

**FAIRFIELD CITY COUNCIL
REGULAR MEETING AGENDA
FAIRFIELD MUNICIPAL BUILDING
5350 PLEASANT AVENUE
FAIRFIELD, OHIO 45014**

MONDAY, JANUARY 13, 2014

7:00 PM

MAYOR.....STEVE MILLER
COUNCILMEMBER 1ST WARD.....ADAM B. JONES
COUNCILMEMBER 2ND WARD.....MARTY JUDD
COUNCILMEMBER 3RD WARD.....DEBBIE PENNINGTON
COUNCILMEMBER 4TH WARD.....TERRY SENGER

COUNCILMEMBER AT-LARGE...CHAD OBERSON
COUNCILMEMBER AT-LARGE...MIKE SNYDER
COUNCILMEMBER AT-LARGE...BILL WOESTE
CITY MANAGER.....ARTHUR E. PIZZANO
CLERK OF COUNCIL.....ALISHA WILSON
LAW DIRECTOR.....JOHN H. CLEMMONS

Guidelines for Citizen Comments: Thank you for your interest and participation in city government. Fairfield City Council's Guidelines for Citizen Comments describe the rules for addressing City Council. The guidelines are posted in the Council Chambers.

ADA Notice: The City of Fairfield is pleased to provide accommodations to disabled individuals or groups and encourage full participation in city government. Should special accommodations be required, please contact the Clerk of Council at 867-5383 at least 48 hours in advance of the meeting.

1. **Call to Order**
2. **Prayer/Pledge of Allegiance**
3. **Roll Call**
4. **Agenda Modifications**
5. **Executive Session Requests**
6. **Public Hearing(s)**
7. **Special Presentations and Citizen Comments**
8. **Mayor/Council Reports**
9. **Approval of Minutes**
 - a) Regular Meeting Minutes of December 9, 2013
10. **OLD BUSINESS**
11. **NEW BUSINESS**
 - (A) **COMMUNITY & PUBLIC RELATIONS COMMITTEE**
Mike Snyder, Chairman; Bill Woeste, Vice Chairman, Debbie Pennington, Member
 - (1) Simple Motion: Motion to approve Council Committee Assignments dated January 1, 2014.
 - (B) **PUBLIC SAFETY COMMITTEE**
Adam Jones, Chairman; Marty Judd, Vice Chairman, Terry Senger, Member
 - (1) Simple Motion: Motion to approve a liquor permit application in the name of RMH Franchise Corporation, dba Applebees Neighborhood Grill & Bar, 5331 Pleasant Avenue, Fairfield, OH 45014 (Permit Classes: D5I and D6).

(2) Ordinance to amend various other sections of the Traffic and General Offenses Codes of Ordinance No. 166-84, the Codified Ordinances of Fairfield, Ohio.

- Motion – Read by Title Only (Optional)
- Ordinance – First Reading
- Motion – Suspend Second and Third Readings
- Motion – Adoption

(3) Ordinance to authorize the City Manager to enter into an agreement for indigent legal representation for 2014 in the Fairfield Municipal Court with the Butler County Public Defender Commission/Butler County Board of Commissioners and declaring an emergency.

- Motion – Read by Title Only (Optional)
- Ordinance – First Reading
- Motion – Suspend Second and Third Readings
- Motion – Adoption

(C) **PUBLIC UTILITIES COMMITTEE**

Marty Judd, Chairman; Chad Oberson, Vice Chairman, Adam Jones, Member

(1) Resolution permitting a Hamilton property owner at 3406 Port Union Road to receive City of Fairfield sewer service and declaring an emergency.

- Motion – Read by Title Only (Optional)
- Resolution – First Reading
- Motion – Suspend Second and Third Readings
- Motion – Adoption

(D) **PUBLIC WORKS COMMITTEE**

Chad Oberson, Chairman; Mike Snyder, Vice Chairman, Bill Woeste, Member

(1) Resolution declaring necessity of repairing sidewalks (including aprons).

- Motion – Read by Title Only (Optional)
- Resolution – First Reading

(E) **FINANCE & BUDGET COMMITTEE**

Terry Senger, Chairman; Debbie Pennington, Vice Chairman, Chad Oberson, Member

(1) Non-Contractual Appropriations - \$95,000 for 2014 Annual Drainage Program; \$85,000 for 2014 Grounds, Entry-ways and Landscaping Program.

- Motion – Read by Title Only (Optional)
- Ordinance – First Reading
- Motion – Suspend Second and Third Readings
- Motion – Adoption

12. **Meeting Schedule**

Monday, January 27	Regular Meeting, 7:00 p.m.
Monday, February 10	Regular Meeting, 7:00 p.m.
Monday, February 24	Regular Meeting, 7:00 p.m.

13. **Executive Session of Council (if needed)**

14. **Adjournment**

MINUTES
REGULAR MEETING OF COUNCIL
DECEMBER 9, 2013

Call to Order

Mayor Ronald A. D'Epifanio called the Regular Meeting of Council to order at 7:00 PM at the Fairfield Municipal Building, 5350 Pleasant Avenue.

Prayer/Pledge of Allegiance

Councilmember Jones led in prayer and his stepfather, a Retired Lt. Colonel of the US Air Force, led the Pledge of Allegiance.

Roll Call

Clerk Wilson called the roll of Council. Present members were Councilmember Adam Jones, Councilmember Marty Judd, Councilmember Debbie Pennington, Councilmember Terry Senger, Councilmember Tim Abbott, Councilmember Mike Oler, and Councilmember Tim Meyers.

Agenda Modifications

Executive Session Requests

Public Hearing(s)

2014 Budget Hearing

Mayor D'Epifanio opened the Public Hearing at 7:03 PM. The balanced budget presented to Council during briefings on November 25 and December 2 consists of revenues of \$69.5 million, and estimated expenditures of \$66.9 million. Approximately 53% is for personnel and personnel-related expenses. The largest revenue source is income tax, estimated to bring in approximately \$24.7 million, split between the General Fund, Street Improvement Fund and Capital Improvement Fund. The reapportionment allowed the city to bring the reserves back to 25%. The public hearing was closed at 7:06 PM.

Special Presentations and Citizen Comments

State Rep. Wes Retherford congratulated Councilmember Judd on his re-appointment to Council and presented commendations to all of the outgoing Councilmembers and the Mayor, from the Ohio General Assembly.

Kert Radel, Chamber of Commerce, thanked the outgoing Council and Mayor for their service to the City and work with the Chamber of Commerce.

Mayor/Council Reports

Councilmember Meyers reported that I-275 bridge is coming along nicely.

Councilmember Abbott thanked Finance Director Mary Hopton and staff for their hard work on the budget.

Councilmember Senger reported that the Miami Valley Ballet Theater presented the Nutcracker at the Community Arts Center last weekend and they will perform again this weekend, December 13, 14 and 15. The Parks and Recreation Board meeting will be held next Tuesday at 6 PM at the Community Arts Center.

Councilmember Pennington announced that Boards and Commissions applications will be available beginning January 2. She also commented that there was a nice article in the newspaper about networking featuring Chamber of Commerce president Kert Radel.

Mayor D'Epifanio thanked Parks and Recreation Director Jim Bell and staff for their hard work on the Light Up Fairfield event on December 7.

Approval of Minutes

Regular Meeting Minutes of December 2, 2013

- The Regular Meeting Minutes of December 2, 2013 were approved as written

OLD BUSINESS

NEW BUSINESS

DEVELOPMENT SERVICES COMMITTEE

Marty Judd, Chairman; Tim Abbott, Vice Chairman, Tim Meyers, Member

Councilmember Marty Judd, seconded by Councilmember Debbie Pennington moved to read the following two (2) ordinances by title only. Motion Carried 7-0.

Ordinance to authorize the City Manager to execute a Community Reinvestment Area Agreement and an Amendment to a Community Reinvestment Area Compensation Agreement with Takumi Stamping, Inc. and declaring an emergency.

Background: City Manager Pizzano recommended a Community Reinvestment Area Agreement and Amendment to a Community Reinvestment Area Compensation Agreement with Takumi Stamping, Inc. The company is planning an expansion of their current facility and these agreements will assist in that process. Legislative Action: Councilmember Judd presented the first reading of this ordinance.

Councilmember Marty Judd, seconded by Councilmember Tim Abbott moved to suspend the rules requiring three (3) readings of this ordinance. Motion Carried 7-0. Councilmember Marty Judd, seconded by Councilmember Mike Oler moved to adopt . Motion Carried 7-0. ORDINANCE NO. 107-13. APPROVED 7-0.

Ordinance to authorize the City Manager and Director of Development Services (acting in his role as CRA Housing Officer) to execute a Termination by the City of Fairfield, Ohio of the Community Reinvestment Area Agreement between the City of Fairfield, Ohio, Keystone Foods, LLC, aka The Martin-Brower Company LLC, DCT Port Union LLC and the Fairfield City School District Board of Education and declaring an emergency.

Background: City Manager Pizzano recommended an ordinance to terminate agreements with Keystone Foods, LLC. They have not adhered to the terms of the agreement, and as a result, the state requires that the agreements with the company be terminated. Legislative Action: Councilmember Judd presented the first reading of this ordinance.

Councilmember Marty Judd, seconded by Councilmember Terry Senger moved to suspend the rules requiring three (3) readings of this ordinance. Motion Carried 7-0. Councilmember Marty Judd, seconded by Councilmember Tim Abbott moved to adopt . Motion Carried 7-0. ORDINANCE NO. 108-13. APPROVED 7-0

FINANCE & BUDGET COMMITTEE

Tim Abbott, Chairman; Terry Senger, Vice Chairman, Mike Oler, Member

Councilmember Tim Abbott, seconded by Councilmember Mike Oler moved to read the following three (3) ordinances by title only. Motion Carried 7-0.

Ordinance to make estimated appropriations for the expenses and other expenditures of the City of Fairfield, Ohio during the period beginning January 1, 2014 and ending December 31, 2014.

Background: City Manager Pizzano recommended an ordinance to adopt the budget that was presented to Council. Legislative Action: Councilmember Abbott presented the first reading of this ordinance.

Councilmember Tim Abbott, seconded by Councilmember Marty Judd moved to suspend the rules requiring three (3) readings of this ordinance. Motion Carried 7-0. Councilmember Tim Abbott, seconded by Councilmember Mike Oler moved to adopt . Motion Carried 7-0. ORDINANCE NO. 109-13. APPROVED 7-0.

Ordinance to reconcile accounts.

Background: City Manager Pizzano recommended an ordinance to reconcile accounts. Legislative Action: Councilmember Abbott presented the first reading of this ordinance.

Councilmember Tim Abbott, seconded by Councilmember Terry Senger moved to suspend the rules requiring three (3) readings of this ordinance. Motion Carried 7-0. Councilmember Tim Abbott, seconded by Councilmember Terry Senger moved to adopt . Motion Carried 7-0. ORDINANCE NO. 110-13. APPROVED 7-0.

Non-Contractual Appropriations - \$34,000 for emergency water main improvements on Shearwater Drive.

Background: City Manager Pizzano recommended an appropriation for emergency water main improvements on Shearwater Drive. Legislative Action: Councilmember Abbott presented the first reading of this ordinance.

Councilmember Tim Abbott, seconded by Councilmember Debbie Pennington moved to suspend the rules requiring three (3) readings of this ordinance. Motion Carried 7-0. Councilmember Tim Abbott, seconded by Councilmember Mike Oler moved to adopt . Motion Carried 7-0. ORDINANCE NO. 111-13. APPROVED 7-0.

Meeting Schedule

- Monday, December 30 Oath of Office Ceremony, 6:00 p.m.
- Monday, January 13 Council-Manager Briefing, 6:00 p.m.; Regular Meeting, 7:00 p.m.

- Monday, January 27 Council-Manager Briefing, 6:00 p.m.; Regular Meeting, 7:00 p.m.

Mayor D'Epifanio opened the meeting for comments for the outgoing council.

Councilmember Meyers thanked the city for electing him and giving him the opportunity to serve the community. He thanked Don Hassler for helping him in his campaign and building a great friendship. He also thanked veterans for the freedom of democracy in the United States and thanked his family for their support of his position.

Councilmember Mike Oler thanked the Council for a great time of working together for the benefit of Fairfield residents. He has enjoyed his time and Fairfield has been a wonderful place for him to live, raise a family and work. He thanked the City staff for being such great employees and providing great service to the residents.

Councilmember Tim Abbott thanked his wife for being at the meeting, despite having suffered a serious injury after falling. He noted that former mayor Eric Cooke was a great mentor to him in his campaign for City Council. He advised the new council to rely on the city staff to run the city and always do what is best for the residents.

Mayor D'Epifanio advised incoming Council to remember that they are not in this position for themselves, but to do what is right for the City. He thanked the staff for their hard work and the way they run the departments, especially City Manager Art Pizzano. He has enjoyed his years of service very much.

Mayor D'Epifanio presented the outgoing Council with Keys to the City and City Manager Pizzano presented plaques of recognition of their years of service.

Councilmembers Jones, Judd, Pennington and Senger thanked the outgoing Council and Mayor D'Epifanio for their hard work and dedication to the City of Fairfield.

Councilmember Senger and City Manager Pizzano presented Mayor D'Epifanio with a plaque recognizing his many years of service to the City of Fairfield. They thanked him for the countless hours he has spent assisting residents and his recognition of veterans for their service to our country. City Manager Pizzano also thanked the Council for working so well with the staff.

Executive Session of Council (if needed)

Adjournment

The Regular Meeting of Council adjourned at 8:30 PM.

ATTEST:

Clerk of Council
Date Approved _____

Mayor's Approval

CITY OF FAIRFIELD, OHIO
CITY COUNCIL MEETING COMMUNICATION

Item No. 11 (A) (1)

January 13, 2014

Item

Formal recognition of Council Committee Assignments and Council appointments dated January 1, 2014.

Financial Impact

None

Synopsis/Background

Every two years, newly elected Councilmembers are seated and the Mayor makes new Council Committee assignments. The following assignments have been made by the Mayor and/or are recommended for approval by City Council:

FINANCE & BUDGET COMMITTEE

Chairman: Terry Senger
Vice Chairman: Debbie Pennington
Member: Chad Oberson

PUBLIC SAFETY COMMITTEE

Chairman: Adam Jones
Vice Chairman: Marty Judd
Member: Terry Senger

PUBLIC UTILITIES COMMITTEE

Chairman: Marty Judd
Vice Chairman: Chad Oberson
Member: Adam Jones

COMMUNITY & PUBLIC RELATIONS

Chairman: Mike Snyder
Vice Chairman: Bill Woeste
Member: Debbie Pennington

PARKS, RECREATION & ENVIRONMENT COMMITTEE

Chairman: Debbie Pennington
Vice Chairman: Terry Senger
Member: Marty Judd

DEVELOPMENT SERVICES COMMITTEE

Chairman: Bill Woeste
Vice Chairman: Adam Jones
Member: Mike Snyder

PUBLIC WORKS COMMITTEE

Chairman: Chad Oberson
Vice Chairman: Mike Snyder
Member: Bill Woeste

VICE MAYOR

2014: Adam Jones
2015: Debbie Pennington

OTHER ASSIGNMENTS

Parks & Recreation Board: Debbie Pennington

Planning Commission: Bill Woeste

Board of Zoning Appeals: Mike Snyder

Fairfield/Hamilton Joint Advisory Committee:
Steve Miller, Debbie Pennington, Mike Snyder

Fairfield Youth Government Advisory Board:
Adam Jones, Marty Judd

Community Improvement Corporation:
Marty Judd

OKI Regional Council of Government: Terry Senger

OKI Regional Council of Governments (Alternate):
Marty Judd

Route 4 Improvement Implementation Committee:
Marty Judd

Butler County Advisory Health Council:
Adam Jones

Design Review Committee: Chad Oberson

Emergency Management Agency: Steve Miller

Cultural Arts Advisory Commission:
Debbie Pennington

S.E.L.F (Supports to Encourage Low-Income Families) – Bill Woeste

Recommendation

It is recommended that City Council approve the Council appointments as outlined in this communication via simple motion of Council.

LEGISLATIVE ACTION:

SIMPLE MOTION

Prepared by: Christa Wilson

Approved for Content by: Christa Wilson

Financial Review (where applicable) by: Wendy Adams

Legal Review (where applicable) by: John A. Lemmon

Accepted by Council Agenda: Christa Wilson

CITY OF FAIRFIELD, OHIO
CITY COUNCIL COMMUNICATION

ITEM:

January 13, 2014

Liquor permit application in the name of RMH Franchise Corporation, dba Applebee's Neighborhood Grill & Bar, 5331 Pleasant Avenue, Fairfield, Ohio 45014 (Permit Classes: D5I and D6).

FINANCIAL IMPACT:

No financial impact.

SYNOPSIS:

The City of Fairfield is in receipt of an application from the Ohio Division of Liquor Control for a D5I and D6 permit for the above liquor permit applicant.

BACKGROUND:

Background checks from the Building and Zoning Division and Police Department are attached for Council and staff's review.

RECOMMENDATION:

It is recommended that City Council request, by simple motion, that no hearing be held on the liquor permit application in the name of RMH Franchise Corporation, dba Applebee's Neighborhood Grill & Bar, 5331 Pleasant Avenue, Fairfield, Ohio 45014 (Permit Classes: D5I and D6).

LEGISLATIVE ACTION REQUIRED: Simple Motion of Council

Prepared by: Alicia Wilson
Approved for Content by: Alicia Wilson
Financial Review (where applicable) by: May Hagan
Legal Review (where applicable) by: Scott Clemmons
Accepted by Council Agenda: Alicia Wilson

**DEPARTMENTAL
CORRESPONDENCE**

11 (B)(1) A

City
of
Fairfield



TO Michael J. Dickey, Police Chief
Tim Bachman, Development Services Director

FROM Alisha Wilson, Clerk of Council *AW*

SUBJECT **Request for Background Check – Liquor Permit** DATE **01/02/2014**

Attached is a liquor permit application in the name of RMH Franchise Corporation, dba Applebees Neighborhood Grill & Bar, 5331 Pleasant Avenue, Fairfield, OH 45014 (Permit Classes: D5I and D6)

Please complete the necessary background check and submit your findings to me no later than 3:00 PM on Wednesday, January 8, 2014.

This item will be added to Council's Regular Meeting agenda of Monday, January 13, 2014.

Thank you for your assistance.

c: Arthur E. Pizzano, City Manager
Peggy Flaig, Development Services
File

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

71474040155		TRFO		RMH FRANCHISE CORPORATION DBA APPLEBEES NEIGHBORHOOD GRILL & BAR 5331 PLEASANT AV FAIRFIELD OHIO 45014
PERMIT NUMBER		TYPE		
06	01	2013		
ISSUE DATE				
12	16	2013		
FILING DATE				
D51 D6				
PERMIT CLASSES				
09	011	A	F11097	
TAX DISTRICT		RECEIPT NO.		

FROM 12/18/2013

88200480240				THOMAS & KING INC DBA APPLEBEES NEIGHBORHOOD GRILL & BAR 5331 PLEASANT AV FAIRFIELD OHIO 45014
PERMIT NUMBER		TYPE		
06	01	2013		
ISSUE DATE				
12	16	2013		
FILING DATE				
D51 D6				
PERMIT CLASSES				
09	011			
TAX DISTRICT		RECEIPT NO.		



