



City of Brecksville, Ohio
City Council Regular Meeting
Ralph W. Biggs City Council Chambers
December 16, 2025 – 8:00 PM

In compliance with the Americans with Disabilities Act, those requiring accommodation for meetings should notify the City Clerk's Office at least three days prior to the meeting at (440)526-2609.

AGENDA

To view/listen to the live stream of the meeting please go to:
<https://breckvilleoh.portal.civicclerk.com> on the City's website: www.brecksville.oh.us. Questions and comments may be e-mailed to ttabor@brecksville.oh.us or by phone to (440) 526-2609 and will be forwarded to the appropriate personnel for a response.

Call to Order

Pledge of Allegiance

Roll Call

Approval of Minutes

1. Approval of December 2, 2025 City Council Minutes

Unfinished Business

1. ORD. 5808 TIF Ordinance (Woodlands .40(C) TIF) Amended - an Ordinance creating the Woodlands Tax Increment Financing Incentive District, declaring improvements to the parcels within the incentive district to be a public purpose and exempt from real property taxation, requiring the owners of those parcels to make service payments in lieu of taxes, establishing a municipal public improvement tax increment equivalent fund for the deposit of those service payments, authorizing school compensation payments, specifying the public infrastructure improvements that benefit or serve parcels in the incentive district, and declaring an emergency.
2. ORD. 5809 - TIF Ordinance (Highland Park .40(C) TIF) Amended - an Ordinance creating the Highland Park Tax Increment Financing Incentive District, declaring improvements to be a public purpose and exempt from real property taxation, requiring the owners of those parcels to make service payments in lieu of taxes, establishing a Municipal Public Improvement Tax Increment Equivalent Fund for the deposit of those service payments, authorizing school compensation payments, specifying the public infrastructure improvements that benefit or serve parcels in the incentive district, and declaring an emergency.
3. ORD. 5810 - TIF Ordinance (Edgerton Road .40(C) TIF) Amended - an Ordinance creating the Edgerton Road Tax Increment Financing Incentive District, declaring improvements to the parcels within the incentive district to be a public purpose and exempt from real property taxation, requiring the owners of those parcels to make service payments in lieu of taxes, establishing a Municipal Public Improvement Tax

Increment Equivalent Fund for the deposit of those service payments, authorizing school compensation payments, specifying the public infrastructure improvements that benefit or serve parcels in the incentive district, and declaring an emergency.

4. ORD. 5811 TIF Ordinance (Snowville South .40(C) TIF) Amended- an Ordinance creating Snowville South Tax Increment Financing Incentive District, declaring improvements to the parcels within the incentive district to be a public purpose and exempt from real property taxation, requiring the owners of those parcels to make service payments in lieu of taxes, establishing a Municipal Public Improvement Tax Increment Equivalent Fund for the deposit of those service payments, authorizing school compensation payments, specifying the public infrastructure improvements that benefit or serve parcels in the incentive district, and declaring an emergency.
5. ORD. 5813 TIF Ordinance (Snowville North .40(C) TIF) Amended - an Ordinance declaring the improvements to certain parcels in the city to be a public purpose and exempt from real property taxation, requiring the owners of those parcels to make service payments in lieu of taxes, establishing a Municipal Public Improvement Tax Increment Equivalent Fund for the deposit of those service payments, authorizing school compensation payments, specifying the public infrastructure improvements that benefit or serve the parcels, and declaring an emergency.

New Business

1. RES. 5733 - a Resolution Adopting a City of Brecksville Cyber Security Program pursuant to Ohio Revised Code Section 9.64; and declaring an emergency
2. ORD. 5830 - an Ordinance to amend Ordinance No. 5758, making appropriations for current expenses of the City of Brecksville during the fiscal year ending December 31, 2025, making necessary appropriation and revenue adjustments; and declaring an emergency.
3. ORD. 5831 - an Ordinance amending Part three-Traffic Code of the Codified Ordinances of the City of Brecksville; and declaring an emergency.
4. ORD 5832 - an Ordinance amending Part Five General Offenses Code to the Codified Ordinances of the City of Brecksville; and declaring an emergency
5. ORD. 5833 - an Ordinance amending Section 139.02 of the Administrative Code to update the required number of meetings; and declaring an emergency
6. ORD. 5834 - an Ordinance authorizing the Mayor to enter into an agreement with the City of Parma for Prisoner Housing Services for the Brecksville Police Department; and declaring an emergency.
7. ORD. 5835 - an Ordinance authorizing the Mayor to enter into a non-exclusive per diem lease agreement with the City of North Royalton for Jail Housing and Ancillary Services for the Brecksville Police Department; and declaring an emergency.
8. ORD. 5836 - an Ordinance authorizing the Mayor to enter into a Prisoner Housing Services Agreement with the City of Bedford Heights to provide Jail Housing Services for the Brecksville Police Department; and declaring an emergency

9. ORD. 5837 - an Ordinance authorizing the Chief of Police to execute a License Agreement with the Board of Commissioners of The Cleveland Metropolitan park District for the use of the Police Training Center located in the Mill Stream Run Reservation; and declaring an emergency.
10. ORD. 5838 - an Ordinance authorizing the Mayor to enter into a License Agreement for Private Sanitary Force Main Within Public Right-of-Way with Nance Subdivision Homeowners Association, Inc.; and declaring an emergency.

Report of Council Representatives and Council Committees: Board of Zoning Appeals, Planning Commission, Recreation Commission, Human Services Advisory Board

Reports of Department Directors: Director of Law, Engineer, Director of Finance, Chief Building Official, Director of Human Services, Director of Service, Director of Purchasing, Chief of Police Department, Chief of Fire Department, Director of Recreation

Report of the Mayor

Adjournment

"This is the season when people of all faiths and cultures are pushing back against the planetary darkness.
We string bulbs, ignite bonfires, and light candles. And we sing."

- Anita Diamant

Mayor and Safety Director: Daryl Kingston

City Council Members: Dominic Caruso, President; Beth Savage, Vice President; Dan Bender; AJ Ganim; Mark Jantzen; Ann Koepke; Brian Stucky.

Clerk: Tammy Tabor

MINUTES OF THE MEETING OF THE
CITY OF BRECKSVILLE CITY COUNCIL REGULAR MEETING
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Call to Order

8:00 PM

Pledge of Allegiance

Roll Call

Present: Council President Caruso, Council Vice President Savage, Council Member Bender, Council Member Ganim, Council Member Jantzen, Council Member Koepke, Council Member Stucky
Also Present: Mayor D. Kingston, Law Director D. Matty, Assistant Law Director L. Sabol, Engineer G. Wise, Fire Chief M. Bender, Human Services Director S. Paciorek, Police Chief Korinek, Purchasing Director M. Bartkiewicz, CBO S. Packard, Service Director J. Kickel, Media Specialist T. Russo, Clerk T. Tabor.

Absent: None.

Also Present: Emily Midgley and 7 Firefighters

Approval of Minutes

1. Approval of November 18, 2025 City Council Minutes

Motion for passage by Ganim, seconded by Koepke.

Voting Yea: Bender, Caruso, Ganim, Jantzen, Koepke, Savage, Stucky.

Voting Nay: None.

Abstain: None.

MOTION CARRIED: 7- Ayes, 0-Nays, 0-Abstain.

2. Approval of November 24, 2025 Special Meeting Minutes

Motion for passage by Ganim, seconded by Koepke.

Voting Yea: Bender, Caruso, Ganim, Jantzen, Koepke, Savage, Stucky.

Voting Nay: None.

Abstain: None.

MOTION CARRIED: 7- Ayes, 0-Nays, 0-Abstain.

3. Approval of October 21, 2025 Public Hearing Minutes

Motion for passage by Ganim, seconded by Koepke.

Voting Yea: Bender, Caruso, Ganim, Jantzen, Koepke, Savage, Stucky.

Voting Nay: None.

Abstain: None.

MOTION CARRIED: 7- Ayes, 0-Nays, 0-Abstain.

Unfinished Business

Council Clerk Tabor read the following item by title only with no action being taken.

1. ORD. 5808 TIF Ordinance (Woodlands .40(C) TIF) - an Ordinance creating the Woodlands Tax Increment Financing Incentive District, declaring improvements to the parcels within the incentive district to be a public purpose and exempt from real property taxation, requiring the owners of those parcels to make service payments in lieu of taxes, establishing a municipal public improvement tax increment equivalent fund for the deposit of those service payments, authorizing school compensation payments, specifying the public infrastructure improvements that benefit or serve parcels in the incentive district, and declaring an emergency.

Council Clerk Tabor read the following item by title only with no action being taken.

2. ORD. 5809 - TIF Ordinance (Highland Park .40(C) TIF) - an Ordinance creating the Highland Park Tax Increment Financing Incentive District, declaring improvements to be a public purpose and exempt from real property taxation, requiring the owners of those parcels to make service payments in lieu of taxes, establishing a Municipal Public Improvement Tax Increment Equivalent Fund for the deposit of those service payments, authorizing school compensation payments, specifying the public infrastructure improvements that benefit or serve parcels in the incentive district, and declaring an emergency.

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3. ORD. 5810 - TIF Ordinance (Edgerton Road .40(C) TIF) - an Ordinance creating the Edgerton Road Tax Increment Financing Incentive District, declaring improvements to the parcels within the incentive district to be a public purpose and exempt from real property taxation, requiring the owners of those parcels to make service payments in lieu of taxes, establishing a Municipal Public Improvement Tax Increment Equivalent Fund for the deposit of those service payments, authorizing school compensation payments, specifying the public infrastructure improvements that benefit or serve parcels in the incentive district, and declaring an emergency.

Council Clerk Tabor read the following item by title only with no action being taken.

4. ORD. 5811 TIF Ordinance (Snowville South .40(C) TIF) - an Ordinance creating Snowville South Tax Increment Financing Incentive District, declaring improvements to the parcels within the incentive district to be a public purpose and exempt from real property taxation, requiring the owners of those parcels to make service payments in lieu of taxes, establishing a Municipal Public Improvement Tax Increment Equivalent Fund for the deposit of those service payments, authorizing school compensation payments, specifying the public infrastructure improvements that benefit or serve parcels in the incentive district, and declaring an emergency.
5. ORD. 5812 TIF Ordinance (Downtown .40(B) TIF) - an Ordinance declaring the improvements to certain parcels in the city to be a public purpose and exempt from real property taxation, requiring the owners of those parcels to make service payments in lieu of taxes, establishing a Municipal Public Improvement Tax Increment Equivalent Fund for the deposit of those service payments, authorizing school compensation payments, specifying the public infrastructure improvements that benefit or serve the parcels, and declaring an emergency.

Motion for passage by Ganim, seconded by Koepke.

Voting Yea: Bender, Caruso, Ganim, Jantzen, Koepke, Savage, Stucky.

Voting Nay: None.

Abstain: None.

MOTION CARRIED: 7- Ayes, 0-Nays, 0-Abstain.

Council Clerk Tabor read the following item by title only with no action being taken.

6. ORD. 5813 TIF Ordinance (Snowville North .40(C) TIF) - an Ordinance declaring the improvements to certain parcels in the city to be a public purpose and exempt from real property taxation, requiring the owners of those parcels to make service payments in lieu of taxes, establishing a Municipal Public Improvement Tax Increment Equivalent Fund for the deposit of those service payments, authorizing school compensation payments, specifying the public infrastructure improvements that benefit or serve the parcels, and declaring an emergency.

New Business

1. RES. 5727 - a Resolution appointing Stephen J. Zawacki as a part-time firefighter/paramedic in the City of Brecksville Fire Department; and declaring an emergency

Motion for suspension made by Ganim, Seconded by Koepke.

Voting Yea: Bender, Caruso, Ganim, Jantzen, Koepke, Savage, Stucky.

Voting Nay: None.

MOTION CARRIED: 7- Ayes, 0-Nays, 0-Abstain.

Motion by Stucky, seconded by Bender to pass Resolution 5727.

Voting Yea: Bender, Caruso, Ganim, Jantzen, Koepke, Savage, Stucky.

Voting Nay: None.

Abstain: None.

MOTION CARRIED: 7- Ayes, 0-Nays, 0-Abstain.

Mayor Kingston said the Zawacki family for all of their service to the City of Brecksville. Steven's parents, and grandparents have been involved volunteering in our city for generations. Mom and Grandma are two of the queen bees, I call them, that make our city so beautiful, running the beautification committee.

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Mayor Kingston said Steven is currently working part -time at Broadview Heights Fire. Steven is a 2020 graduate of Brexville -Broadview Heights High School and a Bowling Green State University graduate with a bachelor's degree in construction management.

Steven graduated from the program in three years with an honors diploma. Stephen completed his firefighter training at Tri -C Fire Academy and obtained his paramedic license from Parma University Hospital in 2025. Stephen lives in Brecksville and is very eager to start his career with the Brecksville Fire Department as a part -time member. Mayor Kingston administered the oath of office to Firefighter Zawacki.

Firefighter Zawacki introduced his family and thanked Council and Mayor Kingston for the opportunity to be part of the Brecksville Fire Department.

2. RES. 5730 - a Resolution authorizing the Mayor to enter into an agreement with Safe Staffing of Ohio for temporary general labor staffing services for a term from January 1, 2026 to December 31, 2026; and declaring an emergency.

Motion for suspension made by Ganim, Seconded by Koepke.

Voting Yea: Bender, Caruso, Ganim, Jantzen, Koepke, Savage, Stucky.

Voting Nay: None.

MOTION CARRIED: 7- Ayes, 0-Nays, 0-Abstain.

Motion by Stucky, seconded by Bender to pass Resolution 5730.

Voting Yea: Bender, Caruso, Ganim, Jantzen, Koepke, Savage, Stucky.

Voting Nay: None.

Abstain: None.

MOTION CARRIED: 7- Ayes, 0-Nays, 0-Abstain.

3. RES. 5731 - a Resolution authorizing the Mayor to enter into an audit arrangement with the Auditor of State by means of an Engagement Letter for the audit of the City's basic financial statements as of and for the year ended December 31, 2025; and declaring an emergency

Motion for suspension made by Ganim, Seconded by Koepke.

Voting Yea: Bender, Caruso, Ganim, Jantzen, Koepke, Savage, Stucky.

Voting Nay: None.

MOTION CARRIED: 7- Ayes, 0-Nays, 0-Abstain.

Motion by Stucky, seconded by Bender to pass Resolution 5731.

Voting Yea: Bender, Caruso, Ganim, Jantzen, Koepke, Savage, Stucky.

Voting Nay: None.

Abstain: None.

MOTION CARRIED: 7- Ayes, 0-Nays, 0-Abstain.

4. ORD. 5827 - an Ordinance amending Ordinance 5778 as it relates to employee compensation; and declaring an emergency.

Motion for suspension made by Ganim, Seconded by Koepke.

Voting Yea: Bender, Caruso, Ganim, Jantzen, Koepke, Savage, Stucky.

Voting Nay: None.

MOTION CARRIED: 7- Ayes, 0-Nays, 0-Abstain.

Motion by Stucky, seconded by Bender to pass Ordinance 5827.

Voting Yea: Bender, Caruso, Ganim, Jantzen, Koepke, Savage, Stucky.

Voting Nay: None.

Abstain: None.

MOTION CARRIED: 7- Ayes, 0-Nays, 0-Abstain.

5. ORD. 5828 - an Ordinance retaining the services of the Local Government Services (LGS) of the Auditor of State's Office to assist in the preparation of the City's Annual Comprehensive Financial Reports for the Year 2025; and declaring an emergency

Motion for suspension made by Ganim, Seconded by Koepke.

Voting Yea: Bender, Caruso, Ganim, Jantzen, Koepke, Savage, Stucky.

MOTION CARRIED: 7- Ayes, 0-Nays, 0-Abstain.

Motion by Stucky, seconded by Bender to pass Ordinance 5828.

Voting Yea: Bender, Caruso, Ganim, Jantzen, Koepke, Savage, Stucky.

Voting Nay: None.

Abstain: None.

MOTION CARRIED: 7- Ayes, 0-Nays, 0-Abstain.

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6. ORD. 5829 - an Ordinance to make appropriations for current expenditures and other expenditures of the City of Brecksville; and declaring an emergency

Motion for suspension made by Ganim, Seconded by Koepke.

Voting Yea: Bender, Caruso, Ganim, Jantzen, Koepke, Savage, Stucky.

MOTION CARRIED: 7- Ayes, 0-Nays, 0-Abstain.

Motion by Stucky, seconded by Bender to pass Ordinance 5829.

Voting Yea: Bender, Caruso, Ganim, Jantzen, Koepke, Savage, Stucky.

Voting Nay: None.

Abstain: None.

MOTION CARRIED: 7- Ayes, 0-Nays, 0-Abstain.

7. RES. 5732 - a Resolution making necessary transfers between certain funds for the Fiscal Year ending December 31, 2026.

Motion for suspension made by Ganim, Seconded by Koepke.

Voting Yea: Bender, Caruso, Ganim, Jantzen, Koepke, Savage, Stucky.

Voting Nay: None.

MOTION CARRIED: 7- Ayes, 0-Nays, 0-Abstain.

Motion by Stucky, seconded by Bender to pass Resolution 5732

Voting Yea: Bender, Caruso, Ganim, Jantzen, Koepke, Savage, Stucky.

Voting Nay: None.

Abstain: None.

MOTION CARRIED: 7- Ayes, 0-Nays, 0-Abstain.

Report of Council Representatives and Council Committees: Board of Zoning Appeals, Planning Commission, Recreation Commission, Human Services Advisory Board

Board of Appeals

Council Member Stucky reported the Planning Commission has no items for Council consideration. The next meeting of the Board of Zoning Appeals will be December 8th, 2025 at 7:30 PM.

Planning Commission

Council President Caruso reported the Planning Commission has no items for Council consideration. The next meeting of the Planning Commission will be January 8, 2025 at 7:00 PM.

Recreation Commission

Council Member Ganim reported the Recreation Commission will bring legislation forward to amend the required number of meetings by the Commission.

Human Services Advisory Board

Council Member Koepke reported the next meeting of the Human Services Advisory Board will be December 9th at 3:00 PM.

Reports of Council Committees

Safety Service - Council Member Koepke reported the Committee met earlier and has no items for Council consideration.

Streets & Sidewalks - Council Member Stucky reported the Committee met earlier and has no items for Council consideration.

Utilities - Council Member Ganim reported the Committee met earlier and has no items for Council consideration.

Buildings & Grounds - Council Member Jantzen reported the Committee met earlier and has no items for Council consideration.

Legislation - Council Member Bender reported the Committee met earlier and has no items for Council consideration.

Finance - Council Member Savage reported the Committee met earlier and has two items for Council consideration.

Police Department Equipment -Approval of a motion authorizing a requisition in the amount of

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\$7,618.84 for Parr Public Safety Equipment for two (2) Mobile Data Terminals for the Police Department.

Motion made by Savage, Seconded by Koepke.

Voting Yea: Bender, Caruso, Ganim, Jantzen, Koepke, Savage, Stucky.

MOTION CARRIED: 7- Ayes, 0-Nays, 0-Abstain.

Professional Bills -Approve the payment of monthly professional bills - Matty, Henrikson & Greve LLC \$ 16,352.33, Squire Patton Boggs \$2,500.00, William Logan \$4,000.00, Mary Hanna, Esq. \$2,100.00, Donald G. Bohning & Associates, Inc. \$23,992.68, Sixmo \$2,175.00 Total of all Invoices \$51,088.01

Motion made by Savage, Seconded by Koepke.

Voting Yea: Bender, Caruso, Ganim, Jantzen, Koepke, Savage, Stucky.

MOTION CARRIED: 7- Ayes, 0-Nays, 0-Abstain.

Reports of Department Directors: Director of Law, Engineer, Director of Finance, Chief Building Official, Director of Human Services, Director of Service, Director of Purchasing, Chief of Police Department, Chief of Fire Department, Director of Recreation

Reports of Department Directors:

Director of Law, Dave Matty: No Report

Engineer, Gerry Wise: No Report.

Director of Finance, Laura Starosta: No Report.

Chief Building Official: CBO Scott Packard

Director of Human Services, Dr. Steve Paciorek reminded everyone of the Yuletide Hunger Program, now in its 43rd year in Brecksville, donations are being accepted and if possible you can adopt a family for the holidays.

Director of Service, Joe Kickel: No Report

Director of Purchasing, Monica Bartkiewicz: No Report.

Chief of Police Department, Chief Korinek reported 116.8 pounds of unwanted and unused drugs were collected at the DEA Drug Takeback event. Shop with First Responder will take place on December 6th, tickets are on sale at the Police Station.

Chief of Fire Department: Mark Bender: No Report.

Report of the Mayor

Mayor Kingston said the City has several fun holiday things planned for this month. Mayor Kingston thanked and acknowledge some of the directors that were here for a lot of the things that have happened in Brecksville over the past couple of weeks. Service Director Kickel, thank you and thank the Service Department Staff. Some of the staff had to cut their Thanksgiving short to come in and plow our streets. The City and its residents really appreciate that work. The safety forces, both the Police and Fire Chiefs, had a very serious, a volatile situation where Chief Korinek was the incident commander on that event, there was a great resolution. Mayor Kingston was there for several hours, and to see them in action, it's terrible to witness, but it's comforting to know that our leadership and the men and women on the Police and Fire Services are there for us when we need it. Mayor Kingston wanted to say thank you on behalf of the city.

The Fire Department had a very serious incident over the weekend, a rescue in the Metro Park. A man fell down a 30 -foot ravine. The technical rope rescue, again, really amazing to see in the middle of a snowstorm. Again, there was a great resolution. Thank you all for your service.

Mayor Kingston said this month, there are a couple of dates to get on everyone's calendar. December 6th is the shop with a first responder, as Chief Korinek said. Our Christmas movie night, year two this year, is happening on December 13th. Thank you, we have a few council members women volunteering. Thank you very much. The movie is Disney's Olaf's Frozen Adventure. So come to the Community Center, enjoy popcorn, hot cocoa, face painting, cookie decorations, and a special visit from Santa for a sing -a -long. Don't forget to wear your coziest winter jammies and get ready to enjoy a festive movie night together. Kiwanis' Santa delivery is on December 14th, this is not a city event, but an organization that we love to support. And again, we have a Council Member up here who knows Santa a little bit and helps out with that. So we appreciate that. Santa will come to your Brecksville home on his sleigh, deliver a small gift and take photos. You can still sign up. I think you still have a couple extra days. Visit the Kiwanis website for

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more information. And then our final city event will be Breakfast with Santa on December 22nd. Please visit the website or go to the community center to sign up. The Yuletide Hunger Program that Director Paciorek mentioned, donations of non -perishable food items or financial contributions are greatly appreciated and will help make the holiday season brighter for those in need.

Council President Caruso recognized Emily Midgley in the audience. Ms. Midgley said she is a resident of Echo Hills and will be reading a letter on behalf of Ellen Mehendale as she is unable to attend in person.

"As a resident of Echo Hills, which I am too, I understand that one of the proposed districts involves the property off Snowville Road that abuts our neighborhood and is being considered for development. I recognize that the issue of whether the property should or should not be developed has been extensively discussed, and I'm not seeking to review that question. However, I do strongly oppose the idea that the City should assume the cost of remedying a site line and related safety issues on Snowville Road to enable this development to proceed. These improvements, particularly in an area near Dewey Road, should remain the responsibility of the owner and developer as the city previously determined. I am aware that the owner -developer's attorney has argued that the city should bear these costs because the existing site line limitations predated the purchase of the property. With respect, that is an unpersuasive argument. The owner -developer knowingly purchased a parcel that, from both a topographical and zoning standpoint, was not suited for development without significant modifications. If he now wishes to pursue development, it is reasonable and appropriate that he bears the associated costs. I respectfully ask the Council to maintain its prior position and ensure that the financial burden of making the development feasible remains with the land developer, not with the city or its residents or other businesses. Doing otherwise would set an unfortunate precedent and place unnecessary costs on the community for a private project. In addition, issues concerning stormwater runoff remain a significant concern. As a resident of more than 20 years, including 15 years, I have watched runoff issues steadily worsen and its development along Snowville Road has increased. Any future development on this parcel will be accompanied by these challenges unless strict safeguards and responsible engineering are required and enforced. I ask Council to carefully consider the cumulative impact of stormwater on Echo Hills and surrounding areas, and to ensure that any developer, not the city or its residents, is held fully accountable for mitigating these effects and paying the negative consequences that are a near certainty to occur. Thank you for your time, consideration, and service to Brecksville, and I appreciate your time."

Council President Caruso thanked Ms. Midgley for her comments. Council President Caruso said at this stage, I can just assure you that the City is setting up the TIFs. There are no discussions or requests at this point that are specific to use of funds. That's way off in the future at this point.

Mayor Kingston said these TIFs, due to the bureaucracy of it, it may take a couple years for the TIFs to be set up, two to three years. Mayor Kingston said this is just estimating, by the time anything substantial would be generated by some of these TIFs, it could be eight to ten years. It will be a good discussion to have ten years down the road. We have this kind of money it'll be up to the Council at that time to decide what projects could we use it for. It'll be a fun discussion to have eight to ten years from now when there's money there.

Adjournment

8:36 PM

Motion made by Caruso, Seconded by Savage.

Voting Yea: Bender, Caruso, Ganim, Jantzen, Koepke, Savage, Stucky.

Abstain: None.

MOTION CARRIED: 7- Ayes, 0-Nays, 0-Abstain.

President of Council

Clerk of Council

Mayor and Safety Director: Daryl Kingston

City Council Members: Dominic Caruso, President; Beth Savage, Vice President; Dan Bender; AJ Ganim; Mark Jantzen; Ann Koepke; Brian Stucky.

Clerk: Tammy Tabor

AN ORDINANCE CREATING THE WOODLANDS TAX INCREMENT FINANCING INCENTIVE DISTRICT, DECLARING IMPROVEMENTS TO THE PARCELS WITHIN THE INCENTIVE DISTRICT TO BE A PUBLIC PURPOSE AND EXEMPT FROM REAL PROPERTY TAXATION, REQUIRING THE OWNERS OF THOSE PARCELS TO MAKE SERVICE PAYMENTS IN LIEU OF TAXES, ESTABLISHING A MUNICIPAL PUBLIC IMPROVEMENT TAX INCREMENT EQUIVALENT FUND FOR THE DEPOSIT OF THOSE SERVICE PAYMENTS, AUTHORIZING SCHOOL COMPENSATION PAYMENTS, SPECIFYING THE PUBLIC INFRASTRUCTURE IMPROVEMENTS THAT BENEFIT OR SERVE PARCELS IN THE INCENTIVE DISTRICT, AND DECLARING AN EMERGENCY.

WHEREAS, this Council desires to facilitate the development of certain public infrastructure relating to a residential subdivision with approximately 70 single-family homes within the City (the “Project”); and

WHEREAS, this Council, pursuant to ORC Sections 5709.40, 5709.42 and 5709.43 (collectively, the “TIF Act”), is authorized to declare improvements to real property to be a public purpose, exempt those improvements from real property taxation, and require owners of the real property to make service payments in lieu of taxes in an amount equal to such exempted taxes and require the distribution of a portion of the service payments to the Brecksville-Broadview Heights City School District (the “BBH School District”) and the Cuyahoga Valley Career Center (the “CVCC” and collectively with the BBH School District, the “School Districts”); and

WHEREAS, to pay the associated costs of the necessary public infrastructure improvements from service payments in lieu of taxes, this Council has determined to create the Woodland Incentive District (an “Incentive District”) pursuant to the TIF Act, the boundaries of which shall be coextensive with the boundaries of, and will include, the parcels of real property within each Incentive District specifically identified and depicted in Exhibit A attached hereto (as currently or subsequently configured, the “Parcels”, with each of those parcels referred to herein individually as a “Parcel”);

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Brecksville, Cuyahoga County, Ohio, that:

SECTION 1. Incentive District Findings and Determinations; Creation of Incentive District. This Council hereby: (i) adopts the Economic Development Plan for the Incentive District now on file with the Clerk of the City Council, (ii) accepts and adopts the City Engineer’s

certification to this Council and the City Engineer's findings set forth therein (a) that the public infrastructure serving the Incentive District is inadequate to meet the development needs of the Incentive District as evidenced by the Economic Development Plan and (b) that the Incentive District is less than 300 acres in size and enclosed by a contiguous boundary, (iii) finds and determines that the Project will place additional demand on the Public Infrastructure Improvements, (iv) finds and determines that the City sent written notice of the public hearing regarding this Ordinance by first class mail to each owner of real property within each proposed Incentive District at least 30 days prior to such hearing, which notice included a map of the proposed Incentive District as well as the overlay area required by ORC Section 5709.40(C)(2), (v) finds and determines that this Council has not received a request from the owner of any real property within any proposed Incentive District to exclude that owner's property from the Incentive District, (vi) finds and determines that notice of this Ordinance has been delivered to the School Districts in accordance with and within the time periods prescribed in ORC Sections 5709.40 and 5709.83, and (vii) finds and determines that notice of this Ordinance has been given to Cuyahoga County, Ohio **(the "County") and on November 20, 2025 the City received notice of the County's objection to this Ordinance.** Pursuant to the TIF Act, this Council creates the Incentive District, the boundaries of which are coextensive with the boundaries of, and include, the Parcels specifically identified and depicted in Exhibit A attached hereto.

SECTION 2. Public Infrastructure Improvements. This Council hereby designates the public infrastructure improvements described in Exhibit B attached to this Ordinance (the "Public Infrastructure Improvements") and any other public infrastructure improvements hereafter designated by ordinance as public infrastructure improvements made, to be made or in the process of being made by the City that directly benefit or serve, or that once made will directly benefit or serve, the Incentive District.

SECTION 3. Life of Incentive District Authorization of Tax Exemption. The life of the Incentive District commences with the first tax year that begins after the effective date of this Ordinance and in which an Improvement (as defined below) attributable to a new structure would first appear on the tax list and duplicate of real and public utility property for any Parcel within the Incentive District were it not for the exemption granted in this Ordinance and ends on the earlier of (a) 30 years after such commencement or (b) the date on which the City can no longer require service payments in lieu of taxes, all in accordance with the requirements of the TIF Act (the "Incentive District Life").

Pursuant to and in accordance with the provisions of ORC Section 5709.40(C), this Council hereby declares that the increase in assessed value of each Parcel subsequent to the effective date of this Ordinance (which increase in assessed value is hereinafter referred to as the "Improvement," as defined in ORC Section 5709.40(A)) is a public purpose, with 100% of such Improvement to each Parcel exempt from taxation for the Incentive District Life for the Incentive District.

SECTION 4. Service Payments and Property Tax Rollback Payments. Pursuant to ORC Section 5709.42, the owner of each Parcel is hereby required to make annual service payments in lieu of taxes with respect to the Improvement to that Parcel to the Cuyahoga County Treasurer (the "County Treasurer") on or before the final dates for payment of real property taxes. Each service payment in lieu of taxes, including any penalties and interest at the then current rate established for real property taxes (collectively, the "Service Payments"), will be charged and collected in the same

manner and in the same amount as the real property taxes that would have been charged and payable against the Improvement if it were not exempt from taxation pursuant to Section 3 of this Ordinance. The Service Payments, and any other payments with respect to each Improvement that are received by the County Treasurer in connection with the reduction required by ORC Sections 319.302, 321.24, 323.152 and 323.156, as the same may be amended from time to time, or any successor provisions thereto as the same may be amended from time to time (the "Property Tax Rollback Payments"), will be deposited and distributed in accordance with Section 6 of this Ordinance.

SECTION 5. TIF Fund. This Council hereby establishes the Woodland Incentive District Municipal Public Improvement Tax Increment Equivalent Fund (the "TIF Fund"). The TIF Fund shall be maintained in the custody of the City and shall receive all distributions to be made to the City pursuant to Section 6 of this Ordinance. Those Service Payments and Property Tax Rollback Payments received by the City with respect to the Improvement of each Parcel and so deposited pursuant to the TIF Act shall be used solely for the purposes authorized in the TIF Act and this Ordinance (as it may be amended or supplemented). The TIF Fund shall remain in existence so long as such Service Payments and Property Tax Rollback Payments are collected and used for the aforesaid purposes, after which time the TIF Fund shall be dissolved and any incidental surplus funds remaining therein transferred to the City's General Fund, all in accordance with the TIF Act.

SECTION 6. Distributions; Payment of Costs. Pursuant to the TIF Act, during the Incentive District Life for the Incentive District, the County Treasurer is requested to distribute the Service Payments and the Property Tax Rollback Payments as follows: (i) first to the BBH School District and the CVCC, each an amount equal to the amount the respective school district would otherwise have received as real property tax payments (including the applicable portion of any Property Tax Rollback Payments) derived from the Improvement to the parcels located within the school districts if the Improvement had not been exempt from taxation pursuant to this Ordinance, and (ii) second, to the City for deposit into the TIF Fund for payment of costs of the Public Infrastructure Improvements, including, without limitation, debt charges on any notes or bonds issued to pay or reimburse finance costs or costs of those Public Infrastructure Improvements. **During the eleventh and subsequent years of the Incentive District Life for the Incentive District the County Treasurer may distribute not more than fifty percent of the taxes that would be payable to the County in said year if the Improvements had not been exempt from taxation pursuant to this Ordinance, consistent with the TIF Act, including without limitation, ORC Section 5709.40(E)(2).** The distribution from the County Treasurer to the City required under this Section is requested to be made at the same time and in the same manner as real property tax distributions. The City shall make all distributions requested under clause (i) of this Section to the extent not made by the County Treasurer.

SECTION 7. Further Authorizations. This Council hereby authorizes and directs the Mayor, the Director of Finance, the Director of Law, the Clerk of Council, or other appropriate officers of the City to deliver a copy of this ordinance to the Ohio Department of Development and to make such arrangements as are necessary and proper for collection of the Service Payments. This Council further authorizes the Mayor, the Director of Finance, the Director of Law, the Clerk of Council, or other appropriate officers of the City to prepare and sign all agreements and instruments and to take any other actions as may be appropriate to implement this Ordinance.

SECTION 8. Compliance with Open Meeting Requirements. This Council determines that all formal actions of this Council concerning and relating to the passage of this Ordinance were passed in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements including RC Section 121.22.

SECTION 9. Captions and Headings. The captions and headings in this Ordinance are solely for convenience of reference and in no way define, limit or describe the scope or intent of any Sections, subsections, paragraphs, subparagraphs or clauses hereof. Reference to a Section means a section of this Ordinance unless otherwise indicated.

SECTION 10. Declaration of Emergency; Effective Date. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the City, and for the further reason that this Ordinance is required to be immediately effective in order to increase Service Payments available to the City to support public infrastructure projects; therefore, this ordinance shall be in full force and effect immediately upon its adoption by this Council and approval by the Mayor, otherwise, from and after the earliest period allowed by law.

PASSED: _____, 2025 FIRST READING: _____

SECOND READING: _____

APPROVED: _____, 2025 THIRD READING: _____

MAYOR

CLERK OF COUNCIL

EXHIBIT A

IDENTIFICATION AND MAP OF THE INCENTIVE DISTRICT

The area shaded below on the following map identifies the Incentive District.

For information purposes only, the parcel numbers include: 605-23-007, 605-23-002 and 605-24-045.

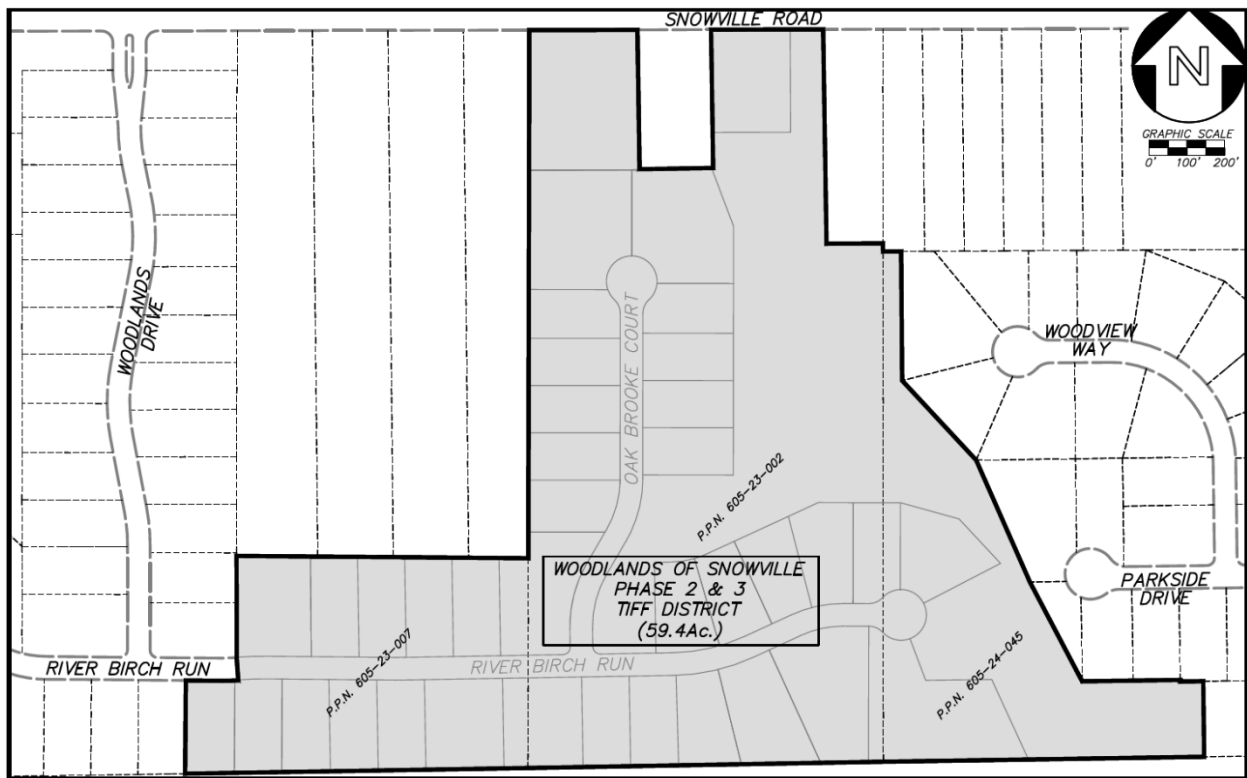


EXHIBIT B

PUBLIC INFRASTRUCTURE IMPROVEMENTS

The Public Infrastructure Improvements consist of any “public infrastructure improvement” defined under ORC 5709.40(A)(8) and that directly benefits the Parcels and specifically include, but are not limited to, any of the following improvements that will directly benefit the Parcels and all related costs of those permanent improvements (including, but not limited to, those costs listed in ORC 133.15(B)):

- **Roadways.** Construction, reconstruction, extension, opening, improving, widening, grading, draining, curbing or changing of the lines and traffic patterns of roads, highways, streets, intersections, bridges (both roadway and pedestrian), sidewalks, bikeways, medians and viaducts accessible to and serving the public, and providing signage (including traffic signage and informational/promotional signage), lighting systems, signalization, and traffic controls, and all other appurtenances thereto.
- **Water/Sewer.** Construction, reconstruction or installation of public utility improvements (including any underground municipally owned utilities), storm and sanitary sewers (including necessary site grading therefore), water and fire protection systems, and all appurtenances thereto, including, but not limited to those associated with improvements described in “Roadways” above.
- **Environmental/Health.** Implementation of environmental remediation measures necessary to enable the construction of the private improvements on the Parcels or the Public Infrastructure Improvements, and the construction of public health facilities.
- **Utilities.** Construction, reconstruction, burial or installation of gas, electric and communication service facilities and all appurtenances thereto, including, but not limited to those associated with improvements described in “Roadways” above.
- **Stormwater.** Construction, reconstruction, relocation, modification and installation of stormwater and flood remediation projects and facilities, both for storm water quantity and quality, including the payment and reimbursement for such projects and facilities on private property when determined to be necessary for public health, safety and welfare.
- **Demolition.** Demolition, including demolition on private property when determined to be necessary for public health, safety and welfare.
- **Parks.** Construction or reconstruction of one or more public parks and park or recreational facilities, including grading, trees and other park plantings, park accessories and related improvements, multi-use trails and bridges, together with all appurtenances thereto.
- **Streetscape/Landscape.** Construction or installation of streetscape and landscape improvements including trees, tree grates, signage, curbs, sidewalks, scenic fencing, street and sidewalk lighting, trash receptacles, benches, newspaper racks, burial of overhead

utility lines and related improvements, together with all appurtenances thereto, including, but not limited to streetscape improvements in conjunction with and along the roadway improvements described in “Roadways” above.

- **Real Estate.** Acquisition of real estate or interests in real estate (including easements) (a) necessary to accomplish any of the foregoing improvements or (b) in aid of industry, commerce, distribution or research.
- **Professional Services.** Engineering, consulting, legal, administrative, and other professional services associated with the planning, design, acquisition, construction and installation of the foregoing improvements and real estate.

AN ORDINANCE CREATING THE HIGHLAND PARK TAX INCREMENT FINANCING INCENTIVE DISTRICT, DECLARING IMPROVEMENTS TO THE PARCELS WITHIN THE INCENTIVE DISTRICT TO BE A PUBLIC PURPOSE AND EXEMPT FROM REAL PROPERTY TAXATION, REQUIRING THE OWNERS OF THOSE PARCELS TO MAKE SERVICE PAYMENTS IN LIEU OF TAXES, ESTABLISHING A MUNICIPAL PUBLIC IMPROVEMENT TAX INCREMENT EQUIVALENT FUND FOR THE DEPOSIT OF THOSE SERVICE PAYMENTS, AUTHORIZING SCHOOL COMPENSATION PAYMENTS, SPECIFYING THE PUBLIC INFRASTRUCTURE IMPROVEMENTS THAT BENEFIT OR SERVE PARCELS IN THE INCENTIVE DISTRICT, AND DECLARING AN EMERGENCY.

WHEREAS, this Council desires to facilitate the development of certain public infrastructure relating to a residential subdivision with approximately 16 single-family homes within the City (the “Project”); and

WHEREAS, this Council, pursuant to ORC Sections 5709.40, 5709.42 and 5709.43 (collectively, the “TIF Act”), is authorized to declare improvements to real property to be a public purpose, exempt those improvements from real property taxation, and require owners of the real property to make service payments in lieu of taxes in an amount equal to such exempted taxes and require the distribution of a portion of the service payments to the Brecksville-Broadview Heights City School District (the “BBH School District”) and the Cuyahoga Valley Career Center (the “CVCC” and collectively with the BBH School District, the “School Districts”); and

WHEREAS, to pay the associated costs of the necessary public infrastructure improvements from service payments in lieu of taxes, this Council has determined to create the Highland Park Incentive District (an “Incentive District”) pursuant to the TIF Act, the boundaries of which shall be coextensive with the boundaries of, and will include, the parcels of real property within each Incentive District specifically identified and depicted in Exhibit A attached hereto (as currently or subsequently configured, the “Parcels”, with each of those parcels referred to herein individually as a “Parcel”);

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Brecksville, Cuyahoga County, Ohio, that:

SECTION 1. Incentive District Findings and Determinations; Creation of Incentive District. This Council hereby: (i) adopts the Economic Development Plan for the Incentive District now on file with the Clerk of the City Council, (ii) accepts and adopts the City Engineer’s certification to this Council and the City Engineer’s findings set forth therein (a) that the public

infrastructure serving the Incentive District is inadequate to meet the development needs of the Incentive District as evidenced by the Economic Development Plan and (b) that the Incentive District is less than 300 acres in size and enclosed by a contiguous boundary, (iii) finds and determines that the Project will place additional demand on the Public Infrastructure Improvements, (iv) finds and determines that the City sent written notice of the public hearing regarding this Ordinance by first class mail to each owner of real property within each proposed Incentive District at least 30 days prior to such hearing, which notice included a map of the proposed Incentive District as well as the overlay area required by ORC Section 5709.40(C)(2), (v) finds and determines that this Council has not received a request from the owner of any real property within any proposed Incentive District to exclude that owner's property from the Incentive District, (vi) finds and determines that notice of this Ordinance has been delivered to the School Districts in accordance with and within the time periods prescribed in ORC Sections 5709.40 and 5709.83, and (vii) finds and determines that notice of this Ordinance has been given to Cuyahoga County, Ohio **(the "County") and on November 20, 2025 the City received notice of the County's objection to this Ordinance.** Pursuant to the TIF Act, this Council creates the Incentive District, the boundaries of which are coextensive with the boundaries of, and include, the Parcels specifically identified and depicted in Exhibit A attached hereto.

SECTION 2. Public Infrastructure Improvements. This Council hereby designates the public infrastructure improvements described in Exhibit B attached to this Ordinance (the "Public Infrastructure Improvements") and any other public infrastructure improvements hereafter designated by ordinance as public infrastructure improvements made, to be made or in the process of being made by the City that directly benefit or serve, or that once made will directly benefit or serve, the Incentive District.

SECTION 3. Life of Incentive District Authorization of Tax Exemption. The life of the Incentive District commences with the first tax year that begins after the effective date of this Ordinance and in which an Improvement (as defined below) attributable to a new structure would first appear on the tax list and duplicate of real and public utility property for any Parcel within the Incentive District were it not for the exemption granted in this Ordinance and ends on the earlier of (a) 30 years after such commencement or (b) the date on which the City can no longer require service payments in lieu of taxes, all in accordance with the requirements of the TIF Act (the "Incentive District Life").

Pursuant to and in accordance with the provisions of ORC Section 5709.40(C), this Council hereby declares that the increase in assessed value of each Parcel subsequent to the effective date of this Ordinance (which increase in assessed value is hereinafter referred to as the "Improvement," as defined in ORC Section 5709.40(A)) is a public purpose, with 100% of such Improvement to each Parcel exempt from taxation for the Incentive District Life for the Incentive District.

SECTION 4. Service Payments and Property Tax Rollback Payments. Pursuant to ORC Section 5709.42, the owner of each Parcel is hereby required to make annual service payments in lieu of taxes with respect to the Improvement to that Parcel to the Cuyahoga County Treasurer (the "County Treasurer") on or before the final dates for payment of real property taxes. Each service payment in lieu of taxes, including any penalties and interest at the then current rate established for real property taxes (collectively, the "Service Payments"), will be charged and collected in the same manner and in the same amount as the real property taxes that would have been charged and payable

against the Improvement if it were not exempt from taxation pursuant to Section 3 of this Ordinance. The Service Payments, and any other payments with respect to each Improvement that are received by the County Treasurer in connection with the reduction required by ORC Sections 319.302, 321.24, 323.152 and 323.156, as the same may be amended from time to time, or any successor provisions thereto as the same may be amended from time to time (the “Property Tax Rollback Payments”), will be deposited and distributed in accordance with Section 6 of this Ordinance.

SECTION 5. TIF Fund. This Council hereby establishes the Highland Park Incentive District Municipal Public Improvement Tax Increment Equivalent Fund (the “TIF Fund”). The TIF Fund shall be maintained in the custody of the City and shall receive all distributions to be made to the City pursuant to Section 6 of this Ordinance. Those Service Payments and Property Tax Rollback Payments received by the City with respect to the Improvement of each Parcel and so deposited pursuant to the TIF Act shall be used solely for the purposes authorized in the TIF Act and this Ordinance (as it may be amended or supplemented). The TIF Fund shall remain in existence so long as such Service Payments and Property Tax Rollback Payments are collected and used for the aforesaid purposes, after which time the TIF Fund shall be dissolved and any incidental surplus funds remaining therein transferred to the City’s General Fund, all in accordance with the TIF Act.

SECTION 6. Distributions; Payment of Costs. Pursuant to the TIF Act, during the Incentive District Life for the Incentive District, the County Treasurer is requested to distribute the Service Payments and the Property Tax Rollback Payments as follows: (i) first to the BBH School District and the CVCC, each an amount equal to the amount the respective school district would otherwise have received as real property tax payments (including the applicable portion of any Property Tax Rollback Payments) derived from the Improvement to the parcels located within the school districts if the Improvement had not been exempt from taxation pursuant to this Ordinance, and (ii) second, to the City for deposit into the TIF Fund for payment of costs of the Public Infrastructure Improvements, including, without limitation, debt charges on any notes or bonds issued to pay or reimburse finance costs or costs of those Public Infrastructure Improvements. **During the eleventh and subsequent years of the Incentive District Life for the Incentive District the County Treasurer may distribute not more than fifty percent of the taxes that would be payable to the County in said year if the Improvements had not been exempt from taxation pursuant to this Ordinance, consistent with the TIF Act, including without limitation, ORC Section 5709.40(E)(2).** The distribution from the County Treasurer to the City required under this Section is requested to be made at the same time and in the same manner as real property tax distributions. The City shall make all distributions requested under clause (i) of this Section to the extent not made by the County Treasurer.

SECTION 7. Further Authorizations. This Council hereby authorizes and directs the Mayor, the Director of Finance, the Director of Law, the Clerk of Council, or other appropriate officers of the City to deliver a copy of this ordinance to the Ohio Department of Development and to make such arrangements as are necessary and proper for collection of the Service Payments. This Council further authorizes the Mayor, the Director of Finance, the Director of Law, the Clerk of Council, or other appropriate officers of the City to prepare and sign all agreements and instruments and to take any other actions as may be appropriate to implement this Ordinance.

SECTION 8. Compliance with Open Meeting Requirements. This Council determines that all formal actions of this Council concerning and relating to the passage of this Ordinance were passed in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements including RC Section 121.22.

SECTION 9. Captions and Headings. The captions and headings in this Ordinance are solely for convenience of reference and in no way define, limit or describe the scope or intent of any Sections, subsections, paragraphs, subparagraphs or clauses hereof. Reference to a Section means a section of this Ordinance unless otherwise indicated.

SECTION 10. Declaration of Emergency; Effective Date. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the City, and for the further reason that this Ordinance is required to be immediately effective in order to increase Service Payments available to the City to support public infrastructure projects; therefore, this ordinance shall be in full force and effect immediately upon its adoption by this Council and approval by the Mayor, otherwise, from and after the earliest period allowed by law.

PASSED: _____, 2025 FIRST READING: _____

SECOND READING: _____

APPROVED: _____, 2025 THIRD READING: _____

MAYOR

CLERK OF COUNCIL

EXHIBIT A

IDENTIFICATION AND MAP OF THE INCENTIVE DISTRICT

The area shaded below on the following map identifies the Incentive District.

For information purposes only, the parcel numbers include: 603-15-050, 603-15-049, 603-15-048, 603-15-047, 603-15-046, 603-15-045, 603-15-044, 603-15-043, 603-15-042, 603-15-041, 603-15-040, 603-15-039, 603-15-038, 603-15-037, 603-15-036, 603-15-035, 603-15-034 and 603-15-033.

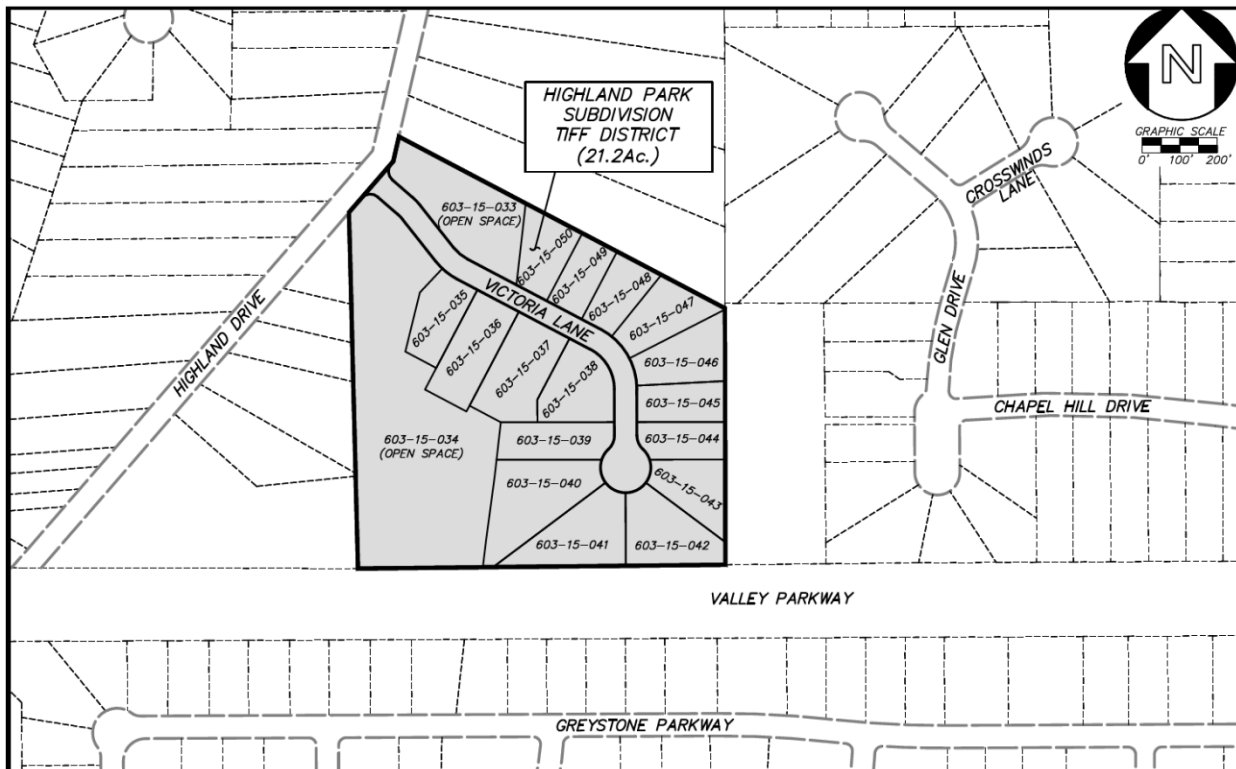


EXHIBIT B

PUBLIC INFRASTRUCTURE IMPROVEMENTS

The Public Infrastructure Improvements consist of any “public infrastructure improvement” defined under ORC 5709.40(A)(8) and that directly benefits the Parcels and specifically include, but are not limited to, any of the following improvements that will directly benefit the Parcels and all related costs of those permanent improvements (including, but not limited to, those costs listed in ORC 133.15(B)):

- **Roadways.** Construction, reconstruction, extension, opening, improving, widening, grading, draining, curbing or changing of the lines and traffic patterns of roads, highways, streets, intersections, bridges (both roadway and pedestrian), sidewalks, bikeways, medians and viaducts accessible to and serving the public, and providing signage (including traffic signage and informational/promotional signage), lighting systems, signalization, and traffic controls, and all other appurtenances thereto.
- **Water/Sewer.** Construction, reconstruction or installation of public utility improvements (including any underground municipally owned utilities), storm and sanitary sewers (including necessary site grading therefore), water and fire protection systems, and all appurtenances thereto, including, but not limited to those associated with improvements described in “Roadways” above.
- **Environmental/Health.** Implementation of environmental remediation measures necessary to enable the construction of the private improvements on the Parcels or the Public Infrastructure Improvements, and the construction of public health facilities.
- **Utilities.** Construction, reconstruction, burial or installation of gas, electric and communication service facilities and all appurtenances thereto, including, but not limited to those associated with improvements described in “Roadways” above.
- **Stormwater.** Construction, reconstruction, relocation, modification and installation of stormwater and flood remediation projects and facilities, both for storm water quantity and quality, including the payment and reimbursement for such projects and facilities on private property when determined to be necessary for public health, safety and welfare.
- **Demolition.** Demolition, including demolition on private property when determined to be necessary for public health, safety and welfare.
- **Parks.** Construction or reconstruction of one or more public parks and park or recreational facilities, including grading, trees and other park plantings, park accessories and related improvements, multi-use trails and bridges, together with all appurtenances thereto.
- **Streetscape/Landscape.** Construction or installation of streetscape and landscape improvements including trees, tree grates, signage, curbs, sidewalks, scenic fencing, street and sidewalk lighting, trash receptacles, benches, newspaper racks, burial of overhead

utility lines and related improvements, together with all appurtenances thereto, including, but not limited to streetscape improvements in conjunction with and along the roadway improvements described in “Roadways” above.

- **Real Estate.** Acquisition of real estate or interests in real estate (including easements) (a) necessary to accomplish any of the foregoing improvements or (b) in aid of industry, commerce, distribution or research.
- **Professional Services.** Engineering, consulting, legal, administrative, and other professional services associated with the planning, design, acquisition, construction and installation of the foregoing improvements and real estate.

AN ORDINANCE CREATING THE EDGERTON ROAD TAX INCREMENT FINANCING INCENTIVE DISTRICT, DECLARING IMPROVEMENTS TO THE PARCELS WITHIN THE INCENTIVE DISTRICT TO BE A PUBLIC PURPOSE AND EXEMPT FROM REAL PROPERTY TAXATION, REQUIRING THE OWNERS OF THOSE PARCELS TO MAKE SERVICE PAYMENTS IN LIEU OF TAXES, ESTABLISHING A MUNICIPAL PUBLIC IMPROVEMENT TAX INCREMENT EQUIVALENT FUND FOR THE DEPOSIT OF THOSE SERVICE PAYMENTS, AUTHORIZING SCHOOL COMPENSATION PAYMENTS, SPECIFYING THE PUBLIC INFRASTRUCTURE IMPROVEMENTS THAT BENEFIT OR SERVE PARCELS IN THE INCENTIVE DISTRICT, AND DECLARING AN EMERGENCY.

WHEREAS, this Council desires to facilitate the development of certain public infrastructure relating to a residential subdivision with approximately 5 single-family homes within the City (the “Project”); and

WHEREAS, this Council, pursuant to ORC Sections 5709.40, 5709.42 and 5709.43 (collectively, the “TIF Act”), is authorized to declare improvements to real property to be a public purpose, exempt those improvements from real property taxation, and require owners of the real property to make service payments in lieu of taxes in an amount equal to such exempted taxes and require the distribution of a portion of the service payments to the Brecksville-Broadview Heights City School District (the “BBH School District”) and the Cuyahoga Valley Career Center (the “CVCC” and collectively with the BBH School District, the “School Districts”); and

WHEREAS, to pay the associated costs of the necessary public infrastructure improvements from service payments in lieu of taxes, this Council has determined to create the Edgerton Road Incentive District (an “Incentive District”) pursuant to the TIF Act, the boundaries of which shall be coextensive with the boundaries of, and will include, the parcels of real property within each Incentive District specifically identified and depicted in Exhibit A attached hereto (as currently or subsequently configured, the “Parcels”, with each of those parcels referred to herein individually as a “Parcel”);

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Brecksville, Cuyahoga County, Ohio, that:

SECTION 1. Incentive District Findings and Determinations; Creation of Incentive District. This Council hereby: (i) adopts the Economic Development Plan for the Incentive District now on file with the Clerk of the City Council, (ii) accepts and adopts the City Engineer’s certification to this Council and the City Engineer’s findings set forth therein (a) that the public

infrastructure serving the Incentive District is inadequate to meet the development needs of the Incentive District as evidenced by the Economic Development Plan and (b) that the Incentive District is less than 300 acres in size and enclosed by a contiguous boundary, (iii) finds and determines that the Project will place additional demand on the Public Infrastructure Improvements, (iv) finds and determines that the City sent written notice of the public hearing regarding this Ordinance by first class mail to each owner of real property within each proposed Incentive District at least 30 days prior to such hearing, which notice included a map of the proposed Incentive District as well as the overlay area required by ORC Section 5709.40(C)(2), (v) finds and determines that this Council has not received a request from the owner of any real property within any proposed Incentive District to exclude that owner's property from the Incentive District, (vi) finds and determines that notice of this Ordinance has been delivered to the School Districts in accordance with and within the time periods prescribed in ORC Sections 5709.40 and 5709.83, and (vii) finds and determines that notice of this Ordinance has been given to Cuyahoga County, Ohio **(the "County") and on November 20, 2025 the City received notice of the County's objection to this Ordinance.** Pursuant to the TIF Act, this Council creates the Incentive District, the boundaries of which are coextensive with the boundaries of, and include, the Parcels specifically identified and depicted in Exhibit A attached hereto.

SECTION 2. Public Infrastructure Improvements. This Council hereby designates the public infrastructure improvements described in Exhibit B attached to this Ordinance (the "Public Infrastructure Improvements") and any other public infrastructure improvements hereafter designated by ordinance as public infrastructure improvements made, to be made or in the process of being made by the City that directly benefit or serve, or that once made will directly benefit or serve, the Incentive District.

SECTION 3. Life of Incentive District Authorization of Tax Exemption. The life of the Incentive District commences with the first tax year that begins after the effective date of this Ordinance and in which an Improvement (as defined below) attributable to a new structure would first appear on the tax list and duplicate of real and public utility property for any Parcel within the Incentive District were it not for the exemption granted in this Ordinance and ends on the earlier of (a) 30 years after such commencement or (b) the date on which the City can no longer require service payments in lieu of taxes, all in accordance with the requirements of the TIF Act (the "Incentive District Life").

Pursuant to and in accordance with the provisions of ORC Section 5709.40(C), this Council hereby declares that the increase in assessed value of each Parcel subsequent to the effective date of this Ordinance (which increase in assessed value is hereinafter referred to as the "Improvement," as defined in ORC Section 5709.40(A)) is a public purpose, with 100% of such Improvement to each Parcel exempt from taxation for the Incentive District Life for the Incentive District.

SECTION 4. Service Payments and Property Tax Rollback Payments. Pursuant to ORC Section 5709.42, the owner of each Parcel is hereby required to make annual service payments in lieu of taxes with respect to the Improvement to that Parcel to the Cuyahoga County Treasurer (the "County Treasurer") on or before the final dates for payment of real property taxes. Each service payment in lieu of taxes, including any penalties and interest at the then current rate established for real property taxes (collectively, the "Service Payments"), will be charged and collected in the same manner and in the same amount as the real property taxes that would have been charged and payable

against the Improvement if it were not exempt from taxation pursuant to Section 3 of this Ordinance. The Service Payments, and any other payments with respect to each Improvement that are received by the County Treasurer in connection with the reduction required by ORC Sections 319.302, 321.24, 323.152 and 323.156, as the same may be amended from time to time, or any successor provisions thereto as the same may be amended from time to time (the "Property Tax Rollback Payments"), will be deposited and distributed in accordance with Section 6 of this Ordinance.

SECTION 5. TIF Fund. This Council hereby establishes the Edgerton Road Incentive District Municipal Public Improvement Tax Increment Equivalent Fund (the "TIF Fund"). The TIF Fund shall be maintained in the custody of the City and shall receive all distributions to be made to the City pursuant to Section 6 of this Ordinance. Those Service Payments and Property Tax Rollback Payments received by the City with respect to the Improvement of each Parcel and so deposited pursuant to the TIF Act shall be used solely for the purposes authorized in the TIF Act and this Ordinance (as it may be amended or supplemented). The TIF Fund shall remain in existence so long as such Service Payments and Property Tax Rollback Payments are collected and used for the aforesaid purposes, after which time the TIF Fund shall be dissolved and any incidental surplus funds remaining therein transferred to the City's General Fund, all in accordance with the TIF Act.

SECTION 6. Distributions; Payment of Costs. Pursuant to the TIF Act, during the Incentive District Life for the Incentive District, the County Treasurer is requested to distribute the Service Payments and the Property Tax Rollback Payments as follows: (i) first to the BBH School District and the CVCC, each an amount equal to the amount the respective school district would otherwise have received as real property tax payments (including the applicable portion of any Property Tax Rollback Payments) derived from the Improvement to the parcels located within the school districts if the Improvement had not been exempt from taxation pursuant to this Ordinance, and (ii) second, to the City for deposit into the TIF Fund for payment of costs of the Public Infrastructure Improvements, including, without limitation, debt charges on any notes or bonds issued to pay or reimburse finance costs or costs of those Public Infrastructure Improvements. **During the eleventh and subsequent years of the Incentive District Life for the Incentive District the County Treasurer may distribute not more than fifty percent of the taxes that would be payable to the County in said year if the Improvements had not been exempt from taxation pursuant to this Ordinance, consistent with the TIF Act, including without limitation, ORC Section 5709.40(E)(2).** The distribution from the County Treasurer to the City required under this Section is requested to be made at the same time and in the same manner as real property tax distributions. The City shall make all distributions requested under clause (i) of this Section to the extent not made by the County Treasurer.

SECTION 7. Further Authorizations. This Council hereby authorizes and directs the Mayor, the Director of Finance, the Director of Law, the Clerk of Council, or other appropriate officers of the City to deliver a copy of this ordinance to the Ohio Department of Development and to make such arrangements as are necessary and proper for collection of the Service Payments. This Council further authorizes the Mayor, the Director of Finance, the Director of Law, the Clerk of Council, or other appropriate officers of the City to prepare and sign all agreements and instruments and to take any other actions as may be appropriate to implement this Ordinance.

SECTION 8. Compliance with Open Meeting Requirements. This Council determines that all formal actions of this Council concerning and relating to the passage of this Ordinance were passed in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements including RC Section 121.22.

SECTION 9. Captions and Headings. The captions and headings in this Ordinance are solely for convenience of reference and in no way define, limit or describe the scope or intent of any Sections, subsections, paragraphs, subparagraphs or clauses hereof. Reference to a Section means a section of this Ordinance unless otherwise indicated.

SECTION 10. Declaration of Emergency; Effective Date. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the City, and for the further reason that this Ordinance is required to be immediately effective in order to increase Service Payments available to the City to support public infrastructure projects; therefore, this ordinance shall be in full force and effect immediately upon its adoption by this Council and approval by the Mayor, otherwise, from and after the earliest period allowed by law.

