

**VILLAGE OF OAKWOOD  
FINANCE MEETING  
February 22, 2022  
AGENDA  
6:00 pm**

- 
1. Call meeting to order
  2. Pledge of Allegiance
  3. Roll Call

Mayor	~ Gary V. Gottschalk
Law Director	~ Jim Climer/Ross Cirincione
Finance Director	~ Brian Thompson
Council President	~ Johnnie A. Warren
Council At Large	~ Elaine Y. Gaither
Councilman Ward 1	~ Chris Callender
Councilperson Ward 2	~ Eloise Hardin
Councilperson Ward 3	~ Paggie Matlock
Councilperson Ward 4	~ Mary Davis
Councilperson Ward 5	~ Candace Williams

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*Budget Meeting*

Adjournment

THIS IS AN  
IN PERSON  
MEETING

VILLAGE OF OAKWOOD  
COUNCIL MEETING  
February 22, 2022  
7:00 p.m.  
AGENDA

- 
1. Call Meeting to Order
  2. Pledge of Allegiance
  3. Roll Call

Council President	Johnnie A. Warren	Mayor	Gary V. Gottschalk
Council-At-Large	Elaine Y. Gaither	Law Director	James Climer
Ward 1 Councilman	Chris C. Callender	Finance Director	Brian L. Thompson
Ward 2 Councilperson	Eloise Hardin	Service Director	Tom Haba
Ward 3 Councilperson	Paggie Matlock	Chief of Fire	Jim Schade
Ward 4 Councilperson	Mary Davis	Police Chief	Mark Garratt
Ward 5 Councilperson	Candace S. Williams	Building Inspector	Daniel Marinucci
		Engineer	Ed Hren
		Recreation Director	Carlean Perez

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4. **MINUTES** – Motion to approve the minutes from the January 25, 2022, Work Session  
Motion to approve the minutes from the February 8, 2022, Council Meeting

5. Correspondence from Clerk

6. Departmental Reports

MAYOR - GARY GOTTSCHALK  
LAW DIRECTOR – JAMES CLIMER  
FINANCE DIRECTOR – BRIAN THOMPSON  
SERVICE DIRECTOR - TOM HABA  
ENGINEER REPORT- ED HREN

FIRE CHIEF - JIM SCHADE  
BUILDING INSPECTOR – DANIEL MARINUCCI  
HOUSING INSPECTOR – N / A  
POLICE CHIEF – MARK GARRATT  
RECREATION DIRECTOR – CARLEAN PEREZ

7. **Floor Open for Comments from Village Residents** on meeting agenda and comments in general *Village residents, please state your name, address, and the subject you wish to discuss for the record. Please limit your comments to five (5) minutes. Thank you! Please sign-in to speak*

**Executive Session (if needed)** – to consider the appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a public employee or official.

8. Legislation

Ord 2022-3  
Introduced by Mayor &  
Council as a whole  
2<sup>nd</sup> Reading

AN ORDINANCE TO AMEND THE CODIFIED ORDINANCES OF OAKWOOD, OHIO, 1996, TO PROVIDE AMENDMENTS TO THE CODIFIED ORDINANCE OF OAKWOOD GENERAL OFFENSES CODE, PART FIVE, SECTIONS 501.01, 501.99, 505.071, 509.07, 513.01, 513.03, 513.04, 513.05, 513.06, 513.07, 513.08, 513.12, 525.13, 533.09, 541.04, 541.05, 541.051, 545.03, 545.18, 549.02, 549.04, 549.06, 553.04, 553.05; PROVIDING FOR PENALTIES; PROVIDING FOR CODIFICATION OF THE AMENDMENTS; PROVIDING FOR SEVERABILITY; REPEALING CONFLICTING ORDINANCES; PROVIDING AN EFFECTIVE DATE AND FOR OTHER PURPOSES

Ord 2022-4  
Introduce by Mayor &  
Council as a whole  
2<sup>nd</sup> Reading

AN ORDINANCE TO AMEND THE CODIFIED ORDINANCES OF OAKWOOD VILLAGE, OHIO, 1996, TO PROVIDED AMENDMENTS TO THE CODIFIED ORDINANCES OF OAKWOOD, TRAFFIC CODE, PART THREE, SECTIONS 301.180, 301.51, 331.211, 331.37, 331.44, 333.03, 335.02, 335.021, 335.04, 335.09, 341.03, 373.13, 373.14; PROVIDING FOR SEVERABILITY; REPEALING CONFLICTING ORDINANCES; PROVIDING AN EFFECTIVE DATE AND FOR OTHER PURPOSES

Ord 2022-8  
Introduced by Mayor &  
Council as a whole  
1<sup>st</sup> Reading

AN EMERGENCY ORDINANCE CONFIRMING THE APPOINTMENT OF THE LAW DIRECTOR AND FIXING THE COMPENSATION OF THE DIRECTOR OF LAW AND ASSISTANTS TO THE DIRECTOR OF LAW

Ord 2022-9  
Introduced by Mayor &  
Council as a Whole  
1<sup>st</sup> Reading

A RESOLUTION OF CONDOLENCE TO THE FAMILY OF MARIE (COOKIE) ARNET FREEMAN

Res 2022-10  
Introduced by Mayor &  
Council as a whole  
1<sup>st</sup> Reading

A RESOLUTION OF CONDOLENCE TO THE FAMILY OF BARBARA ANN PATTERSON

## **9. Adjournment**

**VILLAGE OF OAKWOOD  
WORK SESSION  
AGENDA  
February 22, 2022**

1. Call Meeting to order
2. Discussion by Mayor and Department Heads of matters to be brought to the attention of Council if present.
3. Questions of Mayor and Department Heads concerning Legislation or potential Legislation to be considered at future Council meetings.
4. Discussion of items of draft Legislation or potential Legislation to be considered at future Council meetings.

*Legislation:*

*Fiscal Officers Certificate Present*

**Ord 2021-WS-05**

Introduced 1-29-2021 by  
Mayor & Council as a whole  
2021-09 Moved to WS 2-23-21

AN ORDINANCE AUTHORIZING THE ESTABLISHMENT OF AN EXTERIOR HOME REPAIR ASSISTANCE PROGRAM FOR SINGLE FAMILY PROPERTIES LOCATED IN THE VILLAGE

**Ord 2021-WS-26**

Moved to WS 10/26/2021  
Ord 2021-70  
**CURRENTLY WITH PLANNING  
AS OF 1/26/2022**

AN ORDINANCE ENACTING REGULATIONS OF ELECTRONIC DIGITAL BILLBOARD SIGNS LOCATED IN THE VILLAGE OF OAKWOOD

**Ord 2021-WS-27**

Moved to WS 10/26/2021  
**CURRENTLY WITH PLANNING  
AS OF 1/26/2022**

AN AMENDED ORDINANCE ENACTING SEVERAL CHANGES TO OAKWOOD VILLAGE CODIFIED ORDINANCES RELATED TO THE REGULATIONS OF SIGNS LOCATED WITHIN OAKWOOD VILLAGE

**Ord 2022-WS-1**

Introduced 2/22/2022

AN EMERGENCY ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT WITH CHAGRIN VALLEY ENGINEERING, LTD, AND SETTING FOR THE COMPENSATION AND FUNCTIONS OF THE VILLAGE ENGINEER AND HIS FIRM

New Resident Packets Procedure

Municipal Complex      Hardin

Disaster Recovery Plan      Hardin

Human Resources      Hardin

Five-Year Plan      Hardin

Employee Service Awards (every five years)

Council Committee Assignments

5. Matters Deemed Appropriate
6. Adjournment

**VILLAGE OF OAKWOOD**  
**COUNCIL WORK SESSION MINUTES**  
**January 25, 2022**

**ATTENDED**

Johnnie A Warren – Council President  
Elaine Gaither-Council-at-Large  
Elosie Hardin-Ward 2  
Paggie Matlock-Ward 3  
Mary Davis-Ward 4  
Candace Williams-Ward 5

**ABSENT**

Chris Callender-Ward 1

Gary Gottschalk-Mayor

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**Meeting opened at 8:15 by Warren**

Ord 2021-WS-05

Introduced 1-29-2021 by

Mayor & Council as a whole

2021-09 Moved to WS 2-23-21

**AN ORDINANCE AUTHORIZING THE ESTABLISHMENT OF AN EXTERIOR  
HOME REPAIR ASSISTANCE PROGRAM FOR SINGLE FAMILY PROPERTIES  
LOCATED IN THE VILLAGE**

**Warren:** We are going to keep that just to let the new members know, while we were waiting for the development of the Macedonia project where the mounding is, part of that agreement was that when we were authorizing and allowing the tax incentive for the developer, there was going to be from the proceeds of that to set up a home maintenance program for the residents just like we did in Ward 4. We'll give matching money up to \$3,000 for exterior home improvements. We were going to do it this time Village wide, but we have yet to have the project come into fruition. We don't want to do it for 200 vans and 50 tractor trailers. **Davis:** Now I wanted to ask you, in planning we approved the building being done next to Waste Management on John's trailer (?). On that one, I said that all those people, it backs up to North Lane. There is going to be a lot of traffic. It won't be for them, but there will be a lot of dust and a lot of traffic there with the new company. They were going to get that extra money to that area in Ward 5. **Warren:** This one here is for Village wide which includes Ward 5. But we don't have anything because we don't have a business and we don't have the revenue yet but when that happens, we will be able to take this off work session and move to the regular agenda. **\*multiple voices\*** **Davis:** Now this hasn't been built yet. **Warren:** McBee. Now what we were told is that one in collaboration with the Macedonia will create the thing where it will be Village wide. **Hardin:** I wanted to ask the finance director if we can get the figures that were paid out the Ford project already and based on what was agreed to, is there any more monies promised to Ford. **Warren:** I think it was like \$82,000 a year when we canceled, that was supposed to be going to Ward 4. **Davis:** They were getting that from Premiere. That's when Premiere owed it. He guaranteed us and then it went for the 1st year, then they stopped it because there was no more. I don't know why. **Hardin:** Well, we stopped it because there was no more Premiere, and we didn't get any money. I think we need the monies that were spent already. We need to know where we are and we need to let the people in 4 know that until we can get this unscrambled, we don't have the money that was projected. **Davis:** Last year, we were told that we were getting it because of COVID. **Hardin:** We need to be up front. **Warren:** The Mayor thought that he was really going to convince council to support this Kroger thing. Which as far as I am concerned, is not going to happen. One way we got to stop it whether it went through planning and we are too late, one way is just not to give them the incentive. Remember, that part of the deal is they were wanting to tax TIFs and all that in order to build over in that property. But they don't get them you see. **Davis:** Incentives. Is that the last thing before you build? **Warren:** What happens is we commit TIFs and it goes to the county and back to us. But we offer those incentives to developers to build buildings or to come into our community. Then, they get to minimize their tax obligations that they have. Well, we had offered it to Premiere when the Mayor was showing us these two beautiful buildings and there will probably be a third. You guys saw the buildings when you were in planning. But by that not happening, then all deals are off as far as that Kroger thing. It's going to be a vote of 7 people, but I told him up front that's out of the question because we never committed to that. That's not what Ward 4 actually voted to support. You

don't vote to support one thing and give them something else. So, as far as that is concerned, that is a dead deal right now. **Hardin:** Can we still get the numbers, so we know what we spent? **Williams:** So, who will draft the letter for Ward 4 to explain what has happened? **Warren:** Probably the Ward 4 councilperson. **Williams:** She doesn't have the history. **Davis:** All I know is what was done in planning. Plus, I was informed by Mr. Climer at the meeting that I was not allowed to say anything about thing about this. I was not allowed to vote, I was not allowed to say anything because of my mom owning the property on Alexander. Even though me voting no would be getting her less whatever incentive is the opposite of what they wanted. But he told me I am not legally allowed to say anything about it because of conflict of interest. **Williams:** Can we get a legal opinion on that sent to us because I don't understand how came to that conclusion? The Mayor told us he had no details to discuss, so how did they come to the conclusion, a believable opinion that she couldn't have a vote. **Davis:** The law director stopped me. **Gaither:** I think he did. He cited something that said it would be a conflict of interest for her. **\*multiple voices\*** **Davis:** The back of her property backs up to this Premiere. Premiere bought 65 feet of her property because they bought all of Alexander. She's got an acre and a half. But 65 feet of the back he wanted, so he bought that. His company Premiere. Now, it's owned by Kroger. I don't know what's going on. **Williams:** Can we get that opinion in writing? **Davis:** He told us on Zoom because at that time we were having Zoom meetings and he said right on Zoom, 'Mary, you are not allowed to say anything. I am going to let you know now, you cannot say anything against them, you cannot say anything for them. You are not allowed to talk at all and you are not allowed to vote.' **Warren:** Because your mother benefitted. But what about council? **Davis:** I don't know. He hasn't said anything. **Warren:** The thing is I don't think he can deny you the opportunity to vote on council. **Gaither:** He did say that. A meeting or two ago. Right before she came here. **Warren:** We'll find out. I am challenging that because as a member of council, there is a lot of conflict of interest any of us could have. **Williams:** I would like to see a legal opinion in writing. If that is the legal opinion from him, then it should be in writing. **Warren:** We will ask for it in writing. Now planning, I don't know but especially council. I want him to cite because we may get a legal opinion to challenge his legal opinion. **Davis:** I would like to be able to participate and say things that I want to say. It has nothing to do with my mom. **Warren:** This is such a controversial issue in the Ward too. **Davis:** Issue 54 we helped push it. We were at the meetings and many of the resident on Garden, Macedonia and Alexander came. This was not what we were promised. That's what we asked him about when we talked about Project Crunch. We had the people there for Project Crunch. We had the people there, but it was just very sneaky. They weren't allowed to give their names. They weren't allowed to say where they were from. They weren't allowed to say the company. **Warren:** And with all this stuff, if you can't tell us who you are, then you don't belong here. **\*multiple voices\***. The developer wouldn't want to sell himself. And I'm going to tell you 9 times out of 10, Kroger isn't crazy. They probably just have an option on the land from Premiere contingent on council passing this thing. And then they will go through with the purchase of the land. **Davis:** They said they were going to purchase at the planning commission meeting. **Warren:** Don't believe that. **Davis:** And the charter says that council is supposed to get all the information and can vote on it 2 weeks after a planning commission meeting. So, we could have asked if we could overturn the votes and stuff. **Warren:** Well, we will get to the bottom of that with the law director and plus, there is not going to be any incentive for them. That's one of the biggest reasons for them to develop is the incentive. **Davis:** So, you are going to ask the law director for a written opinion. **Warren:** Legal opinion on whether Ms. Davis can vote on this Premiere deal.

Ord 2021-WS-26

Moved to WS 10/26/2021

Ord 2021-70

CURRENTLY WITH PLANNING

AS OF 1/26/2022

## AN ORDINANCE ENACTING REGULATIONS OF ELECTRONIC DIGITAL BILLBOARD SIGNS LOCATED IN THE VILLAGE OF OAKWOOD

**Davis:** Now this you will have to wait for planning. **Warren:** He just told me that he was referring this to planning.

**Davis:** Because they won't have a chance to look at it until the first meeting in February. If they don't have anything else on the agenda, they probably won't have a meeting.

Ord 2021-WS-27

Moved to WS 10/26/2021

Ord 2021-71

CURRENTLY WITH PLANNING

AS OF 1/26/2022

## AN AMENDED ORDINANCE ENACTING SEVERAL CHANGES TO OAKWOOD VILLAGE CODIFIED ORDINANCES RELATED TO THE REGULATIONS OF SIGNS LOCATED WITHIN OAKWOOD VILLAGE

**Warren:** This goes in conjunction with the other (WS 26).

**MOTION TO ADJOURN by Davis; Seconded by Gaither**  
**VOTE YES: Warren, Gaither, Hardin, Matlock, Davis, Williams**  
**MEETING ADJOURNED: 8:27pm**

Adopted \_\_\_\_\_

\_\_\_\_\_  
Christine Morgan, Clerk of Council

\_\_\_\_\_  
Johnnie Warren, Council President

**VILLAGE OF OAKWOOD  
COUNCIL MEETING MINUTES  
February 8, 2022**

**ATTENDED**

Johnnie A Warren – Council President  
Elaine Gaither-Council-at-Large (late)  
Chris Callender-Ward 1  
Eloise Hardin-Ward 2 (late)  
Paggie Matlock-Ward 3  
Mary Davis-Ward 4  
Candace Williams-Ward 5

Gary V. Gottschalk-Mayor (late)  
Daniel Marinucci-CBO  
Jim Climer-Law Director  
Brian Thompson-Finance  
Tom Haba-Service  
Jim Schade-Fire  
Mark Garratt-Police

**ABSENT**

Ed Hren-Engineer  
Carlean Perez-Recreation

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**Meeting opened at 7:02 by Warren**

Pledge of Allegiance and attendance taken.

**Motion to approve the minutes from the January 25, 2022, finance meeting by Gaither; Seconded by Davis**

**VOTE YES: Warren, Gaither, Hardin, Matlock, Davis, Williams Abstained: Callender**

**Motion to approve the minutes from the January 25, 2022, council meeting by Gaither; Seconded by Callender**

**VOTE YES: Warren, Gaither, Hardin, Matlock, Davis, Williams Abstained: Callender**

**Correspondence:**

**Morgan:** Last week was short week with the weather, so I still owe you guys the January 25<sup>th</sup> work session minutes. I will have that at the next council meeting. The only other thing that I have is that I am awaiting my notary stamp, so I will be a notary here for the Village.

**Departmental Reports:**

**Fire-Chief Schade:** I apologize that I don't have the fire records. I was explaining to Ms. Hardin that these companies keep buying out, but we use FIREHOUSE for our reporting. But another company bought them out so in a month or two they will be totally gone. But the guys did print out the rest of the reports for last year. I just haven't gotten to them in the last couple of weeks. But I will get them to you shortly so the fire reports will be caught up. We have had some problems with CMHA and other places. I have tried every angle that I can get because we haven't had snow like this in a while. The residents need to know they can't park in the driveway. So, they park in the front, and we have a quarter mile to go to the back of all those apartments. We have tried to get the person in charge. She is on vacation and they don't know when she will be back. So, we have had some draw backs. But if we get more snow, they are going to have to know, I am not going to walk back there. They are going to have to be up front because the residents can't park in the driveway. But they forget because it's been years and you get new residents in there, so they park where they want. It was questioned at the last meeting about the employment handbook. I did look up the paperwork. I hate to be blindsided. Call me before a council meeting and I can look it up. Even though police and fire are omitted, they still want what we have. We sent it to the law department October 14<sup>th</sup> and that was the same copy you guys got. We don't try to hide nothing. But I like to know ahead just like council likes to know ahead so nobody is embarrassed. We are taking care of each other. It's like we chuckled about the broken mailbox story. But I know darn well as I look at everybody that if that resident calls, Tommy is going to be out there replacing that mailbox. That's just how it goes. We do what we can, and we do the best that we can. Just let us know. 7 days a week, you can contact any of us. We are here because we are all residents. This is our community. I have been here 50 years. I wouldn't have come here and stayed if I didn't like it. Any questions?  
Davis: Our fire department, do they serve Glen Willow, too? Schade: Glen Willow and Walton Hills. As you get into, especially at budget time, Mr. Warren and Ms. Tabor and I believe somebody else when we were battling in Walton Hills.



At first, Mayor Anielski didn't care for us because we always did contracts with Maples in the '90s. Then it would get to the point where we were doing most of the calls and they were getting most of the money. So, we went to their council meeting because they were looking for contacts. They gave us a hard time. In the end, they went to the resident. We were taking care of so many of the residents, that they voted wanted us in there. We got their contract, and we got the Glen Willow contract. It helps to buy our equipment. That is what the 217 account is for to replace equipment. But we do multiple tasks and I have 3 councils and 3 mayors and citizens from 3 different regions. But we juggle it and somehow everybody kind of likes me. To have a job description, we cover so much, I don't want rules because then I can turn around and say, 'we can't do that.' We cover everything. We don't say no to anything that I know of. We take care of it. That's what is important with finance, building, service, and police department. **Mayor:** There was a concern back then from some residents and a few council people that the service in Oakwood Village would suffer because of us dealing with Walton Hills and Glen Willow. But it has proved to be the opposite. At that point, we only had volunteer fire people who were EMTs. Now, all are paramedics, and all are nearly full time. **Schade:** All are full time elsewhere. **Mayor:** So, they are all professionals, and we actually have a much better service than we did before. **Davis:** I wanted to comment. Last week we used you again last Monday for my mom. She had fallen and they came again. Beautiful. They were perfect. **Schade:** On another note, I was always cringing with the building department. We butted heads on a bunch of stuff, but I actually get to compliment them. They are working much better with us. The building found out we get it the next day or so because my guys are all part time. They may not be back for a week. So, we try to get everything out that day or they will come in the next day and finish it. Then we don't have a stack of stuff because you can get behind real fast. We try immediately and a lot of times, no one looks in the computer to see it's there already. They have actually gotten the hang of that. They get us the blueprints; we get them signed and stuff and we get it right back to them so it's ready for the next step. The Mayor is very demanding. He likes that stuff moving along. Thank you.

**Police-Chief Garratt:** I just want to take the opportunity to reintroduce to the people that may have already met our K9 unit, but to introduce them to those who haven't. This is Argo. Josh will tell you a little bit about what he does. This is our 3<sup>rd</sup> K9 we have had in the Village. **Officer Josh:** This is K9 Argo. He has been with me for 5 years and will be 7 years old in March. Chief wanted me to go over a couple of different things or accomplishments over the 5 years. I have recently been reassigned to the interdiction unit. We do more daytime work and we are working the freeway and highway. We are out there looking for drugs/guns/money. We have located several finds of drugs and what we find are local (don't necessarily mean Oakwood) small time users. What we do to help them and to help our law enforcement community is we have a narcotics unit that we turn them over to. For instance is I found a lady from Macedonia. She was operating a vehicle and she had 36 tabs of fentanyl in her vehicle which is a felony offense. But in order to get her help and to help everybody, we turn them over to a narcotics unit and she works for them. It doesn't sound like a whole lot but through some paperwork and some buying and purchasing of illegal drugs, they were able to get into drug houses inside of Cleveland, make a much larger bust and be able to stop the flow of drugs within our community. **Garratt:** If you remember the pictures I showed you of the drug bust, the largest one SEALES ever had originated from us. It was from him and the department. **Officer Josh:** We don't find huge amounts. We haven't yet. We are still looking for them. But what we do find can very well turn into something much bigger that would benefit our community for stopping the flow of drugs coming in and out. I did have a traffic stop on Fair Oaks, just south of Broadway. This particular gentleman was a passenger in the vehicle. He decided he didn't like the traffic stop, so he ran away from us. We used the dog and the Sergeant that was working with me that day, we apprehended the suspect. I noticed that when he ran away from the traffic stop, he was pulling at his pant line. So, after we took him into custody, we reversed the track and do what we call an article search. Argo located the man's shoe that he ran out of and also and loaded revolver that was turned over to the ATF for further investigation. He had a couple of outstanding felony warrants. Day in and day out, we run into bad people. As a team, we're able to accomplish apprehending them. (Argo) he does article searches and he tracks bad people and lost good people, too. Walton Hills called for assistance in finding a lost person. Well, this person was also suicidal, it was getting dark and getting cold quick. We ended up helping the parks department and Walton Hills Police Department in finding this female and getting her the help that she needed. There was bank robbery in Northfield that we never did find the guy, but we found a lot of the cash he threw as he ran away. Argo does vehicle sniffs, handler protection. If I am out on traffic stop and somebody gets crazy with me, I have the ability to pop a door on the car and he come out and help us. A lot of it is building a bond. I couldn't ask for a better partner. There are a lot of policy and procedures that are added to the K9 unit, so we don't use the dog improperly. The greatest tool that he has is his voice. Because when he starts, they give up pretty quick. **Garratt:** Some of the best uses of this dog is going to schools. You ask (the kids) to line up single file and everybody is petting the dog. You have to have a certain personality and displacement. These dogs are awesome with people. He looks intimidating. That is his nature, but he is a sweetheart.

What a great way to bridge the gap between the public and the police is to bring a dog. Once you have bridged that gap, the better it is for everybody involved. **Officer Josh:** I do about 7-10 demos at schools throughout the year and the kids love him. **Gaither:** He came from where? **Officer Josh:** He came from the Czech Republic. **Gaither:** And way he trained in that language? **Officer Josh:** When I got him, he was a raw dog. The only thing that we knew he did was that he loved to chase tennis balls and he would bite and not reattach. That's what you call bite and hold. Those are the two attributes they look for in a police dog. So, he came to me as a raw dog. He didn't know his name, he didn't know commands, he didn't know anything because him and me training together creates the bond. If somebody else did that training, then the bond isn't as strong (between dog and handler). I went through 6 weeks of training at a facility, you have to test, and you have to reevaluate every year. **Garratt:** Nationally and State certifications.

**Finance-Thompson:** I didn't really have a report for tonight but wanted to pass out a couple of documents from last week for your records. A job description for that potential new person and also information about Mr. Neil Hoffman inspections. If no questions, that will conclude.