MAILED 12/18/2013

RESPONSES MUST BE POSTMARKED NO LATER THAN. 01/21/2014

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 **A TRFO 7147404-0155**

(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 FAIRFIELD CITY COUNCIL
5350 PLEASANT AV
FAIRFIELD OHIO 45014**

TUBE C165
TIME 09.39.28
DATE 12/17/13PERMIT NUMBER (CORPORATION) 71474040005
RMH FRANCHISE CORPORATION
DBA APPLEBEES NEIGHBORHOOD
GRILL & BAR
105 N SPRINGBORO PK HWY 741
MISBURG OHIO 45342F.T.I. NUMBER 37-1701807
STATUS (ACTIVE OR INACTIVE) ACTIVE
SHARES OUTSTANDING 5000.00
ACTIVE DATE 12/16/13
INACTIVE DATE
EXCEPTION CODE TEXT
STOCK TRANSFER CODE TEXT AND DATE

JOSEPH M LEONE	.00	12/16/13	ACTIVE	TREASURER
JEFFREY D NEUMANN	.00	12/16/13	ACTIVE	CEO
RMH FRANCHISE HOLDINGS IN	5000.00	12/16/13	ACTIVE	

NAME OF ESTABLISHMENT RMH Franchise Corporation
 ADDRESS DBA Applebees Neighborhood
5331 Pleasant Ave.
Fairfield, OH 45014

YES NO

- | | | |
|---|--------------------------|-------------------------------------|
| 1. Is there a conviction record of the applicant, any partner, member, officer director, manager or any shareholder owning 5% or more of the capital stock, for felonies or other crimes relating to his ability to operate a liquor establishment? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 2. Is there a prior unfavorable enforcement record of applicant and/or operation in disregard for laws, regulations or local ordinances? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 3. Is there misrepresentation of material fact by applicant in making application to the Department? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 4. Is there an inability of law enforcement authorities and of authorized agents of the Department to gain ready entrance to the permit premise; or location of permit premise at such distance from the road or street as to be isolated from police or other observation? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 5. Will the place substantially and adversely interfere with the public decency, sobriety, peace, or good order of the neighborhood in which it is located? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 6. Will the place substantially and adversely interfere with the normal orderly conduct of a church, library, public playground, school or township park? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 7. Will the granting or transferring of a permit substantially interfere with the morals, safety, or welfare of the public? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 8. Will there be adverse effects of saturation of the area in relation to the number of existing permits, and will there be any adverse conditions in the area? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

REMARKS:


 Michael J. Dickey
 Chief of Police

HEARING REQUESTED: Yes No

Date: January 3, 2014

**DEPARTMENTAL
CORRESPONDENCE**

City
of
Fairfield



TO Alisha Wilson, Clerk of Council
FROM Timothy Bachman, Development Services Director

SUBJECT Liquor Permit Application

DATE 01/07/14

The business located at 5331 Pleasant Avenue, in the name of RMH Franchise Corp., doing business as Applebees Neighborhood Grill & Bar, is in the D-1, Downtown District and is a permitted use as a restaurant. Should the applicant wish to operate this facility as a tavern, night club or entertainment facility solely or in conjunction with the restaurant, a Conditional Use Permit must be secured through the Planning Commission.

A handwritten signature in cursive script that reads 'Timothy Bachman'.

Timothy Bachman
Development Services Director

plf

ORDINANCE NO. _____

ORDINANCE TO AMEND VARIOUS OTHER SECTIONS OF THE TRAFFIC AND GENERAL OFFENSES CODES OF ORDINANCE NO. 166-84, THE CODIFIED ORDINANCES OF FAIRFIELD, OHIO.

BE IT ORDAINED by the Council of the City of Fairfield, Ohio, that:

Section 1. Sections 301.04, 313.03, 333.03, 333.11, 335.032, 339.01, 339.03, 341.01, 341.03, 373.02, 501.01, 513.01, 513.03, 517.01, 517.02, 517.06, 517.07, 517.08, 517.09, 517.10, 517.11, 517.13, 517.15, 525.02, 537.03, 537.12, 545.01, 545.05, 545.18, 549.01, 549.02 and 549.04 of the Traffic and General Offenses Codes of Ordinance No. 166-84, The Codified Ordinances of Fairfield, Ohio are hereby amended to read as follows:

See attached Exhibit "A" which is incorporated herein by reference.

Section 2. This Ordinance shall take effect at the earliest period allowed by law.

Passed	_____	_____
		Mayor's Approval
Posted	_____	
First Reading	_____	Rules Suspended _____
Second Reading	_____	
Third Reading	_____	

ATTEST:

Clerk of Council

This is to certify that this Ordinance has been duly published by posting and summary publication as provided by Charter.

Clerk of Council

301.04 BICYCLE; MOTORIZED BICYCLE.

(a) "Bicycle" means every device, other than a ~~[tricycle]~~ **DEVICE THAT IS** designed solely for use as a play vehicle by a child, **THAT IS** propelled solely by human power, upon which ~~[any]~~ **A person may ride** ~~[having two tandem wheels or one wheel in the front and two wheels in the rear or two wheels in the front and one wheel in the rear, any of]~~ **AND THAT HAS TWO OR MORE WHEELS ANY OF** which is more than fourteen inches in diameter.

(ORC 4511.01(G))

[No further changes to this section.]

313.03 TRAFFIC SIGNAL INDICATIONS

[No changes to this Section until paragraph (c)]

(c) Steady Red Signal Indication:

- (1) A. Vehicular traffic facing a steady circular red signal indication, unless entering the intersection to make another movement permitted by another signal indication, shall stop at a clearly marked stop line; but if there is no stop line, traffic shall stop before entering the crosswalk on the near side of the intersection; or if there is no crosswalk, before then before entering the intersection; and shall remain stopped until a signal indication to proceed is displayed except as provided in subsections (c)(1), (2) and (3) of this section.
- B. Except when a traffic control device is in place prohibiting a turn on red or a steady red arrow signal indication is displayed, vehicular traffic facing a steady circular red signal indication is permitted **AFTER STOPPING**, to enter the intersection to turn right, or to turn left from a one-way street into a one-way street. The right to proceed with the turn shall be subject to the provisions that are applicable after making a stop at a stop sign.
- (2) A. Vehicular traffic facing a steady red arrow signal indication shall not enter the intersection to make the movement indicated by the arrow and, unless entering the intersection to make another movement permitted by another signal indication, shall stop at a clearly marked stop line; but if there is no stop line, before entering the crosswalk on the near side of the intersection; or if there is no crosswalk, then before entering the intersection; and shall remain stopped until a signal indication or other traffic control device permitting the movement indicated by such red arrow is displayed.
- B. When a traffic control device is in place permitting a turn on a steady red arrow signal indication, vehicular traffic facing a steady red arrow indication is permitted, **AFTER STOPPING**, to enter the intersection to ~~[make the movement indicated by the arrow signal indication, after stopping]~~ **TURN RIGHT OR TO TURN LEFT FROM A ONE-WAY STREET INTO A ONE-WAY STREET**. The right to proceed with the turn shall be

limited to the direction indicated by the arrow, and shall be subject to the provisions that are applicable after making a stop at a stop sign.

[No further changes to this section.]

333.03 MAXIMUM SPEED LIMITS; ASSURED CLEAR DISTANCE AHEAD.

[No changes to this Section until paragraph (b)(7)]

- (b) (7) Fifty-five miles per hour at all times on freeways with paved shoulders inside the Municipality other than freeways as provided in subsection (b)~~[(10) and (b)(11) hereof]~~**(9), (12) AND (13)**.
- (8) Fifty-five miles per hour at all times on portions of freeways that are ~~[part of the interstate system and on all portions of freeways that are]~~ **[part of the interstate system and on all portions of freeways that are]** not part of the interstate system, but are built to the standards and specifications that are applicable to freeways that are part of the interstate system for operators of any motor vehicle weighing in excess of eight thousand pounds empty weight and any noncommercial bus ~~[except as provided in subsection (b)(11) hereof];~~
- (9) Fifty-five miles per hour for operators of any motor vehicle weighing eight thousand pounds or less empty weight and any commercial bus at all times on all portions of freeways that are ~~[part of the interstate system and that had such a speed limit established prior to October 1, 1995, and freeways that are]~~ **[part of the interstate system and that had such a speed limit established prior to October 1, 1995, and freeways that are]** not part of the interstate system, but are built to the standards and specifications that are applicable to freeways that are part of the interstate system and that had such a speed limit established prior to October 1, 1995, unless a higher speed limit is established under Ohio R.C. 4511.21(L);
- (10) Sixty-five miles per hour for operators of any motor vehicle weighing eight thousand pounds or less empty weight and any commercial bus at all times on all portions of the following:
 - A. Freeways that are ~~[part of the interstate system and that had such a speed limit established prior to October 1, 1995, and freeways that are]~~ **[part of the interstate system and that had such a speed limit established prior to October 1, 1995, and freeways that are]** not part of the interstate system, but are built to the standards and specifications that are applicable to freeways that are part of the interstate system and that had such a speed limit established prior to October 1, 1995;
 - B. Freeways that are ~~[part of the interstate system and freeways that are]~~ **[part of the interstate system and freeways that are]** not part of the interstate system but are built to the standards and specifications that are applicable to freeways that are part of the interstate system, and that had such a speed limit established under Ohio R.C. 4511.21(L);
 - C. Rural, divided, multi-lane highways that are designated as part of the national highway system under the "National Highway System Designation Act of 1995", 109 Stat. 568, 23 U.S.C.A. 103, and that had such a speed limit established under Ohio R.C. 4511.21(M).

- (11) ~~[Sixty-five miles per hour at all times on all portions of freeways that are part of the interstate system and that had such a speed limit on the effective date of this amendment for operators of any motor vehicle weighing in excess of eight thousand pounds empty weight and any noncommercial bus.]~~ **FIFTY-FIVE MILES PER HOUR FOR OPERATORS OF ANY MOTOR VEHICLE AT ALL TIMES ON ALL PORTIONS OF FREEWAYS IN CONGESTED AREAS AS DETERMINED BY THE DIRECTOR AND THAT ARE PART OF THE INTERSTATE SYSTEM AND ARE LOCATED WITHIN A MUNICIPAL CORPORATION OR WITHIN AN INTERSTATE FREEWAY OUTERBELT;**
- (12) **SIXTY-FIVE MILES PER HOUR FOR OPERATORS OF ANY MOTOR VEHICLE AT ALL TIMES ON ALL PORTIONS OF FREEWAYS IN URBAN AREAS AS DETERMINED BY THE DIRECTOR AND THAT ARE PART OF THE INTERSTATE SYSTEM AND ARE PART OF AN INTERSTATE FREEWAY OUTERBELT;**
- (13) **SEVENTY MILES PER HOUR AT ALL TIMES ON ALL PORTIONS OF FREEWAYS THAT ARE PART OF THE INTERSTATE SYSTEM AND ARE OUTSIDE URBANIZED AREAS, AS DESIGNATED IN ACCORDANCE WITH 23 U.S.C. 101, FOR OPERATORS OF ALL MOTOR VEHICLES.**

[No further changes to this Section until Section (d)(1)]

- (d) (1) At a speed exceeding fifty-five miles per hour, except upon a freeway as provided in subsection (b)~~[(10) and (b)(11)]~~(9), (12) **AND (13)** hereof;
- (2) At a speed exceeding sixty-five miles per hour upon a freeway as provided in subsection (b)~~[(10) and (b)(11)]~~ (12) hereof, except **UPON A FREEWAY** as ~~[otherwise]~~ provided in subsection ~~[(d)(3)]~~(b)(13) hereof;
- (3) **AT A SPEED EXCEEDING SEVENTY MILES PER HOUR UPON A FREEWAY AS PROVIDED IN SUBSECTION (b)(13) HEREOF;**
- ~~[(3)]~~(4) If a motor vehicle weighing in excess of 8,000 pounds empty weight or a noncommercial bus as prescribed in subsection (b)(8) hereof, at a speed exceeding fifty-five miles per hour, **EXCEPT** upon a freeway as provided in ~~[that]~~ subsection**S (b)(12) AND (13) HEREOF;**
- ~~[(4)]~~(5) At a speed exceeding the posted speed limit upon a freeway for which the Director has determined and declared a speed limit of not more than sixty-five miles per hour pursuant to Ohio R.C. 4511.21(L)(2) or (M);
- ~~[(5)]~~(6) At a speed exceeding sixty-five miles per hour upon a freeway for which such a speed limit has been established through the operation of Ohio R.C. 4511.21(L)(3);
- ~~[(6)]~~(7) At a speed exceeding the posted speed limit upon a freeway for which the Director has determined and declared a speed limit pursuant to Ohio R.C. 4511.21(I)(2).

[No further changes to this Section until Section (f)]

(f) When a speed in excess of both a prima-facie limitation and a limitation in subsection (d)[~~(1), (2), (3), (4), (5), or (6)~~] hereof is alleged, the defendant shall be charged in a single affidavit, alleging a single act, with a violation indicated of both subsections (b)(1)A. to (b)(6) hereof, or of a limit declared or established pursuant to this section by the Director or local authorities, and of the limitation in subsection (d)[~~(1), (2), (3), (4), (5), or (6)~~] hereof. If the court finds a violation of subsection (b)(1)A. to (b)(6) hereof, or a limit declared or established pursuant to this section has occurred, it shall enter a judgment of conviction under such subsection and dismiss the charge under subsection (d)[~~(1), (2), (3), (4), (5), or (6)~~] hereof. If it finds no violation of subsections (b)(1)A. to (b)(6) hereof or a limit declared or established pursuant to this section, it shall then consider whether the evidence supports a conviction under subsection (d)[~~(1), (2), (3), (4), (5), or (6)~~] hereof.

[No further changes to this Section until Section (i)(4)]

(i) (4) **“OUTERBELT” MEANS A PORTION OF A FREEWAY THAT IS PART OF THE INTERSTATE SYSTEM AND IS LOCATED IN THE OUTER VICINITY OF A MAJOR MUNICIPAL CORPORATION OR GROUP OF MUNICIPAL CORPORATIONS, AS DESIGNATED BY THE DIRECTOR.**

[No further changes to this Section.]

333.11 TEXTING WHILE DRIVING PROHIBITED.

[No changes to this Section until paragraph (e)]

(e) **THE PROSECUTION FOR A VIOLATION OF OHIO R.C. 4511.204 DOES NOT PRECLUDE A PROSECUTION FOR A VIOLATION OF SUBSTANTIALLY EQUIVALENT MUNICIPAL ORDINANCE BASED ON THE SAME CONDUCT. HOWEVER, IF AN OFFENDER IS CONVICTED OF OR PLEADS GUILTY TO A VIOLATION OF OHIO R.C. 4511.204 AND IS ALSO CONVICTED OF OR PLEADS GUILTY TO A VIOLATION OF SUBSTANTIALLY EQUIVARIANT MUNICIPAL ORDINANCE BASED ON THE SAME CONDUCT, THE TWO OFFENSES ARE ALLIED OFFENSES OF SIMILAR IMPORT UNDER OHIO R.C. 2941.25.**

~~(e)~~(f) As used in this section:

- (1) “Electronic wireless communications device” includes any of the following:
 - A. A wireless telephone;
 - B. A text-messaging device;
 - C. A personal digital assistant;
 - D. A computer, including a laptop computer and a computer tablet;
 - E. Any other substantially similar wireless device that is designed or used to communicate text.
- (2) “Voice-operated or hands-free device” means a device that allows the user to vocally compose or send, or to listen to a text-based communication without the use of either hand except to activate, or deactivate a feature or function.

- (3) “Write, send or read a text-based communication” means to manually write or send, or read a text-based communication using an electronic wireless communications device, including manually writing or sending, or reading communications referred to as text messages, instant messages, or electronic mail. **(ORC 4511.204)**

335.032 USE OF ELECTRONIC WIRELESS COMMUNICATION DEVICE PROHIBITED WHILE DRIVING.

[No changes to this Section until paragraph (c)]

- (c) (1) Except as provided in subsection (c)(2) of this section, whoever violates subsection (a) of this section shall be fined one hundred fifty dollars (\$150.00). In addition, the court shall impose a class seven suspension of the offender’s driver’s license or permit for a definite period of sixty days.
- (2) If the ~~[offender]~~ **PERSON** previously has been ~~[convicted of]~~ **ADJUDICATED A DELINQUENT CHILD OR A JUVENILE TRAFFIC OFFENDER FOR** a violation of this section, whoever violates this section shall be fined three hundred dollars (\$300.00). In addition, the court shall impose a class seven suspension of the ~~[offender’s]~~ **PERSON’S** driver’s license or permit for a definite period of one year.

(d) THE FILING OF A SWORN COMPLAINT AGAINST A PERSON FOR A VIOLATION OF OHIO R.C. 4511.205 DOES NOT PRECLUDE THE FILING OF A SWORN COMPLAINT FOR A VIOLATION OF A SUBSTANTIALLY EQUIVALENT MUNICIPAL ORDINANCE FOR THE SAME CONDUCT. HOWEVER, IF A PERSON IS ADJUDICATED A DELINQUENT CHILD OR A JUVENILE TRAFFIC OFFENDER FOR A VIOLATION OF OHIO R.C. 4511.205 AND IS ALSO ADJUDICATED A DELINQUENT CHILD OR A JUVENILE TRAFFIC OFFENDER FOR A VIOLATION OF A SUBSTANTIALLY EQUIVARIANT MUNICIPAL ORDINANCE FOR THE SAME CONDUCT, THE TWO OFFENSES ARE ALLIED OFFENSES OF SIMILAR IMPORT UNDER OHIO R.C. 2941.25.

~~(d)~~(e) As used in this section, “electronic wireless communications device” includes any of the following:

- (1) A wireless telephone;
- (2) A personal digital assistant;
- (3) A computer, including a laptop computer and a computer tablet;
- (4) A text-messaging device;
- (5) Any other substantially similar electronic wireless device that is designed or used to communicate via voice, image, or written word. **(ORC 4511.205)**

339.01 OVERSIZE OR OVERWEIGHT VEHICLE OPERATION ON STATE ROUTES; STATE PERMIT.

[No changes to this Section until paragraph (b)]

- (b) (1) NO PERSON SHALL VIOLATE THE TERMS OF A PERMIT ISSUED UNDER THIS SECTION THAT RELATE TO GROSS LOAD LIMITS.
- (2) NO PERSON SHALL VIOLATE THE TERMS OF A PERMIT ISSUED UNDER THIS SECTION THAT RELATE TO AXLE LOAD BY MORE THAN 2000 POUNDS PER AXLE OR GROUP OF AXLES.
- (3) NO PERSON SHALL VIOLATE THE TERMS OF A PERMIT ISSUED UNDER THIS SECTION THAT RELATE TO AN APPROVED ROUTE EXCEPT UPON ORDER OF A LAW ENFORCEMENT OFFICER.

~~(b)~~(c) Whoever violates ANY PROVISION OF this section FOR WHICH NO OTHER PENALTY IS PROVIDED is guilty of a minor misdemeanor. (ORC 4513.99)

339.03 MAXIMUM WIDTH, HEIGHT AND LENGTH.

[No changes to this Section until paragraph (c)(8)]

- (c) (8) ~~[40]~~ 50 feet for all other vehicles except trailers and semitrailers, with or without load.

[No further changes to this Section.]

341.01 DEFINITIONS.

[No changes to this Section until paragraph (l)]

- (l) “Farm truck” means a truck controlled and operated by a farmer for use in the transportation to or from a farm, for a distance of not more than one hundred fifty miles, of products of the farm, including livestock and its products, poultry and its products, floricultural and horticultural products, and in the transportation to the farm, from a distance of not more than one hundred fifty miles, of supplies for the farm, including tile, fence, and every other thing or commodity used in agricultural, floricultural, horticultural, livestock and poultry production, and livestock, poultry and other animals and things used for breeding, feeding, or other purposes connected with the operation of the farm, when the truck is operated in accordance with this subsection and is not used in the operations of a motor transportation company or private motor carrier **AS DEFINED IN OHIO R.C. 4923.01.**

[No further changes to this Section.]

