



City Council Agenda

Monday, November 20, 2023 at 7:00 pm

6550 N. High Street, Worthington, Ohio 43085

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

Special Presentation(s)

4. Resolution No. 58-2023 - Thomas Worthington High School Field Hockey Recognition

Recommendation: Introduce and approve as presented.

5. Visitor Comments

Approval of the Minutes

6. Approval of Minutes

October 9, 2023

Recommendation: Introduce and approve as presented.

Public Hearings on Legislation

7. Ordinance No. 24-2023 – Subdivision – Final Plat – 286 W. South St. – SUB 03-2023

Approving a Final Plat for the Resubdivision of Lot #1 of Weatherburn Subdivision Located at 286 W. South St. and Authorizing Variances (Eric Kmetz)

Executive Summary: This Ordinance approves the Final Plat for the Resubdivision of Lot #1 of Weatherburn Subdivision located at 286 W. South St. and grants variances for lot width for Lot#1B and Lot #1C.

Recommendation: Approve as presented.

8. Ordinance No. 25-2023 – Prohibiting the Sale of Flavored Tobacco Products

To Amend Various Sections of Chapter 765 "Tobacco Sales" of the Codified Ordinances of the City of Worthington to Prohibit the Sale of Flavored Tobacco Products.

Executive Summary: This Ordinance would amend Chapter 765 of the Codified Ordinances to prohibit the sale of flavored tobacco products and to increase the civil penalties for violations of Chapter 765.

Recommendation: Approve as presented.

New Legislation - Resolution(s)

9. Resolution No. 59-2023 – Amending the Position Description for Management Assistant/Special Projects Coordinator

Executive Summary: This Resolution amends the job description for the position of Management Assistant/Special Projects Coordinator.

Recommendation: Introduce and approve as presented.

10. Resolution No. 60-2023- Franklin County Natural Hazard Mitigation Plan Adoption

Authorizing the Adoption of the 2023/2024 Franklin County Multi-Jurisdictional Natural Hazard Mitigation Plan Update.

Executive Summary: This resolution adopts the 2023 Franklin County Natural Hazard Mitigation Plan.

Recommendation: Introduce and approve as presented.

11. Resolution No. 61-2023 - Transfer of Funds

Adjusting the Annual Budget by Providing for a Transfer of Previously Appropriated Funds.

Executive Summary: This Resolution authorizes the transfer of previously appropriated funds to cover expenses as anticipated for the remainder of the year in appropriate accounts. Approval of this Resolution will not result in an increase of total appropriations.

Recommendation: Approve as presented.

New Legislation - Ordinance(s)

12. Ordinance No. 26-2023 – 2024 Operating Budget

Executive Summary: This Ordinance adopts the City's annual budget for Fiscal Year 2024 and appropriates sums for current operating expenses.

Recommendation: Introduce for public hearing on December 4, 2023.

13. Ordinance No. 27-2023 – 2024 Community Group Funding

Amending Ordinance No. 27-2023 (As Amended) to Adjust the Annual Budget by Providing for Appropriations From the General Fund and Convention and Visitor's Bureau Fund Unappropriated Balance's to Pay the Cost of Funding for Community Groups, Cultural Arts Center and Tourism Activities for 2024.

Executive Summary: This Ordinance appropriates funds for Community Groups, including the Worthington Historical Society, the Worthington Partnership, the Worthington Chamber of Commerce and the McConnell Arts Center. This legislation was split from the original 2024 budget appropriation Ordinance to provide Council Members who may also be board members of these groups an opportunity to abstain from voting.

Recommendation: Introduce for public hearing on December 4, 2023.

14. Ordinance No. 28-2023 - Additional Appropriations – General Fund and Capital Improvement Fund

Amending Ordinance No. 39-2022 (As Amended) to Adjust the Annual Budget by Providing for an Appropriation from the

General Fund and Capital Improvement Fund.

Executive Summary: This legislation appropriates additional funds in the General Fund and the Capital Improvement Fund to provide additional funding for tax collection and income tax refund activity.

Recommendation: Introduce for public hearing on December 4, 2023.

15. Ordinance No. 29-2023- Regulation of Chickens

To Amend Section 505.05, Section 1123.02 and 1149.08 of the Codified Ordinances of the City of Worthington to Regulate Chickens.

Executive Summary: This Ordinance will refer Chicken Regulations to the Municipal Planning Commission for review.

Recommendation: Introduce and refer to the Municipal Planning Commission as presented.

16. Ordinance No. 30-2023 – Adopting Replacement Pages to the Codified Ordinances

To Revise the Codified Ordinances of the City of Worthington to Conform to Changes in State Law and Adopting Replacement Pages to the Codified Ordinances.

Executive Summary: This Ordinance adopts replacement pages for the Codified Ordinances to incorporate changes to the City Code and State Law since the last update.

Recommendation: Introduction for public hearing on December 4, 2023.

17. Ordinance No. 31-2023 – Public Health Contract – Columbus Public Health

Authorizing the City Manager to Execute A Contract Between the City of Columbus Board of Health and the City of Worthington for Health Services.

Executive Summary: This Ordinance authorizes the City Manager to enter into a contract with the Columbus Department of Health for the provision of public health services to Worthington.

Summary: Introduce for public hearing on December 4, 2023.

18. Ordinance No. 32-2023 – Compensation for Unclassified Employees

Establishing Compensation for Certain Unclassified Positions of the Municipal Service For the Period of January 1, 2024 through December 31, 2024, and Adopting Class Specifications for Said Unclassified Positions.

Executive Summary: This Ordinance establishes the salaries for unclassified employees in the City for 2024.

Recommendation: Introduce for public hearing on December 4, 2023

19. Ordinance No. 33-2023 - Appointment of the Franklin County District Board of Health as the Provider of Plumbing Inspection Services

Approving the City Manager's Appointment of the Franklin County District Board of Health as the Provider of Plumbing Inspection Services in the City of Worthington.

Executive Summary: This is the annual ordinance that authorizes the City Manager to appoint the Franklin County District Board of Health as the provider of plumbing inspection services for the City of Worthington in 2024.

Recommendation: Introduce and set for a public hearing on December 4, 2023.

20. Ordinance No. 34-2023 – Amending the Municipal Income Tax Code

To Amend Part Seventeen – Title Two of the Codified Ordinances of the City Regarding Municipal Income Tax.

Executive Summary: This Ordinance adopts the amendments to the municipal income tax code as recommended by the Regional Income Tax Agency and required by the General Assembly in House Bill 33.

Recommendation: Introduction for public hearing on December 4, 2023.

21. Ordinance No. 35-2023 – Riverlea Police Protection Contract

Authorizing the City Manager to Enter into a Contract with the Village of Riverlea for the Provision of Police Protection.

Executive Summary: Staff is proposing a 2024 contract in the amount of \$91,391, this represents a 3.5% increase from the 2023 contract.

Recommendation: Introduce for Public Hearing on December 4, 2023.

22. Ordinance No. 36-2023- Referring Draft Signage Regulations to the Municipal Planning Commission for Review – APZ 01-2023

To Amend Chapter 1170 (Signs) of the Codified Ordinances of the City of Worthington.

Executive Summary: This Ordinance will refer the draft Signage Regulations to the Municipal Planning Commission for review.

Recommendation: Introduce and refer to the Municipal Planning Commission as presented.

Reports of City Officials

23. Policy Item(s)

a. Worthington Pools

Executive Summary: Time is provided for continued discussion of the funding request from Swiminc for the outdoor pool facility on the grounds of Thomas Worthington High School. Staff is seeking direction from City Council regarding the amount of funds, if any, to be provided and the strategy for provision of the funds.

b. New Liquor Permit - Boxland Inc.

Executive Summary: The Ohio Division of Liquor Control has notified the City of a request for a new liquor permit for Boxland Inc. dba Boxland Media LLC. The City may request a hearing or waive their right to a hearing.

Recommendation: Motion to not request a hearing.

c. 2024 Operating Budget and 2024-2028 Capital Improvements Program

Executive Summary: Time is provided for discussion by City Council of any remaining items related to the 2024 Budget and the 2024-2028 Capital Improvements Program

24. Discussion Item(s)

Reports of Council Members

Other Business

Executive Session

- a. To consider the appointment of public officials.

Adjournment

25. Motion to Adjourn

Contact: Grace Brown, Clerk of Council (grace.brown@worthington.org) (614) 436-3100 | Agenda published on 11/16/2023 at 4:53 PM

RESOLUTION NO. 58-2023

Expressing the Congratulations and Best Wishes of
Worthington City Council to the Thomas Worthington
High School Field Hockey Team for Winning the 2023
State Championship.

WHEREAS, for the second year in a row, the Thomas Worthington High School Field Hockey Team won the State Championship title in 2023; and,

WHEREAS, the Thomas Worthington High School Field Hockey Team defeated New Albany, 2-1 in overtime in the championship game on Saturday, November 4th, to bring home the state title; and,

WHEREAS, this is the eighth state title in the history of the Thomas Worthington Field Hockey Program, also winning the State Championship in 1988, 2007, 2011, 2015, 2016, 2017, and 2022; and,

WHEREAS, the Thomas Worthington High School Field Hockey team ended the season with a 21-2 record; and,

WHEREAS, the State Championship is the culmination of a season of hard work, disciplined training and dedication on the part of Team Members Moira Barnovsky, Lauren Beier, Sophia Borghese, Rowan Casey, Taylor Charnes, Julie Conroy, Mae Conroy, Meredith Estep, Peyton Frost, Jaidyn Gussler, Molly McClellan, Macy Morgan, Elle Pasquinilli Keira Posey, Caroline Sprung, Courtney Stegemiller, Emmy Wellejus; and,

WHEREAS, the Council of the City of Worthington wishes to further recognize the outstanding efforts of Coach Terri Simonetti Frost, as well as the coaching staff of Alex Ickert, Caitlin Bromogen Christel, and Emma Anderson,

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Worthington, County of Franklin, State of Ohio:

SECTION 1. That on behalf of the community, City Council wishes to extend sincere congratulations and recognition to the members of the Thomas Worthington High School Field Hockey Team and coaching staff for their exemplary effort in winning the 2023 State Championship and wish them continued success in future pursuits.

SECTION 2. That the Clerk of Council be instructed to record this Resolution in the appropriate Resolution Book and to forward a duly certified copy thereof to Coach Terri Simonetti Frost.

Adopted:

President of Council

Attest:

Clerk of Council



City Council Agenda

Minutes

Monday, October 9, 2023 at 7:00 pm

6550 N. High Street, Worthington, Ohio 43085

1. Call to Order

Minutes:

Worthington City Council met in person on Monday, October 9, 2023. President Robinson called the meeting to order at 7:00 p.m.

2. Roll Call

Minutes:

Members Present: Katherine Brewer, Peter Bucher (via Microsoft Teams), Rebecca Hermann, Beth Kowalczyk, Bonnie Michael, Doug Smith, David Robinson

Member(s) Absent: None

Also Present: Acting City Manager Robyn Stewart, Assistant City Manager & Economic Development Director David McCorkle, Director of Law Tom Lindsey, Director of Finance Scott Bartter, Planning & Building Director Lee Brown, Director of Parks & Recreation Darren Hurley, Acting Chief of Police Eric Grille, Chief of Fire & EMS Mark Zambito, and Management Assistant Ethan Barnhardt

3. Pledge of Allegiance

Minutes:

President Robinson invited those in attendance to stand and recite the Pledge of Allegiance.

Public Hearings

4. Orange Township Joint Economic Development District (JEDD)

Minutes:

Ms. Stewart explained that we are having this public hearing again because the staff realized that a step needed to be included in the noticing process via the state statute, which was different than the City's notice requirements.

Mr. Barnhardt described how this public hearing is required under the Ohio Revised Code to enter into a Joint Economic Development District. A JEDD allows for levying a district-wide income tax in a township area that otherwise would not be allowed to do so. He provided an overview of the scope of the JEDD as proposed with Orange Township and how staff intends to bring a resolution back next week for consideration by the Council.

Reports of City Officials

5. Policy Item(s)

a. Flavored Tobacco

Minutes:

Mr. Lindsey described how we have discussed this topic multiple times over the year and staff has worked closely with the City of Columbus and Columbus Public Health (CPH), who previously passed legislation banning flavored tobacco last year. Since CPH serves as our public health services provider, we are using their language for consistency and enforcement, similar to what we did with the Tobacco 21 legislation. This contains some elements that the staff wanted to make sure the Council had the opportunity to discuss.

Mr. Luke Jacobs with Columbus Public Health described that the flavored ban in Columbus is to be effective on January 1, 2024, and they have successfully rolled out education to their licensed operators to ensure they understand the expectations. He and his staff are happy to answer any questions.

Ms. Hermann asked about Issue 2 on the ballot and if that should pass, whether this affects flavored marijuana products. Mr. Jacobs said that it has not come up in any recent conversations, and the definition of flavored tobacco is standard across similar jurisdictions. Mr. Robert Hakes with Columbus Public Health added that even if Issue 2 passes, it will go through a legislative process, and the bill will be introduced and tailored to what the legislature wants to do. The legislature can make adjustments to that. At this point, there is a clear delineation between marijuana and tobacco. Ms. Hermann asked if this would also be applied to chewing tobacco under flavored tobacco. Mr. Jacobs confirmed that it does fall under the definition of flavored tobacco. Mr. Hakes described that under flavored tobacco, they were deliberate with how they tailored the language, looking at what stands the test of a legal battle the best. This will include any flavored tobacco, including vapor products, menthols, flavored cigarillos, chewing tobacco, snuff, flavored wraps, and other paraphernalia. Hookah is not included. Mr. Lindsey read the flavored tobacco products' definition from the agenda packet.

Mr. Lindsey described that he has proposed that the amendments would become effective on January 1st, but no fines or penalties would go into effect until April 1, 2024. That is in fairness to the tobacco retailers in Worthington. He noted the penalties section of the draft ordinance and how the fines had been increased as compared to the fines under Tobacco 21.

Council members agreed that legislation should be brought back at a future City Council meeting.

b. Chickens

Minutes:

Mr. Brown provided a brief overview of the staff's work on this subject and how they spoke with Dr. Aaron Messer with Columbus Public Health (CPH) to learn more about how they

regulate backyard chickens. In that conversation, the staff became more comfortable moving this forward after having their reservations allayed.

Public Policy Intern Alex Novitski provided a background on the research that he has conducted on backyard chickens. This included overviewing the pros and cons of people for and against chickens and looking at the approaches of various communities that allow for backyard chickens, including setbacks and coop standards. After meeting with CPH, he explained that staff thought it would make the most sense for Worthington to match CPH's standards to allow for ease and uniformity in chicken management.

Ms. Kowalczyk asked what the additional cost to the city would be if we engaged CPH to do this. Mr. Brown replied that it was felt that this would fall under our existing contract umbrella at no additional cost. The permitting processes and fees would fall under CPH since they would administer the program for us.

Ms. Hermann asked about the timeline of our process now and if there are variance options if someone has yet to have the exact square footage or if anyone has asked. Mr. Brown said he did not recall that, and a variance would have to go through the Council. In his ten years now, he can only think of one chicken coop that was in Old Worthington and met the exact 150 feet. Staff's thought is if we get the go-ahead tonight to go to the Municipal Planning Commission in October, then have something for the Council to vote on by late November or December, acknowledging the 60-day referendum period for it going into effect. Ms. Hermann noted the MPC/ARB training they participated in; one thing that was said was that there was only a need to change a code if there were a lot of variances. Her concern is that we are opening the floodgates here and why we do not create an opportunity for a variance for the few numbers of people coming to do this. Mr. Brown said that he is not sure there could even be a variance with this because the idea was that we wanted to avoid creating a public meeting for the sake of having a public meeting. If we look at the standards and health concerns outlined by CPH, it is a stricter, better tool than what we could create by just changing the footage of the setbacks. Ms. Hermann noted how she spoke with the chicken-owning resident in Old Worthington, and she noted how keeping chickens is costly, so we need to educate our community so it is not just a short-term thing. The resident also agreed that a permit process would be positive.

Ms. Kowalczyk asked whether we would be grandfathering in people with backyard chickens and how we would reach out. Mr. Brown said that we will need to examine that moving forward; however, if they meet the current standards today, that is one thing, but if they do not meet the standards, we would encourage them to follow Columbus's process.

Ms. Hermann shared a story about animals being killed and slaughtered and then asked if something like that happens here, would there be regulations. Chief Grille responded that if they were harvesting and eating, they would fall under hunting laws and what is permissible.

Dr. Aaron Messer of CPH provided a presentation to the City Council. He said that they did not grandfather people in when their program was started, so certain standards were expected to be established and followed. Columbus does allow home slaughtering of chickens, and they have discussions to make sure it is done cleanly and humanely. The occasional sale of eggs is allowed in Columbus as long as it is not an in-home business. He noted that in Columbus, they get about 130-150 complaints a year, and notice is issued to

remove the chickens in 30 days or make an application. Every year, there are about 75 applications, and most people are approved for a license valid for four years.

He overviewed the City of Columbus's Health Code Section 221.05 with the Standards Relative to Animals, highlighting the sections regarding fowl. He explained how in the 14 largest cities in the US, all except Chicago require licensure, and roosters are generally prohibited. Eleven cities have various criteria that may allow keeping chickens on average urban and suburban-sized properties. The Columbus regulations, as drafted, were designed to prevent and eliminate nuisances. Some of their regulatory concerns included nuisances such as insanitation, odors, noise, insects, rodents, waste management, and zoonotic diseases. He provided an overview of the permitting process, going through the City of Columbus's website and how to complete an application. Then, there is an onsite consultation provided by CPH staff. Additional topics covered during the consultations include specific zoonotic diseases, including histoplasmosis, salmonellosis, campylobacteriosis, and avian flu. Also, things such as breed selection, care, egg production, handling, coop and run considerations such as durability, access, bedding, lighting, and more. Handouts given to applicants include diagrams, breed information, compositing, brooder temperatures, coop and run considerations, City Health Code excerpts, and Schedule II accredited veterinarians. The final inspections that are completed aim to meet several goals: public safety, public health, animal confinement, animal cruelty, animal welfare, and owner's know-how. The most important thing to them is to get applicants off to a good start so there is a good outcome with solid community acceptance. Mr. Brown added that when staff looked at options for this policy, it was obvious from talking to Dr. Messer that this approach elevated their comfort level and that there are mechanisms to protect the chickens and the neighbors. He expressed that he likes not grandfathering it and having people come in and meet the current code requirements. By utilizing CPH, we are able to use their expertise that we do not necessarily have on staff. Mr. Smith explained that at first, he thought the CPH had a very robust process, but when reading through and listening to his colleagues' concerns, he believes it is a smart approach. They already have the program and inspection process, and he is very pleased with what he has heard and would like to move it forward.

Ms. Michael asked how neighbor-versus-neighbor conflict is managed when one neighbor does not want chickens. Dr. Messer explained that when someone finishes with their permit process, it mitigates that disagreement. He is potentially speaking with the neighbors to let them know why there is no public health or safety concern, and he is happy to speak with them.

Ms. Kowalczyk asked if all of these requirements apply to pigeons. Dr. Messer said that they allow licensure of all birds but do not license pet birds that are kept inside. He understands that Worthington is just looking to move forward with chickens, so it would not apply. However, CPH has licenses for other birds.

Ms. Hermann asked about last year when birds were getting crusted eyes and if Dr. Messer knew about that. Dr. Messer replied that the USDA never determined a cause; locally, it came and went. Ms. Hermann asked if there was a preferred chicken breed. Dr. Messer explained that the goal is typically to have birds that are easy to handle and lay eggs.

Rhode Island Reds are his favorite breed, which meets those requirements. Ms. Hermann asked if there was any concern about runoff leading down to the river. Dr. Messer said it was not a concern because the time the birds are on the soil is limited. The waste is collected and either composted or bagged as part of the permitting process, so we would not increase runoff issues.

Ms. Michael asked who monitors to make sure that people are following regulations. Dr. Messer replied that CPH and the neighbors do, and the applicants with chickens are serious about what they do. There is also a requirement to have one reinspection during the 4-year permit period. It is extremely rare that there are any complaints after someone is licensed.

Mr. Smith asked about the next steps to move forward for the Council to decide. Mr. Brown replied that he had provided Mr. Lindsey with a draft ordinance change and changes to the zoning code. If we get the direction to move forward, staff will then examine to ensure that the proposed changes align with what CPH does. Dr. Messer said that Columbus Zoning does not consider a coop an accessory structure. Mr. Brown said that staff will work to finalize the changes to go to MPC/ARB in November for a recommendation to be made to the Council, and then legislation can be introduced for a hearing date. So, we are looking at February before it would become effective.

Ms. Michael asked how many people we anticipate applying. Dr. Messer responded it would be a small number of people, and it is typically middle to the upper middle class who typically apply due to the costs. It is a slow process for people to learn this is permitted.

MOTION: Mr. Smith moved, Ms. Hermann seconded by to request staff proceeds as Mr. Brown stated.

Ms. Kowalczyk thanked Mr. Brown for reaching out because this is a robust process and helps to protect the community. She has some concerns because there are few people interested in this, but if the staff feels comfortable, it sounds like it is something that can be done. Dr. Messer shared that Columbus had two public meetings before updating their code, which did not have high attendance.

The motion carried unanimously by a voice vote.

c. September 2023 Financial Report

Minutes:

Mr. Bartter noted that revenues remain strong and expenditures are on the track he anticipated they would be.

Ms. Hermann asked if we can capture information on how much of our income taxes come from people working from home. Mr. Bartter replied that we could look at the refunds or individual withholding. When looking at the top withholders, there are some new businesses that do not have nexus in the City popup there. However, it isn't easy to measure.

MOTION: Ms. Michael moved, seconded by Ms. Kowalczyk to accept the September 2023 Financial Report as presented.

The motion carried unanimously by a voice vote.

6. Discussion Item(s)

a. Overview - Proposed 2024 Operating Budget & Five-Year Forecast

Minutes:

Ms. Stewart detailed how the City's Charter indicates that the City Manager, at least sixty days before the beginning of each budget year, shall submit to the Council an operating budget estimate and an explanatory budget message after consultation with the head of each department. This evening is the kickoff of a series of conversations around the operating budget and the background; tonight is an overview of high-level trends. The City's budget identifies funds and organizes how we pay for services, capital, and personnel. This requires the prioritization of funding, which has in past years been focused on maintaining the robust and high level of services that the community expects.

Mr. Bartter overviewed the 2024 proposed budget and its focus on the maintenance of existing services, as well as noting projected revenue growth. Additionally, it will utilize the fund balance to support additional capital investment in the community. Two and a half new positions are proposed, including an Assistant Law Director, a Fire Inspector, and a part-time Public Service Coordinator.

Ms. Michael asked whether there would be an addition of someone focusing on grantsmanship. Ms. Stewart responded that when we apply for grants, we often participate with people with specific expertise and look at grants on a grant-for-grant basis. Ms.

Michael said she would like to know more about our grant needs and how many we are getting. Ms. Stewart replied that we could look into that information.

Ms. Stewart described how, with the Assistant Law Director position, there is a need for routine legal review, and this will reduce the need for us to contract out for legal support. This is also a succession planning strategy. We need to catch up with the frequency of inspections for the Fire Inspector position, so there is a need for an additional position. She noted that funds are also included for the use of the projects coming out of the vision implementation teams. We have also discussed a comprehensive plan update, which can be costly and funds have been included in this budget along with dollars for a project to digitize our paper records.

Mr. Bartter overviewed our current services, including fire prevention and protection, emergency medical services, the Community Center and Griswold Center, economic development, and grants for non-profit organizations. He also noted things such as refuse collection, leaf collection, recycling, parks and playgrounds, police service, snow and ice, and winter holiday decorating. He noted that most of our expenditures go towards personnel for public safety. Second on the list is expenditures for parks and recreation.

Mr. Robinson asked about the breakdown between parks and recreation and if a ballpark estimate existed for that. Mr. Bartter replied that recreation operations are about \$3.38 million, recreation programs are \$1 million, and park maintenance is about \$1.3 million.

Mr. Bartter explained how the 2024 operating is almost 12% over the 2023 original appropriations. 44% of the increase can be attributed to transfers out of the general fund. 36% is in wages, compensation, pensions, and employee benefits. The other remaining increase is from various sources, including planning and building consulting, vision implementation, tax collection fees, and the records management project. 2024, as proposed, is a 5.75% increase from 2023 if you remove all transfers. He overviewed the utilization of the General Fund balance to support capital investment with \$1.775 million in 2024 and \$500,000 in 2025-2028.

Ms. Hermann asked about the staffing levels at the Division of Fire EMS. Chief Zambito replied there is only one vacancy left that needs to be filled, and we have four people on background to fill that spot.

Mr. Bartter overviewed how there is a 3.35% wage increase included for non-union personnel and the Division of Police, along with a 7.5% increase in health insurance costs. He pointed out that the wages for the IAFF contract for 2024-2026 are to be determined. He showed a slide that details the city's revenue streams, including income taxes, which are the largest slice of the pie. The 2024 general fund revenue estimate is a 13.11% increase from the 2023 estimate. In out years starting in 2025, we are estimating a 2.5% increase through 2028. For 2024 property taxes, we estimate an almost 19% increase due to the reappraisals conducted by the county. For 2024, Parks and Recreation fees are projected at \$2 million, which shows a rebound from the pandemic and 2023 estimates. The 2024 Fire Protection Service is doubled by \$500,000 to \$1 million, assuming the Sharon Township Fire Levy passes. Mr. Bartter showed charts detailing historical trends for General Fund Expenses and Revenues and the General Fund Balance. He concluded by showing the schedule for upcoming City Council budget presentations. Then he said that the potential modifications and items for discussion included needing to increase the amounts for the Northwest Regional Emergency Communications contract, the request from SwimInc, and the Columbus Board of Health contract.

Ms. Hermann asked about the Hotel/Motel Tax and how it used to be large. Mr. Bartter stated it was much larger when we had the Holiday Inn, but now it is under \$20,000. Ms. Hermann asked if we are equally providing support for the CVB in the absence of those funds. Ms. Stewart responded that she has been moved into General Fund support due to the lack of the Hotel/Motel tax.

b. Vision Implementation Teams - Status Update

Minutes:

Ms. Stewart shared that we are still looking to pursue the public engagement piece of this and awaiting the final draft ideas from the vision teams. Staff is working to identify a timeline for that work.

Ms. Kowalczyk asked how many groups were remaining to get their work in so she could get an idea of the timing to move things forward. Ms. Stewart replied that we are still awaiting the draft items from one team, but we should have those very soon. Mr. Robinson replied that his team was the remaining team, and their report should be submitted by the end of the week.

c. Current Initiatives

Minutes:

Ms. Stewart explained that several of these items have been tackled recently, and the staff is prepared to answer any question.

Ms. Hermann had a question about whether we would readdress how we manage dead deer in yards and if that would be handled under the task force. Ms. Stewart said she would check in with staff on that and bring it back to the Council; she also noted the task force is

soon to begin their work.

Reports of Council Members

7. Reports of Council Members

Minutes:

Ms. Hermann shared that she attended the Undesign the Redline tour, and it was conducted wonderfully. Glennon Sweeney did an amazing job.

Mr. Bucher reminded everyone that voter registration is quickly coming to an end.

Ms. Kowalczyk gave an update on the Divided Communities project, and it has been a really great process where they have learned a lot from a variety of speakers.

Mr. Smith thanked the staff for their work on the chicken initiative and noted his daughter in the audience, who was also appreciative.

Ms. Brewer gave an update on the upcoming MPC/ARB meeting.

Other Business

Executive Session

Adjournment

8. Motion to Adjourn

Minutes:

MOTION: Ms. Michael moved, seconded by Mr. Smith, to adjourn.

The motion carried unanimously by a voice vote.

President Robinson declared the meeting adjourned at approximately 8:57 p.m.



STAFF MEMORANDUM
City Council Meeting – November 20, 2023

Date: November 14, 2023

To: Robyn Stewart, Acting City Manager
David McCorkle, Assistant City Manager

From: R. Lee Brown, Director of Planning and Building

Subject: Ordinance – Subdivision – Final Plat – 286 W. South St. – SUB 03-2023

EXECUTIVE SUMMARY

This Ordinance approves the Final Plat for the Resubdivision of Lot #1 of Weatherburn Subdivision located at 286 W. South St. and grants variances for lot width for Lot#1B and Lot #1C.

RECOMMENDATION

Approve as presented.

On September 28, 2023, the Municipal Planning Commission reviewed and recommended **approval** of the Final Plat with variances for the Resubdivision of Lot #1 in Weatherburn Subdivision. To view the meeting, please go to the Video Archives for [September 28, 2023, ARB & MPC Meeting](#).

On June 8, 2023, the Municipal Planning Commission reviewed and **conditionally approved** the Preliminary Plat with the following conditions:

1. Building placement variance requests were not approved as part of the platting process.
2. Any missing items needed for the Preliminary Plat will be needed at the time of Final Plat submission.

To view the meeting, please go to the Video Archives for [June 8, 2023, ARB & MPC Meeting](#).

Staff is recommending **approval** of the application as the proposed lot widths are not out of character and the lots exceed the minimum square footage requirement for lots in the R-10

District. The creation of the two additional lots will provide additional housing options for those wanting to stay or move into Worthington that desire a newly constructed residence.

BACKGROUND/DESCRIPTION

The request before you is a Final Plat to subdivide an existing .88-acres lot that is located at the northwest corner of W. South St. and Weatherburn Pl. The proposal is to create three (3) building lots out of what is currently Lot #1 of Weatherburn Subdivision which was platted in 1986 that created a five (5) lot subdivision with four (4) lots gaining access from a newly constructed cul-de-sac. The subdivision now known as Weatherburn was a Resubdivision of Hoyer's Subdivision that was originally a 36-lot subdivision platted in 1894. The applicant purchased the property on March 14, 2023, and the existing 2,782 sq. ft. one-story home constructed in 1944 is proposed to be demolished as part of the redevelopment of the site. The property is located in the R-10 Zoning District.

History:

- On June 18, 2023, the Municipal Planning Commission **approved** the demolition of an existing 2,782 sq. ft. single-family home that was constructed in 1944.
- On June 18, 2023, the Municipal Planning Commission **conditionally approved** the Preliminary Plat to create two additional lots with the following conditions:
 - Building placement variance requests were not approved as part of the platting process.
 - Any missing items needed for the Preliminary Plat will be needed at the time of Final Plat submission.
- On September 28, 2023, the Municipal Planning Commission recommended **approval** of the Final Plat with variances to City Council.

Project Details:

1. Proposed Lots:

- a. Lot #1A:
 - i. Lot Area – 17,156 sq. ft.
 - ii. Lot Width – 78-feet – Weatherburn Pl.
 - iii. Lot Width – 174-feet – W. South St.
- b. Lot #1B:
 - i. Lot Area – 10,892 sq. ft.
 - ii. Lot Width – 65-feet
- c. Lot #1C:
 - i. Lot Area – 10,765 sq. ft.
 - ii. Lot Width – 67-feet

2. Proposed Front Setbacks:

- a. Lot #1A
 - i. Required – 30-feet
 - ii. Proposed – 30-feet plus along W. South St. and 73-feet along Weatherburn Pl.
- b. Lot #1B
 - i. Required – 30-feet

- ii. Proposed – 58-feet
 - 1. Larger setback due to an existing platted utility easement for an existing 12-inch sanitary sewer line that runs north to south.
 - c. Lot #1C
 - i. Required – 30-feet
 - ii. Proposed – 58-feet
 - 1. Larger setback due to an existing platted utility easement for an existing 12-inch sanitary sewer line that runs north to south.
- 3. Access Points:
 - a. All access points to the lots will be from Weatherburn Pl. and will be required to receive a Driveway Permit and Right-of-way Permit from the Service & Engineering Department.
 - i. The Service & Engineering Department is asking that the access for Lot #1A (corner lot) be moved north towards the rear property line between Lot #1A and Lot #1B to provide an appropriate distance from the intersection of Weatherburn Pl. and W. South St.
 - b. The existing access point on W. South St. will be removed as part of the subdivision. This area will need to be reseeded, graded and a new curb installed in the area of the existing drive approach.
 - c. A Right-of-way Work Permit and Driveway Permit will be required by the Service & Engineering Dept.
- 4. Sidewalks:
 - a. Sidewalks will be required along the W. South St. frontage that will be 5-feet in width and will connect with the existing sidewalk of 4-feet along Weatherburn Pl.
- 5. Street Trees:
 - a. Twelve (12) street trees are proposed along W. South St. and Weatherburn Pl. Four (4) street trees along Weatherburn Pl. located in the public right-of-way and eight (8) street trees located on the backside of the new sidewalk that will be located on private property along W. South St.
 - i. The location of the existing underground utilities in the area is the reason for the location of the W. South St. street trees being located on the backside of the new sidewalk instead of the tree lawn.
 - ii. Utilities:
 - 1. 21-inch and 24-inch storm sewer
 - 2. 12-inch sanitary sewer line
 - 3. 6-inch waterline
 - b. The City Arborist has provided the following list of trees that are acceptable street trees:
 - i. Weatherburn Pl.
 - 1. Norwegian Sunset maple -Acer truncatum x platanoides 'Keithsform'
 - 2. Hot Wings Maple -Acer tataricum 'GarAnn'

3. American Hornbeam -*Carpinus caroliniana* 'Native Flame®, Palisade®, Ball O' Fire™, & Rising Fire®'
 4. Cornelian Cherry Dogwood -*Cornus mas*
 5. Frontier Elm -*Ulmus x Frontier*
 6. Golden Rain Tree -*Koelreuteria paniculata*
 7. Fort McNair Red Horse Chestnut -*Aesculus x carnea* 'Fort McNair'
 8. Persian ironwood -*Parrotia persica*
 9. Paperbark Maple -*Acer grisium*
 10. American yellowwood -*Cladrastis kentukea*
- ii. W. South St. – Any of the Weatherburn Pl. trees are acceptable as well as the following larger trees. Larger trees should not to be used in the quantity shown on the Preliminary Plat. Coordination with the City Arborist would be needed.
1. Main Street® Maple -*Acer truncatum* 'WF-AT1'
 2. Japanese zelkova - *Zelkova serrata*
 3. Silver Linden - *Tilia tomentosa* 'Sterling'
 4. Swamp White Oak -*Quercus Bicolor*
 5. London planetree - *Platanus x acerifolia* 'Morton's Circle'
 6. Black Gum -*Nyssa sylvatica* 'Northern Splendor' or 'Green Gable'
 7. Kentucky Coffeetree - *Gymnocladus dioica* 'Espresso'

6. Existing Vegetation:

- a. A Tree Survey was submitted providing detail for every tree larger than 6 caliper inches on the site.
- b. The site also has an abundance of honeysuckle and overgrown vegetation on the site.
- c. There are thirty-eight (38) existing trees on the site that exceed 6 caliper inches on the site. The trees have all been ranked for their condition from Very Good to Poor.
- d. Some of the trees have been shown on the Preliminary Plat to stay as part of the redevelopment of the site.
 - i. 17 trees have been shown to remain on the site.
- e. Tree protection fencing needs to be shown on the plans for the trees that are proposed to stay on the site and be protected during demolition and construction of the new single-family homes.
 1. A Tree Protection Plan will be required to be submitted with the Demolition Permit for review and approval.
- f. City Arborist comments:
 - i. Recommends removal of the existing Hackberry Tree and Crabapple Tree on Lot #1A due to their condition and quality.
 - ii. States that the Honey Locust Tree on Lot #1C is in great shape.
 1. This is likely the only tree that is impacted by the placement of the proposed new single-family home.

7. Utilities:

- a. There is an existing 12-inch sanitary sewer line that runs north to south that is located in a 10' sanitary sewer easement that is approximately 40-feet from the public right-of-way of Weatherburn Pl.
 - i. Connection to sewer will connect to the existing 12-inch sanitary sewer line that is already on the site.
 - b. There is an existing 6-inch waterline on the eastern side of Weatherburn Pl. and a 6-inch waterline along the north side of W. South St.
 - i. To connect to the waterline on Weatherburn Pl. the Service & Engineering Department will require the applicant to bore under the roadway to access the waterline. The applicant will be responsible for any damage related to connection to utilities.
 - c. Gas & Electric:
 - i. Gas:
 - 1. Lots #1B and #1C will access the gas main on Weatherburn Pl.
 - 2. Lot #1A will access the gas main on W. South St.
 - ii. Electric:
 - 1. Electric is required to be buried in any new subdivision.
 - 2. The electric is shown to cross under W. South St. at Weatherburn Pl. and run along the frontage of Lot #1A and then run along the western side of Lot #1A, Lot #1B and Lot #1C.
 - a. City staff has asked if AEP could run the powerlines along the western side of the development instead of along the W. South St. frontage. There is a concern that the easement will be in the same location as the proposed street trees on W. South St.
 - i. Clarification is needed.
 - d. Stormwater:
 - i. There are two existing catch basins at the intersection of Weatherburn Pl. and W. South St. that connect to a 21-inch storm sewer line.
 - ii. The flow of water from the site will be required to be graded to not negatively impact the neighboring properties.
 - iii. Drainage Analysis
 - 1. A Drainage Analysis was submitted by E.P. Ferris and reviewed by the Service & Engineering Dept. and found that the addition of two lots will have minimal impact on the current storm sewer system.
8. A Subdivider's Agreement has been provided as part of the Subdivision process.

Worthington Planning & Zoning Code:**Section 1149.01 Yard, Area and Height for Dwellings & Accessory Structures**

District	Lot Width	Lot Area	Front Setback	Rear Setback	Side	Sum of Side	Height
R-10	80-feet	10,400sq. ft.	30-feet	30-feet	8-feet	20-feet	30-feet

Land Use Plans:Worthington Comprehensive Plan

The 2005 Worthington Comprehensive Plan states that one of the strengths of the Worthington Community is its residential neighborhoods. Encouraging development in existing neighborhoods is important in maintaining the existing housing stock throughout Worthington.

Staff Analysis:

1. Public Area Payment:
 - a. \$250.00/new dwelling unit – required at the time of applying for a permit to construct the new dwelling units.
2. Special Park Fund:
 - a. \$500.00/newly created lot – required prior to the recording the Final Plat.
3. Proposed Variances:
 - a. Lot #1B
 - i. Lot Width
 1. Required – 80-feet
 2. Proposed – 65-feet
 - a. Variance of 15-feet
 - i. The lot widths are not out of character for the area. There are a variety of lot sizes and widths found throughout this quadrant of the City.
 - a. Lot #1C
 - ii. Lot Width
 1. Required – 80-feet
 2. Proposed – 67-feet
 - a. Variance of 13-feet
 - i. The lot widths are not out of character for the area. There are a variety of lot sizes and widths found throughout this quadrant of the City.
4. Tree Protection Plan
 - a. Tree protection fencing needs to be shown on the plans for the trees that are proposed to stay on the site and be protected during demolition and construction of the new single-family homes.
 - i. A Tree Protection Plan will be required to be submitted with the Demolition Permit for review and approval.
5. Since the property is not located in the Architectural Review District, strict adherence to construct the homes as previously shown in the application materials

provided as part of the Preliminary Plat is not legally possible by the Municipal Planning Commission and/or City Council.

6. The Municipal Planning Commission and/or City Council cannot legally require the proposed houses to be constructed as previously shown in the information provided as part of the Preliminary Plat. The Commission can review the proposal for compliance with the Subdivision Regulations and any variances as part of the platting process. The applicant previously proposed variances for building setbacks as part of the platting process and the proposed variances related to the setbacks would run with the land.
 - a. The Municipal Planning Commission did not approve setback variances for the proposed new homes as part of the Preliminary Plat approval. The Commission did recommend approval of a variance for lot width for Lot #1B and Lot #1C.
7. The applicant previously made application to demolish the existing single-family home on the site that that was approved on June 8, 2023. The demolition application met the requirements of Section 1153.05.
8. The proposed lot sizes exceed the minimum square footage of 10,400 sq. ft. in size for newly created lots in the R-10 District.
9. Two of the proposed lots do not meet the minimum lot width requirement for newly created lots in the R-10 District; however, the lot widths are not out of character for the area. There are a variety of lot sizes and widths found throughout the City.
 - a. The applicant provided an exhibit that depicts the lots in the surrounding area that do not meet the minimum lot width for newly created parcels in the vicinity of the proposed development.
 - b. The majority of lots in this area were created prior to the adoption of the 1971 Planning & Zoning Code.
 - c. The applicant would technically be able to create three (3) lots with a minimum of 80-feet of frontage without any variances if it was not for the 10' sanitary sewer easement that bisects the eastern portion of the site there could have been two lots on W. South St. and one lot on Weatherburn Pl.
 - d. City staff has provided an exhibit that depicts all the lots in the City that are zoned R-10 that are zoning compliant, lots less than 10,400 sq. ft. and lots that exceed 10,400 sq. ft., but are less than 80-feet in width.
 - i. Total R-10 parcels = 4,677.
 1. 940 parcels are under the current 80-feet in width requirement but meet or exceed the minimum lot size requirement.
 - a. Approximately 20% of the parcels do not meet the frontage requirement.
 2. 2,428 parcels are under the required 10,400 sq. ft. lot size requirement.
 - a. Approximately 52% of the parcels do not meet the lot size requirement.
 3. 1,488 parcels are compliant with both lot size requirements and road frontage requirements.

- a. Approximately 32% of the parcels meet the R-10 requirements found in the Planning & Zoning Code.
 - ii. Please see attached exhibit.
10. Subdivision Process:
 - a. Municipal Planning Commission
 - i. Preliminary Plat – [Section 1101.09](#)
 1. MPC conditionally approved the Preliminary Plat.
 - ii. Final Plat – [Section 1101.12](#)
 1. The Municipal Planning Commission shall make a recommendation to City Council.
 - b. City Council
 - i. Council may review the application and may adopt or reject the Subdivision with or without change.
 1. The Ordinance will be introduced by City Council on November 6, 2023, and set for a date for a public hearing on November 20, 2023.
 2. If approved, the Ordinance would have an effective date 20-days after Council passage.
 3. The Final Plat must be recorded by the applicant within 6-months of City Council approval unless such time is extended by Resolution of City Council.

ATTACHMENTS

- Ordinance & Exhibits A&B
- Application Materials
- Portion of ARB & MPC Meeting Minutes

ORDINANCE NO. 24-2023

Approving a Final Plat for the Resubdivision of Lot #1 of
Weatherburn Subdivision Located at 286 W. South St. and
Authorizing Variances (Eric Kmetz)

WHEREAS, a request has been made by Eric Kmetz to subdivide Lot #1 of
Weatherburn Subdivision located at 286 W. South St.; and,

WHEREAS, the request has received a complete and thorough review by the
Municipal Planning Commission on June 18, 2023 (Preliminary Plat) and on September
28, 2023 (Final Plat) and approval has been recommended by the Commission; and,

NOW, THEREFORE, BE IT ORDAINED by the Council of the Municipality of
Worthington, County of Franklin and State of Ohio:

SECTION 1. That the Final Plat for the Resubdivision of Lot #1 of Weatherburn
Subdivision located at 286 W. South St., as per Case No. SUB 03-2023, Drawings No.
SUB 03-2023, dated September 15, 2023, attached hereto as Exhibit "A" be approved.

SECTION 2. That the City Manager is authorized to enter into a Subdivider's
Agreement with the Developer attached hereto as Exhibit "B".

SECTION 3. That there be and hereby is granted variances from Section 1149.01
of the Codified Ordinances which requires each newly created lot to have a minimum lot
width of 80-feet for proposed Lot #1B and Lot #1C.

SECTION 4. That notice of passage of the Ordinance shall be posted in the
Municipal Administration Building, the Worthington Library, the Griswold Center, and the
Worthington Community Center and shall set forth the title and effective date of the
Ordinance and a statement that the Ordinance is on file in the office of the Clerk of Council.
This Ordinance shall take effect and be in force from and after the earliest period allowed
by law and by the Charter of the City of Worthington, Ohio.

Passed:

President of Council

Attest:

Introduced November 6, 2023
P.H. November 20, 2023
Effective

Clerk of Council

RESUBDIVISION OF LOT NO. 1 OF WEATHERBURN

Situated in the City of Worthington, County of Franklin, and State of Ohio, being known as all of Lot 1 of Weatherburn, a resubdivision of Hoyer's Subdivision, as recorded in Plat Book 65, Page 91, Recorder's Office, Franklin County, Ohio.

ACCEPTANCE

I, _____, owner of the land embraced within this plat, do hereby declare this plat to be his/her free act and deed as said land owner and do hereby accept this Plat.

OWNER

State of Ohio }
County of Franklin } SS

Before me, a Notary Public in and for said County and State, personally appeared the above named persons, who acknowledged that they did sign the foregoing instrument and that the same is their free act and deed.

In testimony whereof, I have hereunto set my hand and official seal this ____ day of _____, 20 ____.

NOTARY PUBLIC

My commission expires _____

APPROVALS

Approved this ____ day of _____, 20 ____.

Clerk, Municipal Planning Commission, Worthington, OH

Approved this ____ day of _____, 20 ____.

Director of Service and Engineering, Worthington, OH

Approved this ____ day of _____, 20 ____.

City Manager, Worthington, OH

Approved and accepted this ____ day of _____, 20 ____ by Ordinance No. _____ wherein the place shown hereon is accepted as such by the Council of the City of Worthington, Ohio.

Clerk of Council, Worthington, OH

Approved this ____ day of _____, 20 ____.

Deputy Auditor

Approved this ____ day of _____, 20 ____.

Deputy Recorder

Transferred this ____ day of _____, 20 ____.

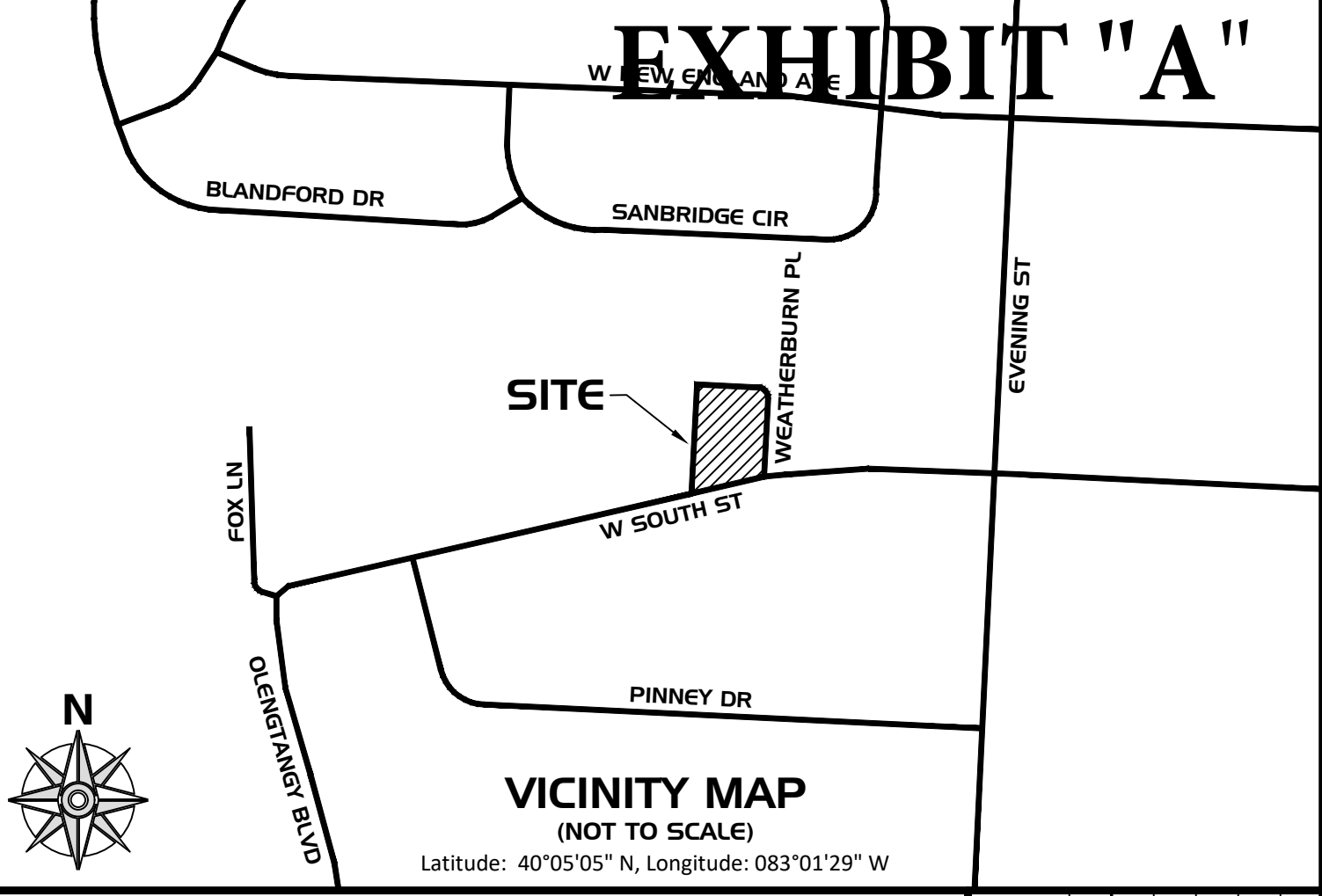
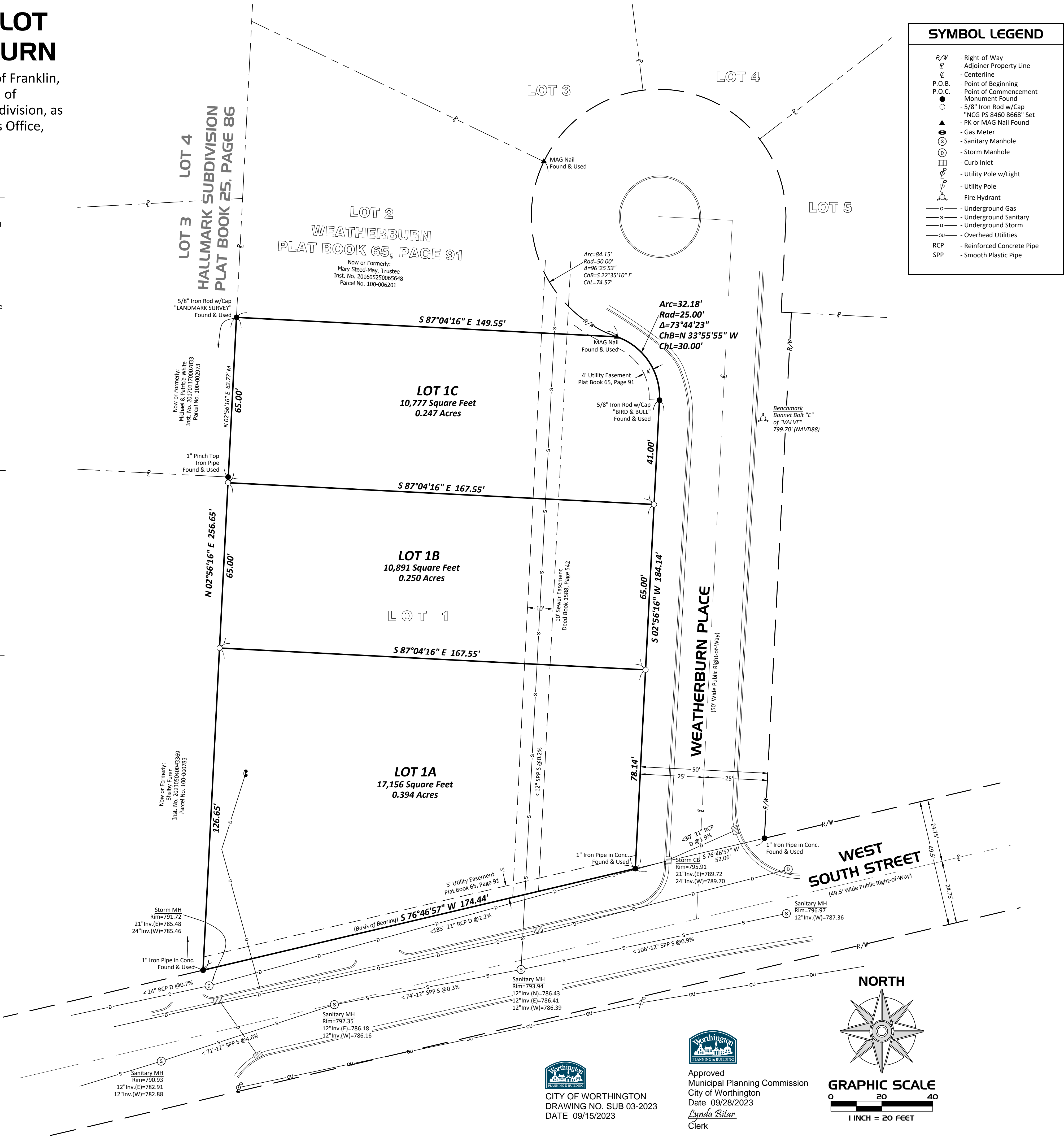
Auditor, Franklin County, OH

Filed for record this ____ day of _____, 20 ____ at _____.

Recorded this ____ day of _____, 20 ____ in Plat Book _____, Page _____.

File No. _____ Fee _____

Recorder, Franklin County, OH



OWNER OF RECORD

SK Homes South Street LLC
Inst. No. 202303140024060
Parcel No. 100-006200
286 South Street, Worthington, OH

LAND AREA

Lot 1A: 17,156 Square Feet, 0.394 Acres
Lot 1B: 10,891 Square Feet, 0.250 Acres
Lot 1C: 10,777 Square Feet, 0.247 Acres

Total Land Area: 38,824 Square Feet, 0.8913 Acres

BASIS OF BEARING

The Basis of Bearing for this survey is Grid North of the Ohio State Plane Coordinate System, South Zone (FIPS Zone 3402), on the North American Datum of 1983(2011) (Epoch 2010.000) using geoid model GEOID18, with a combined scale factor of 1.00002091033112. A GNSS Real Time Kinematic Network survey was used to establish a bearing of South 76°46'57" West for the northerly line of West South Street, and a Northing of 759,688.45 and Easting of 1,821,725.78 (U.S. Survey Feet) for the 1-inch pipe in concrete found at the southeast corner of the surveyed property.

REFERENCE DOCUMENTS

- Franklin County Auditor's Office Geographic Information System and Tax Maps
- Plat Book 65, Page 91
- Plat Book 25, Page 86
- Inst. No. 202303140024060
- Documents as shown

MISCELLANEOUS NOTES

The planting of street trees, on private property, along W. South Street, will be required.

CERTIFICATION

I hereby certify that this map or plat and the field survey on which it is based were made in accordance with the Minimum Standards for Boundary Surveys in the State of Ohio, Chapter 4733-37 of the Ohio Administrative Code. This plat represents a survey made by me and that the monuments as shown exist, or will be set, as located and that all dimensional and geodetic details are correct.

The field work was completed on July 5, 2023.

Date of Plat or Map: July 7, 2023

Eric S. Jackson, PS
Ohio Professional Surveyor No. 8668
ejackson@northcoastgeo.com

Signature Date:
Ohio Professional Surveyor No. 8668
ejackson@northcoastgeo.com

NORTH COAST GEOMATICS
Mapping & Surveying - northcoastgeo.com

667 Sunridge Rd
Fairlawn, OH 44333
(614) 519-3611

Project No. NCG 3046
Drafted by: ESJ/LKC

SHEET
OF

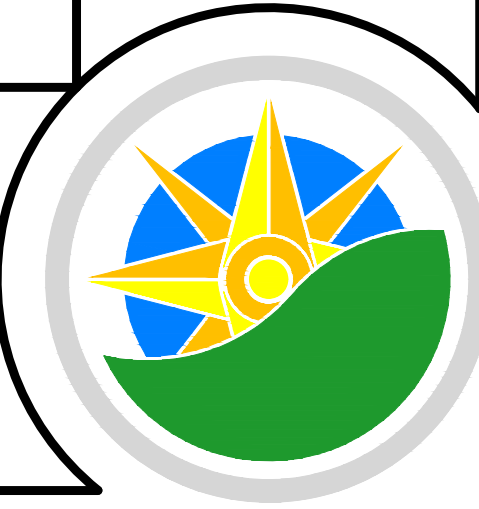
REVISION HISTORY

DATE:	BY:	REVISION
2023-07-10	LKC	GENERAL COMMENTS

SURVEY PREPARED FOR:

SK HOMES MANAGEMENT, LLC

286 W. SOUTH STREET
CITY OF WORTHINGTON
COUNTY OF FRANKLIN
STATE OF OHIO





Approved
Municipal Planning Commission
City of Worthington
Date 09/28/2023
Lynda Sitar
Clerk

EXHIBIT "B"



CITY OF WORTHINGTON
DRAWING NO. SUB 03-2023
DATE 09/15/2023

SUBDIVIDER'S AGREEMENT

THIS AGREEMENT is executed on this ____ day of _____ 2023, by and between SK Homes South Street LLC, an Ohio Limited Liability Company (the "Subdivider") and the City of Worthington, Ohio, an Ohio municipal corporation (the "City"), pursuant to Chapter 1101 of the Codified Ordinances of the City of Worthington and the Final Subdivision Plat for Subdivision of Lot No. 1 of Weatherburn (the "Subdivision").

NOW, THEREFORE, in consideration of the approval of the Subdivision by the Council of the City of Worthington, Ohio, it is hereby agreed as follows:

1. The proposed Subdivision and its ultimate use shall conform to the Subdivision Plat as approved by City Council and the requirements of law, including without limitation, the Planning and Zoning Code and the Building Code of the City of Worthington, except as may be otherwise authorized by proper authority.
2. No transfer of any lot, parcel or tract from said Subdivision shall be made, nor shall any construction work, including grading, be started which may affect the arrangement of streets or other public improvements until approval of the Final Plat is obtained by the Subdivider and the performance bond or irrevocable letter of credit acceptable to the City or certified check guaranteeing the completion of public improvements in accordance with Paragraph V of this Agreement is provided to the City.
3. The Subdivider shall pay the entire cost and shall construct, install or otherwise provide all public improvements necessary to serve the Subdivision as required by Part Eleven – Planning and Zoning Code - Title One – Subdivision Platting Regulations of the Worthington Codified Ordinances, in connection with the Subdivision, under the supervision of the City Engineer, including, at a minimum:
 - a. Sidewalks to be installed along the frontage of W. South Street.
 - b. Landscaping and screening features, and street trees along Weatherburn Place and W. South Street.
4. Prior to beginning any construction work, detailed engineering drawings and specifications shall be furnished to the City by the Subdivider for all of the public improvements to be installed in the Subdivision.
5. The Subdivider shall, in accordance with Section 1101.15 of the Worthington Codified Ordinances, provide to the City a performance bond or irrevocable letter of credit acceptable to the City, or a certified check, in an amount equal to the estimated cost of constructing said improvements, guaranteeing the completion thereof within one year from the date of approval of this Subdivider's Agreement, or such extension of time as may be granted by Council. Said performance bond or letter of credit acceptable to the



City or certified check shall be released upon acceptance of the public improvements by the City and upon the furnishing by the Subdivider of an additional bond or letter of credit acceptable to the City, or a certified check, in an amount equal to ten percent (10%) of the estimated cost of construction, guaranteeing the maintenance of said improvement for a period of one (1) year from the date of acceptance. Said maintenance bond or letter or credit acceptable to the City or certified check shall be released upon satisfactory completion of the one (1) year maintenance period. The Subdivider shall be responsible for the maintenance and care of all subdivision improvements for a period of one (1) year after acceptance of said improvements by the City.

6. The Subdivider shall in accordance with Section 1101.15 of the Worthington Codified Ordinances, deposit with the Finance Director a sum of money as prescribed by the City Engineer to defray the cost of inspection, engineering services, and other expenses, as may be incurred by the City in connection with the inspection of the installation of said public improvements. Should the amount of such deposit be insufficient to pay the cost thereof, the Subdivider shall, immediately upon demand by the City, deposit such additional sums as are estimated to be necessary. Upon completion and acceptance of said improvements, any unexpended balance shall be refunded.
7. The City Engineer shall be notified, in writing, seven (7) days before any construction is begun on said improvements in order that inspection may be provided.
8. The Subdivider shall hold the City of Worthington, its officials, and employees free and harmless from any and all claims for damages of nature arising or growing out of the construction of said public improvements, and shall defend, at its own cost and expense, any suit or action brought against the City of Worthington, or its officials and employees, by reason thereof, until the public improvements have been accepted by the City Council and until the end of the one (1) year maintenance period.
9. The Contractor shall purchase and maintain, during the duration of the Contract, Comprehensive General and Automobile Liability insurance issued to the Contractor and protecting the Contractor from all claims for personal injury, including death, and all claims for destruction of or damage to property, arising out of or in connection with any operations under the Contract Documents, whether such operations be by the Contractor or by any Subcontractor, or anyone directly or indirectly employed by the Contractor or by a Subcontractor. Insurance shall be written with limits of liability of not less than \$500,000.00 for each person and \$1,000,000.00 for each occurrence for all damages arising out of bodily injury, including death at any time resulting therefrom, and not less than \$500,000.00 for all property damages sustained in any one occurrence and shall include coverage for:
 - (a) Claims arising after the Contractor and Subcontractor have completed their work (completed operations and product liabilities coverage).





- (b) Claims arising from the liability assumed by the Contractor under this Contract including third party beneficiary liability coverage.
 - (c) Claims arising from property damage to wires, conduits, pipes, mains, sewers, tanks, tunnels, any similar property and any apparatus in connection therewith beneath the surface of the ground or water, caused by and occurring during the use of mechanical equipment for the purpose of grading land, paving, excavating, drilling, borrowing, filling, backfilling, tunneling, or pile driving.
 - (d) Claims for property damage arising out of collapse of or structural injury to any building or structure due to grading of land, excavating, borrowing, filling, backfilling, tunneling, pile driving, cofferdam work or caisson work.
10. Said insurance shall be maintained in full force and effect during the construction of the Subdivision improvements and shall protect the City, its officials, employees, agents and representatives from claims for damages to property arising in any manner from the negligent or wrongful acts, errors or omissions of the Subdivider or the contractor, their employees, agents, or representatives in the construction of the Subdivision improvements. Certificates of insurance naming the City as an additional insured shall be obtained and filed with the City prior to commencement of construction of the Subdivision improvements. These certificates shall contain a provision that coverage afforded under the policies shall not be cancelled unless at least thirty (30) days prior actual written notice has been given to the City.
11. Any violation of, or noncompliance with, any of the provisions of this Agreement shall constitute a breach of contract and the City shall have the right to stop the work forthwith and hold the bonding company responsible for the completion of said improvements according to the approved plat and this Agreement, or to use the certified check, or the letter of credit for such purpose. The City shall notify the Subdivider, in writing, of any such breaches, violations or noncompliance with any of the provisions or stipulations of this Agreement and shall provide a reasonable time for the Subdivider to remedy the breach, violation or noncompliance before the City shall have the right to stop work and hold the bonding company responsible for completion of said improvements.
12. The acceptance and approval of all required improvements be and hereby is conditioned upon the Subdivider or its authorized agent complying in full with Section 1101.16 of the Worthington Codified Ordinances unless the requirements as applicable to this Subdivision have been modified or deleted by action of Worthington City Council.



13. Upon approval and acceptance of the public improvements, reproducible as-built construction drawings of the public improvements shall be provided by the Subdivider and become the property of the City of Worthington.
14. In consideration whereof, the City of Worthington hereby grants the Subdivider, or its duly authorized agent, the right and privilege to make the improvements provided for herein.
15. This Agreement shall inure to the benefit of and be binding on the heirs, executors, successors or assigns of the Subdivider.
16. This Agreement shall be recorded in the Office of the Franklin County Recorder at the expense of the Developer and shall become a public record of Franklin County, Ohio.

IN WITNESS WHEREOF, the parties to this Agreement have caused it to be executed and subscribed by their duly authorized representatives as of the date first written above.

SK Homes South Street LLC

By_____

Print Name_____

Its_____

CITY OF WORTHINGTON

By_____

Print Name_____

Approved as to form:

By_____

Print Name_____

Director of Law
City of Worthington



Approved
Municipal Planning Commission
City of Worthington
Date 09/28/2023
Lynda Bitar
Clerk





MPC APPLICATION SUB 03-2023 286 W. South St.

Plan Type: Subdivision	Project:	App Date: 07/14/2023
Work Class: Final Plat	District: City of Worthington	Exp Date:
Status: In Review		Completed:
Valuation: \$0.00		Approval
		Expire Date:
Description: This is an application to subdivide a 0.88 acre parcel into three smaller parcels, each of which will be greater than the required minimum parcel size of 10,400 square feet. Due to a large sewer easement that runs across the parcel, a variance is requested to allow the frontage of the parcels to be less than the required 80'. The requested width of these parcels is consistent with the character of the neighborhood. Indeed, with the variance, the width of each of these parcels would be consistent with more than 20% of all residential parcels located in Worthington.		

Parcel: 100-006200	Main	Address: 286 W South St Worthington, OH 43085	Main	Zone: R-10(Low Density Residence)
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Architect	Owner	Applicant / Owner
Clarke Architects	Megan Schaffernocker	Eric Kmetz
James W Clarke	1149 High Grove Dr	7720 Campus Lane
475 Village Park Dr.	Columbus, OH 43235	Montgomery, OH 45242
Powell, OH 43065	Mobile: (614) 203-1306	Mobile: (859) 307-2026
Business: (614) 791-1200		
Mobile: (614) 271-8420		

Invoice No.	Fee	Fee Amount	Amount Paid
INV-00004617	(Subdivision)Final Plat	\$100.00	\$100.00
Total for Invoice INV-00004617		\$100.00	\$100.00
Grand Total for Plan		\$100.00	\$100.00



Approved
Municipal Planning Commission
City of Worthington
Date 09/28/2023
Lynda Bitar
Clerk

286 W. South St.



RESUBDIVISION OF LOT NO. 1 OF WEATHERBURN

Situated in the City of Worthington, County of Franklin, and State of Ohio, being known as all of Lot 1 of Weatherburn, a resubdivision of Hoyer's Subdivision, as recorded in Plat Book 65, Page 91, Recorder's Office, Franklin County, Ohio.

ACCEPTANCE

I, _____, owner of the land embraced within this plat, do hereby declare this plat to be his/her free act and deed as said land owner and do hereby accept this Plat.

OWNER

State of Ohio }
County of Franklin } SS

Before me, a Notary Public in and for said County and State, personally appeared the above named persons, who acknowledged that they did sign the foregoing instrument and that the same is their free act and deed.

In testimony whereof, I have hereunto set my hand and official seal this ____ day of _____, 20 ____.

NOTARY PUBLIC

My commission expires _____

APPROVALS

Approved this ____ day of _____, 20 ____.

Clerk, Municipal Planning Commission, Worthington, OH

Approved this ____ day of _____, 20 ____.

Director of Service and Engineering, Worthington, OH

Approved this ____ day of _____, 20 ____.

City Manager, Worthington, OH

Approved and accepted this ____ day of _____, 20 ____ by Ordinance No. _____ wherein the place shown hereon is accepted as such by the Council of the City of Worthington, Ohio.

Clerk of Council, Worthington, OH

Approved this ____ day of _____, 20 ____.

Deputy Auditor

Approved this ____ day of _____, 20 ____.

Deputy Recorder

Transferred this ____ day of _____, 20 ____.

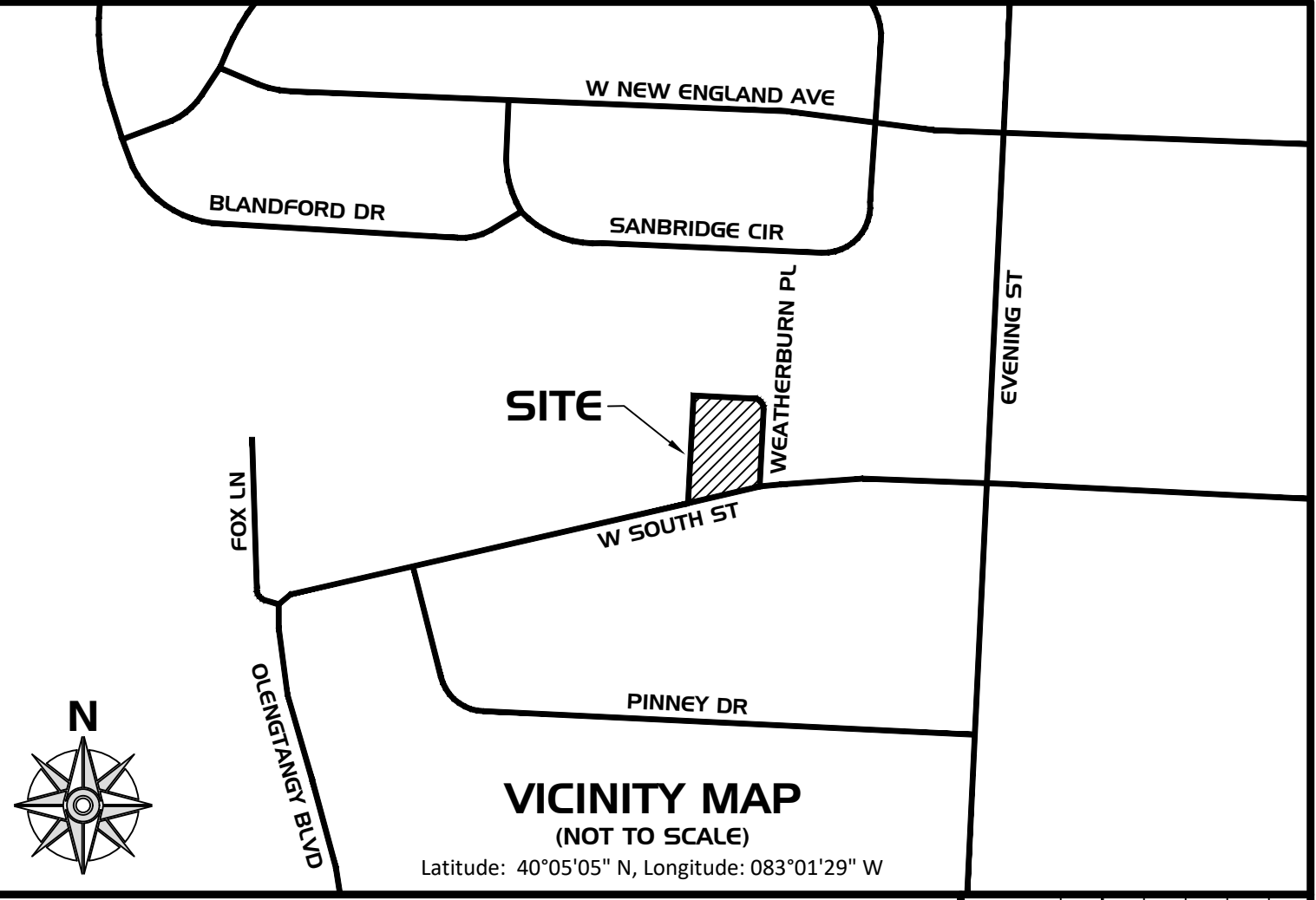
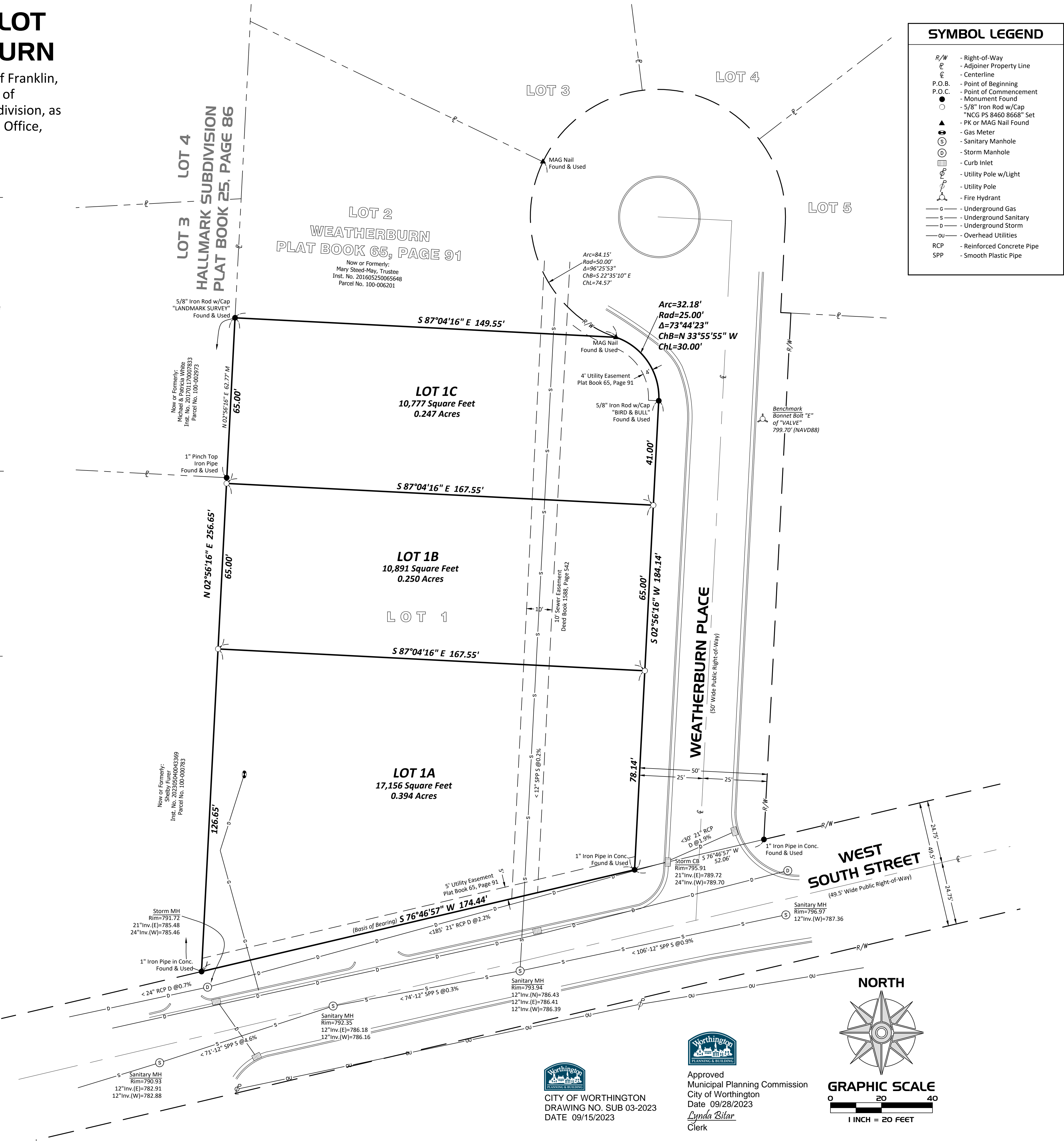
Auditor, Franklin County, OH

Filed for record this ____ day of _____, 20 ____ at _____.