**Service-Haba:** I would like to thank the police and fire department over the last few weeks with the storms. They have been doing the parking lot here almost every time. It makes a big difference on us getting the streets clean, so wanted to thank them. Also, the Forbes Road pump station will try to be out there Monday to try and start that. They didn't do that because of the weather on the original dates. I talked to Ed, and he is going to write something new up and we are going to pass it out to that area. Hopefully on Thursday so they have notice about the closures and the work being done.

**Building-Marinucci:** Just a comment. The departments here really work good together. If I need anything from Chief Garratt, a phone call is answered, and the issue is resolved timely. I work more with the fire department and made a comment that we work good together. But let me tell you what that involves. The people that has are very knowledgeable. NFPA-13 is this thick (shows w/ hand). NFPA-95 is this thick (shows w/ hand). They have to know code. In order to get a set of commercial drawings for a drawing off the ground, it has endorsed by three people. The plan examiner has to approve it, the building official has to approve it and the fire department has to approve it. And these are the things this department does. And when I say he gets in done in 1-2 days, that's how long it takes him to do it. Go anywhere else and you are not going to get it within 30 days. Guaranteed. Some are 45 days. In Oakwood Village, we have a lot of additions, a lot of upgrades, a lot of changes in occupancy within the same building which adds an impact on the fire code. You will have fire props that have to go in. They have to know the mathematics associated with it, they have to know the pressures, they have to know all the code sections that it applies to. If you are going to put an addition and it has a fire alarm system, you have to have the communications right or it just won't work. So, they have to review that, they have to give their opinion on what to do and how to it. And the 3<sup>rd</sup> thing that works real good between the fire department and the building department is if they don't agree with the provision with the fire department, they get an appeals process. That appeal process is down in Ashland, Arlington and Columbus. This happened when I was not here. The fire department was behind it, but the code said we couldn't do it. We got it all together, we went down there, and we got it approved. And this is not easy because the people that he has have to know this. I don't know how his department was before I got here, but the people he has working there are extremely knowledgeable. That goes the same with the police department when it comes to citing people. The communication is really good. **Davis:** I am on Garden Road and we just got something done to our sewers. Are they lining them? **Mayor:** Yes. I will speak on that when it is my time. **Davis:** Okay because we were supposed to be notified of that ahead of time. Not the liners but they were supposed to come talk to us and we haven't been talked to.

**Law Director-Climer:** On your agenda tonight, you have two rather extensive amendments to the criminal code and the traffic code. These are suggested by the codifier every couple of years. They take a look at our code and compare it to changes in the State code. This is intended to get us into compliance with the State code. It's been review by both Chief Garrett and Ross Cirincione who deals with these things more than I do and they have given it the thumbs up, so we will introduce that to Council. Also, on the agenda is a request by the Chief to enter into a contract with City of Solon for our prisoners. I think he can explain that better than I. And finally, the State Legislature has under consideration allowing remote meetings again on a temporary basis, but they have yet to pass that. So, I will keep an eye on that.

**Mayor:** As it has already been mentioned, on the infrastructure improvements, the rehab of the pump station on Forbes and Richmond, along with the installation of a new forced main which will be from Richmond to Glenshire. And on Thursday, Ed will put something together for the residents of Ward 2. Regarding Garden, phase 1 will be completed by

February's end and that is the lining of the sanitary sewers from Broadway through the easement of both the Maji and Schade property on Macedonia Road. Additionally, phase 2 is where you have 8 residents that have flooding problems and that is hoped to be resolved by either April or the latest will be May. Regarding Fair Oaks, the biddings are out in May and reconstruction will be from July to October. Lastly, every year we get either get \$60,000 to \$75,000 from the County, for rehabilitating some of our streets. We really can make a judgment until the spring when we see the damage done from winter. But the bulk usually goes to either Forbes, Broadway, Tryon, Alexander, Macedonia and Richmond with some going to the residential streets. Before the end of March, we are going to reimplement the Vitamin D program. Hardcore worldwide clinical studies clearly show a reduction and severity of COVID with the intervention of Vitamin D. It's overwhelming the significance. Additionally, however, we are looking at the improvement of immune health. This can cover influenza, chest infection and fluid in the lungs. Again, we are talking about cases are worse north of the 35<sup>th</sup> parallel of the United States which is the northern part of the United States where there is a lot less sun. That is why you see significant insufficiencies to significant deficiencies that more common in the illnesses that I just pointed out. In fact, morbidity on the COVID you are looking at deficiencies of at least 80%. However, there are things that affect us and one is age. I know when I was in the Learners Center at University Hospital getting a feeding tube into my stomach to get my weight back, there had to be a hundred people walking around with COVID and obesity is the key. Nearly every one of the 100 I saw were obese. Amazing enough, they had to test me, and I was negative in terms of having COVID. Otherwise, they would not have been able to do the operation for the feeding tube. The effectiveness of Vitamin D when you are getting it is how it metabolizes in your body. As you get older, things don't function as well and one of the keys is your liver conversion. If that's not efficient or if your cell tissues are not synthesizing, they zinc and magnesium are nice co-factors that compliment the D, it's going to take much, much longer before it becomes effective. So, we are before the end of March, begin a daily supplement program after getting your serum level for Vitamin D. Then implement our program of the capsules depending on whether you are sufficient or deficient. We will also have a turn around time much better than before and this will probably be done by someone from Ahuja. Lastly, this will complement our exercise programs. Right now, Carlean has about 25 people on her programs 3 times a week. Remember sometime this spring, the spin center will be open in the shopping center next to Wood Craft. We will be utilizing that program free for our seniors about twice a week. The service department has earned kudos these last few weeks. What a job they did. I had a number of residents call with a couple calling at 2 or 3 in the morning leaving messages on my phone appreciating their drives being plowed. It's with profound sadness that I note the passing of two Village icons. One was Joseph Tartabini, Sr., age 88 when home to our Lord on January 26<sup>th</sup>. Joe was a smart and successful businessman with an infectious love of our Lord, family, work and life. He founded United Survey of Oakwood in 1969 which is nearly right across the street from here. My office was currently working with him on developing 26 acres of prime land that he owned. A true gentleman, a classic quick wit endured him to everyone that knew him. He was an avid golfer with clubs even from Ben Hogan hanging in his office. He is survived by his loving wife Nita of 70 years and their 5 children. They were married when they were teenagers. Thank you, Joe, for touching our lives and making us better for it. You will be forever etched in Oakwood's rich history from this day forward. And now I am going to turn this over to Ms. Hardin who had one of her neighbors just pass away. Hardin: It's kind of raw. I just want the community to know that Barbara Patterson has passed last night. More than anything, she was a neighbor of 54 years. She is one of the original Cape Cod homeowners. Barbara will be more than missed. Mayor: She was on the school board for 20 years. Hardin: What a trooper. As sick as she was, she watched the new people take office. It lets you know what she thought, felt and loved. That was this community and these children. She was a retired schoolteacher principle. I will give you more of an update of the specifics of her services. She was a devout Catholic. The story goes that her best friend, Sara Collins, they were on vacation and wherever she was on a Sunday, she went to mass. Everyone was sleeping in this particular Sunday morning, Barbara saw a Catholic church while coming into the city. She got dressed and went to the church. She wasn't gone 5 minutes and they asked, 'Barbara, what happened?' She said, 'They were Taiwanese. I didn't understand what they were saying.' Those are the kind of things we will always remember about my Barbara. Of all the things I am going to miss watching her. She was never still. That garage door went up 80 times a day. Golfing, club meetings, sorority, etc. She was a wonderful individual. God bless her. God grant her peace and no more suffering.

**Warren:** I will open the floor for public comment for residents. **Resident 1: Joseph Mestnik-6065 Robertdale Drive.** I don't come up here very often, but I think this has been one of the best run meetings I have seen in a long time. I just want to commend you and the new members that are on here. This is a wonderful community. I have been here since '56. He (Mayor) and I used to throw snowballs at each other. Mayor: Tell them what my snowballs were made of. Resident 1: What he would do is freeze them in the freezer. But the thing was, he would throw them once, and we got to throw them back at him. I just want to congratulate all of you because we have a good community as everybody works

together. I can tell you; I was on council from '74-'80 and it was the same thing. Everybody got together and we worked as hard as we could. Fortunately, I had some opportunities. I spent 4 years on the planning commission, and I will tell you we save Joe Tartabini. We had a building inspector that wanted to put him out of business. I remember sitting in her and I asked, 'What do you want, Joe?' This was in March with the frost coming off the ground. He said, 'This guy wants me to move my pipes. I know I shouldn't have put them back there, but I can't move them. It's all mud. I want to put in a drive, and he won't do that.' I said, 'Bob, you need to put in a drive.' He said, 'I'm not going to put in a drive.' I said, 'You put in a drive, or I will pass a resolution right now that we fire you and it's takes ¾ of council to overturn.' He quit the next day. Joe was an honest businessman. But there are some things that I really want to pass on to you. There were some things that happened back when I was on planning commission. There was a guy named Jerry Hinton who was one of the advisors to us. Jerry said something that really stuck to a live brain cell. He said, 'You always got to think what is this going to look like 25-50 years in the future and do it today.' When you take a look at Oakwood Village, I laid out Oakwood Village in 1973 and I put all the industry where the industry should be. We changed the zoning and we put all the housing where the housing should be. But one thing that I did that had a major impact on this community and unfortunately Bedford and Bedford Heights didn't follow suit. I eliminated high rise. Even way back when, some people came in that owned from the park at Richmond Road all the way past Cambridge. They owned all that land in there. We had them come in and they wanted to put high rises in that whole area. It was really funny that just by chance, when I was 5 years old, my dad bought some property on Lakeland Blvd in Euclid, Ohio. It was a duplex and when you got to the attic, you could see Lake Erie. But if you got to that area now, you can't see Lake Erie for all the apartments. So, I called Euclid and I said, 'What do you think of the apartments?' The guy said, 'Whatever you do, don't do it. They look like they are money makers.' I had no idea how pathetic that was. And from 1968 to 1974, you look at Bedford and Bedford Heights, they put in all these apartments. And you mentioned Barbara Patterson. I spent 20 years with Barbara Patterson. Wonderful lady. But those apartment, we 3-4 evictions a day. We have a 25-35% turnover in students every year because of the apartment buildings. These things are a vein for our schools and our community. We don't have them here. We don't have them in Walton Hills. We had the 2 buildings that were on Solon Road that were built in 1953 before any of this stuff happened. Anyway, the long and short of this; have fun. I always had fun wherever I had been. You have good members here. Get together and have some parties together. Get to know each other. We have gone out to some of the events, and they have just been fun. It's a great community. Thank you very much for what you have been doing. God bless you all. You take the time to become public servants. You can see how few people want to do that. For you to take the time to do that, you really do a great job. It's a real blessing. God bless you all and I pray for you all the time.

**Marinucci:** When you talked about that Solon apartment complex? The building department received a complaint from a resident, and it was a serious complaint. We sent it out for structural engineering certification repairs, and we gave them a timeline to do it. **Resident 1:** It is a real serious problem, and they are very complicating.

**Warren:** I will close the floor for public comment and move forward with today's agenda.

## Legislation

Ord 2022-3

Introduced by Mayor &

Council as a whole

1st Reading

AN ORDINANCE TO AMEND THE CODIFIED ORDINANCES OF OAKWOOD, OHIO, 1996, TO PROVIDE AMENDMENTS TO THE CODIFIED ORDINANCE OF OAKWOOD GENERAL OFFENSES CODE, PART FIVE, SECTIONS 501.01, 501.99, 505.071, 509.07, 513.01, 513.03, 513.04, 513.05, 513.06, 513.07, 513.08, 513.12, 525.13, 533.09, 541.04, 541.05, 541.051, 545.03, 545.18, 549.02, 549.04, 549.06, 553.04, 553.05; PROVIDING FOR PENALTIES; PROVIDING FOR CODIFICATION OF THE AMENDMENTS; PROVIDING FOR SEVERABILITY; REPEALING CONFLICTING ORDINANCES; PROVIDING AN EFFECTIVE DATE AND FOR OTHER PURPOSES

**Hardin:** We have been doing this a long time. The passing of codified ordinances as you know. You clarified it a little bit. You said that the codified counsel put this together. Some of this is kind of routine, correct? **Climer:** Yes, it is to bring it in compliance with the changes made in State code so that we track those. **Hardin:** The very last statement, '...and for other purposes,' that is a little ambiguous. What does that mean? **Climer:** It is a catch all the make sure they caught everything imbedded in the ordinance. It is a description of the ordinance. **Hardin:** This is the first time I have ever seen it. And I did my homework. There are some things I would like to question, and I don't have time tonight. I don't want you to have to read it, but I am going to vote to put it on the next reading. **Climer:** Okay. **Hardin:** A couple of things that I want to give you a call and ask you about. **Climer:** That's fine.

Ord 2022-4  
Introduce by Mayor &  
Council as a whole  
1st Reading

AN ORDINANCE TO AMEND THE CODIFIED ORDINANCES OF OAKWOOD VILLAGE, OHIO, 1996, TO PROVIDED AMENDMENTS TO THE CODIFIED ORDINANCES OF OAKWOOD, TRAFFIC CODE, PART THREE, SECTIONS 301.180, 301.51, 331.211, 331.37, 331.44, 333.03, 335.02, 335.021, 335.04, 335.09, 341.03, 373.13, 373.14; PROVIDING FOR SEVERABILITY; REPEALING CONFLICTING ORDINANCES; PROVIDING AN EFFECTIVE DATE AND FOR OTHER PURPOSES

**Hardin:** Same request, Mr. President.

Res 2022-05  
Introduced by Mayor &  
Council as a whole  
1st Reading

A RESOLUTION OF CONDOLENCE TO THE FAMILY OF SHEILA ANN MOORE THOMPSON

**Motion to suspend by Hardin; Seconded by Gaither**

**VOTE YES:** Warren, Gaither, Callender, Hardin, Matlock, Davis, Williams

**Motion to adopt by Hardin; Seconded by Callender**

**VOTE YES:** Warren, Gaither, Callender, Hardin, Matlock, Davis, Williams

**MOTIONS PASSED**

Res 2022-06  
Introduced by Mayor &  
Council as a whole  
1st Reading

A RESOLUTION OF CONDOLENCE TO THE FAMILY OF JOANNE (MTREY) M. CRAINE

**Motion to suspend by Hardin; Seconded by Gaither**

**VOTE YES:** Warren, Gaither, Callender, Hardin, Matlock, Davis, Williams

**Motion to adopt by Davis; Seconded by Hardin**

**VOTE YES:** Warren, Gaither, Callender, Hardin, Matlock, Davis, Williams

**MOTIONS PASSED**

**Hardin:** Before we close, I have 2 questions I would like to ask the Mayor real quick. Mayor, you mentioned that next week, the engineer is going to put the flyer out.... **Mayor:** This week. **Hardin:** So, you are going to start next week? **Mayor:** I believe so, yes. **Haba:** Monday, weather permitting, the flyers go out Thursday. **Hardin:** The other question, and I am going to start plugging early. Don't forget Somerville. **Mayor:** We will see the damage done.... **Hardin:** There is already damage this bad. Remember you had residents here. So, I am starting early so you don't say you forgot. **Mayor:** I remember. Let's see where we are at end of wintertime. **Hardin:** The Woodcraft. All those years it has been there, what is that? **Garratt:** It's people that do woodworking, it's a wood supply for people to continue woodworking. **Mayor:** The shop there actually had a place where they taught people how to woodwork. **Garratt:** They still do. You can sign up for woodturning, cabinet building. One of our officers did the cabinet making class.

Res 2022-7  
Introduced by Mayor &  
Council as a whole  
1st Reading

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH THE CITY OF SOLON REGARDING THE CUSTODY, SUPERVISION, CONFINEMENT AND BOARD OF PRISONERS AND DECLARING AN EMERGENCY

**Hardin:** Question...cost? **Garratt:** What happened is we had a contract with Bedford. Bedford is a small jail and police department. Like a lot of the community, they had a really difficult time keeping jailers. They got to a point where we were paying \$5,600 a month and we're being refused bringing our prisoners because they didn't have the staffing to accept them. And this went on many, many, many times. They couldn't keep the staffing up. So, we're paying \$5,600 a month, they can't take our prisoners and we had Solon as our backup jail where we had to pay per prisoner, per night. That cost us already on top of our fees. One thing led to another, and I asked Mayor if we could terminate the contract. We gave them notice on July 13, 2021, to sever the contract. We gave them 30 days. As of September 1, 2021, we are using Solon jail as our primary jail and paying per prisoner for an evaluation time for Solon to evaluate us and us to

evaluate the service from Solon. It was a dramatic decrease in funds that we pay. It was significant. I will go over what this contract reads. It was great. They have a very large jail. They are very easy to work with. Our officers are in and out of there quick so we can get them back to the Village and back to working. That's the stuff that I look for. We help the jailers; they help us. We want to expedite this process and we want the prisoners taken care of and not in a facility that is not watched. Not that Bedford wasn't but this is a very upscale, very well-run jail. We did our trial period with intentions of doing a contract. Several other agencies are trying to contract with them. However, since we're in already in September, we have first dibs to start a contract. Otherwise, we would have been washed out. If this contract doesn't go through (March 1), somebody will take our place and we won't have a jail. The next closest one is North Royalton. But here is the best part and this is the part that you will like. We are paying them (Bedford) \$5,600 a month and we will be paying Solon \$4,166 a month saving \$1,433 a month. Now, with an incentive, if we are under the 400 bookings, we get a \$6,000 credit at the end of the year going toward our next year's cost. Now, if we go more than that, we have to pay additional. So, think that was fair. Even if we pay the additional, we are still under what we were paying Bedford. It's just a smoother operation plain and simple. Now, not only are we going to Solon, there are other agencies including Bedford that is trying to get into Solon. After we consider this and pass it, Solon's council will do the same. That's where we are at, that's the reasons for it. It just didn't work out with Bedford. And I understand the COVID with finding employees and not being able to do it, but we can't continue to be turned away and not adjust our bill. Our bill was never adjusted, so we had to break the ties. **Davis:** So, you said we already terminated Bedford? **Garratt:** That is correct. We sent them notice on July 13<sup>th</sup> and we terminated on August 31<sup>st</sup>. **Davis:** Approximately, what do we usually average a year with prisoners? **Garratt:** We have a lot less than we used to because the courts are not allowing so much to come through because of the overcrowding in Cuyahoga County. With Solon, from September to now, I will guess 25 prisoners. That is significantly less than we used to. We used to do 300-400 a year. But with the courts allowing personal bonds more often, we take bonds here and not cost us anything to go over to Solon. One caveat I forgot to tell you about. We do video arraignments with our prisoners to the Bedford court. It works really good especially in domestic violence cases where they don't have to see each other. They do that for free for us and they do all our breath testing for OVI arrests for free. We used to pay per session with that. It a great facility in Solon.

**Motion to suspend by Hardin; Seconded by Davis**

**VOTE YES:** Warren, Gaither, Callender, Hardin, Matlock, Davis, Williams

**Motion to adopt by Hardin; Seconded by Davis**

**VOTE YES:** Warren, Gaither, Callender, Hardin, Matlock, Davis, Williams

**MOTIONS PASSED**

**MOTION TO ADJOURN by Gaither; Seconded by Callender**

**VOTE YES:** Warren, Gaither, Callender, Hardin, Matlock, Davis, Williams

**MEETING ADJOURNED: 8:12pm**

Adopted \_\_\_\_\_

\_\_\_\_\_  
Christine Morgan, Clerk of Council

\_\_\_\_\_  
Johnnie Warren, Council President

ORDINANCE NO. 2022-3

INTRODUCED BY MAYOR AND COUNCIL AS A WHOLE

**AN ORDINANCE TO AMEND THE CODIFIED ORDINANCES OF OAKWOOD, OHIO, 1996, TO PROVIDE AMENDMENTS TO THE CODIFIED ORDINANCES OF OAKWOOD GENERAL OFFENSES CODE, PART FIVE, SECTIONS 501.01, 501.99, 505.071, 509.07, 513.01, 513.03, 513.04, 513.05, 513.06, 513.07, 513.08, 513.12, 525.13, 533.09, 541.04, 541.05, 541.051, 545.03, 545.18, 549.02, 549.04, 549.06, 553.04, 553.05; PROVIDING FOR PENALTIES; PROVIDING FOR CODIFICATION OF THE AMENDMENTS; PROVIDING FOR SEVERABILITY; REPEALING CONFLICTING ORDINANCES; PROVIDING AN EFFECTIVE DATE AND FOR OTHER PURPOSE**

**WHEREAS** the duly elected legislative authority of the Village of Oakwood, Ohio is authorized by Ohio R.C. 715.03 to adopt ordinances to exercise the powers granted in Ohio R.C. 715.01 to 715.67 regarding village property, affairs and government; and

**WHEREAS** the duly elected legislative authority of the Village of Oakwood, Ohio desires to amend the Codified Ordinances of Oakwood, General Offenses Code, Part Five to conform to the similar provisions in Ohio R.C. Title XXIX.

**NOW THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF OAKWOOD, STATE OF OHIO:**

**SECTION 1.** That the Codified Ordinances of Oakwood, Ohio, 1996, is hereby amended by the provisions as provided under Section 6 of this ordinance.

**SECTION 2.** The addition, amendment, or removal of the sections of the Codified Ordinances of Oakwood when passed in such form as to indicate the intention of the legislative authority of Oakwood Village, Ohio to make the same a part of the Codified Ordinances of Oakwood shall be deemed to be incorporated in the Code so that reference to the Codified Ordinances of Oakwood includes the additions, amendments and removals.

**SECTION 3.** The codifier (meaning the person, agency or organization authorized to prepare the supplement to the Codified Ordinances of Oakwood) is authorized to exclude and omit any provisions of this ordinance that are inapplicable to the Codified Ordinances of Oakwood.

**SECTION 4.** Supplementation of Code.

(a) In preparing a supplement to the Codified Ordinances of Oakwood, all portions of this ordinance which have been repealed shall be excluded from the Codified Ordinances of Oakwood by the omission thereof from the reproduced pages.

(b) When preparing a supplement to the Codified Ordinances of Oakwood, 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 Codified Ordinances of Oakwood 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 Codified Ordinances of Oakwood 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 Codified Ordinances of Oakwood which embody the substantive sections of the ordinance incorporated into the Code); and
- (5) Make other non-substantive changes necessary to preserve the original meaning of ordinance sections inserted into the Codified Ordinances of Oakwood; 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 Codified Ordinances of Oakwood.

(c) In preparing a supplement to the Codified Ordinances of Oakwood, the pages of a supplement shall be so numbered that they will fit properly into the Codified Ordinances of Oakwood 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 Codified Ordinances of Oakwood 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 of the Codified Ordinances of Oakwood are new or have been amended with new matter in the Codified Ordinances of Oakwood, and are hereby approved, adopted and enacted:



## 501.01 Definitions.

As used in the Codified Ordinances:

- (a) *Force* means any violence, compulsion or constraint physically exerted by any means upon or against a person or thing.
- (b) *Deadly force* means any force that carries a substantial risk that it will proximately result in the death of any person.
- (c) *Physical harm to persons* means any injury, illness or other physiological impairment, regardless of its gravity or duration.
- (d) *Physical harm to property* means any tangible or intangible damage to property that, in any degree, results in loss to its value or interferes with its use or enjoyment. "Physical harm to property" does not include wear and tear occasioned by normal use.
- (e) *Serious physical harm to persons* means any of the following:
  - (1) Any mental illness or condition of such gravity as would normally require hospitalization or prolonged psychiatric treatment;
  - (2) Any physical harm that carries a substantial risk of death;
  - (3) Any physical harm that involves some permanent incapacity, whether partial or total, or that involves some temporary, substantial incapacity;
  - (4) Any physical harm that involves some permanent disfigurement, or that involves some temporary, serious disfigurement;
  - (5) Any physical harm that involves acute pain of such duration as to result in substantial suffering, or that involves any degree of prolonged or intractable pain.
- (f) *Serious physical harm to property* means any physical harm to property that does either of the following:
  - (1) Results in substantial loss to the value of the property, or requires a substantial amount of time, effort or money to repair or replace;
  - (2) Temporarily prevents the use or enjoyment of the property, or substantially interferes with its use and enjoyment for an extended period of time.
- (g) *Risk* means a significant possibility, as contrasted with a remote possibility, that a certain result may occur or that certain circumstances may exist.
- (h) *Substantial risk* means a strong possibility, as contrasted with a remote or significant possibility, that a certain result may occur or that certain circumstances may exist.
- (i) *Offense of violence* means any of the following:
  - (1) A violation of Ohio R.C. 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.21, 2903.211, 2903.22, 2905.01, 2905.02, 2905.11, 2905.32, 2907.02, 2907.03, 2907.05, 2909.02, 2909.03, 2909.24, 2911.01, 2911.02, 2911.11, 2917.01, 2917.02, 2917.03, 2917.31, 2919.25, 2921.03, 2921.04, 2921.34, 2923.161,

2903.04(A)(1), 2911.12(A)(1) to (3) or 2919.22(B)(1) to (4), or felonious sexual penetration in violation of former Ohio R.C. 2907.12;

(2) A violation of an existing or former municipal ordinance or law of this or any other state or the United States, substantially equivalent to any section listed in subsection (i)(1) hereof;

(3) An offense, other than a traffic offense, under an existing or former municipal ordinance or law of this or any other state or the United States, committed, purposely or knowingly, and involving physical harm to persons or a risk of serious physical harm to persons;

(4) A conspiracy or attempt to commit, or complicity in committing any offense under subsection (i)(1), (2) or (3) hereof.