341.03 PREREQUISITES TO OPERATION OF A COMMERCIAL MOTOR VEHICLE.

[No changes to this Section until paragraph (b)(7)]

- (b) (7) A commercial motor vehicle that is operated for nonbusiness purposes.

“Operated for nonbusiness purposes” means that the commercial motor vehicle is not used in commerce as “commerce” is defined in 49 C.F.R. 383.5, as amended, and is not regulated by the Public Utilities Commission pursuant to Ohio R.C. Chapter ~~[4919]~~ **4905**, 4921, or 4923.

[No further changes to this Section.]

373.02 RIDING UPON SEATS; HANDLE BARS; HELMETS AND GLASSES

[No changes to this Section until paragraph (g)]

(g) No bicycle or motorcycle shall be used to carry more persons at one time than the number for which it is designed and equipped. ~~[, nor shall any]~~ **NO** motorcycle **SHALL** be operated on a highway when the handlebars **RISE** ~~[or grips are more than fifteen inches]~~ higher than the **SHOULDERS OF** ~~[seat or saddle for]~~ the operator **WHEN THE OPERATOR IS SEATED IN THE OPERATOR’S SEAT OR SADDLE.** (ORC 4511.53)

[No further changes to this Section.]

501.01 DEFINITIONS

[No changes to this Section until paragraph (k)(1)]

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

[No further changes to this Section until paragraph (k)(12)]

(k) (12) **THE SENATE SERGEANT OF ARMS AND OR ASSISTANT SERGEANT AT ARMS;**

~~[(12)]~~**(13)** A special police officer employed by a municipal corporation at a municipal airport, or other municipal air navigation facility, that has scheduled operations, as defined in Section 119.3 of Title 14 of the Code of Federal Regulations, 14 C.F.R. 119.3, as amended, and that is required to be under a security program and is governed by aviation security rules of the transportation security administration of the United States Department of Transportation as provided in Parts 1542 and 1544 of Title 49 of the Code of Federal Regulations, as amended.

[No further changes to this Section.]

513.01 DEFINITIONS

[No changes to this Section until paragraph (h)]

(h) ~~[(Reserved)]~~ **“CONTROLLED SUBSTANCE ANALOG” HAS THE SAME MEANING AS PROVIDED IN OHIO R.C. 3719.01.**

[No further changes to this Section until paragraph (s)(1)]

(s) "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 **CONTROLLED SUBSTANCE ANALOGS**, marihuana, cocaine, L.S.D., heroin, and hashish and except as provided in subsection (s)(2) or (5) hereof, whichever of the following is applicable:

[No further changes to this Section until paragraph (bb)]

(bb) "Standard pharmaceutical reference manual" means the current edition, with cumulative changes if any, of ~~[any of the following reference works:]~~ **REFERENCES THAT ARE APPROVED BY THE STATE BOARD OF PHARMACY.**

[No further changes to this Section.]

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.**

[No changes to this Section until paragraph (c)(4)]

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

~~[(4) If the drug involved is 1-Pentyl-3-(1-naphthoyl)indole, 1-Butyl-3-(1-naphthoyl)indole, 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole, 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol, or 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol or a compound, mixture, preparation or substance containing 1-Pentyl-3-(1-naphthoyl)indole, 1-Butyl-3-(1-naphthoyl)indole, 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole, 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol, or 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol, whoever violates subsection (a) of this section is guilty of possession of spice, a minor misdemeanor. (Ord. 102-11. Passed 10-11-11.)]~~

[No further changes to this Section.]

517.01 DEFINITIONS

[No changes to this Section until paragraph (c)]

(c) "Scheme of chance" means a slot machine **UNLESS AUTHORIZED UNDER OHIO R.C. CHAPTER 3772**, lottery **UNLESS AUTHORIZED UNDER OHIO R.C. CHAPTER 3770**, numbers game, pool conducted for profit, or other scheme in which a participant gives a valuable consideration for a chance to win a prize, but does not include bingo, a skill-based amusement machine, or a pool not conducted for profit. **"SCHEME OF CHANCE" INCLUDES THE USE OF AN ELECTRONIC DEVICE TO REVEAL THE RESULTS OF A GAME ENTRY IF VALUABLE CONSIDERATION IS PAID, DIRECTLY OR INDIRECTLY, FOR A CHANCE TO WIN A PRIZE. VALUABLE CONSIDERATION IS DEEMED TO BE PAID FOR A CHANCE TO WIN A PRIZE IN THE FOLLOWING INSTANCES:**

- (1) LESS THAN FIFTY PERCENT OF THE GOODS OR SERVICES SOLD BY A SCHEME OF CHANCE OPERATOR IN EXCHANGE FOR GAME ENTRIES ARE USED OR REDEEMED BY PARTICIPANTS AT ANY ONE LOCATION;
- (2) LESS THAN FIFTY PERCENT OF PARTICIPANTS WHO PURCHASE GOODS OR SERVICES AT ANY ONE LOCATION DO NOT ACCEPT, USE OR REDEEM THE GOODS OR SERVICES SOLD OR PURPORTELY SOLD;
- (3) MORE THAN FIFTY PERCENT OF PRIZES AT ANY ONE LOCATION ARE REVEALED TO PARTICIPANTS THROUGH AN ELECTRONIC DEVICE SIMULATING A GAME OF CHANCE OR A "CASINO GAME" AS DEFINED IN OHIO R.C. 3772.01;
- (4) THE GOOD OR SERVICE SOLD BY A SCHEME OF CHANCE OPERATOR IN EXCHANGE FOR A GAME ENTRY CANNOT BE USED OR REDEEMED IN THE MANNER ADVERTISED;
- (5) A PARTICIPANT PAYS MORE THAN FAIR MARKET VALUE FOR GOODS OR SERVICES OFFERED BY A SCHEME OF CHANCE OPERATOR IN ORDER TO RECEIVE ONE OR MORE GAME ENTRIES;
- (6) A PARTICIPANT MAY USE THE ELECTRONIC DEVICE TO PURCHASE ADDITIONAL GAME ENTRIES;
- (7) A PARTICIPANT MAY PURCHASE ADDITIONAL GAME ENTRIES BY USING POINTS OR CREDITS WON AS PRIZES WHILE USING THE ELECTRONIC DEVICE;
- (8) A SCHEME OF CHANCE OPERATOR PAYS OUT IN PRIZE MONEY MORE THAN TWENTY PER CENT OF THE GROSS REVENUE RECEIVED AT ONE LOCATION; OR
- (9) A PARTICIPANT MAKES A PURCHASE OR EXCHANGE IN ORDER TO OBTAIN ANY GOOD OR SERVICE THAT MAY BE USED TO FACILITATE PLAY ON THE ELECTRONIC DEVICE.

AS USED IN THIS SUBSECTION, "ELECTRONIC DEVICE" MEANS A MECHANICAL, VIDEO, DIGITAL OR ELECTRONIC MACHINE OR DEVICE THAT IS CAPABLE OF DISPLAYING INFORMATION ON A SCREEN OR OTHER MECHANISM AND THAT IS OWNED, LEASED OR OTHERWISE POSSESSED BY ANY PERSON CONDUCTING A SCHEME OF CHANCE, OR BY THAT PERSON'S PARTNERS, AFFILIATES, SUBSIDIARIES OR CONTRACTORS.

[No further changes to this Section until paragraph (h)]

- (h) Except as otherwise provided in this chapter, "charitable organization" means EITHER OF THE FOLLOWING:
- (1) ~~[any tax exempt religious, educational, veteran's, fraternal, sporting, service, nonprofit medical, volunteer rescue service, volunteer firefighter's, senior citizen's, historic railroad educational, youth athletic, amateur athletic, or youth athletic park organization.]~~ An organization ~~[is tax exempt if the organization]~~ THAT is^[5] and has

received from the Internal Revenue Service a determination letter that currently is in effect stating that the organization is, exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3)[, 501(c)(4), 501(c)(8), 501(c)(10), or 501(c)(19)] of the Internal Revenue Code[;];

- (2) ~~[or if the organization is a sporting organization that is exempt from federal income taxation under subsection 501(a) and is described in subsection 501(c)(7) of the Internal Revenue Code. To qualify as a charitable organization, an organization, except] [a]A volunteer rescue service ORGANIZATION, [or] volunteer firefighter's organization, [shall have been in continuous existence as such in this State for a period of two years immediately preceding either the making of an application for a bingo license under Ohio R.C. 2915.08 or the conducting of any game of chance as provided in division (D) of Ohio R.C. 2915.02. A charitable organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code and that is created by a]~~ veteran's organization, [a] fraternal organization, or [a] sporting organization **THAT IS EXEMPT FROM FEDERAL, INCOME TAXATION UNDER SUBSECTION 501(c)(4), (c)(7), (c)(8), (c)(10) OR (c)(19) OF THE INTERNAL REVENUE CODE.**

TO QUALIFY AS A CHARITABLE ORGANIZATION, AN ORGANIZATION SHALL [does not have to] have been in continuous existence as such in this State for a period of two years immediately preceding either the making of an application for a bingo license under Ohio R.C. 2915.08 or the conducting of any game of chance as provided in division (D) of Ohio R.C. 2915.02.

[No further changes to this Section until paragraph (j)]

~~[(j) — "Educational organization" means any organization within this State that is not organized for profit, the primary purpose of which is to educate and develop the capabilities of individuals through instruction, by means of operating or contributing to the support of a school, academy, college or university. (Ord. 157-08. Passed 12-8-08.)]~~

~~[(k)](j)~~ "Veteran's organization" means any individual post or state headquarters of a national veteran's association or an auxiliary unit of any individual post of a national veteran's association, which post, state headquarters, or auxiliary unit is incorporated as a nonprofit corporation and either has received a letter from the state headquarters of the national veteran's association indicating that the individual post or auxiliary unit is in good standing with the national veteran's association or has received a letter from the national veteran's association indicating that the state headquarters is in good standing with the national veteran's association. As used in this subsection, "national veteran's association" means any veteran's association that has been in continuous existence as such for a period of at least five years and either is incorporated by an act of the United

States congress or has a national dues- paying membership of at least five thousand persons. (Ord. 110-10. Passed 12-6- 10.)

~~[(4)](k)~~ "Volunteer firefighter's organization" means any organization of volunteer firefighters, as defined in Ohio R.C. 146.01, that is organized and operated exclusively to provide financial support for a volunteer fire department or a volunteer fire company and that is recognized or ratified by a county, municipal corporation, or township. (Ord. 157-08. Passed 12-8-08.)

~~[(m)](l)~~ "Fraternal organization" means any society, order, state headquarters, or association within this State, except a college or high school fraternity, that is not organized for profit, that is a branch, lodge or chapter of a national or state organization, that exists exclusively for the common business of sodality of its members. (Ord. 110-10. Passed 12-6-10.)

~~[(n)](m)~~ "Volunteer rescue service organization" means any organization of volunteers organized to function as an emergency medical service organization as defined in Ohio R.C. 4765.01.

~~[(o)]~~ **"Service organization" means either of the following:**

~~(1) — Any organization, not organized for profit, that is organized and operated exclusively to provide, or to contribute to the support of organizations or institutions organized and operated exclusively to provide, medical and therapeutic services for persons who are crippled, born with birth defects or have any other mental or physical defect or those organized and operated exclusively to protect, or to contribute to the support of organizations or institutions organized and operated exclusively to protect, animals from inhumane treatment or provide immediate shelter to victims of domestic violence;~~

~~(2) — Any organization that is described in subsection 509(a)(1), 509(a)(2) or 509(a)(3) of the Internal Revenue Code and is either a governmental unit or an organization that is tax exempt under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code and that is an organization, not organized for profit, that is organized and operated primarily to provide, or to contribute to the support of organizations or institutions organized and operated primarily to provide, medical and therapeutic services for persons who are crippled, born with birth defects, or have any other mental or physical defect.]~~

~~[(p)]~~ **"Nonprofit medical organization" means either of the following:**

~~(1) — Any organization, that has been incorporated as a nonprofit corporation for at least five years and that has continuously operated and will be operated exclusively to provide, or to contribute to the support of organizations or institutions organized and operated exclusively to provide, hospital, medical, research or therapeutic services for the public;~~

~~(2) — Any organization that is described and qualified under subsection 501(c)(3) of the Internal Revenue Code, that has been incorporated as a nonprofit corporation for at least five years, and that has~~

~~continuously operated and will be operated primarily to provide, or to contribute to the support of organizations or institutions organized and operated primarily to provide, hospital, medical, research, or therapeutic services for the public.]~~

~~[(q)] "Senior citizen's organization" means any private organization, not organized for profit, that is organized and operated exclusively to provide recreational or social services for persons who are fifty-five years of age or older and that is described and qualified under subsection 501(c)(3) of the Internal Revenue Code.]~~

[(r)](n) "Charitable bingo game" means any bingo game described in subsection [(s)](o)(1) or (2) of this section that is conducted by a charitable organization that has obtained a license pursuant to Ohio R.C. 2915.08 and the proceeds of which are used for a charitable purpose.

[(s)](o) "Bingo" means either of the following:

(1) A game with all of the following characteristics:

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

(2) Instant bingo, punch boards and raffles.

[(t)](p) "Conduct" means to back, promote, organize, manage, carry on, sponsor, or prepare for the operation of bingo or a game of chance, **A SCHEME OF CHANCE, OR A SWEEPSTAKES.**

[(u)](q) "Bingo game operator" means any person, except security personnel, who performs work or labor at the site of bingo, including, but not limited to, collecting money from participants, handing out bingo cards or sheets or objects to cover spaces on bingo cards or sheets, selecting from a receptacle the objects

that contain the combination of letters and numbers that appear on bingo cards or sheets, calling out the combinations of letters and numbers, distributing prizes, selling or redeeming instant bingo tickets or cards, supervising the operation of a punch board, selling raffle tickets, selecting raffle tickets from a receptacle and announcing the winning numbers in a raffle, and preparing, selling, and serving food or beverages.

~~[(v)]~~(r) "Participant" means any person who plays bingo.

~~[(w)]~~(s) "Bingo session" means a period that includes both of the following:

- (1) Not to exceed five continuous hours for the conduct of one or more games described in subsection ~~[(s)]~~(o)(1) of this section, instant bingo, and seal cards;
- (2) A period for the conduct of instant bingo and seal cards for not more than two hours before and not more than two hours after the period described in subsection ~~[(w)]~~(s)(1) of this section.

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

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

~~[(y)]~~(u) "Security personnel" includes any person who either is a sheriff, deputy sheriff, marshal, deputy marshal, township constable, or a police officer of a municipal corporation or has successfully completed a peace officer's training course pursuant to Ohio R.C. 109.71 to 109.79 and who is hired to provide security for the premises on which bingo is conducted.

~~[(z)]~~(v) "Charitable purpose" means that the net profit of bingo, other than instant bingo, is used by, or is given, donated, or otherwise transferred to, any of the following:

- (1) Any organization that is described in subsection 509(a)(1), 509(a)(2), or 509(a)(3) of the Internal Revenue Code and is either a governmental unit or an organization that is tax exempt under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code;
- (2) A veteran's organization that is a post, chapter, or organization of veterans, or an auxiliary unit or society of, or a trust or foundation for, any such post, chapter, or organization organized in the United States or any of its possessions, at least seventy-five per cent of the members of which are veterans and substantially all of the other members of which are individuals who are spouses, widows, or widowers of veterans, or such individuals, provided that no part of the net earnings of such post, chapter, or organization inures to the benefit of any private shareholder or

individual, and further provided that the net profit is used by the post, chapter, or organization for the charitable purposes set forth in division (B)(12) of Ohio R.C. 5739.02, is used for awarding scholarships to or for attendance at an institution mentioned in division (B)(12) of Ohio R.C. 5739.02, is donated to a governmental agency, or is used for nonprofit youth activities, the purchase of United States or Ohio flags that are donated to schools, youth groups, or other bona fide nonprofit organizations, promotion of patriotism, or disaster relief;

- (3) A fraternal organization that has been in continuous existence in this State for fifteen years and that uses the net profit exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals if contributions for such use would qualify as a deductible charitable contribution under subsection 170 of the Internal Revenue Code;
- (4) A volunteer firefighter's organization that uses the net profit for the purposes set forth in subsection ~~[(4)]~~(k) of this section.

~~[(aa)]~~(w) "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as now or hereafter amended.

~~[(bb)]~~(x) "Youth athletic organization" means any organization, not organized for profit, that is organized and operated exclusively to provide financial support to, or to operate, athletic activities for persons who are twenty-one years of age or younger by means of sponsoring, organizing, operating or contributing to the support of an athletic team, club, league or association.

~~[(ee)]~~(y) "Youth athletic park organization" means any organization, not organized for profit, that satisfies both of the following:

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

~~[(dd)]~~ **"Amateur athletic organization" means any organization, not organized for profit, that is organized and operated exclusively to provide financial support to, or to operate, athletic activities for persons who are training for amateur athletic competition that is sanctioned by a national governing body as defined in the "Amateur Sports Act of 1978", 90 Stat. 3045, 36 U.S.C.A. 373.]**

~~[(ee)]~~(z) "Bingo supplies" means bingo cards or sheets; instant bingo tickets or cards; electronic bingo aids; raffle tickets; punch boards; seal cards; instant bingo ticket

dispensers; and devices for selecting or displaying the combination of bingo letters and numbers or raffle tickets. Items that are "bingo supplies" are not gambling devices if sold or otherwise provided, and used, in accordance with this chapter. For purposes of this chapter, "bingo supplies" are not to be considered equipment used to conduct a bingo game.

~~[(ff)]~~(aa) "Instant bingo" means a form of bingo that **SHALL** use[s] folded or banded tickets or paper cards with perforated break-open tabs, a face of which is covered or otherwise hidden from view to conceal a number, letter, or symbol, or set of numbers, letters, or symbols, some of which have been designated in advance as prize winners, **AND MAY ALSO INCLUDE GAMES WHICH SOME WINNERS ARE DETERMINED BY THE RANDOM SELECTION OF ONE OR MORE BINGO NUMBERS BY THE USE OF A SEAL CARD OR BINGO BLOWER. IN ALL "INSTANT BINGO" THE PRIZE AMOUNT AND STRUCTURE SHALL BE PREDETERMINED.** [~~"Instant bingo" includes seal cards.~~] "Instant bingo" does not include any device that is activated by the insertion of a coin, currency, token, or an equivalent, and that contains as one of its components a video display monitor that is capable of displaying numbers, letters, symbols, or characters in winning or losing combinations.

~~[(gg)]~~(bb) "Seal card" means a form of instant bingo that uses instant bingo tickets in conjunction with a board or placard that contains one or more seals that, when removed or opened, reveal predesignated winning numbers, letters, or symbols. [~~Ord. 157-08. Passed 12-8-08.~~]

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

- (1) The ticket stub or other detachable section is used to select the winner of a free prize given away at the professional sporting event; and
- (2) The cost of the ticket is the same as the cost of a ticket to the professional sporting event on days when no free prize is given away. [~~Ord. 110-10. Passed 12-6-10.~~]

~~[(ii)]~~(dd) "Punch board" means a board containing a number of holes or receptacles of uniform size in which are placed, mechanically and randomly, serially numbered slips of paper that may be punched or drawn from the hole or receptacle when used in conjunction with instant bingo. A player may punch or draw the numbered slips of paper from the holes or receptacles and obtain the prize established for the game if the number drawn corresponds to a winning number or, if the punch board includes the use of a seal card, a potential winning number.

~~[(jj)]~~(ee) "Gross profit" means gross receipts minus the amount actually expended for the payment of prize awards.