Recorded this ____ day of _____, 20 ____ in Plat Book _____, Page _____.

File No. _____ Fee _____

Recorder, Franklin County, OH



OWNER OF RECORD

SK Homes South Street LLC
Inst. No. 202303140024060
Parcel No. 100-006200
286 South Street, Worthington, OH

LAND AREA

Lot 1A: 17,156 Square Feet, 0.394 Acres
Lot 1B: 10,891 Square Feet, 0.250 Acres
Lot 1C: 10,777 Square Feet, 0.247 Acres

Total Land Area: 38,824 Square Feet, 0.8913 Acres

BASIS OF BEARING

The Basis of Bearing for this survey is Grid North of the Ohio State Plane Coordinate System, South Zone (FIPS Zone 3402), on the North American Datum of 1983(2011) (Epoch 2010.000) using geoid model GEOID18, with a combined scale factor of 1.00002091033112. A GNSS Real Time Kinematic Network survey was used to establish a bearing of South 76°46'57" West for the northerly line of West South Street, and a Northing of 759,688.45 and Easting of 1,821,725.78 (U.S. Survey Feet) for the 1-inch pipe in concrete found at the southeast corner of the surveyed property.

REFERENCE DOCUMENTS

- Franklin County Auditor's Office Geographic Information System and Tax Maps
- Plat Book 65, Page 91
- Plat Book 25, Page 86
- Inst. No. 202303140024060
- Documents as shown

MISCELLANEOUS NOTES

The planting of street trees, on private property, along W. South Street, will be required.

CERTIFICATION

I hereby certify that this map or plat and the field survey on which it is based were made in accordance with the Minimum Standards for Boundary Surveys in the State of Ohio, Chapter 4733-37 of the Ohio Administrative Code. This plat represents a survey made by me and that the monuments as shown exist, or will be set, as located and that all dimensional and geodetic details are correct.

The field work was completed on July 5, 2023.

Date of Plat or Map: July 7, 2023

Eric S. Jackson, PS
Ohio Professional Surveyor No. 8668
ejackson@northcoastgeo.com

Signature Date:

NORTH COAST GEOMATICS
Mapping & Surveying - northcoastgeo.com

667 Sunridge Rd
Fairlawn, OH 44333
(614) 519-3611

Project No. NCG 3046
Drafted by: ESJ/LKC

SHEET
OF

REVISION HISTORY

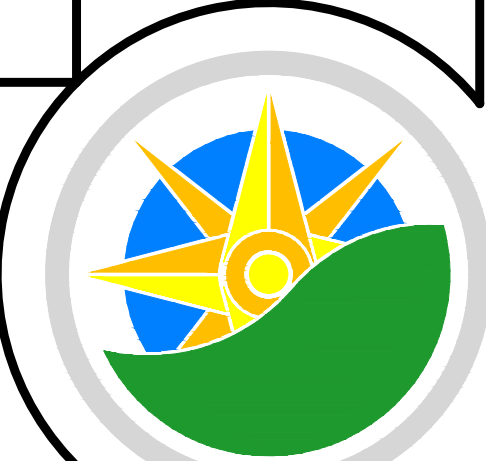
COMMENT:
GENERAL COMMENTS

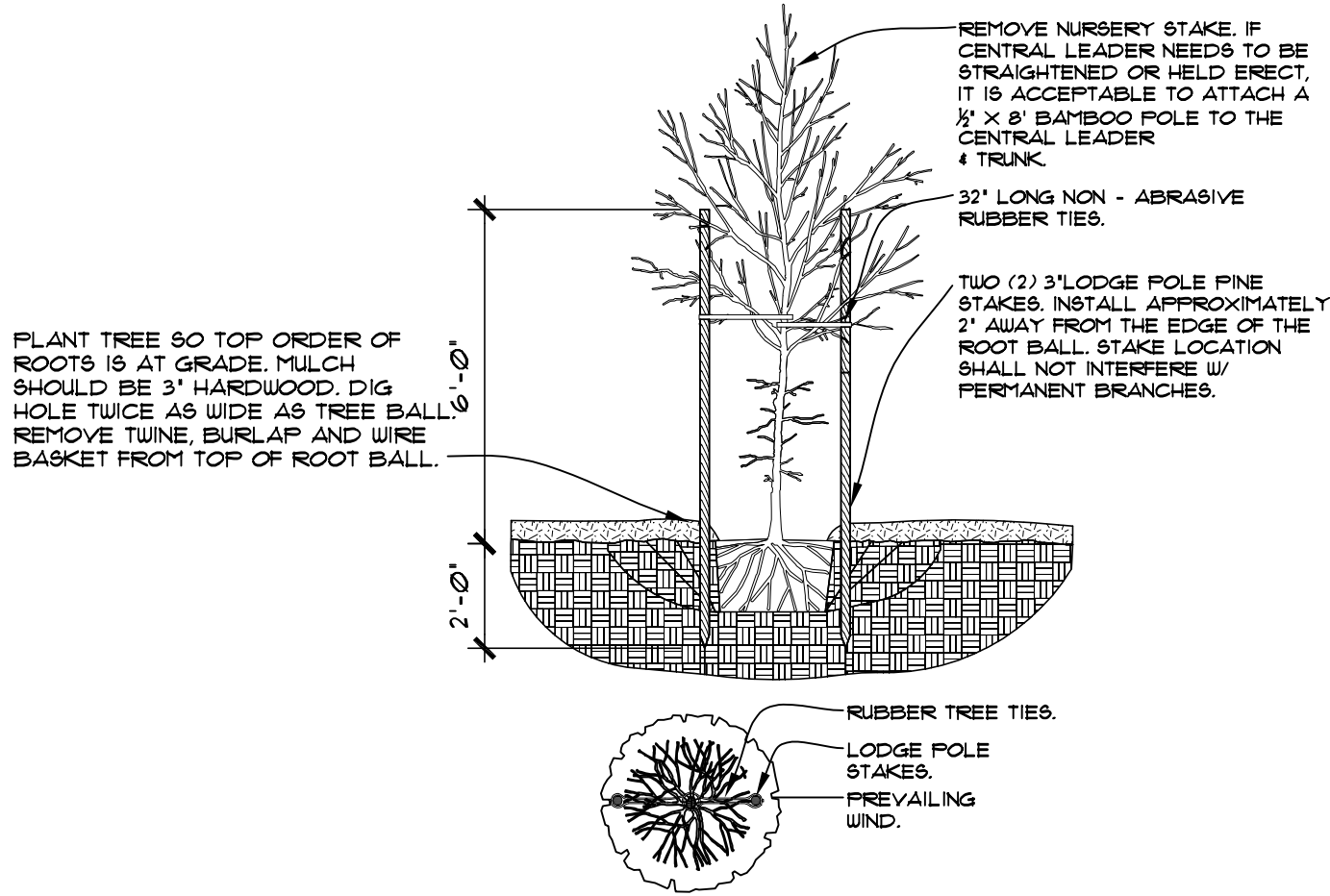
DATE:
2023-07-10

SURVEY PREPARED FOR:

SK HOMES MANAGEMENT, LLC

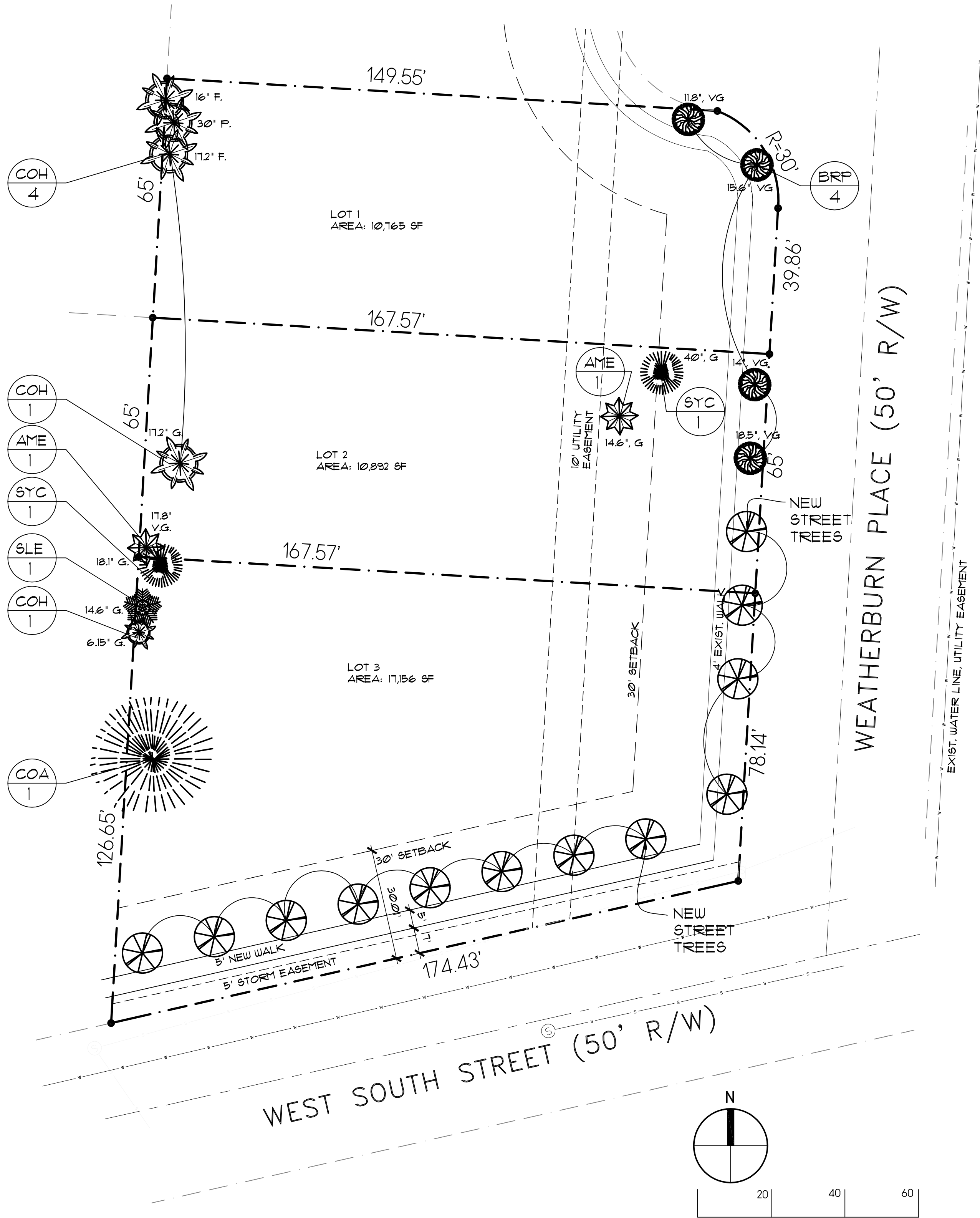
286 W. SOUTH STREET
CITY OF WORTHINGTON
COUNTY OF FRANKLIN
STATE OF OHIO





TREE PLANTING DETAIL

N.T.S.



LANDSCAPING SPEC:

SYMBOL	COMMON NAME	QTY	SYMBOL	COMMON NAME	QTY
COH	COMMON HACKBERRY	6	SLE	SLIPPERY ELM	1
BRP	BRADFORD PEAR	5	BLC	BLACK CHERRY	1
BOE	BOX ELDER	1	SIE	SIBERIAN ELM	1
AME	AMERICAN ELM	5	SWC	SWEET CHERRY	1
			HOL	HONEY LOCUST	1
SYC	SYCAMORE	2	BAP	BALSAM POPLAR	1
			HEM	HEMLOCK	1
DOW	DOG WOOD	1	COA	COMMON ASH	1

UNDERGROUND UTILITIES

CALL TWO WORKING DAYS BEFORE YOU DIG

800-362-2764 or 8-1-1
www.oups.org

NON-MEMBERS MUST BE CALLED DIRECTLY

SYMBOL	TREE'S CONDITION
V.G.	VERY GOOD
G.	GOOD
F.	FAIR
P.	POOR

NOTE: TREE SIZES ARE X" DIAMETER MEASURED FROM 3' ABOVE THE GROUND

CITY OF WORTHINGTON
DRAWING NO. SUB 03-2023
DATE 09/15/2023

Approved
Municipal Planning Commission
City of Worthington
Date 09/28/2023
Lynda Bitar
Clerk

CLARKE ARCHITECTS, INC.

475 Village Park Dr.
Powell, Ohio 43065-9178
Office: 614-791-1200
Mobile: 614-271-8420
jclarke@clarkearchitects.com

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DATE: MAY, 26 2023

REVISION DATES:

PROJECT:

3 HOUSES
WEATHERBURN PLACE

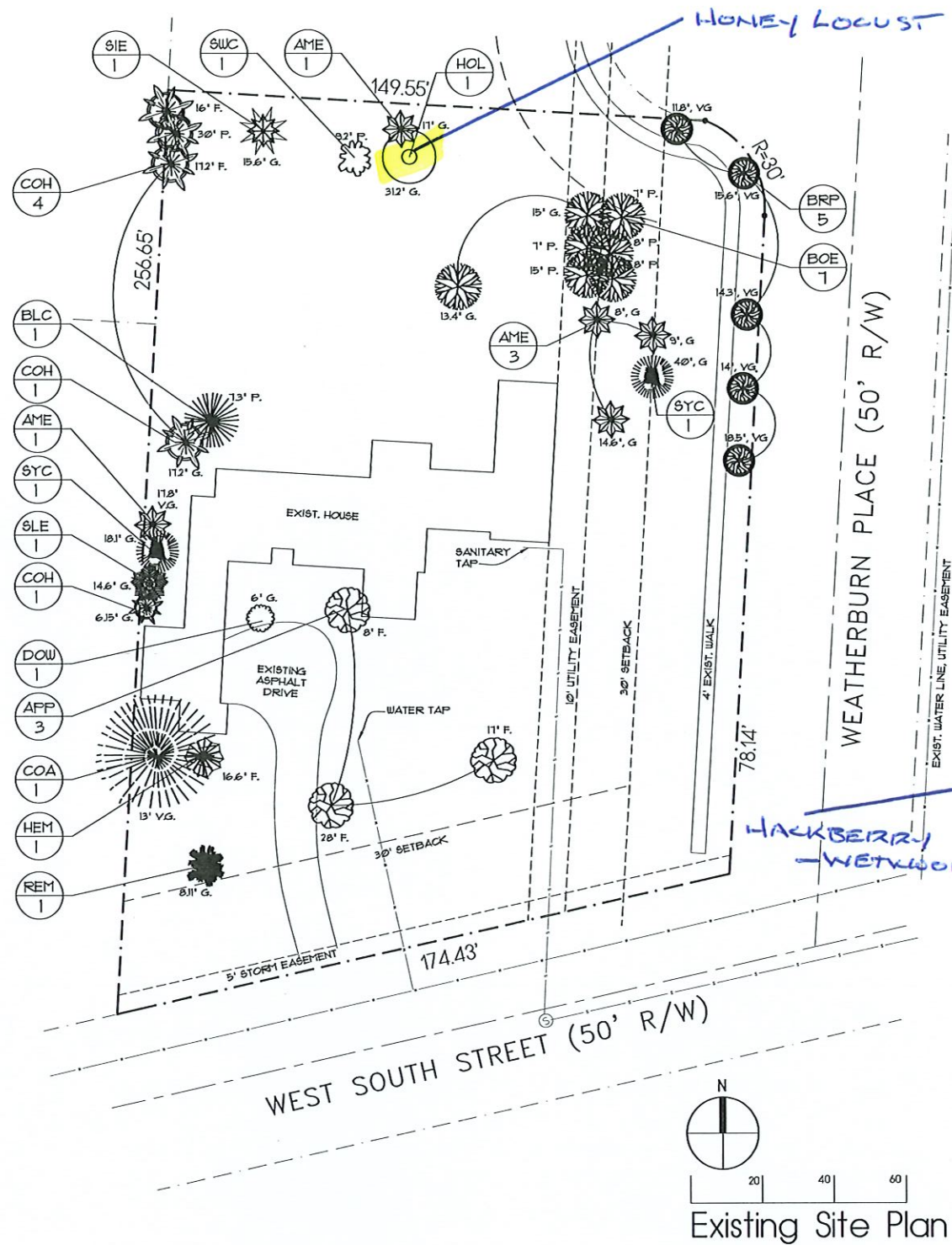
PROJECT NUMBER: 202316-H1

SHEET TITLE:

LANDSCAPE AND
SCREENING PLANS

SHEET NUMBER:

L2



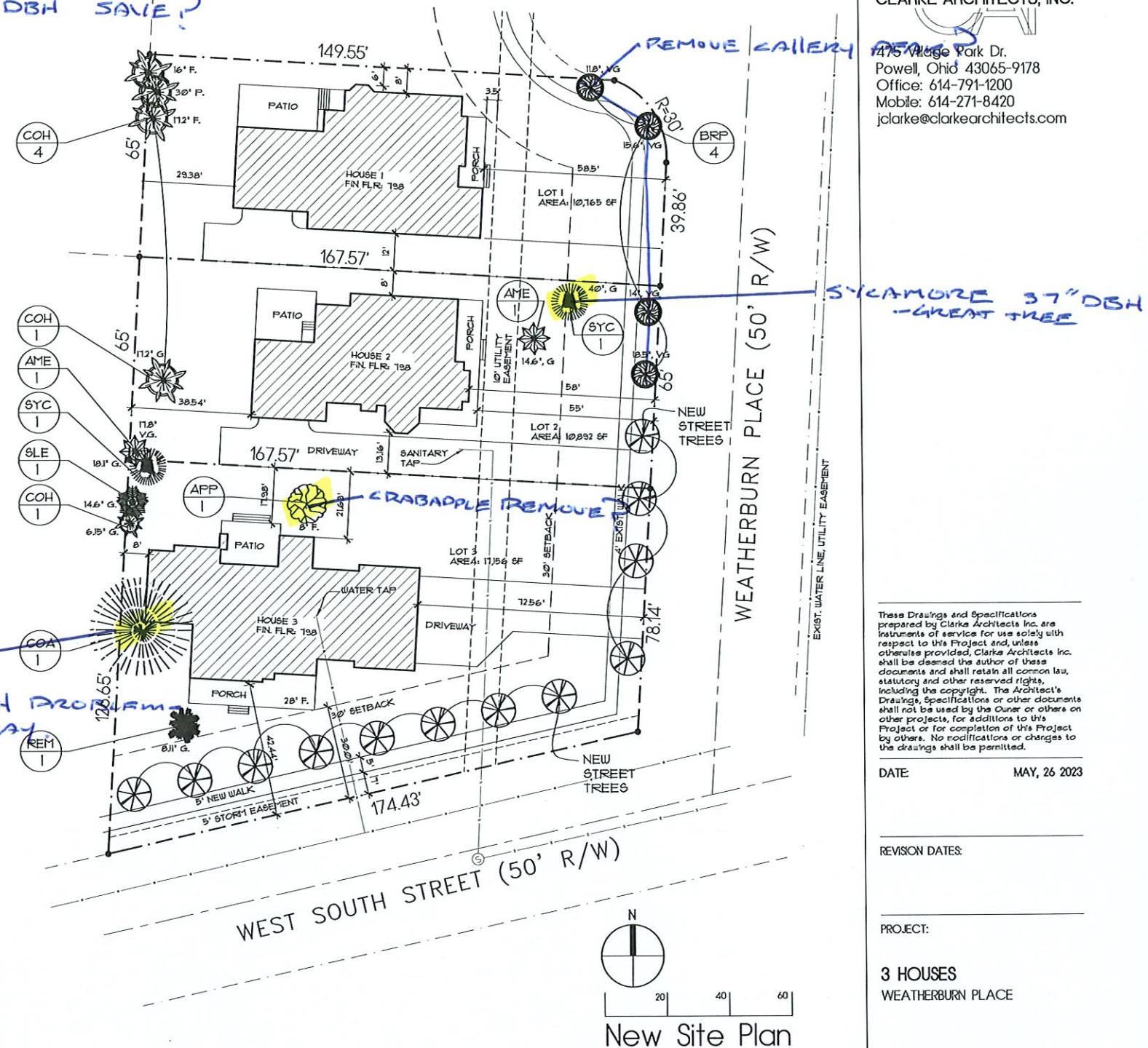
LANDSCAPING SPEC:

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DOW	DOG WOOD	1	COA	COMMON ASH	1



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V.G.	VERY GOOD
G.	GOOD
F.	FAIR
P.	POOR

NOTE: TREE SIZES ARE X' DIAMETER MEASURED FROM 3' ABOVE THE GROUND



Demolition approved with submission of a restoration schedule and tree protection plan.
Subdivision Preliminary Plat approved with the following amendments: building placement variances not approved; missing items needed for Preliminary Plat needed at time of Final Plat submission.

Approved
Municipal Planning Commission
City of Worthington
Date 06/08/2023
Zynda Butler
Clerk

CITY OF WORTHINGTON
DRAWINGS NO. DEMO 02-2023
SUB 02-2023
DATE 05-26-2023



CITY OF WORTHINGTON
DRAWING NO. SUB 03-2023
DATE 09/15/2023

CLARKE ARCHITECTS, INC.
475 Ridge Park Dr.
Powell, Ohio 43065-9178
Office: 614-791-1200
Mobile: 614-271-8420
jclarke@clarkearchitects.com

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DATE MAY, 26 2023

REVISION DATES:

PROJECT:

3 HOUSES
WEATHERBURN PLACE

PROJECT NUMBER: 2023-101

SHEET TITLE:

EXISTING/NEW LANDSCAPE
PLANS

SHEET NUMBER

S2



CITY OF WORTHINGTON
DRAWING NO. SUB 03-2023
DATE 09/15/2023



CITY OF WORTHINGTON
DRAWING NO. SUB 03-2023
DATE 09/15/2023



From: [Daugherty, Shawn](#)
To: [Brown, Lee](#)
Subject: RE: Street Trees Recommendation
Date: Friday, July 28, 2023 7:55:52 AM

No particular order.

For Weatherburn Pl

Norwegian Sunset maple -Acer truncatum x platanoides 'Keithsform'
Hot Wings Maple -Acer tataricum 'GarAnn'
American Hornbeam -Carpinus caroliniana 'Native Flame®', Palisade®, Ball O' Fire™, & Rising Fire®
Cornelian Cherry Dogwood -Cornus mas
Frontier Elm -Ulmus x Frontier
Golden Rain Tree -Koelreuteria paniculata
Fort McNair Red Horse Chestnut -Aesculus x carnea 'Fort McNair'
Persian ironwood -Parrotia persica
Paperbark Maple -Acer grisium
American yellowwood -Cladrastis kentukea

For West South St

Anything on Weatherburn list can work as well as the following larger trees (Larger trees not to be used in quantity shown on preliminary plan)

Main Street® Maple -Acer truncatum 'WF-AT1'
Japanese zelkova - Zelkova serrata
Silver Linden - Tilia tomentosa 'Sterling'
Swamp White Oak -Quercus Bicolor
London planetree - Platanus x acerifolia 'Morton's Circle'
Black Gum -Nyssa sylvatica 'Northern Splendor' or 'Green Gable'
Kentucky Coffeetree - Gymnocladus dioicus 'Espresso'

Shawn Daugherty
City of Worthington Parks Supervisor/Arborist ISA-OH0499
Worthington Parks & Recreation Department
345 E. Wilson Bridge Rd. Worthington, OH 43085 | 614-436-2743 | worthington.org
Cell 614-348-4926

From: Brown, Lee <Lee.Brown@worthington.org>
Sent: Thursday, July 27, 2023 1:48 PM
To: Daugherty, Shawn <Shawn.Daugherty@worthington.org>



CITY OF WORTHINGTON
DRAWING NO. SUB 03-2023
DATE 09/15/2023

Subject: Street Trees Recommendation

Shawn-

I wanted to see if you had a recommendation for the street trees on W. South St. and Weatherburn. I know you mentioned the idea of removing the existing ones on Weatherburn, but just wanted to touch base.

Thank you,
Lee

R. Lee Brown, AICP

Director

City of Worthington

Planning & Building Department

374 Highland Avenue

Worthington, Ohio 43085

Main Line: 614.431.2424

Direct Line: 614.781.3539

www.worthington.org



CITY OF WORTHINGTON
DRAWING NO. SUB 03-2023
DATE 09/15/2023

Drainage Analysis

For

Weatherburn Subdivision Lot Split

286 W. South Street

Worthington, Ohio

Prepared By:



2130 Quarry Trails Drive 2nd Floor
Columbus, Ohio 43228
Ph. 614.299.2999

EP Ferris # 1283.001



CITY OF WORTHINGTON
DRAWING NO. SUB 03-2023
DATE 09/15/2023

INTRODUCTION:

The following report presents the analysis of the existing storm sewer pipe system following a lot split of lot #1 of the Weatherburn Subdivision. The lot split will create three single family lots at the northwest corner of W. South St. and Weatherburn Place.

HYDROLOGIC ANALYSIS:

All proposed drainage will be directed to the existing drainage system along Weatherburn Place. The storm pipe calculations will use a 2yr. design with a 5 Yr. check.

A runoff coefficient of $c = 0.65$ was used for the entire drainage area tributary to the storm sewer system. Although the lot split creates an increase in impervious area from 5300 sf to 15000 sf, the runoff coefficient is consistent with the entire drainage area. A time of concentration of 10 minutes was used.

PRE-DEVELOPED CONDITIONS:

The pre-developed condition of the site consists of one single family lot of approximately 0.88 Ac. Currently the site drains from east to west and to the existing storm sewer system along W. South St.

POST-DEVELOPED CONDITIONS:

The post developed condition of the site will consist of three single family lots. The three lots combined drain approximately 0.66 Ac. to the existing storm system along Weatherburn Place. The remaining 0.22 Ac. will drain to the W. South St. storm sewer system.

SUMMARY:

The addition of three lots that change the drainage pattern from W. South St. to Weatherburn Place will have a minimal affect of the current storm sewer system. The Weatherburn Place storm sewer (relief sewer) joins the existing W. South St. storm sewer downstream at Mid Dr. and continues as a 24" pipe at 3.3% with an approximate available capacity of 42 cfs at 13 Ft./s. Supporting drainage maps and calculations can be found at the end of this report.



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DATE: MAY, 26 2023

REVISION DATES:

PROJECT:

3 HOUSES

WEATHERBURN PLACE

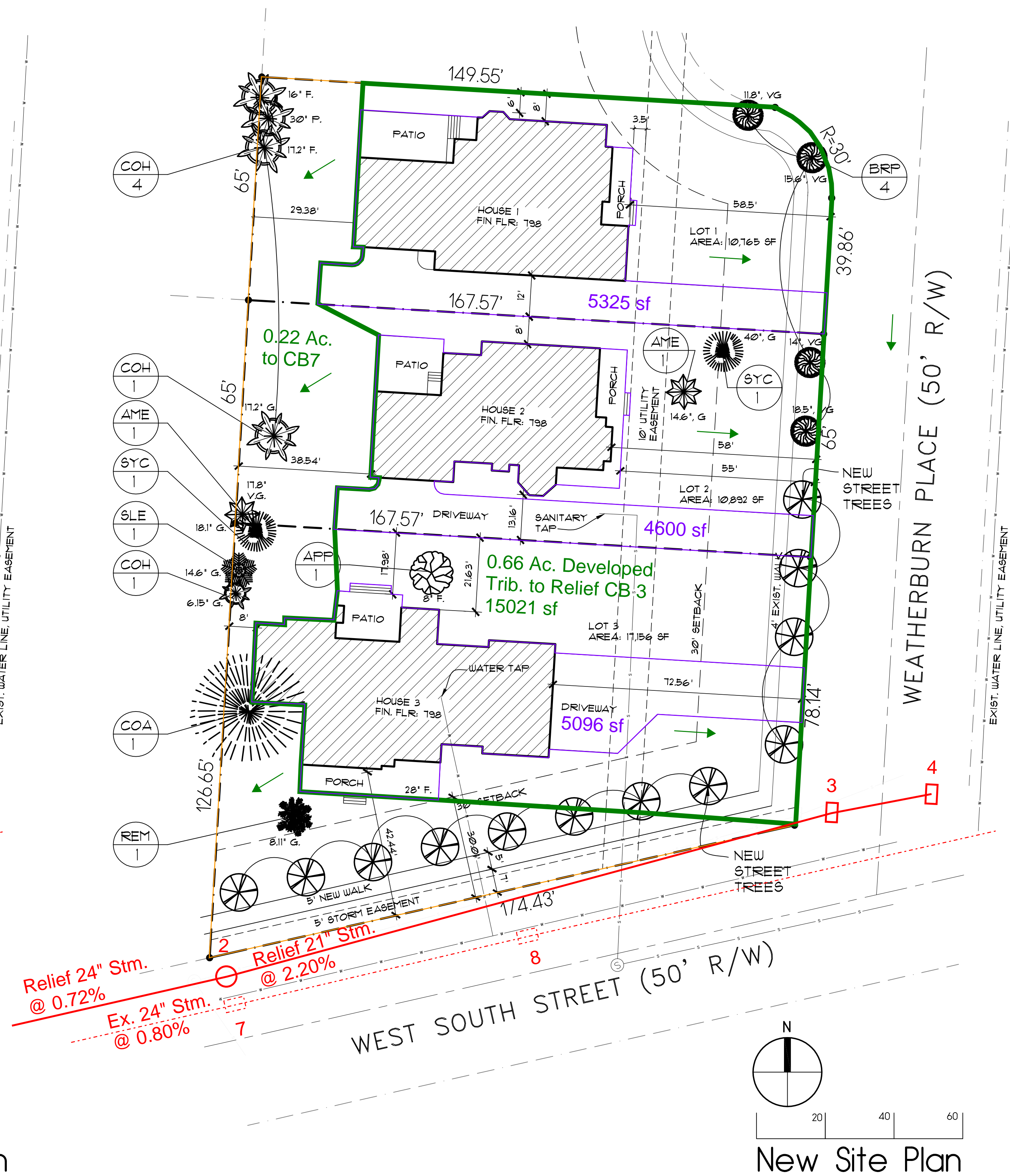
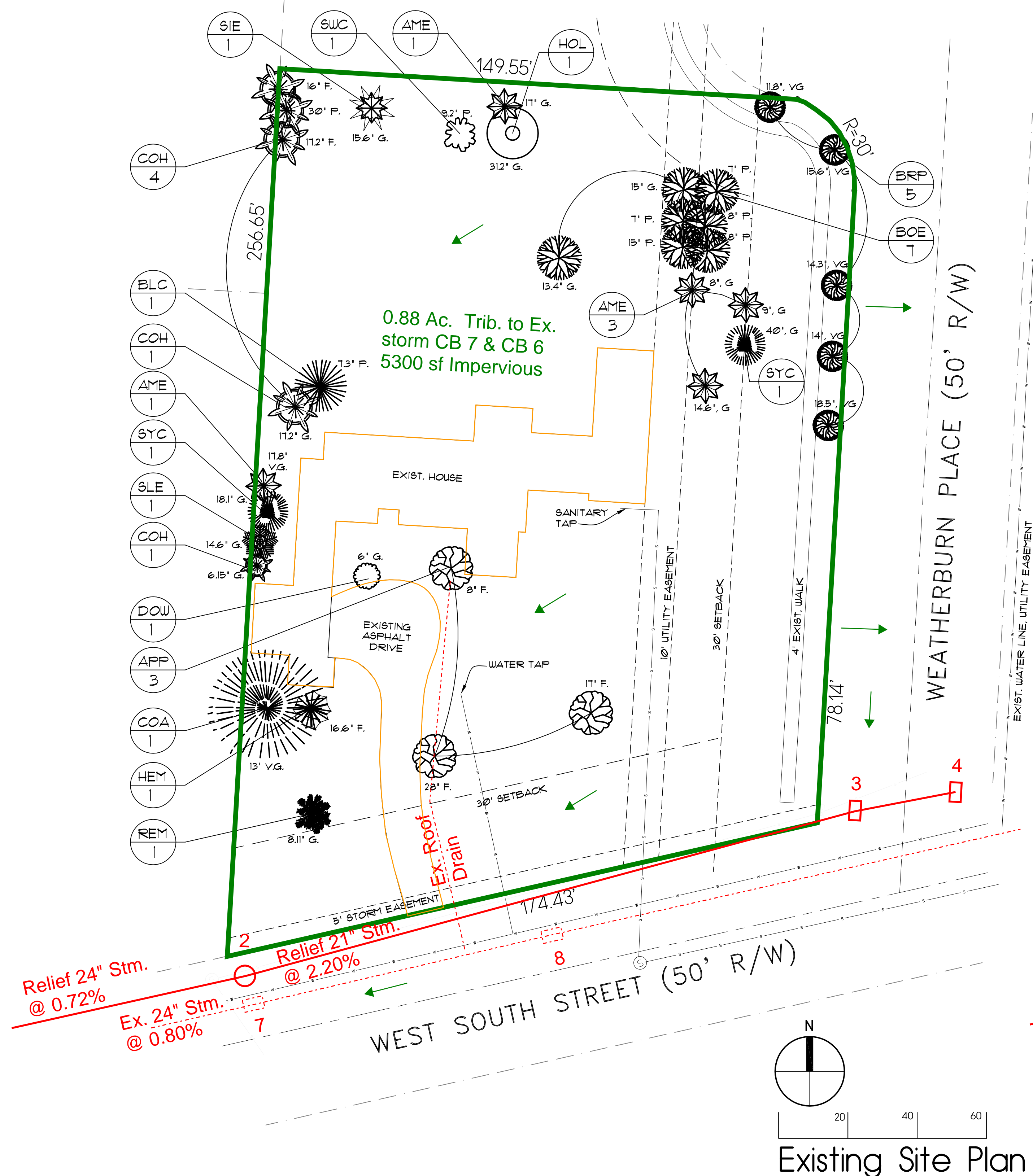
PROJECT NUMBER: 202316-H1

SHEET TITLE:

EXISTING/NEW LANDSCAPE
PLANS

SHEET NUMBER:

S2



LANDSCAPING SPEC:

SYMBOL	COMMON NAME	QTY	SYMBOL	COMMON NAME	QTY
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DOW	DOG WOOD	1	COA	COMMON ASH	1



SYMBOL	TREE'S CONDITION
V.G.	VERY GOOD
G.	GOOD
F.	FAIR
P.	POOR

NOTE: TREE SIZES ARE X" DIAMETER
MEASURED FROM 3' ABOVE THE GROUND



Approved
Municipal Planning Commission
City of Worthington
Date 09/28/2023
Lynda Bilar
Clerk



CITY OF WORTHINGTON
DRAWING NO. SUB 03-2023
DATE 09/15/2023

PROJECT: Existing Downstream Pipe Check at Weatherburn Place																											DATE:		08/04/23								
BY: MJO			CHECKED BY:			CONSULTANT: E.P. FERRIS & ASSOCIATES														DESIGN/CHECK STORM:										2/5							
MH or CB No.	Sta.	Outlet	Incr. Acres	Total Acres	"C"	Incr. C x A	Sum C x A	To Inlet Tt min	In Pipe Tp min	Total Tc min	Rainfall Intensity (in/hr)	Req. CFS	Pipe Size (Inches)	"n" Value	Slope %	V ft/sec	Q CFS	Pipe Length	Invert Up end	Invert Lo end	T/C	pipe thickness	Depth (invert)	Cover (surface)	pvcmt thickness	Cover (subgrade)	Rainfall Intensity (in/hr)	Flow, Q _{max} (cfs)	Minor Loss Coeff. K	Minor losses, H _m (ft)	Frictional Slope, S _f (ft)	Friction Loss, H _f (ft)	HGL Elevation				
3		2	5.29	5.29	0.65	3.44	3.44	10	0.4	10	3.42	11.76										797.59		7.04	5.47	0.67	4.80	4.63	15.92					789.30			
2		1	0.00	5.29	0.65	3.44	3.44	10	1	10	3.42	11.76	21	0.013	2.20	9.80	23.56	187.0	790.55	786.43		797.52	0.230	11.41	9.57	0.67	8.90	4.63	15.92	0.25	0.3726	0.0101	1.8878	787.04			
2													24	0.013	0.72	6.13	19.25	340.0	786.11	783.61			0.250							0.25	0.1457	0.0050	1.6838	785.21			



CITY OF WORTHINGTON
DRAWING NO. SUB 03-2023
DATE 09/15/2023

[illegible]

CITY OF WORTHINGTON
DRAWING NO. SUB 03-2023
DATE 09/15/2023



Approved
Municipal Planning Commission
City of Worthington
Date 09/28/2023
Lynda Sitar
Clerk



CITY OF WORTHINGTON
DRAWING NO. SUB 03-2023
DATE 09/15/2023

SUBDIVIDER'S AGREEMENT

THIS AGREEMENT is executed on this ____ day of _____ 2023, by and between SK Homes South Street LLC, an Ohio Limited Liability Company (the "Subdivider") and the City of Worthington, Ohio, an Ohio municipal corporation (the "City"), pursuant to Chapter 1101 of the Codified Ordinances of the City of Worthington and the Final Subdivision Plat for Subdivision of Lot No. 1 of Weatherburn (the "Subdivision").

NOW, THEREFORE, in consideration of the approval of the Subdivision by the Council of the City of Worthington, Ohio, it is hereby agreed as follows:

1. The proposed Subdivision and its ultimate use shall conform to the Subdivision Plat as approved by City Council and the requirements of law, including without limitation, the Planning and Zoning Code and the Building Code of the City of Worthington, except as may be otherwise authorized by proper authority.
2. No transfer of any lot, parcel or tract from said Subdivision shall be made, nor shall any construction work, including grading, be started which may affect the arrangement of streets or other public improvements until approval of the Final Plat is obtained by the Subdivider and the performance bond or irrevocable letter of credit acceptable to the City or certified check guaranteeing the completion of public improvements in accordance with Paragraph V of this Agreement is provided to the City.
3. The Subdivider shall pay the entire cost and shall construct, install or otherwise provide all public improvements necessary to serve the Subdivision as required by Part Eleven – Planning and Zoning Code - Title One – Subdivision Platting Regulations of the Worthington Codified Ordinances, in connection with the Subdivision, under the supervision of the City Engineer, including, at a minimum:
 - a. Sidewalks to be installed along the frontage of W. South Street.
 - b. Landscaping and screening features, and street trees along Weatherburn Place and W. South Street.
4. Prior to beginning any construction work, detailed engineering drawings and specifications shall be furnished to the City by the Subdivider for all of the public improvements to be installed in the Subdivision.
5. The Subdivider shall, in accordance with Section 1101.15 of the Worthington Codified Ordinances, provide to the City a performance bond or irrevocable letter of credit acceptable to the City, or a certified check, in an amount equal to the estimated cost of constructing said improvements, guaranteeing the completion thereof within one year from the date of approval of this Subdivider's Agreement, or such extension of time as may be granted by Council. Said performance bond or letter of credit acceptable to the



City or certified check shall be released upon acceptance of the public improvements by the City and upon the furnishing by the Subdivider of an additional bond or letter of credit acceptable to the City, or a certified check, in an amount equal to ten percent (10%) of the estimated cost of construction, guaranteeing the maintenance of said improvement for a period of one (1) year from the date of acceptance. Said maintenance bond or letter or credit acceptable to the City or certified check shall be released upon satisfactory completion of the one (1) year maintenance period. The Subdivider shall be responsible for the maintenance and care of all subdivision improvements for a period of one (1) year after acceptance of said improvements by the City.

6. The Subdivider shall in accordance with Section 1101.15 of the Worthington Codified Ordinances, deposit with the Finance Director a sum of money as prescribed by the City Engineer to defray the cost of inspection, engineering services, and other expenses, as may be incurred by the City in connection with the inspection of the installation of said public improvements. Should the amount of such deposit be insufficient to pay the cost thereof, the Subdivider shall, immediately upon demand by the City, deposit such additional sums as are estimated to be necessary. Upon completion and acceptance of said improvements, any unexpended balance shall be refunded.
7. The City Engineer shall be notified, in writing, seven (7) days before any construction is begun on said improvements in order that inspection may be provided.
8. The Subdivider shall hold the City of Worthington, its officials, and employees free and harmless from any and all claims for damages of nature arising or growing out of the construction of said public improvements, and shall defend, at its own cost and expense, any suit or action brought against the City of Worthington, or its officials and employees, by reason thereof, until the public improvements have been accepted by the City Council and until the end of the one (1) year maintenance period.
9. The Contractor shall purchase and maintain, during the duration of the Contract, Comprehensive General and Automobile Liability insurance issued to the Contractor and protecting the Contractor from all claims for personal injury, including death, and all claims for destruction of or damage to property, arising out of or in connection with any operations under the Contract Documents, whether such operations be by the Contractor or by any Subcontractor, or anyone directly or indirectly employed by the Contractor or by a Subcontractor. Insurance shall be written with limits of liability of not less than \$500,000.00 for each person and \$1,000,000.00 for each occurrence for all damages arising out of bodily injury, including death at any time resulting therefrom, and not less than \$500,000.00 for all property damages sustained in any one occurrence and shall include coverage for:
 - (a) Claims arising after the Contractor and Subcontractor have completed their work (completed operations and product liabilities coverage).





- (b) Claims arising from the liability assumed by the Contractor under this Contract including third party beneficiary liability coverage.
 - (c) Claims arising from property damage to wires, conduits, pipes, mains, sewers, tanks, tunnels, any similar property and any apparatus in connection therewith beneath the surface of the ground or water, caused by and occurring during the use of mechanical equipment for the purpose of grading land, paving, excavating, drilling, borrowing, filling, backfilling, tunneling, or pile driving.
 - (d) Claims for property damage arising out of collapse of or structural injury to any building or structure due to grading of land, excavating, borrowing, filling, backfilling, tunneling, pile driving, cofferdam work or caisson work.
10. Said insurance shall be maintained in full force and effect during the construction of the Subdivision improvements and shall protect the City, its officials, employees, agents and representatives from claims for damages to property arising in any manner from the negligent or wrongful acts, errors or omissions of the Subdivider or the contractor, their employees, agents, or representatives in the construction of the Subdivision improvements. Certificates of insurance naming the City as an additional insured shall be obtained and filed with the City prior to commencement of construction of the Subdivision improvements. These certificates shall contain a provision that coverage afforded under the policies shall not be cancelled unless at least thirty (30) days prior actual written notice has been given to the City.
11. Any violation of, or noncompliance with, any of the provisions of this Agreement shall constitute a breach of contract and the City shall have the right to stop the work forthwith and hold the bonding company responsible for the completion of said improvements according to the approved plat and this Agreement, or to use the certified check, or the letter of credit for such purpose. The City shall notify the Subdivider, in writing, of any such breaches, violations or noncompliance with any of the provisions or stipulations of this Agreement and shall provide a reasonable time for the Subdivider to remedy the breach, violation or noncompliance before the City shall have the right to stop work and hold the bonding company responsible for completion of said improvements.
12. The acceptance and approval of all required improvements be and hereby is conditioned upon the Subdivider or its authorized agent complying in full with Section 1101.16 of the Worthington Codified Ordinances unless the requirements as applicable to this Subdivision have been modified or deleted by action of Worthington City Council.



13. Upon approval and acceptance of the public improvements, reproducible as-built construction drawings of the public improvements shall be provided by the Subdivider and become the property of the City of Worthington.
14. In consideration whereof, the City of Worthington hereby grants the Subdivider, or its duly authorized agent, the right and privilege to make the improvements provided for herein.
15. This Agreement shall inure to the benefit of and be binding on the heirs, executors, successors or assigns of the Subdivider.
16. This Agreement shall be recorded in the Office of the Franklin County Recorder at the expense of the Developer and shall become a public record of Franklin County, Ohio.

IN WITNESS WHEREOF, the parties to this Agreement have caused it to be executed and subscribed by their duly authorized representatives as of the date first written above.

SK HOMES HOLDINGS, LLC

By_____

Print Name_____

Its_____

CITY OF WORTHINGTON

By_____

Print Name_____

Approved as to form:

By_____

Print Name_____

Director of Law
City of Worthington



Approved
Municipal Planning Commission
City of Worthington
Date 09/28/2023
Lynda Bitar
Clerk



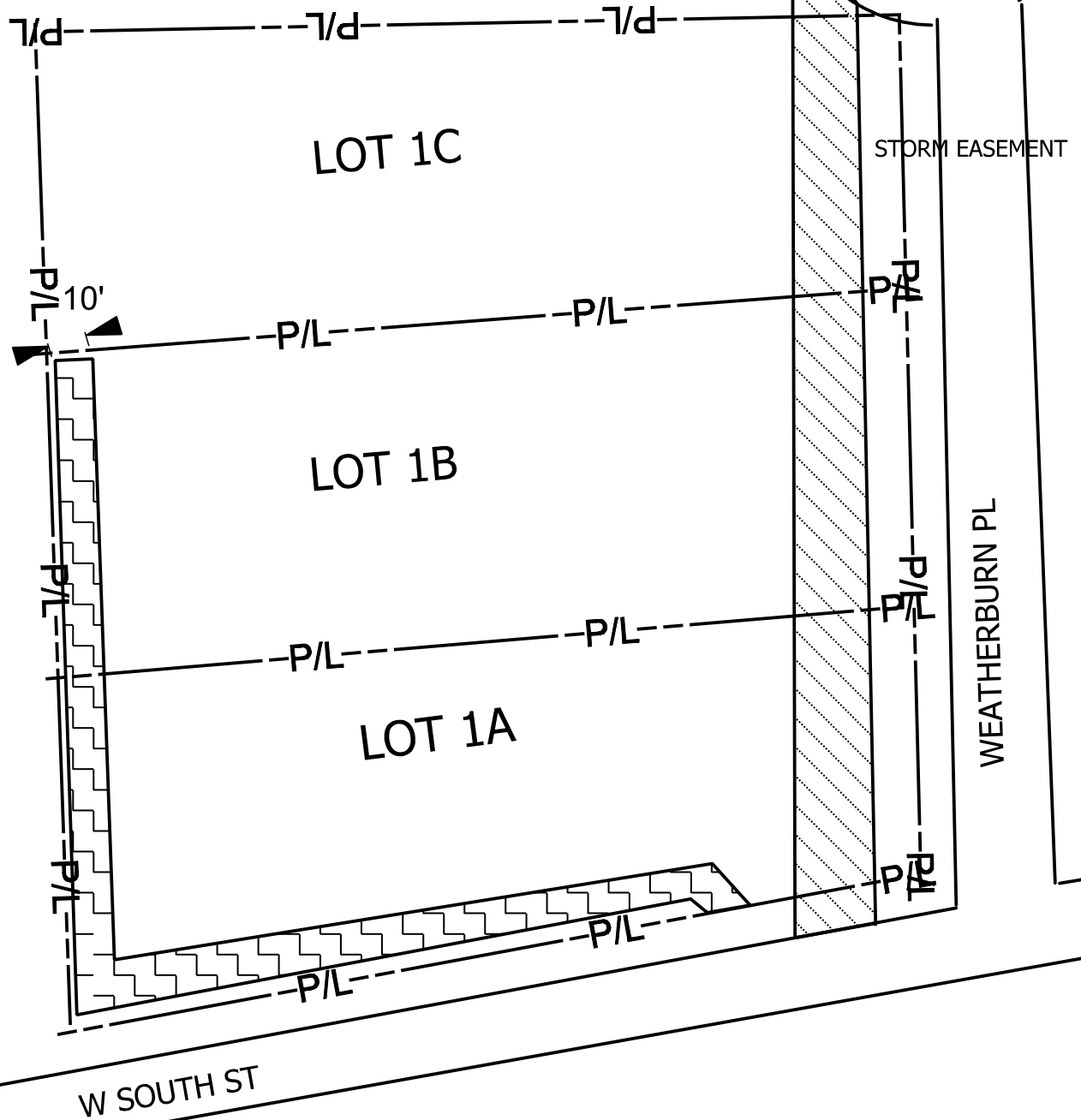
"EXHIBIT A"



CITY OF WORTHINGTON
DRAWING NO. SUB 03-2023
DATE 09/15/2023



Approved
Municipal Planning Commission
City of Worthington
Date 09/28/2023
Lynda Bitar
Clerk



DRAWN BY: Mark Plogsted

COUNTY: FRANKLIN

WR#:85930183

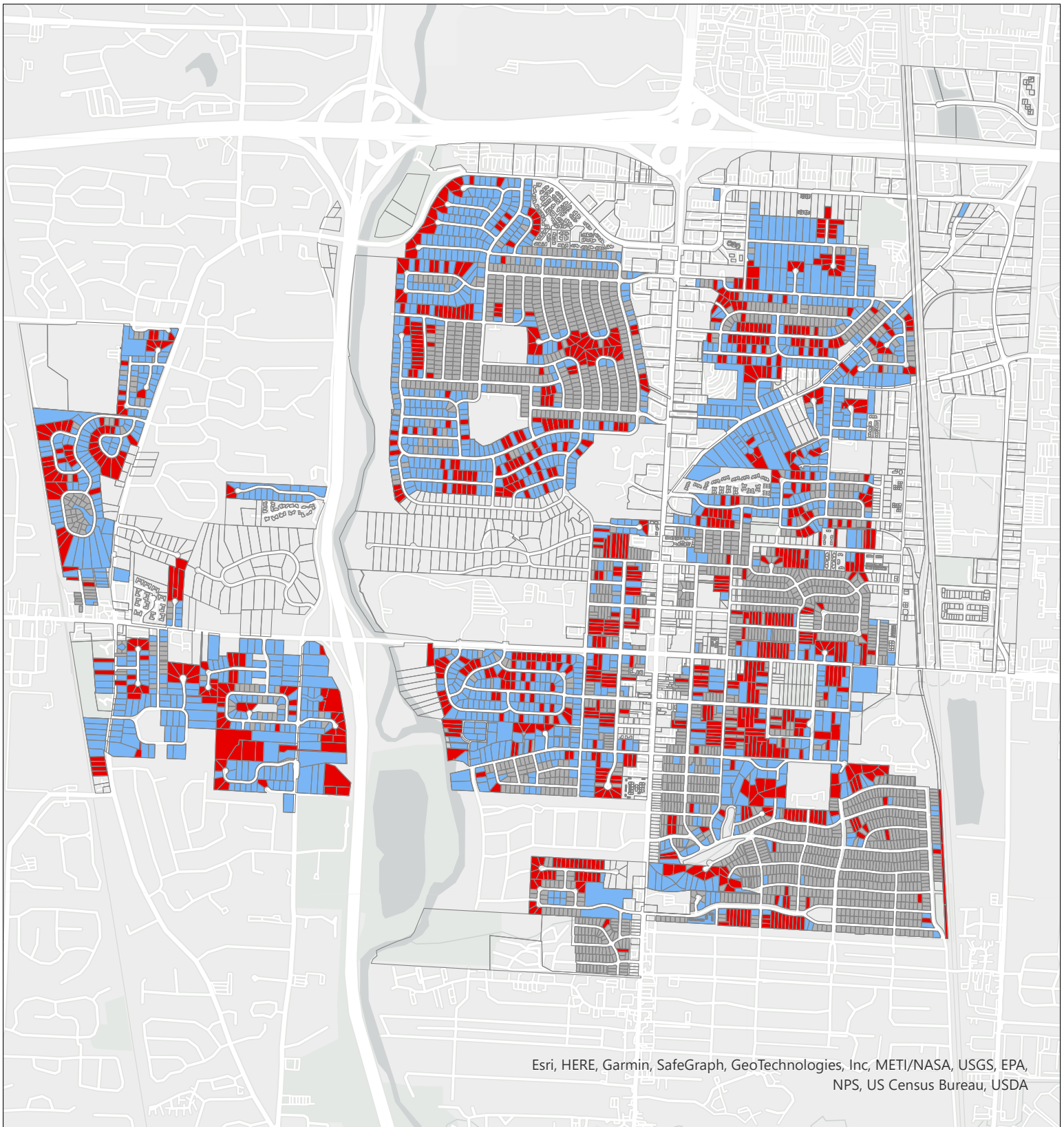
CITY/TWP: WORTHINGTON

DATE: 9/18/2023

STATE: Ohio

Page 48 of 317
SCALE: NTS

OHIO POWER COMPANY



Esri, HERE, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, US Census Bureau, USDA

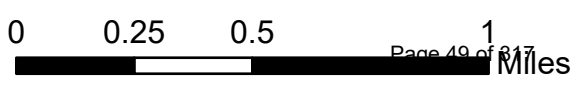


R-10 ZONED LOTS UNDER 80FT WIDTH

- R-10 < 80ft width & > 10400sf area
- R-10 Zoning < 10400SF area
- R-10 Zoning Compliant
- Parcel



CITY OF WORTHINGTON
DRAWING NO. SUB 03-2023
DATE 09/15/2023





PORTION OF THE MINUTES OF THE REGULAR MEETING
WORTHINGTON ARCHITECTURAL REVIEW BOARD
WORTHINGTON MUNICIPAL PLANNING COMMISSION

September 28, 2023

The regular meeting of the Worthington Architectural Review Board and the Worthington Municipal Planning Commission was called to order at 7:00 p.m. with the following members present: Mikel Coulter, Chair; Thomas Reis, Vice-Chair; Kathy Holcombe, Secretary; Edwin Hofmann; Susan Hinz; and Damien Healy. Also present were: Katy Brewer, Representative from Worthington City Council; Lee Brown, Director of Planning and Building; and Lynda Bitar, Planning Coordinator. Member David Foust was absent.

A. Call to Order – 7:00 p.m.

1. Roll Call
2. Pledge of Allegiance
3. Approval of minutes of the September 14, 2023 meeting

Mr. Reis moved to approve the minutes and Mrs. Holcombe seconded the motion. All Board members voted, “Aye,” and the minutes were approved.

4. Affirmation/swearing in of witnesses

B. Architectural Review Board – Consent Agenda

C. Architectural Review Board – Old Business

D. Municipal Planning Commission – Old Business

E. Architectural Review Board – New Business

F. Municipal Planning Commission – New Business

1. Subdivision

- a. Final Plat – **286 W. South St. (Eric Kmetz) SUB 03-2023**

Mr. Brown reviewed the following from the staff memo:

Findings of Fact & Conclusions

Background & Request:

The request before you is a Final Plat to subdivide an existing .88-acres lot that is located at the northwest corner of W. South St. and Weatherburn Pl. The proposal is to create three (3) building lots out of what is currently Lot #1 of Weatherburn Subdivision which was platted in 1986 that created a five (5) lot subdivision with four (4) lots gaining access from a newly constructed cul-de-sac. The subdivision now known as Weatherburn was a Resubdivision of Hoyer's Subdivision that was originally a 36-lot subdivision platted in 1894. The applicant purchased the property on March 14, 2023, and the existing 2,782 sq. ft. one-story home constructed in 1944 is proposed to be demolished as part of the redevelopment of the site. The property is located in the R-10 Zoning District.

History:

- On June 18, 2023, the Municipal Planning Commission **approved** the demolition of an existing 2,782 sq. ft. single-family home that was constructed in 1944.
- On June 18, 2023, the Municipal Planning Commission **conditionally approved** the Preliminary Plat to create two additional lots with the following conditions:
 - Building placement variance requests were not approved as part of the platting process.
 - Any missing items needed for the Preliminary Plat will be needed at the time of Final Plat submission.

Project Details:

1. Proposed Lots:

- a. Lot #1A:
 - i. Lot Area – 17,156 sq. ft.
 - ii. Lot Width – 78-feet – Weatherburn Pl.
 - iii. Lot Width – 174-feet – W. South St.
- b. Lot #1B:
 - i. Lot Area – 10,892 sq. ft.
 - ii. Lot Width – 65-feet
- c. Lot #1C:
 - i. Lot Area – 10,765 sq. ft.
 - ii. Lot Width – 67-feet

2. Proposed Front Setbacks:

- a. Lot #1A
 - i. Required – 30-feet
 - ii. Proposed – 30-feet plus along W. South St. and 73-feet along Weatherburn Pl.
- b. Lot #1B
 - i. Required – 30-feet
 - ii. Proposed – 58-feet
 - 1. Larger setback due to an existing platted utility easement for an existing 12-inch sanitary sewer line that runs north to south.
- c. Lot #1C

- i. Required – 30-feet
 - ii. Proposed – 58-feet
 - 1. Larger setback due to an existing platted utility easement for an existing 12-inch sanitary sewer line that runs north to south.
- 3. Access Points:
 - a. All access points to the lots will be from Weatherburn Pl. and will be required to receive a Driveway Permit and Right-of-way Permit from the Service & Engineering Department.
 - i. The Service & Engineering Department is asking that the access for Lot #1A (corner lot) be moved north towards the rear property line between Lot #1A and Lot #1B to provide an appropriate distance from the intersection of Weatherburn Pl. and W. South St.
 - b. The existing access point on W. South St. will be removed as part of the subdivision. This area will need to be reseeded, graded and a new curb installed in the area of the existing drive approach.
 - c. A Right-of-way Work Permit and Driveway Permit will be required by the Service & Engineering Dept.
- 4. Sidewalks:
 - a. Sidewalks will be required along the W. South St. frontage that will be 5-feet in width and will connect with the existing sidewalk of 4-feet along Weatherburn Pl.
- 5. Street Trees:
 - a. Twelve (12) street trees are proposed along W. South St. and Weatherburn Pl. Four (4) street trees along Weatherburn Pl. located in the public right-of-way and eight (8) street trees located on the backside of the new sidewalk that will be located on private property along W. South St.
 - i. The location of the existing underground utilities in the area is the reason for the location of the W. South St. street trees being located on the backside of the new sidewalk instead of the tree lawn.
 - ii. Utilities:
 - 1. 21-inch and 24-inch storm sewer
 - 2. 12-inch sanitary sewer line
 - 3. 6-inch waterline
 - b. The City Arborist has provided the following list of trees that are acceptable street trees:
 - i. Weatherburn Pl.
 - 1. Norwegian Sunset maple -Acer truncatum x platanoides 'Keithsform'
 - 2. Hot Wings Maple -Acer tataricum 'GarAnn'
 - 3. American Hornbeam -Carpinus caroliniana 'Native Flame®, Palisade®, Ball O' Fire™, & Rising Fire®'
 - 4. Cornelian Cherry Dogwood -Cornus mas
 - 5. Frontier Elm -Ulmus x Frontier
 - 6. Golden Rain Tree -Koelreuteria paniculata
 - 7. Fort McNair Red Horse Chestnut -Aesculus x carnea 'Fort McNair'
 - 8. Persian ironwood -Parrotia persica
 - 9. Paperbark Maple -Acer grisium

10. American yellowwood -*Cladrastis kentukea*
 - ii. W. South St. – Any of the Weatherburn Pl. trees are acceptable as well as the following larger trees. Larger trees should not to be used in the quantity shown on the Preliminary Plat. Coordination with the City Arborist would be needed.
 1. Main Street® Maple -*Acer truncatum* 'WF-AT1'
 2. Japanese zelkova - *Zelkova serrata*
 3. Silver Linden - *Tilia tomentosa* 'Sterling'
 4. Swamp White Oak -*Quercus Bicolor*
 5. London planetree - *Platanus x acerifolia* 'Morton's Circle'
 6. Black Gum -*Nyssa sylvatica* 'Northern Splendor' or 'Green Gable'
 7. Kentucky Coffeetree - *Gymnocladus dioicus* 'Espresso'
6. Existing Vegetation:
- a. A Tree Survey was submitted providing detail for every tree larger than 6 caliper inches on the site.
 - b. The site also has an abundance of honeysuckle and overgrown vegetation on the site.
 - c. There are thirty-eight (38) existing trees on the site that exceed 6 caliper inches on the site. The trees have all been ranked for their condition from Very Good to Poor.
 - d. Some of the trees have been shown on the Preliminary Plat to stay as part of the redevelopment of the site.
 - i. 17 trees have been shown to remain on the site.
 - e. Tree protection fencing needs to be shown on the plans for the trees that are proposed to stay on the site and be protected during demolition and construction of the new single-family homes.
 1. A Tree Protection Plan will be required to be submitted with the Demolition Permit for review and approval.
 - f. City Arborist comments:
 - i. Recommends removal of the existing Hackberry Tree and Crabapple Tree on Lot #1A due to their condition and quality.
 - ii. States that the Honey Locust Tree on Lot #1C is in great shape.
 1. This is likely the only tree that is impacted by the placement of the proposed new single-family home.
7. Utilities:
- a. There is an existing 12-inch sanitary sewer line that runs north to south that is located in a 10' sanitary sewer easement that is approximately 40-feet from the public right-of-way of Weatherburn Pl.
 - i. Connection to sewer will connect to the existing 12-inch sanitary sewer line that is already on the site.
 - b. There is an existing 6-inch waterline on the eastern side of Weatherburn Pl. and a 6-inch waterline along the north side of W. South St.
 - i. To connect to the waterline on Weatherburn Pl. the Service & Engineering Department will require the applicant to bore under the roadway to access the waterline. The applicant will be responsible for any damage related to connection to utilities.
 - c. Gas & Electric:

- i. Gas:
 - 1. Lots #1B and #1C will access the gas main on Weatherburn Pl.
 - 2. Lot #1A will access the gas main on W. South St.
 - ii. Electric:
 - 1. Electric is required to be buried in any new subdivision.
 - 2. The electric is shown to cross under W. South St. at Weatherburn Pl. and run along the frontage of Lot #1A and then run along the western side of Lot #1A, Lot #1B and Lot #1C.
 - a. City staff has asked if AEP could run the powerlines along the western side of the development instead of along the W. South St. frontage. There is a concern that the easement will be in the same location as the proposed street trees on W. South St.
 - i. Clarification is needed.
 - d. Stormwater:
 - i. There are two existing catch basins at the intersection of Weatherburn Pl. and W. South St. that connect to a 21-inch storm sewer line.
 - ii. The flow of water from the site will be required to be graded to not negatively impact the neighboring properties.
 - iii. Drainage Analysis
 - 1. A Drainage Analysis was submitted by E.P. Ferris and reviewed by the Service & Engineering Dept. and found that the addition of two lots will have minimal impact on the current storm sewer system.
8. A Subdivider's Agreement has been provided as part of the Subdivision process.

Worthington Planning & Zoning Code:

Section 1149.01 Yard, Area and Height for Dwellings & Accessory Structures

District	Lot Width	Lot Area	Front Setback	Rear Setback	Side	Sum of Side	Height
R-10	80-feet	10,400sq. ft.	30-feet	30-feet	8-feet	20-feet	30-feet

Land Use Plans:

Worthington Comprehensive Plan

The 2005 Worthington Comprehensive Plan states that one of the strengths of the Worthington Community is its residential neighborhoods. Encouraging development in existing neighborhoods is important in maintaining the existing housing stock throughout Worthington.

Staff Analysis:

- 1. Public Area Payment:
 - a. \$250.00/new dwelling unit – required at the time of applying for a permit to construct the new dwelling units.
- 2. Special Park Fund:
 - a. \$500.00/newly created lot – required prior to the recording the Final Plat.
- 3. Proposed Variances:
 - a. Lot #1B
 - i. Lot Width

1. Required – 80-feet
 2. Proposed – 65-feet
 - a. Variance of 15-feet
 - i. The lot widths are not out of character for the area. There are a variety of lot sizes and widths found throughout this quadrant of the City.
 - a. Lot #1C
 - ii. Lot Width
 1. Required – 80-feet
 2. Proposed – 67-feet
 - a. Variance of 13-feet
 - i. The lot widths are not out of character for the area. There are a variety of lot sizes and widths found throughout this quadrant of the City.
4. Tree Protection Plan
 - a. Tree protection fencing needs to be shown on the plans for the trees that are proposed to stay on the site and be protected during demolition and construction of the new single-family homes.
 - i. A Tree Protection Plan will be required to be submitted with the Demolition Permit for review and approval.
 5. Since the property is not located in the Architectural Review District, strict adherence to construct the homes as previously shown in the application materials provided as part of the Preliminary Plat is not legally possible by the Municipal Planning Commission and/or City Council.
 6. The Municipal Planning Commission and/or City Council cannot legally require the proposed houses to be constructed as previously shown in the information provided as part of the Preliminary Plat. The Commission can review the proposal for compliance with the Subdivision Regulations and any variances as part of the platting process. The applicant previously proposed variances for building setbacks as part of the platting process and the proposed variances related to the setbacks would run with the land.
 - a. The Municipal Planning Commission did not approve setback variances for the proposed new homes as part of the Preliminary Plat approval. The Commission did recommend approval of a variance for lot width for Lot #1B and Lot #1C.
 7. The applicant previously made application to demolish the existing single-family home on the site that that was approved on June 8, 2023. The demolition application met the requirements of Section 1153.05.
 8. The proposed lot sizes exceed the minimum square footage of 10,400 sq. ft. in size for newly created lots in the R-10 District.
 9. Two of the proposed lots to not meet the minimum lot width requirement for newly created lots in the R-10 District; however, the lot widths are not out of character for the area. There are a variety of lot sizes and widths found throughout the City.
 - a. The applicant provided an exhibit that depicts the lots in the surrounding area that do not meet the minimum lot width for newly created parcels in the vicinity of the proposed development.
 - b. The majority of lots in this area were created prior to the adoption of the 1971 Planning & Zoning Code.

- c. The applicant would technically be able to create three (3) lots with a minimum of 80-feet of frontage without any variances if it was not for the 10' sanitary sewer easement that bisects the eastern portion of the site there could have been two lots on W. South St. and one lot on Weatherburn Pl.
 - d. City staff has provided an exhibit that depicts all the lots in the City that are zoned R-10 that are zoning compliant, lots less than 10,400 sq. ft. and lots that exceed 10,400 sq. ft., but are less than 80-feet in width.
 - i. Total R-10 parcels = 4,677.
 - 1. 940 parcels are under the current 80-feet in width requirement but meet or exceed the minimum lot size requirement.
 - a. Approximately 20% of the parcels do not meet the frontage requirement.
 - 2. 2,428 parcels are under the required 10,400 sq. ft. lot size requirement.
 - a. Approximately 52% of the parcels do not meet the lot size requirement.
 - 3. 1,488 parcels are compliant with both lot size requirements and road frontage requirements.
 - a. Approximately 32% of the parcels meet the R-10 requirements found in the Planning & Zoning Code.
 - ii. Please see attached exhibit.
10. Subdivision Process:
- a. Municipal Planning Commission
 - i. Preliminary Plat – [Section 1101.09](#)
 - 1. MPC conditionally approved the Preliminary Plat.
 - ii. Final Plat – [Section 1101.12](#)
 - 1. The Municipal Planning Commission shall make a recommendation to City Council.
 - b. City Council
 - i. Council may review the application and may adopt or reject the Subdivision with or without change.
 - 1. The Ordinance will need to be introduced by City Council and set for a date for a public hearing at a later date.
 - 2. If approved, the Ordinance would have an effective date 20-days after Council passage.
 - 3. The Final Plat must be recorded by the applicant within 6-months of City Council approval unless such time is extended by Resolution of City Council.

Recommendations:

Staff is recommending **approval** of the application as the proposed lot widths are not out of character and the lots exceed the minimum square footage requirement for lots in the R-10 District.

Discussion:

Mr. Coulter: Is the applicant here? Could you come up and state your name and address for the record, and before you state your name and address, there are a number of people that haven't been

sworn in. So, if you have not been sworn in, please stand so we can get you sworn in if you intend on speaking.

Mr. Eric Kmetz: Hello. My name is Eric Kmetz. My address is 7720 Campus Lane, Montgomery, Ohio 45242.

Ms. Megan Schaffernacker: Megan Schaffernacker, I'm in the Worthington community at 1149, Highgrove Drive, a stone's throw away from Kilbourn High School.

Mr. Coulter: If we can start on with you addressing any of the comments that Mr. Brown had made.

Mr. Kmetz: Yes, and I will be brief. I do know the last time I was before this committee; it ran a bit long and hopefully tonight will be slightly different and shorter, but I thank you again for the opportunity to come before you with this variance request, and I thank staff for all the assistance and help that you have provided along the way and your guidance. We came into this house purchase really with the intention of improving what we believe is a blighted corner of this community. We feel that the highest and best use of this .88 parcel lot would be for three parcels. The parcels that we've carved out as Mr. Brown showed, there was a couple of ways you could carve these out, but for that 10-foot easement that runs through the lots, there's really only one way that you can do it and respect the easement and not build on top of that sewer. So, we carved it out in a way that is really consistent with 70% of the lots in Worthington as Mr. Brown showed in that diagram that is on the screen right now. The benefits that's going to bring to this community. First, we're going to be removing a house that no bank will finance. It has foundation issues. It has roof issues. We had to purchase this house in cash. It is a blighted house that has now been approved for demolition. We're going to be bringing in a new sidewalk to this community where a sidewalk currently does not exist. It will help to extend the sidewalk that currently is going towards downtown. We're bringing in new street trees. We'll be burying the utilities which will help to remove some of those unsightly overhead power lines that we see, and we're going to be increasing hopefully the property values in the neighborhood, and it will definitely be increasing the property taxes for this community. Currently, that parcel pays roughly \$10,000 a year in property taxes. The houses that we build we believe each will generate \$20,000 to \$25,000 in property taxes. For three houses, we're looking at \$60,000 to \$75,000 generated in revenue for this community. With 70% of that going to the schools, we're talking about \$50,000 to \$60,000 going to Worthington schools. That will be enough to hire a new teacher if needed. Some residents have expressed concerns with our plan. And why is that? Let me pull out the petition. I think that you have all seen. I'm not sure if this has been passed around yet or not.

Mr. Brown: I will note that the applicant's reference in the petition that we forwarded to the Board last week.

Mr. Kmetz: So, this petition, it's interesting. It really does not object to what we're asking for tonight, which is the lot with variance on lots one C and one B. This petition says that it expresses concerns with a plan to build houses that would completely change the character and aesthetics of the surrounding homes and the neighborhood. That's not before the committee tonight. The house plans that we had presented last week, this committee did not approve. So, at the moment, we could not move forward with the plans that this petition says it has concerns with. Tonight we're talking about a lot split. One that would not be out of character with the surrounding neighborhood. As we've identified, it would be in character with 70% of the neighborhood. The concerns that these residents have about the size of the houses are adequately addressed by Worthington's building code. There are setback requirements in that building code. There's a 30-foot setback requirement on front yards, there's a 30-foot setback requirement on back yards, and there's a collective 20-foot setback requirement on side yards. That creates the boundaries, the limits of the

buildable area on any lot within Worthington. The concerns that the residents have are concerns with Worthington's building code. What they are asking for is not appropriate in this forum. There is a procedure to change building codes in this city. If they believe that houses are too big for lot sizes, there is a procedure to go through to get that approved into the building code. That is the concern that has been expressed the last time we met in front of this committee, and it is the only concern that is addressed in this petition. This was a door-to-door petition. Had they knocked on these doors and asked the people who answered, are you opposed to a parcel, a lot parcel, that is smaller than 80 feet wide on the front yard? They could have stated that in their petition, and it would have been interesting to see how many people would have agreed to oppose that. Not a single house on this petition satisfies that requirement, and that is the only issue that is before this committee tonight. For this petition to be relevant to the issues presented, we would have to wait until and if I were to come back and ask for variances to the building code, which this committee last time said they did not approve. At that time, if I am before you again asking for those variances, the issues presented in this petition would be ripe, and then the merits of this petition could be discussed. That is all we are asking for, is a variance to allow for a front yard smaller than 80 feet wide, and there is nothing in front of this committee tonight that opposes that request. Thank you.

Mr. Coulter: Is there anybody in the audience who wants to speak for against this application?

Mr. Scott Farkas: My name is Scott Farkas. I live at 6025, Weatherburn Place, and I am opposing variances, so unlike what the applicant has stated, there are more issues than just the people opposing the size of the houses. People are opposing the variances, and we did oppose the variances when this application was initially proposed. My wife, Amy, and I have lived on Weatherburn for about 25 years, and we are not opposed to development of the property, but we object to granting waivers. The commission should not be granting waivers to meet the needs or wishes of an applicant, rather the applicant should work within the existing parameters and rules that are set forth in the planning and zoning code to fit residences on that property and lot sizes on that property, which I thought the planning director said there was a way to subdivide the property into three parcels. That one. Am I incorrect that saying that you can't divide the property that way?