(j) (1) *Property* means any property, real or personal, tangible or intangible, and any interest or license in that property. "Property" includes, but is not limited to, cable television service, other telecommunications service, telecommunications devices, information service, computers, data, computer software, financial instruments associated with computers, other documents associated with computers, or copies of the documents, whether in machine or human readable form, trade secrets, trademarks, copyrights, patents, and property protected by a trademark, copyright, or patent. "Financial instruments associated with computers" include, but are not limited to, checks, drafts, warrants, money orders, notes of indebtedness, certificates of deposit, letters of credit, bills of credit or debit cards, financial transaction authorization mechanisms, marketable securities, or any computer system representations of any of them.

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

(3) As used in this section, "cable television service", "computer", "computer software", "computer system", "computer network", "data", and "telecommunications device" have the same meanings as in Ohio R.C. 2913.01.

(k) *Law enforcement officer* means any of the following:

(1) A sheriff, deputy sheriff, constable, police officer of a township or joint police district, marshal, deputy marshal, municipal police officer, member of a police force employed by a metropolitan housing authority under Ohio R.C. 3735.31(D) or state highway patrol trooper;

(2) An officer, agent or employee of the state or any of its agencies, instrumentalities or political subdivisions, upon whom, by statute, Charter or ordinance, a duty to conserve the peace or to enforce all or certain laws is imposed and the authority to arrest violators is conferred, within the limits of that statutory duty and authority;

(3) A mayor or manager in the mayor's or manager's capacity as chief conservator of the peace within the mayor's or manager's municipal corporation;

- (4) A member of an auxiliary police force organized by county, township or municipal law enforcement authorities, within the scope of the member's appointment or commission;
  - (5) A person lawfully called pursuant to Ohio R.C. 311.07 to aid a sheriff in keeping the peace, for the purposes and during the time when the person is called;
  - (6) A person appointed by a mayor pursuant to Ohio R.C. 737.01 as a special patrolling officer during riot or emergency, for the purposes and during the time when the person is appointed;
  - (7) A member of the organized militia of this state or the armed forces of the United States, lawfully called to duty to aid civil authorities in keeping the peace or protect against domestic violence;
  - (8) A prosecuting attorney, assistant prosecuting attorney, secret service officer or municipal prosecutor;
  - (9) A veterans' home police officer appointed under Ohio R.C. 5907.02;
  - (10) A member of a police force employed by a regional transit authority under Ohio R.C. 306.35(Y);
  - (11) A special police officer employed by a port authority under Ohio R.C. 4582.04 or 4582.28;
  - (12) The house of representatives sergeant at arms if the house of representatives sergeant at arms has arrest authority pursuant to division of Ohio R.C. 101.311(E)(1) and an assistant house of representatives sergeant at arms;
  - (13) The Senate Sergeant of Arms and or Assistant Sergeant at Arms;
  - (14) A special police officer employed by a municipal corporation at a municipal airport, or other municipal air navigation facility, that has scheduled operations, as defined in Section 119.3 of Title 14 of the Code of Federal Regulations, 14 C.F.R. 119.3, as amended, and that is required to be under a security program and is governed by aviation security rules of the transportation security administration of the United States Department of Transportation as provided in Parts 1542 and 1544 of Title 49 of the Code of Federal Regulations, as amended.
- (l) *Privilege* means an immunity, license or right conferred by law, or bestowed by express or implied grant, or arising out of status, position, office or relationship, or growing out of necessity.
- (m) *Contraband* means any property that is illegal for a person to acquire or possess under a statute, ordinance, or rule, or that a trier of fact lawfully determines to be illegal to possess by reason of the property's involvement in an offense. "Contraband" includes, but is not limited to, all of the following:
- (1) Any controlled substance, as defined in Ohio R.C. 3719.01, or any device, or paraphernalia;
  - (2) Any unlawful gambling device, or paraphernalia;
  - (3) Any dangerous ordnance or obscene material.

(n) A person is "not guilty by reason of insanity" relative to a charge of an offense only if the person proves, in the manner specified in Ohio R.C. 2901.05, that at the time of the commission of the offense, the person did not know, as a result of a severe mental disease or defect, the wrongfulness of the person's acts.

(o) (1) A. Subject to subsection (o)(2) hereof, as used in any section contained in Part Five - General Offenses Code that sets forth a criminal offense, "person" includes all of the following:

1. An individual, corporation, business trust, estate, trust, partnership, and association;
2. An unborn human who is viable.

B. As used in any section contained in Part Five - General Offenses Code that does not set forth a criminal offense, "person" includes an individual, corporation, business trust, estate, trust, partnership and association.

C. As used in subsection (o)(1) A. hereof:

1. *Unborn human* means an individual organism of the species *Homo sapiens* from fertilization until live birth.
2. *Viable* means the stage of development of a human fetus at which there is a **realistic possibility of maintaining and nourishing of a life outside the womb** with or without temporary artificial life-sustaining support.

(2) Notwithstanding subsection (o)(1) A. hereof, in no case shall the portion of the definition of the term "person" that is set forth in subsection (o)(1) A.2. hereof be applied or construed in any section contained in Part Five - General Offenses Code that sets forth a criminal offense in any of the following manners:

A. Except as otherwise provided in subsection (o)(2) A. hereof, in a manner so that the offense prohibits or is construed as prohibiting any pregnant woman or her physician from performing an abortion with the consent of the pregnant woman, with the consent of the pregnant woman implied by law in a medical emergency, or with the approval of one otherwise authorized by law to consent to medical treatment on behalf of the pregnant woman. An abortion that violates the conditions described in the immediately preceding sentence may be punished as a violation of Ohio R.C. 2903.01, 2903.02, 2903.03, 2903.04, 2903.05, 2903.06, 2903.08, 2903.11, 2903.12, 2903.13, 2903.14, 2903.21, or 2903.22, as applicable. An abortion that does not violate the conditions described in the second immediately preceding sentence, but that does violate Ohio R.C. 2919.12, division (B) of Ohio R.C. 2919.13, or Ohio R.C. 2919.15, 2919.151, 2919.17 or 2919.18, may be punished as a violation of Ohio R.C. 2919.12, division (B) of Ohio R.C. 2919.13, or Ohio R.C. 2919.15, 2919.151, 2919.17 or 2919.18, as applicable. Consent is sufficient under this subsection if it is of the type otherwise adequate to permit medical treatment to the pregnant woman, even if it does not comply with Ohio R.C. 2919.12.

B. In a manner so that the offense is applied or is construed as applying to a woman based on an act or omission of the woman that occurs while she is or was pregnant and that results in any of the following:

1. Her delivery of a stillborn baby;
2. Her causing, in any other manner, the death in utero of a viable, unborn human that she is carrying;
3. Her causing the death of her child who is born alive but who dies from one or more injuries that are sustained while the child is a viable, unborn human;
4. Her causing her child who is born alive to sustain one or more injuries while the child is a viable, unborn human;
5. Her causing, threatening to cause, or attempting to cause, in any other manner, an injury, illness or other physiological impairment, regardless of its duration or gravity, or a mental illness or condition, regardless of its duration or gravity, to a viable, unborn human that she is carrying.

(p) *School safety zone* consists of a school, school building, school premises, school activity, and school bus.

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

(r) *School activity* means any activity held under the auspices of a board of education of a city, local, exempted Village, joint vocational, or cooperative education school district; a governing authority of a community school established under Ohio R.C. Ch. 3314; a governing body of an educational service center; or the governing body of a nonpublic school for which the state Board of Education prescribes minimum standards under Ohio R.C. 3301.07.

(s) *School bus* has the same meaning as in Ohio R.C. 4511.01.

(t) "Public official" means any elected or appointed officer, or employee, or agent of the state or any political subdivision, whether in a temporary or permanent capacity, and includes, but is not limited to, legislators, judges, and law enforcement officers. "Public official" does not include an employee, officer, or governor-appointed member of the board of directors of the nonprofit corporation formed under Ohio R.C. 187.01.

(u) "Public servant" means any of the following:

- (1) Any public official;
- (2) Any person performing ad hoc a governmental function, including, but not limited to, a juror, member of a temporary commission, master, arbitrator, advisor, or consultant;
- (3) A person who is a candidate for public office, whether or not the person is elected or appointed to the office for which the person is a candidate. A person is a candidate for purposes of this division if the person has been nominated

according to law for election or appointment to public office, or if the person has filed a petition or petitions as required by law to have the person's name placed on the ballot in a primary, general, or special election, or if the person campaigns as a write-in candidate in any primary, general, or special election.

"Public servant" does not include an employee, officer, or governor-appointed member of the board of directors of the nonprofit corporation formed under Ohio R.C. 187.01.  
State law reference, similar provisions—Ohio R.C. 2901.01, 2921(A), (B).

## **501.99 Penalties for misdemeanors.**

(a) *Financial sanctions.* In addition to imposing court costs pursuant to Ohio R.C. 2947.23, the court imposing a sentence upon an offender for a misdemeanor committed under the Codified Ordinances, including a minor misdemeanor, may sentence the offender to any financial sanction or combination of financial sanctions authorized under this section. If the court in its discretion imposes one or more financial sanctions, the financial sanctions that may be imposed pursuant to this section include, but are not limited to, the following:

- (1) *Restitution.* Unless the misdemeanor offense is a minor misdemeanor or could be disposed of by the traffic violations bureau serving the court under Traffic Rule 13, restitution by the offender to the victim of the offender's crime or any survivor of the victim, in an amount based on the victim's economic loss. The court may not impose restitution as a sanction pursuant to this section if the offense is a minor misdemeanor or could be disposed of by the traffic violations bureau serving the court under Traffic Rule 13. If the court requires restitution, the court shall order that the restitution be made to the victim in open court or to the adult probation department that serves the jurisdiction or the clerk of the court on behalf of the victim.

If the court imposes restitution, the court shall determine the amount of restitution to be paid by the offender. If the court imposes restitution, the court may base the amount of restitution it orders on an amount recommended by the victim, the offender, a presentence investigation report, estimates or receipts indicating the cost of repairing or replacing property, and other information, provided that the amount the court orders as restitution shall not exceed the amount of the economic loss suffered by the victim as a direct and proximate result of the commission of the offense. If the court imposes restitution for the cost of accounting or auditing done to determine the extent of economic loss, the court may order restitution for any amount of the victim's costs of accounting or auditing provided that the amount of restitution is reasonable and does not exceed the value of property or services stolen or damaged as a result of the offense. If the court decides to impose restitution, the court shall hold an evidentiary hearing on restitution if the offender, victim or survivor disputes the amount of restitution. If the court holds an evidentiary hearing, at the hearing the victim or survivor has the burden to prove by a preponderance of the evidence the amount of restitution sought from the offender.

All restitution payments shall be credited against any recovery of economic loss in a civil action brought by the victim or any survivor of the victim against the offender. No

person may introduce evidence of an award of restitution under this section in a civil action for purposes of imposing liability against an insurer under Ohio R.C. 3937.18.

If the court imposes restitution, the court may order that the offender pay a surcharge, of not more than five percent of the amount of the restitution otherwise ordered, to the entity responsible for collecting and processing restitution payments.

The victim or survivor may request that the prosecutor in the case file a motion, or the offender may file a motion, for modification of the payment terms of any restitution ordered. If the court grants the motion, it may modify the payment terms as it determines appropriate.

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

- A. For a misdemeanor of the first degree, not more than \$1,000.00;
- B. For a misdemeanor of the second degree, not more than \$750.00;
- C. For a misdemeanor of the third degree, not more than \$500.00;
- D. For a misdemeanor of the fourth degree, not more than \$250.00;
- E. For a minor misdemeanor, not more than \$150.00.

(3) *Reimbursement of costs of sanctions.*

A. Reimbursement by the offender of any or all of the costs of sanctions incurred by the government, including, but not limited to, the following:

- 1. All or part of the costs of implementing any community control sanction, including a supervision fee under Ohio R.C. 2951.021;
- 2. All or part of the costs of confinement in a jail or other residential facility, including, but not limited to, a per diem fee for room and board, the costs of medical and dental treatment, and the costs of repairing property damaged by the offender while confined.

B. The amount of reimbursement ordered under subsection (a)(3) A. of this section shall not exceed the total amount of reimbursement the offender is able to pay and shall not exceed the actual cost of the sanctions. The court may collect any amount of reimbursement the offender is required to pay under that subsection. If the court does not order reimbursement under that subsection, confinement costs may be assessed pursuant to a repayment policy adopted under Ohio R.C. 2929.37. In addition, the offender may be required to pay the fees specified in Ohio R.C. 2929.38 in accordance with that section. (ORC 2929.28)

(b) *Jail terms.*

(1) Except as provided in Ohio R.C. 2929.22 or 2929.23 of the Revised Code, and unless another term is required or authorized pursuant to law, if the sentencing court imposing a sentence upon an offender for a misdemeanor elect or is required to impose a jail term on the offender pursuant to this General Offenses Code, the court shall impose a definite jail term that shall be one of the following:

- A. For a misdemeanor of the first degree, not more than 180 days;

- B. For a misdemeanor of the second degree, not more than 90 days;
  - C. For a misdemeanor of the third degree, not more than 60 days;
  - D. For a misdemeanor of the fourth degree, not more than 30 days.
- (2) A. A court that sentences an offender to a jail term under this section may permit the offender to serve the sentence in intermittent confinement or may authorize a limited release of the offender as provided in Ohio R.C. 2929.26(B). The court retains jurisdiction over every offender sentenced to jail to modify the jail sentence imposed at any time, but the court shall not reduce any mandatory jail term.
- B. 1. If a prosecutor, as defined in Ohio R.C. 2935.01, has filed a notice with the court that the prosecutor wants to be notified about a particular case and if the court is considering modifying the jail sentence of the offender in that case, the court shall notify the prosecutor that the court is considering modifying the jail sentence of the offender in that case. The prosecutor may request a hearing regarding the court's consideration of modifying the jail sentence of the offender in that case, and, if the prosecutor requests a hearing, the court shall notify the eligible offender of the hearing.
2. If the prosecutor requests a hearing regarding the court's consideration of modifying the jail sentence of the offender in that case, the court shall hold the hearing before considering whether or not to release the offender from the offender's jail sentence.
- (3) If a court sentences an offender to a jail term under this section and the court assigns the offender to a county jail that has established a county jail industry program pursuant to Ohio R.C. 5147.30, the court shall specify, as part of the sentence, whether the offender may be considered for participation in the program. During the offender's term in the county jail, the court retains jurisdiction to modify its specification regarding the offender's participation in the county jail industry program.
- (4) If a person is sentenced to a jail term pursuant to this section, the court may impose as part of the sentence pursuant to Ohio R.C. 2929.28 a reimbursement sanction, and, if the local detention facility in which the term is to be served is covered by a policy adopted pursuant to Ohio R.C. 307.93, 341.14, 341.19, 341.21, 341.23, 753.02, 753.04, 753.16, 2301.56, or 2947.19 and Ohio R.C. 2929.37, both of the following apply:
- A. The court shall specify both of the following as part of the sentence:
    - 1. If the person is presented with an itemized bill pursuant to Ohio R.C. 2929.37 for payment of the costs of confinement, the person is required to pay the bill in accordance with that section.
    - 2. If the person does not dispute the bill described in subsection (b)(4) A.1. of this section and does not pay the bill by the times specified in Ohio R.C. 2929.37, the clerk of the court may issue a certificate of judgment against the person as described in that section.
  - B. The sentence automatically includes any certificate of judgment issued as described in subsection (b)(4) A.2. of this section. (ORC 2929.24)



(c) *Organizations.* Regardless of the penalties provided in subsections (a) and (b) hereof, an organization convicted of an offense pursuant to Section 501.11 shall be fined, in accordance with this section. The court shall fix the fine as follows:

Type of Misdemeanor	Maximum Fine
First degree	\$5,000.00
Second degree	4,000.00
Third degree	3,000.00
Fourth degree	2,000.00
Minor	1,000.00
Misdemeanor not specifically classified	2,000.00
Minor misdemeanor not specifically classified	1,000.00

- (1) When an organization is convicted of an offense that is not specifically classified, and the section defining the offense or penalty plainly indicates a purpose to impose the penalty provided for violation upon organizations, then the penalty so provided shall be imposed in lieu of the penalty provided in this subsection (c).
- (2) When an organization is convicted of an offense that is not specifically classified, and the penalty provided includes a higher fine than the fine that is provided in this subsection (c), then the penalty imposed shall be pursuant to the penalty provided for the violation of the section defining the offense.
- (3) This subsection (c) does not prevent the imposition of available civil sanctions against an organization convicted of an offense pursuant to Section 501.11, either in addition to or in lieu of a fine imposed pursuant to this subsection (c).

#### **505.071 Cruelty to companion animals.**

(a) As used in this section:

- (1) *Companion animal* means any animal that is kept inside a residential dwelling and any dog or cat regardless of where it is kept, including a pet store as defined in Ohio R.C. 956.01. "Companion animal" does not include livestock or any wild animal.

- (2) *Cruelty, torment and torture* have the same meanings as in Ohio R.C. 1717.01.
- (3) *Residential dwelling* means a structure or shelter or the portion of a structure or shelter that is used by one or more humans for the purpose of a habitation.
- (4) *Practice of veterinary medicine* has the same meaning as in Ohio R.C. 4741.01.
- (5) *Wild animal* has the same meaning as in Ohio R.C. 1531.01.
- (6) *Federal Animal Welfare Act* means the "Laboratory Animal Act of 1966", Pub. L. No. 89-544, 80 Stat. 350 (1966), 7 U.S.C.A. 2131 et seq., as amended by the "Animal Welfare Act of 1970", Pub. L. No. 91-579, 84 Stat. 1560 (1970), the "Animal Welfare Act Amendments of 1976", Pub. L. No. 94-279, 90 Stat. 417 (1976), and the "Food Security Act of 1985", Pub. L. No. 99-198, 99 Stat. 1354 (1985), and as it may be subsequently amended.
- (7) *Dog kennel* means an animal rescue for dogs that is registered under Ohio R.C. 956.06, a boarding kennel or a training kennel.
- (8) "Boarding kennel" has the same meaning as in Ohio R.C. 956.01.
- (9) "Training kennel" means an establishment operating for profit that keeps, houses, and maintains dogs for the purpose of training the dogs in return for a fee or other consideration.
- (10) "Livestock" means horses, mules, and other equidae; cattle, sheep, goats, and other bovidae; swine and other suidae; poultry; alpacas; llamas; captive white-tailed deer; and any other animal that is raised or maintained domestically for food or fiber.
- (11) "Captive white-tailed deer" has the same meaning as in Ohio R.C. 1531.01.
- (12) "Serious physical harm" means any of the following:
  - (a) Physical harm that carries an unnecessary or unjustifiable substantial risk of death;
  - (b) Physical harm that involves either partial or total permanent incapacity;
  - (c) Physical harm that involves acute pain of a duration that results in substantial suffering or that involves any degree of prolonged or intractable pain;
  - (d) Physical harm that results from a person who confines or who is the custodian or caretaker of a companion animal depriving the companion animal of good, wholesome food and water that proximately causes the death of the companion animal.
- (b) No person shall knowingly torture, torment, needlessly mutilate or maim, cruelly beat, poison, needlessly kill, or commit an act of cruelty against a companion animal.
- (c) No person shall knowingly cause serious physical harm to a companion animal.

(d) No person who confines or who is the custodian or caretaker of a companion animal shall negligently do any of the following:

- (1) Torture, torment or commit an act or cruelty against the companion animal;
- (2) Deprive the companion animal of necessary sustenance, or confine the companion animal without supplying it during the confinement with sufficient quantities of good, wholesome food and water, if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the deprivation or confinement;
- (3) Impound or confine the companion animal without affording it, during the impoundment or confinement, with access to shelter from heat, cold, wind, rain, snow, or excessive direct sunlight if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the lack of adequate shelter.

(e) No owner, manager or employee of a dog kennel who confines or is the custodian or caretaker of a companion animal shall negligently do any of the following:

- (1) Torture, torment, or commit an act of cruelty against the companion animal;
- (2) Deprive the companion animal of necessary sustenance, or confine the companion animal without supplying it during the confinement with sufficient quantities of good, wholesome food and water, if it can reasonably be expected that the companion animal would die or experience unnecessary or unjustifiable pain or suffering the deprivation or confinement;
- (3) Impound or confine the companion animal without affording it, during the impoundment or confinement, with access to shelter from heat, cold, wind, rain, snow or excessive direct sunlight if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the lack of adequate shelter.

(f) Subsections (b), (c), (d), (e) and (f) of this section do not apply to any of the following:

- (1) A companion animal used in scientific research conducted by an institution in accordance with the federal animal welfare act and related regulations;
- (2) The lawful practice of veterinary medicine by a person who has been issued a license, temporary permit, or registration certificate to do so under Ohio R.C. Ch. 4741;
- (3) Dogs being used or intended for use for hunting or field trial purposes, provided that the dogs are being treated in accordance with usual and commonly accepted practices for the care of hunting dogs;
- (4) The use of common training devices, if the companion animal is being treated in accordance with usual and commonly accepted practices for the training of animals;
- (5) The administering of medicine to a companion animal that was properly prescribed by a person who has been issued a license, temporary permit, or registration certificate under Ohio R.C. Ch. 4741.

State law reference, similar provisions—Ohio R.C. 959.131(A) – (G).

**509.07 Making false alarms.**

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

- (1) Initiate or circulate a report or warning of an alleged or impending fire, explosion, crime or other catastrophe, knowing that the report or warning is false and likely to cause public inconvenience or alarm;
- (2) Knowingly cause a false alarm of fire or other emergency to be transmitted to or within any organization, public or private, for dealing with emergencies involving a risk of physical harm to persons or property;
- (3) Report to any law enforcement agency an alleged offense or other incident within its concern, knowing that such offense did not occur.
- (4) Initiate or circulate a report or warning of an alleged or impending fire, explosion, crime, or other catastrophe, knowing that the report or warning is false and likely to impede the operation of a critical infrastructure facility.

(b) This section does not apply to any person conducting an authorized fire or emergency drill.

(c) Whoever violates this section is guilty of making false alarms, a misdemeanor of the first degree. If a violation of this section results in economic harm of \$1,000.00 or more, or if a violation of this section pertains to a purported, threatened, or actual use of a weapon of mass destruction, making false alarms is a felony and shall be prosecuted under appropriate state law.

(d) Any act that is a violation of this section and any other section of the Codified Ordinances may be prosecuted under this section, the other section, or both sections.

(e) As used in this section;

- (1) "Critical infrastructure facility" has the same meaning as in Ohio R.C. 2911.21.
- (2) "Economic harm" and "weapon of mass destruction" have the same meanings as in section 509.06.

State law reference, similar provisions—Ohio R.C. 2917.32.

**513.01 Definitions.**

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

*Administer, controlled substance, controlled substance analog, dispense, distribute, hypodermic, manufacturer, official written order, person, pharmacist, pharmacy, sale, schedule I, schedule II, schedule III, schedule IV, schedule V, and wholesaler* have the same meaning as in Ohio R.C. 3719.01.

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

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

- (1) For any compound, mixture, preparation, or substance included in Schedule I, Schedule II, or Schedule III, with the exception of any controlled substance analog, marihuana, cocaine, L.S.D., heroin, any fentanyl-related compound, and hashish and except as provided in subsection (c)(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;
  - 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 Ohio R.C. 2925.11 and the sentencing provisions set forth in Ohio 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 division (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 subsection (e)(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.* 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.* 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.

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

*Controlled substance analog* has the same meaning as in Ohio 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 Ohio R.C. 4729.01.

*Deception* has the same meaning as in Ohio R.C. 2913.01.

Delta-9 tetrahydrocannabinol has the same meaning as in Ohio R.C. 928.01.

*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 Ohio R.C. 3719.01.

*Distribute* has the same meaning as in Ohio R.C. 3719.01.

*Drug* has the same meaning as in Ohio R.C. 4729.01.

*Drug abuse offense* means any of the following:

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

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

*Drug of abuse* has the same meaning as in Ohio 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]l-N-phenylpropanamide);
- (4) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl-4-piperidiny]l-N-phenylpropanamide);
- (5) Beta-hydroxy-3-methylfentanyl (another name: N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidiny]l-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]l—phenylpropanamide);
- (8) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidiny]l propanamide;
- (9) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidiny]l-propanamide;
- (10) Alfentanil;
- (11) Carfentanil;
- (12) Remifentanil;
- (13) Sufentanil;
- (14) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidiny]l-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 a resin or a preparation of a resin to which both of the following apply:

- (1) 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.
- (2) It has a delta-0 tetrahydrocannabinol concentration of more than three-tenths per cent.

Hashish does not include a hemp byproduct in the possession of a licensed hemp processor under Ohio R.C. chapter 928, provided that the hemp byproduct is being produced, stored, and disposed of in accordance with rules adopted under Ohio R.C. 928.03.