~~[(kk)]~~(ff) "Net profit" means gross profit minus expenses. [~~Ord. 157-08. Passed 12-8-08.~~]

~~[(hh)]~~(gg) "Expenses" means the reasonable amount of gross profit actually expended for all of the following:

- (1) The purchase or lease of bingo supplies;
- (2) The annual license fee required under Ohio R.C. 2915.08;
- (3) Bank fees and service charges for a bingo session or game account described in Ohio R.C. 2915.10;
- (4) Audits and accounting services;
- (5) Safes;
- (6) Cash registers;
- (7) Hiring security personnel;
- (8) Advertising bingo;
- (9) Renting premises in which to conduct a bingo session;
- (10) Tables and chairs;
- (11) Expenses for maintaining and operating a charitable organization's facilities, including, but not limited to, a post home, club house, lounge, tavern, or canteen and any grounds attached to the post home, club house, lounge, tavern, or canteen;
- (12) Payment of real property taxes and assessments that are levied on a premises on which bingo is conducted;
- (13) Any other product or service directly related to the conduct of bingo that is authorized in rules adopted by the Attorney General under division (B)(1) of Ohio R.C. 2915.08. ~~[(Ord. 110-10. Passed 12-6-10.)]~~

~~[(mm)]~~(hh) "Person" has the same meaning as in Ohio R.C. 1.59 and includes any firm or any other legal entity, however organized.

~~[(nn)]~~(ii) "Revoke" means to void permanently all rights and privileges of the holder of a license issued under Ohio R.C. 2915.08, 2915.081, or 2915.082 or a charitable gaming license issued by another jurisdiction.

~~[(oo)]~~(jj) "Suspend" means to interrupt temporarily all rights and privileges of the holder of a license issued under Ohio R.C. 2915.08, 2915.081, or 2915.082 or a charitable gaming license issued by another jurisdiction.

~~[(pp)]~~(kk) "Distributor" means any person who purchases or obtains bingo supplies and who does either of the following:

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

~~[(qq)]~~(ll) "Manufacturer" means any person who assembles completed bingo supplies from raw materials, other items, or subparts or who modifies, converts, adds to, or removes parts from bingo supplies to further their promotion or sale.

~~[(rr)]~~(mm) "Gross annual revenues" means the annual gross receipts derived from the conduct of bingo described in subsection ~~[(s)]~~(o)(1) of this section plus the annual net profit derived from the conduct of bingo described in subsection ~~[(s)]~~(o)(2) of this section.

~~[(ss)]~~(nn) "Instant bingo ticket dispenser" means a mechanical device that dispenses an instant bingo ticket or card as the sole item of value dispensed and that has the following characteristics:

- (1) It is activated upon the insertion of United States currency.
 - (2) It performs no gaming functions.
 - (3) It does not contain a video display monitor or generate noise.
 - (4) It is not capable of displaying any numbers, letters, symbols, or characters in winning or losing combinations.
 - (5) It does not simulate or display rolling or spinning reels.
 - (6) It is incapable of determining whether a dispensed bingo ticket or card is a winning or nonwinning ticket or card and requires a winning ticket or card to be paid by a bingo game operator.
 - (7) It may provide accounting and security features to aid in accounting for the instant bingo tickets or cards it dispenses.
 - (8) It is not part of an electronic network and is not interactive.
- ~~[(tt)]~~(oo) (1) "Electronic bingo aid" means an electronic device used by a participant to monitor bingo cards or sheets purchased at the time and place of a bingo session and that does all of the following:
- A. It provides a means for a participant to input numbers and letters announced by a bingo caller.
 - B. It compares the numbers and letters entered by the participant to the bingo faces previously stored in the memory of the device.
 - C. It identifies a winning bingo pattern.
- (2) "Electronic bingo aid" does not include any device into which a coin, currency, token, or an equivalent is inserted to activate play.
- ~~[(uu)]~~(pp) "Deal of instant bingo tickets" means a single game of instant bingo tickets all with the same serial number. ~~[(Ord. 157-08. Passed 12-8-08.)]~~
- ~~[(vv)]~~(qq) (1) "Slot machine" means either of the following:
- A. Any mechanical, electronic, video, or digital device that is capable of accepting anything of value, directly or indirectly, from or on behalf of a player who gives the thing of value in the hope of gain;
 - B. Any mechanical, electronic, video, or digital device that is capable of accepting anything of value, directly or indirectly, from or on behalf of a player to conduct bingo or a scheme or game of chance.
- (2) "Slot machine" does not include a skill-based amusement machine or an instant bingo ticket dispenser. ~~[(Ord. 110-10. Passed 12-6-10.)]~~
- ~~[(ww)]~~(rr) "Net profit from the proceeds of the sale of instant bingo" means gross profit minus the ordinary, necessary, and reasonable expense expended for the purchase of instant bingo supplies, **AND, IN THE CASE OF INSTANT BINGO CONDUCTED BY A VETERAN'S, FRATERNAL OR SPORTING ORGANIZATION, MINUS THE PAYMENT BY THAT ORGANIZATION OF REAL PROPERTY TAXES, AND ASSESSMENTS LEVIED ON A PREMISES ON WHICH INSTANT BINGO IS CONDUCTED.**
- ~~[(xx)]~~(ss) "Charitable instant bingo organization" means an organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code and is a charitable organization as defined in this section. A "charitable instant bingo organization" does not include a charitable organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue

Code and that is created by a veteran's organization, a fraternal organization, or a sporting organization in regards to bingo conducted or assisted by a veteran's organization, a fraternal organization, or a sporting organization pursuant to Ohio R.C. 2915.13.

~~[(yy)]~~(tt) "Game flare" means the board or placard that accompanies each deal of instant bingo tickets and that has printed on or affixed to it the following information for the game:

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

~~[(zz)]~~ **"Historic railroad educational organization" means an organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(e)(3) of the Internal Revenue Code, that owns in fee simple the tracks and the right of way of a historic railroad that the organization restores or maintains and on which the organization provides excursions as part of a program to promote tourism and educate visitors regarding the role of railroad transportation in Ohio history, and that receives as donations from a charitable organization that holds a license to conduct bingo under this chapter an amount equal to at least fifty per cent of that licensed charitable organization's net proceeds from the conduct of bingo during each of the five years preceding June 30, 2003. "Historic railroad" means all or a portion of the tracks and right of way of a railroad that was owned and operated by a for profit common carrier in this state at any time prior to January 1, 1950.]**

~~[(aaa)]~~(uu) (1) "Skill-based amusement machine" means mechanical, video, digital, or electronic device that rewards the player or players, if at all, only with merchandise prizes or with redeemable vouchers redeemable only for merchandise prizes, provided that with respect to rewards for playing the game all of the following apply:

- A. The wholesale value of a merchandise prize awarded as a result of the single play of a machine does not exceed ten dollars;
- B. Redeemable vouchers awarded for any single play of a machine are not redeemable for a merchandise prize with a wholesale value of more than ten dollars;
- C. Redeemable vouchers are not redeemable for a merchandise prize that has a wholesale value of more than ten dollars times the fewest number of single plays necessary to accrue the redeemable vouchers required to

obtain that prize; and [~~ORC 2915.01; Ord. 157-08. Passed 12-8-08.~~]

D. Any redeemable vouchers or merchandise prizes are distributed at the site of the skill-based amusement machine at the time of play.

A card for the purchase of gasoline is a redeemable voucher for purposes of division [~~(aaa)~~](uu)(1) of this section even if the skill-based amusement machine for the play of which the card is awarded is located at a place where gasoline may not be legally distributed to the public or the card is not redeemable at the location of, or at the time of playing, the skill-based amusement machine.

(2) A device shall not be considered a skill-based amusement machine and shall be considered a slot machine if it pays cash or one or more of the following apply:

A. The ability of a player to succeed at the game is impacted by the number or ratio of prior wins to prior losses of players playing the game.

B. Any reward of redeemable vouchers is not based solely on the player achieving the object of the game or the players score; [~~Ord. 145-09. Passed 12-14-09.~~]

C. The outcome of the game, or the value of the redeemable voucher or merchandise prize awarded for winning the game, can be controlled by a source other than any player playing the game.

D. The success of any player is or may be determined by a chance event that cannot be altered by player actions.

E. The ability of any player to succeed at the game is determined by game features not visible or known to the player.

F. The ability of the player to succeed at the game is impacted by the exercise of a skill that no reasonable player could exercise.

(3) All of the following apply to any machine that is operated as described in subsection [~~(aaa)~~](uu)(1) of this section:

A. As used in **SUBSECTION (uu) OF** this section, “game” and “play” mean one event from the initial activation of the machine until the results of play are determined without payment of additional consideration. An individual utilizing a machine that involves a single game, play, contest, competition or tournament may be awarded redeemable vouchers or merchandise prizes based on the results of play.

B. Advance play for a single game, play, contest, competition or tournament participation may be purchased. The cost of the contest, competition, or tournament participation may

be greater than a single noncontest, competition or tournament play.

C. To the extent that the machine is used in a contest, competition or tournament, that contest, competition, or tournament has a defined starting and ending date and is open to participants in competition for scoring and ranking results toward the awarding of redeemable vouchers or merchandise prizes that are stated prior to the start of the contest, competition or tournament.

(4) For purposes of subsection [(aaa)](uu)(1) of this section, the mere presence of a device, such as a pin-setting, ball-releasing, or scoring mechanism, that does not contribute to or affect the outcome of the play of the game does not make the device a skill-based amusement machine.

[(bbb)](vv) “Merchandise prize” means any item of value, but shall not include any of the following:

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

[(eee)](ww) “Redeemable voucher” means any ticket, token, coupon, receipt, or other noncash representation of value.

[(ddd)](xx) “Pool not conducted for profit” means a scheme in which a participant gives a valuable consideration for a chance to win a prize and the total amount of consideration wagered is distributed to a participant or participants.

[(eee)](yy) “Sporting organization” means a hunting, fishing or trapping organization, other than a college or high school fraternity or sorority, that is not organized for profit, that is affiliated with a state or national sporting organization, including but not limited to, the LEAGUE OF Ohio [league-of] sportsmen, and that has been in continuous existence in this State for a period of three years.

[(fff)](zz) “Community action agency” has the same meaning as in Ohio R.C. 122.66. [(ORC 2915.01; Ord. 157-08. Passed 12-8-08.)]

[(ggg)] ~~“Sweepstakes terminal device” means the following:~~

~~(1) — A mechanical, video, digital, or electronic machine or device, that is owned, leased or otherwise possessed by any person conducting a sweepstakes, or by that person’s partners, affiliates, subsidiaries, or contractors, that is intended to be used by a sweepstakes participant, and that is capable of displaying information on a screen or other mechanism. A device is a sweepstakes terminal device whether or not any of the following apply:~~

~~A. — The device is server based.~~

~~B. — The device uses a simulated game terminal as a representation of the prizes associated with the results of the sweepstakes entries.~~

- ~~C. The device utilizes software such that the simulated game influences or determines the winning of or value of the prize.~~
- ~~D. The device selects prizes from a predetermined finite pool of entries.~~
- ~~E. The device utilizes a mechanism that reveals the content of a predetermined sweepstakes entry.~~
- ~~F. The device predetermines the prize result and stores those results for delivery at the time the sweepstakes entry results are revealed.~~
- ~~G. The device utilizes software to create a game result.~~
- ~~H. The device requires deposit of any money, coin, or token, or the use of any credit card, debt card, prepaid card, or any other method of payment to activate the electronic machine or device.~~
- ~~I. The device requires direct payment into the device, or remote activation of the device.~~
- ~~J. The device requires purchase of a related product.~~
- ~~K. Any related product of which purchase is required has a legitimate value.~~
- ~~L. The device reveals the prize incrementally, even though the device does not influence the awarding of prize or the value of any prize awarded.~~
- ~~M. The device determines and associates the prize with an entry or entries at the time the sweepstakes is entered.~~
- ~~N. The device is a slot machine or other form of electrical, mechanical, or computer game.~~

~~(2) As used in this section:~~

- ~~A. "Enter" or "entry" means the act or process by which a person becomes eligible to receive any prize offered in a sweepstakes.~~
- ~~B. "Prize" means any gift, awarded, gratuity, good, service, credit, reward, or any other thing of value, which may be transferred to a person, whether possession of the prize is actually transferred, or placed on an account or other record as evidence of the intent to transfer the prize.~~
- ~~C. "Sweepstakes" means any game, contest, advertising scheme or plan, or other promotion, but does not include bingo, or games or lotteries conducted by the State Lottery Commission, whether or not consideration is required for a person to enter to win or become eligible to receive any prize, the determination of which is based upon chance. (Ord. 53-12. Passed 5-29-12.)]~~

(aaa) (1) "SWEEPSTAKES TERMINAL DEVICE" MEANS A MECHANICAL, VIDEO, DIGITAL OR ELECTRONIC MACHINE OR DEVICE THAT IS OWNED, LEASED OR OTHERWISE POSSESSED BY ANY PERSON CONDUCTING A SWEEPSTAKES, OR BY THAT PERSON'S PARTNERS,

AFFILIATES, SUBSIDIARIES, OR CONTRACTORS, THAT IS INTENDED TO BE USED BY A SWEEPSTAKES PARTICIPANT, AND THAT IS CAPABLE OF DISPLAYING INFORMATION ON A SCREEN OR OTHER MECHANISM. A DEVICE IS A SWEEPSTAKES TERMINAL DEVICE IF ANY OF THE FOLLOWING APPLY:

- A. THE DEVICE USES A SIMULATED GAME TERMINAL AS A REPRESENTATION OF THE PRIZES ASSOCIATED WITH THE RESULTS OF THE SWEEPSTAKES ENTRIES.**
- B. THE DEVICE UTILIZES SOFTWARE SUCH THAT THE SIMULATED GAME INFLUENCES OR DETERMINES THE WINNING OF OR VALUE OF THE PRIZE.**
- C. THE DEVICE SELECTS PRIZES FROM A PREDETERMINED FINITE POOL OF ENTRIES.**
- D. THE DEVICE UTILIZES A MECHANISM THAT REVEALS THE CONTENT OF A PREDETERMINED SWEEPSTAKES ENTRY.**
- E. THE DEVICE PREDETERMINES THE PRIZE RESULTS AND STORES THOSE RESULTS FOR DELIVERY AT THE TIME THE SWEEPSTAKES ENTRY RESULTS ARE REVEALED.**
- F. THE DEVICE UTILIZES SOFTWARE TO CREATE A GAME RESULT.**
- G. THE DEVICE REVEALS THE PRIZE INCREMENTALLY, EVEN THOUGH THE DEVICE DOES NOT INFLUENCE THE AWARDING OF THE PRIZE OR THE VALUE OF ANY PRIZE AWARDED.**
- H. THE DEVICE DETERMINES AND ASSOCIATES THE PRIZE WITH AN ENTRY OR ENTRIES AT THE TIME THE SWEEPSTAKES IS ENTERED.**

(2) AS USED IN THIS SUBSECTION AND IN SECTION 517.02:

- A. "ENTER" MEANS THE ACT BY WHICH A PERSON BECOMES ELIGIBLE TO RECEIVE ANY PRIZE OFFERED IN A SWEEPSTAKES.**
- B. "ENTRY" MEANS ONE EVENT FROM THE INITIAL ACTIVATION OF THE SWEEPSTAKES TERMINAL DEVICE UNTIL ALL OF THE SWEEPSTAKES PRIZE RESULTS FROM THAT ACTIVATION ARE REVEALED.**
- C. "PRIZE" MEANS ANY GIFT, AWARD, GRATUITY, GOOD, SERVICE, CREDIT, REWARD OR ANY OTHER THING OF VALUE THAT MAY BE TRANSFERRED TO A PERSON, WHETHER POSSESSION OF THE PRIZE IS ACTUALLY TRANSFERRED, OR PLACED ON AN ACCOUNT OR OTHER RECORD AS EVIDENCE OF THE INTENT TO TRANSFER THE PRIZE.**

- D. "SWEEPSTAKES TERMINAL DEVICE FACILITY" MEANS ANY LOCATION IN THIS MUNICIPALITY WHERE A SWEEPSTAKES TERMINAL DEVICE IS PROVIDED TO A SWEEPSTAKES PARTICIPANT, EXCEPT AS PROVIDED IN OHIO R.C. 2915.02(G).
- (bbb) "SWEEPSTAKES" MEANS ANY GAME, CONTEST, ADVERTISING SCHEME OR PLAN, OR OTHER PROMOTION WHERE CONSIDERATION IS NOT REQUIRED FOR A PERSON TO ENTER TO WIN OR BECOME ELIGIBLE TO RECEIVE ANY PRIZE, THE DETERMINATION OF WHICH IS BASED UPON CHANCE. "SWEEPSTAKES" DOES NOT INCLUDE BINGO AS AUTHORIZED UNDER THIS CHAPTER, PARI-MUTUEL WAGERING AS AUTHORIZED BY OHIO R.C. CHAPTER 3769, LOTTERIES CONDUCTED BY THE STATE LOTTERY COMMISSION AS AUTHORIZED BY OHIO R.C. CHAPTER 3770, AND CASINO GAMING AS AUTHORIZED BY OHIO R.C. CHAPTER 3772.
(ORC 2915.01)

517.02 GAMBLING

[No changes to this Section until paragraph (a)(5)]

- (a) (5) CONDUCT, OR PARTICIPATE IN THE CONDUCT OF, A SWEEPSTAKES WITH THE USE OF A SWEEPSTAKES TERMINAL DEVICE AT A SWEEPSTAKES TERMINAL DEVICE FACILITY AND EITHER:
- A. GIVE TO ANOTHER PERSON ANY ITEM DESCRIBED IN SUBSECTION (vv)(1), (2), (3) OR (4) OF SECTION 517.01 AS A PRIZE FOR PLAYING OR PARTICIPATING IN A SWEEPSTAKES; OR
- B. GIVE TO ANOTHER PERSON ANY MERCHANDISE PRIZE, OR A REDEEMABLE VOUCHER FOR A MERCHANDISE PRIZE, THE WHOLESALE VALUE OF WHICH IS IN EXCESS OF TEN DOLLARS AND WHICH IS AWARDED AS A SINGLE ENTRY FOR PLAYING OR PARTICIPATING IN A SWEEPSTAKES. REDEEMABLE VOUCHERS SHALL NOT BE REDEEMABLE FOR A MERCHANDISE PRIZE THAT HAS A WHOLESALE VALUE OF MORE THAN TEN DOLLARS.
- (6) CONDUCT, OR PARTICIPATE IN THE CONDUCT OF, A SWEEPSTAKES WITH THE USE OF A SWEEPSTAKES TERMINAL DEVICE AT A SWEEPSTAKES TERMINAL DEVICE FACILITY WITHOUT FIRST OBTAINING A CURRENT ANNUAL "CERTIFICATE OF REGISTRATION" FROM THE ATTORNEY GENERAL AS REQUIRED BY DIVISION (F) OF OHIO R.C. 2915.02.

- (7) With purpose to violate subsection (a)(1), (2), (3), or (4) of this section, acquire, possess, control, or operate any gambling device.

[No further changes to this Section until paragraph (d)(1)C.]

- (d) (1) C. The games of chance are conducted at festivals of the charitable organization that are conducted **NOT MORE THAN A TOTAL OF FIVE DAYS A CALENDAR YEAR** [~~either for a period of four consecutive days or less and not more than twice a year or for a period of five consecutive days not more than once a year,~~] and are conducted on premises owned by the charitable organization for a period of no less than one year immediately preceding the conducting of the games of chance, on premises leased from a governmental unit, or on premises that are leased from a veteran's or fraternal organization and that have been owned by the lessor veteran's or fraternal organization for a period of no less than one year immediately preceding the conducting of the games of chance.