PASSED: _____, 2025 FIRST READING: _____

SECOND READING: _____

APPROVED: _____, 2025 THIRD READING: _____

MAYOR

CLERK OF COUNCIL

EXHIBIT A

IDENTIFICATION AND MAP OF THE INCENTIVE DISTRICT

The area shaded below on the following map identifies the Incentive District.

For information purposes only, the parcel numbers include: 604-02-004 and 604-02-001.

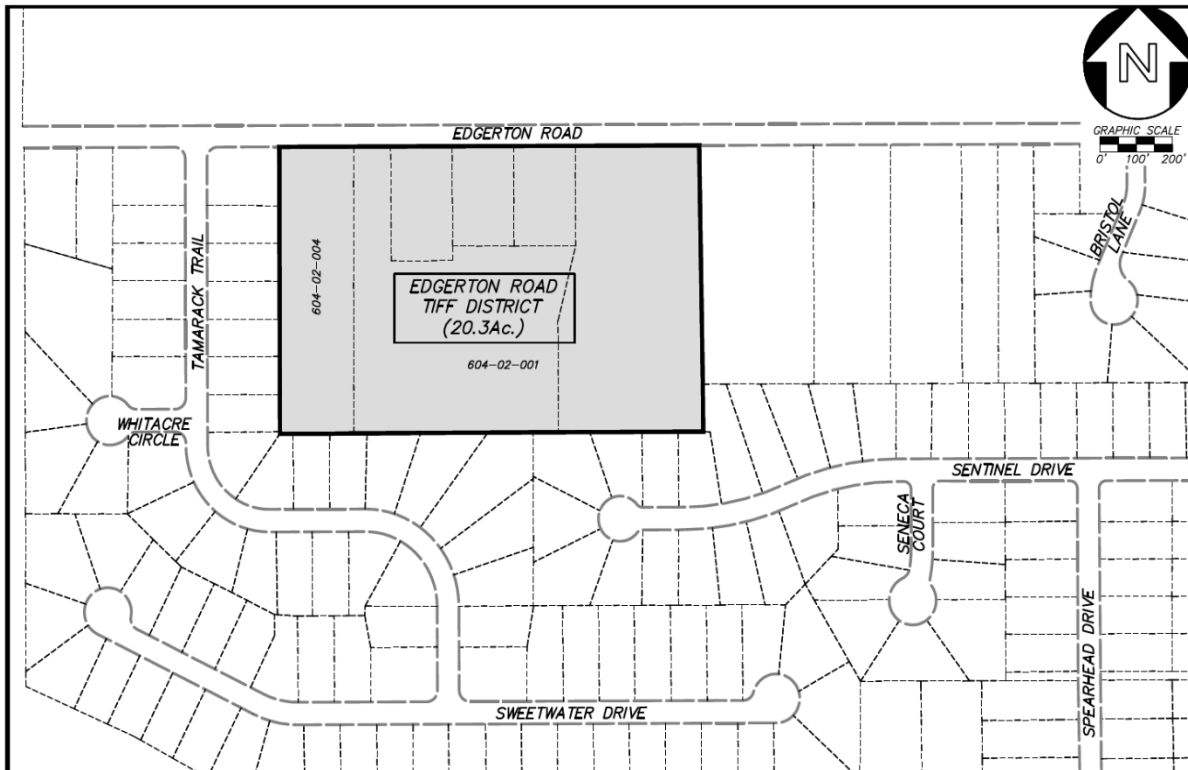


EXHIBIT B

PUBLIC INFRASTRUCTURE IMPROVEMENTS

The Public Infrastructure Improvements consist of any “public infrastructure improvement” defined under ORC 5709.40(A)(8) and that directly benefits the Parcels and specifically include, but are not limited to, any of the following improvements that will directly benefit the Parcels and all related costs of those permanent improvements (including, but not limited to, those costs listed in ORC 133.15(B)):

- **Roadways.** Construction, reconstruction, extension, opening, improving, widening, grading, draining, curbing or changing of the lines and traffic patterns of roads, highways, streets, intersections, bridges (both roadway and pedestrian), sidewalks, bikeways, medians and viaducts accessible to and serving the public, and providing signage (including traffic signage and informational/promotional signage), lighting systems, signalization, and traffic controls, and all other appurtenances thereto.
- **Water/Sewer.** Construction, reconstruction or installation of public utility improvements (including any underground municipally owned utilities), storm and sanitary sewers (including necessary site grading therefore), water and fire protection systems, and all appurtenances thereto, including, but not limited to those associated with improvements described in “Roadways” above.
- **Environmental/Health.** Implementation of environmental remediation measures necessary to enable the construction of the private improvements on the Parcels or the Public Infrastructure Improvements, and the construction of public health facilities.
- **Utilities.** Construction, reconstruction, burial or installation of gas, electric and communication service facilities and all appurtenances thereto, including, but not limited to those associated with improvements described in “Roadways” above.
- **Stormwater.** Construction, reconstruction, relocation, modification and installation of stormwater and flood remediation projects and facilities, both for storm water quantity and quality, including the payment and reimbursement for such projects and facilities on private property when determined to be necessary for public health, safety and welfare.
- **Demolition.** Demolition, including demolition on private property when determined to be necessary for public health, safety and welfare.
- **Parks.** Construction or reconstruction of one or more public parks and park or recreational facilities, including grading, trees and other park plantings, park accessories and related improvements, multi-use trails and bridges, together with all appurtenances thereto.
- **Streetscape/Landscape.** Construction or installation of streetscape and landscape improvements including trees, tree grates, signage, curbs, sidewalks, scenic fencing, street and sidewalk lighting, trash receptacles, benches, newspaper racks, burial of overhead utility lines and related improvements, together with all appurtenances thereto, including,

but not limited to streetscape improvements in conjunction with and along the roadway improvements described in “Roadways” above.

- **Real Estate.** Acquisition of real estate or interests in real estate (including easements) (a) necessary to accomplish any of the foregoing improvements or (b) in aid of industry, commerce, distribution or research.
- **Professional Services.** Engineering, consulting, legal, administrative, and other professional services associated with the planning, design, acquisition, construction and installation of the foregoing improvements and real estate.

AN ORDINANCE CREATING THE SNOWVILLE NORTH TAX INCREMENT FINANCING INCENTIVE DISTRICT, DECLARING IMPROVEMENTS TO THE PARCELS WITHIN THE INCENTIVE DISTRICT TO BE A PUBLIC PURPOSE AND EXEMPT FROM REAL PROPERTY TAXATION, REQUIRING THE OWNERS OF THOSE PARCELS TO MAKE SERVICE PAYMENTS IN LIEU OF TAXES, ESTABLISHING A MUNICIPAL PUBLIC IMPROVEMENT TAX INCREMENT EQUIVALENT FUND FOR THE DEPOSIT OF THOSE SERVICE PAYMENTS, AUTHORIZING SCHOOL COMPENSATION PAYMENTS, SPECIFYING THE PUBLIC INFRASTRUCTURE IMPROVEMENTS THAT BENEFIT OR SERVE PARCELS IN THE INCENTIVE DISTRICT, AND DECLARING AN EMERGENCY.

WHEREAS, this Council desires to facilitate the development of certain public infrastructure relating to a residential subdivision of single-family homes within the City (the “Project”); and

WHEREAS, this Council, pursuant to ORC Sections 5709.40, 5709.42 and 5709.43 (collectively, the “TIF Act”), is authorized to declare improvements to real property to be a public purpose, exempt those improvements from real property taxation, and require owners of the real property to make service payments in lieu of taxes in an amount equal to such exempted taxes and require the distribution of a portion of the service payments to the Brecksville-Broadview Heights City School District (the “BBH School District”) and the Cuyahoga Valley Career Center (the “CVCC” and collectively with the BBH School District, the “School Districts”); and

WHEREAS, to pay the associated costs of the necessary public infrastructure improvements from service payments in lieu of taxes, this Council has determined to create the Snowville North Incentive District (an “Incentive District”) pursuant to the TIF Act, the boundaries of which shall be coextensive with the boundaries of, and will include, the parcels of real property within each Incentive District specifically identified and depicted in Exhibit A attached hereto (as currently or subsequently configured, the “Parcels”, with each of those parcels referred to herein individually as a “Parcel”);

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Brecksville, Cuyahoga County, Ohio, that:

SECTION 1. Incentive District Findings and Determinations; Creation of Incentive District. This Council hereby: (i) adopts the Economic Development Plan for the Incentive District now on file with the Clerk of the City Council, (ii) accepts and adopts the City Engineer’s certification to this Council and the City Engineer’s findings set forth therein (a) that the public

infrastructure serving the Incentive District is inadequate to meet the development needs of the Incentive District as evidenced by the Economic Development Plan and (b) that the Incentive District is less than 300 acres in size and enclosed by a contiguous boundary, (iii) finds and determines that the Project will place additional demand on the Public Infrastructure Improvements, (iv) finds and determines that the City sent written notice of the public hearing regarding this Ordinance by first class mail to each owner of real property within each proposed Incentive District at least 30 days prior to such hearing, which notice included a map of the proposed Incentive District as well as the overlay area required by ORC Section 5709.40(C)(2), (v) finds and determines that this Council has not received a request from the owner of any real property within any proposed Incentive District to exclude that owner's property from the Incentive District, (vi) finds and determines that notice of this Ordinance has been delivered to the School Districts in accordance with and within the time periods prescribed in ORC Sections 5709.40 and 5709.83, and (vii) finds and determines that notice of this Ordinance has been given to Cuyahoga County, Ohio **(the "County") and on November 20, 2025 the City received notice of the County's objection to this Ordinance.** Pursuant to the TIF Act, this Council creates the Incentive District, the boundaries of which are coextensive with the boundaries of, and include, the Parcels specifically identified and depicted in Exhibit A attached hereto.

SECTION 2. Public Infrastructure Improvements. This Council hereby designates the public infrastructure improvements described in Exhibit B attached to this Ordinance (the "Public Infrastructure Improvements") and any other public infrastructure improvements hereafter designated by ordinance as public infrastructure improvements made, to be made or in the process of being made by the City that directly benefit or serve, or that once made will directly benefit or serve, the Incentive District.

SECTION 3. Life of Incentive District Authorization of Tax Exemption. The life of the Incentive District commences with the first tax year that begins after the effective date of this Ordinance and in which an Improvement (as defined below) attributable to a new structure would first appear on the tax list and duplicate of real and public utility property for any Parcel within the Incentive District were it not for the exemption granted in this Ordinance and ends on the earlier of (a) 30 years after such commencement or (b) the date on which the City can no longer require service payments in lieu of taxes, all in accordance with the requirements of the TIF Act (the "Incentive District Life").

Pursuant to and in accordance with the provisions of ORC Section 5709.40(C), this Council hereby declares that the increase in assessed value of each Parcel subsequent to the effective date of this Ordinance (which increase in assessed value is hereinafter referred to as the "Improvement," as defined in ORC Section 5709.40(A)) is a public purpose, with 100% of such Improvement to each Parcel exempt from taxation for the Incentive District Life for the Incentive District.

SECTION 4. Service Payments and Property Tax Rollback Payments. Pursuant to ORC Section 5709.42, the owner of each Parcel is hereby required to make annual service payments in lieu of taxes with respect to the Improvement to that Parcel to the Cuyahoga County Treasurer (the "County Treasurer") on or before the final dates for payment of real property taxes. Each service payment in lieu of taxes, including any penalties and interest at the then current rate established for real property taxes (collectively, the "Service Payments"), will be charged and collected in the same manner and in the same amount as the real property taxes that would have been charged and payable

against the Improvement if it were not exempt from taxation pursuant to Section 3 of this Ordinance. The Service Payments, and any other payments with respect to each Improvement that are received by the County Treasurer in connection with the reduction required by ORC Sections 319.302, 321.24, 323.152 and 323.156, as the same may be amended from time to time, or any successor provisions thereto as the same may be amended from time to time (the "Property Tax Rollback Payments"), will be deposited and distributed in accordance with Section 6 of this Ordinance.

SECTION 5. TIF Fund. This Council hereby establishes the Snowville North Incentive District Municipal Public Improvement Tax Increment Equivalent Fund (the "TIF Fund"). The TIF Fund shall be maintained in the custody of the City and shall receive all distributions to be made to the City pursuant to Section 6 of this Ordinance. Those Service Payments and Property Tax Rollback Payments received by the City with respect to the Improvement of each Parcel and so deposited pursuant to the TIF Act shall be used solely for the purposes authorized in the TIF Act and this Ordinance (as it may be amended or supplemented). The TIF Fund shall remain in existence so long as such Service Payments and Property Tax Rollback Payments are collected and used for the aforesaid purposes, after which time the TIF Fund shall be dissolved and any incidental surplus funds remaining therein transferred to the City's General Fund, all in accordance with the TIF Act.

SECTION 6. Distributions; Payment of Costs. Pursuant to the TIF Act, during the Incentive District Life for the Incentive District, the County Treasurer is requested to distribute the Service Payments and the Property Tax Rollback Payments as follows: (i) first to the BBH School District and the CVCC, each an amount equal to the amount the respective school district would otherwise have received as real property tax payments (including the applicable portion of any Property Tax Rollback Payments) derived from the Improvement to the parcels located within the school districts if the Improvement had not been exempt from taxation pursuant to this Ordinance, and (ii) second, to the City for deposit into the TIF Fund for payment of costs of the Public Infrastructure Improvements, including, without limitation, debt charges on any notes or bonds issued to pay or reimburse finance costs or costs of those Public Infrastructure Improvements. **During the eleventh and subsequent years of the Incentive District Life for the Incentive District the County Treasurer may distribute not more than fifty percent of the taxes that would be payable to the County in said year if the Improvements had not been exempt from taxation pursuant to this Ordinance, consistent with the TIF Act, including without limitation, ORC Section 5709.40(E)(2).** The distribution from the County Treasurer to the City required under this Section is requested to be made at the same time and in the same manner as real property tax distributions. The City shall make all distributions requested under clause (i) of this Section to the extent not made by the County Treasurer.

SECTION 7. Further Authorizations. This Council hereby authorizes and directs the Mayor, the Director of Finance, the Director of Law, the Clerk of Council, or other appropriate officers of the City to deliver a copy of this ordinance to the Ohio Department of Development and to make such arrangements as are necessary and proper for collection of the Service Payments. This Council further authorizes the Mayor, the Director of Finance, the Director of Law, the Clerk of Council, or other appropriate officers of the City to prepare and sign all agreements and instruments and to take any other actions as may be appropriate to implement this Ordinance.

SECTION 8. Compliance with Open Meeting Requirements. This Council determines that all formal actions of this Council concerning and relating to the passage of this Ordinance were passed in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements including RC Section 121.22.

SECTION 9. Captions and Headings. The captions and headings in this Ordinance are solely for convenience of reference and in no way define, limit or describe the scope or intent of any Sections, subsections, paragraphs, subparagraphs or clauses hereof. Reference to a Section means a section of this Ordinance unless otherwise indicated.

SECTION 10. Declaration of Emergency; Effective Date. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the City, and for the further reason that this Ordinance is required to be immediately effective in order to increase Service Payments available to the City to support public infrastructure projects; therefore, this ordinance shall be in full force and effect immediately upon its adoption by this Council and approval by the Mayor, otherwise, from and after the earliest period allowed by law.

PASSED: _____, 2025 FIRST READING: _____

SECOND READING: _____

APPROVED: _____, 2025 THIRD READING: _____

MAYOR

CLERK OF COUNCIL

EXHIBIT A

IDENTIFICATION AND MAP OF THE INCENTIVE DISTRICT

The area shaded below on the following map identifies the Incentive District.

For information purposes only, the parcel numbers include: 605-17-002, 605-17-007, 605-7-003, and 605-18-001.

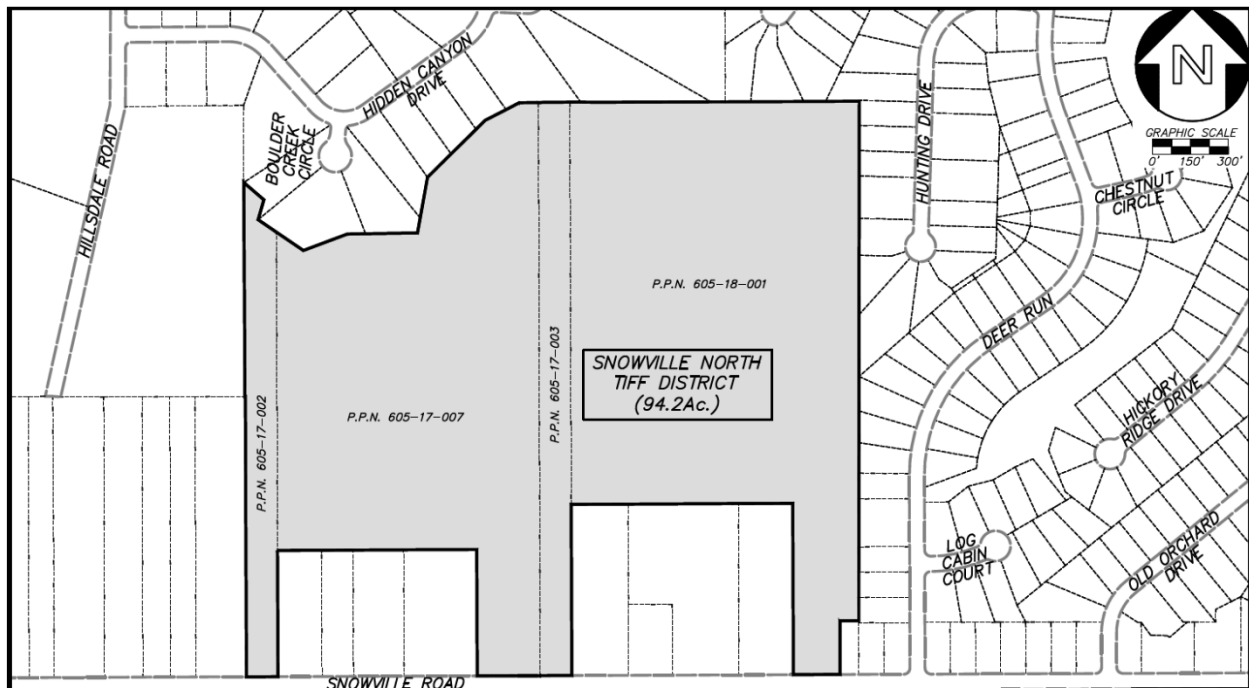


EXHIBIT B

PUBLIC INFRASTRUCTURE IMPROVEMENTS

The Public Infrastructure Improvements consist of any “public infrastructure improvement” defined under ORC 5709.40(A)(8) and that directly benefits the Parcels and specifically include, but are not limited to, any of the following improvements that will directly benefit the Parcels and all related costs of those permanent improvements (including, but not limited to, those costs listed in ORC 133.15(B)):

- **Roadways.** Construction, reconstruction, extension, opening, improving, widening, grading, draining, curbing or changing of the lines and traffic patterns of roads, highways, streets, intersections, bridges (both roadway and pedestrian), sidewalks, bikeways, medians and viaducts accessible to and serving the public, and providing signage (including traffic signage and informational/promotional signage), lighting systems, signalization, and traffic controls, and all other appurtenances thereto.
- **Water/Sewer.** Construction, reconstruction or installation of public utility improvements (including any underground municipally owned utilities), storm and sanitary sewers (including necessary site grading therefore), water and fire protection systems, and all appurtenances thereto, including, but not limited to those associated with improvements described in “Roadways” above.
- **Environmental/Health.** Implementation of environmental remediation measures necessary to enable the construction of the private improvements on the Parcels or the Public Infrastructure Improvements, and the construction of public health facilities.
- **Utilities.** Construction, reconstruction, burial or installation of gas, electric and communication service facilities and all appurtenances thereto, including, but not limited to those associated with improvements described in “Roadways” above.
- **Stormwater.** Construction, reconstruction, relocation, modification and installation of stormwater and flood remediation projects and facilities, both for storm water quantity and quality, including the payment and reimbursement for such projects and facilities on private property when determined to be necessary for public health, safety and welfare.
- **Demolition.** Demolition, including demolition on private property when determined to be necessary for public health, safety and welfare.
- **Parks.** Construction or reconstruction of one or more public parks and park or recreational facilities, including grading, trees and other park plantings, park accessories and related improvements, multi-use trails and bridges, together with all appurtenances thereto.
- **Streetscape/Landscape.** Construction or installation of streetscape and landscape improvements including trees, tree grates, signage, curbs, sidewalks, scenic fencing, street and sidewalk lighting, trash receptacles, benches, newspaper racks, burial of overhead utility lines and related improvements, together with all appurtenances thereto, including,

but not limited to streetscape improvements in conjunction with and along the roadway improvements described in “Roadways” above.

- **Real Estate.** Acquisition of real estate or interests in real estate (including easements) (a) necessary to accomplish any of the foregoing improvements or (b) in aid of industry, commerce, distribution or research.
- **Professional Services.** Engineering, consulting, legal, administrative, and other professional services associated with the planning, design, acquisition, construction and installation of the foregoing improvements and real estate.

AN ORDINANCE CREATING THE SNOWVILLE SOUTH TAX INCREMENT FINANCING INCENTIVE DISTRICT, DECLARING IMPROVEMENTS TO THE PARCELS WITHIN THE INCENTIVE DISTRICT TO BE A PUBLIC PURPOSE AND EXEMPT FROM REAL PROPERTY TAXATION, REQUIRING THE OWNERS OF THOSE PARCELS TO MAKE SERVICE PAYMENTS IN LIEU OF TAXES, ESTABLISHING A MUNICIPAL PUBLIC IMPROVEMENT TAX INCREMENT EQUIVALENT FUND FOR THE DEPOSIT OF THOSE SERVICE PAYMENTS, AUTHORIZING SCHOOL COMPENSATION PAYMENTS, SPECIFYING THE PUBLIC INFRASTRUCTURE IMPROVEMENTS THAT BENEFIT OR SERVE PARCELS IN THE INCENTIVE DISTRICT, AND DECLARING AN EMERGENCY.

WHEREAS, this Council desires to facilitate the development of certain public infrastructure relating to a residential subdivision of single-family homes within the City (the “Project”); and

WHEREAS, this Council, pursuant to ORC Sections 5709.40, 5709.42 and 5709.43 (collectively, the “TIF Act”), is authorized to declare improvements to real property to be a public purpose, exempt those improvements from real property taxation, and require owners of the real property to make service payments in lieu of taxes in an amount equal to such exempted taxes and require the distribution of a portion of the service payments to the Brecksville-Broadview Heights City School District (the “BBH School District”) and the Cuyahoga Valley Career Center (the “CVCC” and collectively with the BBH School District, the “School Districts”); and

WHEREAS, to pay the associated costs of the necessary public infrastructure improvements from service payments in lieu of taxes, this Council has determined to create the Snowville South Incentive District (an “Incentive District”) pursuant to the TIF Act, the boundaries of which shall be coextensive with the boundaries of, and will include, the parcels of real property within each Incentive District specifically identified and depicted in Exhibit A attached hereto (as currently or subsequently configured, the “Parcels”, with each of those parcels referred to herein individually as a “Parcel”);

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Brecksville, Cuyahoga County, Ohio, that:

SECTION 1. Incentive District Findings and Determinations; Creation of Incentive District. This Council hereby: (i) adopts the Economic Development Plan for the Incentive District now on file with the Clerk of the City Council, (ii) accepts and adopts the City Engineer’s certification to this Council and the City Engineer’s findings set forth therein (a) that the public infrastructure serving the Incentive District is inadequate to meet the development needs of the

Incentive District as evidenced by the Economic Development Plan and (b) that the Incentive District is less than 300 acres in size and enclosed by a contiguous boundary, (iii) finds and determines that the Project will place additional demand on the Public Infrastructure Improvements, (iv) finds and determines that the City sent written notice of the public hearing regarding this Ordinance by first class mail to each owner of real property within each proposed Incentive District at least 30 days prior to such hearing, which notice included a map of the proposed Incentive District as well as the overlay area required by ORC Section 5709.40(C)(2), (v) finds and determines that this Council has not received a request from the owner of any real property within any proposed Incentive District to exclude that owner's property from the Incentive District, (vi) finds and determines that notice of this Ordinance has been delivered to the School Districts in accordance with and within the time periods prescribed in ORC Sections 5709.40 and 5709.83, and (vii) finds and determines that notice of this Ordinance has been given to Cuyahoga County, Ohio **(the "County") and on November 20, 2025 the City received notice of the County's objection to this Ordinance.** Pursuant to the TIF Act, this Council creates the Incentive District, the boundaries of which are coextensive with the boundaries of, and include, the Parcels specifically identified and depicted in Exhibit A attached hereto.

SECTION 2. Public Infrastructure Improvements. This Council hereby designates the public infrastructure improvements described in Exhibit B attached to this Ordinance (the "Public Infrastructure Improvements") and any other public infrastructure improvements hereafter designated by ordinance as public infrastructure improvements made, to be made or in the process of being made by the City that directly benefit or serve, or that once made will directly benefit or serve, the Incentive District.

SECTION 3. Life of Incentive District Authorization of Tax Exemption. The life of the Incentive District commences with the first tax year that begins after the effective date of this Ordinance and in which an Improvement (as defined below) attributable to a new structure would first appear on the tax list and duplicate of real and public utility property for any Parcel within the Incentive District were it not for the exemption granted in this Ordinance and ends on the earlier of (a) 30 years after such commencement or (b) the date on which the City can no longer require service payments in lieu of taxes, all in accordance with the requirements of the TIF Act (the "Incentive District Life").

Pursuant to and in accordance with the provisions of ORC Section 5709.40(C), this Council hereby declares that the increase in assessed value of each Parcel subsequent to the effective date of this Ordinance (which increase in assessed value is hereinafter referred to as the "Improvement," as defined in ORC Section 5709.40(A)) is a public purpose, with 100% of such Improvement to each Parcel exempt from taxation for the Incentive District Life for the Incentive District.

SECTION 4. Service Payments and Property Tax Rollback Payments. Pursuant to ORC Section 5709.42, the owner of each Parcel is hereby required to make annual service payments in lieu of taxes with respect to the Improvement to that Parcel to the Cuyahoga County Treasurer (the "County Treasurer") on or before the final dates for payment of real property taxes. Each service payment in lieu of taxes, including any penalties and interest at the then current rate established for real property taxes (collectively, the "Service Payments"), will be charged and collected in the same manner and in the same amount as the real property taxes that would have been charged and payable against the Improvement if it were not exempt from taxation pursuant to Section 3 of this Ordinance.

The Service Payments, and any other payments with respect to each Improvement that are received by the County Treasurer in connection with the reduction required by ORC Sections 319.302, 321.24, 323.152 and 323.156, as the same may be amended from time to time, or any successor provisions thereto as the same may be amended from time to time (the “Property Tax Rollback Payments”), will be deposited and distributed in accordance with Section 6 of this Ordinance.

SECTION 5. TIF Fund. This Council hereby establishes the Snowville South Incentive District Municipal Public Improvement Tax Increment Equivalent Fund (the “TIF Fund”). The TIF Fund shall be maintained in the custody of the City and shall receive all distributions to be made to the City pursuant to Section 6 of this Ordinance. Those Service Payments and Property Tax Rollback Payments received by the City with respect to the Improvement of each Parcel and so deposited pursuant to the TIF Act shall be used solely for the purposes authorized in the TIF Act and this Ordinance (as it may be amended or supplemented). The TIF Fund shall remain in existence so long as such Service Payments and Property Tax Rollback Payments are collected and used for the aforesaid purposes, after which time the TIF Fund shall be dissolved and any incidental surplus funds remaining therein transferred to the City’s General Fund, all in accordance with the TIF Act.

SECTION 6. Distributions; Payment of Costs. Pursuant to the TIF Act, during the Incentive District Life for the Incentive District, the County Treasurer is requested to distribute the Service Payments and the Property Tax Rollback Payments as follows: (i) first to the BBH School District and the CVCC, each an amount equal to the amount the respective school district would otherwise have received as real property tax payments (including the applicable portion of any Property Tax Rollback Payments) derived from the Improvement to the parcels located within the school districts if the Improvement had not been exempt from taxation pursuant to this Ordinance, and (ii) second, to the City for deposit into the TIF Fund for payment of costs of the Public Infrastructure Improvements, including, without limitation, debt charges on any notes or bonds issued to pay or reimburse finance costs or costs of those Public Infrastructure Improvements. **During the eleventh and subsequent years of the Incentive District Life for the Incentive District the County Treasurer may distribute not more than fifty percent of the taxes that would be payable to the County in said year if the Improvements had not been exempt from taxation pursuant to this Ordinance, consistent with the TIF Act, including without limitation, ORC Section 5709.40(E)(2).** The distribution from the County Treasurer to the City required under this Section is requested to be made at the same time and in the same manner as real property tax distributions. The City shall make all distributions requested under clause (i) of this Section to the extent not made by the County Treasurer.

SECTION 7. Further Authorizations. This Council hereby authorizes and directs the Mayor, the Director of Finance, the Director of Law, the Clerk of Council, or other appropriate officers of the City to deliver a copy of this ordinance to the Ohio Department of Development and to make such arrangements as are necessary and proper for collection of the Service Payments. This Council further authorizes the Mayor, the Director of Finance, the Director of Law, the Clerk of Council, or other appropriate officers of the City to prepare and sign all agreements and instruments and to take any other actions as may be appropriate to implement this Ordinance.

SECTION 8. Compliance with Open Meeting Requirements. This Council determines that all formal actions of this Council concerning and relating to the passage of this Ordinance

were passed in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements including RC Section 121.22.

SECTION 9. Captions and Headings. The captions and headings in this Ordinance are solely for convenience of reference and in no way define, limit or describe the scope or intent of any Sections, subsections, paragraphs, subparagraphs or clauses hereof. Reference to a Section means a section of this Ordinance unless otherwise indicated.

SECTION 10. Declaration of Emergency; Effective Date. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the City, and for the further reason that this Ordinance is required to be immediately effective in order to increase Service Payments available to the City to support public infrastructure projects; therefore, this ordinance shall be in full force and effect immediately upon its adoption by this Council and approval by the Mayor, otherwise, from and after the earliest period allowed by law.

PASSED: _____, 2025 FIRST READING: _____

SECOND READING: _____

APPROVED: _____, 2025 THIRD READING: _____

MAYOR

CLERK OF COUNCIL

EXHIBIT A

IDENTIFICATION AND MAP OF THE INCENTIVE DISTRICT

The area shaded below on the following map identifies the Incentive District.

For information purposes only, the parcel numbers include: 605-25-014, 605-26-002, 605-25-016, 605-25-013, 605-26-008, 605-26-005 and 605-26-003.

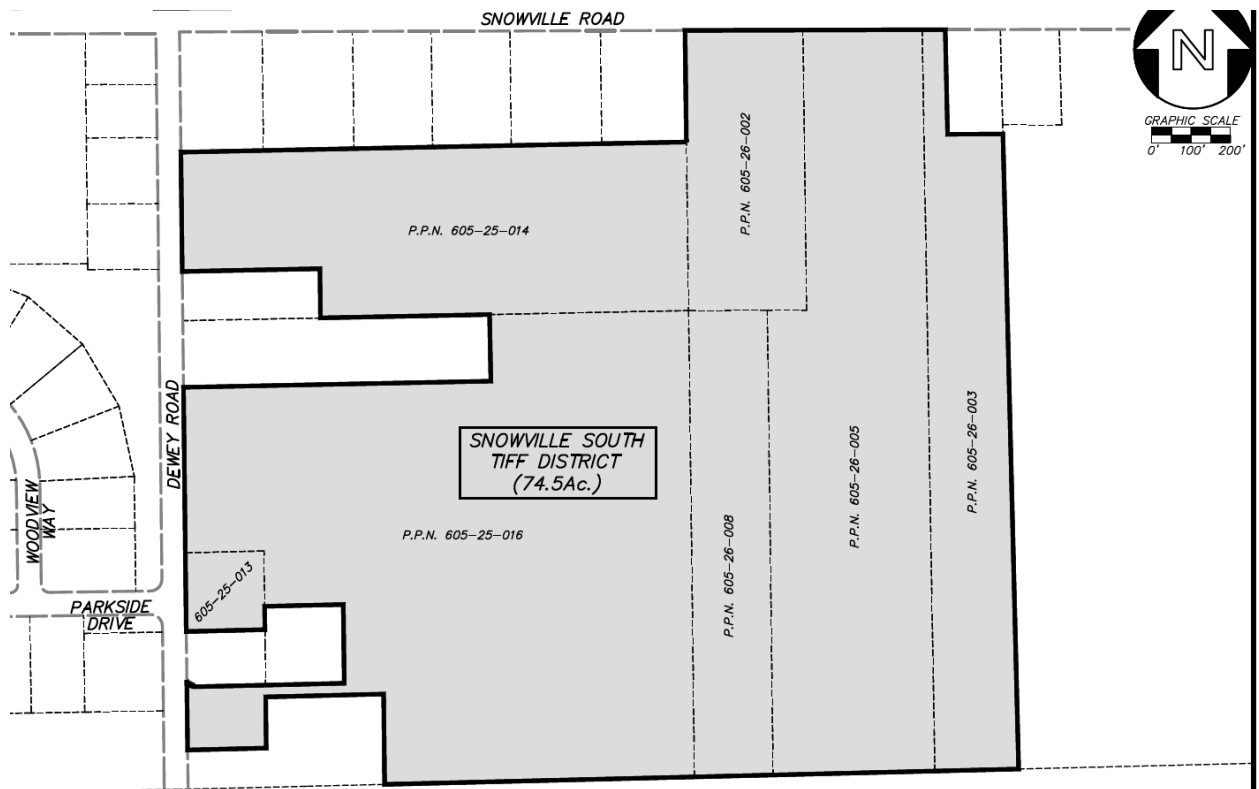


EXHIBIT B

PUBLIC INFRASTRUCTURE IMPROVEMENTS

The Public Infrastructure Improvements consist of any “public infrastructure improvement” defined under ORC 5709.40(A)(8) and that directly benefits the Parcels and specifically include, but are not limited to, any of the following improvements that will directly benefit the Parcels and all related costs of those permanent improvements (including, but not limited to, those costs listed in ORC 133.15(B)):

- **Roadways.** Construction, reconstruction, extension, opening, improving, widening, grading, draining, curbing or changing of the lines and traffic patterns of roads, highways, streets, intersections, bridges (both roadway and pedestrian), sidewalks, bikeways, medians and viaducts accessible to and serving the public, and providing signage (including traffic signage and informational/promotional signage), lighting systems, signalization, and traffic controls, and all other appurtenances thereto.
- **Water/Sewer.** Construction, reconstruction or installation of public utility improvements (including any underground municipally owned utilities), storm and sanitary sewers (including necessary site grading therefore), water and fire protection systems, and all appurtenances thereto, including, but not limited to those associated with improvements described in “Roadways” above.
- **Environmental/Health.** Implementation of environmental remediation measures necessary to enable the construction of the private improvements on the Parcels or the Public Infrastructure Improvements, and the construction of public health facilities.
- **Utilities.** Construction, reconstruction, burial or installation of gas, electric and communication service facilities and all appurtenances thereto, including, but not limited to those associated with improvements described in “Roadways” above.
- **Stormwater.** Construction, reconstruction, relocation, modification and installation of stormwater and flood remediation projects and facilities, both for storm water quantity and quality, including the payment and reimbursement for such projects and facilities on private property when determined to be necessary for public health, safety and welfare.
- **Demolition.** Demolition, including demolition on private property when determined to be necessary for public health, safety and welfare.
- **Parks.** Construction or reconstruction of one or more public parks and park or recreational facilities, including grading, trees and other park plantings, park accessories and related improvements, multi-use trails and bridges, together with all appurtenances thereto.
- **Streetscape/Landscape.** Construction or installation of streetscape and landscape improvements including trees, tree grates, signage, curbs, sidewalks, scenic fencing, street and sidewalk lighting, trash receptacles, benches, newspaper racks, burial of overhead utility lines and related improvements, together with all appurtenances thereto, including,

but not limited to streetscape improvements in conjunction with and along the roadway improvements described in “Roadways” above.

- **Real Estate.** Acquisition of real estate or interests in real estate (including easements) (a) necessary to accomplish any of the foregoing improvements or (b) in aid of industry, commerce, distribution or research.
- **Professional Services.** Engineering, consulting, legal, administrative, and other professional services associated with the planning, design, acquisition, construction and installation of the foregoing improvements and real estate.

RESOLUTION RECORD
COUNCIL OF THE CITY OF BRECKSVILLE

Resolution No. 5733

**A RESOLUTION ADOPTING A CITY OF BRECKSVILLE
CYBERSECURITY PROGRAM PURSUANT TO OHIO
REVISED CODE SECTION 9.64; AND DECLARING AN EMERGENCY**

WHEREAS, through passage of House Bill 96, the 136th General Assembly of the State of Ohio has enacted Ohio Revised Code ("ORC") Section 9.64 Political Subdivision Cybersecurity, which requires every local government to adopt a cybersecurity program appropriate for its needs and aligned with best practices; and

WHEREAS, compliance with ORC Section 9.64 promotes ongoing risk management, effective incident response, and responsible stewardship of public resources through alignment to nationally recognized cybersecurity frameworks such as the National Institute of Standards and Technology ("NIST") Cybersecurity Framework and the Center for Internet Security ("CIS") Controls; and

WHEREAS, the City of Brecksville is committed to protecting its data, information technology, and information resources from cyber threats and ensuring the availability, confidentiality, and integrity of municipal operations; and

WHEREAS, it is the recommendation of the City of Brecksville's Information Technology Representative that the city implement a Cybersecurity Program ("Program") that the Information Technology Representative has prepared and which is consistent with the 2025 CyberOhio Local Government Cyber Standards; and

WHEREAS, therefore, the City of Brecksville desires to implement said Cybersecurity Program in order to comply with the requirements of ORC Section 9.64

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Brecksville, County of Cuyahoga, and State of Ohio, that:

SECTION 1. That in order to comply with the provisions of Ohio Revised Code Section 9.64 Political Subdivision Cybersecurity, and based upon recommendations of the City of Brecksville's Information Technology Representative, this Council hereby adopts and implements the Cybersecurity Program prepared by the Information Technology Representative, consistent with the requirements of ORC Section 9.64 and national best practices, and provides for periodic review and updates as needed, which Program is attached as Exhibit "A" and incorporated herein.

SECTION 2. That this Program shall include, at minimum, regular risk assessment and mitigation, employee training appropriate to job duties, incident response and recovery planning, and compliance with all reporting and internal control requirements set forth under ORC Section 9.64 and any guidance issued by the Ohio Auditor of State.

SECTION 3. That this Council further affirms its commitment to ongoing improvement in managing cyber risk and meeting all regulatory reporting obligations.

SECTION 4. That a copy of all related cybersecurity policies will be on file in the office of the Information Technology Representative, and that pursuant to ORC Section 9.64, the cybersecurity policies, all documentation, incident records, and reports maintained under the Cybersecurity Program are to be handled as confidential security records and, therefore, are exempt from the requirements to produce those records in response to a public records request.

RESOLUTION RECORD
COUNCIL OF THE CITY OF BRECKSVILLE

Resolution No. 5733

SECTION 5. That no specific technical details, program documentation, vendor information, or other information that could create undue risk for the City shall be included in the public record of this Resolution.

SECTION 6. The Council declares this Resolution to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare, the reason for the emergency is the need to adopt a Cybersecurity Program to comply with recently enacted legislation, therefore, said Resolution shall be in full force and effect immediately upon its adoption by this Council and approval by the Mayor, otherwise, from and after the earliest period allowed by law.

PASSED: December 16, 2025

APPROVED: December 16, 2025

MAYOR	CLERK OF COUNCIL

EXHIBIT “A”
CITY OF BRECKSVILLE CYBERSECURITY SECURITY PROGRAM
PURSUANT TO OHIO REVISED CODE SECTION 9.64

Section 1: Purpose

The purpose of this ordinance is to ensure the confidentiality, integrity, and availability of the City of Brecksville’s information technology systems and data in accordance with Ohio Revised Code § 9.64, and to protect against unauthorized access, cyberattacks, and other threats.

Section 2: Adoption of Cybersecurity Program

- A. The City’s Information Technology Representative is hereby designated as the Chief Information Security Officer (“CISO”) and is authorized and directed to develop, implement, and maintain a formal Cybersecurity Program compliant with the appropriate combination of the National Institute of Standards and Technology (NIST) Cybersecurity Framework and the Center for Internet Security (CIS) Controls.
- B. The Cybersecurity Program shall address the following components:
 - a. Regular risk assessments and vulnerability testing of all information systems.
 - b. Adoption of appropriate internal controls to safeguard sensitive and personal data.
 - c. An incident response plan specifying communication channels, response timelines, and protocols for reporting cyber incidents.

Section 3: Employee Training

All employees and elected officials must complete annual cybersecurity awareness and best practices training appropriate to their job responsibilities, with more frequent or advanced training assigned as necessary for those with elevated data/access privileges.

Training programs offered by the Ohio Persistent Cyber Improvement (O-PCI) initiative or Ohio Cyber Range Institute will satisfy annual cybersecurity awareness requirements as set forth by ORC §9.64(C)(6).

Section 4: Ransomware Response

- A. No payment of ransom in response to a cybersecurity or ransomware attack shall be authorized except by resolution or ordinance of the City Council, adopted in a public legislative session, and following publication of a written justification in the public record as required by ORC §9.64(B).

- B. All ransomware incidents must be reported to the Ohio Department of Public Safety, Division of Homeland Security within seven (7) days and to the Ohio Auditor of State within thirty (30) days, per ORC §9.64(D).

Section 5: Incident Reporting & Compliance

- A. All suspected or confirmed cybersecurity incidents must be documented and reported in accordance with the City's incident response plan and in compliance with state law.
- B. All cybersecurity and ransomware reports and supporting documents shall be retained for audit and made available to the Ohio Auditor of State upon request.

Section 6: Periodic Review & Audit

- A. The Cybersecurity Program shall be reviewed at least annually and updated as needed to ensure compliance with state and federal standards.
- B. The CISO shall submit an annual report on program status, training completion, and risk assessments to the legislative authority.
- C. The Cybersecurity Program shall progress through phases of Preparation, Program Development, Implementation, and Continuous Improvement, as set forth in the Cybersecurity Policy, with compliance actions and documentation maintained for audit purposes.

Section 7: Effective Date

This ordinance shall take effect and be in force from and after the earliest period allowed by law.

Section 8: Definitions and Records Exemptions

- A. "Cybersecurity incident" and "ransomware incident" shall have the meaning set forth in ORC §9.64(A).
- B. All documentation, records, and reports produced pursuant to this ordinance pertaining to cybersecurity incidents, ransomware incidents, and cybersecurity-related software, hardware, and vendor information are classified as security records and are exempt from public disclosure in accordance with ORC §§9.64(E)-(F), 149.433.

**AN ORDINANCE TO AMEND ORDINANCE NO. 5758,
MAKING APPROPRIATIONS FOR CURRENT
EXPENSES OF THE CITY OF BRECKSVILLE
DURING THE FISCAL YEAR ENDING
DECEMBER 31, 2025, MAKING NECESSARY
APPROPRIATION AND REVENUE ADJUSTMENTS;
AND DECLARING AN EMERGENCY**

WHEREAS, the appropriations heretofore set to certain accounts of the City of Brecksville are insufficient to pay expenses incurred during the fiscal year ending December 31, 2025.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Brecksville, County of Cuyahoga, and State of Ohio, that:

SECTION 1. That the Director of Finance be authorized to increase appropriations in the General fund.

36,000.00	Workers Compensation	1100150-12030
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SECTION 2. That the Director of Finance be authorized to increase appropriations in the Street Construction Maintenance and Repair fund.

60,000.00	Snow Ice	2020410-26080
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SECTION 3. That the Director of Finance be authorized to increase and decrease appropriations in the Municipal Public Improvement TIE - VA Ph III fund.

(140,000.00)	Economic Development	4200150-21130
(66,455.50)	Roads	C4200171-35010
206,455.50	Other Debt Expenses	4200812-45130

SECTION 4. The Council declares this Ordinance to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare, the reason for the emergency is that it is necessary to make adjustments to appropriations of the City, therefore, said Ordinance shall be in full force and effect immediately upon its adoption by this Council and approval by the Mayor, otherwise, from and after the earliest period allowed by law.

PASSED: _____

APPROVED: _____

MAYOR

CLERK OF COUNCIL

ADOPTING ORDINANCE
TRAFFIC

City of Brecksville

State of Ohio

ORDINANCE No. 5831

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF BRECKSVILLE, OHIO TO PROVIDE AMENDMENTS TO TRAFFIC BRECKSVILLE CITY CODE SECTIONS 301.02, 301.04, 301.09, 301.13, 301.162, 301.163, 301.17, 301.182, 301.22, 301.23, 301.26, 301.28, 301.29, 301.30, 301.33, 301.35, 301.37, 301.42, 301.46, 301.47, 301.51, 303.01, 313.02, 313.03, 313.04, 313.09, 313.10, 313.12, 351.03, 371.01, 371.03, 371.11, 331.33, 331.35, 331.39, 331.40, 331.45, 333.01, 333.03, 333.07, 333.10, 335.04, 335.071, 335.074, 335.09, 335.15, 337.24, 337.26, 341.01, 343.01, 343.04; 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 Brecksville, Ohio is authorized by ORC § 715.01 to adopt ordinances relating to its property, affairs and local government; and

BE IT ORDAINED BY THE CITY OF BRECKSVILLE, STATE OF OHIO:

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

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

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

Section 4. Supplementation of Code.

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

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

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

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

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

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

Sec. 301.02. Agricultural tractor.

Agricultural tractor ~~means~~ and traction engine mean Every self-propelled vehicle designed or used for drawing other vehicles or wheeled machinery, but having no provision for carrying loads independently of other vehicles, and used principally for agricultural purposes.

('64 Code, § 301.02)

State Law reference— R.C. § 4511.01(J)

Sec. 301.04. Bicycle; motorized bicycle or moped.

- (a) *Bicycle* means ~~every device, other than a device that is designed solely for use as a play pedal-powered vehicle by a child, that is propelled solely by human power upon which a person may ride, and that has two or more wheels, any of which is more than 14 inches in diameter~~ human operation sits, including electric bicycle.
- (b) *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 50 cubic centimeters piston displacement that produces not more than one brake horsepower, and is capable of propelling the vehicle at a speed of no greater than 20 miles per hour on a level surface. The terms do not include an electric bicycle.

(R.C. § 4511.01(G); R.C. § 4511.01(H); '64 Code, § 301.04)

Sec. 301.09. Crosswalk.

Crosswalk means:

- (a) Part of a roadway at ~~intersections ordinarily~~ an intersection included within the ~~real or projected prolongation of property lines and curb lines~~ connections of the lateral lines of the sidewalk on opposite sides of the highway measured from the curbs, or, in the absence of curbs, from the edges of the traversable roadway, and in the absence of a sidewalk on one side of the roadway, the part of a roadway included within the extension of the lateral lines of the sidewalk at the right angles to the center line;
- (b) Any portion of a roadway at an intersection or elsewhere, distinctly indicated for pedestrian crossing by lines or other markings on the surface, which might be supplemented by contrasting pavement texture, style, or color;
- (c) Notwithstanding subsections (a) and (b) hereof, ~~there shall not be a crosswalk~~ crosswalk does not include an area where the City Council has placed signs indicating no crossing.

(R.C. § 4511.01(LL); '64 Code, § 301.09)

Sec. 301.13. Expressway.

Expressway means a divided arterial street or highway for through traffic with full or partial control of access on 50 percent of all crossroads separated in grade.

(R.C. § 4511.01(ZZ)); '64 Code, § 301.13)

Sec. 301.162. Highway traffic signal.

Highway traffic signal means a power-operated traffic control device by which traffic is warned or directed to take some specific action. The term does not include a power-operated sign, steadily illuminated pavement marker, gate, flashing light signal, warning light, or steady burning electric lamp.

(R.C. § 4511.01(MMM))

Sec. 301.163. Hybrid beacon.

Hybrid beacon means a special type of beacon that is intentionally placed in a dark mode ~~between periods of operation~~ where no indications are displayed between periods of operation and, when ~~in operation~~ operated, displays both steady and flashing highway traffic ~~control~~ signal indications. *Hybrid beacon* includes both of the following:

(a) An emergency-vehicle hybrid beacon used to warn and control traffic at an otherwise unsignalized location to assist authorized emergency vehicles in entering or crossing a street or highway;

(b) A pedestrian hybrid beacon used to warn and control traffic at an otherwise unsignalized location to assist pedestrians in crossing a street or highway at a marked crosswalk.

(R.C. § 4511.01(LL))

Sec. 301.17. Intersection.

Intersection means

- (a) The area embraced within the prolongation or connection of the lateral curb lines, or, if none, the lateral boundary lines of the roadways of two highways that join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways that join at any other angle might come into conflict. The junction of an alley or driveway, site roadway open to public travel with a public roadway or highway does not constitute an intersection, unless the public roadway or highway at the junction is controlled by a traffic control device.
- (b) If a highway includes two roadways ~~that are 30 feet or more apart~~ separated by a median, then every crossing of each roadway of such divided highway by an intersecting highway constitutes a separate intersection if the opposing left-turn paths cross and there is sufficient interior storage for the design vehicle. If both intersecting highways include two roadways 30 feet or more apart, then every crossing of any two roadways of such As used in this division, "design vehicle" means the longest vehicle authorized under section 5577.05 of the Revised Code to operate on that roadway without a permit. ~~highways constitutes a separate intersection.~~
- (c) At a location controlled by a highway traffic ~~control~~ signal, regardless of the distance between the separate intersections as described in subsection (b) of this definition:
 - (1) If a stop line, yield line, or crosswalk has not been designated on the roadway within the median between the separate intersections, the two intersections and the roadway and median constitute one intersection.
 - (2) Where a stop line, yield line, or crosswalk ~~line~~ is designated on the roadway on the intersection approach, the area within the crosswalk and any area beyond the designated stop line or yield line constitute part of the intersection.

- (3) Where a crosswalk is designated on a roadway on the departure from the intersection, the intersection includes the area that extends to the far side of the crosswalk.

(R.C. § 4511.01(KK); '64 Code, § 301.17)

Sec. 301.182. Median.

Median means the portion of a highway separating opposing directions of the traveled way or the area between two roadways of a divided highway, measured from edge of traveled way to edge of traveled way, but excluding . The median excludes turn lanes. The width of a median may be different between intersections, between interchanges, and at opposite approaches of the same intersection.

(R.C. § 4511.01(NNN))

Sec. 301.22. Pedestrian.

Pedestrian means any natural person afoot. The term includes a personal delivery device as defined in R.C. § 4511.513 unless the context clearly suggests otherwise.

(R.C. § 4511.01(X); '64 Code, § 301.22)

Sec. 301.23. Person.

Person means every ~~natural~~ person, firm, copartnership, association or corporation.

(R.C. § 4511.01(W); '64 Code, § 301.23)

Sec. 301.252. ~~Private road~~ Site Roadway open to public travel.

~~Private road~~ Site Roadway open to public travel means a ~~private toll road or road, including any adjacent sidewalks that generally run parallel to the road,~~ roadway or bikeway on site of a shopping center, office part, airport, school, university within a shopping center, airport, sports arena, recreational park or other similar business, government, or recreation facility that is publicly or privately owned but where the public is allowed to travel without full-time access restrictions. The term includes a gated toll road but does not include a road within a private gated property roadway where access is restricted at all times by gates or guards to residents, employees, or other specifically authorized persons, a parking area, a driving aisle within a parking area, or a private highway-rail grade crossing.

(R.C. § 4511.01(OOO))

Sec. 301.26. ~~Private road or driveway~~.

~~Private road or driveway~~ means every way or place in private ownership used for vehicular travel by the owner and those having express or implied permission from the owner but not by other persons.

(R.C. § 4511.01(DD); '64 Code, § 301.26)

Sec. 301.28. Railroad.

Railroad means a carrier of persons or property operating upon rails or tracks placed principally on a private right-of-way.

(R.C. § 4511.01(P); '64 Code, § 301.28)

Sec. 301.29. Railroad sign or signal.

Railroad sign or signal means any sign, signal or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a ~~railroad~~ train.

(R.C. § 4511.01(SS); '64 Code, § 301.29)

Sec. 301.30. ~~Railroad train~~ Train.

~~*Railroad train*~~ *Train* means ~~a steam engine or an electric or other motor one or more locomotives coupled, with or without cars coupled thereto, operated by a railroad that operates on rails or tracks and to which all other traffic is required by law to yield the right-of-way at highway-rail grade crossings.~~

(R.C. § 4511.01(Q); '64 Code, § 301.30)

Sec. 301.33. Roadway.

Roadway means that portion of a street or highway improved, designed, or ordinarily used for vehicular travel and parking lanes, except not including the berm, sidewalk, or shoulder, even if the berm, sidewalk, or shoulder is used by a person operating a bicycle or other human-powered vehicle. If a street or highway includes two or more separate roadways the term "roadway" means any such roadway separately but not all such roadways collectively.

(R.C. § 4511.01(EE); '64 Code, § 301.33)

Sec. 301.35. School bus.

School bus means every bus designed for carrying more than nine passengers that is owned by a public, private or governmental agency or institution of learning and operated for the transportation of children to or from a school session or a school function, or owned by a private person and operated for compensation for the transportation of children to or from a school session or a school function; ~~provided school . School bus does not include any of a bus operated by a municipally owned transportation system, a mass transit company operating exclusively within the territorial limits of the municipality, or within such limits and the territorial limits of municipal corporations immediately contiguous to the municipality, nor a common passenger carrier certified by the Public Utilities Commission unless such~~

~~bus is devoted exclusively to the transportation of children to and from a school session or a school function, and school bus does not include a van or bus used by a licensed child care center or Type A family child care home to transport children from the child care center or Type A family child care home to a school if the van or bus does not have more than 15 children in the van or bus at any time. the~~
following:

(a) A bus operated by a municipally owned transportation system, a mass transit company operating exclusively within the territorial limits of a municipal corporation, or within such limits and the territorial limits of municipal corporations immediately contiguous to such municipal corporation, nor a common passenger carrier certified by the public utilities commission unless such bus is devoted exclusively to the transportation of children to and from a school session or a school function;

(b) A van or bus used by a licensed child care center or type A family child care home to transport children from the child care center or type A family child care home to a school if the van or bus does not have more than fifteen children in the van or bus at any time;

(c) An alternative vehicle as defined in section 4511.76 of the Revised Code.

(R.C. § 4511.01(F); '64 Code, § 301.35; Ord. No. 5726, § 1(Exh. A), 7-16-24)

Sec. 301.37. Sidewalk.

Sidewalk means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, or easements of private property, that is paved or improved, an is intended for the use of pedestrians.

(R.C. § 4511.01(FF); '64 Code, § 301.37)

Sec. 301.42. Street or highway; arterial street.

(a) *Street or highway* ~~means the entire width between the boundary lines of every way open to the use of a~~
general term for denoting a public way for purposes of travel by vehicles, streetcars, trackless trolleys, and vulnerable road users, including the public as a thoroughfare for purposes of vehicular travel entire area within the right-of-way.

(b) *Arterial street or highway* ~~means any United States or state numbered route, controlled access highway a street or highway primarily used by through traffic or other major radial or circumferential usually on a continuous route or a street or highway designated by local authorities within their respective jurisdictions as part of an major arterial system of streets or highways.~~

(R.C. § 4511.01(BB); R.C. § 4511.01(CCC); '64 Code, § 301.42)

Sec. 301.46. Traffic-control device.

Traffic-control device means a flagger, sign, signal, marking, channelization device, or other device used to regulate, warn, or guide traffic, placed on, over, or adjacent to a street, highway, private road open to public travel, pedestrian facility, or shared-use path by authority of a public agency or official having jurisdiction, or, in the case of a private road that uses colors, shapes, symbols, words, sounds, or tactile

information for the primary purpose of communicating a regulatory, warning, or guidance message to road users on a street, highway site roadway open to public travel, by authority of the private owner or private official having jurisdiction pedestrian facility, bikeway, or pathway.

(R.C. § 4501.01(QQ); '64 Code, § 301.46)

Sec. 301.47. Traffic-control signal.

Traffic-control signal means any highway traffic signal by which placed at an intersection, movable bridge, fire station, midblock crosswalk, alternating one-way sections of a single lane road, private driveway, or other location that requires conflicting traffic is alternately to be directed to stop and permitted to proceed in an orderly manner. “Traffic control signal” includes a vehicular signal indication, a pedestrian signal indication, and a bicycle symbol signal indication. “Traffic control signal” does not include an emergency-vehicle hybrid beacon or a pedestrian hybrid beacon.

(R.C. § 4511.01(RR); '64 Code, § 301.47)

Sec. 301.51. Vehicle.

Vehicle means every device, including a bicycle, motorized bicycle, and an electric bicycle, in, upon or by which any person or property may be transported or drawn upon a street or highway, except that, ~~Vehicle~~ does not include any motorized wheelchair, any electric personal assistive mobility device, any low-speed micromobility device, any personal delivery device as defined in R.C. § 4511.513, any device that is moved by power collected from overhead electric trolley wires or that is used exclusively upon stationary rails or tracks, or any device, other than a bicycle, that is moved by human power.

(R.C. § 4511.01(A); '64 Code, § 301.51)

Sec. 301.53. Natural resources officer

Natural resources officer means an officer appointed pursuant to section 1501.24 of the Revised Code.

(R.C. § 4511.01(XXX))

Sec 301.54 Wildlife Officer

Wildlife officer means an officer designated pursuant to section 1531.13 of the Revised Code.

(R.C. § 4511.01(YYY))

Sec 301.55 In-road Warning Light

In-road warning light means a special type of highway traffic signal that is installed in the roadway surface to warn road users that they are approaching a condition on or adjacent to the roadway that might not be readily apparent and might require the road users to reduce speed or come to a complete stop.

(R.C. § 4511.01(ZZZ))

Sec 301.56 Lane-Use Control Signal

Lane-use control signal means a signal face or comparable display on a full-matrix changeable message sign that displays indications to permit or prohibit the use of specific lanes of a roadway or a shoulder where driving is sometimes authorized or to indicate the impending prohibition of such use.

(R.C. § 4511.01(AAAA))

Sec 301.57 Bicycle Box

Bicycle box means a designated area on the approach to a signalized intersection, between an advance motorist stop line and the crosswalk or intersection, that is intended to provide bicyclists a visible location to wait in front of stopped motorists during the red signal phase.

(R.C. § 4511.01(BBBB))

Sec 301.58 Two-stage Bicycle Turn Box

Two-stage bicycle turn box means a designated area at an intersection that is intended to provide bicyclists a place to wait for traffic to clear before proceeding in a different direction of travel.

(R.C. § 4511.01(CCCC))

Sec 301.59 Bicycle Lane

Bicycle lane means a portion of a roadway that has been designated for preferential or exclusive use by bicyclists and is often delineated from the adjacent general-purpose lanes by longitudinal pavement markings and either a bicycle lane symbol, words, or signs. "Bicycle lane" includes all of the following:

- (1) A buffer-separated bicycle lane, which is separated from the adjacent general-purpose lanes by a pattern of standard longitudinal pavement markings that are wider than a normal or wide-lane pavement marking;
- (2) A counter-flow bicycle lane, which is a one-directional bicycle lane that provides a lawful path of travel for bicycles in the opposite direction from the general traffic on a roadway that otherwise requires the general traffic to travel in only one direction. A counter-flow bicycle lane is designated by the traffic control devices used for other bicycle lanes;
- (3) A separated bicycle lane, which is an exclusive facility for bicyclists that is located within or directly adjacent to the roadway and is physically separated from the motor vehicle traffic with a vertical element.

(R.C. § 4511.01(DDDD))

Sec 301.60 Bicycle Signal Face

Bicycle signal face means a signal face that displays only bicycle symbol signal indications in accordance with section 4511.15 of the Revised Code, that exclusively controls a bicyclist's movement from a designated bicycle lane or from a separate facility, and that displays signal indications that are applicable only to a bicyclist's movement.

(R.C. § 4511.01(EEEE))

Sec 301.61 Bicycle Signal Sign

Bicycle signal sign means a sign meant to inform road users that the signal indications in the bicycle signal face are intended only for bicyclists, and to inform bicyclists which bicyclist movements are controlled by that bicycle signal face.

(R.C. § 4511.01(FFFF))

Sec 301.62 Bikeway

Bikeway means any road, street, path, or way that in some manner is specifically designated for bicycle travel, regardless of whether the facility is designated for the exclusive use of bicycles or if it is shared with other modes of transportation.

(R.C. § 4511.01(GGGG))

Sec 301.63 Busway

Busway means a traveled way that is used exclusively by buses.

(R.C. § 4511.01(HHHH))

Sec 301.64 Driveway

Driveway means an access from a roadway to a building, site, or abutting property.

(R.C. § 4511.01(IIII))

Sec 301.65 Roundabout

Roundabout means a circular intersection with a yield control at each entry, which permits a vehicle on the circulatory roadway to proceed, with deflection of the approaching vehicles counter-clockwise around a central island.

(R.C. § 4511.01(JJJJ))

Sec 301.66 Shoulder

Shoulder means a longitudinal area contiguous with the traveled way that is used for accommodating vehicles that are stopped for an emergency and for lateral support of base and surface courses; graded for emergency stopping; either paved or unpaved; and when paved, may be open for part-time travel by some or all vehicles or may also be available for use by pedestrians or bicycles in the absence of other pedestrian or bicycle facilities.

(R.C. § 4511.01(KKKK))

Sec 301.67 Autocycle

Autocycle, cab-enclosed motorcycle, electronic, farm machinery, motor-driven cycle or motor scooter, limited driving privileges, and state have the same meanings as in section 4501.01 of the Revised Code.

(R.C. § 4511.01(LLLL))

Sec 301.68 Multifunction School Activity Bus

Multifunction school activity bus means a school bus whose purposes do not include transporting children to and from home or school bus stops.

(R.C. § 4511.01(MMMM))

Sec. 303.01. Compliance with lawful order of police officer; fleeing.

- (a) No person shall fail to comply with any lawful order or direction of any police officer invested with authority to direct, control, or regulate traffic.
- (b) No person shall operate a motor vehicle so as willfully to elude or flee a police officer after receiving a visible or audible signal from a police officer to bring the person's motor vehicle to a stop.
- (c) (1) Whoever violates this section is guilty of failure to comply with an order or signal of a police officer.
- (2) A violation of subsection (a) of this section is a misdemeanor of the first degree.
- (3) Except as provided in subsections (c)(4) and (5) of this section, a violation of subsection (b) of this section is a ~~misdemeanor~~ felony of the ~~first~~ fourth degree.
- (4) ~~Except as provided in subsection (c)(5) of this section, a~~ A violation of subsection (b) of this section is a felony and shall be prosecuted under appropriate state law if the jury or judge as trier of fact finds by proof beyond a reasonable doubt that in committing the offense, the offender was fleeing immediately after the commission of a felony.
- (5) A. A violation of subsection (b) of this section is a felony and shall be prosecuted under appropriate state law if the jury or judge as trier of fact finds any of the following by proof beyond a reasonable doubt:

1. The operation of the motor vehicle by the offender was a proximate cause of serious physical harm to persons or property.
 2. The operation of the motor vehicle by the offender caused a substantial risk of serious physical harm to persons or property.
- B. If a police officer pursues an offender who is violating subsection (b) of this section and subsection (c)(5)A. of this section applies, the sentencing court, in determining the seriousness of an offender's conduct for purposes of sentencing the offender for a violation of subsection (b) of this section, shall consider, along with the factors set forth in R.C. §§ 2929.12 and 2929.13 that are required to be considered, all of the following:
1. The duration of the pursuit;
 2. The distance of the pursuit;
 3. The rate of speed at which the offender operated the motor vehicle during the pursuit;
 4. Whether the offender failed to stop for traffic lights or stop signs during the pursuit;
 5. The number of traffic lights or stop signs for which the offender failed to stop during the pursuit;
 6. Whether the offender operated the motor vehicle during the pursuit without lighted lights during a time when lighted lights are required;
 7. Whether the offender committed a moving violation during the pursuit;
 8. The number of moving violations the offender committed during the pursuit;
 9. Any other relevant factors indicating that the offender's conduct is more serious than conduct normally constituting the offense.
- (d) In addition to any other sanction imposed for a violation of subsection (a) of this section or a misdemeanor violation of subsection (b) of this section, the court shall impose a class five suspension from the range specified in R.C. § 4510.02(A)(5). In addition to any other sanction imposed for a violation of subsection (A) of this section ~~or a misdemeanor violation of subsection (B) of this section~~, the court shall impose a class five suspension from the range specified in R.C. § 4510.02(A)(5). If the offender previously has been found guilty of an offense under this section or under R.C. § 2921.331 or any other substantially equivalent municipal ordinance, in addition to any other sanction imposed for the offense, the court shall impose a class one suspension as described in R.C. § 4510.02(A)(1). The court may grant limited driving privileges to the offender on a suspension imposed for a misdemeanor violation of this section as set forth in R.C. § 4510.021. No judge shall suspend any portion of the suspension under a class one suspension of an offender's license, permit, or privilege required by this subsection.
- (e) As used in this section:
- Moving violation* has the same meaning as in R.C. § 2743.70.
- Police officer* has the same meaning as in R.C. § 4511.01.

(Ord. No. 5726, § 1(Exh. A), 7-16-24)

State Law reference— R.C. § 2921.331(A)—(C), (E), (F)

Cross reference— Penalty, see § 303.99

Sec. 313.02. Through streets; stop and yield right-of-way signs.