Mr. Brown: We have the southern lot, the eastern portion of the lot below the area, about 28 feet in depth, and as you go toward the left, we have a lot of houses in right then, we may have a lot of houses in the area.

Mr. Farkas: But if you subdivided the property into what the minimum is, 10,400 square feet, could you fit three lots in there and meet the setback requirements and without waivers.

Mr. Brown: That is what is on the screen.

Mr. Farkas: That does meet it then. You don't need waivers. So, the applicant could build three homes that way without any waivers. They would just be smaller than what they're asking for, smaller or could they build the same size house?

Mr. Coulter: I think the only house that would be smaller would be the one on the southernmost part, the other two actually could allow for something considerably larger.

Mr. Farkas: No one is requiring the applicant to build houses here or build the size houses they want or build them on the setbacks they're asking for. That's their choice. They want to do it, and God bless them if they can do it, but we don't believe that the waiver should be granted. On page 23 of the staff report, it states that the majority of lots in this area were created prior to the adoption of the 1971 Planning and Zoning Code, and it provides a lot of information on the number of parcels in the city as a whole that are compliant with the zoning codes and those that aren't, and it would be interesting to know what percentage of homes that have been developed since 1971 have been built without variances. On page 19 of the staff report, it discusses approvals that are required

for the right of way permit, the driveway permit, a tree protection plan and a demolition permit, but did not provide information on the approval process or the time frames for those approvals, and we would ask the commission to update residences on those approvals and processes. On page 23 of the staff report, it references the requirement that electric service is required to be buried in any new subdivision, and that there are some concerns that the easement for power lines will be in the same location as proposed street trees and that, quote, clarification is needed, and I would ask that no waivers of this electric service underground requirement should be granted absent extraordinary circumstances, and that prior to approval, the commission should provide clarification regarding how electric service will be provided, and just as a reference point here, there is a 21,276 square foot house located at 410 Tucker Drive that's been in a partial state of completion since 2017, and there's a much smaller house under construction at 100 West South Street where the builder's been granted five one-year extensions, and it also is not completed, and while I have no reason to believe that the applicant will not complete its project in a timely fashion, and I expect it to ensure everyone that it will complete this project in a timely fashion, as a famous coach once said, I see better than I hear, and because no one wants to live through a similarly delayed construction experience, I would ask that the commission institute a completion deadline for the demolition of the existing house on the property, which again, we have no objection to, as well as the completion of the construction of the new houses, and perhaps institute a performance bond to ensure that the houses are completed in a timely fashion as stated by the applicant. On page 21 of the staff report also notes that the applicant will be required to bore under the roadways on Weatherburn and South Street to access the water lines, and will be responsible for any damage related to the connection to the utilities, and while there may or may not be disruption to homeowners on Weatherburn or South Street, which may force residents to park our cars away from our houses and that may or may not occur, and it may disrupt delivery vehicles, solid waste collection, service, landscaping vehicles, and other service vehicles, we would ask that the commission institute duration and completion timeframes for this work, as well as require advanced notice to residents of the work, and perhaps again, a performance bond to ensure the work is completed in a timely fashion, so that we minimize disruption, minimize noise, all that, and on page 21 of the staff report, the service and engineering department found that the addition of two lots will have minimal impact on the current storm sewer system, that would be a good, because we and our neighbors in this area have experienced storm sewer damage, our basement was flooded backflow from storm sewer water a couple of years ago, and the commission should require all work related to drainage be completed prior to the start of construction activities, and ensure that the subdividers agreement protects all neighboring structures against damages related to the work of the project, and lastly, on the subdividers agreement, perhaps the applicant can enlighten the commission and myself, on page 1 it says that the agreement is between the city and SK Homes South Street LLC, but on the signature page, it provides signatures for the city and SK Homes Holdings LLC, and so I thought this might have been a misprint, or maybe one of these entities was out of business and they just forgot to change it, but I noticed that there are several active SK entities with Mr. Eric Kmetz as the agent, and those include SK Homes Holding LLC, SK Homes South Street LLC, SK Homes, Oakborne LLC, SK Homes Management LLC, SK Homes Management LLC, SK Homes Collinwood LLC, SK Homes Green Glade LLC, and SK Homes Heyhurst LLC, and why I have no issues with incorporation's decisions of the applicant or anybody else, the commission should ensure that the names on the subdivision agreement are consistent, and should require Mr. Eric Kmetz also be named a responsible party and not just an agent of the applicant. Thank you.

Mr. Brown: Mr. Coulter, can I jump in a little? One, I appreciate the comments, but half of them you and or even council legally cannot require. It's not in our code requirements. We have permits are good for 18 months. Once they make application, they have up to 18 months. Yes, 410 and the 100 West South Street are two examples out of the 4,700 some houses that we've had okay times with those are two horrible examples, I would agree, but you as a commission do not have the legal ability to do that. The building code allows for 18 months for you to remove the structure for the demolition permit. They'll have 18 months to do the construction. Each lot would have 18 months once their plans are submitted for approval for review and approval, and then if they're not able to do that, they have to go back before a public body where all the neighbors are notified again. Again, the goal is to get in and hopefully get things done. The performance bond, we do not legally have the right to do that. However, with the improvements that are in the right of way, as part of the right of way work permit and the driveway permit with John Moorehead's office, there will be bonds associated with that that will be pulled in. Tom Lindsay, our law director did look over the subdivider's agreement. I can have him look to make sure that the names match with what we're working with, and then the AEP, they've not asked for a variance. This would have to come before this body and on to council for final approval if it was. So as of what was submitted, it's going to be all underground. I don't see there being any deviation in that requirement at all. The only thing I did want to add is as part of their demolition for their building permit, we did want to see the tree protection plan at that point in time where it shows the fencing around them, but I understand the neighbors' concerns. However, a lot of that we legally cannot do.

Mr. Coulter: Cleared up a lot of that for me right off the bat.

Mr. Kmetz: May I just address one? Yeah. I'd just like to address one of it.

Mr. Coulter: Just try to keep it to what we're here for tonight.

Mr. Kmetz: I will. I'm just going to keep it to one question that Mr. Farkas raised. While I don't have a complete answer to that question, I have a partial answer to it. His question was, I would like to know what houses were built since 1971 that needed variances. What year did you say the Weatherburn subdivision was created?

Mr. Farkas: 1986.

Mr. Kmetz: Mr. Farkas is your house in that subdivision?

Mr. Farkas: Yes.

Mr. Kmetz: Every house in that subdivision needed a variance. Specifically, the variance we are asking for. So, Mr. Farkas, to answer your question, when you said you did not approve of any variances, the house you are living in would not exist without the variance that we are asking for tonight.

Mr. Brown: Come to the mic please, we can't go the back and forth.

Mr. Hofmann: Take it outside like adults.

Mr. Coulter: Stop, stop, stop, stop, stop. You've got to go to the mic. This will be the last time.

Mr. Farkas: Okay. Well, in response to what he says, that's true. I wouldn't, the house wouldn't have been built. So, there wouldn't have been a house to purchase. So, I'm not saying, I don't think you should build houses. I just think you should build houses that don't require variances, and no one's requiring you to build three houses either. You're asking for a subdivision, and so the burden is on you to demonstrate why you need variances, why they should be granted, and I'd like to know on what basis the planning commission grants variances so that we know. Okay. Thank you. But again, you're correct. These houses would not have been built, and I wouldn't have purchased one.

Mr. Coulter: All right. Thank you. Is there anybody else in the audience wants to speak for against this application? Come on up. State your name and address, please.

Ms. Linda Rice: I'm Linda Rice, I live at 497 Mid Drive. I have lived there for 50 years. So, I saw this house when it was in its heyday, when it was beautiful. Do you have the picture that shows what the houses on the property would look like?

Mr. Brown: We legally can't tie them to what those houses looked like.

Ms. Rice: You had up there where it showed what it would look like with the houses on it. Didn't you?

Mr. Brown: Not at this meeting.

Mr. Coulter: We're not dealing with architecture tonight.

Mr. Brown: We had proposed layouts.

Mr. Coulter: What they have is where the house would sit within the law. That one.

Ms. Rice: That may be it. What are the things in the middle? Are those the houses?

Mr. Brown: Those are the proposed houses where there is shading.

Ms. Rice: Oh, okay. Okay.

Mr. Coulter: We're not dealing with the houses tonight. We're just dealing with the lots.

Ms. Rice: Well, I just remember the beautiful house and how it has much deteriorated. And I'm so happy to see something being done with it, but I was afraid that he was going to split it up this way. One, two, three. And this looks better. Was there an objection to having the electricity hidden?

Mr. Brown: Code requires that with any new lots being created that it be buried instead of overhead.

Ms. Rice: Well, I'm in favor of that. I don't really have much to say except that everything to the east of there are larger lots and the cul-de-sac is larger lots, and to the west of there are some smaller ones right next to it and then it gets bigger, and so that's all I got to say.

Mr. Coulter: Thank you. Yes, ma'am.

Ms. Shelby Furer: Hi, I'm Shelby Furer. I live at 290 West South Street. So, I am the direct neighbor of the lot or lots in question. So, I spoke in June as well. And I understand like, you know, nothing about like the house structure. And I personally, you know, don't care because that's not really what I'm concerned about. Since I am directly, my property line in the house and question meet, I will, if this is approved, have three people's sort of backyards in my side yard. Like I said in June, I am a new homeowner. This is my first home. I chose Worthington over Clintonville because the lots were slightly larger and it feels a little freer to be honest, right? You know, you don't have those postage stamp backyards. You have a little bit more breathing room. So, for this to be my first home experience and then, you know, now I'm going to essentially end up with what I was trying to avoid to begin with is a bit disheartening personally. I understand also that my lot is one of the undersized lots and I believe I reiterated this or I'm going to reiterate this and I said it in June as well. Had I been here when, you know, they were saying that my lot and the ones to the west of it could have been made smaller, I would have said that that is a bad idea, right? People, people generally speaking do not want to live that close together. Some people do. I would say more people prefer to have a little bit more breathing room in between them. But, you know, the thing that really has stuck with me since the June meeting is, you know, there's whatever policies in place, we can argue back and forth about that and opinions and all of that all day. So, I actually, I went to college for political science. That's what I majored in. So, like governmental organizations and all of that good stuff. So, you know, I am very much of the belief that whether it's City Council and elected officials or somebody that those elected officials appoint in all of the decisions we make in those places of power, we are representing the people of our community that have either chosen us or chosen the person that's chosen us in those decisions that we make. You

know, I think it's pretty apparent that most of us that live within the community, for whatever reason, again, we can argue back and forth all day about what reasons there we should or shouldn't do this. But to me, it is apparent that the community at large does not want these lots to be split the way that they are being proposed to be split. And again, we can hash out the details all we want. But the overwhelming opinion to me is that the people of Worthington, the people that I am neighbors with and myself do not like the proposed plan. And I sincerely hope that all of you as leaders within our community take our opinion seriously and decide not to approve this, because to me that, you know, if I were in your role, I would feel that I need to put my personal feelings aside and say this is what the people in my community want. They do not want this to be approved. So, we need to figure out what we can do to keep the people in our community and our neighbors happy. And that's what's important to me is that my neighbors, myself and the people in our community feel heard, feel empowered and feel like our opinions matter. There are a million other things I could be doing with my Thursday night, but I am here because this is important to me and this is important to the people around me, and I don't want to see it happen in a community that I have just become a part of. So, thank you so much for your time and all you do.

Mr. Coulter: Anybody else would like to speak for against this application? Were you sworn in? Okay, we'll need to get you to re-sworn in.

Mr. Dale Brinkman: I'm Dale Brinkman. We're at 6022 Weatherburn Place. You know, I just wanted to comment on the comments made on when Weatherburn was subdivided in the plot or whatever the plans were approved. My understanding was when those four lots were approved, it was also approved that the lot we're talking about now was going to remain as is. So to now argue, well, Weatherburn got divided, well, yeah, that was approved, but it was approved with this lot remaining as is. So now you're changing. If you approve this, you're also going against what was approved back in 1986 or 85 whenever it was. So anyway, that's my only comment.

Mr. Coulter: All right, thank you for anybody else. I think we've hit just about everyone. Board members. One thing I would like to see, Mr. Brown, if you could pull up the map that has the colorations out of just Weatherburn. Well, there was one that you had in tighter. Now, it's the one that shows the size of the lots in gray and red. Okay, that's it. There was one that I thought I saw that just had Weatherburn on it or if you could blow up that area. Okay, that's good. The thing that caught my eye is there have been comments made about when that street was planned, when it was constructed, when the homes were constructed, and I look at that, I look at all the other lots in the City of Worthington. I personally have five neighbors around my lot. And so, but I appreciate your concern about your lot personally. So, it's not an uncommon thing. But what caught my eye is that the two lots at the end are not in compliance, but yet they were approved. The Board has the responsibility to take a look at every single application on its own standing. There are any number of examples that the members of the board sitting up here with the exception of Mr. Healy because he wasn't on the board then, where we have subdivided lots because they were large, they were sold, people came in and they redeveloped them where they put one, two or three homes on them. So it's not something that's unusual, that's one of the purposes that were up here. If you look at the Board of Zoning Appeals, the last word is appeals. So, it provides people who want to redevelop their property or do something with their own homes have the ability to legally get that approval. We don't take it lightly at all. Nobody is more frustrated than myself about the home on Tucker. We all are, including the city, but there's limitations of what we can do with that. The home on our on South Street, he's had some challenges. They have been working out there the last couple of weeks that I've been very happy to go by and I see the trucks out there. So, we know that something is happening, but when a property takes longer than expected and they go past those deadlines,

they do have to come back for approval and explain why it's taken so long. The examples that Mr. Brown had prepared that showed how other ways that property could be redeveloped, having to do variances. Again, we're not up here to tell somebody how to develop their property. Somebody who's developing that property comes up and shows us what they want to do and then we get into the discussions or what may work, what may not work. And that's how we evaluate it. As far as all of the utilities, stuff like that, we have nothing to do with that. That doesn't fall under our area of responsibility, nor do we want to do that. The only question that I really had was the easement on the west side that you showed. How wide is that easement? Because I didn't see yeah, I get OK. I see it now. That's a 10-foot easement.

Mr. Brown: Yes, sir.

Mr. Coulter: Her house, the way that it's shown is eight feet off. So, you would be into that easement by two feet. So that's something that were this to be approved is going to have to be addressed not tonight, but later on. There's a solution. We just got to figure out what that solution is.

Mr. Brown: Yes. The house is again, we got to get off. I know. See on the houses. I'm just making a point, but by zoning code, I have to do it. The 10 feet. At least lot one B, lot one C would be in the 30-foot rear yard, lot one A. If the lot is laid out how it is and they're using their setback, it was the 30-foot front on South Street. You're right. They would have to stay at least 10 feet out of that.

Mr. Coulter: That was the only point I was making was just that. Again, we're not talking about that. It's just something that. Those are my comments. Anybody else?

Mr. Reis: I think the applicants proposed lot division makes the most sense in terms of any kind of reasonable, buildable homes on those three lots. So, I think the other options are not advisable. Personally, I have four people that about my property. So, I don't have a problem with that. In my case, so with the neighbor that says she bought her house and she's going to have maybe two and a half more neighbors, and that's part of the living in an area that might be changed. So, I don't have a problem with the applicant's subdivision, and I was thinking that maybe some of the adjacent landowners were concerned about what might be built in terms of, I think I heard somebody saying they were going to build Taj Mahals and it might distract from the other homes that are in the area. I don't see that as a problem, and I think the one homeowner didn't even object to the homes maybe being somewhat large or so. I think the applicant's subdivision is fine and I certainly will be approving it.

Mrs. Holcombe: I agree. And I will be approving it as well. I believe that in 1986, I think I said this at the last meeting that it was very controversial when Weatherburn was built, and the houses were built. People loved them and you get past that, and I understand, and I empathize with the construction that's going to go on for all of the neighbors there. If this allows three more families to be able to move into Worthington, and I believe that's what we were so confined with what we can build now. That this is an opportunity for other people. So while I feel your pain of going through this building. I'm supporting it.

Mr. Hofmann: Yeah, I think I would just remind that we still do live in America. There's still this thing called private property and things that people can utilize. And so, I certainly appreciate the notion of change, and change is usually the fear of losing something, and if I look at the neighborhood and I look at what Worthington is doing right now and if I look at the lot that I live on myself, it's difficult to deny what's being asked here. We're so underbuilt. If we were not underbuilt or if some of the same folks in the audience who come forward and also complain against small or multi-story housing, which could be beneficial as well, it might be a different story, but we are constrained beyond belief, and it is still private property. People are still allowed

to build things, and again, if you want to change the way that works, you do have to change the fundamentals. So, I do feel for the change that's coming for this small neighborhood, but I think in the end, it's reasonable compared to the rest of what's going on inside of Worthington.

Mrs. Hinz: I'd like to add a couple comments that I think this Commission, this Board, our council, not only these people, but everyone who came before do a great job listening to neighbors, but I think they also do a great job listening to the community as a whole, and I think I echo Mrs. Holcombe that this is an opportunity to move forward and address today's concerns. Today we're worried about housing crisis and density and everything else, and what we've heard out of the community, not just you folks here tonight, is that we need more housing options and we need more houses. So, I think this, it's a small dent in the need, but you know, two houses is two more families on top of the one. So, I just wanted to put that on the record for the Commission and for Council going forward that I think the applicant has done a good job balancing the existing conditions and also addressing some of those needs.

Mr. Healy: I think the other board members have summed up my thoughts and feelings exactly, and, you know, various members of Weatherburn Place have been up tonight, and I think, you know, to the one lady's comment, everything going forward is going to be reviewed sensitively to ensure that the community will be satisfied with the finish result. I think that's what is important here. And to your comment about the structure of this board, that's what we're here for.

Mr. Coulter: All right. Is there anybody else in the audience that would like to speak one more time for this application positively or negatively? Could I have a motion, please?

Motion:

Mr. Reis moved:

THAT THE REQUEST BY ERIC KMETZ FOR APPROVAL OF A FINAL PLAT AT 286 W. SOUTH ST., AS PER CASE NO. SUB 03-2023, DRAWINGS NO. SUB 03-2023, DATED SEPTEMBER 15, 2023, BE RECOMMENDED TO CITY COUNCIL FOR APPROVAL BASED ON THE PLANNING GOALS OF THE CITY, AS REFERENCED IN THE LAND USE PLANS AND ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND PRESENTED AT THE MEETING.

Mrs. Holcombe seconded the motion. Mr. Brown called the roll. Mr. Hofmann, aye; Mrs. Holcombe, aye; Mr. Reis, aye; and Mr. Coulter, aye. The motion was approved.

Mr. Coulter: For those of you who live on Weatherburn, I will let you know and advise you that you will have the opportunity to raise your same issues with Council. So, this is not your last night to express your concerns. And then however it goes down the road, if there are any variances, if this should be approved, that would have to go before the Board of Zoning Appeals, you would again have your opportunity to express any concerns there.

Mr. Brown: Mr. Coulter, again, I wanted to add that once we approve the meeting minutes at our October meeting, we will then introduce this since it's an ordinance that has to be introduced and set for hearing. It will be introduced at City Council on November 6th. It's not discussed at that meeting. It's just setting a hearing date for November 20th, and then the options that Council has, they can listen to Planning Commission. They could deny the variances and they could come back with all the lots meeting actual code requirements. So, there's still a couple options that if City Council did not approve it, that if it came back and met, that they could go on.

Mr. Coulter: All right. Thank you. That concludes all of our business for the Municipal Planning Commission. Is there anything else that you want to raise?

G. Other

Mr. Brown: One thing I have before I turn over to Ms. Brewer is just a reminder that I did sign up everyone for the Chamber luncheon on November 14th. So, you're all registered for that, and with that, I'll turn it over to Ms. Brewer.

Ms. Brewer: Well, we have our next meeting this upcoming Monday, and we are discussing our pay-to-stay ordinance. It basically introduces a tenant's right to assert a tender of rent as an affirmative defense to an eviction action. It's very similar to Columbus's Ordinance. So, we feel that's a really good step for our renters here. We'll hear a variance request for Tilton's signs on Huntley Road as well, and of good note on a Thursday, we're also going to hear the Griswold beer and wine rentals for events. So, Ms. Michael's been pushing for that for a while and that's finally in the works. So, we'll hear that on Monday as well, and that's all I have.

Mr. Coulter: All right. Thank you. Anybody else? Could I have a motion to adjourn?

H. Adjournment

Mr. Hofmann moved to adjourn the meeting, and Mrs. Holcombe seconded the motion. All Board members voted, "Aye," and the meeting adjourned at 9:12 p.m.



STAFF MEMORANDUM
City Council Meeting – November 20, 2023

Date: November 15, 2023

To: Robyn Stewart, Acting City Manager

From: Tom Lindsey, Law Director
Ethan Barnhardt, Management Assistant/Special Projects Coordinator

Subject: Ordinance No. 25-2023 – Prohibiting the Sale of Flavored Tobacco Products

EXECUTIVE SUMMARY

This Ordinance would amend Chapter 765 of the Codified Ordinances to prohibit the sale of flavored tobacco products and to increase the civil penalties for violations of Chapter 765.

RECOMMENDATION

Approve as presented.

BACKGROUND/DESCRIPTION

in 2018 City Council adopted Ordinance Nos. 24-2018 and 44-2018 which enacted and amended Chapter 765 "Tobacco Sales" of the Codified Ordinances regarding the sale of tobacco to individuals under the age of twenty-one. Chapter 765 is enforced by Columbus Public Health, the City's contracted health agency.

Earlier this year Columbus Public Health amended the Columbus Health Code to prohibit the sale of flavored tobacco products beginning in 2024. Columbus Public Health also increased the civil penalties that could be imposed for illegal sales to underaged persons and for sales of flavored tobacco products. The civil penalty for a first violation increased from \$500 to \$1000, the civil penalty for a second violation within two years increased from \$1,000 to \$5,000, and the civil penalty for a third or subsequent violation increased from \$1,000 to \$10,000 and a two-year revocation of the ability to sell any tobacco products.

Based on Council direction, staff has prepared the proposed Ordinance to amend Chapter 765 to similarly prohibit the sale of flavored tobacco products and to increase the civil penalties that may be imposed for violations of Chapter 765. The language of the proposed Ordinance mirrors the Columbus Health Code to provide for uniformity and efficiency in enforcement by Columbus Public Health. The amendments to Chapter 765 will be effective January 1, 2024. However, the proposed Ordinance provides that no fines or penalties will be imposed for violations related to the illegal sale or distribution of flavored tobacco products that occur on or before March 31, 2024.

ATTACHMENTS

Research Memo – Flavored Tobacco Ban

Ordinance No. 25-2023 (in legislative format showing changes in Chapter 765)

Revised Chapter 765 (if Ordinance No. 25-2023 is adopted)



MEMORANDUM

TO: Robyn Stewart, Acting City Manager
Ethan Barnhardt, Management Assistant/Special Projects Coordinator

FROM: Sam Roberts, City of Worthington Public Policy Intern

DATE: May 11, 2023

SUBJECT: Flavored Tobacco Ban

Background

The sale and consumption of flavored tobacco products in the U.S. is considered a major health crisis that particularly effects youth and African American populations. These products include vaporable nicotine solutions that are sold in thousands of flavors that appeal to young people, and menthol cigarettes that have historically targeted certain populations in their marketing. Tobacco use remains the leading cause of preventable death in the U.S. and between 2011-2015, the Centers for Disease Control and Prevention (CDC) estimated an 800% increase in e-cigarette use among middle and high school students.¹ Of the two million U.S. students estimated to be consuming flavored cigarettes in 2021, 8/10 of those students were smoking flavored products.¹

Of all U.S. African American smokers, 85% of them smoke menthol.² Menthol tobacco products have historically targeted certain minority populations and lead to issues of social equity and health. While some historians note that it is somewhat of a mystery as to how exactly menthol cigarettes became so heavily targeted towards these populations in their advertising, in terms of whether targeted advertising efforts were made before or after consumer trends in African Americans, the facts are that menthol cigarette marketing is significantly more prevalent in predominantly African American neighborhoods and media. This can be seen in the form of proportionally higher rates of exterior advertisements and price discounts for menthol cigarettes at retailers in these communities, and with African American media sources like Ebony and Jet

¹ Columbus, OH., AMENDED ORDINANCES, Ch. 715 (2022)

² Biddle, M. The historical 'messy, moral dilemma' of marketing menthol cigarettes to black communities.
<https://why.org/articles/fda-menthol-ban-history-marketing-menthol-cigarettes-black-communities/>

magazine running only menthol brand advertisements instead of other non-menthol brands and flavors.

The inclusion of menthol products in a flavored tobacco ban would help address these issues of social equity by reducing the consumption and exposure of these products. It is projected that menthol bans would lead to reductions in overall smoking in African Americans by ~35% by 2026, and ~25% by 2060.³ Social justice and health organizations have already fought and called for the ban of menthol cigarettes to address issues of social equity surrounding affected populations, and the proposed ban would not target individuals, only retailers.

In 2022 the FDA proposed bans on flavored cigar and menthol cigarette products, marking a major win for public and societal health. Other states and municipalities have been implementing their own bans on flavored tobacco products. The City of Columbus voted to institute its own ban starting January 1st, 2024. This policy is aimed at reducing the harm to city residents created by flavored tobacco products and address social equity concerns as the City of Columbus considers racism to be a public health crisis. While smoking rates among African Americans has declined overall, Columbus Public Health recorded an 8% increase in smoking rates among African American residents in Franklin County.

In 2019 it was estimated that ~29% of Ohio high schoolers and ~12% of middle schoolers reported to using an e-cigarette tobacco product.⁴ Last year in 2022, smoking illnesses cost Ohio Medicaid \$1.8 billion dollars, pointing to some of the fiscal implications of enacting a ban.⁵ California as a state has similarly banned flavored tobacco products and while they are projected to see losses in tobacco product and cigarette tax revenues, these losses are offset by savings in state MediCal activity and increases in economic activity.⁶

In February, the United States Supreme Court declined to hear a case challenging a ban on flavored tobacco products in Los Angeles County.⁷ Similarly, in January Governor DeWine vetoed a bill proposed by the Republican-led state legislature that called for a ban on communities' ability to ban flavored tobacco products, demonstrating his own stance on the issue. DeWine called vaping among young Ohioans an epidemic with long-term consequences, and called for a State-wide ban, but stopped short of demanding one. Columbus is the third city in Ohio to institute its own ban, following the cities of Toledo and Bexley. Other central Ohio cities are following suit, with the

³ Issabakhsh, M., Meza, R., Li, Y., Yuan, Z., Sanchez-Romero, L. M., & Levy, D. T. (2022, June 13). *Public health impact of a US menthol cigarette ban on the non-Hispanic black population: A simulation study*. Tobacco Control. <https://tobaccocontrol.bmj.com/content/early/2022/06/12/tobaccocontrol-2022-057298>

⁴ Tobacco Use Among Youth in Ohio, 2019. ohio.gov. <https://odh.ohio.gov/know-our-programs/youth-risk-behavior-survey/high-school-data/2019-yrbs-survey-summary>

⁵ The Statehouse News Bureau | By Karen Kasler. DeWine vetoes Bill Banning Ohio communities from banning flavored tobacco. statenews.org. <https://www.statenews.org/government-politics/2023-01-05/dewine-vetoes-bill-banning-ohio-communities-from-banning-flavored-tobacco>

⁶ Tobacconomics. Potential effects of a ban on the sale of flavored ... <https://www.tobacconomics.org/files/research/671/ca-flavor-ban-and-revenues-27-feb-2022.pdf>

⁷ Fritze, J. Supreme Court declines challenge to flavored tobacco ban, leaving prohibition in place. USA Today. <https://www.usatoday.com/story/news/politics/2023/02/27/supreme-court-flavored-tobacco-ban/11354548002/>

cities of Grandview Heights and Westerville working to discuss potential legislation at future council meetings.⁸

Like the recent Tobacco 21 legislation, this policy aims to prohibit the sale and distribution of products and not target the individual consumer. This legislation does not include a ban on hookah bars or their associated flavored tobacco products so long as the retailers are compliant with state and local laws and licensing and the customers purchase and consume any tobacco products on site. The Columbus Board of Health was tasked with promulgating the rules and regulations relating to the ban.

Flavored Tobacco Ban – City of Columbus

- On December 5th, 2022, the City Council of Columbus voted unanimously to enact the ban starting January 1st, 2024.
 - Columbus Public Health held a period of ongoing public feedback regarding the ban from November to December.
 - The start date of 1/1/2024 is to allow time for affected retailers to transition their stock and mitigate the impending economic effects from sales prohibitions.
 - In addition to the ban, the council announced \$1 million to go to a smoking cessation education and awareness program.
 - “The 2023 Comprehensive Tobacco Cessation Education and Awareness Campaign would provide access to resources and programs through community events, youth education, and training for medical professionals”.⁹
 - Additional funds will be invested into cessation programs for youth and targeted communities. This will include disseminating information to middle schools and high schools. Local community health organizations, low-cost health clinics, and other providers will be engaged to ensure they have sufficient information and materials.
- No Licensee, agent, employee, or representative shall do any of the following at a Retail Tobacco Establishment:¹⁰
 - Give, sell, or distribute tobacco products to anyone under the age of 21.
 - Give, sell, or distribute tobacco products to anyone under the age of 30 without checking for proof of age.
 - Give, sell, or distribute tobacco products while under a license suspension.
 - Give, sell, or distribute flavored tobacco products.
 - Give, sell, or distribute tobacco products out of a vending machine.

⁸ Landers, A. K.. As Columbus plans to ban flavored tobacco, where do other Central Ohio Cities Stand? <https://www.10tv.com/article/news/local/as-columbus-plans-ban-flavored-tobacco-where-do-other-central-ohio-cities-stand/530-8c75196d-20d1-40f3-b435-1a7eab019461>

⁹ City of Columbus - City Council and Community Partners Announce Proposal for \$1 Million Tobacco Cessation Effort. <https://www.columbus.gov/Templates/Detail.aspx?id=2147528329>

¹⁰ Columbus, OH., Columbus Public Health Codes, RESOLUTION No. 23-08, (2023)

- Columbus Public Health may conduct inspections, which may include underage buy attempts and/or Flavored Tobacco Product buy attempts for all Temporary and annual Retail Tobacco Establishments that have retail sales licenses.
- If Columbus Public Health observes a violation(s) at a Retail Tobacco Establishment with either an annual or temporary license, the following civil penalties shall be imposed, in addition to the sanctions specified in Section 248.03 of the Columbus Public Health Codes:
 - A fine of **\$1,000** for a first-time violation.
 - A fine of **\$5,000** for a second violation within two years of the first.
 - For a third and any subsequent violations within two years of the first violation:
 - A fine of **\$10,000** per violation and revocation of any existing Retail Tobacco Product Sales license and the imposition of a two-year period of ineligibility to obtain a new one.
- Civil penalties may be appealed to Columbus Public Health.

Products Included in Flavored Tobacco Ban Legislation

- **Electronic Smoking Device** refers to any device that can be used to deliver aerosolized or vaporized nicotine or other products to the user. Includes, but not limited to, electronic cigarettes, electronic hookahs, or vape pens.
- **Flavored Tobacco Product** refers to any tobacco product that imparts a taste or smell other than that of tobacco. Includes, but not limited to tastes like chocolate, vanilla, mint, or candy. It shall be assumed that a tobacco product is flavored if:
 - The product uses texts or images indicating that it imparts a taste or smell other than tobacco.
 - The product has a public statement or claim associated with it reporting that it imparts a taste or smell other than tobacco.
 - There are actions directed at the consumer indicating that the product imparts a taste or smell other than tobacco.
- **Flavored Shisha Tobacco Product** refers to any flavored tobacco product that is smoked out of a Hookah and can include Hookah tobacco, waterpipe tobacco, and maassel. These products are not included in the flavored tobacco ban when appropriately consumed.
 - **Hookah** refers to a type of waterpipe used to smoke flavored shisha tobacco products.
 - **Hookah Bar** refers to an establishment that derives revenue from the consumption of on-site flavored shisha tobacco products. Must be compliant with state and local laws and regulations.

Flavored Tobacco Bans in Ohio

- *City of Toledo*
 - Was the first city in Ohio to pass flavored tobacco related legislation.

- On December 10th, 2019, the City Council enacted a ban on the sale and distribution of flavored tobacco products from any business/retailer NOT designated as a “Retail Vapor Product Specialty Business”.¹¹
 - These are considered businesses that derive at least 60% of their gross receipts from e-cigarette and vapor product sales.
 - This bans many retailers from selling and distributing flavored tobacco products but does not ban those products in totality.
- Penalties for individuals/businesses that violate this policy:
 - First time offenders receive a misdemeanor of the fourth degree, subsequent offenses lead to a misdemeanor of the 3rd degree.
 - Minimum fines shall be fixed by the courts as follows:
 - Offenses from organizations:
 - First time offenses result in a \$250 fine.
 - Subsequent offenses result in a \$500 fine.
 - Offenses from individuals:
 - First time offenses result in a \$50 fine.
 - Subsequent offenses result in a \$100 fine.
- *City of Bexley*
 - Was the first city in Ohio to pass a flavored tobacco ban, which did not initially include menthol cigarettes.¹²
 - Amended ordinance #48 - 22 passed on March 7th, 2023, introducing chapter 837 to their codes. Purpose is to ensure that retailers comply with federal, state, and local tobacco control laws and standards to protect the public health. This resolution also removed section 636.16 of their codified ordinances, which related to the illegal distribution of tobacco products.
 - Amended ordinance #48 – 22 updated the definitions and penalties associated with the licensing and sale of tobacco products. These are similar to the promulgated rules and regulations made by CPH regarding their flavored tobacco ban.
 - “Flavored tobacco product” refers to any product imparting a smell or taste other than that of tobacco. Includes but is not limited to fruit, menthol, mint, etc.
 - Flavored Tobacco Product Sales Prohibition
 - “It shall be unlawful for a tobacco retailer ... to sell or offer for sale any flavored tobacco product.”
 - Penalties for violating this policy:
 - Any tobacco retailer found to have violated this ordinance shall be subjected to:
 - First time offence results in a fine of no less than \$1,000.
 - For a second violation within a 36-month period there is a fine of no less than \$2,500 and the retailer shall be prohibited from distributing their products for a minimum of 30 days.

¹¹ Toledo, OH., AMENDED ORDINANCES, Ch. 537, (2019)

¹² Bexley, OH., AMENDED ORDINANCE No. 48 – 22, Ch. 837, (2023)

- For a third violation within a 36-month period there is a fine of no less than \$5,000, revocation of their retail sales license, and a prohibition from distributing their products for a period of three years.

Implementation Discussion with City of Columbus Public Health – April 27th, 2023, at 12:30pm

In attendance from City of Worthington: *Acting City Manager Robyn Stewart, Management Assistant and Special Projects Coordinator Ethan Barnhardt, and Public Policy Intern Sam Roberts*

In attendance from CPH: *Assistant Health Commissioner for Public Affairs Edward Johnson, and Environmental Health Administrator Luke Jacobs*

- Columbus Public Health inspectors are already in place and will continue making routine inspections at Worthington retailers.
 - Would include a minimum of two visits and one “buy attempt” per year. Buy attempt would include a secret shopper visit where the retailer is prompted to sell to an underage person or sell a flavored tobacco product.
 - Penalties will not be “double-stacked” i.e., a retailer cannot be simultaneously charged for selling to an underage person and selling a flavored tobacco product.
- Columbus Public Health will be working with retailers over the next six months to help them transition by 1/1/2024.
 - Any concerns that retailers have can be directed to CPH.
 - Something that retailers should note is that Columbus has instituted some major tobacco related ban once every decade for the last 20+ years (indoor smoking ban, tobacco 21, now flavored tobacco). These policies are not novel to the city and haven’t driven all the business out of it.
- Licensing system is much stricter with its fines than was incorporated at the time Tobacco 21 was launched.
 - Previously fines started at \$500 and maxed out at \$1000 for subsequent violations.
 - A primary goal of this policy is to get compliance from tobacco retailers to ~90%. Compliance is currently around ~75% in Columbus.
 - Worthington is doing fine regarding its own compliance according to CPH.
 - According to CPH, compliance is 100% for 2023 year to date.
- There is an accompanying 2023 Smoking Cessation and Education Program.
 - Program has a particular minority focus and can coordinate to have informational resources distributed to Worthington via booths at community events, for example.
 - This is a potential avenue for addressing Worthington’s youth on this issue.
- There will be updated signage that will be required to be displayed by retailers.

- Signage updated to include the prohibition of selling electronic smoking devices.
- The intention would be for Worthington to adopt the regulations to maintain consistency in its language and definitions.

Affected Tobacco Retailers in Worthington

DUCHESS WORTHINGTON	7141	HIGH	WORTHINGTON	OH	43085
GURU WINES	2285	DUBLIN GRANVILLE	WORTHINGTON	OH	43085
HOUSE OF CIGAR	7099	HUNTLEY	COLUMBUS	OH	43229
KROGER #273	60	WORTHINGTON MALL	WORTHINGTON	OH	43085
WORTHINGTON MARATHON	911	HIGH	WORTHINGTON	OH	43085

ORDINANCE NO. 25-2023

To Amend Various Sections of Chapter 765
“Tobacco Sales” of the Codified Ordinances of the
City of Worthington to Prohibit the Sale of Flavored
Tobacco Products.

WHEREAS, in 2018 City Council adopted Ordinance Nos. 24-2018 and 44-2018 which enacted and amended Chapter 765 “Tobacco Sales” of the Codified Ordinances regarding the sale of tobacco to individuals under the age of twenty-one; and,

WHEREAS, the Centers for Disease Control and Prevention estimates that more than 2 million U.S. middle and high school students reported currently using electronic cigarettes in 2021, with more than 8 in 10 of those youth using flavored electronic cigarettes; and,

WHEREAS, 81 percent of youth who have ever used a tobacco product report that the first tobacco product they used was flavored; and,

WHEREAS, nicotine solutions, which are consumed via electronic smoking devices such as electronic cigarettes, are sold in flavors that appeal to youth, such as cotton candy, bubble gum, banana smash, and mango ice; and,

WHEREAS, data from the 2019 Ohio Youth Tobacco Survey indicates that nearly one out of four Ohio high school students and nearly 13 percent of Ohio middle school students report having used a flavored tobacco product; and,

WHEREAS, while cigarette smoking among American adults has generally declined nationwide, Columbus Public Health has seen an 8 percent increase in smoking rates for African American adults in Franklin County; and,

WHEREAS, flavored tobacco products contribute to minority health inequities and disproportionately impact the 85 percent of African American smokers and the 36 percent of LGBTQ smokers who smoke menthol flavored tobacco as result of targeted marketing practices; and,

WHEREAS, the Columbus Board of Health, the City’s contracted health agency, recently adopted Resolution No. 23-08 prohibiting the sale of flavored tobacco products; and,

WHEREAS, the Columbus Board of Health, pursuant to contract with the City of Worthington, administers the licensing and civil enforcement provisions of Chapter 765; and,

NOW, THEREFORE, BE IT ORDAINED by the Council of the Municipality of Worthington, County of Franklin, State of Ohio:

SECTION 1. That Section 765.01 “Definitions” is hereby amended to read as follows:

765.01 DEFINITIONS

As used in this chapter:

(a) “Department” means the Columbus City Health Department and its authorized employees and agents.

(b) “Electronic Smoking Device” means any device that can be used to deliver aerosolized or vaporized nicotine to the person inhaling from the device, including, but not limited to, an ~~e-cigarette~~electronic cigarette, ~~e-cigar~~electronic cigar, ~~e-pipe~~electronic pipe, ~~vape~~vaping pen or ~~e-hookah~~electronic hookah. “Electronic Smoking Device” includes any component, part, or accessory of such a device, whether or not sold separately, and includes any substance intended to be aerosolized or vaporized during the use of the device. “Electronic Smoking Device” does not include drugs, devices, or combination products authorized for sale as a cessation product by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act.

(c) “Flavored Shisha Tobacco Product” means a Flavored Tobacco Product smoked or intended to be smoked in a Hookah. “Flavored Shisha Tobacco Product” includes, and may be referred to as, Hookah tobacco, waterpipe tobacco, maassel, narghile, and argileh.

(d) “Flavored Tobacco Product” means any Tobacco Product that imparts a taste or smell, other than the taste or smell of tobacco, that is distinguishable by an ordinary consumer either prior to, or during the consumption of, a Tobacco Product, including, but not limited to, any taste or smell relating to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, menthol, mint, wintergreen, herb, or spice. There shall be a rebuttable presumption that a Tobacco Product is a “Flavored Tobacco Product” if:

(1) The Tobacco Product uses text or images, or both, on the Tobacco Product’s labeling or packaging to explicitly or implicitly indicate that the Tobacco Product imparts a taste or smell other than tobacco; or

(2) A public statement or claim made or disseminated by the manufacturer or retailer of a Tobacco Product, or by any person authorized or permitted by the manufacturer or retailer to make or disseminate public statements concerning such Tobacco Product, that such Tobacco Product has or produces a taste or smell other than tobacco; or

(3) There are actions directed to consumers that would reasonably be expected to cause consumers to believe that the Tobacco Product imparts a taste or smell other than

tobacco.

(e) "Hookah" means a type of water pipe that is used to smoke Shisha Flavored Tobacco Products or any other Tobacco Product, which has a long, flexible tube to draw aerosol through water. This device has components that may include heads, stems, bowls, and hoses.

(ef) "Licensee" means a ~~person~~ Retailer that ~~applied for and was~~ has been issued a Retail Tobacco and paraphernalia Product Sales license or Temporary Retail Tobacco Product and paraphernalia Sales license for a Retail Tobacco Establishment by the Department.

(d) "~~Product Paraphernalia~~" means any product that is used to assist in chewing, smoking, absorbing, dissolving, inhaling, or any other consumption of nicotine to include, but not limited to pipes, and rolling papers.

(e) "~~Retail Paraphernalia Sales~~" means the act of giving, selling or otherwise distributing product paraphernalia in a retail setting, including but not limited to, gas stations, convenience stores, carry out markets, groceries, supermarkets, retail warehouse clubs, drug stores, vape shops and hookah bars.

(g) "Person" means any individual, firm, corporation, business trust, estate, trust, association, syndicate, partnership, cooperative, governmental agency or any other entity recognized by law. "Person" does not include a wholesale dealer as defined in section 5743.01(B) of the Ohio Revised Code, a distributor as defined in section 5743.01(K)(2) or (K)(3) of the Ohio Revised Code, or a vapor distributor as defined in section 5743.01(V)(1), (V)(4) or (V)(5) of the Ohio Revised Code when the dealer or distributor is acting in a dealer or distributor capacity.

(h) "Proof of Age" means a driver's license, a commercial driver's license, a military identification card, a passport, or an identification card issued under Sections 4507.50 to 4507.52 of the Ohio Revised Code demonstrating that the recipient or purchaser is at least twenty-one (21) years of age.

(i) "Retailer" means any person engaged in the business of Retail Tobacco Product Sales or Temporary Retail Tobacco Product Sales.

(j) "Retail Tobacco Establishment" means the location of any physical place of business or section of a physical place of business where Retail Tobacco Product Sales or Temporary Retail Tobacco Product Sales are made. The term shall also include those portions of any physical place of business where Vending Machines that dispense Tobacco Products are located.

(~~fk~~) "Retail Tobacco Product Sales" means the act of giving, selling or otherwise distributing Tobacco Products in a retail setting, including but not limited to gas stations, convenience stores, carry out markets, groceries, supermarkets, retail warehouse clubs, drug stores, liquor stores, vape shops, and hookah bars or lounges.

~~(gl)~~ “Temporary Retail Tobacco Product ~~and Paraphernalia~~ Sales” means the act of giving, selling or otherwise distributing Tobacco Products ~~and/or product paraphernalia~~ at an event for not more than thirty consecutive days.

~~(hm)~~ “Tobacco Product” means any product that is made from or derived from tobacco or that contains any form of nicotine, natural or synthetic, and that is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled or ingested by any other means, including, but not limited to, a cigarette, an electronic smoking device, a cigar, pipe tobacco, chewing tobacco, smokeless tobacco, snuff, or snus. The term “Tobacco Product” ~~also includes, but is not limited to, an electronic smoking device~~ and means any component or accessory used in the consumption of a Tobacco Product, such as filters, rolling papers, pipes, blunt or hemp wraps, Hookahs, flavor enhancers, mouthpieces, and pipes and substances or liquids used in Electronic Smoking Devices, whether or not they contain nicotine. “Tobacco Product” does not include drugs, devices, or combination products authorized for sale as a cessation product by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act.

(n) "Underage Buy Attempt" means an individual, authorized by the Department, who is 1) under the age of 21 and requests purchase of Tobacco Products at a Retail Tobacco Establishment; or 2) under the age of 30 and requests purchase of Tobacco Products at a Retail Tobacco Establishment without presenting proof of age as defined in section 765.05.

~~(io) "Underage Buy Attempt" means a person, authorized by the Department, who is 1) under the age of 21, who and requests purchase of Tobacco Products or product paraphernalia from a retailer at a Retail Tobacco Establishment; or 2) under the age of 30 and a person under age 30 who requests purchase of Tobacco Products or product paraphernalia from a retailer at a Retail Tobacco Establishment without presenting identification proof of age as defined in subsection 765.01(.~~

(p) "Vending Machine" means any mechanical or electronic device designed to do both of the following:

(1) Receive a coin, bill, token, credit card, or other electronic payment including, but not limited to, a card, code, device, or other means of access to a customer's account, made for that purpose;

(2) In return for the insertion or deposit of a coin, bill, token, credit card, or other electronic payment automatically dispenses property, provides a service, or grants a license.

SECTION 2. That Section 765.02 “License Application” is hereby amended to read as follows:

765.02 LICENSE APPLICATION

(a) ~~All retailers~~ A Retailer of Tobacco Products ~~and/or product paraphernalia~~ shall apply for a valid Retail Tobacco ~~and paraphernalia~~ Product Sales license or a Temporary Retail Tobacco ~~and paraphernalia~~ Product Sales license. ~~For the purposes of this Chapter, retailers shall include any person performing retail tobacco sales, retail paraphernalia sales, or temporary retail tobacco and paraphernalia sales.~~ Retail Tobacco ~~and paraphernalia~~ Product Sales licenses shall be issued by the Department annually. Temporary Retail Tobacco ~~and paraphernalia~~ Product Sales licenses shall be valid for not longer than thirty consecutive days. A license shall be required for each Retail Tobacco Establishment location where Retail Tobacco Product Sales, including Temporary Retail Tobacco Product Sales, ~~or retail paraphernalia sales~~ are conducted and is non-transferable.

(b) ~~Any~~ A Retailer applying for a Retail Tobacco ~~and paraphernalia~~ Product Sales license or a Temporary Retail Tobacco and paraphernalia Product Sales license shall submit a current and valid vendor's license as required by the Ohio Department of Taxation to the Department. Any Retailer who distributes, stores, or sells cigarettes shall submit a current and valid Retail Cigarette Dealer's License as required by Ohio Revised Code Chapter 5743 to the Department prior to approval for licensing. Any Retailer who permits smoking inside the Retail Tobacco Establishment they are seeking to have licensed shall submit a current and valid retail tobacco store exemption issued by the Ohio Department of Health as per Ohio Revised Code §3794.03 prior to licensing. Any Retailer who permits vaping inside the Retail Tobacco Establishment they are seeking to have licensed shall provide a current and valid Ohio Department of Health affidavit stating the percentage of the establishment's gross income during the prior calendar year that was derived from the sale of vapor products, Electronic Smoking Devices, or other electronic smoking product accessories as per Ohio Revised Code §3794.03 prior to licensing.

(c) The annual Retail Tobacco ~~and paraphernalia~~ Product Sales license fee shall be \$150 Three Hundred Fifty Dollars (\$350.00). The license shall be valid beginning on the first day of October of the year issued through the last day of September of the following year. A license issued to a new Licensee after the first day of July and before the first day of October shall not expire until the last day of September of the following year. A penalty equal to twenty-five percent (25%) of the applicable license fee shall be assessed by the Department for license fee payments that are not received or postmarked by the first of October.

(d) The Temporary Retail Tobacco ~~and paraphernalia~~ Product Sales license fee shall be Fifty Dollars (\$50). The license shall be valid for no longer than thirty (30) consecutive days and limited to a single event. The application shall be made at least ten days prior to the event.

(e) License fees are due at the time of application and are not refundable.

SECTION 3. That Section 765.03 “License Application Denial, Renewal Denial, Suspension, and Revocation” is hereby amended to read as follows:

765.03 LICENSE APPLICATION DENIAL, RENEWAL DENIAL, SUSPENSION, AND REVOCATION

(a) Applications for Retail Tobacco ~~and paraphernalia~~ Product Sales licenses and Temporary Tobacco ~~and paraphernalia~~ Product Sales licenses may be denied, and such licenses may be suspended or revoked, for any of the following:

(1) The applicant or Licensee, or any agent, employee, or representative thereof, is giving, selling, or offering to sell Tobacco Products by or from a Vending Machine.

(2) Observation by staff of the Department or its authorized agent that the applicant or Licensee, or any agent, employee, or representative thereof of said licensee has violated ~~Section 765.07(A)(1) or (A)(3)~~ provisions of Chapter 765 of the Codified Ordinances.

(2) Failure by the Licensee to post signage as required by Section 765.04 of the Codified Ordinances.

(3) The applicant or Licensee having a conviction for violating Sections 765.06 or 765.07 of the Codified Ordinances or former Sections 2329.13 or 2329.14 of the Columbus City Code; having a conviction for violating any provision of the Ohio Revised Code or Ohio Administrative Code pertaining to the regulation of Tobacco Products or to indoor smoking or vaping; or having a finding of violation of any provision of Chapter 765 of the Codified Ordinances or any provision of Chapter 248 of the Columbus City Health Code within two years prior to the date of issuance or at any time during the licensing year. ~~In the case of licensees, convictions for violations of Sections 765.06 or Section 765.07 of the Codified Ordinances or Section 2329.13 or 2329.14 of the Columbus City Code shall be a sufficient basis for denying a license renewal, for license suspension, or license revocation if the date of conviction is within two years of the issuance of the current retail tobacco and paraphernalia sales license or temporary retail tobacco and paraphernalia sales license.~~

(4) ~~An order~~ A finding by a court of competent jurisdiction that a Retail Tobacco Establishment ~~and paraphernalia sales location or temporary retail tobacco and paraphernalia sales location~~ owned and/or operated by the applicant or Licensee constitutes a public nuisance or that the location of the Retail Tobacco Establishment that is the subject of the application or license has been found, by a court of competent jurisdiction, to be a public nuisance during the period that the court retains jurisdiction over the nuisance action.

(5) Information contained in the application is misleading, inaccurate, or false.

(6) The applicant or Licensee, or any agent, employee, or representative thereof, fails to comply with U.S. Food and Drug Administration regulations, applicable federal, Ohio Revised Code, Ohio Administrative Code, and/or city codes including, but not limited relating to building, health, and fire.

(7) The applicant or Licensee has outstanding fines, issued pursuant to Section 765.05(B) Chapter 765 of the Codified Ordinances or Columbus City Health Code Chapter 248.

(b) Any ~~person~~ Licensee whose Retail Tobacco ~~and paraphernalia~~ Product Sales license

or Temporary Retail Tobacco ~~and paraphernalia~~ Product Sales license has been proposed to be suspended or revoked shall be notified in writing by the Department. Appeals of such action may be made in accordance with Columbus City Health Code Section 203.10.

(c) Any ~~person~~ applicant whose application for a Retail Tobacco ~~and paraphernalia~~ Product Sales license or Temporary Retail Tobacco ~~and paraphernalia~~ Product Sales license is denied shall be notified in writing by the Department. Appeals of such action may be made in accordance with Columbus City Health Code Section 203.08.

SECTION 4. That Section 765.04 “Sign Distribution and Posting” is hereby amended to read as follows:

765.04 SIGN DISTRIBUTION AND POSTING

(a) The Department shall make signs available to all Retail Tobacco ~~and paraphernalia~~ Product Sales Licensees and Temporary Retail Tobacco ~~and paraphernalia~~ Product Sales Licensees. Signs shall be provided by the Department at the time of license approval or renewal, and upon request.

(b) The Licensee shall post the signs provided by the Department, which include notice of the legal sales age and Proof of Age verification requirement provided for in Section 765.06, in each Retail Tobacco Establishment within 6 feet of each cash register or place where payment may be made in a place conspicuous to both employees and customers and where the sign is unobstructed in its entirety. The sign shall state, “NO PERSON UNDER THE AGE OF 21 MAY BE SOLD TOBACCO PRODUCTS INCLUDING ELECTRONIC SMOKING DEVICES.” The sign required shall be at least 6 by 4 inches and the words on the sign must be legibly printed in high contrast red color with capitalized letters at least 0.3 inches high. ~~at the point of transaction, which may include but are not limited to, cash registers, sales counters or on any display cases of tobacco products and tobacco product paraphernalia. Signage shall be prominently displayed and not obscured.~~

SECTION 5. That Section 765.05 “Civil Enforcement” is hereby amended to read as follows:

765.05 ~~CIVIL~~ ENFORCEMENT AND CIVIL PENALTY

(a) The Department shall enforce all applicable provisions of this Chapter and all regulations adopted pursuant hereto.

(b) The Department ~~shall~~ may conduct ~~an~~ inspections, which ~~shall~~ may include ~~an~~ Underage Buy Attempts and/or Flavored Tobacco Product buy attempts, for all Retail Tobacco Establishments within the City of Worthington that have Retail Tobacco Product Sales ~~at least once per licensing period for all licenses.~~

~~(b)(c)~~ The Department ~~shall~~ may conduct ~~an~~ inspections which may include Underage Buy Attempts and/or Flavored Tobacco Product buy attempts, during Temporary Retail Tobacco Product Sales Licensee's events, ~~at least once during the event for all temporary retail tobacco and paraphernalia sales licenses.~~

~~(e)(d)~~ If the Department observes a violation(s) of this Chapter at a Retail Tobacco Establishment that has a Retail Tobacco Product Sales license or Temporary Retail Tobacco Product Sales license, ~~and paraphernalia sales location or at a temporary retail tobacco and paraphernalia sales location,~~ the following schedule of civil penalties shall be imposed on the Licensee, in addition to the sanctions specified in Section 765.03(A):

(1) For a first violation, ~~\$500.00~~ a fine of \$1,000.00.

~~(2) Second and additional~~ For a second violations within two years of the first violation, ~~\$1,000~~ a fine of \$5,000.00 per violation.

(3) For a third and any subsequent violation within two years of the first violation:

A. a fine of \$10,000.00 per violation; and

B. revocation of any existing Retail Tobacco Product Sales license or Temporary Retail Tobacco Product Sales license and imposition of a two-year ineligibility to obtain a Retail Tobacco Product Sales license or Temporary Retail Tobacco Product Sales license. ~~Violations of this Chapter which occur more than two years after a prior violation shall not be considered a second or additional violation of this Chapter if there has been no violation during the intervening time period.~~

(4) Licensees have the right to appeal civil penalties in accordance with Columbus City Health Code 203.08.

~~(de)~~ The Department of Public Safety, Division of Police, retains full authority to enforce Sections 765.06 and 765.07 of the Codified Ordinances.

SECTION 6. That Section 765.06 "Distribution of Tobacco Products Without a License" is hereby amended to read as follows:

765.06 DISTRIBUTION OF TOBACCO PRODUCTS WITHOUT A LICENSE

(a) No retailer of Tobacco Products, ~~or product paraphernalia~~ shall give, sell, or otherwise distribute Tobacco Products ~~cigarettes, other tobacco products, papers used to roll cigarettes, or other product paraphernalia~~ without a valid license issued by the Columbus Board of Health;

(b) Whoever violates this section is guilty of distribution of Tobacco Products ~~cigarettes, or other tobacco products, or product paraphernalia~~ without a license, a misdemeanor of the first degree. If the offender previously has been convicted of a violation of this section, Section ~~265.07~~ 765.07 of the Codified Ordinances, ~~former~~ Sections 2329.13 or 2329.14 of the Columbus City Code, or Section 2927.02 of the Ohio Revised Code, then the retailer shall be denied a license for distribution Tobacco Products ~~of cigarettes or other tobacco products or product paraphernalia~~ for a period not to exceed 5 years.

SECTION 7. That Section 765.07 “Illegal Distribution of Tobacco Products” is hereby amended to read as follows:

765.07 ILLEGAL DISTRIBUTION OF TOBACCO PRODUCTS

(a) No Licensee, manufacturer, producer, distributor, wholesaler, or retailer of Tobacco Products ~~cigarettes or other tobacco products or product paraphernalia~~, or any agent, employee, or representative of a Licensee, manufacturer, producer, distributor, wholesaler, or retailer of Tobacco Products ~~cigarettes or other tobacco products or product paraphernalia~~ shall do any of the following:

(1) Give, sell, or otherwise distribute Tobacco Products ~~cigarettes, other tobacco products, or product paraphernalia~~ to any person under twenty-one (21) years of age;

(2) Give, sell, or otherwise distribute Tobacco Products ~~cigarettes, other tobacco products, or product paraphernalia~~ in any place that does not have posted in a conspicuous place a sign stating that giving, selling or otherwise distributing Tobacco Products ~~cigarettes, or other tobacco products, or product paraphernalia~~ to a person under twenty-one (21) years of age is prohibited by law.

(3) Give, sell, or otherwise distribute Tobacco Products ~~cigarettes, other tobacco products, or product paraphernalia~~ without viewing proof of age demonstrating the recipient is at least twenty-one (21) years of age, except that no such verification is required for a recipient over the age of thirty (30). That a person appeared to be over the age of thirty (30) shall not constitute a defense to a violation of this section.

(4) Give, sell, or otherwise distribute Flavored Tobacco Products.

(5) Give, sell or offer to sell Tobacco Products by or from a Vending Machine.

(b) Subsection (a)(4) does not apply to the retail sale of Flavored Shisha Tobacco Products. No person shall give, sell or offer to sell cigarettes, other tobacco products, or product paraphernalia by or from a vending machine.

(c) ~~As used in this section, "vending machine" means any mechanical or electronic device designed to do both of the following:~~

~~—(1) Receive a coin, bill, token, or credit card, including, but not limited to, a card, code, device, or other means of access to a customer's account, made for that purpose;~~

~~—(2) In return for the insertion or deposit of a coin, bill, token, or credit card, automatically dispense property, provide a service, or grant a license.~~

~~—(d) As used in this section "proof of age" means a driver's license, a commercial driver's license, a military identification card, a passport, or an identification card issued under Sections 4507.50 to 4507.52 of the Ohio Revised Code demonstrating that the recipient or purchaser is at least 21 years of age.~~

(e) Whoever violates this section is guilty of illegal distribution of Tobacco Products ~~cigarettes, other tobacco products, or product paraphernalia~~, a misdemeanor of the fourth degree. If the offender previously has been convicted of a violation of this section, Section 765.06 of the Codified Ordinances, former Sections 2329.13 or 2329.14 of the Columbus City Code, or Section 2927.02 of the Ohio Revised Code, then illegal distribution of Tobacco Products ~~cigarettes or other tobacco products~~ is a misdemeanor of the third degree.

SECTION 8. The amendments to Chapter 265 shall become effective on January 1, 2024. However, no fines or penalties shall be imposed for violations related to the illegal sale or distribution of flavored tobacco products that occur on or before March 31, 2024.

SECTION 9. That notice of passage of this Ordinance shall be posted in the Municipal Administration Building, the Worthington Library, the Griswold Center and the Worthington Community Center and shall set forth the title and effective date of the Ordinance and a statement that the Ordinance is on file in the office of the Clerk of Council. This Ordinance shall take effect and be in force from and after the earliest period allowed by law and by the Charter of the City of Worthington, Ohio.

CHAPTER 765
TOBACCO SALES
Incorporating changes in proposed Flavored Tobacco Ordinance
As introduced 11-6-23

765.01 DEFINITIONS.

As used in this chapter:

(a) “Department” means the Columbus City Health Department and its authorized employees and agents.

(b) “Electronic Smoking Device” means any device that can be used to deliver aerosolized or vaporized nicotine to the person inhaling from the device, including, but not limited to, an electronic cigarette, electronic cigar, electronic pipe, vaping pen or electronic hookah. “Electronic Smoking Device” includes any component, part, or accessory of such a device, whether or not sold separately, and includes any substance intended to be aerosolized or vaporized during the use of the device. “Electronic Smoking Device” does not include drugs, devices, or combination products authorized for sale as a cessation product by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act.

(c) “Flavored Shisha Tobacco Product” means a Flavored Tobacco Product smoked or intended to be smoked in a Hookah. “Flavored Shisha Tobacco Product” includes, and may be referred to as, Hookah tobacco, waterpipe tobacco, maassel, narghile, and argileh.

(d) “Flavored Tobacco Product” means any Tobacco Product that imparts a taste or smell, other than the taste or smell of tobacco, that is distinguishable by an ordinary consumer either prior to, or during the consumption of, a Tobacco Product, including, but not limited to, any taste or smell relating to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, menthol, mint, wintergreen, herb, or spice. There shall be a rebuttable presumption that a Tobacco Product is a “Flavored Tobacco Product” if:

(1) The Tobacco Product uses text or images, or both, on the Tobacco Product’s labeling or packaging to explicitly or implicitly indicate that the Tobacco Product imparts a taste or smell other than tobacco; or

(2) A public statement or claim made or disseminated by the manufacturer or retailer of a Tobacco Product, or by any person authorized or permitted by the manufacturer or retailer to make or disseminate public statements concerning such Tobacco Product, that such Tobacco Product has or produces a taste or smell other than tobacco; or

(3) There are actions directed to consumers that would reasonably be expected to cause consumers to believe that the Tobacco Product imparts a taste or smell other than tobacco.

(e) “Hookah” means a type of water pipe that is used to smoke Shisha Flavored Tobacco Products or any other Tobacco Product, which has a long, flexible tube to draw aerosol through water. This device has components that may include heads, stems, bowls, and hoses.

CHAPTER 765
TOBACCO SALES
Incorporating changes in proposed Flavored Tobacco Ordinance
As introduced 11-6-23

(f) "Licensee" means a Retailer that has been issued a Retail Tobacco Product Sales license or Temporary Retail Tobacco Product Sales license for a Retail Tobacco Establishment by the Department.

(g) "Person" means any individual, firm, corporation, business trust, estate, trust, association, syndicate, partnership, cooperative, governmental agency or any other entity recognized by law. "Person" does not include a wholesale dealer as defined in section 5743.01(B) of the Ohio Revised Code, a distributor as defined in section 5743.01(K)(2) or (K)(3) of the Ohio Revised Code, or a vapor distributor as defined in section 5743.01 (V)(1), (V)(4) or (V)(5) of the Ohio Revised Code when the dealer or distributor is acting in a dealer or distributor capacity.

(h) "Proof of Age" means a driver's license, a commercial driver's license, a military identification card, a passport, or an identification card issued under Sections 4507.50 to 4507.52 of the Ohio Revised Code demonstrating that the recipient or purchaser is at least twenty-one (21) years of age.

(i) "Retailer" means any person engaged in the business of Retail Tobacco Product Sales or Temporary Retail Tobacco Product Sales.

(j) "Retail Tobacco Establishment" means the location of any physical place of business or section of a physical place of business where Retail Tobacco Product Sales or Temporary Retail Tobacco Product Sales are made. The term shall also include those portions of any physical place of business where Vending Machines that dispense Tobacco Products are located.

(k) "Retail Tobacco Product Sales" means the act of giving, selling or otherwise distributing Tobacco Products in a retail setting, including but not limited to gas stations, convenience stores, carry out markets, groceries, supermarkets, retail warehouse clubs, drug stores, liquor stores, vape shops, and hookah bars or lounges.

(l) "Temporary Retail Tobacco Product Sales" means the act of giving, selling or otherwise distributing Tobacco Products at an event for not more than thirty consecutive days.

(m) "Tobacco Product" means any product that is made from or derived from tobacco or that contains any form of nicotine, natural or synthetic, that is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled or ingested by any other means, including, but not limited to, a cigarette, an electronic smoking device, a cigar, pipe tobacco, chewing tobacco, smokeless tobacco, snuff, or snus. The term "Tobacco Product" also means any component or accessory used in the consumption of a Tobacco Product, such as filters, rolling papers, pipes, blunt or hemp wraps, Hookahs, flavor enhancers, mouthpieces, and pipes and substances used in Electronic Smoking Devices, whether or not they contain nicotine. "Tobacco Product" does not include drugs, devices, or combination products authorized for sale as a cessation product by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act.

CHAPTER 765
TOBACCO SALES
Incorporating changes in proposed Flavored Tobacco Ordinance
As introduced 11-6-23

(n) "Underage Buy Attempt" means an individual, authorized by the Department, who is 1) under the age of 21 and requests purchase of Tobacco Products at a Retail Tobacco Establishment; or 2) under the age of 30 and requests purchase of Tobacco Products at a Retail Tobacco Establishment without presenting proof of age as defined in section 765.05.

(o) "Underage Buy Attempt" means a person, authorized by the Department, who is 1) under the age of 21 and requests purchase of Tobacco Products at a Retail Tobacco Establishment; or 2) under the age of 30 and requests purchase of Tobacco Products at a Retail Tobacco Establishment without presenting proof of age as defined in subsection 765.01(.

(p) "Vending Machine" means any mechanical or electronic device designed to do both of the following:

(1) Receive a coin, bill, token, credit card, or other electronic payment including, but not limited to, a card, code, device, or other means of access to a customer's account, made for that purpose;

(2) In return for the insertion or deposit of a coin, bill, token, credit card, or other electronic payment automatically dispenses property, provides a service, or grants a license.

765.02 LICENSE APPLICATION.

(a) A Retailer of Tobacco Products shall apply for a valid Retail Tobacco Product Sales license or a Temporary Retail Tobacco Product Sales license. Retail Tobacco Product Sales licenses shall be issued by the Department annually. Temporary Retail Tobacco Product Sales licenses shall be valid for not longer than thirty consecutive days. A license shall be required for each Retail Tobacco Establishment where Retail Tobacco Product Sales, including Temporary Retail Tobacco Product Sales, are conducted and is non-transferable.

(b) A Retailer applying for a Retail Tobacco Product Sales license or a Temporary Retail Tobacco Product Sales license shall submit a current and valid vendor's license as required by the Ohio Department of Taxation to the Department. Any Retailer who distributes, stores, or sells cigarettes shall submit a current and valid Retail Cigarette Dealer's License as required by Ohio Revised Code Chapter 5743 to the Department prior to approval for licensing. Any Retailer who permits smoking inside the Retail Tobacco Establishment they are seeking to have licensed shall submit a current and valid retail tobacco store exemption issued by the Ohio Department of Health as per Ohio Revised Code §3794.03 prior to licensing. Any Retailer who permits vaping inside the Retail Tobacco Establishment they are seeking to have licensed shall provide a current and valid Ohio Department of Health affidavit stating the percentage of the establishment's gross income during the prior calendar year that was derived from the sale of vapor products, Electronic Smoking Devices, or other electronic smoking product accessories as per Ohio Revised Code §3794.03 prior to licensing.

(c) The annual Retail Tobacco Product Sales license fee shall be Three Hundred Fifty Dollars (\$350.00). The license shall be valid beginning on the first day of October of the year issued

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through the last day of September of the following year. A license issued to a new Licensee after the first day of July and before the first day of October shall not expire until the last day of September of the following year. A penalty equal to twenty-five percent (25%) of the applicable license fee shall be assessed by the Department for license fee payments that are not received or postmarked by the first of October.

(d) The Temporary Retail Tobacco Product Sales license fee shall be Fifty Dollars (\$50). The license shall be valid for no longer than thirty (30) consecutive days and limited to a single event. The application shall be made at least ten days prior to the event.

(e) License fees are due at the time of application and are not refundable.

765.03 LICENSE APPLICATION DENIAL, RENEWAL DENIAL, SUSPENSION, AND REVOCATION.

(a) Applications for Retail Tobacco Product Sales licenses and Temporary Tobacco Product Sales licenses may be denied, and such licenses may be suspended or revoked, for any of the following:

(1) The applicant or Licensee, or any agent, employee, or representative thereof, is giving, selling, or offering to sell Tobacco Products by or from a Vending Machine.

(2) Observation by staff of the Department or its authorized agent that the applicant or Licensee, or any agent, employee, or representative thereof has violated provisions of Chapter 765 of the Codified Ordinances.

(2) Failure by the Licensee to post signage as required by Section 765.04 of the Codified Ordinances.

(3) The applicant or Licensee having a conviction for violating Sections 765.06 or 765.07 of the Codified Ordinances or former Sections 2329.13 or 2329.14 of the Columbus City Code; having a conviction for violating any provision of the Ohio Revised Code or Ohio Administrative Code pertaining to the regulation of Tobacco Products or to indoor smoking or vaping; or having a finding of violation of any provision of Chapter 765 of the Codified Ordinances or any provision of Chapter 248 of the Columbus City Health Code within two years prior to the date of issuance or at any time during the licensing year.

(4) A finding by a court of competent jurisdiction that a Retail Tobacco Establishment owned and/or operated by the applicant or Licensee constitutes a public nuisance or that the location of the Retail Tobacco Establishment that is the subject of the application or license has been found, by a court of competent jurisdiction, to be a public nuisance during the period that the court retains jurisdiction over the nuisance action.

(5) Information contained in the application is misleading, inaccurate, or false.

(6) The applicant or Licensee, or any agent, employee, or representative thereof, fails to comply with U.S. Food and Drug Administration regulations, Ohio Revised Code, Ohio Administrative Code, and/or city codes relating to building, health, and fire.

(7) The applicant or Licensee has outstanding fines, issued pursuant to Chapter 765 of the Codified Ordinances or Columbus City Health Code Chapter 248.

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(b) Any Licensee whose Retail Tobacco Product Sales license or Temporary Retail Tobacco Product Sales license has been proposed to be suspended or revoked shall be notified in writing by the Department. Appeals of such action may be made in accordance with Columbus City Health Code Section 203.10.

(c) Any applicant whose application for a Retail Tobacco Product Sales license or Temporary Retail Tobacco Product Sales license is denied shall be notified in writing by the Department. Appeals of such action may be made in accordance with Columbus City Health Code Section 203.08.

765.04 SIGN DISTRIBUTION AND POSTING.

(a) The Department shall make signs available to all Retail Tobacco Product Sales Licensees and Temporary Retail Tobacco Product Sales Licensees. Signs shall be provided by the Department at the time of license approval or renewal, and upon request.

(b) The Licensee shall post the signs provided by the Department, which include notice of the legal sales age and Proof of Age verification requirement provided for in Section 765.06, in each Retail Tobacco Establishment within 6 feet of each cash register or place where payment may be made in a place conspicuous to both employees and customers and where the sign is unobstructed in its entirety. The sign shall state, "NO PERSON UNDER THE AGE OF 21 MAY BE SOLD TOBACCO PRODUCTS INCLUDING ELECTRONIC SMOKING DEVICES." The sign required shall be at least 6 by 4 inches and the words on the sign must be legibly printed in high contrast red color with capitalized letters at least 0.3 inches high.

765.05 ENFORCEMENT AND CIVIL PENALTY.

(a) The Department shall enforce all applicable provisions of this Chapter and all regulations adopted pursuant hereto.

(b) The Department may conduct inspections, which may include Underage Buy Attempts and/or Flavored Tobacco Product buy attempts, for all Retail Tobacco Establishments within the City of Worthington that have Retail Tobacco Product Sales licenses.

(c) The Department may conduct inspections which may include Underage Buy Attempts and/or Flavored Tobacco Product buy attempts, during Temporary Retail Tobacco Product Sales Licensee's events.

(d) If the Department observes a violation(s) of this Chapter at a Retail Tobacco Establishment that has a Retail Tobacco Product Sales license or Temporary Retail Tobacco Product Sales license, the following schedule of civil penalties shall be imposed on the Licensee, in addition to the sanctions specified in Section 765.03(A):

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- (1) For a first violation, a fine of \$1,000.00.
- (2) For a second violations within two years of the first violation, a fine of \$5,000.00 per violation.
- (3) For a third and any subsequent violation within two years of the first violation:
 - A. a fine of \$10,000.00 per violation; and
 - B. revocation of any existing Retail Tobacco Product Sales license or Temporary Retail Tobacco Product Sales license and imposition of a two-year ineligibility to obtain a Retail Tobacco Product Sales license or Temporary Retail Tobacco Product Sales license.
- (4) Licensees have the right to appeal civil penalties in accordance with Columbus City Health Code 203.08.
- (e) The Department of Public Safety, Division of Police, retains full authority to enforce Sections 765.06 and 765.07 of the Codified Ordinances.

765.06 DISTRIBUTION OF TOBACCO PRODUCTS WITHOUT A LICENSE.

- (a) No retailer of Tobacco Products shall give, sell, or otherwise distribute Tobacco Products without a valid license issued by the Columbus Board of Health;
- (b) Whoever violates this section is guilty of distribution of Tobacco Products without a license, a misdemeanor of the first degree. If the offender previously has been convicted of a violation of this section, Section 765.07 of the Codified Ordinances, former Sections 2329.13 or 2329.14 of the Columbus City Code, or Section 2927.02 of the Ohio Revised Code, then the retailer shall be denied a license for distribution Tobacco Products for a period not to exceed 5 years.