A charitable organization shall not lease premises from a veteran's or fraternal organization to conduct a festival described in subsection (d)(1)C. hereof if the veteran's or fraternal organization has already leased the premises twelve times during the preceding year to charitable organizations for that purpose. If a charitable organization leases premises from a veteran's or fraternal organization to conduct a festival described in subsection (d)(1)C. hereof, the charitable organization shall not pay a rental rate for the premises per day of the festival that exceeds the rental rate per bingo session that a charitable organization may pay under Section 517.06(b)(1) when it leases premises from another charitable organization to conduct bingo games.

[No further changes to this Section.]

517.06 METHODS OF CONDUCTING A BINGO GAME; PROHIBITIONS.

(a) No charitable organization that conducts bingo shall fail to do any of the following:

- (1) Own all of the equipment used to conduct bingo or lease that equipment from a charitable organization that is licensed to conduct bingo, or from the landlord of a premises where bingo is conducted, for a rental rate that is not more than is customary and reasonable for that equipment;
- (2) Use, or give, donate, or otherwise transfer, all of the net profit derived from bingo, other than instant bingo, for a charitable purpose listed in its license application and described in Section 517.01~~(z)~~(v), or distribute all of the net profit from the proceeds of the sale of instant bingo as stated in its license application and in accordance with Ohio R.C. 2915.101.

(b) No charitable organization that conducts a bingo game described in Section 517.01~~(s)~~(o)(1) shall fail to do any of the following:

- (1) Conduct the bingo game on premises that are owned by the charitable organization, on premises that are owned by another charitable organization and leased from that charitable organization for a rental rate not in excess of the lesser of six hundred dollars (\$600.00) per bingo session or forty-five per cent of the gross receipts of the bingo session, on premises that are leased from a person other than a charitable organization for a rental rate that is not more than is customary and reasonable for premises that are similar in location, size, and quality but not in excess of four hundred fifty dollars (\$450.00) per bingo session, or on premises that are owned by a person other than a charitable organization, that are leased from that person by another charitable organization, and that are subleased from that other charitable organization by the charitable organization for a rental rate not in excess of four hundred fifty dollars (\$450.00) per bingo session. **NO CHARITABLE ORGANIZATION IS REQUIRED TO PAY PROPERTY TAXES OR ASSESSMENTS ON PREMISES THAT THE CHARITABLE ORGANIZATION LEASES FROM ANOTHER PERSON TO CONDUCT BINGO SESSIONS.** If the charitable organization leases from a person other than a charitable organization the premises on which it conducts bingo sessions, the lessor of the premises shall provide the premises to the organization and shall not provide the organization with bingo game operators, security personnel, concessions or concession operators, bingo supplies, or any other type of service. A charitable organization shall not lease or sublease premises that it owns or leases to more than ~~one~~ **THREE** other charitable organization per calendar week for ~~the purpose of~~ conducting bingo sessions on the premises. A person that is not a charitable organization shall not lease premises that it owns, leases, or otherwise is empowered to lease to more than three charitable organizations per calendar week for conducting bingo sessions on the premises. In no case shall more than nine bingo sessions be conducted on any premises in any calendar week.
- (2) Display its license conspicuously at the premises where the bingo session is conducted;
- (3) Conduct the bingo session in accordance with the definition of bingo set forth in Section 517.01~~(s)~~(o)(1).

(c) No charitable organization that conducts a bingo game described in Section 517.01~~(s)~~(o)(1) shall do any of the following:

- (1) Pay any compensation to a bingo game operator for operating a bingo session that is conducted by the charitable organization or for preparing, selling, or serving food or beverages at the site of the bingo session, permit any auxiliary unit or society of the charitable organization to pay compensation to any bingo game operator who prepares, sells, or serves food or beverages at a bingo session conducted by the charitable organization, or permit any auxiliary unit or society of the charitable

organization to prepare, sell, or serve food or beverages at a bingo session conducted by the charitable organization, if the auxiliary unit or society pays any compensation to the bingo game operators who prepare, sell, or serve the food or beverages;

- (2) Pay consulting fees to any person for any services performed in relation to the bingo session;
- (3) Pay concession fees to any person who provides refreshments to the participants in the bingo session;
- (4) Except as otherwise provided in subsection (c)(4) of this section, conduct more than three bingo sessions in any seven-day period. A volunteer firefighter's organization or a volunteer rescue service organization that conducts not more than five bingo sessions in a calendar year may conduct more than three bingo sessions in a seven-day period after notifying the Attorney General when it will conduct the sessions;
- (5) Pay out more than six thousand dollars (\$6,000) in prizes for bingo games described in Section 517.01~~(s)~~(o)(1) during any bingo session that is conducted by the charitable organization. "Prizes" does not include awards from the conduct of instant bingo;
- (6) Conduct a bingo session at any time during the ~~ten~~**EIGHT**-hour period between ~~midnight~~ **TWO A.M.** and ten a.m., at any time during, or within ten hours of, a bingo game conducted for amusement only pursuant to Ohio R.C. 2915.12, at any premises not specified on its license, or on any day of the week or during any time period not specified on its license. Subsection (c)(6) of this section does not prohibit the sale of instant bingo tickets beginning at nine a.m. for a bingo session that begins at ten a.m. If circumstances make it impractical for the charitable organization to conduct a bingo session at the premises, or on the day of the week or at the time, specified on its license or if a charitable organization wants to conduct bingo sessions on a day of the week or at a time other than the day or time specified on its license, the charitable organization may apply in writing to the Attorney General for an amended license, pursuant to division (F) of Ohio R.C. 2915.08. A charitable organization may apply twice in each calendar year for an amended license to conduct bingo sessions on a day of the week or at a time other than the day or time specified on its license. If the amended license is granted, the organization may conduct bingo sessions at the premises, on the day of the week, and at the time specified on its amended license;
- (7) Permit any person whom the charitable organization knows, or should have known, is under the age of eighteen to work as a bingo game operator;
- (8) Permit any person whom the charitable organization knows, or should have known, has been convicted of a felony or gambling offense in any jurisdiction to be a bingo game operator;
- (9) Permit the lessor of the premises on which the bingo session is conducted, if the lessor is not a charitable organization, to provide the charitable

- organization with bingo game operators, security personnel, concessions, bingo supplies, or any other type of service;
- (10) Purchase or lease bingo supplies from any person except a distributor issued a license under Ohio R.C. 2915.081;
 - (11) A. Use or permit the use of electronic bingo aids except under the following circumstances:
 - 1. For any single participant, not more than ninety bingo faces can be played using an electronic bingo aid or aids.
 - 2. The charitable organization shall provide a participant using an electronic bingo aid with corresponding paper bingo cards or sheets.
 - 3. The total price of bingo faces played with an electronic bingo aid shall be equal to the total price of the same number of bingo faces played with a paper bingo card or sheet sold at the same bingo session but without an electronic bingo aid.
 - 4. An electronic bingo aid cannot be part of an electronic network other than a network that includes only bingo aids and devices that are located on the premises at which the bingo is being conducted or be interactive with any device not located on the premises at which the bingo is being conducted.
 - 5. An electronic bingo aid cannot be used to participate in bingo that is conducted at a location other than the location at which the bingo session is conducted and at which the electronic bingo aid is used.
 - 6. An electronic bingo aid cannot be used to provide for the input of numbers and letters announced by a bingo caller other than the bingo caller who physically calls the numbers and letters at the location at which the bingo session is conducted and at which the electronic bingo aid is used.
 - B. The Attorney General may adopt rules in accordance with Ohio R.C. Chapter 119 that govern the use of electronic bingo aids. The rules may include a requirement that an electronic bingo aid be capable of being audited by the Attorney General to verify the number of bingo cards or sheets played during each bingo session.
- (12) Permit any person the charitable organization knows, or should have known, to be under eighteen years of age to play bingo described in Section 517.01[(s)](o)(1). [~~Ord. 110-10. Passed 12-6-10.~~]

[No further changes to this Section.]

517.07 INSTANT BINGO CONDUCT.

[No changes until Paragraph (a) (10)]

- (a) (10) Pay fees to any person for any services performed in relation to an instant bingo game, **EXCEPT AS PROVIDED IN SECTION 517.09(d)**;

[No further changes until Paragraph (b)]

- (b) ~~[(1) A charitable organization may conduct instant bingo other than at a bingo session at not more than five separate locations. A charitable organization that is exempt from federal taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code and that is created by a veteran's organization or a fraternal organization is not limited in the number of separate locations the charitable organization may conduct instant bingo other than at a bingo session.]~~

- (2) A charitable organization may purchase, lease, or use instant bingo ticket dispensers to sell instant bingo tickets or cards. ~~[(Ord. 110-10. Passed 12-6-10.)]~~

[No further changes to this Section.]

517.08 RAFFLES

- (a) (1) Subject to subsection (a)(2) of this section, a charitable organization, a public school, a chartered nonpublic school, a community school, or a veteran's organization, fraternal organization, or sporting organization that is exempt from federal income taxation under subsection 501(a) and is described in subsection 501(c)(3), 501(c)(4), 501(c)(7), 501(c)(8), 501(c)(10), or 501(c)(19) of the Internal Revenue Code may conduct a raffle to raise money for the organization or school and does not need a license to conduct bingo in order to conduct a raffle drawing that is not for profit.
- (2) If a charitable organization that is described in subsection (a)(1) of this section, but that is not also described in subsection 501(c)(3) of the Internal Revenue Code, conducts a raffle, the charitable organization shall distribute at least fifty per cent of the net profit from the raffle to a charitable purpose described in Section 517.01~~[(z)]~~(o) or to a department or agency of the federal government, the state, or any political subdivision.

[No further changes to this Section.]

517.09 CHARITABLE INSTANT BINGO ORGANIZATIONS.

- (a) As used in this section, "retail income from all commercial activity" means the income that a person receives from the provision of goods, services, or activities that are provided at the location where instant bingo other than at a bingo session is conducted, including the sale of instant bingo tickets. A religious organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue

Code, at not more than one location at which it conducts its charitable programs, may include donations from its members and guests as retail income.

~~[(b) — A charitable instant bingo organization may conduct instant bingo other than at a bingo session at not more than five separate locations.]~~

- ~~[(e)](b)(1)~~ If a charitable instant bingo organization conducts instant bingo other than at a bingo session, the charitable instant bingo organization shall enter into a written contract with the owner or lessor of the location at which the instant bingo is conducted to allow the owner or lessor to assist in the conduct of instant bingo other than at a bingo session, identify each location where the instant bingo other than at a bingo session is being conducted, and identify the owner or lessor of each location.
- (2) A charitable instant bingo organization that conducts instant bingo other than at a bingo session is not required to enter into a written contract with the owner or lessor of the location at which the instant bingo is conducted provided that the owner or lessor is not assisting in the conduct of the instant bingo other than at a bingo session and provided that the conduct of the instant bingo other than at a bingo session at that location is not more than five days per calendar year and not more than ten hours per day.

~~[(d)](c)~~ Except as provided in subsection ~~[(g)](f)~~ of this section, no charitable instant bingo organization shall conduct instant bingo other than at a bingo session at a location where the primary source of retail income from all commercial activity at that location is the sale of instant bingo tickets.

~~[(e)](d)~~ The owner or lessor of a location that enters into a contract pursuant to subsection ~~[(e)](b)~~ of this section shall pay the full gross profit to the charitable instant bingo organization, in return for the deal of instant bingo tickets. The owner or lessor may retain the money that the owner or lessor receives for selling the instant bingo tickets, provided, however, that after the deal has been sold, the owner or lessor shall pay to the charitable instant bingo organization the value of any unredeemed instant bingo prizes remaining in the deal of instant bingo tickets.

THE CHARITABLE INSTANT BINGO ORGANIZATION SHALL PAY SIX PER CENT OF THE TOTAL GROSS RECEIPTS OF ANY DEAL OF INSTANT BINGO TICKETS FOR THE PURPOSE OF REIMBURSING THE OWNER OR LESSOR FOR EXPENSES DESCRIBED IN THIS SUBSECTION.

AS USED IN THIS SUBSECTION “EXPENSES” MEANS THOSE ITEMS PROVIDED FOR IN SUBSECTION (gg)(4), (5), (6), (7), (8), (12) AND (13) OF SECTION 517.01 AND THAT PERCENTAGE OF THE OWNER’S OR LESSOR’S RENT FOR THE LOCATION WHERE INSTANT BINGO IS CONDUCTED. “EXPENSES” IN THE AGGREGATE, SHALL NOT EXCEED SIX PER CENT OF THE TOTAL GROSS RECEIPTS OF ANY DEAL OF INSTANT BINGO TICKETS.

As used in this subsection, “full gross profit” means the amount by which the total receipts of all instant bingo tickets, if the deal had been sold in full, exceeds the amount that would be paid out if all prizes were redeemed.

~~[(f)]~~(e) A charitable instant bingo organization shall provide the Attorney General with all of the following information:

- (1) That the charitable instant bingo organization has terminated a contract entered into pursuant to subsection ~~[(e)]~~(b) of this section with an owner or lessor of a location;
- (2) That the charitable instant bingo organization has entered into a written contract pursuant to subsection ~~[(e)]~~(b) of this section with a new owner or lessor of a location;
- (3) That the charitable instant bingo organization is aware of conduct by the owner or lessor of a location at which instant bingo is conducted that is in violation of this chapter or Ohio R.C. Chapter 2915.

~~[(g)]~~(f) Subsection ~~[(d)]~~(c) of this section does not apply to a volunteer firefighter’s organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code, that conducts instant bingo other than at a bingo session on the premises where the organization conducts firefighter training, that has conducted instant bingo continuously for at least five years prior to July 1, 2003, and that, during each of those five years, had gross receipts of at least one million five hundred thousand dollars. (ORC 2915.093[; ~~Ord. 87-05. Passed 5-9-05.~~])

517.10 LOCATION OF INSTANT BINGO.

(a) No owner or lessor of a location shall assist a charitable instant bingo organization in the conduct of instant bingo other than at a bingo session at that location unless the owner or lessor has entered into a written contract, as described in Section 517.09~~[(e)]~~, with the charitable instant bingo organization to assist in the conduct of instant bingo other than at a bingo session.

[No further changes to this Section.]

517.11 BINGO OR GAME OF CHANCE RECORDS.

[No changes until Paragraph (a)(4)]

- (a) (4) An itemized list of the recipients of the net profit of the bingo or game of chance, including the name and address of each recipient to whom the money is distributed, and if the organization uses the net profit of bingo, or the money or assets received from a game of chance, for any charitable or other purpose set forth in Section 517.01~~[(z)]~~(v), Section 517.02(d), or Ohio R.C. 2915.101, a list of each purpose and an itemized list of each expenditure for each purpose;
- (5) The number of persons who participate in any bingo session or game of chance that is conducted by the charitable organization;

- (6) A list of receipts from the sale of food and beverages by the charitable organization or one of its auxiliary units or societies, if the receipts were excluded from "gross receipts" Section 517.01~~[(*)]~~(t);

[No further changes until Paragraph (c)]

(c) The gross profit from each bingo session or game described in Section 517.01~~[(s)]~~(o)(1) or (2) shall be deposited into a checking account devoted exclusively to the bingo session or game. Payments for allowable expenses incurred in conducting the bingo session or game and payments to recipients of some or all of the net profit of the bingo session or game shall be made only by checks **OR ELECTRONIC FUND TRANSFERS** drawn on the bingo session or game account.

[No further changes to this Section.]

517.13 BINGO EXCEPTIONS.

[No changes until Paragraph (a)(1)D.2.]

- (a) (1) D. 2. A scheme or game of chance or bingo described in Section 517.01~~[(s)]~~(o)(2).

[No further changes until Paragraph (a)(2)F.2.]

- (a) (2) F. 2. A scheme of chance or game of chance or bingo described in Section 517.01~~[(s)]~~(o)(2).

[No further changes to this Section.]

517.15 SKILL-BASED AMUSEMENT MACHINES.

- (a) (1) No person shall give to another person any item described in Section 517.01~~[(bbb)]~~(vv)(1), (2), (3), or (4) in exchange for a noncash prize, toy, or novelty received as a reward for playing or operating a skill-based amusement machine or for a free or reduced-prize game won on a skill-based amusement machine.

[No further changes to this Section.]

525.02 FALSIFICATION.

[No changes to this Section until paragraph (a)(4)]

- (a) (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.

[No further changes to this Section.]

537.03 ASSAULT.

[No changes to this Section until paragraph (c)]

(c) (1) Whoever violates this section is guilty of assault, a misdemeanor of the first degree, and the court shall sentence the offender as provided in subsection (c) hereof. If the assault was committed under the circumstances provided in subsection (c)~~[(1),]~~ (2), (3), ~~[or]~~ (4), (5), (6), (7) or (8) hereof, assault is a felony and shall be prosecuted under appropriate State law. ~~[(Ord. 145-09. Passed 12-14-09.)]~~

~~[(1)]~~(2) Except as otherwise provided in this subsection, if the offense is committed by a caretaker against a functionally impaired person under the caretaker's care.

~~[(2)]~~(3) If the offense is committed in any of the following circumstances:

- A. The offense occurs in or on the grounds of a State correctional institution or an institution of the Department of Youth Services, the victim of the offense is an employee of the Department of Rehabilitation and Correction, the Department of Youth Services, or a probation department or is on the premises of the particular institution for business purposes or as a visitor, and the offense is committed by a person incarcerated in the State correctional institution, a person institutionalized in the Department of Youth Services institution pursuant to a commitment to the Department of Youth Services, by a parolee, by an offender under transitional control, under a community control sanction, or on an escorted visit, by a person under post-release control, or by an offender under any other type of supervision by a government agency.
- B. The offense occurs in or on the grounds of a local correctional facility, the victim of the offense is an employee of the local correctional facility or a probation department or is on the premises of the facility for business purposes or as a visitor, and the offense is committed by a person who is under custody in the facility subsequent to the person's arrest for any crime or delinquent act, subsequent to the person's being charged with or convicted of any crime, or subsequent to the person's being alleged to be or adjudicated a delinquent child.
- C. The offense occurs off the grounds of a State correctional institution and off the grounds of an institution of the Department of Youth Services, the victim of the offense is an employee of the Department of Rehabilitation and Correction, the Department of Youth Services, or a probation department, the offense occurs during the employee's official work hours and while the employee is engaged in official work responsibilities, and the offense is committed by a person incarcerated in a State correctional institution or institutionalized in the Department of Youth Services who temporarily is outside of the institution for any purpose, by a parolee, by an offender under transitional control, under a community control sanction, or on an escorted visit, by a person

under post-release control, or by an offender under any other type of supervision by a government agency.

D. The offense occurs off the grounds of a local correctional facility, the victim of the offense is an employee of the local correctional facility or a probation department, the offense occurs during the employee's official work hours and while the employee is engaged in official work responsibilities, and the offense is committed by a person who is under custody in the facility subsequent to the person's arrest for any crime or delinquent act, subsequent to the person being charged with or convicted of any crime, or subsequent to the person being alleged to be or adjudicated a delinquent child and who temporarily is outside of the facility for any purpose or by a parolee, by an offender under transitional control, under a community control sanction, or on an escorted visit, by a person under post-release control, or by an offender under any other type of supervision by a government agency.

E. The victim of the offense is a school teacher or administrator or a school bus operator, and the offense occurs in a school, on school premises, in a school building, on a school bus or while the victim is outside of school premises or a school bus and is engaged in duties or official responsibilities associated with the victim's employment or position as a school teacher or administrator or a school bus operator, including, but not limited to, driving, accompanying, or chaperoning students at or on class or field trips, athletic events, or other school extracurricular activities or functions outside of school premises.