*Hypodermic* has the same meaning as in Ohio 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 Ohio R.C. 4729.01.

*L.S.D.* means lysergic acid diethylamide.

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

*Mandatory prison term* has the same meaning as in Ohio 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 Ohio R.C. 3719.01.

*Marihuana* has the same meaning as in Ohio 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 Ohio R.C. 2925.11, as it existed prior to July 1, 1996, or a substantially equivalent municipal ordinance.
- (2) A violation of Ohio 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 Ohio R.C. 3719.01.

*Person* has the same meaning as in Ohio R.C. 3719.01.

*Pharmacist* has the same meaning as in Ohio R.C. 3719.01.

*Pharmacy* has the same meaning as in Ohio 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.

*Prescription* has the same meaning as in Ohio R.C. 4729.01.

*Presumption for a prison term* or *presumption that a prison term shall be imposed* means a presumption as described in Ohio 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 Ohio 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 Ohio R.C. 2925.01(W)(1) to (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 Ohio R.C. Ch. 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 Ohio R.C. Ch. 4703;
- (3) A person who is registered as a landscape architect under Ohio R.C. Ch. 4703 or who holds a permit as a landscape architect issued under that chapter;
- (4) A person licensed under Ohio R.C. Ch. 4707;
- (5) A person who has been issued a certificate of registration as a registered barber under Ohio R.C. Ch. 4709;
- (6) A person licensed and regulated to engage in the business of a debt pooling company by a legislative authority, under authority of Ohio R.C. Ch. 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, advanced hair designer's license, advanced manicurist's license, advanced esthetician's license, advanced natural hair stylist's license, cosmetology instructor's license, hair design instructor's license, manicurist instructor's license, esthetics instructor's license, natural hair style instructor's license, independent contractor's license, or tanning facility permit under Ohio R.C. Ch. 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 Ohio R.C. Ch. 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 Ohio R.C. Ch. 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 Ohio R.C. Ch. 4723;
- (11) A person who has been licensed to practice optometry or to engage in optical dispensing under Ohio R.C. Ch. 4725;
- (12) A person licensed to act as a pawnbroker under Ohio R.C. Ch. 4727;
- (13) A person licensed to act as a precious metals dealer under Ohio R.C. Ch. 4728;
- (14) A person licensed under Ohio R.C. Ch. 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 Ohio R.C. Ch. 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 Ohio R.C. Ch. 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 Ohio R.C. Ch. 4731 or has been issued a certificate to practice a limited branch of medicine under that chapter;
- (18) A person licensed as a psychologist or school psychologist under Ohio R.C. Ch. 4732;
- (19) A person registered to practice the profession of engineering or surveying under Ohio R.C. Ch. 4733;
- (20) A person who has been issued a license to practice chiropractic under Ohio R.C. Ch. 4734;
- (21) A person licensed to act as a real estate broker or real estate salesperson under Ohio R.C. Ch. 4735;
- (22) A person registered as a registered environmental health specialist under Ohio R.C. Ch. 4736;
- (23) A person licensed to operate or maintain a junkyard under Ohio R.C. Ch. 4737;

- (24) A person who has been issued a motor vehicle salvage dealer's license under Ohio R.C. Ch. 4738;
- (25) A person who has been licensed to act as a steam engineer under Ohio R.C. Ch. 4739;
- (26) A person who has been issued a license or temporary permit to practice veterinary medicine or any of its branches, or who is registered as a graduate animal technician under Ohio R.C. Ch. 4741;
- (27) A person who has been issued a hearing aid dealer's or fitter's license or trainee permit under Ohio R.C. Ch. 4747;
- (28) A person who has been issued a class A, class B or class C license or who has been registered as an investigator or security guard employee under Ohio R.C. Ch. 4749;
- (29) A person licensed to practice as a nursing home administrator under Ohio R.C. Ch. 4751;
- (30) A person licensed to practice as a speech-language pathologist or audiologist under Ohio R.C. Ch. 4753;
- (31) A person issued a license as an occupational therapist or physical therapist under Ohio R.C. Ch. 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 Ohio R.C. Ch. 4757;
- (33) A person issued a license to practice dietetics under Ohio R.C. Ch. 4759;
- (34) A person who has been issued a license or limited permit to practice respiratory therapy under Ohio R.C. Ch. 4761;
- (35) A person who has been issued a real estate appraiser certificate under Ohio R.C. Ch. 4763;
- (36) A person who has been issued a home inspector license under Ohio R.C. Ch. 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.

*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 Ohio 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 Ohio R.C. 3719.01.

*School* means any school operated by a board of education, any community school established under Ohio R.C. Ch. 3314, or any nonpublic school for which the state Board of Education prescribes minimum standards under Ohio R.C. 3301.07, whether or not any

instruction, extracurricular activities or training provided by the school is being conducted at the time a criminal offense is committed.

*School 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 Ohio R.C. Ch. 3314, or the governing body of a nonpublic school for which the state Board of Education prescribes minimum standards under Ohio R.C. 3301.07 and on which some of the instruction, extracurricular activities or training of the school is conducted, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted on the parcel of real property at the time a criminal offense is committed.

*Standard Pharmaceutical Reference Manual* means the current edition, with cumulative changes if any, of references that are approved by the state Board of Pharmacy.

*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 Ohio R.C. 3719.01.

### **513.03 Drug abuse; controlled substance possession or use.**

- (a) No person shall knowingly obtain, possess or use a controlled substance or a controlled substance analog.
- (b) (1) This section does not apply to the following:
  - A. Manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies and other persons whose conduct was in accordance with Ohio R.C. Chs. 3719, 4715, 4729, 4730, 4731 and 4741.
  - B. If the offense involves an anabolic steroid, any person who is conducting or participating in a research project involving the use of an anabolic steroid if the project has been approved by the United States Food and Drug Administration;
  - C. Any person who sells, offers for sale, prescribes, dispenses or administers for livestock or other nonhuman species an anabolic steroid that is expressly intended for administration through implants to livestock or other nonhuman species and approved for that purpose under the "Federal Food, Drug and Cosmetic Act", 52 Stat.

1040 (1938), 21 U.S.C.A. 301, as amended, and is sold, offered for sale, prescribed, dispensed or administered for that purpose in accordance with that Act;

- D. Any person who obtained the controlled substance pursuant to a 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 subsection (b)(1) D. of this section, "deception" and "theft offense" have the same meanings as in Ohio R.C. 2913.01.

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

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

B. Subject to subsection (b)(2)F. of this section, a qualified individual shall not be arrested, charged, prosecuted, convicted or penalized pursuant to this chapter for a minor drug possession offense if all of the following apply:

1. The evidence of the obtaining, possession or use of the controlled substance or controlled substance analog that would be the basis of the offense was obtained as a result of the qualified individual seeking the medical assistance or experiencing an overdose and needing medical assistance.
2. Subject to subsection (b)(2) G. of this section, within 30 days after seeking or obtaining the medical assistance, the qualified individual seeks and obtains a screening and receives a referral for treatment from a community addiction services provider or a properly credentialed addiction treatment professional.

3. Subject to subsection (b)(2) G. of this section, the qualified individual who obtains a screening and receives a referral for treatment under subsection (b)(2) B.1. of this section, upon the request of any prosecuting attorney, submits documentation to the prosecuting attorney that verifies that the qualified individual satisfied the requirements of that subsection. The documentation shall be limited to the date and time of the screening obtained and referral received.
- C. If a person is found to be in violation of any community control sanction and if the violation is a result of either of the following, the court shall first consider ordering the person's participation or continued participation in a drug treatment program or mitigating the penalty specified in Ohio R.C. 2929.13, 2929.15, or 2929.25, whichever is applicable, after which the court has the discretion either to order the person's participation or continued participation in a drug treatment program or to impose the penalty with the mitigating factor specified in any of those applicable sections:
1. Seeking or obtaining medical assistance in good faith for another person who is experiencing a drug overdose;
  2. Experiencing a drug overdose and seeking medical assistance for that overdose or being the subject of another person seeking or obtaining medical assistance for that overdose as described in subsection (b)(2) B. of this section.
- D. If a person is found to be in violation of any post-release control sanction and if the violation is a result of either of the following, the court or the parole board shall first consider ordering the person's participation or continued participation in a drug treatment program or mitigating the penalty specified in Ohio R.C. 2929.141 or 2967.28, whichever is applicable, after which the court or the parole board has the discretion either to order the person's participation or continued participation in a drug treatment program or to impose the penalty with the mitigating factor specified in either of those applicable sections:
1. Seeking or obtaining medical assistance in good faith for another person who is experiencing a drug overdose;
  2. Experiencing a drug overdose and seeking medical assistance for that emergency or being the subject of another person seeking or obtaining medical assistance for that overdose as described in subsection (b)(2) B. of this section.
- E. Nothing in subsection (b)(2) B. of this section shall be construed to do any of the following:
1. Limit the admissibility of any evidence in connection with the investigation or prosecution of a crime with regards to a defendant who does not qualify for the protections of subsection (b)(2) B. of this section or with regards to any crime other than a minor drug possession offense committed by a person who qualifies for protection pursuant to subsection (b)(2) B. of this section for a minor drug possession offense;
  2. Limit any seizure of evidence or contraband otherwise permitted by law;

3. Limit or abridge the authority of a peace officer to detain or take into custody a person in the course of an investigation or to effectuate an arrest for any offense except as provided in that division;
  4. Limit, modify or remove any immunity from liability available pursuant to law in effect prior to September 13, 2016 to any public agency or to an employee of any public agency.
- F. Subsection (b)(2) B. of this section does not apply to any person who twice previously has been granted an immunity under subsection (b)(2) B. of this section. No person shall be granted an immunity under subsection (b)(2) B. of this section more than two times.
- G. Nothing in this section shall compel any qualified individual to disclose protected health information in a way that conflicts with the requirements of the "Health Insurance Portability and Accountability Act of 1996", 104 Pub. L. No. 191, 110 Stat. 2021, 42 U.S.C. 1320d et seq., as amended, and regulations promulgated by the United States Department of Health and Human Services to implement the act or the requirements of 42 C.F.R. Part 2.
- (c) Whoever violates subsection (a) hereof is guilty of one of the following:
- (1) If the drug involved in the violation is a compound, mixture, preparation, or substance included in Schedule III, IV, or V, whoever violates subsection (a) hereof is guilty of possession of drugs. Possession of drugs is a misdemeanor if the amount of the drug involved does not exceed the bulk amount. The penalty for the offense shall be determined as follows: possession of drugs is a misdemeanor of the first degree or, if the offender previously has been convicted of a drug abuse offense, a felony and shall be prosecuted under appropriate state law.
  - (2) If the drug involved in the violation is marihuana or a compound, mixture, preparation, or substance containing marihuana other than hashish, whoever violates subsection (a) hereof is guilty of possession of marihuana. Possession of marihuana is a misdemeanor if the amount of the drug involved does not exceed 200 grams. The penalty for the offense shall be determined as follows:
    - A. Except as otherwise provided in subsection (c)(2) B. hereof, possession of marihuana is a minor misdemeanor.
    - B. If the amount of the drug involved equals or exceeds 100 grams but is less than 200 grams, possession of marihuana is a misdemeanor of the fourth degree.
  - (3) If the drug involved in the violation is hashish or a compound, mixture, preparation, or substance containing hashish, whoever violates subsection (a) hereof is guilty of possession of hashish. Possession of hashish is a misdemeanor if the amount of the drug involved does not exceed the maximum amount specified in subsection (c)(3) B. hereof. The penalty for the offense shall be determined as follows:
    - A. Except as otherwise provided in subsection (c)(3) B. hereof, possession of hashish is a minor misdemeanor.
    - B. If the amount of the drug involved equals or exceeds five grams but is less than ten grams of hashish in a solid form or equals or exceeds one gram but is less than two



grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form, possession of hashish is a misdemeanor of the fourth degree.

- (d) In addition to any other sanction that is imposed for an offense under this section, the court that sentences an offender who is convicted of or pleads guilty to a violation of this section may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years.

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 Ohio 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 division (I) of this section, the sentencing court, in its discretion, may terminate the suspension.

- (e) Arrest or conviction for a minor misdemeanor violation of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries about the person's criminal record, including any inquiries contained in any application for employment, license, or other right or privilege, or made in connection with the person's appearance as a witness.

State law reference, similar provisions—Ohio R.C. 2925.11.

#### **513.04 Possessing drug abuse instruments.**

- (a) No person shall knowingly make, obtain, possess or use any instrument, article or thing the customary and primary purpose of which is for the administration or use of a dangerous drug, other than marihuana, when the instrument involved is a hypodermic or syringe, whether or not of crude or extemporized manufacture or assembly, and the instrument, article or thing involved has been used by the offender to unlawfully administer or use a dangerous drug, other than marihuana, or to prepare a dangerous drug, other than marihuana, for unlawful administration or use.
- (b) This section does not apply to manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies and other persons whose conduct was in accordance with Ohio R.C. Chs. 3719, 4715, 4729, 4730, 4731 and 4741.
- (c) Whoever violates this section is guilty of possessing drug abuse instruments, a misdemeanor of the second degree. If the offender previously has been convicted of a drug abuse offense, violation of this section is a misdemeanor of the first degree.

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

(2) Any offender who received a mandatory suspension of the offender's driver's or commercial driver's license or permit under this section prior to the ~~effective date of this amendment~~ 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 Ohio 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.

State law reference, similar provisions—Ohio R.C. 2925.12.

### **513.05 Permitting drug abuse.**

- (a) No person, who is the owner, operator or person in charge of a locomotive, watercraft, aircraft or other vehicle as defined in Ohio 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 the premises, or real estate, including vacant land, to be used for the commission of a felony drug abuse offense by another person.
- (c) Whoever violates this section is guilty of permitting drug abuse, a misdemeanor of the first degree. If the felony drug abuse offense in question is a violation of Ohio R.C. 2925.02, 2925.03, 2925.04 or 2925.041 as provided in Ohio R.C. 2925.13, permitting drug abuse is a felony and shall be prosecuted under appropriate state law.
- (d) (1) In addition to any other sanction imposed for an offense under this section, the court that sentences a person who is convicted of or pleads guilty to a violation of this section may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with Ohio R.C. 2925.38.

(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 Ohio 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.

(e) Any premises or real estate that is permitted to be used in violation of subsection (b) hereof constitutes a nuisance subject to abatement pursuant to Ohio R.C. Ch. 3767.

State law reference, similar provisions—Ohio R.C. 2925.13.

### **513.06 Illegal cultivation of marihuana.**

(a) No person shall knowingly cultivate marihuana.

(b) This section does not apply to any person listed in Ohio R.C. 2925.03(B)(1) to (3) to the extent and under the circumstances described in those divisions.

(c) Whoever commits a violation of subsection (a) hereof is guilty of illegal cultivation of marihuana. Illegal cultivation of marihuana is a misdemeanor if the amount of marihuana involved does not exceed 200 grams.

(1) Except as otherwise provided in subsection (c)(2) hereof, illegal cultivation of marihuana is a minor misdemeanor, or if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, a misdemeanor of the fourth degree.

(2) If the amount of marihuana involved equals or exceeds 100 grams but is less than 200 grams, illegal cultivation of marihuana is a misdemeanor of the fourth degree, or if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, a misdemeanor of the third degree.

(d) In addition to any other sanction imposed for an offense under this section, the court that sentences an offender who is convicted of or pleads guilty to a violation of this section may suspend the offender's driver's or commercial driver's license or permit in accordance with division (G) of Ohio R.C. 2925.03. If an offender's driver's or commercial driver's license or permit is suspended in accordance with that division, the offender may request termination of, and the court may terminate, the suspension in accordance with that division. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit in accordance with division (G) of Ohio R.C. 2925.03. If the offender is a professionally licensed person, the court immediately shall comply with Ohio R.C. 2925.38.

(e) Arrest or conviction for a minor misdemeanor violation of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries about the person's criminal record, including any inquiries contained in an application for employment, a license, or any other right or privilege or made in connection with the person's appearance as a witness.

(f)(1) If the sentencing court suspends the offender's driver's or commercial driver's license or permit under this section in accordance with division (G) of Ohio R.C. 2925.03, the offender may request termination of, and the court may terminate, the suspension of the offender in accordance with that division.

(2) Any offender who received a mandatory suspension of the offender's driver's or commercial driver's license or permit under this section prior to September 13, 2016, may file a motion with the sentencing court requesting the termination of the suspension. However, an offender who pleaded guilty to or was convicted of a violation of Ohio 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 division (f)(2) of this section, the sentencing court, in its discretion, may terminate the suspension.

State law reference, similar provisions—Ohio R.C. 2925.04.

### **513.07 Possessing or using harmful intoxicants.**

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

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

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

(2) Any offender who received a mandatory suspension of the offender's driver's or commercial driver's license or permit under this section prior to the 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 Ohio 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 division (C)(2) of this section, the sentencing court, in its discretion, may terminate the suspension.

State law reference, similar provisions—Ohio R.C. 2925.31.

### **513.08 Illegally dispensing drug samples.**

- (a) No person shall knowingly furnish another a sample drug.
- (b) Subsection (a) hereof does not apply to manufacturers, wholesalers, pharmacists, owners of pharmacies, licensed health professionals authorized to prescribe drugs, and other persons whose conduct is in accordance with Ohio R.C. Chs. 3719, 4715, 4723, 4725, 4729, 4730, 4731, and 4741.
- (c) Whoever violates this section is guilty of illegal dispensing of drug samples. If the drug involved in the offense is a dangerous drug or a compound, mixture, preparation, or substance included in Schedule III, IV, or V, or is marihuana, the penalty for the offense shall be determined as follows:
  - (1) Except as otherwise provided in subsection (c)(2) hereof, illegal dispensing of drug samples is a misdemeanor of the second degree.
  - (2) If the offense was committed in the vicinity of a school or in the vicinity of a juvenile, illegal dispensing of drug samples is a misdemeanor of the first degree.
- (d) (1) In addition to any other sanction imposed for an offense under this section, the court that sentences an offender who is convicted of or pleads guilty to a violation of this section may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with Ohio R.C. 2925.38.
- (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 Ohio 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 subdivision (d)(2) of this section, the sentencing court, in its discretion, may terminate the suspension.

State law reference, similar provisions—Ohio R.C. 2925.36.

### **513.12 Drug paraphernalia.**

- (a) As used in this section, "drug paraphernalia" means any equipment, product or material of any kind that is used by the offender, intended by the offender for use or designed for use, in propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body, a controlled substance in violation of this chapter or Ohio R.C. Ch. 2925. "Drug paraphernalia" includes, but is not limited to, any of the following equipment, products or materials that are used by the offender, intended by the offender for use or designated by the offender for use, in any of the following manners:
- (1) A kit for propagating, cultivating, growing or harvesting any species of a plant that is a controlled substance or from which a controlled substance can be derived;
  - (2) A kit for manufacturing, compounding, converting, producing, processing or preparing a controlled substance;
  - (3) Any object, instrument, or device for manufacturing, compounding, converting, producing, processing, or preparing methamphetamine;
  - (4) An isomerization device for increasing the potency of any species of a plant that is a controlled substance;
  - (5) Testing equipment for identifying, or analyzing the strength, effectiveness or purity of, a controlled substance;
  - (6) A scale or balance for weighing or measuring a controlled substance;
  - (7) A diluent or adulterant, such as quinine hydrochloride, mannitol, mannite, dextrose or lactose, for cutting a controlled substance;
  - (8) A separation gin or sifter for removing twigs and seeds from, or otherwise cleaning or refining, marijuana;
  - (9) A blender, bowl, container, spoon or mixing device for compounding a controlled substance;
  - (10) A capsule, balloon, envelope or container for packaging small quantities of a controlled substance;
  - (11) A container or device for storing or concealing a controlled substance;
  - (12) A hypodermic syringe, needle or instrument for parenterally injecting a controlled substance into the human body;
  - (13) An object, instrument or device for ingesting, inhaling or otherwise introducing into the human body, marijuana, 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 marijuana cigarette, that has become too small or too short to be held in the hand;

miniature cocaine spoon, or cocaine vial; chamber pipe; carburetor pipe; electric pipe; air driver pipe; chillum; bong; or ice pipe or chiller.

(b) In determining if any equipment, product or material is drug paraphernalia, a court or law enforcement officer shall consider, in addition to other relevant factors, the following:

- (1) Any statement by the owner, or by anyone in control, of the equipment, product or material, concerning its use;
- (2) The proximity in time or space of the equipment, product or material, or of the act relating to the equipment, product or material, to a violation of any provision of this chapter or Ohio R.C. Ch. 2925;
- (3) The proximity of the equipment, product or material to any controlled substance;
- (4) The existence of any residue of a controlled substance on the equipment, product or material;
- (5) Direct or circumstantial evidence of the intent of the owner, or of anyone in control, of the equipment, product or material, to deliver it to any person whom the owner or person in control of the equipment, product or material knows intends to use the object to facilitate a violation of any provision of this chapter or Ohio R.C. Ch. 2925. A finding that the owner, or anyone in control, of the equipment, product or material, is not guilty of a violation of any other provision of this chapter or Ohio R.C. Ch. 2925, does not prevent a finding that the equipment, product or material was intended or designed by the offender for use as drug paraphernalia;
- (6) Any oral or written instruction provided with the equipment, product or material concerning its use;
- (7) Any descriptive material accompanying the equipment, product or material and explaining or depicting its use;
- (8) National or local advertising concerning the use of the equipment, product or material;
- (9) The manner and circumstances in which the equipment, product or material is displayed for sale;
- (10) Direct or circumstantial evidence of the ratio of the sales of the equipment, product or material to the total sales of the business enterprise;
- (11) The existence and scope of legitimate uses of the equipment, product or material in the community;
- (12) Expert testimony concerning the use of the equipment, product or material.

(c) (1) Subject to subsection (d)(2) of this section, no person shall knowingly use, or possess with purpose to use, drug paraphernalia.

(2) No person shall knowingly sell, or possess or manufacture with purpose to sell, drug paraphernalia, if the person knows or reasonably should know that the equipment, product or material will be used as drug paraphernalia.

(3) No person shall place an advertisement in any newspaper, magazine, handbill or other publication that is published and printed and circulates primarily within this state, if the person knows that the purpose of the advertisement is to promote the illegal sale in the

state of the equipment, product or material that the offender intended or designed for use as drug paraphernalia.

- (d) (1) This section does not apply to manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies and other persons whose conduct is in accordance with Ohio R.C. Chs. 3719, 4715, 4729, 4730, 4731, and 4741. This section shall not be construed to prohibit the possession or use of a hypodermic as authorized by Section 513.10.
- (2) Subsection (c)(1) of this section does not apply to a person's use, or possession with purpose to use, any drug paraphernalia that is equipment, a product, or material of any kind that is used by the person, intended by the person for use, or designed for use in storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body marihuana.
- (e) Notwithstanding Ohio R.C. Ch. 2981, any drug paraphernalia that was used, possessed, sold or manufactured in violation of this section shall be seized, after a conviction for that violation shall be forfeited, and upon forfeiture shall be disposed of pursuant to Ohio R.C. 2981.12.
- (f) (1) Whoever violates subsection (c)(1) hereof is guilty of illegal use or possession of drug paraphernalia, a misdemeanor of the fourth degree.
- (2) Except as provided in subsection (f)(3) hereof, whoever violates subsection (c)(2) hereof is guilty of dealing in drug paraphernalia, a misdemeanor of the second degree.
- (3) Whoever violates subsection (c)(2) hereof by selling drug paraphernalia to a juvenile is guilty of selling drug paraphernalia to juveniles, a misdemeanor of the first degree.
- (4) Whoever violates subsection (c)(3) hereof is guilty of illegal advertising of drug paraphernalia, a misdemeanor of the second degree.
- (g) (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 Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with Ohio R.C. 2925.38.

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



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

State law reference, similar provisions--Ohio R.C. 2925.14.

### **525.13 Interfering with civil rights.**

- (a) No public servant, under color of the public servant's office, employment or authority, shall knowingly deprive, or conspire or attempt to deprive any person of a constitutional or statutory right.
- (b) Whoever violates this section is guilty of interfering with civil rights, a misdemeanor of the first degree.

State law reference, similar provisions—Ohio R. C. 2921.45.

### **533.09 Soliciting.**

- (a) No person shall knowingly solicit another to engage in sexual activity for hire in exchange for the person receiving anything of value from the other person.
- (b) Whoever violates this section is guilty of soliciting. Soliciting is a misdemeanor of the third degree.
- (c) As used in this section, "sexual activity for hire" means an implicit or explicit agreement to provide sexual activity in exchange for anything of value paid to the person engaging in such sexual activity, to any person trafficking that person, or to any person associated with such person.

State law reference, similar provisions—Ohio R.C. 2907.24.

### **541.04 Criminal mischief.**

- (a) No person shall:
  - (1) Without privilege to do so, knowingly move, deface, damage, destroy or otherwise improperly tamper with either of the following:
    - A. The property of another;
    - B. One's own residential real property with the purpose to decrease the value of or enjoyment of the residential real property, if both of the following apply:
      - 1. The residential real property is subject to a mortgage.
      - 2. The person has been served with a summons and complaint in a pending residential mortgage loan foreclosure action relating to that real property. As used in this subsection, "pending" includes the time between judgment entry and confirmation of sale.