- (a) All state routes are hereby designated as through highways, provided that stop signs, yield signs, or highway traffic-control signals shall be erected at all intersections with such through highways, by the Department of Transportation as to highways under its jurisdiction, and by local authorities as to highways under their jurisdiction, except as otherwise provided in this section. Where two or more state routes that are through highways intersect, and no highway traffic-control signal is in operation, stop signs or yield signs shall be erected at one or more entrances thereto by the department or by local authorities having jurisdiction, except as otherwise provided in this section. Whenever the Director of Transportation determines on the basis of an engineering and traffic investigation that stop signs are necessary to stop traffic on a through highway for safe and efficient operation, nothing in this section shall be construed to prevent such installations. When circumstances warrant, the director also may omit stop signs on roadways intersecting through highways under ~~his~~ the director's jurisdiction. Before the director either installs or removes a stop sign under this subsection, ~~he~~ the director shall give notice, in writing, of that proposed action to the affected local authority at least 30 days before installing or removing the stop sign.
- (b) Other streets or highways, or portions thereof, are hereby designated as through highways if they are within the municipal corporation, if they have a continuous length of more than one mile between the limits of the street or highway or portion thereof, and if they have stop or yield signs or highway traffic-control signals at the entrances of the majority of intersecting streets or highways. For purposes of this section, the limits of the street or highway, or portion thereof, shall be the municipal corporation line, the physical terminus of the street or highway, or any point on the streets or highway at which vehicular traffic thereon is required by regulatory signs to stop or yield to traffic on the intersecting street, provided, that in Residence Districts, the municipal corporation may by ordinance designate said street or highway, or portion thereof, not to be a through highway and thereafter the affected Residence District shall be indicated by official traffic-control devices. Where two or more through highways designated under this subsection intersect and no highway traffic-control signal is in operation, stop signs or yield signs shall be erected at one or more entrances thereto by the department or by local authorities having jurisdiction, except as otherwise provided in this section.
- (c) The department or local authorities having jurisdiction need not erect stop signs at intersections they find to be so constructed as to permit traffic to safely enter a through highway without coming to a stop. Signs shall be erected at such intersections indicating that the operator of a vehicle shall yield the right-of-way to or merge with all traffic proceeding on the through highway.
- (d) Local authorities, with reference to highways under their jurisdiction, may designate additional through highways, and shall erect stop signs, yield signs, or highway traffic-control signals at all streets and highways intersecting such through highways, or may designate any intersection as a stop or yield intersection, and shall erect like signs at one or more entrances to the intersection.

(R.C. § 4511.65; '64 Code, § 313.02)

Sec. 313.03. Traffic-control signal terms and lights.

Highway traffic signal indications for vehicles and pedestrians shall have the following meanings:

(a) *Steady green signal indication.*

- (1) A. Vehicular traffic facing a circular green signal indication are permitted to proceed straight through or turn right or left or make a U-turn movement except as such movement is modified by a lane-use sign, turn prohibition sign, lane marking, roadway design, separate turn signal indication, or other traffic control device. Such vehicular traffic, including vehicles turning right or left or making a U-turn movement, shall yield the right-of-way to both of the following:
 1. Pedestrians lawfully within an associated crosswalk;
 2. Other vehicles lawfully within the intersection.
- B. In addition, vehicular traffic turning left or making a U-turn movement to the left shall yield the right-of-way to other vehicles approaching from the opposite direction so closely as to constitute an immediate hazard during the time when such turning vehicle is moving across or within the intersection.
- (2) Vehicular traffic facing a green arrow signal indication, displayed alone or in combination with another signal indication, are permitted to cautiously enter the intersection only to make the movement indicated by such arrow, or such other movement as is permitted by other indications displayed at the same time. Such vehicular traffic, including vehicles turning right or left or making a U-turn movement, shall yield the right-of-way to both of the following:
 - A. Pedestrians lawfully within an associated crosswalk;
 - B. Other traffic lawfully using the intersection.
- (3) A. Unless otherwise directed by a pedestrian signal indication, as provided in R.C. § 4511.14, pedestrians facing a circular green signal indication are permitted to proceed across the roadway within any marked or unmarked associated crosswalk. The pedestrian shall yield the right-of-way to vehicles lawfully within the intersection or so close as to create an immediate hazard at the time that the green signal indication is first displayed.
- B. Pedestrians facing a green arrow signal indication, unless otherwise directed by a pedestrian signal indication or other traffic control device, shall not cross the roadway.

(b) *Steady yellow signal indication.*

- (1) Vehicular traffic facing a steady circular yellow signal indication are thereby warned that the related green movement or the related flashing arrow movement is being terminated or that a steady red signal indication will be exhibited immediately thereafter when vehicular traffic shall not enter the intersection. The provisions governing vehicular operation under the movement being terminated shall continue to apply while the steady circular yellow signal indication is displayed.
- (2) Vehicular traffic facing a steady yellow arrow signal indication is thereby warned that the related green arrow movement or the related flashing arrow movement is being terminated. The provisions governing vehicular operation under the movement being terminated shall continue to apply while the steady yellow arrow signal indication is displayed.

- (3) Pedestrians facing a steady circular yellow or yellow arrow signal indication, unless otherwise directed by a pedestrian signal indication as provided in R.C. § 4511.14 or other traffic control device, shall not start to cross the roadway.

(c) *Steady red signal indication.*

- (1) A. Vehicular traffic facing a steady circular red signal indication, unless entering the intersection to make another movement permitted by another signal indication, shall stop at a clearly marked stop line; but if there is no stop line, traffic shall stop before entering the crosswalk on the near side of the intersection; or if there is no crosswalk, then before entering the intersection; and shall remain stopped until a signal indication to proceed is displayed except as provided in subsections (c)(1), (c)(2), and (c)(3) of this section.
- B. Except when a traffic control device is in place prohibiting a turn on red or a steady red arrow signal indication is displayed, vehicular traffic facing a steady circular red signal indication is permitted, after stopping, to enter the intersection to turn right, or to turn left from a one-way street into a one-way street. The right to proceed with the turn shall be subject to the provisions that are applicable after making a stop at a stop sign.
- (2) A. Vehicular traffic facing a steady red arrow signal indication shall not enter the intersection to make the movement indicated by the arrow and, unless entering the intersection to make another movement permitted by another signal indication, shall stop at a clearly marked stop line; but if there is no stop line, before entering the crosswalk on the near side of the intersection; or if there is no crosswalk, then before entering the intersection; and shall remain stopped until a signal indication or other traffic control device permitting the movement indicated by such red arrow is displayed.
- B. When a traffic control device is in place permitting a turn on a steady red arrow signal indication, vehicular traffic facing a steady red arrow indication is permitted, after stopping, to enter the intersection to turn right, or to turn left from a one-way street into a one-way street. The right to proceed with the turn shall be limited to the direction indicated by the arrow and shall be subject to the provisions that are applicable after making a stop at a stop sign.
- (3) Unless otherwise directed by a pedestrian signal indication as provided in R.C. § 4511.14 or other traffic control device, pedestrians facing a steady circular red or steady red arrow signal indication shall not enter the roadway.
- (4) Local authorities by ordinance, or the Director of Transportation on state highways, may prohibit a right or a left turn against a steady red signal at any intersection, which shall be effective when signs giving notice thereof are posted at the intersection.

(d) *Flashing green signal indication.* A flashing green signal indication has no meaning and shall not be used.

(e) *Flashing yellow signal indication.*

- (1) A. Vehicular traffic, on an approach to an intersection, facing a flashing circular yellow signal indication, is permitted to cautiously enter the intersection to proceed straight through or turn right or left or make a U-turn movement except as such movement is modified by lane-use signs, turn prohibition signs, lane markings, roadway design, separate turn

signal indications, or other traffic control devices. Such vehicular traffic, including vehicles turning right or left or making a U-turn movement, shall yield the right-of-way to both of the following:

1. Pedestrians lawfully within an associated crosswalk;
2. Other vehicles lawfully within the intersection.

B. In addition, vehicular traffic turning left or making a U-turn to the left shall yield the right-of-way to other vehicles approaching from the opposite direction so closely as to constitute an immediate hazard during the time when such turning vehicle is moving across or within the intersection.

- (2) A. Vehicular traffic, on an approach to an intersection, facing a flashing yellow arrow signal indication, displayed alone or in combination with another signal indication, is permitted to cautiously enter the intersection only to make the movement indicated by such arrow, or other such movement as is permitted by other signal indications displayed at the same time. Such vehicular traffic, including vehicles turning right or left or making a U-turn, shall yield the right-of-way to both of the following:

1. Pedestrians lawfully within an associated crosswalk;
2. Other vehicles lawfully within the intersection.

B. In addition, vehicular traffic turning left or making a U-turn to the left shall yield the right-of-way to other vehicles approaching from the opposite direction so closely as to constitute an immediate hazard during the time when such turning vehicle is moving across or within the intersection.

- (3) Pedestrians facing any flashing yellow signal indication at an intersection, unless otherwise directed by a pedestrian signal indication or other traffic control device, are permitted to proceed across the roadway within any marked or unmarked associated crosswalk. Pedestrians shall yield the right-of-way to vehicles lawfully within the intersection at the time that the flashing yellow signal indication is first displayed.

- (4) When a flashing circular yellow signal indication is displayed as a beacon to supplement another traffic control device, road users are notified that there is a need to pay additional attention to the message contained thereon or that the regulatory or warning requirements of the other traffic control device, which might not be applicable at all times, are currently applicable.

(f) *Flashing red signal indication.*

- (1) Vehicular traffic, on an approach to an intersection, facing a flashing circular red signal indication, shall stop at a clearly marked stop line; but if there is no stop line, before entering the crosswalk on the near side of the intersection; or if there is no crosswalk, at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection. The right to proceed shall be subject to the provisions that are applicable after making a stop at a stop sign.
- (2) Pedestrians facing any flashing red signal indication at an intersection, unless otherwise directed by a pedestrian signal indication or other traffic control device, are permitted to proceed across the roadway within any marked or unmarked associated crosswalk.

Pedestrians shall yield the right-of-way to vehicles lawfully within the intersection at the time that the flashing red signal indication is first displayed.

- (3) When a flashing circular red signal indication is displayed as a beacon to supplement another traffic control device, road users are notified that there is a need to pay additional attention to the message contained thereon or that the regulatory requirements of the other traffic control device, which might not be applicable at all times, are currently applicable. Use of this signal indication shall be limited to supplementing stop, do not enter, or wrong way signs, and to applications where compliance with the supplemented traffic control device requires a stop at a designated point.

- (4) Vehicular traffic, on an approach to an intersection, facing a flashing red arrow signal indication and if intending to turn in the direction indicated by the arrow, shall stop at a clearly marked stop line; but if there is no stop line, before entering the crosswalk on the near side of the intersection; or if there is no crosswalk, at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection. The right to proceed shall be subject to the provisions that are applicable after making a stop at a stop sign.

(g) Transit vehicle signal indication:

- (1) Light rail and mass transit system bus traffic, on an approach to an intersection from a designated busway or other designated transit vehicle lane or tracks shall do all of the following:

- (a) Stop when facing a steady horizontal white line;
- (b) Proceed straight ahead when facing a steady vertical white line;
- (c) Only turn or proceed left when facing a steady diagonal white line that begins in the lower right corner and angles up and to the left;
- (d) Only turn or proceed right when facing a steady diagonal white line that begins in the lower left corner and angles up and to the right;
- (e) Prepare to stop when facing a flashing vertical white line.

- (2) As used in division (g)(1) of this section, “mass transit system” and “bus” have the same meanings as in section 4511.78 of the Revised Code.

- (gh) In the event an official highway ~~traffic-control~~ signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made at the signal.

- (hi) This section does not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by R.C. §§ 4511.61 and 4511.62.

(R.C. § 4511.13; '64 Code, § 313.03)

Cross reference— Penalty, see § 313.99

Sec. 313.04. Lane-use control signals over individual lanes.

The meanings of lane-use control signal indications are as follows:

- (a) *A steady downward green arrow:* ~~A road user is permitted to drive in~~ means that the lane over which the arrow signal indication is located is open to vehicle travel in that direction.
- (b) *A steady yellow "X-"* ~~A road user is to prepare to vacate~~ means that the lane over which the signal indication is located because a lane control change is being made to is about to be closed to vehicle traffic in that direction and will be followed by a steady red "X" signal indication, either within the same signal face or in a downstream signal face.
- (c) *A steady white two-way left-turn arrow:* ~~A road user is permitted to use a~~ means that lane over which the signal indication is located ~~for~~ is open to traffic making a left turn in that direction, but not for through travel, with the understanding that common use of the lane by oncoming road users for left turns also is permitted.
- (d) *A steady white one-way left-turn arrow:* ~~A road user is permitted to use a~~ means that lane over which the signal indication is located for a left turn, without opposing turns in the same lane, but not for through travel.
- (e) *A steady red "X-"* ~~A road user is not permitted to use~~ means that the lane over which the signal indication is located ~~and that this signal indication shall modify accordingly the meaning of other traffic controls present~~ is closed to vehicle traffic in the direction viewed by the road user.

(R.C. § 4511.131; '64 Code, § 313.04)

Cross reference— Penalty, see § 313.99

Sec. 313.09. Driver's duties upon approaching ambiguous or nonworking traffic signal.

- (a) The driver of a vehicle who approaches an intersection where traffic is controlled by highway traffic ~~control~~ signals shall do all of the following if the signal facing the driver exhibits no colored lights or colored lighted arrows, exhibits a combination of such lights or arrows that fails to clearly indicate the assignment of right- of-way, or, if the vehicle is a bicycle or an electric bicycle, the signals are otherwise malfunctioning due to the failure of a vehicle detector to detect the presence of the bicycle or electric bicycle:
 - (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 or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

- (c) 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 subsection 303.99(b).

(R.C. § 4511.132); '64 Code, § 313.09; Ord. 3071, passed 2-20-90)

Cross reference— Penalty, see § 313.99

Sec. 313.10. Unlawful purchase, possession or sale.

- (a) As used in this section, *traffic-control device* means any sign, highway ~~traffic-control~~ signal or other device conforming to and placed or erected in accordance with the manual adopted under R.C. § 4511.09 by authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic, including signs denoting the names of streets and highways, but does not mean any pavement marking.
- (b) No individual shall buy or otherwise possess or sell, a traffic-control device, except when one of the following applies:
- (1) In the course of the individual's employment by the state or a local authority for the express or implied purpose of manufacturing, providing, erecting, moving or removing such a traffic-control device;
 - (2) In the course of the individual's employment by any manufacturer of traffic-control devices other than a state or local authority;
 - (3) For the purpose of demonstrating the design and function of a traffic-control device to state or local officials;
 - (4) When the traffic-control device has been purchased from the state or a local authority at a sale of property that is no longer needed or is unfit for use;
 - (5) The traffic-control device has been properly purchased from a manufacturer for use on private property and the person possessing the device has a sales receipt for the device or other acknowledgement of sale issued by the manufacturer.
- (c) This section does not preclude, and shall not be construed as precluding, prosecution for theft in violation of R.C. § 2913.02 or a municipal ordinance relating to theft, or for receiving stolen property in violation of R.C. § 2913.51 or a municipal ordinance relating to receiving stolen property.
- (d) Whoever violates this section is guilty of a misdemeanor of the third degree.

(R.C. § 4511.18; '64 Code, § 313.10)

Cross reference— Penalty, see § 313.99

Sec. 313.12. Signal preemption devices; prohibitions.**(a) As used in this section:**

- (1) "Highway maintenance vehicle" means a vehicle used in snow and ice removal, including a snow plow, when it is owned by a political subdivision and operated by an employee of that political subdivision.
- (2) "Peace officer" has the same meaning as in divisions (A)(1), (12), (14), and (19) of section 109.71 of the Revised Code.
- (3) "Portable signal preemption device" means a device that, if activated by a person, is capable of changing a highway traffic signal to green out of sequence.
- (4) "Public safety vehicle" has the same meaning as in divisions (E)(1), (3), and (4) of section 4511.01 of the Revised Code.

(b) Except as provided in divisions (c) and (d) of this section:

- (1) No person shall possess a portable signal preemption device.
- (2) No person shall use a portable signal preemption device to affect the operation of a highway traffic-control device.
- ~~(b)(c)~~ Subsection ~~(a)(1)~~ of this section does not apply to any of the following persons ~~and subsection (a)(2) of this section does not apply to any of the following persons when responding to an emergency call:~~
 - (1) A peace officer, ~~as defined in R.C. §§ 109.71(A)(1), (A)(12), (A)(14), or (A)(19);~~
 - (2) A State Highway Patrol Officer;
 - (3) A person while occupying a public safety vehicle ~~as defined in R.C. §§ 4511.01(E)(1), (E)(3), or (E)(4);~~
 - (4) The authorized employee operator of a highway maintenance vehicle.

(d) Division (b)(2) of this section does not apply under either of the following circumstances:

- (1) When a person listed in divisions (c)(1) to (3) of this section is responding to an emergency call;
- (2) When a person listed in division (c)(4) of this section is responding to an emergency level two or level three weather event.

- ~~(e)~~ Whoever violates subsection ~~(a)(1)~~ of this section is guilty of a misdemeanor of the fourth degree. Whoever violates subsection ~~(a)(2)~~ of this section is guilty of a misdemeanor of the first degree.

- ~~(d) As used in this section, portable signal preemption device means a device that, if activated by a person, is capable of changing a traffic-control signal to green out of sequence.~~

(R.C. § 4511.031)

Sec. 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 title, or while obeying the directions of a police officer or a traffic-control device, in any of the following places:
- (1) On a sidewalk, except as provided in subsection (b) of this section;
 - (2) In front of a public or private driveway, or upon the right-of-way of a public or private driveway in a manner which unsafely obstructs the view, or the ingress or egress, of the street from the public or private driveway;
 - (3) Within an intersection;
 - (4) Within ten feet of a fire hydrant, measured parallel and along the edge of pavement or curb;
 - (5) On a crosswalk;
 - (6) Within 20 feet of a crosswalk at an intersection;
 - (7) Within 30 feet of, and upon the approach to, any ~~flashing-beacon~~ yield sign, stop sign, or highway traffic-control device;
 - (8) Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by a traffic-control device;
 - (9) Within 50 feet of the nearest rail of a railroad crossing;
 - (10) Within 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 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 elevated structure upon a highway, or within a highway tunnel;
 - (14) At any place where posted signs, authorized by the Safety Director of the city, prohibit stopping or parking;
 - (15) Within two feet of another parked vehicle;
 - (16) On the roadway portion of a freeway, expressway, or thruway;
 - (17) On a bicycle path;
 - (18) On a bridle path.
- (b) A person is permitted, without charge or restriction, to stand or park on a sidewalk a motor-driven cycle or motor scooter that has an engine not larger than 150 cubic centimeters, a low-speed micromobility device, or a bicycle or electric bicycle, provided that the motor-driven cycle, motor scooter, low-speed micromobility device, bicycle, or electric bicycle does not impede the normal flow of pedestrian traffic. This subsection does not authorize any person to operate a vehicle in violation of R.C. § 4511.711, or any substantially equivalent municipal ordinance.

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

(R.C. § 4511.68; '64 Code, § 351.03; Ord. 5025, passed 10-18-16)

Cross reference— Penalty, see § 351.99

Sec. 371.01. Right-of-way in crosswalk.

- (a) When highway ~~traffic-control~~ signals are not in place, not in operation, or are not clearly assigning the right-of-way, the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to so yield, or if required by section 313.09, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.
- (b) No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close as to constitute an immediate hazard.
- (c) Subsection (a) of this section does not apply under the conditions stated in subsection 371.03(b).
- (d) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass the stopped vehicle.
- (e) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
- (f) 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 subsection 303.99(b).

(R.C. § 4511.46; '64 Code, § 371.01)

Cross reference— Penalty, see § 371.99

Sec. 371.03. Crossing roadway outside crosswalk; diagonal crossings at intersections.

- (a) Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

- (b) Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all traffic upon the roadway.
- (c) Between adjacent intersections at which highway traffic-control signals are in operation, pedestrians shall not cross at any place except in a marked crosswalk.
- (d) No pedestrian shall cross a roadway intersection diagonally unless authorized by official traffic-control devices; and when authorized to cross diagonally, pedestrians shall cross only in accordance with the official traffic-control devices pertaining to such crossing movements.
- (e) This section does not relieve the operator of a vehicle from exercising due care to avoid colliding with any pedestrian upon any roadway.
- (f) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

(R.C. § 4511.48; '64 Code, § 371.03)

Cross reference— Penalty, see § 371.99

Sec. 371.11. Persons operating motorized wheelchairs.

~~Every person operating a motorized wheelchair shall have all of the rights and duties applicable to a pedestrian that are contained in this chapter, except those provisions which by their nature can have no application.~~

(R.C. § 4511.491; '64 Code, § 371.11)

Cross reference— Penalty, see § 371.99

Sec. 331.33. Obstructing intersection, crosswalk or grade crossing.

- (a) No driver shall enter an intersection or marked crosswalk, or drive onto any railroad grade crossing unless there is sufficient space on the other side of the intersection, crosswalk, or grade crossing to accommodate the vehicle the driver is operating without obstructing the passage of other vehicles, pedestrians, or ~~railroad~~ trains, notwithstanding any highway traffic-control signal indication to proceed.
- (b) This section does not apply to a bicyclist using a two-stage turn box.
- (c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has

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

- (e d) 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 subsection 303.99(b).

(R.C. § 4511.712; '64 Code, § 331.33)

Cross reference— Penalty, see § 331.99

Sec. 331.35. Occupying a moving trailer or manufactured home.

(a) As used in this section:

(1) “Fifth wheel trailer,” “mobile home,” and “travel trailer” have the same meanings as in R.C. § 4501.01

(2) “Manufactured home” has the same meaning as in R.C. § 3781.06(C)(4).

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

(bc) Subsection (ab) of this section does not apply to a fifth wheel trailer when both of the following apply:

- (1) Any child riding in the fifth wheel trailer is properly secured in the manner provided in R.C. § 4511.81;
- (2) The operator of the vehicle towing the fifth wheel trailer has some means of viable communication with the passengers riding in the trailer.

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

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

The offense established under this section is a strict liability offense and R.C. § 2901.20 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.

(R.C. § 4511.701; '64 Code, § 331.35; Ord. No. 5726, § 1(Exh. A), 7-16-24)

Cross reference— Penalty, see § 331.99

Cross reference— Penalty, see § 331.99

Sec. 331.39. Driving across grade crossing.

- (a) (1) Whenever any person driving a vehicle approaches a railroad grade crossing, the person shall stop within 50 feet but not less than 15 feet from the nearest rail of the railroad if any of the following circumstances exist at the crossing:
- A. A clearly visible electric or mechanical signal device gives warning of the immediate approach of a train or other on-track equipment.
 - B. A crossing gate is lowered.
 - C. A flagperson gives or continues to give a signal of the approach or passage of a train or other on-track equipment.
 - D. There is insufficient space on the other side of the railroad grade crossing to accommodate the vehicle the person is operating without obstructing the passage of other vehicles, pedestrians or ~~railroad~~ trains, notwithstanding any highway traffic ~~control~~ signal indication to proceed.
 - E. An approaching train is emitting an audible signal or is plainly visible, and is in hazardous proximity to the crossing.
 - F. There is insufficient undercarriage clearance to safely negotiate the crossing.
 - G. There is insufficient space on the other side of the railroad grade crossing to accommodate the vehicle or trackless trolley the person is operating without obstructing the passage of other on-track equipment.
 - H. Approaching on-track equipment is emitting an audible signal or is plainly visible and is in hazardous proximity to the crossing.
- (2)(A) A person who is driving a vehicle and who approaches a railroad grade crossing shall not proceed as long as any of the circumstances described in subsections (a)(1)A. through (a)(1)E. of this section exist at the crossing.
- (B) A person who is driving a vehicle or trackless trolley and who approaches a railroad grade crossing shall not recklessly proceed as long as any of the circumstances described in division (a)(1)G or H of this section exist at the crossing.
- ~~(b)~~(1) No person shall drive any vehicle through, around, or under any crossing gate or barrier at a railroad crossing while the gate or barrier is closed, or is being opened or closed unless the person is signaled by a law enforcement officer or flagperson that it is permissible to do so.
- (2) In lieu of a fine or jail term for a violation of this section, a court may instead order the offender to attend and successfully complete a remedial safety training or presentation regarding rail safety that is offered by an authorized and qualified organization that is selected by the court. The offender shall complete the presentation within a time frame determined by the court, not to exceed one hundred eighty days after the court issues the order. The offender shall notify the court of the successful completion of the presentation. When the offender notifies the court of the successful completion of the presentation, the court shall waive any fine or jail term that it otherwise would have imposed for a violation of this section.
- (ed) Whoever violates this section is guilty of a misdemeanor of the fourth degree.

(R.C. § 4511.62; '64 Code, § 331.39)

Cross reference— Penalty, see § 331.99

Sec. 331.40. Stopping at grade crossing.

- (a) Except as provided in subsection (b) of this section, 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.
- (b) This section does not apply at grade crossings when any local authority has filed an application with the Public Utilities Commission requesting the approval of an exempt crossing, and the Public Utilities Commission has authorized and approved an exempt crossing as provided in R.C. § 4511.63(B).

(c) As used in this section:

Bus means any vehicle originally designed by its manufacturer to transport 16 or more passengers, including the driver, or carries 16 or more passengers, including the driver.

Exempt crossing means a highway rail grade crossing authorized and approved by the Public Utilities Commission under R.C. § 4511.63(B) at which vehicles may cross without making the stop otherwise required by this section.

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.

- (d) Except as otherwise provided in this subsection, whoever violates subsections (a) through (c) of this section is guilty of a minor misdemeanor. If the offender previously has been convicted of or pleaded guilty to one or more violations of this section or R.C. §§ 4511.63, 4511.76, 4511.761, 4511.762, 4511.764, 4511.77, or 4511.79, or a municipal ordinance that is substantially equivalent to any of those sections, whoever violates this section is guilty of a misdemeanor of the fourth degree.
- (e) (1) As used in this section, ~~active-grade~~ Grade crossing warning system device means ~~signs, the flashing-light signals, gates, or other protective devices erected or installed at a public highway-railway crossing at common grade with or without automatic gates together with the necessary control equipment that is used to inform road users of the approach and activated by an electrical circuit~~ presence of rail traffic at a grade crossing.
- (2) The Department of Transportation and local authorities, with the approval of the department, may designate dangerous highway crossings over railroad tracks and erect stop signs thereat.
- (3) A. The department and local authorities shall erect stop signs at a railroad highway grade crossing in either of the following circumstances:

1. New warning devices that are not ~~active grade crossing warning devices~~ systems are being installed at the grade crossing, and railroad crossbucks were the only warning devices at the grade crossing prior to the installation of the new warning devices.
 2. The grade crossing is constructed after July 1, 2013 and only warning devices that are not ~~active grade crossing warning devices~~ systems are installed at the grade crossing.
- B. Subsection (b)(3)A. of this section does not apply to a railroad highway grade crossing that the Director of Transportation has exempted from that subsection because of traffic flow or other considerations or factors.
- (4) When stop signs are erected pursuant to subsections (b)(2) or (b)(3) of this section, the operator of any vehicle shall stop within 50, but not less than 15, feet from the nearest rail of the railroad tracks and shall exercise due care before proceeding across such grade crossing.
 - (5) Except as otherwise provided in this subsection, whoever violates subsection (b)(4) 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 this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
- (f) 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 subsection 303.99(b).

(R.C. § 4511.61; R.C. § 4511.63; '64 Code, § 331.40)

Cross reference— Penalty, see § 331.99

Sec. 331.45. Texting while driving prohibited.

- (a) No person shall operate a motor vehicle on any street, highway, or property open to the public for vehicular traffic while using, holding, or physically supporting with any part of the person's body an electronic wireless communications device.
- (b) Subsection (a) of this section does not apply to any of the following:
 - (1) A person using an electronic wireless communications device to make contact, for emergency purposes, with a law enforcement agency, hospital or health care provider, fire department, or other similar emergency agency or entity;
 - (2) A person driving a public safety vehicle while using an electronic wireless communications device in the course of the person's duties;
 - (3) A person using an electronic wireless communications device when the person's motor vehicle is in a stationary position and is outside a lane of travel, at a highway ~~traffic control~~ signal that is currently directing traffic to stop, or parked on a road or highway due to an emergency or road closure;

- (4) A person using and holding an electronic wireless communications device directly near the person's ear for the purpose of making, receiving, or conducting a telephone call, provided that the person does not manually enter letters, numbers, or symbols into the device;
 - (5) A person receiving wireless messages on an electronic wireless communications device regarding the operation or navigation of a motor vehicle; safety-related information, including emergency, traffic, or weather alerts; or data used primarily by the motor vehicle, provided that the person does not hold or support the device with any part of the person's body;
 - (6) A person using the speaker phone function of the electronic wireless communications device, provided that the person does not hold or support the device with any part of the person's body;
 - (7) A person using an electronic wireless communications device for navigation purposes, provided that the person does not do either of the following during the use:
 - A. Manually enter letters, numbers, or symbols into the device;
 - B. Hold or support the device with any part of the person's body.
 - (8) A person using a feature or function of the electronic wireless communications device with a single touch or single swipe, provided that the person does not do either of the following during the use:
 - A. Manually enter letters, numbers, or symbols into the device;
 - B. Hold or support the device with any part of the person's body.
 - (9) A person operating a commercial truck while using a mobile data terminal that transmits and receives data;
 - (10) A person operating a utility service vehicle or a vehicle for or on behalf of a utility, if the person is acting in response to an emergency, power outage, or circumstance that affects the health or safety of individuals;
 - (11) A person using an electronic wireless communications device in conjunction with a voice-operated or hands-free feature or function of the vehicle or of the device without the use of either hand except to activate, deactivate, or initiate the feature or function with a single touch or swipe, provided the person does not hold or support the device with any part of the person's body;
 - (12) A person using technology that physically or electronically integrates the device into the motor vehicle, provided that the person does not do either of the following during the use:
 - A. Manually enter letters, numbers, or symbols into the device;
 - B. Hold or support the device with any part of the person's body.
 - (13) A person storing an electronic wireless communications device in a holster, harness, or article of clothing on the person's body.
- (c) (1) On January 31 of each year, the department of public safety shall issue a report to the general assembly that specifies the number of citations issued for violations of this section during the previous calendar year.
- (2) If a law enforcement officer issues an offender a ticket, citation, or summons for a violation of subsection (a) of this section, the officer shall do both of the following:
- A. Report the issuance of the ticket, citation, or summons to the officer's law enforcement agency;

- B. Ensure that such report indicates the offender's race.
- (d) Whoever violates subsection (a) of this section is guilty of operating a motor vehicle while using an electronic wireless communication device, an unclassified misdemeanor, and shall be punished as provided in subsections (d)(1) to (5) of this section.
- (1) The offender shall be fined, and is subject to a suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege, as follows:
 - A. Except as provided in subsections (d)(1)B., C., D., and (2) of this section, the court shall impose upon the offender a fine of not more than \$150.00.
 - B. If, within two years of the violation, the offender has been convicted of or pleaded guilty to one prior violation of this section or a substantially equivalent municipal ordinance, the court shall impose upon the offender a fine of not more than \$250.00.
 - C. If, within two years of the violation, the offender has been convicted of or pleaded guilty to two or more prior violations of this section or a substantially equivalent municipal ordinance, the court shall impose upon the offender a fine of not more than \$500.00. The court also may impose a suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege for 90 days.
 - D. Notwithstanding subsections (d)(1)A. to C. of this section, if the offender was operating the motor vehicle at the time of the violation in a construction zone where a sign was posted in accordance with R.C. § 4511.98, the court, in addition to all other penalties provided by law, shall impose upon the offender a fine of two times the amount imposed for the violation under subsection (d)(1)A., B., or C. of this section, as applicable.
 - (2) If the offender is in the category of offenders to whom subsection (d)(1)A. of this section applies, in lieu of payment of the fine of \$150.00 under subsection (d)(1)A. of this section and the assessment of points under subsection (d)(4) of this section, the offender instead may elect to attend the distracted driving safety course, as described in R.C. § 4511.991. If the offender attends and successfully completes the course, the offender shall be issued written evidence that the offender successfully completed the course. The offender shall not be required to pay the fine and shall not have the points assessed against that offender's driver's license if the offender submits the written evidence to the court within 90 days of the violation of subsection (a) of this section. However, successful completion of the course does not result in a dismissal of the charges for the violation, and the violation is a prior offense under subsections (d)(1)B. and C. of this section if the offender commits a subsequent violation or violations of subsection (a) of this section within two years of the offense for which the course was completed. This subsection does not apply with respect to any offender in the category of offenders to whom subsection (d)(1)B., C., or D. of this section applies.
 - (3) The court may impose any other penalty authorized under R.C. § 2929.21 to 2929.28. However, the court shall not impose a fine or a suspension not otherwise specified in subsection (d)(1) of this section. The court also shall not impose a jail term or community residential sanction.
 - (4) Except as provided in subsection (d)(2) of this section, points shall be assessed for a violation of (a) of this section in accordance with R.C. § 4510.036.

- (5) The offense established under this section is a strict liability offense and R.C. § 2901.20 does not apply. The designation of this offense as a strict liability offense shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense.
- (e) A prosecution for an offense in violation of this section does not preclude a prosecution for an offense in violation of R.C. § 4511.204 based on the same conduct. However, two offenses are allied offenses of similar import under R.C. § 2941.25.
- (f) (1) A law enforcement officer does not have probable cause and shall not stop the operator of a motor vehicle for purposes of enforcing this section unless the officer visually observes the operator using, holding, or physically supporting with any part of the person's body the electronic wireless communications device.
- (2) A law enforcement officer who stops the operator of a motor vehicle, trackless trolley, or streetcar for a violation of subsection (a) of this section shall inform the operator that the operator may decline a search of the operator's electronic wireless communications device. The officer shall not do any of the following:
- A. Access the device without a warrant, unless the operator voluntarily and unequivocally gives consent for the officer to access the device;
 - B. Confiscate the device while awaiting the issuance of a warrant to access the device;
 - C. Obtain consent from the operator to access the device through coercion or any other improper means. Any consent by the operator to access the device shall be voluntary and unequivocal before the officer may access the device without a warrant.
- (g) As used in this section:
- (1) Electronic wireless communications device includes any of the following:
- A. A wireless telephone;
 - B. A text-messaging device;
 - C. A personal digital assistant;
 - D. A computer, including a laptop computer and a computer tablet;
 - E. Any device capable of displaying a video, movie, broadcast television image, or visual image;
 - F. Any other substantially similar wireless device that is designed or used to communicate text, initiate or receive communication, or exchange information and data.
- An "electronic wireless communications device" does not include a two-way radio transmitter or receiver used by a person who is licensed by the federal communications commission to participate in the amateur radio service.
- (2) *Voice-operated, hands-free feature or function* means a feature or function that allows a person to use an electronic wireless communications device without the use of either hand, except to activate, deactivate, or initiate the feature or function with a single touch or single swipe.
- (3) *Utility* means entity specified in R.C. § 4905.03 (A), (C), (D), (E), or (G).
- (4) *Utility service vehicle* means a vehicle owned or operated by a utility. (R.C. § 4511.204)

(R.C. § 4511.204; Ord. No. 5726, § 1(Exh. A), 7-16-24)

State Law reference— No preemption for local regulations imposing greater penalties, see R.C. § 4511.204(E)

Sec. 333.01. Driving or physical control while under the influence; evidence.

- (a) (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 percent or more but less than 0.17 percent by weight per unit volume of alcohol in the person's whole blood.
 - C. The person has a concentration of 0.096 percent or more but less than 0.204 percent by weight per unit volume of alcohol in the person's blood serum or plasma.
 - D. The person has a concentration of 0.08 percent or more but less than 0.17 grams by weight of alcohol per 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 100 milliliters of the person's urine.
 - F. The person has a concentration of 0.17 percent or more by weight per unit volume of alcohol in the person's whole blood.
 - G. The person has a concentration of 0.204 percent or more by weight per unit volume of alcohol in the person's blood serum or plasma.
 - H. The person has a concentration of 0.17 grams or more by weight of alcohol per 210 liters of the person's breath.
 - I. The person has a concentration of 0.238 grams or more by weight of alcohol per 100 milliliters of the person's urine.
 - J. Except as provided in subsection (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 500 nanograms of amphetamine per milliliter of the person's urine or has a concentration of amphetamine in the person's whole blood or blood serum or plasma of at least 100 nanograms of amphetamine per milliliter of the person's whole blood or blood serum or plasma.
 - 2. The person has a concentration of cocaine in the person's urine of at least 150 nanograms of cocaine per milliliter of the person's urine or has a concentration of cocaine in the person's whole blood or blood serum or plasma of at least 50 nanograms of cocaine per milliliter of the person's whole blood or blood serum or plasma.
 - 3. The person has a concentration of cocaine metabolite in the person's urine of at least 150 nanograms of cocaine metabolite per milliliter of the person's urine or has a

concentration of cocaine metabolite in the person's whole blood or blood serum or plasma of at least 50 nanograms of cocaine metabolite per milliliter of the person's whole blood or blood serum or plasma.

4. The person has a concentration of heroin in the person's urine of at least 2,000 nanograms of heroin per milliliter of the person's urine or has a concentration of heroin in the person's whole blood or blood serum or plasma of at least 50 nanograms of heroin per milliliter of the person's whole blood or blood serum or plasma.
5. The person has a concentration of heroin metabolite (6-monoacetyl morphine) in the person's urine of at least ten nanograms of heroin metabolite (6-monoacetyl morphine) per milliliter of the person's urine or has a concentration of heroin metabolite (6-monoacetyl morphine) in the person's whole blood or blood serum or plasma of at least ten nanograms of heroin metabolite (6-monoacetyl morphine) per milliliter of the person's whole blood or blood serum or plasma.
6. The person has a concentration of L.S.D. in the person's urine of at least 25 nanograms of L.S.D. per milliliter of the person's urine or a concentration of L.S.D. in the person's whole blood or blood serum or plasma of at least ten nanograms of L.S.D. per milliliter of the person's whole blood or blood serum or plasma.
7. The person has a concentration of marihuana in the person's urine of at least ten nanograms of marihuana per milliliter of the person's urine or has a concentration of marihuana in the person's whole blood or blood serum or plasma of at least two nanograms of marihuana per milliliter of the person's whole blood or blood serum or plasma.
8. Either of the following applies:
 - a. The person is under the influence of alcohol, a drug of abuse, or a combination of them, and the person has a concentration of marihuana metabolite in the person's urine of at least 15 nanograms of marihuana metabolite per milliliter of the person's urine or has a concentration of marihuana metabolite in the person's whole blood or blood serum or plasma of at least five nanograms of marihuana metabolite per milliliter of the person's whole blood or blood serum or plasma.
 - b. The person has a concentration of marihuana metabolite in the person's urine of at least 35 nanograms of marihuana metabolite per milliliter of the person's urine or has a concentration of marihuana metabolite in the person's whole blood or blood serum or plasma of at least 50 nanograms of marihuana metabolite per milliliter of the person's whole blood or blood serum or plasma.
9. The person has a concentration of methamphetamine in the person's urine of at least 500 nanograms of methamphetamine per milliliter of the person's urine or has a concentration of methamphetamine in the person's whole blood or blood serum or plasma of at least 100 nanograms of methamphetamine per milliliter of the person's whole blood or blood serum or plasma.
10. The person has a concentration of phencyclidine in the person's urine of at least 25 nanograms of phencyclidine per milliliter of the person's urine or has a concentration of phencyclidine in the person's whole blood or blood serum or plasma of at least ten nanograms of phencyclidine per milliliter of the person's whole blood or blood serum or plasma.

11. The State Board of Pharmacy has adopted a rule pursuant to R.C. § 4729.041 that specifies the amount of salvia divinorum and the amount of salvinorin A that constitute concentrations of salvia divinorum and salvinorin A in a person's urine, in a person's whole blood, or in a person's blood serum or plasma at or above which the person is impaired for purposes of operating any vehicle, 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 20 years of the conduct described in subsection (a)(2)A. of this section, previously has been convicted of or pleaded guilty to a violation of this subsection or a substantially equivalent state law or municipal ordinance, a violation of subsections (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 subsection (a)(2)A. of this section, being asked by a law enforcement officer to submit to a chemical test or tests under R.C. § 4511.191 or any substantially equivalent municipal ordinance, and being advised by the officer in accordance with R.C. § 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) No person under 21 years of age shall operate any vehicle within this municipality, if, at the time of the operation, any of the following apply:
- (1) The person has a concentration of at least 0.02 percent but less than 0.08 percent by weight per unit volume of alcohol in the person's whole blood.
 - (2) The person has a concentration of at least 0.03 percent but less than 0.096 percent by weight per unit volume of alcohol in the person's blood serum or plasma.
 - (3) The person has a concentration of at least 0.02 grams but less than 0.08 grams by weight of alcohol per 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 100 milliliters of the person's urine.
- (c) In any proceeding arising out of one incident, a person may be charged with a violation of subsections (a)(1)A. or (a)(2) and a violation of subsections (b)(1), (2), or (3) of this section, but the person may not be convicted of more than one violation of these subsections.
- (d) A. In any criminal prosecution or juvenile court proceeding for a violation of subsection (a)(1)A. of this section or for an equivalent offense that is vehicle-related, the result of any test of any blood, oral fluid, or urine withdrawn and analyzed at any health care provider, as defined in R.C. § 2317.02, may be admitted with expert testimony to be considered with any other relevant and competent evidence in determining the guilt or innocence of the defendant.
 - B. In any criminal prosecution for a violation of subsections (a) or (b) of this section or for an equivalent offense that is vehicle-related, the court may admit evidence on the presence and 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 oral fluid, or plasma, breath, urine, or other bodily substance at the time of the alleged violation as shown by chemical analysis of the substance withdrawn within three hours of the time of the alleged violation. The three-hour time limit specified in this subsection regarding the admission of evidence does not extend or affect the two-hour time limit specified in R.C. § 4511.192(A) as the maximum period of time during which a person may consent to a chemical test or tests as described in that section. The court may admit evidence on the presence and concentration of alcohol, drugs of abuse, or a combination of them as described in this subsection when a person submits to a blood test at the request of a law enforcement officer under R.C. § 4511.191 or a substantially similar 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, oral fluid, or urine specimens. A person authorized to withdraw blood under this subsection may refuse to withdraw blood under this subsection, if in that person's opinion, the physical welfare of the person would be endangered by the withdrawing of blood. The bodily substance withdrawn under this subsection (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 R.C. § 3701.143.

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

- (2) In a criminal prosecution for a violation of subsection (a) of this section or for an equivalent offense that is vehicle-related, if there was at the time the bodily substance was withdrawn a concentration of less than the applicable concentration of alcohol specified in subsections (a)(1)B., C., D. and E. of this section or less than the applicable concentration of a listed controlled substance or a listed metabolite of a controlled substance specified for a violation of subsection (a)(1)J. of this section, that fact may be considered with other competent evidence in determining the guilt or innocence of the defendant. This subsection does not limit or affect a criminal prosecution for a violation of subsection (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 subsection (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 R.C. § 4511.191(A)(5), the arresting officer shall advise the person at the time of the arrest that the person may have an independent chemical test taken at the person's own expense. If the person was under arrest other than described in R.C. § 4511.191(A)(5), the form to be read to the person to be tested, as required under R.C. §§ 4511.191(A) or 4511.192, shall state that the person may have an independent test performed at the person's expense. The failure or inability to obtain an additional chemical test by a person

shall not preclude the admission of evidence relating to the chemical test or tests taken at the request of a law enforcement officer.

- (4) A. As used in subsections (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 subsections(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 whole blood, blood serum or plasma, breath, oral fluid, 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 subsections (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. Subsection (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 subsection, from considering evidence or testimony that is not otherwise disallowed by subsection (d)(4)B. of this section.
- (e) (1) Subject to subsection (e)(3) of this section, in any criminal prosecution or juvenile court proceeding for a violation of subsections (a)(1)B., C., D., E., F., G., H., I., or J. or (b)(1), (2), (3), or (4) of this section or for an equivalent offense that is substantially equivalent to any of those subsections, a laboratory report from any laboratory personnel issued a permit by the Department of Health authorizing an analysis as described in this subsection that contains an analysis of the whole blood, blood serum or plasma, breath, urine, or other bodily substance tested and that contains all of the information specified in this subsection shall be admitted as prima facie evidence of the information and statements that the report contains. The laboratory report shall contain all of the following:
- A. The signature, under oath, of any person who performed the analysis;
 - B. Any findings as to the identity and quantity of alcohol, a drug of abuse, a controlled substance, a metabolite of a controlled substance, or a combination of them that was found;

- C. A copy of a notarized statement by the laboratory director or a designee of the director that contains the name of each certified analyst or test performer involved with the report, the analyst's or test performer's employment relationship with the laboratory that issued the report, and a notation that performing an analysis of the type involved is part of the analyst's or test performer's regular duties;
 - D. An outline of the analyst's or test performer's education, training, and experience in performing the type of analysis involved and a certification that the laboratory satisfies appropriate quality control standards in general and, in this particular analysis, under rules of the Department of Health.
- (2) Notwithstanding any other provision of law regarding the admission of evidence, a report of the type described in subsection (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 subsection (e)(1) of this section shall not be prima facie evidence of the contents, identity, or amount of any substance if, within seven days after the defendant to whom the report pertains or the defendant's attorney receives a copy of the report, the defendant or the defendant's attorney demands the testimony of the person who signed the report. The judge in the case may extend the seven-day time limit in the interest of justice.
- (f) (1) Except as otherwise provided in this subsection, any physician, registered nurse, emergency medical technician-intermediate, emergency medical technician-paramedic, or qualified technician, chemist, or phlebotomist who withdraws blood from a person pursuant to this section or R.C. § 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 R.C. § 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 subsection also extends to an emergency medical service organization that employs an emergency medical technician-intermediate or emergency medical technician-paramedic who withdraws blood under this section. The immunity provided in this subsection is not available to a person who withdraws blood if the person engages in willful or wanton misconduct.
- (2) As used in subsection (f)(1), *emergency medical technician-intermediate* and *emergency medical technician-paramedic* have the same meanings as in R.C. § 4765.01.
- (g) (1) Whoever violates any provisions of subsections (a)(1)A. to I. or (a)(2) of this section is guilty of operating a vehicle under the influence of alcohol, a drug of abuse, or a combination of them. Whoever violates subsection (a)(1)J. of this section is guilty of operating a vehicle while under the influence of a listed controlled substance or a listed metabolite of a controlled substance. The court shall sentence the offender for either offense under R.C. chapter 2929, except as otherwise authorized or required by subsections (g)(1)A. to E. of this section:
- A. Except as otherwise provided in subsections (g)(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 R.C. § 4511.19(G)(1)(a)(i) to (iv).

- B. Except as otherwise provided in subsection (g)(1)E. of this section, an offender who, within ten years of the offense, previously has been convicted of or pleaded guilty to one violation of subsection (a) 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 R.C. § 4511.19(G)(1)(b)(i) to (v).
 - C. Except as otherwise provided in subsection (g)(1)E. of this section, an offender who, within ten years of the offense, previously has been convicted of or pleaded guilty to two violations of subsection (a) 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 R.C. § (G)(1)(c)(i) to (vi).
 - D. Except as otherwise provided in subsection (g)(1)E. of this section, an offender who, within ten years of the offense, previously has been convicted of or pleaded guilty to three or more violations of subsection (a) of this section or other equivalent offenses, an offender who, within 20 years of the offense, previously has been convicted of or pleaded guilty to five or more violations of that nature, or an offender who previously has been convicted of or pleaded guilty to a specification of the type described in R.C. § 2941.1413 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 R.C. § 4511.19(A) that was a felony, regardless of when the violation and the conviction or guilty plea occurred, is guilty of a felony to be prosecuted under appropriate state law.
- (2) An offender who is convicted of or pleads guilty to a violation of subsection (a) of this section and who subsequently seeks reinstatement of the driver's or occupational driver's license or permit or nonresident operating privilege suspended under this section or R.C. § 4511.19 as a result of the conviction or guilty plea shall pay a reinstatement fee as provided in R.C. § 4511.191(F)(2).
 - (3) A. If an offender is sentenced to a jail term under R.C. § 4511.19(G)(1)(b)(i) or (ii) or (G)(1)(c)(i) or (ii) and if, within 60 days of sentencing of the offender, the court issues a written finding on the record that, due to the unavailability of space at the jail where the offender is required to serve the term, the offender will not be able to begin serving that term within the 60-day period following the date of sentencing, the court may impose an alternative sentence as specified in R.C. § 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 R.C. § 4511.19(G)(1), the court may sentence the offender as provided in R.C. § 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 subsection (g) of this section or R.C. § 4511.19(G) and if R.C. § 4510.13 permits the court to grant limited driving privileges, the court may grant the limited driving privileges in accordance with that section. If subsection (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 R.C. § 4503.231, except as provided in subsection (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 R.C. § 4503.231(B).

- (5) Fines imposed under this section for a violation of subsection (a) of this section shall be distributed as provided in R.C. § 4511.19(G)(5).
- (6) If title to a motor vehicle that is subject to an order of criminal forfeiture under subsections (g)(1)C., D., or E. of this section is assigned or transferred and R.C. § 4503.234(B)(2) or (3) applies, in addition to or independent of any other penalty established by law, the court may fine the offender the value of the vehicle as determined by publications of the National Auto Dealers Association. The proceeds of any fine so imposed shall be distributed in accordance with subsection (C)(2) of that section.
- (7) A court may order an offender to reimburse a law enforcement agency for any costs incurred by the agency with respect to a chemical test or tests administered to the offender if all of the following apply:
- A. The offender is convicted of or pleads guilty to a violation of subsection (a) of this section.
 - B. The test or tests were of the offender's whole blood, blood serum, oral fluid, or plasma, or urine.
 - C. The test or tests indicated that the offender had one of the following at the time of the offense:
~~The test or tests indicated that the offender had a~~ (i) 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;
 (ii) A drug of abuse or metabolite of a drug abuse in the offender's oral fluid.
- (8) A court may warn any person who is convicted of or who pleads guilty to a violation of division (a) of this section or an equivalent offense that a subsequent violation of this section or an equivalent offense that results in the death of another or the unlawful termination of another's pregnancy may result in the person being guilty of aggravated vehicular homicide under R.C. § 2903.06. The court may warn the person of the applicable penalties for that violation under R.C. § 2903.06 and 2929.142.
- (9) As used in subsection (g) of this section, *electronic monitoring* has the same meaning as in R.C. § 2929.01.
- (h) Whoever violates subsection (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 subsection (h)(2) of this section, the offender is guilty of a misdemeanor of the fourth degree. In addition to any other sanction imposed for the offense, the court shall impose a class six suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in R.C. 4510.02(A)(6). The court may grant limited driving privileges relative to the suspension under R.C. §§ 4510.021 and 4510.13. The court may grant unlimited driving privileges with an ignition interlock device relative to the suspension and may reduce the period of suspension as authorized under R.C. § 4510.022. If the court grants unlimited driving privileges under R.C. § 4510.022, the court shall suspend any jail term imposed under subsection (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 subsections (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 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 R.C. 4510.02(A)(4). The court may grant limited driving privileges relative to the suspension under R.C. §§ 4510.021 and 4510.13.

- (i) (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 R.C. chapter 5119 by the Director of Mental Health and 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.
- (j) If a person whose driver's or commercial driver's license or permit or nonresident operating privilege is suspended under this section or R.C. § 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.
- (k) Subsection (a)(1)J. of this section does not apply to a person who operates a vehicle while the person has a concentration of a listed controlled substance or a listed metabolite of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds the amount specified in that subsection, if both of the following apply:
 - (1) The person obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs.
 - (2) The person injected, ingested, or inhaled the controlled substance in accordance with the health professional's directions.
- (l) The prohibited concentrations of a controlled substance or a metabolite of a controlled substance listed in subsection (a)(1)J. of this section also apply in a prosecution of a violation of R.C. § 2923.16(D) in the same manner as if the offender is being prosecuted for a prohibited concentration of alcohol.
- (m) All terms defined in R.C. § 4510.01 apply to this section. If the meaning of a term defined in R.C. § 4510.01 conflicts with the meaning of the same term as defined in R.C. § 4501.01 or 4511.01, the term as defined in R.C. § 4510.01 applies to this section.
- (n) As used in this section and section 333.022:

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 R.C. § 2929.01.

Drug of abuse has the same meaning as in R.C. § 4506.01.

Equivalent offense means any of the following:

- (1) A violation of R.C. § 4511.19(A);
- (2) A violation of a municipal OVI ordinance;
- (3) A violation of R.C. § 2903.04 in a case in which the offender was subject to the sanctions described in subsection (D) of that section;

- (4) A violation of R.C. § 2903.06(A)(1) or R.C. § 2903.08 or a municipal ordinance that is substantially equivalent to either of those subsections;
- (5) A violation of R.C. § 2903.06(A)(2), (A)(3), or (A)(4), R.C. § 2903.08(A)(2), or former R.C. § 2903.07, or a municipal ordinance that is substantially equivalent to any of those subsections 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;
- (6) A violation of R.C. § 1547.11(A);
- (7) 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;
- (8) A violation of an existing or former municipal ordinance, law of another state, or law of the United States that is substantially equivalent to R.C. § 4511.19(A) or R.C. § 1547.11(A);
- (9) A violation of a former law of this state that was substantially equivalent to R.C. § 4511.19(A) or R.C. § 1547.11(A).

Equivalent offense that is vehicle-related means an equivalent offense that is any of the following:

- (1) A violation described in subsections A., B., C., D., or E. of the definition for "equivalent offense" provided in this subsection (n);
- (2) A violation of an existing or former municipal ordinance, law of another state, or law of the United States that is substantially equivalent to R.C. § 4511.19(A);
- (3) A violation of a former law of this state that was substantially equivalent to R.C. § 4511.19(A).

Mandatory jail term means the mandatory term in jail of three, six, ten, 20, 30, or 60 days that must be imposed under R.C. § 4511.19(G)(1)(a), (G)(1)(b), or (G)(1)(c) upon an offender convicted of a violation of subsection (A) of that section and in relation to which all of the following apply:

- (1) Except as specifically authorized under R.C. § 4511.19, the term must be served in a jail.
- (2) Except as specifically authorized under R.C. § 4511.19, the term cannot be suspended, reduced, or otherwise modified pursuant to R.C. §§ 2929.21 through 2929.28 or any other provision of the Ohio Revised Code.

Municipal OVI ordinance and *municipal OVI offense* mean any municipal ordinance prohibiting a person from operating a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them or prohibiting a person from operating a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath, or urine.

(R.C. § 4511.19(A)—(M); R.C. § 4511.181; '64 Code, § 333.01; Ord. 3103, passed 9-4-90; Am. Ord. 4031, passed 6-17-03; Ord. No. 5726, § 1(Exh. A), 7-16-24)

State Law reference— Trial judge to suspend or revoke driver's license, see R.C. § 4507.16

State Law reference— Mandatory suspension periods; immobilizing or disabling device; restricted license, see R.C. § 4510.13

Cross reference— Penalty, see § 333.99

Sec. 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 for 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 him or her 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 this section by the Director of Transportation or local authorities, for the operator of a motor vehicle to operate the same at a speed not exceeding the following:
 - (1) A. 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 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) of this section, 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 (10) of this section. 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 all of the following:
 - 1. Any school chartered under R.C. § 3301.16;
 - 2. Any nonchartered school that during the preceding year filed with the Department of Education in compliance with O.A.C. § 3301-35-08, a copy of the school's report for the parents of the school's pupils certifying that the school meets state 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;
 - 3. Any 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;
 - 4. Any preschool education program operated by an educational service center that is located on a street or highway with a speed limit of 45 miles per hour or more, when the educational service center in writing requests that either the director of transportation or the County Engineer create a school zone at the location of that program, as applicable based on who has jurisdiction of the street or highway. Upon receipt of such

a written request, the director or the County Engineer shall create a school zone at that location by erecting the 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, and also includes that portion of a state highway. Upon request from local authorities for streets and highways under their jurisdiction and that portion of a state highway under the jurisdiction of the 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. through 3. below shall not exceed 300 feet per approach per direction, and are bounded by whichever of the following distances or combination thereof the director approves as most appropriate:
1. The distance encompassed by projecting the school building lines normal to the fronting highway and extending a distance of 300 feet on each approach direction;
 2. The distance encompassed by projecting the school property lines intersecting the fronting highway and extending a distance of 300 feet on each approach direction;
 3. The distance encompassed by the special marking of the pavement for a principal school pupil crosswalk plus a distance of 300 feet on each approach direction of the 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 (b)(1)C. of this section.
- E. As used in this subsection, *crosswalk* has the meaning given that term in subsection (2) of its definition in chapter 301.
- 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 1,320 feet. Such a school zone shall include the distance encompassed by the crosswalk and extending 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 miles per hour in all other portions of the municipality, except on state routes outside business districts, through streets outside business districts, and alleys;
 - (3) Thirty-five miles per hour on all state routes or through streets within the municipality outside business districts, except as provided in subsections (b)(4) and (5) of this section;
 - (4) Forty-five miles per hour on that portion of State Route 82 east of Interstate 77 to the business district of the municipality;
 - (5) Fifteen miles per hour on all alleys within the municipality;
 - (6) Sixty miles per hour on Interstate 77 within the municipality.
- (c) It is prima facie unlawful for any person to exceed any of the speed limitations in subsection (b), and its subsections, of this section 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) of this section. 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 60 miles per hour, upon Interstate 77;
 - (2) At a speed exceeding the posted speed limit upon a highway, for which the Director has determined and declared a speed limit pursuant to R.C. § 4511.21(1)(2) or (L)(2).
- (e) Pursuant to R.C. § 4511.21(E), in every charge of violating 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) of this section also the speed which subsection (b), and its subsections, or a limit declared or established pursuant to, this section or R.C. § 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 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 R.C. § 4511.21(F), when a speed in excess of both a prima-facie limitation and a limitation in subsection (d) of this section is alleged, the defendant shall be charged in a single affidavit, alleging a single act, with a violation indicated of both subsection (b), or its subsections, of this section, or of a limit declared or established pursuant to this section or R.C. § 4511.21 by the Director or local authorities, and of the limitation in subsection (d) of this section. If the court finds a violation of subsection (b), or its subsections, or a limit declared or established pursuant to, this section or R.C. § 4511.21 has occurred, it shall enter a judgment of conviction under such subsection and dismiss the charge under subsection (d) of this section. If it finds no violation of subsection (b), or its subsections, or a limit declared or established pursuant to, this section or R.C. § 4511.21, it shall then consider whether the evidence supports a conviction under subsection (d) of this section.
- (g) Pursuant to R.C. § 4511.21(G), points shall be assessed for a violation of a limitation under subsection (d) of this section in accordance with R.C. § 4510.036.

- (h) Whenever, in accordance with R.C. § 4511.21(H) through (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) (1) A violation of any provision of subsections (a) through (h) of this section is one of the following:
- A. Except as otherwise provided in subsections (i)(1)B., C., (2), and (3) of this section, a minor misdemeanor;
 - B. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to two violations of any provision of subsections (a) through (h) of this section, R.C. § 4511.21, or any provision of any other municipal ordinance that is substantially similar to any provision of that section, a misdemeanor of the fourth degree;
 - C. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to three or more violations of any provision of subsections (a) through (h) of this section, R.C. § 4511.21, or any provision of any other municipal ordinance that is substantially similar to any provision of that section, or exceeded any posted speed limit by 30 miles per hour or greater, 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 subsection (a) through (h) of this section, R.C. § 4511.21, or any other municipal ordinance that is substantially similar to any provision of that section, and operated a motor vehicle faster than 35 miles an hour in a business district of the municipality, or exceeded any other posted speed limit by 20 miles per hour or greater, subject to (i)(1)(c) above, or faster than 35 miles an hour in a school zone during recess or while children are going to or leaving school during the school's opening or closing hours, a misdemeanor of the fourth degree.
- (3) Notwithstanding subsection (i)(1) of this section, if the offender operated a motor vehicle in a construction zone where a sign was then posted in accordance with R.C. § 4511.98, the court, in addition to all other penalties provided by law, shall impose upon the offender a fine of two times the usual amount imposed for the violation. No court shall impose a fine of two times the usual amount imposed for the violation upon an offender if the offender alleges, in an affidavit filed with the court prior to the offender's sentencing, that the offender is indigent and is unable to pay the fine imposed pursuant to this subsection and if the court determines that the offender is an indigent person and unable to pay the fine.
- (4) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under subsection 303.99(b).

(R.C. § 4511.21(A)—(G); R.C. § 4511.21(O), (P); '64 Code, § 333.03; Am. Ord. 3520, passed 8-6-96; Ord. 4982, passed 3-1-16; Ord. No. 5726, § 1(Exh. A), 7-16-24)

State Law reference— Charging of violation, affidavit and warrant, points, see R.C. § 4511.21(E)—(G)

State Law reference— Arrest pending warrant when radar, electrical or mechanical timing device used to determine violation of this section, see R.C. § 4511.091

State Law reference— Alteration of speed limits with approval of Director, see R.C. § 4511.21(H)—(N)

Cross reference— Penalty, see § 333.99

Sec. 333.07. Street racing prohibited.

(a) As used in this section and section R.C. § 4510.036:

- (1) ~~As used in this section, *street*~~ *Street racing* means the operation of two or more vehicles from a point side by side at accelerating speeds in a competitive attempt to outdistance each other, or the operation of one or more vehicles over a common selected course, from the same point to the same point, wherein timing is made of the participating vehicles involving competitive accelerations or speeds. ~~Persons rendering assistance in any manner to such competitive use of vehicles shall be equally charged as the participants.~~ The operation of two or more vehicles side by side either at speeds in excess of prima-facie lawful speeds established by subsections 333.03(b)(1) through (b)(9), or rapidly accelerating from a common starting point to a speed in excess of such prima-facie lawful speeds shall be prima-facie evidence of street racing.
- (2) *Burnout* means a maneuver performed while operating a vehicle whereby the vehicle is kept in a stationary position, but the wheels of the vehicle are spun, which may cause the tires of the vehicle to become heated and emit smoke from the friction.
- (3) *Doughnut* means a maneuver performed while operating a vehicle whereby the front or rear of the vehicle is rotated around the opposite set of wheels in a continuous motion, which may cause a circular skid-mark pattern of rubber on the driving surface, or the tires of the vehicle to become heated and emit smoke from the friction, or both.
- (4) *Drifting* means a maneuver performed while operating a vehicle whereby the vehicle is driven in a manner that causes a controlled, sideways skid during a turn, with the front wheels pointing in a direction that is the opposite of the direction of the turn.
- (5) *Wheelie* means a maneuver performed while operating a vehicle whereby the front wheel or wheels of the vehicle are raised off of the ground or whereby two wheels that are on the same side of the vehicle are raised off of the ground.
- (6) *Stunt driving* means performing or engaging in burnouts, doughnuts, drifting, or wheelies, or allowing a passenger to ride either partially or fully outside of the vehicle while operating that vehicle.
- (7) *Street takeover* means blocking or impeding the regular flow of vehicle or pedestrian traffic on a public road, street, or highway or on private property that is open to the general public for the purpose of street racing or stunt driving.
- (b) No person shall knowingly participate street racing, stunt driving, or street takeover upon any public road, street, or highway in this state, or on private property that is open to the general public.
- (c) Whoever violates this section is guilty of street racing, stunt driving, or street takeover a misdemeanor of the first degree. In addition to any other sanctions, the court shall suspend the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privileges for not less than 30 days or more than three years. No judge shall suspend the first 30 days of any suspension of an offender's license, permit, or privilege imposed under this subsection.

- (d) Persons rendering assistance in any manner to street racing, stunt driving, or street takeover shall be equally charged as the participants.
- (e) This section does not apply to the competitive operation of vehicles on public or private property when the political subdivision with jurisdiction of the location or owner of the property knowingly permits such operation thereon.

(R.C. § 4511.251; '64 Code, § 333.07)

Cross reference— Penalty, see § 333.99 333.03(b)(1) through (b)(9)

Sec. 333.10. Operation restricted for mini-trucks and low-speed, under-speed, or utility vehicles.