~~[(3)]~~(4) If the victim of the offense is a peace officer or an investigator of the Bureau of Criminal Identification and Investigation, a firefighter, or a person performing emergency medical service, while in the performance of their official duties.

(5) **IF THE VICTIM OF THE OFFENSE IS A PEACE OFFICER OR AN INVESTIGATOR OF THE BUREAU OF CRIMINAL IDENTIFICATION AND INVESTIGATION AND IF THE VICTIM SUFFERED SERIOUS PHYSICAL HARM AS A RESULT OF THE COMMISSION OF THE OFFENSE.**

~~[(4)]~~(6) If the victim of the offense is an officer or employee of a public children services agency or a private child placing agency and the offense relates to the officer's or employee's performance or anticipated performance of official responsibilities or duties. [~~ORC 2903.13; Ord. 139-07. Passed 11-19-07.~~]

(7) **IF THE VICTIM OF THE OFFENSE IS A HEALTH CARE PROFESSIONAL OF A HOSPITAL, A HEALTH CARE WORKER OF A HOSPITAL, OR A SECURITY OFFICER OF A HOSPITAL WHOM THE OFFENDER KNOWS OR HAS REASONABLE CAUSE TO KNOW IS A HEALTH CARE PROFESSIONAL OF A HOSPITAL; A HEALTH CARE WORKER OF A HOSPITAL, OR**

A SECURITY OFFICER OF A HOSPITAL, IF THE VICTIM IS ENGAGED IN THE PERFORMANCE OF THE VICTIM'S DUTIES, AND IF THE HOSPITAL OFFERS DE-ESCALATION OR CRISIS INTERVENTION TRAINING FOR SUCH PROFESSIONALS, WORKERS OR OFFICERS, ASSAULT IS ONE OF THE FOLLOWING:

- A. EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (c)(7)B. OF THIS SECTION, ASSAULT COMMITTED IN THE SPECIFIED CIRCUMSTANCES IS A MISDEMEANOR OF THE FIRST DEGREE. NOTWITHSTANDING THE FINE SPECIFIED IN DIVISION (A)(2)(B) OF OHIO R.C. 2929.28 FOR A MISDEMEANOR OF THE FIRST DEGREE, IN SENTENCING THE OFFENDER UNDER THIS SUBSECTION AND IF THE COURT DECIDES TO IMPOSE A FINE, THE COURT MAY IMPOSE UPON THE OFFENDER A FINE OF NOT MORE THAN FIVE THOUSAND DOLLARS (\$5,000).**
- B. IF THE OFFENDER PREVIOUSLY HAS BEEN CONVICTED OF OR PLEADED GUILTY TO ONE OR MORE ASSAULT OR HOMICIDE OFFENSES COMMITTED AGAINST HOSPITAL PERSONNEL, ASSAULT COMMITTED IN THE SPECIFIED CIRCUMSTANCES IS A FELONY.**

(8) IF THE VICTIM OF THE OFFENSE IS A JUDGE, MAGISTRATE, PROSECUTOR OR COURT OFFICIAL OR EMPLOYEE WHOM THE OFFENDER KNOWS OR HAS REASONABLE CAUSE TO KNOW IS A JUDGE, MAGISTRATE, PROSECUTOR OR COURT OFFICIAL OR EMPLOYEE, AND IF THE VICTIM IS ENGAGED IN THE PERFORMANCE OF THE VICTIM'S DUTIES, ASSAULT IS ONE OF THE FOLLOWING:

- A. EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (c)(8)B. OF THIS SECTION, ASSAULT COMMITTED IN THE SPECIFIED CIRCUMSTANCES IS A MISDEMEANOR OF THE FIRST DEGREE. IN SENTENCING THE OFFENDER UNDER THIS SUBSECTION, IF THE COURT DECIDES TO IMPOSE A FINE, NOTWITHSTANDING THE FINE SPECIFIED IN DIVISION (A)(2)(b) OF OHIO R.C. 2929.28 FOR A MISDEMEANOR OF THE FIRST DEGREE, THE COURT MAY IMPOSE UPON THE OFFENDER A FINE OF NOT MORE THAN FIVE THOUSAND DOLLARS (\$5,000).**
- B. IF THE OFFENDER PREVIOUSLY HAS BEEN CONVICTED OF OR PLEADED GUILTY TO ONE OR MORE ASSAULT OR HOMICIDE OFFENSES COMMITTED AGAINST JUSTICE SYSTEM PERSONNEL,**

**ASSAULT COMMITTED IN THE SPECIFIED
CIRCUMSTANCES IS A FELONY.**

~~[(5)]~~(9) If an offender who is convicted of or pleads guilty to assault when it is a misdemeanor also is convicted of or pleads guilty to a specification as described in Ohio R.C. 2941.1423 that was included in the indictment, count in the indictment or information charging the offense, the court shall sentence the offender to a mandatory jail term as provided in division (G) of Ohio R.C. 2929.24. [~~Ord. 145-09. Passed 12-14-09.~~]

[No further changes until Paragraph (d)(6)A.]

(d) (6) A. A person who is employed in the public schools of the State under a contract described in Ohio R.C. **3311.77 OR** 3319.08 in a position in which the person is required to have a certificate issued pursuant to Ohio R.C. 3319.22 to 3319.311.

[No further changes until Paragraph (d)(11)]

(11) **“HEALTH CARE PROFESSIONAL” AND “HEALTH CARE WORKER” HAVE THE SAME MEANINGS AS IN OHIO R.C. 2305.234.**

(12) **“ASSAULT OR HOMICIDE OFFENSE COMMITTED AGAINST HOSPITAL PERSONNEL” MEANS A VIOLATION OF THIS SECTION OR OHIO R.C. 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13 OR 2903.14 COMMITTED IN CIRCUMSTANCES IN WHICH ALL OF THE FOLLOWING APPLY:**

A. **THE VICTIM OF THE OFFENSE WAS A HEALTH CARE PROFESSIONAL OF A HOSPITAL, A HEALTH CARE WORKER OF A HOSPITAL OR A SECURITY OFFICER OF A HOSPITAL.**

B. **THE OFFENDER KNEW OR HAD REASONABLE CAUSE TO KNOW THAT THE VICTIM WAS A HEALTH CARE PROFESSIONAL OF A HOSPITAL, A HEALTH CARE WORKER OF A HOSPITAL, OR A SECURITY OFFICER OF A HOSPITAL;**

C. **THE VICTIM WAS ENGAGED IN THE PERFORMANCE OF THE VICTIM’S DUTIES.**

D. **THE HOSPITAL OFFERED DE-ESCALATION OR CRISIS INTERVENTION TRAINING FOR SUCH PROFESSIONALS, WORKERS OR OFFICERS.**

(13) **“DE-ESCALATION OR CRISIS INTERVENTION TRAINING” MEANS DE-ESCALATION OR CRISIS INTERVENTION TRAINING FOR HEALTH CARE PROFESSIONALS OF A HOSPITAL, HEALTH CARE WORKERS OF A HOSPITAL, AND SECURITY OFFICERS OF A HOSPITAL TO FACILITATE INTERACTION WITH PATIENTS, MEMBERS OF A PATIENT’S FAMILY, AND VISITORS, INCLUDING THOSE WITH MENTAL**

IMPAIRMENTS.

- (14) **“ASSAULT OR HOMICIDE OFFENSE COMMITTED AGAINST JUSTICE SYSTEM PERSONNEL” MEANS A VIOLATION OF THIS SECTION OR OF OHIO R.C. 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13 OR 2903.14 COMMITTED IN CIRCUMSTANCES IN WHICH THE VICTIM OF THE OFFENSE WAS A JUDGE, MAGISTRATE, PROSECUTOR, OR COURT OFFICIAL OR EMPLOYEE WHOM THE OFFENDER KNEW OR HAD REASONABLE CAUSE TO KNOW WAS A JUDGE, MAGISTRATE, PROSECUTOR, OR COURT OFFICIAL OR EMPLOYEE, AND THE VICTIM WAS ENGAGED IN THE PERFORMANCE OF THE VICTIM’S DUTIES.**
- (15) **“COURT OFFICIAL OR EMPLOYEE” MEANS ANY OFFICIAL OR EMPLOYEE OF A COURT CREATED UNDER THE CONSTITUTION OR STATUTES OF THIS STATE OR OF A UNITED STATES COURT LOCATED IN THIS STATE.**
- (16) **“JUDGE” MEANS A JUDGE OF A COURT CREATED UNDER THE CONSTITUTION OR STATUTES OF THIS STATE OR OF A UNITED STATES COURT LOCATED IN THIS STATE.**
- (17) **“MAGISTRATE” MEANS AN INDIVIDUAL WHO IS APPOINTED BY A COURT OF RECORD OF THIS STATE AND WHO HAS THE POWERS AND MAY PERFORM THE FUNCTIONS SPECIFIED IN CIVIL RULE 53, CRIMINAL RULE 19, OR JUVENILE RULE 40, OR AN INDIVIDUAL WHO IS APPOINTED BY A UNITED STATES COURT LOCATED IN THIS STATE WHO HAS SIMILAR POWERS AND FUNCTIONS.**
- (18) **“PROSECUTOR” HAS THE SAME MEANING AS IN OHIO R.C. 2935.01.**
- (19) A. **“HOSPITAL” MEANS, SUBJECT TO SUBSECTION (d)(19)B. OF THIS SECTION, AN INSTITUTION CLASSIFIED AS A HOSPITAL UNDER OHIO R.C. 3701.01 IN WHICH ARE PROVIDED TO PATIENTS DIAGNOSTIC, MEDICAL, SURGICAL, OBSTETRICAL, PSYCHIATRIC, OR REHABILITATION CARE OR A HOSPITAL OPERATED BY A HEALTH MAINTENANCE ORGANIZATION.**
- B. **“HOSPITAL” DOES NOT INCLUDE ANY OF THE FOLLOWING:**
1. **A FACILITY LICENSED UNDER OHIO R.C. CHAPTER 3721, A HEALTH CARE FACILITY OPERATED BY THE DEPARTMENT OF MENTAL HEALTH OR THE DEPARTMENT OF DEVELOPMENTAL DISABILITIES, A HEALTH MAINTENANCE ORGANIZATION THAT DOES NOT OPERATE A HOSPITAL, OR THE OFFICE OF**

ANY PRIVATE, LICENSED HEALTH CARE PROFESSIONAL, WHETHER ORGANIZED FOR INDIVIDUAL OR GROUP PRACTICE;

- 2. AN INSTITUTION FOR THE SICK THAT IS OPERATED EXCLUSIVELY FOR PATIENTS WHO USE SPIRITUAL MEANS FOR HEALING AND FOR WHOM THE ACCEPTANCE OF MEDICAL CARE IS INCONSISTENT WITH THEIR RELIGIOUS BELIEFS, ACCREDITED BY A NATIONAL ACCREDITING ORGANIZATION, EXEMPT FROM FEDERAL INCOME TAXATION UNDER SECTION 501 OF THE "INTERNAL REVENUE CODE OF 1986", 100 STAT. 2085, 26 U.S.C. 1, AS AMENDED, AND PROVIDING TWENTY-FOUR-HOUR NURSING CARE PURSUANT TO THE EXEMPTION IN DIVISION (E) OF OHIO R.C. 4723.32 FROM THE LICENSING REQUIREMENTS OF OHIO R.C. CHAPTER 4723.**

(20) "HEALTH MAINTENANCE ORGANIZATION" HAS THE SAME MEANING AS IN OHIO R.C. 3727.01. (ORC 2903.13)

537.12 MISUSE OF 9-1-1 SYSTEM.

(a) "9-1-1 system" means a system through which individuals can request emergency service using the telephone number 9-1-1. (ORC [~~4931.40~~] **5507.01**)

(b) No person shall knowingly use the telephone number of the 9-1-1 system established under Ohio R.C. [~~4931.40 to 4931.70~~] **5507** to report an emergency if he knows that no emergency exists.

(c) No person shall knowingly use a 9-1-1 system for a purpose other than obtaining emergency service.

(d) No person shall disclose or use any information concerning telephone numbers, addresses, or names obtained from the data base that serves the public safety answering point of a 9-1-1 system established under Ohio R.C. [~~4931.40 to 4931.70~~] **5507**, except for any of the following purposes or under any of the following circumstances:

- (1) For the purpose of the 9-1-1 system;
- (2) For the purpose of responding to an emergency call to an emergency service provider;
- (3) In the circumstance of the inadvertent disclosure of such information due solely to technology of the wireline telephone network portion of the 9-1-1 system not allowing access to the data base to be restricted to 9-1-1 specific answering lines at a public safety answering point;
- (4) In the circumstance of access to a data base being given by a telephone company that is a wireline service provider to a public utility or municipal

utility in handling customer calls in times of public emergency or service outages. The charge, terms, and conditions for the disclosure or use of such information for the purpose of such access to a data base shall be subject to the jurisdiction of the ~~[Public Utilities Commission]~~ **DEPARTMENT OF PUBLIC SAFETY.**

- (5) In the circumstance of access to a data base given by a telephone company that is a wireline service provider to a state and local government in warning of a public emergency, as determined by the ~~[Public Utilities Commission]~~ **DEPARTMENT OF PUBLIC SAFETY.** The charge, terms, and conditions for the disclosure or use of that information for the purpose of access to a data base is subject to the jurisdiction of the ~~[Public Utilities Commission]~~ **DEPARTMENT OF PUBLIC SAFETY.** (ORC ~~[4931.49]~~ **5507.32**)

[No further changes to this Section.]

545.01 DEFINITIONS.

[No changes to this Section until Paragraph (e)]

- (e) "Services" include labor, personal services, professional services, rental services, public utility services, including wireless service as defined in Ohio R.C. ~~[4931.40]~~ **5507(F)(1)**, common carrier services, and food, drink, transportation, entertainment and cable television services. ~~[(Ord. 145-09- Passed 12-14-09.)]~~

[No further changes to this Section.]

545.05 PETTY THEFT.

[No changes to this Section until Paragraph (b)(8)]

- (b) (8) **THE PROPERTY STOLEN IS A SPECIAL PURPOSE ARTICLE AS DEFINED IN OHIO R.C. 4737.04 OR A BULK MERCHANDISE CONTAINER AS DEFINED IN OHIO R.C. 4737.012.**

[No further changes to this Section.]

545.18 RECEIVING STOLEN PROPERTY.

[No changes to this Section until Paragraph (c)(2)D.]

- (c) (2) **D. THE SPECIAL PURCHASE ARTICLE AS DEFINED IN OHIO R.C. 4737.04 OR A BULK MERCHANDISE CONTAINER AS DEFEINDED IN OHIO R.C. 4737.012. (ORC 2913.51)**

549.01 DEFINITIONS.

[No changes to this Section until Paragraph (n)]

- (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 LICENCE 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. (ORC 2923.11)

549.02 CARRYING CONCEALED WEAPONS.

[No changes to this Section until Paragraph (b)]

(b) No person who has been issued a CONCEALED HANDGUN license [~~or temporary emergency license to carry a concealed handgun under Ohio R.C. 2923.125 or 2923.1213 or a license to carry a concealed handgun that was issued by another state with which the Attorney General has entered into a reciprocity agreement under Ohio R.C. 109.69~~], shall do any of the following:

- (1) If the person is stopped for a law enforcement purpose, and is carrying a concealed handgun, fail to promptly inform any law enforcement officer who approaches the person after the person has been stopped that the person has been issued a **CONCEALED HANDGUN** license [~~or temporary emergency license to carry a concealed handgun~~] and that the person then is carrying a concealed handgun;
 - (2) If the person is stopped for a law enforcement purpose and [~~if the person~~] 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 [~~if the person~~] is carrying a concealed handgun, knowingly disregard or fail to comply with any lawful order of any law enforcement officer given while the person is stopped, including, but not limited to, a specific order to the person to keep the person's hands in plain sight.
- (c) (1) This section does not apply to any of the following:
- A. An officer, agent or employee of this or any other state or the United States, or to a law enforcement officer, who is authorized to carry concealed weapons or dangerous ordnance, or is authorized to carry handguns and is acting within the scope of the officer's, agent's or employee's duties;
 - B. Any person who is employed in this State, who is authorized to carry concealed weapons or dangerous ordnance or is authorized to carry handguns, and who is subject to and in compliance with the requirements of Ohio R.C. 109.801 unless the appointing authority of the person has expressly specified that the exemption provided in subsection (c)(1)B. hereof does not apply to the person.
 - C. A person's transportation or storage of a firearm, other than a firearm described in divisions (G) to (M) of Ohio R.C. 2923.11 in a motor vehicle for any lawful purpose if the firearm is not, on the actor's person;
 - D. A person's storage or possession of a firearm, other than a firearm described in divisions (G) to (M) of Ohio R.C. 2923.11 in the actor's own home for any lawful purpose.
- (2) Subsection (a)(2) of this section does not apply to any person who, at the time of the alleged carrying or possession of a handgun, is carrying a valid **CONCEALED HANDGUN** license [~~or temporary emergency license to carry a concealed handgun issued to the person under Ohio R.C. 2923.125 or 2923.1213 or a license to carry a concealed handgun that was issued by another state with which the Attorney General has entered into a reciprocity agreement under Ohio R.C. 109.69~~], unless the person knowingly is in a place described in division (B) of Ohio R.C. 2923.126.

[No further changes until Paragraph (e)]

(e) No person who is charged with a violation of this section shall be required to obtain a ~~license or temporary emergency license to carry a~~ concealed handgun **LICENSE** ~~[under Ohio R.C. 2923.125 or 2923.1213]~~ as a condition for the dismissal of the charge.

- (f) (1) Whoever violates this section is guilty of carrying concealed weapons. Except as otherwise provided in this subsection or subsection (f)(2) 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 subsection (f)(2) 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 subsection (f)(2) 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) If a person being arrested for a violation of subsection (a)(2) of this section promptly produces a valid **CONCEALED HANDGUN** license ~~[or temporary emergency license issued under Ohio R.C. 2923.125 or 2923.1213 or a license to carry a concealed handgun that was issued by another state with which the Attorney General has entered into a reciprocity agreement under Ohio R.C. 109.69,]~~ and if at the time of the violation the person was not knowingly in a place described in division (B) of Ohio R.C. 2923.126, the officer shall not arrest the person for a violation of that subsection. If the person is not able to promptly produce any ~~[of those types of]~~ **CONCEALED HANDGUN** license and if the person is not in a place described in that section, the officer may arrest the person for a violation of that subsection, and the offender shall be punished as follows:
- A. The offender shall be guilty of a minor misdemeanor if both of the following apply:
1. Within ten days after the arrest, the offender presents a **CONCEALED HANDGUN** license ~~[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 that was issued by another state with which the Attorney General has entered into a reciprocity agreement under Ohio R.C. 109.69,]~~ 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 [~~to carry a concealed handgun under Ohio R.C. 2923.125 or a license to carry a concealed handgun that was issued by another state with which the Attorney General has entered into a reciprocity agreement under Ohio R.C. 109.69, and that was similar in nature to a license issued under Ohio R.C. 2923.125~~] 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 [~~identified in subsection (f)(2)A.1. of this section~~] 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 neither subsection (f)(2)A. nor B. of this section applies, the offender shall be punished under subsection (f)(1) of this section.
- (3) Except as otherwise provided in this subsection, carrying concealed weapons in violation of subsection (b)(1) hereof is a misdemeanor of the first degree, and, in addition to any other penalty or sanction imposed for a violation of subsection (b)(1) hereof, the offender's **CONCEALED HANDGUN** license [~~or temporary emergency license to carry a concealed handgun~~] shall be suspended pursuant to Ohio R.C. 2923.128(A)(2).
- If, at the time of the stop of the offender for a law enforcement purpose that was the basis of the violation, any law enforcement officer involved with the stop had actual knowledge that the offender has been issued a **CONCEALED HANDGUN** license [~~or temporary emergency license to carry a concealed handgun~~], carrying concealed weapons in violation of division (b)(1) of this section is a minor misdemeanor, and the offender's **CONCEALED HANDGUN** license [~~or temporary emergency license to carry a concealed handgun~~] shall not be suspended pursuant to division (A)(2) of Ohio R.C. 2923.128.
- (4) Except as otherwise provided herein, carrying concealed weapons in violation of subsection (b)(2) or (b)(3) hereof is a misdemeanor of the first degree. If the offender has previously been convicted or pleaded guilty to a violation of Ohio R.C. 2923.12(B)(2) or (B)(4) or a substantially equivalent municipal ordinance, carrying concealed weapons is a felony and shall be prosecuted under appropriate

state law. In addition to any other penalty or sanction imposed for a violation of subsection (b)(2) or (b)(3) hereof, the offender's **CONCEALED HANDGUN** license [~~or temporary emergency license to carry a concealed handgun~~] shall be suspended pursuant to Ohio R.C. 2923.128(A)(2).