- (2) With purpose to interfere with the use or enjoyment of property of another employ a tear gas device, stink bomb, smoke generator or other device releasing a substance that is harmful or offensive to persons exposed, or that tends to cause public alarm;
  - (3) Without privilege to do so, knowingly move, deface, damage, destroy or otherwise improperly tamper with a benchmark, triangulation station, boundary marker or other survey station, monument or marker.
  - (4) Without privilege to do so, knowingly move, deface, damage, destroy or otherwise improperly tamper with any safety device, the property of another or the property of the offender when required or placed for the safety of others, so as to destroy or diminish its effectiveness or availability for its intended purpose;
  - (5) With purpose to interfere with the use or enjoyment of the property of another, set a fire on the land of another or place personal property that has been set on fire on the land of another, which fire or personal property is outside and apart from any building, other structure or personal property that is on that land.
  - (6) Without privilege to do so, and with intent to impair the functioning of any computer, computer system, computer network, computer software, or computer program, all as defined in Ohio R.C. 2909.01, knowingly do any of the following:
    - A. In any manner or by any means, including, but not limited to, computer hacking, alter, damage, destroy, or modify a computer, computer system, computer network, computer software, or computer program or data contained in a computer, computer system, computer network, computer software, or computer program;
    - B. Introduce a computer contaminant into a computer, computer system, computer network, computer software or computer program.
  - (7) Without privilege to do so, knowingly destroy or improperly tamper with a critical infrastructure facility.
- (b) As used in this section:
- (1) "Safety device" means any fire extinguisher, fire hose or fire axe, or any fire escape, emergency exit or emergency escape equipment, or any life line, life-saving ring, life preserver or life boat or raft, or any alarm, light, flare, signal, sign or notice intended to warn of danger, or emergency, or intended for other safety purposes, or any guard railing or safety barricade, or any traffic sign or signal, or any railroad grade crossing sign, signal or gate, or any first aid or survival equipment, or any other device, apparatus, or equipment intended for protecting or preserving the safety of persons or property.
  - (2) "Critical infrastructure facility" has the same meaning as in Ohio R.C. 2911.21.
  - (3) "Improperly tamper" means to change the physical location or the physical condition of the property.
- (c) (1) Whoever violates this section is guilty of criminal mischief and shall be punished as provided in subsection (c)(2), (3) or (4) of this section.
- (2) Except as otherwise provided in this subsection, criminal mischief committed in violation of subsection (a)(1), (2), (3), (4) or (5) of this section is a misdemeanor of the third degree. Except as otherwise provided in this subsection, if the violation of subsection (a)(1), (2),

(3), (4) or (5) of this section creates a risk of physical harm to any person, criminal mischief committed in violation of subsection (a)(1), (2), (3), (4) or (5) of this section is a misdemeanor of the first degree. If the property involved in the violation of subsection (a)(1), (2), (3), (4) or (5) of this section is an aircraft, an aircraft engine, propeller, appliance, spare part, fuel, lubricant, hydraulic fluid, any other equipment, implement, or material used or intended to be used in the operation of an aircraft, or any cargo carried or intended to be carried in an aircraft, criminal mischief committed in violation of subsection (a)(1), (2), (3), (4) or (5) of this section is a felony and shall be prosecuted under appropriate state law.

(3) Except as otherwise provided in this subsection, criminal mischief committed in violation of subsection (a)(6) of this section is a misdemeanor of the first degree. If the value of the computer, computer system, computer network, computer software, computer program or data involved in the violation of subsection (a)(6) of this section or the loss to the victim resulting from the violation is \$1,000.00 or more, or if the computer, computer system, computer network, computer software, computer program or data involved in the violation of subsection (a)(6) of this section is used or intended to be used in the operation of an aircraft and the violation creates a risk of physical harm to any person, criminal mischief committed in violation of subsection (a)(6) of this section is a felony and shall be prosecuted under appropriate state law.

(4) Criminal mischief committed in violation of subsection (a)(7) of this section is a felony of the third degree and shall be prosecuted under appropriate state law.

(Ord. No. 2000-36, 5-23-2000)

State law reference, similar provisions—Ohio R.C. 2909.07.

#### **541.05 Criminal trespass.**

(a) No person, without privilege to do so, shall do any of the following:

- (1) Knowingly enter or remain on the land or premises of another;
- (2) Knowingly enter or remain on the land or premises of another, the use of which is lawfully restricted to certain persons, purposes, modes or hours, when the offender knows the offender is in violation of any such restriction or is reckless in that regard;
- (3) Recklessly enter or remain on the land or premises of another, as to which notice against unauthorized access or presence is given by actual communication to the offender, or in a manner prescribed by law, or by posting in a manner reasonably calculated to come to the attention of potential intruders, or by fencing or other enclosure manifestly designed to restrict access;
- (4) Being on the land or premises of another, negligently fail or refuse to leave upon being notified by signage posted in a conspicuous place or otherwise being notified to do so by the owner or occupant, or the agent or servant of either.
- (5) Knowingly enter or remain on a critical infrastructure facility.

(b) It is no defense to a charge under this section that the land or premises involved was owned, controlled or in custody of a public agency.

- (c) It is no defense to a charge under this section that the offender was authorized to enter or remain on the land or premises involved when such authorization was secured by deception.
- (d) (1) Whoever violates this section is guilty of criminal trespass. Criminal trespass in violation of subsection (a)(1), (2), (3), or (4) of this section is a misdemeanor of the fourth degree. Criminal trespass in violation of subsection (a) (5) of this section is a misdemeanor of the first degree.
- (2) Notwithstanding Section 501.99, if the person, in committing the violation of this section, used a snowmobile, off-highway motorcycle, or all-purpose vehicle, the court shall impose a fine of two times the usual amount imposed for the violation.
- (3) If an offender previously has been convicted of or pleaded guilty to two or more violations of this section or a substantially equivalent municipal ordinance, or state law, and the offender, in committing each violation, used a snowmobile, off-highway motorcycle, or all-purpose vehicle, the court, in addition to or independent of all other penalties imposed for the violation, may impound the certificate of registration of that snowmobile or off-highway motorcycle or the certificate of registration and license plate of that all-purpose vehicle for not less than 60 days. In such a case, Ohio R.C. 4519.47 applies.
- (e) As used in this section:
  - (1) *All-purpose vehicle*, *off-highway motorcycle* and *snowmobile* have the same meaning as in Section 375.01 of the Traffic Code.
  - (2) *Land* or *premises* includes any land, building, structure, or place belonging to, controlled by, or in custody of another, and any separate enclosure or room, or portion thereof.
  - (3) *Production operation*, *well*, and *well pad* have the same meanings as in Ohio R.C. 1509.01.
  - (4) *Critical infrastructure facility* means:
    - (a) One of the following, if completely enclosed by a fence or other physical barrier that is obviously designed to exclude intruders, or if clearly marked with signs that are reasonably likely to come to the attention of potential intruders and that indicate entry is forbidden without site authorization:
      - (i) A petroleum or alumina refinery;
      - (ii) An electric generating facility, substation, switching station, electrical control center, or electric transmission and distribution lines and associated equipment;
      - (iii) A chemical, polymer, or rubber manufacturing facility;
      - (iv) A water intake structure, water treatment facility, wastewater facility, drainage facility, water management facility, or any similar water or sewage treatment system and its water and sewage piping;
      - (v) A natural gas company facility or interstate natural gas pipeline, including a pipeline interconnection, a natural gas compressor station and associated facilities, city gate or town border station, metering station, above-ground piping, regulator station, valve site, delivery

station, fabricated assembly, or any other part of a natural gas storage facility involved in the gathering, storage, transmission, or distribution of gas;

(vi) A telecommunications central switching office or remote switching facility or an equivalent network facility that serves a similar purpose;

(vii) Wireline or wireless telecommunications infrastructure, including telecommunications towers and telephone poles and lines, including fiber optic lines;

(viii) A port, trucking terminal, or other freight transportation facility;

(ix) A gas processing plant, including a plant used in the processing, treatment, or fractionation of natural gas or natural gas liquids;

(x) A transmission facility used by a federally licensed radio or television station;

(xi) A steel-making facility that uses an electric arc furnace to make steel;

(xii) A facility identified and regulated by the United States department of homeland security's chemical facility anti-terrorism standards program under 6 C.F.R. part 27;

(xiii) A dam that is regulated by the state or federal government;

(xiv) A crude oil or refined products storage and distribution facility, including valve sites, pipeline interconnections, pump station, metering station, below- or above-ground pipeline, or piping and truck loading or off-loading facility;

(xv) A video service network and broadband infrastructure, including associated buildings and facilities, video service headend, towers, utility poles, and utility lines such as fiber optic lines. As used in this division, "video service network" has the same meaning as in Ohio R.C. 1332.21.

(xvi) Any above-ground portion of an oil, gas, hazardous liquid or chemical pipeline, tank, or other storage facility;

(xvii) Any above-ground portion of a well, well pad, or production operation;

(xviii) A laydown area or construction site for pipe and other equipment intended for use on an interstate or intrastate natural gas or crude oil pipeline;

(xix) Any mining operation, including any processing equipment, batching operation, or support facility for that mining operation.

(b) With respect to a video service network or broadband or wireless telecommunications infrastructure, the above-ground portion of a facility installed in a public right-of-way on a utility pole or in a conduit;

(c) Any railroad property;

(d) An electronic asset of any of the following:

(i) An electric light company that is a public utility under Ohio R.C. 4905.02;

- (ii) An electric cooperative, as defined in Ohio R.C. 4928.01;
- (iii) A municipal electric utility, as defined in Ohio R.C. 4928.01;
- (iv) A natural gas company that is a public utility under Ohio R.C. 4905.02;
- (v) A telephone company that is a public utility under Ohio R.C. 4905.02;
- (vi) A video service provider, including a cable operator, as those terms are defined in Ohio R.C. 1332.21.

(5) Electronic asset includes, but is not limited to, the hardware, software, and data of a programmable electronic device; all communications, operations, and customer data networks; and the contents of those data networks.

State law reference, similar provisions—Ohio R.C. 2911.21.

#### **541.051 Aggravated trespass.**

- (a) (1) No person shall enter or remain on the land or premises of another with purpose to commit on that land or those premises a misdemeanor, the elements of which involve causing physical harm to another person or causing another person to believe that the offender will cause physical harm to ~~him~~ that person.
- (2) No person shall enter or remain on a critical infrastructure facility with purpose to destroy or tamper with the facility.
- (b) Whoever violates this section is guilty of aggravated trespass, Aggravated trespass in violation of subsection (a)(1) of this section is a misdemeanor of the first degree. Aggravated trespass in violation of subsection (a)(2) of this section is a felony of the third degree and shall be prosecuted under appropriate state law.
- (c) As used in this section, critical infrastructure facility has the same meaning as in Ohio R.C. 2911.21.

State law reference, similar provisions—Ohio R.C. 2911.211.

#### **545.03 Property exceptions as felony offense.**

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

- (a) A credit card;
- (b) A printed form for a check or other negotiable instrument, that on its face identifies the drawer or maker for whose use it is designed or identifies the account on which it is to be drawn, and that has not been executed by the drawer or maker or on which the amount is blank;

(d) A motor vehicle identification license plate as prescribed by Ohio R.C. 4503.22, a temporary motor vehicle license registration as prescribed by Ohio R.C. 4503.182, or any comparable temporary motor vehicle license registration as prescribed by the applicable law of another state or the United States;

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

(e) A blank form for any license listed in Ohio R.C. 4507.01(A).

State law reference, similar provisions—Ohio R.C. 2913.71.

#### **545.18 Receiving stolen property.**

(a) No person shall receive, retain or dispose of property of another, knowing or having reasonable cause to believe that the property has been obtained through commission of a theft offense.

(b) It is not a defense to a charge of receiving stolen property in violation of this section that the property was obtained by means other than through the commission of a theft offense if the property was explicitly represented to the accused person as being obtained through the commission of a theft offense.

(c) Whoever violates this section is guilty of receiving stolen property, a misdemeanor of the first degree. Receiving stolen property is a felony and shall be prosecuted under appropriate state law if:

(1) The value of the property involved is \$1,000.00 or more; or

(2) The property involved is:

A. Listed in Section 545.03; or

B. A motor vehicle as defined in Ohio R.C. 4501.01; or

C. A dangerous drug as defined in Ohio R.C. 4729.01;

D. A firearm or dangerous ordnance, as defined in Ohio R.C. 2923.11; or

E. A special purchase article as defined in Ohio R.C. 4737.04 or a bulk merchandise container as defined in Ohio R.C. 4737.012.

State law reference, similar provisions—Ohio R.C. 2913.51.

#### **549.02 Carrying concealed weapons.**

(a) No person shall knowingly carry or have, concealed on the person's person or concealed ready at hand, any of the following:

(1) A deadly weapon other than a handgun;

(2) A handgun other than a dangerous ordnance;

(3) A dangerous ordnance.

(b) No person who has been issued a concealed handgun license, shall do any of the following:

- (1) If the person is stopped for a law enforcement purpose, and is carrying a concealed handgun, fail to promptly inform any law enforcement officer who approaches the person after the person has been stopped that the person has been issued a concealed handgun license and that the person then is carrying a concealed handgun;
  - (2) If the person is stopped for a law enforcement purpose and is carrying a concealed handgun, knowingly fail to keep the person's hands in plain sight at any time after any law enforcement officer begins approaching the person while stopped and before the law enforcement officer leaves, unless the failure is pursuant to and in accordance with directions given by a law enforcement officer;
  - (3) If the person is stopped for a law enforcement purpose and is carrying a concealed handgun, knowingly disregard or fail to comply with any lawful order of any law enforcement officer given while the person is stopped, including, but not limited to, a specific order to the person to keep the person's hands in plain sight.
- (c) (1) This section does not apply to any of the following:
- A. An officer, agent or employee of this or any other state or the United States, or to a law enforcement officer, who is authorized to carry concealed weapons or dangerous ordnance, or is authorized to carry handguns and is acting within the scope of the officer's, agent's or employee's duties;
  - B. Any person who is employed in this state, who is authorized to carry concealed weapons or dangerous ordnance or is authorized to carry handguns, and who is subject to and in compliance with the requirements of Ohio R.C. 109.801 unless the appointing authority of the person has expressly specified that the exemption provided in subsection (c)(1)B. hereof does not apply to the person.
  - C. A person's transportation or storage of a firearm, other than a firearm described in divisions (G) to (M) of Ohio R.C. 2923.11 in a motor vehicle for any lawful purpose if the firearm is not on the actor's person;
  - D. A person's storage or possession of a firearm, other than a firearm described in divisions (G) to (M) of Ohio R.C. 2923.11 in the actor's own home for any lawful purpose.
- (2) Subsection (a)(2) of this section does not apply to any person who, at the time of the alleged carrying or possession of a handgun, either is carrying a valid concealed handgun license or is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in division (G)(1) of Ohio R.C. 2923.125, unless the person knowingly is in a place described in division (B) of Ohio R.C. 2923.126.
- (d) It is an affirmative defense to a charge under subsection (a)(1) of this section of carrying or having control of a weapon other than a handgun and other than a dangerous ordnance, that the actor was not otherwise prohibited by law from having the weapon, and that any of the following applies:
- (1) The weapon was carried or kept ready at hand by the actor for defensive purposes, while the actor was engaged in or was going to or from the actor's lawful business or occupation,



which business or occupation was of a character or was necessarily carried on in a manner or at a time or place as to render the actor particularly susceptible to criminal attack, such as would justify a prudent person in going armed.

- (2) The weapon was carried or kept ready at hand by the actor for defensive purposes, while the actor was engaged in a lawful activity and had reasonable cause to fear a criminal attack upon the actor, a member of the actor's family, or the actor's home, such as would justify a prudent person in going armed.
  - (3) The weapon was carried or kept ready at hand by the actor for any lawful purpose and while in the actor's own home.
- (e) No person who is charged with a violation of this section shall be required to obtain a concealed handgun license as a condition for the dismissal of the charge.
- (f) (1) Whoever violates this section is guilty of carrying concealed weapons. Except as otherwise provided in this subsection or subsections (f)(2), (5) and (6) of this section, carrying concealed weapons in violation of subsection (a) of this section is a misdemeanor of the first degree. Except as otherwise provided in this subsection or subsections (f)(2), (5) and (6) of this section, if the offender previously has been convicted of a violation of this section 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, carrying concealed weapons in violation of subsection (a) of this section is a felony and shall be prosecuted under appropriate state law. Except as otherwise provided in subsections (f)(2), (5) and (6) of this section, if the weapon involved is a firearm and the violation of this section is committed at premises for which a D permit has been issued under Chapter 4303, of the Revised Code or if the offense is committed aboard an aircraft, or with purpose to carry a concealed weapon aboard an aircraft, regardless of the weapon involved, carrying concealed weapons in violation of subsection (a) of this section is a felony and shall be prosecuted under appropriate state law.
- (2) Except as provided in subsection (f)(5) of this section, if a person being arrested for a violation of subsection (a)(2) of this section promptly produces a valid concealed handgun license, and if at the time of the violation the person was not knowingly in a place described in division (B) of Ohio R.C. 2923.126, the officer shall not arrest the person for a violation of that subsection. If the person is not able to promptly produce any concealed handgun license and if the person is not in a place described in that section, the officer may arrest the person for a violation of that subsection, and the offender shall be punished as follows:
- A. The offender shall be guilty of a minor misdemeanor if both of the following apply:
    - 1. Within ten days after the arrest, the offender presents a concealed handgun license, which license was valid at the time of the arrest to the law enforcement agency that employs the arresting officer.
    - 2. At the time of the arrest, the offender was not knowingly in a place described in division (B) of Ohio R.C. 2923.126.
  - B. The offender shall be guilty of a misdemeanor and shall be fined \$500.00 if all of the following apply:

1. The offender previously had been issued a concealed handgun license and that license expired within the two years immediately preceding the arrest.
2. Within 45 days after the arrest, the offender presents any type of concealed handgun license to the law enforcement agency that employed the arresting officer, and the offender waives in writing the offender's right to a speedy trial on the charge of the violation that is provided in Ohio R.C. 2945.71.
3. At the time of the commission of the offense, the offender was not knowingly in a place described in division (B) of Ohio R.C. 2923.126.

C. If subsections (f)(2) A. and B. and (f)(5) of this section do not apply, the offender shall be punished under subsection (f)(1) or (6) of this section.

- (3) Except as otherwise provided in this subsection, carrying concealed weapons in violation of subsection (b)(1) hereof is a misdemeanor of the first degree, and, in addition to any other penalty or sanction imposed for a violation of subsection (b)(1) hereof, the offender's concealed handgun license shall be suspended pursuant to Ohio R.C. 2923.128(A)(2).

If, at the time of the stop of the offender for a law enforcement purpose that was the basis of the violation, any law enforcement officer involved with the stop had actual knowledge that the offender has been issued a concealed handgun license, carrying concealed weapons in violation of division (b)(1) of this section is a minor misdemeanor, and the offender's concealed handgun license shall not be suspended pursuant to division (A)(2) of Ohio R.C. 2923.128.

- (4) Except as otherwise provided herein, carrying concealed weapons in violation of subsection (b)(2) or (b)(3) hereof is a misdemeanor of the first degree. If the offender has previously been convicted or pleaded guilty to a violation of Ohio R.C. 2923.12(B)(2) or (B)(4) or a substantially equivalent municipal ordinance, carrying concealed weapons is a felony and shall be prosecuted under appropriate state law. In addition to any other penalty or sanction imposed for a violation of subsection (b)(2) or (b)(3) hereof, the offender's concealed handgun license shall be suspended pursuant to Ohio R.C. 2923.128(A)(2).
- (5) If a person being arrested for a violation of subsection (a)(2) of this section is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in division (G)(1) of Ohio R.C. 2923.125, and if at the time of the violation the person was not knowingly in a place described in division (B) of Ohio R.C. 2923.126, the officer shall not arrest the person for a violation of that division. If the person is not able to promptly produce a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in division (G)(1) of Ohio R.C. 2923.125 and if the person is not in a place described in division (B) of Ohio R.C. 2923.126, the officer shall issue a citation and the offender shall be assessed a civil penalty of not more than \$500.00. The citation shall be automatically dismissed, and the civil penalty shall not be assessed if both of the following apply:

- A. Within ten days after the issuance of the citation, the offender presents a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in division (G)(1) of Ohio R.C. 2923.125, which were both valid at the time of the issuance of the citation to the law enforcement agency that employs the citing officer.
  - B. At the time of the citation, the offender was not knowingly in a place described in division (B) of Ohio R.C. 2923.126.
- (6) If a person being arrested for a violation of subsection (a)(2) of this section is knowingly in a place described in division (B)(5) of Ohio R.C. 2923.126, and is not authorized to carry a handgun or have a handgun concealed on the person's person or concealed ready at hand under that division, the penalty shall be as follows:
- A. Except as otherwise provided in this subsection, if the person produces a valid concealed handgun license within ten days after the arrest and has not previously been convicted or pleaded guilty to a violation of subsection (a)(2) of this section, the person is guilty of a minor misdemeanor;
  - B. Except as otherwise provided in this subsection, if the person has previously been convicted of or pleaded guilty to a violation of subsection (a)(2) of this section, the person is guilty of a misdemeanor of the fourth degree;
  - C. Except as otherwise provided in this subsection, if the person has previously been convicted of or pleaded guilty to two violations of subsection (a)(2) of this section, the person is guilty of a misdemeanor of the third degree;
  - D. Except as otherwise provided in this subsection, if the person has previously been convicted of or pleaded guilty to three or more violations of subsection (a)(2) of this section, or convicted of or pleaded guilty to 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 a dangerous ordnance, the person is guilty of a misdemeanor of the second degree.
- (g) If a law enforcement officer stops a person to question the person regarding a possible violation of this section, for a traffic stop, or for any other law enforcement purpose, if the person surrenders a firearm to the officer, either voluntarily or pursuant to a request or demand of the officer, and if the officer does not charge the person with a violation of this section or arrest the person for any offense, the person is not otherwise prohibited by law from possessing the firearm, and the firearm is not contraband, the officer shall return the firearm to the person at the termination of the stop. If a court orders a law enforcement officer to return a firearm to a person pursuant to the requirement set forth in this subsection, division (B) of Ohio R.C. 2923.163 applies.
- (h) For purposes of this section, “deadly weapon” or “weapon” does not include any knife, razor, or cutting instrument if the instrument was not used as a weapon.

State law reference, similar provisions—Ohio R.C. 2923.12.

**549.04 Improperly handling firearms in a motor vehicle.**

- (a) No person shall knowingly transport or have a firearm in a motor vehicle, unless the person may lawfully possess that firearm under applicable law of this state or the United States, the firearm is unloaded, and the firearm is carried in one of the following ways:
  - (1) In a closed package, box or case;
  - (2) In a compartment which can be reached only by leaving the vehicle;
  - (3) In plain sight and secured in a rack or holder made for the purpose;
  - (4) If the firearm is at least 24 inches in overall length as measured from the muzzle to the part of the stock furthest from the muzzle and if the barrel is at least 18 inches in length, either in plain sight with the action open or the weapon stripped, or, if the firearm is of a type on which the action will not stay open or which cannot easily be stripped, in plain sight.
- (b) No person who has been issued a concealed handgun license, or who is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in division (G)(1) of Ohio R.C. 2923.125, who is the driver or an occupant of a motor vehicle that is stopped as a result of a traffic stop or a stop for another law enforcement purpose or is the driver or an occupant of a commercial motor vehicle that is stopped by an employee of the motor carrier enforcement unit for the purposes defined in Ohio R.C. 5503.34, and who is transporting or has a loaded handgun in the motor vehicle or commercial motor vehicle in any manner, shall do any of the following:
  - (1) Fail to promptly inform any law enforcement officer who approaches the vehicle while stopped that the person has been issued a concealed handgun license or is authorized to carry a concealed handgun as an active-duty member of the armed forces of the United States and that the person then possesses or has a loaded handgun in the motor vehicle;
  - (2) Fail to promptly inform the employee of the unit who approaches the vehicle while stopped that the person has been issued a concealed handgun license or is authorized to carry a concealed handgun as an active-duty member of the armed forces of the United States and that the person then possesses or has a loaded handgun in the commercial motor vehicle.
  - (3) Knowingly fail to remain in the motor vehicle while stopped, or knowingly fail to keep the person's hands in plain sight at any time after any law enforcement officer begins approaching the person while stopped and before the law enforcement officer leaves, unless the failure is pursuant to and in accordance with directions given by a law enforcement officer.
  - (4) Knowingly disregard or fail to comply with any lawful order of any law enforcement officer given while the motor vehicle is stopped, including, but not limited to, a specific order to the person to keep the person's hands in plain sight.
- (c) (1) This section does not apply to any of the following:
  - A. An officer, agent or employee of this or any other state or the United States, or a law enforcement officer, when authorized to carry or have loaded or accessible firearms

in motor vehicles and acting within the scope of the officer's, agent's or employee's duties;

- B. Any person who is employed in this state, who is authorized to carry or have loaded or accessible firearms in motor vehicles, and who is subject to and in compliance with the requirements of Ohio R.C. 109.801, unless the appointing authority of the person has expressly specified that the exemption provided in subsection (c)(1)B. does not apply to the person.
- (2) Subsection (a) of this section does not apply to a person who transports or possesses a handgun in a motor vehicle if, at the time of that transportation or possession, both of the following apply:
- A. The person transporting or possessing the handgun is either carrying a valid concealed handgun license or is an active-duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in division (G)(1) of Ohio R.C. 2923.125.
  - B. The person transporting or possessing the handgun is not knowingly in a place described in division (B) of Ohio R.C. 2923.126.
- (3) Subsection (a) of this section does not apply to a person if all of the following apply:
- A. The person possesses a valid all-purpose vehicle permit issued under Ohio R.C. 1533.103 by the Chief of the Division of Wildlife.
  - B. The person is on or in an all-purpose vehicle as defined in Ohio R.C. 1531.01 on private or publicly owned lands or on or in a motor vehicle during the open hunting season for a wild quadruped or game bird.
  - C. The person is on or in an all-purpose vehicle as defined in Ohio R.C. 1531.01 on private or publicly owned lands or on or in a motor vehicle that is parked on a road that is owned or administered by the Division of Wildlife.
- (d) (1) The affirmative defenses authorized in Section 549.02(d)(1) and (2) are affirmative defenses to a charge under subsection (a) that involves a firearm other than a handgun.
- (2) It is an affirmative defense to a charge under subsection (a) of improperly handling firearms in a motor vehicle that the actor transported or had the firearm in the motor vehicle for any lawful purpose and while the motor vehicle was on the actor's own property, provided that the affirmative defense is not available unless the person, immediately prior to arriving at the actor's own property, did not transport or possess the firearm in a motor vehicle in a manner prohibited by subsection (a) while the motor vehicle was being operated on a street, highway, or other public or private property used by the public for vehicular traffic.
- (e) (1) No person who is charged with a violation of subsection (a) shall be required to obtain a concealed handgun license as a condition for the dismissal of the charge.
- (2) If a person is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of subsection (b) of this section as it existed prior to September 30, 2011, and if the conduct that was the basis of the violation no longer would be a violation of subsection

(b) of this section on or after September 30, 2011, the person may file an application under Ohio R.C. 2953.37 requesting the expungement of the record of conviction.