- (a) As used in this section and R.C. § 4511.215 and 4511.216, *low-speed vehicle, mini-truck, under-speed vehicle, and utility vehicle* have the same meanings as in R.C. § 4501.01.
- (b) (1) No person shall operate a low-speed vehicle upon any street or highway having an established speed limit greater than 35 miles per hour.
- (2) No person shall operate an under-speed or utility vehicle or a mini-truck upon any street or highway except as follows:
- A. Upon a street or highway having an established speed limit not greater than 35 miles per hour and only upon such streets or highways where the municipality has granted permission for such operation in accordance with subsection (e) of this section;
 - B. A state park or political subdivision employee or volunteer operating a utility vehicle exclusively within the boundaries of state parks or political subdivision parks for the operation or maintenance of state or political subdivision park facilities.
- (3) No person shall operate a motor-driven cycle or motor scooter upon any street or highway having an established speed limit greater than 45 miles per hour.
- (~~b~~c) This section does not prohibit either of the following:
- (1) A person operating a low-speed, under-speed, or utility vehicle or a mini-truck from proceeding across an intersection of a street or highway having a speed limit greater than 35 miles per hour;
 - (2) A person operating a motor-driven cycle or motor scooter from proceeding across an intersection of a street or highway having a speed limit greater than 45 miles per hour.
- (~~e~~d) Nothing in this section shall prevent the municipality from adopting more stringent local ordinances, resolutions, or regulations governing the operation of a low-speed vehicle or a mini-truck, or a motor-driven cycle or motor scooter.
- (~~d~~e) Except as otherwise provided in this subsection, whoever violates subsection (~~a~~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 one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

- (~~ef~~) By ordinance or resolution, the municipality may authorize the operation of under-speed or utility vehicles or mini-trucks on a public street or highway under its jurisdiction. The municipality shall do all of the following:
- (1) Limit the operation of those vehicles to streets and highways having an established speed limit not greater than 35 miles per hour;
 - (2) Require the vehicle owner who wishes to operate an under-speed or utility vehicle or a mini-truck on the public streets or highways to submit the vehicle to an inspection conducted by a local law enforcement agency that complies with inspection requirements established by the Department of Public Safety under R.C. § 4513.02;
 - (3) Permit the operation on public streets or highways of only those vehicles that successfully pass the required vehicle inspection, are registered in accordance with R.C. chapter 4503, and are titled in accordance with R.C. chapter 4505;
 - (4) Notify the Director of Public Safety, in a manner the director determines, of the authorization for the operation of under-speed or utility vehicles or mini-trucks.
- (~~fg~~) The municipality may establish additional requirements for the operation of under-speed or utility vehicles or mini-trucks on its streets and highways.
- (~~gh~~) Notwithstanding subsections (~~ab~~) through (~~fg~~) of this section, a person may operate a utility vehicle on any public roads or right-of-way, other than a freeway, when traveling from one farm field to another for agricultural purposes if the vehicle is displaying a triangular slow-moving vehicle emblem as described in R.C. § 4513.112.
- (~~hi~~) (1) Except as provided in this subsection (~~hi~~) and subsections (~~ef~~) and (~~fg~~) of this section, no person shall operate a mini-truck within this municipality.
- (2) A person may operate a mini-truck on a farm for agricultural purposes only when the owner of the farm qualifies for the current agricultural use valuation tax credit. A mini-truck may be operated by or on behalf of such a farm owner on public roads and rights-of-way only when traveling from one farm field to another.
 - (3) A person may operate a mini-truck on property owned or leased by a dealer who sells mini-trucks at retail.
 - (4) Whoever violates this subsection (~~hi~~) shall be penalized as provided in subsection (~~de~~) of this section.

(R.C. § 4511.214; R.C. § 4511.215; R.C. § 4511.216; R.C. § 4519.401)

Sec. 335.04. Certain acts prohibited.

- (a) No person shall do any of the following:
- (1) Display or cause or permit to be displayed, or possess any identification card, driver's or commercial driver's license, temporary instruction permit, or commercial driver's license temporary instruction permit knowing the same to be fictitious, or to have been canceled, suspended, or altered;

- (2) Lend to a person not entitled thereto, or knowingly permit a person not entitled thereto to use any identification card, driver's or commercial driver's license, temporary instruction permit or commercial driver's license temporary instruction permit issued to the person so lending or permitting the use thereof;
 - (3) Display, or represent as one's own, any identification card, driver's or commercial driver's license, temporary instruction permit, or commercial driver's license temporary instruction permit not issued to the person so displaying the same;
 - (4) Fail to surrender to the Registrar of Motor Vehicles, upon the Registrar's demand, any identification card, driver's or commercial driver's license, temporary instruction permit, or commercial driver's license temporary instruction permit that has been suspended or canceled;
 - (5) In any application for an identification card, driver's or commercial driver's license, temporary instruction permit, or commercial driver's license temporary instruction permit or any renewal, reprint, or duplicate thereof, knowingly conceal a material fact or present any ~~physician's~~ statement required under R.C. § 4507.08 or 4507.081 when knowing the same to be false or fictitious.
- (b) Whoever violates any subsection of this section is guilty of a misdemeanor of the first degree.

(R.C. § 4507.30; '64 Code, § 335.04)

Cross reference— Penalty, see § 335.99

Sec. 335.071. Driving under suspension or in violation of license restriction.

(a) Driving under suspension or in violation of license restriction.

- (1) Except as provided in subsection (a)(2) of this section, subsection (b) of this section, section 335.074 and in R.C. §§ 4510.111 and 4510.16, no person whose driver's or commercial driver's license or permit or nonresident operating privilege has been suspended under any provision of the Revised Code, other than R.C. chapter 4509, or under any applicable law in any other jurisdiction in which the person's license or permit was issued shall operate any motor vehicle upon the public roads and highways or upon any public or private property used by the public for purposes of vehicular travel or parking within this municipality during the period of suspension unless the person is granted limited driving privileges and is operating the vehicle in accordance with the terms of the limited driving privileges.
- (2) No person shall operate any motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking in this municipality in violation of any restriction of the person's driver's or commercial driver's license or permit imposed under R.C. §§ 4506.10(D) or 4507.14.
- (3) Upon the request or motion of the prosecuting authority, a noncertified copy of the law enforcement automated data system report or a noncertified copy of a record of the Registrar of Motor Vehicles that shows the name, date of birth, and Social Security number of a person charged with a violation of subsections (a)(1) or (a)(2) of this section may be admitted into evidence as prima facie evidence that the license of the person was under suspension at the time of the alleged violation of subsection (a)(1) of this section or the person operated a motor vehicle in violation

of a restriction at the time of the alleged violation of subsection (a)(2) of this section. The person charged with a violation of subsections (a)(1) or (a)(2) of this section may offer evidence to rebut this prima facie evidence.

- (4) A. Whoever violates subsections (a)(1) or (a)(2) of this section is guilty of a misdemeanor of the first degree. The court may impose upon the offender a Class 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 R.C. § 4510.02(A)(7).
- B. 1. Except as provided in subsections (a)(4)B.2. or (a)(4)B.3. of this section, the court, in addition to any other penalty that it imposes on the offender and if the vehicle is registered in the offender's name and if, within three years of the offense, the offender previously has been convicted of or pleaded guilty to one violation of this section, R.C. § 4510.11, 4510.111 or 4510.16, or a substantially equivalent municipal ordinance, the court, in addition to or independent of any other sentence that it imposes upon the offender, may order the immobilization of the vehicle involved in the offense for 30 days and the impoundment of that vehicle's license plates for 30 days in accordance with R.C. § 4503.233.
2. If the vehicle is registered in the offender's name and if, within three years of the offense, the offender previously has been convicted of or pleaded guilty to two violations of this section, or any combination of two violations of this section, R.C. § 4510.11, 4510.111 or 4510.16, or of a substantially similar municipal ordinance, the court, in addition to any other sentence that it imposes on the offender, may order the immobilization of the vehicle involved in the offense for 60 days and the impoundment of that vehicle's license plates for 60 days in accordance with R.C. § 4503.233.
3. If the vehicle is registered in the offender's name and if, within three years of the offense, the offender previously has been convicted of or pleaded guilty to three or more violations of this section, or any combination of three or more violations of this section or R.C. § 4510.11, 4510.111 or 4510.16, or of a substantially similar municipal ordinance, the court, in addition to any other sentence that it imposes on the offender, may order the criminal forfeiture of the vehicle involved in the offense to the state.
- (5) Any order for immobilization and impoundment under this section shall be issued and enforced under R.C. §§ 4503.233 and 4507.02, as applicable. The court shall not release a vehicle from immobilization ordered under this section unless the court is presented with current proof of financial responsibility with respect to that vehicle.
- (6) Any order of criminal forfeiture under this section shall be issued and enforced under R.C. § 4503.234. Upon receipt of the copy of the order from the court, neither the Registrar of Motor Vehicles nor a deputy registrar shall accept any application for the registration or transfer of registration of any motor vehicle owned or leased by the person named in the declaration of forfeiture. The period of registration denial shall be five years after the date of the order, unless, during that period, the court having jurisdiction of the offense that led to the order terminates the forfeiture and notifies the registrar of the termination. The registrar then shall take necessary measures to permit the person to register a vehicle owned or leased by the person or to transfer registration of the vehicle.
- (7) The offender shall provide the court with proof of financial responsibility as defined in R.C. § 4509.01. If the offender fails to provide that proof of financial responsibility, then, in addition to

any other penalties provided by law, the court may order restitution pursuant to subsection 501.99(g) or R.C. § 2929.28 in an amount not exceeding \$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 this section.

(b) *Driving under suspension in violation of other provisions.*

- (1) No person shall operate any motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking in this municipality whose driver's or commercial driver's license has been suspended pursuant to R.C. §§ 2151.354, ~~2151.87~~, 2935.27, 3123.58, 4301.99, 4510.032, 4510.22, or 4510.33, or a substantially equivalent municipal ordinance.
- (2) Upon the request or motion of the prosecuting authority, a noncertified copy of the law enforcement automated data system report or a noncertified copy of a record of the Registrar of Motor Vehicles that shows the name, date of birth, and Social Security number of a person charged with a violation of subsection (b)(1) of this section may be admitted into evidence as prima facie evidence that the license of the person was under suspension at the time of the alleged violation of subsection (b)(1) of this section. The person charged with a violation of subsection (b)(1) of this section may offer evidence to rebut this prima facie evidence.
- (3) Whoever violates subsection (b)(1) of this section is guilty of driving under suspension and shall be punished as provided in subsection (b)(3)A. or subsection (b)(3)B. of this section.
 - A. Except as otherwise provided in subsection (b)(3)B. of this section, the offense is an unclassified misdemeanor. The offender shall be sentenced pursuant to section 501.99 or R.C. §§ 2929.21 to 2929.28, except that the offender shall not be sentenced to a jail term; the offender shall not be sentenced to a community residential sanction pursuant to section 501.99(e) or R.C. § 2929.26; notwithstanding subsection 501.99(g)(1)B.1. and R.C. § 2929.28(A)(2)(a), the offender may be fined up to \$1,000.00; and, notwithstanding subsection 501.99(f)(1)C. and R.C. § 2929.27(A)(3), the offender may be ordered pursuant to subsection 501.99(f)(3) or R.C. § 2929.27(C) to serve a term of community service of up to 500 hours. The failure of an offender to complete a term of community service imposed by the court may be punished as indirect criminal contempt under R.C. § 2705.02(A) that may be filed in the underlying case.
 - B. If, within three years of the offense, the offender previously was convicted of or pleaded guilty to two or more violations of subsection (b)(1) of this section, or any combination of two or more violations of subsection (b)(1) of this section, R.C. § 4510.11, 4510.111 or 4510.16, or a substantially equivalent municipal ordinance, the offense is a misdemeanor of the fourth degree, and the offender shall provide the court with proof of financial responsibility as defined in R.C. § 4509.01. If the offender fails to provide that proof of financial responsibility, then in addition to any other penalties provided by law, the court may order restitution pursuant to R.C. § 2929.28 in an amount not exceeding \$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 this section.

(c) *Repeat traffic offender; point system suspension.* Any person whose driver's or commercial driver's license or permit or nonresident operating privileges are suspended as a repeat traffic offender under

R.C. § 4510.037 and who, during the suspension, operates any motor vehicle upon any public roads and highways is guilty of driving under a 12-point suspension, a misdemeanor of the first degree. The court shall sentence the offender to a minimum term of three days in jail. No court shall suspend the first three days of jail time imposed pursuant to this subsection.

- (d) It is an affirmative defense to any prosecution brought under subsection (a) of this section that the alleged offender drove under suspension, without a valid permit or driver's or commercial driver's license, or in violation of a restriction because of a substantial emergency, and because no other person was reasonably available to drive in response to the emergency.

(R.C. § 4510.04; R.C. § 4510.11; R.C. § 4510.037(J); R.C. § 4510.111)

Sec. 335.074. Driving under financial responsibility law suspension or cancellation; driving under a nonpayment of judgment suspension.

- (a) No person, whose driver's or commercial driver's license or temporary instruction permit or nonresident's operating privilege has been suspended or canceled pursuant to R.C. chapter 4509, shall operate any motor vehicle within this municipality, or knowingly permit any motor vehicle owned by the person to be operated by another person in the municipality, during the period of the suspension or cancellation, except as specifically authorized by R.C. chapter 4509. ~~No person shall operate a motor vehicle within this municipality, or knowingly permit any motor vehicle owned by the person to be operated by another person in the municipality, during the period in which the person is required by R.C. § 4509.45 to file and maintain proof of financial responsibility for a violation of R.C. § 4509.101, unless proof of financial responsibility is maintained with respect to that vehicle.~~
- (b) No person shall operate any motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking in this municipality if the person's driver's or commercial driver's license or temporary instruction permit or nonresident operating privilege has been suspended pursuant to R.C. § 4509.37 or 4509.40 for nonpayment of a judgment.
- (c) Upon the request or motion of the prosecuting authority, a noncertified copy of the law enforcement automated data system report or a noncertified copy of a record of the registrar of motor vehicles that shows the name, date of birth, and Social Security number of a person charged with a violation of subsections (a) or (b) of this section may be admitted into evidence as prima facie evidence that the license of the person was under either a financial responsibility law suspension at the time of the alleged violation of subsection (a) of this section or a nonpayment of judgment suspension at the time of the alleged violation of subsection (b) of this section. The person charged with a violation of subsections (a) or (b) of this section may offer evidence to rebut this prima facie evidence.
- (d) Whoever violates subsection (a) of this section is guilty of driving under financial responsibility law suspension or cancellation and shall be punished as provided in subsections (d)(1) to (i3) of this section. Whoever violates subsection (b) of this section is guilty of driving under a nonpayment of judgment suspension and shall be punished as provided in subsections (d) (1) to (i3) of this section.
- (1) Except as otherwise provided in this subsection (d)(2) of this section, the offense is an unclassified misdemeanor. When the offense is an unclassified misdemeanor, the offender shall be sentenced pursuant to section 501.99 or R.C. §§ 2929.21 to 2929.28, except that the offender shall not be sentenced to a jail term; the offender shall not be sentenced to a community residential sanction pursuant to subsection 501.99(e) or R.C. § 2929.26; notwithstanding subsection 501.99(g)(1)B.1.

and R.C. § 2929.28(A)(2)(a), the offender may be fined up to \$1,000.00; and, notwithstanding § 501.99(f)(1)C. and R.C. § 2929.27(A)(3), the offender may be ordered pursuant to § 501.99(f)(3) or R.C. § 2929.27(C) to serve a term of community service of up to 500 hours. The failure of an offender to complete a term of community service imposed by the court may be punished as indirect criminal contempt under R.C. § 2705.02(A) that may be filed in the underlying case.

- (2) If, within three years of the offense, the offender previously was convicted of or pleaded guilty to two or more violations of this section, or any combination of two violations of this section, R.C. §§ 4510.11, 4510.111 or 4510.16, or a substantially equivalent municipal ordinance, the offense is a misdemeanor of the first degree.
- (3) The offender shall provide the court with proof of financial responsibility as defined in R.C. § 4509.01. If the offender fails to provide that proof of financial responsibility, then in addition to any other penalties provided by law, the court may order restitution pursuant to R.C. § 2929.28 in an amount not exceeding \$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 this section.
- (e) It is an affirmative defense to any prosecution brought under this section that the alleged offender drove under suspension, without a valid permit or driver's or commercial driver's license, or in violation of a restriction because of a substantial emergency, and because no other person was reasonably available to drive in response to the emergency.

(R.C. § 4510.04; R.C. § 4510.16)

State Law reference— Immobilization of vehicle; impoundment of license plates; criminal forfeiture of vehicle, see R.C. § 4510.161

Sec. 335.09. Display of license plates; expired or unlawful plates.

- (a) (1) ~~No~~ Subject to R.C. §§ 4503.211, 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 Ohio Director of Public Safety, including any county identification sticker and any validation sticker when required by and issued under R.C. §§ 4503.19 and 4503.191. However, a commercial tractor shall display the license plate 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~~ Subject to R.C. §§ 4503.211, no person to whom a temporary motor vehicle license registration has been issued for the use of a motor vehicle under R.C. § 4503.182, and no operator of that motor vehicle, shall fail to display the temporary motor vehicle license registration in plain view from the rear of the vehicle either in the rear window or on an external rear surface of the motor vehicle.
- (4) No person shall cover a temporary motor vehicle license registration by any material that obstructs its visibility.

- (b) No person who is the owner of a motor vehicle which is parked or operated upon the public streets or highways shall fail to annually file the application for registration or to pay the tax there for, as required by R.C. chapter 4503.
- (c) (1) Within 30 days of becoming a resident of this state, any person who owns a motor vehicle operated or driven upon the public roads or highways shall register the vehicle in this state. If such a person fails to register a vehicle owned by the person, the person shall not operate any motor vehicle in this state under a license issued by another state.
- (2) For purposes of subsection (c)(1) of this section, *resident* means any person to whom any of the following applies:
 - A. The person maintains their principal residence in this state and does not reside in this state as a result of the person's active service in the United States armed forces.
 - B. The person is determined by the Registrar of Motor Vehicles to be a resident in accordance with standards adopted by the registrar under R.C. § 4507.01.
- (d) Upon the transfer of ownership of a motor vehicle, the registration of the motor vehicle expires, and the original owner immediately shall remove the license plates from the motor vehicle, except as otherwise provided in R.C. § 4503.12.
- (e) No person shall operate or drive upon the highways of this state 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.
- (f) 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 state, 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.
- (g) No person shall park or operate any vehicle upon any public street or highway upon which is displayed an expired license plate or an expired validation sticker.
- (h) 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 such 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.

(R.C. § 4503.11(A); R.C. § 4503.12(A); R.C. § 4503.21(A); R.C. § 4503.111(A), (C); '64 Code, § 335.09)

Cross reference— Penalty, see § 335.99

Sec. 335.15. Removal of vehicles after accidents.

- (a) If a motor vehicle accident occurs on any highway, public street, or other property open to the public for purposes of vehicular travel and if any motor vehicle, cargo, or personal property that has been damaged or spilled as a result of the motor vehicle accident is blocking the highway, street, or other property or is otherwise endangering public safety, a public safety official may do either of the following without the consent of the owner but with the approval of the law enforcement agency conducting any investigation of the accident:

- (1) Remove, or order the removal of, the motor vehicle if the motor vehicle is unoccupied, cargo, or personal property from the portion of the highway, public street, or property ordinarily used for vehicular travel on the highway, public street, or other property open to the public for purposes of vehicular travel.
 - (2) If the motor vehicle is a commercial motor vehicle, allow the owner or operator of the vehicle the opportunity to arrange for the removal of the motor vehicle within a period of time specified by the public safety official. If the public safety official determines that the motor vehicle cannot be removed within the specified period of time, the public safety official shall remove or order the removal of the motor vehicle.
- (b) (1) Except as provided in subsection (b)(2) of this section, the Department of Transportation, any employee of the Department of Transportation, or a public safety official who authorizes or participates in the removal of any unoccupied motor vehicle, cargo, or personal property as authorized by subsection (a) of this section, regardless of whether the removal is executed by a private towing service, is not liable for civil damages for any injury, death, or loss to person or property that results from the removal of that unoccupied motor vehicle, cargo, or personal property. Further, except as provided in subsection (b)(2) of this section, if a public safety official authorizes, employs, or arranges to have a private towing service remove any unoccupied motor vehicle, cargo, or personal property as authorized by subsection (a) of this section, that private towing service is not liable for civil damages for any injury, death, or loss to person or property that results from the removal of that unoccupied motor vehicle, cargo, or personal property.
- (2) Subsection (b)(1) of this section does not apply to any of the following:
- A. Any person or entity involved in the removal of an unoccupied motor vehicle, cargo, or personal property pursuant to subsection (a) of this section if that removal causes or contributes to the release of a hazardous material or to structural damage to the roadway;
 - B. A private towing service that was not authorized, employed, or arranged by a public safety official to remove an unoccupied motor vehicle, cargo, or personal property under this section;
 - C. Except as provided in subsection (b)(2)D. of this section, a private towing service that was authorized, employed, or arranged by a public safety official to perform the removal of the unoccupied motor vehicle, cargo, or personal property but the private towing service performed the removal in a negligent manner;
 - D. A private towing service that was authorized, employed, or arranged by a public safety official to perform the removal of the unoccupied motor vehicle, cargo, or personal property that was endangering public safety but the private towing service performed the removal in a reckless manner.

(c) As used in subsections (a) and (b) of this section:

Hazardous material has the same meaning as in R.C. § 2305.232.

Public safety official means any of the following:

- A. The Sheriff of the county, or the Chief of law enforcement agency in the municipal corporation, township, or township, port authority, conservancy district, university campus police department, park district police force, or Joint Police District, in which the accident occurred;

B. A State Highway Patrol Trooper;

C. The Chief of the Fire Department having jurisdiction where the accident occurred;

D. A duly authorized subordinate acting on behalf of an official specified in subsections A. to C. of this definition;

E. A national resources officer or wildlife officer.

- (d) If a towing service is removing a motor vehicle, and the removal was not authorized under R.C. § 4513.60, 4513.601, 4513.61, or 4513.66, or any substantially equivalent municipal ordinance, prior to removing the motor vehicle, the towing service shall provide a written estimate of the price for the removal to the operator of the motor vehicle, if requested.
- (e) The towing service shall ensure that any estimate provided under subsection (d) of this section includes the fees, services to be rendered, and destination of the vehicle.
- (f) If a towing service fails to provide a written estimate as required by this section, the towing service shall not charge fees for the towing and storage of the motor vehicle that exceed 25 percent of any applicable fees established by the Public Utilities Commission in rules adopted under R.C. § 4921.25(B)(4) or, if the vehicle was towed within a municipal corporation that has established vehicle removal and storage fees, 25 percent of the fees established by the municipal corporation.
- (g) Any storage facility that accepts towed vehicles shall conspicuously post a notice at the entrance to the storage facility that states the limitation on fees established under subsection (c) of this section.

(R.C. § 4513.66; R.C. § 4513.68; Ord. No. 5726, § 1(Exh. A), 7-16-24)

Sec. 337.24. Motor vehicle stop lights.

- (a) (1) Every motor vehicle, trailer, semitrailer, and pole trailer when operated upon a highway shall be equipped with two or more stop lights, except that passenger cars manufactured or assembled prior to January 1, 1967, motorcycles, and motor-driven cycles shall be equipped with at least one stop light. Stop lights shall be at least one stoplight mounted on the rear of the vehicle, actuated upon application of the service brake, and may be incorporated with other rear lights. Such stop lights when actuated shall emit a red light visible from a distance of 500 feet to the rear; provided that in the case of a train of vehicles only the stop lights on the rearmost vehicle need be visible from the distance specified.
- (2) Such stoplights when actuated shall give a steady warning light to the rear of a vehicle or train of vehicles to indicate the intention of the operator to diminish the speed of or stop a vehicle or train of vehicles.
- (3) When stoplights are used as required by this section, they shall be constructed or installed so as to provide adequate and reliable illumination and shall conform to the appropriate rules and regulations established under section 337.17.
- (4) Historical A historical motor vehicles as defined in R.C. § 4503.181, vehicle that was not originally manufactured with stop lights or a replica motor vehicle that replicates a motor vehicle that was not originally manufactured with stop lights,~~are~~ is not subject to this section.
- (b) Whoever violates this section is guilty of a minor misdemeanor.

(c) As used in this section, “replica motor vehicle” means a replica motor vehicle for which a certificate of title is issued under R.C. § 4505.072.

(R.C. § 4513.071; '64 Code, § 337.24)

Cross reference— Penalty, see § 337.99

Sec. 337.26. Child restraint system usage; exceptions, dismissal and penalty.

- (a) When any child who in either or both of the following categories is being transported in a motor vehicle, other than a taxicab or public safety vehicle as defined in chapter 301 and R.C. § 4511.01, that is required by the United States Department of Transportation to be equipped with seat belts at the time of manufacture or assembly, the operator of the motor vehicle shall have the child properly secured in accordance with the manufacturer's instructions in a child restraint system that meets federal motor vehicle safety standards:
 - (1) A child less than four years of age;
 - (2) A child who weighs less than 40 pounds.
- (b) When any child who is in either or both of the following categories is being transported in a motor vehicle, other than a taxicab, that is owned, leased, or otherwise under the control of a nursery school, or child care center, the operator of the motor vehicle shall have the child properly secured in accordance with the manufacturer's instructions in a child restraint system that meets federal motor vehicle safety standards:
 - (1) A child less than four years of age;
 - (2) A child who weights less than 40 pounds.
- (c) When any child who is less than eight years of age and less than four feet nine inches in height, who is not required by subsections (a) or (b) of this section to be secured in a child restraint system, is being transported in a motor vehicle, other than a taxicab or public safety vehicle as defined in R.C. § 4511.01 or a vehicle that is regulated under R.C. § 5104.015, that is required by the United States Department of Transportation to be equipped with seat belts at the time of manufacture or assembly, the operator of the motor vehicle shall have the child properly secured in accordance with the manufacturer's instructions on a booster seat that meets federal motor vehicle safety standards.
- (d) When any child who is at least eight years of age but not older than 15 years of age, and who is not otherwise required by subsections (a), (b), or (c) of this section to be secured in a child restraint system or booster seat, is being transported in a motor vehicle, other than a taxicab or public safety vehicle as defined in R.C. § 4511.01, that is required by the United States Department of Transportation to be equipped with seat belts at the time of manufacture or assembly, the operator of the motor vehicle shall have the child properly restrained either in accordance with the manufacturer's instructions in a child restraint system that meets federal motor vehicle safety standards or in an occupant restraining device as defined in R.C. § 4513.263.
- (e) Notwithstanding any provision of law to the contrary, no law enforcement officer shall cause an 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 subsections (c) of (d) of this section has been or is being

committed or for the sole purpose of issuing a ticket, citation, or summons for a violation of subsections (c) or (d) of this section or causing the arrest of or commencing a prosecution of a person for a violation of subsections (c) or (d) of this section, and absent another violation of law, a law enforcement officer's view of the interior or visual inspection of a motor vehicle being operated on any street or highway may not be used for the purpose of determining whether a violation of subsections (c) or (d) of this section has been or is being committed.

- (f) The Director of Public Safety shall adopt such rules as are necessary to carry out this section.
- (g) The failure of an operator of a motor vehicle to secure a child in a child restraint system, a booster seat, or an occupant restraining device as required in this section is not negligence imputable to the child, is not admissible as evidence in any civil action involving the rights of the child against any other person allegedly liable for injuries to the child, is not to be used as a basis for a criminal prosecution of the operator of the motor vehicle other than a prosecution for a violation of this section, and is not admissible as evidence in any criminal action involving the operator of the motor vehicle other than a prosecution for a violation of this section.
- (h) This section does not apply when an emergency exists that threatens the life of any person operating occupying a motor vehicle that is being used to transport a child who otherwise would be required to be restrained under this section. This section does not apply to a person operating a motor vehicle who has an affidavit signed by a physician licensed to practice in this state under R.C. Chapter 4731, a clinical nurse specialist or certificated nurse practitioner licensed to practice in this state under Chapter 4732. of the Revised Code, or a chiropractor licensed to practice in this state under R.C. chapter 4734 that states that the child who otherwise would be required to be restrained under this section has a physical impairment that makes use of a child restraint system, booster seat, or an occupant restraining device impossible or impractical, provided that the person operating the vehicle has safely and appropriately restrained the child in accordance with any recommendations of the physician, nurse, or chiropractor as noted on the affidavit.
- (i) Nothing in this section shall be construed to require any person to carry with the person the birth certificate of a child to prove the age of the child, but the production of a valid birth certificate for a child showing that the child was not of an age to which this section applies is a defense against any ticket, citation, or summons issued for violating this section.
- (j) (1) Whoever violates subsections (a), (b), (c), or (d) of this section shall be punished as follows, provided that the failure of an operator of a motor vehicle to secure more than one child in a child restraint system, booster seat, or occupant restraining device as required by this section that occurred at the same time, on the same day, and at the same location is deemed to be a single violation of this section:
 - A. Except as otherwise provided in subsection (j)(1)B. of this section, the offender is guilty of a minor misdemeanor and shall be fined not less than \$25.00 nor more than \$75.00.
 - B. If the offender previously has been convicted of or pleaded guilty to a violation of subsections (a), (b), (c), or (d) of this section or of a state law or municipal ordinance that is substantially equivalent any of those subsections, the offender is guilty of a misdemeanor of the fourth degree.
- (2) All fines imposed pursuant to subsection (j)(1) of this section shall be forwarded to the State Treasurer for deposit in the Child Highway Safety Fund created by R.C. § 4511.81(I).

(R.C. § 4511.81(A)—(H), (K), (L); '64 Code, § 337.26; Ord. 3360, passed 7-19-94; Ord. No. 5726, § 1(Exh. A), 7-16-24)

Sec. 341.01. Definitions.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Commercial car or truck means any motor vehicle having motor power designed and used for carrying merchandise or freight, or used as a commercial tractor.

Commercial tractor, except as defined in section 301.02, means any motor vehicle having that has motive power and either is designed or used for drawing other motor vehicles, or designed or used for drawing another motor vehicle while carrying a portion of such other motor vehicle or its load, or both.

Owner includes any person, firm or corporation other than a manufacturer or dealer having title to a motor vehicle, except that, in R.C. § 4505.01 to 4505.19, owner includes in addition manufacturers and dealers.

(R.C. § 4501.01; '64 Code, § 341.01)

Sec. 343.01. Violation of state regulations.

- (a) No person shall operate a vehicle used for pupil transportation within this municipality in violation of the rules of the Department of Education and Workforce or the Department of Public Safety. No person, being the owner thereof, or having the supervisory responsibility therefor, shall permit the operation of a vehicle used for pupil transportation within this municipality in violation of the rules of the Department of Education or the Department of Public Safety.
- (b) ~~As used in this section, vehicle~~ Vehicle used for pupil transportation means any vehicle that is identified as such by the Department of Education and Workforce by rule and that is subject to O.A.C. chapter 3301-83.
- (c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If the offender previously has been convicted of or pleaded guilty to one or more violations of this section or R.C. § 4511.76, or R.C. §§ 4511.63, 4511.761, 4511.762, 4511.764, 4511.77, or 4511.79 or a municipal ordinance that is substantially equivalent to any of those sections, whoever violates this section is guilty of a misdemeanor of the fourth degree.

(R.C. § 4511.76(C), (F), (G); '64 Code, § 343.01; Ord. No. 5726, § 1(Exh. A), 7-16-24)

Cross reference— Penalty, see § 343.99

Sec. 343.04. Required coloring and marking.

- (a) No person shall operate, nor shall any person being the owner thereof or having supervisory responsibility therefor permit the operation of, a school bus within this state unless it is painted national school bus yellow and is marked on both front and rear with the words "school bus" in black lettering

not less than eight inches in height and on the rear of the bus with the word "stop" in black lettering not less than ten inches in height.

- (b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If the offender previously has been convicted of or pleaded guilty to one or more violations of this section or R.C. § 4511.77, or R.C. §§ 4511.63, 4511.76, 4511.761, 4511.762, 4511.764, or 4511.79 or a municipal ordinance that is substantially similar to any of those sections, whoever violates this section is guilty of a misdemeanor of the fourth degree.
- (c) Whenever a person is found guilty in a court of record of a violation of this section, the trial judge, in addition to or independent of all other penalties provided by law, may suspend for any period of time not exceeding three years, or cancel the license of any person, partnership, association, or corporation, issued under R.C. § 4511.763.
- (d) This section does not apply to a multifunctional school bus.

(R.C. § 4511.77; '64 Code, § 343.04)

Cross reference— Penalty, see § 343.99

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

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

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

Section 10. The adoption date of this ordinance is _____ and the effective date of this ordinance shall be _____.

ORDAINED this ____ day of _____, _____.

City of Brecksville, Ohio

X

Mayor

ATTEST:

X

City Clerk

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

X

City Clerk

APPROVED AS TO FORM:

X

City Attorney

ADOPTING ORDINANCE
GENERAL OFFENSES

ORDINANCE No. 5832

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF Brecksville, OHIO TO PROVIDE AMENDMENTS TO GENERAL OFFENSES Brecksville CITY CODE SECTIONS 513.01, 513.02, 513.03, 513.04, 513.05, 513.07, 513.08, 513.11, 513.12, 513.16, 517.01, 525.02, 525.05, 533.01, 533.03, 533.04, 533.21, 537.02, 537.14, 537.16, 545.01, 545.07, 549.15; 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 Brecksville, Ohio is authorized by ORC § 715.01 to adopt ordinances relating to its property, affairs and local government; and

BE IT ORDAINED BY THE CITY OF Brecksville, STATE OF OHIO:

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

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

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

Section 4. Supplementation of Code.

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

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

(1) Organize the ordinance material into appropriate subdivisions;

(2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the City's Municipal Code printed in the supplement, and make changes in such catchlines, headings, and titles;

(3) Assign appropriate numbers to sections and other subdivisions to be inserted in the City's Municipal Code and, where necessary to accommodate new material, change existing section or other

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

subdivision numbers;

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

(5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the City's Municipal Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already 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 following sections and of the Municipal Code are new or have been amended with new matter in the Municipal Code, and are hereby approved, adopted, and enacted:

Sec. 513.01. Definitions.

For the purposes of this chapter the following words and phrases shall have the following meanings ascribed to them respectively. 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.

Administer has the same meaning as in R.C. § 3719.01.

Adulterate means to cause a drug to be adulterated as described in R.C. § 3715.63.

Alcohol and drug addiction services has the same meaning as in R.C. § 5119.01.

Bulk amount, of a controlled substance, means any of the following:

- (1) For any compound, mixture, preparation, or substance included in Schedule I, Schedule II, or Schedule III, with the exception of any controlled substance analog, marihuana, cocaine, L.S.D., heroin, any fentanyl-related compound, and hashish and except as provided in subsections (2), (5), or (6) of this definition, whichever of the following is applicable:
 - A. An amount equal to or exceeding ten grams or 25 unit doses of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule I opiate or opium derivative;
 - B. An amount equal to or exceeding ten grams of a compound, mixture, preparation, or substance that is or contains any amount of raw or gum opium;
 - C. An amount equal to or exceeding 30 grams or ten unit doses of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule I hallucinogen other than tetrahydrocannabinol or lysergic acid amide, or a Schedule I stimulant or depressant;

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

- D. An amount equal to or exceeding 20 grams or five times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule II opiate or opium derivative;
 - E. An amount equal to or exceeding five grams or ten unit doses of a compound, mixture, preparation, or substance that is or contains any amount of phencyclidine;
 - F. An amount equal to or exceeding 120 grams or 30 times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule II stimulant that is in a final dosage form manufactured by a person authorized by the Federal Food, Drug, and Cosmetic Act (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 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 120 grams or 30 times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule III or IV substance other than an anabolic steroid or a Schedule III opiate or opium derivative;
 - (3) An amount equal to or exceeding 20 grams or five times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule III opiate or opium derivative;
 - (4) An amount equal to or exceeding 250 milliliters or 250 grams of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule V substance;
 - (5) An amount equal to or exceeding 200 solid dosage units, 16 grams, or 16 milliliters of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule III anabolic steroid;
 - (6) For any compound, mixture, preparation, or substance that is a combination of a fentanyl-related compound and any other compound, mixture, preparation, or substance included in Schedule III, Schedule IV, or Schedule V, if the defendant is charged with a violation of R.C. § 2925.11 and the sentencing provisions set forth in R.C. § 2925.11(C)(10)(b) and (C)(11) 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 subsections (1), (2), (3), (4), or (5) of this definition for the other Schedule III, Schedule IV, or Schedule V controlled substance that is combined with the fentanyl-related compound.

Certified Grievance Committee means 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.

Cocaine means 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 subsections (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.

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

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

Committed in the vicinity of a substance addiction services provider or a recovering addict means an offense is "committed in the vicinity of a substance addiction services provider or a recovering addict" if either of the following apply:

- (1) The offender commits the offense on the premises of a substance addiction services provider's facility, including a facility licensed prior to June 29, 2019, under R.C. § 5119.391 to provide methadone treatment or an opioid treatment program licensed on or after that date under R.C. § 5119.37, or within 500 feet of the premises of a substance addiction services provider's facility and the offender knows or should know that the offense is being committed within the vicinity of the substance addiction services provider's facility.
- (2) The offender sells, offers to sell, delivers, or distributes the controlled substance or controlled substance analog to a person who is receiving treatment at the time of the commission of the offense, or received treatment within 30 days prior to the commission of the offense, from a substance addiction services provider and the offender knows that the person is receiving or received that treatment.

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

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

Counterfeit controlled substance means 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.

Cultivate includes planting, watering, fertilizing or tilling.

Dangerous drug has the same meaning as in R.C. § 4729.01.

Deception has the same meaning as in R.C. § 2913.01.

Disciplinary counsel means 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.

Dispense has the same meaning as in R.C. § 3719.01.

Distribute has the same meaning as in R.C. § 3719.01.

Drug has the same meaning as in R.C. § 4729.01.

Drug abuse offense means any of the following:

- (1) A violation of R.C. § 2913.02(A) that constitutes theft of drugs, or any violation of R.C. §§ 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 a municipality, state or any other state or of the United States, that is substantially equivalent to any section listed in subsection (1) of this definition.
- (3) An offense under an existing or former law of a municipality, state or any other state, or of the United States, of which planting, cultivating, harvesting, processing, making, manufacturing, producing, shipping, transporting, delivering, acquiring, possessing, storing, distributing, dispensing, selling, inducing another to use, administering to another, using, or otherwise dealing with a controlled substance is an element.
- (4) A conspiracy to commit, attempt to commit, or complicity in committing or attempting to commit, any offense under subsections (1), (2), or (3) of this definition.

Drug dependent person has the same meaning as in R.C. § 3719.011.

Drug of abuse has the same meaning as in R.C. § 3719.011.

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

Fentanyl-related compound means any of the following:

- (1) Fentanyl;
- (2) Alpha-methylfentanyl (N-[1-(alpha- methyl-beta-phenyl)ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N- propanilido) piperidine);
- (3) Alpha-methylthiofentanyl (N-[1-methyl- 2-(2-thienyl)ethyl-4-piperidiny]-N-phenylpropanamide);
- (4) Beta-hydroxyfentanyl (N-[1-(2-hydroxy- 2-phenethyl-4-piperidiny]-N-phenylpropanamide);
- (5) Beta-hydroxy-3-methylfentanyl (other name: N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidiny]-N-phenylpropanamide);
- (6) 3-methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide);
- (7) 3-methylthiofentanyl (N-[3-methyl- 1-[2-(thienyl)ethyl]-4-piperidiny]—phenylpropanamide);
- (8) Para-fluorofentanyl (N-(4- fluorophenyl)-N-[1-(2-phenethyl)-4-piperidiny]propanamide;
- (9) Thiofentanyl (N- phenyl-N-[1-(2-thienyl)ethyl-4-piperidiny]-propanamide;

- (10) Alfentanil;
- (11) Carfentanil;
- (12) Remifentanil;
- (13) Sufentanil;
- (14) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide);
and
- (15) Any compound that meets all of the following fentanyl pharmacophore requirements to bind at the mu receptor, as identified by a report from an established forensic laboratory, including acetylfentanyl, furanylfentanyl, valerylfentanyl, butyrylfentanyl, isobutyrylfentanyl, 4-methoxybutyrylfentanyl, para- fluorobutyrylfentanyl, acrylfentanyl, and ortho-fluorofentanyl:
 - A. A chemical scaffold consisting of both of the following:
 - 1. A five, six, or seven member ring structure containing a nitrogen, whether or not further substituted;
 - 2. An attached nitrogen to the ring, whether or not that nitrogen is enclosed in a ring structure, including an attached aromatic ring or other lipophilic group to that nitrogen.
 - B. A polar functional group attached to the chemical scaffold, including but not limited to a hydroxyl, ketone, amide, or ester;
 - C. An alkyl or aryl substitution off the ring nitrogen of the chemical scaffold; and
 - D. The compound has not been approved for medical use by the United States Food and Drug Administration.

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.

Hashish means:

- (1) A resin or a preparation of a resin to which both of the following apply:
 - A. It is contained in or derived from any part of the plant of the genus cannabis, whether in solid form or in a liquid concentrate, liquid extract, or liquid distillate form.
 - B. It has a delta-9 tetrahydrocannabinol concentration of more than 0.3 percent.

- (2) The term does not include a hemp byproduct in the possession of a licensed hemp processor under R.C. chapter 928, provided that the hemp byproduct is being produced, stored, and disposed of in accordance with rules adopted under R.C. § 928.03.

Hypodermic has the same meaning as in R.C. § 3719.01.

Juvenile means a person under 18 years of age.

Licensed health professional authorized to prescribe drugs has the same meaning as in R.C. § 4729.01.

L.S.D. means lysergic acid diethylamide.

Major drug offender has the same meaning as in R.C. § 2929.01.

Mandatory prison term has the same meaning as in R.C. § 2929.01.

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

Manufacturer has the same meaning as in R.C. § 3719.01.

Marihuana has the same meaning as in R.C. § 3719.01, except that it does not include hashish.

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

Minor drug possession offense means either of the following:

- (1) A violation of R.C. § 2925.11 as it existed prior to July 1, 1996, or a substantially equivalent municipal ordinance.
- (2) A violation of R.C. § 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.

Official written order has the same meaning as in R.C. § 3719.01.

Person has the same meaning as in R.C. § 3719.01.

Pharmacist has the same meaning as in R.C. § 3719.01.

Pharmacy has the same meaning as in R.C. § 3719.01.

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

Premises of a substance addiction services provider's facility means the parcel of real property on which any substance addiction service provider's facility is situated.

Prescription has the same meaning as in R.C. § 4729.01.

Presumption for a prison term or presumption that a prison term shall be imposed means a presumption as described in R.C. § 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 R.C. § 2929.11.

Professional license means any license, permit, certificate, registration, qualification, admission, temporary license, temporary permit, temporary certificate, or temporary registration that is described in R.C. §§ 2925.01(W)(1) through (W)(37) and that qualifies a person as a professionally licensed person.

Professionally licensed person means any of the following:

- (1) A person who has received a certificate or temporary certificate as a certified public accountant or who has registered as a public accountant under R.C. chapter 4701 and who holds an Ohio permit issued under that chapter;
- (2) A person who holds a certificate of qualification to practice architecture issued or renewed and registered under R.C. chapter 4703;
- (3) A person who is registered as a landscape architect under R.C. chapter 4703 or who holds a permit as a landscape architect issued under that chapter;
- (4) A person licensed under R.C. chapter 4707;
- (5) A person who has been issued a ~~certificate of registration as a registered barber's license, barber instructor's license, assistant barber instructor's license, or independent contractor's license~~ under R.C. chapter 4709;
- (6) A person licensed and regulated to engage in the business of a debt pooling company by a legislative authority, under authority of R.C. chapter 4710;
- (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, advanced cosmetologist's license to practice cosmetology, advanced license to practice hair design, advanced hair designer's license to practice manicuring, advanced manicurist's license to practice esthetics, advanced esthetician's license, advanced license to natural hair stylist's license styling, 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 R.C. chapter 4713;
- (8) A person who has been issued a license to practice dentistry, a general anesthesia permit, a conscious 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 R.C. chapter 4715;
- (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 R.C. chapter 4717;
- (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 R.C. chapter 4723;
- (11) A person who has been licensed to practice optometry or to engage in optical dispensing under R.C. chapter 4725;
- (12) A person licensed to act as a pawnbroker under R.C. chapter 4727;
- (13) A person licensed to act as a precious metals dealer under R.C. chapter 4728;
- (14) A person licensed under R.C. chapter 4729 as a pharmacist or pharmacy intern or registered under that chapter as a registered pharmacy technician, certified pharmacy technician, or pharmacy technician trainee;
- (15) A person licensed under R.C. chapter 4729 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 R.C. chapter 4730;

- (17) A person who has been issued a license to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery under R.C. chapter 4731 or has been issued a certificate to practice a limited branch of medicine under that chapter;
- (18) A person licensed as a psychologist, independent school psychologist, or school psychologist under R.C. chapter 4732;
- (19) A person registered to practice the profession of engineering or surveying under R.C. chapter 4733;
- (20) A person who has been issued a license to practice chiropractic under R.C. chapter 4734;
- (21) A person licensed to act as a real estate broker or real estate salesperson under R.C. chapter 4735;
- (22) A person registered as a registered environmental health specialist under R.C. chapter 3776;
- (23) A person licensed to operate or maintain a junkyard under R.C. chapter 4737;
- (24) A person who has been issued a motor vehicle salvage dealer's license under R.C. chapter 4738;
- (25) A person who has been licensed to act as a steam engineer under R.C. chapter 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 R.C. chapter 4741;
- (27) A person who has been issued a hearing aid dealer's or fitter's license or trainee permit under R.C. chapter 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 R.C. chapter 4749;
- (29) A person licensed to practice as a nursing home administrator under R.C. chapter 4751;
- (30) A person licensed to practice as a speech-language pathologist or audiologist under R.C. Chapter 4753;
- (31) A person issued a license as an occupational therapist or physical therapist under R.C. chapter 4755;
- (32) A person who is licensed as a licensed professional clinical counselor, licensed professional counselor, social worker, independent social worker, independent marriage and family therapist, or marriage and family therapist, or registered as a social work assistant under R.C. chapter 4757;
- (33) A person issued a license to practice dietetics under R.C. chapter 4759;
- (34) A person who has been issued a license or limited permit to practice respiratory therapy under R.C. chapter 4761;
- (35) A person who has been issued a real estate appraiser certificate under R.C. chapter 4763;
- (36) A person who has been issued a home inspector license under R.C. chapter 4764;
- (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;
- (38) A person who has been issued a license to practice as a certified mental health assistant under Chapter 4772 of the Revised Code.

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

Sale has the same meaning as in R.C. § 3719.01.

Sample drug means a drug or pharmaceutical preparation that would be hazardous to health or safety if used without the supervision of a licensed health professional authorized to prescribe drugs, or a drug of abuse, and that, at one time, had been placed in a container plainly marked as a sample by a manufacturer.

Schedule I, Schedule II, Schedule III, Schedule IV or Schedule V have the same meaning as in R.C. § 3719.01.

School means any school operated by a Board of Education, any community school established under R.C. chapter 3314, or any nonpublic school for which the Director of Education and Workforce prescribes minimum standards under R.C. § 3301.07, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted at the time a criminal offense is committed.

School building means any building in which any of the instruction, extracurricular activities, or training provided by a school is conducted, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted in the school building at the time a criminal offense is committed.

School premises means either of the following:

- (1) The parcel of real property on which any school is situated, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted on the premises at the time a criminal offense is committed.
- (2) Any other parcel of real property that is owned or leased by a Board of Education of a school, the governing authority of a community school established under R.C. chapter 3314, or the governing body of a nonpublic school for which the Director of Education and Workforce prescribes minimum standards under R.C. § 3301.07 and on which some of the instruction, extracurricular activities, or training of the school is conducted, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted on the parcel of real property at the time a criminal offense is committed.

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

Substance addiction services provider means an agency, association, corporation or other legal entity, individual, or program that provides one or more of the following at a facility:

- (1) Either alcohol addiction services, or drug addiction services, or both such services that are certified by the Ohio Director of Mental Health and Addiction Services under R.C. § 5119.36;
- (2) Recovery supports that are related to either alcohol addiction services, or drug addiction services, or both such services and paid for with federal, state, or local funds administered by the Ohio Department of Mental Health and Addiction Services or a Board of Alcohol, Drug Addiction, and Mental Health Services.

Unit dose means 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.

Wholesaler has the same meaning as in R.C. § 3719.01.

(R.C. § 2925.01; '64 Code, § 513.01; Ord. No. 5727, § 1(Exh. A), 7-16-24)

Sec. 513.02. Trafficking in controlled substances; gift of marihuana.

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

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

- (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 R.C. chapters 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, 52 Stat. 1040 (1938), 21 USC 301, as amended, and is sold, offered for sale, prescribed, dispensed, or administered for that purpose in accordance with that act.
- (c) Whoever violates subsection (a) of this section is guilty of the following:
- (1) Except as otherwise provided in subsections (c)(2) and (c)(3) of this section, trafficking in controlled substances is a felony to be prosecuted under appropriate state law.
 - (2) Except as otherwise provided in this subsection, if the offense involves a gift of 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 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.
 - (3) If the drug involved in the violation is a compound, mixture, preparation, or substance that is a combination of a fentanyl-related compound and marihuana, one of the following applies:
 - A. Except as otherwise provided in subsection (c)(3)B. of this section, the offender is guilty of trafficking in marihuana and shall be punished under subsection (c)(2) of this section. The offender is not guilty of trafficking in a fentanyl-related compound and shall not be charged with, convicted of, or punished under R.C. § 2925.03(C)(9) for trafficking in a fentanyl-related compound.
 - B. If the offender knows or has reason to know that the compound, mixture, preparation, or substance that is the drug involved contains a fentanyl-related compound, the offender is guilty of trafficking in a fentanyl-related compound and shall be punished under R.C. § 2925.03(C)(9).
- (d) As used in this section, "drug" includes any substance that is represented to be a drug.

(R.C. § 2925.03(A) - (C); '64 Code, § 513.02; Ord. 3703, passed 1-19-99)

Cross reference— Penalty, see § 513.99

State Law reference— For violations of § 513.02(A) classified as felonies, see R.C. § 2925.03.

Sec. 513.03. Drug abuse; controlled substance possession or use.

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

(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 R.C. chapters 3719, 4715, 4723, 4729, 4730, 4731, ~~or 4741~~, and 4772.
- (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, 52 Stat. 1040 (1938), 21 USC 301, as amended, and is sold, offered for sale, prescribed, dispensed, or administered for that purpose in accordance with that act;
- (4) 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 this subsection (b)(4), *deception* and *theft offense* have the same meanings as in R.C. § 2913.01.

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

- (1) If the drug involved in the violation is a compound, mixture, preparation, or substance included in Schedule I or Schedule II, with the exception of marihuana or hashish, whoever violates subsection (a) of this section is guilty of a felony to be prosecuted under appropriate state law.
- (2) If the drug involved in the violation is a compound, mixture, preparation, or substance included in Schedule III, Schedule IV, or Schedule V, whoever violates subsection (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 subsection (c)(2)B. of this section, possession of drugs is a misdemeanor of the first degree or, if the offender previously has been convicted of a drug abuse offense, a felony 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 subsection (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 subsections (c)(3)B. or (c)(3)C. of this section, possession of marihuana is a misdemeanor of the third degree.
 - B. If the amount of the drug involved equals or exceeds 100 grams but is less than 200 grams, possession of marihuana is a misdemeanor of the second degree.
 - C. If the amount of the drug involved equals or exceeds 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 subsection (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 subsections (c)(4)B. or (c)(4)C. of this section, possession of hashish is a minor misdemeanor.
 - B. If the amount of the drug involved equals or exceeds five grams but is less than ten grams of hashish in a solid form or equals or exceeds one gram but is less than two grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form, possession of hashish is a misdemeanor of the fourth degree.
 - C. If the amount of the drug involved equals or exceeds ten grams of hashish in a solid form or equals or exceeds two 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.
- (5) If the drug involved in the violation is a compound, mixture, preparation, or substance that is a combination of a fentanyl-related compound and marihuana, one of the following applies:
- A. Except as otherwise provided in subsection (c)(5)B. of this section, the offender is guilty of possession of marihuana and shall be punished as provided in subsection (c)(3) of this section. Except as otherwise provided in subsection (c)(5)B. of this section, the offender is not guilty of possession of a fentanyl-related compound under R.C. § 2925.11(C)(11) and shall not be charged with, convicted of, or punished under R.C. § 2925.11(C)(11) for possession of a fentanyl-related compound.
 - B. If the offender knows or has reason to know that the compound, mixture, preparation, or substance that is the drug involved contains a fentanyl-related compound, the offender is guilty of possession of a fentanyl-related compound and shall be punished under R.C. § 2925.11(C)(11).
- (6) If the drug involved in the violation is a compound, mixture, preparation, or substance that is a combination of a fentanyl-related compound and any Schedule III, Schedule IV, or Schedule V controlled substance that is not a fentanyl-related compound, one of the following applies:
- A. Except as otherwise provided in subsection (c)(6)B. of this section, the offender is guilty of possession of drugs and shall be punished as provided in subsection (c)(2) of this section. Except as otherwise provided in subsection (c)(6)B. of this section, the offender is not guilty of possession of a fentanyl-related compound under R.C. § 2925.11(C)(11) and shall not be charged with, convicted of, or punished under R.C. § 2925.11(C)(11) for possession of a fentanyl-related compound.
 - B. If the offender knows or has reason to know that the compound, mixture, preparation, or substance that is the drug involved contains a fentanyl-related compound, the offender is guilty of possession of a fentanyl-related compound and shall be punished under R.C. § 2925.11(C)(11).
- (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) (1) In addition to any prison term or jail term authorized or required by subsection (c) of this section and R.C. §§ 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 R.C. §§ 2929.11 through 2929.18, or R.C. §§ 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 subsection (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 R.C. § 4511.19 or a substantially equivalent municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years.~~

(2) If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with R.C. § 2925.38.

(3) If the offender has a driver's or commercial driver's license or permit, R.C. § 2929.33 applies.

(f) (1) 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 R.C. § 4511.19 or a substantially equivalent 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.

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

(R.C. § 2925.11(A) - (C), (F); '64 Code, § 513.03; Ord. 3703, passed 1-19-99)

Cross reference— Penalty, see § 513.99

State Law reference— Authority to place offender on probation or within a detention facility or in an alternative residential diversion program in lieu of fine or imprisonment, see R.C. § 2925.11(F)

State Law reference— Felony provisions, see generally R.C. § 2925.11

Sec. 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 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 or to prepare a dangerous drug for unlawful administration or use.

(b) (1) This section does not apply to manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies, and other persons whose conduct was in accordance with R.C. chapters 3719, 4715, 4723, 4729, 4730, 4731, ~~and 4741~~ and 4772.

(2) R.C. § 2925.11(B)(2) applies with respect to a violation of this section when a person seeks or obtains medical assistance for another person who is experiencing a drug overdose, a person experiences a drug overdose and seeks medical assistance for that overdose, or a person is the subject of another person seeking or obtaining medical assistance for that overdose.

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

- (d) (1) ~~In addition to any other sanction imposed upon an offender for a violation of this section, the court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of R.C. § 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with R.C. § 2925.38.~~

If the offender has a driver's or commercial driver's license or permit, R.C. § 2929.33 applies.

- (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 R.C. § 4511.19 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 subsection (d)(2) of this section, the sentencing court, in its discretion, may terminate the suspension.

(R.C. § 2925.12; '64 Code, § 513.04; Ord. 3703, passed 1-19-99; Ord. No. 5727, § 1(Exh. A), 7-16-24)

Cross reference—Penalty, see § 513.99

Sec. 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 R.C. § 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 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.
- (1) Except as provided in subsection (c)(2), permitting drug abuse is a misdemeanor of the first degree.
- (2) Permitting drug abuse is a felony, and punishable under appropriate state law, if either of the following applies:
- A. The felony drug abuse offense in question is a violation of R.C. § 2925.02, 2925.03, or 2925.04.
- B. The felony drug abuse offense in question is a violation of R.C. § 2925.041 and the offender had actual knowledge, at the time the offender permitted the vehicle, premises, or real estate to be used as described in subsection (a) or (b) of this section, that the person who assembled or possessed the chemicals in question in violation of R.C. § 2925.041 had assembled or possessed them with the intent to manufacture a controlled substance in Schedule I or II in violation of R.C. § 2925.04.
- (d) (1) ~~In addition to any prison term authorized or required by subsection (c) of this section and R.C. §§ 2929.13 and 2929.14 and in addition to any other sanction imposed for the offense under this section or R.C. §§ 2929.11 to 2929.18, the court that sentences a person who is convicted of or pleads guilty to a violation of subsection (a) of this section may suspend for not more than five~~

~~years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of R.C. § 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with R.C. § 2925.38.~~

If the offender has a driver's or commercial driver's license or permit, R.C. § 2929.33 applies.

- (2) A. 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 R.C. § 4511.19 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.
- B. Upon the filing of a motion under subsection (d)(2) of this section, the sentencing court, in its discretion, may terminate the suspension.
- (e) Notwithstanding any contrary provision of R.C. § 3719.21, the Clerk of Court shall pay a fine imposed for a violation of this section pursuant to R.C. § 2929.18(A) in accordance with and subject to the requirements of section 513.02 and R.C. § 2925.03(F). The agency that receives the fine shall use the fine as specified in R.C. § 2925.03(F).
- (f) Any premises or real estate that is permitted to be used in violation of subsection (b) of this section constitutes a nuisance subject to abatement pursuant to R.C. chapter 3767.

(R.C. § 2925.13; '64 Code, § 513.05; Ord. No. 5727, § 1(Exh. A), 7-16-24)

Cross reference— Penalty, see § 513.99

State Law reference— Disbursement of fine monies and bail forfeitures, see R.C. § 2925.13(D)(3) and (4)

State Law reference— Felony provisions, see generally R.C. § 2925.13

Sec. 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 of the fifth degree.
- (c) (1) ~~In addition to any other sanction imposed upon an offender for a violation of this section, the court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of R.C. § 4511.19 or a substantially equivalent municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the~~

~~offender's driver's or commercial driver's license or permit for not more than five years.~~ If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with R.C. § 2925.38.

If the offender has a driver's or commercial driver's license or permit, R.C. § 2929.33 applies.

(2) A. 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 R.C. § 4511.19 or a substantially equivalent 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.

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

(R.C. § 2925.31; '64 Code, § 513.07)

Cross reference— Penalty, see § 513.99

Sec. 513.08. Illegally dispensing drug samples.

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

(b) Subsection (a) of this section 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 R.C. chapters 3719, 4715, 4723, 4725, 4729, 4730, 4731, ~~and 4741~~ , and 4772.

(c) (1) Whoever violates this section is guilty of illegal dispensing of drug samples.

(2) If the drug involved in the offense is a compound, mixture, preparation, or substance included in Schedule I or Schedule II, with the exception of marihuana, illegal dispensing of drug samples is a felony to be prosecuted under appropriate state law.

(3) If the drug involved in the offense is a dangerous drug or a compound, mixture, preparation, or substance included in Schedule III, Schedule IV or Schedule V, or is marihuana, the penalty for the offense shall be determined as follows:

A. Except as otherwise provided in the following subsection, illegal dispensing of drug samples is a misdemeanor of the second degree.

B. 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.

(R.C. § 2925.36(A)—(C); '64 Code, § 513.08)

Cross reference— Penalty, see § 513.99

State Law reference— Disbursement of fine monies and bail forfeitures, see R.C. § 2925.36(D)(3) and (4)

State Law reference— Felony offenses, see R.C. § 2925.36(C)(3)

Cross reference— Penalty, see § 513.99

Sec. 513.11. Nitrous oxide—Improper dispensing or distribution; possession in a motor vehicle.

(a) Improper dispensing or distribution.

(1) No person who dispenses or distributed nitrous oxide in cartridges shall fail to comply with either or the following:

- A. The record-keeping requirements established under subsection (a)(3) of this section.
- B. The labeling and transaction identification requirements established under subsection (A)(4) of this section.

(2) Whoever violates subsection (a)(1)A. or (a)(1)B. of this section is guilty of improperly dispensing or distributing nitrous oxide, a misdemeanor of the fourth degree.

If the offender is a professionally licensed person, in addition to any other sanction imposed for trafficking in harmful intoxicants, the court immediately shall comply with R.C. § 2925.38.

If the offender has a driver's or commercial driver's license or permit, R.C. § 2929.33.

(3) Beginning July 1, 1999, a person who dispenses or distributes nitrous oxide shall record each transaction involving the dispensing or distribution of the nitrous oxide on a separate card. The person shall require the purchaser to sign the card and provide a complete residence address. The person dispensing or distributing the nitrous oxide shall sign and date the card. The person shall retain the card recording a transaction for one year from the date of the transaction. The person shall maintain the cards at the person's business address and make them available during normal business hours for inspection and copying by officers or employees of the State Board of Pharmacy or of other law enforcement agencies that are authorized to investigate violations of this Code, R.C. chapters 2925, 3719, or 4729, or federal drug abuse control laws. The cards used to record each transaction shall inform the purchaser of the following:

- A. That nitrous oxide cartridges are to be used only for purposes of preparing food;
- B. That inhalation of nitrous oxide can have dangerous health effects; and
- C. That it is a violation of state law to distribute or dispense cartridges of nitrous oxide to any person under age 21, punishable as a felony of the fifth degree.

(4) A. Each cartridge of nitrous oxide dispensed or distributed in this municipality shall bear the following printed warning: "Nitrous oxide cartridges are to be used only for purposes of preparing food. Nitrous oxide cartridges may not be sold to persons under age 21. Do not inhale contents. Misuse can be dangerous to your health."

B. Each time a person dispenses or distributes one or more cartridges of nitrous oxide, the person shall mark the packaging containing the cartridges with a label or other device that identifies the person who dispensed or distributed the nitrous oxide and the person's business address.

(b) Possession in a motor vehicle.

(1) As used in this section, *motor vehicle*, *street*, and *highway* have the same meaning as in chapter 301.

(2) Unless authorized by this Code or by state law, no person shall possess on open cartridge of nitrous oxide in either of the following circumstances:

- A. While operating or being a passenger in or on a motor vehicle on a street, highway, or other public property public or private property open to the public for purposes of vehicular traffic or parking.
- B. 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.
- (3) Whoever violates this subsection (b) is guilty of possessing nitrous oxide in a motor vehicle, a misdemeanor of the fourth degree.
- (4) 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.

(R.C. § 2925.32(B)(4), (D)(2), (F), (G); R.C. § 2925.32; '64 Code, § 513.11)

Cross reference— Penalty, see § 513.99

Sec. 513.12. Drug paraphernalia.

- (a) As used in this section, *drug paraphernalia* means any equipment, product, or material of any kind that is used by the offender, intended by the offender for use, or designed for use, in propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introduced into the human body, a controlled substance in violation of this chapter. *Drug paraphernalia* includes, but is not limited to, any of the following equipment, products, or materials that are used by the offender, intended by the offender for use, or designed by the offender for use, in any of the following manners:
 - (1) A kit for propagating, cultivating, growing, or harvesting any species of a plant that is a controlled substance or from which a controlled substance can be derived;
 - (2) A kit for manufacturing, compounding, converting, producing, processing, or preparing a controlled substance;
 - (3) Any object, instrument, or device for manufacturing, compounding, converting, producing, processing, or preparing methamphetamine.
 - (4) An isomerization device for increasing the potency of any species of a plant that is a controlled substance;
 - (5) Testing equipment for identifying, or analyzing the strength, effectiveness, or purity of, a controlled substance, except for those exempted in subsection (d)(4) of this section;
 - (6) A scale or balance for weighing or measuring a controlled substance;
 - (7) A diluent or adulterant, such as quinine hydrochloride, mannitol, mannite, dextrose, or lactose, for cutting a controlled substance;
 - (8) A separation gin or sifter for removing twigs and seeds from, or otherwise cleaning or refining, marihuana;
 - (9) A blender, bowl, container, spoon, or mixing device for compounding a controlled substance;
 - (10) A capsule, balloon, envelope, or container for packaging small quantities of a controlled substance;
 - (11) A container or device for storing or concealing a controlled substance;

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

- (12) A hypodermic syringe, needle, or instrument for parenterally injecting a controlled substance into the human body;
 - (13) An object, instrument, or device for ingesting, inhaling, or otherwise introducing into the human body, marihuana, cocaine, hashish, or hashish oil, such as a metal, wooden, acrylic, glass, stone, plastic, or ceramic pipe, with or without a screen, permanent screen, hashish head, or punctured metal bowl; water pipe; carburetion tube or device; smoking or carburetion mask; roach clip or similar object used to hold burning material, such as a marihuana cigarette, that has become too small or too short to be held in the hand; miniature cocaine spoon, or cocaine vial; chamber pipe; carburetor pipe; electric pipe; air driver pipe; chillum; bong; or ice pipe or chiller.
- (b) In determining if any equipment, product, or material is drug paraphernalia, a court or law enforcement officer shall consider, in addition to other relevant factors, the following:
- (1) Any statement by the owner or by anyone in control of the equipment, product, or material, concerning its use.
 - (2) The proximity in time or space of the equipment, product, or material, or of the act relating to the equipment, product, or material, to a violation of any provision of this chapter or R.C. chapter 2925.
 - (3) The proximity of the equipment, product, or material to any controlled substance.
 - (4) The existence of any residue of a controlled substance on the equipment, product, or material.
 - (5) Direct or circumstantial evidence of the intent of the owner, or of anyone in control, of the equipment, product, or material, to deliver it to any person whom he or she knows intends to use the equipment, product, or material to facilitate a violation of any provision of this chapter or R.C. chapter 2925. A finding that the owner or anyone in control of the equipment, product, or material is not guilty of a violation of any other provision of this chapter or R.C. chapter 2925 does not prevent a finding that the equipment, product, or material was intended or designed by the offender for use as drug paraphernalia.
 - (6) Any oral or written instruction provided with the equipment, product, or material concerning its use.
 - (7) Any descriptive material accompanying the equipment, product, or material and explaining or depicting its use.
 - (8) National or local advertising concerning the use of the equipment, product, or material.
 - (9) The manner and circumstances in which the equipment, product, or material is displayed for sale.
 - (10) Direct or circumstantial evidence of the ratio of the sales of the equipment, product, or material to the total sales of the business enterprise.
 - (11) The existence and scope of legitimate uses of the equipment, product, or material in the community.
 - (12) Expert testimony concerning the use of the equipment, product, or material.
- (c) (1) Subject to subsections (d)(2), (3), and (4) of this section, no person shall knowingly use, or possess with purpose to use, drug paraphernalia.
- (2) No person shall knowingly sell, or possess or manufacture with purpose to sell, drug paraphernalia, if he knows or reasonably should know that the equipment, product, or material will be used as drug paraphernalia.
 - (3) No person shall place an advertisement in any newspaper, magazine, handbill, or other publication that is published and printed and circulates primarily within this state, if he knows that the purpose

of the advertisement is to promote the illegal sale in this state of the equipment, product, or material that the offender intended or designed for use as drug paraphernalia.