765.07 ILLEGAL DISTRIBUTION OF TOBACCO PRODUCTS.

- (a) No Licensee, manufacturer, producer, distributor, wholesaler, or retailer of Tobacco Products, or any agent, employee, or representative of a Licensee, manufacturer, producer, distributor, wholesaler, or retailer of Tobacco Products shall do any of the following:
 - (1) Give, sell, or otherwise distribute Tobacco Products to any person under twenty-one (21) years of age;
 - (2) Give, sell, or otherwise distribute Tobacco Products in any place that does not have posted in a conspicuous place a sign stating that giving, selling or otherwise distributing Tobacco Products to a person under twenty-one (21) years of age is prohibited by law.
 - (3) Give, sell, or otherwise distribute Tobacco Products without viewing proof of age demonstrating the recipient is at least twenty-one (21) years of age, except that no such verification is required for a recipient over the age of thirty (30). That a person appeared to be over the age of thirty (30) shall not constitute a defense to a violation of this section.
 - (4) Give, sell, or otherwise distribute Flavored Tobacco Products.
 - (5) Give, sell or offer to sell Tobacco Products by or from a Vending Machine.

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(b) Subsection (a)(4) does not apply to the retail sale of Flavored Shisha Tobacco Products.

(c) Whoever violates this section is guilty of illegal distribution of Tobacco Products, a misdemeanor of the fourth degree. If the offender previously has been convicted of a violation of this section, Section 765.06 of the Codified Ordinances, former Sections 2329.13 or 2329.14 of the Columbus City Code, or Section 2927.02 of the Ohio Revised Code, then illegal distribution of Tobacco Products is a misdemeanor of the third degree.

765.08 RULE MAKING AUTHORITY.

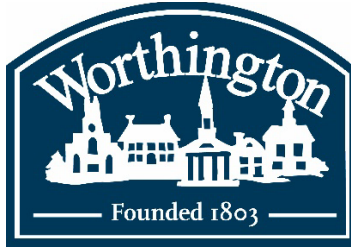
The Columbus Board of Health is hereby authorized to promulgate additional rules and regulations to carry out the purpose and intent of this Chapter in order to protect the public health, safety and welfare. The Columbus Board of Health shall provide City Council a copy of the proposed rules and regulations at least 60 days prior to their proposed effective date. The rules and regulations shall become effective as proposed unless City Council takes action to modify or reject them.

765.09 TOBACCO ENFORCEMENT AND EDUCATION FUND.

All fines and penalties collected as a result of enforcement of the provisions of this Chapter shall be paid directly to the Columbus Board of Health to be deposited into a "Tobacco Enforcement and Education Fund" to be administered by the Columbus Health Department for enforcement, community education, and compliance efforts towards state and local tobacco product sales and use laws.

765.10 EFFECT OF PARTIAL INVALIDITY.

The provisions of this Chapter are hereby declared to be severable, and if any section, subsection, or clause of this Chapter is held by a court of competent jurisdiction to be unconstitutional or otherwise invalid, such a ruling shall not affect the other parts of this Chapter that can be given effect.



STAFF MEMORANDUM
City Council Meeting – November 20, 2023

Date: November 15, 2023

To: Robyn Stewart, Acting City Manager

From: David McCorkle, Asst. City Manager & Economic Development Director

Subject: Resolution No. 59-2023 – Amending the Position Description for
Management Assistant/Special Projects Coordinator

EXECUTIVE SUMMARY

This Resolution amends the job description for the position of Management Assistant/Special Projects Coordinator.

RECOMMENDATION

Introduce and Approve as Presented

BACKGROUND/DESCRIPTION

The Management Assistant/Special Projects Coordinator job description is being updated to reflect minor changes that meet the operational needs of the City Manager's Office, including changing the title back to just Management Assistant. This role will continue to provide support to the City Clerk functions, as well as, executive assistant duties as needed in the City Manager's office.

ATTACHMENTS

Resolution No. 59-2023
Management Assistant Job Description

RESOLUTION NO. 59-2023

Amending the Position Title and the Position Description for Management Assistant/Special Projects Coordinator

WHEREAS, City Council wishes to amend the title for the position of Management Assistant/Special Projects Coordinator back to the title of Management Assistant; and,

WHEREAS, it is necessary to amend the position description for the position of Management Assistant to properly reflect the duties of this position;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Municipality of Worthington, County of Franklin, State of Ohio:

SECTION 1. That the position description for the classified position of Management Assistant (Class Specification No. 250) as per the description attached hereto be and the same is hereby amended.

SECTION 2. That the Clerk of Council be and hereby is instructed to record this Resolution in the appropriate record book.

Adopted _____

President of Council

Attest:

Clerk of Council

CITY OF WORTHINGTON

POSITION DESCRIPTION

POSITION TITLE: Management Assistant

CLASS: 250

Department: Administration
Date: November 20, 2023
Reports To: City Manager/Assistant City Manager

Title Originated: 2019
Type: FLSA Non-Exempt
Updated: 2023

General Statement of Duties

Under the direction of the City Manager and Assistant City Manager, this position provides management support and administrative duties for the City Manager's Office, various City departments, and City Council as needed. The Management Assistant will oversee various projects as assigned by the City Manager or Assistant City Manager and will perform a variety of technical and routine administrative duties requiring a broad working knowledge of local government, economic development, public information, and community programs and procedures.

Essential Functions of the Position:

Works with the City Manager and Assistant City Manager to advance the plans and priorities of the City Council.

Assists with the management and oversight of various special projects as assigned by the City Manager or Assistant City Manager.

Provides research, analysis, and recommendations to assist the City Manager's office and other City departments.

Conducts complex and sensitive administrative, operational, and management analyses, studies and researches issues, programs, policies, and procedures.

Provides written, electronic, and graphical communications support to various departments, as necessary.

Prepares correspondence, memos, reports, resolutions, ordinances, and complaint responses with general supervision.

Assists with the coordination and execution of the Worthington Citizens Academy.

Supports the City's internship program.

Prepares and makes presentations to City Council, boards, commissions, and community organizations, as needed.

Works with City officials and staff to support various board and commissions.

Assists the City's economic development department, to include supporting the maintenance of the business retention and expansion directory, assisting with new and existing programs and activities, and project support, as needed.

Attends Committee of the Whole City Council meetings and serves as back-up Clerk of Council, as necessary.

Helps to coordinate the clerical and administrative duties of the City Manager's office, including greeting and assisting visitors, meeting preparation and setup, typing, filing, answering incoming calls, and other duties as directed.

Manages the City Manager's and the Assistant City Manager's schedule and correspondence, as directed.

Ensures that contracts and other documents requiring the City Manager's signature are signed and distributed to the appropriate parties.

Coordinates and oversees the records and records management procedures of the City Manager's office.

Attends meetings and takes notes/minutes, including for City Council meetings and other City Boards and Commissions, as needed.

Prepares meeting materials for City Council, in consultation with the City Manager and Assistant City Manager, as needed.

Responds to inquiries from other City personnel and the public at large, and refers, when necessary, to appropriate persons.

Performs other related duties as assigned.

Knowledge, Skills and Abilities

Possess knowledge of local government in Ohio and municipal government budgeting practices and procedures.

Ability to exercise initiative and independent judgment.

Experience with office practices and procedures, basic bookkeeping, and business.

Ability to track and meet deadlines.

Ability to develop and maintain effective relationships with public officials, City staff and the public at large.

Ability to express oneself and communicate to the public and co-workers clearly and accurately.

Possess the ability to analyze complex public policy issues and manage diverse administrative projects.

Ability to conduct research and analyze information related to essential functions of position.

Possess the ability to write clear, concise reports, memoranda, and letters.

Possess excellent oral and written communications skills.

Possess the ability to meet the public and discuss problems and complaints tactfully, courteously, and effectively.

Ability to operate modern office equipment including multi-line telephone system, computer equipment, software applications, word processing, spreadsheet, and desktop publishing software.

Experience with computers and software applications as used in office settings.

Ability to work some flexible hours including evenings and weekends, as necessary.

Regular and predictable attendance.

Minimum Requirements of the Position

Possession of a Bachelor's degree in Public Administration, Political Science or a related field, Masters Degree preferred. Experience with research and data analysis within local government preferred.

The characteristics described here are representative of those an employee encounters while performing the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

This job description does not list all of the duties or functions of the job. The individual in this position may be asked by supervisors to perform other duties. The City has the right to revise this job description at any time.

Adopted by Resolution No. __ -2023; Effective _____



STAFF MEMORANDUM
City Council Meeting – November 20, 2023

Date: November 15, 2023

To: Robyn Stewart, Acting City Manager

From: John Moorehead, P.E. Director of Service & Engineering

Subject: Franklin County Natural Hazard Mitigation Plan Adoption

EXECUTIVE SUMMARY

This resolution adopts the 2023 Franklin County Natural Hazard Mitigation Plan.

RECOMMENDATION

Introduce and approve as presented.

BACKGROUND/DESCRIPTION

Staff provided an overview of the plan on November 13; this resolution adopts the draft plan.

The Federal Emergency Management Agency requires local communities to adopt a Natural Hazard Mitigation Plan as a condition of eligibility to receive federal funds available through the agency. Franklin County Emergency Management and Homeland Security (FCEM&HS) last adopted a natural hazard mitigation plan in 2018. The City of Worthington subsequently adopted the plan via Resolution No. 34-2020.

Federal guidelines require the plan to be updated every five years. FCEM&HS, multi-disciplinary experts, and local jurisdictions have completed a draft of the plan that is currently awaiting approval by the Federal Emergency Management Agency. Because the current plan expires on December 31, 2023, and our community is required to have an effective plan in place, staff is recommending that Council adopt the plan in its draft form.

The Natural Hazard Mitigation Plan is used as a guide on efforts to mitigate the loss of life and property from natural hazards faced by Franklin County. It contains details on hazards and possible strategies to reduce their impacts on affected communities.

FINANCIAL IMPLICATIONS/FUNDING SOURCES (if applicable)

N/A

ATTACHMENTS

Resolution No. 60-2023

The full plan's final draft is 1,669 pages in length. An excerpt from the City of Worthington's Jurisdictional annex is attached. The draft plan can be viewed in its entirety at <https://franklincountyohhmp.com/draft-plan/>.

RESOLUTION NO. 60-2023

Authorizing the Adoption of the 2023/2024 Franklin County
Multi-Jurisdictional Natural Hazard Mitigation Plan Update

WHEREAS, Franklin County and the City of Worthington recognize the threat that natural hazards pose to people and property within Franklin County; and

WHEREAS, Franklin County and its jurisdictions have prepared a multi-hazard mitigation plan, hereby known as the 2023/2024 Franklin County Multi-Jurisdictional Hazard Mitigation Plan Update in accordance with federal laws, including the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended; the National Flood Insurance Act of 1968, as amended; and the National Dam Safety Program Act, as amended; and

WHEREAS, the 2023/2024 Franklin County Multi-Jurisdictional Hazard Mitigation Plan Update identifies mitigation goals and actions to reduce or eliminate long-term risk to people and property in Franklin County and its jurisdictions from the impacts of future hazards and disasters; and

WHEREAS, adoption by the City of Worthington demonstrates its commitment to hazard mitigation and achieving the goals outlined in the 2023/2024 Franklin County Multi-Jurisdictional Hazard Mitigation Plan Update; and

NOW, THEREFORE, BE IT RESOLVED by the Council of the Municipality of Worthington, County of Franklin, State of Ohio:

SECTION 1. That City Council hereby approves the adoption of the 2023/2024 Franklin County Multi-Jurisdictional Hazard Mitigation Plan Update and any additional revisions required to meet federal plan approval requirements. However, subsequent plan updates following the federal approval period for this plan will require authorization and approval by City Council.

SECTION 2. That the City Manager and Law Director are each hereby authorized to take all actions necessary to effectuate the adoption of the 2023/2024 Franklin County Multi-Jurisdictional Hazard Mitigation Plan Update, including any additional revisions required to meet federal plan approval requirements.

SECTION 3. That the Clerk be and hereby is instructed to record this Resolution in the appropriate record book.

SECTION 9. JURISDICTIONAL ANNEXES

9.41 CITY OF WORTHINGTON

This section presents the jurisdictional annex for the City of Worthington that provides resources and information to assist public and private sectors to reduce losses from future hazard events. This annex is not guidance of what to do when a disaster occurs. Rather, this annex concentrates on actions to reduce or eliminate damage to property and people that can be implemented prior to a disaster. Information presented includes a general overview of the municipality, who in the City of Worthington participated in the planning process, an assessment of the City of Worthington's risk and vulnerability, the different capabilities used in the City of Worthington, and an action plan that will be implemented to achieve a more resilient community.

9.41.1 Hazard Mitigation Planning Team

The City of Worthington identified the hazard mitigation plan primary and alternate points of contact and developed this plan over the course of several months with input from many City departments, including Service & Engineering and the Fire Department. The Director of Service & Engineering represented the community on the Franklin County Hazard Mitigation Plan Planning Team and supported the local planning process requirements by securing input from persons with specific knowledge to enhance the plan. All departments were asked to contribute to the annex development through reviewing and contributing to the capability assessment, reporting on the status of previously identified actions, and participating in action identification and prioritization.

The following table summarizes municipal officials that participated in the development of the annex and in what capacity. Additional documentation on the municipality's planning process through Planning Team meetings is included in Volume 1, Section 2 (Planning Process) and Appendix C (Meeting Documentation).

Table 9.41-1. Hazard Mitigation Planning Team

Primary Point of Contact		Alternate Point of Contact	
Name/Title:	John Moorehead, Director of Service & Engineering	Name/Title:	Mark Zambito, Fire Chief
Address:	380 Highland Ave, Worthington, Ohio 43085	Address:	6500 N High Street, Worthington, Ohio 43085
Phone Number:	614-431-2425	Phone Number:	614-885-7640
Email:	John.moorehead@worthington.org	Email:	Mark.zambito@worthington.org
NFIP Floodplain Administrator			
Name/Title:	John Moorehead, Director of Service & Engineering		
Address:	380 Highland Ave, Worthington, Ohio 43085		
Phone Number:	614-431-2425		
Email:	John.moorehead@worthington.org		
Additional Contributors:			
Name/Title:	Don Phillips, Chief Building Inspector, Division of Building Regulation		
Method of Participation:	Provided data on permits and new development		

Primary Point of Contact		Alternate Point of Contact	
Name/Title:	Christopher Craig, Assistant Fire Chief		
Method of Participation:	Provided information on issues, solutions, and capabilities		

9.41.2 Municipal Profile

The City of Worthington is in the northern part of Franklin County and is bordered by and Perry Township to the west. Other than that border, the City is completely surrounded by Columbus. The cities of Worthington and Riverlea form an enclave of Columbus.

According to the American Community Survey, the 2021 population for the City of Worthington was 15,047, a 10.84 percent increase from the 2010 Census population of 13,575. Data from the 2021 American Community Survey indicates that 7.5 percent of the population is 5 years of age or younger and 20.8 percent is 65 years of age or older. Communities must deploy a support system that enables all populations to safely reach shelters or to quickly evacuate a hazard area.

9.41.3 Jurisdictional Capability Assessment and Integration

The City of Worthington performed an inventory and analysis of existing capabilities, plans, programs, and policies that enhance its ability to implement mitigation strategies. Volume 1, Section 5 (Capability Assessment) describes the components included in the capability assessment and their significance for hazard mitigation planning. The jurisdictional assessment addresses the following types of City capabilities:

- Planning, legal and regulatory capabilities
- Development and permitting capabilities
- Administrative and technical capabilities
- Fiscal capabilities
- Education and outreach capabilities
- Classification under various community mitigation programs
- Adaptive capacity to withstand hazard events

For a community to succeed in reducing long-term risk, hazard mitigation must be integrated into the day-to-day local government operations. As part of the hazard mitigation analysis, planning/policy documents were reviewed, and each jurisdiction was surveyed to obtain a better understanding of their progress toward plan integration. The development of an updated mitigation strategy provided an opportunity for the City of Worthington to identify opportunities for integration of mitigation concepts that can be incorporated into municipal procedures.

Planning, Legal, and Regulatory Capability and Integration

The table below summarizes the regulatory tools that are available to the City of Worthington and provides information as to how each capability integrates hazard mitigation and risk reduction.

Table 9.41-2. Planning, Legal, and Regulatory Capability and Integration

	Jurisdiction has this? (Yes/No)	Code Citation and Date (code chapter, name of plan, date of plan)	Authority (local, county, state, federal)	Individual / Department / Agency Responsible
Codes, Ordinances, & Regulations				
Building Code	Yes	Part Thirteen-Building Code; Part Fifteen-Fire Prevention Code	Local, State	Chief Building Official
<i>How does this reduce risk?</i> New construction and alterations are designed and built-in accordance with Ohio Building Code.				
Zoning/Land Use Code	Yes	Part Eleven – Planning and Zoning Code	Local	Planning and Building
<i>How does this reduce risk?</i> Local review of development proposals by staff and elected officials considers whether developments are compatible with their surroundings. Development is discouraged within natural areas such as floodplains, floodways, wetlands, and other sensitive areas.				
Subdivision Ordinance	Yes	Part Eleven – Title One – Subdivision Platting Regulations	Local	Planning and Building
<i>How does this reduce risk?</i> The Municipal Planning Commission may request environmental impact studies for the property to be subdivided and may request and receive reports and studies from any agency having jurisdiction over the property, indicating whether any issues relating to or involving hazardous substances or environmental laws exist which may impact or affect the Subdivision.				
Site Plan Ordinance	No	-	-	-
<i>How does this reduce risk?</i>				
Stormwater Management Ordinance	Yes	Worthington Codified Ordinances 923, 927, 1103,	Local	Service and Engineering with Planning and Building
<i>How does this reduce risk?</i> The purpose of this ordinance is to establish minimum stormwater management requirements and controls for major development. Stormwater management measures for major development shall be designed to provide erosion control, groundwater recharge, stormwater runoff quantity control, and stormwater runoff quality treatment.				
Post-Disaster Recovery/ Reconstruction Ordinance	No	-	-	-
<i>How does this reduce risk?</i>				
Real Estate Disclosure	No	-	-	-
<i>How does this reduce risk?</i>				
Growth Management	No	-	-	-
<i>How does this reduce risk?</i>				
Environmental Protection Ordinance	No	-	-	-
<i>How does this reduce risk?</i>				
Flood Damage Prevention Ordinance	Yes	1105.12-Floodplain Land	Local	Service and Engineering
<i>How does this reduce risk?</i> Regulates land uses and construction within floodplain areas, reducing the risk of losses related to flooding.				
Wellhead Protection	No	-	-	-
<i>How does this reduce risk?</i>				
Emergency Management Ordinance	Yes	Part Five – Chapter 507 – Civil Disorders	Local	City Manager's Office

	Jurisdiction has this? (Yes/No)	Code Citation and Date (code chapter, name of plan, date of plan)	Authority (local, county, state, federal)	Individual / Department / Agency Responsible
<i>How does this reduce risk?</i> Empowers local officials to implement extra measures to protect life and property during a proclaimed state of emergency.				
Climate Change Ordinance	No	-	-	-
<i>How does this reduce risk?</i>				
Other	Yes	Article XII, the Village Green	Local	City Manager
<i>How does this reduce risk?</i> This ordinance preserves the heritage and character of the Village Green and limits its use to the enjoyment of the public.				
Planning Documents				
Comprehensive/Master Plan	Yes	Comprehensive Plan Update & Strategic Plan for Worthington	Local	Planning Department
<i>How does this reduce risk?</i> Provides long term planning for the City, including expected areas of future development.				
Capital Improvement Plan	Yes	Comprehensive Capital Improvement Plan	Local	Department Director Team
<i>How does this reduce risk?</i> A Comprehensive Capital Improvement Plan enables Worthington to budget for the systematic replacement of outdated equipment, infrastructure, and facilities. This practice improves the City's readiness for natural hazards.				
Disaster Debris Management Plan	No	-	-	-
<i>How does this reduce risk?</i>				
Floodplain Management or Watershed Plan	No	-	-	-
<i>How does this reduce risk?</i>				
Stormwater Management Plan	Yes	Worthington SWMP for MS4 State General Permit	Local	Service & Engineering
<i>How does this reduce risk?</i> Since 2003, the City of Worthington has been continually developing and following a Stormwater Management Plan. The plan uses six minimum control measures mandated by the Environmental Protection Agency to execute the plan. These six measures are: <ul style="list-style-type: none"> • Good housekeeping - Taking measures within City maintenance operations to protect waterways from pollution, erosion, and sedimentation through programs such as leaf collection and street sweeping • Illicit discharge detection and elimination - Making sure that only rain goes down the drain • Post-construction - Making sure structures for controlling run-off and pollution are maintained • Pre-construction - Reviewing site plans on construction projects to make sure the waterways will be protected from sediment, excessive run-off, and other pollution • Public education - Seminars, newsletters and websites explaining stormwater issues • Public involvement - Programs, such as rain garden projects, stream cleanup days and events, that help people get involved in stormwater management 				
Open Space Plan	No	-	-	-
<i>How does this reduce risk?</i>				
Urban Water Management Plan	No	-	-	-
<i>How does this reduce risk?</i>				
Habitat Conservation Plan	No	-	-	-
<i>How does this reduce risk?</i>				
Economic Development Plan	No	-	-	-
<i>How does this reduce risk?</i>				
Shoreline Management Plan	No	-	-	-
<i>How does this reduce risk?</i>				

	Jurisdiction has this? (Yes/No)	Code Citation and Date (code chapter, name of plan, date of plan)	Authority (local, county, state, federal)	Individual / Department / Agency Responsible
Community Wildfire Protection Plan	No	-	-	-
<i>How does this reduce risk?</i>				
Community Forest Management Plan	No	-	-	-
<i>How does this reduce risk?</i>				
Transportation Plan	No	-	-	-
<i>How does this reduce risk?</i>				
Agriculture Plan	No	-	-	-
<i>How does this reduce risk?</i>				
Climate Action/ Resiliency/Sustainability Plan	No	-	-	-
<i>How does this reduce risk?</i>				
Tourism Plan	No	-	-	-
<i>How does this reduce risk?</i>				
Business/ Downtown Development Plan	No	-	-	-
<i>How does this reduce risk?</i>				
Other	No	-	-	-
<i>How does this reduce risk?</i>				
Response/Recovery Planning				
Comprehensive Emergency Management Plan	No	-	-	-
<i>How does this reduce risk?</i>				
Continuity of Operations Plan	No	-	-	-
<i>How does this reduce risk?</i>				
Strategic Recovery Planning Report	No	-	-	-
<i>How does this reduce risk?</i>				
Threat & Hazard Identification & Risk Assessment (THIRA)	No	-	-	-
<i>How does this reduce risk?</i>				
Post-Disaster Recovery Plan	No	-	-	-
<i>How does this reduce risk?</i>				
Public Health Plan	No	-	-	-
<i>How does this reduce risk?</i>				
Other	No	-	-	-
<i>How does this reduce risk?</i>				

Development and Permitting Capability

The table below summarizes the capabilities of the City of Worthington to oversee and track development.

Table 9.41-3. Development and Permitting Capability

Indicate if your jurisdiction implements the following	Yes/No	Comment:
Do you issue development permits? If yes, what department is responsible?	Yes	Planning and Building, Service and Engineering
If you do not issue development permits, what is your process for tracking new development?	N/A	-
Are permits tracked by hazard area? (For example, floodplain development permits.)	Yes	SFHA
Do you have a buildable land inventory? If yes, please describe	No	-
Describe the level of build-out in your jurisdiction.	N/A	The City of Worthington is a pre-dominantly built out community with limited potential for growth by annexation.

Administrative and Technical Capability

The table below summarizes potential staff and personnel resources available to the City of Worthington and their current responsibilities that contribute to hazard mitigation.

Table 9.41-4. Administrative and Technical Capabilities

Resources	Available? (Yes/No)	Comments (available staff, responsibilities, support of hazard mitigation)
Administrative Capability		
Planning Board	No	-
Zoning Board of Adjustment	Yes	The five-member Board of Zoning Appeals (BZA) hears requests for variance from the City's Planning and Zoning Code as well as certain requests for variance from the City's Building Code. The BZA serves as a quasi-judicial body and appeals from the BZA are taken to the Franklin County Court of Common Pleas.
Planning Department	Yes	<p>The responsibilities of the Planning Division are carried out by the Planning Coordinator, who acts as the City's staff contact and support person for the following boards:</p> <ul style="list-style-type: none"> Architectural Review Board Board of Zoning Appeals Municipal Planning Commission <p>The Municipal Planning Commission (MPC) performs a variety of functions related to planning and zoning activities in the City. The MPC hears applications for conditional use permits; makes recommendations to the City Council on rezoning, subdivision, and development plan requests; recommends Master Plan updates and amendments to the zoning map and ordinances; and performs interpretations of the City's Planning and Zoning Code</p>
Mitigation Planning Committee	No	-
Environmental Board/Commission	Yes	The Green Team works to increase sustainability practices in the City.

Resources	Available? (Yes/No)	Comments (available staff, responsibilities, support of hazard mitigation)
		The Parks and Recreation Commission is made up of seven resident volunteers who are appointed by City Council. The purpose of the commission is to give input, guidance, and recommendations to the Parks and Recreation Staff concerning topics that affect the residents of the City.
Open Space Board/Committee	No	-
Economic Development Commission/Committee	No	-
Public Works/Highway Department	Yes	<p>The Department of Service and Engineering is responsible for providing efficient and high-quality maintenance services to the residents of Worthington, as well as the installation, maintenance and repair of City-owned utilities and infrastructure.</p> <p>The Department consists of 2 divisions, Public Service and Engineering.</p> <p>A crew of 12 full time staff are available for 24/7 emergency call out to clear snow and ice, assist in flood mitigation, and storm damage clearing and clean up.</p>
Construction/Building/Code Enforcement Department	Yes	One Chief Building Official and one building inspector. Both provide support to conducting damage assessments.
Emergency Management/Public Safety Department	Yes	Selected staff serve as an emergency operations command team.
Warning Systems / Services (mass notification system, outdoor warning signals, etc.)	Yes	Franklin County ALERT emergency notification system
Maintenance programs to reduce risk (stormwater maintenance, tree trimming, etc.)	Yes	Annual storm and sanitary sewer maintenance programs, annual bridge inspections. Public trees are routinely inspected, trimmed, and removed when needed.
Mutual aid agreements	Yes	Automatic aid – Columbus, franklin co/del co.
Human Resources Manual	Yes	Anything pertaining to Hazard Mitigation would be included in a job title or job description.
Other	No	-
Technical/Staffing Capability		
Planners or engineers with knowledge of land development and land management practices	Yes	Staff in the Planning and Building / Service and Engineering department fill this role.
Engineers or professionals trained in building or infrastructure construction practices	Yes	Two professional Engineers (Chief Building Official and City Engineer)
Planners or engineers with an understanding of natural hazards	Yes	The City Engineer serves as the Flood Damage Prevention Administrator.
Staff with expertise or training in benefit/cost analysis	No	-
Professionals trained in conducting damage assessments	No	-
Personnel skilled or trained in GIS and/or Hazards United States (HAZUS) – Multi-Hazards (MH) applications	Yes	Two full time GIS professionals
Environmental scientist familiar with natural hazards	No	-
Surveyor(s)	No	-
Emergency Manager	Yes	City Manager
Grant writer(s)	No	-
Resilience Officer	No	-
Other (this could include stormwater engineer, environmental specialist, etc.)	No	-

Fiscal Capability

The table below summarizes financial resources available to the City of Worthington.

Table 9.41-5. Fiscal Capabilities

Financial Resources	Accessible or Eligible to Use? (Yes/No)
Community development Block Grants (CDBG, CDBG-DR)	Yes
Capital improvements project funding	Yes
Authority to levy taxes for specific purposes	Yes
User fees for water, sewer, gas, or electric service	Yes
Impact fees for homebuyers or developers of new development/homes	No
Stormwater utility fee	No
Incur debt through general obligation bonds	No
Incur debt through special tax bonds	No
Incur debt through private activity bonds	No
Withhold public expenditures in hazard-prone areas	No
Other federal or state Funding Programs	Yes
Open Space Acquisition funding programs	No
Other (for example, Clean Water Act 319 Grants [Nonpoint Source Pollution])	Yes

Education and Outreach Capability

The table below summarizes the education and outreach resources available to the City of Worthington.

Table 9.41-6. Education and Outreach Capabilities

Outreach Resources	Available? (Yes/No)	Comment:
Public information officer or communications office	Yes	The public information and communications office manages community relations and public information functions for the City of Worthington and oversees communications with citizens, businesses, visitors, community partners and the media through the City website, social media, publications, and other communication methods.
Personnel skilled or trained in website development	Yes	Public information and communications office
Hazard mitigation information available on your website	Yes	Information on covid-19, stormwater
Social media for hazard mitigation education and outreach	Yes	Facebook, Twitter, YouTube, Instagram, LinkedIn
Citizen boards or commissions that address issues related to hazard mitigation	Yes	The Green Team
Warning systems for hazard events	Yes	Franklin County ALERT emergency notification system, Notify Me, and social media
Natural disaster/safety programs in place for schools	Yes	<p>The Ohio Fire Code has requirements for a fire safety and evacuation plan that are enabled in Ohio Building Code Chapter 10, and plans were required for the 3 middle schools recently added to, the detached building for Evening St., and will be required for the high school. The Ohio Department of Education also has requirements for plans being in place.</p> <p>In relation to the schools offering natural disaster/safety programs for the students themselves, there are no programs currently available.</p>
Does the jurisdiction have any public outreach mechanisms / programs in place to inform citizens on natural hazards, risk, and ways to protect themselves during such events? • If yes, please describe.	No	-

Community Classifications

The table below summarizes classifications for community programs available to the City of Worthington.

Table 9.41-7. Community Classifications

Program	Participating? (Yes/No)	Classification (if applicable)	Date Classified (if applicable)
Community Rating System (CRS)	No	-	-
Building Code Effectiveness Grading Schedule (BCEGS)	Yes	Residential – Class 9 Commercial – Class 3	September 28, 2010*
Public Protection (ISO Fire Protection Classes 1 to 10)	Yes	Class 3	March 1, 2020
StormReady Certification	No	(Franklin County is StormReady)	-
Firewise Communities classification	No	-	-
Other	No	-	-

Adaptive Capacity

Adaptive capacity is defined as “the ability of systems, institutions, humans and other organisms to adjust to potential damage, to take advantage of opportunities, or respond to consequences” (IPCC 2014). Each jurisdiction has a unique combination of capabilities to adjust to, protect from, and withstand a future hazard event, future conditions, and changing risk. The table below summarizes the adaptive capacity for each identified hazard of concern and the jurisdiction’s capability to address related actions using the following classifications:

- Strong: Capacity exists and is in use.
- Moderate: Capacity might exist; but is not used or could use some improvement.
- Weak: Capacity does not exist or could use substantial improvement.

Table 9.41-8. Adaptive Capacity

Hazard	Adaptive Capacity – Strong/Moderate/Weak
Dam/Levee	Moderate
Disease Outbreak	Strong
Drought	Moderate
Earthquake	Moderate
Extreme Temp	Moderate
Flood	Moderate
Geologic	Moderate
Invasive Species	Moderate
Severe Summer Weather	Strong
Severe Winter Weather	Moderate
Tornado	Moderate

- The City has noted that long-term response capabilities are weak overall. After 48-hours, the City acknowledges they would rely on outside resources for the drought, extreme temperature, flood, and severe weather, severe winter weather, and tornado hazards.
- The City’s response to the COVID-19 pandemic was strong. The City has a multitude of resources, including being involved in the Department of Homeland Security’s BioWatch Program, having access to reports and guidelines from Columbus Public Health, and employing individuals with an

understanding of communicable diseases. For these reasons, the City increased its adaptive capacity from 'Moderate' to 'Strong' for the disease outbreak hazard.

9.41.4 National Flood Insurance Program Compliance

This section provides specific information on the management and regulation of the regulatory floodplain, including current and future compliance with the National Flood Insurance Program (NFIP). The Floodplain Administrator, listed in the Hazard Mitigation Planning team table at the beginning of this annex, is responsible for maintaining this information.

NFIP Statistics

The following table summarizes NFIP statistics for the City of Worthington.

Table 9.41-9. NFIP Summary

Municipality	Policies in Force ^a	Number of Paid Claims ^a	Amount of Paid Claims ^a	Number of NFIP RL Properties ^b	Number of NFIP SRL Properties ^b
Worthington (C)	24	55	\$271,451.85	5	1

Sources: ^a BureauNet 2022 (<https://nfip-services.floodsmart.gov/reports-flood-insurance-data>)

^b State of Ohio 2023

Notes: Due to a contractual agreement with FEMA, detailed information at the municipal level was not available to incorporate into the 2023 HMP Update. The information presented here was collected from data provided by the State of Ohio and from FEMA's HUDEX Report.

RL Repetitive Loss

SRL Severe Repetitive Loss

NFIP Summary

The following table provides a summary of NFIP information for the City of Worthington.

Table 9.41-10. NFIP Summary

NFIP Topic	Comments
Flood Vulnerability Summary	
Describe areas prone to flooding in your jurisdiction.	Yes
<ul style="list-style-type: none"> Do you maintain a list of properties that have been damaged by flooding? 	
<ul style="list-style-type: none"> Do you maintain a list of property owners interested in flood mitigation? How many homeowners and/or business owners are interested in mitigation (elevation or acquisition)? 	No
Are any RiskMAP projects currently underway in your jurisdiction?	No
<ul style="list-style-type: none"> If so, state what projects are underway. How do you make Substantial Damage determinations? How many were declared for recent flood events in your jurisdiction? 	None have been declared for recent flood events SD/SI requirements are enforced by the local floodplain administrator and monitored by the Ohio Department of Natural Resources (ODNR) Floodplain Management Program during Community Assistance Visits. If a local floodplain administrator is overwhelmed by the number of SD/SI inspections after a large event, ODNR has developed a network of building code officials that are trained in conducting SD/SI field determinations. Help with SD/SI

NFIP Topic	Comments
	inspections can be requested through the county emergency management agency director.
How many properties have been mitigated (elevation or acquisition) in your jurisdiction? • If there are mitigated properties, how were the projects funded?	Unknown
Do your flood hazard maps adequately address the flood risk within your jurisdiction? • If not, state why.	Yes
NFIP Compliance	
What local department is responsible for floodplain management?	Service and Engineering
Are any certified floodplain managers on staff in your jurisdiction?	No
Do you have access to resources to determine possible future flooding conditions from climate change?	No
Does your floodplain management staff need any assistance or training to support its floodplain management program? • If so, what type of assistance/training is needed?	No
Provide an explanation of NFIP administration services you provide (e.g., permit review, GIS, education/outreach, inspections, engineering capability)	Permit review, engineering support, education/outreach, inspections, GIS mapping, FEMA and ODNR coordination.
How do you determine if proposed development on an existing structure would qualify as a substantial improvement?	Through a review of the appraised value of structures on the property and reported value of proposed improvements.
What are the barriers to running an effective NFIP program in the community, if any?	None
Does your jurisdiction have any outstanding NFIP compliance violations that need to be addressed? • If so, state the violations.	No
When was the most recent Community Assistance Visit (CAV) or Community Assistance Contact (CAC)?	Unknown
• What is the local law number or municipal code of your flood damage prevention ordinance? • What is the date that your flood damage prevention ordinance was last amended?	1105.12, this code was last updated on 4-12-1999.
Does your floodplain management program meet or exceed minimum requirements? • If exceeds, in what ways?	Yes
Are there other local ordinances, plans or programs (e.g., site plan review) that support floodplain management and meeting the NFIP requirements? For instance, does the planning board or zoning board consider efforts to reduce flood risk when reviewing variances such as height restrictions?	Unknown
Does your community plan to join the CRS program or is your community interested in improving your CRS classification?	Unknown

9.41.5 Growth/Development Trends

Understanding how past, current, and projected development patterns have or are likely to increase or decrease risk in hazard areas is a key component to appreciating a jurisdiction's overall risk to its hazards of concern. The tables below summarize recent and expected future development trends, including major residential/commercial development and major infrastructure development.

Table 9.41-11. Number of Building Permits for New Construction

Type of Development	2018		2019		2020		2021		2022	
	Total	Within SFHA	Total	Within SFHA	Total	Within SFHA	Total	Within SFHA	Total	Within SFHA
Single Family	13	0	6	0	3	0	1	0	2	0
Multi-Family	0	0	0	0	0	0	0	0	0	0
Other (commercial, mixed-use, etc.)	2	0	0	0	6	0	1	0	3	0
Total Permits Issued	15	0	6	0	9	0	2	0	5	0

Table 9.41-12. Recent and Expected Future Development

Property or Development Name	Type (e.g. Res., Comm.)	# of Units / Structures	Address and Parcel ID	Known Hazard Zone(s)	Description/Status of Development
Recent Major Development from 2018 to Present					
Worthington Gateway	Commercial	6 structures	100-006792, 100-006791, 100-006793	None	Mixed use redevelopment / Under Construction
Tilton's Automotive	Commercial	1 structure	100-002184	None	Automotive repair center / Under Construction
Worthingway Middle School	Commercial	1 structure	100-003968	None	Renovation and expansion of an existing middle school / Complete
Known or Anticipated Major Development in the Next Five (5) Years					
High North	Commercial	Pending	100-006788	None	Mixed use redevelopment / Planning Stage
Thomas Worthington High School	Commercial	Pending	100-006617	Floodplain	Renovation and expansion of an existing High school / Planning Stage

Source: Franklin County Assessor; Blendon Township; City of Canal Winchester; City of Dublin, Planning Division; City of Gahanna; City of Groveport; City of New Albany, Administrative Services Department; City of Obetz; City of Upper Arlington Fire Department; Jefferson Township; Prairie Township; Truro Township; Village of Lockbourne

9.41.6 Jurisdictional Risk Assessment

The hazard profiles in Volume 1, Section 4 (Risk Assessment) provide detailed information regarding each plan participant's vulnerability to the identified hazards. Section 4.1 (Methodology and Tools) and Section 4.4 (Hazard Ranking) provide detailed summaries for the City of Worthington's risk assessment results and data used to determine the hazard ranking discussed later in this section.

Hazard area extent and location maps provided below illustrate the probable areas impacted within the jurisdiction. These maps are based on the best available data at the time of the preparation of this plan and are adequate for planning purposes. Maps were generated only for those hazards that can be identified clearly using mapping techniques and technologies and for which the City of Worthington has significant exposure. The maps also show the location of potential new development, where available.

Figure 9.41-1. City of Worthington Hazard Area Extent and Location Map - Flood

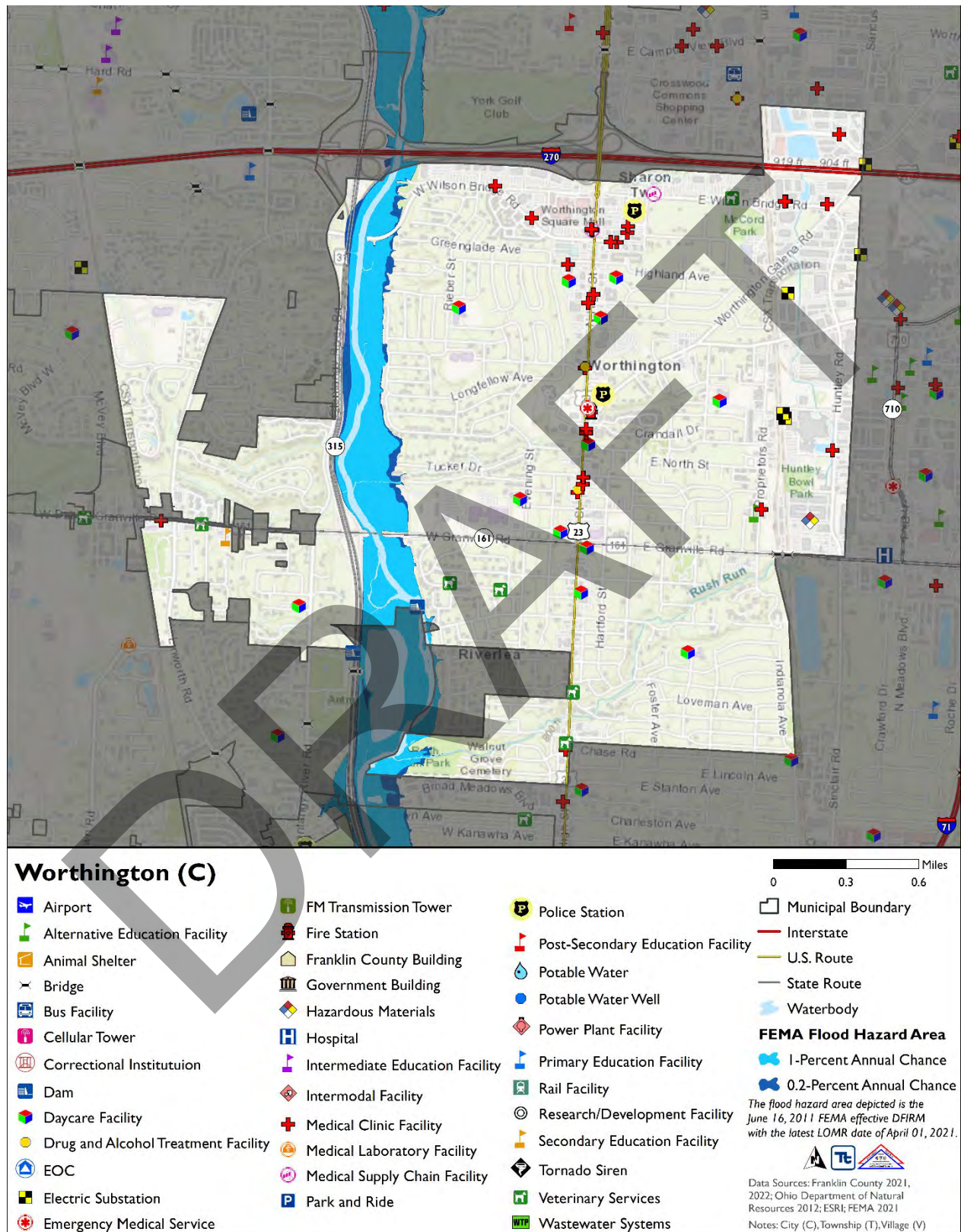


Figure 9.41-2. City of Worthington Hazard Area Extent and Location Map – Land Subsidence

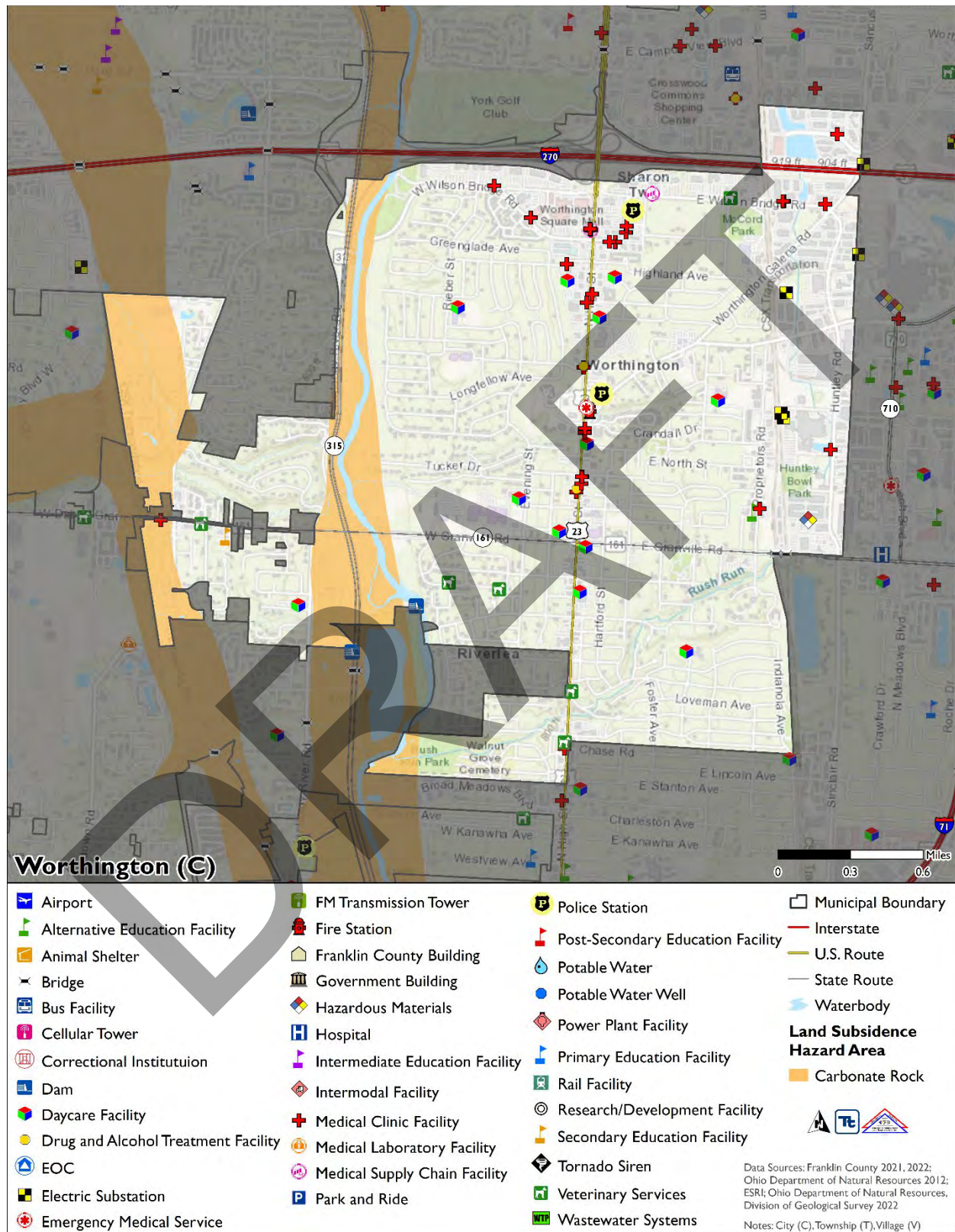
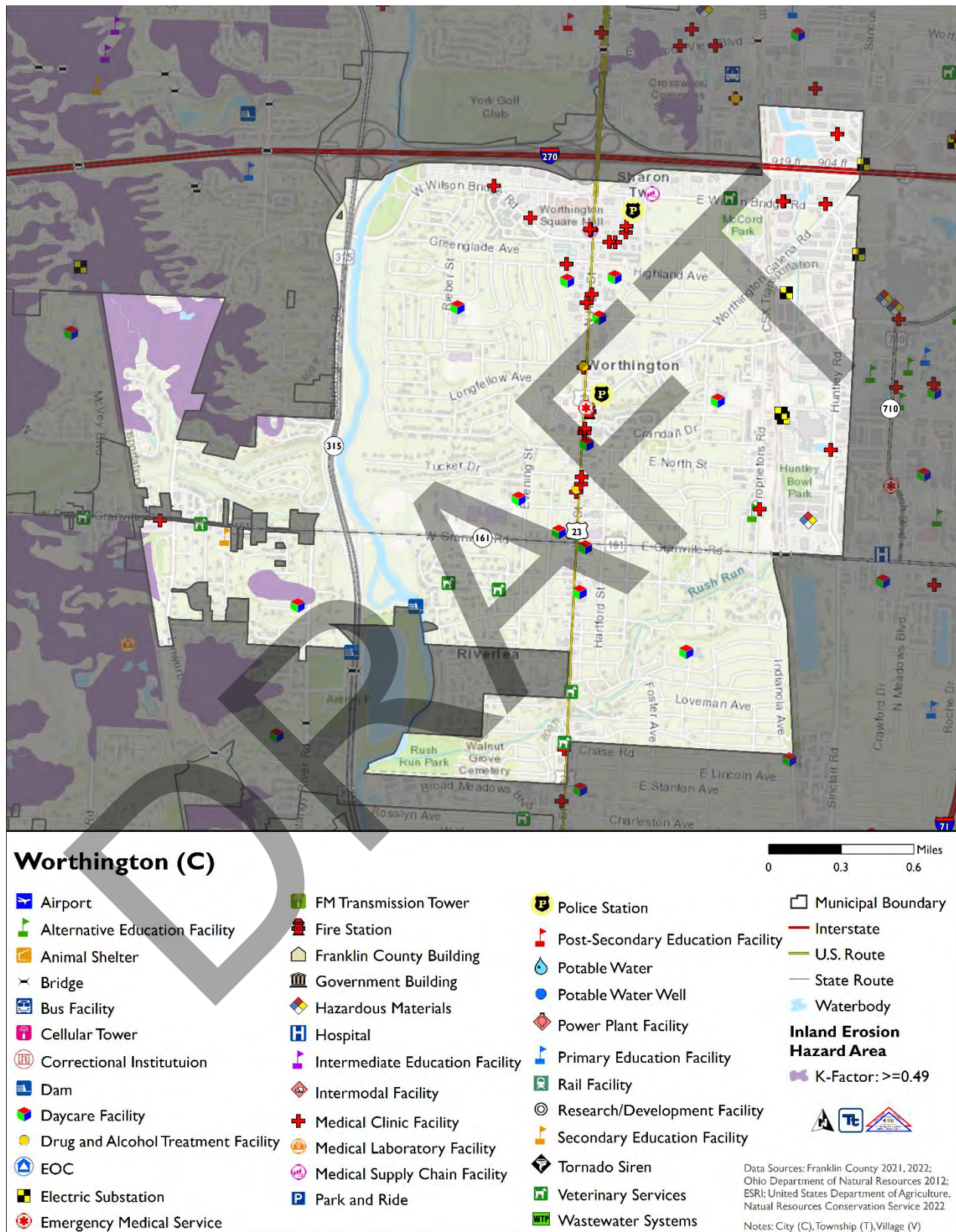


Figure 9.41-3. City of Worthington Hazard Area Extent and Location Map – Inland Erosion



Hazard Event History

Franklin County has a history of natural and non-natural hazard events, as detailed in Volume 1, Section 4 (Risk Assessment). A summary of historical events provided in each of the hazard profiles includes a chronology of events that have affected the County and its municipalities.

The City of Worthington's history of federally declared disasters (as presented by FEMA) and significant hazard events (as presented by the NOAA National Centers for Environmental Information) is consistent with that of the County. The table below provides details regarding municipal-specific losses and damage the City of Worthington experienced during significant (e.g., disaster declaration and/or losses greater than \$10,000) hazard events since the last hazard mitigation plan update. Information provided in the table below is based on input provided by the jurisdiction. Refer to Section 4.3 (Hazard Profiles) for details on hazard events.

Table 9.41-13. Hazard Event History

Dates of Event	Event Type (Disaster Declaration if applicable)	County Designated?	Summary of Event	Municipal Summary of Damages and Losses
April 3-4, 2018	EF-1 Tornado	N/A	Severe thunderstorms and tornados developed in the area. Between one to three inches of rain fell across the region. A tornado touched down in Grove City causing approximately \$120,000 in property damage.	Although the County was impacted, the City did no report major damages.
September 26, 2018	EF-1 Tornado	N/A	Showers and thunderstorms moved east across the region. A weak tornado began in the Olde Towne neighborhood of Columbus. Approximately \$750,000 in property damage.	Although the County was impacted, the City did no report major damages.
April 14, 2019	Thunderstorms	N/A	Thunderstorms developed ahead of a strong low-pressure system that was approaching the area. A building housing a pharmaceutical company on Rickenbacker Parkway received substantial damage, as a wall collapsed with more than 100 employees inside. Several people received minor injuries. Approximately \$100,000 in property damage.	Although the County was impacted, the City did no report major damages.
March 2020-present	Covid-19 Pandemic (DR-4507)	Yes	As of November 16, 2022, 347,221 reported cases and 2,721 reported deaths.	The City was subject to closures and social distancing/masking requirements.
May 18-19, 2020	Thunderstorms	No	Heavy rains in Worthington caused Water In Basement Flooding events in areas close to the Olentangy parklands. 51 households experienced some level of water damage in their basements. Rainfall intrusion to sanitary sewers contributed to sewer backups in the affected households.	City staff closed roads on Tucker Drive and Whitney Avenue due to rising floodwaters. Service employees worked overtime responded to downed trees, floodwater, and sewage backups.

Hazard Ranking

This section provides the community specific identification of the primary hazards of concern based on identified problems, impacts and the results of the risk assessment as presented in Volume 1, Section 4 (Risk Assessment). The ranking process involves an assessment of the likelihood of occurrence for each

hazard; the potential impacts of the hazard on people, property, and the economy; community capabilities to address the hazard and changing future climate conditions. Mitigation action development uses the inputs from the evaluation to target those hazards with highest level of concern.

As discussed in Volume 1, Section 4.4 (Hazard Ranking), the participating jurisdictions all have differing degrees of risk exposure and vulnerability compared with the County as a whole. Therefore, each municipality ranked the degree of risk to each hazard as it pertains to its own community. The table below summarizes the hazard risk/vulnerability rankings of potential natural hazards for the City of Worthington. The City of Worthington reviewed the County hazard risk/vulnerability risk ranking table and individual results to reflect the relative risk of the hazards of concern to the community.

During the review of the hazard/vulnerability risk ranking, the City of Worthington indicated the following:

- The City is approximately 20 miles downstream from the Delaware Dam, a high hazard dam located in Delaware County on the Olentangy River. The City requested the 'Low' ranking for Dam/Levee be increased to 'Medium'.

Table 9.41-14. Hazard Ranking Input

Hazard	Hazard Ranking
Dam/Levee	Medium
Disease Outbreak	Medium
Drought	Low
Earthquake	Low
Extreme Temp	Medium
Flood	Medium
Geologic	Low
Invasive Species	Low
Severe Summer Weather	High
Severe Winter Weather	Medium
Tornado	Medium

Critical Facilities and Community Lifelines

The table below identifies the number of critical facilities/community lifelines in the community located within the hazards areas of concern. Refer to Section 3 (County Profile) and Section 4.3 (Hazard Profiles) for details on the facilities and the potential impacts hazards can have on those facilities.

Table 9.41-15. Number of Critical Facilities and Community Lifelines in Hazard Areas

	Critical Facilities	Lifelines
1-Percent Annual Chance Flood Event Hazard Area	3	1
0.2-Percent Annual Chance Flood Event Hazard Area	3	1
Inland Erosion (K-Factor: ≥ 0.49) Hazard Area	-	-
Subsidence (Karst/Carbonate Rock) Hazard Area	-	3
Alum Creek Dam Inundation (MH Breach) Hazard Area	-	-
Delaware Dam Inundation (MH Breach) Hazard Area	-	2

Source: Franklin County; Hazus v5.1

Identified Issues

In addition to the risk assessment, the City of Worthington identified the following vulnerabilities within its community:

- Some roadways need to be closed due to flood waters.
- Residents have experienced basement flooding in areas close to the Olentangy parklands.
- Residents have experienced sewage back-ups due to rainfall intrusion to sanitary sewers.
- The City is approximately 20 miles downstream from the Delaware Dam, a high hazard dam located in Delaware County on the Olentangy River.
- The Griswold Senior Center and the City Hall, both critical facilities, do not have emergency back-up power.
- The City acknowledged familiarity with the identified hazards is fairly limited.
- The emergency operations plan for the City is outdated.
- The Olentangy River has issues with erosion.
- The City is not aware of the complete inventory Franklin County has available for emergency responses.
- Areas of the City are susceptible to pooling waters.
- The City relies on the City of Columbus for its water supply.
- Many critical facilities and community lifelines do not have Continuity of Operations Plans.
- The City has the resources for short-term emergency responses but relies on outside resources for most events which surpass 48-hours.
- Public outreach about each hazard is limited and should be increased.

9.41.7 Mitigation Strategy and Prioritization

This section discusses past mitigations actions and status, describes proposed hazard mitigation actions, and prioritizes actions to address over the next five years.

Past Mitigation Initiative Status

The following table indicates progress on the community's mitigation strategy identified in the 2018 HMP. Actions that are in progress are carried forward and combined with new actions as part of this plan update. Previous actions that are now on-going programs and capabilities are indicated as such and are presented in the 'Capability Assessment' earlier in this annex.

Table 9.41-16. Status of Previous Mitigation Actions

Project	Responsible Party	What is the status? (e.g., In Progress, No Progress, Ongoing Capability, or Completed) If in progress or completed, please describe the funding source, cost and who is implementing.	If you did not complete the action, should the action be included in the 2023 HMP (i.e., there is still a need, this is still a priority)?		
			Yes/No	If Yes, please describe the original problem (i.e., hazard, location, historic losses)	If Yes, identify the responsible department/person to implement the project.
Retrofit public buildings and critical facilities with generator service	Public Safety	Complete	No	-	-
Retrofit structures in the Haymore Avenue Area. (1,500,000 / 1 year	Mayor's office	No Progress	No	-	-
Seek funding for repetitive loss structures within the jurisdiction to permanently reduce damages to these structures*(4 known properties est. at 900,000 /4 years)	Mayor's office	No Progress	No	-	-

Additional Mitigation Efforts

In addition to the mitigation actions completed in the table above, the City of Worthington identified the following mitigation efforts completed since the last HMP:

- None identified

Since the adoption of the County's first HMP, the City of Worthington has made significant mitigation progress in the following areas:

- None identified

Proposed Hazard Mitigation Initiatives for the HMP Update

The City of Worthington participated in a mitigation action workshop in April 2023 and was provided the following FEMA publications to use as a resource as part of their comprehensive review of all possible activities and mitigation measures to address their hazards:

- Selecting Appropriate Mitigation Measures for Floodprone Structures (FEMA 551, March 2007)
- Mitigation Ideas – A Resource for Reducing Risk to Natural Hazards (FEMA, January 2013)

The table below indicates the range of proposed mitigation action categories. The four FEMA mitigation action categories and six CRS mitigation action categories listed in the table demonstrate the wide range of activities and mitigation measures selected.

Table 9.41-17. Analysis of Mitigation Actions by Hazard and Category

Hazard	FEMA				CRS					
	LPR	SIP	NSP	EAP	PR	PP	PI	NR	SP	ES
Dam/Levee	X	X	-	X	-	X	X	-	-	X
Disease Outbreak	-	-	-	X	-	-	X	-	-	X
Drought	X	X	-	X	-	X	X	-	-	X
Earthquake	-	-	-	X	-	-	X	-	-	X
Extreme Temp	-	X	-	X	-	X	X	-	-	X
Flood	-	X	X	X	-	X	X	X	-	X
Geologic	-	-	X	X	-	-	X	X	-	X
Invasive Species	-	-	X	X	-	-	X	X	-	X
Severe Summer Weather	-	X	-	X	-	X	X	X	-	X
Severe Winter Weather	-	X	-	X	-	X	X	-	-	X
Tornado	-	X	-	X	-	X	X	X	-	X

Note: Mitigation categories are described below the Mitigation Initiatives (Table 9.42-17)

Hazards are color-coded based on risk ranking: yellow = low, orange = medium, red = high

The table below summarizes the mitigation actions the City of Worthington will pursue in the future to reduce the effects of hazards. Acronyms used in the table are defined in notes that follow the table. The initiatives are dependent upon available funding (grants and local match availability) and may be modified or omitted at any time based on the occurrence of new hazard events and changes in municipal priorities.

Table 9.41-18. Proposed Hazard Mitigation Initiatives

Project Number	Mitigation Initiative Name	Description of Problem and Solution	Hazard(s) to be Mitigated	Goal(s) Met	Estimated Timeline	Lead and Support Agencies	Potential Funding Sources	Estimated Benefits	Estimated Costs	Priority	Mitigation Category	CRS Category
2023-City of Worthington-001	Resource Coordination	<p>Problem: The City has the resources for short-term emergency responses but relies on outside resources for most events which surpass 48-hours. The City also has limited resources for preparedness activities.</p> <p>Solution: Coordinate with Franklin County to understand the resources available for emergency response and preparedness activities.</p>	Dam/Levee, Disease Outbreak, Drought, Earthquake, Extreme Temperatures, Flood, Geologic Hazards, Invasive Species, Severe Summer Weather, Severe Winter Weather, Tornado	4	<1 year	Worthington OEM, Franklin County EM&HS	Staff Time	High	Low	High	-	ES
2023-City of Worthington-002	Dam Response Plan	<p>Problem: The City is approximately 20 miles downstream from the Delaware Dam, a high hazard dam, located in Delaware County on the Olentangy River; the City also has the State Route 161 Dam located within its jurisdiction.</p> <p>Solution: Discuss with both Franklin and Delaware County the possible inundation impacts</p>	Dam/Levee	4	3 to 4 years	Worthington OEM, Franklin County EM&HS, Delaware County OEM	BRIC, NDSP, EMPG	Medium	Medium	Medium	LPR	ES

Project Number	Mitigation Initiative Name	Description of Problem and Solution	Hazard(s) to be Mitigated	Goal(s) Met	Estimated Timeline	Lead and Support Agencies	Potential Funding Sources	Estimated Benefits	Estimated Costs	Priority	Mitigation Category	CRS Category
		and formulate a Dam Response Plan.										
2023-City of Worthington-003	Emergency Generators at Critical Facilities*	Problem: The Griswold Senior Center and the City Hall, both critical facilities, do not have emergency back-up power. Solution: Work with an engineer to determine the appropriately sized generator for each facility and install the generators.	Dam/Levee, Drought, Extreme Temperatures, Flood, Severe Summer Weather, Severe Winter Weather, Tornado	6	2 to 3 years	Department of Service & Engineering, Griswold Senior Center, City Administrator	BRIC, HMGP, Capital Funds	High	Medium	Medium	SIP	PP
2023-City of Worthington-004	Update of the Emergency Operations Plan	Problem: The City's Emergency Operations Plan is outdated. Solution: Update the City's Emergency Operations Plan.	Dam/Levee, Drought, Earthquake, Extreme Temperatures, Flood, Geologic Hazards, Severe Summer Weather, Severe Winter Weather, Tornado	1	1 to 2 years	Worthington OEM	EMPG	High	Low	High	-	ES
2023-City of Worthington-005	Hazard Mitigation Consultant	Problem: The City is unfamiliar with all the risks associated with potential hazards and how to mitigate the hazards. Solution: Hire a consultant to educate City officials and assist in the identification of	Dam/Levee, Disease Outbreak, Drought, Earthquake, Extreme Temperatures, Flood, Geologic	1, 4, 5	2 to 3 years	Worthington OEM, City Administrator	BRIC, HMGP	High	High	Medium	EAP	PI

Project Number	Mitigation Initiative Name	Description of Problem and Solution	Hazard(s) to be Mitigated	Goal(s) Met	Estimated Timeline	Lead and Support Agencies	Potential Funding Sources	Estimated Benefits	Estimated Costs	Priority	Mitigation Category	CRS Category
		additional actions to mitigate impacts from hazards.	Hazards, Invasive Species, Severe Summer Weather, Severe Winter Weather, Tornado									
2023-City of Worthington-006	Continuity of Operations Plans	<p>Problem: Critical facilities and community lifelines within the City do not have Continuity of Operations Plans.</p> <p>Solution: Assist in the development of Continuity of Operations Plans for critical facilities and community lifelines within the City.</p>	Dam/Levee, Disease Outbreak, Drought, Earthquake, Extreme Temperatures, Flood, Geologic Hazards, Severe Summer Weather, Severe Winter Weather, Tornado	4	3 to 4 years	Worthington OEM, Various City Departments	BRIC, EMPG	High	Medium	High	-	ES
2023-City of Worthington-007	Water Supply Reduction Point	<p>Problem: The City's water supply is sourced from the City of Columbus. In the event of a drought, there is no known marker for when the water supply would be reduced.</p> <p>Solution: In partnership with the City of Columbus, identify at which point would the City of Worthington's water supply be impacted during a drought.</p>	Drought	1, 4	1 to 2 years	Worthington OEM, Worthington Department of Service & Engineering, City of Columbus Division of Water	N/A	High	Low	Medium	LPR	-

Project Number	Mitigation Initiative Name	Description of Problem and Solution	Hazard(s) to be Mitigated	Goal(s) Met	Estimated Timeline	Lead and Support Agencies	Potential Funding Sources	Estimated Benefits	Estimated Costs	Priority	Mitigation Category	CRS Category
2023-City of Worthington-008	Standing Water Maintenance*	Problem: Areas of the City are susceptible to standing and pooling waters. Solution: Implement a maintenance program to reduce the amount of standing or pooling water by grading soil and/or addressing potholes.	Disease Outbreak, Invasive Species	1	2 to 3 years	Worthington Department of Service & Engineering	Capital Funds	High	Low	Low	-	-
2023-City of Worthington-009	Hazard Education Campaign	Problem: Public outreach regarding preparedness, prevention, and mitigation for hazards is limited and should be increased. Solution: Partner with State, County, and Local public health and safety departments to create guidance and educational pamphlets on how to prepare for, prevent, and mitigate the hazards in the City of Worthington.	Dam/Levee, Disease Outbreak, Drought, Earthquake, Extreme Temperatures, Flood, Geologic Hazards, Invasive Species, Severe Summer Weather, Severe Winter Weather, Tornado	4, 5	1 to 2 years	Worthington OEM, Franklin County EM&HS, OEMA	BRIC, HMGP, Capital Funds	High	Low	High	EAP	PI
2023-City of Worthington-010	Olentangy Erosion Study	Problem: The Olentangy River has been experiencing increased amounts of erosion. Solution: Conduct a study on the impacts of erosion to the Olentangy River and its floodplain.	Flood, Geologic Hazards	2, 3	3 to 4 years	Worthington Department of Service & Engineering	BRIC, HMGP	Medium	Medium	Low	NSP	NR

Project Number	Mitigation Initiative Name	Description of Problem and Solution	Hazard(s) to be Mitigated	Goal(s) Met	Estimated Timeline	Lead and Support Agencies	Potential Funding Sources	Estimated Benefits	Estimated Costs	Priority	Mitigation Category	CRS Category
2023-City of Worthington-011	Olentangy Parklands Culvert Study*	Problem: Residents in the Olentangy parklands have experienced flooded basements and sewage back-ups due to rainfall intrusion to sanitary sewers. Solution: Conduct a study to identify the correct sizing of culverts in the Olentangy parklands.	Flood, Severe Summer Weather	2, 3, 6	1 to 2 years	Worthington Department of Service & Engineering	BRIC, HMGP, Capital Funds	Medium	Medium	Low	SIP	NR
2023-City of Worthington-012	Tree Maintenance and Inspection	Problem: The City of Worthington conducts tree maintenance and inspections to assess impacts from invasive species and remove affected trees. Solution: Update the tree maintenance and inspection program to include preventative methods such as insecticides.	Invasive Species	1	1 to 2 years	Worthington Department of Service & Engineering	Capital Funds	High	Low	Low	NSP	NR

*Mitigation initiative is related to a critical facility and/or community lifeline

Notes: Not all acronyms and abbreviations defined below are included in the table.

Acronyms and Abbreviations:

CRS Community Rating System
FEMA Federal Emergency Management Agency
HMA Hazard Mitigation Assistance
N/A Not applicable
NFIP National Flood Insurance Program

Potential FEMA HMA Funding Sources:

FMA Flood Mitigation Assistance Grant Program
HMGP Hazard Mitigation Grant Program
BRIC Building Resilient Infrastructure and Communities Program

Timeline:

The time required for completion of the project upon implementation.

Cost:

The estimated cost for implementation.

Benefits:

A description of the estimated benefits, either quantitative and/or qualitative.

Mitigation Category:

- Local Plans and Regulations (LPR)—These actions include government authorities, policies or codes that influence the way land and buildings are being developed and built.
- Structure and Infrastructure Project (SIP)—These actions involve modifying existing structures and infrastructure to protect them from a hazard or remove them from a hazard area. This could apply to public or private structures, as well as critical facilities and infrastructure. This type of action also involves projects to construct manmade structures to reduce the impact of hazards.
- Natural Systems Protection (NSP)—These are actions that minimize damage and losses, and also preserve or restore the functions of natural systems.
- Education and Awareness Programs (EAP)—These are actions to inform and educate citizens, elected officials, and property owners about hazards and potential ways to mitigate them. These actions may also include participation in national programs, such as StormReady and Firewise Communities.

CRS Category:

- *Preventative Measures (PR)*—Government, administrative or regulatory actions, or processes that influence the way land and buildings are developed and built. Examples include planning and zoning, floodplain local laws, capital improvement programs, open space preservation, and storm water management regulations.
- *Property Protection (PP)*—These actions include public activities to reduce hazard losses or actions that involve modification of existing buildings or structures to protect them from a hazard or removal of the structures from the hazard area. Examples include acquisition, elevation, relocation, structural retrofits, storm shutters, and shatter-resistant glass.
- *Public Information (PI)*—Actions to inform and educate citizens, elected officials, and property owners about hazards and potential ways to mitigate them. Such actions include outreach projects, real estate disclosure, hazard information centers, and educational programs for school-age children and adults.
- *Natural Resource Protection (NR)*—Actions that minimize hazard loss and also preserve or restore the functions of natural systems. These actions include sediment and erosion control, stream corridor restoration, watershed management, forest and vegetation management, and wetland restoration and preservation.
- *Structural Flood Control Projects (SP)*—Actions that involve the construction of structures to reduce the impact of a hazard. Such structures include dams, setback levees, floodwalls, retaining walls, and safe rooms.
- *Emergency Services (ES)*—Actions that protect people and property during and immediately following a disaster or hazard event. Services include warning systems, emergency response services, and the protection of essential facilities.

Volume 1, Section 6 (Mitigation Strategy) identifies 14 evaluation criteria for prioritizing mitigation actions. For each mitigation action, a numeric rank is assigned (-1, 0, or 1) for each of the 14 evaluation criteria to assist with prioritizing actions as high, medium, or low. The table below provides a summary of the prioritization of all proposed mitigation actions for the HMP update.

Table 9.41-19. Summary of Prioritization of Actions

Project Number	Project Name	Life Safety	Property Protection	Cost-Effectiveness	Technical	Political	Legal	Fiscal	Environmental	Social	Administrative	Multi-Hazard	Timeline	Agency Champion	Other Community Objectives	Total	High / Medium / Low
2023-City of Worthington-001	Resource Coordination	1	1	1	1	1	1	1	1	0	1	1	1	1	0	12	High
2023-City of Worthington-002	Dam Response Plan	1	1	1	1	1	1	-1	1	0	0	-1	0	1	0	6	Medium
2023-City of Worthington-003	Emergency Generators at Critical Facilities	1	1	1	1	1	0	0	-1	0	0	1	0	1	0	6	Medium
2023-City of Worthington-004	Update of the Emergency Operations Plan	1	0	1	1	1	1	1	1	0	1	1	0	1	0	10	High
2023-City of Worthington-005	Hazard Mitigation Consultant	1	1	1	1	1	1	-1	1	0	-1	1	0	1	0	7	Medium
2023-City of Worthington-006	Continuity of Operations Plans	0	1	1	1	1	1	1	1	0	1	1	0	1	0	10	High

Project Number	Project Name	Life Safety	Property Protection	Cost-Effectiveness	Technical	Political	Legal	Fiscal	Environmental	Social	Administrative	Multi-Hazard	Timeline	Agency Champion	Other Community Objectives	Total	High / Medium / Low
2023-City of Worthington-007	Water Supply Reduction Point	1	0	1	1	1	1	1	1	0	0	-1	1	1	0	8	Medium
2023-City of Worthington-008	Standing Water Maintenance	0	-1	1	1	0	1	1	0	0	1	0	0	0	0	4	Low
2023-City of Worthington-009	Hazard Education Campaign	1	1	1	1	1	1	1	1	0	1	1	1	1	0	12	High
2023-City of Worthington-010	Olentangy Erosion Study	0	1	1	1	0	1	0	1	0	-1	0	0	0	0	4	Low
2023-City of Worthington-011	Olentangy Parklands Culvert Study	0	1	1	1	0	1	0	1	0	-1	0	0	0	0	4	Low
2023-City of Worthington-012	Tree Maintenance and Inspection	0	0	1	1	0	1	1	1	0	0	-1	0	0	0	4	Low

Note: Volume 1, Section 6 (Mitigation Strategy) describes the process for prioritizing mitigation actions. Low (0-4), Medium (5-8), High (9-14).



STAFF MEMORANDUM
City Council Meeting – November 20, 2023

Date: November 13, 2023

To: Robyn Stewart, Acting City Manager

From: Scott F. Bartter, Finance Director

Subject: Budget Transfers

EXECUTIVE SUMMARY

This Resolution authorizes the transfer of previously appropriated funds to cover expenses as anticipated for the remainder of the year in appropriate accounts. Approval of this Resolution will not result in an increase of total appropriations.

RECOMMENDATION

Approve as Presented

BACKGROUND/DESCRIPTION

The following transfer is to fund sending current employees to paramedic school to achieve their paramedic certification:

From: 101.6060.540515 – Computer Maintenance - Fire	
To: 101.6080.512216 – Training – Fire	\$22,500.00

The transfer to the PT Firefighter wage line is necessary due to the increased rate of pay as authorized with Resolution 11-2023.

From: 101.6070.511151– Overtime - Fire	
To: 101.6070.511053 – PT Firefighter Wages	\$20,000.00

Additional funds are being transferred into the software line to account for increased cyber security.

From: 101.1160.512214 – Dues & Subscriptions - IT
To: 101.1160.540518 – Software – IT \$3,500.00

From: 101.1160.540625 – Internet Services
To: 101.1160.540518 – Software – IT \$4,000.00

The original budget has two job classifications in the same pay line (Maintenance Tech & Supervisor). These lines should be split to separate the tech salary from the supervisor salary.

From: 202.2050.511058 – Maintenance Tech Salary
To: 202.2050.511036– Maintenance Supervisor Salary \$178,577.00

The remaining transfers are small dollar transfers to ensure that the proper account has the funds necessary to meet anticipated payroll expenditures.

