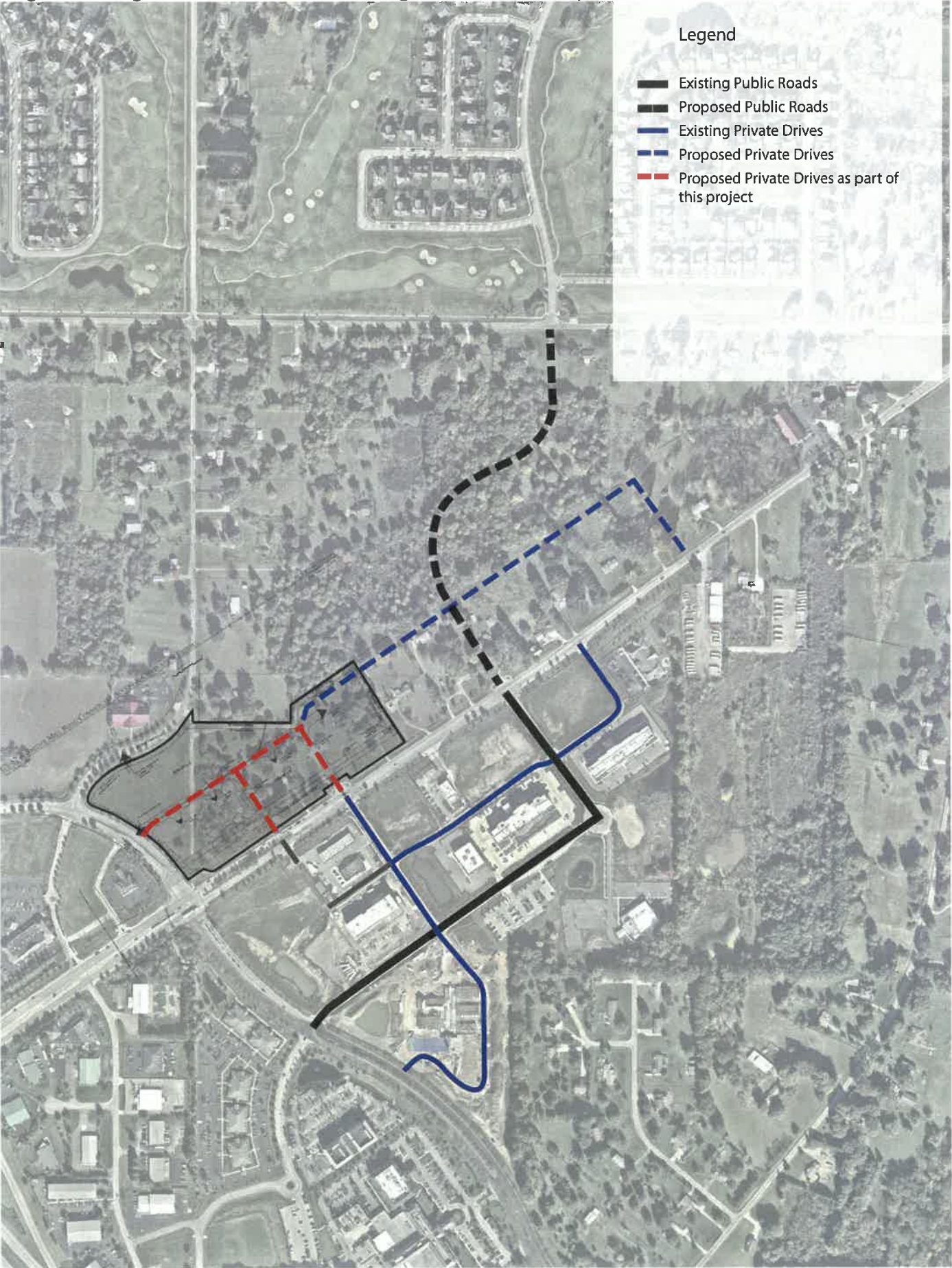
By





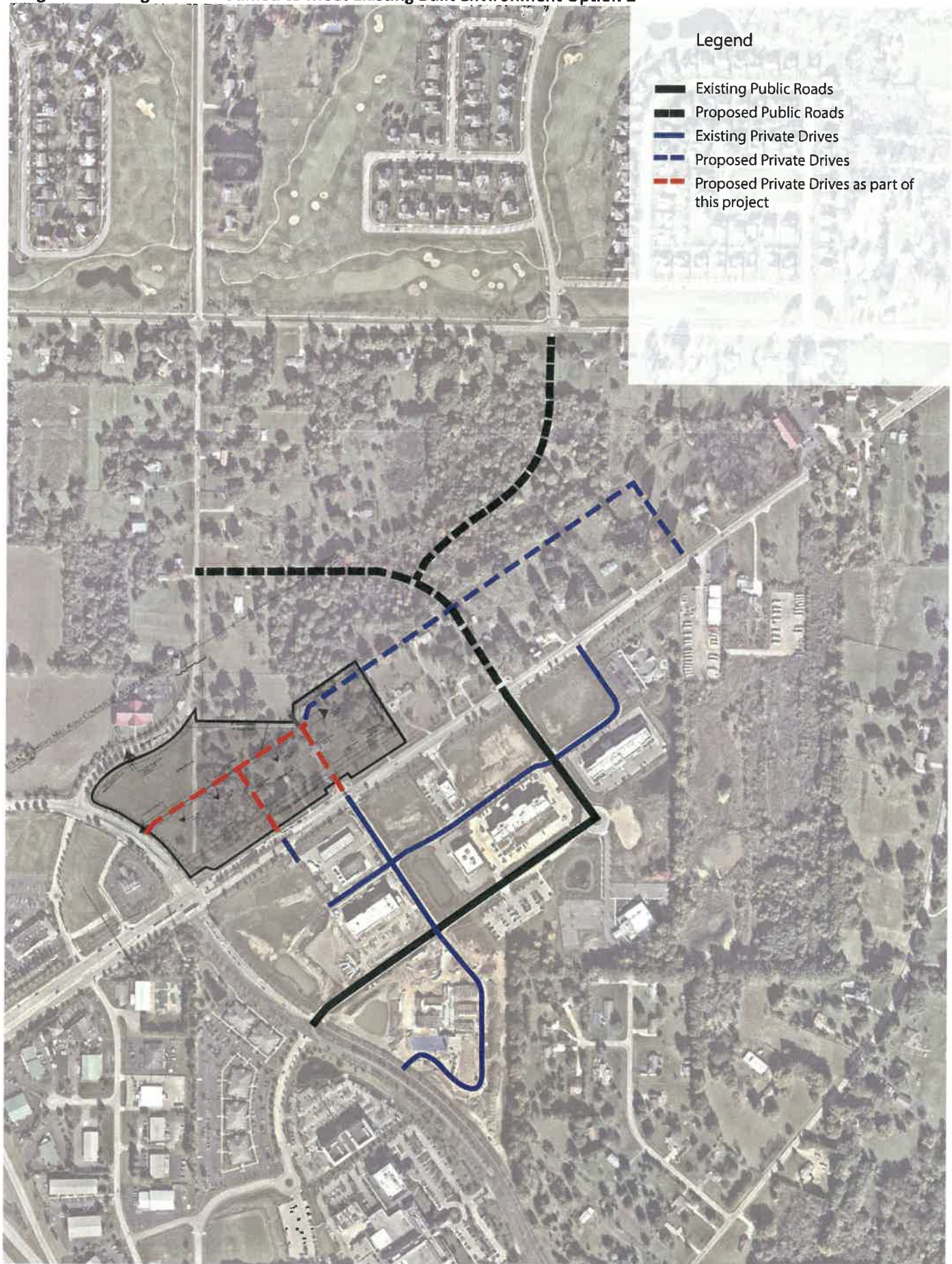
**BOLD REACH OFFICE REZONING EXHIBIT A**

**Diagram 2: Triangle Plan Modified to Meet Existing Built Environment Option 1**





**Diagram 3: Triangle Plan Modified to Meet Existing Built Environment Option 2**



# BOLD REACH OFFICE REZONING EXHIBIT B



P.O. Box 247, Groveport, Ohio 43125  
Office (614) 836-7813 • Fax 836-9999

## FIXTURES

GE400MMA2AS51N V-85260 910.00

HALLABROOK EXTENDED COVER 400 WATT PULSE START METAL HALIDE MOGUL BASE  
MULTIVOLT NEW ALBANY GREEN

GE175PM482AS51N G-12622 885.00

HALLBROOK EXTENDED COVER 175 WATT PULSE START METAL HALIDE MOGUL BASE

## POLES

HAPCO 14'-0" ROUND TAPERED ALUM. SINGLE ARM SKTB011008B 1,320.00

HAPCO 24'-0" ROUND TAPERED ALUM SINGLE ARM SKTB011008D 1,470.00

HAPCO 14'-0" ROUND TAPERED ALUM DOUBLE ARM SKTB011008A 1,545.00

HAPCO 24'-0" ROUND TAPERED ALUM DOUBLE ARM SKTB011008C 1,755.00

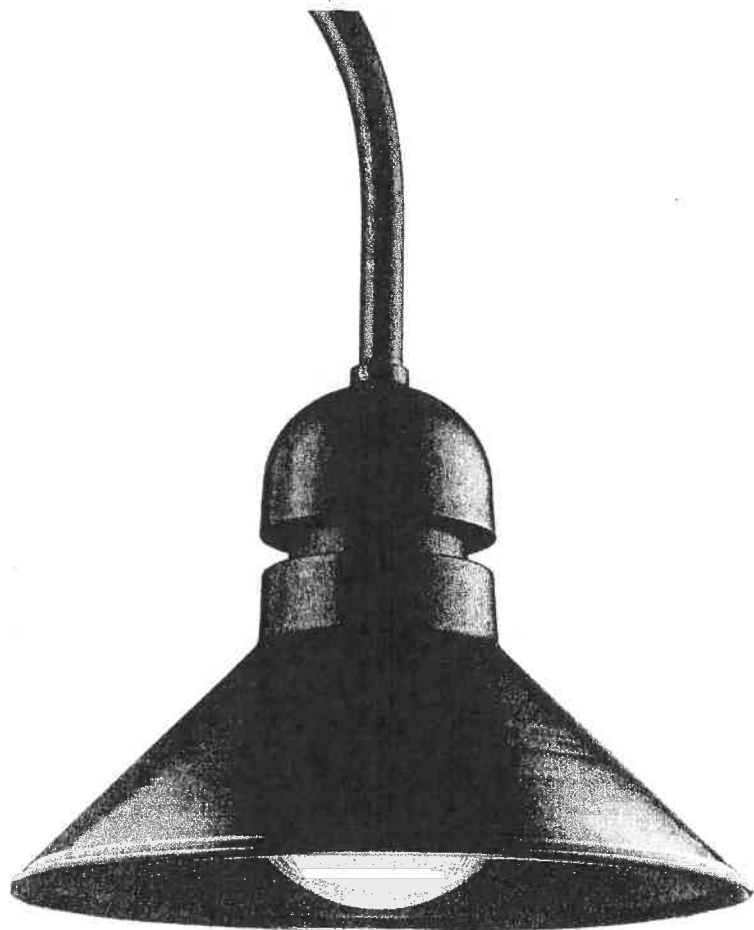
JERRY WILEY

614-491-9300 NEW OFFICE NUMBER

6-8 WEEK DELIVERY TIME PRICE FIRM THRU 7-1-08



# HALLBROOK® EXTENDED LUMINAIRE



- Full cutoff optics
- Cutoff optics
- Distinctive styling
- Superior performance
- Modern appearance