- (d) (1) This section does not apply to manufacturers, practitioners, pharmacists, owners of pharmacies, and other persons whose conduct is in accordance with R.C. chapters 3719, 4715, 4723, 4729, 4731, ~~and 4741, and 4772~~. This section shall not be construed to prohibit the possession or use of a hypodermic as authorized by R.C. § 3719.172.
- (2) Subsection (c)(1) of this section does not apply to a person's use, or possession with purpose to use, any drug paraphernalia that is equipment, a product, or material of any kind that is used by the person, intended by the person for use, or designed for use in storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body marihuana.
- (3) R.C. § 2925.11(B)(2) applies with respect to a violation of subsection (c)(1) of this section when a person seeks or obtains medical assistance for another person who is experiencing a drug overdose, a person experiences a drug overdose and seeks medical assistance for that overdose, or a person is the subject of another person seeking or obtaining medical assistance for that overdose.
- (4) Subsection (c)(1) of this section does not apply to a person's use, or possession with purpose to use, any drug testing strips to determine the presence of fentanyl or a fentanyl-related compound.
- (e) Notwithstanding R.C. chapter 2981, any drug paraphernalia that was used, possessed, sold, or manufactured in violation of this section shall be seized, after a conviction for that violation shall be forfeited, and upon forfeiture shall be disposed of pursuant to R.C. § 2981.12(B).
- (f) (1) Whoever violates subsection (c)(1) of this section is guilty of illegal use or possession of drug paraphernalia, a misdemeanor of the fourth degree.
- (2) Except as provided in subsection (f)(3) of this section, whoever violates subsection (c)(2) of this section is guilty of dealing in drug paraphernalia, a misdemeanor of the second degree.
- (3) Whoever violates subsection (c)(2) of this section by selling drug paraphernalia to a juvenile is guilty of selling drug paraphernalia to juveniles, a misdemeanor of the first degree.
- (4) Whoever violates subsection (c)(3) of this section is guilty of illegal advertising of drug paraphernalia, a misdemeanor of the second degree.
- (g) (1) ~~In addition to any other sanction imposed upon an offender for a violation of this section, the court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of R.C. § 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court forthwith immediately shall comply with R.C. § 2925.38.~~

If the offender has a driver's or commercial driver's license or permit, R.C. § 2929.33.

- (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 R.C. § 4511.19 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 subsection (g)(2) of this section, the sentencing court, in its discretion, may terminate the suspension.

(R.C. § 2925.14; '64 Code, § 513.12; Ord. 3068, passed 2-20-90; Ord. No. 5727, § 1(Exh. A), 7-16-24)

Cross reference— Penalty, see § 513.99

Sec. 513.16. Pseudoephedrine sales.

(a) Unlawful purchases.

(1) As used in subsections (a), (b), (c) and (d) of this section:

- A. *Consumer product* means any food or drink that is consumed or used by humans and any drug, including a drug that may be provided legally only pursuant to a prescription, that is intended to be consumed or used by humans.
- B. *Ephedrine* means any material, compound, mixture, or preparation that contains any quantity of ephedrine, any of its salts, optical isomers, or salts of optical isomers.
- C. *Ephedrine product* means a consumer product that contains ephedrine.
- D. *Pseudoephedrine* means any material, compound, mixture, or preparation that contains any quantity of pseudoephedrine, any of its salts, optical isomers, or salts of optical isomers.
- E. *Pseudoephedrine product* means a consumer product that contains pseudoephedrine.
- F. *Retailer* means a place of business that offers consumer products for sale to the general public.
- G. *Single-ingredient preparation* means a compound, mixture, preparation, or substance that contains a single active ingredient.
- H. *Terminal distributor of dangerous drugs* has the same meaning as in R.C. § 4729.01.

(2) [Quantity.]

- A. 1. No individual shall knowingly purchase, receive, or otherwise acquire an amount of pseudoephedrine product or ephedrine product that is greater than either of the following unless the pseudoephedrine product or ephedrine product is dispensed by a pharmacist pursuant to a valid prescription issued by a licensed health professional authorized to prescribe drugs and the conduct of the pharmacist and the licensed health professional authorized to prescribe drugs is in accordance with R.C. chapters 3719, 4715, 4723, 4729, 4730, 4731, ~~or 4741~~, or 4772:
 - a. Three and six-tenths grams within a period of a single day;
 - b. Nine grams within a period of 30 consecutive days.
- 2. The limits specified in subsections (a)(2)A.1.a. and (a)(2)A.1.b. of this section apply to the total amount of base pseudoephedrine or base ephedrine in the pseudoephedrine product or ephedrine product, respectively. The limits do not apply to the product's overall weight.
- B. It is not a violation of subsection (b)(1) of this section for an individual to receive or accept more than an amount of pseudoephedrine product or ephedrine product specified in subsections (a)(2)A.1.a. or (a)(2)A.1.b. of this section if the individual is an employee of a retailer or terminal distributor of dangerous drugs, and the employee receives or accepts from the retailer or terminal distributor of dangerous drugs the pseudoephedrine product or ephedrine product in a sealed container in connection with manufacturing, warehousing, placement, stocking, bagging, loading, or unloading of the product.

- (3) A. No individual under 18 years of age shall knowingly purchase, receive, or otherwise acquire a pseudoephedrine product, or ephedrine product unless the pseudoephedrine product or ephedrine product is dispensed by a pharmacist pursuant to a valid prescription issued by a licensed health professional authorized to prescribe drugs and the conduct of the pharmacist and the licensed health professional authorized to prescribe drugs is in accordance with R.C. chapters 3719, 4715, 4723, 4729, 4730, 4731, ~~or 4741~~, or 4772.
- B. Subsection (a)(3)A. of this section does not apply to an individual under 18 years of age who purchases, receives, or otherwise acquires a pseudoephedrine product or ephedrine product from any of the following:
1. A licensed health professional authorized to prescribe drugs or pharmacist who dispenses, sells, or otherwise provides the pseudoephedrine product or ephedrine product to that individual and whose conduct is in accordance with R.C. chapters 3719, 4715, 4723, 4729, 4730, 4731, ~~or 4741~~, or 4772;
 2. A parent or guardian of that individual who provides the pseudoephedrine product or ephedrine product to the individual;
 3. A person, as authorized by that individual's parent or guardian, who dispenses, sells, or otherwise provides the pseudoephedrine product or ephedrine product to the individual;
 4. A retailer or terminal distributor of dangerous drugs who provides the pseudoephedrine product or ephedrine product to that individual if the individual is an employee of the retailer or terminal distributor of dangerous drugs and the individual receives or accepts from the retailer or terminal distributor of dangerous drugs the pseudoephedrine product or ephedrine product in a sealed container in connection with manufacturing, warehousing, placement, stocking, bagging, loading, or unloading of the product.
- (4) No individual under 18 years of age shall knowingly show or give false information concerning the individual's name, age, or other identification for the purpose of purchasing, receiving, or otherwise acquiring a pseudoephedrine product or ephedrine product.
- (5) No individual shall knowingly fail to comply with the requirements of R.C. § 3715.051(B).
- (6) Whoever violates subsection (a)(2)A. of this section is guilty of unlawful purchase of a pseudoephedrine product or ephedrine product, a misdemeanor of the first degree.
- (7) Whoever violates subsection (a)(3)A. of this section is guilty of underage purchase of a pseudoephedrine product or ephedrine product, a delinquent act that would be a misdemeanor of the fourth degree if it could be committed by an adult.
- (8) Whoever violates subsection (a)(4) of this section is guilty of using false information to purchase a pseudoephedrine product or ephedrine product, a delinquent act that would be a misdemeanor of the first degree if it could be committed by an adult.
- (9) Whoever violates subsection (a)(5) of this section is guilty of improper purchase of a pseudoephedrine product or ephedrine product, a misdemeanor of the fourth degree.
- (b) *Unlawful retail sales.*
- (1) *[Quantity.]*
- A. 1. Except as provided in subsection (b)(1)B. of this section, no retailer or terminal distributor of dangerous drugs or an employee of a retailer or terminal distributor of dangerous drugs shall knowingly sell, offer to sell, hold for sale, deliver, or otherwise provide to any individual an amount of pseudoephedrine product or ephedrine product that is greater than either of the following:

- a. Three and six-tenths grams within a period of a single day;
 - b. Nine grams within a period of 30 consecutive days.
- 2. The maximum amounts specified in subsections (b)(1)A.1.a. and (b)(1)A.1.b. of this section apply to the total amount of base pseudoephedrine or base ephedrine in the pseudoephedrine product or ephedrine product, respectively. The maximum amounts do not apply to the product's overall weight.
- B. 1. Subsection (b)(1)A. of this section does not apply to any quantity of pseudoephedrine product or ephedrine product dispensed by a pharmacist pursuant to a valid prescription issued by a licensed health professional authorized to prescribe drugs if the conduct of the pharmacist and the licensed health professional authorized to prescribe drugs is in accordance with R.C. chapters 3719, 4715, 4723, 4729, 4730, 4731, ~~or 4741~~, or 4772.
- 2. It is not a violation of subsection (b)(1)A. of this section for a retailer, terminal distributor of dangerous drugs, or employee of either to provide to an individual more than an amount of pseudoephedrine product or ephedrine product specified in subsections (b)(1)A.1.a. or (b)(1)A.1.b. of this section under either of the following circumstances:
 - a. The individual is an employee of the retailer or terminal distributor of dangerous drugs, and the employee receives or accepts from the retailer, terminal distributor of dangerous drugs, or employee the pseudoephedrine product or ephedrine product in a sealed container in connection with manufacturing, warehousing, placement, stocking, bagging, loading, or unloading of the product;
 - b. A stop-sale alert is generated after the submission of information to the national precursor log exchange under the conditions described in R.C. § 3715.052(A)(2).
- (2) A. Except as provided in subsection (b)(2)B. of this section, no retailer or terminal distributor of dangerous drugs or an employee of a retailer or terminal distributor of dangerous drugs shall sell, offer to sell, hold for sale, deliver, or otherwise provide a pseudoephedrine product or ephedrine product to an individual who is under 18 years of age.
- B. Subsection (b)(2)A. of this section does not apply to any of the following:
 - 1. A licensed health professional authorized to prescribe drugs or pharmacist who dispenses, sells, or otherwise provides a pseudoephedrine product or ephedrine product to an individual under 18 years of age and whose conduct is in accordance with R.C. chapters 3719, 4715, 4723, 4729, 4730, 4731, ~~or 4741~~, or 4772;
 - 2. A parent or guardian of an individual under 18 years of age who provides a pseudoephedrine product or ephedrine product to the individual;
 - 3. A person who, as authorized by the individual's parent or guardian, dispenses, sells, or otherwise provides a pseudoephedrine product or ephedrine product to an individual under 18 years of age;
 - 4. The provision by a retailer, terminal distributor of dangerous drugs, or employee of either of a pseudoephedrine product or ephedrine product in a sealed container to an employee of the retailer or terminal distributor of dangerous drugs who is under 18 years of age in connection with manufacturing, warehousing, placement, stocking, bagging, loading, or unloading of the product.
- (3) No retailer or terminal distributor of dangerous drugs shall fail to comply with the requirements of R.C. § 3715.051(A) or R.C. § 3715.052(A)(2).

- (4) No retailer or terminal distributor of dangerous drugs shall fail to comply with the requirements of R.C. § 3715.052(A)(1).
- (5) Whoever violates subsection (b)(1)A. of this section is guilty of unlawfully selling a pseudoephedrine product or ephedrine product, a misdemeanor of the first degree.
- (6) Whoever violates subsection (b)(2)A. of this section is guilty of unlawfully selling a pseudoephedrine product or ephedrine product to a minor, a misdemeanor of the fourth degree.
- (7) Whoever violates subsection (b)(3) of this section is guilty of improper sale of a pseudoephedrine product or ephedrine product, a misdemeanor of the second degree.
- (8) Whoever violates subsection (b)(4) of this section is guilty of failing to submit information to the national precursor log exchange, a misdemeanor for which the offender shall be fined not more than \$1,000.00 per violation.

(c) *Transaction scans.*

- (1) For the purpose of this subsection and subsection (d) of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.
 - A. *Card holder* means any person who presents a driver's or commercial driver's license or an identification card to a seller, or an agent or employee of a seller, to purchase or receive any pseudoephedrine product or ephedrine product from the seller, agent or employee.
 - B. *Identification card* has the same meaning as in R.C. § 2927.021.
 - C. *Seller* means a retailer or terminal distributor of dangerous drugs.
 - D. *Transaction scan* means the process by which a seller or an agent or employee of a seller checks by means of a transaction scan device the validity of a driver's or commercial driver's license or an identification card that is presented as a condition for purchasing or receiving any pseudoephedrine product or ephedrine product.
 - E. *Transaction scan device* has the same meaning as in R.C. § 2927.021.
- (2) A. A seller or an agent or employee of a seller may perform a transaction scan by means of a transaction scan device to check the validity of a driver's or commercial driver's license or identification card presented by a card holder as a condition for selling, giving away or otherwise distributing to the card holder a pseudoephedrine product or ephedrine product.
- B. If the information deciphered by the transaction scan performed under subsection (c)(2)A. of this section fails to match the information printed on the driver's or commercial driver's license or identification card presented by the card holder, or if the transaction scan indicates that the information so printed is false or fraudulent, neither the seller nor any agent or employee of the seller shall sell, give away or otherwise distribute any pseudoephedrine product or ephedrine product to the card holder.
- C. Subsection (c)(2)A. of this section does not preclude a seller or an agent or employee of a seller as a condition for selling, giving away or otherwise distributing a pseudoephedrine product or ephedrine product to the person presenting the document from using a transaction scan device to check the validity of a document other than a driver's or commercial driver's license or an identification card if the document includes a bar code or magnetic strip that may be scanned by the device.
- (3) Rules adopted by the Registrar of Motor Vehicles under R.C. § 4301.61(C) apply to the use of transaction scan devices for purposes of this subsection (c) and subsection (d) of this section.

- (4) A. No seller or agent or employee of a seller shall electronically or mechanically record or maintain any information derived from a transaction scan, except the following:
1. The name, address, and date of birth of the person listed on the driver's or commercial driver's license or identification card presented by a card holder;
 2. The expiration date, identification number, and issuing agency of the driver's or commercial driver's license or identification card presented by a card holder.
- B. No seller or agent or employee of a seller shall use the information that is derived from a transaction scan or that is permitted to be recorded and maintained under subsection (c)(4)A. of this section except for purposes of subsection (d) of this section, R.C. § 2925.58, or R.C. § 3715.052(A)(1).
- C. No seller or agent or employee of a seller shall use a transaction scan device for a purpose other than the purpose specified in subsection (c)(2)A. of this section.
- D. No seller or agent or employee of a seller shall sell or otherwise disseminate the information derived from a transaction scan to any third party, including but not limited to selling or otherwise disseminating that information for any marketing, advertising or promotional activities, but a seller or agent or employee of a seller may release that information pursuant to a court order or as specifically authorized by subsection (d) of this section or any other section of the Ohio Revised Code.
- (5) Nothing in this subsection (c) or subsection (d) of this section relieves a seller or an agent or employee of a seller of any responsibility to comply with any other applicable state or federal laws or rules governing the sale, giving away or other distribution of pseudoephedrine products or ephedrine products.
- (6) Whoever violates subsection (c)(2)B. or (c)(4) of this section is guilty of engaging in an illegal pseudoephedrine product or ephedrine product transaction scan, and the court may impose upon the offender a civil penalty of up to \$1,000.00 for each violation. The Clerk of the Court shall pay each collected civil penalty to the County Treasurer for deposit into the County Treasury.

(d) Affirmative defenses.

- (1) A seller or an agent or employee of a seller may not be found guilty of a charge of a violation of subsection (b) of this section in which the age of the purchaser or other recipient of a pseudoephedrine product is an element of the alleged violation if the seller, agent or employee raises and proves as an affirmative defense that all of the following occurred:
- A. A card holder attempting to purchase or receive a pseudoephedrine product presented a driver's or commercial driver's license or an identification card.
 - B. A transaction scan of the driver's or commercial driver's license or identification card that the card holder presented indicated that the license or card was valid.
 - C. The pseudoephedrine product was sold, given away or otherwise distributed to the card holder in reasonable reliance upon the identification presented and the completed transaction scan.
- (2) In determining whether a seller or an agent or employee of a seller has proven the affirmative defense provided by subsection (d)(1) of this section, the trier of fact in the action for the alleged violation of subsection (b) of this section shall consider any written policy that the seller has adopted and implemented and that is intended to prevent violations of subsection (b) of this section. For purposes of subsection (d)(1)C. of this section, the trier of fact shall consider that reasonable reliance upon the identification presented and the completed transaction scan may require a seller or an agent or employee of a seller to exercise reasonable diligence to determine,

and that the use of a transaction scan device does not excuse a seller or an agent or employee of a seller from exercising reasonable diligence to determine, the following:

- A. Whether a person to whom the seller or agent or employee of a seller sells, gives away or otherwise distributes a pseudoephedrine product is 18 years of age or older;
- B. Whether the description and picture appearing on the driver's or commercial driver's license or identification card presented by a card holder is that of the card holder.

(3) In any criminal action in which the affirmative defense provided by subsection (d)(1) of this section is raised, the Registrar of Motor Vehicles or a Deputy Registrar who issued an identification card under R.C. §§ 4507.50 through 4507.52 shall be permitted to submit certified copies of the records of that issuance in lieu of the testimony of the personnel of or contractors with the Bureau of Motor Vehicles in the action.

(e) *Retailer's duties.*

(1) As used in subsections (e) and (f) of this section:

- A. *Consumer product* means any food or drink that is consumed or used by humans and any drug, including a drug that may be provided legally only pursuant to a prescription, that is intended to be consumed or used by humans.
- B. *Drug* has the same meanings as in R.C. § 4729.01.
- C. *Ephedrine* means any material, compound, mixture, or preparation that contains any quantity of ephedrine, any of its salts, optical isomers, or salts of optical isomers.
- D. *Ephedrine product* means a consumer product that contains ephedrine.
- E. *Law enforcement official* means an officer or employee of any agency or authority of the United States, a state, a territory, a political subdivision of a state or territory, or an Indian tribe, who is empowered by the law to investigate or conduct an official inquiry into a potential violation of law or prosecute or otherwise conduct a criminal, civil, or administrative proceeding arising from an alleged violation of law.
- F. *Licensed health professional authorized to prescribe drugs* has the same meanings as in R.C. § 4729.01.
- G. *National Precursor Log Exchange or exchange* means the electronic system for tracking sales of pseudoephedrine products and ephedrine products on a national basis that is administered by the National Association of Drug Diversion Investigators or a successor organization.
- H. *Pharmacist* means a person licensed under R.C. chapter 4729 to engage in the practice of pharmacy.
- I. *Pharmacy* has the same meanings as in R.C. § 4729.01.
- J. *Prescriber* has the same meanings as in R.C. § 4729.01.
- K. *Prescription* has the same meanings as in R.C. § 4729.01.
- L. *Proof of age* means a driver's license, a commercial driver's license, a military identification card, a passport, or an identification card issued under R.C. §§ 4507.50 to 4507.52 that shows a person is 18 years of age or older.
- M. *Pseudoephedrine* means any material, compound, mixture, or preparation that contains any quantity of pseudoephedrine, any of its salts, optical isomers, or salts of optical isomers.
- N. *Pseudoephedrine product* means a consumer product that contains pseudoephedrine.

O. *Retailer* means a place of business that offers consumer products for sale to the general public.

P. *Single-ingredient preparation* means a compound, mixture, preparation, or substance that contains a single active ingredient.

Q. *Stop-sale alert* means a notification sent from the national precursor log exchange to a retailer or terminal distributor of dangerous drugs indicating that the completion of a sale of a pseudoephedrine product or ephedrine product would result in a violation of R.C. § 2925.56(A)(1) or federal law.

R. *Terminal distributor of dangerous drugs* has the same meanings as in R.C. § 4729.01.

S. *Wholesaler* has the same meaning as in R.C. § 3719.01.

(2) A retailer or terminal distributor of dangerous drugs that sells, offers to sell, holds for sale, delivers, or otherwise provides a pseudoephedrine product or ephedrine product to the public shall do all of the following:

A. Segregate pseudoephedrine products or ephedrine products from other merchandise so that no member of the public may procure or purchase such products without the direct assistance of a pharmacist or other authorized employee of the retailer or terminal distributor of dangerous drugs;

B. With regard to each time a pseudoephedrine product or ephedrine product is sold or otherwise provided without a valid prescription:

1. Determine, by examination of a valid proof of age, that the purchaser or recipient is at least 18 years of age;

2. a. Using any information available, including information from the national precursor log exchange if the information is accessible, make a reasonable attempt to ensure that no individual purchases or receives an amount of pseudoephedrine product or ephedrine product that is greater than either of the following:

i. Three and six-tenths grams within a period of a single day;

ii. Nine grams within a period of 30 consecutive days.

b. The maximum amounts specified in subsections (e)(2)B.2.a.i. and (e)(2)B.2.a.ii. of this section apply to the total amount of base pseudoephedrine or base ephedrine in the pseudoephedrine product or ephedrine product, respectively. The maximum amounts do not apply to the product's overall weight.

C. Maintain a log book of pseudoephedrine product or ephedrine product purchases, in accordance with R.C. § 3715.051;

D. If required to comply with section R.C. § 3715.052, submit the information specified in subsections (A)(1)(a) to (A)(1)(d) of that section to the national precursor log exchange.

(3) Prescriptions, orders, and records maintained pursuant to this section and stocks of pseudoephedrine products and ephedrine products shall be open for inspection to federal, state, county, and municipal officers, and employees of the State Board of Pharmacy whose duty it is to enforce the laws of this state or of the United States relating to controlled substances. Such prescriptions, orders, records, and stocks shall be open for inspection by the State Medical Board and its employees for purposes of enforcing R.C. chapter 4731.

(f) *Theft or loss; reporting requirements.*

(1) Each retailer, terminal distributor of dangerous drugs, pharmacy, prescriber or wholesaler that sells, offers to sell, holds for sale, delivers or otherwise provides any pseudoephedrine product and that

discovers the theft or loss of any pseudoephedrine product in an amount of more than nine grams per incident of theft or loss shall notify all of the following upon discovery of the theft or loss:

- A. The State Board of Pharmacy, by telephone immediately upon discovery of the theft or loss;
 - B. *Law enforcement authorities.* If the incident is a theft and the theft constitutes a felony, the retailer, terminal distributor of dangerous drugs, pharmacy, prescriber or wholesaler shall report the theft to the law enforcement authorities in accordance with R.C. § 2921.22.
- (2) Within 30 days after making a report by telephone to the State Board of Pharmacy pursuant to subsection (f)(1)A. of this section, a retailer, terminal distributor of dangerous drugs, pharmacy, prescriber or wholesaler shall send a written report to the State Board of Pharmacy.
- (3) The reports required under this section shall identify the product that was stolen or lost, the amount of the product stolen or lost, and the date and time of discovery of the theft or loss.

(R.C. § 2925.55; R.C. § 2925.56; R.C. § 2925.57; R.C. § 2925.58; R.C. § 3715.05; (R.C. § 3715.06; Ord. No. 5727, § 1(Exh. A), 7-16-24)

Sec. 517.01. Definitions.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

Bet means the hazarding of anything of value upon the result of an event, undertaking, or contingency, but does not include a bona fide business risk.

Bingo means either of the following:

- (1) A game with all of the following characteristics:
- A. The participants use bingo cards or sheets, including paper formats and electronic representation or image formats, that are divided into 25 spaces arranged in five horizontal and five vertical rows of spaces, with each space, except the central space, being designated by a combination of a letter and a number and with the central space being designated as a free space;
 - B. The participants cover the spaces on the bingo cards or sheets that correspond to combinations of letters and numbers that are announced by a bingo game operator;
 - C. A bingo game operator announces combinations of letters and numbers that appear on objects that a bingo game operator selects by chance, either manually or mechanically, from a receptacle that contains 75 objects at the beginning of each game, each object marked by a different combination of a letter and a number that corresponds to one of the 75 possible combinations of a letter and a number that can appear on the bingo cards or sheets;
 - D. The winner of the bingo game includes any participant who properly announces during the interval between the announcements of letters and numbers, as described in subsection (1)C. of this definition, that a predetermined and preannounced pattern of spaces has been covered on a bingo card or sheet being used by the participant.
- (2) Instant bingo, electronic instant bingo, and raffles.

Bingo game operator means any person, except security personnel, who performs work or labor at the site of bingo including but not limited to collecting money from participants, handing out bingo cards or sheets or objects to cover spaces on bingo cards or sheets, selecting from a receptacle the objects that contain the combination of letters and numbers that appear on bingo cards or sheets, calling out the

combinations of letters and numbers, distributing prizes, selling or redeeming instant bingo tickets or cards, selling or redeeming electronic instant bingo tickets, credits, or vouchers, accessing an electronic instant bingo system other than as a participant, supervising the operation of a punch board, selling raffle tickets, selecting raffle tickets from a receptacle and announcing the winning numbers in a raffle, and preparing, selling, and serving food or beverages. *Bingo game operator* does not include a person who is installing, maintaining, updating, or repairing an electronic instant bingo system.

Bingo session means a period that includes both of the following:

- (1) Not to exceed five continuous hours for the conduct of one or more games described in subsection (1) of the definition of "bingo" in this section, instant bingo, and electronic instant bingo;
- (2) A period for the conduct of instant bingo and electronic instant bingo for not more than two hours before and not more than two hours after the period described in subsection (1) of this definition.

Bingo supplies means bingo cards or sheets; instant bingo tickets or cards; electronic bingo aids; raffle tickets; punch boards; seal cards; instant bingo ticket dispensers; electronic instant bingo systems; and devices for selecting or displaying the combination of bingo letters and numbers or raffle tickets. Items that are bingo supplies are not gambling devices if sold or otherwise provided, and used, in accordance with this chapter or R.C. Chapter 2915. For purposes of this chapter, bingo supplies are not to be considered equipment used to conduct a bingo game.

Bookmaking means the business of receiving or paying off bets.

Chamber of commerce means any organization of individuals, professionals, and businesses that has the purpose to advance the commercial, financial, industrial, and civic interests of the community and that is, and has received from the Internal Revenue Service a determination letter that currently is in effect stating that the organization is, exempt from federal income taxation under IRC 501(a) and described in IRC 501(c)(6).

Charitable bingo game means any bingo game described in subsections (1) or (2) of the definition of "bingo" in this section that is conducted by a charitable organization that has obtained a license pursuant to R.C. § 2915.08 and the proceeds of which are used for a charitable purpose.

Charitable instant bingo organization means an organization that is exempt from federal income taxation under IRC 501(a) and described in IRC 501(c)(3) and is a charitable organization as defined in this section. A *charitable instant bingo organization* does not include a charitable organization that is exempt from federal income taxation under IRC 501(a) and described in IRC 501(c)(3) and that is created by a veteran's organization, a fraternal organization, or a sporting organization in regards to bingo conducted or assisted by a veteran's organization, a fraternal organization, or a sporting organization pursuant to R.C. § 2915.13, or any substantially similar municipal ordinance.

Charitable organization:

- (1) Except as otherwise provided in this chapter, *charitable organization* means either of the following:
 - A. An organization that is exempt from federal income taxation under IRC § 501(a) and described in IRC § 501(c)(3);
 - B. A volunteer rescue service organization, volunteer firefighter's organization, veteran's organization, fraternal organization, or sporting organization that is exempt from federal income taxation under IRC §§ 501(c)(4), 501(c)(7), 501(c)(8), 501(c)(10) or 501(c)(19).
- (2) To qualify as a charitable organization, an organization shall have been in continuous existence as such in this state for a period of two years immediately preceding either the making of an application for a bingo license under R.C. § 2915.08 or the conducting of any game of chance as provided in R.C. § 2915.02(D), or a substantially equivalent municipal ordinance.

Charitable purpose means that the net profit of bingo, other than instant bingo or electronic instant bingo, is used by, or is given, donated, or otherwise transferred to, any of the following:

- (1) Any organization that is described in IRC 509(a)(1), 509(a)(2), or 509(a)(3) and is either a governmental unit or an organization that is tax exempt under IRC 501(a) and described in IRC 501(c)(3);
- (2) A veteran's organization that is a post, chapter, or organization of veterans, or an auxiliary unit or society of, or a trust or foundation for, any such post, chapter, or organization organized in the United States or any of its possessions, at least 75 percent of the members of which are veterans and substantially all of the other members of which are individuals who are spouses, widows, or widowers of veterans, or such individuals, provided that no part of the net earnings of such post, chapter, or organization inures to the benefit of any private shareholder or individual, and further provided that the net profit is used by the post, chapter, or organization for the charitable purposes set forth in R.C. § 5739.02(B)(12), is used for awarding scholarships to or for attendance at an institution mentioned in that division of the Revised Code, is donated to a governmental agency, or is used for nonprofit youth activities, the purchase of United States or Ohio flags that are donated to schools, youth groups, or other bona fide nonprofit organizations, promotion of patriotism, or disaster relief;
- (3) A fraternal organization that has been in continuous existence in this state for 15 years and that uses the net profit exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, if contributions for such use would qualify as a deductible charitable contribution under IRC 170;
- (4) A volunteer firefighter's organization that uses the net profit for the purposes set forth in the definition of "volunteer firefighter's organization" in this section.

Community action agency has the same meaning as in R.C. § ~~422.66~~ 5101.311.

Conduct means to back, promote, organize, manage, carry on, sponsor, or prepare for the operation of bingo or a game of chance, a scheme of chance, or a sweepstakes.

Deal means a single game of instant bingo tickets, or a single game of electronic instant bingo tickets, all with the same serial number.

Distributor means any person who purchases or obtains bingo supplies and who does either of the following:

- (1) Sells, offers for sale, or otherwise provides or offers to provide the bingo supplies to another person for use in this state;
- (2) Modifies, converts, adds to, or removes parts from the bingo supplies to further their promotion or sale for use in this state.

Electronic bingo aid:

- (1) *Electronic bingo aid* means an electronic device used by a participant to monitor bingo cards or sheets purchased at the time and place of a bingo session and that does all of the following:
 - A. It provides a means for a participant to input numbers and letters announced by a bingo caller.
 - B. It compares the numbers and letters entered by the participant to the bingo faces previously stored in the memory of the device.
 - C. It identifies a winning bingo pattern.
- (2) *Electronic bingo aid* does not include any device into which a coin, currency, token, or an equivalent is inserted to activate play.

Electronic instant bingo means:

- (1) A form of bingo that consists of an electronic or digital representation of instant bingo in which a participant wins a prize if the participant's electronic instant bingo ticket contains a combination of numbers or symbols that was designated in advance as a winning combination, and to which all of the following apply:
 - A. Each deal has a predetermined, finite number of winning and losing tickets and a predetermined prize amount and deal structure, provided that there may be multiple winning combinations in each deal and multiple winning tickets.
 - B. Each electronic instant bingo ticket within a deal has a unique serial number that is not regenerated.
 - C. Each electronic instant bingo ticket within a deal is sold for the same price.
 - D. After a participant purchases an electronic instant bingo ticket, the combination of numbers or symbols on the ticket is revealed to the participant.
 - E. The reveal of numbers or symbols on the ticket may incorporate an entertainment or bonus theme, provided that the reveal does not include spinning reels that resemble a slot machine.
 - F. The reveal theme, if any, does not require additional consideration or award any prize other than any predetermined prize associated with the electronic instant bingo ticket.
- (2) The term shall not include any of the following:
 - A. Any game, entertainment, or bonus theme that replicates or simulates any of the following:
 1. The gambling games of keno, blackjack, roulette, poker, craps, other casino-style table games;
 2. Horse racing;
 3. Gambling games offered in this state on slot machines or video lottery terminals. As used in this subsection, "video lottery terminal" has the same meaning as in R.C. § 3770.21.
 - B. Any device operated by dropping one or more coins or tokens into a slot and pulling a handle or pushing a button or touchpoint on a touchscreen to activate one to three or more rotating reels marked into horizontal segments by varying symbols, where the predetermined prize amount depends on how and how many of the symbols line up when the rotating reels come to a rest;
 - C. Any device that includes a coin or token slot, tray, or hopper and the ability to dispense coins, cash, tokens, or anything of value other than a credit ticket voucher.

Electronic instant bingo system means both of the following:

- (1) A mechanical, electronic, digital, or video device and associated software to which all of the following apply:
 - A. It is used by not more than one player at a time to play electronic instant bingo on a single screen that is physically connected to the device;
 - B. It is located on the premises of the principal place of business of a veteran's or fraternal organization that holds a Type II or Type III bingo license to conduct electronic instant bingo at that location issued under R.C. § 2915.08.
- (2) Any associated equipment or software used to manage, monitor, or document any aspect of electronic instant bingo.

Expenses means the reasonable amount of gross profit actually expended for all of the following:

- (1) The purchase or lease of bingo supplies;
- (2) The annual license fee required under R.C. § 2915.08;
- (3) Bank fees and service charges for a bingo session or game account described in R.C. § 2915.10;
- (4) Audits and accounting services;
- (5) Safes;
- (6) Cash registers;
- (7) Hiring security personnel;
- (8) Advertising bingo;
- (9) Renting premises in which to conduct a bingo session;
- (10) Tables and chairs;
- (11) Expenses for maintaining and operating a charitable organization's facilities, including, but not limited to, a post home, club house, lounge, tavern, or canteen and any grounds attached to the post home, club house, lounge, tavern, or canteen;
- (12) Payment of real property taxes and assessments that are levied on a premises on which bingo is conducted;
- (13) Any other product or service directly related to the conduct of bingo that is authorized in rules adopted by the Attorney General under R.C. § 2915.08(F)(1).

Fraternal organization means any society, order, state headquarters, or association within this state, except a college or high school fraternity, that is not organized for profit, that is a branch, lodge, or chapter of a national or state organization, that exists exclusively for the common business or sodality of its members.

Gambling device means any of the following:

- (1) A book, totalizer, or other equipment used for recording bets;
- (2) A ticket, token, or other device representing a chance, share, or interest in a scheme of chance or evidencing a bet;
- (3) A deck of cards, dice, gaming table, roulette wheel, slot machine, or other apparatus designed for use in connection with a game of chance;
- (4) Any equipment, device, apparatus, or paraphernalia specially designed for gambling purposes;
- (5) Bingo supplies sold or otherwise provided, or used, in violation of this chapter or R.C. chapter 2915.

Gambling offense means any of the following:

- (1) A book, totalizer, or other equipment used for recording bets;
- (2) A ticket, token, or other device representing a chance, share, or interest in a scheme of chance or evidencing a bet;
- (3) A deck of cards, dice, gaming table, roulette wheel, slot machine, or other apparatus designed for use in connection with a game of chance;
- (4) Any equipment, device, apparatus, or paraphernalia specially designed for gambling purposes;

- (5) Bingo supplies sold or otherwise provided, or used, in violation of this chapter or R.C. chapter 2915.

Gambling offense means any of the following:

- (1) A violation of R.C. chapter 2915;
- (2) A violation of an existing or former municipal ordinance or law of this or any other state or of the United States substantially equivalent to any provision of this chapter or R.C. chapter 2915 or a violation of R.C. § 2915.06 as it existed prior to July 1, 1996;
- (3) An offense under an existing or former municipal ordinance or law of this or any other state or of the United States, of which gambling is an element;
- (4) A conspiracy or attempt to commit, or complicity in committing any offense under subsections (1), (2), or (3) of this definition.

Game flare means the board or placard, or electronic representation of a board or placard, that accompanies each deal of instant bingo or electronic instant bingo tickets and that includes the following information for the game:

- (1) The name of the game;
- (2) The manufacturer's name or distinctive logo;
- (3) The form number;
- (4) The ticket count;
- (5) The prize structure, including the number of winning tickets by denomination and the respective winning symbol or number combinations for the winning tickets;
- (6) The cost per play;
- (7) The serial number of the game.

Game of chance means poker, craps, roulette, or other game in which a player gives anything of value in the hope of gain, the outcome of which is determined largely by chance, but does not include bingo.

Game of chance conducted for profit means any game of chance designed to produce income for the person who conducts or operates the game of chance, but does not include bingo.

Gross annual revenues means the annual gross receipts derived from the conduct of bingo described in subsection (1) of the definition of "bingo" in this section plus the annual net profit derived from the conduct of bingo described in subsection (2) of the definition of "bingo" in this section.

Gross profit means gross receipts minus the amount actually expended for the payment of prize awards.

Gross receipts means all money or assets, including admission fees, that a person receives from bingo without the deduction of any amounts for prizes paid out or for the expenses of conducting bingo. *Gross receipts* does not include any money directly taken in from the sale of food or beverages by a charitable organization conducting bingo, or by a bona fide auxiliary unit or society of a charitable organization conducting bingo, provided all of the following apply:

- (1) The auxiliary unit or society has been in existence as a bona fide auxiliary unit or society of the charitable organization for at least two years prior to conducting bingo.
- (2) The person who purchases the food or beverage receives nothing of value except the food or beverage and items customarily received with the purchase of that food or beverage.

(3) The food and beverages are sold at customary and reasonable prices.

Historic railroad means all or a portion of the tracks and right-of-way of a railroad that was owned and operated by a for profit common carrier in this state at any time prior to January 1, 1950.

Instant bingo means a form of bingo that shall use folded or banded tickets or paper cards with perforated break-open tabs, a face of which is covered or otherwise hidden from view to conceal a number, letter, or symbol, or set of numbers, letters, or symbols, some of which have been designated in advance as prize winners, and may also include games in which some winners are determined by the random selection of one or more bingo numbers by the use of a seal card or bingo blower. *Instant bingo* also includes a punch board game. In all "instant bingo" the prize amount and structure shall be predetermined. The term does not include electronic instant bingo or any device that is activated by the insertion of a coin, currency, token, or an equivalent, and that contains as one of its components a video display monitor that is capable of displaying numbers, letters, symbols, or characters in winning or losing combinations.

Instant bingo ticket dispenser means a mechanical device that dispenses an instant bingo ticket or card as the sole item of value dispensed and that has the following characteristics:

- (1) It is activated upon the insertion of United States currency.
- (2) It performs no gaming functions.
- (3) It does not contain a video display monitor or generate noise.
- (4) It is not capable of displaying any numbers, letters, symbols, or characters in winning or losing combinations.
- (5) It does not simulate or display rolling or spinning reels.
- (6) It is incapable of determining whether a dispensed bingo ticket or card is a winning or nonwinning ticket or card and requires a winning ticket or card to be paid by a bingo game operator.
- (7) It may provide accounting and security features to aid in accounting for the instant bingo tickets or cards it dispenses.
- (8) It is not part of an electronic network and is not interactive.

IRC or *internal revenue code* means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. §§ 1 et seq., as now or hereafter amended.

Manufacturer means any person who assembles completed bingo supplies from raw materials, other items, or subparts or who modifies, converts, adds to, or removes parts from bingo supplies to further their promotion or sale.

Merchandise prize means any item of value, but shall not include any of the following:

- (1) Cash, gift cards, or any equivalent thereof;
- (2) Plays on games of chance, state lottery tickets, or bingo;
- (3) Firearms, tobacco, or alcoholic beverages; or
- (4) A redeemable voucher that is redeemable for any of the items listed in subsections (1), (2), or (3) of this definition.

Net profit means gross profit minus expenses.

Net profit from the proceeds of the sale of instant bingo or electronic instant bingo means gross profit minus the ordinary, necessary, and reasonable expense expended for the purchase of bingo supplies for the purpose of conducting instant bingo or electronic instant bingo, and, in the case of instant bingo or

electronic instant bingo conducted by a veteran's, fraternal, or sporting organization, minus the payment by that organization of real property taxes and assessments levied on a premises on which instant bingo or electronic instant bingo is conducted.

Participant means any person who plays bingo.

Person has the same meaning as in R.C. § 1.59 and includes any firm or any other legal entity, however organized.

Pool not conducted for profit means a scheme in which a participant gives a valuable consideration for a chance to win a prize and the total amount of consideration wagered is distributed to a participant or participants.

Punch board means a form of instant bingo that uses a board containing a number of holes or receptacles of uniform size in which are placed, mechanically and randomly, serially numbered slips of paper that may be punched or drawn from the hole or receptacle. A player may punch or draw the numbered slips of paper from the holes or receptacles and obtain the prize established for the game if the number drawn corresponds to a winning number or, if the punch board includes the use of a seal card, a potential winning number.

Raffle means a form of bingo in which the one or more prizes are won by one or more persons who have purchased a raffle ticket. The one or more winners of the raffle are determined by drawing a ticket stub or other detachable section from a receptacle containing ticket stubs or detachable sections corresponding to all tickets sold for the raffle. The term does not include the drawing of a ticket stub or other detachable section of a ticket purchased to attend a professional sporting event if both of the following apply:

- (1) The ticket stub or other detachable section is used to select the winner of a free prize given away at the professional sporting event; and
- (2) The cost of the ticket is the same as the cost of a ticket to the professional sporting event on days when no free prize is given away.

Redeemable voucher means any ticket, token, coupon, receipt, or other noncash representation of value.

Religious organization means any church, body of communicants, or group that is not organized or operated for profit and that gathers in common membership for regular worship and religious observances.

Revoke means to void permanently all rights and privileges of the holder of a license issued under R.C. §§ 2915.08, 2915.081, or 2915.082 or a charitable gaming license issued by another jurisdiction.

Scheme of chance means:

- (1) A slot machine unless authorized under R.C. chapter 3772, lottery unless authorized under R.C. chapter 3770, numbers game, pool conducted for profit, or other scheme in which a participant gives a valuable consideration for a chance to win a prize, but does not include bingo, a skill-based amusement machine, or a pool not conducted for profit. "Scheme of chance" includes the use of an electronic device to reveal the results of a game entry if valuable consideration is paid, directly or indirectly, for a chance to win a prize. Valuable consideration is deemed to be paid for a chance to win a prize in the following instances:
 - A. Less than 50 percent of the goods or services sold by a scheme of chance operator in exchange for game entries are used or redeemed by participants at any one location;
 - B. Less than 50 percent of participants who purchase goods or services at any one location do not accept, use, or redeem the goods or services sold or purportedly sold;

- C. More than 50 percent of prizes at any one location are revealed to participants through an electronic device simulating a game of chance or a "casino game" as defined in R.C. § 3772.01;
 - D. The good or service sold by a scheme of chance operator in exchange for a game entry cannot be used or redeemed in the manner advertised;
 - E. A participant pays more than fair market value for goods or services offered by a scheme of chance operator in order to receive one or more game entries;
 - F. A participant may use the electronic device to purchase additional game entries;
 - G. A participant may purchase additional game entries by using points or credits won as prizes while using the electronic device;
 - H. A scheme of chance operator pays out in prize money more than 20 percent of the gross revenue received at one location; or
 - I. A participant makes a purchase or exchange in order to obtain any good or service that may be used to facilitate play on the electronic device.
- (2) As used in this subsection, *electronic device* means a mechanical, video, digital, or electronic machine or device that is capable of displaying information on a screen or other mechanism and that is owned, leased, or otherwise possessed by any person conducting a scheme of chance, or by that person's partners, affiliates, subsidiaries, or contractors. *Electronic device* does not include an electronic instant bingo system.

Seal card means a form of instant bingo that uses instant bingo tickets in conjunction with a board or placard that contains one or more seals that, when removed or opened, reveal predesignated winning numbers, letters, or symbols.

Security personnel includes any person who either is a sheriff, deputy sheriff, marshal, deputy marshal, township constable, or member of an organized Police Department of a municipal corporation or has successfully completed a peace officer's training course pursuant to R.C. §§ 109.71 to 109.79 and who is hired to provide security for the premises on which bingo is conducted.

Skill-based amusement machine means:

- (1) A. A mechanical, video, digital, or electronic device that rewards the player or players, if at all, only with merchandise prizes or with redeemable vouchers redeemable only for merchandise prizes, provided that with respect to rewards for playing the game all of the following apply:
 - 1. The wholesale value of a merchandise prize awarded as a result of the single play of a machine does not exceed \$10.00;
 - 2. Redeemable vouchers awarded for any single play of a machine are not redeemable for a merchandise prize with a wholesale value of more than \$10.00;
 - 3. Redeemable vouchers are not redeemable for a merchandise prize that has a wholesale value of more than \$10.00 times the fewest number of single plays necessary to accrue the redeemable vouchers required to obtain that prize; and
 - 4. Any redeemable vouchers or merchandise prizes are distributed at the site of the skill-based amusement machine at the time of play.
- B. A card for the purchase of gasoline is a redeemable voucher for purposes of subsection (1) of this definition even if the skill-based amusement machine for the play of which the card is awarded is located at a place where gasoline may not be legally distributed to the public or

the card is not redeemable at the location of, or at the time of playing, the skill-based amusement machine.

- (2) A device shall not be considered a skill-based amusement machine and shall be considered a slot machine if it pays cash or one or more of the following apply:
 - A. The ability of a player to succeed at the game is impacted by the number or ratio of prior wins to prior losses of players playing the game;
 - B. Any reward of redeemable vouchers is not based solely on the player achieving the object of the game or the players score;
 - C. The outcome of the game, or the value of the redeemable voucher or merchandise prize awarded for winning the game, can be controlled by a source other than any player playing the game;
 - D. The success of any player is or may be determined by a chance event that cannot be altered by player actions;
 - E. The ability of any player to succeed at the game is determined by game features not visible or known to the player;
 - F. The ability of the player to succeed at the game is impacted by the exercise of a skill that no reasonable player could exercise.
- (3) All of the following apply to any machine that is operated as described in subsection (1) of this definition:
 - A. As used in this definition of *skill-based amusement machine*, *game* and *play* mean one event from the initial activation of the machine until the results of play are determined without payment of additional consideration. An individual utilizing a machine that involves a single game, play, contest, competition, or tournament may be awarded redeemable vouchers or merchandise prizes based on the results of play.
 - B. Advance play for a single game, play, contest, competition, or tournament participation may be purchased. The cost of the contest, competition, or tournament participation may be greater than a single noncontest, competition, or tournament play.
 - C. To the extent that the machine is used in a contest, competition, or tournament, that contest, competition, or tournament has a defined starting and ending date and is open to participants in competition for scoring and ranking results toward the awarding of redeemable vouchers or merchandise prizes that are stated prior to the start of the contest, competition, or tournament.
- (4) For purposes of subsection (1) of this definition, the mere presence of a device, such as a pin-setting, ball-releasing, or scoring mechanism, that does not contribute to or affect the outcome of the play of the game does not make the device a skill-based amusement machine.

Slot machine:

- (1) Means either of the following:
 - A. Any mechanical, electronic, video, or digital device that is capable of accepting anything of value, directly or indirectly, from or on behalf of a player who gives the thing of value in the hope of gain;
 - B. Any mechanical, electronic, video, or digital device that is capable of accepting anything of value, directly or indirectly, from or on behalf of a player to conduct bingo or a scheme or game of chance.

- (2) *Slot machine* does not include a skill-based amusement machine, an instant bingo ticket dispenser, or an electronic instant bingo system.

Sporting organization means a hunting, fishing, or trapping organization, other than a college or high school fraternity or sorority, that is not organized for profit, that is affiliated with a state or national sporting organization, including but not limited to, the League of Ohio Sportsmen, and that has been in continuous existence in this state for a period of three years.

Suspend means to interrupt temporarily all rights and privileges of the holder of a license issued under R.C. § 2915.08, 2915.081, or 2915.082 or a charitable gaming license issued by another jurisdiction.

Sweepstakes means any game, contest, advertising scheme or plan, or other promotion where consideration is not required for a person to enter to win or become eligible to receive any prize, the determination of which is based upon chance. *Sweepstakes* does not include bingo as authorized under R.C. Chapter 2915, pari-mutuel wagering as authorized by R.C. CHAPTER 3769, lotteries conducted by the State Lottery Commission as authorized by R.C. chapter 3770, and casino gaming as authorized by R.C. chapter 3772.

Sweepstakes terminal device means:

- (1) A mechanical, video, digital, or electronic machine or device that is owned, leased, or otherwise possessed by any person conducting a sweepstakes, or by that person's partners, affiliates, subsidiaries, or contractors, that is intended to be used by a sweepstakes participant, and that is capable of displaying information on a screen or other mechanism. A device is a sweepstakes terminal device if any of the following apply:
 - A. The device uses a simulated game terminal as a representation of the prizes associated with the results of the sweepstakes entries.
 - B. The device utilizes software such that the simulated game influences or determines the winning of or value of the prize.
 - C. The device selects prizes from a predetermined finite pool of entries.
 - D. The device utilizes a mechanism that reveals the content of a predetermined sweepstakes entry.
 - E. The device predetermines the prize results and stores those results for delivery at the time the sweepstakes entry results are revealed.
 - F. The device utilizes software to create a game result.
 - G. The device reveals the prize incrementally, even though the device does not influence the awarding of the prize or the value of any prize awarded.
 - H. The device determines and associates the prize with an entry or entries at the time the sweepstakes is entered.
- (2) As used in this definition and in section 517.02:
 - A. *Enter* means the act by which a person becomes eligible to receive any prize offered in a sweepstakes.
 - B. *Entry* means one event from the initial activation of the sweepstakes terminal device until all the sweepstakes prize results from that activation are revealed.
 - C. *Prize* means any gift, award, gratuity, good, service, credit, reward, or any other thing of value that may be transferred to a person, whether possession of the prize is actually transferred, or placed on an account or other record as evidence of the intent to transfer the prize.

D. *Sweepstakes terminal device facility* means any location in this state where a sweepstakes terminal device is provided to a sweepstakes participant, except as provided in subsection 517.02(g) and R.C. § 2915.02(G).

Veteran's organization means any individual post or state headquarters of a National Veteran's Association or an auxiliary unit of any individual post of a National Veteran's Association, which post, state headquarters, or auxiliary unit is incorporated as a nonprofit corporation and either has received a letter from the state headquarters of the National Veteran's Association indicating that the individual post or auxiliary unit is in good standing with the National Veteran's Association or has received a letter from the National Veteran's Association indicating that the state headquarters is in good standing with the National Veteran's Association. As used in this definition, *National Veteran's Association* means any veteran's association that has been in continuous existence as such for a period of at least five years and either is incorporated by an act of the United States Congress or has a national dues-paying membership of at least 5,000 persons.

Volunteer firefighter's organization means any organization of volunteer firefighters, as defined in R.C. § 146.01, that is organized and operated exclusively to provide financial support for a volunteer Fire Department or a volunteer fire company and that is recognized or ratified by a county, municipal corporation, or township.

Volunteer rescue service organization means any organization of volunteers organized to function as an emergency medical service organization, as defined in R.C. § 4765.01.

Youth athletic organization means any organization, not organized for profit, that is organized and operated exclusively to provide financial support to, or to operate, athletic activities for persons who are 21 years of age or younger by means of sponsoring, organizing, operating, or contributing to the support of an athletic team, club, league, or association.

Youth athletic park organization means any nonprofit organization that satisfies both of the following:

- (1) It owns, operates, and maintains playing fields that satisfy both of the following:
 - A. The playing fields are used for athletic activities by one or more organizations, not organized for profit, each of which is organized and operated exclusively to provide financial support to, or to operate, athletic activities for persons who are 18 years of age or younger by means of sponsoring, organizing, operating, or contributing to the support of an athletic team, club, league, or association.
 - B. The playing fields are not used for any profit-making activity at any time during the year.
- (2) It uses the proceeds of bingo it conducts exclusively for the operation, maintenance, and improvement of its playing fields of the type described in subsection (1) of this definition.

(R.C. § 2915.01; '64 Code, § 517.01; Ord. No. 5727, § 1(Exh. A), 7-16-24)

Sec. 525.02. Falsification.

- (a) No person shall knowingly make a false statement, or knowingly swear or affirm the truth of a false statement previously made, when any of the following applies:
 - (1) The statement is made in any official proceeding.
 - (2) The statement is made with purpose to incriminate another.
 - (3) The statement is made with purpose to mislead a public official in performing his or her official function.

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

- (4) The statement is made with purpose to secure the payment of unemployment compensation; Ohio Works First; prevention, retention and contingency benefits and services; disability financial assistance; retirement benefits or health care coverage from a state retirement system; economic development assistance as defined in R.C. § 9.66; or other benefits administered by a governmental agency or paid out of a public treasury.
 - (5) The statement is made with purpose to secure the issuance by a governmental agency of a license, permit, authorization, certificate, registration, release, or provider agreement.
 - (6) The statement is sworn or affirmed before a notary public or another person empowered to administer oaths.
 - (7) The statement is in writing on or in connection with a report or return that is required or authorized by law.
 - (8) The statement is in writing, and is made with purpose to induce another to extend credit to or employ the offender, or to confer any degree, diploma, certificate of attainment, award of excellence, or honor on the offender, or to extend to or bestow upon the offender any other valuable benefit or distinction, when the person to whom the statement is directed relies upon it to his or her detriment.
 - (9) The statement is made with purpose to commit or facilitate the commission of a theft offense.
 - (10) The statement is knowingly made to a probate court in connection with any action, proceeding, or other matter within its jurisdiction, either orally or in a written document, including, but not limited to, an application, petition, complaint, or other pleading, or an inventory, account, or report.
 - (11) The statement is made on an account, form, record, stamp, label or other writing that is required by law.
 - (12) The statement is made in connection with the purchase of a firearm, as defined in R.C. § 2923.11, and in conjunction with the furnishing to the seller of the firearm of a fictitious or altered driver's or commercial driver's license or permit, a fictitious or altered identification card, or any other document that contains false information about the purchaser's identity.
 - (13) The statement is made in a document or instrument of writing that purports to be a judgment, lien, or claim of indebtedness and is filed or recorded with the Secretary of State, a county recorder, or the clerk of a court of record.
 - (14) The statement is made in an application filed with a county sheriff pursuant to R.C. § 2923.125 in order to obtain or renew a concealed handgun license or is made in an affidavit submitted to a county sheriff to obtain a concealed handgun license on a temporary emergency basis under R.C. § 2923.1213.
 - (15) The statement is required under R.C. § 5743.71 in connection with the person's purchase of cigarettes or tobacco products in a delivery sale.
 - (16) The statement is made to the department of children and youth in connection with the Ohio adoption grant program for the purpose of qualifying for or obtaining an adoption grant under R.C. § 5101.19 to 5101.194.
- (b) No person, in connection with the purchase of a firearm as defined in R.C. § 2923.11, shall knowingly furnish to the seller of the firearm a fictitious or altered driver's or commercial driver's license or permit, a fictitious or altered identification card, or any other document that contains false information about the purchaser's identity.

- (c) No person, in an attempt to obtain a concealed handgun license under R.C. § 2923.125, shall knowingly present to a sheriff a fictitious or altered document that purports to be certification of the person's competence in handling a handgun as described in subsection (B)(3) of that section.
- (d) It is no defense to a charge under subsection (a)(6) of this section that the oath or affirmation was administered or taken in an irregular manner.
- (e) If contradictory statements relating to the same fact are made by the offender within the period of the statute of limitations for falsification, it is not necessary for the prosecution to prove which statement was false, but only that one or the other was false.
- (f) (1) Whoever violates subsections (a)(1), (2), (3), (4), (5), (6), (7), (8), (10), (11), (13), (15) or ~~(15 16)~~ of this section is guilty of falsification. Except as otherwise provided in this subsection, falsification is a misdemeanor of the first degree.
 - (2) Whoever violates subsection (a)(9) of this section is guilty of falsification in a theft offense. Except as otherwise provided in this subsection, falsification in a theft offense is a misdemeanor of the first degree. If the value of the property or services stolen is \$1,000.00 or more, falsification in a theft offense is a felony to be prosecuted under appropriate state law.
 - (3) Whoever violates subsections (a)(12) or (b) of this section is guilty of falsification to purchase a firearm, a felony to be prosecuted under appropriate state law.
 - (4) Whoever violates subsections (a)(14) or (c) of this section is guilty of falsification to obtain a concealed handgun license, a felony to be prosecuted under appropriate state law.
 - (5) Whoever violates subsection (a) of this section in removal proceedings under R.C. § 319.26, 321.37, 507.13 or 733.78 is guilty of falsification regarding a removal proceeding, a felony to be prosecuted under appropriate state law.
- (g) (1) No person who has knowingly failed to maintain proof of financial responsibility in accordance with R.C. § 4509.101 shall produce any document or present to a peace officer an electronic wireless communications device that is displaying any text or images with the purpose to mislead a peace officer upon the request of a peace officer for proof of financial responsibility made in accordance with R.C. § 4509.101(D)(2).
 - (2) Whoever violates this subsection (g) is guilty of falsification, a misdemeanor of the first degree.

(R.C. § 2921.13; '64 Code, § 525.02; R.C. § 4509.102)

Cross reference— Penalty, see § 525.99

State Law reference— Civil liability for violations of this section, see R.C. § 2921.13(G)

Sec. 525.05. Failure to report a crime, injury or knowledge of death.

- (a) (1) Except as provided in subsection (a)(2) of this section, no person, knowing that a felony has been or is being committed, shall knowingly fail to report the information to law enforcement authorities.
 - (2) No person, knowing that a violation of R.C. § 2913.04(B) has been or is being committed or that the person has received information derived from such a violation, shall knowingly fail to report the violation to law enforcement authorities.
- (b) Except for conditions that are within the scope of subsection (e) of this section, no person giving aid to a sick or injured person shall negligently fail to report to law enforcement authorities any gunshot or

stab wound treated or observed by the person, or any serious physical harm to persons that the person knows or has reasonable cause to believe resulted from an offense of violence.

- (c) No person who discovers the body or acquires the first knowledge of the death of a person shall fail to report the death immediately to a physician or advanced practice registered nurse whom the person knows to be treating the deceased for a condition from which death at such time would not be unexpected, or to a law enforcement officer, an ambulance service, an emergency squad, or the coroner in a political subdivision in which the body is discovered, the death is believed to have occurred, or knowledge concerning the death is obtained. For purposes of this division, *advanced practice registered nurse* does not include a certified registered nurse anesthetist.
- (d) No person shall fail to provide upon request of the person to whom the person has made a report required by subsection (c) of this section, or to any law enforcement officer who has reasonable cause to assert the authority to investigate the circumstances surrounding the death, any facts within the person's knowledge that may have a bearing on the investigation of the death.
- (e) (1) As used in this subsection, *burn injury* means any of the following:
 - A. Second or third degree burns;
 - B. Any burns to the upper respiratory tract or laryngeal edema due to the inhalation of superheated air;
 - C. Any burn injury or wound that may result in death.
- (2) No physician, nurse, physician assistant, or limited practitioner who, outside a hospital, sanitarium, or other medical facility, attends or treats a person who has sustained a burn injury inflicted by an explosion or other incendiary device, or that shows evidence of having been inflicted in a violent, malicious, or criminal manner, shall fail to report the burn injury immediately to the local arson bureau, if there is such a bureau in the jurisdiction in which the person is attended or treated, or otherwise to local law enforcement authorities.
- (3) No manager, superintendent, or other person in charge of a hospital, sanitarium, or other medical facility in which a person is attended or treated for any burn injury inflicted by an explosion or other incendiary device, or that shows evidence of having been inflicted in a violent, malicious, or criminal manner, shall fail to report the burn injury immediately to the local arson bureau, if there is such a bureau in the jurisdiction in which the person is attended or treated, or otherwise to local law enforcement authorities.
- (4) No person who is required to report any burn injury under subsections (e)(2) or (3) of this section shall fail to file, within three working days after attending or treating the victim, a written report of the burn injury with the office of the state Fire Marshal. The report shall be made on a form provided by the state Fire Marshal.
- (5) Anyone participating in the making of reports under subsection (e) of this section or anyone participating in a judicial proceeding resulting from the reports is immune from any civil or criminal liability that otherwise might be incurred or imposed as a result of such actions. Notwithstanding R.C. § 4731.22, the physician-patient relationship or advanced practice registered nurse-patient relationship is not a ground for excluding evidence regarding a person's burn injury or the cause of the burn injury in any judicial proceeding resulting from a report submitted under subsection (e) of this section.
- (f) (1) No person who knows that a licensed medical professional has committed an offense under Chapter 2907. of the Revised Code, a violation of a municipal ordinance that is substantially equivalent to such offense, or a substantially equivalent criminal offense in another jurisdiction, against a patient of the licensed medical professional shall fail to report such knowledge to law enforcement authorities within thirty days of obtaining the knowledge.

- (2) Except for a self-report or participation in the offense or violation being reported, any person who makes a report within the thirty-day period provided in division (f)(1) of this section or any person who participates in a judicial proceeding that results from such report is immune from civil or criminal liability that otherwise might be incurred or imposed as a result of making that report or participating in that proceeding so long as the person is acting in good faith without fraud or malice.
- (3) The physician-patient relationship or physician assistant-patient relationship is not a ground for excluding evidence regarding the person's knowledge of a licensed medical professional's commission of an offense or violation reported under division (f)(1) of this section, against that licensed medical professional in any judicial proceeding resulting from a report made under that division.
- (4) As used in division (f) of this section, "licensed medical professional" has the same meaning as in R.C. § 2907.01.
- (g)(1) Any doctor of medicine or osteopathic medicine, hospital intern or resident, nurse, psychologist, social worker, independent social worker, social work assistant, licensed professional clinical counselor, licensed professional counselor, independent marriage and family therapist, or marriage and family therapist who knows or has reasonable cause to believe that a patient or client has been the victim of domestic violence, as defined in R.C. § 3113.31, shall note that knowledge or belief and the basis for it in the patient's or client's records.
- (2) Notwithstanding R.C. § 4731.22, the physician- patient privilege or advanced practice registered nurse-patient privilege shall not be a ground for excluding any information regarding the report containing the knowledge or belief noted under subsection (f)(1) of this section, and the information may be admitted as evidence in accordance with the Rules of Evidence.
- (gh) Subsections (a) or (d) of this section does not require disclosure of information, when any of the following applies:
- (1) The information is privileged by reason of the relationship between attorney and client; physician and patient; advanced practice registered nurse and patient; licensed psychologist or licensed school psychologist and client; licensed professional clinical counselor, licensed professional counselor, independent social worker, social worker, independent marriage and family therapist, or marriage and family therapist and client; member of the clergy, rabbi, minister, or priest and any person communicating information confidentially to the member of the clergy, rabbi, minister, or priest for a religious counseling purpose of a professional character; husband and wife; or a communications assistant and those who are a party to a telecommunications relay service call.
 - (2) The information would tend to incriminate a member of the actor's immediate family.
 - (3) Disclosure of the information would amount to revealing a news source, privileged under R.C. §§ 2739.04 or 2739.12.
 - (4) Disclosure of the information would amount to disclosure by a member of the ordained clergy of an organized religious body confidential communication made to that member of the clergy in that member's capacity as such by a person seeking the aid or counsel of that member of the clergy.
 - (5) Disclosure would amount to revealing information acquired by the actor in the course of the actor's duties in connection with a bona fide program of treatment or services for persons with drug dependencies or persons in danger of drug dependence, which program is maintained or conducted by a hospital, clinic, person, agency, or community addiction services provider whose alcohol and drug addiction services are certified pursuant to R.C. § 5119.36.

- (6) Disclosure would amount to revealing information acquired by the actor in the course of the actor's duties in connection with a bona fide program for providing counseling services to victims of crimes that are violations of R.C. §§ 2907.02 or 2907.05 or to victims of felonious sexual penetration in violation of former R.C. § 2907.12. As used herein *counseling services* include services provided in an informal setting by a person who, by education or experience, is competent to provide such services.
- (~~hi~~) No disclosure of information pursuant to this section gives rise to any liability or recrimination for a breach of privilege or confidence.
- (~~ij~~) Whoever violates subsections (a), (b), or (~~b~~f)(1) of this section is guilty of failure to report a crime. Violation of subsection (a)(1) or (f)(1) of this section is a misdemeanor of the fourth degree. Violation of subsections (a)(2) or (b) of this section is a misdemeanor of the second degree.
- (~~jk~~) Whoever violates subsections (c) or (d) of this section is guilty of failure to report knowledge of a death, a misdemeanor of the fourth degree.
- (~~kl~~) (1) Whoever negligently violates subsection (e) of this section is guilty of a minor misdemeanor.
(2) Whoever knowingly violates subsection (e) of this section is guilty of a misdemeanor of the second degree.
- (~~lm~~) As used in this section, *nurse* includes an advanced practice registered nurse, registered nurse, and licensed practical nurse.

(R.C. § 2921.22; '64 Code, § 525.05; Ord. No. 5727, § 1(Exh. A), 7-16-24)

Cross reference— Penalty, see § 525.99

Sec. 533.01. Definitions.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

Harmful to juveniles means that quality of any material or performance describing or representing nudity, sexual conduct, sexual excitement, or sado-masochistic abuse in any form to which all of the following apply:

- (1) The material or performance, when considered as a whole, appeals to the prurient interest of juveniles in sex.
- (2) The material or performance is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable for juveniles.
- (3) The material or performance, when considered as a whole, lacks serious literary, artistic, political, and scientific value for juveniles.