ATTACHMENTS

Resolution No. 61-2023

RESOLUTION NO. 61-2023

Adjusting the Annual Budget by Providing for a
Transfer of Previously Appropriated Funds.

WHEREAS, the Charter of the City of Worthington, Ohio, provides that City Council may at any time amend or revise the Budget by Legislation, providing that such amendment does not authorize the expenditure of more revenue than will be available;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Municipality of Worthington, County of Franklin, State of Ohio:

SECTION 1. That there be and hereby is made the following transfer of previously appropriated funds:

From Account No.	To Account No.	Amount
101.6060.540515	101.6080.512216	22,500
101.6070.511151	101.6070.511053	20,000
101.1160.512214	101.1160.540518	3,500
101.1160.540625	101.1160.540518	4,000
101.1050.512207	101.1050.511016	75
101.2020.511020	101.2020.511019	175
101.2020.511021	101.2020.511157	650
101.2030.511024	101.2030.511028	3,500
101.4050.511040	101.4030.511098	2,035
101.4020.511037	101.4020.511063	100
101.4030.512207	101.4030.511097	100
202.2050.511058	202.2050.511036	178,577
Total Transfers		\$ 235,212

SECTION 2. That the Clerk be and hereby is instructed to record this Resolution in full in the appropriate resolution book.

Adopted

President of Council

Attest:

Clerk of Council



STAFF MEMORANDUM
City Council Meeting – November 20, 2023

Date: November 14, 2023

To: Robyn Stewart, Acting City Manager

From: Scott F. Bartter, Finance Director

Subject: Ordinance No. 26-2023 – 2024 Operating Budget

EXECUTIVE SUMMARY

This Ordinance adopts the City's annual budget for Fiscal Year 2024 and appropriates sums for current operating expenses.

RECOMMENDATION

Introduce for Public Hearing on December 4, 2023.

BACKGROUND/DESCRIPTION

The City Council has held a series of budget workshops over recent weeks. This Ordinance adopts the City's operating budget for Fiscal Year 2024. It is introduced with blanks pending the conclusion of the budget presentations and discussion. The amounts will be filled in for the public hearing on the Ordinance, which is scheduled for December 4, 2023.

Any changes from the City Manager's Proposed budget to the final adopted budget will be outlined here.

FINANCIAL IMPLICATIONS/FUNDING SOURCES

The proposed 2024 Operating Budget document includes information about the cost of the City's services and programs and projected revenue sources.

ATTACHMENTS

Ordinance No. 26-2023

ORDINANCE NO. 26-2023

Providing for the Adoption of the Annual Budget for
the Fiscal Year 2024 and Appropriating Sums for
Current Operating Expenses.

WHEREAS, pursuant to the provisions of Section 2.07, paragraph 3, of Article II of the Charter of the City of Worthington, Ohio, the City Council is authorized to adopt the Municipal Budget for the Fiscal Year beginning January 1, 2024 and ending December 31, 2024; and,

WHEREAS, the City Manager has submitted a proposed budget with estimates and an explanatory message; and,

WHEREAS, hearings have been held on said Budget estimates as required by Section 4.03 of Article IV of the Charter;

NOW, THEREFORE, BE IT ORDAINED by the Council of the Municipality of Worthington, Franklin County, State of Ohio:

SECTION 1. That the Annual Budget submitted by the City Manager in accordance with the provisions of Section 4.02 of Article IV of the Charter be and the same hereby is adopted by Council.

SECTION 2. To provide operating expenditures for General Government, Department of Service/Engineering, Department of Public Safety, Department of Parks and Recreation, and Department of Planning and Building during the fiscal year ending December 31, 2024, the following appropriations are hereby made in the General Fund:

<u>Account Number</u>	<u>Description</u>	<u>Appropriation</u>
101.1010	Legislative and Clerk: Personal Services All Other	\$
101.1020	Mayor & Mayors Court: Personal Services All Other	\$
101.1030	Department of Administration: Personal Services All Other	\$

ORDINANCE NO. 26-2023

<u>Account Number</u>	<u>Description</u>	<u>Appropriation</u>
101.1040	Department of Personnel: Personal Services All Other	\$
101.1050	Department of Finance & Taxation: Personal Services All Other	\$
101.1060	Department of Law: Personal Services All Other	\$
101.1070	Economic Development: Personal Services All Other	\$
101.1080	Legal Advertising	\$
101.1090	County Auditor Deductions	\$
101.1100	Board of Health	\$
101.1110	Transfers	\$
101.1120	Contractual Services/Refuse	\$
101.1150	Contingency Account	\$
101.1160	Information Technology: Personal Services All Other	\$
101.1170	Lodging Tax	\$

ORDINANCE NO. 26-2023

<u>Account Number</u>	<u>Description</u>	<u>Appropriation</u>
101.1190	Kilbourne Memorial Library	\$
	Total General Government	\$
Department of Safety: Division of Police		
101.2010	Administration: Personal Services All Other	\$
101.2020	Community Service: Personal Services All Other	\$
101.2030	Support Service: Personal Services All Other	\$
	Total Division of Police	\$
Department of Service/Engineering		
101.3010	Administration: Personal Services All Other	\$
101.3040	Buildings & Structures Maint: Personal Services All Other	\$
101.3050	Grounds Maintenance: Personal Services All Other	\$
101.3060	Sanitation	\$

ORDINANCE NO. 26-2023

<u>Account Number</u>	<u>Description</u>	<u>Appropriation</u>
101.3070	Fleet Maintenance: Personal Services All Other	\$
Total Department of Service/Engineering		<hr/> \$
Department of Parks & Recreation		
101.4010	Administration: Personal Services All Other	\$
101.4020	Parks Maintenance: Personal Services All Other	\$
101.4030	Community Center Programs: Personal Services All Other	\$
101.4040	Recreation Programs: Personal Services All Other	\$
101.4050	Senior Citizen Programs: Personal Services All Other	\$
Total Department of Parks & Recreation		<hr/> \$
Department of Planning and Building		
101.5010	Planning and Building: Personal Services All Other	\$
Total Department of Planning and Building		<hr/> \$

ORDINANCE NO. 26-2023

<u>Account Number</u>	<u>Description</u>	<u>Appropriation</u>
Department of Safety: Division of Fire		
101.6060	Administration: Personal Services All Other	\$
101.6070	Operations: Personal Services All Other	\$
101.6080	Training & Prevention: Personal Services All Other	\$
	Total Division of Fire	<hr/> \$
101.7000	Dispatching Services All Other	\$
	TOTAL GENERAL FUND	<hr/> \$

SECTION 3. To provide operating expenditures for the Street Maintenance and Repair Fund during the fiscal year ending December 31, 2024, the following appropriations are hereby made in the Street Maintenance and Repair Fund:

202.2050	Administration: Personal Services All Other	\$
202.2060	Street Maintenance, Construction & Equipment: Personal Services All Other	\$
202.2070	Street Cleaning	\$
202.2080	Street Drainage	\$

ORDINANCE NO. 26-2023

<u>Account Number</u>	<u>Description</u>	<u>Appropriation</u>
202.2090	Traffic Control Systems:	
	Personal Services	\$
	All Other	
	Total Street Maintenance & Repair Fund	<u>\$</u>

SECTION 4. To provide operating expenditures for the State Highway Fund during the fiscal year ending December 31, 2024, the following appropriations are hereby made in the State Highway Fund:

203.0010	State Highway Improvement:	
	Personal Services	\$
	All Other	
	Total State Highway Fund	<u>\$</u>

SECTION 5. To provide operating expenditures for the Water Distribution Fund for the fiscal year ending December 31, 2024, the following appropriations are hereby made in the Water Distribution Fund:

204.6010	Maintenance & Repair:	
	Personal Services	\$
	All Other	
	Total Water Distribution Fund	<u>\$</u>

SECTION 6. To provide operating expenditures for the Sanitary Sewer Fund during the fiscal year ending December 31, 2024, the following appropriations are hereby made in the Sanitary Sewer Fund:

205.7010	Maintenance & Repair:	
	Personal Services	\$
	All Other	
	Total Sanitary Sewer Fund	<u>\$</u>

ORDINANCE NO. 26-2023

<u>Account Number</u>	<u>Description</u>	<u>Appropriation</u>
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SECTION 7. To provide for a transfer from the 27th Pay Fund, the following appropriations are hereby made in the 27th Pay Fund:

211.1111	27 th Pay Fund	\$
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SECTION 8. To provide operating expenditures for the Police Pension Fund during the fiscal year ending December 31, 2024, the following appropriations are hereby made in the Police Pension Fund:

212.1212	Personal Services	\$
Total Police Pension Fund		<hr/> \$

SECTION 9. To provide operating expenditures for the Law Enforcement Trust Fund during the fiscal year ending December 31, 2024, the following appropriations are hereby made in the Law Enforcement Trust Fund:

214.1414	Law Enforcement Trust	\$
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SECTION 10. To provide operating expenditures for the MMVLT Fund during the fiscal year ending December 31, 2024, the following appropriations are hereby made in the MMVLT Fund:

215.8150	Contractual Services	\$
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SECTION 11. To provide operating expenditures for the Enforcement and Education Fund during the fiscal year ending December 31, 2024, the following appropriations are hereby made in the Enforcement and Education Fund:

216.1616	Education Supplies	\$
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ORDINANCE NO. 26-2023

<u>Account Number</u>	<u>Description</u>	<u>Appropriation</u>
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SECTION 12. To provide operating expenditures for the Court Clerk Computer Fund during the fiscal year ending December 31, 2024, the following appropriations are hereby made in the Court Clerk Computer Fund:

218.1818	Computer Supplies	\$
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SECTION 13. To provide operating expenditures for the Economic Development Fund during the fiscal year ending December 31, 2024, the following appropriations are hereby made in the Economic Development Fund:

219.1919	Development Efforts	\$
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SECTION 14. To provide operating expenditures for the Law Enforcement Continuing Education Fund during the fiscal year ending December 31, 2024, the following appropriations are hereby made in the Law Enforcement Continuing Education Fund:

221.2121	Law Enforcement CED	\$
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SECTION 15. To provide operating expenditures for the Special Parks Fund during the fiscal year ending December 31, 2024, the following appropriations are hereby made in the Special Parks Fund:

229.4010	Capital Expenditures	\$
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SECTION 16. To provide operating expenditures for the Sharon Township Joint Economic Development District Fund during the fiscal year ending December 31, 2024, the following appropriations are hereby made:

230.3030	Sharon Township JEDD	\$
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SECTION 17. To provide operating expenditures for the Capital Improvements Fund during the fiscal year ending December 31, 2024, the following appropriations are hereby made in the Capital Improvements Fund:

308.8110	Capital Expenditures	\$
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SECTION 18. To provide operating expenditures for the General Bond Retirement Fund during the fiscal year ending December 31, 2024, the following appropriations are hereby made in the General Bond Retirement Fund:

409.9010	Debt Service	\$
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ORDINANCE NO. 26-2023

<u>Account Number</u>	<u>Description</u>	<u>Appropriation</u>
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SECTION 19. To provide operating expenditures for the O.B.B.S. Fund during the fiscal year ending December 31, 2024, the following appropriations are hereby made in the O.B.B.S. Fund:

830.3333	O.B.B.S. Surcharge	\$
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SECTION 20. To provide operating expenditures for the TIF/CRA Funds during the fiscal year ending December 31, 2024, the following appropriations are hereby made in the TIF/CRA Funds:

920.9020	TIF Distribution (Worthington Place – The Heights)	\$
930.9020	TIF Distribution (933 High Street)	\$
935.9020	TIF Distribution (Downtown Worthington)	\$
940.9020	TIF Distribution (Worthington Square)	\$
945.9020	TIF Distribution (W.Dublin Granville Rd)	\$
950.9020	TIF Distribution (350 W. Wilson Bridge Rd.)	\$
955.9020	TIF Distribution (800 Proprietors Rd)	\$
999.9020	PACE Fund (Columbus Finance Authority)	\$

SECTION 21. To provide operating expenditures for the Accrued Acreage Fund during the fiscal year ending December 31, 2024, the following appropriations are hereby made in the Accrued Acreage Fund:

825.2525	Accrued Acreage Fees	\$
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ORDINANCE NO. 26-2023

SECTION 22. Sums expended from the above appropriations which are proper charges against any other department or against any firm, person, or corporation, if repaid within the period covered by such appropriations shall be considered reappointed for such original purpose; provided that the net total of expenditures under any appropriation shall not exceed the original total.

SECTION 23. The City Manager and City department heads are authorized to make expenditures for coffee, snacks, meals, refreshments, and other amenities, except alcohol, where such expenditures of public funds are for the public purpose benefiting the City and funding has been appropriated for such purpose. Such authorized public purposes include, but are not limited to:

- (a) Articles of presentation or events or meetings to which City employees are, and others may be, invited, where such expenditure is for the purpose of expressing the City's appreciation;
- (b) Events or meetings to which City employees are, and others may be, invited, where such expenditure is for the purpose of facilitating the public purpose of a particular event or meeting;
- (c) Events or meetings to which City employees are, and others may be, invited, where such expenditures is for the purpose of promoting or supporting the economic development goals of the City;
- (d) Events or meetings to which City employees are required to attend or participate in as part of the duties of their employment.

This section is intended to authorize the expenditure of public funds for proper public purposes in compliance with applicable law.

SECTION 24. Section 2.07 (11) of the City Charter requires City Council to annually review the investment policy of all funds held by the City. This review was completed as a component of the annual budget process for the fiscal year beginning January 1, 2024 and ending December 31, 2024.

SECTION 25. That this Ordinance shall become effective on the first day of January, 2024, as provided in Section 4.05 of the Charter of the City of Worthington, Ohio.

Passed _____

President of Council

Attest:

Clerk of Council



STAFF MEMORANDUM
City Council Meeting – November 20, 2023

Date: November 14, 2023

To: Robyn Stewart, Acting City Manager

From: Scott F. Bartter, Finance Director

Subject: Ordinance No. 27-2023 – 2024 Community Group Funding

EXECUTIVE SUMMARY

This Ordinance appropriates funds for Community Groups, including the Worthington Historical Society, the Worthington Partnership, the Worthington Chamber of Commerce and the McConnell Arts Center. This legislation was split from the original 2024 budget appropriation Ordinance to provide Council Members who may also be board members of these groups an opportunity to abstain from voting.

RECOMMENDATION

Introduce for Public Hearing on December 4, 2023.

BACKGROUND/DESCRIPTION

This Ordinance will appropriate General Fund funds for various Community Groups as shown below:

Worthington Historical Society	\$45,000
Worthington Partnership	\$85,000
General Community Group Funding	\$40,000
MAC Operating Grant	\$260,000
Arts Grants	\$5,000
Worthington Chamber	\$20,000

The Cultural Arts Center appropriation also includes funds for the McConnell Arts Center building, including HVAC, insurance, and building maintenance.

Additionally, \$75,000 is appropriated from the Convention and Visitor's Bureau (CVB) Fund which will be distributed to the Worthington Partnership to fund tourism activities. This amount includes the estimated amount from 66% of the hotel tax. A \$65,000 transfer from the General Fund to the CVB Fund was appropriated with the original budget Ordinance.

This is a total increase from the City Manager's Proposed Budget of \$52,800 for Community Group funding.

As with the primary budget Ordinance, this Ordinance will be introduced blank and amended at the public hearing to insert final numbers.

ATTACHMENTS

Ordinance No. 27-2023

ORDINANCE NO. 27-2023

Amending Ordinance No. 27-2023 (As Amended) to Adjust the Annual Budget by Providing for Appropriations From the General Fund and Convention and Visitor's Bureau Fund Unappropriated Balance's to Pay the Cost of Funding for Community Groups, Cultural Arts Center and Tourism Activities for 2024

WHEREAS, the Charter of the City of Worthington, Ohio, provides that City Council may at any time amend or revise the Budget by Ordinance, providing that such amendment does not authorize the expenditure of more revenue than will be available;

NOW, THEREFORE, BE IT ORDAINED by the Council of the Municipality of Worthington, County of Franklin, State of Ohio:

SECTION 1. That there be and hereby is appropriated from the General Fund and Convention and Visitor's Bureau Fund unappropriated balance to:

<u>Account No.</u>	<u>Description</u>	<u>Amount</u>
<u>General Fund #101</u>		
101.1140	Community Groups	\$ 0
101.1180	Cultural Arts Center	\$ 0
<u>Convention and Visitor's Bureau Fund #210</u>		
210.1170	CVB Activities	\$ 0

SECTION 2. That notice of passage of this Ordinance shall be posted in the Municipal Administration Building, the Worthington Library, the Griswold Center and the Worthington Community Center and shall set forth the title and effective date of the Ordinance and a statement that the Ordinance is on file in the office of the Clerk of Council. This Ordinance shall take effect and be in force from and after the earliest period allowed by law and by the Charter of the City of Worthington, Ohio.

Passed

President of Council

Attest:

Clerk of Council

Introduced
P.H.
Effective



STAFF MEMORANDUM
City Council Meeting – November 20th, 2023

Date: November 13th, 2023

To: Robyn Stewart, Acting City Manager

From: Scott F. Bartter, Finance Director

Subject: Additional Appropriations – General Fund and Capital Improvement Fund

EXECUTIVE SUMMARY

This legislation appropriates additional funds in the General Fund and the Capital Improvement Fund to provide additional funding for tax collection and income tax refund activity.

RECOMMENDATION

Introduce for Public Hearing on December 4, 2023.

FINANCIAL IMPLICATIONS

Increases appropriations in the General Fund by \$167,200
Increases appropriations in the Capital Improvement Fund by \$37,800

BACKGROUND/DESCRIPTION

The City allocates costs to administer the City's income tax and provide for income tax refunds between both the General Fund and the Capital Improvement Fund. The split generally matches the 80/20 split of the income tax revenue generated by the tax. The budget for income tax administration is set based upon estimated income tax revenue. Because 2024 income tax revenue is currently 10% over the estimate, additional funds are needed in the income tax collection expense lines.

Starting with the 2022 budget, the City added additional funding in the General Fund to provide for income tax refunds. This increase was in anticipation of work from home refunds, where tax is withheld by an employer to the City of Worthington – but the employee is spending a portion of their time working from a home outside the City. Year to date refunds in 2023 as of October 31st is \$703,226 and the original appropriation will not be sufficient for December refunds. The chart below shows refunds as of October 31st since 2009 and includes refunds as a percentage of collections.

		<u>Refunds as of 10/31</u>	<u>Total Collections</u>	<u>Refunds % of Collections</u>
2009	\$	421,410	\$ 13,247,615.76	3.18%
2010	\$	956,055	\$ 13,178,591.86	7.25%
2011	\$	472,359	\$ 16,502,247.56	2.86%
2012	\$	719,622	\$ 17,921,471.41	4.02%
2013	\$	487,971	\$ 18,945,075.41	2.58%
2014	\$	593,725	\$ 19,584,029.33	3.03%
2015	\$	572,003	\$ 19,888,410.39	2.88%
2016	\$	613,293	\$ 20,800,911.41	2.95%
2017	\$	554,440	\$ 22,594,900.63	2.45%
2018	\$	467,440	\$ 22,457,268.12	2.08%
2019	\$	640,919	\$ 22,527,722.00	2.85%
2020	\$	569,171	\$ 22,295,842.00	2.55%
2021	\$	370,598	\$ 26,136,575.00	1.42%
2022	\$	574,152	\$ 27,890,841.00	2.06%
2023	\$	703,726	\$ 28,443,115.85	2.47%

ATTACHMENTS

Ordonnance No. 28-2023

ORDINANCE NO. 28-2023

Amending Ordinance No. 39-2022 (As Amended) to
Adjust the Annual Budget by Providing for an
Appropriation from the General Fund and Capital
Improvement Fund.

WHEREAS, the Charter of the City of Worthington, Ohio, provides that City Council may at any time amend or revise the Budget by Ordinance, providing that such amendment does not authorize the expenditure of more revenue than will be available;

NOW, THEREFORE, BE IT ORDAINED by the Council of the Municipality of Worthington, County of Franklin, State of Ohio:

SECTION 1. That there be and hereby is appropriated from the General Fund and Capital Improvement Fund.

<u>Account No.</u>	<u>Description</u>	<u>Amount</u>
<u>General Fund #101</u>		
101.1050.540517	Tax Collection	\$ 63,200.00
101.1050.540586	Income Tax Refunds	\$ 104,000.00
Total General Fund		\$ 167,200.00
<u>Capital Improvement Fund #308</u>		
308.8110.540517	Tax Collection	\$ 11,800.00
308.8110.540586	Income Tax Refunds	\$ 26,000.00
Total Capital Improvement Fund		\$ 37,800.00

SECTION 2. That notice of passage of this Ordinance shall be posted in the Municipal Administration Building, the Worthington Library, the Griswold Center and the Worthington Community Center and shall set forth the title and effective date of the Ordinance and a statement that the Ordinance is on file in the office of the Clerk of Council. This Ordinance shall take effect and be in force from and after the earliest period allowed by law and by the Charter of the City of Worthington, Ohio.

Passed _____

President of Council

Attest:

Clerk of Council

Introduced
P.H



STAFF MEMORANDUM
City Council Meeting – November 20, 2023

Date: November 7, 2023

To: Robyn Stewart, Acting City Manager
David McCorkle, Assistant City Manager

From: R. Lee Brown, Director of Planning & Building

Subject: Ordinance to refer Chicken Regulations to the Municipal Planning Commission for review – APZ 02-2023

EXECUTIVE SUMMARY

This Ordinance will refer Chicken Regulations to the Municipal Planning Commission for review.

RECOMMENDATION

Introduce and refer to the Municipal Planning Commission as presented.

BACKGROUND/DESCRIPTION

In early 2023 City Council discussed exploring the City's restrictions on permitting backyard chickens. At the May 1, 2023, City Council meeting, City staff was directed to review proposed Code language that would change the current chicken regulation to be less restrictive by the end of 2023.

Since then, Public Policy Intern Alex Novitski was tasked with exploring more in-depth the approaches other communities have utilized to permit backyard chickens and identifying key regulatory areas that should be examined further. As Worthington contracts with Columbus Public Health (CPH) to provide public health services, staff met with CPH to discuss their backyard chicken permitting process and learn more about their approach's public health rationale.

On October 9, 2023, City staff invited Dr. Aaron K. Messer who is the Public Health Veterinarian and Registered Environmental Health Specialist with Columbus Public Health to review their program with City Council to answer questions. After the presentation, City

Council directed staff to draft regulations that would permit backyard chickens in the City of Worthington following the City of Columbus's guidelines for backyard chickens.

City staff is working on draft language that would lessen the setback restriction for backyard chickens while following Columbus Public Health Guidelines for backyard chickens. City Council needs to formally refer this item to the Municipal Planning Commission for review. The Municipal Planning Commission is anticipating reviewing these proposed changes at their meeting on December 14, 2023. If approved, the Municipal Planning Commission will then refer their recommendation back to City Council for final approval. If approved by City Council in January 2024, the proposed changes would be effective 60-days after approval.

ATTACHMENTS

Ordinance No. 29-2023

ORDINANCE NO. 29-2023

To Amend Section 505.05, Section 1123.02 and
1149.08 of the Codified Ordinances of the City of
Worthington to Regulate Chickens.

WHEREAS, it is the wish of City Council to monitor and revise the Planning and Zoning Code of the City to ensure economic viability and preserve the character of the City; and

WHEREAS, the Codified Ordinances requires City Council to refer any district boundaries or classification changes to properties to the Municipal Planning Commission for a recommendation; and

WHEREAS, the Municipal Planning Commission will review this item on December 14, 2023 and forward its recommendation based on the Planning Goals of the City, as referenced in the Land Use Plans.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Municipality of Worthington, County of Franklin, State of Ohio:

SECTION 1. That Section 505.08, Section 1123.02 and Section 1149.08 of the Codified Ordinances be and hereby is amended by regulating chickens within the City of Worthington.

SECTION 2. That notice of passage of this Ordinance shall be posted in the Municipal Administration Building, the Worthington Library, the Griswold Center and Worthington Community Center and shall set forth the title and effective date of the Ordinance and a statement that the Ordinance is on file in the office of the Clerk of Council. This Ordinance shall take effect and be in force from and after the earliest period allowed by law and by the Charter of the City of Worthington, Ohio.

Passed:

President of Council

Attest:

Clerk of Council

Introduced November 20, 2023
MPC December 14, 2023
P.H.
Effective

**CODIFIED
ORDINANCES
OF THE
CITY OF
WORTHINGTON
OHIO**

Local legislation current through January 1, 2023

State legislation current through June 28, 2022

CERTIFICATION

We, David W. Robinson, Council President, and D. Kay Thress, Council Clerk, of Worthington, Ohio, pursuant to Charter Section 2.18 and Ohio Revised Code 731.23 and 731.42, hereby certify that the general and permanent ordinances of the City of Worthington, Ohio, as revised, rearranged, compiled, renumbered as to sections, codified and printed herewith in component codes are correctly set forth and constitute the Codified Ordinances of the City of Worthington, Ohio, 1990, as amended to January 1, 2023.

/s/ David W. Robinson
Council President

/s/ D. Kay Thress
Council Clerk

Codified, edited and prepared for
publication by
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Cleveland, Ohio

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CITY OF WORTHINGTON

ROSTER OF OFFICIALS

(2023)

COUNCIL

David W. Robinson, President
 Katherine Brewer, President Pro-Tem
 Peter Bucher
 Rebecca Hermann
 Beth Kowalczyk
 Bonnie D. Michael
 Douglas K. Smith

OFFICIALS

Robyn M. Stewart	Acting City Manager
David McCorkle	Assistant City Manager/Economic Development Director
Lori A. Trego	Assistant to the City Manager/Personnel Director
Anne Brown	Assistant to the City Manager/Communications Director
D. Kay Thress	City Clerk/Clerk of Council
Grace Brown	City Clerk
Anne Brown	Director of Communications
Scott Bartter	Director of Finance
Gene Oliver	Director of IT
Tom Lindsey	Director of Law
Darren Hurley	Director of Parks and Recreation
Lori Trego	Director of Personnel
R. Lee Brown	Director of Planning and Building
John Moorehead	Director of Public Service and Engineering
Mark Zambito	Chief of Fire and Emergency Medical Services
Vacant	Chief of Police

JUDICIAL

Scott D. Holmes, Mayor

The publisher
expresses his appreciation
to

MICHAEL E. MINISTER
Director of Law

DAVID B. ELDER
City Manager

PAUL J. FELDMAN
Assistant City Manager

JANICE YARRINGTON
City Clerk/Clerk of Council

and to all other City officials
who gave their time and counsel
in the 1990 recodification
of the City's ordinances
and the current update.

GENERAL INDEX

EDITOR'S NOTE: References are to individual code sections. As additional aids for locating material, users are directed to:

- (a) The Comparative Section Table, which indicates in the Codified Ordinances the disposition of the ordinances or resolutions integrated therein.
- (b) The Table of Contents preceding each component code, and the sectional analysis preceding each chapter.
- (c) The cross references to related material following the chapter analysis.

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			11-2017	4-3-17	737.06
			12-2017	4-3-17	1123.491, 1147.01
			20-2017	6-19-17	529.07
			26-2017	7-17-17	943.01 to 943.03

COMPARATIVE SECTION TABLE

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			11-2022	5-9-22	505.16
			16-2022	6-6-22	551.01 to 551.05, 551.99
			34-2022	10-3-22	537.14
			35-2022	10-17-22	525.01, 525.20, 525.21
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38-2018	7-16-18	955.01 to 955.12, 955.99			
39-2018	7-16-18	1501.01 to 1501.03, 1501.09, 1501.99; repeals 1501.04, 1501.08			
44-2018	9-17-18	765.01 to 765.05			
50-2018	11-19-18	151.02			
51-2018	11-19-18	1123.762, 1147.01			
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15-2019	5-6-19	1301.05 to 1301.07, 1305.01, 1305.06 to 1305.09, 1311.01, 1311.02, 1311.07			
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15-2020	3-16-20	507.01			
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46-2021	10-4-21	903.11			
47-2021	10-4-21	757.03			

121.05 REGULAR MEETINGS; RECESS.

(a) Regular meetings of Council shall be held in the Council Chambers at 7:00 p.m. on the first, second and third Monday of each month or, if such day is a legal holiday, at 7:00 p.m. on the following day. (Ord. 05-2022. Passed 3-7-22.)

(b) Council may, by a vote of a majority of a quorum present at a regular meeting, change the day of holding the next subsequent regular meeting, or recess any regular meeting to continue at a future date. No such recess shall continue beyond the date of the next regular meeting of Council.

(c) In case of an emergency, such as inclement weather or other unforeseen circumstances, or the absence of sufficient business to warrant a meeting being held, a regular meeting may be cancelled by the Clerk of Council upon the joint request of the President of Council and the President Pro Tem. The business that was to be conducted at the cancelled meeting shall be presented at the next regular meeting of Council or at a special meeting.

(d) The time or location of a regular meeting may be changed by the Clerk of Council upon the joint request of the President of Council and the President Pro Tem at least twenty-four hours in advance of the regularly scheduled time. The Clerk of Council shall deliver notice of the new time or location to each member of Council in person or by telephone, email, text, or other electronic delivery at least twenty-four hours before the new time set for the meeting. The Clerk of Council shall post notice of the new time or location at the City building and on the City's website and provide it to the news media that have requested notification. (Ord. 03-2021. Passed 1-19-21.)

121.06 SPECIAL MEETINGS; NOTICE AND SERVICE.

(a) A special meeting of Council shall be called by the Clerk of Council on written request of the President of Council, the City Manager, or any three members of Council. Such request shall state the date, time, place, and purpose for which the meeting is called and the Clerk of Council shall, in the notice of the meeting, include such date, time, place, and purpose. No other subject may be considered than that specified in the notice except by vote of five members of Council present at such special meeting.

(b) The Clerk of Council shall deliver the notice of any special meeting of Council to each member of Council in person or cause it to be delivered to the member's usual place of residence at least twenty-four hours before the time set for convening the special meeting.

(c) The Clerk of Council shall post the notice of the special meeting at the City building and on the City's website and provide it to the news media that have requested notification.

(d) Any member of Council may waive, in writing, notice of any special meeting. The attendance by a member at any special meeting shall be deemed a waiver of any required notice required.

(e) In case of an emergency, such as inclement weather or other unforeseen circumstances, or the absence of sufficient business to warrant a meeting being held, a special meeting may be cancelled by the Clerk of Council only upon the request of the person or persons that requested the special meeting.

(f) In the event of an emergency requiring immediate official action as determined in the sole and final judgment of the person or persons requesting the special meeting, notice of a special meeting may be provided by telephone, email, text, or other electronic delivery at least eight hours before the time set for the meeting. No other subject may be considered than the purpose specified in the notice.

(g) The requirements of actual notice of any special meeting shall have been complied with if the Clerk of Council makes a reasonable attempt at such notice. No action by City Council shall be invalid for lack of actual notice provided there was a reasonable attempt at actual notice by the Clerk of Council.

(Ord. 03-2021. Passed 1-19-21.)

121.07 QUORUM.

A majority of all the members elected to Council shall constitute a quorum for the transaction of business at any regular or special meeting of Council. If, at the time fixed for the opening of any such meeting, a quorum is not present, those who are present may adjourn.

(Ord. 03-2021. Passed 1-19-21.)

121.08 AGENDA FOR REGULAR MEETINGS.

The agenda of business to be considered at each regular meeting of Council shall be prepared by the City Manager after consultation with the President of Council and made available to each member of Council by 10:00 a.m. of the Saturday preceding the meeting. The documents relating to each agenda item shall accompany the agenda and shall also be made available at the time indicated at the City Hall. A copy of the agenda, without the supporting documents, shall be delivered to each department head and made available in the Council Chambers for the use of citizens and representatives of the press who attend the meeting.

121.09 PRESIDING OFFICER.

At the time fixed for the convening of a regular or special meeting of Council the President of Council shall assume the chair and call the meeting to order.

121.10 ABSENCE OF CLERK OF COUNCIL.

If at the time set for the opening of a meeting of Council the Clerk of Council is not present, the President of Council shall appoint some qualified administrative officer or employee of the City who is present to serve as Clerk of Council pro tempore.

121.11 PETITIONS.

All persons who desire to present problems, petitions or grievances to Council may do so by presenting their views in writing to the Clerk of Council, prior to regular meetings, or by registering their names, addresses and subject matter on a form provided at each Council meeting, to enable the President of Council to allocate appropriate time for oral presentations. The President of Council may limit the number of speakers to be heard and the length of time to be devoted to any single problem. (Ord. 03-2021. Passed 1-19-21.)

121.12 REPORTS.

The Mayor shall report to Council in writing at least quarterly concerning the duties with which the Mayor is charged. The City Manager shall report to Council in writing at each meeting.

CHAPTER 337 Safety and Equipment

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| <p>337.01 Driving unsafe vehicles.</p> <p>337.02 Lighted lights; measurement of distances and heights.</p> <p>337.03 Headlights on motor vehicles and motorcycles.</p> <p>337.04 Tail light; illumination of rear license plate.</p> <p>337.05 Rear red reflectors.</p> <p>337.06 Safety lighting on commercial vehicles.</p> <p>337.07 Obscured lights on vehicles in combination.</p> <p>337.08 Red light or red flag on extended loads.</p> <p>337.09 Lights on parked or stopped vehicles.</p> <p>337.10 Lights, emblems, and reflectors on slow-moving vehicles, farm machinery, agricultural tractors, and animal-drawn vehicles.</p> <p>337.11 Spotlight and auxiliary lights.</p> <p>337.12 Cowl, fender and back-up lights.</p> <p>337.13 Display of lighted lights.</p> <p>337.14 Use of headlight beams.</p> <p>337.15 Lights of less intensity on slow-moving vehicles.</p> | <p>337.16 Number of lights; limitations on flashing, oscillating or rotating lights.</p> <p>337.17 Focus and aim of headlights.</p> <p>337.18 Motor vehicle and motorcycle brakes.</p> <p>337.19 Horn, siren and theft alarm signal.</p> <p>337.20 Muffler; muffler cutout; excessive smoke, gas or noise.</p> <p>337.21 Rear-view mirror; clear view to front, both sides and rear.</p> <p>337.22 Windshield and windshield wiper; sign or poster thereon.</p> <p>337.23 Limited load extension on left side of passenger vehicle.</p> <p>337.24 Motor vehicle stop lights.</p> <p>337.25 Air cleaner required.</p> <p>337.26 Child restraint system usage.</p> <p>337.27 Drivers and passengers required to wear seat belts.</p> <p>337.28 Use of sunscreening, nontransparent and reflectorized materials.</p> <p>337.29 Bumper heights.</p> <p>337.30 Directional signals required.</p> |
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CROSS REFERENCES

See sectional histories for similar State law

Warning devices for commercial vehicles disabled upon freeways - see Ohio R.C. 4513.28

Slow moving vehicle emblem - see OAC Ch. 4501.13

Motorized bicycle lights and equipment - see Ohio R.C. 4511.521

Vehicle lighting - see OAC 4501-15

Use of stop and turn signals - see TRAF. 331.14

Wheel protectors for commercial vehicles - see TRAF. 339.05

Vehicles transporting explosives - see TRAF. 339.06

Towing requirements - see TRAF. 339.07

Use of studded tires and chains - see TRAF. 339.11

Bicycle equipment - see TRAF. 373.05 et seq.

337.01 DRIVING UNSAFE VEHICLES.

(a) No person shall drive or move, or cause or knowingly permit to be driven or moved, on any street any vehicle or combination of vehicles which is in such unsafe condition as to endanger any person or property.

(b) Nothing contained in this chapter shall be construed to prohibit the use of additional parts and accessories on any vehicle not inconsistent with the provisions of this chapter.

(c) The provisions of this chapter with respect to equipment on vehicles do not apply to implements of husbandry, road machinery, road rollers or agricultural tractors except as made applicable to such articles of machinery. (ORC 4513.02)

(d) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.99)

337.02 LIGHTED LIGHTS; MEASUREMENT OF DISTANCES AND HEIGHTS.

(a) Every vehicle, other than a motorized bicycle, operated upon a street or highway shall display lighted lights and illuminating devices as required by this chapter during all of the following times:

- (1) The time from sunset to sunrise;
- (2) At any other time when, due to insufficient natural light or unfavorable atmospheric conditions, persons, vehicles, and substantial objects on the street or highway are not discernible at a distance of one thousand feet ahead;
- (3) At any time when the windshield wipers of the vehicle are in use because of precipitation on the windshield.

Every motorized bicycle shall display at such times lighted lights meeting the rules adopted by the Ohio Director of Public Safety under Ohio R.C. 4511.521. No motor vehicle, during any time specified in this section, shall be operated upon a street or highway using only parking lights as illumination.

(b) Whenever in this chapter a requirement is declared as to the distance from which certain lights and devices shall render objects visible, or within which such lights or devices shall be visible, such distance shall be measured upon a straight level unlighted street under normal atmospheric conditions unless a different condition is expressly stated.

(c) Whenever in this chapter a requirement is declared as to the mounted height of lights or devices, it shall mean from the center of such light or device to the level ground upon which the vehicle stands.

(d) Notwithstanding any provision of law to the contrary, no law enforcement officer shall cause the operator of a vehicle being operated upon a street or highway to stop the vehicle solely because the officer observes that a violation of subsection (a)(3) of this section has been or is being committed or for the sole purpose of issuing a ticket, citation or summons for a violation of that subsection, or causing the arrest of or commencing a prosecution of a person for a violation of that subsection.

337.09 LIGHTS ON PARKED OR STOPPED VEHICLES.

(a) Except in case of an emergency, whenever a vehicle is parked or stopped upon a roadway open to traffic or shoulder adjacent thereto, whether attended or unattended during the times mentioned in Section 337.02, such vehicle shall be equipped with one or more lights which shall exhibit a white or amber light on the roadway side visible from a distance of 500 feet to the front of such vehicle, and a red light visible from a distance of 500 feet to the rear. No lights need be displayed upon any such vehicle when it is stopped or parked where there is sufficient light to reveal any person or substantial object within a distance of 500 feet upon such street. Any lighted headlights upon a parked vehicle shall be depressed or dimmed. (ORC 4513.10)

(b) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.99)

337.10 LIGHTS, EMBLEMS AND REFLECTORS ON SLOW-MOVING VEHICLES, FARM MACHINERY, AGRICULTURAL TRACTORS, AND ANIMAL-DRAWN VEHICLES.

(a) Definitions. As used in this section:

- (1) **BOAT TRAILER.** Means any vehicle designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a street or highway for a distance of no more than ten miles and at a speed of twenty-five miles per hour or less.
- (2) **SLOW-MOVING VEHICLE and SMV.** Mean a boat trailer, unit of farm machinery, road construction machinery, or other machinery designed by the manufacturer to operate at a speed of twenty-five miles per hour or less. The term does not include a bicycle, motorized bicycle, electric bicycle, or animal-drawn vehicle. (ORC 4513.11)

(b) Generally.

- (1) At the times specified in Ohio R.C. 4513.03, no person shall operate either of the following vehicles unless it is equipped with and displays the lamps described in subsection (b)(2) of this section.
 - A. A vehicle not specifically required to be equipped with lamps or other lighting devices by Ohio R.C. 4513.03 to 4513.10;
 - B. A vehicle referred to in Ohio R.C. 4513.02(G).
- (2) Vehicles described in subsection (b)(1) of this section shall be equipped with both of the following:
 - A. At least one lamp displaying a white light visible from a distance of not less than 1,000 feet to the front of the vehicle;
 - B. Two lamps displaying red light visible from a distance of not less than 1,000 feet to the rear of the vehicle, or as an alternative, one lamp displaying a red light visible from a distance of not less than 1,000 feet to the rear and two red reflectors visible from all distances of 600 feet to 100 feet to the rear when illuminated by the lawful lower beams of headlamps.
- (3) A. At the times specified in Ohio R.C. 4513.03, no person shall operate a multi-wheel agricultural tractor model year 2001 or earlier on a street or highway unless it is equipped with and displays reflectors and illuminated amber lamps so that the extreme left and right projections of the tractor are indicated by all of the following:
 1. Flashing lamps displaying amber light, visible to the front and the rear. The lamps need not flash simultaneously and need not flash in conjunction with any directional signals of the tractor;

2. Amber reflectors, all visible to the front;
3. Red reflectors, all visible to the rear.
- B. Rules adopted by the Ohio Director of Public Safety under Ohio R.C. 4513.111 governing the lamps and reflectors described in subsection (b)(3)A. of this section and their placement correlate with and, as far as possible, conform with paragraphs 4.1.4.1, 4.1.7.1 and 4.1.7.2 respectively of the American Society of Agricultural Engineers Standard ANSI/ASAE S279.10 OCT98, Lighting and Marking of Agricultural Equipment on Highways.
- (4) At the times specified in Ohio R.C. 4513.03, no person shall operate a unit of farm machinery model year 2002 or later on a street or highway unless it is equipped with and displays markings and illuminated lamps that meet or exceed the lighting, illumination and marking standards and specifications that are applicable to that type of farm machinery for the unit's model year specified in the American Society of Agricultural Engineers Standard ANSI/ASAE S279.10 OCT 98, lighting and marking of agricultural equipment on highways.
- (5) Any unit of farm machinery designed by its manufacturer to operate at a speed of twenty-five miles per hour or greater or any SMV may be equipped with and display a red flashing light that is visible from a distance of not less than 1,000 feet to the rear at all times specified in Ohio R.C. 4513.03. When a double-faced light is used, it shall display amber light to the front and red light to the rear.
- (6) Lights and reflectors required under subsections (b)(3) and (b)(4) of this section and authorized under subsection (b)(5) of this section are in addition to other lights required or permitted by this subsection (b) or Ohio R.C. 4513.17.
- (7) The Ohio Director of Public Safety shall adopt rules in accordance with Ohio R.C. Chapter 119 Code that establish standards and specifications for lamps and reflectors required or authorized by this section. Lamps and reflectors required or authorized by this section shall meet those standards and specifications.
- (8) This subsection (b) does not apply to a bicycle, motorized bicycle, electric bicycle, or animal-drawn vehicle.
- (9) Whoever violates this subsection (b) is guilty of a minor misdemeanor. (ORC 4513.111)
- (c) Slow-Moving Vehicles.
 - (1) Except as otherwise provided in this section, no person shall operate an SMV on a street or highway as follows:
 - A. At a speed exceeding twenty-five miles per hour;
 - B. Without displaying the triangular SMV emblem mounted in accordance with subsection (c)(2) of this section.
 - (2) The SMV emblem shall be mounted so as to be visible from a distance of not less than 500 feet to the rear. In accordance with Ohio R.C. Chapter 119, the Ohio Director of Public Safety shall adopt standards and specifications for the design and position of mounting the SMV emblem. The standards and specifications for the SMV emblem correlate with and, so far as possible, conform with those approved by the American Society of Agricultural Engineers.
 - (3) A person may operate an SMV on a street or highway without displaying the triangular SMV emblem when any of the following apply:

- A. The SMV is being used in actual construction and maintenance work in an area guarded by a flagperson, or where flares are used;
 - B. The SMV is operating or traveling within the limits of a construction area designated by the Ohio Director of Transportation, a city engineer, or the county engineer of the several counties, when such construction area is marked in accordance with requirements of the Ohio Director of Transportation and the Manual of Uniform Traffic Control Devices, as set forth in Ohio R.C. 4511.09.
- (4) No person shall display an SMV emblem on any of the following:
 - A. Any vehicle not required to use the SMV emblem by this subsection (c) or Ohio R.C. 4513.113 or 4513.114;
 - B. An SMV being transported upon any other vehicle;
 - C. Any stationary object on the highway.
 - (5) No person shall sell, lease, rent or operate an SMV, except a unit designed to be completely mounted on a primary power unit that is manufactured or assembled on or after April 1, 1966, unless it is equipped with an SMV emblem mounting device.
 - (6) Whoever violates subsection (c) is guilty of a minor misdemeanor. (ORC 4513.112)
- (d) Farm Machinery and Agricultural Tractors.
- (1) No person shall sell, lease, rent or operate on a street or highway any unit of farm machinery that is designed by its manufacturer to operate at a speed greater than twenty-five miles per hour unless the unit displays both of the following:
 - A. The SMV emblem mounted in accordance with Ohio R.C. 4513.112(B);
 - B. A speed identification symbol that does both of the following:
 - 1. Meets the specifications contained in the American Society of Agricultural Engineers Standard ANSI/ASAE S584 JAN2005, Agricultural Equipment: Speed Identification Symbol (SIS);
 - 2. Indicates the maximum speed in miles per hour at which the unit of farm machinery is designed by its manufacturer to operate;
 - (2) No person operating a tractor on a street or highway that is designed by its manufacturer to operate at a speed greater than twenty-five miles per hour and that is towing, pulling or otherwise drawing a unit of farm machinery while operating at a speed greater than twenty-five miles per hour shall fail to display both of the following on the unit of farm machinery:
 - A. The SMV emblem;
 - B. The speed identification symbol that matches the speed identification symbol required to be displayed on the agricultural tractor;
 - (3) No person shall operate an agricultural tractor that is designed by its manufacturer to operate at a speed greater than twenty-five miles per hour unless the person possesses documentation published or provided by the manufacturer indicating the maximum speed in miles per hour at which the manufacturer designed the agricultural tractor to operate;
 - (4) Whoever violates this subsection (d) is guilty of a minor misdemeanor. (ORC 4513.113)

(e) Animal-Drawn Vehicles.

- (1) Except as otherwise provided in subsection (e)(4) of this section, no person shall operate an animal-drawn vehicle on a street or highway unless it is equipped with and displays, at the times specified in Ohio R.C. 4513.03, both of the following:
 - A. At least one lamp displaying a white light visible from a distance of not less than 1,000 feet to the front of the animal-drawn vehicle;
 - B. Two lamps displaying red light visible from a distance of not less than 1,000 feet to the rear of the animal-drawn vehicle, or as an alternative, one lamp displaying a red light visible from a distance of not less than 1,000 feet to the rear and two red reflectors visible from all distances of 600 feet to one hundred feet to the rear when illuminated by the lawful lower beams of headlamps.
- (2) Except as otherwise provided in subsection (e)(4) of this section, no person shall operate an animal-drawn vehicle on a street or highway unless it is equipped with and displays, at all times, all of the following:
 - A. One yellow flashing lamp displaying yellow light that is visible from a distance of not less than 1,000 feet and that is mounted in either of the following positions:
 1. On the top most portion of the rear of the animal-drawn vehicle;
 2. On the top of the animal-drawn vehicle;
 - B. At least one of the following:
 1. An SMV emblem mounted in accordance with Ohio R.C. 4513.112(B);
 2. Micro-prism reflective tape that is visible from a distance of not less than 500 feet to the rear when illuminated by the lawful lower beams of headlamps;
 3. Both an SMV emblem and micro-prism reflective tape, as specified in this division.
 - C. Lamps and micro-prism reflective tape required by this section shall meet standards and specifications adopted by the Ohio Director of Public Safety under Ohio R.C. 4513.114.
- (3) The Ohio Director of Public Safety, in accordance with Ohio R.C. Chapter 119, shall adopt rules establishing standards and specifications for the position and mounting of the lamps and micro-prism reflective tape required by Ohio R.C. 4513.114. The rules permit the micro-prism reflective tape to be red, amber, white, or silver in color.
- (4)
 - A. Subsections (e)(1) and (e)(2) of this section do not apply to the operator of animal-drawn agricultural equipment who is not transporting any livestock or a person other than the operator.
 - B. No operator described in subsection (e)(4)A. of this section shall operate animal-drawn agricultural equipment unless it is equipped with and displays, at all times, the SMV emblem mounted in accordance with Ohio R.C. 4513.112(B).
 - C. As used in subsection (e)(4) of this section, "animal-drawn agricultural equipment" means equipment drawn by the muscular power of an animal that is used solely for agricultural purposes. "Animal-drawn agricultural equipment" includes any of the following:
 1. A plow;
 2. A manure spreader;
 3. A thresher.

- (5) Whoever violates this subsection (e) is guilty of a minor misdemeanor.
(ORC 4513.114)

(f) **Strict Liability Offenses.** The offenses established under this section are strict liability offenses, and Ohio R.C. 2901.20 does not apply. 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.
(ORC 4513.115)

337.11 SPOTLIGHT AND AUXILIARY LIGHTS.

(a) Any motor vehicle may be equipped with not more than one spotlight and every lighted spotlight shall be so aimed and used upon approaching another vehicle that no part of the high-intensity portion of the beam will be directed to the left of the prolongation of the extreme left side of the vehicle, nor more than 100 feet ahead of the vehicle.

(b) Any motor vehicle may be equipped with not more than three State approved auxiliary driving lights mounted on the front of the vehicle, which when used shall conform to State regulations.

(c) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.12)

337.12 COWL, FENDER AND BACK-UP LIGHTS.

(a) Any motor vehicle may be equipped with side cowl or fender lights or lights on each side thereof which shall emit a white or amber light without glare.

(b) Any motor vehicle may be equipped with back-up lights, either separately or in combination with another light. No back-up lights shall be continuously lighted when the motor vehicle is in forward motion.

(c) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.13)

337.13 DISPLAY OF LIGHTED LIGHTS.

(a) At all times mentioned in Section 337.02 at least two State approved lighted lights shall be displayed conforming to State regulations, one near each side of the front of every motor vehicle, except when such vehicle is parked subject to the regulations governing lights on parked vehicles. (ORC 4513.14)

(b) However, on a motorcycle, there shall be displayed at least one and not more than two lighted lights as required herein.

(c) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.14)

337.14 USE OF HEADLIGHT BEAMS.

(a) Whenever a motor vehicle is being operated on a roadway or shoulder adjacent thereto during the times specified in Section 337.02, the driver shall use a distribution of light, or composite beam, directed high enough and of sufficient intensity to reveal persons, vehicles and substantial objects at a safe distance in advance of the vehicle, except that upon approaching an oncoming vehicle, the lights or beams shall be so aimed that the glaring rays are not projected into the eyes of the oncoming driver.

(b) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.15)

337.15 LIGHTS OF LESS INTENSITY ON SLOW-MOVING VEHICLES.

(a) Any motor vehicle may be operated under the conditions specified in Section 337.02 when it is equipped with two lighted lights upon the front thereof capable of revealing persons and substantial objects seventy-five feet ahead in lieu of lights required in Section 337.13, provided that such vehicle shall not be operated at a speed in excess of twenty miles per hour.

(b) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.16)

337.16 NUMBER OF LIGHTS; LIMITATIONS ON FLASHING, OSCILLATING OR ROTATING LIGHTS.

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

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

- (c) (1) Flashing lights are prohibited on motor vehicles, except as a means for indicating a right or left turn, or in the presence of a vehicular traffic hazard requiring unusual care in approaching, or overtaking or passing.
- (2) The prohibition in subsection (c)(1) of this section does not apply to any of the following:
- A. Emergency vehicles, road service vehicles servicing or towing a disabled vehicle, stationary waste collection vehicles actively collecting garbage, refuse, trash or recyclable materials on the roadside, rural mail delivery vehicles, vehicles as provided in Ohio R.C. 4513.182, highway maintenance vehicles, and similar equipment operated by state or local authorities, provided such vehicles are equipped with and display, when used on a street or highway for the special purpose necessitating such lights, a flashing, oscillating or rotating amber light;
 - B. Vehicles or machinery permitted by Ohio R.C. 4513.111 to have a flashing red light;
 - C. Farm machinery and vehicles escorting farm machinery, provided such machinery and vehicles are equipped with and display, when used on a street or highway, a flashing, oscillating or rotating amber light. Farm machinery also may display the lights described in Ohio R.C. 4513.111.
 - D. A funeral hearse or funeral escort vehicle, provided that the funeral hearse or funeral escort vehicle is equipped with and displays, when used on a street or highway for the special purpose necessitating such lights, a flashing, oscillating or rotating purple or amber light;
- (3) Subsection (c)(1) of this section does not apply to animal-drawn vehicles subject to Ohio R.C. 4513.114.

- (d) (1) Except a person operating a public safety vehicle, as defined in Ohio R.C. 4511.01(E), or a school bus, no person shall operate, move, or park upon, or permit to stand within the right-of-way of any public street or highway any vehicle or equipment that is equipped with and displaying a flashing red or a flashing combination red and white light, or an oscillating or rotating red light, or a combination red and white oscillating or rotating light.
- (2) Except a public law enforcement officer, or other person sworn to enforce the criminal and traffic laws of the state, operating a public safety vehicle when on duty, no person shall operate, move, or park upon, or permit to stand within the right-of-way of any street or highway any vehicle or equipment that is equipped with, or upon which is mounted, and displaying a flashing blue or a flashing combination blue and white light, or an oscillating or rotating blue light, or a combination blue and white oscillating or rotating light.

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

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

337.17 FOCUS AND AIM OF HEADLIGHTS.

(a) No person shall use any lights mentioned in Section 337.02 to 337.16, inclusive, upon any motor vehicle, trailer or semitrailer unless the lights are equipped, mounted and adjusted as to focus and aim in accordance with State regulations.

(b) The headlights on any motor vehicle shall comply with the headlamp color requirements contained in federal motor vehicle safety standard number 108, 49 C.F.R. 571.108. No person shall operate a motor vehicle in violation of this subsection.

(c) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.19)

337.18 MOTOR VEHICLE AND MOTORCYCLE BRAKES.

(a) The following requirements govern as to brake equipment on vehicles:

- (1) Every motor vehicle, other than a motorcycle, when operated upon a street or highway, shall be equipped with brakes adequate to control the movement of and to stop and hold such motor vehicle, including two separate means of applying the brakes, each of which means shall be effective to apply the brakes to at least two wheels. If these two separate means of applying the brakes are connected in any way, then on such motor vehicles manufactured or assembled after January 1, 1942, they shall be so constructed that failure of any one part of the operating mechanism shall not leave the motor vehicle without brakes on at least two wheels.
- (2) Every motorcycle, when operated upon a street or highway, shall be equipped with at least one adequate brake, which may be operated by hand or by foot.

- (3) Every motorized bicycle shall be equipped with brakes meeting the rules adopted by the Ohio Director of Public Safety under Ohio R.C. 4511.521.
- (4) When operated upon the streets or highways of this Municipality, the following vehicles shall be equipped with brakes adequate to control the movement of and to stop and to hold the vehicle designed to be applied by the driver of the towing motor vehicle from its cab, and also designed and connected so that, in case of a breakaway of the towed vehicle, the brakes shall be automatically applied:
 - A. Except as otherwise provided in this section, every trailer or semitrailer, except a pole trailer, with an empty weight of two thousand pounds or more, manufactured or assembled on or after January 1, 1942;
 - B. Every manufactured home or travel trailer with an empty weight of two thousand pounds or more, manufactured or assembled on or after January 1, 2001.
- (5) Every watercraft trailer with a gross weight or manufacturer's gross vehicle weight rating of three thousand pounds or more that is manufactured or assembled on or after January 1, 2008, shall have separate brakes equipped with hydraulic surge or electrically operated brakes on two wheels.
- (6) In any combination of motor-drawn trailers or semitrailers equipped with brakes, means shall be provided for applying the rearmost brakes in approximate synchronism with the brakes on the towing vehicle, and developing the required braking effort on the rearmost wheels at the fastest rate; or means shall be provided for applying braking effort first on the rearmost brakes; or both of the above means, capable of being used alternatively, may be employed.
- (7) Every vehicle and combination of vehicles, except motorcycles and motorized bicycles, and except trailers and semitrailers of a gross weight of less than 2,000 pounds, and pole trailers, shall be equipped with parking brakes adequate to hold the vehicle on any grade on which it is operated, under all conditions of loading, on a surface free from snow, ice or loose material. The parking brakes shall be capable of being applied in conformance with the foregoing requirements by the driver's muscular effort or by spring action or by equivalent means. Their operation may be assisted by the service brakes or other sources of power provided that failure of the service brake actuation system or other power assisting mechanism will not prevent the parking brakes from being applied in conformance with the foregoing requirements. The parking brakes shall be so designed that when once applied they shall remain applied with the required effectiveness despite exhaustion of any source of energy or leakage of any kind.
- (8) The same brake drums, brake shoes and lining assemblies, brake shoe anchors, and mechanical brake shoe actuation mechanism normally associated with the wheel brake assemblies may be used for both the service brakes and the parking brakes. If the means of applying the parking brakes and the service brakes are connected in any way, they shall be so constructed that failure of any one part shall not leave the vehicle without operative brakes.

- (9) Every motor vehicle or combination of motor-drawn vehicles shall be capable at all times and under all conditions of loading of being stopped on a dry, smooth, level road free from loose material, upon application of the service or foot brake, within the following specified distances, or shall be capable of being decelerated at a sustained rate corresponding to these distances:

<u>From a speed of 20 miles per hour</u>		
	<u>Stopping distance</u>	<u>Deceleration in</u>
	<u>in feet</u>	<u>feet per second</u>
		<u>per second</u>
Brakes on all wheels	30	14
Brakes not on all four wheels	40	10.7

- (10) All brakes shall be maintained in good working order and shall be so adjusted as to operate as equally as practicable with respect to the wheels on opposite sides of the vehicle. (ORC 4513.20)

- (b) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.99)

337.19 HORN, SIREN AND THEFT ALARM SIGNAL.

- (a) Every motor vehicle when operated upon a street shall be equipped with a horn which is in good working order and capable of emitting sound audible, under normal conditions, from a distance of not less than 200 feet.

(b) No motor vehicle shall be equipped with, nor shall any person use upon a vehicle, any siren, whistle or bell. Any vehicle may be equipped with a theft alarm signal device which shall be so arranged that it cannot be used as an ordinary warning signal. Every emergency or public safety vehicle shall be equipped with a siren, whistle or bell capable of emitting sound audible under normal conditions from a distance of not less than 500 feet and of a type approved by the Ohio Director of Public Safety. Such equipment shall not be used except when such vehicle is operated in response to an emergency call or is in the immediate pursuit of an actual or suspected violator of the law, in which case the driver of the emergency or public safety vehicle shall sound such equipment when it is necessary to warn pedestrians and other drivers of the approach thereof.

- (c) No person shall use the horn of a motor vehicle except to give warning to other drivers or pedestrians.

- (d) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.21)

337.20 MUFFLER; MUFFLER CUTOUT; EXCESSIVE SMOKE, GAS OR NOISE.

- (a) Every motor vehicle and motorcycle with an internal combustion engine shall at all times be equipped with a muffler which is in good working order and in constant operation to prevent excessive or unusual noise, and no person shall use a muffler cutout, by-pass or similar device upon a motor vehicle on a highway. Every motorcycle muffler shall be equipped with baffle plates.

(b) No person shall own, operate or have in the person's possession any motor vehicle or motorcycle equipped with a device for producing excessive smoke or gas, or so equipped as to permit oil or any other chemical to flow into or upon the exhaust pipe or muffler of such vehicle, or equipped in any other way to produce or emit smoke or dangerous or annoying gases from any portion of such vehicle, other than the ordinary gases emitted by the exhaust of an internal combustion engine under normal operation.

(c) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.22)

**337.21 REAR-VIEW MIRROR; CLEAR VIEW TO FRONT, BOTH SIDES
AND REAR.**

(a) Every motor vehicle and motorcycle shall be equipped with a mirror so located as to reflect to the operator a view of the street to the rear of such vehicle or motorcycle. Operators of vehicles and motorcycles shall have a clear and unobstructed view to the front and to both sides of their vehicles or motorcycles and shall have a clear view to the rear of their vehicles or motorcycles by mirror.

(b) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.23)

**337.22 WINDSHIELD AND WINDSHIELD WIPER; SIGN OR
POSTER THEREON.**

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

- (b) (1) No person shall drive any motor vehicle, other than a bus, with any sign, poster or other nontransparent material upon the front windshield, sidewings, side or rear windows of such vehicle other than a certificate or other paper required to be displayed by law, except that there may be in the lower left-hand or right-hand corner of the windshield a sign, poster or decal not to exceed four inches in height by six inches in width. No sign, poster or decal shall be displayed in the front windshield in such a manner as to conceal the vehicle identification number for the motor vehicle when in accordance with federal law, that number is located inside the vehicle passenger compartment and so placed as to be readable through the vehicle glazing without moving any part of the vehicle.
- (2) Subsection (b)(1) of this section does not apply to a person who is driving a passenger car with an electronic device, including an antenna, electronic tolling or other transponder, camera, directional navigation device, or other similar electronic device located in the front windshield if the device meets both of the following:
- A. It does not restrict the vehicle operator's sight lines to the road and highway signs and signals.
- B. It does not conceal the vehicle identification number.
- (3) Subsection (b)(1) of this section does not apply to a person who is driving a commercial car with an electronic device, including an antenna, electronic tolling or other transponder, camera, directional navigation device, or other similar electronic device located in the front windshield if the device meets both of the following:
- A. It does not restrict the vehicle operator's sight lines to the road and highway signs and signals.

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

(c) The windshield on every motor vehicle shall be equipped with a device for cleaning rain, snow or other moisture from the windshield. The device shall be maintained in good working order and so constructed as to be controlled or operated by the operator of the vehicle.

(d) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.24)

337.23 LIMITED LOAD EXTENSION ON LEFT SIDE OF PASSENGER VEHICLE.

(a) No passenger-type vehicle shall be operated on a street with any load carried on such vehicle which extends more than six inches beyond the line of the fenders on the vehicle's left side. (ORC 4513.30)

(b) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.99)

337.24 MOTOR VEHICLE STOP LIGHTS.

(a) Every motor vehicle, trailer, semitrailer, and pole trailer when operated upon a street or highway shall be equipped with two or more stop lights, except that passenger cars manufactured or assembled prior to January 1, 1967, motorcycles, and motor-driven cycles shall be equipped with at least one stop light. Stop lights shall be mounted on the rear of the vehicle, actuated upon application of the service brake, and may be incorporated with other rear lights. Such stop lights when actuated shall emit a red light visible from a distance of five hundred feet to the rear, provided that in the case of a train of vehicles only the stop lights on the rear-most vehicle need be visible from the distance specified.

Such stop lights when actuated shall give a steady warning light to the rear of a vehicle or train of vehicles to indicate the intention of the operator to diminish the speed of or stop a vehicle or train of vehicles.

When stop lights are used as required by this section, they shall be constructed or installed so as to provide adequate and reliable illumination and shall conform to the appropriate rules and regulations established under Ohio R.C. 4513.19.

Historical motor vehicles as defined in Ohio R.C. 4503.181, not originally manufactured with stop lights, are not subject to this section.

(b) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.071)

337.25 AIR CLEANER REQUIRED.

(a) No person shall operate a motor vehicle with an internal combustion engine unless the carburetion system of the vehicle is protected with an air filter, a flame arresting device, or any other accepted method of protection that is adequate for this purpose. If the original device or system is replaced, it shall be replaced with one that is equal to or better than the original equipment.

(b) This section does not apply to a person doing automotive repair work on a motor vehicle that necessitates this device being removed while the work is performed.

(c) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

337.26 CHILD RESTRAINT SYSTEM USAGE.

(a) When any child who is in either or both of the following categories is being transported in a motor vehicle, other than a taxicab or public safety vehicle as defined in Ohio R.C. 4511.01, that is required by the United States Department of Transportation to be equipped with seat belts at the time of manufacture or assembly, the operator of the motor vehicle shall have the child properly secured in accordance with the manufacturer's instructions in a child restraint system that meets federal motor safety standards:

- (1) A child who is less than four years of age;
- (2) A child who weighs less than forty pounds.

(b) When any child who is in either or both of the following categories is being transported in a motor vehicle, other than a taxicab, that is owned, leased or otherwise under the control of a nursery school, or day-care center, the operator of the motor vehicle shall have the child properly secured in accordance with the manufacturer's instructions in a child restraint system that meets federal motor vehicle safety standards:

- (1) A child who is less than four years of age;
- (2) A child who weighs less than forty pounds.

(c) When any child who is less than eight years of age and less than four feet nine inches in height, who is not required by subsection (a) or (b) of this section to be secured in a child restraint system, is being transported in a motor vehicle, other than a taxicab or public safety vehicle as defined in Ohio R.C. 4511.01 or a vehicle that is regulated under Ohio R.C. 5104.011, that is required by the United States Department of Transportation to be equipped with seat belts at the time of manufacture or assembly, the operator of the motor vehicle shall have the child properly secured in accordance with the manufacturer's instructions on a booster seat that meets federal motor vehicle safety standards.

(d) When any child who is at least eight years of age but not older than fifteen years of age and who is not otherwise required by subsection (a), (b) or (c) hereof to be secured in a child restraint system or booster seat, is being transported in a motor vehicle, other than a taxicab or public safety vehicle as defined in Ohio R.C. 4511.01, that is required by the United States Department of Transportation to be equipped with seat belts at the time of manufacture or assembly, the operator of the motor vehicle shall have the child properly restrained either in accordance with the manufacturer's instructions in a child restraint system that meets federal motor vehicle safety standards or in an occupant restraining device as defined in Ohio R.C. 4513.263.

(e) Notwithstanding any provision of law to the contrary, no law enforcement officer shall cause an operator of a motor vehicle being operated on any street or highway to stop the motor vehicle for the sole purpose of determining whether a violation of subsection (c) or (d) of this section has been or is being committed or for the sole purpose of issuing a ticket, citation, or summons for a violation of subsection (c) or (d) of this section or causing the arrest of or commencing a prosecution of a person for a violation of subsection (c) or (d) of this section, and absent another violation of law, a law enforcement officer's view of the interior or visual inspection of a motor vehicle being operated on any street or highway may not be used for the purpose of determining whether a violation of subsection (c) or (d) of this section has been or is being committed.

(f) The Ohio Director of Public Safety shall adopt such rules as are necessary to carry out this section.

(g) The failure of an operator of a motor vehicle to secure a child in a child restraint system, a booster seat or an occupant restraining device as required by this section is not negligence imputable to the child, is not admissible as evidence in any civil action involving the rights of the child against any other person allegedly liable for injuries to the child, is not to be used as a basis for a criminal prosecution of the operator of the motor vehicle other than a prosecution for a violation of this section, and is not admissible as evidence in any criminal action involving the operator of the motor vehicle other than a prosecution for a violation of this section.

(h) This section does not apply when an emergency exists that threatens the life of any person operating or occupying a motor vehicle that is being used to transport a child who otherwise would be required to be restrained under this section. This section does not apply to a person operating a motor vehicle who has an affidavit signed by a physician licensed to practice in this State under Ohio R.C. Chapter 4731 or a chiropractor licensed to practice in this State under Ohio R.C. Chapter 4734 that states that the child who otherwise would be required to be restrained under this section has a physical impairment that makes use of a child restraint system, booster seat or an occupant restraining device impossible or impractical, provided that the person operating the vehicle has safely and appropriately restrained the child in accordance with any recommendations of the physician or chiropractor as noted on the affidavit.

(i) Nothing in this section shall be construed to require any person to carry with the person the birth certificate of a child to prove the age of the child, but the production of a valid birth certificate for a child showing that the child was not of an age to which this section applies is a defense against any ticket, citation or summons issued for violating this section.

(j) Whoever violates subsection (a), (b), (c) or (d) of this section shall be punished as follows, provided that the failure of an operator of a motor vehicle to secure more than one child in a child restraint system, booster seat, or occupant restraining device as required by this section that occurred at the same time, on the same day, and at the same location is deemed to be a single violation of this section:

- (1) Except as otherwise provided in subsection (j)(2) of this section, the offender is guilty of a minor misdemeanor and shall be fined not less than twenty-five dollars (\$25.00) nor more than seventy-five dollars (\$75.00).
- (2) If the offender previously has been convicted of or pleaded guilty to a violation of subsection (a), (b), (c) or (d) of this section or of a state law or municipal ordinance that is substantially similar to any of those subsections, the offender is guilty of a misdemeanor of the fourth degree.
(ORC 4511.81)

337.27 DRIVERS AND PASSENGERS REQUIRED TO WEAR SEAT BELTS.

(a) As used in this section:

- (1) "Automobile" means any commercial tractor, passenger car, commercial car or truck that is required to be factory-equipped with an occupant restraining device for the operator or any passenger by regulations adopted by the United States Secretary of Transportation pursuant to the "National Traffic and Motor Vehicle Safety Act of 1966," 80 Stat. 719, 15 U.S.C.A. 1392.
- (2) "Occupant restraining device" means a seat safety belt, shoulder belt, harness or other safety device for restraining a person who is an operator of or passenger in an automobile and that satisfies the minimum Federal vehicle safety standards established by the United States Department of Transportation.

- (3) "Passenger" means any person in an automobile, other than its operator, who is occupying a seating position for which an occupant restraining device is provided.
 - (4) "Commercial tractor," "passenger car," and "commercial car" have the same meanings as provided in Ohio R.C. 4501.01.
 - (5) "Vehicle" and "motor vehicle", as used in the definitions of the terms set forth in subsection (a)(4) hereof, have the same meanings as provided in Chapter 301.
 - (6) "Tort action" means a civil action for damages for injury, death, or loss to person or property. "Tort action" includes a product liability claim, as defined in Ohio R.C. 2307.71 and an asbestos claim, as defined in Ohio R.C. 2307.91, but does not include a civil action for damages for breach of contract or another agreement between persons.
- (b) No person shall do either of the following:
- (1) Operate an automobile on any street or highway unless that person is wearing all of the available elements of a properly adjusted occupant restraining device, or operate a school bus that has an occupant restraining device installed for use in its operator's seat unless that person is wearing all of the available elements of the device, as properly adjusted;
 - (2) Operate an automobile on any street or highway unless each passenger in the automobile who is subject to the requirement set forth in subsection (b)(3) hereof is wearing all of the available elements of a properly adjusted occupant restraining device;
 - (3) Occupy, as a passenger, a seating position on the front seat of an automobile being operated on any street or highway unless that person is wearing all of the available elements of a properly adjusted occupant restraining device;
 - (4) Operate a taxicab on any street or highway unless all factory-equipped occupant restraining devices in the taxicab are maintained in usable form.
- (c)
- (1) Subsection (b)(3) hereof does not apply to a person who is required by Section 337.26 to be secured in a child restraint device or booster seat.
 - (2) Subsection (b)(1) hereof does not apply to a person who is an employee of the United States Postal Service or of a newspaper home delivery service, during any period in which the person is engaged in the operation of an automobile to deliver mail or newspapers to addressees.
 - (3) Subsections (b)(1) and (3) hereof do not apply to a person who has an affidavit signed by a physician licensed to practice in this State under Ohio R.C. Chapter 4731 or a chiropractor licensed to practice in this State under Ohio R.C. Chapter 4734 that states the following:
 - A. That the person has a physical impairment that makes use of an occupant restraining device impossible or impractical;
 - B. Whether the physical impairment is temporary, permanent or reasonably expected to be permanent;
 - C. If the physical impairment is temporary, how long the physical impairment is expected to make the use of an occupant restraining device impossible or impractical.
 - (4) Subsections (b)(1) and (3) of this section do not apply to a person who has registered with the Registrar of Motor Vehicles in accordance with subsection (c)(5) of this section.

- (5) A person who has received an affidavit under subsection (c)(3) of this section stating that the person has a permanent or reasonably expected to be permanent physical impairment that makes use of an occupant restraining device impossible or impracticable may register with the Registrar attesting to that fact. Upon such registration, the Registrar shall make that information available in the law enforcement automated data system. A person included in the database under subsection (c)(5) of this section is not required to have the affidavit obtained in accordance with subsection (c)(3) of this section in their possession while operating or occupying an automobile.
- (6) A physician or chiropractor who issues an affidavit for the purposes of subsection (c)(3) or (4) of this section is immune from civil liability arising from any injury or death sustained by the person who was issued the affidavit due to the failure of the person to wear an occupant restraining device unless the physician or chiropractor, in issuing the affidavit, acted in a manner that constituted willful, wanton or reckless misconduct.
- (7) The Registrar shall adopt rules in accordance with Ohio R.C. Chapter 119, establishing a process for a person to be included in the database under subsection (c)(5) of this section. The information provided and included in the database under subsection (c)(5) of this section is not a public record subject to inspection or copying under Ohio R.C. 149.43.

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

(e) All fines collected for violations of subsection (b) hereof shall be forwarded to the Treasurer of State for deposit as provided in Ohio R.C. 4513.263.

- (f) (1) Subject to subsection (f)(2) of this section, the failure of a person to wear all of the available elements of a properly adjusted occupant restraining device in violation of subsection (b)(1) or (3) or the failure of a person to ensure that each minor who is a passenger of an automobile being operated by that person is wearing all of the available elements of a properly adjusted occupant restraining device in violation of subsection (b)(2) of this section shall not be considered or used by the trier of fact in a tort action as evidence of negligence or contributory negligence. But, the trier of fact may determine based on evidence admitted consistent with the Ohio rules of evidence that the failure contributed to the harm alleged in the tort action and may diminish a recovery of compensatory damages that represents noneconomic loss, as defined in Ohio R.C. 2307.011, in a tort action that could have been recovered but for the plaintiff's failure to wear all of the available elements of a properly adjusted occupant restraining device. Evidence of that failure shall not be used as a basis for a criminal prosecution of the person other than a prosecution for a violation of this section; and shall not be admissible as evidence in a criminal action involving the person other than a prosecution for a violation of this section.