The sleekly styled Hallbrook Extended luminaire was designed to meet the modern aesthetic qualities desired in decorative street and area lighting, while still providing superior optical

**Lamp type & wattages**

Metal Halide	70-175W
HPS	35-150W
Mercury	100-175W

**Colors**

Black  
Bronze  
Green  
As specified

**Optics**

IES full cutoff symmetric glass refractor  
IES full cutoff asymmetric glass refractor  
IES full cutoff symmetric glass "bowl" refractor  
IES full cutoff asymmetric glass "bowl" refractor  
IES cutoff symmetric glass refractor  
IES cutoff asymmetric glass refractor

**Pole height**

3.66 m (12')  
4.57 m (15')  
5.49 m (18')

**Materials**

Steel  
Aluminum

**Arm**

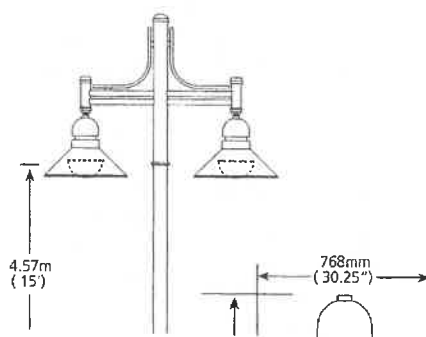
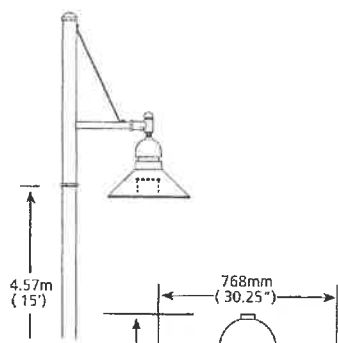
Single  
Twin

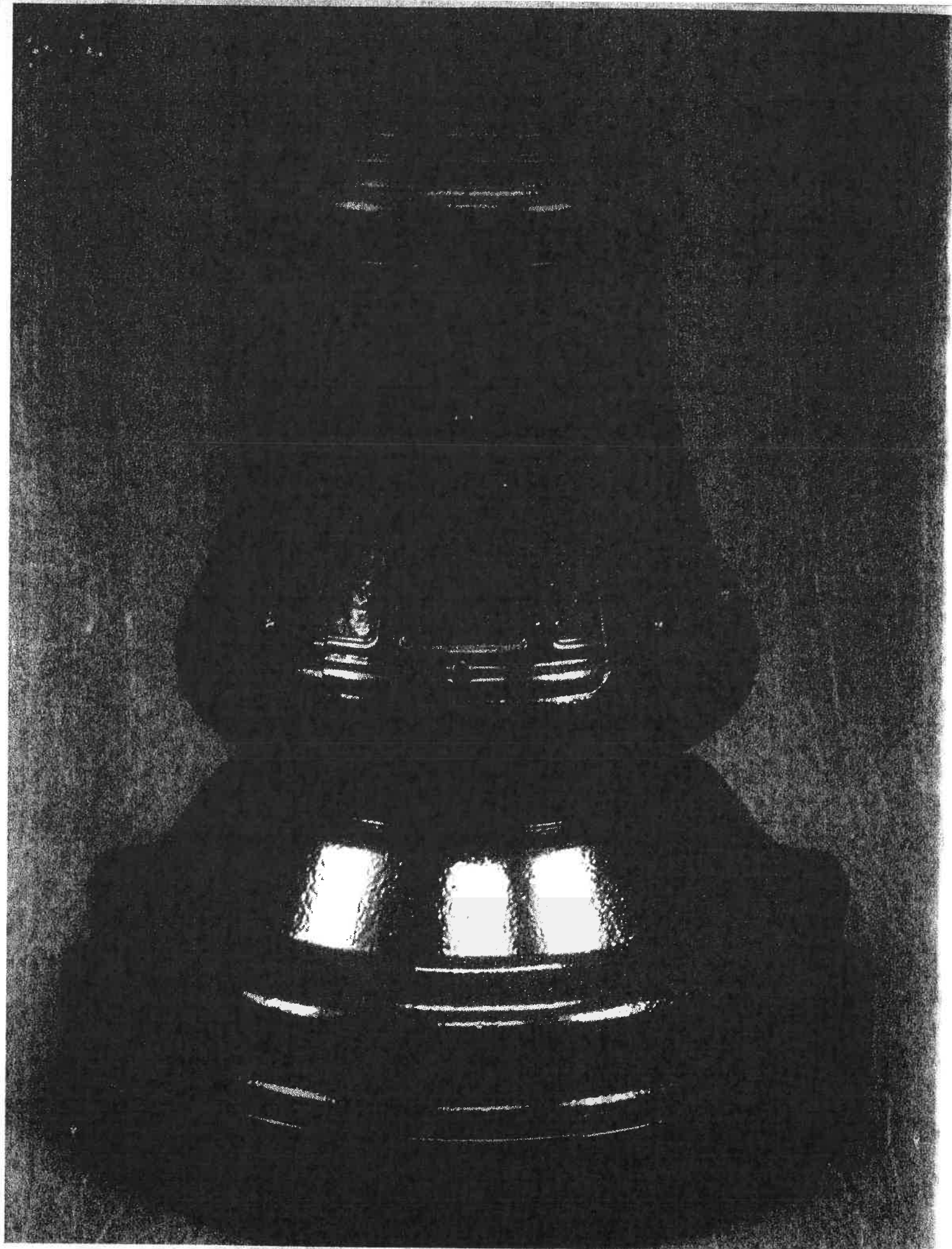
**Options & Accessories**

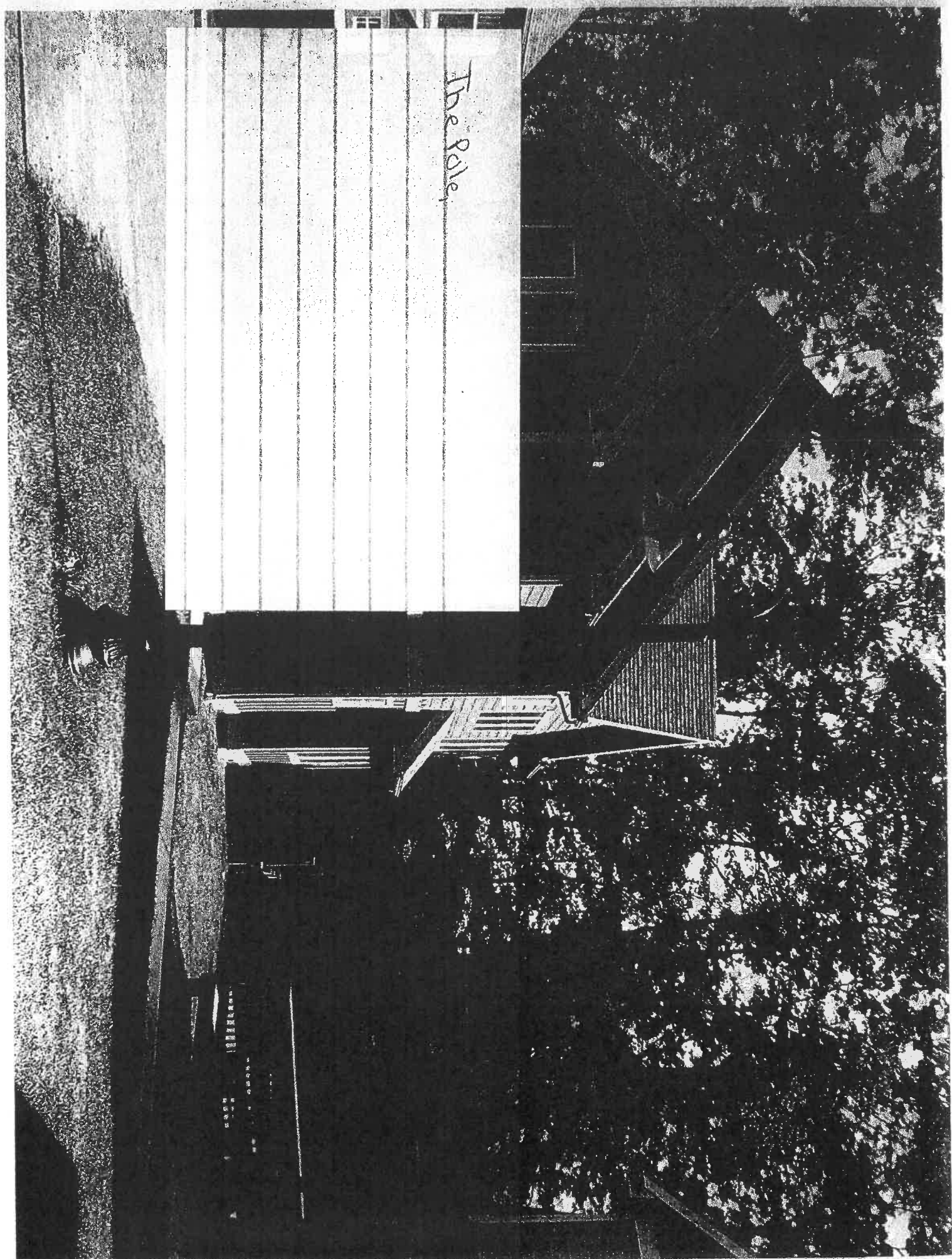
Button style photocontrol  
Protected starter  
Cast aluminum decorative base  
Weatherproof receptacle  
Decorative arms