Juvenile means an unmarried person under the age of 18.

Licensed medical professional means any of the following medical professionals:

- (1) A physician assistant licensed under Chapter 4730. of the Revised Code;
- (2) A physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery;
- (3) A massage therapist licensed under Chapter 4731. of the Revised Code.

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

Material means any book, magazine, newspaper, pamphlet, poster, print, picture, figure, image, description, motion picture film, video cassette, laser disc, phonograph record, cassette tape, compact disc, or other tangible thing capable of arousing interest through sight, sound, or touch and includes an image or text appearing on a computer monitor, television screen, liquid crystal display, or similar display device or an image or text recorded on a computer hard disk, computer floppy disk, compact disk, magnetic tape, or similar data storage device.

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

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

Minor means a person under the age of 18 years.

Nudity means the showing, representation or depiction of human male or female genitals, pubic area or buttocks with less than a full, opaque covering, or of a female breast with less than a full, opaque covering of any portion thereof below the top of the nipple, or of covered male genitals in a discernibly turgid state.

Obscene means when considered as a whole, and judged with reference to ordinary adults, or, if it is designed for sexual deviates or other specially susceptible group, judged with reference to such group, any material or performance is *obscene* if any of the following apply:

- (1) Its dominant appeal is to prurient interest;
- (2) Its dominant tendency is to arouse lust by displaying or depicting sexual activity, masturbation, sexual excitement or nudity in a way which tends to represent human beings as mere objects of sexual appetite;
- (3) Its dominant tendency is to arouse lust by displaying or depicting bestiality or extreme or bizarre violence, cruelty or brutality;
- (4) Its dominant tendency is to appeal to scatological interest by displaying or depicting human bodily functions of elimination in a way which inspires disgust or revulsion in persons with ordinary sensibilities, without serving any genuine scientific, educational, sociological, moral or artistic purpose;
- (5) It contains a series of displays or descriptions of sexual activity, masturbation, sexual excitement, nudity, bestiality, extreme or bizarre violence, cruelty, or brutality, or human bodily functions of elimination, the cumulative effect of which is a dominant tendency to appeal to prurient or scatological interest, when the appeal to such interest is primarily for its own sake or for commercial exploitation, rather than primarily for a genuine scientific, educational, sociological, moral or artistic purpose.

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

Place where a person has a reasonable expectation of privacy means a place where a reasonable person would believe that the person could fully disrobe in private.

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

Prostitute means a male or female who promiscuously engages in sexual activity for hire, regardless of whether the hire is paid to the prostitute or to another.

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

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

Sexual conduct means vaginal intercourse between a male and female; anal intercourse, fellatio, and cunnilingus between persons regardless of sex; and, without privilege to do so, the insertion, however slight, of any part of the body or any instrument, apparatus, or other object into the vaginal or anal opening of another. Penetration, however slight, is sufficient to complete vaginal or anal intercourse.

Sexual contact means any touching of an erogenous zone of another, including without limitation the thigh, genitals, buttock, pubic region, or, if such person is a female, a breast, for the purpose of sexually arousing or gratifying either person.

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

Spouse means a person married to an offender at the time of an alleged offense, except that such person shall not be considered the spouse when any of the following apply:

- (1) When the parties have entered into a written separation agreement authorized by R.C. § 3103.06;
- (2) During the pendency of an action between the parties for annulment, divorce, dissolution of marriage or legal separation;
- (3) In the case of an action for legal separation, after the effective date of the judgment for legal separation.

(R.C. § 2907.01; '64 Code, § 533.01; Ord. No. 5727, § 1(Exh. A), 7-16-24)

Sec. 533.03. Unlawful sexual conduct with a minor.

- (a) No person, who is 18 years of age or older, shall engage in sexual conduct with another, ~~who is not the spouse of the offender~~, when the offender knows the other person is 13 years of age or older but less than 16 years of age, or the offender is reckless in that regard.
- (b) Whoever violates this section is guilty of unlawful sexual conduct with a minor.
 - (1) Except as otherwise provided in subsection (b)(2), unlawful sexual conduct with a minor is a felony to be prosecuted under appropriate state law.
 - (2) Except as otherwise provided in subsection (b)(3) of this section, if the offender is less than four years older than the other person, unlawful sexual conduct with a minor is a misdemeanor of the first degree.
 - (3) If the offender previously has been convicted of or pleaded guilty to a violation of R.C. § 2907.02, 2907.03 or 2907.04, or any substantially similar municipal ordinance, or a violation of former R.C. § 2907.12, or any substantially similar municipal ordinance, unlawful sexual conduct with a minor is a felony to be prosecuted under appropriate state law.

(R.C. § 2907.04; '64 Code, § 533.03)

Cross reference— Penalty, see § 533.99

Sec. 533.04. Sexual imposition.

- (a) No person shall have sexual contact with another, not the spouse of the offender; cause another, ~~not the spouse of the offender~~, to have sexual contact with the offender; or cause two or more other persons to have sexual contact when ~~any of the following applies:~~ the offender knows that the sexual contact is offensive to the other person, or one of the other persons, or is reckless in that regard.

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

- (1) ~~The offender knows that the sexual contact is offensive to the other person, or one of the persons, or is reckless in that regard.~~
 - (2) ~~The offender knows that the other person's, or one of the other person's, ability to appraise the nature of or control the offender's or touching person's conduct is substantially impaired.~~
 - (3) ~~The offender knows that the other person or one of the other persons, submits because of being unaware of the sexual contact.~~
 - (4) ~~The other person, or one of the other persons, is 13 years of age or older but less than 16 years of age, whether or not the offender knows the age of the person, and the offender is at least 18 years of age and four or more years older than the other person.~~
 - (5) ~~The offender is a mental health professional, the other person or one of the other persons is a mental health client or patient of the offender, and the offender induces the other person who is the client or patient to submit by falsely representing to the other person who is the client or patient that the sexual contact is necessary for mental health treatment purposes.~~
- (b) No person shall be convicted of a violation of this section solely upon the victim's testimony unsupported by other evidence.
- (c) Whoever violates this section is guilty of sexual imposition, a misdemeanor of the third degree. If the offender previously has been convicted of or pleaded guilty to a violation of this section, R.C. §§ 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, former R.C. § 2907.12, or a substantially equivalent state law or municipal ordinance, a violation of this section is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to three or more violations of this section, R.C. §§ 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, former R.C. § 2907.12, or a substantially equivalent state law or municipal ordinance, or of any combination of those sections, a violation of this section is a misdemeanor of the first degree and, notwithstanding the range of jail terms prescribed in R.C. § 2929.24, the court may impose on the offender a definite jail term of not more than one year.

(R.C. § 2907.06; '64 Code, § 533.04)

Cross reference— Penalty, see § 533.99

Sec. 533.21. Nonconsensual dissemination of private sexual images.

- (a) As used in this section:

Cable service provider has the same meaning as in R.C. § 1332.01.

Child-victim oriented offense and “sexually oriented offense” have the same meanings as in R.C. § 2950.01.

Direct-to-home satellite service has the meaning defined in 47 U.S.C. § 303, as amended.

Disseminate means to post, distribute, or publish on a computer device, computer network, web site, or other electronic device or medium of communication.

Fabricated sexual image has the same meaning as in R.C. § 2307.66.

Image means a photograph, film, videotape, digital recording, or other depiction or portrayal of a person.

Interactive computer service has the meaning defined in the "Telecommunications Act of 1996," 47 U.S.C. § 230, as amended.

Internet provider means a provider of internet service, including all of the following:

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

- (1) Broadband service, however defined or classified by the Federal Communications Commission;
- (2) Information service or telecommunications service, both as defined in the "Telecommunications Act of 1996," 47 U.S.C. § 153, as amended;
- (3) Internet protocol-enabled services, as defined in R.C. § 4927.01.

Mobile service has the meaning defined in 47 U.S.C. § 153, as amended.

Sexual act means any of the following:

- (1) Sexual activity;
- (2) Masturbation;
- (3) An act involving a bodily substance that is performed for the purpose of sexual arousal or gratification;
- (4) Sado-masochistic abuse.

Telecommunications carrier has the meaning defined in 47 U.S.C. § 153, as amended.

Video service provider has the same meaning as in R.C. § 1332.21.

(b) No person shall knowingly disseminate an image of another person if all of the following apply:

- (1) The person in the image is 18 years of age or older.
- (2) The person in the image can be identified from the image itself or from information displayed in connection with the image and the offender supplied the identifying information.
- (3) The person in the image is in a state of nudity or is engaged in a sexual act.
- (4) The image is disseminated without consent from the person in the image.
- (5) The image is disseminated with intent to harm the person in the image.

(c) No person shall knowingly disseminate a fabricated sexual image of another person without the other person's consent.

(d) No person shall, without the consent of the depicted person, in order to harass, extort, threaten, or cause physical, emotional, reputational, or economic harm to a person falsely depicted, knowingly do either of the following:

- (1) Create a fabricated sexual image with intent to distribute;
- (2) Solicit the creation of a fabricated sexual image with intent to distribute.

(e) This section does not prohibit the dissemination of an image or fabricated sexual image if any of the following apply:

- (1) The image or fabricated sexual image is disseminated for the purpose of a criminal investigation that is otherwise lawful.
- (2) The image or fabricated sexual image is disseminated for the purpose of, or in connection with, the reporting of unlawful conduct.
- (3) The image or fabricated sexual image is part of a news report or commentary or an artistic or expressive work, such as a performance, work of art, literary work, theatrical work, musical work, motion picture, film, or audiovisual work.
- (4) The image is disseminated by a law enforcement officer, or a corrections officer or guard in a detention facility, acting within the scope of the person's official duties.

- (5) ~~The~~ If the image or fabricated sexual image is disseminated for another lawful public purpose.
- (6) The person in the image or fabricated sexual image is eighteen years of age or older, the person in the image or fabricated sexual image is knowingly and willingly in a state of nudity or engaged in a sexual act and is knowingly and willingly in a location in which the person does not have a reasonable expectation of privacy.
- (7) The image or fabricated sexual image is disseminated for the purpose of medical treatment or examination.
- (~~df~~) The following entities are not liable for a violation of this section solely as a result of an image or or fabricated sexual image or other information provided by another person:
- (1) A provider of interactive computer service;
 - (2) A mobile service;
 - (3) A telecommunications carrier;
 - (4) An internet provider;
 - (5) A cable service provider;
 - (6) A direct-to-home satellite service;
 - (7) A video service provider.
- (eg) Any conduct that is a violation of this section and any other section of this Code or the Ohio Revised Code may be prosecuted under this section, the other section, or both sections.

(~~fh~~) *[Violations.]*

- (1) A. Except as otherwise provided in subsections (~~fh~~)(1)B., (~~f~~)(1)C., or (~~f~~)(1)D. of this section, whoever violates division (b) of this section is guilty of nonconsensual dissemination of private sexual images, a ~~misdemeanor~~ felony of the third fifth degree.
- B. If 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, a sexually oriented offense, or child-victim oriented offense, nonconsensual dissemination of private sexual images is a ~~misdemeanor~~ felony of the second fourth degree.
- (2)(A) Except as otherwise provided in division (h)(2)B of this section, whoever violates division (c) of this section is guilty of nonconsensual dissemination of fabricated sexual images, a felony of the fourth degree.
- C B. If the offender ~~previously~~ previously has been convicted of or pleaded guilty to ~~two or more violations~~ a violation of this section or any substantially equivalent state law or municipal ordinance, a sexually oriented, or a child-victim oriented offense, nonconsensual dissemination of ~~private~~ fabricated sexual images is a ~~misdemeanor~~ felony of the first third degree.
- (3)(A) Except as otherwise provided in division (h)(2)B of this section, whoever violates division (c) of this section is guilty of nonconsensual dissemination of fabricated sexual images, a felony of the fourth degree.
- ~~DB.~~ If the offender ~~is under 18 years of age and the person in the image is not more than five years older than the offender~~ has previously been convicted of or pleaded guilty to a violation of this section, a sexually oriented offense, or a child-victim oriented offense, ~~the offender shall not be prosecuted under this section~~ nonconsensual creation of fabricated sexual images is a felony of the third degree.

(24) In addition to any other penalty or disposition authorized or required by law, the court may order any person who is convicted of a violation of this section or who is adjudicated delinquent by reason of a violation of this section to criminally forfeit all of the following property to the state under R.C. chapter 2981:

- A. Any profits or proceeds and any property the person has acquired or maintained in violation of this section that the sentencing court determines to have been acquired or maintained as a result of the violation;
- B. Any interest in, securities of, claim against, or property or contractual right of any kind affording a source of influence over any enterprise that the person has established, operated, controlled, or conducted in violation of this section that the sentencing court determines to have been acquired or maintained as a result of the violation.

(gi) A victim of a violation of this section may commence a civil cause of action against the offender, as described in R.C. § 2307.66.

(R.C. § 2917.211)

Sec. 537.02. Vehicular homicide; vehicular manslaughter; vehicular assault.

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

- (1) A. As the proximate result of committing a violation of R.C. § 4511.19(A) or of a substantially equivalent municipal ordinance;
- B. As the proximate result of committing a violation of R.C. § 1547.11(A), or of a substantially equivalent municipal ordinance;
- C. As the proximate result of committing a violation of R.C. § 4561.15(A)(3), or of a substantially equivalent municipal ordinance.

(2) In one of the following ways:

- A. Recklessly;
- B. As the proximate result of committing, while operating or participating in the operation of a motor vehicle utility vehicle, mini-truck, or motorcycle in a construction zone, a reckless operation offense, provided that this subsection applies only if the person whose death is caused or whose pregnancy is unlawfully terminated is in the construction zone at the time of the offender's commission of the reckless operation offense in the construction zone and does not apply as described in subsection (d) of this section.

(3) In one of the following ways:

- A. Negligently;
- B. As the proximate result of committing, while operating or participating in the operation of a motor vehicle utility vehicle, mini-truck, or motorcycle in a construction zone, a speeding offense, provided that this subsection applies only if the person whose death is caused or whose pregnancy is unlawfully terminated is in the construction zone at the time of the offender's commission of the speeding offense in the construction zone and does not apply as described in subsection (d) of this section.

- (4) As the proximate result of committing a violation of any provision of any section contained in R.C. title 45 that is a minor misdemeanor or of a municipal ordinance that, regardless of the penalty set by ordinance for the violation, is substantially equivalent to any provision of any section contained in R.C. title 45 that is a minor misdemeanor.
- (b) (1) Whoever violates subsections (a)(1) or (2) of this section is guilty of aggravated vehicular homicide, a felony to be prosecuted under appropriate state law.
- (2) A. Whoever violates subsection (a)(3) of this section is guilty of vehicular homicide. Except as otherwise provided in this subsection, vehicular homicide is a misdemeanor of the first degree. Vehicular homicide committed in violation of subsection (a)(3) of this section is a felony to be prosecuted under appropriate state law if, at the time of the offense, the offender was driving under a suspension or cancellation imposed under R.C. chapter 4510 or any other provision of the Ohio Revised Code or was operating a motor vehicle or motorcycle, did not have a valid driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege, and was not eligible for renewal of the offender's driver's license or commercial driver's license without examination under R.C. § 4507.10 or if the offender previously has been convicted of or pleaded guilty to a violation of this section or any traffic-related homicide, manslaughter, or assault offense.
- B. In addition to any other sanctions imposed pursuant to this subsection, the court shall impose upon the offender a class four suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in R.C. § 4510.02(A)(4).
- (3) A. Whoever violates subsection (a)(4) of this section is guilty of vehicular manslaughter. Except as otherwise provided in this subsection, vehicular manslaughter is a misdemeanor of the second degree. Vehicular manslaughter is a misdemeanor of the first degree if, at the time of the offense, the offender was driving under a suspension or cancellation imposed under R.C. chapter 4510 or any other provision of the Revised Code or was operating a motor vehicle or motorcycle, did not have a valid driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege, and was not eligible for renewal of the offender's driver's license or commercial driver's license without examination under R.C. § 4507.10 or if the offender previously has been convicted of or pleaded guilty to a violation of this section or any traffic-related homicide, manslaughter, or assault offense.
- B. In addition to any other sanctions imposed pursuant to this subsection, the court shall impose upon the offender a class six suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in R.C. § 4510.02(A)(6) or, if the offender previously has been convicted of or pleaded guilty to a violation of this section, any traffic-related homicide, manslaughter, or assault offense, or a traffic-related murder, felonious assault, or attempted murder offense, a class four suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in R.C. § 4510.02(A)(4).
- (c) The court shall impose a mandatory jail term of at least 15 days on an offender who is convicted of or pleads guilty to a misdemeanor violation of subsection (a)(3)B. of this section and may impose upon the offender a longer jail term as authorized pursuant to R.C. § 2929.24.
- (d) Subsections (a)(2)B. and (a)(3)B. of this section do not apply in a particular construction zone unless signs of the type described in R.C. § 2903.081 are erected in that construction zone in accordance with the guidelines and design specifications established by the Director of Transportation under R.C. §

5501.27. The failure to erect signs of the type described in R.C. § 2903.081 in a particular construction zone in accordance with those guidelines and design specifications does not limit or affect the application of subsections (a)(1), (a)(2)A., (a)(3)A., or (a)(4) of this section in that construction zone or the prosecution of any person who violates any of those subsections in that construction zone.

(e) (1) As used in this section:

Construction zone has the same meaning as in R.C. § 5501.27.

Mandatory prison term and *mandatory jail term* have the same meanings as in R.C. § 2929.01.

Motor vehicle has the same meaning as in R.C. § 4501.01.

Reckless operation offense means a violation of R.C. § 4511.20 or a municipal ordinance substantially equivalent to R.C. § 4511.20.

Speeding offense means a violation of R.C. § 4511.21 or a municipal ordinance pertaining to speed.

Traffic-related homicide, manslaughter, or assault offense means a violation of R.C. § 2903.04 in circumstances in which subsection (D) of that section applies, a violation of R.C. § 2903.06 or 2903.08, or a violation of R.C. § 2903.06, 2903.07, or 2903.08 as they existed prior to March 23, 2000.

Traffic-related murder, felonious assault, or attempted murder offense means a violation of R.C. § 2903.01 or R.C. § 2903.02 in circumstances in which the offender used a motor vehicle as the means to commit the violation, a violation of R.C. § 2903.11(A)(2) in circumstances in which the deadly weapon used in the commission of the violation is a motor vehicle, or an attempt to commit aggravated murder or murder in violation of R.C. § 2923.02 in circumstances in which the offender used a motor vehicle as the means to attempt to commit the aggravated murder or murder.

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

(f) *Vehicular assault.*

(1) No person, while operating or participating in the operation of a motor vehicle or motorcycle, shall cause serious physical harm to another person or another's unborn as the proximate result of committing, while operating or participating in the operation of a motor vehicle or motorcycle in a construction zone, a speeding offense, provided that this subsection applies only if the person to whom the serious physical harm is caused or to whose unborn the serious physical harm is caused is in the construction zone at the time of the offender's commission of the speeding offense in the construction zone and does not apply as described in subsection (f)(4) of this section.

(2) A. Except as otherwise provided in this subsection, vehicular assault committed in violation of subsection (f)(1) of this section is a misdemeanor of the first degree. Vehicular assault committed in violation of subsection (f)(1) of this section is a felony to be prosecuted under appropriate state law if, at the time of the offense, the offender was driving under a suspension imposed under R.C. chapter 4510 or any other provision of the Ohio Revised Code or if the offender previously has been convicted of or pleaded guilty to a violation of

subsection (f)(1) of this section, R.C. § 2903.08, or any traffic-related homicide, manslaughter, or assault offense.

B. In addition to any other sanctions imposed, the court shall impose upon the offender a class four suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in R.C. § 4510.02(A)(4).

(3) The court shall impose a mandatory jail term of at least seven days on an offender who is convicted of or pleads guilty to a misdemeanor violation of subsection (f)(1) of this section and may impose upon the offender a longer jail term as authorized pursuant to R.C. § 2929.24.

(4) Subsection (f)(1) of this section does not apply in a particular construction zone unless signs of the type described in R.C. § 2903.081 are erected in that construction zone in accordance with the guidelines and design specifications established by the Director of Transportation under R.C. § 5501.27.

(5) As used in this subsection (f):

Construction zone has the same meaning as in R.C. § 5501.27.

Mandatory jail term has the same meaning as in R.C. § 2929.01.

Speeding offense has the same meaning as in R.C. § 2903.06.

Traffic-related homicide, manslaughter, or assault offense has the same meaning as in R.C. § 2903.06.

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

(R.C. 2903.08(A)(3), (C)(3), (D)(3), (E)—(G))

Cross reference— Penalty, see § 537.99

State Law reference— Vehicular assault and aggravated vehicular assault, felony offenses, see R.C. § 2903.08

State Law reference— Trial court to suspend or revoke driver's license, see R.C. §§ 4507.16 and 4507.163

Sec. 537.14. Domestic violence.

- (a) No person shall knowingly cause or attempt to cause physical harm to a family or household member.
- (b) No person shall recklessly cause serious physical harm to a family or household member.
- (c) No person, by threat of force, shall knowingly cause a family or household member to believe that the offender will cause imminent physical harm to the family or household member.
- (d) (1) Whoever violates this section is guilty of domestic violence, and the court shall sentence the offender as provided in subsections (d)(2) to (d)(5) of this section.

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

- (2) Except as otherwise provided in subsections (d)(3), (d)(4), or (d)(5) of this section, a violation of subsection (c) of this section is a misdemeanor of the fourth degree and a violation of subsections (a) or (b) of this section is a misdemeanor of the first degree.
- (3) Except as otherwise provided in subsection (d)(4) of this section, if the offender previously has pleaded guilty to or been convicted of domestic violence, a violation of an existing or former municipal ordinance or law of this or any other state or the United States that is substantially equivalent to domestic violence, a violation of R.C. §§ 2903.14, 2909.06, 2909.07, 2911.12, 2911.211, or 2919.22 if the victim of the violation was a family or household member at the time of the violation, a violation of an existing or former municipal ordinance or law of this or any other state or the United States that is substantially equivalent to any of those sections if the victim of the violation was a family or household member at the time of the commission of the violation, or any offense of violence if the victim of the offense was a family or household member at the time of the commission of the offense, a violation of subsections (a) or (b) is a felony to be prosecuted under appropriate state law. A violation of subsection (c) is a misdemeanor of the second degree.
- (4) If the offender previously has pleaded guilty to or been convicted of two or more offenses of domestic violence or two or more violations or offenses of the type described in subsection (d)(3) of this section involving a person who was a family or household member at the time of the violations or offenses, a violation of subsections (a) or (b) of this section is a felony to be prosecuted under appropriate state law, ~~and a violation of subsection (c) of this section is a misdemeanor of the first degree.~~
- (5) Except as otherwise provided in subsections (d)(3) or (d)(4) of this section, if the offender knew that the victim of the violation was pregnant at the time of the violation, a violation of subsections (a) or (b) of this section is a felony to be prosecuted under appropriate state law, and a violation of subsection (c) of this section is a misdemeanor of the third degree.
- (e) Notwithstanding any provision of law to the contrary, no court or unit of state or local government shall charge any fee, cost, deposit, or money in connection with the filing of charges against a person alleging that the person violated this section or a municipal ordinance substantially similar to this section or in connection with the prosecution of any charges so filed.
- (f) As used in this section:
- Family or household member* means any of the following:
- (1) Any of the following who is residing or has resided with the offender:
 - A. A spouse, a person living as a spouse as defined below, or a former spouse of the offender;
 - B. A parent, a foster parent, or a child of the offender, or another person related by consanguinity or affinity to the offender;
 - C. A parent or a child of a spouse, person living as a spouse, or former spouse of the offender, or another person related by consanguinity or affinity to a spouse, person living as a spouse, or former spouse of the offender.
 - (2) The natural parent of any child of whom the offender is the other natural parent or is the putative other natural parent.
- Person living as a spouse* means a person who is living or has lived with the offender in a common law marital relationship, who otherwise is cohabiting with the offender, or who otherwise has cohabited with the offender within five years prior to the date of the alleged commission of the act in question.
- (g) The same relief available under the Ohio Revised Code for filing a complaint for violation of R.C. § 2919.25 shall be available for filing a complaint for violation of this section.

(R.C. § 2919.25; '64 Code, § 537.14)

Cross reference— Penalty, see § 537.99

Sec. 537.16. Illegal distribution of cigarettes, other tobacco products, or alternative nicotine products; transaction scans.

(a) Illegal distribution of cigarettes, other tobacco products, or alternative nicotine products.

(1) As used in this section:

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

Alternative nicotine product means:

- A. Subject to subsection 2. of this definition, an electronic smoking device, vapor product, or any other product or device that consists of or contains nicotine that can be ingested into the body by any means, including, but not limited to, chewing, smoking, absorbing, dissolving, or inhaling.
- B. The phrase does not include any of the following:
 - 1. Any cigarette or other tobacco product;
 - 2. Any product that is a *drug* as that term is defined in 21 U.S.C. § 321(g)(1);
 - 3. Any product that is a *device* as that term is defined in 21 U.S.C. § 321(h);
 - 4. Any product that is a *combination product* as described in 21 U.S.C. § 353(g).

Cigarette includes clove cigarettes and hand-rolled cigarettes.

Distribute means to furnish, give, or provide cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to the ultimate consumer of the cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes.

Electronic smoking device means any device that can be used to deliver aerosolized or vaporized nicotine or any other substance to the person inhaling from the device including an electronic cigarette, electronic cigar, electronic hookah, vaping pen, or electronic pipe. The phrase includes any component, part, or accessory of such a device, whether or not sold separately, and includes any substance intended to be aerosolized or vaporized during the use of the device. The phrase does not include any product that is a drug, device, or combination product, as those terms are defined or described in 21 U.S.C. §§ 321 and 353(g).

Proof of age means a driver's license, a commercial driver's license, a military identification card, a passport, or an identification card issued under R.C. §§ 4507.50 to 4507.52 that shows that a person is 21 years of age or older.

Tobacco product means any product that is made or derived from tobacco or that contains any form of nicotine, if it is intended for human consumption or is likely to be consumed, whether

smoked, heated, chewed, absorbed, dissolved, inhaled, or ingested by any other means, including, but not limited to, a cigarette, an electronic smoking device, a cigar, pipe tobacco, chewing tobacco, snuff, or snus. The phrase also means any component or accessory used in the consumption of a tobacco product, such as filters, rolling papers, pipes, blunt or hemp wraps, and liquids used in electronic smoking devices, whether or not they contain nicotine. The phrase does not include any product that is a drug, device, or combination product, as those terms are defined or described in 21 U.S.C. §§ 321 and 353(g).

Vapor product means a product, other than a cigarette or other tobacco product as defined in R.C. chapter 5743, that contains or is made or derived from nicotine and that is intended and marketed for human consumption, including by smoking, inhaling, snorting, or sniffing. The phrase includes any component, part, or additive that is intended for use in an electronic smoking device, a mechanical heating element, battery, or electronic circuit and is used to deliver the product. The phrase does not include any product that is a drug, device, or combination product, as those terms are defined or described in 21 U.S.C. §§ 321 and 353(g). The phrase includes any product containing nicotine, regardless of concentration.

Vending machine has the same meaning as "coin machine" in R.C. § 2913.01.

- (2) No manufacturer, producer, distributor, wholesaler, or retailer of cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes, no agent, employee, or representative of a manufacturer, producer, distributor, wholesaler, or retailer of cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes, and no other person shall do any of the following:
- A. Give, sell, or otherwise distribute cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes:
 - 1. To any person under 21 years of age; or
 - 2. Without first verifying proof of age.
 - B. Give away, sell, or distribute cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes in any place that does not have posted in a conspicuous place a legibly printed sign in letters at least one-half inch high stating that giving, selling, or otherwise distributing cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to a person under 21 years of age is prohibited by law;
 - C. Knowingly furnish any false information regarding the name, age, or other identification of any person under 21 years of age with purpose to obtain cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes for that person;
 - D. Manufacture, sell, or distribute in this state any pack or other container of cigarettes containing fewer than 20 cigarettes or any package of roll-your-own tobacco containing less than 0.6 ounce of tobacco;
 - E. Sell cigarettes or alternative nicotine products in a smaller quantity than that placed in the pack or other container by the manufacturer;
 - F. Give, sell, or otherwise distribute alternative nicotine products, papers used to roll cigarettes, or tobacco products other than cigarettes over the internet or through another remote method without age verification;
 - G. Allow an employee under 18 years of age to sell any tobacco product;

- H. Give away or otherwise distribute free samples of cigarettes, other tobacco products, alternative nicotine products, or coupons redeemable for cigarettes, other tobacco products, or alternative nicotine products.
- (3) No person shall sell or offer to sell cigarettes, other tobacco products, or alternative nicotine products by or from a vending machine, except in the following locations:
- A. An area within a factory, business, office, or other place not open to the general public;
 - B. An area to which persons under 21 years of age are not generally permitted access;
 - C. Any other place not identified in subsections (a)(3)A. or (a)(3)B. of this section, upon all of the following conditions:
 - 1. The vending machine is located within the immediate vicinity, plain view, and control of the person who owns or operates the place, or an employee of that person, so that all cigarettes, other tobacco product, and alternative nicotine product purchases from the vending machine will be readily observed by the person who owns or operates the place or an employee of that person. For the purpose of this section, a vending machine located in any unmonitored area, including an unmonitored coatroom, restroom, hallway, or outer waiting area, shall not be considered located within the immediate vicinity, plain view, and control of the person who owns or operates the place, or an employee of that person.
 - 2. The vending machine is inaccessible to the public when the place is closed.
 - 3. A clearly visible notice is posted in the area where the vending machine is located that states the following in letters that are legibly printed and at least one-half inch high: "It is illegal for any person under the age of 21 to purchase tobacco or alternative nicotine products."
- (4) The following are affirmative defenses to a charge under subsection (a)(2)A. of this section:
- A. The person under 21 years of age was accompanied by a parent, spouse who is 21 years of age or older, or legal guardian of the person under 21 years of age.
 - B. The person who gave, sold, or distributed cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to a person under 21 years of age under subsection (a)(2)A. of this section is a parent, spouse who is 21 years of age or older, or legal guardian of the person under 21 years of age.
- (5) It is not a violation of subsections (a)(2)A. or (a)(2)B. of this section for a person to give or otherwise distribute to a person under 21 years of age cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes while the person under 21 years of age is participating in a research protocol if all of the following apply:
- A. The parent, guardian, or legal custodian of the person under 21 years of age has consented in writing to the person under 21 years of age participating in the research protocol.
 - B. An institutional human subjects protection review board, or an equivalent entity, has approved the research protocol.
 - C. The person under 21 years of age is participating in the research protocol at the facility or location specified in the research protocol.
- (6) A. Whoever violates subsections (a)(2)A., (a)(2)B., (a)(2)D., (a)(2)E., or (a)(2)F. or (a)(3) of this section is guilty of illegal distribution of cigarettes, other tobacco products, or alternative nicotine products. Except as otherwise provided in this subsection, illegal distribution of cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the

fourth degree. If the offender previously has been convicted of or pleaded guilty to illegal distribution of cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the third degree.

(7) A. Notwithstanding division (A)(2) R.C. § 2929.28, if an offender is convicted of or pleads guilty to a violation of division (2)A of this section, the court shall impose a fine in the following amount:

(i) Except as otherwise provided in divisions (7)A. (ii), (iii), (iv) and (v) of this section, not more than two hundred fifty dollars;

(ii) Except as otherwise provided in divisions (7)A. (iv) and (v) of this section, if an offender has previously been convicted of or pleaded guilty to a violation of division (2)A of this section, not more than five hundred dollars;

(iii) Except as otherwise provided in divisions (7)A. (iv) and (v) of this section, if an offender previously has been convicted of or pleaded guilty to two or more violations of division (2)A of this section, five hundred dollars;

(iv) Except as otherwise provided in division (H)(1)(e) of this section, if an offender previously has been convicted of or pleaded guilty to three or more violations of division (2)A. of this section, one thousand dollars;

(v) If an offender previously has been convicted of or pleaded guilty to four or more violations of division (2)A of this section, one thousand five hundred dollars.

B. The financial sanctions required by division (7)A. of this section are in lieu of the financial sanctions described in division (A)(2) of R.C. § 2929.28, but are in addition to any other sanctions or penalties that may apply to the offender, including other financial sanctions under that section or a jail term under R.C. § 2929.24.

B(8). Whoever violates subsection (a)(2)C. of this section is guilty of permitting a person under 21 years of age to use cigarettes, other tobacco products, or alternative nicotine products. Except as otherwise provided in this subsection, permitting a person under 21 years of age to use cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the fourth degree. If the offender previously has been convicted of a violation of subsection (a)(2)C. of this section or a substantially equivalent state law or municipal ordinance, permitting a person under 21 years of age to use cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the third degree.

(79) Any cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes that are given, sold, or otherwise distributed to a person under 21 years of age in violation of this section and that are used, possessed, purchased, or received by a person under 21 years of age in violation of R.C. § 2151.87 are subject to seizure and forfeiture as contraband under R.C. chapter 2981.

(b) *Transaction scan.*

(1) For the purpose of this subsection and subsection (c) of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

A. *Card holder* means any person who presents a driver's or commercial driver's license or an identification card to a seller, or an agent or employee of a seller, to purchase or receive cigarettes, other tobacco products, or alternative nicotine products from a seller, agent or employee.

- B. *Identification card* means an identification card issued under R.C. §§ 4507.50 to 4507.52.
- C. *Seller* means a seller of cigarettes, other tobacco products, or alternative nicotine products and includes any person whose gift of or other distribution of cigarettes, other tobacco products, or alternative nicotine products is subject to the prohibitions of subsection (a) of this section.
- D. *Transaction scan* means the process by which a seller or an agent or employee of a seller checks, by means of a transaction scan device, the validity of a driver's or commercial driver's license or an identification card that is presented as a condition for purchasing or receiving cigarettes, other tobacco products, or alternative nicotine products.
- E. *Transaction scan device* means any commercial device or combination of devices used at a point of sale that is capable of deciphering in an electronically readable format the information encoded on the magnetic strip or bar code of a driver's or commercial driver's license or an identification card.
- (2) A. A seller or an agent or employee of a seller may perform a transaction scan by means of a transaction scan device to check the validity of a driver's or commercial driver's license or identification card presented by a card holder as a condition for selling, giving away or otherwise distributing to the card holder cigarettes, other tobacco products, or alternative nicotine products.
- B. If the information deciphered by the transaction scan performed under subsection (b)(2)A. of this section fails to match the information printed on the driver's or commercial driver's license or identification card presented by the card holder, or if the transaction scan indicates that the information so printed is false or fraudulent, neither the seller nor any agent or employee of the seller shall sell, give away or otherwise distribute any cigarettes, other tobacco products, or alternative nicotine products to the card holder.
- C. Subsection (b)(2)A. of this section does not preclude a seller or an agent or employee of a seller from using a transaction scan device to check the validity of a document other than a driver's or commercial driver's license or identification card, if the document includes a bar code or magnetic strip that may be scanned by the device, as a condition for selling, giving away or otherwise distributing cigarettes, other tobacco products, or alternative nicotine products to the person presenting the document.
- (3) Rules adopted by the Registrar of Motor Vehicles under R.C. § 4301.61(C) apply to the use of transaction scan devices for purposes of this subsection (b) and subsection (c) of this section.
- (4) A. No seller or agent or employee of a seller shall electronically or mechanically record or maintain any information derived from a transaction scan, except for the following:
1. The name and date of birth of the person listed on the driver's or commercial driver's license or identification card presented by the card holder;
 2. The expiration date and identification number of the driver's or commercial driver's license or identification card presented by the card holder.
- B. No seller or agent or employee of a seller shall use the information that is derived from a transaction scan or that is permitted to be recorded and maintained under subsection (b)(4)A. of this section, except for purposes of subsection (c) of this section.
- C. No seller or agent or employee of a seller shall use a transaction scan device for a purpose other than the purpose specified in subsection (c)(2)A. of this section.
- D. No seller or agent or employee of a seller shall sell or otherwise disseminate the information derived from a transaction scan to any third party, including but not limited to selling or otherwise disseminating that information for any marketing, advertising or promotional

activities, but a seller or agent or employee of a seller may release that information pursuant to a court order or as specifically authorized by subsection (c) of this section or another section of these Codified Ordinances or the Ohio Revised Code.

- (5) Nothing in this subsection (b) or subsection (c) of this section relieves a seller or an agent or employee of a seller of any responsibility to comply with any other applicable local, state or federal laws or rules governing the sale, giving away or other distribution of cigarettes, other tobacco products, or alternative nicotine products.
- (6) Whoever violates subsections (b)(2)B. or (b)(4) of this section is guilty of engaging in an illegal tobacco product or alternative nicotine product transaction scan, and the court may impose upon the offender a civil penalty of up to \$1,000.00 for each violation. The Clerk of the Court shall pay each collected civil penalty to the County Treasurer for deposit into the County Treasury.

(c) Affirmative defenses.

- (1) A seller or an agent or employee of a seller may not be found guilty of a charge of a violation of subsection (a) of this section in which the age of the purchaser or other recipient of cigarettes, other tobacco products, or alternative nicotine products is an element of the alleged violation, if the seller, agent or employee raises and proves as an affirmative defense that all of the following occurred:
 - A. A card holder attempting to purchase or receive cigarettes, other tobacco products, or alternative nicotine products presented a driver's or commercial driver's license or an identification card.
 - B. A transaction scan of the driver's or commercial driver's license or identification card that the card holder presented indicated that the license or card was valid.
 - C. The cigarettes, other tobacco products, or alternative nicotine products were sold, given away or otherwise distributed to the card holder in reasonable reliance upon the identification presented and the completed transaction scan.
- (2) In determining whether a seller or an agent or employee of a seller has proven the affirmative defense provided by subsection (c)(1) of this section, the trier of fact in the action for the alleged violation of subsection (a) of this section shall consider any written policy that the seller has adopted and implemented and that is intended to prevent violations of subsection (a) of this section. For purposes of subsection (c)(1)C. of this section, the trier of fact shall consider that reasonable reliance upon the identification presented and the completed transaction scan may require a seller or an agent or employee of a seller to exercise reasonable diligence to determine, and that the use of a transaction scan device does not excuse a seller or an agent or employee of a seller from exercising reasonable diligence to determine, the following:
 - A. Whether a person to whom the seller or agent or employee of a seller sells, gives away, or otherwise distributes cigarettes, other tobacco products, or alternative nicotine products is 21 years of age or older;
 - B. Whether the description and picture appearing on the driver's or commercial driver's license or identification card presented by a card holder is that of the card holder.
- (3) In any criminal action in which the affirmative defense provided by subsection (c)(1) of this section is raised, the Registrar of Motor Vehicles or a Deputy Registrar who issued an identification card under R.C. §§ 4507.50 to 4507.52 shall be permitted to submit certified copies of the records of that issuance in lieu of the testimony of the personnel of or contractors with the Bureau of Motor Vehicles in the action.

(d) Shipment of tobacco products.

(1) As used in this subsection (d):

A. *Authorized recipient of tobacco products* means:

1. In the case of cigarettes, a person who is:

- a. Licensed as a cigarette wholesale dealer under R.C. § 5743.15;
- b. Licensed as a retail dealer as long as the person purchases cigarettes with the appropriate tax stamp affixed;
- c. An export warehouse proprietor as defined in section 5702 of the Internal Revenue Code;
- d. An operator of a customs bonded warehouse under 19 U.S.C. § 1311 or 19 U.S.C. § 1555;
- e. An officer, employee, or agent of the federal government or of this state acting in the person's official capacity;
- f. A department, agency, instrumentality, or political subdivision of the federal government or of this state;
- g. A person having a consent for consumer shipment issued by the Tax Commissioner under R.C. § 5743.71.

2. In the case of electronic smoking devices or vapor products, a person who is:

- a. Licensed as a distributor of tobacco or vapor products under R.C. § 5743.61;
- b. A retail dealer of vapor products, as defined in R.C. § 5743.01(C)(3), that is not licensed as a vapor distributor, as long as the tax levied by R.C. § 5743.51, 5743.62, or 5743.63, as applicable, has been paid;
- c. An operator of a customs bonded warehouse under 19 U.S.C. 1311 or 19 U.S.C. 1555;
- d. An officer, employee, or agent of the federal government or of this state acting in the person's official capacity;
- e. A department, agency, instrumentality, or political subdivision of the federal government or of this state.

B. *Motor carrier* has the same meaning as in R.C. § 4923.01.

(2) The purpose of this subsection (d) is to prevent the sale of cigarettes, electronic smoking devices, and vapor products to minors and to ensure compliance with the Master Settlement Agreement, as defined in R.C. § 1346.01.

(3) A. No person shall cause to be shipped any cigarettes, electronic smoking devices, and vapor products to any person in this municipality other than an authorized recipient of tobacco products.

B. No motor carrier, or other person shall knowingly transport cigarettes, electronic smoking devices, and vapor products to any person in this municipality that the carrier or other person reasonably believes is not an authorized recipient of tobacco products. If cigarettes, electronic smoking devices, and vapor products are transported to a home or residence, it shall be presumed that the motor carrier, or other person knew that the person to whom the cigarettes, electronic smoking devices, and vapor products were delivered was not an authorized recipient of tobacco products.

- (4) No person engaged in the business of selling cigarettes, electronic smoking devices, and vapor products who ships or causes to be shipped cigarettes, electronic smoking devices, and vapor products to any person in this municipality in any container or wrapping other than the original container or wrapping shall fail to plainly and visibly mark the exterior of the container or wrapping in which the cigarettes, electronic smoking devices, and vapor products are shipped with the words "cigarettes," "electronic smoking devices," or "vapor products," as applicable.
- (5) A court shall impose a fine of up to \$1,000.00 for each violation of subsections (d)(3)A., (D)(3)B. or (d)(4) of this section.

(e) *Furnishing false information to obtain tobacco products.*

- (1) No person who is 18 years of age or older but younger than 21 years of age shall knowingly furnish false information concerning that person's name, age, or other identification for the purpose of obtaining tobacco products.
- (2) Whoever violates subsection (e)(1) of this section is guilty of furnishing false information to obtain tobacco products. Except as otherwise provided in this subsection, furnishing false information to obtain tobacco products is a misdemeanor of the fourth degree. If the offender previously has been convicted of or pleaded guilty to a violation of subsection (e)(1) of this section or a substantially equivalent state law or municipal ordinance, furnishing false information to obtain tobacco products is a misdemeanor of the third degree.

(R.C. § 2927.02; R.C. § 2927.021; R.C. § 2927.022; R.C. § 2927.023; R.C. § 2927.024; Ord. No. 5727, § 1(Exh. A), 7-16-24)

Cross reference— Penalty, see § 537.99

Sec. 545.01. Definitions.

For the purpose of this chapter the following words and phrases shall have the following meanings ascribed to them respectively:

Active duty service member means any member of the armed forces of the United States performing active duty under title 10 of the United States Code.

Anhydrous ammonia means a compound formed by the combination of two gaseous elements, nitrogen and hydrogen, in the manner described below. Anhydrous ammonia is one part nitrogen to three parts hydrogen (NH₃). Anhydrous ammonia by weight is 14 parts nitrogen to three parts hydrogen, which is approximately 82 percent nitrogen to 18 percent hydrogen.

Assistance dog has the same meaning as in R.C. § 955.011.

Cable television service means any services provided by or through the facilities of any cable television system or other similar closed circuit coaxial cable communications system, or any microwave or similar transmission service used in connection with any cable television system or other similar closed circuit coaxial cable communications system.

Coin machine means any mechanical or electronic device designed to do both of the following:

- (1) Receive a coin or bill, or token made for that purpose;
- (2) In return for the insertion or deposit of a coin, bill, or token, automatically dispense property, provide a service, or grant a license.

Computer means an electronic device that performs logical, arithmetic, and memory functions by the manipulation of electronic or magnetic impulses. *Computer* includes, but is not limited to, all input, output, processing, storage, computer program, or communication facilities that are connected, or related, in a computer system or network to such an electronic device.

Computer contaminant means a computer program that is designed to modify, damage, destroy, disable, deny or degrade access to, allow unauthorized access to, functionally impair, record, or transmit information within a computer, computer system, or computer network without the express or implied consent of the owner or other person authorized to give consent and that is of a type or kind described in subsections (1) through (4) of this definition or of a type or kind similar to a type or kind described in subsections (1) through (4) of this definition:

- (1) A group of computer programs commonly known as "viruses" and "worms" that are self-replicating or self-propagating and that are designed to contaminate other computer programs, compromise computer security, consume computer resources, modify, destroy, record, or transmit data, or disrupt the normal operation of the computer, computer system, or computer network;
- (2) A group of computer programs commonly known as "Trojans" or "Trojan horses" that are not self-replicating or self-propagating and that are designed to compromise computer security, consume computer resources, modify, destroy, record, or transmit data, or disrupt the normal operation of the computer, computer system, or computer network;
- (3) A group of computer programs commonly known as "zombies" that are designed to use a computer without the knowledge and consent of the owner, or other person authorized to give consent, and that are designed to send large quantities of data to a targeted computer network for the purpose of degrading the targeted computer's or network's performance, or denying access through the network to the targeted computer or network, resulting in what is commonly known as "denial of service" or "distributed denial of service" attacks;
- (4) A group of computer programs commonly known as "trap doors," "back doors," or "root kits" that are designed to bypass standard authentication software and that are designed to allow access or use of a computer without the knowledge or consent of the owner, or other person authorized to give consent.

Computer hacking means:

- (1) *Computer hacking* means any of the following:

- A. Gaining access or attempting to gain access to all or part of a computer, computer system, or a computer network without express or implied authorization with the intent to defraud or with intent to commit a crime;
- B. Misusing computer or network services including but not limited to mail transfer programs, file transfer programs, proxy servers, and web servers by performing functions not authorized by the owner of the computer, computer system, or computer network or other person authorized to give consent. As used in this subsection, *misuse of computer and network services* includes but is not limited to the unauthorized use of any of the following:
 1. Mail transfer programs to send mail to persons other than the authorized users of that computer or computer network;
 2. File transfer program services or proxy servers to access other computers, computer systems, or computer networks;
 3. Web servers to redirect users to other web pages or web servers.
- C. 1. Subject to subsection (1)C.2. of this definition, using a group of computer programs commonly known as "port scanners" or "probes" to intentionally access any computer,

computer system, or computer network without the permission of the owner of the computer, computer system, or computer network or other person authorized to give consent. The group of computer programs referred to in this subsection includes but is not limited to those computer programs that use a computer network to access a computer, computer system, or another computer network to determine any of the following: the presence or types of computers or computer systems on a network; the computer network's facilities and capabilities; the availability of computer or network services; the presence or versions of computer software including but not limited to operating systems, computer services, or computer contaminants; the presence of a known computer software deficiency that can be used to gain unauthorized access to a computer, computer system, or computer network; or any other information about a computer, computer system, or computer network not necessary for the normal and lawful operation of the computer initiating the access.

2. The group of computer programs referred to in subsection (1)C.1. of this definition does not include standard computer software used for the normal operation, administration, management, and test of a computer, computer system, or computer network including but not limited to domain name services, mail transfer services, and other operating system services, computer programs commonly called "ping," "tcpdump," and "traceroute" and other network monitoring and management computer software, and computer programs commonly known as "nslookup" and "whois" and other systems administration computer software.

D. The intentional use of a computer, computer system, or a computer network in a manner that exceeds any right or permission granted by the owner of the computer, computer system, or computer network or other person authorized to give consent.

- (2) *Computer hacking* does not include the introduction of a computer contaminant, as defined in this section, into a computer, computer system, computer program, or computer network.

Computer network means a set of related and remotely-connected computers and communication facilities that includes more than one computer system that has the capability to transmit among the connected computers and communication facilities through the use of computer facilities.

Computer program means an ordered set of data representing coded instructions or statements that when executed by a computer cause the computer to process data.

Computer services includes, but is not limited to, the use of a computer system, computer network, computer program, data that is prepared for computer use, or data that is contained within a computer system or computer network.

Computer software means computer programs, procedures, and other documentation associated with the operation of a computer system.

Computer system means a computer and related devices, whether connected or unconnected, including, but not limited to, data input, output, and storage devices, data communications links, and computer programs and data that make the system capable of performing specified special purpose data processing tasks.

Counterfeit telecommunications device means a telecommunications device that, alone or with another telecommunications device, has been altered, constructed, manufactured, or programmed to acquire, intercept, receive, or otherwise facilitate the use of a telecommunications service or information service without the authority or consent of the provider of the telecommunications service or information service. The phrase includes but is not limited to a clone telephone, clone microchip, tumbler telephone, or tumbler microchip; a wireless scanning device capable of acquiring, intercepting, receiving, or

otherwise facilitating the use of telecommunications service or information service without immediate detection; or a device, equipment, hardware, or software designed for, or capable of, altering or changing the electronic serial number in a wireless telephone.

Create a substantial risk of serious physical harm to any person includes the creation of a substantial risk of serious physical harm to any emergency personnel.

Credit card includes, but is not limited to, a card, code, device, or other means of access to a customer's account for the purpose of obtaining money, property, labor, or services on credit, or for initiating an electronic fund transfer at a point-of-sale terminal, an automated teller machine, or a cash dispensing machine. It also includes a county procurement card issued under R.C. § 301.29.

Dangerous drug has the same meaning as in R.C. § 4729.01.

Data means a representation of information, knowledge, facts, concepts, or instructions that are being or have been prepared in a formalized manner and that are intended for use in a computer, computer system, or computer network. For purposes of section 545.07, *data* has the additional meaning set forth in subsection (a) of that section.

Deception means knowingly deceiving another or causing another to be deceived, by any false or misleading representation, by withholding information, by preventing another from acquiring information, or by any other conduct, act, or omission that creates, confirms, or perpetuates a false impression in another, including a false impression as to law, value, state of mind, or other objective or subjective fact.

Defraud means to knowingly obtain, by deception, some benefit for oneself or another, or to knowingly cause, by deception, some detriment to another.

Deprive means to do any of the following:

- (1) Withhold property of another permanently, or for a period that appropriates a substantial portion of its value or use, or with purpose to restore it only upon payment of a reward or other consideration;
- (2) Dispose of property so as to make it unlikely that the owner will recover it;
- (3) Accept, use, or appropriate money, property, or services, with purpose not to give proper consideration in return for the money, property, or services, and without reasonable justification or excuse for not giving proper consideration.

Disabled adult means a person who is 18 years of age or older and has some impairment of body or mind that makes the person unable to work at any substantially remunerative employment that the person otherwise would be able to perform and that will, with reasonable probability, continue for a period of at least 12 months without any present indication of recovery from the impairment, or who is 18 years of age or older and has been certified as permanently and totally disabled by an agency of this state or the United States that has the function of so classifying persons.

Drug abuse offense has the same meaning as in R.C. § 2925.01.

Elderly person means a person who is 65 years of age or older.

Electronic fund transfer has the same meaning as in 92 stat. 3728, 15 USC 1693A, as amended.

Emergency personnel means any of the following persons:

- (1) A peace officer, as defined in R.C. § 2935.01;
- (2) A member of a Fire Department or other firefighting agency of a municipal corporation, township, Township Fire District, joint fire district, other political subdivision, or combination of political subdivisions;

- (3) A member of a private fire company, as defined in R.C. § 9.60, or a volunteer firefighter;
- (4) A member of a joint ambulance district or joint emergency medical services district;
- (5) An emergency medical technician-basic, emergency medical technician-intermediate, emergency medical technician-paramedic, ambulance operator, or other member of an emergency medical service that is owned or operated by a political subdivision or a private entity;
- (6) The State Fire Marshal, the Chief Deputy State Fire Marshal, or an Assistant State Fire Marshal;
- (7) A fire prevention officer of a political subdivision or an arson, fire, or similar investigator of a political subdivision.

Federally-licensed firearms dealer has the same meaning as in R.C. § 5502.63.

Firearm and *dangerous ordnance* have the same meaning as in R.C. § 2923.11.

Forge means to fabricate or create, in whole or in part and by any means, any spurious writing, or to make, execute, alter, complete, reproduce, or otherwise purport to authenticate any writing, when the writing in fact is not authenticated by that conduct.

Gain access means to approach, instruct, communicate with, store data in, retrieve data from, or otherwise make use of any resources of a computer, computer system, or computer network, or any cable service or cable system both as defined in R.C. § 2913.04.

Information service means:

- (1) Subject to subsection (2) of this definition, the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, including but not limited to electronic publishing.
- (2) *Information service* does not include any use of a capability of a type described in subsection (1) of this definition for the management, control, or operation of a telecommunications system or the management of a telecommunications service.

Internet has the same meaning as in R.C. § 341.42.

Motor vehicle has the same meaning as in R.C. § 4501.01.

Occupied structure means any house, building, outbuilding, watercraft, aircraft, railroadcar, truck, trailer, tent, or other structure, vehicle, or shelter, or any portion thereof, to which any of the following applies:

- (1) It is maintained as a permanent or temporary dwelling, even though it is temporarily unoccupied and whether or not any person is actually present;
- (2) At the time, it is occupied as the permanent or temporary habitation of any person, whether or not any person is actually present;
- (3) At the time, it is specially adapted for the overnight accommodation of any person, whether or not any person is actually present;
- (4) At the time, any person is present or likely to be present in it.

Owner means unless the context requires a different meaning, any person, other than the actor, who is the owner of, who has possession or control of, or who has any license or interest in property or services, even though the ownership, possession, control, license, or interest is unlawful.

Police dog or horse has the same meanings as in R.C. § 2921.321.

Political subdivision has the same meaning as in R.C. § 2744.01.

Rented property means personal property in which the right of possession and use of the property is for a short and possibly indeterminate term in return for consideration; the rentee generally controls the duration of possession of the property within any applicable minimum or maximum term; and the amount of consideration is generally determined by the duration of the possession of the property.

Services includes labor, personal services, professional services, rental services, public utility services including wireless service as defined in R.C. § 128.01(F)(1), common carrier services, and food, drink, transportation, entertainment, and cable television services and, for purposes of R.C. § 2913.04 or any substantially similar municipal ordinance, includes cable services as defined in that section.

Slug means an object that, by virtue of its size, shape, composition, or other quality, is capable of being inserted or deposited in a coin machine as an improper substitute for a genuine coin, bill, or token made for that purpose.

State has the same meaning as in R.C. § 2744.01.

Telecommunication means the origination, emission, dissemination, transmission, or reception of data, images, signals, sounds, or other intelligence or equivalence or intelligence of any nature over any communications system by any method, including but not limited to a fiber optic, electronic, magnetic, optical, digital or analog method.

Telecommunications device means any instrument, equipment, machine, or other device that facilitates telecommunication, including but not limited to a computer, computer network, computer chip, computer circuit, scanner, telephone, cellular telephone, pager, personal communications device, transponder, receiver, radio, modem, or device that enables the use of a modem.

Telecommunications service means the providing, allowing, facilitating, or generating of any form of telecommunication through the use of a telecommunications device over a telecommunications system.

Theft offense means any of the following:

- (1) A violation of R.C. §§ 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2911.31, 2911.32, 2913.02, 2913.03, 2913.04, 2913.041, 2913.08, 2913.11, 2913.21, 2913.31, 2913.32, 2913.33, 2913.34, 2913.40, 2913.42, 2913.43, 2913.44, 2913.45, 2913.47, 2913.48, former R.C. § 2913.47 or 2913.48, or R.C. § 2913.51, 2915.05, or 2921.41;
- (2) A violation of an existing or former municipal ordinance or law of this or any other state or of the United States substantially equivalent to any section listed in subsection (1) of this definition or R.C. §§ 2913.41, 2913.81, or 2915.06 as they existed prior to July 1, 1996;
- (3) An offense under an existing or former municipal ordinance or law of this or any other state or the United States involving robbery, burglary, breaking and entering, theft, embezzlement, wrongful conversion, forgery, counterfeiting, deceit, or fraud;
- (4) A conspiracy or attempt to commit, or complicity in committing any offense under subsections (1), (2), or (3) of this definition.

Utter means to issue, publish, transfer, use, put or send into circulation, deliver, or display.

Writing means any computer software, document, letter, memorandum, note, paper, plate, data, film, or other thing having in or upon it any written, type-written, or printed matter, and also means any token, stamp, seal, credit card, badge, trademark, label, or other symbol of value, right, privilege, license, or identification.

(R.C. §§ 2909.01, 2913.01; '64 Code, § 541.01)

Sec. 545.07. Insurance fraud.

(a) As used in this section:

Data has the same meaning as in section 545.01 and additionally includes any other representation of information, knowledge, facts, concepts or instructions that are being or have been prepared in a formalized manner.

Deceptive means a statement, in whole or in part, would cause another to be deceived because it contains a misleading representation, withholds information, prevents the acquisition of information or by any other conduct, act or omission creates, confirms or perpetuates a false impression, including, but not limited to, a false impression as to law, value, state of mind or other objective or subjective fact.

Insurer means any person that is authorized to engage in the business of insurance in this state under R.C. title 39, the Ohio Fair Plan Underwriting Association created under R.C. § 3929.43, the assigned risk plan created under R.C. § 4509.70, any insuring corporation, and any legal entity that is self-insured and provides benefits to its employees or members.

Policy means a policy, certificate, contract or plan that is issued by an insurer.

Statement includes, but is not limited to, any notice, letter or memorandum; proof of loss; bill of lading; receipt for payment; invoice, account or other financial statement; estimate of property damage; bill for services; diagnosis or prognosis; prescription; hospital, medical or dental chart or other record; X-ray, photograph, videotape or movie film; test result; other evidence of loss, injury or expense; computer-generated document; and data in any form.

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

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

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

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

(R.C. § 2913.47; '64 Code, § 541.07)

Cross reference—Penalty, see § 545.99

Sec. 549.15. 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 subsection (a) is guilty of possessing a revoked or suspended concealed handgun license, a misdemeanor of the third degree.
- (b) *Additional restrictions.* Pursuant to R.C. § 2923.126:
- (1) A concealed handgun license that is issued under R.C. § 2923.125 shall expire five years after the date of issuance. A licensee who has been issued a license under that section shall be granted a grace period of 30 days after the licensee's license expires during which the licensee's license remains valid. Except as provided in subsections (b)(2) and (b)(3) of this section, a licensee who has been issued a concealed handgun license under R.C. §§ 2923.125 or 2923.1213 may carry a concealed handgun anywhere in this state if the license is valid 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 45 days after that change.
 - (2) A valid concealed handgun license does not authorize the licensee to carry a concealed handgun in any manner prohibited under R.C. § 2923.12(B) or in any manner prohibited under R.C. § 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; any area of an airport passenger terminal that is beyond a passenger or property screening checkpoint or to which access is restricted through security measures by the airport authority or a public agency; or an institution that is maintained, operated, managed, and governed pursuant to R.C. § 5119.14(A) or R.C. § 5123.03(A)(1);
 - B. A school safety zone if the licensee's carrying the concealed handgun is in violation of R.C. § 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 R.C. § 2923.123;
 - D. Any premises or open air arena for which a D permit has been issued under R.C. Chapter 4303 if the licensee's carrying the concealed handgun is in violation of R.C. § 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 or unless the licensee is carrying the concealed handgun pursuant to a written policy, rule, or other authorization that is adopted by the institution's Board of Trustees or other governing body and that authorizes specific individuals or classes of individuals to carry a concealed handgun on the premises;
 - 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. 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 subsection (b)(2)C. of this section, unless the governing body with authority over the building has enacted a statute, ordinance, or policy that permits a licensee to carry a concealed handgun into the building;

H. A place in which federal law prohibits the carrying of handguns.

(3) A. Nothing in this subsection (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 subsection (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.

2. A political subdivision shall be immune from liability in a civil action, to the extent and in the manner provided in R.C. chapter 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 subsection, *political subdivision* has the same meaning as in R.C. § 2744.01.

3. An institution of higher education 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 of the institution, including motor vehicles owned by the institution, unless the institution acted with malicious purpose. An institution of higher education 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 institution's decision to permit a licensee or class of licensees to bring a handgun onto the premises of the institution.

4. A nonprofit corporation 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 of the nonprofit corporation, including any motor vehicle owned by the nonprofit corporation, or to any event organized by the nonprofit corporation, unless the nonprofit corporation acted with malicious purpose. A nonprofit corporation 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 nonprofit corporation's decision to permit a licensee to bring a handgun onto the premises of the nonprofit corporation or to any event organized by the nonprofit corporation. The immunities described in this division apply to an entity that leases its property to the nonprofit corporation or permits its property to be used by the nonprofit corporation for any purpose.

C. [Violations.]

1. a. Except as provided in subsection (b)(3)C.2. of this section and R.C. § 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 subsection, a person who knowingly violates a posted prohibition of that nature is guilty of criminal trespass in violation of R.C. § 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 under R.C. § 2911.21 or under any other criminal law of this state or criminal law, ordinance, or resolution of a political subdivision of this state, and instead is subject only to a civil cause of action for trespass based on the violation.

- b. If a person knowingly violates a posted prohibition of the nature described in this subsection and the posted land or premises is a child care center, Type A family child care home, or Type B family child care home, unless the person is a licensee who resides in a Type A family child care home or Type B family child care home, the person is guilty of aggravated trespass in violation of R.C. § 2911.211. Except as otherwise provided in this subsection, the offender is guilty of a misdemeanor of the first degree. If the person previously has been convicted of a violation of this subsection or any substantially equivalent state law or municipal ordinance, or of any offense of violence, if the weapon involved is a firearm that is either loaded or for which the offender has ammunition ready at hand, or if the weapon involved is dangerous ordnance, the offender is guilty of a felony to be prosecuted under appropriate state law.

- 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 subsection (b)(3)C. of this section:

Landlord has the same meaning as in R.C. § 5321.01.

Rental agreement has the same meaning as in R.C. § 5321.01.

Residential premises has the same meaning as in R.C. § 5321.01, except the term does not include a dwelling unit that is owned or operated by a college or university.

Tenant has the same meaning as in R.C. § 5321.01.

- (4) A person who holds a valid concealed handgun license issued by another state that is recognized by the Attorney General pursuant to a reciprocity agreement entered into pursuant to R.C. § 109.69 or a person who holds a valid concealed handgun license under the circumstances described in R.C. § 109.69(B) has the same right to carry a concealed handgun in this state as a person who was issued a concealed handgun license under R.C. § 2923.125 and is subject to the same restrictions that apply to a person who has been issued a license under that section that is valid at the time in question.
- (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 R.C. § 2923.125, provided that the officer when carrying a concealed handgun under authority of this subsection 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. An active duty member of the armed forces of the United States who is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in R.C. § 2923.125(G)(1) has the same right to carry a concealed handgun in this state as a person who was issued a concealed handgun license under R.C. § 2923.125 and is subject to the same restrictions as specified in this subsection (b).
 - C. A tactical medical professional who is qualified to carry firearms while on duty under R.C. § 109.771 has the same right to carry a concealed handgun in this state as a person who was issued a concealed handgun license under R.C. § 2923.125.
 - D. A fire investigator who is qualified to carry firearms while on duty under R.C. § 109.774 has the same right to carry a concealed handgun in this state as a person who was issued a concealed handgun license under R.C. § 2923.125.
- (6) A. A qualified retired peace officer who possesses a retired peace officer identification card issued pursuant to subsection (b)(6)B. of this section and a valid firearms requalification certification issued pursuant to subsection (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 R.C. § 2923.125 and is subject to the same restrictions that apply to a person who has been issued a license issued under that section that is valid at the time in question. For purposes of reciprocity with other states, a qualified retired peace officer who possesses a retired peace officer identification card issued pursuant to subsection (b)(6)B. of this section and a valid firearms requalification certification issued pursuant to subsection (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 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 subsection (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 subsections (b)(6)B.1.a. to (b)(6)B.1.d. of this section. In addition to the required content specified in this subsection, a retired peace officer identification card issued to a person under subsection (b)(6)B.1. of this section may include the firearms requalification certification described in subsection (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 subsection (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 subsections (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 subsection (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 subsections (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 R.C. § 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 subsections (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 R.C. § 109.801, the retired peace officer's successful completion of the firearms requalification program requalifies the retired peace officer for purposes of subsection (b)(6) of this section for five 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 subsections (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 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 subsection (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 R.C. § 109.801 may be required to pay the cost of the program.

(7) As used in subsection (b) of this section:

Fire investigator has the same meaning as in R.C. § 109.71.

Governing body has the same meaning as in R.C. § 154.01.

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 R.C. chapter 4503 that is used to perform deputy registrar functions.

Nonprofit corporation means any private organization that is exempt from federal income taxation pursuant to division 501(a) and described in division 501(c) of the Internal Revenue Code.

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

1. The person satisfies the criteria set forth in subsections (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.

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

Tactical medical professional has the same meaning as in R.C. § 109.71.

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

(R.C. § 2923.126; R.C. § 2923.1211(B), (C); R.C. § 2923.1212; Ord. No. 5727, § 1(Exh. A), 7-16-24)S

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

Section 8. If any section, subsection, sentence, clause, phrase or portion of the Ordinance or its application to any person or circumstance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances. The governing authority of the City of Brecksville, 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.

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

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

Section 10. The adoption date of this ordinance is _____ and the effective date of this ordinance shall be _____.

ORDAINED this ____ day of _____, _____.