- (2) If, at the time of an accident involving a passenger car equipped with occupant restraining devices, any occupant of the passenger car who sustained injury or death was not wearing an available occupant restraining device, was not wearing all of the available elements of such a device, or was not wearing such a device as properly adjusted, then, consistent with the Rules of Evidence, the fact that the occupant was not wearing the available occupant restraining device, was not wearing all of the available elements of such a device, or was not wearing such a device as properly adjusted is admissible in evidence in relation to any claim for relief in a tort action to the extent that the claim for relief satisfies all of the following:
- A. It seeks to recover damages for injury or death to the occupant.
 - B. The defendant in question is the manufacturer, designer, distributor or seller of the passenger car.
 - C. The claim for relief against the defendant in question is that the injury or death sustained by the occupant was enhanced or aggravated by some design defect in the passenger car or that the passenger car was not crashworthy.
- (g) (1) Whoever violates subsection (b)(1) of this section shall be fined thirty dollars (\$30.00).
- (2) Whoever violates subsection (b)(3) of this section shall be fined twenty dollars (\$20.00).
- (3) Except as otherwise provided in this subsection, whoever violates subsection (b)(4) of this section is guilty of a minor misdemeanor. If the offender previously has been convicted of or pleaded guilty to a violation of subsection (b)(4) of this section, whoever violates subsection (b)(4) of this section is guilty of a misdemeanor of the third degree.
(ORC 4513.263)

337.28 USE OF SUNSCREENING, NONTRANSPARENT AND REFLECTORIZED MATERIALS.

(a) Requirements.

- (1) No person shall operate, on any highway or other public or private property open to the public for vehicular travel or parking, lease, or rent any motor vehicle that is required to be registered in this State with any sunscreening material, or other product or material which has the effect of making the windshield or windows nontransparent or would alter the windows' color, increase its reflectivity, or reduce its light transmittance, unless the product or material satisfies one of the following exceptions:
- A. Any manufacturer's tinting or glazing of motor vehicle windows or windshields that is otherwise in compliance with or permitted by "Federal Motor Vehicle Safety Standard Number 205" (FMVSS 205) in effect at the time of the manufacture of the motor vehicle until such standard is subsequently repealed or reduced. In "Federal Motor Vehicle Safety Standard Number 205" (FMVSS 205) "manufacturer" means any person engaged in the manufacturing or assembling of motor vehicles or motor vehicle equipment, including any person importing motor vehicles or motor vehicle equipment for resale. "Federal Motor Vehicle Safety Standard Number 205" (FMVSS), Code of Federal Regulations, Title 49, Part 571, can be obtained online at web site <http://www.gpo.gov>.

- B. Any sunscreening material or other product or material applied to the windshield when used in conjunction with the safety glazing materials of such window, has a light transmittance of not less than seventy per cent plus or minus three per cent and is not red or yellow in color.
 - C. Any sunscreening material or other product or material applied to the side windows to the immediate right or left of the driver, so long as such material, when used in conjunction with the safety glazing materials of such windows, has a light transmittance of not less than fifty per cent plus or minus three per cent and is not red or yellow in color.
 - D. Any sunscreening material or other product or material applied to a window not otherwise listed in subsections (a)(1)A. to C. or E. of this section, except that outside left and right rear view mirrors are required if the sunscreening material is applied to the rear window and the sunscreening material, when used in conjunction with the safety glazing material of such window, has a light transmittance of less than fifty per cent plus or minus three per cent.
 - E. Any sunscreening material or other product or material applied along the top of the windshield and that does not extend downward beyond the AS-1 line or five inches from the top of the windshield, whichever is closer to the top, is not regulated by this section.
- (2) No person shall install in any motor vehicle any glass or other material that fails to conform to the specifications of this section.
 - (3) No used motor vehicle dealer or new motor vehicle dealer, as defined in Ohio R.C. 4517.01, shall sell any motor vehicle that fails to conform to the specifications of this section.
 - (4) No reflectorized materials shall be permitted upon or in any front windshield, side windows, sidewings or rear window.
 - (5) No person shall operate on any highway or other public or private property open to the public for vehicular travel or parking, lease, or rent any motor vehicle that is required to be registered in this State that is equipped with privacy drapes, louvers, curtains or blinds unless the drapes, louvers, curtains or blinds are open and secure during vehicle operation.
 - (6) All motor vehicles, beginning with the 1990 model year, must be equipped with labels identifying suncreening material. All sunscreening material must indicate the manufacturer's name and the percentage level of light transmission of the material permanently installed between the material and the surface to which the material is applied or affixed. Such label must be legible and must be placed in the lower left-hand corner of the vehicle window when viewed from the outside. (OAC 4501-41-03)
- (b) Exemptions. The provisions of this section do not apply to:
- (1) A motor vehicle registered in this State in the name of a person, or the person's parent, legal guardian or spouse who has an affidavit signed by a physician licensed to practice in this State under Ohio R.C. Chapter 4731 or an affidavit signed by an optometrist licensed to practice in this State under Ohio R.C. Chapter 4725 that states that the person has a physical condition that makes it necessary to equip such motor vehicle with sunscreening material which would be of a light transmittance and/or luminous reflectance in violation of this section. Such affidavit shall be in the possession of the person so afflicted or the driver at all times while in the motor vehicle;

- (2) The windows to the rear of the driver in chauffeured limousines as defined herein;
- (3) The windows to the rear of the driver in those vehicles designed and used to transport corpses which include hearses and other vehicles adapted for such use; and
- (4) The manufacturer's tinting or glazing of motor vehicle windows or windshields that is otherwise in compliance with or permitted by "Federal Motor Vehicle Safety Standard Number 205" (FMVSS 205) in effect at the time of the manufacture of the motor vehicle as provided in subsection (a) hereof. "Federal Motor Vehicle Safety Standard Number 205" (FMVSS 205), Code of Federal Regulations, Title 49, Part 571, can be obtained online at web site <http://www.gpo.gov>. (OAC 4501-41-05)

(c) Definitions. As used in this section, certain terms are defined as follows:

- (1) "Motor vehicle" has the same meaning as specified in Section 301.20.
- (2) "Sunscreening material" means products or materials, including film, glazing and perforated sunscreening, which, when applied to the windshield or windows of a motor vehicle, reduce the effects of the sun with respect to light reflectance or transmittance.
- (3) "Transmittance" means the ratio of the amount of total light, expressed in percentages, which is allowed to pass through the product or material, including glazing, to the amount of total light falling on the product or material and the glazing.
- (4) "Windshield" means the front exterior viewing device of a motor vehicle.
- (5) "Window" means any device designed for exterior viewing from a motor vehicle, except the windshield or any roof-mounted viewing device.
- (6) "Manufacturer" unless otherwise specified in this section, means any person who engages in the manufacturing or assembling of sunscreening products or materials or any person who fabricates, laminates or tempers a safety glazing material, incorporating, during the manufacturing process, the capacity to reflect or reduce the transmission of light.
- (7) "Chauffeured limousine" means a motor vehicle that is designed to carry nine or fewer passengers and is operated for hire on an hourly basis pursuant to a prearranged contract for the transportation of passengers on public roads and highways along a route under the control of the person hiring the vehicle and not over a defined and regular route. "Prearranged contract" means an arrangement, made in advance of boarding, to provide transportation from a specific location in a chauffeured limousine at a fixed rate per hour or trip. "Chauffeured limousine" does not include any vehicle that is used exclusively in the business of funeral directing.
(OAC 4501-41-02)

(d) Penalty. Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.241)

337.29 BUMPER HEIGHTS.

(a) Definitions.

- (1) "Passenger car" means any motor vehicle with motive power, designed for carrying ten persons or less, except a multipurpose passenger vehicle or motorcycle.

- (2) "Multipurpose passenger vehicle" means a motor vehicle with motive power, except a motorcycle, designed to carry ten persons or less, that is constructed either on a truck chassis or with special features for occasional off-road operation.
- (3) "Truck" means every motor vehicle, except trailers and semitrailers, designed and used to carry property and having a gross vehicle weight rating of 10,000 pounds or less.
- (4) "Manufacturer" has the same meaning as in Ohio R.C. 4501.01.
- (5) "Gross vehicle weight rating" means the manufacturer's gross vehicle weight rating established for the vehicle.
- (6) "Body floor height" means the vertical distance between top of the frame rail and the bottom of the passenger compartment (cab) floor. In the event that the vehicle is a truck body, floor height will be measured by the vertical distance between the passenger compartment (cab) floor and the floor of the truck bed.
- (7) "Bumper height" means the vertical distance between the ground and the highest point of the bottom of the bumper, measured when the vehicle is laden on a level surface with the vehicle tires inflated to the manufacturer's recommended pressure.
- (8) "Frame" means the main longitudinal structural members of the chassis of the vehicle or, for vehicles with unitized body construction, the lowest main longitudinal structural members of the body of the vehicle.
- (9) "Wheel track distance" means the distance on the ground between the center of the tire tread on one side of the vehicle, and the center of the tire tread on the opposite side. (OAC 4501-43-02)

(b) Prohibitions; Application.

- (1) No person shall operate upon a street or highway any passenger car, multipurpose passenger vehicle, or truck registered in this State that does not conform to the requirements of this section.
- (2) No person shall modify any motor vehicle registered in this State in such a manner as to cause the vehicle body or chassis to come in contact with the ground, expose the fuel tank to damage from collision, or cause the wheels to come in contact with the body under normal operation, and no person shall disconnect any part of the original suspension system of the vehicle to defeat the safe operation of that system including the installation of inverted, altered or modified suspension system component parts which results in elevation of the height of the vehicle bumper or frame unit which is not in compliance with this section.
- (3) No person shall operate upon a street or highway any passenger car, multipurpose passenger vehicle or truck registered in this State without a bumper on the front and rear of the vehicle if such vehicle was equipped with bumpers as standard equipment by the manufacturer.
- (4) No person shall operate upon a street or highway any passenger car, multipurpose passenger vehicle or truck registered in this State if the difference in height between the body floor and the top of the frame exceeds four inches.
- (5) Nothing contained in this section shall be construed to prohibit either of the following:
 - A. The installation upon a passenger car, multipurpose passenger vehicle or truck registered in this State of heavy duty equipment, including shock absorbers and overload springs as long as such equipment does not cause the vehicle to be in violation of this section;

- B. The operation on a street or highway of a passenger car, multipurpose passenger vehicle or truck registered in this State with normal wear to the suspension system if the normal wear does not adversely affect the control of the vehicle.
- (6) This section does not apply to any specially designed or modified passenger car, multipurpose passenger vehicle or truck when operated off a street or highway in races and similar events.
- (7) A specially designed or modified passenger car, multipurpose passenger vehicle or truck which does not conform to this section shall not be operated on a street or highway.
(OAC 4501-43-03)

(c) Specifications.

- (1) The horizontal bumper shall be at least 4.5 inches in vertical height, centered on the vehicle's centerline, and extend no less than the width of the respective wheel track distances. Bumpers shall be horizontal load bearing bumpers and attached to the vehicle frame to effectively transfer impact when engaged.
- (2) Maximum bumper heights shall be determined by the type of vehicle at time of manufacture. If other than a passenger vehicle, the maximum bumper height shall be determined by the gross vehicle weight rating (GVWR) at the time of manufacture. The height shall be measured in terms of the vertical distance between the ground and the bottom of the bumper. Maximum bumper heights are as follows:

	<u>Front (inches)</u>	<u>Rear (inches)</u>
Passenger Vehicles	22	22
All Other Vehicles:		
4,500 lbs. and under GVWR	24	26
4,501 lbs. to 7,500 lbs. GVWR	27	29
7,501 lbs. to 10,000 lbs. GVWR	28	31

- (3) If the body and/or truck bed height is altered the difference in height between the body floor and/or the truck bed floor to the top of the frame rail shall not exceed four inches.
- (4) For any vehicle with bumpers or attaching components which have been modified or altered from the original manufacturer's design in order to conform with the maximum bumper requirements of this section, the bumper height shall be measured from a level surface to the bottom of the vehicle frame rail at the most forward and rearward points of the frame rail. Frame rail height if bumper modified or altered:

	<u>Front (inches)</u>	<u>Rear (inches)</u>
Passenger Vehicles	22	22
All Other Vehicles:		
4,500 lbs. and under GVWR	24	26
4,501 lbs. to 7,500 lbs. GVWR	27	29
7,501 lbs. to 10,000 lbs. GVWR	28	31

- (5) The height restriction in this subsection (c) applies to the distance from the ground to the bottom of the frame rail under any one or more of the following conditions:

- A. A motor vehicle is not equipped with a front and rear bumper.
 - B. The bumper height relative to the frame rails has been altered.
 - C. A supplemental bumper has been installed or an addition to the original or replacement has been made.
- (OAC 4501-43-04)

- (d) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.99)

337.30 DIRECTIONAL SIGNALS REQUIRED.

- (a) (1) No person shall operate any motor vehicle manufactured or assembled on or after January 1, 1954, unless the vehicle is equipped with electrical or mechanical directional signals.
- (2) No person shall operate any motorcycle or motor-driven cycle manufactured or assembled on or after January 1, 1968, unless the vehicle is equipped with electrical or mechanical directional signals.

(b) "Directional signals" means an electrical or mechanical signal device capable of clearly indicating an intention to turn either to the right or to the left and which shall be visible from both the front and rear.

(c) All mechanical signal devices shall be self-illuminating devices when in use at the times mentioned in Section 337.02.

- (d) Whoever violates this section is guilty of a minor misdemeanor. (ORC 4513.261)

CODIFIED ORDINANCES OF WORTHINGTON
PART FIVE - GENERAL OFFENSES CODE

- Chap. 501. General Provisions and Penalty.
- Chap. 503. Alarm Systems.
- Chap. 505. Animals and Fowl.
- Chap. 507. Civil Disorders.
- Chap. 509. Disorderly Conduct and Peace Disturbance.
- Chap. 513. Drug Abuse Control.
- Chap. 515. Drug Paraphernalia.
- Chap. 517. Gambling.
- Chap. 521. Health, Safety and Sanitation.
- Chap. 525. Law Enforcement and Public Office.
- Chap. 527. Smoking Prohibitions.
- Chap. 529. Liquor Control.
- Chap. 531. Minors.
- Chap. 533. Obscenity and Sex Offenses.
- Chap. 537. Offenses Against Persons.
- Chap. 539. Discriminatory Practices, Civil Rights, Disclosure.
- Chap. 541. Property Offenses.
- Chap. 545. Theft and Fraud.
- Chap. 549. Weapons and Explosives.
- Chap. 551. Fireworks.
- Chap. 553. Railroads.

CHAPTER 505
Animals and Fowl

505.01	Dogs and other animals running at large.	505.09	Barking or howling dogs.
505.02	Impounding and disposition.	505.10	Animal bites; reports and quarantine.
505.021	Fees for animal removal.	505.11	Hunting and trapping.
505.03	Annual registration of dogs; tags required.	505.12	Coloring rabbits or baby poultry; sale or display of poultry.
505.04	Abandoning animals.	505.13	Report of escape of exotic or dangerous animal.
505.05	Killing or injuring animals.	505.14	Dangerous and vicious animals.
505.06	Poisoning animals.	505.15	Prohibited animals.
505.07	Cruelty to animals generally.	505.16	Feeding of deer prohibited.
505.071	Cruelty to companion animals.	505.99	Penalty.
505.08	Nuisance conditions prohibited.		

CROSS REFERENCES

See sectional histories for similar State law
Owner or keeper liable for damages - see Ohio R.C 951.10
Dog registration - see Ohio R.C. 955.01

505.01 DOGS AND OTHER ANIMALS RUNNING AT LARGE.

(a) No person being the owner or having charge of cattle, horses, swine, cats, sheep, geese, ducks, goats, turkeys, chickens or other fowl or animals shall permit them to run at large upon any public place, or upon any unenclosed lands or upon the premises of another. (ORC 951.02)

(b) No owner, keeper or harbinger of any female dog shall permit it to go beyond the premises of the owner, keeper or harbinger at any time the dog is in heat, unless the dog is properly in leash.

(c) No owner, keeper or harbinger of any dog shall fail at any time to keep it either physically confined or restrained upon the premises of the owner, keeper or harbinger by a leash, tether, adequate fence, supervision or secure enclosure to prevent escape, or under reasonable control of some person. (ORC 955.22)

(d) The running at large of any such animal in or upon any of the places mentioned in this section is prima-facie evidence that it is running at large in violation of this section. (ORC 951.02)

(e) Whoever violates this subsection (a) hereof is guilty of a misdemeanor of the fourth degree. (ORC 951.99)

- (f) (1) Whoever violates subsection (b) or (c) hereof is guilty of a minor misdemeanor for a first offense and a misdemeanor of the fourth degree for each subsequent offense.
- (2) In addition to the penalties prescribed in subsection (f)(1) hereof, if the offender is guilty of a violation of subsection (b) or (c) hereof, the court may order the offender to personally supervise the dog that he owns, keeps or harbors, to cause that dog to complete dog obedience training, or to do both. (ORC 955.99)

505.02 IMPOUNDING AND DISPOSITION.

(a) Animals and fowl found at large in the City may be taken up by any police officer or animal control officer and placed in the City pound. If the animal is licensed and wears a registration tag, the police or animal control officer shall notify the registered owner to appear at the Police Department and receive a citation for violation of Section 505.01. The owner may then remove the animal from the pound on payment to the City of a pound fee of fifteen dollars (\$15.00) for impounding and four dollars (\$4.00) for each day or fraction thereof that the animal is in the pound for care and feeding. He shall nevertheless appear and answer the citation in court. If the animal is not claimed within a reasonable time, it shall be turned over to the County humane society for care and disposition. All animals which are not licensed, or whose owners cannot be readily ascertained, may be turned over at once to the County humane society to be disposed of as provided in its regulations. When an owner acknowledges ownership of an unlicensed animal, whether turned over to the County humane society or not, he shall receive a citation as provided above and shall answer before the court. If he claims the animal, he shall pay the lawful license fee if any, the City pound charges provided above, and any fees or charges which may be lawfully imposed by the County humane society. (Ord. 18-2006. Passed 5-1-06.)

(b) No person shall interfere with, break open, destroy or injure a pound erected by authority of law, or set at liberty any animal impounded therein.

(c) Whoever violates this section is guilty of a minor misdemeanor.
(Ord. 94-73. Passed 12-10-73.)

505.021 FEES FOR ANIMAL REMOVAL.

Whoever requests that the City remove and dispose of a wild animal from a trap within the City shall pay a fee of twenty-five dollars (\$25.00) per animal for such service.
(Ord. 18-2006. Passed 5-1-06.)

505.03 ANNUAL REGISTRATION OF DOGS; TAGS REQUIRED.

(a) Except for guide dogs registered under Ohio R.C. 955.011 and dogs kept by an institution or organization for teaching and research purposes under Ohio R.C. 955.16, no person shall own, keep or harbor a dog more than three months of age without annually registering such dog with the County Auditor. Failure of any dog at any time to wear a valid registration tag shall be prima-facie evidence of lack of registration and subject such dog to impounding and disposition as provided by Ohio R.C. 955.16.

(b) Whoever violates this section is guilty of a minor misdemeanor for a first offense and a misdemeanor of the fourth degree for each subsequent offense. (ORC 955.99(D)).

505.04 ABANDONING ANIMALS.

(a) No owner or keeper of a dog, cat or other domestic animal shall abandon such animal. (ORC 959.01)

- (2) "Menacing fashion" means that an animal would cause any person being chased or approached to reasonably believe that the animal will cause physical injury to that person.
- (3) "Police dog" means a dog that has been trained, and is used, to assist one or more law enforcement officers in the performance of their official duties.
- (4) "Vicious animal":
 - A. Means an animal that, without provocation and subject to subsection (a)(4)B. hereof, meets any of the following:
 - 1. Has killed or caused physical injury to any person; or
 - 2. Has killed another animal owned by or belonging to any person.
 - B. Does not include either of the following:
 - 1. A police dog that has killed or caused injury to any person or animal while the police dog is being used to assist one or more law enforcement officers in the performance of their official duties; or
 - 2. An animal that has killed or caused serious injury to any person while a person was committing or attempting to commit a trespass or other criminal offense in the occupied dwelling of the owner, keeper or harbinger of the animal.
- (5) "Without provocation" means that the animal was not teased, tormented or abused by a person or another animal, or that the animal was not coming to the aid or the defense of a person who was not engaged in illegal or criminal activity and who was not using the animal as a means of carrying out such activity.

(b) No owner, keeper or harbinger of a dangerous animal shall fail to do either of the following:

- (1) While that animal is on the premises of the owner, keeper or harbinger, securely confine it at all times in a building, locked pen, locked fenced yard or other locked enclosure except that a dangerous dog may, in the alternative, be tied with a leash or tether so that the animal is adequately restrained; or
- (2) While that animal is off the premises of the owner, keeper or harbinger, keep it on a leash or tether that is not more than six feet in length and additionally do at least one of the following:
 - A. Keep that animal confined in a building, locked pen, locked fenced yard or other locked enclosure;
 - B. Have the leash or tether controlled by a person who is of suitable age and discretion or securely attach, tie or affix the leash or tether to the ground or stationary object or fixture so that the animal is adequately restrained and station such a person in close enough proximity to that dog so as to prevent it from causing injury to any person; or
 - C. Muzzle that animal.

(c) Whoever violates subsection (b) hereof is guilty of a misdemeanor of the fourth degree on a first offense and of a misdemeanor of the third degree on each subsequent offense.

Additionally, the court may order the offender to personally supervise the dangerous animal that he owns, keeps or harbors, to cause that animal to complete obedience training, or to do both, and the court may order the offender to obtain liability insurance with an insurer authorized to write liability insurance in Ohio providing coverage in each occurrence, subject to a limit, exclusive of interest and costs, of not less than one hundred thousand dollars (\$100,000) because of damage or bodily injury to or death of a person caused by the dangerous animal.

(d) No person shall possess, harbor or keep a vicious animal. If an animal, which becomes a vicious animal, is not immediately removed from the City, the court shall order the vicious animal to be removed from the City or to be humanely destroyed by a licensed veterinarian, the animal warden or the humane society.

(e) Any person who owns, harbors or keeps a dangerous animal, which becomes a vicious animal, shall be guilty of a misdemeanor of the first degree.
(Ord. 88-87. Passed 11-9-87.)

505.15 PROHIBITED ANIMALS.

(a) No person shall possess, harbor, transport, buy or sell in the City, except for educational or experimental use by schools, any of the following animals:

- (1) Poisonous insects, amphibians, reptiles or fish, including those whose poison has been removed or neutralized;
- (2) Maneating fish; or
- (3) Any animal or a species feral by nature in its usual state, except for hamsters, gerbils, guinea pigs, chinchillas, domestic rabbits, white mice and white rats, nonpoisonous reptiles and amphibians, which are caged.

(b) Whoever violates this section is guilty of a misdemeanor of the second degree and the prohibited animal shall be removed from the City or humanely destroyed by a licensed veterinarian, the animal warden or the humane society.
(Ord. 88-87. Passed 11-9-87.)

505.16 FEEDING OF DEER PROHIBITED.

(a) Feeding Deer Prohibited.

- (1) No person shall purposely feed or make food available for consumption by deer on private or public property within the City.
- (2) No person shall recklessly feed or make food available for consumption by deer on private or public property within the City.

(b) Definitions.

- (1) For the purposes of this section, feeding or making food available for consumption shall include the act of placing or permitting to be placed on the ground, or within five feet of the ground, any device or any fruits, grains, minerals, plants, salt licks, vegetables, seeds, nuts, hay, or any other edible materials that may reasonably be expected to result in consumption by deer, unless such items are screened or otherwise protected from deer consumption.
- (2) The presumption that the placement of any fruits, grains, minerals, plants, salt licks, vegetables, seeds, nuts, hay, or any other edible materials is for consumption by deer shall not apply to the following:

- A. Naturally growing materials, including but not limited to fruit, grain, nuts, seeds, hay, and vegetables.
- B. Planted materials growing in gardens and lawns, as ornamental plants, or shrubs, standing crops.
- C. Residue from lawns, gardens and other vegetable materials maintained as a compost or mulch pile.
- D. Unmodified, commercially purchased bird or squirrel feeders or their equivalent.

(c) Removal Required. Each property owner or person having control of the property shall have the duty to remove any device or materials placed on the owner's property in violation of this section. Alternatively, a property owner or person having control of the property may modify such a device or make other changes to the property that prevent deer from having access to the materials or feeding from the device.

(d) Exceptions to Prohibitions.

- (1) The prohibitions in this section shall not apply to any health department employee, law enforcement officer, or state or federal game official acting within the scope of his or her official duties.
- (2) The prohibitions in this section shall not apply to feeding that is authorized in writing by the City Manager on an emergency basis, or authorized as part of a deer management program.

(e) Violations.

- (1) Any person who violates subsection (a)(1) of this section is guilty of a minor misdemeanor for the first offense. For the second and subsequent violations of subsection (a)(1), the violator shall be deemed guilty of a misdemeanor of the fourth degree.
- (2) Any person who violates subsection (a)(2) of this section is guilty of a minor misdemeanor.
- (3) Each day that a violation continues shall be deemed a separate offense.
- (4) It shall not be an element of the offense and the prosecution shall not be required to prove that any food was actually consumed by a deer.
- (5) In addition to filing criminal charges, the City may initiate a civil action in an appropriate court for injunctive and other relief for a violation of this section. (Ord. 11-2022. Passed 5-9-22.)

505.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)

CHAPTER 513
Drug Abuse Control

513.01	Definitions.	513.09	Controlled substance or prescription labels.
513.02	Gift of marihuana.	513.10	Hypodermic possession, display and dispensing.
513.03	Drug abuse; controlled substance possession or use.	513.11	Harmful intoxicants; possessing nitrous oxide in motor vehicle.
513.04	Possessing drug abuse instruments.	513.12	Drug paraphernalia.
513.05	Permitting drug abuse.	513.121	Marihuana drug paraphernalia.
513.06	Illegal cultivation of marihuana.	513.13	Counterfeit controlled substances.
513.07	Possessing or using harmful intoxicants.	513.14	Sale of dextromethorphan.
513.08	Illegally dispensing drug samples.	513.99	Penalty.

CROSS REFERENCES

See sectional histories for similar State law
 Federal prosecution bar to local prosecution - see Ohio R.C. 2925.50, 3719.19
 Analysis report and notarized statement as evidence - see Ohio R.C. 2925.51
 Criteria for granting probation - see Ohio R.C. 3719.70(B)
 Adulterating food with drug of abuse - see GEN. OFF. 537.13
 Using weapons while under the influence - see GEN. OFF. 549.03.

513.01 DEFINITIONS.

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

- (a) "Administer." Has the same meaning as in Ohio R.C. 3719.01.
- (b) "Adulterate." To cause a drug to be adulterated as described in Ohio R.C. 3715.63.
- (c) "Alcohol and Drug Addiction Services". Has the same meaning as in Ohio R.C. 5119.01.

- (d) "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 twenty-five 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 thirty 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 twenty 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 thirty 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 thirty times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation or substance that is or contains any amount of a Schedule III or IV substance other than an anabolic steroid or a Schedule III opiate or opium derivative;
 - (3) An amount equal to or exceeding twenty 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, sixteen grams, or sixteen 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.
- (e) "Certified grievance committee." A duly constituted and organized committee of the Ohio State Bar Association or of one or more local bar associations of the state that complies with the criteria set forth in Rule V, Section 6 of the Rules for the Government of the Bar of Ohio.
- (f) "Cocaine." Any of the following:
 - (1) A cocaine salt, isomer or derivative, a salt of a cocaine isomer or derivative, or the base form of cocaine.
 - (2) Coca leaves or a salt, compound, derivative or preparation of coca leaves, including ecgonine, a salt, isomer or derivative of ecgonine, or a salt of an isomer or derivative of ecgonine.
 - (3) A salt, compound, derivative or preparation of a substance identified in 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.
- (g) "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.
- (h) "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.
- (i) "Committed in the vicinity of a substance addiction services provider or a recovering addict". An offense is "committed in the vicinity of a substance addiction services provider or a recovering addict" if either of the following apply:
 - (1) The offender commits the offense on the premises of a substance addiction services provider's facility, including a facility licensed prior to June 29, 2019, under Ohio R.C. 5119.391 to provide methadone treatment or an opioid treatment program licensed on or after that date under Ohio R.C. 5119.37, or within 500 feet of the premises of a substance addiction services provider's facility and the offender knows or should know that the offense is being committed within the vicinity of the substance addiction services provider's facility.

- (2) The offender sells, offers to sell, delivers, or distributes the controlled substance or controlled substance analog to a person who is receiving treatment at the time of the commission of the offense, or received treatment within 30 days prior to the commission of the offense, from a substance addiction services provider and the offender knows that the person is receiving or received that treatment.
- (j) "Controlled substance." Has the same meaning as in Ohio R.C. 3719.01.
- (k) "Controlled substance analog." Has the same meaning as in Ohio R.C. 3719.01.
- (l) "Counterfeit controlled substance." Any of the following:
- (1) Any drug that bears, or whose container or label bears, a trademark, trade name or other identifying mark used without authorization of the owner of rights to the trademark, trade name or identifying mark.
 - (2) Any unmarked or unlabeled substance that is represented to be a controlled substance manufactured, processed, packed or distributed by a person other than the person that manufactured, processed, packed or distributed it.
 - (3) Any substance that is represented to be a controlled substance but is not a controlled substance or is a different controlled substance.
 - (4) Any substance other than a controlled substance that a reasonable person would believe to be a controlled substance because of its similarity in shape, size and color, or its markings, labeling, packaging, distribution or the price for which it is sold or offered for sale.
- (m) "Cultivate." Includes planting, watering, fertilizing or tilling.
- (n) "Dangerous drug." Has the same meaning as in Ohio R.C. 4729.01.
- (o) "Deception." Has the same meaning as in Ohio R.C. 2913.01.
- (p) "Disciplinary counsel." The disciplinary counsel appointed by the Board of Commissioners on Grievances and Discipline of the Ohio Supreme Court under the Rules for the Government of the Bar of Ohio.
- (q) "Dispense." Has the same meaning as in Ohio R.C. 3719.01.
- (r) "Distribute." Has the same meaning as in Ohio R.C. 3719.01.
- (s) "Drug." Has the same meaning as in Ohio R.C. 4729.01.
- (t) "Drug abuse offense." 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.
- (u) "Drug dependent person." Has the same meaning as in Ohio R.C. 3719.011.
- (v) "Drug of abuse." Has the same meaning as in Ohio R.C. 3719.011.
- (w) "Felony drug abuse offense." Any drug abuse offense that would constitute a felony under the laws of this state, any other state or the United States.

- (x) "Fentanyl-related compound." 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-piperidyl]-N-phenylpropanamide);
 - (4) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl-4-piperidyl)-N-phenylpropanamide);
 - (5) Beta-hydroxy-3-methylfentanyl (other name: N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidyl]-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-piperidyl]-N-phenylpropanamide);
 - (8) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidyl]propanamide);
 - (9) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidyl]-propanamide);
 - (10) Alfentanil;
 - (11) Carfentanil;
 - (12) Remifentanyl;
 - (13) Sufentanil;
 - (14) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidyl]-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.
- (y) "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.
- (z) "Hashish".
 - (1) A resin or a preparation of a resin to which both of the following apply:
 - A. It is contained in or derived from any part of the plant of the genus cannabis, whether in solid form or in a liquid concentrate, liquid extract, or liquid distillate form.
 - B. It has a delta-9 tetrahydrocannabinol concentration of more than 0.3%.
 - (2) The term 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.
- (aa) "Hypodermic." Has the same meaning as in Ohio R.C. 3719.01.
- (bb) "Juvenile." A person under eighteen years of age.
- (cc) "Licensed health professional authorized to prescribe drugs." Has the same meaning as in Ohio R.C. 4729.01.
- (dd) "L.S.D." Lysergic acid diethylamide.
- (ee) "Major drug offender." Has the same meaning as in Ohio R.C. 2929.01.
- (ff) "Mandatory prison term." Has the same meaning as in Ohio R.C. 2929.01.
- (gg) "Manufacture." To plant, cultivate, harvest, process, make, prepare or otherwise engage in any part of the production of a drug, by propagation, extraction, chemical synthesis or compounding, or any combination of the same, and includes packaging, repackaging, labeling and other activities incident to production.
- (hh) "Manufacturer." Has the same meaning as in Ohio R.C. 3719.01.
- (ii) "Marihuana." Has the same meaning as in Ohio R.C. 3719.01, except that it does not include hashish.
- (jj) "Methamphetamine." Methamphetamine, any salt, isomer or salt of an isomer of methamphetamine, or any compound, mixture, preparation or substance containing methamphetamine or any salt, isomer or salt of an isomer of methamphetamine.
- (kk) "Minor drug possession offense." 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.
- (ll) "Official written order." Has the same meaning as in Ohio R.C. 3719.01.
- (mm) "Person." Has the same meaning as in Ohio R.C. 3719.01.
- (nn) "Pharmacist." Has the same meaning as in Ohio R.C. 3719.01.
- (oo) "Pharmacy." Has the same meaning as in Ohio R.C. 3719.01.
- (pp) "Possess" or "possession." Having control over a thing or substance but may not be inferred solely from mere access to the thing or substance through ownership or occupation of the premises upon which the thing or substance is found.
- (qq) "Premises of a substance addiction services provider's facility". Means the parcel of real property on which any substance addiction service provider's facility is situated.
- (rr) "Prescription." Has the same meaning as in Ohio R.C. 4729.01.

- (ss) "Presumption for a prison term" or "presumption that a prison term shall be imposed." 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.
- (tt) "Professional license." 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.
- (uu) "Professionally licensed person." 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. Chapter 4701 and who holds an Ohio permit issued under that chapter;
 - (2) A person who holds a certificate of qualification to practice architecture issued or renewed and registered under Ohio R.C. Chapter 4703;
 - (3) A person who is registered as a landscape architect under Ohio R.C. Chapter 4703 or who holds a permit as a landscape architect issued under that chapter;
 - (4) A person licensed under Ohio R.C. Chapter 4707;
 - (5) A person who has been issued a certificate of registration as a registered barber under Ohio R.C. Chapter 4709;
 - (6) A person licensed and regulated to engage in the business of a debt pooling company by a legislative authority, under authority of Ohio R.C. Chapter 4710;
 - (7) A person who has been issued a cosmetologist's license, hair designer's license, manicurist's license, esthetician's license, natural hair stylist's license, advanced cosmetologist's license, 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. Chapter 4713;
 - (8) A person who has been issued a license to practice dentistry, a general anesthesia permit, a conscious sedation permit, a limited resident's license, a limited teaching license, a dental hygienist's license or a dental hygienist's teacher's certificate under Ohio R.C. Chapter 4715;
 - (9) A person who has been issued an embalmer's license, a funeral director's license, a funeral home license or a crematory license, or who has been registered for an embalmer's or funeral director's apprenticeship under Ohio R.C. Chapter 4717;
 - (10) A person who has been licensed as a registered nurse or practical nurse, or who has been issued a certificate for the practice of nurse-midwifery under Ohio R.C. Chapter 4723;
 - (11) A person who has been licensed to practice optometry or to engage in optical dispensing under Ohio R.C. Chapter 4725;
 - (12) A person licensed to act as a pawnbroker under Ohio R.C. Chapter 4727;
 - (13) A person licensed to act as a precious metals dealer under Ohio R.C. Chapter 4728;
 - (14) A person licensed under Ohio R.C. Chapter 4729 as a pharmacist or pharmacy intern or registered under that chapter as a registered pharmacy technician, certified pharmacy technician, or pharmacy technician trainee;

- (15) A person licensed under Ohio R.C. Chapter 4729 as a manufacturer of dangerous drugs, outsourcing facility, third-party logistics provider, repackager of dangerous drugs, wholesale distributor of dangerous drugs, or terminal distributor of dangerous drugs;
- (16) A person who is authorized to practice as a physician assistant under Ohio R.C. Chapter 4730;
- (17) A person who has been issued a license to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery under Ohio R.C. Chapter 4731 or has been issued a certificate to practice a limited branch of medicine under that chapter;
- (18) A person licensed as a psychologist or school psychologist under Ohio R.C. Chapter 4732;
- (19) A person registered to practice the profession of engineering or surveying under Ohio R.C. Chapter 4733;
- (20) A person who has been issued a license to practice chiropractic under Ohio R.C. Chapter 4734;
- (21) A person licensed to act as a real estate broker or real estate salesperson under Ohio R.C. Chapter 4735;
- (22) A person registered as a registered environmental health specialist under Ohio R.C. Chapter 4736;
- (23) A person licensed to operate or maintain a junkyard under Ohio R.C. Chapter 4737;
- (24) A person who has been issued a motor vehicle salvage dealer's license under Ohio R.C. Chapter 4738;
- (25) A person who has been licensed to act as a steam engineer under Ohio R.C. Chapter 4739;
- (26) A person who has been issued a license or temporary permit to practice veterinary medicine or any of its branches, or who is registered as a graduate animal technician under Ohio R.C. Chapter 4741;
- (27) A person who has been issued a hearing aid dealer's or fitter's license or trainee permit under Ohio R.C. Chapter 4747;
- (28) A person who has been issued a class A, class B or class C license or who has been registered as an investigator or security guard employee under Ohio R.C. Chapter 4749;
- (29) A person licensed to practice as a nursing home administrator under Ohio R.C. Chapter 4751;
- (30) A person licensed to practice as a speech-language pathologist or audiologist under Ohio R.C. Chapter 4753;
- (31) A person issued a license as an occupational therapist or physical therapist under Ohio R.C. Chapter 4755;
- (32) A person who is licensed as a licensed professional clinical counselor, licensed professional counselor, social worker, independent social worker, independent marriage and family therapist, or marriage and family therapist, or registered as a social work assistant under Ohio R.C. Chapter 4757;
- (33) A person issued a license to practice dietetics under Ohio R.C. Chapter 4759;
- (34) A person who has been issued a license or limited permit to practice respiratory therapy under Ohio R.C. Chapter 4761;
- (35) A person who has been issued a real estate appraiser certificate under Ohio R.C. Chapter 4763;

- (36) A person who has been issued a home inspector license under Ohio R.C. Chapter 4764;
- (37) A person who has been admitted to the bar by order of the Ohio Supreme Court in compliance with its prescribed and published rules.
- (vv) "Public premises." Any hotel, restaurant, tavern, store, arena, hall or other place of public accommodation, business, amusement or resort.
- (ww) "Sale." Has the same meaning as in Ohio R.C. 3719.01.
- (xx) "Sample drug." A drug or pharmaceutical preparation that would be hazardous to health or safety if used without the supervision of a licensed health professional authorized to prescribe drugs, or a drug of abuse, and that, at one time, had been placed in a container plainly marked as a sample by a manufacturer.
- (yy) "Schedule I", "Schedule II", "Schedule III", "Schedule IV" or "Schedule V." Have the same meaning as in Ohio R.C. 3719.01.
- (zz) "School." Any school operated by a board of education, any community school established under Ohio R.C. Chapter 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.
- (aaa) "School building." Any building in which any of the instruction, extracurricular activities or training provided by a school is conducted, whether or not any instruction, extracurricular activities or training provided by the school is being conducted in the school building at the time a criminal offense is committed.
- (bbb) "School premises." Either of the following:
 - (1) The parcel of real property on which any school is situated, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted on the premises at the time a criminal offense is committed.
 - (2) Any other parcel of real property that is owned or leased by a board of education of a school, the governing authority of a community school established under Ohio R.C. Chapter 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.
- (ccc) "Standard Pharmaceutical Reference Manual." The current edition, with cumulative changes if any, of references that are approved by the State Board of Pharmacy.
- (ddd) "Substance Addiction Services Provider". Means an agency, association, corporation or other legal entity, individual, or program that provides one or more of the following at a facility:
 - (1) Either alcohol addiction services, or drug addiction services, or both such services that are certified by the Ohio Director of Mental Health and Addiction Services under Ohio R.C. 5119.36;
 - (2) Recovery supports that are related to either alcohol addiction services, or drug addiction services, or both such services and paid for with federal, state, or local funds administered by the Ohio Department of Mental Health and Addiction Services or a board of alcohol, drug addiction, and mental health services.
- (eee) "Unit dose." An amount or unit or a compound, mixture or preparation containing a controlled substance that is separately identifiable and in a form that indicates that it is the amount or unit by which the controlled substance is separately administered to or taken by an individual.

- (fff) "Wholesaler." Has the same meaning as in Ohio R.C. 3719.01.
(ORC 2925.01)

513.02 GIFT OF MARIHUANA.

(a) No person shall knowingly give or offer to make a gift of twenty grams or less of marihuana.

(b) Whoever violates this section is guilty of trafficking in marihuana. Trafficking in marihuana is a minor misdemeanor for the first offense and, for any subsequent offense, it is a misdemeanor of the third degree. If the offense was committed in the vicinity of a school or the vicinity of a juvenile, trafficking in marihuana is a misdemeanor of the third degree.

(c) The court may by order suspend for not more than five years the driver's or commercial driver's license or permit of any person who is convicted of or pleads guilty to any violation of this section. 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 an offender's driver's or commercial driver's license or permit is suspended pursuant to this subsection, the offender, at any time after the expiration of two years from the day on which the offender's sentence was imposed, may file a motion with the sentencing court requesting termination of the suspension; upon the filing of such a motion and the court's finding of good cause for the termination, the court may terminate the suspension.
(ORC 2925.03)

513.03 DRUG ABUSE; CONTROLLED SUBSTANCE POSSESSION OR USE.

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

- (b) (1) This section does not apply to the following:
- 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. Chapters 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 thirty days after seeking or obtaining the medical assistance, the qualified individual seeks and obtains a screening and receives a referral for treatment from a community addiction services provider or a properly credentialed addiction treatment professional.
 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 the effective date of this amendment 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.

(e) Arrest or conviction for a minor misdemeanor violation of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries about the person's criminal record, including any inquiries contained in any application for employment, license, or other right or privilege, or made in connection with the person's appearance as a witness. (ORC 2925.11)

513.04 POSSESSING DRUG ABUSE INSTRUMENTS.

(a) No person shall knowingly make, obtain, possess or use any instrument, article or thing the customary and primary purpose of which is for the administration or use of a dangerous drug, other than marihuana, when the instrument involved is a hypodermic or syringe, whether or not of crude or extemporized manufacture or assembly, and the instrument, article or thing involved has been used by the offender to unlawfully administer or use a dangerous drug, other than marihuana, or to prepare a dangerous drug, other than marihuana, for unlawful administration or use.

(b) 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. Chapters 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) In addition to any other sanction imposed upon an offender for a violation of this section, the court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. (ORC 2925.12)

513.05 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) 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.

(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. Chapter 3767. (ORC 2925.13)

CHAPTER 525
Law Enforcement and Public Office

525.01	Definitions.	525.11	Soliciting or receiving improper compensation.
525.02	Falsification.	525.12	Dereliction of duty.
525.03	Impersonation of peace officer.	525.13	Interfering with civil rights.
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525.06	Failure to aid a law enforcement officer.	525.16	Wearing insignia falsely.
525.07	Obstructing official business.	525.17	Assaulting police dog or horse or an assistance dog.
525.08	Obstructing justice.	525.18	False allegation of peace officer misconduct.
525.09	Resisting arrest.	525.19	Refusal to disclose personal information in public place.
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		525.21	Harassment of an election official.
		525.99	Penalty.

CROSS REFERENCES

See sectional histories for similar State law
 Law enforcement officer defined - see GEN. OFF. 501.01(k)
 Misconduct at an emergency - see GEN. OFF. 509.05
 Making false alarms - see GEN. OFF. 509.07
 Personating an officer to defraud - see GEN. OFF. 545.16

525.01 DEFINITIONS.

As used in this chapter:

- (a) "Public official" means any elected or appointed officer, or employee, or agent of the State or any political subdivision thereof, 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.
- (b) "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 subsection 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.
- (c) "Party official" means any person who holds an elective or appointive post in a political party in the United States or this State, by virtue of which the person directs, conducts or participates in directing or conducting party affairs at any level of responsibility.
- (d) "Official proceeding" means any proceeding before a legislative, judicial, administrative or other governmental agency or official authorized to take evidence under oath, and includes any proceeding before a referee, hearing examiner, commissioner, notary or other person taking testimony or a deposition in connection with an official proceeding.
- (e) "Detention" means arrest, confinement in any vehicle subsequent to an arrest, confinement in any public or private facility for custody of persons charged with or convicted of a crime in this State or another state or under the laws of the United States or alleged or found to be a delinquent child or unruly child in this State or another state or under the laws of the United States; hospitalization, institutionalization or confinement in any public or private facility that is ordered pursuant to or under the authority of Ohio R.C. 2945.37, 2945.371, 2945.38, 2945.39 or 2945.40, 2945.401 or 2945.402; confinement in any vehicle for transportation to or from any facility of any of those natures; detention for extradition or deportation, except as provided in this subsection, supervision by any employee of any facility of any of those natures; that is incidental to hospitalization, institutionalization or confinement in the facility but that occurs outside the facility; supervision by an employee of the Department of Rehabilitation and Correction of a person on any type of release from a State correctional institution; or confinement in any vehicle, airplane, or place while being returned from outside of this State into this State by a private person or entity pursuant to a contract entered into under Ohio R.C. 311.29(E) or Ohio R.C. 5149.03(B). For a person confined in a county jail who participates in a county jail industry program pursuant to Ohio R.C. 5147.30, "detention" includes time spent at an assigned work site and going to and from the work site.
- (f) "Detention facility" means any public or private place used for the confinement of a person charged with or convicted of any crime in this State or another state or under the laws of the United States or alleged or found to be a delinquent child or unruly child in this State or another state or under the laws of the United States.
- (g) "Valuable thing or valuable benefit" includes, but is not limited to, a contribution. This inclusion does not indicate or imply that a contribution was not included in those terms before September 17, 1986.
- (h) "Campaign committee," "contribution," "political action committee," "legislative campaign fund" and "political party" have the same meanings as in Ohio R.C. 3517.01.
- (i) "Provider agreement" has the same meaning as in Ohio R.C. 5164.01.
- (j) "Election official" and "polling place" have the same meanings as in Ohio R.C. 3501.01.

- (k) "Telecommunication" has the same meaning as in section 2913.01 of the Ohio Revised Code and without limitation shall include, but not be limited to, any email, voicemail, fax, text, instant message, communication over or through any social media platform, and any other form of digital, electronic, or telephonic communication.
- (l) "Telecommunications device" has the same meaning as in section 2913.01 of the Ohio Revised Code.
- (m) "Communication" shall include, any other method of communication not set forth in subsection (k) including, but not limited to, any communication via U.S. Mail, private mail service, private delivery service, by in-person conduct, or through any other method intended to communicate with an election official.
(Ord. 35-2022. Passed 10-17-22.)

525.02 FALSIFICATION.

- (a) No person shall knowingly make a false statement, or knowingly swear or affirm the truth of a false statement previously made, when any of the following applies:
 - (1) The statement is made in any official proceeding.
 - (2) The statement is made with purpose to incriminate another.
 - (3) The statement is made with purpose to mislead a public official in performing the public official's official function.
 - (4) The statement is made with purpose to secure the payment of unemployment compensation; Ohio works first; prevention, retention and contingency benefits and services; disability financial assistance; retirement benefits or health care coverage from a state retirement system; economic development assistance as defined in Ohio R.C. 9.66; or other benefits administered by a governmental agency or paid out of a public treasury.
 - (5) The statement is made with purpose to secure the issuance by a governmental agency of a license, permit, authorization, certificate, registration, release or provider agreement.
 - (6) The statement is sworn or affirmed before a notary public or another person empowered to administer oaths.
 - (7) The statement is in writing on or in connection with a report or return that is required or authorized by law.
 - (8) The statement is in writing, and is made with purpose to induce another to extend credit to or employ the offender, or to confer any degree, diploma, certificate of attainment, award of excellence or honor on the offender, or to extend to or bestow upon the offender any other valuable benefit or distinction, when the person to whom the statement is directed relies upon it to that person's detriment.
 - (9) The statement is made with purpose to commit or facilitate the commission of a theft offense.
 - (10) The statement is knowingly made to a probate court in connection with any action, proceeding or other matter within its jurisdiction, either orally or in a written document, including, but not limited to, an application, petition, complaint or other pleading, or an inventory, account or report.
 - (11) The statement is made on an account, form, record, stamp, label or other writing that is required by law.
 - (12) The statement is made in a document or instrument of writing that purports to be a judgment, lien, or claim of indebtedness and is filed or recorded with the Secretary of State, a county recorder, or the clerk of a court of record.
 - (13) The statement is required under Ohio R.C. 5743.71 in connection with the person's purchase of cigarettes or tobacco products in a delivery sale.

(b) It is no defense to a charge under subsection (a)(6) hereof that the oath or affirmation was administered or taken in an irregular manner.

(c) If contradictory statements relating to the same fact are made by the offender within the period of the statute of limitations for falsification, it is not necessary for the prosecution to prove which statement was false, but only that one or the other was false.

- (d) (1) Whoever violates any provision of subsection (a)(1) to (8) or (10) to (13) hereof is guilty of falsification, a misdemeanor of the first degree.
- (2) Whoever violates subsection (a)(9) hereof is guilty of falsification in a theft offense, a misdemeanor of the first degree. If the value of the property or services stolen is one thousand dollars (\$1,000) or more, falsification in a theft offense is a felony and shall be prosecuted under appropriate State law.

(e) A person who violates this section is liable in a civil action to any person harmed by the violation for injury, death, or loss to person or property incurred as a result of the commission of the offense and for reasonable attorney's fees, court costs, and other expenses incurred as a result of prosecuting the civil action commenced under this section. A civil action under this section is not the exclusive remedy of a person who incurs injury, death, or loss to person or property as a result of a violation of this section.
(ORC 2921.13)

525.03 IMPERSONATION OF PEACE OFFICER.

(a) As used in this section:

- (1) "Peace officer" means a sheriff, deputy sheriff, marshal, deputy marshal, member of the organized police department of a municipal corporation or township constable who is employed by a political subdivision of this State; a member of a police force employed by a metropolitan housing authority under Ohio R.C. 3735.31(D); a member of a police force employed by a regional transit authority under Ohio R.C. 306.35(Y), a State university law enforcement officer appointed under Ohio R.C. 3345.04; a veterans' home police officer appointed under Ohio R.C. 5907.02; a special police officer employed by a port authority under Ohio R.C. 4582.04 or 4582.28; an officer, agent, or employee of the State or any of its agencies, instrumentalities or political subdivisions, upon whom, by statute, a duty to conserve the peace or to enforce all or certain laws is imposed and the authority to arrest violators is conferred, within limits of that statutory duty and authority; or a State highway patrol trooper whose primary duties are to preserve the peace, to protect life and property and to enforce the laws, ordinances or rules of the State or any of its political subdivisions.
- (2) "Private police officer" means any security guard, special police officer, private detective or other person who is privately employed in a police capacity.
- (3) "Federal law enforcement officer" means an employee of the United States who serves in a position the duties of which are primarily the investigation, apprehension or detention of individuals suspected or convicted of offenses under the criminal laws of the United States.
- (4) "Investigator of the Bureau of Criminal Identification and Investigation" has the same meaning as in Ohio R.C. 2903.11.

- C. If the violation did not result in the death of the police dog or horse or the assistance dog that was the subject of the violation and if, as a result of that dog or horse being the subject of the violation, the dog or horse needs further training or retraining to be able to continue in the capacity of a police dog or horse or an assistance dog, the cost of any further training or retraining of that dog or horse by a law enforcement officer or by the blind, deaf or hearing impaired, or mobility impaired person assisted or served by the assistance dog;
- D. If the violation resulted in the death of the assistance dog that was the subject of the violation or resulted in serious physical harm to the police dog or horse or the assistance dog or horse that was the subject of the violation to the extent that the dog or horse needs to be replaced on either a temporary or a permanent basis, the cost of replacing that dog or horse and of any further training of a new police dog or horse or a new assistance dog by a law enforcement officer or by the blind, deaf or hearing impaired, or mobility impaired person assisted or served by the assistance dog, which replacement or training is required because of the death of or the serious physical harm to the dog or horse that was the subject of the violation.

(f) This section does not apply to a licensed veterinarian whose conduct is in accordance with Ohio R.C. Chapter 4741.

(g) This section only applies to an offender who knows or should know at the time of the violation that the police dog or horse or assistance dog that is the subject of a violation under this section is a police dog or horse or assistance dog.

(h) As used in this section:

- (1) "Physical harm" means any injury, illness, or other physiological impairment, regardless of its gravity or duration.
- (2) "Police dog or horse" means a dog or horse that has been trained, and may be used, to assist law enforcement officers in the performance of their official duties.
- (3) "Serious physical harm" means any of the following:
 - A. Any physical harm that carries a substantial risk of death;
 - B. Any physical harm that causes permanent maiming or that involves some temporary, substantial maiming;
 - C. Any physical harm that causes acute pain of a duration that results in substantial suffering.
- (4) "Assistance dog", "blind", and "mobility impaired person" have the same meanings as in Ohio R.C. 955.011.
(ORC 2921.321)

525.18 FALSE ALLEGATION OF PEACE OFFICER MISCONDUCT.

(a) As used in this section, "peace officer" has the same meaning as in Ohio R.C. 2935.01.

(b) No person shall knowingly file a complaint against a peace officer that alleges that the peace officer engaged in misconduct in the performance of the officer's duties if the person knows that the allegation is false.

(c) Whoever violates this section is guilty of making a false allegation of peace officer misconduct, a misdemeanor of the first degree.
(ORC 2921.15)

525.19 REFUSAL TO DISCLOSE PERSONAL INFORMATION IN PUBLIC PLACE.

(a) No person who is in a public place shall refuse to disclose the person's name, address, or date of birth, when requested by a law enforcement officer who reasonably suspects either of the following:

- (1) The person is committing, has committed, or is about to commit a criminal offense.
- (2) The person witnessed any of the following:
 - A. An offense of violence that would constitute a felony under the laws of this State;
 - B. A felony offense that causes or results in, or creates a substantial risk of, serious physical harm to another person or to property;
 - C. Any attempt or conspiracy to commit, or complicity in committing, any offense identified in subsection (a)(2)A. or B. of this section;
 - D. Any conduct reasonably indicating that any offense identified in subsection (a)(2)A. or B. of this section or any attempt, conspiracy, or complicity described in subsection (a)(2)C. of this section has been, is being, or is about to be committed.

(b) Whoever violates this section is guilty of failure to disclose one's personal information, a misdemeanor of the fourth degree.

(c) Nothing in this section requires a person to answer any questions beyond that person's name, address, or date of birth. Nothing in this section authorizes a law enforcement officer to arrest a person for not providing any information beyond that person's name, address, or date of birth or for refusing to describe the offense observed.

(d) It is not a violation of this section to refuse to answer a question that would reveal a person's age or date of birth if age is an element of the crime that the person is suspected of committing. (ORC 2921.29)

525.20 INTERFERENCE WITH CONDUCT OF AN ELECTION.

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

- (1) Attempt to intimidate an election official with the intent to influence them in their official duties, or prevent an election official from performing the official's duties;
- (2) Tear down, remove, or destroy any of the registration lists or sample ballots furnished by the board of elections at the polling place with knowledge that the person's actions may interfere with the election;
- (3) Loiter in or about a registration or polling place during registration or the casting and counting of ballots after being asked to leave, with the intent to hinder, delay, or interfere with the conduct of the registration or election;
- (4) Remove from the voting place the pencils, cards of instruction, supplies, or other conveniences furnished to enable the voter to mark the voter's ballot with the intent to hinder, delay, or interfere with the conduct of the registration or election.

(b) "Intimidate" shall mean an act or statement that places any person in reasonable apprehension that death, serious bodily injury, sexual assault, or a felony against the election official's family or property will occur.

(c) Whoever violates this section is guilty of a misdemeanor of the first degree. For a violation of subsection (a)(1), the court shall impose a mandatory term of imprisonment of at least three (3) days, which shall not be suspended. (Ord. 35-2022. Passed 10-17-22.)

525.21 HARASSMENT OF AN ELECTION OFFICIAL.

(a) No person shall knowingly make or cause to be made a telecommunication to an election official that threatens to inflict serious physical injury upon or commit a felony against the election official or their property or that harasses an election official with the intent to unlawfully influence such person regarding or in connection with such person's duties or responsibilities regarding any past, current, or future general, primary, or special election.

(b) No person shall knowingly engage in conduct or any form of communication or knowingly encourage another to engage in such conduct or communication that threatens to inflict serious physical injury upon or commit a felony against an election official or harasses an election official with the intent to unlawfully influence such person regarding or in connection with such person's duties or responsibilities regarding any past, current, or future general, primary, or special election.

(c) No person shall knowingly make or cause to be made a telecommunication that threatens to inflict serious physical injury upon or commit a felony against an election official's immediate family, parents, grandparents, grandchildren, or any member of the election official's household or their property, or that harasses such individuals, with the intent to unlawfully influence the election official in their duties or responsibilities regarding any past, current, or future general, primary, or special election.

(d) No person shall knowingly engage in conduct or any form of communication or knowingly encourage another to engage in such conduct or communication that threatens to inflict serious physical injury upon or commit a felony against an election official's immediate family, parents, grandparents, grandchildren, or any member of the election official's household or that harasses such individuals with the intent to unlawfully influence the official regarding or in connection with the election official's duties or responsibilities regarding any past, current, or future general, primary, or special election.

(e) "Harassment" means insulting by abusive words or gestures in a manner intended and likely to provoke a violent response or that makes a reasonable person feel distressed.

(f) Whoever violates this section is guilty of a misdemeanor of the first degree. The court shall impose a mandatory term of imprisonment of at least three (3) days, which shall not be suspended. (Ord. 35-2022. Passed 10-17-22.)

525.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)

CHAPTER 529 Liquor Control

529.01	Definitions.	529.06	Low-alcohol beverages: sale to and purchase by underage persons prohibited.
529.02	Sales to and use by underage persons; securing public accommodations.	529.07	Open container prohibited.
529.021	Purchase by minor; misrepresentation.	529.08	Hours of sale or consumption.
529.03	Sales to intoxicated persons.	529.09	Possession by minors; parents' liability.
529.04	Liquor consumption in motor vehicle.	529.10	Intoxicants on City-owned property.
529.05	Permit required.	529.99	Penalty.

CROSS REFERENCES

See sectional histories for similar State law
 Prohibiting sale of intoxicating liquor on Sunday - see Ohio R.C. 4301.22(D)
 Local option - see Ohio R.C. 4301.32 et seq., 4303.29
 Disorderly conduct; intoxication - see GEN. OFF. 509.03
 Using weapons while intoxicated - see GEN. OFF. 549.03

529.01 DEFINITIONS.

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

- (a) "Alcohol". Ethyl alcohol, whether rectified or diluted with water or not, whatever its origin may be, and includes synthetic ethyl alcohol. The term does not include denatured alcohol and wood alcohol.
- (b) "At Retail". For use or consumption by the purchaser and not for resale.
- (c) "Beer".
 - (1) Includes all beverages brewed or fermented wholly or in part from malt products and containing one-half of one percent (0.5%) or more of alcohol by volume.
 - (2) Beer, regardless of the percent of alcohol by volume, is not intoxicating liquor for purposes of this code, the Ohio Revised Code, or any rules adopted under it.
- (d) "Cider". All liquids that are fit to use for beverage purposes that contain one-half of one percent (0.5%) of alcohol by volume, but not more than six percent (6%) of alcohol by weight that are made through the normal alcoholic fermentation of the juice of sound, ripe apples, including, without limitation, flavored, sparkling, or carbonated cider and cider made from pure condensed apple must.

- (e) "Club". A corporation or association of individuals organized in good faith for social, recreational, benevolent, charitable, fraternal, political, patriotic, or athletic purposes, which is the owner, lessor, or occupant of a permanent building or part of a permanent building operated solely for such purposes, membership in which entails the prepayment of regular dues, and includes the place so operated.
- (f) "Community Facility". Means either of the following:
 - (1) Any convention, sports or entertainment facility or complex, or any combination of these, that is used by or accessible to the general public and that is owned or operated in whole or in part by the state, a state agency, or a political subdivision of the state or that is leased from, or located on property owned by or leased from, the state, a state agency, a political subdivision of the state, or a convention facilities authority created pursuant to Ohio R.C. 351.02;
 - (2) An area designated as a community entertainment district pursuant to Ohio R.C. 4301.80.
- (g) "Controlled Access Alcohol and Beverage Cabinet". A closed container, either refrigerated, in whole or in part, or nonrefrigerated, access to the interior of which is restricted by means of a device that requires the use of a key, magnetic card, or similar device and from which beer, intoxicating liquor, other beverages or food may be sold.
- (h) "Hotel". The same meaning as in Ohio R.C. 3731.01, subject to the exceptions mentioned in Ohio R.C. 3731.03.
- (i) "Intoxicating Liquor" and "Liquor". All liquids and compounds, other than beer, containing one half of one percent (0.5%) or more of alcohol by volume which are fit to use for beverage purposes, from whatever source and by whatever process produced, by whatever name called, and whether they are medicated, proprietary, or patented. The terms include cider and alcohol, and all solids and confections which contain one-half of one percent (0.5%) or more of alcohol by volume.
- (j) "Low-Alcohol Beverage". Any brewed or fermented malt product or any product made from the fermented juices of grapes, fruits, or other agricultural products that contains either no alcohol or less than one-half of one percent (0.5%) of alcohol by volume. The beverages described in this definition do not include a soft drink such as root beer, birch beer, or ginger beer.
- (k) "Manufacture". All processes by which beer or intoxicating liquor is produced, whether by distillation, rectifying, fortifying, blending, fermentation, brewing, or in any other manner.
- (l) "Manufacturer". Any person engaged in the business of manufacturing beer or intoxicating liquor.
- (m) "Mixed Beverages". Include bottled and prepared cordials, cocktails, highballs, and solids and confections that are obtained by mixing any type of whiskey, neutral spirits, brandy, gin or other distilled spirits with, or over, carbonated or plain water, pure juices from flowers and plants, and other flavoring materials. The completed product shall contain not less than one-half of one percent (0.5%) of alcohol by volume and not more than twenty-one percent (21%) of alcohol by volume. The phrase includes the contents of a pod.
- (n) "Nightclub". A place habitually operated for profit, where food is served for consumption on the premises, and one or more forms of amusement are provided or permitted for a consideration that may be in the form of a cover charge or may be included in the price of the food and beverages, or both, purchased by patrons.
- (o) "Person". Includes firms and corporations.
- (p) "Pharmacy". An establishment as defined in Ohio R.C. 4729.01, that is under the management or control of a licensed pharmacist in accordance with Ohio R.C. 4729.27.

- (q) "POD". Means a sealed capsule made from plastic, glass, aluminum, or a combination thereof to which all of the following apply:
- (1) The capsule contains intoxicating liquor of more than twenty-one percent (21%) of alcohol by volume.
 - (2) The capsule also contains a concentrated flavoring mixture.
 - (3) The contents of the capsule are not readily accessible or intended for consumption unless certain manufacturer's processing instructions are followed.
 - (4) The instructions include releasing the contents of the capsule through a machine specifically designed to process the contents.
 - (5) After being properly processed according to the manufacturer's instructions, the final product produced from the capsule contains not less than one-half of one percent (0.5%) of alcohol by volume and not more than twenty-one percent (21%) of alcohol by volume.
- (r) "Restaurant". A place located in a permanent building provided with space and accommodations wherein, in consideration of the payment of money, hot meals are habitually prepared, sold, and served at noon and evening, as the principal business of the place. The term does not include pharmacies, confectionery stores, lunch stands, nightclubs, and filling stations.
- (s) "Sale" and "Sell". The exchange, barter, gift, offer for sale, sale, distribution, and delivery of any kind, and the transfer of title or possession of beer and intoxicating liquor either by constructive or actual delivery by any means or devices whatever, including the sale of beer or intoxicating liquor by means of a controlled access alcohol and beverage cabinet pursuant to Ohio R.C. 4301.21. Such terms do not include the mere solicitation of orders for beer or intoxicating liquor from the holders of permits issued by the Division of Liquor Control authorizing the sale of the beer or intoxicating liquor, but no solicitor shall solicit any orders until the solicitor has been registered with the Division pursuant to Ohio R.C. 4303.25.
- (t) "Sales Area or Territory". An exclusive geographic area or territory that is assigned to a particular A or B permit holder and that either has one or more political subdivisions as its boundaries or consists of an area of land with readily identifiable geographic boundaries. The term does not include, however, any particular retail location in an exclusive geographic area or territory that had been assigned to another A or B permit holder before April 9, 2001.
- (u) "Sealed Container". Any container having a capacity of not more than 128 fluid ounces, the opening of which is closed to prevent the entrance of air.
- (v) "Spirituous Liquor". All intoxicating liquors containing more than twenty-one percent (21%) of alcohol by volume. The phrase does not include the contents of a pod.
- (w) "Vehicle". All means of transportation by land, by water, or by air, and everything made use of in any way for such transportation.
- (x) "Wholesale Distributor" and "Distributor". A person engaged in the business of selling to retail dealers for purposes of resale.
- (y) "Wine". All liquids fit to use for beverage purposes containing not less than one-half of one percent (0.5%) of alcohol by volume and not more than twenty-one percent (21%) of alcohol by volume, that is made from the fermented juices of grapes, fruits, or other agricultural products. The term includes cider, except as used in Ohio R.C. 4301.13, 4301.421, 4301.422, 4301.432, and 4301.44, and, for purposes of determining the rate of the tax that applies, Ohio R.C. 4301.43(B), the term does not include cider.
(ORC 4301.01, 4301.244)

529.02 SALES TO AND USE BY UNDERAGE PERSONS; SECURING PUBLIC ACCOMMODATIONS.

(a) Except as otherwise provided in this chapter or Ohio R.C. Chapter 4301, no person shall sell beer or intoxicating liquor to an underage person, or shall buy beer or intoxicating liquor for an underage person, or shall furnish it to, an underage person, unless given by a physician in the regular line of his practice or given for established religious purposes, or unless the underage person is supervised by a parent, spouse who is not an underage person or legal guardian.

In proceedings before the Liquor Control Commission, no permit holder, or no employee or agent of a permit holder, charged with a violation of this subsection shall be charged, for the same offense, with a violation of Ohio R.C. 4301.22(A)(1).

(b) No person who is the owner or occupant of any public or private place shall knowingly allow any underage person to remain in or on the place while possessing or consuming beer or intoxicating liquor, unless the intoxicating liquor or beer is given to the person possessing or consuming it by that person's parent, spouse who is not an underage person or legal guardian and the parent, spouse who is not an underage person or legal guardian is present at the time of the person's possession or consumption of the beer or intoxicating liquor.

An owner of a public or private place is not liable for acts or omissions in violation of this subsection that are committed by a lessee of that place, unless the owner authorizes or acquiesces in the lessee's acts or omissions.

(c) No person shall engage or use accommodations at a hotel, inn, cabin, campground or restaurant when he knows or has reason to know either of the following:

- (1) That beer or intoxicating liquor will be consumed by an underage person on the premises of the accommodations that the person engages or uses, unless the person engaging or using the accommodations is the spouse of the underage person and is not an underage person, or is the parent or legal guardian of all of the underage persons, who consume beer or intoxicating liquor on the premises and that person is on the premises at all times when beer or intoxicating liquor is being consumed by an underage person;
- (2) That a drug of abuse will be consumed on the premises of the accommodations by any person, except a person who obtained the drug of abuse pursuant to a prescription issued by a practitioner and has the drug of abuse in the original container in which it was dispensed to the person.

- (d) (1) No person is required to permit the engagement of accommodations at any hotel, inn, cabin or campground by an underage person or for an underage person, if the person engaging the accommodations knows or has reason to know that the underage person is intoxicated, or that the underage person possesses any beer or intoxicating liquor and is not supervised by a parent, spouse who is not an underage person or legal guardian who is or will be present at all times when the beer or intoxicating liquor is being consumed by the underage person.

529.03 SALES TO INTOXICATED PERSONS.

(a) No permit holder and no agent or employee of a permit holder shall sell or furnish beer or intoxicating liquor to an intoxicated person. (ORC 4301.22)

(b) Whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4301.99)

529.04 LIQUOR CONSUMPTION IN MOTOR VEHICLE.

(a) No person shall consume any beer or intoxicating liquor in a motor vehicle. This section does not apply to persons described in Section 529.07(d). (ORC 4301.64)

(b) Whoever violates subsection (a) hereof is guilty of a misdemeanor of the second degree.

(c) If an offender who violates this section was under the age of eighteen years at the time of the offense, the court, in addition to any other penalties it imposes upon the offender, shall suspend the offender's temporary instruction permit, probationary driver's license, or driver's license for a period of not less than six months and not more than one year. In lieu of suspending the offender's temporary instruction permit, probationary driver's license or driver's license, the court may instead require the offender to perform community service for a number of hours to be determined by the court. If the offender is fifteen years and six months of age or older and has not been issued a temporary instruction permit or probationary driver's license, the offender shall not be eligible to be issued such a license or permit for a period of six months. If the offender has not attained the age of fifteen years and six months, the offender shall not be eligible to be issued a temporary instruction permit until the offender attains the age of sixteen years. (ORC 4301.99)

529.05 PERMIT REQUIRED.

(a) No person personally or by the person's clerk, agent or employee shall manufacture, manufacture for sale, offer, keep or possess for sale, furnish or sell, or solicit the purchase or sale of any beer or intoxicating liquor in this Municipality, or transport, import or cause to be transported or imported any beer, intoxicating liquor or alcohol on or into this Municipality for delivery, use or sale, unless the person has fully complied with Ohio R.C. Chapters 4301 and 4303 or is the holder of a permit issued by the Division of Liquor Control and in force at the time. (ORC 4303.25)

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

529.06 LOW-ALCOHOL BEVERAGES: SALE TO AND PURCHASE BY UNDERAGE PERSONS PROHIBITED.

(a) As used in this section, "underage person" means a person under eighteen years of age.

(b) No underage person shall purchase any low-alcohol beverage.

(c) No underage person shall order, pay for, share the cost of, or attempt to purchase any low-alcohol beverage.

(d) No person shall knowingly furnish any false information as to the name, age, or other identification of any underage person for the purpose of obtaining or with the intent to obtain any low-alcohol beverage for an underage person, by purchase or as a gift.

(e) No underage person shall knowingly show or give false information concerning his name, age, or other identification for the purpose of purchasing or otherwise obtaining any low-alcohol beverage in any place in this Municipality.

(f) No person shall sell or furnish any low-alcohol beverage to, or buy any low-alcohol beverage for, an underage person, unless given by a physician in the regular line of his practice or given for established religious purposes, or unless the underage person is accompanied by a parent, spouse who is not an underage person, or legal guardian.

(g) No person who is the owner or occupant of any public or private place shall knowingly allow any underage person to remain in or on the place while possessing or consuming any low-alcohol beverage, unless the low-alcohol beverage is given to the person possessing or consuming it by that person's parent, spouse who is not an underage person, or legal guardian, and the parent, spouse who is not an underage person, or legal guardian is present when the person possesses or consumes the low-alcohol beverage.

An owner of a public or private place is not liable for acts or omissions in violation of this division that are committed by a lessee of that place, unless the owner authorizes or acquiesces in the lessee's acts or omissions.

(h) No underage person shall knowingly possess or consume any low-alcohol beverage in any public or private place, unless he is accompanied by a parent, spouse who is not an underage person, or legal guardian, or unless the low-alcohol beverage is given by a physician in the regular line of his practice or given for established religious purposes.

(i) No parent, spouse who is not an underage person, or legal guardian of an underage person shall knowingly permit the underage person to violate this section.
(ORC 4301.631)

(j) Whoever violates any provision of this section for which no other penalty is provided is guilty of a misdemeanor of the fourth degree.

(k) Whoever violates subsection (b) hereof shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00). The court imposing a fine for a violation of subsection (b) hereof may order that the fine be paid by the performance of public work at a reasonable hourly rate established by the court. The court shall designate the time within which the public work shall be completed. (ORC 4301.99)

529.07 OPEN CONTAINER PROHIBITED.

(a) As used in this section:

- (1) "Chauffeured limousine" means a vehicle registered under Ohio R.C. 4503.24.
- (2) "Street," "highway" and "motor vehicle" have the same meanings as in Ohio R.C. 4511.01.

(b) No person shall have in the person's possession an opened container of beer or intoxicating liquor in any of the following circumstances:

- (1) In a State liquor store;
- (2) Except as provided in subsection (c) or (i) hereof, on the premises of the holder of any permit issued by the Division of Liquor Control;
- (3) In any other public place;

- (h) (1) As used in this section, "alcoholic beverage" has the same meaning as in Ohio R.C. 4303.185.
- (2) An alcoholic beverage in a closed container being transported under Ohio R.C. 4303.185 to its final destination is not an opened container for the purposes of this section if the closed container is securely sealed in such a manner that it is visibly apparent if the closed container has been subsequently opened or tampered with after sealing.
(ORC 4301.62)

(i) This section does not apply to a person that has in the person's possession an opened container of homemade beer or wine that is served in accordance with Ohio R.C. 4301.201(E). (ORC 4301.62)

(j) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4301.99(A))

529.08 HOURS OF SALE OR CONSUMPTION.

(a) This rule shall apply to the retail sale of beer, wine, mixed beverages, or spirituous liquor.

(b) No beer, wine, mixed beverages, or spirituous liquor shall be sold or delivered by an A-1, A-1c, A-2, B-1, B-2, B-4, B-5, C-1, C-2, C-2X, D-1, D-2, D-2X, D-3 when issued without a D-3A, D-3X, D-4, D-5H, D-5K, D-8, F, F-1, F-2, F-3, F-4, F-5, F-6, F-7, F-8, F-9, G or I permit holder:

- (1) From Monday to Saturday between the hours of one a.m. and five thirty a.m.
- (2) On Sunday between the hours of one a.m. and Sunday midnight, unless statutorily authorized otherwise.
- (3) Consumption of beer, wine, mixed beverages, or spirituous liquor is also prohibited during the above hours upon the premises of the above permit holders who are authorized by their permit to sell beer, wine, mixed beverages, or spirituous liquor for on-premises consumption.