Street sign bracket  
Banner arms  
Wall mount

For detailed ordering information, specifications, and photometrics, refer to the appropriate technical data sheet







**Maximum Effective Projected Area - 1.6 ft<sup>2</sup>**  
**Maximum Weight - 71 lbs.**

Pendant Mount  
1.5\" NPT Threaded Entry

Stainless Steel  
Tool-less Latch

Spun Aluminum  
Cover

Arm Mount

Cast Aluminum  
Housing

Hinge

Prismatic  
Glass Refractor

**GlasWerks® II**  
**Hallbrook® Ext.**

**DECORATIVE  
OUTDOOR**

**HOLOPHANE®**  
LEADER IN LIGHTING SOLUTIONS  
An Acuity Brands Company

GE 15AHP 12 2 B S 51 N

<b>COVER TYPE</b> GE = Hallbrook Extended	<b>SOURCE &amp; WATTAGE (MOGUL BASE)</b> 050HP = 50W HPS (N/A IN 347V) 070HP = 70W HPS 100HP = 100W HPS 15AHP = 150W 55V HPS 175MH = 175W MH 175PM = 175W PM 250HP = 250W HPS 250PM = 250W PM  320PM = 320W PM (Compact Lamp Only) 350PM = 350W PM (Compact Lamp Only) 400HP = 400W HPS 400PM = 400W PM (Compact Lamp Only) <b>(MEDIUM BASE)</b> 50DHP = 50W HPS (N/A IN 347V) 70DHP = 70W HPS 100DHP = 100W HPS 150DHP = 150W 55V HPS 70DMH = 70W MH (N/A IN 347V, 480V) 100DMH = 100W MH (N/A IN 347V, 480V) 150DMH = 150W MH (N/A IN 347V, 480V) 170DMH = 175W MH 170DPM = 175W PM	<b>VOLTAGE</b> 12 = 120 VOLT 20 = 208 VOLT 24 = 240 VOLT 27 = 277 VOLT 48 = 480 VOLT 34 = 347 VOLT MA = MT (PREWIRED TO 120V) MB = MT (PREWIRED TO 208V) MC = MT (PREWIRED TO 240V) MD = MT (PREWIRED TO 277V)	<b>MOUNT STYLE</b> 1 = Arm 2 = Pendant	<b>COLOR</b> A = AS SPECIFIED B = BLACK D = DARK GREEN (RAL6005) E = BROWN GREE (RAL6008) F = DARK GREEN (RAL6009) H = DARK GREEN (RAL6012) N = GREEN Z = BRONZE W = WHITE	<b>UPLIGHT</b> S = Standard No Uplight
---	--	--	--	---	--

**ORDERING INFORMATION:**

**(INDUCTION)**  
 055QL = 055W QL  
 085QL = 85W QL  
 Available w/ 12, 20, 24, 27V  
 20, 20A, 9A Only

**CAST DOOR GUARD**  
 (N/A with 1A, 19, 2A, 20, 9A, HS, HA optics)  
 N = No Cast Guard  
 C = Vertical (Painted to Match Luminaire)  
 D = Vertical (Painted White)  
 E = Horizontal (Painted to Match Luminaire)  
 F = Horizontal (Painted White)  
 H = Door, Vertical & Horizontal Ribs (As Specified Paint)  
 V = Door, Vertical Ribs Only (As Specified Paint)

**OPTICS**

1A = 919 Small Sag, Asymmetric (Not Available w/ 250-400W Mogul Base)

19 = 919 Small Sag, Symmetric (Not Available w/ 250-400W Mogul Base)

2A = 920 Large Sag, Asymmetric

20 = 920 Large Sag, Symmetric

21 = 4521 Large Cylindrical Glass, Wide Asymmetric

24 = 4524 Large Cylindrical Glass, Narrow Asymmetric 4 Way

25 = 4525 Large Cylindrical Glass, Symmetric

26 = 4526 Large Cylindrical Glass, Forward Throw Asymmetric

51 = 4551 Large Cylindrical Glass, Asymmetric (Not Available w/ 250-400W Mogul Base)

55 = 4555 Large Cylindrical Glass, Symmetric (Not Available w/ 250-400W Mogul Base)

72 = 4172 Bowl Glass, Narrow Asymmetric

73 = 4173 Bowl Glass, Wide Asymmetric

75 = 4175 Bowl Glass, Symmetric

94 = 3094 Small Teardrop Glass, Forward Throw Asymmetric (Not Available w/ 250-400W Mogul Base)

95 = 3095 Small Teardrop Glass, Symmetric (Not Available w/ 250-400W Mogul Base)

9A = 4094 Small Teardrop Glass, Forward Throw Asymmetric

HS = Flat Glass, Horizontal Lamp Square Symmetric (Medium Base Only)

HA = Flat Glass, Horizontal Lamp Square Asymmetric (Medium Base Only)

**OPTIONS**  
 SEE SHEET 2

**ACCESSORIES**  
 SEE SHEET 2

**ORDER #:** \_\_\_\_\_

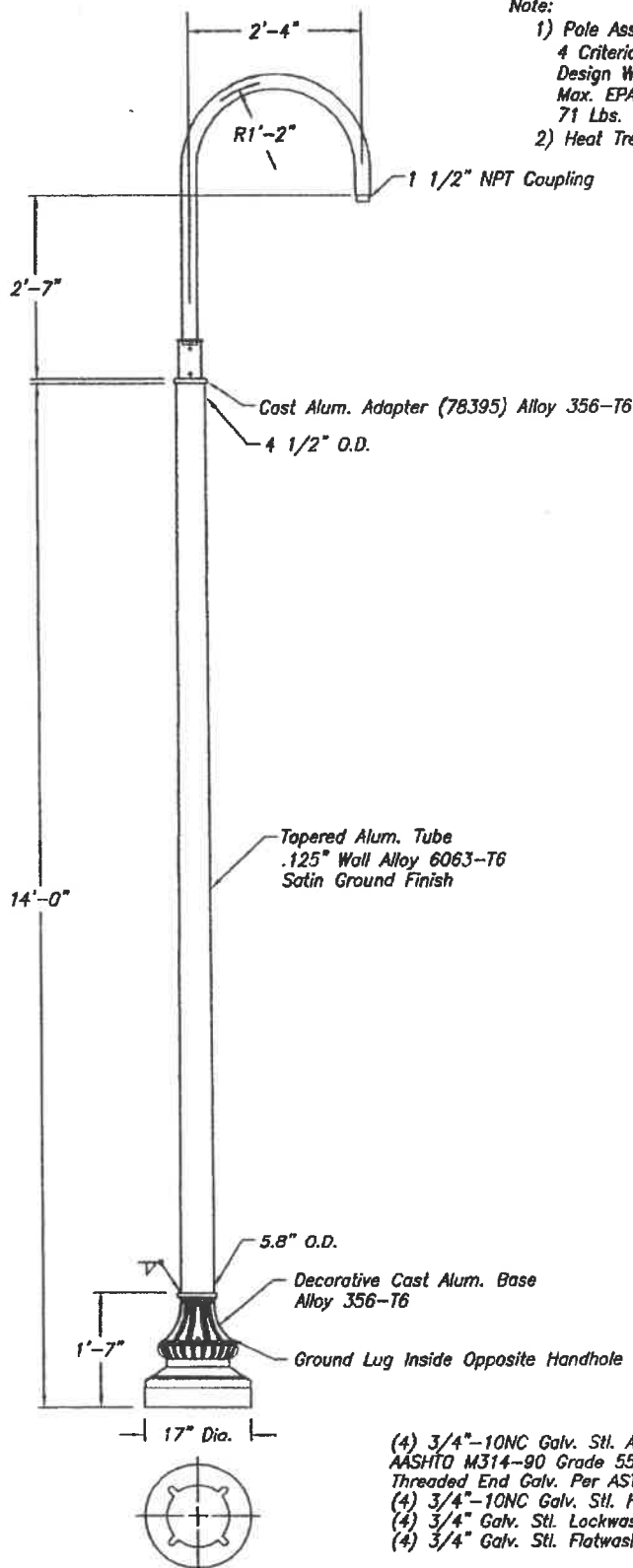
**TYPE:** \_\_\_\_\_

**DRAWN:** AFA

**DATE:** 12-15-06

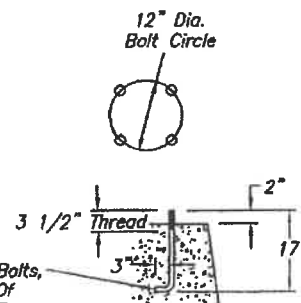
**DWG #:** LUM HALLBROOK EXT

1 of 3



**Note:**

- 1) Pole Assembly Is Designed Per 2001 AASHTO LTS 4 Criteria (Excluding Section 12) For A 90 MPH Design Wind Speed Supporting A Luminaires With Max. EPA Of 2.2 Sq. Ft. And A Max. Wt. Of 71 Lbs.
- 2) Heat Treat Shaft Assembly After Welding



- (4) 3/4"-10NC Galv. Stl. Anchor Bolts, AASHTO M314-90 Grade 55, 10" Of Threaded End Galv. Per ASTM A153.
- (4) 3/4"-10NC Galv. Stl. Hex. Nuts
- (4) 3/4" Galv. Stl. Lockwashers
- (4) 3/4" Galv. Stl. Flatwashers