City of Brecksville, Ohio

X

Mayor

ATTEST:

X

City Clerk

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

X

City Clerk

APPROVED AS TO FORM:

X

City Attorney

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

ORDINANCE RECORD
COUNCIL OF THE CITY OF BRECKSVILLE

Ordinance No. 5833

**AN ORDINANCE AMENDING SECTION 139.02
OF THE ADMINISTRATIVE CODE TO UPDATE
THE REQUIRED NUMBER OF MEETINGS;
AND DECLARING AN EMERGENCY**

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Brecksville, County of Cuyahoga, and State of Ohio, that:

SECTION 1. Section 139.02 of the Administrative Code be amended to read as follows:

“Sec 139.02. - Powers and duties.

The Recreation Commission shall meet and organize and, thereafter, shall conduct ~~at least ten monthly meetings~~ quarterly meetings during the calendar year, or on an "as-needed" basis, for the purpose of advising and assisting the Recreation Director in the establishment of policies and procedure with respect to prospective programs or activities deemed necessary to carry out the purposes of the Department of Recreation. The dates and times of the meetings herein shall be at the discretion of a majority vote of the members of the Recreation Commission, and the schedule of meetings shall be transmitted to the Mayor and members of City Council as soon as it is determined. The commission shall also confer with the Mayor and Council relative to the establishment of programs, designed to meet the recreational needs of the residents of the City.”

SECTION 2. Section 139.02 of the Administrative Code as it existed prior to the effective date of this Ordinance and all other ordinances or resolutions inconsistent herewith be, and the same hereby are, repealed.

SECTION 3. The Council declares this Ordinance to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare, the reason for the emergency is the need to update the compliment of the Police Department, therefore, said Ordinance shall be in full force and effect immediately upon its adoption by this Council and approval by the Mayor, otherwise, from and after the earliest period allowed by law.

PASSED: December 16, 2025

APPROVED: December 16, 2025

MAYOR

CLERK OF COUNCIL

ORDINANCE RECORD
COUNCIL OF THE CITY OF BRECKSVILLE

Ordinance No. 5834

**AN ORDINANCE AUTHORIZING THE MAYOR
TO ENTER INTO AN AGREEMENT WITH THE
CITY OF PARMA FOR PRISONER HOUSING
SERVICES FOR THE BRECKSVILLE POLICE
DEPARTMENT; AND DECLARING AN EMERGENCY**

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Brecksville, County of Cuyahoga, and State of Ohio, that:

SECTION 1. The Mayor be, and hereby is, authorized to enter into an Agreement with the City of Parma for Prisoner Housing Services for the City of Brecksville Police Department to provide supplemental jail services for the period from January 1, 2026 through December 31, 2026, at the per diem rate of Two Hundred Twenty-Five Dollars (\$225.00) per prisoner per day, a copy of said Agreement being attached hereto and expressly made a part hereof by reference, and marked Exhibit "A".

SECTION 2. The Council declares this Ordinance to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare, the reason for the emergency is that it is necessary to provide a secondary jail source for the Brecksville Police Department, therefore, said Ordinance shall be in full force and effect immediately upon its adoption by this Council and approval by the Mayor, otherwise, from and after the earliest period allowed by law.

PASSED: December 16, 2025

APPROVED: December 16, 2025

MAYOR

CLERK OF COUNCIL

ORDINANCE RECORD
COUNCIL OF THE CITY OF BRECKSVILLE

Ordinance No. 5835

**AN ORDINANCE AUTHORIZING THE MAYOR TO
ENTER INTO A NON-EXCLUSIVE PER DIEM LEASE
AGREEMENT WITH THE CITY OF NORTH ROYALTON
FOR JAIL HOUSING AND ANCILLARY SERVICES FOR
THE BRECKSVILLE POLICE DEPARTMENT;
AND DECLARING AN EMERGENCY**

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of
Brecksville, County of Cuyahoga, and State of Ohio, that:

SECTION 1. The Mayor be, and hereby is, authorized to enter into a Non-Exclusive Per Diem Lease Agreement with the City of North Royalton for Jail Housing and Ancillary Services for the Brecksville Police Department, at the per diem rate of Two Hundred Fifty-Two Dollars (\$252.00) per bed per day, and the use of additional jail space in excess of the one (1) per day when needed, a copy of said Agreement being attached hereto and expressly made a part hereof by reference, and marked Exhibit “A.”

SECTION 2. The Council declares this Ordinance to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare, the reason for the emergency is that it is necessary to provide the jail services, therefore, said Ordinance shall be in full force and effect immediately upon its adoption by this Council and approval by the Mayor, otherwise, from and after the earliest period allowed by law.

PASSED: December 16, 2025

APPROVED: December 16, 2025

_____ MAYOR	_____ CLERK OF COUNCIL
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ORDINANCE RECORD
COUNCIL OF THE CITY OF BRECKSVILLE

Ordinance No. 5836

**AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER
INTO A PRISONER HOUSING SERVICES AGREEMENT
WITH THE CITY OF BEDFORD HEIGHTS TO PROVIDE
JAIL HOUSING SERVICES FOR THE BRECKSVILLE
POLICE DEPARTMENT; AND DECLARING AN EMERGENCY**

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of
Brecksville, County of Cuyahoga, and State of Ohio, that:

SECTION 1. The Mayor be, and hereby is, authorized to enter into a Prisoner Housing Services Agreement with the City of Bedford Heights to provide Jail Housing Services for the Brecksville Police Department at a cost of Thirty-Six Thousand, Five Hundred Dollars (\$36,500.00) for the period January 1, 2026 through December 31, 2026, for one (1) jail space for the exclusive use by the Brecksville Police Department, a copy of said Agreement being attached hereto and expressly made a part hereof by reference, and marked Exhibit “A.”

SECTION 2. The Council declares this Ordinance to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare, the reason for the emergency is that it is necessary to provide the jail services, therefore, said Ordinance shall be in full force and effect immediately upon its adoption by this Council and approval by the Mayor, otherwise, from and after the earliest period allowed by law.

PASSED: December 16, 2025

APPROVED: December 16, 2025

MAYOR

CLERK OF COUNCIL

ORDINANCE RECORD
COUNCIL OF THE CITY OF BRECKSVILLE

Ordinance No. 5837

December 16, 2025**AN ORDINANCE AUTHORIZING THE CHIEF OF
POLICE TO EXECUTE
A LICENSE AGREEMENT WITH THE BOARD OF COMMISSIONERS OF
THE CLEVELAND METROPOLITAN PARK DISTRICT FOR THE USE OF
THE POLICE TRAINING CENTER LOCATED IN THE MILL STREAM RUN
RESERVATION AND DECLARING AN EMERGENCY**

WHEREAS, Cleveland Metroparks is the owner of the Police Training Center, located in the Mill Stream Run Reservation of the Cleveland Metropolitan Park District, and incurs costs to maintain such facility; and

WHEREAS, the Police Training Center includes facilities that could be used by Licensee to conduct certain training.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Brecksville, County of Cuyahoga, and State of Ohio, that:

SECTION 1. The Chief of Police be and is hereby authorized to execute a License Agreement with the Cleveland Metropolitan Park District for the use of the Police Training Center located in the Mill Stream Run Reservation for the period 01/01/2026-12/31/2026 at the annual fee of seven hundred fifty dollars (\$750.00), a copy of such Agreement is attached hereto, expressly made a part hereof by reference and marked Exhibit "A."

SECTION 2. The Council hereby appropriates sufficient funds to effectuate the provisions contained in Section 1 hereof, and the Director of Finance is hereby authorized to transfer the funds necessary to complete this expenditure from the available, non-tax revenue, funds of the City. The Director of Finance be and is hereby further authorized to issue the fiscal officer's certificate necessary to make the expenditures as described in Section 1 hereof and is further directed to issue vouchers of this City in the amounts and for the purposes as expressed in Section 1 hereof, said amounts to be charged to the appropriately designated Fund.

SECTION 3. The Council declares this Ordinance to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare, the reason for the emergency is the need to conduct certain police training, therefore, said Ordinance shall be in full force and effect immediately upon its adoption by this Council and approval by the Mayor, otherwise, from and after the earliest period allowed by law.

PASSED: December 16, 2025

APPROVED: December 16, 2025

MAYOR

CLERK OF COUNCIL

EXHIBIT "A"
LICENSE AGREEMENT

THIS LICENSE AGREEMENT (this "Agreement"), is made and entered into on the date of the Parties' last signature, by and between THE BOARD OF PARK COMMISSIONERS OF THE CLEVELAND METROPOLITAN PARK DISTRICT ("Cleveland Metroparks"), a political subdivision of the state of Ohio, with its principal offices located at 4101 Fulton Parkway, Cleveland, Ohio, 44144, and the Brecksville Police Department (the "Licensee"), with its principal office located at 9020 Brecksville Road, Brecksville, Ohio 44141

WHEREAS, Cleveland Metroparks operates a Police Department, the law enforcement branch of the Cleveland Metroparks, with a primary objective of providing a safe and accessible environment for Cleveland Metroparks more than 43 million annual visitors across the over 25,000 acres of Cleveland Metroparks land; and,

WHEREAS, the Brecksville Police Department operates a Police Department with a primary objective to provide a safe environment for the residents and visitors of Brecksville and has the need for use of a shooting range for training police officers; and,

WHEREAS, Cleveland Metroparks is the owner of the Police Training Center, located in the Mill Stream Run Reservation of the Cleveland Metropolitan Park District, and incurs costs to maintain such facility; and

WHEREAS, the Police Training Center includes facilities that could be used by Licensee to conduct certain training; and

WHEREAS, Licensee has agreed to so operate said facilities in accordance with and subject to the terms and conditions as hereinafter set forth; and

WHEREAS, Cleveland Metroparks and Licensee desire to enter into this Agreement as hereinafter provided for a modest annual fee which will assist with the annual maintenance and operation costs.

NOW, THEREFORE, for and in consideration of the mutual promises and agreements provided for herein, the parties hereto mutually agree as follows:

1. Grant of License. Subject to the terms and conditions of this Agreement, Cleveland Metroparks hereby grants to Licensee a license to occupy and use, on dates and times preapproved by Cleveland Metroparks as more fully set forth below, the range and classroom in the Police Training Center, (located at 9485 Eastland Road Strongsville Ohio 44149) in the Mill Stream Run Reservation of the Cleveland Metropolitan Park District (the "Facility"). Licensee may use the Facility only to conduct training activities.
2. Training Activity Times and Locations. At least two (2) weeks before holding a Training Activity at the Facility, Licensee shall contact Cleveland Metroparks Police Department and request permission to hold the Training Activity. Such request shall include the date and time of the proposed Training Activity, the specific area of the facility Licensee proposes using, and a description of the Training Activity. Cleveland Metroparks will use reasonable efforts to accommodate Licensee's preferred Training Activity date, time, and location, but reserves the right to require Licensee to choose a different date, time, or location for its Training Activity or to disallow the Training Activity at the Facility. Cleveland Metroparks may disallow any Training Activity for any reason whatsoever. Cleveland Metroparks' decision to permit Training Activity does not reflect in any way Cleveland Metroparks' approval of or opinion regarding the safety of the Training Activity or the suitability of the Facility to house the Training Activity.
3. Term of License. The Agreement shall be in effect commencing on the date of Cleveland Metroparks' execution and delivery of this Agreement to Licensee and shall be in effect for one (1) year (the "Initial Term"). Upon expiration of the Initial Term, the License shall be deemed automatically renewed under the same terms and conditions for additional successive terms of one year each, unless at least thirty (30) days prior to the end of any term, either party gives notice to the other that it does not wish to extend the term of the Agreement. Cleveland Metroparks reserves the right to terminate the License at any time and for any reason upon thirty (30) days' notice to Licensee. In the event of termination, Cleveland Metroparks will use reasonable efforts to accommodate any Training Activity already agreed to and scheduled by the Parties.
4. Upon execution of this License Agreement and receipt of an invoice, Licensee shall pay an annual fee of \$750 which permits Licensee to use the facility as often as desired as long as Cleveland Metroparks is able to schedule all entities which are contracted to utilize the facility.

5. Conditions

a. Licensee shall require all police officers or trainees participating in a Training Activity at the Facility to sign a waiver, which waiver shall name Cleveland Metroparks as a released party.

b. During all Training Activities, Licensee shall have personnel at the Facility who are qualified to provide the training being offered. To the extent required by federal, state, or other law or regulation, Licensee shall ensure that all instructors and/or supervisors for its Training Activities have any and all requisite certifications.

c. Licensee will provide all necessary safety equipment for the Training Activities.

d. Licensee shall be solely responsible for any required set up at the Facility.

e. The following additional conditions apply to Licensee's use of the range:

i. Licensee may not train on the use of or bring to the range or allow any of its employees, agents, or trainees to use at the range any fully automatic fire weapons or explosives.

ii. The range may be used only between the hours of 9:00 a.m. (EST) and 3:00 p.m. (EST).

6. Park Regulations. The use of the Facility shall be subject to the Park Rules and Regulations, which same may from time to time be changed or amended by the Board of Park Commissioners. Applicable provisions of said Rules and Regulations shall be in effect and enforced by Licensee and the Cleveland Metroparks. Said Rules and Regulations are available online at <https://codelibrary.amlegal.com/codes/clevelandmetroparks/latest/overview>.

7. Compliance with Laws. Licensee's use of the Facility shall comply with all applicable laws, ordinances, rules, and regulations of all public authorities, having any jurisdiction over the Facility or any part thereof or over the Training Activities.

8. Insurance.

a. Commercial General Liability Insurance. Throughout the term of this Agreement, Licensee shall maintain commercial general liability insurance insuring itself against claims for bodily injury (including death), personal injury and property damage occasioned by reason of the activities conducted by Licensee and its employees, agents and trainees on Cleveland Metroparks property. Such policy of insurance shall have a combined single limit of not less than \$1,000,000 per occurrence and shall name Cleveland Metroparks as additional insured. A certificate of insurance evidencing the aforementioned insurance shall be provided upon execution of this Agreement.

b. Commercial Automobile Insurance. Throughout the term of the License Agreement, Licensee shall maintain commercial automobile liability insurance for owned, hired, and non-owned automobiles, insuring against claims for bodily injury (including death) and property damage, with a combined single limit of not less than One Million Dollars (\$1,000,000) per occurrence shall name Cleveland Metroparks as additional insured. A certificate of insurance evidencing the aforementioned insurance shall be provided upon execution of this Agreement.

c. All such insurance shall be placed with insurance companies listed in the latest edition of "Bcst's Insurance and Key Ratings" with a policy rating of at least A and a financial size of Class X.

9. Acceptance of Risk and Indemnification.

a. Licensee Responsibility. Licensee acknowledges that the safety of its staff, agents and trainees during the Training Activities (including arriving to and departing the Training Activities) are solely the responsibility of Licensee. Licensee will take all necessary precautions to ensure the safety of its employees, agents and trainees. By beginning any Training Activity, Licensee acknowledges that it has inspected the portion of the Facility where the Training Activity will occur and found it to be a safe and appropriate site for the Training Activity.

b. Acceptance of Risk. Cleveland Metroparks shall not, in any case or under any circumstances, be liable or responsible for any damage to property or injury to persons or death suffered or sustained during the Training Activities, no matter how caused or occasioned. Licensee assumes all risk and liability for and in connection with the Training Activities.

c. Indemnification. Reserved.

10. Miscellaneous.

a. Notice. Whenever under this Agreement Notice is to be made, delivered or given, it shall be made, delivered to, or given in writing and shall be deemed to have been duly made, delivered or given by mail or by nationally recognized overnight courier service or otherwise against a receipt therefore. Such notice must be addressed to the parties hereto at the following addresses:

Stanton A. Korinek
Chief of Police
Brecksville Police Department
9020 Brecksville Road
Brecksville, Ohio 44141

CLEVELAND METROPARKS
4101 Fulton Parkway, Cleveland, Ohio 44144
Attn: Chief Executive Officer
With a copy to: Chief Legal & Ethics Officer

Either party may, by notice given to the other party in accordance with this Paragraph, designate another address for receipt of notice hereunder. Either party may waive the provisions of this Paragraph and accept service by acknowledging receipt of an electronic communication and confirming that it will not require notice in accordance with the terms of this Paragraph.

b. Amendment. This Agreement may not be amended or modified at any time except by an instrument in writing executed by the parties.

c. No Waiver. The failure of any party at any time or times to require performance of any provision hereof shall in no manner affect the right to enforce the same. No waiver by any party of any breach of any term, provision or covenant, herein contained, whether by conduct or otherwise, in any one or more instances shall be deemed to be or construed as a further or continuing waiver of any such breach or of the breach of any other term, provision or covenant, representation or warranty.

d. Governing Law; Jurisdiction. The Parties agree that this Agreement shall be governed by the laws of the State of Ohio regardless of Ohio choice of laws principals. All actions arising from or relating to this Agreement or the Training Activities or a claim of breach of this Agreement may be instituted and prosecuted only in a federal or state court located in Cuyahoga County, Ohio, and the Parties consent to the exercise of personal jurisdiction by and exclusive venue in such courts.

e. Counterparts. This Agreement may be executed in two or more Counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

f. Effect of Electronic Signature. By entering into this Agreement, the Parties agree on behalf of themselves, their officers, employees, subcontractors, sub-grantees, agents or assigns, that this transaction may be conducted by electronic means by agreeing that all documents requiring signatures by the Parties may be executed by electronic means, and that the electronic signatures affixed by the Parties to said documents shall have the same legal effect as if that signature was manually affixed to a paper version of the document. The Parties also agree to be bound by the provisions of Chapter 1306 of the Ohio Revised Code as it pertains to electronic transactions.

g. Public Records. Licensee acknowledges that this Agreement and other records in the possession or control of Cleveland Metroparks regarding the Training Activities may be public records under Ohio Revised Code Section 149.43 and may be open to public inspection unless a legal exemption applies.

h. Publicity. Licensee shall not discuss this Agreement or its contents with the media, use the Cleveland Metroparks name or logos or issue any press release or other public statement related hereto, unless authorized in writing by Cleveland Metroparks, which authorization may be withdrawn by Cleveland Metroparks at any time. Publicity prohibited hereunder shall include, but not be limited to, press releases, press interviews, magazine articles, trade show displays, customer lists, web sites, social media sites, Licensee success stories and present or prospective client references. Nothing in this Agreement shall be construed to grant Licensee or any other individual or entity any rights in and/or to the name, any trademark, any logo, and/or any other property of Cleveland Metroparks.

IN WITNESS WHEREOF the parties hereto have caused their duly authorized representatives to execute this Agreement on the date first set forth above.

BOARD OF PARK COMMISSIONERS OF THE
CLEVELAND METROPOLITAN PARK DISTRICT

By: _____
Chief Kelly Stillman

Approved as to legal form:
Rosalina M. Fini, JD, Chief Legal & Ethics Officer

and

Brecksville Police Department

Approved as to legal form:

By: _____
Chief Stanton A. Korinek

ORDINANCE RECORD
COUNCIL OF THE CITY OF BRECKSVILLE

Ordinance No. 5838

**AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO
A LICENSE AGREEMENT FOR PRIVATE SANITARY FORCE MAIN
WITHIN PUBLIC RIGHT-OF-WAY WITH NANCE SUBDIVISION
HOMEOWNERS ASSOCIATION, INC.; AND DECLARING AN
EMERGENCY**

WHEREAS, the City is willing to grant a revocable, nonexclusive license to the Association for the limited purpose of accommodating the Force Main within the ROW, subject to the terms and conditions of this Agreement and all applicable laws, regulations, and City standards; and

WHEREAS, The City and the Association desire to establish clear responsibilities for construction, operation, maintenance, and potential relocation of the Force Main, including cooperation in good faith with respect to any required relocation to accommodate City work in the ROW.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Brecksville, County of Cuyahoga, and State of Ohio, that:

SECTION 1. The Mayor be and is hereby authorized to execute a License Agreement for Private Sanitary Force Main Within Public Right-of-Way with Nance Subdivision Homeowners Association, Inc. on behalf of the City of Brecksville, a copy of such Agreement is attached hereto, expressly made a part hereof by reference and marked Exhibit "A."

SECTION 2. The Council hereby appropriates sufficient funds to effectuate the provisions contained in Section 1 hereof, and the Director of Finance is hereby authorized to transfer the funds necessary to complete this expenditure from the available, non-tax revenue, funds of the City. The Director of Finance be and is hereby further authorized to issue the fiscal officer's certificate necessary to make the expenditures as described in Section 1 hereof and is further directed to issue vouchers of this City in the amounts and for the purposes as expressed in Section 1 hereof, said amounts to be charged to the appropriately designated Fund.

SECTION 3. The Council declares this Ordinance to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare, the reason for the emergency is to commence with the project, therefore, said Ordinance shall be in full force and effect immediately upon its adoption by this Council and approval by the Mayor, otherwise, from and after the earliest period allowed by law.

PASSED: December 16, 2025

APPROVED: December 16, 2025

MAYOR

CLERK OF COUNCIL

**LICENSE AGREEMENT FOR PRIVATE SANITARY FORCE MAIN WITHIN PUBLIC
RIGHT-OF-WAY (CITY OF BRECKSVILLE, OHIO)**

This License Agreement (“Agreement”) is made and entered into as of the date of the last party to sign set forth below (the “Effective Date”), by and between the City of Brecksville, Ohio, a charter municipal corporation and political subdivision of the State of Ohio (“City”), and Nance Subdivision Homeowners Association, Inc., an Ohio nonprofit corporation (“Association”).

WITNESSETH:

WHEREAS, the Association desires to install, operate, maintain, repair, replace, and, if necessary, relocate a private two-inch (2") sanitary force main and appurtenances (the “Force Main”) within portions of the public right-of-way of Edgerton Road under the jurisdiction and control of the City (the “ROW”) to serve and benefit Nance Subdivision as the shown on the Subdivision Plat for the Nance Subdivision, dated _____, 2025, recorded in Volume _____, Page _____ of Cuyahoga County, Ohio Fiscal Office (“the Plat”), consisting of: five (5) separate parcels of property designated thereon as Lot A, Lot B, Lot C, Lot D, and Lot E, respectively, known as Cuyahoga County, Ohio Permanent Parcel Numbers _____

_____, which two-inch private force main is positioned within the City of Brecksville Edgerton Road ROW crossing Edgerton Road at the westerly limits of the Nance Subdivision and extending westerly within the grassed area along the north side of Edgerton Road to a City of Brecksville sanitary manhole located approximately 100’ west of the Nance Subdivision Westerly limits as depicted in the Nance Subdivision Sanitary Sewer Extension Improvement Plans as on file with the City of Brecksville, Ohio and the Cuyahoga County Department of Public Works;

WHEREAS, the City is willing to grant a revocable, nonexclusive license to the Association for the limited purpose of accommodating the Force Main within the ROW, subject to the terms and conditions of this Agreement and all applicable laws, regulations, and City standards;

WHEREAS, The City and the Association desire to establish clear responsibilities for construction, operation, maintenance, and potential relocation of the Force Main, including cooperation in good faith with respect to any required relocation to accommodate City work in the ROW.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, Ten Dollars (\$10.00), and other good and valuable consideration paid by each party to the other, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Grant of License. The City hereby grants to the Association a limited nonexclusive license to install, operate, maintain, repair, replace, and relocate the Force Main and associated appurtenances solely within the portion(s) of the ROW depicted on **Exhibit A** attached hereto and incorporated herein by reference (the “Licensed Area”), subject to City approval of final alignment, which approval will not be unreasonably withheld, conditioned or delayed. This Agreement creates a license only and does not convey any estate or interest in real property, public utility franchise, easement, leasehold, or any exclusive use rights. The City retains full and paramount control of the ROW for public purposes. The license is subordinate to the City’s present and future use of the ROW and to any prior rights therein.

2. Term, Revocability. The license shall commence on the Effective Date and continue until terminated pursuant to this Agreement. The City may suspend or revoke the license, in whole or in part, upon written notice if the Association materially breaches this Agreement and fails to cure within thirty (30) days after written notice, unless additional time is necessary due to reasons beyond the reasonable control of the Association, in which event the Association shall have a reasonable time after the expiration of said 30 day period to complete the cure. Upon termination, the Association shall, at its sole cost, remove or abandon-in-place the Force Main as the City reasonably directs and restore affected areas per Section 6 hereof.

3. Construction, Permits, and Standards.

a. Conditions Precedent. Prior to any work in the ROW, the Association shall obtain and maintain all required approvals, including: City right-of-way permits; Ohio Environmental Protection Agency (“EPA”) Permit to Install (“PTI”) and related approvals; approvals of the Cuyahoga County Department of Public Works as applicable; traffic control approvals; and any other permits or consents required by law or third parties with facilities in the ROW.

b. Plans and Methods. Construction, installation, and any future repair or replacement shall be performed in accordance with plans approved by the City Engineer, Ohio EPA permits, City of Brecksville Codified Ordinances, current ODOT Construction and Material Specifications as applicable, the Ohio Manual of Uniform Traffic Control Devices, and all

applicable safety and excavation laws. Methods may include directional boring or open cut as approved by the City Engineer.

c. Coordination. The Association shall coordinate with the City and all utilities in the ROW prior to construction. The Association shall comply with Ohio's one-call utility locate laws and protect existing utilities and public improvements.

d. As-Builts and Marking. The Association shall submit as-built drawings in a format reasonably acceptable to the City, showing horizontal and vertical alignment, connections, valves, and appurtenances. The Force Main shall include tracer wire and surface markers as may be required by the City Engineer.

4. Operation, Maintenance, and Repair.

a. Association Responsibility. The Force Main is a private facility owned by the Association for the benefit of the lots it serves. The Association shall, at its sole cost and expense, operate, inspect, maintain, repair, and replace the Force Main and appurtenances within the Licensed Area in good order and repair so as not to endanger public safety or interfere with City use of the ROW. The City has no obligation to operate, maintain, repair, or replace any portion of the Force Main.

b. Maintenance Program. The Association's obligations include compliance with the maintenance schedule, standards, and procedures set forth in Exhibit B attached hereto and incorporated herein by reference (the "Maintenance Schedule"). Without limiting the foregoing, the Association shall perform periodic flushing of the Force Main via the terminal flushing connection, maintain and replace curb stops located in the Licensed Area, and address any backflow prevention components associated with the main as applicable, all at the Association's expense. Individual lot owners' private pump stations and alarm panels are not maintained by the City and shall be maintained separately outside the scope of this Agreement, as further reflected in the Association's governing documents and Ohio EPA requirements.

c. Emergencies. The Association shall maintain 24/7 contact information with the City Engineer for emergencies and shall promptly respond to and correct any leaks, blockages, failures, or hazards. In the event of an imminent threat to public safety or infrastructure, the City may take reasonable temporary measures.

d. Funding and Records. The Association shall maintain adequate reserves and funding to operate, maintain, repair, and replace the Force Main in accordance with Exhibit B and any Ohio EPA financial assurances, and shall maintain records of inspections, maintenance, and repairs, producing such records to the City upon reasonable request. The Association's initial cost funding plan is set forth on Exhibit C attached hereto and incorporated herein by reference ("Maintenance Reserve Plan").

5. Relocation for City Projects; Good-Faith Cooperation.

a. City Right to Require Relocation. The City may require relocation, adjustment, protection, or temporary shutdown of the Force Main within the ROW when necessary for construction, reconstruction, repair, maintenance, widening, realignment, utility coordination, or other public improvements or uses in or affecting the ROW (collectively, “City Work”) upon reasonable prior written notice to the Association.

b. Association’s Relocation Obligations. Upon reasonable prior written notice from the City that relocation is required due to City Work, the Association shall, at its sole cost and expense, promptly design and relocate, adjust, protect, or temporarily shut down the Force Main as reasonably directed by the City Engineer. Unless an alternative schedule is approved in writing by the City Engineer, the Association shall complete such relocation within four (4) months after written notice, or within such shorter period as is reasonably necessary to address emergency City Work. If the Association fails to timely relocate, the City may perform or cause the relocation to be performed and the Association shall reimburse the City for all reasonable and documented costs.

c. City Good-Faith Cooperation. The City will reasonably cooperate in good faith with the Association in planning and implementing any required relocation, including reviewing proposed relocation plans in a commercially reasonable timeframe, coordinating scheduling to the extent feasible to reduce service disruptions, and identifying feasible alternative alignments within the ROW if available and consistent with City standards and the public interest.

d. No Compensation. The Association shall not be entitled to any compensation from the City for relocation costs or business losses arising from City Work, and the Association waives any such claims, it being understood that the license is subordinate to City use of the ROW.

6. Restoration and Clean-Up. The Association shall restore any disturbed portions of the ROW and adjacent property, including pavement, curb, sidewalk, landscaping, and signage, to equal or better condition in accordance with City standards and permit requirements. Temporary patches shall be replaced with permanent restoration within the period specified by the City Engineer. Spoils, debris, and waste shall be promptly removed.

7. Compliance with Law; No Hazardous Conditions. The Association shall comply with all applicable federal, state, and local laws, including Ohio EPA rules and permits, and City ordinances. The Association shall not intentionally cause or permit any release of sewage or hazardous substance. Any spill or release shall be promptly contained, reported, and remediated at the Association’s sole cost.

8. Indemnification. The Association shall indemnify, defend, and hold harmless the City and its officials, administration, officers, employees, agents, and representatives from and against any and all claims, demands, damages, liabilities, costs, and expenses (including

reasonable attorneys' fees) arising out of or related to the design, installation, operation, maintenance, repair, replacement, relocation, or presence of the Force Main, except to the extent caused by the negligence or willful misconduct of the City and/or third parties.

9. Interference; Coordination with Other Utilities. The Force Main shall not materially interfere with the City's present or future facilities or other public utilities lawfully occupying the ROW. The Association shall coordinate with other utilities and adjust the alignment as needed to avoid conflicts. In case of conflict, the City Engineer's determination shall control.

10. Ownership; No City Acceptance. The Force Main is and shall remain private property owned by the Association. The City does not accept dedication or ownership of any portion of the Force Main by virtue of this Agreement, and no City maintenance, operation, or repair obligations are created. The Association shall ensure that its governing documents allocate ownership and maintenance responsibilities among the benefitted parcels consistent with Ohio EPA requirements.

11. Running with the Land. This license shall run with the benefitted land in the Nance Subdivision.

12. Default; Remedies. In addition to revocation right under Section 2 hereof, upon written notification from the City to the Association of a material default by the Association and the expiration of the applicable notice and cure period set forth in Section 2, the City may pursue any remedies available at law or in equity, including specific performance, injunctive relief, and recovery of costs incurred to cure, restore, or relocate the Force Main.

13. Governing Law; Venue. This Agreement is governed by the laws of the State of Ohio. Venue for any action arising hereunder shall lie exclusively in the courts of competent jurisdiction in Cuyahoga County, Ohio.

14. No Third-Party Beneficiaries; No Franchise. This Agreement is solely for the benefit of the parties and does not confer rights on any third party. Nothing herein grants a franchise; the Force Main is a private facility licensed within the ROW.

15. Severability; Amendments; Waivers. If any provision is held invalid or unenforceable, the remaining provisions shall continue in full force. This Agreement may be amended only by a written instrument signed by both parties and approved as to form by the City's Law Director and, if required, by City Council. No waiver is effective unless in writing.

16. Entire Agreement; Order of Precedence. This Agreement, together with Exhibits A and B and applicable City permits, constitutes the entire agreement regarding the subject matter and supersedes all prior discussions. In the event of conflict, City laws, ordinances, and permit conditions control, followed by this Agreement, then the exhibits.

17. Counterparts; Electronic Signatures. This Agreement may be executed in counterparts and by electronic signatures, each of which shall be deemed an original and all of which together constitute one instrument.

[SIGNATURE PAGES TO FOLLOW]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

CITY OF BRECKSVILLE, OHIO

By: _____

Daryl J. Kingston, Mayor

Date: _____, 2025

By: _____

Laura Starosta, Finance Director

Date: _____, 2025

Approved as to Form:

By: _____

David J. Matty, Director of Law

STATE OF OHIO

: SS

COUNTY OF CUYAHOGA

The foregoing instrument was acknowledged before me this ____ day of _____, 2025, by Daryl J. Kingston, as Mayor of the City of Brecksville, Ohio, a charter municipal corporation and political subdivision of the State of Ohio, for and on behalf of said municipal corporation. This is an acknowledgement certificate; no oath or affirmation was administered to the signer with regard to this notarial act.

Notary Public

STATE OF OHIO

: SS

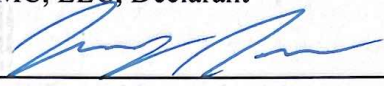
COUNTY OF CUYAHOGA

The foregoing instrument was acknowledged before me this ____ day of _____, 2025, by Laura Starosta, as Finance Director of the City of Brecksville, Ohio, a charter municipal corporation and political subdivision of the State of Ohio, for and on behalf of said municipal corporation. This is an acknowledgement certificate; no oath or affirmation was administered to the signer with regard to this notarial act.

Notary Public

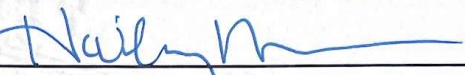
**NANCE SUBDIVISION HOMEOWNERS
ASSOCIATION, INC.**

By: LHMC, LLC, Declarant

By: 

Larry Nance, Jr., Manager

Date: NOV 29, 2025

By: 

Hailey Nance, Manager

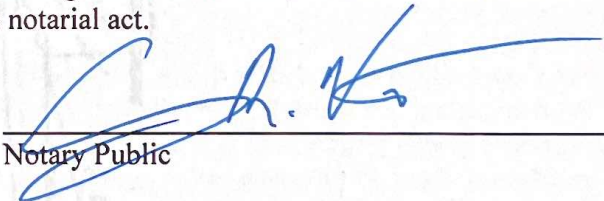
Date: Nov 29, 2025

STATE OF OHIO

: SS

COUNTY OF CUYAHOGA

The foregoing instrument was acknowledged before me this 29th day of November, 2025, by Larry Nance, Jr. and Hailey Nance, as Managers of LHMC, LLC, the Declarant and of Nance Subdivision Homeowners' Association, Inc., Ohio, an Ohio not-for-profit corporation, for and on behalf of said corporation. This is an acknowledgement certificate; no oath or affirmation was administered to the signer with regard to this notarial act.


Notary Public

This instrument prepared by:
Anthony R. Vacanti, Esq.
Tucker Ells LLP
950 Main Avenue, Suite 1100
Cleveland, Ohio 44113



ANTHONY R. VACANTI, Attorney-At-Law
Notary Public - State of Ohio
My Commission has no expiration date
Sec. 147.03 R.C.

EXHIBIT A

Nance Subdivision Sanitary Sewer Extension Improvement Plans as on file with the City of Brecksville and the Cuyahoga County Department of Public Works

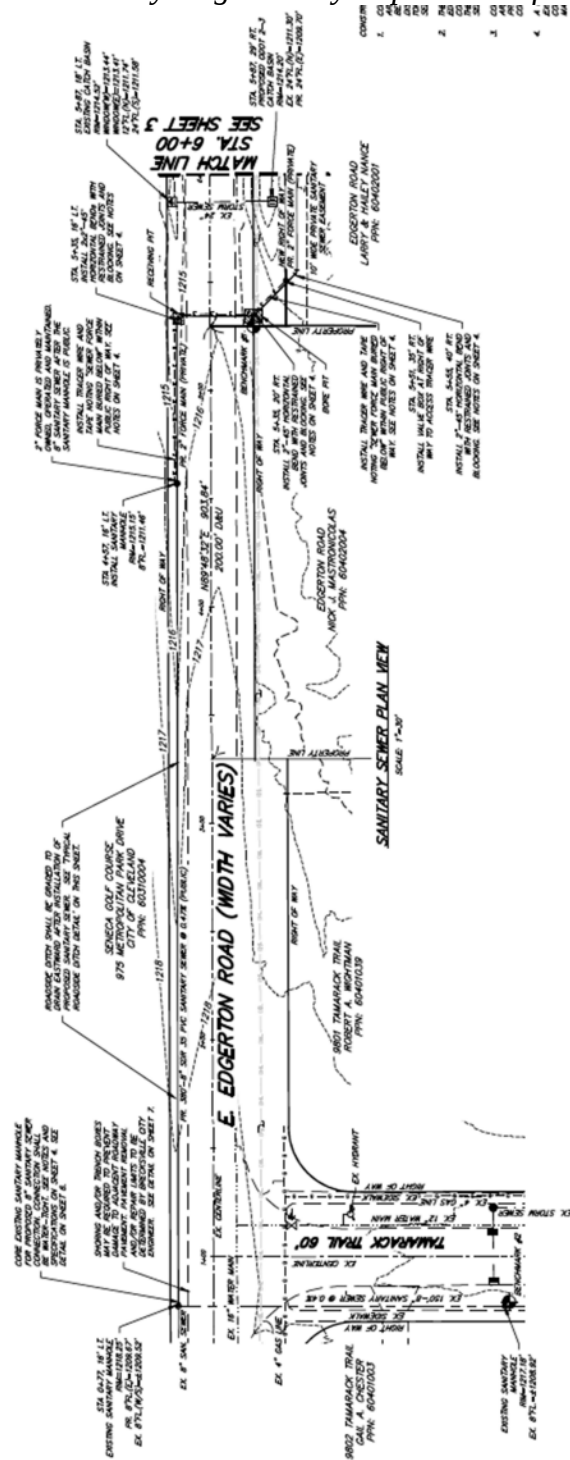


EXHIBIT B

Maintenance Schedule

The Association shall implement and fund the following minimum Maintenance Schedule for the Force Main within the Licensed Area, subject to Ohio EPA approvals and City Engineer direction:

1. Flushing. Utilize the terminal flushing connection at the east end of the 2" main to flush the system not less than once every nine (9) months, or more frequently if conditions warrant based on usage, observed deposits, or operational data.
2. Appurtenances within ROW. Inspect and maintain curb stops, valves, and any check valves located within the Licensed Area. Replace curb stops and the 1-1/4" stainless steel lateral kit backflow preventer if failure occurs. Keep valve boxes accessible and operable and maintain tracer wire continuity.
3. Inspection. Conduct visual/operational inspections of accessible appurtenances at least annually and after any significant service interruption, leak, or repair. Keep logs of flushing dates, observations, and corrective actions. Provide logs to the City upon request.
4. Leak Response. Establish 24/7 emergency response procedures, including immediate containment and repair of any leaks or failures within the ROW, traffic control as required, and prompt restoration of affected areas.
5. Coordination with Lot Systems. The private simplex pump stations and alarm panels serving individual lots are outside the scope of this Agreement and shall be maintained by the respective lot owners under separate operations and maintenance agreements with licensed providers, consistent with Ohio EPA requirements. The Association shall coordinate, as needed, to ensure that Force Main operation is not compromised by upstream facility conditions.
6. Compliance. Perform all maintenance in accordance with Ohio EPA permits and guidance, the City's standards, and manufacturer recommendations for installed components. Update this Maintenance Schedule if required by Ohio EPA or the City Engineer.

EXHIBIT C

Maintenance Reserve Plan

The Association shall maintain a reserve account in the minimum amount of \$2,400.00 per year in order to conduct the Maintenance Schedule.

**DECLARATION
OF
COVENANTS, CONDITIONS, RESTRICTIONS
AND EASEMENTS
OF
THE NANCE SUBDIVISION
BRECKSVILLE, OHIO
AND BY-LAWS
OF
THE NANCE SUBDIVISION HOMEOWNERS ASSOCIATION, INC.**

_____, 2025

**DECLARATION
OF
COVENANTS, CONDITIONS, RESTRICTIONS
AND EASEMENTS
OF THE NANCE SUBDIVISION
BRECKSVILLE, OHIO**

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EXHIBITS

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**DECLARATION
OF
COVENANTS, CONDITIONS, RESTRICTIONS
AND EASEMENTS
OF
THE NANCE SUBDIVISION
BRECKSVILLE, OHIO**

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, AND EASEMENTS OF THE NANCE SUBDIVISION (this “Declaration”) is made and entered into this _____ day of _____, 2025, by LHMC LLC, an Ohio limited liability company (the “Declarant”).

RECITALS

W I T N E S S E T H:

WHEREAS, Declarant is the fee simple owner of certain real property situated in the City of Brecksville, Cuyahoga County, Ohio, shown on the Subdivision Plat for the Nance Subdivision, dated _____, 2025, recorded in Volume _____, Page _____ of Cuyahoga County, Ohio Fiscal Office (“the Plat”), consisting of: five (5) separate parcels of property designated thereon as Lot A, Lot B, Lot C, Lot D, and Lot E, respectively, all of which are attached hereto and incorporated herein (each parcel is referred to herein specifically by Lot letter, generally as a “Lot” and collectively as the “Lots”; the land comprised in Lots A through E is sometimes collectively referred to as the “Property”). An unrecorded copy of the Plat is attached hereto as Exhibit “A” and incorporated herein by reference; and

WHEREAS, a pond is or will be located on Lot A and a small portion on Lot B, as more fully depicted on Exhibit “B,” attached hereto and incorporated herein (herein, “Pond”), which Pond is, or will be, for the sole benefit, use, and responsibility of the Owner (hereinafter defined) of Lot A; and

WHEREAS, two 759 square foot storm water drainage easements are located on Lot A for the benefit of Lots C and D as shown on the Plat;

WHEREAS, a ten foot wide private sanitary sewer easement is or will be located along the northerly property lines of Lots A, B, C, D, and E for the benefit of all the Lots as shown on the Plat;

WHEREAS, a 1,078 square foot storm water maintenance easement is located on Lot E, as shown on the Plat, for the benefit of the Lots for stream maintenance and removal of fallen trees or other debris from the stream channel in order to prevent such trees or other debris from obstructing the stream channel and causing water back up;

WHEREAS, a 7,950 square foot storm water maintenance easement is located on Lot D, as shown on the Plat, for the benefit of Lots A, B, C, and D;

WHEREAS, a 1,062 square foot easement is located on Lots D and E, as shown on the Plat, for the benefit of the City of Brecksville, Ohio for public storm sewer maintenance;

WHEREAS, the City of Brecksville, Ohio (the “City”), a municipal corporation organized under the laws of the State of Ohio, has approved the subdivision of the Property in accordance with Title Three, Chapter 1115 of the Codified Ordinances of the City of Brecksville, Ohio; and

WHEREAS, Declarant desires to provide for (i) the orderly development of the Property, (ii) an exclusive easement for access, maintenance, and use for the benefit of Lot A on the portion of Lot B on which the Pond is or will be located; (iii) a release and waiver of all riparian and/or littoral rights to the Pond as it relates to Lot B so that Lot A has exclusive access, use, and control of the Pond; (iv) the orderly operation, administration, use and maintenance of the Pond by the Owner of Lot A; (v) the orderly operation, administration, use and maintenance of the Easement Areas (as such term is hereinafter defined) and matters common to the homeowners in the Property, (iv) the preservation, protection and enhancement of values within the Property, and (v) the promotion of the health, safety and welfare of the homeowners within the Property; and

WHEREAS, Declarant, for its own benefit, and for the benefit of all future owners, mortgagees and occupants of the Property or any part thereof, desires to establish the covenants, conditions, rights, restrictions, easements, and privileges hereinafter set forth with respect to said Property and the ownership, use, conduct and maintenance thereof; and

WHEREAS, in order to accomplish the foregoing, Declarant has deemed it desirable to create a central authority to which should be delegated and assigned the obligations (i) for regulating, administering and governing the Property, (ii) for operating, maintaining, repairing and replacing the Easement Areas as necessary, (iii) for otherwise enforcing this Declaration and the Covenants and Restrictions (as hereinafter defined), and (iv) for collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, the Declarant intends to cause the incorporation under the laws of the State of Ohio of a non-profit corporation known as the “Nance Subdivision Homeowners Association, Inc.” (the “Association”), for the purposes of exercising the functions delegated to it pursuant to this Declaration; and

WHEREAS, capitalized terms not otherwise defined herein shall have the meaning ascribed to such terms in Article I hereof; and

WHEREAS, the foregoing Recitals are hereby incorporated herein and made a part of this Declaration.

NOW, THEREFORE, Declarant, on his/her own behalf and on behalf of his/her heirs, successors, and assigns, does hereby declare that the Property and each and every Lot is and shall be held, owned, improved, transferred, sold, conveyed, used and occupied subject to the covenants, conditions, restrictions, easements, assessments, charges and liens (hereafter sometimes referred to collectively as the "Covenants and Restrictions") hereinafter set forth in this Declaration, and further declares that all of the Covenants and Restrictions created under and by virtue of this Declaration shall constitute covenants to run with the land and shall be binding upon the Declarant, his/her heirs, successors and assigns, and all persons having any right, title or interest in all or any part of said Property, together with their heirs, successors and assigns, and shall be impressed and imposed upon each and every Lot as a servitude in favor of each and every other Lot as the dominant tenement as specifically set forth herein.

ARTICLE I

DEFINITIONS

1. "Annual Assessment" shall mean the share of Common Expenses which are levied by the Board and are required to be paid by an Owner in accordance with Article IV.

2. "Articles of Incorporation and By-Laws" shall mean the Articles of Incorporation and By-Laws of the Association. The Articles of Incorporation and By-Laws may contain any provisions which do not conflict with this Declaration, as may be amended from time to time, and which are permitted to be set forth in such Articles of Incorporation and By-Laws by the nonprofit corporation law of the State of Ohio, as in effect from time to time.

3. "Assessments" shall mean collectively, Annual Assessments, Special Assessments and Other Charges in Article V, which from time to time are determined and levied by the Board and are required to be paid by an Owner.

4. "Association" shall have the meaning set forth in the Recitals hereto.

5. "Board" shall mean the Board of Trustees of the Association. The Board is sometimes also referred to as the "Trustees".

6. "Common Expenses" shall mean the actual and estimated expenses of operating the Association, both for general purposes and for purposes of maintaining, repairing, maintaining and other expenses with respect to the easements, including any reasonable reserves, all as may be found to be necessary and appropriate by the Board pursuant to this Declaration and the Articles of Incorporation and By-Laws.

7. "Covenants and Restrictions" shall have the meaning set forth in the Recitals hereto.

8. “Declarant” shall have the meaning set forth in the Recitals hereto. The term “Declarant” shall include his/her heirs and executors and any assigns of any of Declarant’s rights under this Declaration. No Person shall be deemed to be a successor, alternate or additional Declarant for the purposes of this Declaration unless such person or entity has been specifically so designated by Declarant herein, by instrument in writing and placed of record.

9. “Declaration” shall mean this Declaration as the same may be amended by a Subsequent Amendment.

10. “Dwelling” shall mean and refer to any building or any portion of a building situated within any Lot, designed and intended for use and occupancy as a residence by a single family.

11. “Easement Areas” shall mean the Sanitary Sewer Easement, Stormwater Easements, the Stream Maintenance Easement, the Pond Maintenance Easement, and any easements for Utility Service as hereinafter defined.

12. “Indemnified Parties” shall have the meaning set forth in Article VI, Section 3 hereof.

13. “Member” shall mean a person or entity entitled to membership in the Association, as provided herein.

14. “Officers” The officers of the Association, elected as provided in the Articles of Incorporation and By Laws.

15. “Other Charges” shall include without limitation, (i) interest upon any of the Assessments and Other Charges as determined from time to time by the Board, but in no event greater than the highest legal rate which may be charged to an individual without being usurious from the date the Assessments or Other Charges first become due to the date the Assessments are paid in full; (ii) a late payment charge if any of the Assessments shall not be paid within five (5) days from the due date, as established from time to time by the Board but in no event higher than ten percent (10%) of the amount due; and (iii) the reasonable costs of collection of any unpaid Assessments and Other Charges (including court costs and reasonable attorneys’ fees).

16. “Owner” shall mean the record owner, whether one or more persons or entities, of fee simple title to any Lot which is a part of the Property, including the Declarant, but “Owner” shall exclude in all cases any party holding an interest merely as security for the performance of an obligation. If a Lot is sold under a land installment contract, the purchaser (vendee) (rather than the fee owner) will be considered the Owner. Every Owner shall be treated for all purposes as a single Owner for each Lot held irrespective of whether such ownership is joint or in common. Where such ownership is joint or in common, the majority vote of such joint owners shall be necessary to cast any vote to which such owners are entitled.

17. “Ownership Interest” shall mean the entire right, title and interest of any Owner in all of the estate of such Owner in any Lot or Lots.

18. “Lot”, “Lots”, and “Lot Letters” shall each have the meaning set forth in the Recitals hereto. Each Lot shall have a separate permanent parcel number assigned to it by the Cuyahoga County Auditor for tax purposes after recording of the deed to a purchaser from Declarant.

19. “Person” shall mean a natural individual, corporation, partnership, limited partnership, limited liability company, trust or other entity to which the law attributes the capacity of having rights and duties.

20. “Pond Easement” shall mean and refer to those areas of land located on Lot B on which the Pond is or will be located as shown on Exhibit B that will be for the exclusive use, access, and control of the Owner of Lot A.

21. “Pond Maintenance Easement” shall mean and refer to those areas of land upon, across, over, through and under Lots A and B necessary for the maintenance and repair of the Pond.

22. “Property” shall have the meaning set forth in the Recitals hereto.

23. “Public Storm Sewer Easement” shall mean and refer to that 1,062 square foot easement located on Lots D and E, as shown on the Plat, for the benefit of the City of Brecksville, Ohio for public storm sewer maintenance.

24. “Sanitary Sewer Easements” shall mean and refer to those areas of land located on Lots A, B, C, D, and E to be used for the installation, operation, and maintenance of a ten foot wide private sanitary Sewer Easement for the common use, benefit and enjoyment of all Owners and which are specifically designated as such on any plat or other instrument recorded in the Cuyahoga County Records, or which are designated or described as such in this Declaration, or on any drawing which is an Exhibit to this Declaration.

25. “Stormwater Easements” shall mean and refer to those two 759 square foot areas of land located on Lot A for stormwater drainage for the benefit and enjoyment of Lots C and D as shown on the Plat, and that certain 7,950 square foot area of land located on Lot D for stormwater and maintenance purposes for the benefit and enjoyment of Lots A, B, C, and D.

26. “Stream Maintenance Easement” shall mean and refer to that 1,078 square foot storm water maintenance easement is located on Lot E, as shown on the Plat, for the benefit of the Lots for stream maintenance and removal of fallen trees or other debris from the stream channel in order to prevent such trees or other debris from obstructing the stream channel and causing water back up.

27. “Special Assessments” shall mean all costs, expenses and charges (excluding Common Expenses) which the Association shall charge against an Owner pursuant to this Declaration.

28. “Subsequent Amendment” shall mean an amendment to any provision contained in this Declaration including an amendment which adds additional property to that covered by this Declaration or deletes property from that is covered by this Declaration. A Subsequent Amendment may, but is not required to, impose, expressly or by reference, additional restrictions and obligations on the Property.

29. “Utility Service” shall have the meaning set forth in Article II, Section 1 hereof.

30. “City” shall have the meaning set forth in the Recitals hereto. It is specifically acknowledged by all parties to these Covenants and Restrictions that the City is a third party beneficiary to these Covenants and Restrictions and has the same authority to administer and enforce these Covenants and Restrictions as they relate to the Easement Areas and Pond as more fully set forth herein, as does the Association or Declarant, but shall have no obligation to administer or enforce these Covenants and Restrictions. The City, as a third party beneficiary to these Covenants and Restrictions and by giving its approval to these documents, shall in no way be deemed to have waived any of its zoning, building or other requirements of ordinances or general law which requirements shall still be binding upon the Property if they are more restrictive than the requirements set out within these Covenants and Restrictions.

ARTICLE II

RESERVATION AND GRANT OF EASEMENTS

1. Easement for Utilities. Except as otherwise limited hereby, there is hereby reserved in favor of Declarant a non-exclusive easement upon, across, over, through and under the Property, whether or not depicted on the Plat, for ingress, egress, use, operation, repair, replacement, maintenance and relocation of all existing utility and service lines and systems, whether of record or otherwise, including, but not limited to, water, sewer (storm and sanitary), energy, drainage, gas, telephone, electric, television, cable, communication lines and systems and any other such services, lines and systems normally used for residential purposes (collectively, “Utility Service”). By virtue of this easement it shall be expressly permissible for Declarant and the Association, their respective heirs, successors or assigns, or the providing utility or service company, to repair and maintain facilities and equipment on the Property for such purposes, provided that any disturbed areas are substantially restored to as near the condition in which they were found to the greatest extent financially reasonable and physically practicable.

2. Pond Easement, Waiver of Riparian / Littoral Rights, and Pond Maintenance Easement. There is hereby reserved in favor of Declarant and the Owner of Lot A, together with their respective heirs, successors and assigns, for so long as this Declaration remains in effect, an exclusive Pond Easement upon, across, over and through those portions of Lot B on which the Pond is located as shown on Exhibit B for the exclusive use of the Owner of Lot A to use, control,

and access the Pond. Any and all riparian and/or littoral rights to the Pond associated with Lot B are hereby released and waived and shall run with the land and be binding on any future Owners of Lot B. Additionally, there is hereby reserved in favor of Declarant and the Association, together with their respective heirs, successors and assigns, for so long as this Declaration remains in effect, a non-exclusive Pond Maintenance Easement upon, across, over, through and under Lots A and B for the maintenance and repair of the Pond benefitting Lots A, B, C, and D. The Declarant and Association shall adhere to and follow the Pond maintenance schedule attached hereto and incorporated herein by reference as Exhibit "C." The cost of the maintenance and repair of the Pond shall be borne equally by the Owners of Lots A, B, C, and D and may be collected and managed by the Association.

3. Sanitary Sewer Easement. There is hereby reserved in favor of Declarant and the Association, together with their respective heirs, successors and assigns, for so long as this Declaration remains in effect, a non-exclusive easement upon, across, over and through the Property, in the ten foot wide Sanitary Sewer Easement depicted on the Plat, for the installation, construction, use, operation, repair, replacement, maintenance and relocation of a two-inch private force main sanitary sewer for the benefit of all the Lots. The Declarant and the Association have also entered into a License Agreement with the City of Brecksville, Ohio to allow for the two-inch private force main to be located within the City's right-of-way underneath and adjacent to Edgerton Road. The two-inch private force main is positioned within the foregoing non-exclusive easement parallel to Edgerton Road and within the City of Brecksville Edgerton Road ROW crossing Edgerton Road at the westerly limits of the Nance Subdivision and extending westerly within the grassed area along the north side of Edgerton Road to a City of Brecksville sanitary manhole located approximately 100' west of the Nance Subdivision Westerly limits as depicted in the Nance Subdivision Sanitary Sewer Extension Improvement Plans as on file with the City of Brecksville, Ohio and the Cuyahoga County Department of Public Works. The cost of the use, operation, repair, replacement, maintenance, and relocation of the private sanitary sewer in the Sanitary Sewer Easement shall be Common Expenses and may be collected and managed by the Association. The Association shall comply with the maintenance schedule, standards, and procedures set forth in Exhibit "D" attached hereto and incorporated herein by reference (the "Maintenance Schedule"). Without limiting the foregoing, the Association shall perform periodic flushing of the 2" Force Main via the terminal flushing connection, maintain and replace curb stops located in the Sanitary Sewer Easement, and address any backflow prevention components associated with the main as applicable, all at a Common Expense of the Association. Individual Lot Owners' private pump stations and alarm panels serving individual Lots are to be maintained and replaced by the respective Lot Owners under separate operations and maintenance agreements with licensed providers, consistent with Ohio EPA requirements. The Association shall coordinate, as needed, to ensure that Force Main operation is not compromised by upstream facility conditions. Notwithstanding the foregoing, the Association may elect to take over responsibility for the maintenance and replacement of the private pump stations and alarm panels and assess each Lot Owner the actual cost for the maintenance and replacement of the pump stations and alarm panels on any given Lot. The Association shall acquire and retain a reserve private pump station in the event of failure of one of the pump stations to the extent not readily available.

4. Stormwater Easements. There is hereby reserved in favor of Declarant and the Association, together with their respective heirs, successors and assigns, for so long as this Declaration remains in effect, a non-exclusive easement upon, across, over and through the two 759 square foot areas of land located on Lot A as shown on the Plat for stormwater drainage benefitting Lots C and D. Additionally, there is hereby reserved in favor of Declarant and the Association, together with their respective heirs, successors and assigns, for so long as this Declaration remains in effect, a non-exclusive easement upon, across, over and through the 7,950 square foot area of land on Lot D as shown on the Plat for stormwater drainage benefitting Lots A, B, C, and D. The cost of the use, operation, repair, replacement, and maintenance of the Stormwater Easements shall be borne equally by all Lot Owners benefitting from the respective Stormwater Easements and may be collected and managed by the Association. The Owner of Lot E shall be solely responsible for ensuring proper storm water maintenance and management within Lot E.

5. Stream Maintenance Easement. There is hereby reserved in favor of Declarant and the Association, together with their respective heirs, successors and assigns, for so long as this Declaration remains in effect, a 1,078 square foot storm water maintenance easement upon, across, over and through Lot E, as shown on the Plat, for the benefit of the Lots A, B, C, and D for stream maintenance and removal of fallen trees or other debris from the stream channel in order to prevent such trees or other debris from obstructing the stream channel and causing water back up. The cost of the use, operation, repair, replacement, and maintenance of the Stream Maintenance Easement shall be borne equally by the Owners of Lots A, B, C, and D, and may be collected and managed by the Association.

6. Public Storm Sewer Easement. The Declarant hereby conveys to the City a 1,062 square foot non-exclusive easement located on Lots D and E, as shown on the Plat, for public storm sewer maintenance. The City shall be solely responsible for any costs associated with the maintenance and/or repair of such Public Storm Sewer Easement.

7. Scope of Easements. As the improvements to be located within the Property for the easement rights granted or reserved hereunder are definable within specific areas, the Declarant or the Association (with the Declarant's prior written consent) shall have the right but not the obligation to: (a) limit such easements to specific areas and record a document or documents releasing the balance of the Property from the burden of such easements; and/or (b) record a document or documents setting forth the specific areas subjected to such easements. The Declarant or the Association may exercise either or both of such rights without the necessity of obtaining the consent of Owners or other Persons for whose benefit the easement rights are granted or reserved. All easements set forth herein are subject to the following:

(a) The right of the Declarant, and of the Association to borrow money for the purpose of improving the easements and in aid thereof to mortgage said properties.

(b) The right of the Association to make reasonable rules and regulations regarding the use of the easement by the Members and other persons entitled to such use.

(c) The right of the Association (with the prior consent of the Declarant), to dedicate or transfer all or any part of the easement, to any public agency, public authority or utility for such purposes and subject to such conditions as may be agreed to by the Association.

(d) The right of the Association to take such steps as are reasonably necessary to protect the easements against foreclosure.

8. Duration of Declarant's Control. The Declarant may retain control of the Easement Areas until such time (a) as all improvements to be installed or constructed therein by Declarant are completed, and (b) as in the sole judgment of the Declarant, the Association is able to maintain the same. Notwithstanding any provisions herein, the Declarant hereby covenants for itself and its successors and assigns that it shall turn over control, care and maintenance of any Easement Areas to the Association no later than such time when all of the Lots within the Property have been conveyed by Declarant to Owners.

9. Easements to Run with the Lands. All easements and rights described herein are easements appurtenant to the Property, running with said lands, and at all times shall inure to the benefit of and be binding upon the Declarant, its successors and assigns, and any Owner, purchaser, mortgagee or other Person having an interest in the Property, or any part or portion thereof. Reference to the easements and rights described in any part of this Declaration, in any deed of conveyance, lease, mortgage, trust deed, or other evidence of obligation shall be sufficient to grant such easements and rights to the respective grantees, lessees, mortgagees or trustees of such real estate, or any portion thereof, and to reserve to the grantor therein, their successors and assigns, as easements appurtenant to the remainder of the such properties, easements created by this Declaration for the benefit of any Owner, purchaser, mortgagee or other Person in respect to any portion of the Property as fully and completely as though such easements and rights were recited fully as set forth in their entirety in such document.

10. Consent to Reservation of Easements. Declarant on its own behalf as the owner of all the Property, and on behalf of all subsequent Owners, hereby consents to and approves, and each subsequent Owner by acceptance of a deed conveying such ownership interest, and each mortgagee of said subsequent Owner by acceptance of a mortgage deed of such Owner's interest, thereby consents to and approves the provisions of this Article II.

ARTICLE III

THE ASSOCIATION

1. Membership and Voting Rights. Every Owner of a fee or undivided fee simple interest (or in the case of a land installment contract, an equitable interest) in any Lot shall automatically be a Member of the Association, provided that any such person or entity who holds such interest merely as a security for the payment of money or performance of an obligation shall not be a Member. Each Member shall be entitled to one (1) vote. If more than one Lot shall have the same Owner, the Owner shall be entitled to one (1) vote for each Lot owned. When more than one Person holds such interest or interests in any Lot, all such persons shall be Members, but for

quorum, voting, consenting and all other rights of Membership, the several Persons shall collectively be counted as a single Member, and entitled to one (1) vote for each such Lot, which vote for such Lot shall be exercised as they among themselves determine. Each such Member shall be jointly and severally liable for the payment of the Assessments hereinafter provided with respect to such Lot.

2. Purpose. The Association is formed for the purpose of providing maintenance, repair or construction of the Easement Areas and administration of matters common to the Owners of Lots, including but not limited to those matters set forth in Article II hereof.

3. Board and Officers of the Association. The Declarant shall be solely in control of the Association, its affairs, and shall have the sole authority to appoint and remove the Board and Officers of the Association, until the earlier of: (i) the Declarant turning over such complete control to the Association; or (ii) at such time as when all Lots have been transferred from Declarant to other Lot Owners ("Declarant Control Period"). After the Declarant Control Period, the Board and Officers shall be elected as provided in the Articles of Incorporation and Bylaws and shall exercise the powers, discharge the duties and be vested with the rights conferred by operation of law, the Articles of Incorporation and Bylaws, subject to the limitations set forth in this Declaration.

4. Rights of the Association. Notwithstanding the rights and easements created pursuant to Article II of this Declaration, and in addition to any right the Association shall have pursuant to this Declaration or the Articles of Incorporation and Bylaws, the Association shall have the right:

(a) With the approval of a majority of the Members, to borrow money from time to time for the purpose of providing maintenance, repair or construction of the easements;

(b) To enter or authorize its agents to enter in or upon any part of the Property when necessary in connection with any maintenance, repair or construction for which the Association is responsible or has the right to maintain, repair or construct. Such entry shall be made with as little inconvenience to the Owner thereof as practicable and any damage caused thereby shall be repaired by the Association;

(c) To grant or obtain easements and rights-of-way for access and easements for the construction, extension, installation, repair, maintenance or replacements of Utility Service and facilities or to or from a public utility or governmental authority, and to or from anybody or agency which has the power of eminent domain or condemnation.

5. Articles of Incorporation and Bylaws. The Articles of Incorporation and Bylaws contain specific reservations and rights of control in the Declarant and the Association, all of which are incorporated herein by reference. A copy of the Bylaws are attached hereto and incorporated herein by reference as Exhibit "E."

ARTICLE IV

ASSESSMENTS

1. Creation of the Assessments. Each Owner, by acceptance of a deed for any Lot, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and hereby covenants and agrees to pay the Association:

(a) An Annual Assessment for the Owner's share of Common Expenses, and for the Association's performance of its other functions and responsibilities; and

(b) Special Assessments for improvements or other capital expenditures, to the easements, including the acquisition of additional property for use as easement, for emergency, operating, maintenance or repair costs, and for other costs and expenses not anticipated in determining the applicable Annual Assessment.

2. Annual Assessments. Annual Assessments shall be determined and levied annually by the Board prior to the date of the annual meeting of the Members, in such amounts as in their discretion shall be reasonably necessary to meet expenses anticipated during the ensuing year and to accumulate reasonable reserves for anticipated future operating or capital expenditures. The Annual Assessments for each calendar year shall be payable to the Association in monthly installments beginning on the first day of January of such ensuing year.

3. Special Assessments. Special Assessments may be levied by the Association from time to time at a meeting of the Members by the affirmative vote of Members entitled to exercise a majority of the voting power of the Association, provided that written notice shall be given to each Member at least thirty (30) days in advance of the date of such meeting stating that a Special Assessment will be considered at and discussed at such meeting. Special Assessments may, if so stated in the resolution of the Members authorizing such Assessment, be payable in installments over a period of years.

4. Computation and Application of Annual Assessments. Except as provided in Article V to the contrary, the Annual Assessments to be levied against each Owner shall be equal to the product of the total annual budget for the Association times a fraction, the numerator of which is the acreage of the respective Lot and the denominator of which is the aggregate acreage within the Property. The Assessments levied and collected by the Association shall be applied by the Association toward payment of the following costs and expenses:

(a) for all costs and expenses incurred by the Association in the performance of all Association functions and services, and for the discharge of all duties and obligations of the Association, as set forth in this Declaration, the Articles of Incorporation and By-Laws, or as established by the Association;

(b) for all legal and accounting services required by the Association;

(c) for the cost of collecting Assessments, and expenses of maintaining the Association;

(d) reasonable reserves for uncollectible Assessments, unanticipated expenses, replacements, major repairs and contingencies; and

(e) for any and all other purposes which the Association may determine from time to time to be for the general benefit of the Owners of the Lots, and the Association.

It shall be the responsibility of the Association to provide such services for the benefit of the Owners, but only to the extent of the funds received by it from the aforesaid Annual and/or Special Assessments. In providing such services, the Association shall have the sole discretion as to when and to what extent and in what manner such services are to be provided. The Association may delegate the performance of any such services to any agent, contractor, or management company hired by the Association to perform any of such services.

Such Assessments may be increased, decreased or adjusted from time to time by the Association as the interests of the Owners in the Property may, in its judgment, require. The Association shall exercise its discretion and judgment as to the amount of its funds to be expended in connection with each of the purposes for which its funds are collected, and its discretion in reference thereto shall be binding upon all the interested parties.