If a person is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of subsection (a) of this section as the subsection existed prior to September 30, 2011, and if the conduct that was the basis of the violation no longer would be a violation of subsection (a) of this section on or after September 30, 2011, due to the application of subsection (b)(4) of this section as it exists on and after September 30, 2011, the person may file an application under Ohio R.C. 2953.37 requesting the expungement of the record of conviction.

- (f) Whoever violates this section is guilty of improperly handling firearms in a motor vehicle. Violation of subsection (a) of this section is a misdemeanor of the fourth degree. Except as otherwise provided in this subsection, a violation of subsection (b)(1) or (b)(2) of this section is a misdemeanor of the first degree, and, in addition to any other penalty or sanction imposed for the violation, the offender's concealed handgun license shall be suspended pursuant to Ohio R.C. 2923.128(A)(2). If at the time of the stop of the offender for a traffic stop, for another law enforcement purpose, or for a purpose defined in Ohio R.C. 5503.34 that was the basis of the violation any law enforcement officer involved with the stop or the employee of the motor carrier enforcement unit who made the stop had actual knowledge of the offender's status as a licensee, a violation of subsection (b)(1) or (b)(2) of this section is a minor misdemeanor, and the offender's concealed handgun license shall not be suspended pursuant to division (A)(2) of Ohio R.C. 2923.128. A violation of subsection (b)(3) or (4) of this section is a misdemeanor of the first degree or, if the offender previously has been convicted of or pleaded guilty to a violation of subsection (b)(3) or (4) of this section, a felony and shall be prosecuted under appropriate state law. In addition to any other penalty or sanction imposed for a misdemeanor violation of subsection (b)(3) or (4) of this section, the offender's concealed handgun license shall be suspended pursuant to Ohio R.C. 2923.128(A)(2).
- (g) If a law enforcement officer stops a motor vehicle for a traffic stop or any other purpose, if any person in the motor vehicle surrenders a firearm to the officer, either voluntarily or pursuant to a request or demand of the officer, and if the officer does not charge the person with a violation of this section or arrest the person for any offense, the person is not otherwise prohibited by law from possessing the firearm, and the firearm is not contraband, the officer shall return the firearm to the person at the termination of the stop. If a court orders a law enforcement officer to return a firearm to a person pursuant to the requirement set forth in this subsection, division (B) of Ohio R.C. 2923.163 applies.
- (h) As used in this section:
- (1) *Motor vehicle, street* and *highway* have the same meanings as in Ohio R.C. 4511.01.
  - (2) A. *Unloaded* means:
    1. With respect to a firearm other than a firearm described in subsection (h)(2) B. of this section, that no ammunition is in the firearm in question, no magazine or speed loader containing ammunition is inserted into the firearm in question and one of the following applies:
      - a. There is no ammunition in a magazine or speed loader that is in the vehicle in question and that may be used with the firearm in question.

- b. Any magazine or speed loader that contains ammunition and that may be used with the firearm in question is stored in a compartment within the vehicle in question that cannot be accessed without leaving the vehicle or is stored in a container that provides complete and separate enclosure.
  - 2. For the purposes of subsection (h)(2) A.1.b. of this section, a "container that provides complete and separate enclosure" includes, but is not limited to, any of the following:
    - a. A package, box or case with multiple compartments, as long as the loaded magazine or speed loader and the firearm in question either are in separate compartments within the package, box, or case, or, if they are in the same compartment, the magazine or speed loader is contained within a separate enclosure in that compartment that does not contain the firearm and that closes using a snap, button, buckle, zipper, hook and loop closing mechanism, or other fastener that must be opened to access the contents or the firearm is contained within a separate enclosure of that nature in that compartment that does not contain the magazine or speed loader;
    - b. A pocket or other enclosure on the person of the person in question that closes using a snap, button, buckle, zipper, hook and loop closing mechanism, or other fastener that must be opened to access the contents.
  - 3. For the purposes of subsection (h)(2) A. of this section, ammunition held in stripper-clips or in en-bloc clips is not considered ammunition that is loaded into a magazine or speed loader.
- B. *Unloaded* means, with respect to a firearm employing a percussion cap, flintlock, or other obsolete ignition system, when the weapon is uncapped or when the priming charge is removed from the pan.
- (3) *Commercial motor vehicle* has the same meaning as in Ohio R.C. 4506.25(A).
- (4) *Motor carrier enforcement unit* means the motor carrier enforcement unit in the Department of Public Safety, Division of state Highway Patrol, that is created by Ohio R.C. 5503.34.
- (i) Subsection (h)(2) of this section does not affect the authority of a person who is carrying a valid concealed handgun license to have one or more magazines or speed loaders containing ammunition anywhere in a vehicle, without being transported as described in that subsection, as long as no ammunition is in a firearm, other than a handgun, in the vehicle other than as permitted under any other provision of this chapter or Ohio R.C. Ch. 2923. A person who is carrying a valid concealed handgun license may have one or more magazines or speed loaders containing ammunition anywhere in a vehicle without further restriction, as long as no ammunition is in a firearm, other than a handgun, in the vehicle other than as permitted under any provision of this chapter or Ohio R.C. Ch. 2923.

State law reference, similar provisions—Ohio R.C. 2923.16.

**549.06 Unlawful transactions in weapons.**

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

(1) When transferring any dangerous ordnance to another, negligently fail to require the transferee to exhibit such identification, license or permit showing the transferee to be authorized to acquire dangerous ordnance pursuant to Ohio R.C. 2923.17, or negligently fail to take a complete record of the transaction and forthwith forward a copy of such record to the Sheriff of the county or Safety Director or Police Chief of the Municipality where the transaction takes place;

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

(b) Whoever violates this section is guilty of unlawful transactions in weapons. Violation of subsections (a)(1) hereof is a misdemeanor of the second degree. Violation of subsection (a) (2) hereof is a misdemeanor of the fourth degree.

State law reference, similar provisions—Ohio R.C. 2923.20.

**553.04 Railroad vandalism; criminal trespass on locomotive, engine, railroad car, or other railroad vehicle; interference with operation of train.**

(a) No person shall knowingly, and by any means, drop or throw any object at, onto, or in the path of, any railroad rail, railroad track, locomotive, engine, railroad car, or other vehicle of a railroad company while such vehicle is on a railroad track.

(b) No person, without privilege to do so, shall climb upon or into any locomotive, engine, railroad car, or other vehicle of a railroad company when it is on a railroad track.

(c) No person, without privilege to do so, shall disrupt, delay, or prevent the operation of any train or other vehicle of a railroad company while such vehicle is on a railroad track.

(d) Whoever violates subsection (a) of this section is guilty of railroad vandalism. Whoever violates subsection (b) of this section is guilty of criminal trespass on a locomotive, engine, railroad car or other railroad vehicle. Whoever violates subsection (c) of this section is guilty of interference with the operation of a train.

Except as otherwise provided in this subsection, railroad vandalism; criminal trespass on a locomotive, engine, railroad car, or other railroad vehicle; and interference with the operation of a train each is a misdemeanor of the first degree. Except as otherwise provided in this subsection, If the violation of subsection (a), (b) or (c) of this section causes serious physical harm to property, creates a substantial risk of physical harm to any person, the violation is a felony of the fourth degree and shall be prosecuted under appropriate state law. Except as otherwise provided in this section, if the violation of subsection (a), (b), or (c) of this section causes physical harm to any person, or serious physical harm to any person, the violation is a felony of the third degree and shall be prosecuted under appropriate state law. If the violation of subsection (a), (b), or (c) of this section causes serious physical harm to any person, the violation is a felony of the second degree and shall be prosecuted under appropriate state law.



State law reference, similar provisions—Ohio R.C. 2909.10.

**553.04 Railroad vandalism; criminal trespass on locomotive, engine, railroad car, or other railroad vehicle; interference with operation of train.**

- (a) No person shall knowingly, and by any means, drop or throw any object at, onto, or in the path of, any railroad rail, railroad track, locomotive, engine, railroad car, or other vehicle of a railroad company while such vehicle is on a railroad track.
- (b) No person, without privilege to do so, shall climb upon or into any locomotive, engine, railroad car, or other vehicle of a railroad company when it is on a railroad track.
- (c) No person, without privilege to do so, shall disrupt, delay, or prevent the operation of any train or other vehicle of a railroad company while such vehicle is on a railroad track.
- (d) Whoever violates subsection (a) of this section is guilty of railroad vandalism. Whoever violates subsection (b) of this section is guilty of criminal trespass on a locomotive, engine, railroad car or other railroad vehicle. Whoever violates subsection (c) of this section is guilty of interference with the operation of a train.

Except as otherwise provided in this subsection, railroad vandalism; criminal trespass on a locomotive, engine, railroad car, or other railroad vehicle; and interference with the operation of a train each is a misdemeanor of the first degree. Except as otherwise provided in this subsection, If the violation of subsection (a), (b) or (c) of this section causes serious physical harm to property, creates a substantial risk of physical harm to any person, the violation is a felony of the fourth degree and shall be prosecuted under appropriate state law. Except as otherwise provided in this section, if the violation of subsection (a), (b), or (c) of this section causes physical harm to any person, the violation is a felony of the third degree and shall be prosecuted under appropriate state law. If the violation of subsection (a), (b), or (c) of this section causes serious physical harm to any person, the violation is a felony of the second degree and shall be prosecuted under appropriate state law.

State law reference, similar provisions—Ohio R.C. 2909.10.

**553.05 Grade crossing device vandalism.**

- (a) No person shall knowingly deface, damage, obstruct, remove or otherwise impair the operation of any railroad grade crossing warning signal or other protective device, including any gate, bell, light, crossbuck, stop sign, yield sign, advance warning sign, or advance pavement marking.
- (b) Whoever violates this section is guilty of railroad grade crossing device vandalism. Except as otherwise provided in this subsection, railroad grade crossing device vandalism is a misdemeanor of the first degree. Except as otherwise provided in this subsection, if the violation of this section causes serious physical harm to property, creates a substantial risk of physical harm to any person, railroad grade crossing device vandalism is a felony of the fourth degree and shall be prosecuted under appropriate state law. Except as otherwise provided in this subsection, if the violation of this section causes physical harm to any person, railroad grade crossing device vandalism is a felony of the third degree and shall be prosecuted under

appropriate state law. If the violation of this section causes serious physical harm to any person, railroad grade crossing device vandalism is a felony of the second degree and shall be prosecuted under appropriate state law.

State law reference, similar provisions—Ohio R.C. 2909.101.

**SECTION 7.** Unless another penalty is expressly provided, every person convicted of a violation of any provision of the Codified Ordinances of Oakwood 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 legislative authority of the Village of Oakwood, 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 hereby expressly repealed.

**SECTION 10.** This ordinance shall become effective in full force and effect upon its adoption by this Council and approval by the Mayor, otherwise from and after the earliest period allowed by law.

PASSED: \_\_\_\_\_

\_\_\_\_\_  
Johnnie A Warren, President of Council

\_\_\_\_\_  
Christine Morgan, Clerk of Council

Present to the

Mayor \_\_\_\_\_

Approved \_\_\_\_\_

\_\_\_\_\_  
Mayor, Gary V. Gottschalk

I, Christine Morgan, Clerk of Council of the Village of Oakwood, County of Cuyahoga and State of Ohio, do hereby certify that the foregoing Ordinance No. 2022-3 was duly and regularly passed by the Council at the meeting held on the \_\_\_\_\_ day of \_\_\_\_\_, 2022.

#### **POSTING CERTIFICATE**

I, Christine Morgan, Clerk of Council of the Village of Oakwood, County of Cuyahoga and State of Ohio, do hereby certify that the foregoing Ordinance No. 2022-3 was duly posted on the \_\_\_\_\_ day of \_\_\_\_\_, 2022 and will remain posted for a period of fifteen (15) days thereafter as provided in the Village Charter.

\_\_\_\_\_  
Christine Morgan, Clerk of Council

Dated: \_\_\_\_\_

**ORDINANCE NO. 2022-4**

INTRODUCED BY MAYOR AND COUNCIL AS A WHOLE

**AN ORDINANCE TO AMEND THE CODIFIED ORDINANCES OF OAKWOOD VILLAGE, OHIO, 1996, TO PROVIDE AMENDMENTS TO THE CODIFIED ORDINANCES OF OAKWOOD, TRAFFIC CODE, PART THREE, SECTIONS 301.180, 301.51, 331.211, 331.37, 331.44, 333.03, 335.02, 335.021, 335.04, 335.09, 341.03, 373.13, 373.14; PROVIDING FOR PENALTIES; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; REPEALING CONFLICTING ORDINANCES; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**WHEREAS** the duly elected governing authority of the Village of Oakwood, Ohio is authorized by ORC § 715.03 to adopt ordinances to exercise the powers granted in Ohio R.C. 715.01 to 715.67 regarding village property, affairs and government; and

**WHEREAS** the duly elected legislative authority of the Village of Oakwood, Ohio desires to amend the Codified Ordinances of Oakwood, Traffic Code, Part Three to conform to the similar provisions in Ohio R.C. Title XLV.

**NOW THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF OAKWOOD, STATE OF OHIO:**

**SECTION 1.** That the Codified Ordinances of Oakwood, Ohio, 1996, is hereby amended by adding the provisions as provided under Section 6 of this ordinance.

**SECTION 2.** The addition, amendment, or removal of the Codified Ordinances of Oakwood, Ohio sections when passed in such form as to indicate the intention of the governing authority of the Village of Oakwood, Ohio to make the same a part of the Codified Ordinances of Oakwood shall be deemed to be incorporated in the Codified Ordinances, so that reference to the Codified Ordinances of Oakwood includes the additions, amendments and removals.

**SECTION 3.** The codifier (meaning the person, agency or organization authorized to prepare the supplement to the Codified Ordinances of Oakwood is authorized to exclude and omit any provisions of this ordinance that are inapplicable to the Codified Ordinances of Oakwood.

**SECTION 4.** Supplementation of Code.

(a) In preparing a supplement to Codified Ordinances of Oakwood, all portions of this ordinance which have been repealed shall be excluded from the Codified Ordinances of Oakwood by the omission thereof from the reproduced pages.

(b) When preparing a supplement to the Codified Ordinances of Oakwood, 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 Codified Ordinances of Oakwood 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 Codified Ordinances of Oakwood 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 Codified Ordinances of Oakwood which embody the substantive sections of the ordinance incorporated into the Code); and
  - (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Codified Ordinances of Oakwood; 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 Codified Ordinances of Oakwood.
- (c) In preparing a supplement to the Codified Ordinances of Oakwood, the pages of a supplement shall be so numbered that they will fit properly into the Codified Ordinances of Oakwood 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 Codified Ordinances of Oakwood 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 Codified Ordinances of Oakwood, Ohio, 1996, are new or have been amended with new matter in the Codified Ordinances of Oakwood, and are hereby approved, adopted and enacted:

### **301.180 Low-speed micromobility device.**

Low speed micromobility device means a device weighing less than one hundred pounds that has handlebars, is propelled by an electric motor or human power, and has an attainable speed on a paved level surface of not more than twenty miles per hour when propelled by the electric motor.

State law reference, similar provisions—Ohio R.C. 4511.01 (WWW).

### **301.51 Vehicle.**

*Vehicle* means every device, including a motorized bicycle and an electric bicycle, in, upon or by which any person or property may be transported or drawn upon a street or highway, except that "vehicle" does not include any motorized wheelchair, any electric personal assistive mobility device, any low speed micromobility device, or any device, other than a bicycle, that is moved by human power.

State law reference, similar provisions—Ohio R.C. 4511.01(A).

### **331.211 Report of vehicle failing to yield right-of-way to public safety vehicle.**

- (a) When the failure of a motor vehicle operator to yield the right-of-way to a public safety vehicle as required by Section 331.21 (a) impedes the ability of the public safety vehicle to respond to an emergency, any emergency personnel in the public safety vehicle may report the license plate number and a general description of the vehicle and the operator of the vehicle to the law enforcement agency exercising jurisdiction over the area where the alleged violation occurred.
- (b) (1) Upon receipt of a report under subsection (a) of this section, the law enforcement agency may conduct an investigation to attempt to determine or confirm the identity of the operator of the vehicle at the time of the alleged violation.
- (2) If the identity of the operator at the time of an alleged violation of Section 331.21(a) is established, the law enforcement agency has probable cause to issue either a written warning or a citation for that violation, and the agency shall issue a written warning or a citation to the operator.
- (3) If the identity of the operator of the vehicle at the time of the alleged violation cannot be established, the law enforcement agency may issue a warning to the person who owned the vehicle at the time of the alleged violation. However, in the case of a leased or rented vehicle, the law enforcement agency shall issue the written warning to the person who leased or rented the vehicle at the time of the alleged violation.
- (c) (1) Whoever violates Section 331.21(a) based on a report filed under subsection (a) of this section is guilty of a minor misdemeanor and shall be fined \$150.00.
- (2) If a person who is issued a citation for a violation of Section 331.21(a) based on a report filed under subsection (a) of this section does not enter a written plea of guilty and does not waive the person's right to contest the citation but instead appears in person in the proper court to answer the charge, the trier of fact cannot find beyond a reasonable doubt that the person committed that violation unless the emergency personnel who filed the report appears in person in the court and testifies.
- (d) As used in this section:

- (1) "License plate" includes any temporary motor vehicle license registration issued under Ohio R.C. 4503.182 or similar law of another jurisdiction.
- (2) "Public safety vehicle" does not include an unmarked public safety vehicle or a vehicle used by a public law enforcement officer or other person sworn to enforce the criminal and traffic laws of the state or a vehicle used by the Motor Carrier Enforcement Unit for the enforcement of orders and rules of the Public Utilities Commission.

State law reference, similar provisions—Ohio R.C. 4511.454.

### **331.37 Driving upon sidewalks, street lawns or curbs.**

- (a) No person shall drive any vehicle, other than a bicycle or an electric bicycle if the motor is not engaged, upon a sidewalk or sidewalk area except upon a permanent or duly authorized temporary driveway. (ORC 4511.711)
- (b) No person shall drive a vehicle on a street lawn area or the curb of a street, except upon a permanent or duly authorized temporary driveway or when otherwise lawfully authorized.
- (c) This prohibition does not apply to a law enforcement officer, or other person sworn to enforce the criminal and traffic laws of the state, using an electric bicycle with the motor engaged while in the performance of the officer's duties.
- (d) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

State law reference, similar provisions—Ohio R.C. 4511.711.

### **331.44 Wearing earplugs or earphones prohibited.**

- (a) As used in this section:

- (1) Earphones means any device that covers all or a portion of both ears and that does either of the following:

- a. Through either a physical connection to another device or a wireless connection, provides the listener with radio programs, music or other information
    - b. Provides hearing protection.

Earphones does not include speakers or other listening devices that are built into protective headgear.

- (2) Earplugs means any device that can be inserted into one or both ears and that does either of the following:
- a. Through either a physical connection to another device or a wireless connection, provides the listener with radio programs, music, or other information;
  - b. Provides hearing protection.
- (b) No person shall operate a motor vehicle while wearing earphones over, or earplugs in, both ears.
- (c) This section does not apply to:
- (1) Any person wearing a hearing aid;
  - (2) Law enforcement personnel while on duty;
  - (3) Fire department personnel and emergency medical service personnel while on duty;
  - (4) Any person engaged in the operation of equipment for use in the maintenance or repair of any street or highway;
  - (5) Any person engaged in the operation of refuse collection equipment; or
  - (6) Any person wearing earphones or earplugs for hearing protection while operating a motorcycle.
- (d) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

State law reference, similar provisions—Ohio R.C. 4511.84.

### **333.03 Maximum speed limits; assured clear distance ahead.**

- (a) No person shall operate a motor vehicle at a speed greater or less than is reasonable or proper, having due regard to the traffic, surface and width of the street or highway and any other conditions, and no person shall drive any motor vehicle in and upon any street or highway at a greater speed than will permit the person to bring it to a stop within the assured clear distance ahead.
- (b) It is prima-facie lawful, in the absence of a lower limit declared or established pursuant to Ohio R.C. 4511.21 by the Ohio Director of Transportation or Council, for the operator of a motor vehicle to operate the same at a speed not exceeding the following:
- (1) A. Twenty miles per hour in school zones during school recess and while children are going to or leaving school during the opening or closing hours, and when 20 miles per hour school speed limit signs are erected; except, that on controlled-access



highways and expressways, if the right-of-way line fence has been erected without pedestrian opening, the speed shall be governed by subsection (b)(4) hereof and on freeways, if the right-of-way line fence has been erected without pedestrian opening, the speed shall be governed by subsection (b)(7) hereof. The end of every school zone may be marked by a sign indicating the end of the zone. Nothing in this section or in the manual and specifications for a uniform system of traffic control devices shall be construed to require school zones to be indicated by signs equipped with flashing or other lights or giving other special notice of the hours in which, the school zone speed limit is in effect.

B. As used in this section, "school" means all of the following:

1. Any school chartered under Ohio R.C. 3301.16.
2. Any nonchartered school that during the preceding year filed with the Department of Education in compliance with rule 3301-35-08 of the Ohio Administrative Code, a copy of the school's report for the parents of the school's pupils certifying that the school meets Ohio minimum standards for nonchartered, nontax-supported schools and presents evidence of this filing to the jurisdiction from which it is requesting the establishment of a school zone.

C. As used in this section, "school zone" means that portion of a street or highway passing a school fronting upon the street or highway that is encompassed by projecting the school property lines to the fronting street or highway. Upon request from the Municipality for streets and highways under its jurisdiction, the Ohio Director of Transportation may extend the traditional school zone boundaries. The distances in subsections (b)(1) C.1. to 3. hereof shall not exceed 300 feet per approach per direction and are bounded by whichever of the following distances or combinations thereof the Director approves as most appropriate:

1. The distance encompassed by projecting the school building lines normal to the fronting highway and extending a distance of 300 feet on each approach direction;
2. The distance encompassed by projecting the school property lines intersecting the fronting highway and extending a distance of 300 feet on each approach direction;
3. The distance encompassed by the special marking of the pavement for a principal school pupil crosswalk plus a distance of 300 feet on each approach direction of highway;

Nothing in this section shall be construed to invalidate the Director's initial action on August 9, 1976, establishing all school zones at the traditional school zone boundaries defined by projecting school property lines, except when those boundaries are extended as provided in subsections (b)(1)A. and C. hereof.