SKTB011008B

NO.	REVISIONS	DATE

WARNING: DO NOT INSTALL LIGHTING POLES WITHOUT LUMINAIRES

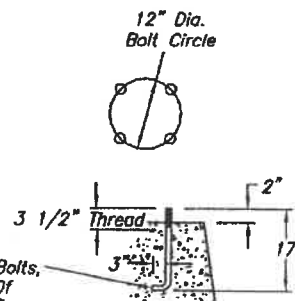
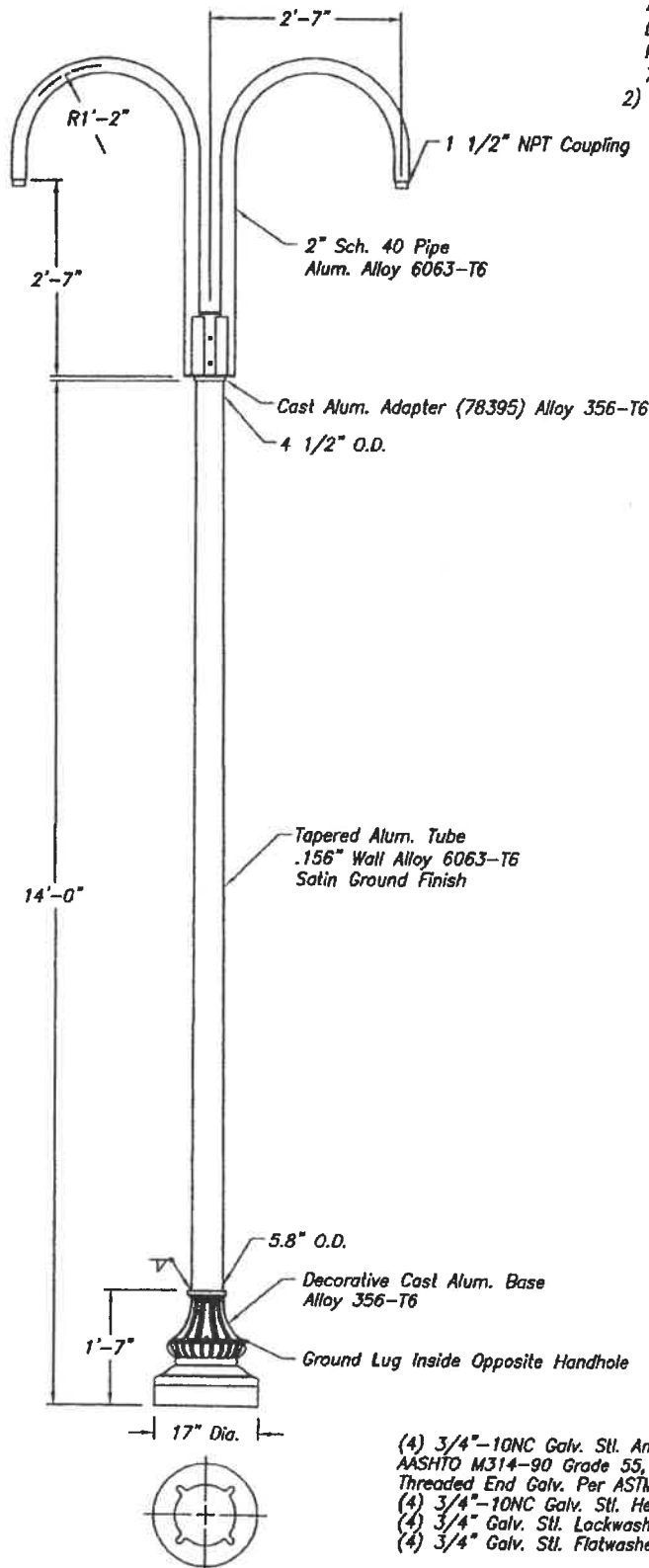
**hapco**  
Abingdon, Va.

TITLE <i>Decorative Lighting Pole</i>	
CUSTOMER	
SCALE	DATE 01/10/2008
BY TNB	DWG. NO.
CHKD	SKTB011008B



Note:

- 1) Pole Assembly Is Designed Per 2001 AASHTO LTS 4 Criteria (Excluding Section 12) For A 90 MPH Design Wind Speed Supporting Two Luminaires With Max. EPA Of 2.2 Sq. Ft. (Ea.) And A Max. Wt. Of 71 Lbs. (Ea.).
- 2) Heat Treat Shaft Assembly After Welding



- (4) 3/4"-10NC Galv. Stl. Anchor Bolts,  
AASHTO M314-90 Grade 55, 10" Of  
Threaded End Galv. Per ASTM A153.
- (4) 3/4"-10NC Galv. Stl. Hex. Nuts
- (4) 3/4" Galv. Stl. Lockwashers
- (4) 3/4" Galv. Stl. Flatwashers

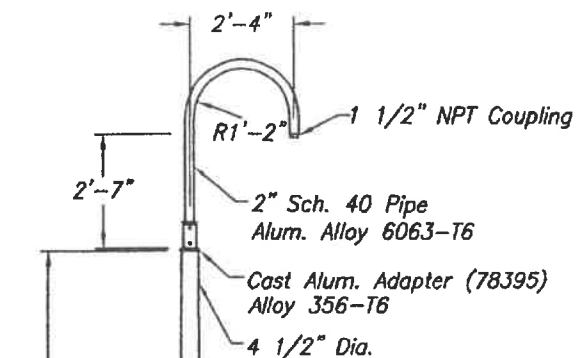
WARNING: DO NOT INSTALL LIGHTING POLES WITHOUT LUMINAIRES

NO.	REVISIONS	DATE

**hapco**  
Abingdon, Va.

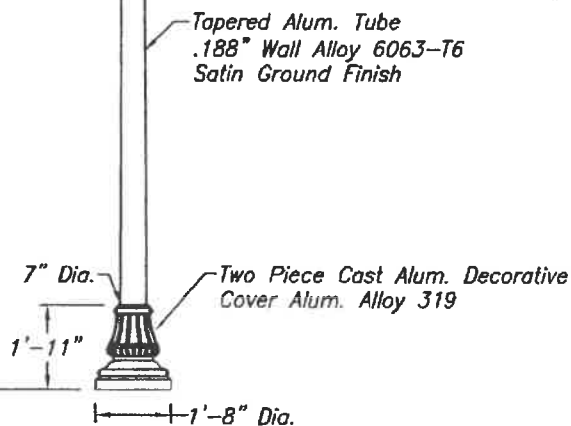
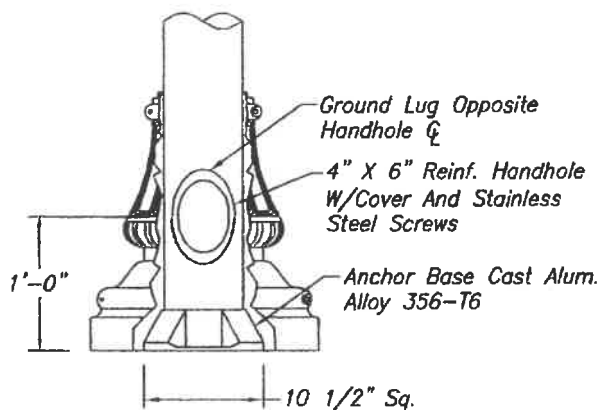
TITLE <i>Decorative Lighting Pole</i>	
CUSTOMER	
SCALE	DATE <i>01/10/2008</i>
BY <i>TNB</i>	DWG. NO.
CHK'D	<i>SKTB011008A</i>

SKTB011008A

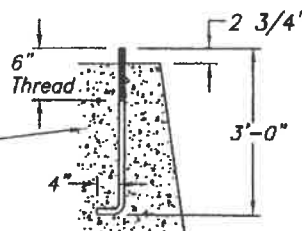


**Notes:**

- 1) Pole Assembly Is Designed Per 2001 AASHTO LTS 4 Criteria (Excluding Section 12) For A 90 MPH Design Wind Speed Supporting A Luminaire With Max. EPA Of 2.2 Sq. Ft. And A Max. Wt. Of 71 Lbs.
- 2) Heat Treat Shaft Assembly After Welding



10" to 11" Dia.  
Bolt Circle



- (4) 1"-8NC Galv. Stl. Anchor Bolts, AASHTO M314-90 Grade 55, 10" Of Threaded End Galv. Per ASTM A153.
- (4) 1"-8NC Galv. Stl. Hex. Nuts
- (4) 1" Galv. Stl. Lockwashers
- (4) 1" Galv. Stl. Flatwashers

WARNING: DO NOT INSTALL LIGHTING POLES WITHOUT LUMINAIRES

NO.	REVISIONS	DATE	TITLE <i>Decorative Lighting Pole</i>	
			CUSTOMER	
			SCALE	DATE 01/10/2008
			BY <i>TNB</i>	DRG. NO.
			CHK'D	<i>SKTB011008D</i>

**hapco**

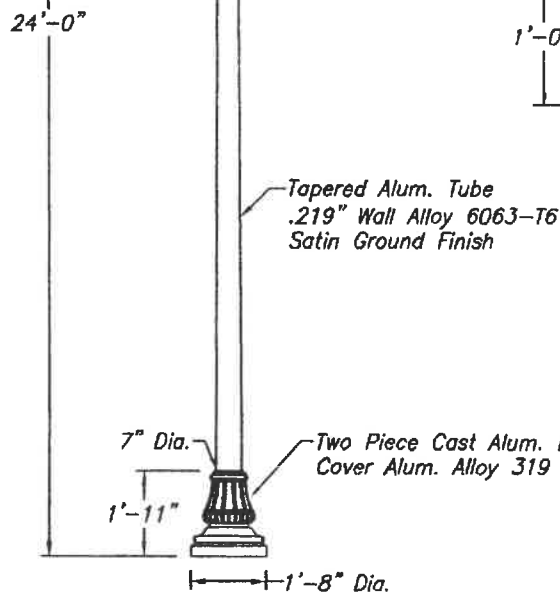
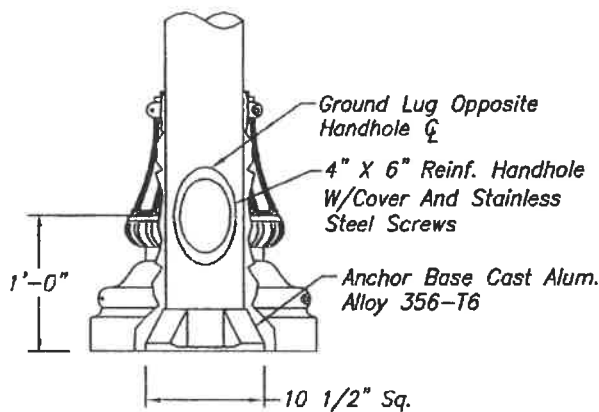
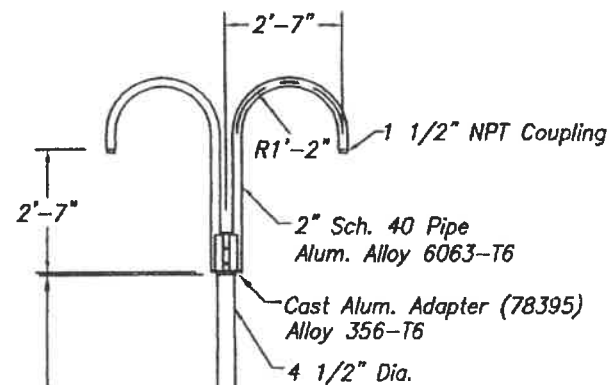
Abingdon, Va.