(c) No beer, wine, mixed beverages, or spirituous liquid shall be sold or delivered by an A-1A, D-3 when issued with a D-3A, D-4A, D-5, D-5A, D-5B, D-5C, D-5D, D-5E, D-5F, D-5G, D-5I, D-5J, D-5L, D-5m, D-5n, D-5o, or D-7 permit holder:

- (1) From Monday to Saturday between the hours of two thirty a.m. and five thirty a.m.
- (2) On Sunday between the hours of two thirty a.m. and Sunday midnight, unless statutorily authorized otherwise.
- (3) Consumption of beer, wine, mixed beverages, or spirituous liquor is also prohibited during the above hours upon the premises of the above permit holders who are authorized by their permit to sell beer, wine, mixed beverages or spirituous liquor for on-premises consumption.

(d) Permit holders authorized to sell beer, wine, mixed beverages, or spirituous liquor at retail who are not specifically identified in subsection (b) or (c) above shall be subject to the provisions of subsection (b), unless statutorily authorized otherwise.

(e) The hours on Sunday during which sales, delivery, or consumption of alcoholic beverages may take place are established by statute, but in no event shall they begin prior to five thirty a.m. (OAC 4301:1-1-49)

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

529.09 POSSESSION BY MINORS; PARENTS' LIABILITY.

(a) No person under the age of twenty-one years shall knowingly possess, control or consume any beer or intoxicating liquor, in any public or private place, unless he is accompanied by a parent or legal guardian, or unless the beer or intoxicating liquor is given by a physician in the regular line of his practice or given for established religious purposes.
(Ord. 104-89. Passed 12-11-89.)

(b) No person being the parent or legal guardian of a person under the age of twenty-one years shall knowingly permit such person under the age of twenty-one years to violate any provision of this chapter.

(c) No person being the owner or occupant of any property located within the City shall knowingly allow any person under the age of twenty-one years to remain on such property while in the possession of intoxicating liquor or beer or while consuming intoxicating liquor or beer, unless it is given by a parent or legal guardian and that parent or legal guardian is present at the time of possession or consumption.

(d) No person shall engage or permit engagement of accommodations at a hotel, motel, inn, campground or other hostelry under circumstances in which he knows or has reason to know that intoxicating liquor, beer or drugs of abuse will be consumed by persons under the age of twenty-one years on the premises of such accommodations. It shall be a complete defense to a violation of this subsection involving alcohol only that the person is the parent or legal guardian to all such persons under the age of twenty-one years. Notice of the provisions of this subsection and the penalties attendant to violation of this subsection shall be conspicuously posted in at least one location on the premises of all hotels, motels, inns, campgrounds and other hostelries in this City.

(e) Whoever violates any provision of this section is guilty of a misdemeanor of the fourth degree.

529.10 INTOXICANTS ON CITY-OWNED PROPERTY.

(a) No person shall take any alcohol, intoxicating liquor, beer or low-alcohol beverage into or upon City-owned property unless it is approved pursuant to Administrative Regulation prescribed by the City Manager or his designee pursuant to Section 131.02.

(b) Whoever violates this section is guilty of a minor misdemeanor.
(Ord. 33-2011. Passed 10-3-11.)

529.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)

CHAPTER 537
Offenses Against Persons

537.01	Negligent homicide.	537.13	Adulterating of or
537.02	Vehicular homicide and		furnishing adulterated food
	manslaughter.		or confection.
537.021	Vehicular assault in a	537.14	Domestic violence.
	construction zone.	537.15	Temporary protection order.
537.03	Assault.	537.16	Illegal distribution of
537.04	Negligent assault.		cigarettes, other tobacco
537.05	Aggravated menacing.		products, or alternate
537.051	Menacing by stalking.		nicotine products;
537.06	Menacing.		transaction scans.
537.07	Endangering children.	537.17	Reserved.
537.08	Unlawful restraint.	537.18	Contributing to unruliness
537.09	Coercion.		or delinquency of a child.
537.10	Telecommunication	537.19	Failing to provide for
	harassment.		functionally impaired person.
537.11	Threatening or harassing	537.20	Abortion offenses.
	telephone calls.	537.21	Hazing prohibited.
537.12	Misuse of 9-1-1 system.	537.99	Penalty.

CROSS REFERENCES

See sectional histories for similar State law

Physical harm to persons defined - see GEN. OFF. 501.01 (c), (e)

Fighting; provoking violent response - see GEN. OFF. 509.03

537.01 NEGLIGENT HOMICIDE.

(a) No person shall negligently cause the death of another or the unlawful termination of another's pregnancy by means of a deadly weapon or dangerous ordnance as defined in Section 549.01.

(b) Whoever violates this section is guilty of negligent homicide, a misdemeanor of the first degree. (ORC 2903.05)

537.02 VEHICULAR HOMICIDE AND MANSLAUGHTER.

(a) No person, while operating or participating in the operation of a motor vehicle, motorcycle, snowmobile, locomotive, watercraft, or aircraft, shall cause the death of another or the unlawful termination of another's pregnancy in any of the following ways:

(1) A. Negligently;

- B. As the proximate result of committing, while operating or participating in the operation of a motor vehicle or motorcycle in a construction zone, a speeding offense, provided that this subsection applies only if the person whose death is caused or whose pregnancy is unlawfully terminated is in the construction zone at the time of the offender's commission of the speeding offense in the construction zone and does not apply as described in subsection (d) of this section.
- (2) As the proximate result of committing a violation of any provision of any section contained in Title XLV of the Ohio Revised Code that is a minor misdemeanor or of a municipal ordinance that, regardless of the penalty set by ordinance for the violation, is substantially equivalent to any provision of any section contained in Title XLV of the Ohio Revised Code that is a minor misdemeanor.
- (b) (1) Whoever violates subsection (a)(1) of this section is guilty of vehicular homicide. Except as otherwise provided in this subsection, vehicular homicide is a misdemeanor of the first degree. Vehicular homicide is a felony and shall be prosecuted under appropriate State law if, at the time of the offense, the offender was driving under a suspension or cancellation imposed under Ohio R.C. Chapter 4510 or any other provision of the Ohio Revised Code or was operating a motor vehicle or motorcycle, did not have a valid driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege, and was not eligible for renewal of the offender's driver's license or commercial driver's license without examination under Ohio R.C. 4507.10 or if the offender previously has been convicted of or pleaded guilty to a violation of this section or any traffic-related homicide, manslaughter or assault offense. The court shall impose a mandatory jail term on the offender when required by Ohio R.C. 2903.06(E).
- (2) Whoever violates subsection (a)(2) of this section is guilty of vehicular manslaughter. Except as otherwise provided in this subsection, vehicular manslaughter is a misdemeanor of the second degree. Vehicular manslaughter is a misdemeanor of the first degree if, at the time of the offense, the offender was driving under a suspension or cancellation imposed under Ohio R.C. Chapter 4510 or any other provision of the Ohio Revised Code or was operating a motor vehicle or motorcycle, did not have a valid driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege, and was not eligible for renewal of the offender's driver's license or commercial driver's license without examination under Ohio R.C. 4507.10 or if the offender previously has been convicted of or pleaded guilty to a violation of this section or any traffic-related homicide, manslaughter, or assault offense.
- (c) The court shall impose a mandatory jail term of at least fifteen days on an offender who is convicted of or pleads guilty to a violation of subsection (a)(1)B. of this section and may impose upon the offender a longer jail term as authorized pursuant to Section 501.99. The court shall impose a mandatory prison term on an offender who is convicted of or pleads guilty to a violation of subsection (a)(1)A. hereof if either of the following applies:
- (1) The offender previously has been convicted of or pleaded guilty to a violation of this section or Ohio R.C. 2903.06 or 2903.08.

537.13 ADULTERATING OF OR FURNISHING ADULTERATED FOOD OR CONFECTION.

(a) No person shall do either of the following, knowingly or having reasonable cause to believe that any person may suffer physical harm or be seriously inconvenienced or annoyed thereby:

- (1) Place a pin, needle, razor blade, glass, laxative, drug of abuse, or other harmful or hazardous object or substance in any food or confection;
- (2) Furnish to any person any food or confection which has been adulterated in violation of subsection (a)(1) hereof. (ORC 3716.11)

(b) Whoever violates this section is guilty of a misdemeanor of the first degree.
(ORC 3716.99(C))

537.14 DOMESTIC VIOLENCE.

(a) No person shall knowingly cause or attempt to cause physical harm to a family or household member.

(b) No person shall recklessly cause serious physical harm to a family or household member.

(c) No person, by threat of force, shall knowingly cause a family or household member to believe that the offender will cause imminent physical harm to the family or household member.

(d) No person shall knowingly cause or attempt to cause physical harm to an intimate partner.

(e) No person shall recklessly cause serious physical harm to an intimate partner.

(f) No person, by threat of force, shall knowingly cause an intimate partner to believe that the offender will cause imminent physical harm to the intimate partner.

- (g)
- (1) Whoever violates divisions (a), (b), or (c) of this section is guilty of domestic violence and whoever violates divisions (d), (e), or (f) of this section is guilty of intimate partner violence. The court shall sentence the offender as provided in divisions (g)(2) to (g)(5).
 - (2) Except as otherwise provided in subsection (g)(3) to (5) of this section, a violation of subsection (c) or (f) of this section is a misdemeanor of the fourth degree, and a violation of subsection (a), (b), (d), or (e) of this section is a misdemeanor of the first degree.
 - (3) Except as otherwise provided in subsection (g)(4) of this section, if the offender previously has pleaded guilty to or been convicted of domestic violence or intimate partner violence, a violation of an existing or former municipal ordinance or law of this or any other state or the United States that is substantially similar to domestic violence or intimate partner violence, a violation of Ohio R.C. 2903.14, 2909.06, 2909.07, 2911.12, 2911.211, or 2919.22 if the victim of the violation was a family or household member or intimate partner at the time of the violation, a violation of an existing or former municipal ordinance or law of this or any

- other state or the United States that is substantially similar to any of those sections if the victim of the violation was a family or household member or intimate partner at the time of the commission of the violation, or any offense of violence if the victim of the offense was a family or household member at the time of the commission of the offense, a violation of subsection (c) or (f) of this section is a misdemeanor of the second degree.
- (4) If the offender previously has pleaded guilty to or been convicted of two or more offenses of domestic violence or two or more violations or offenses of the type described in subsection (g)(3) of this section involving a person who was a family or household member or intimate partner at the time of the violations or offenses, a violation of subsection (c) or (f) of this section is a misdemeanor of the first degree.
- (5) Except as otherwise provided in subsection (g)(3) or (4) of this section, if the offender knew that the victim of the violation was pregnant at the time of the violation, a violation of subsection (c) or (f) of this section is a misdemeanor of the third degree.

(h) This section shall not apply to circumstances which, by law, would be felony violations under Ohio R.C. 2919.25 or other applicable state law.

(i) Notwithstanding any provision of law to the contrary, no court or unit of local government shall charge any fee, cost, deposit, or money in connection with the filing of charges against a person alleging that the person violated this section or in connection with the prosecution of any charges so filed.

(j) As used in this section:

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

A. Any of the following who is residing or has resided with the offender:

1. A spouse, a person living as a spouse or a former spouse of the offender;
2. A parent, a foster parent or a child of the offender, or another person related by consanguinity or affinity to the offender;
3. A parent, or a child of a spouse, person living as a spouse, or former spouse of the offender; or another person related by consanguinity or affinity to a spouse, person living as a spouse or former spouse of the offender.

B. The natural parent of any child of whom the offender is the other natural parent or is the putative other natural parent.

- (2) "Person living as a spouse" means a person who is living or has lived with the offender in a common law marital relationship, who otherwise is cohabiting with the offender, or who otherwise has cohabited with the offender within five years prior to the date of the alleged commission of the act in question.
- (3) "Intimate partner" means a person with whom the offender is, or has been, in a dating relationship but who does not meet the definition of a family or household member.
- (4) "Dating relationship" means a relationship between individuals who have, or who have had, a relationship of a romantic or intimate nature. "Dating relationship" does not include a casual acquaintanceship or ordinary fraternization in a business or social context.

(k) The same relief available under the Ohio Revised Code for filing a complaint for violation of Ohio R.C. 2919.25 shall be available for filing a complaint for violation of this section. (Ord. 34-2022. Passed 10-3-22.)

537.15 TEMPORARY PROTECTION ORDER.

- (a) No person shall recklessly violate the terms of any of the following:
- (1) A protection order issued or consent agreement approved pursuant to Ohio R.C. 2919.26 or 3113.31;
 - (2) A protection order issued pursuant to Ohio R.C. 2151.34, 2903.213 or 2903.214;
 - (3) A protection order issued by a court of another state.
- (b)
- (1) Whoever violates this section is guilty of violating a protection order.
 - (2) Except as otherwise provided in subsection (b)(3) of this section, violating a protection order is a misdemeanor of the first degree.
 - (3) Violating a protection order is a felony and shall be prosecuted under State law if the offender previously has been convicted of, pleaded guilty to, or been adjudicated a delinquent child for any of the following:
 - A. A violation of a protection order issued or consent agreement approved pursuant to Ohio R.C. 2151.34, 2903.213, 2903.214, 2919.26, or 3113.31;
 - B. Two or more violations of Ohio R.C. 2903.21, 2903.211, 2903.22, or 2911.211 or any combination of those offenses that involved the same person who is the subject of the protection order or consent agreement;
 - C. One or more violations of this section.
 - (4) If the offender violates a protection order or consent agreement while committing a felony offense, violating a protection order is a felony and shall be prosecuted under appropriate state law.
 - (5) If the protection order violated by the offender was an order issued pursuant to Ohio R.C. 2151.34 or 2903.214 that required electronic monitoring of the offender pursuant to that section, the court may require in addition to any other sentence imposed upon the offender that the offender be electronically monitored for a period not exceeding five years by a law enforcement agency designated by the court. If the court requires under this subsection that the offender be electronically monitored, unless the court determines that the offender is indigent, the court shall order that the offender pay the costs of the installation of the electronic monitoring device and the cost of monitoring the electronic monitoring device. If the court determines that the offender is indigent and subject to the maximum amount allowable and the rules promulgated by the Attorney General under Ohio R.C. 2903.214, the costs of the installation of the electronic monitoring device and the cost of monitoring the electronic monitoring device may be paid out of funds from the reparations fund created pursuant to Ohio R.C. 2743.191. The total amount paid from the reparations fund created pursuant to Ohio R.C. 2743.191 for electronic monitoring under this section and Ohio R.C. 2151.34 and 2903.214 shall not exceed three hundred thousand dollars per year.

(c) It is an affirmative defense to a charge under subsection (a)(3) of this section that the protection order issued by a court of another state does not comply with the requirements specified in 18 U.S.C. 2265(b) for a protection order that must be accorded full faith and credit by a court of this State or that it is not entitled to full faith and credit under 18 U.S.C. 2265(c).

(d) In a prosecution for a violation of this section, it is not necessary for the prosecution to prove that the protection order or consent agreement was served on the defendant if the prosecution proves that the defendant was shown the protection order or consent agreement or a copy of either or a judge, magistrate, or law enforcement officer informed the defendant that a protection order or consent agreement had been issued, and proves that the defendant recklessly violated the terms of the order or agreement.

(e) As used in this section, "protection order issued by a court of another state" means an injunction or another order issued by a criminal court of another state for the purpose of preventing violent or threatening acts or harassment against, contact or communication with, or physical proximity to another person, including a temporary order, and means an injunction or order of that nature issued by a civil court of another state, including a temporary order and a final order issued in an independent action or as a pendente lite order in a proceeding for other relief, if the court issued it in response to a complaint, petition or motion filed by or on behalf of a person seeking protection. "Protection order issued by a court of another state" does not include an order for support or for custody of a child. (ORC 2919.27)

**537.16 ILLEGAL DISTRIBUTION OF CIGARETTES, OTHER
TOBACCO PRODUCTS, OR ALTERNATE NICOTINE PRODUCTS;
TRANSACTION SCANS.**

**(a) Illegal Distribution of Cigarettes, Other Tobacco Products, or Alternative Nicotine
Products.**

(1) As used in this section:

- A. "Age verification." A service provided by an independent third party (other than a manufacturer, producer, distributor, wholesaler, or retailer of cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes) that compares information available from a commercially available database, or aggregate of databases, that regularly are used by government and businesses for the purpose of age and identity verification to personal information provided during an internet sale or other remote method of sale to establish that the purchaser is twenty-one years of age or older.
- B. "Alternative nicotine product."
 - 1. Subject to subsection (a)(1)B.2. of this section, an electronic smoking device, vapor product, or any other product or device that consists of or contains nicotine that can be ingested into the body by any means, including, but not limited to, chewing, smoking, absorbing, dissolving, or inhaling.
 - 2. The phrase does not include any of the following:
 - a. Any cigarette or other tobacco product;
 - b. Any product that is a "drug" as that term is defined in 21 U.S.C. 321(g)(1);
 - c. Any product that is a "device" as that term is defined in 21 U.S.C. 321(h);
 - d. Any product that is a "combination product" as described in 21 U.S.C. 353(g).
- C. "Cigarette." Includes clove cigarettes and hand-rolled cigarettes.

- D. "Distribute." Means to furnish, give, or provide cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to the ultimate consumer of the cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes.
 - E. "Electronic smoking device." Means any device that can be used to deliver aerosolized or vaporized nicotine or any other substance to the person inhaling from the device including an electronic cigarette, electronic cigar, electronic hookah, vaping pen, or electronic pipe. The phrase includes any component, part, or accessory of such a device, whether or not sold separately, and includes any substance intended to be aerosolized or vaporized during the use of the device. The phrase does not include any product that is a drug, device, or combination product, as those terms are defined or described in 21 U.S.C. 321 and 353(g).
 - F. "Proof of age." Means a driver's license, a commercial driver's license, a military identification card, a passport, or an identification card issued under Ohio R.C. 4507.50 to 4507.52 that shows that a person is eighteen years of age or older.
 - G. "Tobacco product." Means any product that is made or derived from tobacco or that contains any form of nicotine, if it is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled, or ingested by any other means, including, but not limited to, a cigarette, an electronic smoking device, a cigar, pipe tobacco, chewing tobacco, snuff, or snus. The phrase also means any component or accessory used in the consumption of a tobacco product, such as filters, rolling papers, pipes, blunt or hemp wraps, and liquids used in electronic smoking devices, whether or not they contain nicotine. The phrase does not include any product that is a drug, device, or combination product, as those terms are defined or described in 21 U.S.C. 321 and 353(g).
 - H. "Vapor product." Means a product, other than a cigarette or other tobacco product as defined in Ohio R.C. Chapter 5743, that contains or is made or derived from nicotine and that is intended and marketed for human consumption, including by smoking, inhaling, snorting, or sniffing. The phrase includes any component, part, or additive that is intended for use in an electronic smoking device, a mechanical heating element, battery, or electronic circuit and is used to deliver the product. The phrase does not include any product that is a drug, device, or combination product, as those terms are defined or described in 21 U.S.C. 321 and 353(g). The phrase includes any product containing nicotine, regardless of concentration.
 - I. "Vending machine." Has the same meaning as "coin machine" in Ohio R.C. 2913.01.
- (2) No manufacturer, producer, distributor, wholesaler, or retailer of cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes, no agent, employee, or representative of a manufacturer, producer, distributor, wholesaler, or retailer of cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes, and no other person shall do any of the following:

- A. Give, sell, or otherwise distribute cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to any person under twenty-one years of age;
 - B. Give away, sell, or distribute cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes in any place that does not have posted in a conspicuous place a legibly printed sign in letters at least one-half inch high stating that giving, selling, or otherwise distributing cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to a person under twenty-one years of age is prohibited by law;
 - C. Knowingly furnish any false information regarding the name, age, or other identification of any person under twenty-one years of age with purpose to obtain cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes for that person;
 - D. Manufacture, sell, or distribute in this state any pack or other container of cigarettes containing fewer than twenty cigarettes or any package of roll-your-own tobacco containing less than six-tenths of one ounce of tobacco;
 - E. Sell cigarettes or alternative nicotine products in a smaller quantity than that placed in the pack or other container by the manufacturer;
 - F. Give, sell, or otherwise distribute alternative nicotine products, papers used to roll cigarettes, or tobacco products other than cigarettes over the internet or through another remote method without age verification.
- (3) No person shall sell or offer to sell cigarettes, other tobacco products, or alternative nicotine products by or from a vending machine, except in the following locations:
- A. An area within a factory, business, office, or other place not open to the general public;
 - B. An area to which persons under twenty-one years of age are not generally permitted access;
 - C. Any other place not identified in subsection (a)(3)A. or B. of this section, upon all of the following conditions:
 - 1. The vending machine is located within the immediate vicinity, plain view, and control of the person who owns or operates the place, or an employee of that person, so that all cigarettes, other tobacco product, and alternative nicotine product purchases from the vending machine will be readily observed by the person who owns or operates the place or an employee of that person. For the purpose of this section, a vending machine located in any unmonitored area, including an unmonitored coatroom, restroom, hallway, or outer waiting area, shall not be considered located within the immediate vicinity, plain view, and control of the person who owns or operates the place, or an employee of that person.
 - 2. The vending machine is inaccessible to the public when the place is closed.
 - 3. A clearly visible notice is posted in the area where the vending machine is located that states the following in letters that are legibly printed and at least one-half inch high: "It is illegal for any person under the age of twenty-one to purchase tobacco or alternative nicotine products."

- (4) The following are affirmative defenses to a charge under subsection (a)(2)A. of this section:
- A. The person under twenty-one years of age was accompanied by a parent, spouse who is twenty-one years of age or older, or legal guardian of the person under twenty-one years of age.
 - B. The person who gave, sold, or distributed cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to a person under twenty-one years of age under subsection (a)(2)A. of this section is a parent, spouse who is twenty-one years of age or older, or legal guardian of the person under twenty-one years of age.
- (5) It is not a violation of subsection (a)(2)A. or B. of this section for a person to give or otherwise distribute to a person under twenty-one years of age cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes while the person under twenty-one years of age is participating in a research protocol if all of the following apply:
- A. The parent, guardian, or legal custodian of the person under twenty-one years of age has consented in writing to the person under twenty-one years of age participating in the research protocol.
 - B. An institutional human subjects protection review board, or an equivalent entity, has approved the research protocol.
 - C. The person under twenty-one years of age is participating in the research protocol at the facility or location specified in the research protocol.
- (6) A. Whoever violates subsection (a)(2)A., B., D., E., or F. or (a)(3) of this section is guilty of illegal distribution of cigarettes, other tobacco products, or alternative nicotine products. Except as otherwise provided in this division, illegal distribution of cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the fourth degree. If the offender previously has been convicted of a violation of subsection (a)(2)A., B., D., E., or F. or (a)(3) of this section or a substantially equivalent state law or municipal ordinance, illegal distribution of cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the third degree.
- B. Whoever violates subsection (a)(2)C. of this section is guilty of permitting a person under twenty-one years of age to use cigarettes, other tobacco products, or alternative nicotine products. Except as otherwise provided in this division, permitting a person under twenty-one years of age to use cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the fourth degree. If the offender previously has been convicted of a violation of subsection (a)(2)C. of this section or a substantially equivalent state law or municipal ordinance, permitting a person under twenty-one years of age to use cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the third degree.
- (7) Any cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes that are given, sold, or otherwise distributed to a person under twenty-one years of age in violation of this section and that are used, possessed, purchased, or received by a person under twenty-one years of age in violation of Ohio R.C. 2151.87 are subject to seizure and forfeiture as contraband under Ohio R.C. Chapter 2981.
(ORC 2927.02)

(b) Transaction Scan.

- (1) For the purpose of this subsection (b) and subsection (c) of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.
- A. "Card holder." Any person who presents a driver's or commercial driver's license or an identification card to a seller, or an agent or employee of a seller, to purchase or receive cigarettes, other tobacco products, or alternative nicotine products from a seller, agent or employee.
 - B. "Identification card." An identification card issued under Ohio R.C. 4507.50 to 4507.52.
 - C. "Seller." A seller of cigarettes, other tobacco products, or alternative nicotine products and includes any person whose gift of or other distribution of cigarettes, other tobacco products, or alternative nicotine products is subject to the prohibitions of subsection (a) of this section.
 - D. "Transaction scan." The process by which a seller or an agent or employee of a seller checks, by means of a transaction scan device, the validity of a driver's or commercial driver's license or an identification card that is presented as a condition for purchasing or receiving cigarettes, other tobacco products, or alternative nicotine products.
 - E. "Transaction scan device." Any commercial device or combination of devices used at a point of sale that is capable of deciphering in an electronically readable format the information encoded on the magnetic strip or bar code of a driver's or commercial driver's license or an identification card.
- (2)
- A. A seller or an agent or employee of a seller may perform a transaction scan by means of a transaction scan device to check the validity of a driver's or commercial driver's license or identification card presented by a card holder as a condition for selling, giving away or otherwise distributing to the card holder cigarettes, other tobacco products, or alternative nicotine products.
 - B. If the information deciphered by the transaction scan performed under subsection (b)(2)A. of this section fails to match the information printed on the driver's or commercial driver's license or identification card presented by the card holder, or if the transaction scan indicates that the information so printed is false or fraudulent, neither the seller nor any agent or employee of the seller shall sell, give away or otherwise distribute any cigarettes, other tobacco products, or alternative nicotine products to the card holder.
 - C. Subsection (b)(2)A. of this section does not preclude a seller or an agent or employee of a seller from using a transaction scan device to check the validity of a document other than a driver's or commercial driver's license or identification card, if the document includes a bar code or magnetic strip that may be scanned by the device, as a condition for selling, giving away or otherwise distributing cigarettes, other tobacco products, or alternative nicotine products to the person presenting the document.
- (3) Rules adopted by the Registrar of Motor Vehicles under Ohio R.C. 4301.61(C) apply to the use of transaction scan devices for purposes of this subsection (b) and subsection (c) of this section.

- (4) A. No seller or agent or employee of a seller shall electronically or mechanically record or maintain any information derived from a transaction scan, except for the following:
 - 1. The name and date of birth of the person listed on the driver's or commercial driver's license or identification card presented by the card holder;
 - 2. The expiration date and identification number of the driver's or commercial driver's license or identification card presented by the card holder.
 - B. No seller or agent or employee of a seller shall use the information that is derived from a transaction scan or that is permitted to be recorded and maintained under subsection (b)(4)A. of this section, except for purposes of subsection (c) of this section.
 - C. No seller or agent or employee of a seller shall use a transaction scan device for a purpose other than the purpose specified in subsection (c)(2)A. of this section.
 - D. No seller or agent or employee of a seller shall sell or otherwise disseminate the information derived from a transaction scan to any third party, including but not limited to selling or otherwise disseminating that information for any marketing, advertising or promotional activities, but a seller or agent or employee of a seller may release that information pursuant to a court order or as specifically authorized by subsection (c) of this section or another section of these Codified Ordinances or the Ohio Revised Code.
- (5) Nothing in this subsection (b) or subsection (c) of this section relieves a seller or an agent or employee of a seller of any responsibility to comply with any other applicable local, state or federal laws or rules governing the sale, giving away or other distribution of cigarettes, other tobacco products, or alternative nicotine products.
 - (6) Whoever violates subsection (b)(2)B. or (b)(4) of this section is guilty of engaging in an illegal tobacco product or alternative nicotine product transaction scan, and the court may impose upon the offender a civil penalty of up to one thousand dollars (\$1,000) for each violation. The Clerk of the Court shall pay each collected civil penalty to the County Treasurer for deposit into the County Treasury.
(ORC 2927.021)

(c) Affirmative Defenses.

- (1) A seller or an agent or employee of a seller may not be found guilty of a charge of a violation of subsection (a) of this section in which the age of the purchaser or other recipient of cigarettes, other tobacco products, or alternative nicotine products is an element of the alleged violation, if the seller, agent or employee raises and proves as an affirmative defense that all of the following occurred:
 - A. A card holder attempting to purchase or receive cigarettes, other tobacco products, or alternative nicotine products presented a driver's or commercial driver's license or an identification card.
 - B. A transaction scan of the driver's or commercial driver's license or identification card that the card holder presented indicated that the license or card was valid.

- C. The cigarettes, other tobacco products, or alternative nicotine products were sold, given away or otherwise distributed to the card holder in reasonable reliance upon the identification presented and the completed transaction scan.
- (2) In determining whether a seller or an agent or employee of a seller has proven the affirmative defense provided by subsection (c)(1) of this section, the trier of fact in the action for the alleged violation of subsection (a) of this section shall consider any written policy that the seller has adopted and implemented and that is intended to prevent violations of subsection (a) of this section. For purposes of subsection (c)(1)C. of this section, the trier of fact shall consider that reasonable reliance upon the identification presented and the completed transaction scan may require a seller or an agent or employee of a seller to exercise reasonable diligence to determine, and that the use of a transaction scan device does not excuse a seller or an agent or employee of a seller from exercising reasonable diligence to determine, the following:
- A. Whether a person to whom the seller or agent or employee of a seller sells, gives away or otherwise distributes cigarettes, other tobacco products, or alternative nicotine products is twenty-one years of age or older;
- B. Whether the description and picture appearing on the driver's or commercial driver's license or identification card presented by a card holder is that of the card holder.
- (3) In any criminal action in which the affirmative defense provided by subsection (c)(1) of this section is raised, the Registrar of Motor Vehicles or a Deputy Registrar who issued an identification card under Ohio R.C. 4507.50 to 4507.52 shall be permitted to submit certified copies of the records of that issuance in lieu of the testimony of the personnel of or contractors with the Bureau of Motor Vehicles in the action.
(ORC 2927.022)
- (d) Shipment of Tobacco Products.
- (1) As used in this subsection (d):
- A. "Authorized recipient of tobacco products" means a person who is:
1. Licensed as a cigarette wholesale dealer under Ohio R.C. 5743.15;
 2. Licensed as a retail dealer as long as the person purchases cigarettes with the appropriate tax stamp affixed;
 3. An export warehouse proprietor as defined in Section 5702 of the Internal Revenue Code;
 4. An operator of a customs bonded warehouse under 19 U.S.C. 1311 or 19 U.S.C. 1555;
 5. An officer, employee, or agent of the federal government or of this state acting in the person's official capacity;
 6. A department, agency, instrumentality, or political subdivision of the federal government or of this state;
 7. A person having a consent for consumer shipment issued by the Tax Commissioner under Ohio R.C. 5743.71.
- B. "Motor carrier." Has the same meaning as in Ohio R.C. 4923.01.
- (2) The purpose of this division (d) is to prevent the sale of cigarettes to minors and to ensure compliance with the Master Settlement Agreement, as defined in Ohio R.C. 1346.01.

- (3) A. No person shall cause to be shipped any cigarettes to any person in this municipality other than an authorized recipient of tobacco products.
 - B. No motor carrier or other person shall knowingly transport cigarettes to any person in this municipality that the carrier or other person reasonably believes is not an authorized recipient of tobacco products. If cigarettes are transported to a home or residence, it shall be presumed that the motor carrier or other person knew that the person to whom the cigarettes were delivered was not an authorized recipient of tobacco products.
- (4) No person engaged in the business of selling cigarettes who ships or causes to be shipped cigarettes to any person in this municipality in any container or wrapping other than the original container or wrapping of the cigarettes shall fail to plainly and visibly mark the exterior of the container or wrapping in which the cigarettes are shipped with the words "cigarettes."
- (5) A court shall impose a fine of up to one thousand dollars (\$1,000) for each violation of subsection (d)(3)A., (d)(3)B. or (d)(4) of this section.
(ORC 2927.023)
- (e) Furnishing False Information to Obtain Tobacco Products.
 - (1) No person who is eighteen years of age or older but younger than twenty-one years of age shall knowingly furnish false information concerning that person's name, age, or other identification for the purpose of obtaining tobacco products.
 - (2) Whoever violates subsection (e)(1) of this section is guilty of furnishing false information to obtain tobacco products. Except as otherwise provided in this division, furnishing false information to obtain tobacco products is a misdemeanor of the fourth degree. If the offender previously has been convicted of or pleaded guilty to a violation of subsection (e)(1) of this section or a substantially equivalent state law or municipal ordinance, furnishing false information to obtain tobacco products is a misdemeanor of the third degree.
(ORC 2927.024)

537.17 RESERVED.

(Editor's note: This section was formerly 537.17 Criminal Child Enticement, based on Ohio R.C. 2905.05, Criminal Child Enticement. The Ohio Supreme Court held that Ohio R.C. 2905.05(A) was unconstitutionally overbroad in violation of the First Amendment. See *State v. Romage*, 138 Ohio St. 3d. 390 (2014).)

537.18 CONTRIBUTING TO UNRULINESS OR DELINQUENCY OF A CHILD.

- (a) As used in this section:
- (1) "Delinquent child" has the same meaning as in Ohio R.C. 2152.02.
 - (2) "Unruly child" has the same meaning as in Ohio R.C. 2151.022.
- (b) No person, including a parent, guardian or other custodian of a child, shall do any of the following:
- (1) Aid, abet, induce, cause, encourage, or contribute to a child or a ward of the juvenile court becoming an unruly child or a delinquent child;
 - (2) Act in a way tending to cause a child or a ward of the juvenile court to become an unruly child or a delinquent child;
 - (3) Act in a way that contributes to an adjudication of the child as a delinquent child based on the child's violation of a court order adjudicating the child an unruly child for being an habitual truant;
 - (4) If the person is the parent, guardian, or custodian of a child who has the duties under Ohio R.C. Chapters 2152 and 2950 to register, register a new residence address, and periodically verify a residence address and, if applicable, to send a notice of intent to reside, and if the child is not emancipated, as defined in Ohio R.C. 2919.121, fail to ensure that the child complies with those duties under Ohio R.C. Chapters 2152 and 2950.
- (c) Whoever violates this section is guilty of contributing to the unruliness or delinquency of a child, a misdemeanor of the first degree. Each day of violation of this section is a separate offense. (ORC 2919.24)

537.19 FAILING TO PROVIDE FOR FUNCTIONALLY IMPAIRED PERSON.

- (a) No caretaker shall knowingly fail to provide a functionally impaired person under his care with any treatment, care, goods or service that is necessary to maintain the health or safety of the functionally impaired person when this failure results in physical harm or serious physical harm to the functionally impaired person.

CHAPTER 549 Weapons and Explosives

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| <p>549.01 Definitions.</p> <p>549.02 Carrying concealed weapons.</p> <p>549.03 Using weapons while intoxicated.</p> <p>549.04 Improperly handling firearms in a motor vehicle.</p> <p>549.05 Failure to secure dangerous ordnance.</p> <p>549.06 Unlawful transactions in weapons.</p> <p>549.07 Underage purchase of firearm.</p> <p>549.08 Discharging firearms.</p> | <p>549.09 Throwing or shooting missiles.</p> <p>549.10 Possessing replica firearms in school.</p> <p>549.11 Defacing identification marks of a firearm; possessing a defaced firearm.</p> <p>549.12 Concealed handgun licenses; possession of revoked or suspended license; additional restrictions; posting signs prohibiting possession.</p> <p>549.99 Penalty.</p> |
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CROSS REFERENCES

See sectional histories for similar State law
 License or permit to possess dangerous ordnance - see
 Ohio R.C. 2923.18
 Hunting prohibited - see GEN. OFF. 505.11
 Reporting gunshot and stab wounds - see GEN. OFF. 525.05(b)
 Property destruction by tear gas device, etc. - see GEN.
 OFF. 541.04

549.01 DEFINITIONS.

As used in this chapter:

- (a) "Deadly weapon" means any instrument, device or thing capable of inflicting death, and designed or specially adapted for use as a weapon, or possessed, carried or used as a weapon.
- (b)
 - (1) "Firearm" means any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant. "Firearm" includes an unloaded firearm, and any firearm that is inoperable but that can readily be rendered operable.
 - (2) When determining whether a firearm is capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant, the trier of fact may rely upon circumstantial evidence, including, but not limited to, the representations and actions of the individual exercising control over the firearm.
- (c) "Handgun" means any of the following:
 - (1) Any firearm that has a short stock and is designed to be held and fired by the use of a single hand;
 - (2) Any combination of parts from which a firearm of a type described in subsection (c)(1) of this section can be assembled.

- (d) "Semi-automatic firearm" means any firearm designed or specially adapted to fire a single cartridge and automatically chamber a succeeding cartridge ready to fire, with a single function of the trigger.
- (e) "Automatic firearm" means any firearm designed or specially adapted to fire a succession of cartridges with a single function of the trigger.
- (f) "Sawed-off firearm" means a shotgun with a barrel less than eighteen inches long, or a rifle with a barrel less than sixteen inches long, or a shotgun or rifle less than twenty-six inches long overall. "Sawed-off firearm" does not include any firearm with an overall length of at least twenty-six inches that is approved for sale by the Federal Bureau of Alcohol, Tobacco, Firearms and Explosives under the "Gun Control Act of 1968", 82 Stat. 1213, 18 U.S.C. 921(a)(3), but that is found by the Bureau not to be regulated under the "National Firearms Act", 68A Stat. 725 (1934), 26 U.S.C. 5845(a).
- (g) "Zip-gun" means any of the following:
 - (1) Any firearm of crude and extemporized manufacture;
 - (2) Any device, including without limitation a starter's pistol, that is not designed as a firearm, but that is specially adapted for use as a firearm;
 - (3) Any industrial tool, signalling device or safety device, that is not designed as a firearm, but that as designed is capable of use as such, when possessed, carried or used as a firearm.
- (h) "Explosive device" means any device designed or specially adapted to cause physical harm to persons or property by means of an explosion, and consisting of an explosive substance or agency and a means to detonate it. "Explosive device" includes without limitation any bomb, any explosive demolition device, any blasting cap or detonator containing an explosive charge, and any pressure vessel that has been knowingly tampered with or arranged so as to explode.
- (i) "Incendiary device" means any firebomb, and any device designed or specially adapted to cause physical harm to persons or property by means of fire, and consisting of an incendiary substance or agency and a means to ignite it.
- (j) "Ballistic knife" means a knife with a detachable blade that is propelled by a spring-operated mechanism.
- (k) "Dangerous ordnance" means any of the following, except as provided in subsection (l) hereof:
 - (1) Any automatic or sawed-off firearm, zip-gun or ballistic knife;
 - (2) Any explosive device or incendiary device;
 - (3) Nitroglycerin, nitrocellulose, nitrostarch, PETN, cyclonite, TNT, picric acid and other high explosives; amatol, tritonal, tetrytol, pentolite, pecretol, cyclotol and other high explosive compositions; plastic explosives; dynamite, blasting gelatin, gelatin dynamite, sensitized ammonium nitrate, liquid-oxygen blasting explosives, blasting powder and other blasting agents; and any other explosive substance having sufficient brisance or power to be particularly suitable for use as a military explosive, or for use in mining, quarrying, excavating or demolitions;
 - (4) Any firearm, rocket launcher, mortar, artillery piece, grenade, mine, bomb, torpedo or similar weapon, designed and manufactured for military purposes, and the ammunition for that weapon;
 - (5) Any firearm muffler or suppressor;
 - (6) Any combination of parts that is intended by the owner for use in converting any firearm or other device into a dangerous ordnance.

- (l) "Dangerous ordnance" does not include any of the following:
- (1) Any firearm, including a military weapon and the ammunition for that weapon, and regardless of its actual age, that employs a percussion cap or other obsolete ignition system, or that is designed and safe for use only with black powder;
 - (2) Any pistol, rifle or shotgun, designed or suitable for sporting purposes, including a military weapon as issued or as modified, and the ammunition for that weapon unless the firearm is an automatic or sawed-off firearm;
 - (3) Any cannon or other artillery piece that, regardless of its actual age, is of a type in accepted use prior to 1887, has no mechanical, hydraulic, pneumatic or other system for absorbing recoil and returning the tube into battery without displacing the carriage, and is designed and safe for use only with black powder;
 - (4) Black powder, priming quills and percussion caps possessed and lawfully used to fire a cannon of a type defined in subsection (l)(3) hereof during displays, celebrations, organized matches or shoots, and target practice, and smokeless and black powder, primers and percussion caps possessed and lawfully used as a propellant or ignition device in small-arms or small-arms ammunition;
 - (5) Dangerous ordnance that is inoperable or inert and cannot readily be rendered operable or activated, and that is kept as a trophy, souvenir, curio or museum piece.
 - (6) Any device that is expressly excepted from the definition of a destructive device pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 921(a)(4), as amended, and regulations issued under that Act.
 - (7) Any firearm with an overall length of at least twenty-six inches that is approved for sale by the Federal Bureau of Alcohol, Tobacco, Firearms, and Explosives under the "Gun Control Act of 1968", 82 Stat. 1213, 18 U.S.C. 921(a)(3), but that is found by the Bureau not to be regulated under the "National Firearms Act", 68A Stat. 725 (1934), 26 U.S.C. 5845(a).
- (m) "Explosive" means any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion. "Explosive" includes all materials that have been classified as division 1.1, division 1.2, division 1.3, or division 1.4 explosives by the United States Department of Transportation in its regulations and includes, but is not limited to, dynamite, black powder, pellet powders, initiating explosives, blasting caps, electric blasting caps, safety fuses, fuse igniters, squibs, cordeau detonant fuses, instantaneous fuses, and igniter cords and igniters. "Explosive" does not include "fireworks", as defined in Ohio R.C. 3743.01, or any substance or material otherwise meeting the definition of explosive set forth in this section that is manufactured, sold, possessed, transported, stored or used in any activity described in Ohio R.C. 3743.80, provided the activity is conducted in accordance with all applicable laws, rules and regulations, including, but not limited to, the provisions of Ohio R.C. 3743.80, and the rules of the Fire Marshal adopted pursuant to Ohio R.C. 3737.82.
- (n) (1) "Concealed handgun license" or "license to carry a concealed handgun" means, subject to subsection (n)(2) of this section, a license or temporary emergency license to carry a concealed handgun issued under Ohio R.C. 2923.125 or 2923.1213 or a license to carry a concealed handgun issued by another state with which the Attorney General has entered into a reciprocity agreement under Ohio R.C. 109.69.

- (2) A reference in any provision of the Ohio Revised Code to a concealed handgun license issued under Ohio R.C. 2923.125 or a license to carry a concealed handgun issued under Ohio R.C. 2923.125 means only a license of the type that is specified in that section. A reference in any provision of the Ohio Revised Code to a concealed handgun license issued under Ohio R.C. 2923.1213, a license to carry a concealed handgun issued under Ohio R.C. 2923.1213, or a license to carry a concealed handgun on a temporary emergency basis means only a license of the type that is specified in Ohio R.C. 2923.1213. A reference in any provision of the Ohio Revised Code to a concealed handgun license issued by another state or a license to carry a concealed handgun issued by another state means only a license issued by another state with which the Attorney General has entered into a reciprocity agreement under Ohio R.C. 109.69.
- (o) "Valid concealed handgun license" or "valid license to carry a concealed handgun" means a concealed handgun license that is currently valid, that is not under a suspension under division (A)(1) of Ohio R.C. 2923.128, under Ohio R.C. 2923.1213, or under a suspension provision of the state other than this State in which the license was issued, and that has not been revoked under division (B)(1) of Ohio R.C. 2923.128, under Ohio R.C. 2923.1213 or under a revocation provision of the state other than this State in which the license was issued.
- (p) "Misdemeanor punishable by imprisonment for a term exceeding one year" does not include any of the following:
 - (1) Any federal or state offense pertaining to antitrust violations, unfair trade practices, restraints of trade or other similar offenses relating to the regulation of business practices;
 - (2) Any misdemeanor offense punishable by a term of imprisonment of two years or less.
- (q) "Alien registration number" means the number issued by the United States Citizenship and Immigration Services Agency that is located on the alien's permanent resident card and may also be commonly referred to as the "USCIS number" or the "alien number".
- (r) "Active duty" has the same meaning as defined in 10 U.S.C. 101.
(ORC 2923.11)

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, before or at the time a law enforcement officer asks if the person is carrying a concealed handgun, knowingly fail to disclose that the person then is carrying a concealed handgun, provided that it is not a violation of this section if the person fails to disclose that fact to an officer during the stop and the person already has notified another officer of that fact during the same stop;

- (2) 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 has been issued a concealed handgun license that is valid at the time of the alleged carrying or possession of a handgun or who, at the time of the alleged carrying or possession of a handgun, is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in Ohio R.C. 2923.125(G)(1), unless the person knowingly is in a place described in Ohio R.C. 2923.126(B).
- (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)
 - (1) 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.
 - (2) If a person is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of subsection (b)(1) of this section as it existed prior to June 13, 2022, the person may file an application under Ohio R.C. 2953.37 requesting the expungement of the record of conviction.
- (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) A person shall not be arrested for a violation of subsection (a)(2) of this section solely because the person does not promptly produce a valid concealed handgun license. If a person is arrested for a violation of subsection (a)(2) of this section and is convicted of or pleads guilty to the violation, 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 five hundred dollars (\$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 forty-five 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) Carrying concealed weapons in violation of subsection (b)(1) of this section is a misdemeanor of the second degree.
 - (4) 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 subsection (b)(2) or (b)(3) hereof 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 five hundred dollars (\$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.
(ORC 2923.12)

549.03 USING WEAPONS WHILE INTOXICATED.

(a) No person, while under the influence of alcohol or any drug of abuse, shall carry or use any firearm or dangerous ordnance.

(b) Whoever violates this section is guilty of using weapons while intoxicated, a misdemeanor of the first degree. (ORC 2923.15)

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 twenty-four inches in overall length as measured from the muzzle to the part of the stock furthest from the muzzle and if the barrel is at least eighteen 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) Before or at the time a law enforcement officer asks if the person is carrying a concealed handgun, knowingly fail to disclose that the person then possesses or has a loaded handgun in the motor vehicle, provided that it is not a violation of this division if the person fails to disclose that fact to an officer during the stop and the person already has notified another officer of that fact during the same stop;
- (2) Before or at the time an employee of the motor carrier enforcement unit asks if the person is carrying a concealed handgun, knowingly fail to disclose that the person then possesses or has a loaded handgun in the commercial motor vehicle, provided that it is not a violation of this division if the person fails to disclose that fact to an employee of the unit during the stop and the person already has notified another employee of the unit of that fact during the same stop;
- (3) Knowingly fail to remain in the motor vehicle while stopped, or knowingly fail to keep the person's hands in plain sight at any time after any law enforcement officer begins approaching the person while stopped and before the law enforcement officer leaves, unless the failure is pursuant to and in accordance with directions given by a law enforcement officer.
- (4) Knowingly 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 has been issued a concealed handgun license that is valid at the time in question or the person is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in Ohio R.C. 2923.125(G)(1).
 - B. The person transporting or possessing the handgun is not knowingly in a place described in 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 or a motor vehicle that is parked on a road that is owned or administered by the Division of Wildlife.
- (d) (1) The affirmative defenses authorized in Section 549.02(d)(1) and (2) are affirmative defenses to a charge under subsection (a) that involves a firearm other than a handgun.
- (2) It is an affirmative defense to a charge under subsection (a) of improperly handling firearms in a motor vehicle that the actor transported or had the firearm in the motor vehicle for any lawful purpose and while the motor vehicle was on the actor's own property, provided that the affirmative defense is not available unless the person, immediately prior to arriving at the actor's own property, did not transport or possess the firearm in a motor vehicle in a manner prohibited by subsection (a) while the motor vehicle was being operated on a street, highway, or other public or private property used by the public for vehicular traffic.
- (e) (1) No person who is charged with a violation of subsection (a) shall be required to obtain a concealed handgun license as a condition for the dismissal of the charge.

- (2) If a person is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of subsection (b) of this section as it existed prior to September 30, 2011, and 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, or 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 June 13, 2022, 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. A violation of subsection (b)(1) or (b)(2) of this section is a misdemeanor of the second degree. 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) "Commercial motor vehicle" has the same meaning as in Ohio R.C. 4506.25(A).
- (2) "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.
- (3) "Motor vehicle", "street" and "highway" have the same meanings as in Ohio R.C. 4511.01.
- (4) A. "Unloaded" means:
 1. With respect to a firearm other than a firearm described in subsection (h)(4)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)(4)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)(4)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.

(i) Subsection (h)(4) of this section does not affect the authority of a person who has been issued a concealed handgun license that is valid at the time in question to have one or more magazines or speed loaders containing ammunition anywhere in a vehicle, without being transported as described in those divisions, so long as no ammunition is in a firearm, other than a handgun, in the vehicle other than as permitted under any other provision of this chapter. A person who has been issued a concealed handgun license that is valid at the time in question 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.
(ORC 2923.16)

549.05 FAILURE TO SECURE DANGEROUS ORDNANCE.

(a) No person, in acquiring, possessing, carrying or using any dangerous ordnance shall negligently fail to take proper precautions:

- (1) To secure the dangerous ordnance against theft, or against its acquisition or use by any unauthorized or incompetent person;
- (2) To insure the safety of persons and property.

(b) Whoever violates this section is guilty of failure to secure dangerous ordnance, a misdemeanor of the second degree. (ORC 2923.19)

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. A violation of subsection (a)(1) hereof is a misdemeanor of the second degree. A violation of subsection (a)(2) hereof is a misdemeanor of the fourth degree. (ORC 2923.20)

549.07 UNDERAGE PURCHASE OF FIREARM.

(a) No person under eighteen years of age shall purchase or attempt to purchase a firearm.

(b) No person under twenty-one years of age shall purchase or attempt to purchase a handgun, provided that this subsection does not apply to the purchase or attempted purchase of a handgun by a person eighteen years of age or older and under twenty-one years of age if either of the following apply:

- (1) The person is a law enforcement officer who is properly appointed or employed as a law enforcement officer and has received firearms training approved by the Ohio Peace Officer Training Council or equivalent firearms training.
- (2) The person is an active or reserve member of the armed services of the United States or the Ohio national guard, or was honorably discharged from military service in the active or reserve armed services of the United States or the Ohio national guard, and the person has received firearms training from the armed services or the national guard or equivalent firearms training.

(c) Whoever violates subsection (a) hereof is guilty of underage purchase of a firearm, a delinquent act that would be a felony of the fourth degree if it could be committed by an adult. Whoever violates subsection (b) hereof is guilty of underage purchase of a handgun, a misdemeanor of the second degree. (ORC 2923.211)

549.08 DISCHARGING FIREARMS OR AIR GUNS.

(a) No person shall discharge any firearm or air gun in the City, with the following exceptions:

- (1) Police officers in the discharge of their duties;
- (2) Target practice under the supervision of a competent adult instructor at a time and place which is approved by the Director of Safety;

- (3) Ceremonial occasions, such as Memorial Day and Fourth of July, and athletic events, provided that the firearms are not loaded to expel or propel a projectile or projectiles and that they are discharged by a competent person at a time and place having received prior approval by the Director of Safety. (Ord. 88-89. Passed 10-10-89.)

(b) This section does not apply when firearms are used in self defense, in the discharge of official duty or when otherwise lawfully authorized.

(c) Whoever violates this section is guilty of a misdemeanor of the fourth degree.

549.09 THROWING OR SHOOTING MISSILES.

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

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

549.10 POSSESSING REPLICA FIREARM IN SCHOOL.

(a) No person shall knowingly possess an object in a school safety zone if both of the following apply:

- (1) The object is indistinguishable from a firearm, whether or not the object is capable of being fired.
- (2) The person indicates that the person possesses the object and that it is a firearm, or the person knowingly displays or brandishes the object and indicates that it is a firearm.

(b) (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 who is authorized to carry deadly weapons or dangerous ordnance and is acting within the scope of the officer's, agent's, or employee's duties;
- B. A law enforcement officer who is authorized to carry deadly weapons or dangerous ordnance;
- C. A security officer employed by a board of education or governing body of a school during the time that the security officer is on duty pursuant to that contract of employment;
- D. 1. Any person not described in subsections (b)(1)A. to (b)(1)C. of this section who has written authorization from the board of education or governing body of a school to convey deadly weapons or dangerous ordnance into a school safety zone or to possess a deadly weapon or dangerous ordnance in a school safety zone and who conveys or possesses the deadly weapon or dangerous ordnance in accordance with that authorization, provided both of the following apply:
 - a. Either the person has successfully completed the curriculum, instruction, and training established under Ohio R.C. 5502.703, or the person has received a certificate of having satisfactorily completed an approved basic peace officer training program or is a law enforcement officer;

- b. The board or governing body has notified the public, by whatever means the affected school regularly communicates with the public, that the board or governing body has authorized one or more persons to go armed within a school operated by the board or governing authority;
- 2. A district board or school governing body that authorizes a person under subsection (b)(1)D. of this section shall require that person to submit to an annual criminal records check conducted in the same manner as Ohio R.C. 3319.39 or Ohio R.C. 3319.391.
- E. Any person who is employed in this state, who is authorized to carry deadly weapons or dangerous ordnance, 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 (b)(1)E. of this section does not apply to the person.
- (2) This section does not apply to premises upon which home schooling is conducted. This section also does not apply to a school administrator, teacher or employee who possesses an object that is indistinguishable from a firearm for legitimate school purposes during the course of employment, a student who uses an object that is indistinguishable from a firearm under the direction of a school administrator, teacher or employee, or any other person who, with the express prior approval of a school administrator, possesses an object that is indistinguishable from a firearm for a legitimate purpose, including the use of the object in a ceremonial activity, a play, re-enactment or other dramatic presentation, school safety training, or a ROTC activity or another similar use of the object.
- (3) This section does not apply to a person who conveys or attempts to convey a handgun into, or possesses a handgun in, a school safety zone if, at the time of that conveyance, attempted conveyance, or possession of the handgun, all of the following apply:
 - A. The person does not enter into a school building or onto school premises and is not at a school activity.
 - B. The person has been issued a concealed handgun license that is valid at the time of the conveyance, attempted conveyance, or possession or the person is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in Ohio R.C. 2923.125(G)(1).
 - C. The person is in the school safety zone in accordance with 18 U.S.C. § 922(q)(2)(B).
 - D. The person is not knowingly in a place described in Ohio R.C. 2923.126(B)(1) or (B)(3) to (8).
- (4) This section does not apply to a person who conveys or attempts to convey a handgun into, or possesses a handgun in, a school safety zone if at the time of that conveyance, attempted conveyance, or possession of the handgun all of the following apply:

- A. The person has been issued a concealed handgun license that is valid at the time of the conveyance, attempted conveyance or possession or the person is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in Ohio R.C. 2923.125(G)(1).
- B. The person leaves the handgun in a motor vehicle.
- C. The handgun does not leave the motor vehicle.
- D. If the person exits the motor vehicle, the person locks the motor vehicle.

(c) Whoever violates this section is guilty of illegal possession of an object indistinguishable from a firearm in a school safety zone. Except as otherwise provided in this division, illegal possession of an object indistinguishable from a firearm in a school safety zone is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of this section, illegal possession of an object indistinguishable from a firearm in a school safety zone is a felony to be prosecuted under appropriate state law.

- (d) (1) In addition to any other penalty imposed upon a person who is convicted of or pleads guilty to a violation of this section, and subject to subsection (d)(2) of this section, if the offender has not attained nineteen years of age, regardless of whether the offender is attending or is enrolled in a school operated by a board of education or for which the State Board of Education prescribes minimum standards under Ohio R.C. 3301.07, of the suspension. If the offender is not a resident of this State, the court shall impose a class four suspension of the nonresident operating privilege of the offender from the range specified in Ohio R.C. 4510.02(A)(4).
- (2) If the offender shows good cause why the court should not suspend one of the types of licenses, permits or privileges specified in subsection (d)(1) of this section or deny the issuance of one of the temporary instruction permits specified in subsection (d)(1) of this section, the court in its discretion may choose not to impose the suspension, revocation or denial required in subsection (d)(1) of this section, but the court, in its discretion, instead may require the offender to perform community service for a number of hours determined by the court.

(e) As used in this section, "object that is indistinguishable from a firearm" means an object made, constructed or altered so that, to a reasonable person without specialized training in firearms, the object appears to be a firearm.
(ORC 2923.122(C) - (G))

549.11 DEFACING IDENTIFICATION MARKS OF A FIREARM; POSSESSING A DEFACED FIREARM.

- (a) No person shall do either of the following:
 - (1) Change, alter, remove, or obliterate the name of the manufacturer, model, manufacturer's serial number, or other mark or identification on a firearm.
 - (2) Possess a firearm knowing or having reasonable cause to believe that the name of the manufacturer, model, manufacturer's serial number, or other mark of identification on the firearm has been changed, altered, removed, or obliterated.

- (b) (1) Whoever violates subsection (a)(1) of this section is guilty of defacing identification marks of a firearm. Except as otherwise provided in this subsection, defacing identification marks of a firearm is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to a violation of subsection (a)(1) of this section, defacing identification marks of a firearm is a felony and shall be prosecuted under appropriate State law.
- (2) Whoever violates subsection (a)(2) of this section is guilty of possessing a defaced firearm. Except as otherwise provided in this subsection, possessing a defaced firearm is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to a violation of subsection (a)(2) of this section, possessing a defaced firearm is a felony and shall be prosecuted under appropriate State law.
(ORC 2923.201)

549.12 CONCEALED HANDGUN LICENSES; POSSESSION OF REVOKED OR SUSPENDED LICENSE; ADDITIONAL RESTRICTIONS; POSTING SIGNS PROHIBITING POSSESSION.

- (a) Possession of a Revoked or Suspended Concealed Handgun License.
 - (1) No person, except in the performance of official duties, shall possess a concealed handgun license that was issued and that has been revoked or suspended.
 - (2) Whoever violates this subsection (a) is guilty of possessing a revoked or suspended concealed handgun license, a misdemeanor of the third degree.
(ORC 2923.1211(B), (C))
- (b) Additional Restrictions. Pursuant to Ohio R.C. 2923.126:
 - (1) A concealed handgun license that is issued under Ohio R.C. 2923.125 shall expire five years after the date of issuance. A licensee who has been issued a license under that section shall be granted a grace period of thirty days after the licensee's license expires during which the licensee's license remains valid. Except as provided in subsection (b)(2) and (b)(3) of this section, a licensee who has been issued a concealed handgun license under Ohio R.C. 2923.125 or 2923.1213 may carry a concealed handgun anywhere in this state if the license is valid when the licensee is in actual possession of a concealed handgun. The licensee shall give notice of any change in the licensee's residence address to the sheriff who issued the license within forty-five days after that change.
 - (2) A valid concealed handgun license does not authorize the licensee to carry a concealed handgun in any manner prohibited under Ohio R.C. 2923.12(B) or in any manner prohibited under Ohio R.C. 2923.16. A valid license does not authorize the licensee to carry a concealed handgun into any of the following places:
 - A. A police station, sheriff's office, or state highway patrol station, premises controlled by the bureau of criminal identification and investigation; a state correctional institution, jail, workhouse, or other detention facility; any area of an airport passenger terminal that is beyond a passenger or property screening checkpoint or to which access is restricted through security measures by the airport authority or a public agency; or an institution that is maintained, operated, managed, and governed pursuant to Ohio R.C. 5119.14(A) or Ohio R.C. 5123.03(A)(1);

- B. A school safety zone if the licensee's carrying the concealed handgun is in violation of Ohio R.C. 2923.122;
 - C. A courthouse or another building or structure in which a courtroom is located if the licensee's carrying the concealed handgun is in violation of Ohio R.C. 2923.123;
 - D. Any premises or open air arena for which a D permit has been issued under Ohio R.C. Chapter 4303 if the licensee's carrying the concealed handgun is in violation of Ohio R.C. 2923.121;
 - E. Any premises owned or leased by any public or private college, university, or other institution of higher education, unless the handgun is in a locked motor vehicle or the licensee is in the immediate process of placing the handgun in a locked motor vehicle or unless the licensee is carrying the concealed handgun pursuant to a written policy, rule, or other authorization that is adopted by the institution's board of trustees or other governing body and that authorizes specific individuals or classes of individuals to carry a concealed handgun on the premises;
 - F. Any church, synagogue, mosque, or other place of worship, unless the church, synagogue, mosque, or other place of worship posts or permits otherwise;
 - G. Any building that is a government facility of this state or a political subdivision of this state and that is not a building that is used primarily as a shelter, restroom, parking facility for motor vehicles, or rest facility and is not a courthouse or other building or structure in which a courtroom is located that is subject to subsection (b)(2)C. of this section, unless the governing body with authority over the building has enacted a statute, ordinance, or policy that permits a licensee to carry a concealed handgun into the building;
 - H. A place in which federal law prohibits the carrying of handguns.
- (3) A. Nothing in this subsection (b) shall negate or restrict a rule, policy, or practice of a private employer that is not a private college, university, or other institution of higher education concerning or prohibiting the presence of firearms on the private employer's premises or property, including motor vehicles owned by the private employer. Nothing in this subsection (b) shall require a private employer of that nature to adopt a rule, policy, or practice concerning or prohibiting the presence of firearms on the private employer's premises or property, including motor vehicles owned by the private employer.
- B. 1. A private employer shall be immune from liability in a civil action for any injury, death, or loss to person or property that allegedly was caused by or related to a licensee bringing a handgun onto the premises or property of the private employer, including motor vehicles owned by the private employer, unless the private employer acted with malicious purpose. A private employer is immune from liability in a civil action for any injury, death, or loss to person or property that allegedly was caused by or related to the private employer's decision to permit a licensee to bring, or prohibit a licensee from bringing, a handgun onto the premises or property of the private employer.

2. A political subdivision shall be immune from liability in a civil action, to the extent and in the manner provided in Ohio R.C. Chapter 2744, for any injury, death, or loss to person or property that allegedly was caused by or related to a licensee bringing a handgun onto any premises or property owned, leased, or otherwise under the control of the political subdivision. As used in this division, "political subdivision" has the same meaning as in Ohio R.C. 2744.01.
 3. An institution of higher education shall be immune from liability in a civil action for any injury, death, or loss to person or property that allegedly was caused by or related to a licensee bringing a handgun onto the premises of the institution, including motor vehicles owned by the institution, unless the institution acted with malicious purpose. An institution of higher education is immune from liability in a civil action for any injury, death, or loss to person or property that allegedly was caused by or related to the institution's decision to permit a licensee or class of licensees to bring a handgun onto the premises of the institution.
- C. 1. a. Except as provided in subsection (b)(3)C.2. of this section and Ohio R.C. 2923.1214, the owner or person in control of private land or premises, and a private person or entity leasing land or premises owned by the state, the United States, or a political subdivision of the state or the United States, may post a sign in a conspicuous location on that land or on those premises prohibiting persons from carrying firearms or concealed firearms on or onto that land or those premises. Except as otherwise provided in this division, a person who knowingly violates a posted prohibition of that nature is guilty of criminal trespass in violation of Ohio R.C. 2911.21(A)(4) and is guilty of a misdemeanor of the fourth degree. If a person knowingly violates a posted prohibition of that nature and the posted land or premises primarily was a parking lot or other parking facility, the person is not guilty of criminal trespass under Ohio R.C. 2911.21 or under any other criminal law of this State or criminal law, ordinance, or resolution of a political subdivision of this State, and instead is subject only to a civil cause of action for trespass based on the violation.

- b. If a person knowingly violates a posted prohibition of the nature described in this division and the posted land or premises is a child day-care center, type A family day-care home, or type B family day-care home, unless the person is a licensee who resides in a type A family day-care home or type B family day-care home, the person is guilty of aggravated trespass in violation of Ohio R.C. 2911.211. Except as otherwise provided in this division, the offender is guilty of a misdemeanor of the first degree. If the person previously has been convicted of a violation of this division or any substantially equivalent state law or municipal ordinance, or of any offense of violence, if the weapon involved is a firearm that is either loaded or for which the offender has ammunition ready at hand, or if the weapon involved is dangerous ordnance, the offender is guilty of a felony to be prosecuted under appropriate state law.
- 2. A landlord may not prohibit or restrict a tenant who is a licensee and who on or after September 9, 2008 enters into a rental agreement with the landlord for the use of residential premises, and the tenant's guest while the tenant is present, from lawfully carrying or possessing a handgun on those residential premises.
- 3. As used in subsection (b)(3)C. of this section:
 - a. "Residential premises" has the same meaning as in Ohio R.C. 5321.01, except "residential premises" does not include a dwelling unit that is owned or operated by a college or university.
 - b. "Landlord", "tenant", and "rental agreement" have the same meanings as in Ohio R.C. 5321.01.
- (4) A person who holds a valid concealed handgun license issued by another state that is recognized by the Attorney General pursuant to a reciprocity agreement entered into pursuant to Ohio R.C. 109.69 or a person who holds a valid concealed handgun license under the circumstances described in Ohio R.C. 109.69(B) has the same right to carry a concealed handgun in this state as a person who was issued a concealed handgun license under Ohio R.C. 2923.125 and is subject to the same restrictions that apply to a person who has been issued a license under that section that is valid at the time in question.
- (5) A. A peace officer has the same right to carry a concealed handgun in this State as a person who was issued a concealed handgun license under Ohio R.C. 2923.125, provided that the officer when carrying a concealed handgun under authority of this section is carrying validating identification. For purposes of reciprocity with other States, a peace officer shall be considered to be a licensee in this State.

- B. An active duty member of the armed forces of the United States who is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in Ohio R.C. 2923.125(G)(1) has the same right to carry a concealed handgun in this state as a person who was issued a concealed handgun license under Ohio R.C. 2923.125 and is subject to the same restrictions as specified in this subsection (b).
- C. A tactical medical professional who is qualified to carry firearms while on duty under Ohio R.C. 109.771 has the same right to carry a concealed handgun in this state as a person who was issued a concealed handgun license under Ohio R.C. 2923.125.
- (6) A. A qualified retired peace officer who possesses a retired peace officer identification card issued pursuant to subsection (b)(6)B. of this section and a valid firearms requalification certification issued pursuant to subsection (b)(6)C. of this section has the same right to carry a concealed handgun in this state as a person who was issued a concealed handgun license under Ohio R.C. 2923.125 and is subject to the same restrictions that apply to a person who has been issued a license issued under that section that is valid at the time in question. For purposes of reciprocity with other states, a qualified retired peace officer who possesses a retired peace officer identification card issued pursuant to subsection (b)(6)B. of this section and a valid firearms requalification certification issued pursuant to subsection (b)(6)C. of this section shall be considered to be a licensee in this state.
- B. 1. Each public agency of this State or of a political subdivision of this State that is served by one or more peace officers shall issue a retired peace officer identification card to any person who retired from service as a peace officer with that agency, if the issuance is in accordance with the agency's policies and procedures and if the person, with respect to the person's service with that agency, satisfies all of the following:
 - a. The person retired in good standing from service as a peace officer with the public agency, and the retirement was not for reasons of mental instability.
 - b. Before retiring from service as a peace officer with that agency, the person was authorized to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law and the person had statutory powers of arrest.
 - c. At the time of the person's retirement as a peace officer with that agency, the person was trained and qualified to carry firearms in the performance of the peace officer's duties.

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

2. If a retired peace officer who satisfies the criteria set forth in subsections (b)(6)B.1.a. to (b)(6)B.1.d. of this section attends a firearms requalification program that is approved for purposes of firearms requalification required under Ohio R.C. 109.801, the retired peace officer's successful completion of the firearms requalification program requalifies the retired peace officer for purposes of subsection (b)(6) of this section for five years from the date on which the program was successfully completed, and the requalification is valid during that five-year period. If a retired peace officer who satisfies the criteria set forth in subsections (b)(6)B.1.a. to (b)(6)B.1.d. of this section satisfactorily completes such a firearms requalification program, the retired peace officer shall be issued a firearms requalification certification that identifies the retired peace officer by name, identifies the entity that taught the program, specifies that the retired peace officer successfully completed the program, specifies the date on which the course was successfully completed, and specifies that the requalification is valid for five years year from that date of successful completion. The firearms requalification certification for a retired peace officer may be included in the retired peace officer identification card issued to the retired peace officer under subsection (b)(6)B. of this section.
 3. A retired peace officer who attends a firearms requalification program that is approved for purposes of firearms requalification required under Ohio R.C. 109.801 may be required to pay the cost of the program.
- (7) As used in subsection (b)(6) of this section:
- A. "Governing body." Has the same meaning as in Ohio R.C. 154.01.
 - B. "Government facility of this State or a political subdivision of this State" means any of the following:
 1. A building or part of a building that is owned or leased by the government of this State or a political subdivision of this State and where employees of the government of this State or the political subdivision regularly are present for the purpose of performing their official duties as employees of the State or political subdivision;
 2. The office of a deputy registrar serving pursuant to Ohio R.C. Chapter 4503 that is used to perform deputy registrar functions.
 - C. "Qualified retired peace officer" means a person who satisfies all of the following:
 1. The person satisfies the criteria set forth in subsections (b)(6)B.1.a. to (b)(6)B.1.d. of this section.
 2. The person is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance.
 3. The person is not prohibited by Federal law from receiving firearms.

- D. "Retired peace officer identification card" means an identification card that is issued pursuant to subsection (b)(6)B. of this section to a person who is a retired peace officer.
- E. "Tactical medical professional." Has the same meaning as in Ohio R.C. 109.71.
- F. "Validating identification." Means photographic identification issued by the agency for which an individual serves as a peace officer that identifies the individual as a peace officer of the agency. (ORC 2923.126)

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

549.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)

CHAPTER 551 Fireworks

551.01	Definitions.	551.04	Possession, sale, or discharge prohibited.
551.02	Public exhibition permit required.	551.05	Exceptions.
551.03	Unlawful conduct by exhibitor.	551.99	Penalty.

551.01 DEFINITIONS.

As used in this chapter:

- (a) "Beer" and "intoxicating liquor" have the same meanings as in Ohio Revised Code Section 4301.01.
- (b) "Booby trap" means a small tube that has a string protruding from both ends, that has a friction-sensitive composition and that is ignited by pulling the ends of the string.
- (c) "Cigarette load" means a small wooden peg that is coated with a small quantity of explosive composition and that is ignited in a cigarette.
- (d)
 - (1) "1.3 G fireworks" means display fireworks consistent with regulations of the United States Department of Transportation as expressed using the designation "Division 1.3" in Title 49, Code of Federal Regulations.
 - (2) "1.4 G fireworks" means consumer fireworks consistent with regulations of the United States Department of Transportation as expressed using the designation "Division 1.4" in Title 49, Code of Federal Regulations.
- (e) "Controlled substance" has the same meaning as in Ohio Revised Code Section 3719.01.
- (f) "Fireworks" means any composition or device prepared for the purpose of producing a visible or an audible effect by combustion, deflagration or detonation, except ordinary matches and except as provided in Ohio Revised Code Section 3743.80. "Fireworks" do not include wire sparklers, toy caps for use in toy pistols, toy canes, toy guns, novelties, trick noisemakers, or other devices not containing more than an average of twenty-five hundredths (0.25) grains (sixteen (16) mg) of explosive composition per cap, provided they are so constructed that the hand cannot come in contact with the cap when it is in place for explosion.
- (g) "Highway" means any public street, road, alley, way, lane, or other public thoroughfare.
- (h) "Licensed exhibitor of fireworks" or "licensed exhibitor" means a person licensed pursuant to Ohio Revised Code Sections 3743.50 to 3743.55.
- (i) "Licensed manufacturer of fireworks" or "licensed manufacturer" means a person licensed pursuant to Ohio Revised Code Sections 3743.02 to 3743.08.

- (j) "Licensed wholesaler of fireworks" or "licensed wholesaler" means a person licensed pursuant to Ohio Revised Code Sections 3743.15 to 3743.21.
- (k) "Novelties and trick noisemakers" include the following items:
 - (1) Devices that produce a small report intended to surprise the user, including, but not limited to, booby traps, cigarette loads, party poppers and snappers;
 - (2) Snakes or glow worms;
 - (3) Smoke devices;
 - (4) Trick matches.
- (l) "Party popper" means a small plastic or paper item that contains not more than sixteen milligrams of friction-sensitive explosive composition, that is ignited by pulling string protruding from the item, and from which paper streamers are expelled when the item is ignited.
- (m) "Smoke device" means a tube or sphere that contains pyrotechnic composition that, upon ignition, produces white or colored smoke as the primary effect.
- (n) "Snake or glow worm" means a device that consists of a pressed pellet of pyrotechnic composition that produces a large, snake-like ash upon burning, which ash expands in length as the pellet burns.
- (o) "Snapper" means a small, paper-wrapped item that contains a minute quantity of explosive composition coated on small bits of sand, and that, when dropped, implodes.
- (p) "Trick match" means a kitchen or book match that is coated with a small quantity of explosive composition and that, upon ignition, produces a small report or a shower of sparks.
- (q) "Wire sparkler" means a sparkler consisting of a wire or stick coated with a non-explosive pyrotechnic mixture that produces a shower of sparks upon ignition and that contains no more than one hundred grams of this mixture.
(Ord. 16-2022. Passed 6-6-22.)

551.02 PUBLIC EXHIBITION PERMIT REQUIRED.

(a) A licensed exhibitor of fireworks who wishes to conduct a public fireworks exhibition within the City shall apply for approval to conduct the exhibition to the Fire Chief and the Police Chief.

The required approval shall be evidenced by the Fire Chief or Fire Prevention Officer and the Police Chief, or a designee of the Police Chief, signing a permit for the exhibition, the form for which shall be prescribed by the State Fire Marshal. Any exhibitor of fireworks who wishes to conduct a public fireworks exhibition may obtain a copy of the form from the Fire Marshal or, if it is available, from the Fire Chief, Fire Prevention Officer or Police Chief.