D. As used in this subsection, "crosswalk" has the meaning given that term in Section 301.09. The Director may, upon request by resolution of Council, and upon

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

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

- (1) At a speed exceeding 55 miles per hour, except upon a highway, expressway or freeway as provided in subsection (b)(8), (9), (10) and (12) hereof;
  - (2) At a speed exceeding 60 miles per hour upon a highway as provided in subsection (b)(8) hereof;
  - (3) At a speed exceeding 65 miles per hour upon an expressway as provided in subsection (b)(9) hereof, or upon a freeway as provided in subsection (b)(12) of this section, except upon a freeway as provided in subsection (b)(10) hereof;
  - (4) At a speed exceeding 70 miles per hour upon a freeway as provided in subsection (b)(10) hereof;
  - (5) At a speed exceeding the posted speed limit upon a highway, expressway or freeway for which the Director has determined and declared a speed limit pursuant to Ohio R.C. 4511.21(I)(2) or (L)(2).
- (e) In every charge of violation of this section the affidavit and warrant shall specify the time, place and speed at which the defendant is alleged to have driven, and in charges made in reliance upon subsection (c) hereof also the speed which subsections (b)(1)A. to (b)(6) hereof, or a limit declared or established pursuant to this section declares is prima-facie lawful at the time and place of such alleged violation, except that in affidavits where a person is alleged to have driven at a greater speed than will permit the person to bring the vehicle to a stop within the assured clear distance ahead the affidavit and warrant need not specify the speed at which the defendant is alleged to have driven.
- (f) When a speed in excess of both a prima-facie limitation and a limitation in subsection (d) hereof is alleged, the defendant shall be charged in a single affidavit, alleging a single act, with a violation indicated of both subsections (b)(1)A. to (b)(6) hereof, or of a limit declared or established pursuant to this section by the Director or local authorities, and of the limitation in subsection (d) hereof. If the court finds a violation of subsection (b)(1)A. to (b)(6) hereof, or a limit declared or established pursuant to this section has occurred, it shall enter a judgment of conviction under such subsection and dismiss the charge under subsection (d) hereof. If it finds no violation of subsections (b)(1)A. to (b)(6) hereof or a limit declared or established pursuant to this section, it shall then consider whether the evidence supports a conviction under subsection (d) hereof.
- (g) Points shall be assessed for violation of a limitation under subsection (d) hereof in accordance with Ohio R.C. 4510.036.
- (h) Whenever, in accordance with Ohio R.C. 4511.21 or this section, the speed limitations as established herein have been altered, either higher or lower, and the appropriate signs giving notice have been erected as required, operators of motor vehicles shall be governed by the speed limitations set forth on such signs. It is prima-facie unlawful for any person to exceed the speed limits posted upon such signs.
- (i) As used in this section:
- (1) "Interstate system" has the same meaning as in 23 U.S.C.A. 101.

- (2) "Commercial bus" means a motor vehicle designed for carrying more than nine passengers and used for the transportation of persons for compensation.
  - (3) "Noncommercial bus" includes but is not limited to a school bus, or a motor vehicle operated solely for the transportation of persons associated with a charitable or nonprofit organization.
  - (4) "Outerbelt" means a portion of a freeway that is part of the interstate system and is located in the outer vicinity of a major municipal corporation or group of municipal corporations, as designated by the Director.
  - (5) "Rural" means an area outside urbanized areas and outside of a business or urban district, and areas that extend within urbanized areas where the roadway characteristics remain mostly unchanged from those outside the urbanized areas.
  - (6) "Urbanized area" has the same meaning as in 23 U.S.C. 101.
  - (7) "Divided" means a roadway having two or more travel lanes for vehicles moving in opposite directions and that is separated by a median of more than four feet, excluding turn lanes.
- (j) (1) A violation of any provision of this section is one of the following:
- A. Except as otherwise provided in subsections (j)(1) B., (1)C., (2) and (3) of this section, a minor misdemeanor;
  - B. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to two violations of any provision of this section or of any provision of Ohio R.C. 4511.21 or a municipal ordinance that is substantially similar to any provision of this section, a misdemeanor of the fourth degree;
  - C. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to three or more violations of any provision of this section or of any provision of Ohio R.C. 4511.21 or a municipal ordinance that is substantially similar to any provision of this section, a misdemeanor of the third degree.
- (2) If the offender has not previously been convicted of or pleaded guilty to a violation of any provision of Ohio R.C. 4511.21 or of any provision of a municipal ordinance that is substantially similar to Ohio R.C. 4511.21 and operated a motor vehicle faster than 35 miles an hour in a business district of a municipal corporation, faster than 50 miles an hour in other portions of a municipal corporation, or faster than 35 miles an hour in a school zone during recess or while children are going to or leaving school during the school's opening or closing hours, a misdemeanor of the fourth degree.
- (3) Notwithstanding subsection (j)(1) of this section, if the offender operated a motor vehicle in a construction zone where a sign was then posted in accordance with Ohio R.C. 4511.98, the court, in addition to all other penalties provided by law, shall impose upon the offender a fine of two times the usual amount imposed for the violation. No court shall impose a fine of two times the usual amount imposed for the violation upon an offender if the offender alleges, in an affidavit filed with the court prior to the offender's sentencing, that the offender is indigent and is unable to pay the fine imposed pursuant to

this subsection and if the court determines that the offender is an indigent person and unable to pay the fine.

- (4) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

State law reference, similar provisions—Ohio R.C. 4511.21.

### **335.02 Permitting operation without valid license; one license permitted.**

- (a) No person shall permit the operation of a motor vehicle upon any public or private property used by the public for purposes of vehicular travel or parking knowing the operator does not have a valid driver's license issued to the operator by the Registrar of Motor Vehicles or a deputy registrar under Ohio R.C. Ch. 4507 or a valid commercial driver's license issued under Ohio R.C. Ch. 4506.
- (b) No person shall receive a driver's license, or a motorcycle operator's endorsement of a driver's or commercial driver's license, temporary instruction permit, or identification card unless and until he surrenders to the registrar or a deputy registrar all valid licenses, temporary instruction permits, and identification cards issued to the person by another jurisdiction recognized by the state of Ohio.
- (c) No person shall possess more than one valid license, temporary instruction permit, or identification card at any time. (ORC 4507.02)
- (d) (1) Except as otherwise provided in this subsection, whoever violates subsection (a) hereof is guilty of an unclassified misdemeanor. When the offense is an unclassified misdemeanor, the offender shall be sentenced pursuant to Ohio 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 Ohio R.C. 2929.26; notwithstanding division (A)(2)(a) of Ohio R.C. 2929.28, the offender may be fined up to \$1,000.00 and, notwithstanding division (A)(3) of Ohio R.C. 2929.27, the offender may be ordered pursuant to division (C) of that section 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 division (A) of Ohio R.C. 2705.02 that may be filed in the underlying case. If, within three years of the offense, the offender previously has been convicted of or pleaded guilty to two or more violations of Ohio R.C. 4507.02 or a substantially equivalent municipal ordinance, the offense is a misdemeanor of the first degree.

- (2) Whoever violates subsection (~~b~~ c) hereof is guilty of a misdemeanor of the first degree.

State law reference, similar provisions—Ohio R.C. 4507.02; 4507.99)

**335.021 Ohio driver's license required for in state residents.**

- (a) Any person who becomes a resident of this state, within 30 days of becoming a resident, shall surrender any driver's license, temporary instruction permit, or identification card issued by another state to the Registrar of Motor Vehicles or a Deputy Registrar. If such a person intends to operate a motor vehicle upon the public roads or highways, the person shall apply for a temporary instruction permit or driver's license in this state. If the person fails to apply for a driver's license or temporary instruction permit within 30 days of becoming a resident, the person shall not operate any motor vehicle in this Municipality under a license or temporary instruction permit issued by another state.
- (b) (1) Whoever violates subsection (a) of this section is guilty of a minor misdemeanor.
- (2) The offense established under subsection (b)(1) of this section is a strict liability offense and strict liability is a culpable mental state for purposes of Ohio R.C. 2901.20. 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.
- (c) For purposes of subsection (a) of this section, "resident" means any person to whom any of the following applies:
  - (1) 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.
  - (2) The person is determined by the Registrar of Motor Vehicles to be a resident in accordance with standards adopted by the Registrar under Ohio R.C. 4507.01.

State law reference, similar provisions—Ohio R.C. 4507.213.

**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 permits 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 permits, 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 permits, 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 permits 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 Ohio R.C. 4507.08 or 4507.081 when knowing the same to be false or fictitious.

(b) Whoever violates this section is guilty of a misdemeanor of the first degree.

State law reference, similar provisions—Ohio R.C. 4507.30.

### **335.09 Display of license plates.**

(a) (1) No person who is the owner or operator of a motor vehicle shall fail to display in plain view on the rear of the motor vehicle a license plate that displays the distinctive number and registration mark assigned to the motor vehicle by the Ohio Director of Public Safety, including any County identification sticker and any validation sticker when required by and issued under Ohio 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 person to whom a temporary motor vehicle license registration has been issued for the use of a motor vehicle under Ohio 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.

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

(e) The offenses established under subsection (a) of this section are strict liability offenses and Ohio R.C. 2901.20 does not apply. The designation of these offenses as strict liability offense shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense.

State law reference, similar provisions—Ohio R.C. 4503.21.

### **341.03 Prerequisites to operation of a commercial motor vehicle.**

(a) Except as provided in subsections (b) and (c) of this section, the following shall apply:

- (1) No person shall drive a commercial motor vehicle on a highway in this Municipality unless the person holds, and has in the person's possession, any of the following:
    - A. A valid commercial driver's license with proper endorsements for the motor vehicle being driven, issued by the Registrar of Motor Vehicles, or by another jurisdiction recognized by this state;
    - B. A valid examiner's commercial driving permit issued under Ohio R.C. 4506.13;
    - C. A valid restricted commercial driver's license and waiver for farm-related service industries issued under Ohio R.C. 4506.24;
    - D. A valid commercial driver's license temporary instruction permit issued by the Registrar, provided that the person is accompanied by an authorized state driver's license examiner or tester or a person who has been issued and has in the person's immediate possession a current, valid commercial driver's license and who meets the requirements of Ohio R.C. 4506.06(B).
  - (2) No person who has been a resident of this state for 30 days or longer shall drive a commercial motor vehicle under the authority of a commercial driver's license issued by another jurisdiction.
- (b) Nothing in subsection (a) of this section applies to any qualified person when engaged in the operation of any of the following:
- (1) A farm truck;
  - (2) Fire equipment for a fire department, volunteer or nonvolunteer fire company, fire district, joint fire district or the state fire marshal;
  - (3) A public safety vehicle used to provide transportation or emergency medical service for ill or injured persons;
  - (4) A recreational vehicle;
  - (5) A commercial motor vehicle within the boundaries of an eligible unit of local government, if the person is employed by the eligible unit of local government and is operating the commercial motor vehicle for the purpose of removing snow or ice from a roadway by plowing, sanding, or salting, but only if either the employee who holds a commercial driver's license issued under Ohio R.C. Ch. 4506 and ordinarily operates a commercial motor vehicle for these purposes is unable to operate the vehicle, or the employing eligible unit of local government determines that a snow or ice emergency exists that requires additional assistance;
  - (6) A vehicle operated for military purposes by any member or uniformed employee of the armed forces of the United States or their reserve components, including the Ohio national guard. This exception does not apply to United States reserved technicians.
  - (7) A commercial motor vehicle that is operated for nonbusiness purposes. "Operated for nonbusiness purposes" means that the commercial motor vehicle is not used in commerce as "commerce" is defined in 49 C.F.R. 383.5, as amended, and is not regulated by the Public Utilities Commission pursuant to Ohio R.C. Ch. 4905, 4921, or 4923.



- (8) A motor vehicle that is designed primarily for the transportation of goods and not persons, while that motor vehicle is being used for the occasional transportation of personal property by individuals not for compensation and not in the furtherance of a commercial enterprise.
  - (9) A police SWAT team vehicle.
  - (10) A police vehicle used to transport prisoners.
  - (c) Nothing contained in subsection (b)(5) of this section shall be construed as preempting or superseding any law, rule, or regulation of this state concerning the safe operation of commercial motor vehicles.
  - (d) Whoever violates this section is guilty of a misdemeanor of the first degree.
- State law reference, similar provisions—Ohio R.C. 4506.03.

### **373.13 Electric bicycles.**

- (a) (1) The operation of a class 1 electric bicycle and a class 2 electric bicycle is permitted on a path set aside for the exclusive use of bicycles or on a shared-use path, unless the Municipality by resolution, ordinance, or rule prohibits the use of a class 1 electric bicycle or class 2 electric bicycle on such a path.
- (2) No person shall operate a class 3 electric bicycle on a path set aside for the exclusive use of bicycles or a shared-use path unless that path is within or adjacent to a highway or the Municipality by resolution, ordinance, or rule authorizes the use of a class 3 electric bicycle on such a path.
- (3) No person shall operate a class 1 electric bicycle, a class 2 electric bicycle or a class 3 electric bicycle on a path that is intended to be used primarily for mountain biking, hiking, equestrian use, or other similar uses, or any other single track or natural surface trail that has historically been reserved for nonmotorized use, unless the Municipality by resolution, ordinance or rule authorizes the use of a class 1 electric bicycle, a class 2 electric bicycle, or a class 3 electric bicycle on such a path.
- (4) Subsections (a) (1) through (3) of this section do not apply to a law enforcement officer, or other person sworn to enforce the criminal and traffic laws of the state, using an electric bicycle while in the performance of the officer's duties.
- (b) (1) No person under 16 years of age shall operate a class 3 electric bicycle; however, a person under 16 years of age may ride as a passenger on a class 3 electric bicycle that is designed to accommodate passengers.
- (2) No person shall operate or be a passenger on a class 3 electric bicycle unless the person is wearing a protective helmet that meets the standards established by the Consumer Product Safety Commission or the American Society for Testing and Materials.
- (c) (1) Except as otherwise provided in this subsection, whoever operates an electric bicycle in a manner that is prohibited under subsection (a) of this section and whoever violates subsection (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.

- (2) The offenses established under subsection (c)(1) of this section are strict liability offenses and strict liability is a culpable mental state for purposes of Ohio R.C. 2901.20. The designation of these offenses as strict liability offenses shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense.

State law reference, similar provisions—Ohio R.C. 4511.522.

### **373.14 Low Speed Micromobility Devices.**

(a)(1) A low-speed micromobility device may be operated on the public streets, highways, sidewalks, and shared-use paths, and may be operated on any portions of roadways set aside for the exclusive use of bicycles in accordance with this section.

(2) Except as otherwise provided in this section, those sections of this chapter that by their nature could apply to a low-speed micromobility device do apply to the device and the person operating it whenever it is operated upon any public street, highway, sidewalk, or shared-use path, or upon any portion of a roadway set aside for the exclusive use of bicycles.

(b) No operator of a low speed micromobility device shall do any of the following:

(1) Fail to yield the right-of-way to all pedestrians at all times;

(2) Fail to give an audible signal before overtaking and passing a pedestrian;

(3) Operate the device at night unless the device or its operator is equipped with or wearing both of the following:

(a) A lamp pointing to the front that emits a white light visible from a distance of not less than five hundred feet;

(b) A red reflector facing the rear that is visible from all distances from one hundred feet to six hundred feet when directly in front of lawful lower beams of head lamps on a motor vehicle.

(c)(1) No person who is under sixteen years of age shall rent a low speed micromobility device.

(2) No person shall knowingly rent a low speed micromobility device to a person who is under sixteen years of age.

(3) No person shall knowingly rent a low speed micromobility device on behalf of a person who is under sixteen years of age.

(d) No person shall operate a low speed micromobility device at a speed greater than twenty miles per hour.

(e)(1) Whoever violates this section is guilty of a minor misdemeanor.

(2) Unless a mens rea is otherwise specified in this section, an offense established under this section is a strict liability offense and Ohio R.C. 2901.20 does not apply. The designation of that 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.

(f) Notwithstanding division (a)(1) of this section, the village may do any of the following:

(1) Regulate or prohibit the operation of low-speed micromobility devices on public streets, highways, sidewalks, and shared-use paths, and portions of roadways set aside for the exclusive use of bicycles, under its jurisdiction;

(2) Include low speed micromobility devices that are adapted to expand access for people with various physical limitations into a shared bicycle, shared electric bicycle, or similar vehicle sharing program, under its jurisdiction;

(3) Require the owner or operator of a low-speed micromobility device rental service or low-speed micromobility device sharing program to maintain commercial general liability insurance related to the operation of the devices, with limits of up to one million dollars per occurrence and two million dollars per aggregate.

State law reference, similar provisions--Ohio R.C. 4511.514.

**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 Village of Oakwood, 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.** This ordinance shall become effective in full force and effect upon its adoption by this Council and approval by the Mayor, otherwise from and after the earliest period allowed by law.

PASSED: \_\_\_\_\_

\_\_\_\_\_  
Johnnie A Warren, President of Council

\_\_\_\_\_  
Christine Morgan, Clerk of Council

Present to the

Mayor \_\_\_\_\_

Approved \_\_\_\_\_

\_\_\_\_\_  
Mayor, Gary V. Gottschalk

I, Christine Morgan, Clerk of Council of the Village of Oakwood, County of Cuyahoga and State of Ohio, do hereby certify that the foregoing Ordinance No. 2022-4 was duly and regularly passed by the Council at the meeting held on the \_\_\_\_\_ day of \_\_\_\_\_, 2022.

#### POSTING CERTIFICATE

I, Christine Morgan, Clerk of Council of the Village of Oakwood, County of Cuyahoga and State of Ohio, do hereby certify that the foregoing Ordinance No. 2022-4 was duly posted on the \_\_\_\_\_ day of \_\_\_\_\_, 2022 and will remain posted for a period of fifteen (15) days thereafter as provided in the Village Charter.

\_\_\_\_\_  
Christine Morgan, Clerk of Council

Dated: \_\_\_\_\_

ORDINANCE NO. 2022-8

INTRODUCED BY MAYOR AND COUNCIL AS A WHOLE

**AN EMERGENCY ORDINANCE CONFIRMING THE APPOINTMENT OF THE LAW DIRECTOR AND FIXING THE COMPENSATION OF THE DIRECTOR OF LAW AND ASSISTANTS TO THE DIRECTOR OF LAW**

**WHEREAS**, pursuant to the Village Charter, the Mayor has the authority to appoint the Director of Law for the Village subject to the confirmation of Council; and

**WHEREAS**, Council has determined that the Mayor's appointment should be confirmed as he meets all qualifications as set forth in the Village Charter for such position:

**NOW THEREFORE, BE IT ORDAINED** by the Council of the Village of Oakwood, County of Cuyahoga, and State of Ohio that:

**SECTION 1.** The Mayor's appointment of James A. Climer as the Director of Law for the Village of Oakwood be and the same is hereby confirmed commencing the effective date of this Ordinance and ending December 31, 2023.

**SECTION 2.** The Law Director and his firm shall fulfill the duties of the office of Director of Law and the compensation of the Law Director and the members of his firm shall not be subject to the Public Employees Retirement System.

**SECTION 3.** The compensation of the Director of Law for legal services provided by him and his law firm and for the performance of the duties and functions of his office as set forth in the Charter shall be as follows:

(a) One Hundred Eighty-Nine Dollars (\$189.00) per hour for attendance at all regular meetings of Council, attendance at various Council work sessions when requested, drafting Resolutions, Ordinances, and legal opinions, and advice and counsel to the Council and Village officials. The sum paid out under this section shall not exceed Seventy-Four Thousand Dollars (\$74,000.00) per year without prior authorization of Council.

(b) For representational matters involving plan reviews, rezonings, variances, and so on, said Director of Law shall be paid at the rate of One Hundred Eighty-Five Dollars (\$189.00) per hour payable as services are rendered out of a fund established by the applicant for such plan reviews, rezonings, variances, etc.

(c) For representation on all matters for the Village or its officials, including all matters which go before the Common Pleas Court for this County or any other county, and all civil and criminal matters, or for legal representation in any higher court of this State or of the United States, said Director of Law shall be paid at the rate of One Hundred Eighty-Nine Dollars (\$189.00) per hour, payable monthly as services are rendered. The total sum paid out in fees under this section shall not exceed Ten Thousand Dollars (\$10,000.00) per year without prior authorization of Council. All legal

services provided to any Board or Commission of the Village by the Law Director or his law firm shall be charged against the appropriation for the Board or Commission and not deducted from the amount stated herein.

**SECTION 4.** This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare of the inhabitants of the Village, the reason for the emergency being that the same relates to the daily operation of a municipal department and the ability or provide uninterrupted services to the citizens of the Village, therefore, provided it receives two thirds (2/3) of the vote of all members of Council elected thereto, 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: \_\_\_\_\_

\_\_\_\_\_  
Johnnie A Warren, President of Council

\_\_\_\_\_  
Christine Morgan, Clerk of Council

Presented to the

Mayor \_\_\_\_\_

Approved: \_\_\_\_\_

\_\_\_\_\_  
Mayor, Gary V. Gottschalk

I, Christine Morgan, Clerk of Council of the Village of Oakwood, County of Cuyahoga and State of Ohio, do hereby certify that the foregoing Ordinance No. 2022-8 was duly and regularly passed by this Council at the meeting held on the \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Christine Morgan, Clerk of Council

### **POSTING CERTIFICATE**

I, Christine Morgan, Clerk of Council of the Village of Oakwood, County of Cuyahoga and State of Ohio, do hereby certify that Ordinance No. 2022-8 was duly posted on the \_\_\_\_\_ day of \_\_\_\_\_, 2022, and will remain posted for a period of fifteen (15) days thereafter in as provided by the Village Charter.

\_\_\_\_\_  
Christine Morgan, Clerk of Council

DATED: \_\_\_\_\_

## RESOLUTION 2022-9

INTRODUCED BY MAYOR AND COUNCIL AS A WHOLE

**A RESOLUTION OF CONDOLENCE TO THE FAMILY OF  
MARIE (COOKIE) ARNET FREEMAN**

**WHEREAS** Marie (Cookie) Arnet Freeman left peacefully for her Heavenly home on February 2, 2022; and

**WHEREAS** Cookie, as she was best known, was born in Cleveland, Ohio on March 11, 1962, and was the oldest of 5 children: John, Sr., Mary Teresa, Lisa and Terry (deceased); and

**WHEREAS** her family moved to Oakwood Village in the late 1970's in the area known as Cape Cod. She attended and graduated from the Bedford School System in 1980; and

**WHEREAS** she would marry in 1982 and move to New York for a brief period before returning to Oakwood Village to become a housewife and a mother to her two sons, Richard and Clyde; and

**WHEREAS** Cookie was selfless in her love, generosity, and sacrifice. She was the person who would put another individual before herself and would give the shirt off her back no matter who they happen to be. She was an active member and energetic organizer at Liverpool Missionary Baptist Church; and

**WHEREAS** though some have one or two favorite television shows, Cookie was a big fan of the entire *The Real Housewives* series. From Orange County to Atlanta or New Jersey to Dallas, she never missed an episode. But she was a much bigger fan of her grandbabies. Her world revolved around Kamari, Richard, Keylen, August and D'Wan; and

**WHEREAS** to know her is to love her and her enormous sense of humor. Cookie was goofy, loved to laugh and to play jokes on everybody. She was the best at it, but a person had to have thick skin to enjoy her idea of funny.

**NOW THEREFORE LET IT BE RESOLVED THAT** by the Village of Oakwood, County of Cuyahoga, and State of Ohio, that:

**SECTION 1.** The Village Council and Mayor wish to express their most sincere condolences to the family of Marie (Cookie) Arnet Freeman, and hope the fond memories of such a fine, caring person comforts them in their loss.

**SECTION 2.** The Clerk is hereby authorized to present a copy of this resolution to the family of Marie (Cookie) Arnet Freeman.

**SECTION 3.** This Resolution shall be in full force and effect immediately upon its adoption by this Council and approved by the Mayor, otherwise from and after the earliest period allowed by law.

PASSED: \_\_\_\_\_

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Christine Morgan, Clerk of Council

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Johnnie A. Warren, Council President



Presented to the  
Mayor:

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Approved:

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Mayor, Gary V Gottschalk

I, Christine Morgan, Clerk of Council of the Village of Oakwood, County of Cuyahoga and State of Ohio, do hereby certify that the foregoing Resolution No. 2022-9 was duly and regularly passed by this Council at the meeting held on the \_\_\_\_ day of \_\_\_\_\_ 2022.

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Christine Morgan, Clerk of Council

### POSTING CERTIFICATE

I, Christine Morgan, Clerk of Council of the Village of Oakwood, County of Cuyahoga, and State of Ohio, do hereby certify that the foregoing Resolution No. 2021-9 was duly posted on the \_\_\_\_ day of \_\_\_\_\_, 2022, and will remain posted for a period of fifteen (15) days thereafter as provided in the Village Charter.

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Christine Morgan, Clerk of Council

DATED: \_\_\_\_\_

**A RESOLUTION OF CONDOLENCE TO THE FAMILY OF  
MARIE (COOKIE) ARNET FREEMAN**



**WHEREAS** Marie (Cookie) Arnet Freeman left peacefully for her Heavenly home on February 2, 2022; and

**WHEREAS** Cookie, as she was best known, was born in Cleveland, Ohio on March 11, 1962, and was the oldest of 5 children: John, Sr., Mary Teresa, Lisa and Terry (deceased); and

**WHEREAS** her family moved to Oakwood Village in the late 1970's in the area known as Cape Cod. She attended and graduated from the Bedford School System in 1980; and

**WHEREAS** she would marry in 1982 and move to New York for a brief period before returning to Oakwood Village to become a housewife and a mother to her two sons, Richard and Clyde; and

**WHEREAS** Cookie was selfless in her love, generosity, and sacrifice. She was the person who would put another individual before herself and would give the shirt off her back no matter who they happen to be. She was an active member and energetic organizer at Liverpool Missionary Baptist Church; and

**WHEREAS** though some have one or two favorite television shows, Cookie was a big fan of the entire The Real Housewives series. From Orange County to Atlanta or New Jersey to Dallas, she never missed an episode. But she was a much bigger fan of her grandbabies. Her world revolved around Kamari, Richard, Keylen, August and D'Wan; and

**WHEREAS** to know her is to love her and her enormous sense of humor. Cookie was goofy, loved to laugh and to play jokes on everybody. She was the best at it, but a person had to have thick skin to enjoy her idea of funny.