SKTB011008D

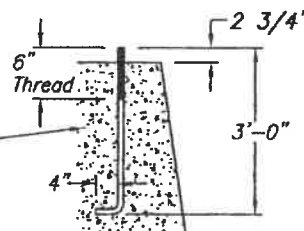


Notes:

- 1) Pole Assembly Is Designed Per 2001 AASHTO LTS 4 Criteria (Excluding Section 12) For A 90 MPH Design Wind Speed Supporting Two Luminaire With Max. EPA Of 2.2 Sq. Ft. (ea.) And A Max. Wt. Of 71 Lbs. (ea.)
- 2) Heat Treat Shaft Assembly After Welding



10" to 11" Dia.  
Bolt Circle



- (4) 1"-8NC Galv. Stl. Anchor Bolts, AASHTO M314-90 Grade 55, 10" Of Threaded End Galv. Per ASTM A153.
- (4) 1"-8NC Galv. Stl. Hex. Nuts
- (4) 1" Galv. Stl. Lockwashers
- (4) 1" Galv. Stl. Flatwashers

WARNING: DO NOT INSTALL LIGHTING POLES WITHOUT LUMINAIRES

NO.	REVISIONS	DATE

**hapco**  
Abingdon, Va.

TITLE <i>Decorative Lighting Pole</i>	
CUSTOMER	
SCALE	DATE <i>01/10/2008</i>
BY <i>TNB</i>	DWG. NO.
CHK'D	<i>SKTB011008C</i>

SKTB011008C



## ORDINANCE O-24-2020

**AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF NEW ALBANY BY AMENDING THE ZONING MAP TO REZONE 0.93 +/- ACRES OF LAND LOCATED AT 4653 REYNOLDSBURG NEW ALBANY ROAD FROM ITS CURRENT ZONING OF VILLAGE CORE SUB-DISTRICT (UCC-VC) TO RURAL RESIDENTIAL SUB-DISTRICT (UCC-RR) OF THE URBAN CENTER CODE AS REQUESTED BY NEIL KIRBY & THERESA KEMPKER**

**WHEREAS**, Council of the City of New Albany has determined that it is necessary to rezone certain property located in the city to promote orderly growth and development of lands; and

**WHEREAS**, the Architectural Review Board, the Planning Commission, and council, on separate occasions, have held public hearings and received public input into the amendment of the zoning ordinance; and

**WHEREAS**, pursuant to the application by Neil Kirby & Theresa Kempker, the Architectural Review Board and the Planning Commission have reviewed the proposed ordinance amendment and recommended its approval.

**NOW, THEREFORE, BE IT ORDAINED** by Council for the City of New Albany, Counties of Franklin and Licking, State of Ohio, that:

**Section 1.** Council hereby amends the Zoning Ordinance Map of the City of New Albany to change the zoning classification of the following described site:

- A. A 0.93  $\pm$  acre area of land located at 4653 Reynoldsburg New Albany Road from its current zoning of the Village Core sub-district of the Urban Center Code (UCC-VC) to the Rural Residential sub-district of the Urban Center Code (UCC-RR).
- B. The Urban Center Code sub district map hereby attached and marked Exhibit A.

**Section 2.** It is hereby found and determined that all formal actions of this council concerning and relating to the adoption of this legislation were adopted in an open meeting of council, and that all deliberations of the council and or any of its committees that resulted in such formal action were in meetings open to the public, in compliance with Section 121 of the Ohio Revised Code, and further pursuant to Ohio General Assembly 133 – House Bill 197 effective March 27, 2020.

**Section 3.** Pursuant to Article 6.07(B) of the New Albany Charter, this ordinance shall become effective thirty (30) days after adoption.

**CERTIFIED AS ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

**Attest:**

\_\_\_\_\_  
Sloan T. Spalding  
Mayor

\_\_\_\_\_  
Jennifer H. Mason  
Clerk of Council

**Approved as to form:**

\_\_\_\_\_  
Mitchell H. Banchefsky  
Law Director

**Legislation dates:**

Prepared: 10/23/2020

Introduced: 11/03/2020

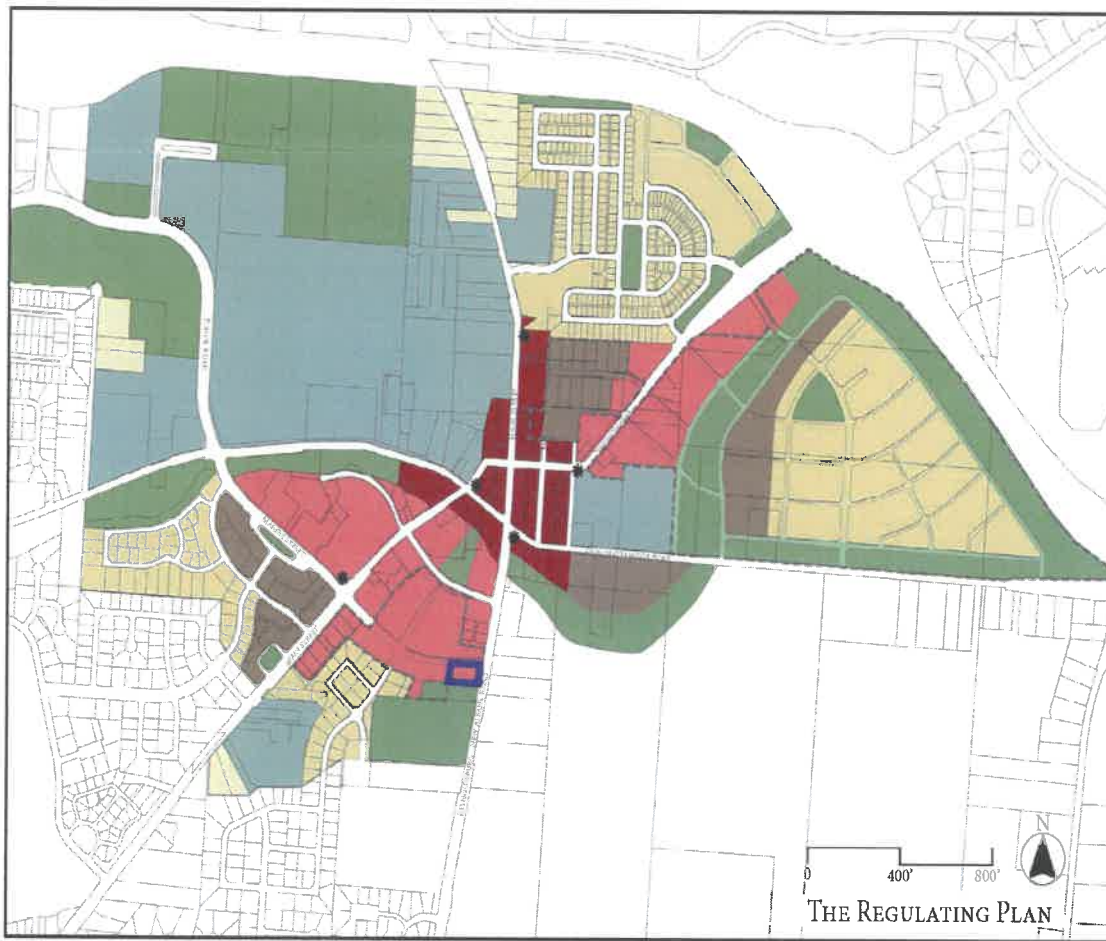
Revised:

Adopted:

Effective:

NEW ALBANY  
URBAN CENTER CODE

EXHIBIT A - O-24-2020



- Historic Center
- Village Core
- Core Residential
- Village Residential
- Rural Residential
- Campus
- Open Space
- Conceptual Area Boundary
- The area inside the boundary is conceptual only for the purpose of determining recommended sub-district and street layout.
- Required Architectural Focal Point



Applicant proposes to rezone the identified property from the Village Core sub-district to the Rural Residential sub-district.



## **ORDINANCE O-25-2020**

### **AN ORDINANCE TO ACCEPT A RIGHT OF WAY DEDICATION OF 0.119 ACRES AND TO APPROVE A FEE IN LIEU OF LEISURE TRAIL CONSTRUCTION IN ACCORDANCE WITH CODIFIED ORDINANCE SECTIONS 1165.06(c) AND 1187.18 AT 4109 HARLEM ROAD AS REQUESTED BY 4109 HARLEM ROAD LLC C/O SARAH JAMES**

**WHEREAS**, codified ordinance section 1165.06(b) requires the developer/owner to provide and pay the entire cost of improvements to land including construction of leisure trails; and

**WHEREAS**, codified ordinance section 1165.06(c) allows for a fee-in-lieu of construction of a required leisure trail where special circumstances exist; and

**WHEREAS**, codified ordinance section 1187.18 sets forth the criteria for approval by which council may approve a fee-in-lieu of leisure trail construction and a calculation to determine the fee payment; and

**WHEREAS**, the applicant has submitted a request to pay a fee-in-lieu of construction of a leisure trail at 4109 Harlem Road and staff has determined that the request is complete according to codified ordinance section 1187.18(c); and

**WHEREAS**, staff has determined that additional right-of-way is necessary as a consideration in this request in order for the city to complete the trail construction at some time in the future if deemed appropriate; and

**WHEREAS**, the land parcel currently extends to the centerline of Harlem Road and has historically been served by a highway easement. The property owner requests to dedicate the highway easement area to the city as public right-of-way; and

**WHEREAS**, the city will be the recipient (grantee) of the right of way dedication of 0.119 acres; and

**WHEREAS**, the city engineer has reviewed the right of way dedication and has commented this dedication is appropriate; and

**WHEREAS**, the city will benefit from this dedication of right of way.

**NOW, THEREFORE, BE IT RESOLVED** by Council for the City of New Albany, Counties of Franklin and Licking, State of Ohio, that:

**Section 1:** Council hereby agrees that the developer/owner has proven that the construction of the leisure trail is not appropriate due to one of the following conditions outlined in section 1187.18 of the codified ordinances:

- a. Leisure trail construction is impracticable due to topographical conditions or site constraints;
- b. Leisure trail does not exist in the area, there is not a likelihood for sidewalks and/or trails to be constructed in the near future, and that a fee in-lieu would better serve the community than a sidewalk or trail installed at the required location.

**Section 2.** Council hereby adopts a motion establishing a priority for a payment in lieu fees instead of accepting parkland dedication for the subject property.