[No further changes to this Section.]

549.04 IMPROPERLY HANDLING FIREARMS IN A MOTOR VEHICLE.

[No changes to this Section until Paragraph (b)]

(b) No person who has been issued a **CONCEALED HANDGUN** license [~~or temporary emergency license to carry a concealed handgun under Ohio R.C. 2923.125 or 2923.1213 or a license to carry a concealed handgun that was issued to the person by another state with which the Attorney General has entered into a reciprocity agreement under Ohio R.C. 109.69~~], who is the driver or an occupant of a motor vehicle that is stopped as a result of a traffic stop or a stop for another law enforcement purpose or is the driver or an occupant of a commercial motor vehicle that is stopped by an employee of the motor carrier enforcement unit for the purposes defined in Ohio R.C. 5503.34, and who is transporting or has a loaded handgun in the motor vehicle or commercial motor vehicle in any manner, shall do any of the following:

- (1) Fail to promptly inform any law enforcement officer who approaches the vehicle while stopped that the person has been issued a **CONCEALED HANDGUN** license [~~or temporary emergency license to carry a concealed handgun~~] and that the person then possesses or has a loaded handgun in the motor vehicle;
- (2) Fail to promptly inform the employee of the unit who approaches the vehicle while stopped that the person has been issued a **CONCEALED HANDGUN** license [~~or temporary emergency license to carry a concealed handgun~~] and that the person then possesses or has a loaded handgun in the commercial motor vehicle.

[No further changes to this Section until Paragraph (c)(2)A.]

- (c) (2) A. The person transporting or possessing the handgun is carrying a valid **CONCEALED HANDGUN** license [~~or temporary emergency license to carry a concealed handgun issued to the person under Ohio R.C. 2923.125 or 2923.1213 or a license to carry a concealed handgun that was issued by another state with which the Attorney General has entered into a reciprocity agreement under Ohio R.C. 109.69~~].

[No further changes to this Section until Paragraph (e)]

- (e) (1) No person who is charged with a violation of subsection (a) shall be required to obtain a **CONCEALED HANDGUN** license [~~or temporary emergency license to carry a concealed handgun under Ohio R.C. 2923.125 or 2923.1213~~] 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, [the effective date of this amendment]** and if the conduct that was the basis of the violation no longer would be a violation of subsection (b) of this section on or after **SEPTEMBER 30, 2011 [the effective date of this amendment]**, the person may file an application under Ohio R.C. 2953.37 requesting the expungement of the record of conviction.

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

(f) Whoever violates this section is guilty of improperly handling firearms in a motor vehicle. Violation of subsection (a) of this section is a misdemeanor of the fourth degree. Except as otherwise provided in this subsection, a violation of subsection (b)(1) or (b)(2) of this section is a misdemeanor of the first degree, and, in addition to any other penalty or sanction imposed for the violation, the offender's **CONCEALED HANDGUN** license [~~or temporary emergency license to carry a concealed handgun~~] shall be suspended pursuant to Ohio R.C. 2923.128(A)(2). If at the time of the stop of the offender for a traffic stop, for another law enforcement purpose, or for a purpose defined in Ohio R.C. 5503.34 that was the basis of the violation any law enforcement officer involved with the stop or the employee of the motor carrier enforcement unit who made the stop had actual knowledge of the offender's status as a licensee, a violation of subsection (b)(1) or (b)(2) of this section is a minor misdemeanor, and the offender's **CONCEALED HANDGUN** license [~~or temporary emergency license to carry a concealed handgun~~] shall not be suspended pursuant to division (A)(2) of Ohio R.C. 2923.128. A violation of subsection (b)(3) or (4) of this section is a misdemeanor of the first degree or, if the offender previously has been convicted of or pleaded guilty to a violation of subsection (b)(3) or (4) of this section, a felony and shall be prosecuted under appropriate State law. In addition to any other penalty or sanction imposed for a misdemeanor violation of subsection (b)(3) or (4) of this section, the offender's **CONCEALED HANDGUN** license [~~or temporary emergency license to carry a concealed handgun~~] shall be suspended pursuant to Ohio R.C. 2923.128(A)(2).

[No further changes to this Section until Paragraph (h)(2)A.]

(h) (2) A. "Unloaded" means **[any of the following]**:

1. **WITH RESPECT TO A FIREARM OTHER THAN A FIREARM DESCRIBED IN SUBSECTION (h)(2)B. OF THIS SECTION, THAT [N]no ammunition is in the firearm in question, and no [ammunition is loaded into a]**

magazine or speed loader CONTAINING AMMUNITION IS INSERTED INTO THE FIREARM IN QUESTION AND ONE OF THE FOLLOWING APPLIES: ~~[that may be used with the firearm in question and that is located anywhere within the vehicle in question, without regard to where ammunition otherwise is located within the vehicle in question. For the purposes of this subsection (h)(2)A., ammunition held in stripper clips or in en-bloc clips is not considered ammunition that is loaded into a magazine or speed loader;]~~

- a. THERE IS NO AMMUNITION IN A MAGAZINE OR SPEED LOADER THAT IS IN THE VEHICLE IN QUESTION AND THAT MAY BE USED WITH THE FIREARM IN QUESTION.
 - b. ANY MAGAZINE OR SPEED LOADER THAT CONTAINS AMMUNITION AND THAT MAY BE USED WITH THE FIREARM IN QUESTION IS STORED IN A COMPARTMENT WITHIN THE VEHICLE IN QUESTION THAT CANNOT BE ACCESSED WITHOUT LEAVING THE VEHICLE OR IS STORED IN A CONTAINER THAT PROVIDES COMPLETE AND SEPARATE ENCLOSURE.
2. FOR THE PURPOSES OF SUBSECTION (h)(2)A.1.b. OF THIS SECTION, A “CONTAINER THAT PROVIDES COMPLETE AND SEPARATE ENCLOSURE” INCLUDES, BUT IS NOT LIMITED TO, ANY OF THE FOLLOWING:
- a. A PACKAGE, BOX OR CASE WITH MULTIPLE COMPARTMENTS, AS LONG AS THE LOADED MAGAZINE OR SPEED LOADER AND THE FIREARM IN QUESTION EITHER ARE IN SEPARATE COMPARTMENTS WITHIN THE PACKAGE, BOX, OR CASE, OR, IF THEY ARE IN THE SAME COMPARTMENT, THE MAGAZINE OR SPEED LOADER IS CONTAINED WITHIN A SEPARATE ENCLOSURE IN THAT COMPARTMENT THAT DOES NOT CONTAIN THE FIREARM AND THAT CLOSES USING A SNAP, BUTTON, BUCKLE, ZIPPER, HOOK AND LOOP CLOSING MECHANISM, OR OTHER FASTENER THAT MUST BE OPENED TO ACCESS THE

CONTENTS OR THE FIREARM IS CONTAINED WITHIN THE SEPARATE ENCLOSURE OF THAT NATURE IN THAT COMPARTMENT THAT DOES NOT CONTAIN THE MAGAZINE OR SPEED LOADER.

b. THE POCKET OR OTHER ENCLOSURE ON THE PERSON OF THE PERSON IN QUESTION THAT CLOSSES 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 PURPOSE OF SUBSECTION (h)(2)A. OF THIS SECTION, AMMUNITION HELD IN STRIPPER-CLIPS OR IN EN-BLOC CLIPS IS NOT CONSIDERED AMMUNITION THAT IS LOADED INTO A MAGAZINE OR SPEED LOADER.

B. “UNLOADED” MEANS, [W]with respect to a firearm employing a percussion cap, flintlock, or other obsolete ignition system, when the weapon is uncapped or when the priming charge is removed from the pan.

(3) “Commercial motor vehicle” has the same meaning as in Ohio R.C. 4506.25(A).

(4) “Motor carrier enforcement unit” means the motor carrier enforcement unit in the Department of Public Safety, Division of State Highway Patrol, that is created by Ohio R.C. 5503.34.

[(Ord. 102-11, Passed 10-11-11.)]

(i) SUBSECTION (h)(2) OF THIS SECTION DOES NOT AFFECT THE AUTHORITY OF A PERSON WHO IS CARRYING A VALID CONCEALED HANDGUN LICENSE TO HAVE ONE OR MORE MAGAZINES OR SPEED LOADERS CONTAINING AMMUNITION ANYWHERE IN A VEHICLE, WITHOUT BEING TRANSPORTED AS DESCRIBED IN THAT SUBSECTION, AS LONG AS NO AMMUNITION IS IN A FIREARM, OTHER THAN A HANDGUN, IN THE VEHICLE OTHER THAN AS PERMITTED UNDER ANY OTHER PROVISION OF THIS CHAPTER OR OHIO R.C. CHAPTER 2923. A PERSON WHO IS CARRYING A VALID CONCEALED HANDGUN LICENSE MAY HAVE ONE OR MORE MAGAZINES OR SPEED LOADERS CONTAINING AMMUNITION ANYWHERE IN A VEHICLE WITHOUT FURTHER RESTRICTION, AS LONG AS NO AMMUNITION IS IN A FIREARM, OTHER THAN A HANDGUN, IN THE VEHICLE OTHER THAN AS PERMITTED UNDER ANY PROVISION OF THIS CHAPTER OR OHIO R.C. CHAPTER 2923. (ORC 2923.16)

CITY OF FAIRFIELD, OHIO
CITY COUNCIL MEETING COMMUNICATION

DATE: January 13, 2014

ITEM:

Agreement with Butler County Public Defender Commission and Butler County Board of Commissioners to provide legal representation of indigent defendants in the Fairfield Municipal Court for 2014.

FINANCIAL IMPACT:

The Fairfield Municipal Court has estimated an annual savings of at least \$40,000.00 from the implementation of this agreement.

SYNOPSIS:

The Butler County Public Defender Commission/Butler County Board of Commissioners will provide legal representation for all indigent defendants by providing five (5) public defenders including both felony and misdemeanor representation and state statute and City ordinance violations.

BACKGROUND:

The City previously provided legal representation for indigent defendants from its own funds by appointment of attorneys on a case-by-case basis. This new system which was started in 2011 has reduced the overall cost of indigent defense as stated above.

RECOMMENDATION:

It is recommended that Council adopt an ordinance to authorize the City Manager to execute the agreement for indigent legal representation for 2014 in the Fairfield Municipal Court with the Butler County Public Defender Commission/Butler County Board of Commissioners. Rules suspension and the emergency clause are requested so that reimbursement by the State of Ohio can be obtained in accordance with state guidelines.

LEGISLATIVE ACTION:

Suspension of Rules and Adoption Requested? X Yes No
If **yes**, explain above.

Emergency Provision Needed? X Yes No
If **yes**, explain above.

Prepared by: Jeff H. Clemmons

Approved for Content by: Jeff H. Clemmons

Financial Review (where applicable): May Hoza

Legal Review (where applicable): Jeff H. Clemmons

Accepted for Council Agenda: Alisa Wilson

**AGREEMENT TO PROVIDE REPRESENTATION
TO INDIGENTS CHARGED IN THE FAIRFIELD MUNICIPAL COURT**

THIS AGREEMENT is entered into between the Butler County Public Defender Commission, and Butler County Commissioners, with a mailing address of 315 High Street, 6th Floor, Hamilton, Ohio 45011, hereinafter called the "County" and the City of Fairfield, Ohio, with a mailing address of 5350 Pleasant Avenue, Fairfield, Ohio 45014, hereinafter called the "City".

WITNESSETH

WHEREAS, upon the condition precedent that it receives an adequate appropriation of funds from the Butler County Commissioners and thereafter in accordance with the provisions of Chapter 120 of the Ohio Revised Code, the Commission shall on or after **January 1, 2014**, establish and thereafter operate a county public defender system within Butler County to represent indigent adults (which shall hereafter mean "indigent" as defined in Section 120.05 of the Ohio Revised code and pertinent Ohio Administrative Code provisions) who are charged in the Hamilton Municipal Court with the commission of an offense whose penalty includes a potential loss of liberty; and

WHEREAS, if the Public Defender System is not operational in order to provide representation for indigents charged with certain offenses, then assigned counsel will be appointed by the court to represent qualified individuals, and

WHEREAS, the City recognizes its responsibility under the laws of the State of Ohio and the Constitution of the United States of America to provide legal counsel to the indigent persons charged in the Fairfield Municipal Court with municipal code violations involving a potential loss of liberty, and

WHEREAS, pursuant to R.C. §120.14(E) and Ohio Administrative Code Section 120-1-09, the County is authorized to contract with a city or village for the legal representation of indigent persons charged with violations of the ordinances of a city or village, and the County is willing to expand the scope of its defense services to include indigent persons who are charged in the Fairfield Municipal Court with a violation of a municipal ordinance for which the penalty includes a potential loss of liberty.

NOW, THEREFORE, the City and County do mutually covenant and agree as follows:

1. For and in consideration of the City's annual payment of the sum of **\$51,500.00** to the County, said sum to be paid in equal monthly installments of **\$4,291.67** per month due on or before the 15th of each month upon commencement of Public Defender services in the Fairfield Municipal Court, (prorated to the commencement of PD services) and also for an in consideration of the County being authorized to receive and keep any and all reimbursement, if any, it may be able to obtain from the Ohio Public Defender Commission for such representation, the County agrees to have its Public Defender

attorneys undertake the representation of indigent adults who are charged in the Fairfield Municipal Court with the commission of an offense that is a violation of a Fairfield Municipal Ordinance for which the penalty includes a potential loss of liberty. The parties further agree that due to the staffing commitment required from the County by the Fairfield Municipal Court, this payment may also include some contribution for representation in connection with certain violations under the Ohio Revised Code as contemplated by the parties.

Indigent status shall be determined according to the standards and guidelines established by the Ohio Public Defender Commission and state public defender. Reimbursement by the City for representation of indigent persons either by the contractual amount set forth above or a fee schedule for cases as described in Paragraph 4 hereof or assigned counsel in conflict situations, does not exceed the fee schedule in effect and adopted by the Board of County Commissioners.

2. In accordance with O.A.C. 120-1-09(B), the term of this Agreement shall be one (1) year, provided that this Agreement may be renewed for additional one year terms by mutual agreement of the parties. Whether it is an original or a renewal term, each one (1) year term of this Agreement shall begin on January 1st and conclude on December 31st. This Agreement may be renewed for additional one year terms upon proper resolution evidencing the consent of each party agreeing to the one year extension and conditioned on proper appropriation of funding by the respective party's legislative authority. If this Agreement is to be renewed, or changed to a multiple year contract, in compliance with O.A.C. 120-1-09, an annual resolution of acceptance by both parties and an annual appropriation of funding from the City shall be filed with the Ohio Public Defender before the contract can qualify for reimbursement.

In the case where the initial agreement commences after January 1st, such initial term shall run from its commencement date to December 31st of such commencement year. Thereafter it shall be renewable on the full year basis.

3. The compensation set forth in Section 1 above represents all the compensation the County shall receive from the City for the Public Defender office providing professional legal services under this Agreement for indigent adults charged with a municipal code violation in the Fairfield Municipal Court or ORC code violations and does not on a per case basis exceed the amount established by County resolution pursuant to ORC 120.33.

In conflict situations where the court has assigned counsel in cases where the Public Defender has not begun providing services or cannot provide representation, and in all applications for transcripts or experts in Municipal Code violation cases, such costs will be by petition to the court and if approved, then paid by the County, however, the City will reimburse the County for these costs.

4. Assigned counsel for indigent persons who are charged with a violation of the ordinances of City shall be paid by the County at the hourly rates and caps approved by the Board of County Commissioners. The County Auditor shall bill the City monthly for these

assigned counsel costs and expert and transcript fees in municipal code violation cases and the City shall promptly reimburse the County within 10 days of billing for the cost of such assigned counsel representation, expert and transcript expenses.

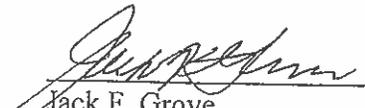
5. The City will cooperate with the county to enable the County to keep accurate, complete, and current records enabling the County to seek reimbursement from the Ohio Public Defender Commission for its services in the Fairfield Municipal Court.
6. Neither party shall assign all or any part of this Agreement without prior written consent of the other party, which consent shall not be unreasonably withheld.
7. If either party shall fail to fulfill its obligations under this Agreement in a reasonable, timely, and proper manner, or if either party shall substantially violate any of the covenants, agreements, or stipulations of this Agreement, the non-breaching party shall thereupon have the right to terminate this Agreement by giving 30 days written notice of termination to the other party in which an effective date of said termination will be stated. Termination under this provision shall not constitute a waiver of any other right or remedy the non-breaching party may have at law or in equity for breach of this Agreement.
8. All amendments to this Agreement agreed upon by the parties shall be in writing and made a part of this Agreement. This Agreement may not be modified, varied, or amended except in a written amendment signed by the parties.
9. There shall be no discrimination against any employee who is employed in the work covered by this Agreement or against any application for such employment because of race, color, religion, sex, or national origin. This provision shall apply to, but not be limited to, employment, upgrading, demotion or transfer, recruitments, or recruitment advertising, lay-off, or termination, raises of pay or other forms of compensation and selection for training, including apprenticeship. The County shall insert a similar provision in any subcontract for services covered by this Agreement.
10. Each party covenants that its staff and decision makers presently have no interest and shall not acquire any interest, direct or indirect, in this Agreement which would conflict in any manner with the performance of services required under this Agreement. No members of the Public Defender Commission or member of City Council shall take part in any services under this Agreement or have a financial interest in the providing of those services.
11. This Agreement is subject to the following terms and conditions imposed by Ohio Administrative Code Section 120-1-09: (A) This Agreement (pertaining to legal representation of indigent persons charged with one or more violations of a municipal ordinance) must be approved by the Ohio Public Defender Commission. (B) This Agreement shall be interpreted in such a fashion as to cause it to conform to the standards of indigency and other rules and standards established by the Ohio public defender commission and the state public defender.

12. This Agreement represents the final, complete, and exclusive expression of the City and County's terms of agreement and replaces all previous oral and written agreements between the City and County for the provision of misdemeanor indigent defense services for municipal code violations lodged in the Fairfield Municipal Court.

IN WITNESS WHEREOF, the parties have hereunto set their hands on the dates indicated below:

**BUTLER COUNTY PUBLIC
DEFENDER COMMISSION**

CITY OF FAIRFIELD

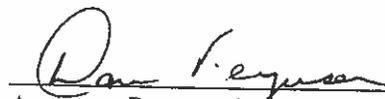


Jack F. Grove 12/20/13
Chairman Date

Arthur E. Pizzano Date
City Manager

Approved as to Form only:

Approved as to Form only:



Assistant Prosecuting Attorney 12/18/13
Date

John Clemmons Date
Law Director of the City of Fairfield

By adoption of its Resolution No. _____ adopted on _____, the Board of County Commissioners of Butler County has approved all provisions of this Agreement which pertain to the financing of defense counsel for indigent persons who are charged with a violation of the ordinances of the City of Fairfield.