**NOW THEREFORE LET IT BE RESOLVED THAT** by the Village of Oakwood, County of Cuyahoga, and State of Ohio, that:

**SECTION 1.** The Village Council and Mayor wish to express their most sincere condolences to the family of Marie (Cookie) Arnet Freeman, and hope the fond memories of such a fine, caring person comforts them in their loss.

**SECTION 2.** The Clerk is hereby authorized to present a copy of this resolution to the family of Marie (Cookie) Arnet Freeman.

**SECTION 3.** This Resolution shall be in full force and effect immediately upon its adoption by this Council and approved by the Mayor, otherwise from and after the earliest period allowed by law

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Mayor Gary V. Gottschalk

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Council-at-Large, Elaine Y. Gaither

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Council President, Johnnie A Warren

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Ward 1 Councilperson, Chris Callender

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Ward 2 Councilperson, Eloise Hardin

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Ward 3 Councilperson, Paggie Matlock

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Ward 4 Councilperson, Mary Davis

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Ward 5 Councilperson, Candace Williams

## RESOLUTION 2022-10

INTRODUCED BY MAYOR AND COUNCIL AS A WHOLE

**A RESOLUTION OF CONDOLENCE TO THE FAMILY OF  
BARBARA ANN PATTERSON**

**WHEREAS** a very bright light from the heavens has been extinguished when Barbara Ann Patterson moved on to her Heavenly home on February 8, 2022; and

**WHEREAS** Barbara was born on February 18, 1945, to Robert and Mary Adamson. She was the oldest of their three children; and

**WHEREAS** early on, she met the love of her life, James Patterson. Together, they raised two wonderful children. The family moved to the subdivision of Cape Cod in the 1970's where Barbara became an original member of the Homeowners' Association. She was instrumental in creating a strong, cohesive community spirit; and

**WHEREAS** Barbara attended Little Flower Catholic School in Philadelphia, Pennsylvania. She spent two years at Bethune-Cookman University in Florida, where she pledged her beloved Alpha Kappa Alpha Sorority, Inc. She later transferred to Bluefield State College in West Virginia, where she received her Bachelor of Science degree. She went on to graduate from Cleveland State University with a master's degree in education administration; and

**WHEREAS** she dedicated her career to working with students. Barbara worked for Cleveland Municipal School District for 35 years. She enjoyed shaping the minds and bodies of young students as a physical education teacher and a biology instructor. Later, she became a school administrator and finished her career at Max Hayes Vocational School. She loved helping students succeed in life and served on the Bedford Board of Education for almost 20 years; and

**WHEREAS** Barbara was an active person and belonged to many organizations. She served in leadership roles for many organizations to include Alpha Kappa Alpha Sorority, Inc., National Sorority of Phi Delta Kappa, Cleveland Council of Black Colleges Alumni Association, 100 Black Women, Our Gang, BW-13, Woodmere Bridge Club, GG Girls Golf, Grasshoppers Golf Club, Bluefield State Alumni Association, North Coast Parliamentary Association and the 5 Administrators; and

**WHEREAS** she was an outgoing person who loved doing anything. Upon retiring, she acquired a passion for playing bridge and golf. She was excited about traveling to sunny places such as Orlando, Myrtle Beach and her favorite spot, Aruba; and

**WHEREAS** Barbara was a person of goodness and godliness and was always there for her neighbors and friends. Along with the community, those to cherish her memory are her husband of 53 years, James; her children, Greogry and Faustina; sister Aneres (Roger); grandchildren Amber, Daarina, Gregg, George, Aneres and a host of nieces, nephews, cousins, and friends.

**NOW THEREFORE LET IT BE RESOLVED THAT** by the Village of Oakwood, County of Cuyahoga, and State of Ohio, that:

**SECTION 1.** The Village Council and Mayor wish to express their most sincere condolences to the family of Barbara Ann Patterson, and hope the fond memories of such a fine, caring person comforts them in their loss.

**SECTION 2.** The Clerk is hereby authorized to present a copy of this resolution to the family of Barbara Ann Patterson

**SECTION 3.** This Resolution shall be in full force and effect immediately upon its adoption by this Council and approved by the Mayor, otherwise from and after the earliest period allowed by law.

PASSED: \_\_\_\_\_

\_\_\_\_\_  
Christine Morgan, Clerk of Council

\_\_\_\_\_  
Johnnie A. Warren, Council President

Presented to the  
Mayor:

\_\_\_\_\_  
Approved:

\_\_\_\_\_  
Mayor, Gary V Gottschalk

I, Christine Morgan, Clerk of Council of the Village of Oakwood, County of Cuyahoga and State of Ohio, do hereby certify that the foregoing Resolution No. 2022-10 was duly and regularly passed by this Council at the meeting held on the \_\_\_\_ day of \_\_\_\_\_ 2022.

\_\_\_\_\_  
Christine Morgan, Clerk of Council

### POSTING CERTIFICATE

I, Christine Morgan, Clerk of Council of the Village of Oakwood, County of Cuyahoga, and State of Ohio, do hereby certify that the foregoing Resolution No. 2021-10 was duly posted on the \_\_\_\_ day of \_\_\_\_\_, 2022, and will remain posted for a period of fifteen (15) days thereafter as provided in the Village Charter.

\_\_\_\_\_  
Christine Morgan, Clerk of Council

DATED: \_\_\_\_\_

## **A RESOLUTION OF CONDOLENCE TO THE FAMILY OF BARBARA ANN PATTERSON**



**WHEREAS** a very bright light from the heavens has been extinguished when Barbara Ann Patterson moved on to her Heavenly home on February 8, 2022; and

**WHEREAS** Barbara was born on February 18, 1945, to Robert and Mary Adamson. She was the oldest of their three children; and

**WHEREAS** early on, she met the love of her life, James Patterson. Together, they raised two wonderful children. The family moved to the subdivision of Cape Cod in the 1970's where Barbara became an original member of the Homeowners' Association. She was instrumental in creating a strong, cohesive community spirit; and

**WHEREAS** Barbara attended Little Flower Catholic School in Philadelphia, Pennsylvania. She spent two years at Bethune-Cookman University in Florida, where she pledged her beloved Alpha Kappa Alpha Sorority, Inc. She later transferred to Bluefield State College in West Virginia, where she received her Bachelor of Science degree. She went on to graduate from Cleveland State University with a master's degree in education administration; and

**WHEREAS** she dedicated her career to working with students. Barbara worked for Cleveland Municipal School District for 35 years. She enjoyed shaping the minds and bodies of young students as a physical education teacher and a biology instructor. Later, she became a school administrator and finished her career at Max Hayes Vocational School. She loved helping students succeed in life and served on the Bedford Board of Education for almost 20 years; and

**WHEREAS** Barbara was an active person and belonged to many organizations. She served in leadership roles for many organizations to include Alpha Kappa Alpha Sorority, Inc., National Sorority of Phi Delta Kappa, Cleveland Council of Black Colleges Alumni Association, 100 Black Women, Our Gang, BW-13, Woodmere Bridge Club, GG Girls Golf, Grasshoppers Golf Club, Bluefield State Alumni Association, North Coast Parliamentary Association and the 5 Administrators; and

**WHEREAS** she was an outgoing person who loved doing anything. Upon retiring, she acquired a passion for playing bridge and golf. She was excited about traveling to sunny places such as Orlando, Myrtle Beach and her favorite spot, Aruba; and

**WHEREAS** Barbara was a person of goodness and godliness and was always there for her neighbors and friends. Along with the community, those to cherish her memory are her husband of 53 years, James; her children, Geogry and Faustina; sister Aneres (Roger); grandchildren Amber, Daarina, Gregg, George, Aneres and a host of nieces, nephews, cousins and friends.

**NOW THEREFORE LET IT BE RESOLVED THAT** by the Village of Oakwood, County of Cuyahoga, and State of Ohio, that:

**SECTION 1.** The Village Council and Mayor wish to express their most sincere condolences to the family of Barbara Ann Patterson, and hope the fond memories of such a fine, caring person comforts them in their loss.

**SECTION 2.** The Clerk is hereby authorized to present a copy of this resolution to the family of Barbara Ann Patterson

**SECTION 3.** This Resolution shall be in full force and effect immediately upon its adoption by this Council and approved by the Mayor, otherwise from and after the earliest period allowed by law.

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Mayor Gary V. Gottschalk

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Council-at-Large, Elaine Y. Gaither

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Council President, Johnnie A Warren

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Ward 1 Councilperson, Chris Callender

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Ward 2 Councilperson, Eloise Hardin

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Ward 3 Councilperson, Paggie Matlock

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Ward 4 Councilperson, Mary Davis

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Ward 5 Councilperson, Candace Williams

ORDINANCE NO. 2022-WS-1

INTRODUCED BY MAYOR AND COUNCIL AS A WHOLE

**AN EMERGENCY ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT WITH CHAGRIN VALLEY ENGINEERING LTD. AND SETTING FOR THE COMPENSATION AND FUNCTIONS OF THE VILLAGE ENGINEER AND HIS FIRM**

**WHEREAS** the Oakwood Village Council passed Ordinance 2020-04 concerning the compensation of the Village Engineer on or about February 11, 2020; and

**WHEREAS** the compensation of the Engineer provided for him and his firm and for the performance of the duties and functions of his office are set forth in Exhibit A; and

**NOW THEREFORE, BE IT ORDAINED** by the Council of the Village of Oakwood, County of Cuyahoga, and State of Ohio that:

**SECTION 1.** This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare of the inhabitants of the Village, the reason for the emergency being that the same relates to the daily operation of a municipal department, therefore, provided it receives two-thirds (2/3) of the vote of all members of Council elected thereto, 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: \_\_\_\_\_

\_\_\_\_\_  
Johnnie A. Warren, President of Council

\_\_\_\_\_  
Christine Morgan, Clerk of Council

Presented to the  
Mayor \_\_\_\_\_

Approved: \_\_\_\_\_

\_\_\_\_\_  
Mayor, Gary V. Gottschalk



I, Christine Morgan, Clerk of Council of the Village of Oakwood, County of Cuyahoga and State of Ohio, do hereby certify that the foregoing Ordinance No. 2022- was duly and regularly passed by this Council at the meeting held on the \_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Christine Morgan, Clerk of Council

### **POSTING CERTIFICATE**

I, Christine Morgan, Clerk of Council of the Village of Oakwood, County of Cuyahoga and State of Ohio, do hereby certify that Ordinance No. 2022- was duly posted on the \_\_\_\_ day of \_\_\_\_\_, 2022, and will remain posted for a period of fifteen (15) days thereafter in the Council Chambers and in not less than five (5) of the most public places in the municipality as determined by the Council of the said Village.

\_\_\_\_\_  
Christine Morgan, Clerk of Council

DATED: \_\_\_\_\_

## **Exhibit A**

### **CONTRACT FOR THE PROVISION OF MUNICIPAL ENGINEERING CONSULTING SERVICES TO THE VILLAGE OF OAKWOOD, OHIO**

This agreement is set between the Village of Oakwood and Chagrin Valley Engineering, Ltd., for the provision of Municipal Engineering Consulting Services.

**Section 1.** Edward J. Hren, P.E. (hereinafter referred to as "Engineer") and Matthew M. Jones, P.E. (hereinafter referred to as "Assistant Engineer", duly licensed as a Professional Engineers, in conjunction with Chagrin Valley Engineering, Ltd., (hereafter referred to as "CVE") are hereby designated as the Consulting Municipal Engineer and Assistant Consulting Municipal Engineer for the Village of Oakwood, Ohio for a term beginning upon execution of this agreement and thereafter at the pleasure of the Mayor, upon the terms, provisions and conditions thereafter set forth herein and ratified by the Village Council. The Engineer(s) in conjunction with CVE staff shall perform such services and be compensated for services rendered to the Village as follows:

- a) Preparation of necessary plans, profiles, specifications and estimates of cost for such public improvements as may be authorized by the Mayor and/or Council to prepare;
- b) Supervise and serve as representative of the Village of Oakwood in the execution of those public works projects for which the Engineer is authorized by Mayor and/or Village Council to so act;
- c) As authorized by the Mayor and/or Village Council, supervise and direct construction inspectors and such inspectors shall report to and receive their instructions from the Engineer, relative to the improvements covered in paragraphs (a) and (b) hereof;
- d) Upon appropriate authorization, furnish to the Mayor and/or Council plans, specifications and estimates of cost for such improvements for the guidance of this Mayor and/or Council and for the information and guidance of contractors dealing with the Village of Oakwood;
- e) Prepare applications for grant programs which are available for public improvement projects;
- f) Review plans of private, commercial and residential developments and advise the Mayor and Council on the plans;
- g) Review lot plans for new residential homes and check final lot grades when requested by the Oakwood Building Department to verify consistency with the approved lot plan;
- h) Act in conjunction with the Oakwood Mayor and Service Director on matters related to the Village of Oakwood's interests relative to the Cuyahoga County Department of Public Works Sewer Service Agreement, and the NEORSD Southerly Wastewater Treatment Plant, Bedford Heights Wastewater Treatment Plant, and the Cleveland Water Department on matters concerning sanitary sewage treatment and provision of a potable water supply;
- i) Act in conjunction with the Oakwood Mayor and Service Director on matters related to the Village of Oakwood's Ohio EPA National Pollutant Discharge Elimination System (Phase II) requirements;

j) Make and deliver to the Mayor and/or this Council regular reports of the progress of improvements under the Engineer's charge, stating conditions of same, including any changes in construction costs and/or engineering costs, together with any other matters of interest desired by the Mayor and/or this Council. All plans and specifications shall be the property of the Village of Oakwood;

k) Be in charge of engineering and other work to be furnished hereunder as the same may be authorized by Council, with the right and obligation of calling upon any of the personnel and facilities of its firm as needed from time to time in the performances of said work; and

**Section 2.** The Engineer and the Assistant Engineer, in conjunction with CVE, shall furnish services to this Village, as required by the Village, through the Village Council or its designee, including the following services covered by the compensation as described below in this section. Services involving the use of additional CVE staff members shall be compensated as described with Section 3 of this agreement:

a) Act as a technical consultant and advisor on engineering matters referred to them by the Mayor or by the City Council, and Administrative Departments upon direction of the Mayor.

b) Act as a technical consultant and advisor on engineering matters referred to them by the Mayor or by the Village Council related to the Village of Oakwood's interests associated with the NEORSO Southerly Wastewater Treatment Plant, the Bedford Heights Wastewater Treatment Plant, and the Cleveland Water Department, and attend meetings related thereto as requested.

c) Advise the Mayor in matters relating to resident's problems pertaining to engineering as they may relate to public sewers, public water supplies, drainage patterns and building grades.

d) Assist the Mayor, the Planning Commission, the Chief Building Official, the Service Department and other municipal departments, boards or commissions, as directed, on municipal engineering and National Flood Insurance Program matters.

e) Attend Council meetings and other meetings as requested by the Mayor and/or Village Council. The monthly retainer amounts presented below in this section is based upon the attendance of the Engineer at Planning Commission meetings and Council Work Session meetings only when requested.

f) Preparation of preliminary sketches and estimates, concerning the advisability of proceeding with public improvements such as pavement improvements, sanitary sewer systems, storm water collection, water distribution, or other infrastructure improvements contemplated by the Mayor and Council.

g) Prepare applications for grants pertaining to public improvements requiring the services of the Village Engineer, Ohio Public Works Commission funding requests, inventory updating and disbursement requests concerning Federal or State funded projects.

h) Perform such other duties as is normally required of Consulting Municipal Engineers not requiring the use of additional staff members such as field crews, etc.

Chagrin Valley Engineering, Ltd., shall receive as compensation for the services described in Section 2 hereof, an annual retainer in the sum of Twenty-Four Thousand Dollars (\$24,000.00), prorated and commencing with the first pay period after execution of this agreement, payable in bi-weekly installments

to Edward J. Hren, P.E. and subject to payroll and Public Employee Retirement System withholding taxes. In addition, Chagrin Valley Engineering, Ltd., shall also receive as compensation for the services described in Section 2 hereof, an annual retainer in the sum of Ten Thousand Dollars (\$10,000.00), prorated and commencing with the first pay period after execution of this agreement, payable in bi-weekly installments to Matthew M. Jones, P.E. and subject to payroll and Public Employee Retirement System withholding taxes.

**Section 3.** For services in connection with the construction of public improvements as described above, Chagrin Valley Engineering, Ltd., shall receive compensation as a percentage of the actual cost of construction of all improvements authorized by Council and under its control. The percentage paid shall be as follows:

#### **Projects – Schedule 1**

Sanitary sewer projects including new installations, repairs, rehabilitation and other sanitary sewer related projects. Street projects including complete pavement replacement and/or widening. Projects which are financed in whole, or in part, by either Cuyahoga County, the Ohio Public Works Commission or the Northeast Ohio Regional Sewer District shall be paid per the Hourly Rates regardless of the Cost of Construction.

#### **Fees – Schedule 1**

<b><u>COST OF CONSTRUCTION</u></b>			<b><u>FEE</u></b>
\$ 0	-	\$250,000	Hourly
\$ 250,001	-	\$500,000	10% of \$250,000.00 plus 7.6% of the amount over \$250,000
\$ 500,001	-	\$1,000,000	8.7% of \$500,000.00 plus 6.3% of the amount over \$500,000
\$1,000,001	-	\$5,000,000	7.5% of \$1,000,000.00 plus 6.1% of the amount over \$1,000,000

#### **Projects – Schedule 2**

All public improvement projects other than sanitary sewer and street projects as described in Schedule 1 Projects.

#### **Fees -- Schedule 2**

<b><u>COST OF CONSTRUCTION</u></b>			<b><u>FEE</u></b>
\$ 0	-	\$250,000	Hourly
\$ 250,001	-	\$500,000	9% of \$250,000.00 plus 5.4% of the amount over \$250,000
\$ 500,001	-	\$1,000,000	7.2% of \$500,000.00 plus 5.2% of the amount over \$500,000
\$1,000,001	-	\$5,000,000	6.2% of \$1,000,000.00 plus 5.1% of the amount over \$1,000,000

The fees provided in this subsection shall cover engineering services including complete detailed plans and specifications, preparation of monthly and final estimates for contractor's payments and providing an Engineer for construction management to administer the construction contract. The above schedule of fees does not cover various supplementary services. Supplemental services not included within the presented fee schedule are, but not limited to: wetland delineations, stream quality assessments, preparation and acquisition of U.S. Army Corps of Engineers / Ohio Environmental Protection Agency wetland or stream fill permits, property, boundary, or right-of-way surveys, topographic surveys, profile surveys, grade stakes for construction, inspection of construction, shop, mill, field, or laboratory inspection of materials, cost of test borings, or other subsurface exploration, traffic studies, or calculations of special assessments. These supplementary services may be provided by Chagrin Valley Engineering, Ltd. on an hourly basis in accordance with the schedule of rates hereinafter set forth below or upon invoice submitted by the entity providing such supplemental services.

Chagrin Valley Engineering, Ltd. shall be entitled to progress payments in proportion to services performed on monthly basis. Upon authorization by Village Council and until bids are taken and contracts awarded, compensation shall be determined by the following percentages and the Engineer's estimated construction cost. As the work is constructed, Chagrin Valley Engineering, Ltd. shall receive additional compensation equal to the balance of the fee based upon a percentage of the certificates of payment to the contractor, provided said payment is authorized by Village Council. As soon as the final certificate of payment to the contractor is issued, any adjustment shall be made so the total fee shall be a sum equal to the schedule percentage. The compensation for basic services shall be based upon the following percentages of the total fee attributable to various phases of the work:

1. Preliminary Report Phase	15%
2. Preliminary Design Phase	20%
3. Final Design Phase	35%
4. Bidding or Negotiating Phase	10%
5. Construction Phase	20%

In the event proceedings for work are abandoned or postponed and then revived and actively pressed either by this or by a succeeding Council within five (5) years of the date of said abandonment or postponement, Chagrin Valley Engineering, Ltd. shall credit against the total compensation the payment previously made hereunder, providing that Chagrin Valley Engineering, Ltd. is at that time employed by this or by a succeeding Council to provide Municipal Engineering Consulting Services. In the event of the revival of a project within the time frame specified above, Chagrin Valley Engineering, Ltd. could, at its discretion, elect to negotiate additional fees with the Village of Oakwood. Additional fees would address conditions that have incurred solely because of changes in existing conditions since the abandonment or postponement of the project, or design parameters that have been established by governmental review and approval after such delay.

Engineering charges for federally funded work must be in accordance with Federal Regulations and are set and approved as part of the funding procedure, and therefore are not part of this document.

**HOURLY RATE SCHEDULE:** For additional services for which the Engineer or Assistant Engineer shall have been authorized to prepare material or work not let by Contract or for the performance of any of the following tasks:

- Special Surveys
- Preparation of Reports
- Preparation of Special Assessments

- Field Elevation Checks of Walks, Basements, Sewers, etc.
- Storm Water Management Inventory Assistance
- Storm Water Drainage: Plan / Calculation Review
- Erosion and Sediment Control: Plan Review / Site Inspections
- Sanitary "Tap-In" Reviews and Fee Determinations
- Residential / Commercial / Industrial Site Plan and or Subdivision Review
- Survey Plat Review
- Development / Implementation of Ohio EPA National Pollutant Discharge Elimination System (Phase II) Storm Water Management Program
- Preparation / Maintenance of Geographical Information Systems

Compensation shall be made based on time spent by the Engineer or his employees and associates at the rates set forth in the following schedule of hourly rates, plus reimbursable expenses.

Engineer - Partner	\$103.00 per hour
Engineer – Associate	\$97.00 per hour
Engineer	\$92.00 per hour
Traffic Engineer- P.E., PTOE	\$145.00 per hour
Contract Administrator	\$76.00 per hour
Stormwater Coordinator	\$80.00 per hour
Stormwater Technician	\$73.00 per hour
Water Quality Scientist	\$84.00 per hour
Professional Surveyor	\$84.00 per hour
CAD Designer	\$90.00 per hour
Geo. Info. Sys. (GIS) Tech.	\$86.00 per hour
Clerical	\$36.00 per hour
1 Man Survey Field Crew w/GPS	\$120.00 per hour
2 Man Survey Field Crew	\$134.00 per hour
3 Man Survey Field Crew	\$146.00 per hour
Environmental Scientist	\$90.00 per hour
Wetland Technician	\$75.00 per hour
Construction Observer*	\$55.00 per hour

\*Construction Observation shall be subject to two hours minimum per day and a 1.5 times overtime rate beyond 8 hours per day unless a shortened work week (four 10-hour days for example) is approved by the Consulting Municipal Engineer in advance.

Prints, Materials, Supplies and Services provided or performed by others at Cost.

**Section 4.** The Consulting Municipal Engineer and Assistant Consulting Municipal Engineer as provided for in Section 1 agree that for the duration of their employment by this Municipality neither they nor any member of CVE or employee thereof, will accept any private engineering or surveying work that requires their review and/or approval unless such work is approved by the Mayor and Council; however, work for Federal, State, County or Regional Governments is not prohibited.

**Section 5.** CVE shall maintain Professional Liability Insurance in the Amount of \$2,000,000 and provide the Village with a Certificate naming the Village as an additional insured during the period this Ordinance is in effect.

**Section 6.** Documents and Files: All engineering documents and project files, both printed and digital, created for the purposes serving the Village of Oakwood shall be the property of the Village of Oakwood.

**Section 7.** The contract provided herein with CVE may be terminated by either party on thirty (30) days advance written notice to the other, provided that such determination shall not affect the duty of the Consulting Municipal Engineer or Chagrin Valley Engineering, Ltd., to render service, nor the obligation of the Village to pay for such service rendered, before the effective date of termination.

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Edward J. Hren, P.E., Partner, Date  
Chagrin Valley Engineering, Ltd.

\_\_\_\_\_  
Matthew M. Jones, P.E., Partner Date  
Chagrin Valley Engineering, Ltd.

Accepted this \_\_\_\_\_ day of \_\_\_\_\_, 2022 by the Village of Oakwood, Ohio, pursuant to Ordinance of Council No. **2022-** adopted on the \_\_\_\_\_, 2022.

BY: \_\_\_\_\_  
Gary V. Gottschalk, Mayor  
Village of Oakwood, Ohio

Attest:

\_\_\_\_\_  
Christine Morgan, Clerk of Council

The legal form of the within instrument is hereby approved.

\_\_\_\_\_  
James A. Climer, Director of Law

\_\_\_\_\_  
Date