**Section 3.** Council hereby approves a recommendation from the city engineer regarding the calculation of the fee and, in accordance with codified ordinance section 1187.18(e), requires that permits for construction or improvements will not be issued by the municipality for the subject development until the fee payment is received.

**Section 4.** The city manager is hereby authorized to accept a right of way dedication of 0.119 as depicted on Exhibit A.

**Section 5.** It is hereby found and determined that all formal actions of this council concerning and relating to the adoption of this legislation were adopted in an open meeting of council, and that all deliberations of the council and of any of its committees that resulted in such formal action were in meetings open to the public, in compliance with Section 121 of the Ohio Revised Code, and further pursuant to Ohio General Assembly 133 -- House Bill 197 effective March 27, 2020.

**Section 6.** Pursuant to Article 6.07(B) of the New Albany Charter, this ordinance shall become effective thirty (30) days after adoption.

**CERTIFIED AS ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

**Attest:**

\_\_\_\_\_  
Sloan T. Spalding  
Mayor

\_\_\_\_\_  
Jennifer H. Mason  
Clerk of Council

**Approved as to form:**

\_\_\_\_\_  
Mitchell H. Banchefsky  
Law Director

**Legislation dates:**

Prepared: 10/07/2020

Introduced: 11/03/2020

Revised:

Adopted:

Effective:

Portion above reserved for State of Ohio Auditor, Engineer and Recorder's Offices use

**LIMITED WARRANTY DEED**

**(O.R.C. 5302.07 – 5302.08)**

KNOW ALL PERSONS BY THESE PRESENTS that 4109 Harlem Rd LLC (the "Grantor") for good and valuable consideration paid, grants, with limited warranty covenants, to the City of New Albany, an Ohio municipal corporation (the "Grantee"), whose tax mailing address is 99 West main Street, New Albany, Ohio 43054, the real property more particularly described as follows:

**BEING A SPLIT FROM FRANKLIN COUNTY PARCEL NO.:** 222-004479 AND BEING MORE PARTICULARLY DESCRIBED ON EXHIBIT A (THE "PROPERTY") AND DEPICTED ON EXHIBIT B BOTH ATTACHED HERETO AND MADE A PART HEREOF.

**INSTRUMENT REFERENCES:** 201911130151095; RECORDER'S OFFICE; FRANKLIN COUNTY, OHIO

The grant of the Property is subject to easements, conditions, covenants, restrictions and reservations of record, zoning ordinances and legal highways, and real estate taxes and assessments not yet due and payable.

**THE REAL PROPERTY DESCRIBED IN EXHIBITS "A" and "B" IS INTENDED BY GRANTEE TO BE HELD FOR PUBLIC RIGHT OF WAY.**

IN WITNESS WHEREOF, Grantor voluntarily caused this instrument's execution on this 28 day of October, 2020.

**GRANTOR**

Investments4109 Harlem Rd LLC

By: Sarah James  
Printed Name: Sarah James  
Title: Owner

STATE OF OHIO                    )  
COUNTY OF FRANKLIN        ) SS:

BE IT REMEMBERED that on this 23<sup>rd</sup> day of October, 2020 before me, the subscriber, a Notary Public in and for said County, personally came the above named 4109 Harlem Rd LLC by SARAH JAMES, its OWNER, Grantor in the foregoing Limited Warranty Deed, and acknowledged the signing of the same to his/her voluntary act and deed.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, on the day and year last aforesaid.

  
Notary Public

My commission expires: FRAN JAMES  
Notary Public, State of Ohio

My Commission Expires 09-30-2017

10/12/2022

*This Instrument Prepared By:*

*Mitchell H. Banchefsky*

*City of New Albany Law Director*

*99 West Main Street, P.O. Box 188*

*New Albany, Ohio 43054*



### **DESCRIPTION OF LEISURE TRAIL**

Situated in the State of Ohio, County of Franklin, City of New Albany and being part of a 2.333 Acre parcel of land conveyed to 4109 Harlem Rd LLC (hereinafter referred to as Grantor) in Instrument No. 201911130151095 and located in Lot 4, Parcel D, Third Quarter of Township 2, Range 16, United States Military Lands.

**Commencing for reference** at a 1 inch iron pin monument found at the Northeast corner of Lot No. 15 of the New Albany Country Club, Section 4 as recorded in Plat Book 74, Page 58-60;

Thence S 86° 44' 00" E along the Grantor's Northerly property line and the Southerly property line of a 3.452 acre parcel of land conveyed to Harlem Road, LLC in Instrument No. 200501210013173 a distance of 572.47 feet to a point (passing an iron pin set at 541.47 feet), said point being the **TRUE POINT OF BEGINNING** for the parcel herein described;

Thence continuing S 86° 44' 00" E with the Grantor's Northerly property line and the Southerly property line of the aforementioned Harlem Road, LLC parcel a distance of 8.00 feet to a point;

Thence S04° 00' 00" W through the Grantor's lands a distance of 172.84 feet to a point, said point being on Grantor's Southerly property line and the Northerly property line of a 2.071 acre parcel of land conveyed to Donald E. and Deborah S. Holler in Instrument No. 200006290128343;

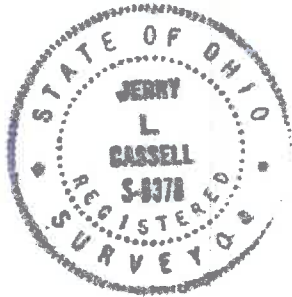
Thence N 85° 57' 00" W along the Grantor's Southerly property line and the Northerly property line of the aforementioned Holler parcel a distance of 8.00 feet to a point;

Thence N 04° 00' 00" E through the Grantor's lands a distance of 172.73 feet to the point of beginning, containing 0.032 Acres (1382.25 Sq. Ft.), more or less, and subject to all legal easements and rights of way of record.

All iron pins set are 5/8-inch iron pins 30" in length with plastic identification caps inscribed "CASSELL S-6378."

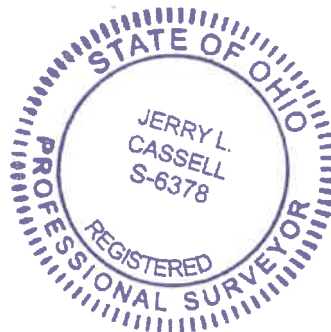
The bearing system is based on evidence found on the centerline of Harlem Road which bears S 04° 00' 00" W and is for the determination of angles only.

This description was prepared on September 10, 2020 by Jerry L. Cassell, Ohio Professional Surveyor No. 6378 and is based on an actual field survey of the premises in November of 2019 and existing public records.



  
Jerry L. Cassell, P.S.

Rev. 09/10/2020





N.E. Cor. of Lot 15,  
New Albany Country  
Club, Sec. 4

**REFERENCE  
POINT**

Harlem Road, LLC  
Inst. No. 200501210013173  
Par. No. 222-000381-00  
3.452 Acres

**NEW ALBANY COUNTRY CLUB  
SECTION 4**

Plat Book 74, Page 58-60

15

14

R/W area to be acquired  
0.119 Acres  
5187.45 Sq. Ft.

4109 Harlem Rd LLC  
Inst. No. 201911130151095  
Par. No. 222-004479-00  
2.333 Acres

Liesure Trail area  
0.032 Acres  
1382.25 Sq. Ft.

Dornald E. and Deborah S.  
Holler  
Inst. No. 200006290128343  
Par. No. 222-000383-00  
2.071 Acres

N 85°57'00" W  
30.00' Total

S 86°44'00" E  
30.00' Total

S 86°44'00" E 571.47'

N 04°00'00" E 172.71'

S 04°00'00" W 172.84'

S 05°57'19" W 1088.07'  
From Iron Pipe to FOGS 8608

S 04°00'01" W 173.12'

**HARLEM ROAD**

No.	Bearing	Distance
1	S 86°44'00" E	1.00'
2	S 86°44'00" E	8.00'
3	S 86°44'00" E	1.00'
4	S 86°44'00" E	20.00'
5	N 85°57'00" W	20.00'
6	N 85°57'00" W	1.00'
7	N 85°57'00" W	8.00'
8	N 85°57'00" W	1.00'
9	N 04°00'00" E	172.73'

**LEGEND**

- 5/8" iron pin set 30" in length with a 1 1/4" plastic ID cap inscribed "CASSELL S-6378"
- ⊗ 5/8" iron pin found with plastic ID cap inscribed "MS CONS"
- ⊕ Monument found
- ⊙ 3/4" iron pipe found
- Point

**NOTE:**

The bearing system for this plat is based on evidence found on the centerline of Harlem Road and bears S 04° 00' 00" W and is for the determination of angles only.



**REFERENCES:**

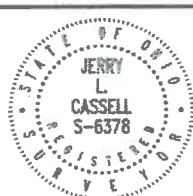
Tax Maps  
Previous Surveys  
Deeds as Noted

I hereby certify that this plat was prepared from an actual field survey of the premises in Nov. of 2020 and from existing public records and that said plat correctly shows the limits of the parcel to be conveyed.

This certification was made by me on this 10th day of September, 2020.

*Jerry L. Cassell*

Jerry L. Cassell  
Ohio Professional Surveyor No. 6378



**PLAT OF SURVEY**

Situated in the State of Ohio, County of Franklin, City of New Albany and being part of a 2.333 Acre parcel of land conveyed to 4109 Harlem Rd LLC in Inst. No. 201911130151095 (Par. No. 222-004479-00) and located in Lot 4, Parcel D, Third Quarter of Township 2, Range 16, United States Military Lands.

FOR:  
Zac McKenzie

BY:  
Jerry L. Cassell

DATE:  
Nov. 3, 2019

PROJ. NO.:  
DTK 1006



**SITE  
SOLUTIONS**

4315 PROFESSIONAL PKWY  
GROVEPORT, OH 43125  
(614)587-6144



**ORDINANCE O-26-2020**

**ANNUAL APPROPRIATION ORDINANCE**

**AN ORDINANCE TO MAKE APPROPRIATIONS FOR CURRENT EXPENSES AND OTHER EXPENDITURES OF THE CITY OF NEW ALBANY, STATE OF OHIO, DURING THE FISCAL YEAR ENDING DECEMBER 31, 2021**

**WHEREAS**, Ohio Revised Code §5705.38(A) requires the taxing authority of each political subdivision to pass an annual appropriation measure on or about the first day of each year; and

**WHEREAS**, Council for the City of New Albany, State of Ohio, wishes to provide for funding for current expenses and other expenditures of the city during fiscal year 2021.