5. Due Dates of Assessments: Defaults: Lien Rights and Priority of Liens; Personal Liability

(a) The due dates of the monthly installments of the Annual Assessments shall be on the first day of each month commencing January 1 in each year; provided that in the case of an Owner acquiring a Lot after January 1 of any calendar year, the monthly installments of the Annual Assessments shall commence on the first day of the calendar month following the conveyance of such Lot to the Owner. The due date of any Special Assessment or installment thereof shall be fixed in the resolution of the Members authorizing such Assessment, and written notice of such Special Assessment or installment thereof shall be given to each Owner subject thereto at least sixty (60) days in advance of such due date.

(b) If any installment of the Annual Assessment, or Special Assessment or Other Charge to an Owner by the Association, is not paid within thirty (30) days after the due date, such delinquent installment or Assessment shall bear interest from the due date at the rate of twelve percent (12%) per annum (but in no event higher than the highest rate which may be legally charged) until paid. In addition the Board by appropriate Rule, may impose a charge for late payment not to exceed five percent (5%) of the amount due if not paid within said thirty (30) day period. Each Owner acknowledges that the Assessments are for the common benefit of all Owners and accordingly no Owner may waive or otherwise escape liability for any Assessment by non-use or abandonment of his Lot, or non-use of the Easement Areas.

(c) The Annual Assessments and Special Assessments, and any Other Charges authorized in the Declaration and charged by the Association to an Owner, together with any late charges, interest thereon and costs of collection thereof as hereinafter provided, applicable to a Lot, shall be a charge on such Lot and upon perfection, as hereafter provided, shall constitute a lien upon the Lot against which each such Assessment is made securing any such unpaid Assessments, charges, costs, and interest, until paid in full.

Each such Assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the Person who was the Owner of such Lot at the time when the Assessment or charge fell due.

(d) If at any time an installment of an Assessment or any Other Charge due hereunder remains unpaid for thirty (30) or more days after it has become due and payable, a Certificate of Lien for all or any part of the unpaid balance of the Assessment, together with interest, late payment charges and costs and reasonable attorney's fees, may be filed for record with the Recorder of Cuyahoga County, Ohio, pursuant to authorization by the Board. The Certificate shall contain a description of the Lot against which the lien shall exist, the name or names of the record Owner(s), the amount of the unpaid portion of the Assessments and the interest, charges and costs, and shall be signed by the President or other chief officer of the Association. Such lien shall become effective on the date the certificate or lien is filed for record in the office of the Cuyahoga County Recorder, and shall remain valid until released or satisfied in the same manner provided by law for the release and satisfaction of mortgages on real property, or discharged by the final judgment or order of the court in an action brought to discharge such lien as hereinafter provided.

(e) The Association may, after such thirty (30) day period, bring an action at law against the Owner responsible for the payment of such Assessment, and, additionally or alternatively may foreclose the lien against the Lot of said Owner for the amount of such Assessment, plus interest on the Assessment or installment amount as above provided, and together with the costs of the action and reasonable attorney's fees in favor of the Association, for which amounts judgment may be rendered by a court of competent jurisdiction in favor of the Association.

(f) The lien provided for in this Section 5 shall have priority over any lien or encumbrance subsequently arising or created, except liens for real estate taxes and assessments and the lien of a bona fide first mortgage which has been filed for record prior to the filing of the certificate for record. The lien may be foreclosed in the same manner as a mortgage on real property in an action of the Association brought by the President or other chief officer as authorized by the Board. In any such foreclosure action, the Association shall be entitled to become a purchaser at the foreclosure sale.

(g) Any Owner who believes that an Assessment against such Owner's Lot has been improperly charged or a lien improperly filed may commence an action in the Court of

Common Pleas for Cuyahoga County, Ohio, for a termination or modification of the Assessment and/or the discharge or modification of any such lien.

(h) When the holder of a first mortgage on a Lot acquires title by virtue of foreclosure of the mortgage or by deed in lieu of foreclosure, or any purchaser acquires the Lot at a foreclosure sale of a first mortgage, such holder or purchaser shall take the Lot free of any claims for unpaid Assessments and charges against the Lot other than those Assessments which were the subject of a Certificate of Lien filed for record prior to the recording of such mortgage.

(i) In the case of a bona fide sale of a Lot, no grantee shall be liable for, nor shall the interest purchased be subject to a lien for any unpaid Assessments, late charges, interest or attorney's fees which became due prior to the date of transfer of title to said grantee, unless a lien has been filed for the same as hereinabove set forth in this Section, prior to the date of transfer of title to said grantee.

6. Abatement. No diminution or abatement of Assessments shall be allowed or claimed for inconvenience or discomfort arising from the making of repairs or improvements to the Easement Areas or from any action taken to comply with any law, ordinance or order of a governmental authority.

7. Notice of Delinquency. The Association shall have the right to cause written notice of delinquency in payment of Assessments to be mailed to the mortgagee of record, if any, of the Lot on which Assessments have not been paid. Such notice shall be deemed sufficient if mailed postage prepaid to said mortgagee at the last known address thereof as indicated on the recorded mortgage, within fifteen (15) days after due date of said Assessment.

ARTICLE V

DUTIES AND COVENANTS FOR MAINTENANCE

1. Responsibility of Association. The Association shall be responsible for:
 - (a) the care and maintenance of the Easement Areas, including but not limited to the improvements thereon, except as otherwise specifically set forth in this Declaration;
 - (b) the maintenance and repair of the utility easements and Utility Service serving the Property, and the provision of other services which may be required for construction and occupancy of single-family residences upon the Lots; and
 - (c) arranging for and purchasing such other services or products which the Board determines are necessary or appropriate for the benefit or convenience of the Lot Owners.
2. Responsibility of Owners. Each Owner shall maintain in good condition and repair (including replacements as necessary) his/her Lot, including any Dwelling and structures thereon, not maintained by the Association as above provided, including but not limited to the individual

driveways for the Lot, the private walkways and patios, including all windows and glass, all exterior lighting fixtures, exterior light bulbs, exterior siding, gas and electric service lines and meters, and exterior heating and cooling units. The Owner shall also periodically water the lawns and landscaping on his/her Lot, for the proper maintenance and growth thereof, at said Owner's expense. In the event that an Owner fails to perform the obligations required of said Owner as herein provided, after notice by the Association to perform the same, the Association may enter the Lot and perform such maintenance and make such repairs, replacements or painting, and assess the cost thereof to said Owner. The Owner shall pay the cost assessed by the Association pursuant to the preceding sentence on demand with interest thereon at the rate of twelve percent (12%) per annum (but in no event higher than the highest rate which may be legally charged) until paid. Until paid, such cost assessed by the Association shall be a charge against said Owner's Lot and shall constitute a lien thereon by the Association, upon perfection in the manner provided in Article IV, Section 5. Notwithstanding anything contained in this Declaration, each Owner shall be responsible for taxes and ordinary maintenance of that portion of any Easement Area which is within said Owner's Lot to the extent that said Owner would be required to maintain said portion of the Easement Area if it were not part of an Easement Area, and except as required of the Association hereunder.

3. City as Third Party Beneficiary. The City, as a Third Party Beneficiary, shall have the right but not the obligation, at its sole discretion, to enter the Easement Areas and also to access the Pond to determine if they are being maintained by the Owner, Declarant or the Association as may be required by this Declaration. In the event the Owner, Declarant or the Association fail to maintain the Easement Areas and/or Pond, the City shall have the right but not the obligation, at its sole discretion, upon no less than thirty (30) days written notice to the Owner, Declarant or the Association, to perform such reasonable maintenance to the Easement Areas and/or Pond. The City shall be entitled to be reimbursed for the reasonable expenses incurred by the City for such maintenance and if such reimbursement is not received by the City upon written demand, the City shall have all remedies, both legal and equitable, to collect such reimbursement and a lien shall be granted against the property owned by the Owner, Declarant or Association for such reasonable expenses.

ARTICLE VI

INSURANCE AND INDEMNITY

1. Insurance to be Obtained by Owners. Each Owner shall maintain at a minimum a homeowner's policy of fire and extended coverage hazard insurance (with a malicious mischief and vandalism endorsement) upon the Lot and any Dwelling and other improvements thereon, with replacement cost endorsement, in the full insurable value of such Lot and any Dwelling and other improvements thereon, and coverage for loss or damage to contents and personal property. Said policy shall name the Association as an additional insured, and at the request of the Association, all insurance proceeds payable as a result of damage to a Lot shall be paid to an insurance trustee satisfactory to the Association to be used for the sole purpose of repairing and restoring the Lot and any improvements thereon; provided, however, that if the Owner of said Lot shall be current

in the payment of all Assessments and otherwise in good standing with the Association and in compliance with the terms of this Declaration, all insurance proceeds payable as a result of damage to a Lot shall be paid to such Owner to be used in accordance herewith. Said policy shall include a policy of public liability insurance upon the Lot and the Easement Areas with such limits of coverage as the Association may select, naming the Association as an additional insured.

In the event of any damage to or destruction of the Lot or any Dwelling and other improvements thereon, the Owner shall promptly commence repair and restoration of the Lot or any Dwelling and other improvements thereon to the condition existing prior to such damage or destruction, using the insurance proceeds to the extent available. If the Owner does not promptly commence said restoration and thereafter diligently complete said restoration, the Association shall have the right to enter upon the Lot and complete said restoration, using the insurance proceeds for such purpose. Evidence of such insurance shall be provided to the Declarant and to the Association at the time of closing of the purchase and sale of each Lot. The Association shall be furnished with a copy of said policies and originals of said endorsements prior to ten (10) days before the expiration of each policy each year.

2. Insurance to be obtained by Association. The Association may, but is not required to, obtain and pay out of the funds collected through Assessments:

(a) Liability Insurance. A policy or policies insuring the Association, its officers and Trustees, and the Owners against any liability to the public or to the Owners and their invitees, incidental to the use of Easement Areas, the limits of which policy shall be reviewed annually by the Association.

(b) Casualty Insurance. All hazards casualty insurance insuring against loss or damage to any structure or improvements on the Easement Areas.

(c) Errors and Omissions. The Board is authorized to insure its members and officers from liability resulting from an act or a failure to act, pursuant to the authority of office or an act or failure to act, intended to be committed pursuant to authority of office.

(d) Worker's Compensation Insurance. The Board is authorized to obtain Worker's Compensation and unemployment insurance to the extent necessary to comply with any applicable laws.

(e) Fidelity Bonds. Fidelity Bonds may be required for all officers and employees of the Association handling or responsible for Association funds. The premiums on such bonds shall be paid by the Association as a Common Expense.

All of said insurance to be obtained by the Association, shall be subject to availability of said insurance by insurance carriers authorized to write such insurance in the State of Ohio.

3. Indemnity. None of the Declarant, the Association, nor any officer, Trustee, employee or agent of either (collectively, "Indemnified Parties") shall be liable to any Owner or

other Person for any action or for any failure to act with respect to this Declaration or the Articles of Incorporation and By-laws, gross negligence or wanton misconduct excepted. Each Owner, by acceptance of a deed to any Lot, shall defend, indemnify and hold harmless the Indemnified Parties with respect to any action or inaction in connection with the performance of their respective duties under this Declaration and the Articles of Incorporation and By-laws.

ARTICLE VII

PROTECTIVE COVENANTS

1. Land Use. Each and every Lot shall be used for non-commercial purposes only and no for-profit industry, business or trade, shall be advertised from or conducted, maintained or permitted on any Lot. Non-profit organizations or activities whether for religious, educational, charitable, or other purposes may be allowed if granted express written permission by the Association subject to the rules and regulations set forth by the Association in such grant. Further, the following shall be permitted:

(a) The Declarant, its duly authorized representatives or any Owner duly authorized by Declarant, may with respect to the Property or any part thereof, engage in any and all activities and perform such work as are incident to property development and construction.

(b) An Owner, or the Association, or their agents or representatives may perform or cause to be performed any maintenance, repair or remodeling work with respect to any Lot, Dwelling or Easement Areas required hereunder.

2. Utility Easements. Within the Easement Areas, no structure, planting or other material, shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of Utility Service or any improvements thereon. The Easement Area within each Lot and all improvements therein shall be maintained continuously by the Owner thereof, except for those areas and improvements for which the Association, a public authority or public utility is responsible. The Declarant, its successors, and assigns so long as it shall maintain a property interest in the Property, and thereafter the Association, shall be empowered to assign such Easement Areas to the municipality or to the appropriate public authorities or public utilities. Such Easement Areas shall entitle the holder thereof to enter upon and across each Lot, or Easement Area at any place as required in order to make any such installation or maintenance within the Easement Area, provided that such holder shall restore the Property to the condition existing prior to such installation or maintenance.

The intent of this Declaration is to cause the Property to be kept and maintained as a high quality residential development. Therefore, the covenants and restrictions hereinafter provided in this Article shall be applicable to the Owners of the Property and the Association. The following Covenants and Restrictions shall be broadly construed and interpreted in furtherance of this intent.

3. Covenant of Good Maintenance. Each Owner and the Association, as the case may be, shall keep and maintain the Property owned, or controlled by or in the possession of such

Person and all improvements, buildings and structures therein or thereon, in a clean and safe condition and in good order and repair, including but not limited to the seeding, watering and mowing of all lawns; the pruning and cutting of all trees, shrubbery and grass, the painting (or other appropriate external care) of all commonly owned buildings, structures and other improvements located within the Easement Areas, and the absence of conditions constituting violations of applicable building, fire and health codes, all in a manner and with such frequency as is consistent with good property management.

4. Trailers. No temporary buildings, trailer, recreation vehicle, garage, tent, shack, barn or any similar structure shall be used, temporarily or permanently, as a residence on any part of the Property at any time, unless approved by the Declarant.

5. Fences, Walls, Hedges, etc. Fences, walls, trees, hedges, and shrub plantings shall be maintained in a sightly and attractive manner.

6. Nuisance. No noxious or any activity constituting an unreasonable source of discomfort or annoyance shall be carried on upon any portion of the Property (including the Dwellings situated thereon), nor shall anything be done thereon that may be or become a nuisance or annoyance to other Owners. The Board shall have absolute power to determine what is “reasonable” and what is “unreasonable” under this Section.

7. Animals. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any portion of the Property (including the Dwellings situated thereon) without the approval of the Board, except that dogs, cats and other normal household pets per Lot owned may be kept, provided that they are not kept, bred or maintained for any commercial purpose.

8. Clothes Lines. No clothes, sheets, blankets, laundry or other articles shall be hung out or exposed on any part of any Lot so as to be in view of any other Lot.

9. Signs. No sign or other advertising device or any nature shall be placed upon any portion of the Property except for signs and advertising devices installed by or at the direction of the Association, or which the Association approves as to color, location, nature, size and similar characteristics.

10. Storage of Material and Trash Handling. No lumber, metals, bulk material, refuse or trash shall be burned, whether in indoor incinerators or otherwise (excluding the burning of firewood in a fireplace), kept, stored or allowed to accumulate on any portion of the Property, except normal residential accumulation pending pick-up and except building materials during the course of construction or reconstruction of any approved building or structure and except firewood may be stored within Dwellings, patio areas or other areas designated by the Board. If trash or other refuse is to be disposed of by being picked up and carried away on a regular recurring basis, containers may be placed in the open on any day that a pick-up is to be made, so as to provide access to persons making such pick-up. At all other times such containers shall be stored in such manner that they cannot be seen from adjacent and surrounding property. No dumping shall be permitted on any part of the Property except as the Association may specifically authorize.

Anything herein to the contrary notwithstanding, the Association or the Board may adopt a Rule or Rules which permit burning, incineration or storage of refuse or trash if the same becomes reasonably necessary for the safety, health or welfare of the Owners, and is permitted by law.

11. Pipe Lines, Utility Liens and Drilling. No water pipe, gas pipe or drainage pipe shall be installed or maintained on any portion of the Property above the surface of the ground, except hoses and movable pipes used for temporary irrigation purposes, and except structures and metering devices servicing such pipe lines. Furthermore, no electrical, telephone and other cable lines shall be installed or maintained on any portion of the Property above the surface of the ground.

12. Commercial or Professional Uses. Except as expressly permitted in this Declaration, no industry, business, trade or full-time occupation or profession of any kind, commercial, educational, or otherwise, designated for profit, altruism, exploration or otherwise, shall be conducted, maintained or permitted on any part of the Property; provided, however, an Owner may use a portion of his Dwelling for his/her office or studio, provided that the activities therein shall not interfere with the quiet enjoyment or comfort of any other Owner and that such use does not result in the Dwelling becoming principally an office, school or studio as distinct from a Dwelling. The Board may adopt Rules which intensify, relax or amend the prohibitions of this Article. Nothing in this Section shall preclude the leasing of a Dwelling by the Declarant or any other Owner.

13. Storage of Vehicles and Machinery. No truck, camper, recreation vehicle, boat, airplane or other vehicle of any kind, licensed or unlicensed, shall be stored on any driveway in or upon the Property except in the confines of garages or parking areas approved by the Board. No machinery of any kind shall be placed or operated upon any portion of the Property except such machinery which is customarily required for the maintenance of the Property, related improvements, lawns and landscaping. This provision shall not apply to vehicles and machinery necessary for the construction, reconstruction or repair of any building or other structure.

14. Firearms; Preservation of Wildlife. Firearms, ammunition and explosives of any kind shall not be discharged nor shall any traps or snares be set, nor shall any fishing, hunting or poisoning of wildlife of any kind be permitted in or upon the Property, except for rodent or critter control or except upon prior written approval of the Board.

15. Control of Trucks, Commercial Vehicles and Motorcycles. No tractor trailers, commercial tractors, commercial vehicles, road machinery or excavating equipment shall be permitted to remain on any portion of the Property or on the public right-of-way adjoining any portion of the Property or on the public right-of-way adjoining any portion of the Property for any period of time whatsoever, except while making deliveries or performing services thereon and except as necessary for the construction, reconstruction or repair of buildings or structures in the Property. The Board shall have the right to adopt rules with respect to the use or storage of motorcycles or motorbicycles or similar vehicles within the Property.

16. Poles, Wires, Antennae, etc. Subject to applicable easement rights, no facilities, including poles and wires, for the transmission of electricity, telephone messages and the like shall be placed or maintained above the surface of the ground in any portion of the Property without the prior approval of the Board. No television antennae may be maintained upon any Dwelling nor satellite dish placed on any Lot without the prior approval of the Board. This provision shall not apply for temporary facilities for the construction or repair of any building or other structure.

17. Grading. No Person shall change the grade on any portion of the Property without written approval from the Board.

18. Waiver of Subrogation. Each Person as a condition of accepting title and/or possession of a Lot and the Association agree for themselves, and their respective successors, heirs, executors, administrators, personal representatives, assigns, and lessees, provided said agreement does not invalidate or prejudice any policy of insurance, that in the event that any building, structure or improvement within the Property or the fixtures or personal property of anyone located therein or thereon are damaged or destroyed by fire or other casualty that is covered by insurance, the rights, if any, of any of them against the other, or against the employees, agents, licensees or invitees of any of them with respect to such damage or destruction and with respect to any loss resulting therefrom are hereby waived to the extent of the proceeds of insurance covering said damage or destruction.

19. Violation of this Article. If any Person required to comply with the foregoing Covenants and Restrictions is in violation of any one of same, shall have the right to give written notice to such Person to terminate, remove or extinguish such violation. Such notice shall expressly set forth the facts constituting such violation.

If within fifteen (15) days after written notice of such a violation reasonable steps have not been taken toward the removal, alleviation or termination of same or if such remedial action is not prosecuted with due diligence until satisfactory completion of same, the Board shall have the right, through its respective agents and employees, to enter upon the land where the violation exists and to summarily terminate, remove or extinguish the violation. In addition to the foregoing, the Board shall have the right to obtain an injunction from any Court having jurisdiction for the cessation of such violation of this Article. The rights and remedies of the Board contained in this Article shall be nonexclusive and in addition to any other right or remedy available at law or in equity. Subject to the provisions of the Articles of Incorporation and Bylaws, a Person in violation of this Article VII shall be obligated to the Board for the amount of all costs and expenses, including attorneys' fees, incurred to remedy any such violation. If said amounts are not paid within ten (10) calendar days following said notification, then said amount shall be "delinquent" and together with the Other Charges, shall, upon perfection as provided in Article IV, Section 5, become a continuing lien upon the portion of the Property of the Person(s) violating this Article. In addition, the Owner of any portion of the Property shall be liable jointly and severally for any obligations of any Occupant of such Owner's Property.

20. Certificate of Compliance with Restrictions. Upon the conveyance of a Lot or an interest therein, the grantor shall have the right to request the Board to inspect the Lot and if the Board finds that there has been no violation of this Article, a member of the Board, officer or agent of the Association shall promptly issue a Certificate of Compliance with Restrictions that may be relied upon by all persons for all purposes.

ARTICLE VIII

DURATION, WAIVER, OPTION AND AMENDMENT

1. Duration and Provision for Periodic Modification. All of the covenants contained in this Declaration and any Supplemental Declaration shall run with the land and shall inure to the benefit of and be enforceable by and against the Association, the Declarant and any other Owner and their respective legal representatives, heirs, devisees, successors and assigns for a period of fifty (50) years from the date of recording, after which time, said covenants shall be automatically renewed for successive periods of ten (10) years each, unless amended, modified or canceled, effective on the last day of the then current term or renewal term as provided herein.

2. Amendments. This Declaration may be amended or modified effective on the ninetieth (90th) day following a meeting of the Members held for such purposes by the affirmative vote of Members entitled to exercise seventy-five per cent (75%) of the voting power of the Association, provided that written notice shall be given to every Member at least sixty (60) days in advance of the date of such meeting stating that such amendment or modification will be considered at such meeting; or this Declaration may be amended or modified in a writing adopted without a meeting, signed by Members entitled to exercise seventy-five percent (75%) of the voting power of the Association. Promptly following the meeting at which such amendment, modification or cancellation is enacted, or promptly following the adoption of such amendment, modification or cancellation in a writing adopted without a meeting and signed by the members entitled to exercise seventy-five percent (75%) of the voting power of the Association as aforesaid, the Board shall execute and record an instrument reciting such amendment, modification or cancellation in the office of the Cuyahoga County Recorder.

The provisions of this Declaration which are applicable to and which affect the interest of the City, may only be amended, modified, terminated or waived (in whole or in part) by a Declaration of Amendment in writing, executed and acknowledged by and between the Declarant or the Association and the City and duly recorded in the Cuyahoga County Records.

3. Duration of Declarant's Rights and Obligations. All easements, rights and benefits inuring to Declarant hereunder, and all covenants, liabilities, obligations and responsibilities attributed to Declarant hereunder, shall cease, terminate and be of no further force or effect at such time as Declarant is no longer the record title holder of any Lot. At such time, all such rights, benefits, covenants, liabilities, obligations and responsibilities shall be deemed conveyed and transferred to, and assumed in full by, the Association.

ARTICLE IX

GENERAL PROVISIONS

1. Notices. All notices hereunder shall be in writing. All notices given or required to be given by the Association to its Members shall be deemed to have actually been given if actually received and, whether or not actually received, when deposited in the United States mail, postage prepaid, and addressed to the Member at his address as it appears on the books of the Association.

2. Enforcement. Enforcement of this Declaration shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant, either to restrain violation or to recover damages, or both, and against the Property to enforce any lien created by the covenants of this Declaration, and failure by the Association, any Owner or the City to enforce any covenant herein contained shall in no event be deemed a waiver of the right to do so thereafter.

3. Service Provided by Association. The Association, in addition to its performance of the functions and responsibilities hereinabove provided for it, may but shall not be required to, provide other services determined by the Trustees to be of general benefit or utility to the Owners of the Lots and the expense of any such service or services shall be met by the levy of Assessments pursuant to Article IV.

4. Liability of Declarant. In executing this Declaration and the Articles of Incorporation and By-Laws, or any documents or instruments necessary to fully perform the obligation of the Declarant under the Declaration and the Articles of Incorporation and By-Laws, no personal liability shall arise or be enforceable against the Declarant, and the liability of the Declarant shall be limited to the Property owned by Declarant. All claimants shall look solely to said Property for satisfaction of claims or judgments of any nature arising in connection with the affairs of the Declarant, and no claim or judgment in tort, contract, or otherwise shall be enforceable against the Declarant, arising out of the ownership, management, development, construction, operation or maintenance of the property by the Declarant, but only against said Property.

5. Invalidity. Invalidation of any of these Covenants and Restrictions by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

6. Variances. The Association shall have the right to waive or modify any of these restrictions and their application to any of the Lots with the consent of the Owner of the Lot with respect to which such restrictions are waived or modified if, in the judgment of the Association, which judgment shall be conclusive, such waiver or modification will be in general keeping with the character of the then existing development of the Property and desirable for its further development, but any such waiver or modification shall be in writing and delivered to such Owner.

7. Perpetuities and Restraints on Alienation. If any of the options, privileges, covenants or rights created by this Declaration shall be unlawful or void for violation of (a) the rule against perpetuities or some analogous statutory provision, (b) the rule restricting restraints on alienation, or (c) any other statutory or common law rules imposing time limits, then such provision shall continue only until twenty-one (21) years after the death of the survivor of the now living descendants of Donald J. Trump, President of the United States.

8. Articles and By-Laws of the Association. The Articles of Incorporation and By-Laws of the Association may contain any provisions not in conflict with this Declaration as are permitted to be set forth therein by the non-profit corporation law of the State of Ohio as from time to time in effect.

9. Construction of Terms. The article and section headings contained in this Declaration are for reference purposes only and shall not affect in any way the meaning or interpretation of this instrument. The use herein of the singular number shall be deemed to include the plural, and vice versa, and the masculine shall be deemed to mean the feminine or neuter, and vice versa, wherever the sense of this instrument so requires.

IN WITNESS WHEREOF, Declarant has executed this Declaration on the day and year first set forth above.

[SIGNATURE PAGES TO FOLLOW]

LHMC LLC

By: Hailey Nance

Date: Nov 29, 25

By: Larry Nance, Jr.

Date: Nov 29, 25

STATE OF Ohio)

COUNTY OF Cuyahoga)

SS:

BE IT REMEMBERED, that on this 29th day of November, 2025, before me, the subscriber, a Notary Public in and for said county, personally came Hailey Nance and Larry Nance, Jr., the Managers of LHMC LLC, who acknowledged the signing thereof to be their voluntary act and deed and the voluntary act and deed of said limited liability company. This is an acknowledgment clause. No oath or affirmation was administered to the signer.

IN TESTIMONY THEREOF, I have hereunto subscribed my name and affixed my seal on this day and year aforesaid.



ANTHONY R. VACANTI, Attorney-At-Law
Notary Public - State of Ohio
My Commission has no expiration date
Sec. 147.03 R.C.

Anthony R. Vacanti
Notary Public

The Brecksville, Ohio, executes this Declaration to acknowledge its acceptance of the City's rights established by this Declaration.

CITY OF BRECKSVILLE, OHIO

By: _____
Daryl J. Kingston, Mayor

Date: _____

This Instrument Prepared by:
Anthony R. Vacanti, Esq.
Tucker Ellis LLP
950 Main Avenue, Suite 1100
Cleveland, Ohio 44113
(216) 696-2093

EXHIBIT A

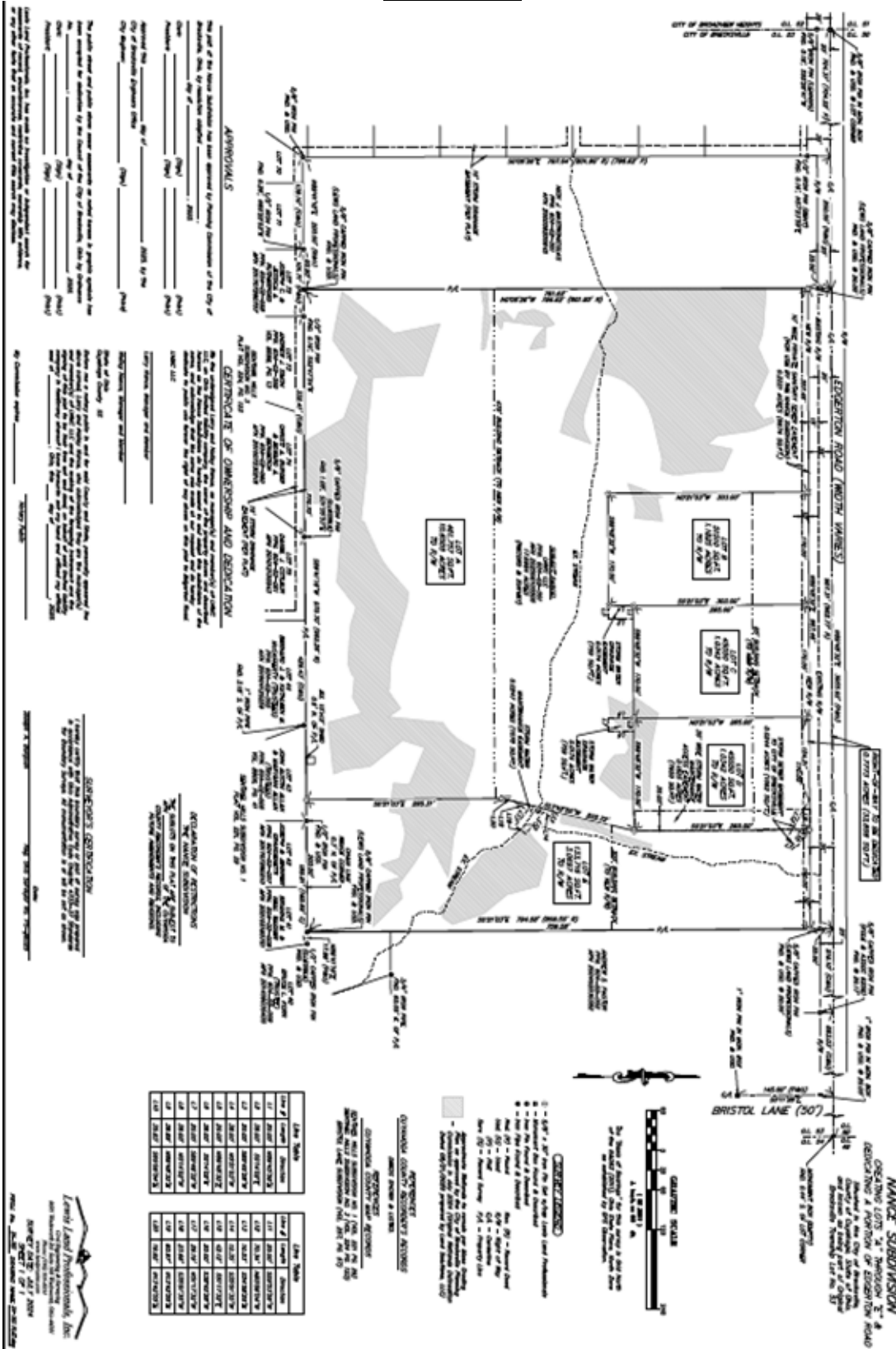


EXHIBIT B

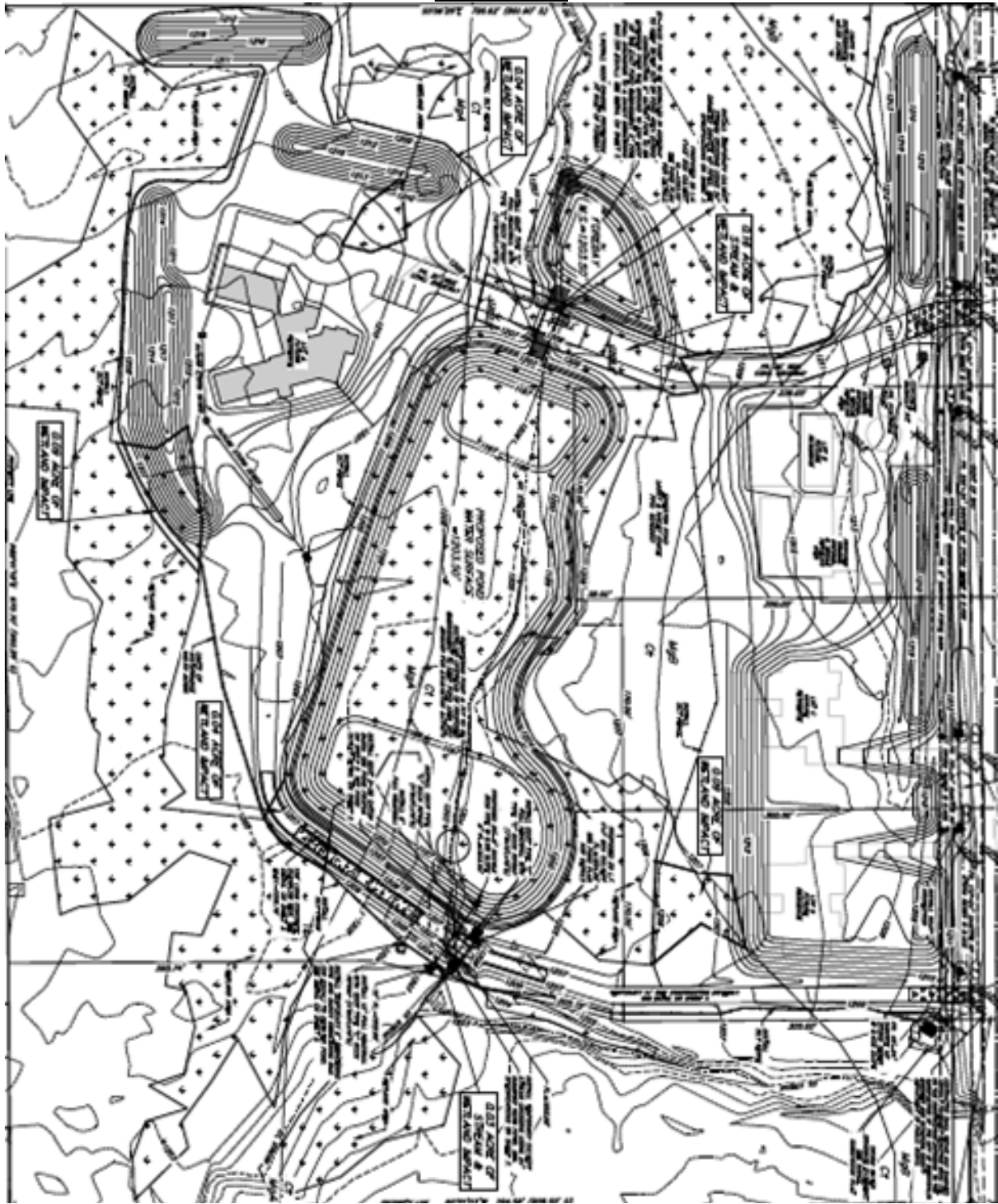


EXHIBIT C

[Pond Maintenance Schedule]

1. Sediment Removal Procedure

Pond Outlet Structure and Catch Basin

- a. Remove grate.
- b. Remove sediment from catch basin using shovel, other hand measures, or mechanical measures as necessary.
- c. Clean sediment from outlet riser and unclog 8" inlet pipe and 12" outlet pipe.
- d. Replace the catch basin lid.
- e. Sediment and pollutants removed from the basin shall be hauled off site and disposed of in accordance with local, state, and federal regulations.
- f. Clear channel downstream of the 12" outlet pipe and 4'x7' box culvert of logs, branches, leaves, debris, and sediment to ensure proper drainage.

Pond and Forebay

- a. Remove vegetative brush, saplings, and trees from pond embankment.
- b. Remove sediment build-up using mechanical measures as necessary.
- c. Remove sediment accumulated in the forebay according to the Pond Plan found in the construction documents.
- d. Seed, fertilize, and mulch all disturbed areas.
- e. Remove sediment build-up in the 4'x12' box culvert under the driveway for Lot "A" and the 4'x7' box culvert located at the east pond embankment.
- f. Sediment and pollutants removed from the basin and box culverts shall be hauled off site and disposed of in accordance with local, state, and federal regulations.

2. Maintenance Schedule

- a. Storm Water Management Measures Inspection – The storm water management measures should be inspected monthly for the first year and quarterly throughout the year after that, and after major storm events.
- b. Pond Outlet Structure Sediment Removal – The sediment and pollutants captured in the outlet structure shall be removed when the depth of sediment reaches 2" or greater on the bottom of the catch basin and/or a minimum of once a year.

Pond Maintenance Schedule		
Item	Maintenance Activity	Schedule
Pond Outlet Structure	Inspection of Pond Outlet Structure	- Monthly for the first year - Quarterly after first year - After each rain event of greater than 0.5"
	Clean out Sediment, debris, pollutants, and vegetation	- When sediment depth has reached 2" or greater in the bottom of the catch basin - Minimum of once a year
	Inspect embankment & outlet structure for damage and proper	Annually

	flow. Remove woody vegetation and fix any eroding areas. Monitor sediment accumulation.	
	Inspect for invasive plants	Semi-annually
	Mow embankment and clean trash and debris from outlet structure. Address accumulation of hydrocarbons.	Monthly
Catch Basin	An inspection of catch basin sump	- Every 2 months for the first 6 months, yearly after first year.
	Clean and remove debris and sediment	- as needed
Embankment	Monitor water level in pond and look for seepage or wet areas on the downslope side of the embankment forming	Monthly
	Repair concrete headwalls, driveway, or concrete overflow weir if cracking or damage occurs	As needed
	Fill rodent burrows with compacted clay soil and seed and mulch	As needed
	Repair erosion from slips, slides, or cracks	As needed
	Re-establish proper vegetative cover	As needed
Riprap	Spray riprap areas to control growth of unwanted vegetation	Semi-annually
	Replace or replenish riprap that has become displaced	As needed

3. Performance of Maintenance

- a. The pond maintenance should be performed by a company with prior experience in similar work, and who owns equipment capable of performing the required procedures. The owner shall execute a contract with a company to perform such duties, as necessary, and shall provide them with a copy of the Pond Plan.

Notes

1. The owner and any contractors hired to perform maintenance duties are responsible for meeting all federal, state, and local laws and regulations during the maintenance and cleanout operations of the storm water management measures.
2. The owner and any contractors hired to perform maintenance duties are responsible for complying with all federal, state, and local regulations when disposing of material collected from the storm water management measures. Water and sediment from cleanout procedures should not be dumped into sanitary sewer.

EXHIBIT D

[Maintenance Schedule]

Maintenance Schedule

The Association shall implement and fund the following minimum Maintenance Schedule for the 2' Force Main within the Sanitary Sewer Easement, subject to Ohio EPA approvals and City Engineer direction:

2. Flushing. Utilize the terminal flushing connection at the east end of the 2" main to flush the system not less than once every nine (9) months, or more frequently if conditions warrant based on usage, observed deposits, or operational data.
3. Appurtenances within ROW. Inspect and maintain curb stops, valves, and any check valves located within the Sanitary Sewer Easement. Replace curb stops and the 1-1/4" stainless steel lateral kit backflow preventer if failure occurs. Keep valve boxes accessible and operable and maintain tracer wire continuity.
4. Inspection. Conduct visual/operational inspections of accessible appurtenances at least annually and after any significant service interruption, leak, or repair. Keep logs of flushing dates, observations, and corrective actions. Provide logs to the City upon request.
5. Leak Response. Establish 24/7 emergency response procedures, including immediate containment and repair of any leaks or failures and prompt restoration of affected areas.
6. Coordination with Lot Systems. The private simplex pump stations and alarm panels serving individual lots are to be maintained by the respective lot owners under separate operations and maintenance agreements with licensed providers, consistent with Ohio EPA requirements. The Association shall coordinate, as needed, to ensure that Force Main operation is not compromised by upstream facility conditions.
7. Compliance. Perform all maintenance in accordance with Ohio EPA permits and guidance, the City's standards, and manufacturer recommendations for installed components. Update this Maintenance Schedule if required by Ohio EPA or the City Engineer.

EXHIBIT E

BY-LAWS

OF

THE NANCE SUBDIVISION HOMEOWNERS ASSOCIATION, INC.

BY-LAWS
OF
THE NANCE SUBDIVISION HOMEOWNERS ASSOCIATION, INC.

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**BY-LAWS
OF
THE NANCE SUBDIVISION HOMEOWNERS ASSOCIATION, INC.**

ARTICLE I

DEFINITIONS

Capitalized terms used herein but not otherwise defined shall have the meaning set forth in Article I of the Declaration of Covenants, Conditions, Restrictions and Easements of The Nance Subdivision, which Article I is incorporated herein by reference and made a part hereof.

ARTICLE II

MEMBERSHIP AND VOTING RIGHTS

1. Membership and Voting Rights.

Each Owner of a fee or undivided fee simple interest (or in the case of a land installment contract, an equitable interest) in any Lot shall automatically be a Member of the Association, provided that any such Person who holds such interest in any Lot merely as a security for the payment of money or performance of an obligation shall not be a Member. Each Member shall be entitled to one (1) vote. If more than one Lot shall have the same Owner, the Owner shall be entitled to one (1) vote for each Lot owned. When more than one Person holds such interest, all such Persons shall be Members, but for quorum, voting, consenting and all other rights of Membership, the several Persons shall collectively be counted as a single Member, and entitled to one (1) vote for each such Lot, which vote shall be exercised as they among themselves determine. Each such Member shall be jointly and severally liable for the payment of the Assessments with respect to such Lot.

2. Rights Subject to Payment of Assessment.

The rights of membership are subject to each Member's timely payment of Annual Assessments, Special Assessments and Other Charges levied by the Association, the obligation of which Assessments is imposed against each Owner of, and becomes a lien upon, the Lot against which such Assessments are made, as provided by Article IV of the Declaration.

3. Suspension of Membership Rights.

The membership rights of any Person whose interest in a Lot is subject to unpaid Assessments under Section 2 of this Article, whether or not he or be personally obligated to pay such Assessments, may be suspended by action of the Trustees during the period when the Assessments remain unpaid; but, upon payment of such Assessments, his or her rights and privileges shall be automatically restored. If the Trustees have adopted and published Rules with respect to the personal conduct of any Person thereon, as provided in Article III, Section 2, of these By-Laws, they may in their discretion, suspend the rights of any such Person for violation of such Rules for a period not to exceed thirty (30) days.

ARTICLE III

GENERAL POWERS OF THE ASSOCIATION

1. Payments from Assessment Funds.

The Association shall pay out of the funds hereinafter provided for, in addition to those matters set forth in Article IV of the Declaration, the following:

(a) Care of the Easement Areas. Landscaping, gardening, snow removal, cleaning, maintenance, repair and replacements of the Easement Areas and any improvements thereon as provided by the Declaration, and such other Common Expenses as the Association shall determine are necessary and proper;

(b) Wages and Fees for Services. The services of any person or firm employed by the Association, including without limitation, the services of any person or persons required for the maintenance or operation of the Easement Areas and legal and/or accounting services, necessary and proper in the enforcement of the Declaration and the Articles of Incorporation and By-Laws and for the organization, operation and enforcement of the rights of the Association;

(c) Capital Additions and Improvements. The Association's powers herein enumerated shall be limited in that the Association shall have no authority to acquire and pay for out of any maintenance fund the costs of any capital additions and improvements in excess of Five Thousand Dollars (\$5,000.00), nor shall the Association authorize any structural alterations, capital additions to, or capital improvements of the Easement Areas requiring an expenditure in excess of Five Thousand Dollars (\$5,000.00) without in each case the prior approval of the Members of the Association entitled to exercise a majority of the voting power of the Association;

(d) Insurance. A policy or policies of insurance, as required or authorized by the Declaration, or as otherwise required in the opinion of the Board, for the operations of the Association, the Board, and the Easement Areas;

(e) Worker's Compensation. Worker's Compensation Insurance to the extent necessary to comply with any applicable laws;

(f) Discharge of Mechanic's Liens. Any amount necessary to discharge any mechanic's lien or other encumbrance levied against the Property or any part thereof which may in the opinion of the Association constitute a lien against the Easement Areas rather than merely against the interests of particular Owners; it being understood, however, that the foregoing authority shall not be in limitation of any statutory provisions relating to the same subject matter. Where one or more Owners are responsible for the existence of such lien, they shall be jointly and severally liable for the cost of discharging it and any costs incurred by the Association by reason of said lien or liens shall be specifically assessed to said Owners;

(g) Additional Expenses. Any other materials, supplies, labor, services, maintenance, repairs, alterations, insurance or assessments which the Association is required to secure or pay for pursuant to the terms of the Declaration and the Articles of Incorporation and By-Laws or by law or which in the opinion of the Trustees shall be necessary or proper for the

maintenance and operation of the Easement Areas or the enforcement of the Declaration or the Articles of Incorporation and By-Laws.

2. Rules and Regulations.

The Association, by vote of the Members entitled to exercise a majority of the voting power of the Association, may adopt such reasonable Rules and from time to time amend the same supplementing the Rules set forth in the Declaration and the Articles of Incorporation and By-Laws as it may deem advisable for the care, maintenance, repair, operation and beautification of Easement Areas and for the health, comfort, safety and general welfare of the Owners and occupants of the Property. Written notice of such Rules shall be given to all Owners and the Lots shall at all times be maintained subject to such Rules. In the event such supplemental Rules shall conflict with any provisions of the Declaration and of the Articles of Incorporation and By-Laws, the provisions of the Declaration and of the Articles of Incorporation By-Laws shall govern.

3. No Active Business to be Conducted for Profit.

Nothing herein contained shall be construed to give the Association authority to conduct an active business for profit on behalf of all the Owners or any of them.

4. Delegation of Duties.

Nothing herein contained shall be construed so as to preclude the Association, through its Board and Officers, from delegating to persons, firms or corporations of its choice such duties and responsibilities of the Association as the Trustees shall from time to time specify, and to provide for reasonable compensation for the performance of such duties and responsibilities.

ARTICLE IV

BOARD OF TRUSTEES

1. Declarant Control, Number and Qualification.

The Declarant shall be solely in control of the Association, its affairs, and shall have the sole authority to appoint and remove the Board and Officers of the Association, until the earlier of: (i) the Declarant turning over such complete control to the Association; or (ii) at such time as when all Lots have been transferred from Declarant to other Lot Owners ("Declarant Control Period"). After the Declarant Control Period, the affairs of the Association shall be managed by the Board, consisting of no less than two (2) nor more than five (5) Trustees, all of whom must be Members of the Association, as set forth below.

2. Election of Trustees: Vacancies.

After the termination of the Declarant Control Period, the Trustees shall be elected at each annual meeting of Members of the Association or at a special meeting called for the purpose of electing Trustees. At a meeting of Members of the Association at which Trustees are to be elected, only persons nominated as candidates shall be eligible for election as Trustees, and the candidates receiving the greatest number of votes shall be elected. In the event of the occurrence of any

vacancy or vacancies in the Board of Trustees, however caused, the remaining Trustees, though less than a majority of the whole authorized number of Trustees, may, by the vote of a majority of their number, fill any such vacancy for the unexpired term.

3. Term of Office: Resignations.

Each Trustee shall hold office for a term of one (1) year following his or her election, except as hereafter provided, and until his or her successor is elected, or until his or her earlier resignation, removal from office or death. Any Trustee may resign at any time by oral statement to that effect made at a meeting of the Board of Trustees or in a writing to that effect to take effect immediately or at such other time as the Trustee may specify. Trustees shall serve without compensation; provided, however, that any Trustee may be reimbursed for his actual out-of-pocket expenses incurred in the performance of his or her duties.

4. Organization Meeting.

Immediately after each annual meeting of the Association, the newly elected Trustees and those Trustees whose terms hold over shall hold an organization meeting for the purpose of electing officers and transacting any other business. Notice of such meeting need not be given.

5. Regular Meetings.

Regular meetings of the Board of Trustees may be held at such time and places as shall be determined by a majority of the Trustees; but at least one (1) such meetings shall be held during each fiscal year.

6. Special Meetings.

Special meetings of the Board of Trustees may be held at any time upon call by the President or any two (2) Trustees. Written notice of the time and place of each such meeting shall be given to each Trustee either by personal delivery or by mail, facsimile, telegram or telephone at least two (2) days before the meeting, which notice need not specify the purpose of the meeting; provided, however, that attendance of any Trustee at any such meeting without protesting, prior to or at the commencement of the meeting, the lack of proper notice, shall be deemed to be a waiver by him or her of notice of such meeting and such notice may be waived in writing either before or after the holding of such meeting, by any Trustee, which writing shall be filed with or entered upon the records of the meeting. Unless otherwise indicated in the notice thereof, any business may be transacted at any organization, regular or special meeting of the Trustees.

7. Quorum: Adjournment.

A quorum of the Board of Trustees shall consist of a majority of the Trustees then in office; provided, that a majority of the Trustees present at a meeting duly held, whether or not a quorum is present, may adjourn such meeting from time to time. If any meeting is adjourned, notice of such adjournment need not be given if the time and place to which such meeting is adjourned are fixed and announced at such meeting. At each meeting of the Board of Trustees at which a quorum is present, all questions and business shall be determined by a majority vote of those present, except as may be otherwise expressly provided in the Declaration or in these By-Laws.

8. Removal of Trustees.

At any regular or special meeting of Members of the Association duly called, at which a quorum shall be present, any one or more of the Trustees may be removed with or without cause by the vote of Members entitled to exercise at least seventy-five percent (75%) of the voting power of the Association, and a successor or successors to such Trustee or Trustees so removed shall then and there be elected to fill the vacancy or vacancies thus created. Any Trustee whose removal has been proposed by the Members of the Association shall be given an opportunity to be heard at such meeting.

9. Fidelity Bonds.

The Board of Trustees may require that all Officers and employees of the Association handling or responsible for Association funds shall furnish adequate fidelity bonds. The premiums on such bonds shall be paid by the Association and shall be a Common Expense.

10. Indemnification of Trustees and Officers.

Each Trustee and Officer shall be indemnified by the Association against all expenses and liabilities, including attorneys' fees, reasonably incurred or imposed upon him in connection with any proceeding to which he may be a party, or which he may become involved, solely by reason of his being or having been a Trustee or Officer, or any settlement thereof, whether or not he or she is a Trustee or Officer at the time the expenses are incurred, except in such cases wherein the Trustee or Officer is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties, provided, that in the event of a settlement, the indemnification shall apply only when the Board of Trustees approves such settlement and reimbursement as being for the best interests of the Board of Trustees and the Association.

11. Power of Attorney.

The Board of Trustees shall exercise all of the authority of the Association, except as otherwise provided by the Articles of Incorporation and By-laws, the Declaration, or the laws of the State of Ohio.

12. Action Without Meeting.

Any action which may be authorized or taken at a meeting of the Members or of the Trustees, as the case may be, may be authorized or taken without a meeting with the affirmative vote or approval of, and in a writing or writings signed by, all of the Members or all of the Trustees, as the case may be, who would be entitled to notice of a meeting for such purpose, or, in the case of Members, such other proportion or number of voting Members, not less than a majority, as the Articles of Incorporation, Declaration, or By-Laws permit. Any such writings shall be filed with or entered upon the records of the Association. Any certificate with respect to the authorization or taking of any such action which is required to be filed in the office of the Secretary of State shall recite that the authorization or taking of such action was in a writing or writings approved and signed as specified in this section. This section is pursuant to Section 1702.25 of the Ohio Revised Code. Notwithstanding anything in the preceding sentence, a majority of Trustees, acting at a

meeting or by written action, shall have the authority to perfect the hen rights granted the Association hereunder.

13. Powers of Trustees.

The Board of Trustees shall have the power to:

(a) Levy and collect Assessments pursuant to the terms and conditions contained in the Declaration for the performance of duties and obligations imposed upon or accepted by the Trustees and/or the Association;

(b) Adopt and publish Rules;

(c) Exercise for the Association all powers, duties and authority vested in or delegated to this Association, not reserved to the Owners of the Lots by the Articles of Incorporation and By-Laws or other provisions of the Declaration;

(d) Employ independent contractors or such other employees, persons or entities as they deem necessary to perform their duties as such Trustees;

(e) If necessary because of the installation of a master meter on any public utility serving the Lots, to arrange for the installation of sub-meters and/or any other method of equitable cost allocation between and among the Owners; and

(f) Accept as the responsibility of the Association the performance of any duty belonging to an individual Owner if, in the opinion of the Trustees, performance of the act by the Association is in the best interests of the Association and the Owners.

14. Duties of Trustees.

In general, the duties of the Trustees shall be as follows:

(a) To do all things set forth in the Declaration, Articles of Incorporation and By-Laws;

(b) To procure and obtain adequate liability and hazard insurance on all property owned by the Association as they deem appropriate; and

(c) To maintain the Easement Areas and any such other areas as are the responsibility of the Association.

ARTICLE V

OFFICERS

1. Election and Designation of Officers.

The Board of Trustees shall elect a President, a Secretary and a Treasurer. The Board of Trustees may also appoint such other officers as in their judgment may be necessary. All Officers must be Trustees and Members of the Association.

2. Term of Office: Vacancies.

The Officers of the Association shall hold office until the next organizational meeting of the Board of Trustees and until their successors are elected, except in the case of resignation, removal from office or death. The Board of Trustees may remove any Officer at any time with or without cause by a majority vote of the Trustees then in office. Any vacancy in any office may be filled by the Board of Trustees.

3. The President.

The President shall preside at all meetings of the Board of Trustees, shall see that orders and resolutions of the Board of Trustees are carried out and shall sign all notes, checks, leases, mortgages, deeds and all other written instruments, which shall be countersigned as provided below.

4. The Secretary.

The Secretary shall be ex officio the secretary of the Board of Trustees, shall record the votes and keep the minutes of all proceedings in a book to be kept for the purpose. He or she shall sign all certificates of membership. He or she shall keep the records of the Association. He or she shall record in a book kept for that purpose the names of all Members of the Association together with their addresses as registered by such Members. He or she shall countersign all leases, mortgages, deeds and all other written instruments, along with the President.

5. The Treasurer.

The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Trustees, provided, however, that a resolution of the Board of Trustees, shall not be necessary for disbursements made in the ordinary course of business conducted within the limits of a budget adopted by the Board. The Treasurer shall sign all checks of the Association, provided that such checks shall also be signed by the President.

The Treasurer shall keep proper books of account and cause an annual audit of the Association books to be made by a certified public accountant at the completion of each fiscal year. He or she shall prepare an annual budget and an annual balance sheet statement and the budget and balance sheet statement shall be presented to the membership at its regular annual meeting.

6. Other Officers.

Any other Officers which the Board of Trustees may appoint shall have such authority and perform such duties as may be determined by the Board of Trustees.

7. Delegation of Authority and Duties.

The Board of Trustees is authorized to delegate the authority and duties of any Officer to any other Officer and generally to control the action of the Officers and to require the performance of duties in addition to those mentioned herein.

ARTICLE VI

MEETINGS OF MEMBERS

1. Annual Meeting.

The regular annual meeting of the Members shall be held on the first Tuesday of the month of May in each year at six o'clock p.m. or at such other date and time in May as may be designated in the notice of such meeting.

2. Special Meetings.

Special meetings of the Members for any purpose may be called at any time by the President, the Secretary or the Treasurer, or by any two or more Members of the Board of Trustees, or upon written request of the Members who have a right to vote twenty-five percent (25%) of all of the votes of the membership.

3. Notices of Meetings.

Not less than seven (7) nor more than sixty (60) days before the day fixed for a meeting of the Members of the Association, written notice stating the time, place and purpose of such meeting shall be given by or at the direction of the Secretary of the Association or any other person or persons required or permitted by these By-Laws to give such notice. The notice shall be given by personal delivery or by mail to each Member of the Association who is an Owner of record of a Lot as of the day next preceding the day on which notice is given. If mailed, the notice shall be addressed to the Members of the Association at their respective addresses as they appear on the records of the Association. Notice of the time, place and purposes of any meeting of Members of the Association may be waived in writing, either before or after the holding of such meeting, by any Members of the Association, which writing shall be filed with or entered upon the records of the meeting. The attendance of any Member of the Association at any such meeting without protesting, prior to or at the commencement of the meeting, shall be deemed to be a waiver by him or notice of such meeting.

4. Quorum. Adjournment.

Except as may be otherwise provided by law or by the Declaration, at any meeting of the Members of the Association, the Members of the Association entitled to exercise a majority of the voting power of the Association present in person or by proxy shall constitute a quorum for such meeting, provided, however, that the Members of the Association entitled to exercise a majority of the voting power represented at a meeting of Members, whether or not a quorum is present, may adjourn such meeting from time to time. If any meeting is adjourned, notice of such adjournment

need not be given if the time and place to which such meeting is adjourned are fixed and announced at such meeting.

5. Majority Vote.

The vote of a majority at a meeting at which a quorum is present shall be binding upon all Members for all purposes except where in the Declaration, or the Articles of Incorporation and By-Laws or by law, a higher percentage vote is required.

6. Order of Business.

The order of business of meetings of the Members of the Association shall be as follows:

- (i) Calling of meeting to order.
- (ii) Proof of notice of meeting or waiver of notice.
- (iii) Reading of minutes of preceding meeting.
- (iv) Reports of Officers.
- (v) Reports of Committees.
- (vi) Election of Inspectors of election.
- (vii) Election of Trustees.
- (viii) Unfinished and/or old business.
- (ix) New Business.
- (10) Adjournment.

ARTICLE VII

PROXIES

1. Authorized.

At all meetings of Members of the Association, each Member may vote in person or by proxy.

2. Requirements and Duration.

All proxies shall be in writing and filed with the Secretary prior to commencement of the meeting at which such proxy is to be voted. No proxy shall extend beyond a period of eleven (11) months, and every proxy shall automatically cease upon sale by the Member of his Lot.

3. All Proxies Revocable.

All proxies shall be revocable at any time by actual notice to the Secretary of the Association by the Member making such designation. Notice to the Association in writing or in open meeting of the revocation of the designation of a proxy shall not affect any vote or act previously taken or authorized.

ARTICLE VIII

DETERMINATION AND PAYMENT OF ASSESSMENTS

1. Obligation to Pay Assessments.

It shall be the duty of each Owner to pay his or her proportionate share of the Assessments for the expenses of administration, maintenance and repair of the Easement Areas and of the other expenses provided for in the Declaration and the Articles of Incorporation and By-Laws. Such proportionate share shall be calculated in accordance with Article IV, Section 4 of the Declaration. Payment thereof shall be in such amounts and at such times as may be determined by the Board of Trustees of the Association, as hereinafter provided and in accordance with the provisions of the Declaration.

2. Preparation of Estimated Budget. Annual Assessments.

Each year on or before December 1st, the Association shall estimate the total amount necessary to pay the cost of wages, materials, insurance, services and supplies which will be required during the ensuing calendar year for the rendering of all services, together with a reasonable amount considered by the Association to be necessary for a reserve for contingencies and replacements and shall be on or before December 15th notify the Owner of each Lot in writing as to the amount of such estimate, and reasonable itemization thereof. Said "estimated cash requirements" shall be assessed to said Owners according to the proportionate shares set forth in Article IV, Section 4 of the Declaration. Said Annual Assessments shall be paid to the Association by the Owners above specified in twelve (12) equal monthly installments on or before the first day of each calendar month commencing January 1st of the ensuing year. Notwithstanding the preceding sentence, at each Owner's option, Annual Assessments may be paid to the Association, in advance, in quarterly or annual installments. On or before the date of the annual meeting of each calendar year, the Association shall supply to all Owners an itemized accounting of the maintenance expenses for the preceding calendar year actually incurred and paid together with a tabulation of the amounts collected pursuant to the estimates provided, and showing the net amount over or short of the actual expenditures plus reserves.

3. Reserve for Contingencies and Replacements.

The Association shall build up and maintain a reasonable reserve for contingencies and replacements. Extraordinary expenditures not originally included in the annual estimate which may be necessary for the year, shall be charged first against such reserve. If the "estimated cash requirement" proves inadequate for any reason, including non-payment of any Owner's Assessment, the Association shall prepare an estimate of the additional cash requirements necessary, or necessary for the balance of the year, which additional amount of cash requirement shall be assessed to all of the Owners, and shall be considered as part of the Annual Assessment.

The Association shall serve notice of such further Assessment on all Owners by a statement in writing giving the amount and reasons therefor, and such further Assessment shall become due and payable no later than thirty (30) days after the delivery or mailing of such notice of further Assessments.

4. Budget for First Year.

When the first Board of Trustees elected hereunder takes office, the Association shall determine the “estimated cash requirement,” as hereinabove defined, for the period commencing thirty (30) days after the said election and ending on December 31st of the calendar year in which said election occurs. Assessments shall be levied against the Owners during said period as provided in Section 2 of this Article VIII.

5. Failure to Prepare Annual Budget.

The failure or delay of the Association to prepare or serve the annual or adjusted estimate on an Owner shall not constitute a waiver or release in any manner of such Owner’s obligation to pay the maintenance costs and necessary reserves, as herein provided, whenever the same shall be determined, and in the absence of any annual estimate or adjusted estimate, the Owner shall continue to pay the annual charge at the existing rate established for the previous year until such new annual or adjusted estimate shall have been mailed or delivered.

6. Books and Records of Association.

The Association shall keep full and correct books of account and the same shall be open for inspection by any Owner or any representative of an Owner duly authorized in writing, at such reasonable time or times during normal business hours as may be required by the Owner. Upon ten (10) days notice to the Board of Trustees and payment of a reasonable fee, any Owner shall be furnished a statement of his account setting forth the amount of any unpaid assessments or other charges due and owing from such Owner.

7. Status of Funds Collected by Association.

All funds collected hereunder shall be held and expended solely for the purposes designated herein, and (except for such Special Assessments as may be levied hereunder against less than all of the Owners, and for such adjustments as may be required to reflect delinquent or prepaid Assessments) shall be deemed to be held for the use, benefit and account of all of the Owners in the proportion set forth in Section 1 of this Article VIII.

8. Remedies for Failure to Pay Assessments.

If an Owner is in default in the payment of the aforesaid charges or Assessments, or Other Charges authorized by the Declaration, for thirty (30) days, the Board of Trustees may bring suit for and on behalf of themselves and as representatives of all of the Owners, to enforce collection thereof or to foreclose the lien therefor as provided in the Declaration; and, there shall be added to the amount due, the cost of said suit together with interest at twelve percent (12%) per annum and reasonable attorney’s fees to be fixed by the Court. To the extent permitted by the Declaration, any decision or any statute or law now or hereafter effective, the amount of any delinquent and

unpaid charges or Assessments, and interest, costs and fees as above provided, shall be and become a lien or charge against the ownership of the Owner involved when payable and may be foreclosed by action brought in the name of the Board of Trustees as in the case of foreclosure of liens against real estate, as provided in the Declaration. Any mortgagee shall be entitled to written notice of such failure to pay such Assessment.

ARTICLE IX

AMENDMENTS

1. Procedure.

These By-Laws may be amended, at a regular or special meeting of the Members, by a vote of a majority of a quorum of Members present in person or by proxy, provided that any matter stated herein to be or which is in fact governed by the Declaration applicable to the Property may not be amended except as provided in such Declaration.

2. Conflicts.

In the case of any conflict between the Declaration applicable and these By-Laws, the Declaration shall control.

3. Rights Not Impaired.

No amendment shall be effective to impair or dilute any rights of Members that are governed by the recorded Declaration (as, for example, membership and voting rights) which are part of the property interests created thereby.

ARTICLE X

GENERAL PROVISIONS

1. Copies of Notice to Mortgage Lenders.

Upon written request to the Board of Trustees of any duly recorded mortgage or trust deed against any Lot or Dwelling, the Board of Trustees shall give such mortgage holder a copy of any and all notices permitted or required by the Declaration or these By-Laws to be given to the Owner or Owners whose Lot or Dwelling ownership is subject to such mortgage or trust deed.

2. Service of Notice on Devisees and Personal Representatives.

Notices required to be given any devisees or personal representatives, of a deceased Owner may be delivered either personally or by mail to such party at his, her or its address appearing on the records of the court wherein the estate of such deceased Owner is being administered.

3. Disposition of Assets Upon Dissolution.

Upon dissolution of the Association, the assets, both real and personal of the corporation, shall be dedicated to an appropriate public agency or utility to be devoted to purposes as nearly as practicable the same as those to which they were required to be devoted by the corporation. In the event that such dedication is revised acceptance, such assets shall be granted, conveyed and assigned to any non-profit corporation, association, limited liability company, trust or other organization to be devoted to purposes as nearly as practicable the same as those to which they were required to be devoted by the corporation. No such disposition of Association properties shall be effective to divest or diminish any right or title of any Member vested in him or her under the recorded Declaration unless made in accordance with the provisions of the Declaration.

4. Non-Waiver of Covenants.

No covenants, restrictions, conditions, obligations or provisions contained in the Declaration or these By-Laws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same irrespective of the number of violations or breaches which may occur.

5. Agreements Binding.

All agreements and determinations lawfully made by the Association in accordance with the procedure established in the Declaration and these By-Laws shall be deemed to be binding on all Owners, their successors, heirs and assigns.

6. Severability.

The invalidity of any covenant, restriction, condition, limitation or any other provision of these By-Laws, or of any part of the same, shall not impair or affect in any manner the validity, enforceability or effect of the rest of these By-Laws.

7. Section Headings/Pronouns.

The section headings used in these By-laws are inserted for convenience of reference and are in no way to be construed as a part hereof or as a limitation on the scope of the particular provisions to which they refer. Any pronouns used in these By-laws shall be deemed to refer to the masculine, feminine, neuter, singular, or plural, as the context and the identity of the Person or Persons may require.