(b) Before a permit is signed and issued to a licensed exhibitor of fireworks, the Fire Chief or Fire Prevention Officer in consultation with the Police Chief, or a designee of the Police Chief, shall inspect the premises on which the exhibition will take place and shall determine that, in fact, the applicant for the permit is a licensed exhibitor of fireworks. Each applicant shall show the applicant's license as an exhibitor of fireworks to the Fire Chief or Fire Prevention Officer.

The Fire Chief or Fire Prevention Officer and the Police Chief, or a designee of the Police Chief, shall give approval to conduct a public fireworks exhibition only if satisfied, based on the inspection, that the premises on which the exhibition will be conducted allow the exhibitor to comply with the rules adopted by the Fire Marshal pursuant to Ohio Revised Code Section 3743.53(B) and (E) and that the applicant is, in fact, a licensed exhibitor of fireworks. The Fire Chief or Fire Prevention Officer in consultation with the Police Chief, or a designee of the Police Chief, may inspect the premises immediately prior to the exhibition to determine if the exhibitor has complied with the rules, and may revoke the permit for noncompliance with the rules.

(c) The Fire Chief or Fire Prevention Officer and the Police Chief, or a designee of the Police Chief, shall not issue a permit until the applicant pays a permit fee of twenty-five dollars (\$25.00) plus any necessary costs of investigation of the applicant and of inspecting the premises on which the exhibition will be conducted.

Each exhibitor shall provide an indemnity bond in the amount of at least one million dollars (\$1,000,000), with surety satisfactory to the Fire Chief or Fire Prevention Officer and to Police Chief, or a designee of the Police Chief, conditioned for the payment of all final judgments that may be rendered against the exhibitor on account of injury, death or loss to persons or property emanating from the fireworks exhibition, or proof of insurance coverage of at least one million dollars (\$1,000,000) for liability arising from injury, death or loss to persons or property emanating from the fireworks exhibition. The Fire Chief or Fire Prevention Officer and Police Chief, or a designee of the Police Chief, shall not issue a permit until the exhibitor provides the bond or proof of the insurance coverage required by this subsection.

- (d) (1) Each permit for a fireworks exhibition issued by the Fire Chief or Fire Prevention Officer and by the Police Chief, or a designee of such Police, shall contain a distinct number, designate the City, and identify the certified Fire Safety Inspector, Fire Chief or Fire Prevention Officer who will be present before, during, and after the exhibition, where appropriate. A copy of each permit issued shall be forwarded by the Fire Chief or Fire Prevention Officer and by the Police Chief, or a designee of the Police Chief, issuing it to the Fire Marshal, who shall keep a record of the permits received. A permit is not transferable or assignable.
- (2) The Fire Chief, Fire Prevention Officer and Police Chief, or a designee of the Police Chief, shall keep a record of issued permits for fireworks exhibitions. In this list, the Fire Chief, Fire Prevention Officer, Police Chief, or a designee of the Police Chief, shall list the name of the exhibitor, the exhibitor's license number, the premises on which the exhibition will be conducted, the date and time of the exhibition and the number of the permit issued to the exhibitor for the exhibition.
(Ord. 16-2022. Passed 6-6-22.)

551.03 UNLAWFUL CONDUCT BY EXHIBITOR.

(a) No licensed exhibitor of fireworks shall fail to comply with the applicable requirements of the rules adopted by the Fire Marshal pursuant to Ohio Revised Code Section 3743.53(B) and (E) or to comply with Divisions (C) and (D) of that section.

(b) No licensed exhibitor of fireworks shall conduct a fireworks exhibition unless a permit has been secured for the exhibition pursuant to Section 551.02 of this Chapter or if a permit so secured is revoked by the Fire Chief or Fire Prevention Officer in consultation with the Police Chief or other similar chief law enforcement official or a designee of such Police Chief or other similar law enforcement official pursuant to that section.

(c) No licensed exhibitor of fireworks shall acquire fireworks for use at a fireworks exhibition other than in accordance with Ohio Revised Code Sections 3743.54 and 3743.55.

(d) No licensed exhibitor of fireworks or other person associated with the conduct of a fireworks exhibition shall have possession or control of, or be under the influence of, any intoxicating liquor, beer or controlled substance while on the premises on which the exhibition is being conducted.

(e) No licensed exhibitor of fireworks shall permit an employee to assist the licensed exhibitor in conducting fireworks exhibitions unless the employee is registered with the Fire Marshal under Ohio Revised Code Section 3743.56.
(Ord. 16-2022. Passed 6-6-22.)

551.04 POSSESSION, SALE, OR DISCHARGE PROHIBITED.

(a) No person shall possess fireworks with the intent to discharge, ignite or explode the fireworks in the City, except a licensed exhibitor of fireworks as authorized by Ohio Revised Code Sections 3743.50 to 3743.55, and Section 551.02 of this Chapter, and except as provided in Section 551.05 of this Chapter.

(b) No person shall possess for sale or sell fireworks in this City, except a licensed manufacturer of fireworks as authorized by Ohio R.C. 3743.02 to 3743.08, a licensed wholesaler of fireworks as authorized by Ohio R.C. 3743.15 to 3743.21, a shipping permit holder as authorized by Ohio Revised Code Section 3743.40, or a licensed exhibitor of fireworks as authorized by Ohio Revised Code Sections 3743.50 to 3743.55, and Section 551.02 of this Chapter, and except as provided in Section 551.05 of this Chapter.

(c) Except as provided in Section 551.05 of this Chapter and except for licensed exhibitors of fireworks authorized to conduct a fireworks exhibition pursuant to Ohio Revised Code Sections 3743.50 to 3743.55 and Section 551.02 of this Chapter, no person shall discharge, ignite or explode any fireworks in this City.

(d) No person shall use in a theater or public hall, what is technically known as fireworks showers, or a mixture containing potassium chlorate and sulphur.

(e) No person shall sell fireworks of any kind to a person under eighteen years of age. No person under eighteen years of age shall enter a fireworks sales showroom unless that person is accompanied by a parent, legal guardian, or other responsible adult. No person under eighteen years of age shall touch or possess fireworks on a licensed premises without the consent of the licensee. A licensee may eject any person from a licensed premises that is in any way disruptive to the safe operation of the premises.

(f) Except as otherwise provided in Ohio R.C. § 3743.44, no person, other than a licensed manufacturer, licensed wholesaler, licensed exhibitor, or shipping permit holder, shall possess 1.3 G fireworks in this City.

(g) In a prosecution under subsection (a), it is not necessary to allege or prove that the offender did discharge, ignite or explode any fireworks in the City.
(Ord. 16-2022. Passed 6-6-22.)

551.05 EXCEPTIONS.

This chapter does not prohibit or apply to the following:

- (a) The manufacture, sale, possession, transportation, storage, or use in emergency situations, of pyrotechnic signaling devices and distress signals for marine, aviation, or highway use;
- (b) The manufacture, sale, possession, transportation, storage, or use of fusees, torpedoes, or other signals necessary for the safe operation of railroads;
- (c) The manufacture, sale, possession, transportation, storage, or use of blank cartridges in connection with theaters or shows, or in connection with athletics as signals or for ceremonial purposes;

- (d) The manufacture for, the transportation, storage, possession, or use by, or sale to the armed forces of the United States and the militia of this state, as recognized by the adjutant general of Ohio, of pyrotechnic devices;
- (e) The manufacture, sale, possession, transportation, storage, or use of toy pistols, toy canes, toy guns, or other devices in which paper or plastic caps containing twenty-five hundredths grains or less of explosive material are used, provided that they are constructed so that a hand cannot come into contact with a cap when it is in place for explosion, or apply to the manufacture, sale, possession, transportation, storage, or use of those caps;
- (f) The manufacture, sale, possession, transportation, storage, or use of novelties and trick noisemakers, auto burglar alarms, or model rockets and model rocket motors designed, sold, and used for the purpose of propelling recoverable aero models;
- (g) The manufacture, sale, possession, transportation, storage, or use of wire sparklers.
- (h) The conduct of radio-controlled special effect exhibitions that use an explosive black powder charge of not more than one-quarter pound per charge, and that are not connected in any manner to propellant charges, provided that the exhibition complies with all of following:
 - (1) No explosive aerial display is conducted in the exhibition;
 - (2) The exhibition is separated from spectators by not less than two hundred feet;
 - (3) The person conducting the exhibition complies with regulations of the bureau of alcohol, tobacco, and firearms of the United States department of the treasury and the United States department of transportation with respect to the storage and transport of the explosive black powder used in the exhibition. (Ord. 16-2022. Passed 6-6-22.)

551.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a misdemeanor of the first degree for a first offense and shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than six months or both.
(Ord. 16-2022. Passed 6-6-22.)



STAFF MEMORANDUM
City Council Meeting – November 20, 2023

Date: November 16, 2023

To: Robyn Stewart, Acting City Manager

From: Tom Lindsey, Law Director
Grace Brown, City Clerk

Subject: Ordinance No. 30-2023 – Adopting Replacement Pages to the Codified Ordinances

EXECUTIVE SUMMARY

This Ordinance adopts replacement pages for the Codified Ordinances to incorporate changes to the City Code and State Law since the last update.

RECOMMENDATION

Introduction for public hearing on December 4, 2023.

BACKGROUND/DESCRIPTION

This Ordinance approves replacement pages for the Codified Ordinances of the City. This is typically done annually and incorporates all ordinances amending provisions of Code that were enacted since the last recodification and changes in state law. These pages contain changes related to City Council adopted changes to the Code as well as required state law changes related to the criminal and traffic codes.

A summary of the state law changes is detailed in Appendix A of the Ordinance.

ATTACHMENTS

Proposed Ordinance
Code Replacement Pages Part 1&2

ORDINANCE NO. 30-2023

To Revise the Codified Ordinances of the City of Worthington to Conform to Changes in State Law and Adopting Replacement Pages to the Codified Ordinances.

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

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

WHEREAS, the Walter H. Drane Company has prepared a supplement to the Codified Ordinances containing such new material;

NOW, THEREFORE, BE IT ORDAINED by the Council of the Municipality of Worthington, Franklin County, State of Ohio:

SECTION 1. That the ordinances of the City of Worthington, Ohio, of a general and permanent nature, as revised, recodified, rearranged and consolidated into component codes, titles, chapters and sections within the 2023 Replacement Pages to the Codified Ordinances are hereby approved and adopted.

SECTION 2. That the following sections and chapters are hereby added, amended or repealed as respectively indicated in order to comply with current State law:

Traffic Code

- 337.10 Lights, Emblems, and Reflectors on Slow-Moving Vehicles, Farm Machinery, Agricultural Tractors, and Animal-Drawn Vehicles. (Amended)
- 337.16 Number of Lights; Limitations on Flashing, Oscillating or Rotating Lights. (Amended)

General Offenses Code

- 513.01 Drug Abuse Control Definitions. (Amended)
- 529.01 Liquor Control Definitions. (Amended)
- 529.07 Open Container Prohibited. (Amended)
- 549.02 Carrying Concealed Weapons. (Amended)
- 549.04 Improperly Handling Firearms in a Motor Vehicle. (Amended)
- 549.10 Possessing Replica Firearm in School. (Amended)
- 549.12 Concealed Handgun Licenses; Possession of Revoked or Suspended License; Additional Restrictions; Posting Signs Prohibiting Possession. (Added)

SECTION 3. That the complete text of the sections listed above are set forth in full in the current replacement pages to the Codified Ordinances. A summary of the amendments to such sections is hereby attached to this ordinance as Appendix A.

SECTION 4. That notice of passage of this Ordinance shall be posted in the Municipal Administration Building, the Worthington Library, the Griswold Center and the Worthington Community Center and shall set forth the title and effective date of the Ordinance and a statement that the Ordinance is on file in the office of the Clerk of Council. This Ordinance shall take effect and be in force from and after the earliest period allowed by law and by the Charter of the City of Worthington Ohio.

APPENDIX A

Summary of 2023 Model Amendments

Traffic Code

337.10 Lights, Emblems, and Reflectors on Slow-Moving Vehicles, Farm Machinery, Agricultural Tractors, and Animal-Drawn Vehicles. (Adds definitions, clarifies regulations generally, and for specific slow-moving vehicles, farm machinery, agricultural tractors and animal-drawn vehicles.)

337.16 Number of Lights; Limitations on Flashing, Oscillating or Rotating Lights. (Amends regulations for flashing lights in subsections (c) and (d).)

General Offenses Code

513.01 Drug Abuse Control Definitions. (Adds definitions for “alcohol and drug addiction services”, “committed in the vicinity of a substance addiction services provider or a recovering addict” and “premises of a substance addiction services provider’s facility”. Re-letters the previous definitions.)

529.01 Liquor Control Definitions. (Amends definition of “wine” to include cider, with exceptions.)

529.07 Open Container Prohibited. (Amends subsection (b)(2) to include reference to subsection (j). Adds new subsection (i) to exclude homemade beer or wine. Re-letters previous subsection (i) as (j).)

549.02 Carrying Concealed Weapons. (Amends regulations in subsections (b)(1), (c)(2), (e), (f)(2), (3), (4) regarding a concealed handgun licensee’s duty to carry the license and notify a law enforcement officer if the licensee is carrying a concealed handgun.)

549.04 Improperly Handling Firearms in a Motor Vehicle. (Amends regulations in subsections (b)(1), (2), (c)(2)A., (e)(2), (f), (h), (i) regarding carrying concealed weapons in a vehicle.)

549.10 Possessing Replica Firearm in School. (Revises section to comply with amended ORC 2913.11.) (Amends subsection (b) regarding exceptions.)

549.12 Concealed Handgun Licenses; Possession of Revoked or Suspended License; Additional Restrictions; Posting Signs Prohibiting Possession. (Adds additional concealed handgun regulations.)

ORDINANCE NO. 31-2023

Authorizing the City Manager to Execute A
Contract Between the City of Columbus Board of
Health and the City of Worthington for Health
Services.

WHEREAS, the City of Columbus Board of Health has indicated its intention to provide health services for the City of Worthington during calendar year 2024; and,

WHEREAS, the provision and maintenance of health services within the City of Worthington is a municipal service requiring uninterrupted service; and,

WHEREAS, the City Manager has received a proposed contract for the provision of health services to the City of Worthington by the City of Columbus Health Department;

NOW, THEREFORE, BE IT ORDAINED by the Council of the Municipality of Worthington, County of Franklin, State of Ohio:

SECTION 1. That the City Manager be and hereby is authorized and directed to enter into a contract with the City of Columbus Board of Health for the purpose of providing health services to the City of Worthington, said service to commence January 1, 2024, and remain in full force and effect until December 31, 2024.

SECTION 2. That notice of passage of this Ordinance shall be posted in the Municipal Administration Building, the Worthington Library, the Griswold Center and the Worthington Community Center and shall set forth the title and effective date of the Ordinance and a statement that the Ordinance is on file in the office of the Clerk of Council. This Ordinance shall take effect and be in force from and after the earliest period allowed by law and by the Charter of the City of Worthington Ohio.

Passed _____

President of Council

Attest:

Clerk of Council

ORDINANCE NO. 31-2023

Authorizing the City Manager to Execute A
Contract Between the City of Columbus Board of
Health and the City of Worthington for Health
Services.

WHEREAS, the City of Columbus Board of Health has indicated its intention to provide health services for the City of Worthington during calendar year 2024; and,

WHEREAS, the provision and maintenance of health services within the City of Worthington is a municipal service requiring uninterrupted service; and,

WHEREAS, the City Manager has received a proposed contract for the provision of health services to the City of Worthington by the City of Columbus Health Department;

NOW, THEREFORE, BE IT ORDAINED by the Council of the Municipality of Worthington, County of Franklin, State of Ohio:

SECTION 1. That the City Manager be and hereby is authorized and directed to enter into a contract with the City of Columbus Board of Health for the purpose of providing health services to the City of Worthington, said service to commence January 1, 2024, and remain in full force and effect until December 31, 2024.

SECTION 2. That notice of passage of this Ordinance shall be posted in the Municipal Administration Building, the Worthington Library, the Griswold Center and the Worthington Community Center and shall set forth the title and effective date of the Ordinance and a statement that the Ordinance is on file in the office of the Clerk of Council. This Ordinance shall take effect and be in force from and after the earliest period allowed by law and by the Charter of the City of Worthington Ohio.

Passed _____

President of Council

Attest:

Clerk of Council



STAFF MEMORANDUM
City Council Meeting – November 20, 2023

Date: November 09, 2023

To: Robyn Stewart, Acting City Manager

From: Scott F. Bartter, Finance Director

Subject: Ordinance No. 32-2023 – Compensation for Unclassified Employees

EXECUTIVE SUMMARY

This Ordinance establishes the salaries for unclassified employees in the City for 2024.

RECOMMENDATION

Introduce for Public Hearing on December 4, 2023.

BACKGROUND/DESCRIPTION

This Ordinance establishes compensation for the City's unclassified employees for 2024. Compensation for classified employees is established via a separate Resolution. City positions are classified, except for those positions designated as unclassified by the City's Charter.

The new position of Assistant Law Director has been added to this legislation.

This Ordinance is introduced with blanks and will need to be amended for the public hearing. The amounts in the Ordinance are consistent with the amounts included in the 2024 Operating Budget.

ATTACHMENTS

Ordinance No. 32-2023

ORDINANCE NO. 32-2023

Establishing Compensation for Certain Unclassified Positions of the Municipal Service For the Period of January 1, 2024 through December 31, 2024, and Adopting Class Specifications for Said Unclassified Positions.

WHEREAS, the salaries for unclassified positions of the Municipal Service must be fixed by City Council;

NOW, THEREFORE, BE IT ORDAINED by the Council of the Municipality of Worthington, County of Franklin, State of Ohio:

SECTION 1. The salary of the City Manager (Class Specification No. 20) shall be \$_____.

SECTION 2. The salary of the Director of Finance (Class Specification No. 22) shall not exceed \$_____.

SECTION 3. The salary of the Director of Parks and Recreation (Class Specification No. 24) shall not exceed \$_____.

SECTION 4. The salary of the Director of Public Service and Engineering / City Engineer (Class Specification No. 31) shall not exceed \$_____.

SECTION 5. The salary of the Assistant to the City Manager/Personnel Director (Class Specification No. 27) shall not exceed \$_____.

SECTION 6. The salary of the Assistant City Manager (Class Specification No. 30) shall not exceed \$_____.

SECTION 7. The salary of the Court Clerk (Class Specification No. 52) shall not exceed \$_____.

SECTION 8. The salary of the Assistant to the City Manager/Information Technology Director (Class Specification No. 244) shall not exceed \$_____.

SECTION 9. The compensation rate for the Clerk of Council shall be not less than \$25.00 per meeting. In lieu of monetary compensation, the Clerk of Council may be granted compensatory time.

ORDINANCE NO. 32-2023

SECTION 10. The salary of the Assistant to the City Manager/Communications Director (Class Specification No. 202) shall not exceed \$_____.

SECTION 11. The salary of the Chief Building Inspector (Class Specification No. 223) shall not exceed \$_____.

SECTION 12. The salary of the Director of Law (Class Specification No. 226) shall not exceed \$_____.

SECTION 13. The salary of the Assistant City Manager/Economic Development Director (Class Specification No. 229) shall not exceed \$_____.

SECTION 14. The salary of the Director of Planning and Building (Class Specification No. 236) shall not exceed \$_____.

SECTION 15. The salary of the Administrative Assistant/Finance Manager (Class Specification No. 243) shall not exceed \$_____.

SECTION 16. The salary of the Deputy Director of Safety/Fire Chief (Class Specification No. 180) shall not exceed \$_____.

SECTION 17. The salary of the Deputy Director of Safety/Police Chief (Class Specification No. 122) shall not exceed \$_____.

SECTION 18. The salary of the Assistant Director/Parks and Recreation Superintendent (Class Specification No. 253) shall not exceed \$_____.

SECTION 19. The salary of the Assistant Law Director (Class Specification No. 263) shall not exceed \$_____.

SECTION 20. The provisions of this ordinance supersede Ordinance No. 41-2022, as Amended, passed December 5, 2022, as it pertains to positions specified in Sections 1 through 18, for the period of January 1, 2024 through December 31, 2024.

SECTION 21. That Ordinance No. 41-2022 as Amended be and the same is hereby repealed.

SECTION 22. That notice of passage of this Ordinance shall be posted in the Municipal Administration Building, the Worthington Library, the Griswold Center and the Worthington Community Center and shall set forth the title and effective date of the Ordinance and a statement that the Ordinance is on file in the office of the Clerk of Council. This Ordinance shall take effect and be in force from and after the earliest period allowed

by law and by the Charter of the City of Worthington, Ohio.

Passed _____

President of Council

Attest:

Clerk of Council



STAFF MEMORANDUM
City Council Meeting – November 20, 2023

Date: November 1, 2023

To: Robyn Stewart, Acting City Manager
David McCorkle, Assistant City Manager & Economic Development Director

From: R. Lee Brown, Director of Planning & Building

Subject: Ordinance No. 33-2023 - Appointment of the Franklin County District Board of Health as the Provider of Plumbing Inspection Services

EXECUTIVE SUMMARY

This is the annual ordinance that authorizes the City Manager to appoint the Franklin County District Board of Health as the provider of plumbing inspection services for the City of Worthington in 2024.

RECOMMENDATION

Introduce and set for a Public Hearing on December 4, 2023.

BACKGROUND/DESCRIPTION

The City utilizes Franklin County District Board of Health to provide plumbing inspection services which are scheduled through the City's Department of Planning & Building. The City annual authorizes an ordinance which continues the services for the next year.

FINANCIAL IMPLICATIONS/FUNDING SOURCES (if applicable)

The cost of the service is paid by the applicants for building/plumbing permits via the permit fees. There is not a change in fees proposed for 2024.

ATTACHMENT(S)

- Ordinance No. 33-2023
- Contract

ORDINANCE NO. 33-2023

Approving the City Manager's Appointment of the Franklin County District Board of Health as the Provider of Plumbing Inspection Services in the City of Worthington.

WHEREAS, it is necessary and desirable to provide the inhabitants of Worthington with plumbing inspection services; and,

WHEREAS, the Franklin County General Health District Advisory Council shall have the right to provide such inspection services, charge and receive from the City of Worthington payment for said services in accordance with the contracts and provisions therein set forth for reimbursement at a rate of sixty (60%) of all plumbing inspection fees collected by the City of Worthington; at the same inspection fee as now charged by the Franklin County District Board of Health; and,

WHEREAS, the City Manager has received a proposed contract for the provision of plumbing inspection services to the City of Worthington by the Franklin County District Board of Health;

NOW, THEREFORE, BE IT ORDAINED by the Council of the Municipality of Worthington, County of Franklin, State of Ohio:

SECTION 1. That the City Manager be and hereby is authorized and directed to enter into a contract with the Franklin County District Board of Health for the purpose of providing plumbing inspection services in the City of Worthington, said service to commence January 1, 2024, and remain in full force and effect until December 31, 2024.

SECTION 2. That notice of passage of this Ordinance shall be posted in the Municipal Administration Building, the Worthington Library, the Griswold Center and the Worthington Community Center and shall set forth the title and effective date of the Ordinance and a statement that the Ordinance is on file in the office of the Clerk of Council. This Ordinance shall take effect and be in force from and after the earliest period allowed by law and by the Charter of the City of Worthington Ohio.

Passed

President of Council

Attest:

Clerk of Council

Introduced
P.H.
Effective

PLUMBING AND MEDICAL GAS SERVICES CONTRACT

Between
FRANKLIN COUNTY BOARD OF HEALTH
And
CITY OF WORTHINGTON

This Plumbing and Medical Gas Services Contract (the "Contract") entered into by and between the City of Worthington (hereafter referred to as "City"), with its principal address being 6550 North High Street, Worthington OH 43085 and the Board of Health of the Franklin County Public Health (hereafter referred to as "Board" or "FCPH") for 2024 Public Health Plumbing and Medical Gas Services (the "Services") under the approval of Resolution No. 23-158, dated September 12, 2023.

WHEREAS, FCPH is a general health district as defined by Ohio Revised Code ("ORC") Section 3709.01.

WHEREAS, the City is a city health district, as defined by ORC Section 3709.01.

WHEREAS, ORC Section 3709.281 authorizes cities in Franklin County, Ohio to contract with the Board to provide the Services to and within the City.

WHEREAS, The City has determined that FCPH is organized and equipped to adequately provide the Services that are the subject of this Contract. Pursuant to ORC Section 3709.281 and Ohio Administrative Code Section 1301:3-3-04, FCPH may perform plumbing and medical gas inspection services that the City may perform.

NOW THEREFORE, for the mutual considerations herein specified, the City and FCPH, hereby agree to the terms and conditions, as follows:

SECTION 1 – PLUMBING AND MEDICAL GAS SERVICES AND FEES

1.01 Plumbing Services and Fees

The City, through its Building Department, shall receive all plumbing plans, collect and retain fees for plumbing plan review, and conduct plumbing plan review. The City's Building Department is also responsible for issuing plumbing permits and collecting permit fees upon successful completion of plan review. The fees to be charged by the City shall be the most current fee charged by FCPH. The City shall pay FCPH sixty (60) percent of all plumbing permit fees collected by the City. The City shall provide FCPH monthly statements of all permits issued, and permit fees collected. FCPH shall invoice the City for sixty (60) percent of the permit fees collected by the City based on the City's monthly statements. The City shall pay the invoiced amount, within thirty (30) days after receipt of the invoice.

FCPH shall conduct inspections for all plumbing installations within the City. Inspectors shall be state certified Plumbing Inspectors and Plumbing Plans Examiners by the Ohio Board of Building Standards.

1.02 Medical Gas Services and Fees

FCPH shall receive all medical gas plans and shall provide plan review and inspections for all medical gas installations within the City. FCPH will issue permits, collect, and retain fees for such medical gas plans and permits. Inspectors shall be certified by the American Society of Safety Engineers (ASSE) and the Ohio Board of Building Standard as Medical Gas Inspectors.

SECTION 2 – TERM AND TERMINATION

The term of this Contract shall begin on January 1, 2024, and end on December 31, 2024, subject to the termination provisions herein. Either party to this Contract shall have the right to terminate the Contract upon 120 days written notice. This Contract shall not have any renewal terms.

SECTION 3 – ENFORCEMENT

The City's attorney shall be responsible for any litigation involving enforcement of the Ohio Plumbing Code related to the Services within the corporate limits of the City.

SECTION 4 – NOTICE

All notices and other communications which may or are required to be given hereunder shall be in writing and shall be deemed duly given if personally delivered, or sent by overnight express courier, or sent by United States mail, registered or certified, return receipt requested, postage prepaid, to the address set forth hereunder or to such other address as the other party hereto may designate in written notice transmitted in accordance with this provision. If either overnight express courier or United States mail delivery is not available or delivery is uncertain, then notices may be given by fax or by e-mail. Notice shall be sent to the following addresses:

To the City:

City of Worthington
Attention: City Manager
6550 North Hight Street
Worthington, Ohio 43085

To FCPH:

Franklin County Public Health
Attention: Health Commissioner
280 East Broad Street
Columbus, Ohio 43215

SECTION 5 – GOVERNING LAW AND VENUE

This Contract and any claims arising in any way out of this Contract shall be governed by the laws of the State of Ohio. Any litigation arising out of or relating in any way to this Contract or the performance hereunder shall be brought only in an Ohio court of Franklin County Public Health Plumbing and Medical Gas Services Contract (2024)
City of Worthington Contract Template
FCPO Approved 1.17.23

competent jurisdiction in Franklin County, Ohio, and the City hereby irrevocably consents to such jurisdiction.

SECTION 6 – ACTUAL LIABILITIES

Each party to this Contract shall be responsible for any liability, claim, loss, damage or expenses, including without limitation, reasonable attorney fees, arising from its negligent acts or omissions in connection with its performance of this Contract, or its failure to comply with the terms of this Contract, as determined by a court of competent jurisdiction. Nothing in this section shall be construed as an obligation of either party to defend, hold harmless, or indemnify any other party, entity, or individual, even for claims that are the result of negligent acts or omissions of such other party.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties to this Contract have hereunto set their hands and seals and have executed this Contract the day and year written below.

FRANKLIN COUNTY PUBLIC HEALTH

Joe Mazzola, MPA
Health Commissioner

_____ Date

CITY OF WORTHINGTON

Robyn Stewart
Acting City Manager

_____ Date

APPROVED AS TO FORM:

Robin Moorhead
Assistant Prosecuting Attorney
Franklin County, Ohio

_____ Date

Tom Lindsey, Law Director
City of Worthington

_____ Date

FINANCIAL CERTIFICATE

It is hereby certified that the amount required to meet the Contract obligation, payment of expenditure for the above has been lawfully appropriated, authorized or directed for such purpose and is in the treasury or in the process of collection to the credit of the proper fund and is free from any obligation or certificated now outstanding.

Scott Bartter, Finance Director
City of Worthington

Date



**STAFF MEMORANDUM
City Council Meeting – November 20, 2023**

Date: November 15, 2023

To: Robyn Stewart, Acting City Manager

From: Tom Lindsey, Law Director
Scott Bartter, Finance Director

Subject: Ordinance No. 34-2023 – Amending the Municipal Income Tax Code

EXECUTIVE SUMMARY

This Ordinance adopts the amendments to the municipal income tax code as recommended by the Regional Income Tax Agency and required by the General Assembly in House Bill 33.

RECOMMENDATION

Introduction for public hearing on December 4, 2023.

BACKGROUND/DESCRIPTION

House Bill (H.B.) 33 of the 135th General Assembly, the State's general appropriations bill for the biennium, included a number of amendments to Chapter 718 of the Ohio Revised Code and required that municipalities amend their municipal income tax ordinances to conform to the changes. The Ohio Legislative Service Commission's Final Analysis describing those amendments is attached.

Staff has prepared the proposed Ordinance amending the applicable sections of the City's municipal income tax code based on recommendations by the Regional Income Tax Agency.

ATTACHMENTS

Proposed Ordinance No. 34-2023
Legislative Service Commission Final Analysis of H.B. 33

ORDINANCE NO. 34-2020

To Amend Part Seventeen – Title Two of the Codified
Ordinances of the City Regarding Municipal Income Tax.

WHEREAS, House Bill (H.B.) 33 of the 135th General Assembly, the State's general appropriations bill for the biennium, included a number of amendments to Chapter 718 of the Ohio Revised Code and required that municipalities amend their municipal income tax ordinances to conform to the changes.; and

WHEREAS, this Ordinance amends the applicable sections of the City's municipal income tax code as required by H.B. 33 and recommended by the Regional Income Tax Agency;

NOW, THEREFORE, BE IT ORDAINED by the Council of the Municipality of Worthington, County of Franklin, State of Ohio:

SECTION 1. That Section 1716.01(F) of the Codified Ordinances is hereby amended to read as follows:

(F) This division applies to any taxpayer engaged in a business or profession in the City, unless the taxpayer is an individual who resides in the City or the taxpayer is an electric company, combined company, or telephone company that is subject to and required to file reports under Chapter 5745. of the ORC.

(1) Except as otherwise provided in division (F)(2) and (G) of this section, net profit from a business or profession conducted both within and without the boundaries of the City shall be considered as having a taxable situs in the City for purposes of municipal income taxation in the same proportion as the average ratio of the following:

(a) The average original cost of the real property and tangible personal property owned or used by the taxpayer in the business or profession in the City during the taxable period to the average original cost of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.

As used in the preceding paragraph, tangible personal or real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight;

(b) Wages, salaries, and other compensation paid during the taxable period to individuals employed in the business or profession for services performed in the City to wages, salaries, and other compensation paid during the same period to individuals employed in the business or profession, wherever the individual's services are performed, excluding compensation from which taxes are not required to be withheld under Section 1717.01(C);

(c) Total gross receipts of the business or profession from sales and rentals made and services performed during the taxable period in the City to total gross receipts of the business or profession during the same period from sales, rentals, and services, wherever made or performed.

(2) (a) If the apportionment factors described in division (F)(1) of this section do not fairly represent the extent of a taxpayer's business activity in the City, the taxpayer may request, or the Tax Administrator of the City may require, that the taxpayer use, with respect to all or any portion of the income of the taxpayer, an alternative apportionment method involving one or more of the following:

- (i) Separate accounting;
- (ii) The exclusion of one or more of the factors;
- (iii) The inclusion of one or more additional factors that would provide for a more fair apportionment of the income of the taxpayer to the municipal corporation;
- (iv) A modification of one or more of the factors.

(b) A taxpayer request to use an alternative apportionment method shall be in writing and shall accompany a tax return, timely filed appeal of an assessment, or timely filed amended tax return. The taxpayer may use the requested alternative method unless the Tax Administrator denies the request in an assessment issued within the period prescribed by Section 1719.01(A).

(c) The Tax Administrator may require a taxpayer to use an alternative apportionment method as described in division (F)(2)(a) of this section, but only by issuing an assessment to the taxpayer within the period prescribed by Section 1719.01(A).

(d) Nothing in division (F)(2) of this section nullifies or otherwise affects any alternative apportionment arrangement approved by the Tax Administrator or otherwise agreed upon by both the Tax Administrator and taxpayer before January 1, 2016.

(3) As used in division (F)(1)(b) of this section, "wages, salaries, and other compensation" includes only wages, salaries, or other compensation paid to an employee for services performed at any of the following locations:

(a) A location that is owned, controlled, or used by, rented to, or under the possession of one of the following:

- (i) The employer;
- (ii) A vendor, customer, client, or patient of the employer, or a related member of such a vendor, customer, client, or patient;
- (iii) A vendor, customer, client, or patient of a person described in division (F)(3)(a)(ii) of this section, or a related member of such a vendor, customer, client, or patient.

(b) Any location at which a trial, appeal, hearing, investigation, inquiry, review, court-martial, or similar administrative, judicial, or legislative matter or proceeding is being conducted, provided that the compensation is paid for services performed for, or on behalf of, the employer or that the employee's presence at the location directly or indirectly benefits the employer;

(c) Any other location, if the Tax Administrator determines that the employer directed the employee to perform the services at the other location in lieu of a location described in division (F) (3)(a) or (b) of this section solely in order to avoid or reduce the employer's municipal income tax liability. If the Tax Administrator makes such a determination, the employer may dispute the determination by establishing, by a preponderance of the evidence, that the Tax Administrator's determination was unreasonable.

(4) For the purposes of division (F)(1)(c) of this section, and except as provided in division (G) of this section, receipts from sales and rentals made and services performed shall be situated to a municipal corporation as follows:

(a) Gross receipts from the sale of tangible personal property shall be situated to the municipal corporation in which the sale originated. For the purposes of this division, a sale of property originates in the City if, regardless of where title passes, the property meets any of the following criteria:

(i) The property is shipped to or delivered within the City from a stock of goods located within the City.

(ii) The property is delivered within the City from a location outside the City, provided the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the City and the sales result from such solicitation or promotion.

(iii) The property is shipped from a place within the City to purchasers outside the City, provided that the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

(b) Gross receipts from the sale of services shall be situated to the City to the extent that such services are performed in the City.

(c) To the extent included in income, gross receipts from the sale of real property located in the City shall be situated to the City.

(d) To the extent included in income, gross receipts from rents and royalties from real property located in the City shall be situated to the City.

(e) Gross receipts from rents and royalties from tangible personal property shall be situated to the City based upon the extent to which the tangible personal property is used in the City.

(5) The net profit received by an individual taxpayer from the rental of real estate owned directly by the individual, or by a disregarded entity owned by the individual, shall be subject to the City's tax only if the property generating the net profit is located in the City or if the individual taxpayer that receives the net profit is a resident of the City. The City shall allow such taxpayers to elect to use separate accounting for the purpose of calculating net profit situated under this division to the municipal corporation in which the property is located.

(6)(a) Commissions received by a real estate agent or broker relating to the sale, purchase, or lease of real estate shall be situated to the municipal corporation in which the

real estate is located. Net profit reported by the real estate agent or broker shall be allocated to the City, if applicable, based upon the ratio of the commissions the agent or broker received from the sale, purchase, or lease of real estate located in the City to the commissions received from the sale, purchase, or lease of real estate everywhere in the taxable year.

(b) An individual who is a resident of the City shall report the individual's net profit from all real estate activity on the individual's annual tax return for the City. The individual may claim a credit for taxes the individual paid on such net profit to another municipal corporation to the extent that such a credit is allowed under the City's income tax ordinance.

(7) When calculating the ratios described in division (F)(1) of this section for the purposes of that division or division (F)(2) of this section, the owner of a disregarded entity shall include in the owner's ratios the property, payroll, and gross receipts of such disregarded entity.

~~(8) — Left intentionally blank.~~

SECTION 2. That Section 1716.01 of the Codified Ordinances is hereby amended to add subsection (G) to read as follows:

(G)(1) As used in this division:

(a) "Qualifying remote employee or owner" means an individual who is an employee of a taxpayer or who is a partner or member holding an ownership interest in a taxpayer that is treated as a partnership for federal income tax purposes, provided that the individual meets both of the following criteria:

(i) The taxpayer has assigned the individual to a qualifying reporting location.

(ii) The individual is permitted or required to perform services for the taxpayer at a qualifying remote work location.

(b) "Qualifying remote work location" means a permanent or temporary location at which an employee or owner chooses or is required to perform services for the taxpayer, other than a reporting location of the taxpayer or any other location owned or controlled by a customer or client of the taxpayer. "Qualifying remote work location" may include the residence of an employee or owner and may be located outside of a municipal corporation that imposes an income tax in accordance with this chapter. An employee or owner may have more than one qualifying remote work location during a taxable year.

(c) "Reporting location" means either of the following:

(i) A permanent or temporary place of doing business, such as an office, warehouse, storefront, construction site, or similar location, that is owned or controlled directly or indirectly by the taxpayer;

(ii) Any location in this state owned or controlled by a customer or client of the taxpayer, provided that the taxpayer is required to withhold taxes under Section 1717.01, on qualifying wages paid to an employee for the performance of personal services at that location.

(d) "Qualifying reporting location" means one of the following:

(i) The reporting location in this state at which an employee or owner performs services for the taxpayer on a regular or periodic basis during the taxable year;

(ii) If no reporting location exists in this state for an employee or owner under division (G)(1)(d)(i) of this section, the reporting location in this state at which the employee's or owner's supervisor regularly or periodically reports during the taxable year;

(iii) If no reporting location exists in this state for an employee or owner under division (G)(1)(d)(i) or (ii) of this section, the location that the taxpayer otherwise assigns as the employee's or owner's qualifying reporting location, provided the assignment is made in good faith and is recorded and maintained in the taxpayer's business records. A taxpayer may change the qualifying reporting location designated for an employee or owner under this division at any time.

(2) For tax years ending on or after December 31, 2023, a taxpayer may elect to apply the provisions of this division to the apportionment of its net profit from a business or profession. For taxpayers that make this election, the provisions of division (F) of this section apply to such apportionment except as otherwise provided in this division.

A taxpayer shall make the election allowed under this division in writing on or with the taxpayer's net profit return or, if applicable, a timely filed amended net profit return or a timely filed appeal of an assessment. The election applies to the taxable year for which that return or appeal is filed and for all subsequent taxable years, until the taxpayer revokes the election.

The taxpayer shall make the initial election with the tax administrator of each municipal corporation with which, after applying the apportionment provisions authorized in this division, the taxpayer is required to file a net profit tax return for that taxable year. A taxpayer shall not be required to notify the tax administrator of a municipal corporation in which a qualifying remote employee's or owner's qualifying remote work location is located, unless the taxpayer is otherwise required to file a net profit return with that municipal corporation due to business operations that are unrelated to the employee's or owner's activity at the qualifying remote work location.

After the taxpayer makes the initial election, the election applies to every municipal corporation in which the taxpayer conducts business. The taxpayer shall not be required to file a net profit return with a municipal corporation solely because a qualifying remote employee's or owner's qualifying remote work location is located in such municipal corporation.

Nothing in this division prohibits a taxpayer from making a new election under this division after properly revoking a prior election.

(3) For the purpose of calculating the ratios described in division (F)(1) of this section, all of the following apply to a taxpayer that has made the election described in division (G)(2):

(a) For the purpose of division (F)(1)(a) of this section, the average original cost of any tangible personal property used by a qualifying remote employee or owner at that individual's qualifying remote work location shall be situated to that individual's qualifying reporting location.

(b) For the purpose of division (F)(1)(b) of this section, any wages, salaries, and other compensation paid during the taxable period to a qualifying remote employee or owner for services performed at that individual's qualifying remote work location shall be situated to that individual's qualifying reporting location.

(c) For the purpose of division (F)(1)(c) of this section, and notwithstanding division (F)(4) of this section, any gross receipts of the business or profession from services performed during the taxable period by a qualifying remote employee or owner for services performed at that individual's qualifying remote work location shall be situated to that individual's qualifying reporting location.

(4) Nothing in this division prevents a taxpayer from requesting, or a tax administrator from requiring, that the taxpayer use, with respect to all or a portion of the income of the taxpayer, an alternative apportionment method as described in division (F)(2) of this section. However, a tax administrator shall not require an alternative apportionment method in such a manner that it would require a taxpayer to file a net profit return with a municipal corporation solely because a qualifying remote employee's or owner's qualifying remote work location is located in that municipal corporation.

(5) Except as otherwise provided in this division, nothing in this division is intended to affect the withholding of taxes on qualifying wages pursuant to Section 1717.01.

SECTION 3. That Section 1718.01(G) of the Codified Ordinances is hereby amended to read as follows:

(G)(1)(a) Except as otherwise provided in this Part Seventeen - Title Two, each individual income tax return required to be filed under this section shall be completed and filed as required by the Tax Administrator on or before the date prescribed for the filing of state individual income tax returns under division (G) of Section 5747.08 of the ORC. The taxpayer shall complete and file the return or notice on forms prescribed by the Tax Administrator or on generic forms, together with remittance made payable to the City. No remittance is required if the net amount due is ten dollars or less.

(b) Except as otherwise provided in this Part Seventeen - Title Two, each annual net profit return required to be filed under this section by a taxpayer that is not an individual shall be completed and filed as required by the Tax Administrator on or before the fifteenth day (15th) of the fourth month following the end of the taxpayer's taxable year. The taxpayer shall complete and file the return or notice on forms prescribed by the Tax Administrator or on generic forms, together with remittance made payable to the City. No remittance is required if the net amount due is ten dollars or less.

(2) Any taxpayer that has duly requested an automatic six-month extension for filing the taxpayer's federal income tax return shall automatically receive an extension for the filing of the City's income tax return. The extended due date of the City's income tax return shall be the 15th day of the tenth month after the last day of the taxable year to which the return relates. For tax years ending on or after January 1, 2023, the extended due date of the City's income tax return for a taxpayer that is not an individual shall be the 15th day of the eleventh month after the last day of the taxable year to which the return relates. An extension of time to file under this division is not an extension of the time to pay any tax due unless the Tax Administrator grants an extension of that date.

(a) A copy of the federal extension request shall be included with the filing of the City's income tax return.

(b) A taxpayer that has not requested or received a six-month extension for filing the taxpayer's federal income tax return may submit a written request that the Tax Administrator grant the taxpayer a six-month extension of the date for filing the taxpayer's City income tax return. If the request is received by the Tax Administrator on or before the date the City income tax return is due, the Tax Administrator shall grant the taxpayer's requested extension.

(3) If the state tax commissioner extends for all taxpayers the date for filing state income tax returns under division (G) of Section 5747.08 of the ORC, a taxpayer shall automatically receive an extension for the filing of the City's income tax return. The extended due date of the City's income tax return shall be the same as the extended due date of the state income tax return.

(4) If the Tax Administrator considers it necessary in order to ensure the payment of the tax imposed by the City, the Tax Administrator may require taxpayers to file returns and make payments otherwise than as provided in this division, including taxpayers not otherwise required to file annual returns.

(5) If a taxpayer receives an extension for the filing of a municipal income tax return under division (G)(2), (3), or (4) of this section, the tax administrator shall not make any inquiry or send any notice to the taxpayer with regard to the return on or before the date the taxpayer files the return or on or before the extended due date to file the return, whichever occurs first.

If a tax administrator violates division (G)(5) of this section, the municipal corporation shall reimburse the taxpayer for any reasonable costs incurred to respond to such inquiry or notice, up to \$150.

Division (G)(5) of this section does not apply to an extension received under division (G)(2) of this section if the tax administrator has actual knowledge that the taxpayer failed to file for a federal extension as required to receive the extension under division (G)(2) of this section or failed to file for an extension under division (G)(2)(b) of this section.

(6) To the extent that any provision in this division (G) of this section conflicts with any provision in divisions (N), (O), (P), or (Q) of this section, the provisions in divisions (N), (O), (P), or (Q) prevail.

SECTION 4. That Section 1720.01 of the Codified Ordinances is hereby amended to read as follows:

(C) Should any taxpayer, employer, agent of the employer, or other payer for any reason fails, in whole or in part, to make timely and full payment or remittance of income tax, estimated income tax, or withholding tax or to file timely with the City any return required to be filed, the following penalties and interest shall apply:

(1) Interest shall be imposed at the rate described in division (A) of this section, per annum, on all unpaid income tax, unpaid estimated income tax, and unpaid withholding tax.

(2) (a) With respect to unpaid income tax and unpaid estimated income tax, the City may impose a penalty equal to fifteen percent (15%) of the amount not timely paid.

(b) With respect to any unpaid withholding tax, the City may impose a penalty not exceeding fifty percent (50%) of the amount not timely paid.

(3)(a) **For tax years ending on or before December 31, 2022, with** ~~With~~ respect to returns other than estimated income tax returns, the City may impose a penalty of \$25 for each failure to timely file each return, regardless of the liability shown thereon for each month, or any fraction thereof, during which the return remains unfiled regardless of the liability shown thereon. The penalty shall not exceed \$150 for each failure.

(b) For tax years ending on or after January 1, 2023, with respect to returns other than estimated income tax returns, The City may impose a penalty not exceeding \$25 for each failure to timely file each return, regardless of the liability shown thereon, except that the City shall abate or refund the penalty assessed on a taxpayer's first failure to timely file a return after the taxpayer files that return.

SECTION 5. That Council hereby waives the requirement of Section 731.19 of the Ohio Revised Code that this Ordinance contain the entire sections of the Codified Ordinances that are being amended.

SECTION 6. That the Council hereby finds that this Ordinance was deliberated upon and passed in open meetings in compliance with Section 121.22 of the Ohio Revised Code and the Charter of the City of Worthington, Ohio.

SECTION 7. That notice of passage of this Ordinance shall be posted in the Municipal Administration Building, the Worthington Library, the Griswold Center and Worthington Community Center and shall set forth the title and effective date of the Ordinance and a statement that the Ordinance is on file in the office of the Clerk of Council. This Ordinance shall take effect and be in force from and after the earliest period allowed by law and by the Charter of the City of Worthington, Ohio.



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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

H.B. 33
135th General Assembly

Final Analysis

[Click here for LSC's fiscal analyses of H.B. 33](#)

Primary Sponsor: Rep. Edwards

Effective date: Operating appropriations effective July 4, 2023. Most other provisions effective October 3, 2023. Some provisions effective on other dates. Contains item vetoes.

Amanda Goodman, Attorney
Samuel Duling, Research Analyst, and LSC staff

REVISED VERSION*

SUMMARY

This analysis is arranged by state agency in alphabetical order. Items that do not directly involve an agency are located under the agency that has regulatory authority over the item, or otherwise deals with the subject matter of the item. There is a chapter addressing changes to various boards and commissions.

Separate segments at the end address items affecting local government, revisions to the 9-1-1 emergency service law, revisions to adjudication procedures under the Administrative Procedure Act (R.C. Chapter 119), which apply across state government, and authority for state agencies to make electronic notifications and conduct meetings by electronic means.

The analysis concludes with a note on effective dates, expiration, and other administrative matters.

Within each agency and category, a summary of the items appears first (in the form of dot points) followed by a more detailed discussion.

* This version corrects the description of the act's abolishment of the State Adoption Assistance Loan Fund (page 369). It also revises the discussion of the partial veto in the act's ODM doula program provisions (page 439).

cap on the federal deduction for state and local taxes. It also requires OAGI, for purposes of the credit, to be calculated by first deducting the business income deduction described above.

In other words, for purposes of the resident income tax credit for taxes paid to other states, the act includes taxes paid to those states on account of the resident taxpayer's ownership of a PTE that paid taxes to the other jurisdiction on behalf of the taxpayer, either as part of a composite return or as part of a tax designed to avoid the \$10,000 state and local tax deduction cap. But, the tax liability against which that credit is applied is first reduced because it is calculated with an OAGI that has been reduced by the business income deduction.

The act applies these changes to taxable years ending on or after January 1, 2023. Taxpayers may, however, apply them to taxable years ending on or after January 1, 2022, by filing an amended or original return for that year.

Eliminate quarterly employer reconciliation return

(R.C. 5747.07 and 5747.072; Section 803.60)

The act removes the requirement that employers who withhold and remit employee income taxes on a partial weekly basis, i.e., two times in a single week, file quarterly withholding reconciliation returns. Instead, these employers will only be required to file the annual reconciliation returns required for other employers under continuing law starting on January 1, 2024. Reconciliation returns allow an employer to calculate and pay any required employee withholding that was not remitted in the preceding period.

Under continuing law, employers are required to remit employee withholding on a partial weekly basis if they withhold and accumulate a significant amount of it. Employers with smaller accumulated withholding may remit it monthly or quarterly.

Municipal income taxes

Exemption for minors' income

(R.C. 718.01(C)(15); Section 803.10)

The act requires municipal corporations to exempt the income of individuals under 18 years of age from municipal income taxation. The exemption applies to taxable years beginning on or after January 1, 2024. Under prior law, only municipal corporations that authorized such an exemption before 2016 were authorized to grant such an exemption.

Net operating loss deduction cross-reference

(R.C. 718.01; Section 803.10)

The act corrects an erroneous cross-reference in the municipal income tax law governing the deduction of net operating loss (NOL). From 2018-2022, a business was allowed to deduct 50% of its NOL from its taxable net profits. Beginning in 2023, the 50% limitation is discontinued and a business may deduct the full amount of its NOL. The act's correction clarifies that the 50% limitation ceases to apply in 2023. The act requires municipalities that levy an income tax to incorporate this cross-reference change into their municipal tax ordinances and apply it to taxable years beginning in 2023.

Net profits apportionment for remote employees

(R.C. 718.02, 718.021, 718.82, and 718.821; R.C. 718.021 (718.17); Section 803.240)

Under continuing law, municipal corporations may impose an income tax on the net profit of businesses operating within their jurisdictions. When determining the portion of a business' total net profit that is taxable by a particular municipality, the business uses a three-factor formula based on the business' payroll, sales, and property.

The act allows businesses with employees who work remotely to use a modified version of this apportionment formula. Instead of apportioning the payroll earned, sales made, or property used by a remote employee to that employee's remote work location, the employer may instead apportion those amounts to a designated "reporting location." This alternative is available both to businesses that file returns with municipal tax administrators and businesses that elect to file a single return covering all municipal corporations with the Tax Commissioner.

Under continuing law, an employee's payroll is generally only included in the existing apportionment formula if the employee performs services at a location "owned, controlled, or used by, rented to, or under the possession of" the employer, or a vendor or customer of the employer.

Designating a reporting location

To use the act's modified apportionment formula, the business must assign a remote employee to a designated reporting location, which is any location owned or controlled by the employer or, in some circumstances, by a customer of the employer.¹⁶⁰ An employee's designated reporting location will be (a) the location at which the employee works on a regular or periodic basis, (b) if no such location exists, the location at which the employee's supervisor works on a regular or periodic basis, or (c) if neither such locations exist, any reporting location designated by the employer, provided that the designation is made in good faith and is reflected in the employer's business records.

A business can change a remote employee's designated reporting location at any time. If the business is a pass-through entity, e.g., a partnership or LLC, it can also designate a reporting location for any of its equity owners who work remotely.

Election

A business that wishes to use the act's modified apportionment formula must make an election to do so with each municipality in which it is required to file a net profits tax return or, if the business has elected to file a single return with the Tax Commissioner, with the Commissioner. The election can be made on the business' net profit return, timely filed amended return, or a timely filed appeal of an assessment. Once the election is made, it applies to each municipality in which the business operates and to all future taxable years, until it is revoked.

¹⁶⁰ A customer location qualifies only if it is located in a municipality to which the employer is required to withhold income taxes on employee wages, due to one or more employees providing services at that location. R.C. 718.021(A)(3)(b).

Application of continuing formula and effective date

Aside from the apportionment of payroll, sales, and property attributable to remote employees, all other aspects of continuing law's apportionment formula will continue to apply to a business that makes the election allowed under the act. The business can still request to use an alternative apportionment method, as under the continuing apportionment formula, although the act specifies that the business cannot be compelled to use an alternative method that would require it to file a return with a municipality solely because an employee is working remotely in that municipality.

The act applies to taxable years ending on or after December 31, 2023.

Prohibited inquiries and notices

(R.C. 718.05 and 718.85; Section 803.100)

The act limits when a municipal tax administrator or the Tax Commissioner may make inquiries or send notices to taxpayers whose income tax filing deadline has been extended. Under continuing law, taxpayers generally report and remit municipal income tax to municipal tax administrators, but a business that owes taxes on its net profits may elect to report and remit municipal net profits taxes to TAX, which then disperses payments to each municipality to which such tax is owed.

Under continuing law, the due date of a taxpayer's municipal income tax return, whether filed with a municipality or the Tax Commissioner, may be extended under various circumstances, including any of the following:

- The taxpayer has requested an extension of the deadline to file the taxpayer's federal income tax return.
- The taxpayer has requested an extension of the deadline to file the taxpayer's municipal income tax return from the municipal tax administrator or Commissioner.
- The Commissioner extends the state income tax filing deadline for all taxpayers.

When a taxpayer receives an extension, the act prohibits a municipal tax administrator or the Commissioner from sending any inquiry or notice regarding the municipal return until after either the taxpayer files the return or the extended due date passes. If a tax administrator sends a prohibited inquiry or notice, the municipality must reimburse the taxpayer for any reasonable costs incurred in responding to it, up to \$150.

The act's new limitations apply to taxable years ending on or after January 1, 2023. The limitations do not apply, and a municipal tax administrator or the Commissioner may send an otherwise prohibited inquiry or notice, if either has actual knowledge that the taxpayer did not actually file for a federal or municipal income tax extension.

Penalty limitations

(R.C. 718.27 and 718.89; Section 803.100)

The act limits the penalty a municipal corporation or the Tax Commissioner may impose for the failure to timely file a municipal income tax return. Previously, a municipal corporation

could impose a penalty of \$25 for each month a taxpayer failed to file a required income tax or withholding return, up to \$150 for each return. The Commissioner could impose the same monthly penalty on those unfiled returns as well as on unfiled estimated tax declarations. The act reduces these penalties to a one-time \$25 penalty. The act also exempts a taxpayer's first failure to timely file from the penalty, requiring the municipal corporation or Commissioner to either refund or abate the penalty after the taxpayer files the late return. These changes also apply to taxable years ending on or after January 1, 2023.

Extension for businesses

(R.C. 718.05(G)(2) and 718.85(D)(1); Section 803.100)

The act provides an additional, automatic one-month filing extension for municipal income tax returns where a business entity has received a six-month federal extension, bringing the full duration of the extension to seven months beginning in taxable years ending on or after January 1, 2023. The previous extended deadline for individuals and business entities was the same as the extended federal deadline.

Net profits tax reports and notifications

(R.C. 718.80 and 718.84; Section 803.80)

Under continuing law, a business that operates in multiple municipalities, and is therefore subject to multiple municipal income taxes, may elect to have TAX serve as the sole administrator for those taxes. For electing taxpayers, a single municipal net profit tax return is filed through the Ohio Business Gateway for processing by TAX, which handles all administrative functions for those returns, including distributing payments to the municipalities, billing, assessment, collections, audits, and appeals. The act modifies, as described below, the reporting and notification requirements associated with this state-administered municipal net profits tax.

TAX's municipal income tax report

The act requires that twice a year, in May and December, TAX provide information to municipalities on any businesses that had net profits apportioned to the municipality, as reported to TAX, in the preceding five or seven months only, as applicable. (Net profits apportionable to the municipality, e.g., earned in the municipality, are generally subject to the municipality's income tax.) Under prior law, this twice-per-year notification, which had been done in May and November, was required to list information for businesses that had net profits apportioned to the municipality in any prior year. This change applies to reports required to be filed after October 3, 2023.

Rate decrease notification

Under continuing law, by January 31 of each year, a municipal corporation levying an income tax must certify the rate of the tax to TAX. If the municipality increases the rate after that date, the municipality must notify TAX of the increase at least 60 days before it goes into effect. The act requires a municipality to notify TAX, within the same 60-day notice period, when there is any change in its municipal income tax rate, including a decrease.



STAFF MEMORANDUM
City Council Meeting – November 20, 2023

Date: November 08, 2023

To: Robyn Stewart, Acting City Manager

From: Scott F. Bartter, Finance Director

Subject: Ordinance No. 35-2023 – Riverlea Police Protection Contract

EXECUTIVE SUMMARY

Staff is proposing a 2024 contract in the amount of \$91,391, this represents a 3.5% increase from the 2023 contract.

RECOMMENDATION

Introduce for Public Hearing on December 4, 2023.

BACKGROUND/DESCRIPTION

The Village of Riverlea contracts with the City of Worthington for approximately 22 hours of police protection services per week. Based upon a forty (40) hour work week, this equates to 55% of the cost of one full time police officer.

The proposed 3.5% increase in the contract reflects the 2024 3.5% wage increase for FOP members.

FINANCIAL IMPLICATIONS/FUNDING SOURCES

2024 General Fund Revenue of \$91,391

ATTACHMENTS

Ordinance No. 35-2023

ORDINANCE NO. 35-2023

Authorizing the City Manager to Enter into a
Contract with the Village of Riverlea for the
Provision of Police Protection.

WHEREAS, the provision of services for police protection is necessary for the safety and security of the Village of Riverlea; and,

WHEREAS, the Village of Riverlea, Ohio, has agreed to enter into a contract with the City of Worthington for police protection services;

NOW, THEREFORE, BE IT ORDAINED by the Council of the Municipality of Worthington, County of Franklin, State of Ohio:

SECTION 1. That the City Manager be and hereby is authorized and directed to enter into a contract with the Village of Riverlea to provide police protection services.

SECTION 2. That notice of passage of this Ordinance shall be posted in the Municipal Administration Building, the Worthington Library, the Griswold Center and the Worthington Community Center and shall set forth the title and effective date of the Ordinance and a statement that the Ordinance is on file in the office of the Clerk of Council. This Ordinance shall take effect and be in force from and after the earliest period allowed by law and by the Charter of the City of Worthington, Ohio.

Passed _____

President of Council

Attest:

Clerk of Council



STAFF MEMORANDUM
City Council Meeting – November 20, 2023

Date: November 7, 2023

To: Robyn Stewart, Acting City Manager
David McCorkle, Assistant City Manager

From: R. Lee Brown, Director of Planning & Building

Subject: Ordinance to refer the draft Signage Regulations to the Municipal Planning Commission for review – APZ 01-2023

EXECUTIVE SUMMARY

This Ordinance will refer the draft Signage Regulations to the Municipal Planning Commission for review.

RECOMMENDATION

Introduce and refer to the Municipal Planning Commission as presented.

BACKGROUND/DESCRIPTION

In early 2023 City staff began review of the existing Signage section of the Planning and Zoning Code for compliance with many of the most recent court cases involving the regulation of signage. Staff has undertaken a comprehensive rewrite of the Signage section for compliance with these court cases with the purpose of being clearer and stating the intent to comply with all constitutional, statutory, and case law decisions requiring that sign regulations must be content neutral.

City Council needs to formally refer this item to the Municipal Planning Commission for review. The Municipal Planning Commission is anticipating reviewing these proposed changes at their meeting on December 14, 2023. If approved, the Municipal Planning Commission will then refer their recommendation back to City Council for final approval. If approved by City Council in January 2024, the proposed changes would be effective 60-days after approval.

ORDINANCE NO. 36-2023

To Amend Chapter 1170 (Signs) of the Codified Ordinances of the City of Worthington.

WHEREAS, it is the wish of City Council to monitor and revise the Planning and Zoning Code of the City to ensure economic viability and preserve the character of the City; and

WHEREAS, the Codified Ordinances requires City Council to refer any district boundaries or classification changes to properties to the Municipal Planning Commission for a recommendation; and

WHEREAS, the Municipal Planning Commission will review this item on December 14, 2023 and forward its recommendation based on the Planning Goals of the City, as referenced in the Land Use Plans.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Municipality of Worthington, County of Franklin, State of Ohio:

SECTION 1. That Chapter 1170 (Signs) of the Codified Ordinances be and hereby is amended.

SECTION 2. That notice of passage of this Ordinance shall be posted in the Municipal Administration Building, the Worthington Library, the Griswold Center and Worthington Community Center and shall set forth the title and effective date of the Ordinance and a statement that the Ordinance is on file in the office of the Clerk of Council. This Ordinance shall take effect and be in force from and after the earliest period allowed by law and by the Charter of the City of Worthington, Ohio.

Passed:

President of Council

Attest:

Clerk of Council

Introduced November 20, 2023
MPC December 14, 2023
P.H.
Effective



STAFF MEMORANDUM
City Council Meeting – November 20, 2023

Date: November 15, 2023

To: City Council

From: Robyn Stewart, Acting City Manager

Subject: WORTHINGTON POOLS

EXECUTIVE SUMMARY

Time is provided for continued discussion of the funding request from Swiminc for the outdoor pool facility on the grounds of Thomas Worthington High School. Staff is seeking direction from City Council regarding the amount of funds, if any, to be provided and the strategy for provision of the funds.

BACKGROUND/DESCRIPTION

Worthington Pools is comprised of the outdoor pools and natatorium on the grounds of Thomas Worthington High School. Worthington Pools is run by Swiminc, Inc. which is a 501(c)3 private, nonprofit organization that was incorporated in 1953. Swiminc was established for the purpose of operating the facilities and directing the programs of Worthington Pools. It is run by a volunteer Board of Directors and has a property lease and facility use agreements with Worthington Schools.

Swiminc reports the need for major renovation or replacement of the outdoor pools and the natatorium. The organization is seeking a solution to the infrastructure needs associated with the outdoor pools and has requested the City provide funding for the capital investment. They have presented three options with varying levels of repair, renovation, and replacement. The costs associated with the options range from \$10,300,000 to \$15,400,000.

During the November 6th City Council meeting, staff provided an overview of various strategies for providing the funds if Council desires to do so. Staff highlighted the pros and cons of each of the strategies. The attached sheet summarizes the information provided for the options.

Staff also identified various details that will need to be decided if Council decides to

provide the funding. Council asked that staff provide recommendations on these details. Some of the details will best be determined once we know the financial strategy to be utilized. Here are preliminary recommendations:

1. If a ballot issue, what is the structure of it?

The City could seek either voter approval of the bonds and associated millage to pay for them or seek voter approval of a parks and recreation levy that would be used to pay bonds the City would separately issue. A voted bond issuance sends a clearer message to voters that the millage will be used to pay the bonds, so this may be the preferred option.

2. Who holds the construction contract?

The City can structure the funding so that Swiminc holds the construction contract. In this situation, staff recommends a construction agreement that requires a qualified project manager oversee the project and a bank serve as trustee of the funds with disbursement after review by the City of the invoices and the work completed.

3. Does the City want supplemental review/inspection during construction?

Staff recommends the City hire a contract inspector to monitor the construction, regardless of whether the City or Swiminc holds the construction contract. This is common with City projects.

4. Does the City want influence or control related to operations and maintenance?

Given the amount of funding, staff recommends the City have representation on the Swiminc Board for the foreseeable future or at least for 20 years.

5. Will Swiminc continue to be the operator?

Swiminc has successfully operated the pool facility for 70 years. If there are questions regarding their capability to successfully operate it in the future, staff is prepared to enter into a review of their operations and conversations with Swiminc to obtain answers to the questions. Council representatives can be included in the review as desired.

6. Does the City want operational obligations?

If the City provides funding, staff recommends a discounted rate for Worthington residents and taxpayers. Given the location of the pool facility on land owned by the School District, there could be a three-tier rate structure with the lowest rate offered to those who live and/or work within the City limits.

7. Does the City want to require funds set aside for maintenance?

If Swiminc continues to operate the facility, staff recommends the City require a maintenance fund be maintained by Swiminc. It could be based on a percentage of total value of the facility or a flat amount. Staff is checking to see if there is an industry standard for the calculation.

8. Does the City want Swiminc to make payments on the capital expense?

If the City provides funding for the \$15 million option, which Swiminc indicates will provide additional revenue from the operation, staff recommends Swiminc make annual payments to help offset the City's capital investment. Council could authorize staff to negotiate the amount with Swiminc.

ATTACHMENTS

Outdoor Pool Funding Options

Outdoor Pool Funding Options

	Current City Funds	Voted Ballot Issue	Charter Millage	Hybrid	JRD (w/ Schools)
Description	Utilization of existing funds in either the General Fund or CIP Fund to either pay cash or repay bonds	Placement of a property tax issue on the ballot to provide funding to repay bonds	City Council authorizes an increase in property tax to repay bonds. This would not be a fixed payment amount, but would increase as valuations increase	Utilization of the General Fund to dedicate cash to reduce the amount to be bonded and then utilization of either current city funds, a voted ballot issue or charter millage to repay the bonds.	The City approaches Worthington Schools seeking the creation of a Joint Recreation District which, upon being formed, would provide funding, most likely through a property tax placed on the ballot.
Pros	Quick & easy to authorize	Dedicated revenue stream to fund the outdoor pool investments Voters weigh in No need to forego other planned expenditures	Dedicated revenue stream to fund the outdoor pool investments Requires only the support of City Council; doesn't require voter support No need to forego other planned expenditures	Decreases the amount of new debt while meeting the requirements of the General Fund Balance Policy Reduces the amount of debt payments Reduces the impact to other planned investments, OR reduces the amount of new property taxes	Dedicated revenue stream to fund the outdoor pool investments Voters weigh in No need to forego other planned expenditures Lowers the amount of new property tax millage; spreads financial support to additional users
Cons	Creates a deficit throughout the five-year forecast and beyond until bonds are paid off, OR Utilizes cash from the General Fund balance, which will immediately trigger the need to raise revenue or reduce expenditures to align with the General Fund Balance Policy Impacts to other planned expenditures	Additional tax burden on residents Time and effort associated with a ballot issue Need support of voters to move forward with investment	Additional tax burden on residents Voters are not given the option to weigh in on the new taxes Millage would not be available in case of financial downturn to support existing services	Same as those identified for the companion strategy (Voted Ballot Issue, Charter Millage, Current Funds)	Additional tax burden on residents Time and effort associated with creation of the JRD and passage of a ballot issue (multi-year effort) Need support of a broader group of voters to move forward with investment Lower feeling of connection to the pool the further the geographic distance
More Details	Using GF Balance Projected GF Balance reduced 16-30%, requiring steps to raise revenue or reduce expenditures to comply with GF Balance Policy GF Bond Payments Creates an annual operating deficit in the General Fund of \$1-2 million setting the City on the path to raise revenue or reduce expenditures to comply with GF Balance Policy CIP Bond Payments Creates an annual deficit of \$350,000 - 1.5 million in the CIP Fund, setting the City on the path to raise revenue or reduce expenditures to maintain a viable CIP Fund	\$10,300,000 Option 1.084 mills \$38 cost per \$100,000 of appraised value 20 Years \$15,400,000 Option 1.620 mills \$57 cost per \$100,000 of appraised value 20 Years	\$10,300,000 Option 1.084 mills \$38 cost per \$100,000 of appraised value \$15,400,000 Option 1.620 mills \$57 cost per \$100,000 of appraised value	Sample Scenario: \$4M from GF Balance, Remaining bonded & funded from CIP Fund Maintains projected GF Balance at 41% \$10,300,000 Option Annual deficit in the CIP Fund expanded by \$505,000 annually Not sustainable without offsetting expenditure cuts or additional revenue \$15,400,000 Option Annual deficit in the CIP Fund expanded by \$915,000 annually Not sustainable without offsetting expenditures cuts or additional revenue	\$10,300,000 Option 0.339 mills \$12 cost per \$100,000 of appraised value \$15,400,000 Option 0.507 mills \$18 cost per \$100,000 of appraised value

For simplicity purposes, this sheet highlights the \$10.3 and \$15.4 million options. The \$12.8 million option would fall in the middle of the amounts shown.

The analysis utilizes the proposed 2024 Operating Budget and 2024-2028 Capital Improvements Program as baselines and calculates millage utilizing current assessed valuation.



STAFF MEMORANDUM

Date: November 16, 2023

To: Robyn Stewart, Acting City Manager

From: Grace Brown, City Clerk

Subject: New Liquor Permit – Boxland Inc.

EXECUTIVE SUMMARY

The Ohio Division of Liquor Control has notified the City of a request for a new liquor permit for Boxland Inc. dba Boxland Media LLC. The City may request a hearing or waive their right to a hearing.

RECOMMENDATION

Motion to Not Request a Hearing.

BACKGROUND/DESCRIPTION

This request is for a D5H liquor permit for Boxland Media LLC located at 6155 Huntley Rd. Suite J. The D5H permit allows for qualified non-profit fine art museums/theaters/art centers to sell beer and intoxicating liquor for on-premises consumption.

The Worthington Police Department has reviewed the request and has no objections.

ATTACHMENTS

Notice from Ohio Division of Liquor Control

NOTICE TO LEGISLATIVE
AUTHORITY

OHIO DIVISION OF LIQUOR CONTROL
6606 TUSSING ROAD, P.O. BOX 4005
REYNOLDSBURG, OHIO 43068-9005
(614)644-2360 FAX(614)644-3166

TO

089840104778		NEW		BOXLAND INC 6155 HUNTLEY RD STE J WORTHINGTON OH 43229
PERMIT NUMBER		TYPE		
ISSUE DATE				
10 20 2023				
FILING DATE				
D5H				
PERMIT CLASSES				
25	297	B	D98698	
TAX DISTRICT		RECEIPT NO.		

FROM 10/30/2023

PERMIT NUMBER		TYPE	
ISSUE DATE			
FILING DATE			
PERMIT CLASSES			
TAX DISTRICT		RECEIPT NO.	



MAILED 10/30/2023

RESPONSES MUST BE POSTMARKED NO LATER THAN. 11/30/2023

IMPORTANT NOTICE

PLEASE COMPLETE AND RETURN THIS FORM TO THE DIVISION OF LIQUOR CONTROL
WHETHER OR NOT THERE IS A REQUEST FOR A HEARING.

REFER TO THIS NUMBER IN ALL INQUIRIES

B NEW 0898401-04778

(TRANSACTION & NUMBER)

(MUST MARK ONE OF THE FOLLOWING)

WE REQUEST A HEARING ON THE ADVISABILITY OF ISSUING THE PERMIT AND REQUEST THAT
THE HEARING BE HELD ☐ IN OUR COUNTY SEAT. ☐ IN COLUMBUS.

WE DO NOT REQUEST A HEARING. ☐

DID YOU MARK A BOX? IF NOT, THIS WILL BE CONSIDERED A LATE RESPONSE.

PLEASE SIGN BELOW AND MARK THE APPROPRIATE BOX INDICATING YOUR TITLE:

(Signature)

(Title)- ☐ Clerk of County Commissioner

(Date)

☐ Clerk of City Council

☐ Township Fiscal Officer

CLERK OF WORTHINGTON CITY COUNCIL
KAY THRESS
6550 NORTH HIGH STREET
WORTHINGTON OHIO 43085



Department of Commerce

Rev 2/10/2021

Mike DeWine, Governor
Jon Husted, Lt. Governor

Division of Liquor Control
Sheryl Maxfield, Director

Dear Local Legislative Authority Official:

Please find enclosed the legislative notice that is being sent to you regarding the applied for liquor permit as captioned on the notice. You **must**, within 30 days from the "mailed" date listed on the notice under the bar code:

- Notify the Division whether you object and want a hearing; or
- Ask for your one-time only, 30-day extension.
 - Any requests for a one-time, 30-day extension will be reviewed by the Division upon timely receipt. If granted, your additional 30-days runs from the expiration of the original 30-day period.

To be considered **timely**, your above response **must** be faxed, emailed, or mailed to the Division no later than the postmark deadline date given on the form. To speed up processing times and reduce paper, the Division respectfully asks that you either fax or email your response. Please send your response to:

FAX: (614) 644 – 3166

EMAIL: LiquorLicensingMailUnit@com.state.oh.us

MAIL: Ohio Division of Liquor Control
Attn: Licensing Unit
6606 Tussing Road
PO Box 4005
Reynoldsburg, Ohio 43068-9005

Please note that the Division is no longer sending ownership information with this legislative notice. If you want to know who owns the applied for permit you can find that information in two ways:

- Go to https://www.comapps.ohio.gov/liqr/liqr_apps/PermitLookup/PermitHolderOwnership.aspx and enter the permit number listed on the legislative notice; or
- Contact your police department or your county sheriff if you are a township fiscal officer or county clerk. The Division sends the applicable law enforcement agency the pertinent ownership information when it notifies them of the permit application.

Thank you in advance for your cooperation,

Division Licensing Section

Licensing Section
6606 Tussing Road
Reynoldsburg, OH 43068-9009

Fax 614-728-1281
TTY/TDD 800-750-0750
com.ohio.gov

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