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of New Albany, Counties of Franklin and Licking, State of Ohio, that:

**Section 1.** To provide for the current expenses and other expenditures within the 2021 Annual Budget Program of the City of New Albany during the fiscal year ending December 31, 2021, the annual sums as follows are hereby set aside and appropriated:

Fund	Department	Category	Amount
General	Police	Personal Services	5,559,878
General	Police	Operating and Contractual Services	287,838
General	Community Development	Personal Services	1,714,827
General	Community Development	Operating and Contractual Services	1,233,250
General	Public Service	Personal Services	3,560,899
General	Public Service	Operating and Contractual Services	1,079,000
General	Land & Building Maintenance	Personal Services	71,285
General	Land & Building Maintenance	Operating and Contractual Services	1,482,500
General	Council	Personal Services	218,902
General	Council	Operating and Contractual Services	504,250
General	Administrative Services	Personal Services	1,551,761
General	Administrative Services	Operating and Contractual Services	1,238,685
General	Finance	Personal Services	719,407
General	Finance	Operating and Contractual Services	596,000
General	Legal	Personal Services	3,800
General	Legal	Operating and Contractual Services	399,500
General	General Administration	Personal Services	208,930
General	General Administration	Operating and Contractual Services	741,000
General	N/A	Transfers & Other Financing Uses	6,041,677
		<b>Total General Fund</b>	<b>27,213,388</b>

Fund	Department	Category	Amount
Severance Liability	General Administration	Personal Services	250,000
Street Construction, Maintenance & Repair	Public Service	Operating and Contractual Services	135,000
Street Construction, Maintenance & Repair	N/A	Capital	800,000
State Highway	Public Service	Operating and Contractual Services	20,000
State Highway	N/A	Capital	20,000
Permissive Tax	Public Service	Operating and Contractual Services	65,000
Permissive Tax	N/A	Capital	30,000
Permissive Tax	N/A	Transfers & Other Financing Uses	400,000
Alcohol Education	Police	Operating and Contractual Services	1,000
Drug Use Prevention Program Grant	Police	Personal Services	36,000
Law Enforcement & Education	Police	Operating and Contractual Services	2,250
Safety Town	Police	Operating and Contractual Services	34,000
DUI Grant	Police	Personal Services	2,500
Law Enforcement Assistance	Police	Personal Services	1,200
K-9 Patrol	Police	Personal Services	14,600
K-9 Patrol	Police	Operating and Contractual Services	2,500
Economic Development (NACA)	Community Development	Operating and Contractual Services	2,470,862
Economic Development (NACA)	Public Service	Operating and Contractual Services	100,000
Economic Development (NACA)	N/A	Transfers & Other Financing Uses	529,138
Economic Development (NAECA)	N/A	Transfers & Other Financing Uses	2,242,086
Hotel Excise Tax	Community Development	Operating and Contractual Services	105,000
Healthy New Albany Facilities	General Administration	Operating and Contractual Services	85,000
Healthy New Albany Facilities	Land & Building Maintenance	Operating and Contractual Services	517,000
Healthy New Albany Facilities	N/A	Transfers & Other Financing Uses	497,268
Mayors Court Computer	N/A	Capital	22,000
Oak Grove EOZ	Community Development	Operating and Contractual Services	3,497,280
Central College EOZ	Community Development	Operating and Contractual Services	1,751,029
Oak Grove II EOZ	Community Development	Operating and Contractual Services	1,355,750
Blacklick EOZ	Community Development	Operating and Contractual Services	4,065,710
Windsor TIF	General Administration	Operating and Contractual Services	745,000
Windsor TIF	N/A	Transfers & Other Financing Uses	725,115
Wentworth Crossing TIF	General Administration	Operating and Contractual Services	126,000
Wentworth Crossing TIF	N/A	Transfers & Other Financing Uses	160,000
Hawksmoor TIF	General Administration	Operating and Contractual Services	66,000
Hawksmoor TIF	N/A	Transfers & Other Financing Uses	96,201
Enclave TIF	General Administration	Operating and Contractual Services	23,000
Enclave TIF	N/A	Transfers & Other Financing Uses	60,000
Saunton TIF	General Administration	Operating and Contractual Services	50,000
Saunton TIF	N/A	Transfers & Other Financing Uses	120,000

Fund	Department	Category	Amount
Richmond Square TIF	General Administration	Operating and Contractual Services	57,000
Richmond Square TIF	N/A	Transfers & Other Financing Uses	105,282
Tidewater I TIF	General Administration	Operating and Contractual Services	130,000
Tidewater I TIF	N/A	Transfers & Other Financing Uses	300,000
Ealy Crossing TIF	General Administration	Operating and Contractual Services	44,000
Ealy Crossing TIF	N/A	Transfers & Other Financing Uses	300,000
Upper Clarenton TIF	General Administration	Operating and Contractual Services	189,000
Upper Clarenton TIF	N/A	Transfers & Other Financing Uses	249,475
Balfour Green TIF	General Administration	Operating and Contractual Services	12,000
Balfour Green TIF	N/A	Transfers & Other Financing Uses	17,130
Straits Farm TIF	General Administration	Operating and Contractual Services	299,000
Oxford TIF	General Administration	Operating and Contractual Services	250,000
Blacklick TIF	General Administration	Operating and Contractual Services	666,000
Blacklick TIF	N/A	Transfers & Other Financing Uses	265,386
Blacklick II TIF	General Administration	Operating and Contractual Services	500
Village Center TIF	General Administration	Operating and Contractual Services	493,000
Village Center TIF	N/A	Transfers & Other Financing Uses	350,000
Reasearch & Technology District TIF	General Administration	Operating and Contractual Services	12,000
Oak Grove II TIF	General Administration	Operating and Contractual Services	20,000
<b>Total Special Revenue Funds</b>			<b>24,983,262</b>
Fund	Department	Category	Amount
Debt Service	N/A	Debt Service	6,661,170
<b>Total Debt Service Funds</b>			<b>6,661,170</b>
Fund	Department	Category	Amount
Capital Improvement	N/A	Capital	17,075,000
Capital Improvement	Finance	Operating and Contractual Services	64,000
Park Improvement	N/A	Capital	13,000
Park Improvement	Finance	Operating and Contractual Services	1,300,000
Leisure Trail Improvement	N/A	Capital	10,000
Capital Equipment Replacement	N/A	Capital	950,985
Oak Grove II Infrastructure	Finance	Operating and Contractual Services	20,000
<b>Total Capital Projects Funds</b>			<b>19,432,985</b>
<b>Total All Funds</b>			<b>78,290,805</b>

**Section 2.** To affect the purposes of the foregoing appropriations, the city manager is authorized to enter into agreements on such terms determined in the city manager's discretion, consistent with all other ordinances and resolutions in effect and enacted from time to time.

**Section 3.** The director of finance is authorized to allocate the appropriations for a department within activities. Except as provided in Section 4, the director of finance is authorized to approve

transfers between activities, provided that funds may not be transferred between appropriation line items.

**Section 4.** The director of finance is authorized to transfer up to \$10,000 between appropriation line items, provided that such transfers are within the same fund and department, where applicable.

**Section 5.** It is hereby found and determined that all formal actions of this council concerning and relating to the adoption of this legislation were adopted in an open meeting of council, and that all deliberations of the council and or any of its committees that resulted in such formal action were in meetings open to the public, in compliance with Section 121 of the Ohio Revised Code, and further pursuant to Ohio General Assembly 133 – House Bill 197 effective March 27, 2020.

**Section 6.** Pursuant to Article VI, Section 6.07(A) of the Charter of the City of New Albany, this ordinance shall be in effect on and after the earliest period allowed by law.

**CERTIFIED AS ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

**Attest:**

\_\_\_\_\_  
Sloan T. Spalding  
Mayor

\_\_\_\_\_  
Jennifer H. Mason  
Clerk of Council

**Approved as to form:**

\_\_\_\_\_  
Mitchell H. Banchefsky  
Law Director

**Legislation dates:**

Prepared: 10/26/2020  
Introduced: 11/03/2020  
Revised:  
Adopted:  
Effective:



## RESOLUTION R-36-2020

### **A RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN ODOT CONSENT LEGISLATION FOR THE REFERENCED PROJECT WHICH PROPOSES TO REPLACE/UPGRADE VARIOUS GUARDRAIL END ASSEMBLIES ON US 62 AND SR 605 WITHIN THE CITY OF NEW ALBANY TO BETTER CONTROL VEHICLE IMPACT IN THE EVENT OF A COLLISION**

The following constitutes the Final Resolution enacted by the City of New Albany, Ohio, in the matter of the stated described project.

**WHEREAS**, the State of Ohio has identified the need for the described project: Replace/upgrade various guardrail end assemblies on US 62 and SR 605 within the city limits, as part of the project PID 111195, D06 City NHS Guardrail Upgrade.

**WHEREAS**, the city desires the state to proceed with the aforesaid improvement.

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the City of New Albany, Counties of Franklin and Licking, State of Ohio, that:

**Section 1: Consent Statement:** Being in the public interest, the city gives consent to the Director of Transportation of the State of Ohio to complete the above described project.

**Section 2: Cooperation Statement:** The city shall cooperate with the Director of Transportation in the above described project as follows:

The city hereby agrees to cooperate with the Director in the planning, design and construction of the identified highway improvement project and grants consent to the Ohio Department of Transportation for its development and construction of the project in accordance with plans, specifications and estimates as approved by the Director.

ODOT agrees to assume and bear the costs of preliminary engineering, right-of-way, and construction by administering Federal and State funds for this project.

The city agrees to assume and bear one hundred percent (100%) of the total cost of those features requested by the city which are not necessary for the improvement as determined by the State and Federal Highway Administration.

**Section 3: Utilities and Right-of-Way Statement:** The city agrees that all right-of-way required for the described project will be acquired and/or made available in accordance with current State and



Federal regulations. The city also understands that right-of-way costs include eligible utility costs. ODOT agrees to be responsible for all utility accommodation, relocations and reimbursements shall comply with current provisions of 23 CFR 645 and the ODOT Utilities Manual.

**Section 4: Maintenance:** Upon completion of the project, and unless otherwise agreed, the city shall: (1) provide adequate maintenance for the project in accordance with all applicable state and federal law, including, but not limited to, Title 23, U.S.C., Section 116; (2) provide ample financial resources, as necessary, for the maintenance of the project; (3) maintain the right-of-way, keeping it free of obstructions, and (4) hold said right-of-way inviolate for public highway purposes.