Board of County Commissioners of
Butler County, Ohio

Date

Date

Date

Approved

Ohio Public Defender Date

ORDINANCE NO. _____

ORDINANCE TO AUTHORIZE THE CITY MANAGER TO EXECUTE AN AGREEMENT FOR INDIGENT LEGAL REPRESENTATION FOR 2014 IN THE FAIRFIELD MUNICIPAL COURT WITH THE BUTLER COUNTY PUBLIC DEFENDER COMMISSION/BUTLER COUNTY BOARD OF COMMISSIONERS AND DECLARING AN EMERGENCY.

BE IT ORDAINED by the Council of the City of Fairfield, Ohio, that:

Section 1. The City Manager is hereby authorized to execute an agreement with the Butler County Public Defender Commission/Butler County Board of Commissioners for indigent legal representation in the Fairfield Municipal Court for 2014 in accordance with the agreement on file in the office of the City Manager.

Section 2. This Ordinance is hereby declared to be an emergency measure necessary for the urgent benefit and protection of the City and its inhabitants for the reason that State of Ohio reimbursement can be obtained in a timely manner; wherefore, this ordinance shall take effect immediately upon its passage.

Passed _____

Mayor's Approval

Posted _____

First Reading _____

Rules Suspended _____

Second Reading _____

Emergency _____

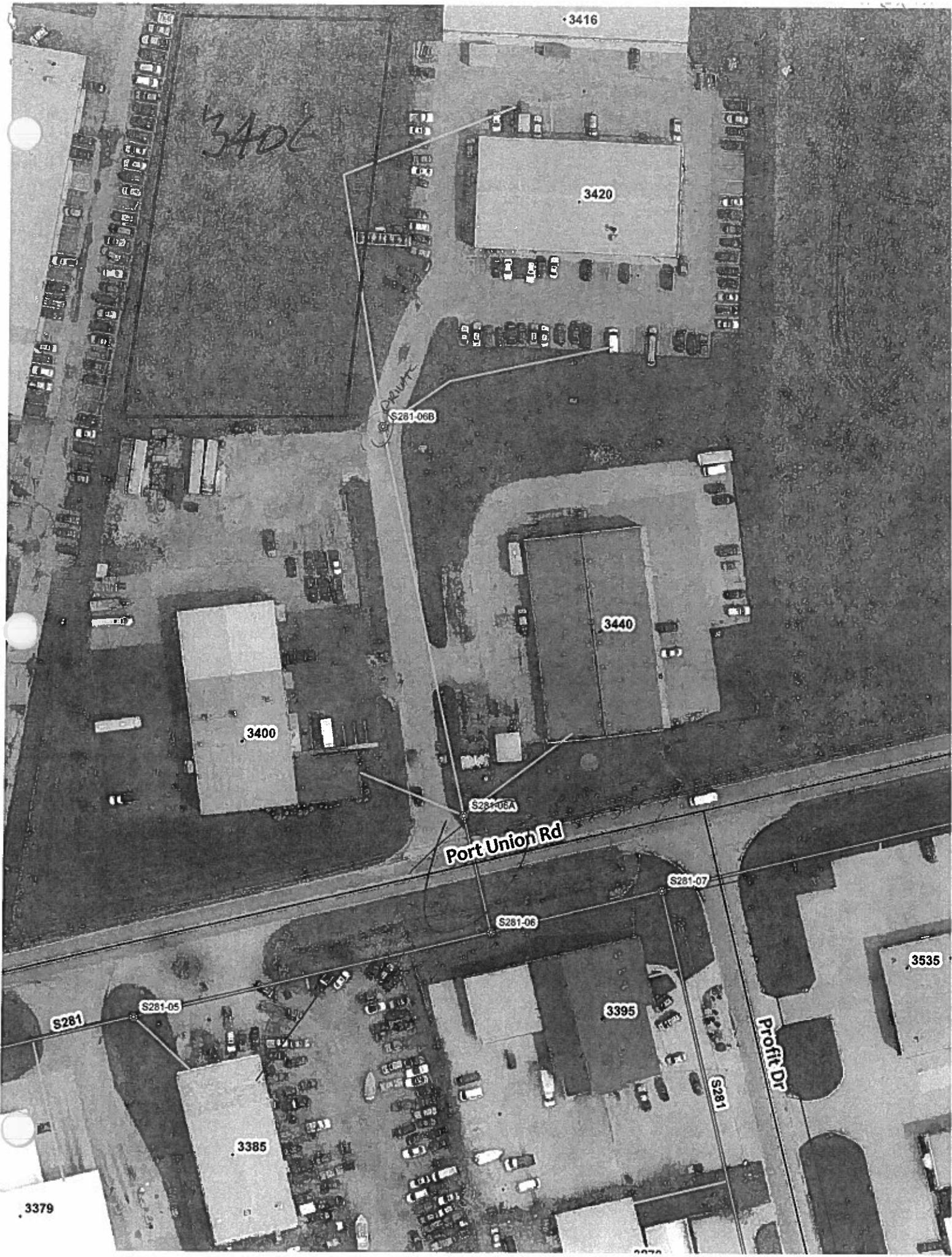
Third Reading _____

ATTEST:

Clerk of Council

This is to certify that this Ordinance has been duly published by posting and summary publication as provided by Charter.

Clerk of Council



3406

3416

3420

S281-06B

PRIVATE

3400

3440

S281-06A

Port Union Rd

S281-07

S281-06

S281-05

S281

3385

3395

S281

Profit Dr

3535

3379

RESOLUTION NO. _____

RESOLUTION PERMITTING A HAMILTON PROPERTY OWNER AT 3406
PORT UNION ROAD TO RECEIVE CITY OF FAIRFIELD, OHIO SEWER
SERVICE AND DECLARING AN EMERGENCY.

WHEREAS, the City of Hamilton does not provide sewer service to the property at 3406
Port Union Road, Hamilton, Ohio,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Fairfield, Ohio, that:

Section 1. Permission is hereby granted to the owner(s) of the property known as 3406 Port
Union Road, Hamilton, Ohio, to receive City of Fairfield, Ohio sewer service for the
use of that property only, subject to the payment of all applicable fees and
charges.

Section 2. This permission for sewer service shall terminate if and when the City of Hamilton
has adequate sewer service available to the property, at which time the property
owner shall disconnect from the City of Fairfield sewer service and connect to the
City of Hamilton sewer service and pay all appropriate fees and costs. This
permission is contingent upon execution by the property owner of a written
agreement to these terms.

Section 3. This Resolution is hereby declared to be an emergency measure necessary for the
immediate preservation of the public peace, health, safety and welfare and for the
urgent benefit and protection of the City and its inhabitants for the reason that
the sewer service to the property can be established for the use of a new facility in
a timely manner; wherefore, this Resolution shall take effect immediately upon its
passage.

Passed

Mayor's Approval

Posted

First Reading

Rules Suspended

Second Reading

Emergency

Third Reading

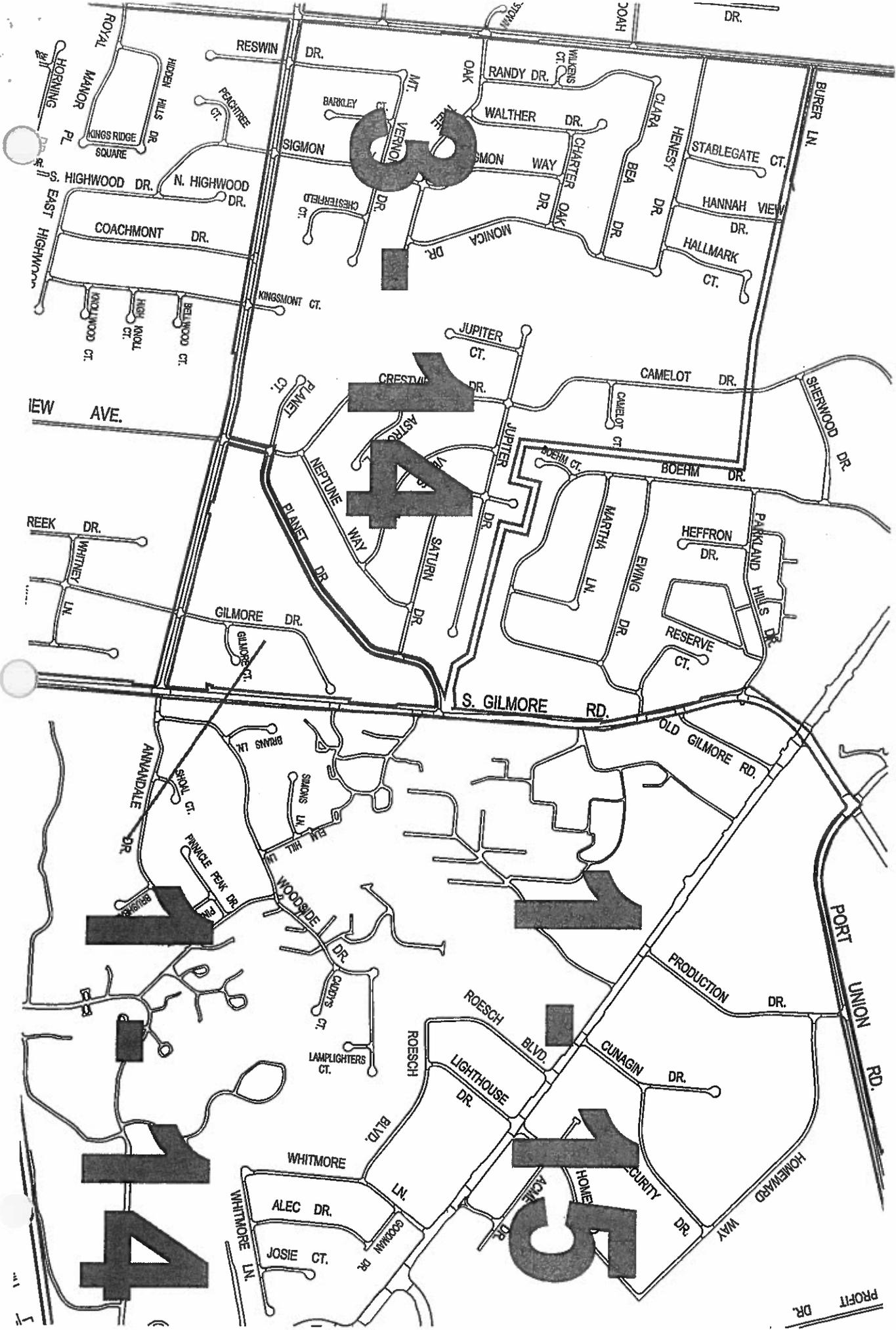
ATTEST:

Clerk of Council

This is to certify that this Resolution has been duly published by posting and summary publication as provided by Charter.

Clerk of Council

Active Clients\City of Fairfield\Ordinances\2014\3406 Port Union Rd City of Fairfield Water - Res





214





WINTON RD.

CRESTVIEW AVE.

S. GILMORE RD.

SHERWOOD DR.

INDEPENDENCE PL.

WILLAMSBURG WAY

SHENANDOAH DR.

YELLOWSTONE DR.

BURER LN.

ROYAL MANOR

HIDDEN HILLS DR.

RESWIN DR.

MT. VERNON

WALTER DR.

CLARA DR.

HENESY DR.

HALLMARK CT.

HANNAH VIEW DR.

STABLEGATE CT.

BEA DR.

CHARTER OAK DR.

WILKENS ST.

RANDY DR.

OAK DR.

WALTON WAY DR.

MONICA DR.

JUPITER CT.

ASTOR DR.

NEPTUNE WAY DR.

SATURN DR.

PLANET DR.

PLANET CT.

CRESTVIEW DR.

JUPITER DR.

CAMELOT DR.

CAMELOT CT.

BOEHM DR.

PARKLAND HILLS DR.

TOLENTINE DR.

SHENANDOAH DR.

WILKENS ST.

RANDY DR.

OAK DR.

WALTON WAY DR.

MONICA DR.

JUPITER CT.

ASTOR DR.

NEPTUNE WAY DR.

SATURN DR.

PLANET DR.

PLANET CT.

CRESTVIEW DR.

JUPITER DR.

CAMELOT DR.

CAMELOT CT.

BOEHM DR.

PARKLAND HILLS DR.

HEFFRON DR.

RESERVE CT.

EWING DR.

MARTHA LN.

HEFFRON DR.

OLD GILMORE RD.

S. GILMORE RD.

WOODSIDE LN.

SMOON LN.

INT SWAMP

ANNANDALE DR.

WOODSIDE LN.

FOUR MICH

N. GILMORE RD.

OLD GILMORE RD.

WOODSIDE LN.

SMOON LN.

INT SWAMP

ANNANDALE DR.

RESOLUTION NO. _____

RESOLUTION DECLARING NECESSITY OF REPAIRING SIDEWALKS
(INCLUDING APRONS).

WHEREAS, the Public Works Director has heretofore prepared plans, specifications and an estimate of cost for the repair of certain sidewalks (including aprons) at the locations hereinafter set forth; and

WHEREAS, said plans, specifications and estimate of cost are now on file in the office of the Clerk of Council;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Fairfield, Ohio, that:

Section 1. It is necessary to repair certain sidewalks (including aprons) in the City of Fairfield, Ohio, at the addresses of the abutting properties which are shown in the cost estimates prepared by the Public Works Director and which cost estimates are on file in the office of the Clerk of Council and are incorporated herein by reference.

Section 2. The plans, specifications and estimate of cost for said repair now on file in the office of the Clerk of Council be and the same hereby are approved.

Section 3. The owners of each lot and parcel of land bounding and abutting upon the proposed sidewalks shall repair that portion of said sidewalks (including aprons) which abuts his/her property, in accordance with the plans and specifications now on file in the office of the Clerk of Council within thirty (30) days after service of notice of the passage of this resolution.

Section 4. In the event any such abutting property owner does not complete the repair of that portion of such sidewalks (including aprons) which abut his/her property in accordance with said plans and specifications and within the time period as hereinbefore prescribed, then this Council shall cause the same to be done and the entire cost thereof shall be assessed upon the property of such abutting property owner.

Section 5. The Clerk of Council be and she hereby is authorized and directed to serve notice of the passage of this resolution upon the owners of the lots and lands abutting upon said sidewalks (including aprons) in the manner provided by law.

Section 6. This Resolution shall take effect at the earliest period allowed by law.

Passed

Mayor's Approval

Posted _____

First Reading _____

Rules Suspended _____

Second Reading _____

Third Reading _____

ATTEST:

Clerk of Council

This is to certify that this Resolution has been duly published by posting and summary publication as provided by Charter.

Clerk of Council

Active Clients\City of Fairfield\Ordinances\2014\Sidewalk - Res

CITY OF FAIRFIELD, OHIO
CITY COUNCIL COMMUNICATION

ITEM:

January 13, 2014

Request for appropriation for non-contractual agenda items.

FINANCIAL IMPACT:

\$180,000.00 from noted funding source.

SYNOPSIS:

The following appropriations have been requested:

- \$95,000 for 2014 Annual Drainage Program
- \$85,000 for 2014 Grounds, Entry-ways & Landscaping Program

BACKGROUND:

Please refer to specific Council Communications dated January 13, 2014 for a description of these items.

RECOMMENDATIONS:

It is recommended that City Council suspend the rules requiring a second and third reading of this Ordinance and adopt the appropriations listed above.

LEGISLATIVE ACTIONS:

Suspension of Rules & Adoption Requested?	<input checked="" type="checkbox"/>	<input type="checkbox"/> If yes, explain
	yes	no above
Emergency Provision Needed?	<input type="checkbox"/>	<input checked="" type="checkbox"/> If yes, explain
	yes	no above

Prepared by: Heather Wilson

Approved for Content by: Heather Wilson

Financial Review (where applicable) by: Mary Hogg

Legal Review (where applicable) by: Christina Chambers

Accepted by Council Agenda: Heather Wilson

2014 Grounds, Entry-ways & Landscaping Projects

Cutting and removing dead plants and bushes in City Entrance Signs and islands as listed below:

City Entrance Signs (17)

- | | |
|---|---|
| 1. Public Works Facility/8870 N. Gilmore Road | 9. Rt.#4 @ Tri County Christian Church |
| 2. Holden Blvd. (@N. Gilmore Road) | 10. South Gilmore Road @ CFC |
| 3. River Road north (across from Hayes Ave.) | 11. Port Union Road, east of Thunderbird |
| 4. River Road south (@ Bolton Plant) | 12. Tylersville Road, east of Seward Road |
| 5. John Gray Road @ Pleasant Ave. | 13. Bypass #4 south of Symmes Road (2) |
| 6. Winton Road @ John Gray Road | 14. Bobmeyer Road across from airport |
| 7. Ross Road (south @ Danbury Road) | 15. Rt.#4 @ Furniture store |
| 8. Pleasant Ave. north of Symmes Road | 16. Union Centre, east of Bypass #4 |
| | 17. Muhlhauser Road, west of LeSaint Dr. |

Islands/Medians (26)

- | | |
|------------------------------|-------------------------------------|
| 1 Kolb Drive | 10 – 14 Mack Road (5) |
| 2 Meijer Drive | 15 – 19 Resor Road (5) |
| 3 Furniture Fair | 20-21 Seward Road round-a-bouts (2) |
| 4 Rt. 4 (north of Woodridge) | 22-24 Seward Road long medians (4) |
| 5 – 6 Ross Road @ Rt. 4 (2) | 25 Muskopf @ Rita Mae |
| 7 – 9 South Gilmore Road (3) | 26 Fairfield Business Center |

Routine Maintenance: (includes, but is not limited to)

1. Edge and weed around City entrance signs and/or islands
2. Paint and restore City entrance signs as needed
3. Maintenance of sprinkler systems on Mack Road, Gilmore Road, Kolb Drive, Meijer Drive, Rita Mae/Muskopf and Seward Road islands.
4. Mulching projects: All City entrance signs, all islands/medians, tree lines on Nilles Road, River Road, Patterson Blvd., and various locations throughout the City, twice per year
5. Mowing islands weekly until fall
6. City maintained street trees
7. Operation Dump Truck Program
8. Curb-side brush & limb pick up Program

ORDINANCE NO. _____

ORDINANCE TO AMEND ORDINANCE NO. 109-13 ENTITLED "AN ORDINANCE TO MAKE ESTIMATED APPROPRIATIONS FOR THE EXPENSES AND OTHER EXPENDITURES OF THE CITY OF FAIRFIELD, OHIO, DURING A PERIOD BEGINNING JANUARY 1, 2014, AND ENDING DECEMBER 31, 2014."

BE IT ORDAINED by the Council of the City of Fairfield, Ohio, that:

Section 1. Ordinance No. 109-13, the 2014 Appropriation Ordinance, is hereby amended in the following respects:

From:	Unappropriated Capital Improvement Fund	\$180,000
To:	40216025-252600 Improvements Other Than Building <i>(2014 Grounds, Entry-ways & Landscaping Program)</i>	\$85,000
To:	40216025-252500 Drainage Improvements <i>(2014 Annual Drainage Program)</i>	\$95,000

Section 2. This Ordinance shall take effect at the earliest period allowed by law.

Passed	_____	_____
		Mayor's Approval
Posted	_____	
First Reading	_____	Rules Suspended _____
Second Reading	_____	
Third Reading	_____	

ATTEST:

Clerk of Council

This is to certify that this Ordinance has been duly published by posting and summary publication as provided by Charter.

Clerk of Council