**Section 5: Authority to Sign:** The city manager is hereby empowered on behalf of the city to enter into contracts with the Director of Transportation necessary to complete the above described project.

**Section 6:** It is hereby found and determined that all formal actions of this council concerning and relating to the adoption of this legislation were adopted in an open meeting of the council, and that all deliberations of the council and or any of its committees that resulted in such formal action were in meetings open to the public, in compliance with Section 121 of the Ohio Revised Code, and further pursuant to Ohio General Assembly 133 – House Bill 197 effective March 27, 2020, and that the Clerk of Council be and is hereby directed to certify a copy of this Resolution to the County Auditor of said County.

**Section 7:** Pursuant to Article 6.07(a) of the New Albany Charter, this resolution shall take effect upon adoption.

**CERTIFIED AS ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

**Attest:**

\_\_\_\_\_  
Sloan T. Spalding  
Mayor

\_\_\_\_\_  
Jennifer H. Mason  
Clerk of Council

**Approved as to form:**

\_\_\_\_\_  
Mitchell H. Banchefsky  
Law Director

**Legislation dates:**

Prepared: 10/19/2020

Introduced: 11/03/2020

Revised:

Adopted:

Effective:

**CERTIFICATION BY CLERK OF COUNCIL  
OF PUBLICATION OF LEGISLATION**

I certify that copies of R-36-2020 were posted in accordance with Section 6.12 of the Charter, for 30 days starting on \_\_\_\_\_, 2020.

\_\_\_\_\_  
Jennifer H. Mason, Clerk of Council

\_\_\_\_\_  
Date



## RESOLUTION R-37-2020

**A RESOLUTION GRANTING A NON-EXCLUSIVE RIGHT-TO-SERVE TO THE OHIO POWER COMPANY, ITS SUCCESSORS AND ASSIGNS, PROVIDING IT THE RIGHT TO ACQUIRE, CONSTRUCT, MAINTAIN, AND OPERATE WITHIN THE CORPORATE BOUNDARIES OF THE CITY OF NEW ALBANY, AS SUCH BOUNDARIES CURRENTLY EXIST OR MAY EXIST IN THE FUTURE, LINES FOR THE TRANSMISSION AND DISTRIBUTION OF ELECTRIC ENERGY TO NEW ALBANY, AND THE RESIDENTS AND BUSINESSES THEREOF FOR LIGHT, HEAT, POWER, AND OTHER ELECTRIC ENERGY PURPOSES**

**WHEREAS**, The Ohio Power Company has requested a non-exclusive Right-To-Serve (Right-To-Serve) to enable it and its successors and assigns to acquire, construct, maintain, and operate in accordance with local, state and federal laws, rules and regulations (Law) within the corporate boundaries of the City of New Albany, State of Ohio as such boundaries currently exist or may exist in the future, lines for the transmission and distribution of electric energy to New Albany, and the residents and businesses thereof for light, heat, power, and other electric energy purposes, and for the transmission and distribution of the same within, though, on or across New Albany; and

**WHEREAS**, pursuant to Home Rule authority granted to municipalities under Section 4 of Article XVIII of the Ohio Constitution, the city has the inherent authority to grant such Rights-To-Serve to electric utility providers; and

**WHEREAS**, it is council's desire to protect the health, safety and welfare of New Albany's residents by enacting this Right-To-Serve.

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the City of New Albany, Counties of Franklin, and Licking, State of Ohio, that:

**Section 1.** Subject to the limitations contained herein, the Ohio Power Company, its successors, and assigns (hereinafter called "Grantee") is hereby granted the Right-to-Serve within New Albany, lines for the transmission and distribution of electric energy, either by means of overhead or underground conductors, with all the necessary or desirable appurtenances and appliances, including electric substations, to render non-exclusive public utility service in New Albany and to its residents and businesses thereof by supplying electric energy to New Albany and its residents and businesses, for light, heat, power, or any other electric purposes or purpose for which electric energy is now or may hereafter be used, and the transmission and distribution of the same within, through, on or across New Albany.

**Section 2.** In exercising its rights pursuant to this Right-to-Serve, Grantee shall fully comply with the law, specifically including, but not limited to, New Albany's Right-of-Way Ordinance contained within Chapter 907 of New Albany Codified Ordinances, entitled "Rights-of-Way" as it currently exists or is amended or modified from time to time.

**Section 3.** Said lines, appurtenances, and appliances ("Equipment") shall be constructed in accordance with law so as to interfere as little as possible with the traveling public in its use of the streets, thoroughfares, alleys, bridges, and public places.

**Section 4.** This Right-to-Serve shall be in force and effect for a period of ten (10) years from the effective date of this Resolution.

**Section 5.** This Right-to-Serve hereby granted shall not be construed to be exclusive and Council hereby reserves the power to grant a similar Rights-to-Serve to any other person or persons, firm or firms, corporation or corporations.

**Section 6.** Said Grantee shall save New Albany harmless from any and all liability cost or expense arising in any way from Grantee's erection, operation and/or maintenance of said lines for the distribution and transmission of electric energy.

**Section 7.** Whenever said Grantee shall begin the erection or installation of any Equipment it shall promptly and diligently prosecute the work to completion and leave the streets, thoroughfares, alleys, bridges, and public places where such work is done in as good condition of repair as before such work was commenced, in accordance with law.

**Section 8.** Wherever in this resolution, reference is made to New Albany or the Grantee, it shall be deemed to include the respective successors or assigns of either; the provisions of this Right-to-Serve shall be binding upon, and inure to the benefit of the respective successors or assigns of New Albany, or of said Grantee.

**Section 9.** It is hereby found and determined that all formal actions of this council concerning and relating to the adoption of this legislation were adopted in an open meeting of council, and that all deliberations of the council and or any of its committees that resulted in such formal action were in meetings open to the public, in compliance with Section 121 of the Ohio Revised Code, and further pursuant to Ohio General Assembly 133 – House Bill 197 effective March 27, 2020.

**Section 10.** Pursuant to Article VI, Section 6.07(A) of the City of New Albany Charter, this resolution shall be in effect on and after the earliest period allowed by law.

**CERTIFIED AS ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

**Attest:**

\_\_\_\_\_  
Sloan T. Spalding  
Mayor

\_\_\_\_\_  
Jennifer H. Mason  
Clerk of Council

**Approved as to form:**

**Legislation dates:**

Prepared: 10/23/2020

Introduced: 11/03/2020

Revised:

Adopted:

Effective:

\_\_\_\_\_  
Mitchell H. Banchefsky  
Law Director

**CERTIFICATION BY CLERK OF COUNCIL  
OF PUBLICATION OF LEGISLATION**

I certify that copies of Resolution **R-37-2020** were posted in accordance with Section 6.12 of the Charter, for 30 days starting on \_\_\_\_\_, 2020.

\_\_\_\_\_  
Jennifer Mason, Clerk of Council

\_\_\_\_\_  
Date





## RESOLUTION R-38-2020

**A RESOLUTION TO WAIVE THE COMPETITIVE BIDDING REQUIREMENT AND AUTHORIZE THE CITY MANAGER TO ENTER INTO ALL CONTRACTS NECESSARY FOR THE PURCHASE OF ELECTRONIC PLAN REVIEW SOFTWARE IN ORDER TO ENHANCE PUBLIC AND STAFF SAFETY DURING THE COVID 19 PANDEMIC AND MORE EFFECTIVELY SERVE THE CITY'S DEVELOPMENT CUSTOMERS**

**WHEREAS**, the New Albany Development Department requires commercial and residential builders to submit paper plans for review and permit approval because it does not have an electronic plan review option; and

**WHEREAS**, paper plan review and permit processing requires extensive interpersonal contact, thereby exposing the staff and builders involved in the process to increased health risks related to COVID-19; and

**WHEREAS**, earlier in the year, during the COVID-19 pandemic shutdown, the development department staff performed a detailed assessment of six software vendors and then solicited proposals from the top three software vendors in order to determine the best software solution for the city's plan review and permit processing needs; and

**WHEREAS**, after an extensive evaluation process and a narrowing of the field of software firms, the development department selected Accela as the city's preferred vendor; and

**WHEREAS**, the Accela software is available for purchase through Carahsoft under a cooperative purchasing agreement at a savings of approximately \$3,000 to the city; and

**WHEREAS**, the Federal CARES Act, which provides funding for the reimbursement of local COVID-19 related expenses, requires local governments to encumber funds by November 20, 2020 and as such, the city does not have adequate time to solicit bids through a formal process; and

**WHEREAS**, council declared the purchase of the software to be a proper CARES Act expenditure through its approval of Ordinance O-19-2020 on November 3, 2020; and

**WHEREAS**, Section 9.04(C) of the New Albany City Charter provides for the waiver of the competitive bidding requirement for the public health, safety and welfare; and

**WHEREAS**, a health emergency has been declared by the state and local governments in response to the COVID-19 pandemic.

**NOW, THEREFORE, BE IT RESOLVED** by Council for the City of New Albany, Counties of Franklin and Licking, State of Ohio, that:

**Section 1:** The purchase of electronic plan review and permitting software is necessary for the public health, safety, and welfare due to its ability to eliminate interpersonal contact and reduce risk of exposure to the COVID-19 virus.

**Section 2.** Per section 9.04(C) of the New Albany Charter, and for the reasons set forth herein, council finds that it is in the best interest of the city to waive the competitive bidding requirement.

**Section 3.** The city manager is hereby authorized to execute all necessary contracts with Carahsoft for the purchase and implementation of Accela electronic plan review and permitting software in an amount not to exceed \$150,000.00.

**Section 4.** It is hereby found and determined that all formal actions of this council concerning and relating to the adoption of this legislation were adopted in an open meeting of council, and that all deliberations of the council and or any of its committees that resulted in such formal action were in meetings open to the public, in compliance with Section 121 of the Ohio Revised Code, and further pursuant to Ohio General Assembly 133 – House Bill 197 effective March 27, 2020.

**Section 5.** Pursuant to Article 6.07(A) of the New Albany Charter, this resolution shall take effect upon adoption.

**CERTIFIED AS ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

**Attest:**

\_\_\_\_\_  
Sloan T. Spalding  
Mayor

\_\_\_\_\_  
Jennifer H. Mason  
Clerk of Council

**Approved as to form:**

\_\_\_\_\_  
Mitchell H. Banchefsky  
Law Director

**Legislation dates:**

Prepared: 10/23/2020  
Introduced: 11/03/2020  
Revised:  
Adopted:  
Effective: