



AGENDA
ATHENS CITY COUNCIL
MONDAY, AUGUST 26, 2024
7:00 PM
e-mail: dwalker@ci.athens.oh.us
Streaming is available at www.ci.athens.oh.us/video

PLANNING & DEVELOPMENT COMMITTEE:

- Athens City Code Title 21, Subdivisions, and Title 23, Zoning (Planning Commission recommendation)

- Cable Lane Annexation

FINANCE & PERSONNEL COMMITTEE:

- Authorizing Necessary Tax Levies (a Resolution Accepting Amounts and Rates Determined by the Budget Commission)

- Appropriation
 - (\$4000) transfer from T.C. 500, capital line, to T.C. 300, professional services line, for mayoral travel, which will be reimbursed by NLC

COMMITTEE OF THE WHOLE:

- Ohio Revised Updates to Athens City Code for Title 7, Traffic Code, and Title 13, General Offenses

- DORA Public Safety Pilot Program

- Buy Out of the Carport-Mounted Solar Array at the Community Center (2010 Power Purchase Agreement)
- Indigenous Support (resolution)

Sam Crowl
President of Council

The City of Athens supports the Americans with Disabilities Act. Requests for reasonable accommodation may be made with the ADA Coordinator in the City Building or by calling 592-3367.

MEMORANDUM

To: Athens City Council
From: Athens City Planning Commission
Subject: Recommendation
Date: May 16, 2024

Case #24-03/Changes to Athens City Code Title 21 & Title 23

The recommended amendments for Title 21 (subdivisions) and Title 23 (bulk controls) were submitted by the Code Enforcement Director and the City Planner and affect the following sections of ACC:

21.03.02 – General procedure
21.03.03 – Requirements for minor subdivision and similar developments
21.03.07 – Outline of conditions for major subdivision
21.04 – Design and Constructions Standards. Table 1
21.1.08 – Minimum hillside requirements
Title 23 Table A – Schedule of Bulk Controls
23.03.08 – Yard regulations

On May 1, 2024, the Athens City Planning Commission met to review Case #24-03/Changes to Athens City Code Title 21 & Title 23. The Planning Commission voted 5:0 to recommend to Athens City Council approval of Case #24-03 as follows:

Approve the amendments as presented with the following recommended modifications: strike front yard maximum requirement in the R-1 one family; remove uncovered steps from front yard setback requirement; increase height maximum in R-3 zones from forty-five ft. 3 ½ stories to fifty-five ft. 4 ½ stories.

The changes to Title 21 will streamline the subdivision approval process and will be more in line with less restrictive ORC requirements. The changes to Title 23 will begin the process of addressing housing affordability in the City of Athens. This recommendation is consistent with several city planning documents including the following:

- The city's 2040 Comprehensive Plan on page 5, as it relates to guiding principles states, "We will enhance our neighborhoods to maintain a high quality of life and to include a variety of housing choices."
- The city's 2040 Comprehensive Plan on page 14, as it relates to housing and neighborhoods states, "Housing is a perennial issue in Athens... In addition, the lack of rental and owner-occupied housing choices for professionals is a reason cited by business owners for locating elsewhere... The costs of development including infrastructure (roads, utilities, curbs, sidewalks) and lot sizes and yard requirements effectively price all new single-family developments above \$275k per home. If Athens creates areas where denser housing is permitted, even marginally so, we can scale more units at lower costs for developers and lower prices for renters and buyers."
- The city's 2040 Comprehensive Plan on page 18, as it relates to Housing Priorities lists expanding housing options overall, including amending zoning and subdivision regulations to facilitate denser residential development and reduce the minimum lot size for all residential housing types. The 2040 Comprehensive Plan also acknowledges that these changes should

MEMORANDUM

also come with flexibility in setback and other bulk controls.

Attached please find the following:

- Attachment #1: Proposed amendments *with PC recommended modifications* noted above.
- Attachment #2: Meghan Jennings' Bulk Controls Presentation "Addressing Athens Housing: *Bulk Controls.*"
- Planning Commission minutes from 3/20/24, 4/3/24, and 5/1/24.

Thank you for your time and consideration in this matter.

ATTACHMENT #1

Planning Commission Members,

The county auditor does not review lot splits greater than 5.00 acres. Our city code does not have a 5.00-acre cutoff for review but this is allowed by ORC 711.131. Also, the ORC does not require a major subdivision when access easements are created, although our city code does. This may be overly restrictive.

Staff suggest changes to ACC 21.03.02 as follows to meet ORC requirements as follows:

21.03.02. - General procedure.

Before any land is subdivided the owner of the property, or their authorized agent, shall apply for and secure approval of the proposed subdivision in accordance with the following procedures:

- (A) Parcel split, minor subdivision, or similar development. **WHERE ALL OF THE PROPOSED LOTS FRONT ON A PUBLIC STREET AND ARE GREATER THAN 5.00 ACRES IN SIZE, THE PROPOSED DIVISION SHALL NOT BE CONSIDERED A SUBDIVISION UNDER THIS SECTION. ~~These~~ALL OTHER PARCEL SPLITS, MINOR SUBDIVISIONS, OR SIMILAR DEVELOPMENTS LESS THAN 5.00 ACRES** shall be handled by planning commission and may require a plat of survey, a deed with a legal description, and fees. However, approval without a plat may be granted if the proposal meets all of the following conditions as noted in Section 21.03.03 below.
- (B) Platted subdivision, major subdivision, or similar development. These involve approval actions by the planning commission before plat signature by the planning commission chair. The approval process for a major development, whether a subdivision cluster development, or planned unit development (PUD), is essentially the same, and includes three principal steps: an optional sketch plan, a preliminary plan, and a final plat.

Along with:

21.03.03. - Requirements for minor subdivisions and similar developments.

- (A) Submission requirements the application for minor subdivision shall include the following:

(12) PROPOSED ACCESS EASEMENT(S) MUST BE CLEARLY DIMENSIONED WITH FULLY DESCRIBED MAINTENANCE AGREEMENTS BETWEEN GRANTEE AND GRANTOR.

21.03.07. - Outline of conditions for major subdivision.

A proposal involving any of the following shall be subject to major subdivision procedures:

- (A) More than five lots, any one of which is less than five acres, including the original tract.
- (B) Creation, widening or extension of a street ~~or access easement~~.
- (C) **CREATION OF AN ACCESS EASEMENT FOR TWO OR MORE LOTS.**
- (~~E~~D) Division or allocation of land as a utility or drainage easement.

While the Planning Commission is looking at changes to Title 21, staff suggests we also look at revising the minimum allowable lot sizes for development. This revision can help with the city's current housing shortage by allowing more efficient and dense development, as well as increasing economic development opportunities.

Title 21.04 - Design and Construction Standards

Table 1

Minimum Lot Development Requirements: Residential, **IN COUNTY***

Type of Development	Public Water (Y/N)	Public Sewer (Y/N)	Curb and Gutter (Y/N)	Min. Lot Area (s.f.)	Min. Lot Width(ft.)	Min. FrontYard (ft.)	Min. Lot Side Yard (ft.)	Min. Lot Rear Yard (ft.)	Max. ¹ Height (ft./stories)	Max. Lot Cover. (percent)
In County	Y	Y	Y	9,450	70	30	10/20	30	N/A	30
In County	Y	Y	N	20,000	90	30	10/20	30	N/A	30
In County	Y	N	Y	42,560	90	30	10/20	30	N/A	30
In County	Y	N	N	42,560	90	30	10/20	30	N/A	30
In County	N	N	N	42,560	90	30	10/20	30	N/A	30
In County	N	N	Y	42,560	90	30	10/20	30	N/A	30
In County	N	Y	N	20,000	90	30	10/20	30	N/A	30
In County	N	Y	Y	20,000	90	30	10/20	30	N/A	30
City R-1	Y	Y	Y	8,000	66	25	8/20	30	35/2½	30
City R-1	Y	Y	N	20,000	66	25	8/20	30	35/2½	30
City R-2	Y	Y	Y	6,000-OR 3,500/unit	50	25	8/18	30	35/2½	30
City R-2	Y	Y	N	20,000	50	25	8/18	30	35/2½	30
City R-3	Y	Y	Y	6,000-OR 3,500/ unit	60	25	8/18	30	45/3½ ²	40
City R-3	Y	Y	N	20,000	60	25	8/18	30	45/3½ ²	40

* PLEASE REFER TO TITLE 23 TABLE A – SCHEDULE OF BULK CONTROLS FOR MINIMUM LOT DEVELOPMENT REQUIREMENTS: RESIDENTIAL, IN CITY.

Title 23 Table A - - Schedule of Bulk Controls

Zone	Min. Lot (sq. ft.)	Min. Lot Area Per Dwelling Unit (sq. ft.)	Min. Lot Width (ft.)	Max. Height (ft./story) ¹	Min. Front Yard ² (ft.)	MIN. Side Yard one/both (ft.)	Min. Rear Yard (ft.)	Max. STRUCTURE Lot Coverage (percent)	Total MAX. IMPERVIOUS Lot Coverage (percent)
R-1 ²									
One Family	8,000 4,000	8,000 4,000	66 40	35/2.5	25 10	8/20 5	30 20	30 50	60 70
R-2 ²									
One Family	6,000 3,500	6,000 3,500	50 35	35/2.5 SAME AS R-1	25 SAME AS R-1	8/20 SAME AS R-1	30 SAME AS R-1	30 60	60 80
Two Family	7,000 5,000	7,000 2,500	50	SAME AS R-1	SAME AS R-1	SAME AS R-1	SAME AS R-1	60	80
R-3 ²									
One Family	Same as R-2 3,000	Same as R-2 3,000	Same as R-2 30	Same as R-2 45/3.5	Same as R-2 SAME AS R-1	Same as R-2 SAME AS R-1	Same as R-2 SAME AS R-1	Same as R-2 60	60 90
Two Family	4,000	2,000	40	45/3.5	SAME AS R-1	SAME AS R-1	SAME AS R-1	60	90
Apartment/ Rooming Houses	10,000 5,000	1,250	60 50	45/3.5 55/4.5	25 SAME AS R-1	8/20 SAME AS R-1	40 SAME AS R-1	40 60	60 90
Non-Residential and Mixed Uses	10,000 5,000	1,250	60 50	45/3.5 55/4.5	25 SAME AS R-1	8/20 SAME AS R-1	40 SAME AS R-1	40 60	60 90
B-1 ² Non-Residential	None 5,000	—	None 50	35/2.5 40/3	25 SAME AS R-1	None ³ 5	10 ⁴	None	None
B-2 ² Non-	None	—	None	50/4	None	None	None	None	None

Zone	Min. Lot (sq. ft.)	Min. Lot Area Per Dwelling Unit (sq. ft.)	Min. Lot Width (ft.)	Max. Height (ft./story) ¹	Min. Front Yard ² (ft.)	MIN. Side Yard <i>one/both</i> (ft.)	Min. Rear Yard (ft.)	Max. STRUCTURE Lot Coverage (percent)	Total MAX. IMPERVIOUS Lot Coverage (percent)
Residential Downtown									
B-2D	NONE	—	NONE	70/6	NONE	NONE	NONE	NONE	NONE
B-3² General Business*	None	—	30 NONE	45/3½ 60/5	NONE	NONE	40 ⁴ NONE	None	None
M-1² Industrial	None	—	None	25/1½ 35/2½ 45/3½ 70/6	25 25 25 NONE	None ⁵ None ⁵ None ⁵	30 40 50 ⁶ NONE	— NONE	— NONE

(1) Whichever is less.

(2) All newly platted ~~lands~~ **LOTS** must meet minimum dimensional requirements ~~of the subdivision AS LISTED IN TITLE 23 TABLE A - - SCHEDULE OF BULK CONTROLS. FOR ALL OTHER LOTS, PLEASE REFER TO 23.03.08 - YARD REGULATIONS.~~

(3) Except when adjoining and R-Zone, then not less than ~~THAT~~ of the building height but not less than 15 feet.

(4) Except when adjoining and R-Zone, then not less than required in that R-Zone.

(5) Except when adjoining and R-Zone, then not less than 25 feet.

(6) An additional foot for each foot of building height over 45 feet.

*Except when abutting R-Zone

23.03.08 - Yard regulations.

(C) When a **PRINCIPAL BUILDING IS DESTROYED OR DEMOLISHED BY ANY MEANS, OR IF** a vacant lot is situated between two improved lots, ~~each having a principal building within 25 feet of any side lot line of such unimproved lot, the front yard may be reduced to the greatest depth of the front yard of the two adjoining improved lots~~ **THE REQUIRED FRONT YARD SETBACK SHALL BE NO MORE THAN FIVE (5) FEET IN FRONT OF AND NO MORE THAN FIVE (5) FEET BEHIND THE AVERAGE BUILDING LINE AS ESTABLISHED BY THE NEAREST PRINCIPAL BUILDINGS TO EACH SIDE OF THE SUBJECT PROPERTY, PROVIDED THOSE BUILDINGS ARE LOCATED IN THE SAME BLOCK FRONT AND WITHIN ONE HUNDRED (100) FEET OF THE SUBJECT PROPERTY. IN NO EVENT SHALL THE SETBACK BE LESS THAN TEN (10) FEET, UNLESS THE SPECIFIC ZONE DOES NOT REQUIRE A FRONT YARD SETBACK. IF AVERAGING IS NOT POSSIBLE, THEN THE FRONT YARD SETBACK REQUIRED FOR THE SPECIFIC ZONE SHALL BE USED.**

23.03.14. - Fences, walls, terraces, and stoops.

Unless specifically noted, the provisions of this chapter shall not apply to fences, terraces or walls less than six feet in height above the average natural grade, nor to terraces, steps, **OR** unroofed stoops ~~not over three feet high above the level of the floor of the ground story.~~ However, no fence or

wall, regardless of height, shall extend beyond the building front setback line in accordance with these zoning standards and regulations.

21.10.08 - Minimum hillside requirements.

The following regulations shall govern the front yard, side yard, street right-of-way, and pavement requirements in hillside subdivisions:

Table 10: Minimum Hillside Requirements

Group	Slope	Front Yard Setback	Side Yard % of Lot Width	Right of Way	Pavement
1	15-25%	25'	10%	50'	24'
2	26-30%	23'	10%	45'	22'
3	31%-over	20'	10%	45'	20'



Addressing Athens Housing: *Bulk Controls*

1

Proposed Changes

Revisions to the minimum allowable lot sizes for residential development can help with the City's current housing shortage by allowing more dense development and efficient use of existing infrastructure.

Proposed changes:

- Title 21.04 -- Table 1
- Title 23 -- Table A
- Title 23.03.08 -- Yard Regulations

2

Title 21.04 Table 1

Minimum Lot Development Requirements:
Residential

Type of Development	Public Water (Y/N)	Public Sewer (Y/N)	Curb and Gutter (Y/N)	Min. Lot Area (s.f.)	Min. Lot Width (ft.)	Min. Front Yard (ft.)	Min. Lot Side Yard (ft.)
In County	Y	Y	Y	9,450	70	30	10/20
In County	Y	Y	N	20,000	90	30	10/20
In County	Y	N	Y	42,560	90	30	10/20
In County	Y	N	N	42,560	90	30	10/20
In County	N	N	N	42,560	90	30	10/20
In County	N	N	Y	42,560	90	30	10/20
In County	N	Y	N	20,000	90	30	10/20
In County	N	Y	Y	20,000	90	30	10/20

3

Proposed Changes

- Lot development requirements for lots within the City are referenced in two places:
 - Title 21.04 Table 1
 - Title 23 Table A
- Remove City lot development requirements from Title 21.04 Table 1, *Residential* and refer to Title 23 Table A, *Bulk Controls*
- Proposed language for Title 21.04 is:
Please refer to Title 23 Table A – Schedule of Bulk Controls for Minimum Lot Development Requirements: Residential, In City
- Relabel Title 21.04 Table 1 as:
 - Minimum Lot Development Requirements: Residential, In County

4

Schedule of Bulk Controls

Zone	Min. Lot (sq. ft.)	Min. Lot Area Per Dwelling Unit (sq. ft.)	Min. Lot Width (ft.)	Max. Height (ft./story) ¹	Min. / Max. Front Yard ² (ft.)	Min. / Max. Side Yard ² (ft.)
R-1²						
One Family	8,000 4,000	8,000 4,000	66 40	35/2.5	25 10/20	8/20 5
R-2 ²						
One Family	6,000 3,500	6,000 3,500	50 35	35/2.5 Same as R-1	25 Same as R-1	8/20 Same as R-1
Two Family	7,000 5,000	7,000 2,500	50	Same as R-1	Same as R-1	Same as R-1

- Assess lot development requirements to planning best practices and compare to existing residential product within Athens
- Gentle increases in density
- Reviewed R-1, R-2, and R-3 zones:
 - Lot size (total and per DU)
 - Lot width
 - Front yard setbacks
 - Side yard setbacks
 - Rear yard setbacks
 - Structure height
 - Structure lot coverage
 - Impervious lot coverage

Research – Local Examples



Elmwood Place

- 7,500 sqft lot
- 50-foot lot width
- 20-foot front yard setback
- 7-foot side yard setback

7

Research – Local Examples



Morris Avenue

- 6,500 sqft lot
- 50-foot lot width
- 10-foot front yard setback
- 8-foot side yard setback

8

Research – Local Examples



S. May Avenue

- 5,000 sqft lot
- 40-foot lot width
- 10-foot front yard setback
- 5-foot side yard setback

9

Research – Local Examples



2nd Street

- 5,000 sqft lot
- 45-foot lot width
- 15-foot front yard setback
- 8-foot side yard setback

10

Research – Local Examples



Avon Place

- 6,000 sqft lot
- 55-foot lot width
- 25-foot front yard setback
- 10-foot side yard setback

11

Research – Best Practices

STIMSON
AVENUE
CORRIDOR
PLAN
(DRAFT)
ATHENS, OHIO



- American Structurepoint, consultant for the Stimson Avenue Corridor Plan, proposed bulk requirement standards that are applicable across the community
- Example: Single-Family

Bulk Requirement	Recommended Standard (Per Unit)
Lot Size	4,000 Square Feet
Lot Width	40-Feet
Front and Corner Yard Setback	5-Foot Minimum And 10-Foot Maximum
Side Yard Setback (between Buildings)	10-Feet Between Homes
Rear Yard Setback	20-Foot Minimum For Primary Structures, 5-Foot Minimum For Detached Garages
Building Height	The Maximum Building Height Should Be 35 Feet

12

Research – Best Practices

STIMSON AVENUE CORRIDOR PLAN (DRAFT)

ATHENS, OHIO

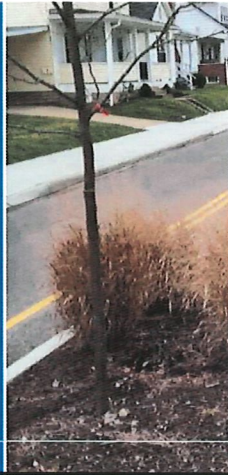
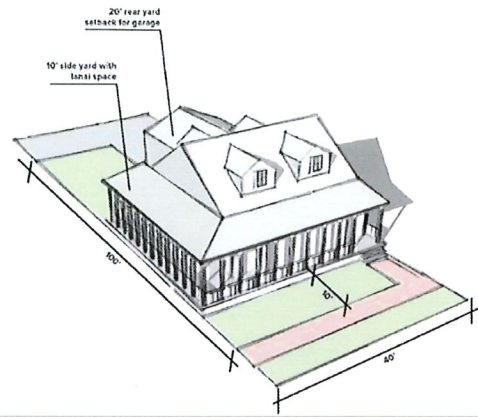


FIGURE 32: SINGLE-FAMILY ZONE ILLUSTRATION



13

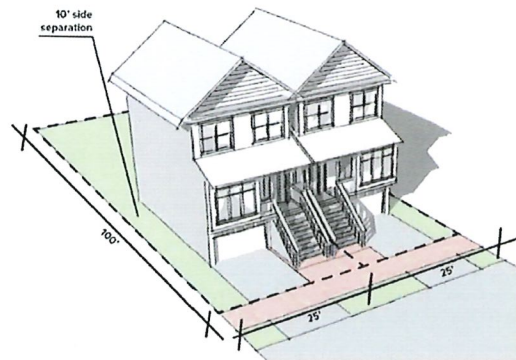
Research – Best Practices

STIMSON AVENUE CORRIDOR PLAN (DRAFT)

ATHENS, OHIO



FIGURE 33: TWO-UNIT ATTACHED SINGLE-FAMILY ILLUSTRATION



14

Research – Best Practices

STIMSON AVENUE CORRIDOR PLAN (DRAFT)

ATHENS, OHIO



15

Best Practices – Examples



Habersham - Beaufort County, SC

- 5,000 sqft lot
- 40-foot lot width
- 0/5-foot front yard setback
- 5-foot side yard setback

New urbanist development, 1996

Developer: Robert Turner

16

Best Practices – Examples

Habersham – Beaufort County, SC



1,800 sqft - 3 bed, 3 bath



1,300 sqft - 2 bed, 2 bath

17

Best Practices – Examples



Townley Park – Lexington, KY

- 3,500 sqft lot
- 35-foot lot width
- 5/10-foot front yard setback
- 3-foot side yard setback

Mixed-residential community, 2006

Developer: Dennis Anderson

18

Best Practices – Examples

Townley Park – Lexington, KY



1,800 sqft - 4 bed, 3 bath



1,200 sqft - 3 bed, 2 bath

19

R-1 Zone – One-Family

Zone	Min. Lot (sq. ft.)	Min. Lot Area Per Dwelling Unit (sq. ft.)	Min. Lot Width (ft.)	Max. Height (ft./story) ¹	Min. / Max. Front Yard ² (ft.)	Min. Side Yard one/both (ft.)	Min. Rear Yard (ft.)	Max. Lot Structure Lot Coverage (percent)	Total Max. Impervious Lot Coverage (percent)
R-1 ²									
One Family	8,000 4,000	8,000 4,000	66 40	35/2.5	25 10/20	6/20 5	30 20	30 50	60 70

20

R-2 Zone – Two-Family

Zone	Min. Lot (sq. ft.)	Min. Lot Area Per Dwelling Unit (sq. ft.)	Min. Lot Width (ft.)	Max. Height (ft./story) ¹	Min. / Max. Front Yard ² (ft.)	Min. Side Yard ^{one/both} (ft.)	Min. Rear Yard (ft.)	Max. Lot Structure/Lot Coverage (percent)	Total Max. Impervious Lot Coverage (percent)
R-2 ²									
One Family	6,000 3,500	6,000 3,500	50-35	35/2.5 Same as R-1	25 Same as R-1	8/20 Same as R-1	30 Same as R-1	30 60	60 80
Two Family	7,000 5,000	7,000 2,500	50	Same as R-1	Same as R-1	Same as R-1	Same as R-1	60	80

21

R-3 Zone – Multi-Family

Zone	Min. Lot (sq. ft.)	Min. Lot Area Per Dwelling Unit (sq. ft.)	Min. Lot Width (ft.)	Max. Height (ft./story) ¹	Min. / Max. Front Yard ² (ft.)	Min. Side Yard ^{one/both} (ft.)	Min. Rear Yard (ft.)	Max. Lot Structure/Lot Coverage (percent)	Total Max. Impervious Lot Coverage (percent)
R-3 ²									
One Family	Same as R-2 3,000	Same as R-2 3,000	Same as R-2 30	Same as R-2 45/3.5	Same as R-2 Same as R-1	Same as R-2 Same as R-1	Same as R-2 Same as R-1	Same as R-2 60	60 90
Two Family	4,000	2,000	40	45/3.5	Same as R-1	Same as R-1	Same as R-1	60	90

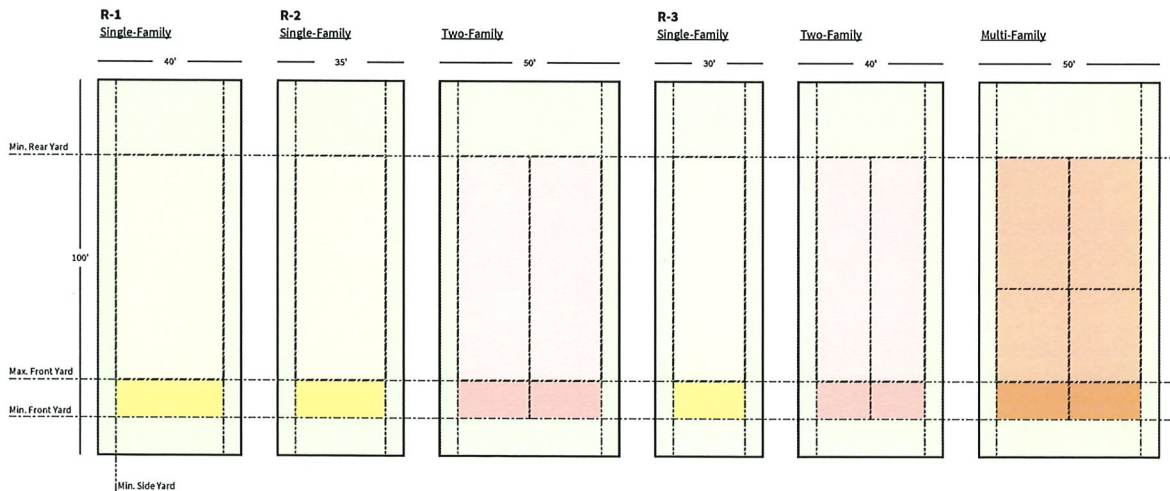
22

R-3 Zone – Multi-Family

Zone	Min. Lot (sq. ft.)	Min. Lot Area Per Dwelling Unit (sq. ft.)	Min. Lot Width (ft.)	Max. Height (ft./story) ¹	Min. / Max. Front Yard (ft.)	Min. Side Yard (ft.) <i>one/both</i>	Min. Rear Yard (ft.)	Max. Lot Structure Lot Coverage (percent)	Total Max. Impervious Lot Coverage (percent)
R-3 ²									
Apartment/ Rooming Houses	10,000 5,000	1,250	60 50	45/3½	25 Same as R-1	0/20 Same as R-1	40 Same as R-1	40 60	60 90
Non-Residential and Mixed Uses	10,000 5,000	1,250	60 50	45/3½	25 Same as R-1	0/20 Same as R-1	40 Same as R-1	40 60	60 90

23

Lot Comparisons



24

Title 23.03.08

Yard Regulations

- Section addresses averaging front yard setbacks for infill lots. Proposed changes add flexibility.
- Proposed language:
(C) When a principal building is destroyed or demolished by any means, or if a vacant lot is situated between two improved lots, the required front yard setback shall be no more than five (5) feet in front of and no more than five (5) feet behind the average building line as established by the nearest principal buildings to each side of the subject property, provided those buildings are located in the same block front and within one hundred (100) feet of the subject property. In no event shall the setback be less than ten (10) feet, unless the specific zone does not require a front yard setback. If averaging is not possible, then the front yard setback required for the specific zone shall be used.

25

Thank You

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26

Supporting Calculations

Zone / Use	Lot Size	Lot Size/DU	Lot Coverage	Open Space	Remaining
R-1					
One-Family	4,000	4,000	2,400	1,200	800
R-2					
One-Family	3,500	3,500	2,100	700	700
Two-Family	5,000	2,500	3,000 (1,500)	1,000 (500)	1,000 (500)
R-3					
One-Family	3,000	3,000	1,800	300	900
Two-Family	4,000	2,000 (2 DU)	2,400 (1,200)	400 (200)	1,200 (600)
Apartments	5,000	1,250 (4 DU)	3,000 (750)	500 (125)	1,500 (375)
NR / Mixed-Use	5,000	1,250	3,000	500	1,500

Title 23 Table A – Schedule of Bulk Controls
Supporting Calculations for Proposed Changes

R-1

One Family

- Lot size = 4,000 sqft
- Lot size/DU = 4,000 sqft
- Lot coverage = 2,400 sqft
- Open space = 1,200 sqft
- Remaining = 800 sqft

R-2

One Family

- Lot size = 3,500 sqft
- Lot size/DU = 3,500 sqft
- Lot coverage = 2,100 sqft
- Open space = 700 sqft
- Remaining = 700 sqft

Two Family

- Lot size = 5,000 sqft
- Lot size/DU = 2,500 sqft
- Lot coverage = 3,000 sqft (1,500/DU)
- Open space = 1,000 sqft (500/DU)
- Remaining = 1,000 sqft (500/DU)

R-3

One Family

- Lot size = 3,000 sqft
- Lot size/DU = 3,000 sqft
- Lot coverage = 1,800 sqft
- Open space = 300 sqft
- Remaining = 900 sqft

Two Family

- Lot size = 4,000 sqft
- Lot size/DU = 2,000 sqft
- Lot coverage = 2,400 sqft (1,200/DU)
- Open space = 400 sqft (200/DU)
- Remaining = 1,200 sqft (600/DU)

Apartment/Rooming House

- Lot size = 5,000 sqft
- Lot size/DU = 1,250 sqft (4 DU)
- Lot coverage = 3,000 sqft (750/DU)
- Open space = 500 sqft (125/DU)
- Remaining = 1,500 sqft (375/DU)

Non-Residential & Mixed-Use

- Lot size = 5,000 sqft
- Lot size/DU = 1,250 sqft
- Lot coverage = 3,000 sqft
- Open space = 500 sqft
- Remaining = 1,500 sqft

Please note the following items:

- Lot coverage assumes single-story construction
- Open space calculations assumes site is developed to maximum impervious coverage
- Open space examples: 500 sqft = 25x20, 300 sqft = 30x10, and 125 sqft = 10x12
- Remaining = misc. impervious surface (parking, driveways, garages, sheds, front walks, etc)

**Athens City Planning Commission
Minutes of Regular Meeting
Wednesday, March 20, 2024, 12:00 p.m.**

A regular meeting of the Athens City Planning Commission was held in City Council Chambers, third floor of City Hall, on March 20, 2024.

Attendees: Alan Swank, Robert Delach

1. Call to Order

John Kotowski called the regular meeting of the Planning Commission to order at 12:01 p.m. and administered the oath to those in the audience intending to speak before the commission. Quorum established with four members present.

PLANNING COMMISSION MEMBERS:

Chris Knisely	Absent
John Kotowski, Chair	Present
Steve Patterson, Mayor	Present
Austin Phillips, Vice-Chair	Present
Andy Stone, Service-Safety Director	Present

STAFF:

David Riggs, Code Enforcement Director	Present
Meghan Jennings, City Planner	Present

2. Disposition of Minutes

Steve P. moved to approve the March 6, 2024 minutes. Andy S. seconded. Motion passed 3:1 (Austin P. abstained).

3. Cases

None

4. Communications

Suggested changes to ACC 21.03.02 and 21.03.07/Subdivisions

David Riggs/Summary:

- The Ohio Revised Code (ORC) directs the Planning Commission to approve subdivisions and lot splits in the city and within the 3-mile radius. To streamline the process, he and the planner are suggesting changes to Athens City Code (ACC) to be more in line with the less restrictive ORC requirements. He provided a draft of the suggested changes to ACC and reviewed them in more detail with the commission (draft attached for reference). The suggestions include instituting a 5-acre cutoff for review and not triggering a major subdivision requirement when access easements are created.

- Additionally, they suggest changes to address housing shortage issues in the city. He reviewed in more detail the recommended changes to ACC (as outlined on page 2 and 3 of the attachment). The suggested changes include modifying the minimum lot size (residential lots) which are found in Title 21 and Title 23.

Discussion points:

- Access easements are necessary for properties that do not have street access.
- Title 21 is the subdivision section of ACC and Title 23 is the zoning section of ACC.
- Subdivision regulations and minimum lot sizes have been antiquated in the city. The current minimum lot size (8000 sq ft) is gigantic for a city like Athens.
- The 2040 Comprehensive Plan document supports reducing the minimum lot size, especially in an R-1 zone.
- Addressing the housing need by making changes to ACC is past due.
- Consider changing the lot coverage as well, see what other communities are doing.
- In some cases, the smaller lots in Athens were grandfathered in.
- These changes would lighten the workload and save time for staff, Planning Commission, and City Council.

John Kotowski commented that this will come forward as a case at the next meeting.

Update - Grand Park Blvd. and Eden Pl. Rezoning Request

David Riggs/Summary:

- He had a conversation with the representative of the applicant. They should be ready to come to the commission on April 3rd. They are looking at ways to buffer the business and residential properties, and to shield the lights. (David R. has a surveyor working on a survey of encroachments into the public right of way.)
- Meghan J. confirmed receipt of an email (attached for reference) from the Far East Neighborhood Association (FENA) with concerns about this rezoning request. They are suggesting an R-3 zone.

Discussion points:

- Lighting is an issue. Creating a buffer with a solid fence was suggested.
- An evergreen hedge or solid fence was suggested to the applicant.
- The Planning Commission does not deal with encroachments to right of way. The Planning commission votes to recommend or not recommend a particular zoning change request. If this is recommended by the commission then it proceeds to City Council and they can approve or not approve.

Alan Swank/40 Townsend read the email from FENA and highlighted some of their concerns. His opinion regarding R-3 and multifamily housing: it would depend on the type of housing going in. Properly maintained multi-family housing would be a plus.

- The group discussed the setback requirements of different zones.

John Kotowski commented that this will come forward as a case at the next meeting.

5. **Reports from Director of Development & Code Enforcement and City Planner**

David Riggs/Code Enforcement Director

- There will be a Title 41 Site Plan Review (Kenny Drive) on the April 3rd meeting agenda.
- Lot split requests from OU for The Ridges have been coming into the office. He will update the commission on this at a future meeting.

Meghan Jennings/City Planner

- No updates to report

Steve P. commented that at Monday night's City Council meeting, Aaron Thomas spoke to council members about development and encouraging businesses to come to Athens. Steve P. thought his points were very good and wanted to note that redevelopment projects and plans are underway in the city, all in line with the 2040 Comprehensive Plan.

6. **Opportunity for Citizens to Speak**

None

7. **Announcements & Other Business**

- Next meeting April 3, 2024.

8. **Adjournment**

The meeting adjourned at 12:36 p.m.

**Athens City Planning Commission
Minutes of Regular Meeting
Wednesday, April 3, 2024, 12:00 p.m.**

A regular meeting of the Athens City Planning Commission was held in City Council Chambers, third floor of City Hall, on April 3, 2024.

Attendees: John Anderson, Mark Welch, William Blair, Heather Laughlin, Kimberly Good Kelly, Alan Swank, Robert Delach

1. Call to Order

John Kotowski called the regular meeting of the Planning Commission to order at 12:01 p.m. and administered the oath to those in the audience intending to speak before the commission. Quorum was established with all members present.

PLANNING COMMISSION MEMBERS:

Chris Knisely	Present
John Kotowski, Chair	Present
Steve Patterson, Mayor	Present
Austin Phillips, Vice-Chair	Present
Andy Stone, Service-Safety Director	Present

STAFF:

David Riggs, Code Enforcement Director	Present
Meghan Jennings, City Planner	Present

2. Disposition of Minutes

Austin P. moved to approve the March 20, 2024 minutes. Andy S. seconded. Motion passed 4:0 (Chris K. abstained).

3. Cases

Case #24-02 Grand Park Blvd. & Eden Pl. Rezoning Request

David Riggs noted that the appellant's representative is present today to answer questions posed at the last meeting regarding light trespass and fencing.

David Mott/Mollica, Gall, Sloan & Sillery

His clients are in the conceptual phase and there are no developed site plans at this point. The request is for a parking lot for inventory. They are planning to address light trespass by considering using shorter light poles and screening the lights from the residences. They plan to install a fence (minimally an 8' chain link with plastic inserts). They are also considering a landscaped fence. They will comply with the current code about lighting, screening, and fencing requirements, so if a chain link fence is not in compliance, they will choose another type of fencing.

Discussion:

- Andy S. asked about the status of the current special use of the right-of-way permit for the lights that were constructed on the public property. It is not specifically related to this rezoning request but does bear on the situation. David R. replied that The Buckley Group, hired by the city, is in the process of surveying to define where the encroachments are. After this is complete the applicant will be able to move forward with the Title 49 special use of the ROW permit.
- Andy S. asked Mr. Mott that if there were encroachments found and the special use permit denied, would his client be prepared to remove the lights. David Mott has not had that discussion with his client, but his client is aware of the potential outcome.
- Chris K. observed that while Don Wood Hyundai says they are in the conceptual phase, lights have been installed and dirt has been moved so it appears more than conceptual. (David M. replied that the lights are a separate issue and that they were replacing existing lights.) The Planning Commission needs to decide on a recommendation to City Council, but the lights do affect how the space will look. Can the commission make a recommendation considering these pending issues?
- Austin P. asked if the commission could approve the rezoning with conditions. David R. is not sure the commission has ever done that before, but City Council may be able to place conditions on the request.
- John K. asked if a recommendation with conditions goes to City Council could they accept the recommendation without those conditions. David R. replied yes.
- Chris K. asked if City Council could place conditions on the fence and the quality of the fencing. David R. replied yes.
- David Mott reiterated that Don Wood Hyundai will comply with all ACC regulations. Rezoning requests are really about the long-term use. In this case it is more about what should the property be zoned for, commercial use or residential use.
- Andy S. noted that according to ACC, R-1 zones do not allow as much density as we need given the shortage of housing in Athens. Could the use (parking lot) occur in an R-3 zone? David R. replied yes, parking lots are acceptable uses in R-3 and business zones.
- David Mott noted that R-3 is limited to residential use so a developer could put thirty apartments there which would result in increased traffic.
- Steve P. expressed concern that this is a "concept" that can evolve to anything. David Mott said the client needs parking/space for inventory, the final details/looks are conceptual, the use is not conceptual.
- Chris K. asked if this were changed from R-2 to B-2 could it then go from a B back to an R? David R. thought it could, but he does not know of any instances of this.
- Steve P. remembered that this area was rezoned when he was on council, and he recalls that the owner asked to retain these as R-2 for future development. This is why these are the only lots in the area that are R-2.
- Heather Laughlin/8 Grand Park Blvd: Some of the lights are new, not all of them are replacement lights. She asked if it were a B-3 could a McDonald's be developed there?

Lighting is a huge concern. Fencing just along the back is inadequate. Traffic and safety are concerns.

- Chris K. asked if B-3 allows for a drive through. David R. noted that drive-throughs are allowed in B-3, but they are limited to 200' from residential zones. So, a drive-through at this location would not be allowed without a variance.
- Kimberly Good Kelly/32 Strathmore (owner of the Don Wood Hyundai building): Her family did own the 5 parcels in question, and they never developed them for a variety of reasons. She feels a parking lot is the best use of the space. All the other areas there are business zones butting up to R-1's. Don Wood has a 20-year lease so it will be a dealership for a long time.
- Alan Swank/40 Townsend: If this is passed it will go City Council's Planning and Development Committee of which he is chair. He has reservations about this being recommended to City Council. This is more about the long-term use and what the future will look like. Mr. Swank illustrated his concerns by showing a series of pictures of neighboring areas. Making this an R-3 zone would be an effective way to allow the parking lot for Don Wood Hyundai. He also expressed concerns about the lack of visibility vehicles have trying to get onto E. State Street because the current lot there has parked vehicles obstructing the view.
- Rob Delach/Morris Avenue: Likes the idea of an R-3 designation based on the discussion. It keeps long-term use in mind.
- Heather Laughlin: She would like to see a hedge or fence that is 20-25 ft. from the property line.
- John K. pointed out that there is a side yard setback so that would come into play.
- David R. said that a side yard setback does not pertain to parking lots or fencing 6' or less. A setback or a taller fence would be a zoning change that would go to the BZA after, and if, this request is approved. The parking lot would be required to be paved with asphalt or concrete which impacts run-off and drainage.
- David Mott addressed the above stated concerns: No increase in business traffic is anticipated for this, the lot is to house inventory. They will comply with ACC on runoff/drainage regulations along with all other code regulations. The photos that Alan Swank showed of B-3's are in violation of ACC, so this is an enforcement issue, not a zoning issue. B-3's are all up and down E. State St. and not all of them look like those Mr. Swank illustrated.
- Chris K. asked David R. if he saw any negative long-term impacts in changing this to an R-3, David R. replied no.
- Andy S. commented that the Planning Commission can recommend an R-3 even though the rezoning request was submitted as a B-3.
- The group further discussed zoning, parcel ownership, procedure and process, traffic, lot coverage, etc.

Austin Phillips moved to approve Case #24-02 as stated in the request, rezoning the five parcels to a B-3. No second was offered.

Chris Knisely moved to approve Case #24-02, however, to recommend to Athens City Council rezoning the five parcels to R-3, not B-3. Andy Stone seconded the request. All present voted aye. Motion passed 5:0.

Case #24-03 Changes to Athens City Code
Subdivisions – 21.03.02, 21.03.03, 21.03.07
Minimum Allowable Lot Sizes – Title 21 Table 1 & Title 23 Table A

David Riggs noted that in the last 30 days Code Enforcement and Development has received 18 applications for lot splits in and outside of the city. Making the suggested subdivision changes to ACC as outlined at the last meeting would help the office manage these requests. He reviewed the changes that they are proposing and noted that he and the Planner have contacted both the county and the health department because these changes would affect them.

He and the City Planner would like to request that the changes to subdivisions and the changes to minimum allowable lot sizes be separated into two requests. They would like more time to conduct research concerning minimum allowable lot sizes and to fine tune their language recommendations.

The discussion of Case #24-03 was tabled. The case will be on the agenda at the next meeting so that a vote can be taken for both items contained in the case.

4. Communications

Title 41 Review/Southeast Beverage Warehouse Addition

Austin Phillips recused himself from the discussion as he is the owner.

David Riggs/Summary

This is a site plan review for a warehouse addition for Southeast Beverage. The plans were received and reviewed. No staff comments were submitted. He requested the applicant to submit the photometrics and a landscaping plan. These have been received but not shared or reviewed by him yet. The site is not set up to plant the number of trees required, but in the past there has been flexibility afforded to developers on the shade tree requirement, and trees have been banked.

Discussion:

- The property is currently a paved parking lot. The impervious area will not change by much. No existing trees.
- Steve P. thought that the shade tree requirement should be lenient for what is currently a paved treeless area.
- Chris K. asked about the percentage increase in lot coverage and impervious area. David R. said it was all within regulations.
- Mark Welch/Pickering Associates: the area is currently used for trailer storage. Trailer storage will still happen to the south of the building. Will not be adding additional paving.

Percentage of impervious area is located on the drawings, page C-104. 72% impervious area will increase by 2% to 74%.

- Andy S. asked if there would be a jobs component and/or economic development component to this project.

At this point Austin Philips was brought back in to answer additional questions.

- David R. noted that the estimated shade tree requirement is about 120 trees.
- Chris K. said she would like to see the shade tree considerations apply to this even though it is currently paved and an industrial park, there is a benefit to having trees as part of the plan.
- Rob Delach/Morris Avenue: suggested having some trees, not the full requirement, and adding the remaining trees to the tree bank.
- Andy Stone posed his question again about a job's component.
- Austin Philips/Southeast Beverage: Last year they added seven employees, and this is the main reason they need to build an addition, for elbow room. No anticipated increase in jobs. The target completion date is July 4. The addition is about 26,000 sq. ft. and will match the existing building design.
- John Anderson/Mondo Building: They are ready to begin when/if this is approved. A green roof is not part of the plan.

John Kotowski commented that this will come forward as a case at the next meeting.

5. Reports from Director of Development & Code Enforcement and City Planner

David Riggs/Code Enforcement Director

- No report. (Meghan J. offered that The Ridges information is being gathered by David R.)

Meghan Jennings/City Planner

- No updates to report

6. Opportunity for Citizens to Speak

None

7. Announcements & Other Business

- Next meeting April 17, 2024.
- Chris K. suggested that ACC be reviewed for regulations about paved impermeable surfaces, and if anything can be built into code regarding green roofs.
- John K. inquired about the progress of the Chipotle and Starbucks development on E. State Street. Mark Welch reported that the project is moving along well – pilings have been installed, concrete work will be complete by the end of next week. The expected timeline is to finish Chipotle first and then Starbucks.

8. Adjournment

The meeting adjourned at 1:19 p.m.

**Athens City Planning Commission
Minutes of Regular Meeting
Wednesday, May 1, 2024, 12:00 p.m.**

A regular meeting of the Athens City Planning Commission was held in City Council Chambers, third floor of City Hall, on May 1, 2024.

Attendees: John Anderson, Solveig Spjeldnes, Robert Delach

1. Call to Order

John Kotowski called the regular meeting of the Planning Commission to order at 12:00 p.m. and administered the oath to those in the audience intending to speak before the commission. Quorum established with all members present.

PLANNING COMMISSION MEMBERS:

Chris Knisely	Present
John Kotowski, Chair	Present
Steve Patterson, Mayor	Present
Austin Phillips, Vice-Chair	Present
Andy Stone, Service-Safety Director	Present

STAFF:

David Riggs, Code Enforcement Director	Present
Meghan Jennings, City Planner	Present

2. Disposition of Minutes

Austin P. moved to approve the April 3, 2024 minutes. Andy S. seconded. Motion passed 5:0.

3. Cases

Case #24-03 Changes to Athens City Code Title 21 & Title 23

Meghan Jennings/Presentation

The Title 21 updates (subdivisions) have been discussed at prior meetings and are summarized in the attached document. The presentation today addresses the proposed changes to Title 23 (bulk controls).

Meghan J. reviewed her "Addressing Athens Housing: Bulk Controls" slide presentation (attached for reference).

Key points:

- Main goal of these proposed changes is to begin addressing housing affordability issues.
- Covering only the bulk control changes to the residential zones in this presentation.
- Changes allow for more dense development and efficient use of existing infrastructure.
- Changes relating to city zoning in Title 21.04 Table 1 are included.
- The minimum hillside requirements table is no longer necessary with the proposed changes.

- Title 23 Table A changes have been researched and refined and now include business and industrial zones. Proposed changes in general reduce the minimum lot sizes and adjust the yard setbacks.
- The proposal includes gentle increases in density and brings more viability and compatibility between the residential zones.
- Examples outside of Athens, in SC and KY, were included for insight on how Athens' neighborhoods could look with the proposed changes.
- American Structurepoint's Stimson Avenue Corridor Plan bulk requirements recommendations were utilized because they are applicable across all of Athens.
- The proposal will allow duplexes to be a more viable option in Athens.
- The majority of our bulk controls are minimum standards.
- Not proposing new uses, only updating dimensions for what exists.
- Gentle increases in density as you go up in zoning categories.
- Redevelopment of existing lots: Two 60' width lots in an R-1 you could build 3 new homes, three 60' width lots - 4 ½ new homes, and four 60' width lots - 6 new homes.
- Yard Regulations - added language regarding averaging front yard setbacks, so the structures will be compatible.

Discussion:

- Steve P: suggested that in the R-3 multifamily proposal, to allow greater density, to consider increasing the height from 3 ½ stories to 4 ½ stories. The obstruction of a four-story building is not noticeable. In our community it is the 5-6+ story buildings that are noticeable.
 - Meghan J: the ½ story activates a gable pitch, but the maximum height can be adjusted and increased to 4 ½ stories.
 - David R.: the idea for only increasing to 3 ½ stories was to be respectful of the surrounding structures, especially single-story structures.
- Austin P: suggested that in Table A for R-1 to consider getting rid of the maximum front yard setback so that folks in non-downtown lots can be allowed to set their structure farther back from the road.
 - Meghan J: the averaging provision of front yard setbacks mentioned earlier will help prevent disparity in front setbacks between lots.
- Chris K: asked for clarification on the 5 ft. side yard setbacks, the hillside requirements, and the required parking. Clarifying comments:
 - The minimum side yard setback combined is 10 ft. between structures, 5 ft. set back each lot. Eaves and bay windows can be built into the set back.
 - The slope table is no longer needed because with these proposed changes to the bulk controls, building closer to the road will be allowed. The hillside development requirement was established to protect the slope and to allow a variance to the setback in order to build structures closer to the road, away from the hillside. With these proposed changes the hillside development requirement will not be necessary as it will be duplicative.
 - The Comprehensive Plan calls for us to revise our parking regulations, which is a big task. The required parking is mentioned here to acknowledge that parking requirements do exist even though we are looking to revise them.
 - The lot comparison slide was discussed regarding where a garage or driveway could be situated on a lot.
- Chris K: asked about percentage of allowable square footage and how building an accessory structure would fit in.

- David R: lot coverage would not restrict that enough. People do that anyway regardless of the total lot coverage.
- John K: asked about hillside development and what protections exist.
 - David R: they are not removing all the hillside requirements for development. This is just for the front yard setback.
- Steve P: shared the letter of support that was received for these changes, from a member of the Affordable Housing Commission.
- Rob Delach/124 Morris Avenue: expressed support for these changes. Would like changes to go even farther. Consider revisiting the front yard setback because in addition to porches, porch steps are included in the calculations.
 - David R: porch steps and stoops are in a different section of code, so that section could be changed, which he would recommend instead of further changes to the bulk controls changes proposed today.

Andy Stone moved to accept Case #24-03 as presented with these exceptions as discussed: Strike front yard maximum requirement in the R-1 one family; Remove uncovered steps from front yard setback requirement; Increase height maximum in R-3 zones from forty-five ft. 3 ½ stories to fifty-five ft. 4 ½ stories. Steve Patterson seconded the motion. All present voted aye, motion passed 5:0.

Case #24-04 Title 41 Review/Southeast Beverage Warehouse Addition

Austin Phillips recused himself from the discussion and voting as he is the owner.

David Riggs/Summary

This is a site plan review for a warehouse addition for Southeast Beverage. No staff comments or concerns have been submitted. The Shade Tree Commission recommended that the Planning Commission approve the landscape plan that the applicant submitted.

Steve Patterson moved to approve Case #24-04 as presented. Chris Knisely seconded. All present voted aye, motion passed 4:0 (Austin P. recused).

4. Communications

Tobacco Zoning and Marijuana Dispensary Zoning

Meghan Jennings/Summary

This proposal (see attached for reference) has been refined from the original communication that was presented several weeks ago.

Summary of changes:

- Listing the use as cannabis establishments. Within the proposal these establishments are included as principal permitted uses.
- A limit on the number of establishments per zone is included.
- A distance requirement, and uses of which to buffer from, is included (carried over from ORC medical marijuana distancing). At least 500 ft. from a school, public library, public playground, public park, or any other cannabis establishment.
- The zones that they are allowing as principal permitted uses are B-2/max 2 establishments, B-2D/max 5 establishments, B-3/max 12 establishments, and M/max 5 establishments.

Discussion:

- John K: asked why they are proposing different numbers than the current number of licensed tobacco locations in the zones.
 - David R: they also looked at the number of vape stores and added those to the number of tobacco stores, so the numbers match up.
- Steve P: appreciates the distance limits that they carried over from the medical marijuana dispensary legislation and that they added other cannabis establishments to the list.
- Andy S: suggested that the commission set a similar number of limits for state tobacco licensed establishments and send these simultaneously to City Council as a recommendation for changes to the zoning code.
- Austin P: requested clarification regarding the B-3 zone with twelve establishments, and if those could be concentrated in one area.
 - David R: there is a distance requirement, so they could not be any closer than a block apart, about 500 ft.
- Chris K: regarding Andy's suggestion, asked if the same distancing limits on the tobacco establishments were imposed, because currently there are establishments that are closer than 500 ft.
 - David R: the current establishments would be legal non-conforming. Permitting will be done on a first come first served basis. Existing tobacco establishments could also add cannabis, the distance limit would not apply. Applicants can request variances as well if there is a special situation.

John Kotowski commented that this will come forward as a single case at the next meeting with the suggested tobacco component changes included with the cannabis components discussed today.

5. **Reports from Director of Development & Code Enforcement and City Planner**

David Riggs/Code Enforcement Director

- No report

Meghan Jennings/City Planner

- No report

6. **Opportunity for Citizens to Speak**

None

7. **Announcements & Other Business**

- Steve Patterson shared that Governor DeWine announced this morning the second round of Implementation Funding within southern Ohio. Recipients included the City of Athens (6.5 million), Mt. Zion Church (7 million), SE Ohio History Center (2.5 million), and Chauncey.
- Next meeting May 15, 2024.

8. **Adjournment**

The meeting adjourned at 1:09 p.m.

**ANNEXATION AGREEMENT BY AND BETWEEN
ATHENS TOWNSHIP (ATHENS COUNTY), OHIO AND
THE CITY OF ATHENS, OHIO**

Dated as of _____

ANNEXATION AGREEMENT

This Annexation Agreement (hereinafter the “Agreement”) is made and entered into on or as of the day of _____, 2024 (hereinafter the “Effective Date”) by and between the Athens Township Trustees, the legislative authority of and for Athens Township, a political subdivision duly organized and validly existing under the laws of the State of Ohio (hereinafter the “Township” or “Trustees”), and the Council of the City of Athens, Ohio, the legislative authority of and for the City of Athens, Ohio, a municipal corporation duly organized and validly existing under the Constitution and the laws of the State of Ohio (hereinafter the “City”, collectively with the Township, the “Parties” and each a “Party” hereto).

WHEREAS, the Township and City are political subdivisions located adjacent and contiguous to each other and having, to a certain extent, overlapping jurisdictions within Athens County, Ohio (hereinafter the “County”); and

WHEREAS, the Township and City have cooperated in numerous matters, including but not limited to, cooperation in the development, annexation, and services to citizens and properties within the Township and the City in order to foster and promote harmony and development within each of the Parties’ respective jurisdictional areas; and

WHEREAS, a certain landowner has expressed a desire to pursue annexation of property located east of and in part immediately adjacent to Cable Lane; and

WHEREAS, the annexation of this property will, if successful, require development assistance in various forms, including the extension of public water and sanity sewer utility service lines from the City to said property; and

WHEREAS, the Parties believe that annexation of certain real property located within Athens Township, which is further described in attached “Attachment A,” and incorporated herein, will benefit their mutual interests if annexed to the City, the subject property more specifically consisting of one (1) parcel of real property designated as Athens County Auditor Tax Parcel Numbers A010010082100 (the “Annexation Parcel”); and

WHEREAS, the Annexation Parcel is further depicted and shown on the map labeled “Annexation Parcel Map” attached hereto and incorporated herein as “Attachment B”; and

WHEREAS, this Agreement is authorized under the provisions of Section 709.192 of the Ohio Revised Code and other applicable laws of the state of Ohio, and has been approved by the respective legislative authority of both Parties;

NOW, THEREFORE, in consideration for the mutual promises contained herein, the Parties covenant and agree as follows:

ARTICLE 1

ANNEXATION OF ANNEXATION PARCEL AND LIMITATIONS

Section 1.1. Designation of Annexation Parcel. This Agreement shall apply to the annexation of the Annexation Parcel enumerated on “Attachment A.” The perimeter boundary of the Annexation Parcel is graphically set forth on “Attachment B” for purposes of reference only.

Section 1.2. Annexation of Annexation Parcel. The Township agrees and consents to the annexation of the Annexation Parcel to the City in accordance with the terms of the Agreement.

- A. **Procedure:** The petitioners for the annexation of the Annexation Parcel to the City shall file the annexation pursuant to and shall comply with the provisions of “Expedited Procedure No. 1” as contained in Sections 709.021 and 709.022 of the Ohio Revised Code. Any such annexation of the Annexation Parcel shall also comply with the terms of this Agreement.
- B. **Scope of Petition:** The agent for the annexation petitioner(s) shall process the annexation of the Annexation Parcel under one (1) annexation petition which includes all of the Annexation Parcel.
- C. **Time Frame:** This Agreement shall only apply if the annexation petition for the Annexation Parcel is filed with the Clerk of the Board of the Athens County Commissioners on or before _____, and, upon filing, is diligently processed to completion in order to accomplish the annexation of the Annexation Parcel to the City pursuant to the terms of this Agreement.
- D. **Effect of Annexation:** The City shall not exclude the Township from any portion of the Annexation Parcel by changing Township boundaries under Chapter 503 of the Ohio Revised Code or any future statute of like tenor or effect. In other words, it is the express intention and agreement of the Parties that there shall exist an overlay of the City and Township boundaries for all portions of the Annexation Parcel which will be annexed to the City under the terms of this Agreement and that the Annexation Parcel shall be subject to the regular and customary property tax rates for all other parcels similarly situated. If any proceedings or other effort is initiated or made which seeks to initiate a change to the Township boundaries in order to exclude all or any portion of this property from the Township, the City and the Township shall exercise their best efforts in resisting such change, including, without limitation, denying any petition seeking such change; refraining from supporting such change; vigorously resisting, in both administrative and judicial forums, and with the assistance of the City’s and Township’s legal counsel, any effort or action seeking such change; and otherwise undertaking such actions as may be reasonably

requested by either Party which will be detrimental to the success of any effort seeking such change.

- E. Cooperative Efforts: Upon the filing of any annexation petition for the annexation of the Annexation Parcel to the City in accordance with the terms of this Agreement, the Township and the City shall cooperate in good faith to facilitate the approval and success of such petition. In such an instance, each Party shall refrain from taking any action that would directly or indirectly delay the annexation process or endanger the possible approval of the annexation petition by the Commissioners. If such annexation petition does not comply with the terms of this Agreement, the City shall refrain from any act which would, directly or indirectly, contribute to the success of the petition. This obligation shall include refraining from acceptance of a petition seeking to annex any such property.

ARTICLE 2

SERVICES

Section 2.1. Contribution of Services.

- A. Upon the annexation of the Annexation Parcel to the City, the City shall furnish to said property all the customary governmental services furnished by the City to other areas of the City including, but not limited to the following services:
1. Public water and sanitary sewer;
 2. Athens Police Department services;
 3. Athens Fire Department services;
 4. Code Enforcement services;
 5. Solid waste collection services;
 6. Other services customary for typical city residents.
- B. With respect to Cable Lane, ~~there shall be no modification of existing obligations to provide general maintenance and improvements or the City of Athens shall notify the Ohio Department of Transportation, Division of Planning, Office of Technical Services, to amend the road inventory system of Athens County, Athens Township by removing a total of 0.104 miles of Cable Lane, also known as Township Road 1141, and adding the description and mileage to the City of Athens ODOT road inventory for general maintenance and~~ emergency services, as Cable Lane, subsequent to annexation, is currently will in its entirety be located in and served by the City.

ARTICLE 3

TERM OF AGREEMENT

Section 3.1 Term and Renewal. The term of this Agreement (hereinafter the “Initial Term”) shall be perpetual.

ARTICLE 4

GENERAL PROVISIONS

Section 4.1. Support of Agreement. In the event that this Agreement, or any of its terms, conditions, or provisions, is challenged by any third party or parties in a court of law, the Parties agree to cooperate with one another and to use their best efforts in defending this Agreement with the object of upholding this Agreement. Each Party shall bear its own costs in any such proceeding challenging this Agreement or any terms or provisions thereof.

Section 4.2. Signing Other Documents. The Parties agree to cooperate with one another and to use their best efforts in the implementation of this Agreement and to sign or cause to be signed, in a timely fashion, all other necessary instruments, legislation, petitions, and similar documents, and to take such other actions as either Party may reasonably request in order to effectuate the purposes of this Agreement.

Section 4.3. Mediation. In the event the Parties have a dispute as to any of the terms of applicability of this Agreement, the Parties agree to use their best efforts to resolve the dispute through a mutually acceptable mediation process prior to any party filing a lawsuit. Each Party participating in mediation shall pay its own costs of mediation, including its proportionate share of the compensation and administrative expenses required by the mediator and by the mediation services provider selected by the Parties. If a mediator has not been selected by the Parties within sixty (60) days after one of the Parties has requested that a dispute arising under this Agreement be mediated, or if the dispute has not been resolved within ninety (90) days after notice of the dispute has been provided to the other Party, then any of the Parties may commence a lawsuit or commence such other method of pursuing such remedies as may be available to any of the Parties.

Section 4.4. Default. A failure to comply with the terms of this Agreement shall constitute a default hereunder. The Party in default shall have ninety (90) days, after receiving written notice from the other Party of the event of default, to cure that default. If the default is not cured within that time period, the non-defaulting Party may sue the defaulting Party for specific performance under this Agreement or for damages or both; or may pursue such other remedies as may be available.

Section 4.5. Character of Payments. Nothing in this Agreement is to be interpreted as the sharing of the proceeds of any tax levy by and between any Parties. Any language within this Agreement which employs an amount of any tax to be collected as part of a calculation for determining a sum to be paid by one Party to the other Party is intended, and therefore to be interpreted, as a reasonable, practical, and convenient mechanism which the Parties have agreed to use to compute, in a less controversial manner, the payments to be made by one Party to another for services and other items of value to be received by the paying Party. No payments to be made

under this Agreement are intended to be a sharing of proceeds of any tax levy proscribed by Section 709.192(D) of the Ohio Revised Code.

Section 4.6. Amendments. This Agreement may be amended only by a writing approved by the legislative authorities of all of the Parties by means of appropriate legislation authorizing such amendment. Any amendment, in order to be effective, must be authorized by appropriate legislation passed by each of the Parties.

Section 4.7. Immunities Preserved. By entering into this Agreement, none of the Parties intend to relinquish or waive any of the immunities they now have or may hereafter be accorded under state and/or federal laws, including, without the limitation of any such immunities, all those immunities accorded to governmental entities and their officers and employees under O.R.C. Chapter 2744.

Section 4.8. No Personal Liability. All covenants, obligations, and agreements of the Parties contained in this Agreement shall be effective to the extent authorized and permitted by applicable law. No such covenant, obligation, or agreement shall be deemed to be a covenant, obligation, or agreement of any present or future member, officer, agent, or employee of any Party in other than their official capacity, and no official or member of a legislative authority executing this Agreement on behalf of any Party or any present or future member, officer, agent, or employee of any Party shall be liable personally by reason of the covenants, obligations, or agreements of the Parties contained in this Agreement.

Section 4.9. Powers Preserved. This Agreement is not intended to be in derogation of the powers granted to municipal corporations by Article XVIII, Ohio Constitution, or any other provisions of the Ohio Constitution or of the Ohio Revised Code; nor is it intended to be in derogation of the powers granted to townships under any provisions of the Ohio Constitution or of the Ohio Revised Code. The Parties hereby acknowledge their belief as to the lawfulness of this Agreement and agree not to challenge or contest it, or any provisions contained herein.

Section 4.10. Beneficiaries. This Agreement shall inure to the benefit of and shall be binding upon the Parties and their respective successors. This Agreement shall not inure to the benefit of anyone other than as provided in the immediately preceding sentence. Except for the Parties, this Agreement is not intended to and does not create rights or benefits of any kind for any other persons or entities that are not a party to this Agreement.

Section 4.11. Agreement. The Parties acknowledge and agree that this Agreement is intended to and shall serve as an annexation agreement pursuant to Section 709.192 of the Ohio Revised Code.

Section 4.12. Liberal Construction. The Parties agree that just as Section 709.192 of the Ohio Revised Code is to be liberally construed to allow the Parties to enter into Annexation Agreements, the Parties further agree that this Agreement shall be liberally construed in order to facilitate the desires of each of the Parties to carry out this Agreement. Each provision of this Agreement shall be construed and interpreted so as to permit maximum advantage to the Parties allowed by Section 709.192 of the Ohio Revised Code.

Section 4.13. Notices. All notices, demands, requests, consents, or approvals given, required, or permitted to be given hereunder shall be in writing and shall be deemed sufficiently given if actually received or if hand-delivered or sent by a generally recognized overnight delivery service or by certified mail, postage prepaid and return receipt requested, addressed to the other Party at the address set forth in this Agreement, or to such other address as the recipient shall have previously notified the sender of in writing, and shall be deemed received upon actual receipt, unless sent by certified mail, in which event such notice shall be deemed to have been received when the return receipt is signed or refused. For purposes of this Agreement, notices shall be addressed to:

(a) The Township at:

Athens Township Trustees
Attention: Brenda Cox, Fiscal Officer
P.O. Box 193
The Plains, Ohio 45780

With a copy simultaneously sent or delivered to:

Timothy L. Warren
Assistant Athens County Prosecutor
1 South Court St.
Athens, Ohio 45701

(b) The City at:

The City of Athens, Ohio
Attention: Debbie Walker, Clerk of Council
8 E. Washington St.
Athens, Ohio 45701

With a copy simultaneously sent or delivered to:

Lisa Eliason
Law Director for the City of Athens
8 E. Washington St.
Athens, Ohio 45701

The Parties, by notice given hereunder, may designate any further or different address to which subsequent notices, consents, certificates, requests or other communications shall be sent.

Section 4.14. Captions and Headings. The captions and headings herein are for convenience only and in no way define, limit, or describe the scope or intent of any provisions or Sections hereof.

Section 4.15. Counterparts. This Agreement may be executed in one or more counterparts or duplicate signature pages with the same force and effect as if all required signatures were contained in a single original instrument. Any one or more of such counterparts or duplicate signature pages may be removed from any one or more original copies of this Agreement and annexed to other counterparts or duplicate signature pages to form a completely executed original instrument.

Section 4.16. Governing Law and Choice of Forum. This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio or applicable federal law. All claims, counterclaims, disputes, and other matters in question between the Parties or their respective agents and employees arising out of or relating to this Agreement or its breach will be decided in a court of competent jurisdiction within Athens County, Ohio.

IN TESTIMONY WHEREOF, the Parties have caused multiple counterparts hereof to be executed by their duly authorized officers on or as of the date first set forth above.

ATTEST:

**THE CITY OF ATHENS,
ATHENS COUNTY, OHIO**

Debbie Walker
Athens City Council Clerk

By: _____
Steve Patterson
Mayor

APPROVED AS TO FORM:

Lisa Eliason
City of Athens Law Director

Keller Blackburn
Athens County Prosecutor
Timothy L. Warren
Assistant Athens County Prosecutor

ATTEST:

**ATHENS TOWNSHIP TRUSTEES,
ATHENS COUNTY, OHIO**

Brenda Cox
Athens Twp. Fiscal Officer

By: _____
Ted J. Linscott
Chair, Athens Twp. Board of Trustees

ATTACHMENT A

ANNEXATION AGREEMENT

The Annexation Parcel consists of the following parcel as numbered and in the records of the County Auditor of Athens County, Ohio, and as further depicted and shown on the Annexation Parcel Map attached as Attachment B:

Parcel Number:

A010010082100

Legal Description

34.874 Acres

Situate Ohio Company Purchase, Town 9, Range 14, Farm Lot 43, Athens Township, Athens County, Ohio.
Being a resurvey of the lands deeded to:
Frander Properties LLC, Official Record Book 600, pages 936-939.
Parcel A010010082100.

Beginning at a stone found at the northeast corner of Farm Lot 43;

- 1.) Thence S03°25'25"W 890.51 feet along a common boundary to Kuhnert 583-760 to a point, passing an iron pin set at 638.20 feet;
- 2.) Thence S22°16'32"W 150.47 feet along said common boundary to an iron pin found capped Highland;
- 3.) Thence S03°28'59"W 335.62 feet along said common boundary to an iron pin found capped Highland;
- 4.) Thence N74°56'40"W 399.83 feet along a common boundary with the north line of the Cable Acres 2nd Addition to a one-inch diameter pipe found, passing other one-inch diameter pipes found at 190.75 feet, 255.30 feet, and at 370.17 feet;
- 5.) Thence S67°24'04"W 117.06 feet to a one-inch diameter pipe found, passing an iron pin found at 90.46 feet capped England at the northeast corner of Lot 2817 of Cable Acres Addition;
- 6.) Thence N84°53'28"W 401.72 feet along the north line of the Cable Acres Addition to one-inch diameter pipe found, passing a #5 rebar found at 395.53 feet;
- 7.) Thence S70°06'21"W 204.80 feet along the north line of the Cable Acres Addition to a point in the center of Cable Lane, passing a one-inch diameter pipe found at 56.95 feet, and an iron pin set at 178.34 feet;
- 8.) Thence N17°37'40"W 352.58 feet to a point in the center of Cable Lane;
- 9.) Thence N10°25'58"W 95.10 feet to a point in the center of Cable Lane;
- 10.) Thence S89°53'53"E 220.78 feet along the south boundary of Lot 3393 of the Jagers Subdivision to a one-inch diameter square steel found, passing an iron pin set at 54.23 feet;
- 11.) Thence N15°33'24"E 100.52 feet along the east line of Lot 3393 to a one-inch diameter square steel found;
- 12.) Thence N89°53'53"W 46.96 feet along the north line of Lot 3393 to an iron pin set;
- 13.) Thence N06°37'07"E 97.22 feet along the east line of Lot 3394 to a one-inch diameter square steel found;
- 14.) Thence N03°35'07"E 96.77 feet along the east line of Lot 3395 to a one-inch diameter square steel found;
- 15.) Thence N04°43'07"E 96.90 feet along the east line of Lot 3396 to a #5 rebar found;
- 16.) Thence N89°53'53"W 134.54 feet along the north line of Lot 3396 to a point in the center of Cable Lane, passing a one-inch diameter square steel found at 79.12 feet;
- 17.) Thence N15°21'31"E 248.15 feet to a point in the center of Cable Lane;
- 18.) Thence N18°48'23"E 116.39 feet to a point in the center of Cable Lane;
- 19.) Thence N28°29'04"E 84.10 feet to a point in the center of Cable Lane;
- 20.) Thence N27°25'21"E 155.63 feet to a point in the center of Cable Lane;
- 21.) Thence N21°42'54"E 39.50 feet to a point in the center of Cable Lane;
- 22.) Thence S85°44'13"E 1023.20 feet along a common boundary to Cantino 99-782, and Cable Lane Farms 558-2242, (Passing an iron pin set at 50.00 feet, passing an iron pin set at 259.90 feet, and passing a one-inch diameter pipe found at 698.86 feet) to the point of beginning containing a total of 34.874 acres.

Plat of Survey is attached herewith and made a part thereof.

Subject to all easements, rights-of-way, covenants, and agreements of record.

Iron Pins Set are number 5 rebar, 30-inches in length capped NEWMAN PS-8043

Basis of Bearings: Ohio State Plane Coordinate System, Ohio South Zone, NAD83.

Survey completed by Charles T. Newman, Licensed Professional Surveyor 8043 on January 12, 2023.

Charles T. Newman PS
66 Elmwood Place
Athens, Ohio 45701



Legal Description Pre-Approval
APPROVED
All transfers are subject to
Athens County Conveyance Standards

Description Checked for
Mathematical Accuracy
Athens County
ENGINEER'S OFFICE

BY: *[Signature]*
DATE: 1/24/23

JAN 25 2023

Jill Thompson
Athens County Auditor

ATTACHMENT B
ANNEXATION AGREEMENT

C. TIM NEWMAN
Professional Surveyor

66 Elmwood Place
Athens, Ohio 45701

740-594-1884
FAX 740-594-8413

Plat of Survey of 34.874 Acres,
Situate Ohio Company Purchase, Town 9, Range 14, Farm Lot 43,
Athens Township, Athens County, Ohio.
Deeded to: Frander Properties LLC, Official Record Book 600, pages 936-939.
Parcel A010010082100.

Base of Bearings Ohio State Plane Coordinate System, South Zone, NAD83
Survey References Prior Surveys and Deeds as noted on Plat

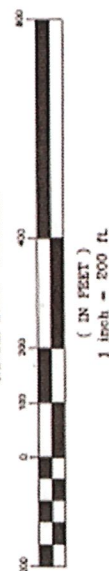
Charles T. Newman
Charles T. Newman
Surveyed Jan. 2023



LINE	BEARING	LENGTH
L1	N37°37'40"W	350.58'
L2	N10°25'58"W	90.10'
L3	S89°53'33"E	280.78'
L4	N57°33'24"E	100.52'
L5	N89°50'53"W	46.95'
L6	N65°37'07"E	97.22'
L7	N03°35'07"E	98.77'
L8	N04°43'07"E	96.90'
L9	N89°53'53"W	134.54'
L10	N52°23'01"E	248.15'
L11	N68°48'23"E	316.39'
L12	N28°29'04"E	84.10'
L13	N27°25'21"E	155.63'
L14	N21°42'54"E	39.50'

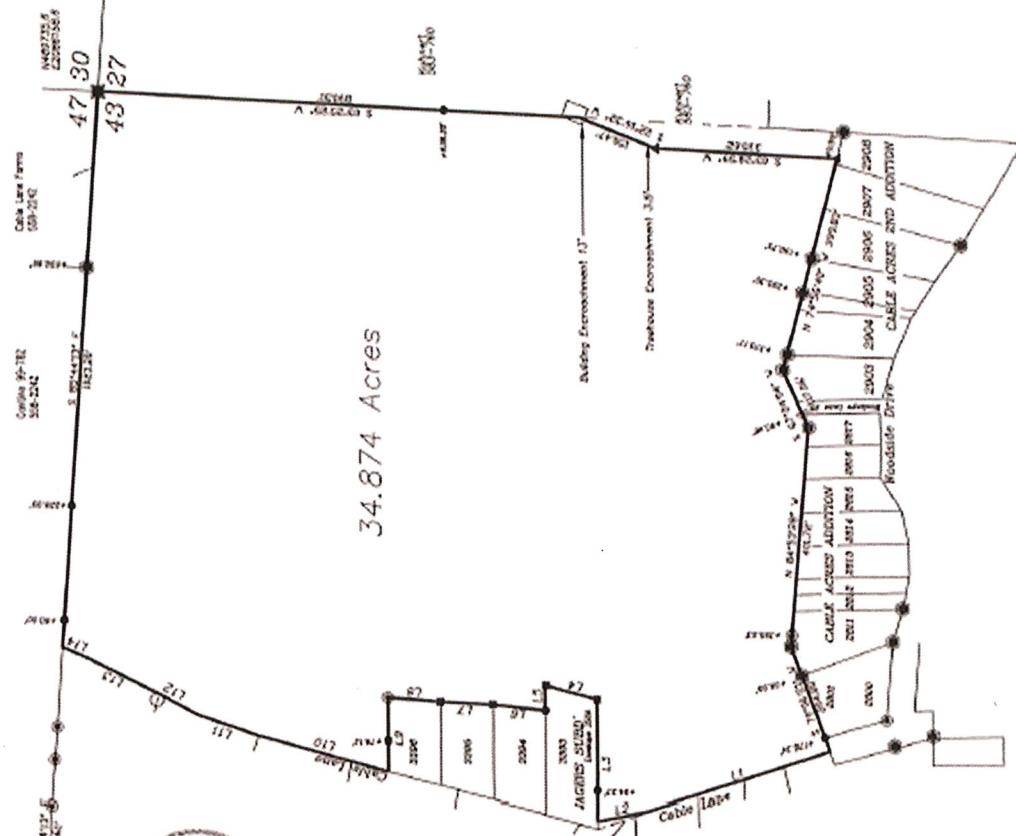
- One-Inch Square Steel
- ▲ Iron Pin Found capped England
- ▲ Iron Pin Found capped Highland
- Iron Pin Found #3 Rebar
- Iron Pin Set capped Neuman
- Stone Found
- One-Inch OD Pipe Found
- Iron Pin Found capped Buckley

GRAPHIC SCALE



Description Checked for
Mathematical Accuracy
Athens County
ENGINEER'S OFFICE
BY: *W. Newman*
DATE: 1/24/23

34.874 Acres



**RESOLUTION ACCEPTING THE AMOUNTS AND RATES AS DETERMINED BY THE
BUDGET COMMISSION AND AUTHORIZING THE NECESSARY TAX LEVIES
AND CERTIFYING THEM TO THE COUNTY AUDITOR**

(CITY COUNCIL)

Revised Code, Secs. 5705.34, - 35.

The Council of the **City of Athens**, Athens County, Ohio met in _____
(Regular or Special) session on the _____ day of _____, 2024
at the office of _____ with the following members present:

_____ moved the adoption of the following Resolution:

*WHEREAS, This Council in accordance with the provisions of law has previously adopted
a Tax Budget for the next succeeding fiscal year commencing January 1st, 2025; and*

*WHEREAS, The Budget Commission of Athens County, Ohio has certified its action thereon to
this Council together with an estimate by the County Auditor of the rate of each tax necessary to be
levied by this Council, and what part thereof is without, and what part is within, the ten mill
limitation; therefore, be it*

*RESOLVED, By the Council of the **City of Athens**, Athens County, Ohio that the amounts
and rates, as determined by the Budget Commission in its certification, be and the same are
hereby accepted; and be it further*

*RESOLVED, That there be and is hereby levied on the tax duplicate of said City
the rate of each tax necessary to be levied within and without the ten mill limitation as follows:*

SCHEDULE A

SUMMARY OF AMOUNTS REQUIRED FROM GENERAL PROPERTY TAX APPROVED BY BUDGET COMMISSION, AND COUNTY AUDITOR'S ESTIMATED TAX RATES

FUND	Amount to Be Derived from Levies Outside 10 Mill Limitation	Amount Approved by Budget Commission Inside 10 Mill Limitation	County Auditor's Estimate of Tax Rate to Be Levied	
			Inside 10 Mill Limit	Outside 10 Mill Limit
	Column II	Column IV	V	VI
General Fund				
Athens Township		1,159,868	2.60	
Canaan Township		54,830	2.40	
TOTAL	-	1,214,699	5.00	0.00

SCHEDULE B LEVIES OUTSIDE 10 MILL LIMITATION, EXCLUSIVE OF DEBT LEVIES		
Fund	Maximum Rate Authorized to Be Levied	County Auditor's Estimate of Yield of Levy (Carry to Schedule A, Column II)
General Fund:		
Total General Fund Outside 10 Mill Limitation		

and be it further

RESOLVED, That the Clerk of this Council be, and is hereby directed to certify a copy of this Resolution to the County Auditor of Athens County.

_____ seconded the Resolution and the roll being called upon its adoption the vote resulted as follows:

Adopted the _____ day of _____, 2024.

President of Council

Clerk of Council

CERTIFICATE OF COPY

ORIGINAL ON FILE

The State of Ohio, Athens County, ss.

*I, _____, Clerk of the Council of the **City of Athens**, within and for said County, and in whose custody the Files and Records of said Council are required by the Laws of the State of Ohio to be kept, do hereby certify that the foregoing is taken and copied from the original:*

now on file, that the foregoing has been compared by me with said original document, and that the same is a true and correct copy thereof.

Witness my signature, this _____ day of _____, 2024.

Clerk of Council

A copy of this Resolution must be certified to the County Auditor before the first day of October in each year, or at such later date as may be approved by the Board of Tax Appeals.

No. _____

COUNCIL OF THE CITY OF

ATHENS

Athens County, Ohio

RESOLUTION

**ACCEPTING THE AMOUNTS AND
RATES AS DETERMINED BY THE
BUDGET COMMISSION AND
AUTHORIZING THE NECESSARY TAX
LEVIES AND CERTIFYING THEM TO
THE COUNTY AUDITOR.
(City Council)**

Adopted _____, 2024

Clerk of Council

Filed _____, 2024

Jill A. Thompson

Athens County Auditor

By _____
Deputy

Athens City
Tax Revenue Estimates for 2025 (Tax Year 2024)

<u>Tax Rate</u>	<u>Type</u>	<u>Date Voted</u>	<u>Levied Years</u>
2.60 Mills GF - Athens Twp n/a	Inside	n/a	Continuing
2.40 Mills GF - Canaan Twp n/a	Inside	n/a	Continuing

<u>Athens City</u>	<u>Athens Township</u>	<u>Canaan Township</u>	<u>Total</u>
AGR-RES	268,215,500	575,810	268,791,310
OTHER	175,448,800	22,682,680	198,131,480
UTILITY REAL	-	-	-
UTILITY PERS	25,918,040	789,930	26,707,970
PERSONAL	-	-	-
TOTAL	469,582,340	24,048,420	493,630,760

<u>Levy</u>	<u>Eff. Rate A</u>	<u>Eff. Rate B</u>	<u>Full Rate</u>	<u>Estimated Revenue</u>
GF - Athens Twp	2.600000	2.600000	2.60 \$	1,159,868
GF - Canaan Twp	2.400000	2.400000	2.40 \$	54,830
Total Tax Levy Estimate:			\$	1,214,699

Estimates are calculated using tax year 2023 rates and valuation

Total Estimated Revenue does not include PU or PPT Reimbursements.

Introduced by All Members of Council
Committee of the Whole

AN ORDINANCE AMENDING TITLE 7, TRAFFIC CODE, SECTIONS 7.02.11, 7.02.17, 7.02.23, 7.03.07, 7.03.07.1, 7.03.25, 7.04.58, AND 7.05.31; AND REPEALING ALL ORDINANCES INCONSISTENT THEREWITH.

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

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

SECTION I: The Code of Ordinances of the City of Athens, Ohio (meaning City Municipal Code) is hereby amended by adding certain provisions.

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

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

SECTION IV: Supplementation of Code.

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

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

- (1) Organize the ordinance material into appropriate subdivisions;
- (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the City's Municipal Code printed in the supplement, and make

changes in such catchlines, headings, and titles;

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

(4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections 7.02.11, 7.02.17, 7.02.23, 7.03.07, 7.03.07.1, 7.03.25, 7.04.58, AND 7.05.31; and

(5) Make other non-substantive changes necessary to preserve the original meaning of ordinance sections inserted into the City's Municipal Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the City's Municipal Code.

(c) In preparing a supplement to the City's Municipal Code, the pages of a supplement shall be so numbered that they will fit properly into the City's Municipal Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the City's Municipal Code will be current through the date of the adoption of the latest ordinance included in the supplement.

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

SECTION VI: Any ordinances or resolutions inconsistent herewith are hereby repealed.

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

SECTION VIII: The Athens City Municipal Code, Title 7, Traffic Code, is hereby amended as attached hereto and incorporated herein by reference.

SECTION IX: This Ordinance shall be in effect and full force upon passage and approval by the Mayor.

President of Council

ATTEST:

APPROVED:

Clerk of Council

Mayor

7.02.11. Lights on ~~s~~low moving vehicles.

~~(A) All vehicles other than bicycles, including animal-drawn vehicles and vehicles referred to in Paragraph (G) of Section 4513.02 of the Revised Code, not specifically required to be equipped with lamps or other lighting devices by Sections 4513.03 to 4513.10 of the Ohio Revised Code, shall, at all times specified in Section 4513.03 of the Ohio Revised Code, be equipped with at least one lamp displaying a white light visible from a distance of not less than 1,000 feet to the front of the vehicle, and shall also be equipped with two lamps displaying red light visible from a distance of not less than 1,000 feet to the rear of the vehicle, or as an alternative, one lamp displaying a red light visible from a distance of not less than 1,000 feet to the rear and two red reflectors visible from all distances of 600 feet to 100 feet to the rear when illuminated by the lawful lower beams of headlamps. Every animal-drawn vehicle shall at all times be equipped with a slow-moving vehicle emblem complying with Paragraph (B) of this section.~~

~~Lamps and reflectors required by this section shall meet standards adopted and promulgated by the director of public safety.~~

~~(B) All boat trailers, farm machinery, and other machinery including all road construction machinery, upon a street or highway, except when being used in actual construction and maintenance work in an area guarded by a flagperson, or where flares are used, or when operating or traveling within the limits of a construction area designated by the director of transportation, a city engineer, or the county engineer of the several counties, when such construction area is marked in accordance with requirements of the director and the manual of uniform traffic control devices, as set forth in Section 4511.09 of the Ohio Revised Code, which is designed for operation at a speed of 25 miles an hour or less shall be operated at a speed not exceeding 25 miles per hour, and shall display a triangular slow moving vehicle emblem (SMV). The emblem shall be mounted so as to be visible from a distance of not less than 500 feet to the rear. The director of public safety shall adopt standards and specifications for the design and position of mounting the SMV emblem. The standards and specifications for SMV emblems referred to in this section shall correlate with and, so far as possible, conform with those approved by the American Society of Agricultural Engineers.~~

~~A unit of farm machinery that is designed by its manufacturer to operate at a speed greater than 25 miles per hour may be operated on a street or highway at a speed greater than 25 miles per hour provided it is operated in accordance with this section.~~

~~As used in this division, "machinery" does not include any vehicle designed to be drawn by an animal.~~

~~(C) The use of this emblem shall be restricted to animal-drawn vehicles, and to the slow moving vehicles specified in Paragraph (B) of this section operating or traveling within the limits of the highway. Its use on slow-moving vehicles being transported~~

~~upon other types of vehicles or on any other type of vehicle or stationary object on the highway is prohibited.~~

- ~~(D) No person shall sell, lease, rent, or operate any boat trailer, farm machinery, or other machinery defined as a slow-moving vehicle, as defined in subsection (B) of this section, except those units designed to be completely mounted on a primary power unit, which is manufactured or assembled on or after April 1, 1966, unless the vehicle is equipped with a slow-moving vehicle emblem mounting device as specified in subsection (B) of this section.~~

~~No person shall sell, lease, rent, or operate on a street or highway any unit of farm machinery that is designed by its manufacturer to operate at a speed greater than 25 miles per hour unless the unit displays a slow-moving vehicle emblem as specified in subsection (B) of this section and a speed identification symbol that meets the specifications contained in the American Society of Agricultural Engineers Standard ANSI/ASAE S584 JAN2005, agricultural equipment: speed identification symbol (SIS).~~

- ~~(E) The boat trailer, farm machinery, or other slow-moving vehicles specified in subsection (B) of this section may, in addition to the use of the slow-moving vehicle emblem, and any unit of farm machinery that is designed by its manufacturer to operate at a speed greater than 25 miles per hour, in addition to the display of a speed identification symbol, may be equipped with a red flashing light which shall be visible from a distance of not less than 1,000 feet to the rear at all times specified in Section 4513.03 of the Ohio Revised Code. When a double-faced light is used, it shall display amber light to the front and red light to the rear.~~

~~In addition to the lights described in this division, farm machinery and motor vehicles escorting farm machinery may display a flashing, oscillating, or rotating amber light, as permitted by Section 4513.17 of the Revised Code, and also may display simultaneously flashing turn signals or warning lights, as permitted by that section.~~

- ~~(F) Every animal-drawn vehicle upon a street or highway shall at all times be equipped in one of the following ways:~~

- ~~(1) With a slow-moving vehicle emblem complying with subsection (B) of this section;~~
- ~~(2) With alternate reflective material complying with rules adopted under this division;~~
- ~~(3) With both a slow-moving vehicle emblem and alternate reflective material as specified in this division.~~

~~The director of public safety, subject to Chapter 119 of the Revised Code, shall adopt rules establishing standards and specifications for the position of mounting of the alternate reflective material authorized by this division. The rules shall permit, as a minimum, the alternate reflective material to be black, gray, or silver in color. The alternate reflective material shall be mounted on the animal-drawn vehicle so as to be visible, at all times specified in Section 4513.03 of the Revised Code, from a distance of not less than 500 feet to the rear when illuminated by the lawful lower beams of headlamps.~~

~~(G) Every unit of farm machinery that is designed by its manufacturer to operate at a speed greater than 25 miles per hour shall display a slow-moving vehicle emblem and a speed identification symbol that meets the specifications contained in the American society of agricultural engineers standard ANSI/SAE S584 JAN 2005, agricultural equipment: speed identification symbol (SIS) when the unit is operated upon a street or highway, irrespective of the speed at which the unit is operated on the street or highway. The speed identification symbol shall indicate the maximum speed in miles per hour at which the unit of farm machinery is designed by its manufacturer to operate. The display of the speed identification symbol shall be in accordance with the standard prescribed in this division.~~

~~If an agricultural tractor that is designed by its manufacturer to operate at a speed greater than 25 miles per hour is being operated on a street or highway at a speed greater than 25 miles per hour and is towing, pulling, or otherwise drawing a unit of farm machinery, the unit of farm machinery shall display a slow-moving vehicle emblem and a speed identification symbol that is the same as the speed identification symbol that is displayed on the agricultural tractor.~~

~~(H) When an agricultural tractor that is designed by its manufacturer to operate at a speed greater than 25 miles per hour is being operated on a street or highway at a speed greater than 25 miles per hour, the operator shall possess some documentation published or provided by the manufacturer indicating the maximum speed in miles per hour at which the manufacturer designed the agricultural tractor to operate.~~

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

~~(J) As used in this section, "boat trailer" means any vehicle designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a street or highway for a distance of no more than ten miles and at a speed of 25 miles per hour or less.~~

~~(RC 5624.22)~~

As used in sections 7.02:

(A) "Boat trailer" means any vehicle designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a street or highway for a distance of no more than ten miles and at a speed of twenty-five miles per hour or less.

(B) "Slow-moving vehicle" and "SMV" mean a boat trailer, unit of farm machinery, road construction machinery, or other machinery designed by the manufacturer to operate at a speed of twenty-five miles per hour or less. "Slow-moving vehicle" and "SMV" do not include a bicycle, motorized bicycle, electric bicycle, or animal-drawn vehicle.

(RC 4513.11)

(Ord. No. 0-134-21, § I, 11-15-2021)

7.02.17. Number of lights permitted; red and flashing lights.

- (A) Whenever a motor vehicle equipped with headlights is also equipped with any auxiliary lights or spotlight or any other light on the front thereof projecting a beam of an intensity greater than 300 candle power, not more than a total of five of any such lights on the front of a vehicle shall be lighted at any one time when said vehicle is upon a highway.
- (B) Any lighted light or illuminating device upon a motor vehicle, other than headlights, spotlights, signal lights, or auxiliary driving lights, which projects a beam of light of an intensity greater than 300 candle power shall be so directed that no part of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than 75 feet from the vehicle.

(C) (1) Flashing lights are prohibited on motor vehicles, except as a means for indicating a right or a left turn, or in the presence of a vehicular traffic hazard requiring unusual care in approaching or overtaking or passing.

(2) The prohibition in division (C)(1) of this section does not apply to any of the following:

~~(C) (1) Flashing lights are prohibited on motor~~ a) Emergency vehicles, except as a means for indicating a right or a left turn, or in the presence of vehicular traffic hazard requiring unusual care in approaching, or overtaking or passing.

~~(2) The prohibition in subsection (C)(1) of this section does not apply to any of the following:~~

- ~~(a) Emergency vehicles,~~ road service vehicles servicing or towing a disabled vehicle, stationary waste collection vehicles actively collecting garbage, refuse, trash, or recyclable materials on the roadside, rural mail delivery vehicles, vehicles as provided in Section 4513.182 of the Ohio Revised Code, highway maintenance vehicles, and similar equipment operated by the department or local authorities, provided such vehicles are equipped with and display, when used on a street or highway for the special purpose necessitating such lights, a flashing, oscillating, or rotating amber light;
- (b) Vehicles or machinery permitted by Section 4513.111 of the Ohio Revised Code to have a flashing red light;
- (c) Farm machinery and vehicles escorting farm machinery, provided such machinery and vehicles are equipped with and display, when used on a street or highway, a flashing, oscillating, or rotating amber light. Farm machinery also may display the lights described in Section 4513.111 of the Ohio Revised Code.
- (d) A funeral hearse or funeral escort vehicle, provided that the funeral hearse or funeral escort vehicle is equipped with and displays, when used on a street or highway for the special purpose necessitating such lights, a flashing, oscillating, or rotating purple or amber light.

(e) A vehicle being used for emergency preparedness, response, and recovery activities, as those terms are defined in section 5502.21 of the Revised Code, that is equipped with and displays, when used on a street or highway for the special purpose necessitating such lights, a flashing, oscillating, or rotating amber or red and white light, provided that the vehicle is being operated by a person from one of the following and the vehicle is clearly marked with the applicable agency's or authority's insignia:

(i) The Ohio emergency management agency;

(ii) A countywide emergency management agency established under section 5502.26 of the Revised Code;

(iii) A regional authority for emergency management established under section 5502.27 of the Revised Code;

(iv) A program for emergency management established under section 5502.271 of the Revised Code.

(3) ~~Subsection~~ **Division** (C)(1) of this section does not apply to animal-drawn vehicles subject to Section 4513.144 of the Ohio Revised Code.

(D) (1) Except a person operating a public safety vehicle, as defined in subsection (E) of Section 4511.01 of the Ohio Revised Code, or a school bus, no person shall operate, move, or park upon, or permit to stand within the right-of-way of any public street or highway any vehicle or equipment that is equipped with and displaying a flashing red or a flashing combination red and white light, or an oscillating or rotating red light, or a combination red and white oscillating or rotating light.

(2) Except a public law enforcement officer, or other person sworn to enforce the criminal and traffic laws of the state, operating a public safety vehicle when on duty, no person shall operate, move, or park upon, or permit to stand within the right-of-way of any street or highway any vehicle or equipment that is equipped with, or upon which is mounted, and displaying a flashing blue or a flashing combination blue and white light, or an oscillating or rotating blue light, or a combination blue and white oscillating or rotating light.

(E) This section does not prohibit the use of warning lights required by law or the simultaneous flashing of turn signals on disabled vehicles or on vehicles being operated in unfavorable atmospheric conditions in order to enhance their visibility. This section also does not prohibit the simultaneous flashing of turn signals or warning lights either on farm machinery or vehicles escorting farm machinery, when used on a street or highway.

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

(R.C. 4513.17)

(Ord. No. 0-138-22, § I, 12-5-2022)

7.02.23. Signs on windshield; wipers required.

- (A) No person shall drive any motor vehicle on a street or highway, other than a motorcycle or motorized bicycle, that is not equipped with a windshield.
- (B) (1) No person shall drive any motor vehicle, other than a bus, with any sign, poster, or other nontransparent material upon the front windshield, side or rear windows of the such vehicle other than a certificate or other paper required to be so displayed by law, except that there may be in the lower right-hand corner of the windshield a sign or poster not to exceed four inches in height by six inches in width. No sign, poster, or decal shall be displayed in the front windshield in such a manner as to conceal the vehicle identification number for the motor vehicle when, in accordance with federal law, that number is located inside the vehicle passenger compartment and so placed as to be readable through the vehicle glazing without moving any part of the vehicle.
- (2) Subsection (B)(1) of this section does not apply to a person who is driving a passenger car with an electronic device, including an antenna, electronic tolling or other transponder, camera, directional navigation device, or other similar electronic device located in the front windshield if **either of the device meets both of the following apply to the device:**
- (a) **It is a "vehicle safety technology" as defined in 49 C.F.R. 393.5. and complies with 49 C.F.R. 393.60(e)(1)(ii).**
- (ab) It does not restrict the vehicle operator's sight lines to the road and highway signs and signals, **and it does not conceal the vehicle identification number.**
- ~~(b) It does not conceal the vehicle identification number.~~
- (3) Subsection (B)(1) of this section does not apply to a person who is driving a commercial car with an electronic device, including an antenna, electronic tolling or other transponder, camera, directional navigation device, or other similar electronic device located in the front windshield if **either of the device meets both of the following apply to the device:**
- (a) **It is a "vehicle safety technology" as defined in 49 C.F.R. 393.5. and complies with 49 C.F.R. 393.60(e)(1)(ii).**
- (ab) It does not restrict the vehicle operator's sight lines to the road and highway signs and signals, **and it is mounted not more than eight and one-half inches below the upper edge of the windshield.**
- ~~(b) It is mounted not more than six inches below the upper edge of the windshield and is outside the area swept by the vehicle's windshield wipers.~~
- (C) The windshield on every motor vehicle, streetcar, and trackless trolley shall be equipped with a device for cleaning rain, snow or other moisture from the windshield, which device shall be maintained in good working order and so constructed as to be controlled or operated by the operator of the vehicle.

(D) No person shall operate any vehicle in which the operator's view through the windshield or any window is obstructed due to the glass being dirty, cracked, blurred or nontransparent.

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

(RC 4513.24)

(Ord. No. 0-134-21, § I, 11-15-2021)

7.03.07. Prohibition against driving while under the influence of alcohol or drugs with certain concentration of alcohol in bodily substances; chemical analysis.

(A) (1) No person shall operate any vehicle, streetcar, or trackless trolley within this state, if any of the following apply:

- (a) The person is under the influence of alcohol, a drug of abuse, or a combination of them.
- (b) The person has a concentration of 0.08 percent or more but less than 0.17 percent by weight per unit volume of alcohol in the person's whole blood.
- (c) The person has a concentration of 0.096 percent or more but less than 0.204 percent by weight per unit volume of alcohol in the person's blood serum or plasma.
- (d) The person has a concentration of 0.08 grams or more but less than 0.17 grams by weight of alcohol per 210 liters of the person's breath.
- (e) The person has a concentration of 0.11 grams or more but less than 0.238 grams by weight of alcohol per 100 milliliters of the person's urine.
- (f) The person has a concentration of 0.17 percent or more by weight per unit volume of alcohol in the person's whole blood.
- (g) The person has a concentration of 0.204 percent or more by weight per unit volume of alcohol in the person's blood serum or plasma.
- (h) The person has a concentration of 0.17 grams or more by weight of alcohol per 210 liters of the person's breath.
- (i) The person has a concentration of 0.238 grams or more by weight of alcohol per 100 milliliters of the person's urine.
- (j) Except as provided in subsection (K) of this section, the person has a concentration of any of the following controlled substances or metabolites of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds any of the following:
 - 1. The person has a concentration of amphetamine in the person's urine of at least 500 nanograms of amphetamine per milliliter of the person's urine or has a concentration of amphetamine in the person's whole blood or blood serum or plasma of at least 100 nanograms of

amphetamine per milliliter of the person's whole blood or blood serum or plasma.

2. The person has a concentration of cocaine in the person's urine of at least 150 nanograms of cocaine per milliliter of the person's urine or has a concentration of cocaine in the person's whole blood or blood serum or plasma of at least 50 nanograms of cocaine per milliliter of the person's whole blood or blood serum or plasma.
3. The person has a concentration of cocaine metabolite in the person's urine of at least 150 nanograms of cocaine metabolite per milliliter of the person's urine or has a concentration of cocaine metabolite in the person's whole blood or blood serum or plasma of at least 50 nanograms of cocaine metabolite per milliliter of the person's whole blood or blood serum or plasma.
4. The person has a concentration of heroin in the person's urine of at least 2,000 nanograms of heroin per milliliter of the person's urine or has a concentration of heroin in the person's whole blood or blood serum or plasma of at least 50 nanograms of heroin per milliliter of the person's whole blood or blood serum or plasma.
5. The person has a concentration of heroin metabolite (6-monoacetyl morphine) in the person's urine of at least ten nanograms of heroin metabolite (6-monoacetyl morphine) per milliliter of the person's urine or has a concentration of heroin metabolite (6-monoacetyl morphine) in the person's whole blood or blood serum or plasma of at least ten nanograms of heroin metabolite (6-monoacetyl morphine) per milliliter of the person's whole blood or blood serum or blood serum or plasma.
6. The person has a concentration of L.S.D. in the person's urine of at least 25 nanograms of L.S.D. per milliliter of the person's urine or a concentration of L.S.D. in the person's whole blood or blood serum or plasma of at least ten nanograms of L.S.D. per milliliter of the person's whole blood or blood serum or plasma.
7. The person has a concentration of marihuana in the person's urine of at least ten nanograms of marihuana per milliliter of the person's urine or has a concentration of marijuana in the person's whole blood or blood serum or plasma of at least two nanograms of marihuana per milliliter of the person's whole blood or blood serum or plasma.
8. Either of the following applies:
 - a. The person is under the influence of alcohol, a drug of abuse, or combination of them, and the person has a concentration of marihuana metabolite in the person's urine or at least 15 nanograms of marihuana metabolite per milliliter of the person's urine or has a concentration of marihuana metabolite in the person's whole blood or blood serum or plasma of at least five

nanograms of marihuana metabolite per milliliter of the person's whole blood or blood serum or plasma.

- b. The person has a concentration of marihuana metabolite in the person's urine of at least 35 nanograms of marijuana metabolite per milliliter of the person's urine or has a concentration of marihuana metabolite in the person's whole blood or blood serum or plasma of at least 50 nanograms of marihuana metabolite per milliliter of the person's whole blood or blood serum or plasma.
 9. The person has a concentration of methamphetamine in the person's urine of at least 500 nanograms of methamphetamine per milliliter of the person's urine or has a concentration of methamphetamine in the person's whole blood or blood serum or plasma of at least 100 nanograms of methamphetamine per milliliter of the person's whole blood or blood serum or plasma.
 10. The person has a concentration of phencyclidine in the person's urine of at least 25 nanograms of phencyclidine per milliliter of the person's urine or has a concentration of phencyclidine in the person's whole blood or blood serum or plasma of at least ten nanograms of phencyclidine per milliliter of the person's whole blood or blood serum or plasma.
 11. The State Board of Pharmacy has adopted a rule pursuant to R.C. § 4729.041 that specifies the amount of salvia divinorum and the amount of salvinorin A that constitute concentrations of salvia divinorum and salvinorin A in a person's urine, in a person's whole blood, or in a person's blood serum or plasma at or above which the person is impaired for purposes of operating any vehicle within this state, the rule is in effect, and the person has a concentration of salvia divinorum or salvinorin A of at least that amount so specified by the rule in the person's urine, in the person's whole blood, or in the person's blood serum or plasma.
- (2) No person who, within 20 years of the conduct described in subsection (A)(2)(a) of this section, previously has been convicted of or pleaded guilty to a violation of this division or a substantially equivalent state law or municipal ordinance, a violation of subsection (A)(1) ~~or (B)~~ of this section or a substantially equivalent state law or municipal ordinance, or any other equivalent offense shall do both of the following:
- (a) Operate any vehicle within this municipality while under the influence of alcohol, a drug of abuse, or a combination of them:
 - (b) Subsequent to being arrested for operating the vehicle as described in subsection (A)(2)(a) of this section, being asked by a law enforcement officer to submit to a chemical test or tests under R.C. § 4511.191 or any substantially equivalent municipal ordinance, and being advised by the officer in accordance with R.C. § 4511.192 or any substantially equivalent

municipal ordinance of the consequences of the person's refusal or submission to the test or tests, refuse to submit to the test or tests.

- (B) No person under 21 years of age shall operate any vehicle within this municipality, if, at the time of the operation, any of the following apply:
- (1) The person has a concentration of at least 0.02 percent but less than 0.08 percent by weight per unit volume of alcohol in the person's whole blood.
 - (2) The person has a concentration of at least 0.03 percent, but less than 0.096 percent by weight per unit volume of alcohol in the person's blood serum or plasma.
 - (3) The person has a concentration of at least 0.02 grams but less than 0.08 grams by weight of alcohol per 210 liters of the person's breath.
 - (4) The person has a concentration of at least 0.028 grams but less than 0.11 grams by weight of alcohol per 100 milliliters of the person's urine.
- (C) In any proceeding arising out of one incident, a person may be charged with a violation of subsection (A)(1)(a) or (A)(2) and a violation of subsection (B)(1), (B)(2), or (B)(3) of this section, but the person may not be convicted of more than one violation of these divisions.
- (D) (1) (a) In any criminal prosecution or juvenile court proceeding for a violation of subsection (A)(1)(a) of this section or for an equivalent offense that is vehicle-related, the result of any test of any blood or urine withdrawn and analyzed at any health care provider, as defined in R.C. § 2317.02, may be admitted with expert testimony to be considered with any other relevant and competent evidence in determining the guilt or innocent of the defendant.
- (b) In any criminal prosecution for a violation of subsection (A) or (B) of this section or for any equivalent offense that is vehicle-related, the court may admit evidence on the concentration of alcohol, drugs of abuse, controlled substances, metabolites of controlled substance, or a combination of them in the defendant's whole blood, blood serum or plasma, breath, urine, or other bodily substance at the time of the alleged violation as shown by chemical analysis of the substance withdrawn within three hours of the time of the alleged violation. The three-hour time limit specified in this division regarding the admission of evidence does not extend or affect the two hour time limit specified in R.C. § 4511.192(A) as the maximum period of time during which a person may consent to a chemical test or tests as described in that section. The court may admit evidence on the concentration of alcohol, drugs of abuse, or a combination of them as described in this division when a person submits to a blood test at the request of a law enforcement officer under R.C. § 4511.191 or a substantially equivalent municipal ordinance, or a blood or urine sample is obtained pursuant to a search warrant. Only a physician, a registered nurse, an emergency medical technician-intermediate, an emergency medical technician-paramedic, or a qualified technician, chemist, or phlebotomist shall withdraw a blood sample for the purpose of determining the alcohol, drug,

controlled substance, metabolite of a controlled substance, or combination content of the whole blood, blood serum, or blood plasma. This limitation does not apply to the taking of breath or urine specimens. A person authorized to withdraw blood under this division may refuse to withdraw blood under this division, if in that person's opinion, the physical welfare of the person would be endangered by the withdrawing of blood. The bodily substance withdrawn under this subsection (D)(1)(b) shall be analyzed in accordance with methods approved by the director of health by an individual possessing a valid permit issued by the director pursuant to R.C. § 3701.143.

- (c) As used in subsection (D)(1)(b) of this section, "emergency medical technician—intermediate" and "emergency medical technician—paramedic" have the same meanings as in R.C. § 4765.01.
- (2) In a criminal prosecution for a violation of subsection (A) of this section or for an equivalent offense that is vehicle-related. If there was at the time the bodily substance was withdrawn a concentration of less than the applicable concentration of alcohol specified in subsections (A)(1)(b), (A)(1)(c), (A)(1)(d) and (A)(1)(e) of this section or less than the applicable concentration of a listed controlled substance or a listed metabolite of a controlled substance specified for a violation of subsection (A)(1)(j) of this section, that fact may be considered with other competent evidence in determining the guilt or innocence of the defendant. This division does not limit or affect a criminal prosecution for a violation of subsection (B) of this section.
- (3) Upon the request of the person who was tested, the results of the chemical test shall be made available to the person or the person's attorney, immediately upon the completion of the chemical test analysis. If the chemical test was obtained pursuant to subsection (D)(1)(b) of this section, the person tested may have a physician, a registered nurse, or a qualified technician, chemist, or phlebotomist of the person's own choosing administer a chemical test or tests, at the person's expense, in addition to any administered at the request of a law enforcement officer. If the person was under arrest as described in R.C. § 4511.191(A)(5), the arresting officer shall advise the person at the time of the arrest that the person may have an independent chemical test taken at the person's own expense. If the person was under arrest other than described in R.C. § 4511.191(A)(5), the form to be read to the person to be tested as required under Section 7.03.07.1, shall state that the person may have an independent test performed at the person's expense. The failure or inability to obtain an additional chemical test by a person shall not preclude the admission of evidence relating to the chemical test or tests taken at the request of a law enforcement officer.
- (4) (a) As used in subsection (D)(4)(b) and (D)(4)(c) of this section, "National Highway Traffic Safety Administration" means the National Highway Traffic Safety Administration established as an administration of the United States Department of Transportation under 96 Stat 2415 (1983), 49 U.S.C. § 105.

- (b) In any criminal prosecution or juvenile court proceeding for a violation of subsection (A) or (B) of this section, of a municipal ordinance relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, or of a municipal ordinance relating to operating a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath, or urine, if a law enforcement officer has administered a field sobriety test to the operator of the vehicle involved in the violation and if it is shown by clear and convincing evidence that the officer administered the test in substantial compliance with the testing standards for any reliable, credible, and generally accepted field sobriety tests that were in effect at the time the tests were administered, including but not limited to any testing standards then in effect that were set by the National Highway Traffic Safety Administration, all of the following apply:
1. The officer may testify concerning the results of the field sobriety test so administered.
 2. The prosecution may introduce the results of the field sobriety test so administered as evidence in any proceedings in the criminal prosecution or juvenile court proceeding.
 3. If testimony is presented or evidence is introduced under subsection (D)(4)(b)(1) or (D)(4)(B)2. of this section and if the testimony or evidence is admissible under the Rules of Evidence, the court shall admit the testimony or evidence and the trier of fact shall give it whatever weight the trier of fact considers to be appropriate.
- (c) Subsection (D)(4)(b) of this section does not limit or preclude a court, in its determination of whether the arrest of a person was supported by probable cause or its determination of any other matter in a criminal prosecution or juvenile court proceeding of a type described in that division, from considering evidence or testimony that is not otherwise disallowed by subsection (D)(4)(b) of this section.
- (E) (1) Subject to subsection (E)(3) of this section, in any criminal prosecution or juvenile court proceeding for a violation of subsection (A)(1)(b), (A)(1)(c), (A)(1)(d), (A)(1)(e), (A)(1)(f), (A)(1)(g), (A)(1)(h), (A)(1)(i), or (A)(1)(j) or (B)(1), (B)(2), (B)(3) or (B)(4) of this section or for any equivalent offense that is substantially equivalent to any of those divisions, a laboratory report from any laboratory personnel issued a permit by the department of health authorizing an analysis as described in this division that contains an analysis of the whole blood, blood serum or plasma, breath, urine, or other bodily substance tested and that contains all of the information specified in this division shall be admitted as prima facie evidence of the information and statements that the report contains. The laboratory report shall contain all of the following:
- (a) The signature, under oath, of any person who performed the analysis;

- (b) Any findings as to the identify and quantity of alcohol, a drug of abuse, a controlled substance, a metabolite of a controlled substance, or a combination of them that was found;
 - (c) A copy of a notarized statement by the laboratory director or a designee of the director that contains the name of each certified analyst or test performer involved with the report, the analyst's or test performer's employment relationship with the laboratory that issued the report, and a notation that performing an analysis of the type involved is part of the analyst's or test performer's regular duties;
 - (d) An outline of the analyst's or test performer's education, training, and experience in performing the type of analysis involved and a certification that the laboratory satisfies appropriate quality control standards in general and, in this particular analysis, under rules of the Department of Health.
- (2) Notwithstanding any other provision of law regarding the admission of evidence, a report of the type described in subsection (E)(1) of this section is not admissible against the defendant to whom it pertains in any proceeding, other than a preliminary hearing or a grand jury proceeding, unless the prosecutor has served a copy of the report on the defendant's attorney or, if the defendant has no attorney, on the defendant.
- (3) A report of the type described in subsection (E)(1) of this section shall not be prima facie evidence of the contents, identity, or amount of any substance if, within seven days after the defendant to whom the report pertains or the defendant's attorney receives a copy of the report, the defendant or the defendant's attorney demands the testimony of the person who signed the report. The judge in the case may extend the seven-day time limit in the interest of justice.
- (F) (1) Except as otherwise provided in this division, any physician, registered nurse, emergency medical technician-intermediate, emergency medical technician-paramedic, or qualified technician, chemist, or phlebotomist who withdraws blood from a person pursuant to this section or R.C. § 4511.19, 4511.191, or 4511.192, and any hospital first-aid station, or clinic at which blood is withdrawn from a person pursuant to this section or R.C. § 4511.19, 4511.191 or 4511.192, is immune from criminal liability and civil liability based upon a claim of assault and battery or any other claim that is not a claim of malpractice, for any act performed in withdrawing blood from the person. The immunity provided in this division also extends to an emergency medical service organization that employs an emergency medical technician-intermediate or emergency medical technician-paramedic who withdraws blood under this section. The immunity provided in this division is not available to a person who withdraws blood if the person engages in willful or wanton misconduct.
- (2) As used in subsection (F)(1), "emergency medical technician—intermediate" and "emergency medical technician—paramedic" have the same meaning as in R.C. § 4765.01.

- (G) (1) Whoever violates any provision of subsections (A)(1)(a) through (A)(1)(i) or (A)(2) of this section is guilty of operating a vehicle under the influence of alcohol, a drug of abuse, or a combination of them. Whoever violates subsection (A)(1)(j) of this section is guilty of operating a vehicle while under the influence of a listed controlled substance or a listed metabolite of a controlled substance. The court shall sentence the offender for either offense under R.C. Chapter 2929, except as otherwise authorized for or required by subsections (G)(1)(a) through (G)(1)(e) of this section:
- (a) Except as otherwise provided in subsection (G)(1)(b), (G)(1)(c), (G)(1)(d), or (G)(1)(e) of this section, the offender is guilty of a misdemeanor of the first degree, and the court shall sentence the offender to all of the penalties and sanctions provided in R.C. § 4511.19(G)(1)(a)(i) through (G)(1)(a)(iv).
 - (b) Except as otherwise provided in subsection (G)(1)(e) of this section, an offender who, within ten years of the offense, previously has been convicted of or pleaded guilty to one violation of subsection (A) ~~or (B)~~ of this section or one other equivalent offense is guilty of a misdemeanor of the first degree. The court shall sentence the offender to all of the penalties and sanctions provided in R.C. § 4511.19(G)(1)(b)(i) through (G)(1)(b)(v).
 - (c) Except as otherwise provided in subsection (G)(1)(e) of this section, an offender who, within ten years of the offense, previously has been convicted of or pleaded guilty to two violations of subsection (A) ~~or (B)~~ of this section or other equivalent offenses is guilty of a first degree misdemeanor. The court shall sentence the offender to all of the penalties and sanctions provided in R.C. § 4511.19(G)(1)(c)(i) through (G)(1)(c)(vi).
 - (d) Except as otherwise provided in subsection (G)(1)(e) of this section, an offender who, within ten years of the offense, previously has been convicted of or pleaded guilty to three or more violations of subsection (A) ~~or (B)~~ of this section or other equivalent offenses ~~or, an offender who, within 20 years of the offense, previously has been convicted of or pleaded guilty to five or more violations of that nature, or an offender who previously has been convicted of or pleaded guilty to a specification of the type described in R.C. § 2941.1413~~ is guilty of a felony to be prosecuted under appropriate state law.
 - (e) An offender who previously has been convicted of or pleaded guilty to a violation of R.C. § 4511.19(A) that was a felony, regardless of when the violation and the conviction or guilty plea occurred, is guilty of a felony to be prosecuted under appropriate state law.
- (2) An offender who is convicted of or pleads guilty to a violation of subsection (A) of this section and who subsequently seeks reinstatement of the driver's or occupational driver's license or permit or nonresident operating privilege suspended under this section or R.C. § 4511.19 as a result of the conviction or guilty plea shall pay a reinstatement fee as provided in R.C. § 4511.19(F)(2).
- (3) (a) If an offender is sentenced to a jail term under R.C. § 4511.19(G)(1)(b)(i) or (G)(1)(b)(ii) or (G)(1)(c)(i) or (G)(1)(c)(ii) and if, within 60 days of sentencing

of the offender, the court issues a written finding on the record that, due to the unavailability of space at the jail where the offender is required to serve the term, the offender will not be able to begin serving that term within the 60-day period following the date of sentencing, the court may impose an alternative sentence as specified in R.C. § 4511.19(G)(3) that includes a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring.

- (b) As an alternative to the mandatory jail term as required by R.C. § 4511.19(G)(1), the court may sentence the offender as provided in R.C. § 4511.19(G)(3).
- (4) If an offender's driver's or occupational driver's license or permit or nonresident operating privilege is suspended under subsection (G) of this section or R.C. § 4511.19(G) and if R.C. § 4510.13 permits the court to grant limited driving privileges, the court may grant the limited driving privileges in accordance with that section. If subsection (A)(7) of that section requires the court impose as a condition of the privileges that the offender must display on the vehicle that is driven subject to the privileges restricted license plates that are issued under R.C. § 4503.231, except as provided in subsection (B) of that section, the court shall impose that condition as one of the conditions of the limited driving privileges as granted to the offender, except as provided in R.C. § 4503.231(B).
- (5) Fines imposed under this section for a violation of subsection (A) of this section shall be distributed as provided in R.C. 4511.19(G)(5).
- (6) If title to a motor vehicle that is subject to an order of criminal forfeiture under subsection (G)(1)(c), (G)(1)(d), or (G)(1)(e) of this section is assigned or transferred and R.C. § 4503.234(B)(2) or (B)(3) applies, in addition to or independent of any other penalty established by law, the court may fine the offender the value of the vehicle as determined by publications of the National Automobile Dealers Association. The proceeds of any fine so imposed shall be distributed in accordance with subsection (C)(2) of that section.
- (7) In all cases in which an offender is sentenced under subsection (G) of this section, the offender shall provide the court with proof of financial responsibility as defined in R.C. § 4509.01. If the offender fails to provide that proof of financial responsibility, the court, in addition to any other penalties provided by law, may order restitution pursuant to § 130.99(G) or R.C. § 2929.18 or 2929.28 in an amount not exceeding \$5,000.00 for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during or after committing the offense for which the offender is sentenced under subsection (G) of this section.
- (8) A court may order an offender to reimburse a law enforcement agency for any costs incurred by the agency with respect to a chemical test or tests administered to the offender if all of the following apply:
 - (a) The offender is convicted of or pleads guilty to a violation of subsection (A) of this section.

- (b) The test or tests were of the offender's whole blood, blood serum or plasma, or urine.
- (c) The test or tests indicated that the offender had a prohibited concentration of a controlled substance or a metabolite of a controlled substance in the offender's whole blood, blood serum or plasma, or urine at the time of the offense.
- (9) As used in subsection (G) of this section "Electronic monitoring" has the same meaning as in R.C. § 2929.01.
- (H) Whoever violates subsection (B) of this section is guilty of operating a motor vehicle after underage alcohol consumption and shall be punished as follows:
 - (1) Except as otherwise provided in subsection (H)(2) of this section, the offender is guilty of a misdemeanor of the fourth degree. In addition to any other sanction imposed for the offense, the court shall impose a class six suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in R.C. § 4510.02(A)(6). The court may grant limited driving privileges relative to the suspension under R.C. § 4510.021 and 4510.13. The court may grant unlimited driving privileges with an ignition interlock device relative to the suspension and may reduce the period of suspension as authorized under R.C. § 4510.022. If the court grants unlimited driving privileges under R.C. § 4510.022, the court shall suspend any jail term imposed under subsection (H)(1) of the section as required under that section.
 - (2) If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one or more violations of subsection (A) ~~or (b)~~ of this section or other equivalent offense or offenses, the offender is guilty of a misdemeanor of the third degree. In addition to any other sanction imposed for the offense, the court shall impose a class four suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license or nonresident operating privilege from the range specified in R.C. § 4510.02(A)(4). The court may grant limited driving privileges relative to the suspension under R.C. § 4510.021 and 4510.13.
 - (3) ~~If the offender also is convicted of or also pleads guilty to a specification of the type described in R.C. § 2941.1414 and if the Court imposes a jail term for the violation of subsection (B) of this section, the court shall impose upon the offender an additional definite jail term pursuant to R.C. § 2929.24(E).~~
 - (34) The offender shall provide the court with proof of financial responsibility as defined in R.C. § 4509.01. If the offender fails to provide that proof of financial responsibility, then, in addition to any other penalties provided by law, the court may order restitution pursuant to § 130.99(G) or R.C. § 2929.28 in an amount not exceeding \$5,000.00 for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during, or after committing the violation of subsection (B) of this section.

- (I) (1) No court shall sentence an offender to an alcohol treatment program under this section unless the treatment program complies with the minimum standards for alcohol treatment programs adopted under R.C. Chapter 5119 by the Director of Mental Health and Addiction Services.
- (2) An offender who stays in a drivers' intervention program or in an alcohol treatment program under an order issued under this section shall pay the costs of the stay in the program. However, if the court determined that an offender who stays in an alcohol treatment program under an order issued under this section is unable to pay the costs of the stay in the program, the court may order that the costs be paid from the court's Indigent Drivers' Alcohol Treatment Fund.
- (J) If a person whose driver's or commercial driver's license or permit or nonresident operating privilege is suspended under this section or R.C. § 4511.19 files an appeal regarding any aspect of the person's trial or sentence, the appeal itself does not stay the operation of the suspension.
- (K) Subsection (A)(1)(j) of this section does not apply to a person who operates a vehicle while the person has a concentration of a listed controlled substance or a listed metabolite of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds the amount specified in that division, if both of the follow apply:
 - (1) The person obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribed drugs.
 - (2) The person injected, ingested, or inhaled the controlled substance in accordance with the health professional's directions.
- (L) The prohibited concentrations of a controlled substance or a metabolite of a controlled substance listed in subsection (A)(1)(j) of this section also apply in a prosecution of a violation of R.C. § 2923.16(D) in the same manner as if the offender is being prosecuted for a prohibited concentration of alcohol.
- (M) All terms defined in R.C. § 4510.01 apply to this section. If the meaning of a term defined in R.C. § 4510.01 conflicts with the meaning of the same term as defined in R.C. § 4501.01 or 4511.01, the term as defined in R.C. § 4510.01 applies to this section.

(R.C. § 4511.19(A)—(M) (Rev. 2018))

- (N) As used in this section:

Community residential sanctions has the same meaning as in R.C. § 2929.01.

Continuous alcohol monitoring has the same meaning as in R.C. § 2929.01.

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

Equivalent offense means any of the following:

- (1) A violation of R.C. § 4511.19(A) ~~or (B)~~;
- (2) A violation of a municipal OVI ordinance.

- (3) A violation of R.C. § 2903.04 in a case in which the offender was subject to the sanctions described in subsection (D) of that section;
- (4) A violation of R.C. § 2903.06(A)(1) or R.C. § 2903.08 or a municipal ordinance that is substantially equivalent to either of those divisions;
- (5) A violation of R.C. § 2903.06(A)(2), (A)(3), or (A)(4), R.C. § 2903.08(A)(2), or former R.C. § 2903.07, or a municipal ordinance that is substantially equivalent to any of those divisions or that former section, in a case in which a judge or jury as the trier of fact found that the offender was under the influence of alcohol, a drug of abuse, or a combination of them;
- (6) A violation of R.C. § 1547.11(A) ~~or (B)~~;
- (7) A violation of a municipal ordinance prohibiting a person from operating or being in physical control of any vessel underway or from manipulating any water skis, aquaplane, or similar device on the waters of this state while under the influence of alcohol, a drug of abuse, or a combination of them or prohibiting a person from operating or being in physical control of any vessel underway or from manipulating any water skis, aquaplane, or similar device on the waters of this state with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath, or urine;
- (8) A violation of an existing or former municipal ordinance, law of another state, or law of the United States that is substantially equivalent to R.C. § 4511.19(A) ~~or (b)~~ or R.C. § 1547.11(A) ~~or (B)~~;
- (9) A violation of a former law of this state that was substantially equivalent to R.C. § 4511.19(A) ~~or (b)~~ or R.C. § 1547.11(A) ~~or (B)~~.

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

- (1) A violation described in division (a), (b), (c), (d), or (e) of the definition for "equivalent offense" provided in this division (N);
- (2) A violation of an existing or former municipal ordinance, law of another state, or law of the United States that is substantially equivalent to R.C. § 4511.19(A) ~~or (B)~~;
- (3) A violation of a former law of this state that was substantially equivalent to R.C. § 4511.19(A) ~~or (B)~~.

Jail has the same meaning as in R.C. § 2929.01.

Mandatory jail term means the mandatory term in jail of 3, 6, 10, 20, 30, or 60 days that must be imposed under R.C. § 4511.19(G)(1)(a), (G)(1)(b), or (G)(1)(c) upon an offender convicted of a violation of subsection (A) of that section and in relation to which all of the following apply:

- (1) Except as specifically authorized under R.C. § 4511.19, the term must be served in a jail.

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

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

Mandatory term of local incarceration has the same meaning as in R.C. § 2929.01.

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

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

Sanction has the same meaning as in R.C. § 2929.01. (R.C. § 4511.181)(Rev. 2009).

(RC 4511.19)

(Ord. No. 0-134-21, § I, 11-15-2021)

Cross reference— Endangering children see § R.C. 2919/22 power to suspend driver's license, see § R.C. 4510.05.

State Law reference— Mandatory suspension periods; immobilizing or disabling device; restricted license, R.C. § 4510.13; trial judge to suspend driver's license, R.C. § 4510.05.

7.03.07.1 Implied consent.

(A) (1) As used in this section:

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

Community addiction services provider has the same meaning as in R.C. § 5119.01.

Physical control has the same meaning as in R.C. § 4511.194.

- (2) Any person who operates a vehicle upon a highway or any public or private property used by the public for vehicular travel or parking within this municipality

or who is in physical control of a vehicle shall be deemed to have given consent to a chemical test or tests of the person's whole blood, blood serum or plasma, breath, or urine to determine the alcohol, drug of abuse, controlled substance, metabolite of a controlled substance, or combination content of the person's whole blood, blood serum or plasma, breath, or urine if arrested for a violation of subsection 7.03.07(A) or (B), Section 7.03.07.2, R.C. § 4511.19(A) or (B), R.C. § 4511.194 or a substantially equivalent municipal ordinance, or any other municipal OVI ordinance.

- (3) The chemical test or tests under subsection (A)(2) of this section shall be administered at the request of a law enforcement officer having reasonable grounds to believe the person was operating or in physical control of a vehicle in violation of a division, section, or ordinance identified in subsection (A)(2) of this section. The law enforcement agency by which the officer is employed shall designate which of the tests shall be administered.
- (4) Any person who is dead or unconscious, or who otherwise is in a condition rendering the person incapable of refusal, shall be deemed to have consented as provided in subsection (A)(2) of this section, and the test or tests may be administered, subject to R.C. §§ 313.12 through 313.16.
- (5) (a) If a law enforcement officer arrests a person for a violation of R.C. § 4511.19(A) or (B), R.C. § 4511.194 or a substantially equivalent municipal ordinance, or a municipal OVI ordinance and if the person if convicted would be required to be sentenced under R.C. § 4511.19(G)(1)(c), (d), or (e), the law enforcement officer shall request the person to submit, and the person shall submit, to a chemical test or tests of the person's whole blood, blood serum or plasma, breath, or urine for the purpose of determining the alcohol, drug of abuse, controlled substance, metabolite of a controlled substance, or combination content of the person's whole blood, blood serum or plasma, breath, or urine. A law enforcement officer who makes a request pursuant to this division that a person submit to a chemical test or tests is not required to advise the person of the consequences of submitting to, or refusing to submit to, the test or tests and is not required to give the person the form described in subsection (C) of this section, but the officer shall advise the person at the time of the arrest that if the person refuses to take a chemical test the officer may employ whatever reasonable means are necessary to ensure that the person submits to a chemical test of the person's whole blood or blood serum or plasma. The officer shall also advise the person at the time of the arrest that the person may have an independent chemical test taken at the person's own expense. Subsections (A)(3) and (A)(4) of this section apply to the administration of a chemical test or tests pursuant to this division.
- (b) If a person refuses to submit to a chemical test upon a request made pursuant to subsection (A)(5)(a) of this section, the law enforcement officer who made the request may employ whatever reasonable means are necessary to ensure that the person submits to a chemical test of the person's whole blood or blood serum or plasma. A law enforcement officer

who acts pursuant to this division to ensure that a person submits to a chemical test of the person's whole blood or blood serum or plasma is immune from criminal and civil liability based upon a claim for assault and battery or any other claim from the acts, unless the officer so acted with malicious purpose, in bad faith or in a wanton or reckless manner. (R.C. § 4511.191(A)(Rev. 2016)

- (B) Except as provided in subsection (A)(5) of this section, the arresting law enforcement officer shall give advice in accordance with this section to any person under arrest for a violation of subsection 7.03.07(A) ~~or (B)~~, Section 7.03.07, R.C. § 4511.19(A) ~~or (B)~~, § ~~73.07.2~~ 7.03.07(A) ~~or (B)~~, R.C. § 4511.194 or a substantially equivalent municipal ordinance, or any other municipal OVI ordinance. The officer shall give that advice in a written form that contains the information described in subsection (C) of this section and shall read the advice to the person. The form shall contain a statement that the form was shown to the person under arrest and read to the person by the arresting officer. One or more persons shall witness the arresting officer's reading of the form and the witnesses shall certify to this fact by signing the form. The person must submit to the chemical test or tests, subsequent to the request of the arresting officer within two hours of the time of the alleged violation and, if the person does not submit to the test or tests within the two-hour time limit, the failure to submit automatically constitutes a refusal to submit to the test or tests.
- (C) Except as provided in subsection (A)(5) of this section, if a person is under arrest as described in subsection (B) of this section, before the person may be requested to submit to a chemical test or tests to determine the alcohol, drug of abuse, controlled substance, metabolite of a combined substance, or a combination content of the person's whole blood, blood serum or plasma, breath, or urine, the arresting officer shall read the following form to the person:

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

If you refuse to take any chemical tests required by law, your Ohio driving privileges will be suspended immediately, and you will have to pay a fee to have the privileges reinstated. If you have a prior conviction of OVI, OVUAC, or operating a vehicle while under the influence of a listed controlled substance or a listed metabolite of a controlled substance under state or municipal law within the preceding 20 years, you are now under arrest for state OVI, and, if you refuse to take a chemical test, you will face increased penalties if you subsequently are convicted of the state OVI.

(Read this part unless the person is under arrest for solely having physical control of a vehicle while under the influence.) If you take any chemical test required by law and are found to be at or over the prohibited amount of alcohol, a controlled substance, or a metabolite of a controlled substance in your whole blood, blood serum or plasma,

breath, or urine as set by law, your Ohio driving privileges will be suspended immediately, and you will have to pay a fee to have the privileges reinstated.

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

(D) If the arresting law enforcement officer does not ask a person under arrest as described in subsection (B) of this section or subsection (A)(5) of this section to submit to a chemical test or tests under R.C. § 4511.191 or this section, the arresting officer shall seize the Ohio or out-of-state driver's or commercial driver's license or permit of the person and immediately forward it to the court in which the arrested person is to appear on the charge. If the arrested person is not in possession of the person's license or permit or it is not in the person's vehicle, the officer shall order the person to surrender it to the law enforcement agency that employs the officer within 24 hours after the arrest and, upon the surrender, the agency immediately shall forward the license or permit to the court in which the person is to appear on the charge. Upon receipt of the license or permit, the court shall retain it pending the arrested person's initial appearance and any action taken under R.C. § 4511.196.

(E) (1) If a law enforcement officer asks a person under arrest as described in subsection (A)(5) of this section to submit to a chemical test or tests under that division and the test results indicate a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the person's whole blood, blood serum or plasma, breath, or urine at the time of the alleged offense, or if a law enforcement officer asks a person under arrest as described in subsection (B) of this section to submit to a chemical test or tests under R.C. § 4511.191 or this section, if the officer advises the person in accordance with this section of the consequences of the person's refusal or submission, and if either the person refuses to submit to the test or tests or, unless the arrest was for a violation of Section 7.03.07.2, R.C. § 4511.194 or a substantially equivalent Municipal ordinance, the person submits to the test or tests and the test results indicate a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the person's whole blood, blood serum or plasma , breath, or urine at the time of the alleged offense, the arresting officer shall do all of the following:

(a) On behalf of the registrar of motor vehicles, notify the person that, independent of any penalties or sanctions imposed upon the person, the person's Ohio driver's or commercial driver's license or permit or nonresident operating privileges is suspended immediately, that the suspension will last at least until the person's initial appearance on the charge, which will be held within five days after the date of the person's arrest or the issuance of a citation to the person, and that the person may appeal the suspension at the initial appearance or during the period of time ending 30 days after that initial appearance.

(b) Seize the driver's or commercial driver's license or permit of the person and immediately forward it to the registrar. If the arrested person is not in

possession of the person's license or permit or it is not in the person's vehicle, the officer shall order the person to surrender it to the law enforcement agency that employs the officer within 24 hours after the person is given notice of the suspension, and, upon the surrender, the officer's employing agency immediately shall forward the license or permit to the registrar;

- (c) Verify the person's current residence and, if it differs from that on the person's driver's or commercial driver's license or permit, notify the registrar of the change.
- (d) Send to the registrar, within 48 hours after the arrest of the person, a sworn report that includes all of the following statements:
 - 1. That the officer had reasonable grounds to believe that, at the time of the arrest, the arrested person was operating a vehicle in violation of R.C. § 4511.19(A) ~~or (B)~~ or a municipal OVI ordinance or for being in physical control of a stationary vehicle in violation of R.C. § 4511.194 or a substantially equivalent municipal ordinance;
 - 2. That the person was arrested and charged with a violation of R.C. § 4511.19(A) ~~or (B)~~, R.C. § 4511.194 or a substantially equivalent municipal ordinance, or a municipal OVI ordinance;
 - 3. Unless subsection (E)(1)(d)5 of this section applies, that the officer asked the person to take the designated chemical test or tests, advised the person in accordance with this section of the consequences of submitted to, or refusing to take, the test or tests, and gave the person the form described in subsection (C) of this section;
 - 4. Unless subsection (E)(1)(d)(5). Of this section applies, that either the person refused to submit to the chemical test or tests, or unless the arrest was for a violation of R.C. § 4511.194 or a substantially equivalent municipal ordinance, the person submitted to the chemical test or tests and the test results indicated a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the person's whole blood, blood serum or plasma, breath, or urine at the time of the alleged offense.
 - 5. If the person was under arrest as described in subsection (A)(5) of this section and the chemical test or tests were performed in accordance with that division, that the person was under arrest as described in that division, that the chemical test or tests were performed in accordance with that division, and that test results indicated a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the person's whole blood, blood serum or plasma, breath, or urine at the time of the alleged offense.
- (2) Subsection (E)(1) of this section does not apply to a person who is arrested for a violation Section 7.03.07.2, R.C. § 4511.194 or a substantially equivalent municipal ordinance, who is asked by a law enforcement officer to submit to a

chemical test or tests under this section, and who submits to the test or tests, regardless of the amount of alcohol, a controlled substance, or a metabolite or a controlled substance that the test results indicate is present in the person's whole blood, blood serum or plasma, breath, or urine.

- (F) The arresting officer shall give the officer's sworn report that is completed under this section to the arrested person at the time of the arrest, or the registrar of motor vehicles shall send the report to the person by regular first class mail as soon as possible after receipt of the report, but not later than 14 days after receipt of it. An arresting officer may give an unsworn report to the arrested person at the time of the arrest provided the report is complete when given to the arrested person and subsequently is sworn to by the arresting officer. As soon as possible, but not later than 48 hours after the arrest of the person, the arresting officer shall send a copy of the sworn report to the court in which the arrested person is to appear on the charge for which the person was arrested.
- (G) The sworn report of an arresting officer completed under this section is prima facie proof of the information and statements that it contains. It shall be admitted and considered as prima facie proof of the information and statements that it contains in any appeal under R.C. § 4511.197 relative to any suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege that results from the arrest covered by the report. (R.C. § 4511.192)(Rev. 2010)
- (H) (1) A suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege under this section for the time described in R.C. § 4511.191(B) or (C) is effective immediately from the time at which the arresting officer serves the notice of suspension upon the arrested person. Any subsequent finding that the person is not guilty of the charge that resulted in the person's being requested to take the chemical test or tests under subsection (A) of this section does not affect the suspension.
- (2) If a person arrested for operating a vehicle in violations of subsections 7.03.07.2(A) or (B), R.C. § 4511.19(A) or (B), or any other municipal OVI ordinance, or for being in physical control of a vehicle in violation of Section 7.03.07.2 or R.C. § 4511.194 or a substantially equivalent municipal ordinance, regardless of whether the person's driver's or commercial driver's license or permit or nonresident operating privilege is or is not suspended under R.C. § 4511.191(B) or (C) or R.C. Chapter 4510, the person's initial appearance on the charge resulting from the arrest shall be held within five days of the person's arrest or the issuance of the citation to him or her, subject to any continuance granted by the court pursuant to R.C. § 4511.197 regarding the issues specified in that section.

(R.C. § 4511.191(D))(Rev. 2005)

Statutory reference:

Continuous alcohol monitoring, R.C. § 4511.198.

Disposition of fines, immobilization of vehicle and impoundment of license plates, criminal forfeiture for the municipal ordinance conviction, R.C. § 4511.193.

Effect of refusal to submit to test, seizure of license, suspension periods, appeal procedures, occupational driving privileges, and Indigent Drivers Alcohol Treatment Funds, R.C. § 4511.191.

Judicial pretrial suspension, initial appearance, R.C. § 4511.196.

Mandatory suspension periods; immobilizing or disabling device; restricted license, R.C. § 4510.13.

Seizure of vehicles upon arrest, R.C. § 4511.195.

(R.C. 4511.191)

(Ord. No. 0-134-21, § I, 11-15-2021)

7.03.25. Display of license plates.

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

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

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

(4) No person shall cover a temporary motor vehicle license registration by any material that obstructs its visibility.

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

(RC 4503.21 Amended by 133rd General Assembly HB 62, § 101.01, eff. 7/1/2020)

(Ord. No. 0-134-21, § I, 11-15-2021)

7.04.58. Operating school buses.

- (A) The driver of a vehicle, streetcar, or trackless trolley upon meeting or overtaking from either direction any school bus stopped for the purpose of receiving or discharging any school child or person attending programs offered by community boards of mental health and developmental disabilities, or child attending a program offered by a head start agency, shall stop at least ten feet from the front or rear of the school bus and shall not proceed until such school bus resumes motion, or until signaled by the school bus driver to proceed.

It is no defense to a charge under this division that the school bus involved failed to display or be equipped with an automatically extended stop warning sign as required by subsection (B) of this section.

- (B) Every school bus shall be equipped with amber and red visual signals meeting the requirements of Section 4511.771 of the Ohio Revised Code, and an automatically extended stop warning sign of a type approved by the ~~state board~~ **department of education and workforce**, which shall be actuated by the driver of the bus whenever but only whenever the bus is stopped or stopping on the roadway for the purpose of receiving or discharging school children or persons attending programs offered by community boards of mental health and developmental disabilities and county boards of mental health. A school bus driver shall not actuate the red visual signals or the stop warning sign in designated school bus loading areas where the bus is entirely off the roadway or at school buildings when children or persons attending programs offered by community boards of mental health and developmental disabilities and county boards of mental health are loading or unloading at curbside the visual signals and stops warning sign shall be synchronized or otherwise operated as required by rule of the board.
- (C) Where a highway has been divided into four or more traffic lanes, a driver of a vehicle, streetcar, or trackless trolley need not stop for a school bus approaching from the opposite direction which has stopped for the purpose of receiving or discharging any school child or persons attending programs offered by community boards of mental health and developmental disabilities and county boards of mental health . The driver of any vehicle, streetcar, or trackless trolley overtaking the school bus shall comply with subsection (A) of this section.
- (D) School buses operating on divided highways or on highways with four or more traffic lanes shall receive and discharge all school children or persons attending programs offered by community boards of mental health and developmental disabilities and county boards of mental health on their residence side of the highway.
- (E) No school bus driver shall start their bus until after any child or person attending programs offered by community boards of mental health and mental retardation and county boards of mental retardation who may have alighted therefrom has reached a place of safety on their residence side of the road.
- (F) (1) Whoever violates subsection (A) of this section may be fined an amount not to exceed \$500.00. A person who is issued a citation for a violation of subsection (A) of this section is not permitted to enter a written plea of guilty and waive the

person's right to contest the citation in a trial but instead must appear in person in the proper court to answer the charge.

- (2) In addition to and independent of any other penalty provided by law, the court or mayor may impose upon an offender who violates this section a class seven suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in subsection (A)(7) of Section 4510.02 of the Revised Code. When a license is suspended under this section, the court or mayor shall cause the offender to deliver the license to the court, and the court or clerk of the court immediately shall forward the license to the registrar of motor vehicles, together with notice of the court's action.

(RC 4511.75)

(Ord. No. 0-134-21, § I, 11-15-2021; Res. No. R-05-22, 8-1-2022)

7.05.31. Private tow-away zones.

- (A) The owner of a private property may establish a private tow-away zone, but may do so only if all of the following conditions are satisfied:
 - (1) The owner of the private property posts on the property a sign that is at least 18 inches by 24 inches in size, that is visible from all entrances to the property and that contains at least all of the following information:
 - (a) A statement that the property is a private tow-away zone and that vehicles not authorized to park on the property will be towed away;
 - (b) A description of persons authorized to park on the property. If the property is a residential property, the owner of the private property may include on the sign a statement that only tenants and guests may park in the private tow-away zone, subject to the terms of the property owner. If the property is a commercial property, the owner of the private property may include on the sign a statement that only customers may park in the private tow-away zone. In all cases, if it is not apparent which persons may park in the private tow-away zone, the owner of the private property shall include on the sign the address of the property on which the private tow-away zone is located or the name of the business that is located on the property designated as a private tow-away zone;
 - (c) If the private tow-away zone is not enforceable at all times, the times during which the parking restrictions are enforced;
 - (d) The telephone number and the address of the place from which a towed vehicle may be recovered at any time during the day or night; and
 - (e) A statement that the failure to recover a towed vehicle may result in the loss of title to the vehicle as provided in Section 4505.101(B) of the Ohio Revised Code.

In order to comply with the requirements of division (A)(1) of this section, the owner of a private property may modify an existing sign by affixing to the existing sign stickers or an addendum in lieu of replacing the sign.

- (2) A towing service ensures that a vehicle towed under this section is taken to a location from which it may be recovered that complies with all of the following:
 - (a) It is located within 25 linear miles of the location of the private tow-away zone, unless it is not practicable to take the vehicle to a place of storage within 25 linear miles.
 - (b) It is well-lighted.
 - (c) It is on or within a reasonable distance of a regularly scheduled route of one or more modes of public transportation, if any public transportation is available in the municipal corporation or township in which the private tow-away zone is located.
- (B) (1) If a vehicle is parked on private property that is established as a private tow-away zone in accordance with division (A) of this section, without the consent of the owner of the private property or in violation of any posted parking condition or regulation, the owner of the private property may cause the removal of the vehicle by a towing service. The towing service shall remove the vehicle in accordance with this section. The vehicle owner and the operator of the vehicle are considered to have consented to the removal and storage of the vehicle, to the payment of the applicable fees established by the public utilities commission in rules adopted under Section 4921.25 of the Ohio Revised Code, and to the right of a towing service to obtain title to the vehicle if it remains unclaimed as provided in Section 4505.101 of the Ohio Revised Code. The owner or lienholder of a vehicle that has been removed under this section, subject to subsection (C) of this section, may recover the vehicle in accordance with subsection (G) of this section.
- (2) If a municipal corporation requires tow trucks and tow truck operators to be licensed, no owner of a private property located within the municipal corporation shall cause the removal and storage of any vehicle pursuant to subsection (B) of this section by an unlicensed tow truck or unlicensed tow truck operator.
- (3) No towing service shall remove a vehicle from a private tow-away zone except pursuant to a written contract for the removal of vehicles entered into with the owner of the private property on which the private tow-away zone is located.
- (C) If the owner or operator of a vehicle that is being removed under authority of subsection (B) of this section arrives after the vehicle has been prepared for removal, but prior to its actual removal from the property, the towing service shall give the vehicle owner or operator oral or written notification at the time of such arrival that the vehicle owner or operator may pay a fee of not more than one-half of the fee for the removal of the vehicle established by the public utilities commission in rules adopted under Section 4921.25 of the Ohio Revised Code in order to obtain release of the vehicle. That fee may be paid by use of a major credit card unless the towing service uses a mobile credit card processor and mobile service is not

available at the time of the transaction. Upon payment of that fee, the towing service shall give the vehicle owner or operator a receipt showing both the full amount normally assessed and the actual amount received and shall release the vehicle to the owner or operator. Upon its release, the owner or operator immediately shall move the vehicle so that the vehicle is not parked on the private property established as a private tow-away zone without the consent of the owner of the private property or in violation of any posted parking condition or regulation.

- (D) (1) Prior to towing a vehicle under subsection (B) of this section, a towing service shall make all reasonable efforts to take as many photographs as necessary to evidence that the vehicle is clearly parked on private property in violation of a private tow-away zone established under subsection (A) of this section.

The towing service shall record the time and date of the photographs taken under this section. The towing service shall retain the photographs and the record of the time and date, in electronic or printed form, for at least 30 days after the date on which the vehicle is recovered by the owner or lienholder or at least two years after the date on which the vehicle was towed, whichever is earlier.

- (2) A towing service shall deliver a vehicle towed under subsection (B) of this section to the location from which it may be recovered not more than two hours after the time it was removed from the private tow-away zone, unless the towing service is unable to deliver the motor vehicle within two hours due to an uncontrollable force, natural disaster, or other event that is not within the power of the towing service.

- (E) (1) If an owner of a private property that is established as a private tow-away zone in accordance with subsection (A) of this section causes the removal of a vehicle from that property by a towing service under subsection (B) of this section, the towing service, within two hours of removing the vehicle, shall provide notice to the sheriff of the county or the ~~police department~~ law enforcement agency of the municipal corporation, township, port authority, conservancy district, or township or joint police district in which the property is located concerning all of the following:

- (a) The vehicle's license number, make, model, and color.
- (b) The location from which the vehicle was removed.
- (c) The date and time the vehicle was removed.
- (d) The telephone number of the person from whom the vehicle may be recovered.
- (e) The address of the place from which the vehicle may be recovered.

- (2) Each county sheriff and each chief of ~~police~~ law enforcement agency of a municipal corporation, township, port authority, conservancy district, or township or joint police district shall maintain a record of any vehicle removed from private property in the sheriffs or chief's jurisdiction that is established as a private tow-away zone of which the sheriff or chief has received notice under

this section. The record shall include all information submitted by the towing service. The sheriff or chief shall provide any information in the record that pertains to a particular vehicle to a person who, either in person or pursuant to a telephone call, identifies self as the owner, operator, or lienholder of the vehicle and requests information pertaining to the vehicle.

(F) (1) When a vehicle is removed from private property in accordance with this section, within three business days of the removal, the towing service or storage facility from which the vehicle may be recovered shall cause a search to be made of either of the following to ascertain the identity of the owner and any lienholder of the vehicle:

(a) The records of the bureau of motor vehicles;

(b) The records of any vendor or vendors, approved by the registrar of motor vehicles, that are capable of providing real-time access to owner and lienholder information.

The towing service or storage facility may search the national motor vehicle title information system in order to determine the state in which the vehicle is titled. The entity that provides the record of the owner and any lienholder under this division shall ensure that such information is provided in a timely manner.

(2) Subject to subsection (F)(5) of this section, the towing service or storage facility shall send notice to the vehicle owner and any known lienholder as follows:

(a) Within five business days after the applicable entity provides the identity of the owner and any lienholder of the motor vehicle, if the vehicle remains unclaimed, to the owner's and lienholder's last known address by certified or express mail with return receipt requested, by certified mail with electronic tracking, or by a commercial carrier service utilizing any form of delivery requiring a signed receipt;

(b) If the vehicle remains unclaimed 30 days after the first notice is sent, in the manner required under subsection (F)(2)(a) of this section.

(3) Sixty days after any notice sent pursuant to subsection (F)(2) of this section is received, as evidenced by a receipt signed by any person, or the towing service or storage facility has been notified that delivery was not possible, the towing service or storage facility, if authorized under Section 4505.101(B) of the Ohio Revised Code, may initiate the process for obtaining a certificate of title to the motor vehicle as provided in that section.

(4) A towing service or storage facility that does not receive a signed receipt of notice, or a notification that delivery was not possible, shall not obtain, and shall not attempt to obtain, a certificate of title to the motor vehicle under Section 4505.101(B) of the Ohio Revised Code.

(5) With respect to a vehicle concerning which a towing service or storage facility is not eligible to obtain title under Section 4505.101 of the Ohio Revised Code, the

towing service or storage facility need only comply with the initial notice required under subsection (F)(2)(a) of this section.

- (G) (1) The owner or lienholder of a vehicle that is removed under subsection (B) of this section may reclaim it upon both of the following:
- (a) Presentation of proof of ownership, which may be evidenced by a certificate of title to the vehicle, a certificate of registration for the motor vehicle, or a lease agreement;
 - (b) Payment of the following fees:
 - (i) All applicable fees established by the public utilities commission in rules adopted under Section 4921.25 of the Ohio Revised Code, except that the lienholder of a vehicle may retrieve the vehicle without paying any storage fee for the period of time that the vehicle was in the possession of the towing service or storage facility prior to the date the lienholder received the notice sent under subsection (F)(2)(a) of this section;
 - (ii) If notice has been sent to the owner and lienholder as described in subsection (F) of this section, a processing fee of \$25.00.
- (2) A towing service or storage facility in possession of a vehicle that is removed under authority of subsection (B) of this section shall show the vehicle owner, operator, or lienholder who contests the removal of the vehicle all photographs taken under subsection (D) of this section. Upon request, the towing service or storage facility shall provide a copy of all photographs in the medium in which the photographs are stored, whether paper, electronic, or otherwise.
- (3) When the owner of a vehicle towed under this section retrieves the vehicle, the towing service or storage facility in possession of the vehicle shall give the owner written notice that if the owner disputes that the motor vehicle was lawfully towed, the owner may be able to file a civil action under Section 4513.611 of the Ohio Revised Code.
- (4) Upon presentation of proof of ownership, which may be evidenced by a certificate of title to the vehicle, a certificate of registration for the motor vehicle, or a lease agreement, the owner of a vehicle that is removed under authority of subsection (B) of this section may retrieve any personal items from the vehicle without retrieving the vehicle and without paying any fee. The owner of the vehicle shall not retrieve any personal items from a vehicle if it would endanger the safety of the owner, unless the owner agrees to sign a waiver of liability. For purposes of subsection (G)(4) of this section, "personal items" do not include any items that are attached to the vehicle.
- (H) No person shall remove, or cause the removal of, any vehicle from private property that is established as a private tow-away zone under this section or store such a vehicle other than in accordance with this section, or otherwise fail to comply with any applicable requirement of this section.
- (I) This section does not affect or limit the operation of Section 4513.60 or Sections 4513.61—4613.65 of the Ohio Revised Code as they relate to property other than

private property that is established as a private tow-away zone under subsection (A) of this section.

- (J) Whoever violates subsection (H) of this section is guilty of a minor misdemeanor.
- (K) As used in this section, "owner of a private property" or "owner of the private property" includes, with respect to a private property, any of the following:
 - (1) Any person who holds title to the property;
 - (2) Any person who is a lessee or sublessee with respect to a lease or sublease agreement for the property;
 - (3) A person who is authorized to manage the property;
 - (4) A duly authorized agent of any person listed in subsection (K)(1)—(3) of this section.
- (L) The city shall make available to any resident the above-described signs for a price equal to the city's cost for said signs.
- (M) By parking on a properly posted private tow-away zone without the consent of the owner of the property, the owner or operator of a vehicle shall be deemed to have consented to the removal and storage of such vehicle and the payment of the costs of removal and storage in an amount not to exceed the rates established in Section 4921.25 of the Ohio Revised Code and Rule 4901:2-24-03 of the Ohio Administrative Code.

(R.C. 4513.601)

(Res. No. R-05-22, 8-1-2022; Ord. No. 0-138-22, § I, 12-5-2022; Ord. No. 0-44-23, § I, 5-15-2023)

13.02.04. Menacing.

(A)(1) No person shall knowingly cause another to believe that the offender will cause physical harm to the person or property of such other person or member of the other person's immediate family. In addition to any other basis for the other person's belief that the offender will cause physical harm to the person or property of the other person, or a member of the other person's immediate family, the other person's belief may be based on words or conduct of the offender that are directed at or identify a corporation, association, or other organization that employs the other person or to which the other person belongs.

(2) No person shall knowingly place or attempt to place another in reasonable fear of physical harm or death by displaying a deadly weapon, regardless of whether the deadly weapon displayed is operable or inoperable, if either of the following applies:

(a) The other person is an emergency service responder, the person knows or reasonably should know that the other person is an emergency service responder, and it is the person's specific purpose to engage in the specified conduct against an emergency service responder.

(b) The other person is a family or household member or co-worker of an emergency service responder, the person knows or reasonably should know that the other person is a family or household member or co-worker of an emergency service responder, and it is the person's specific purpose to engage in the specified conduct against a family or household member or co-worker of an emergency service responder.

(B) Whoever violates this section is guilty of menacing.

Except as otherwise provided in this division, menacing is a misdemeanor of the fourth degree. If the victim of the offense is an officer or employee of a public children services agency or a private child placing agency and the offense relates to the officer's or employee's performance or anticipated performance of official responsibilities or duties or if the victim of the offense is an emergency service responder in the performance of the responder's official duties, menacing is one of the following:

(1) Except as otherwise provided in division (B)(2) of this section, a misdemeanor of the first degree;

~~(B)(C) Whoever violates this section is guilty of menacing, a misdemeanor of the fourth degree. 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, menacing is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to an offense of violence, the victim of that prior offense was an officer or employee of a public children~~

services agency or private child placing agency or an emergency service responder, and that prior offense related to the officer's or employee's performance or anticipated performance of official responsibilities or duties or to the responder's performance of the responder's official duties, such is a felony under state law.

(C) A prosecution for a violation of this section does not preclude a prosecution of a violation of any other section of the Revised Code. One or more acts, a series of acts, or a course of behavior that can be prosecuted under this section or any other section of the Revised Code may be prosecuted under this section, the other section of the Revised Code, or both sections. However, if an offender is convicted of or pleads guilty to a violation of this section and also is convicted of or pleads guilty to a violation of R.C. 2903.13 based on the same conduct involving the same victim that was the basis of the violation of this section, the two offenses are allied offenses of similar import under R.C. 2941.25.

(D) As used in this section:

(1) "Emergency service responder," "family or household member," and "co-worker" have the same meanings as in R.C. 2903.13.

(2) ~~As used in this section, "organization"~~ "Organization" includes an entity that is a governmental employer.

(R.C. 2903.22)

(Ord. No. 0-135-21, § I, 11-15-2021)

13.03.01. Petty theft.

(A) No person, with purpose to deprive the owner of property or services, shall knowingly exert control over either the property or services in any of the following ways:

- (1) Without the consent of the owner or person authorized to give consent;
- (2) Beyond the scope of the express or implied consent of the owner or person authorized to give consent;
- (3) By deception;
- (4) By threat;
- (5) By intimidation.

(B) This section does not apply if the value of the property involved is \$1,000.00 or more, or is any of the property listed in Section 2913.71 of the Ohio Revised Code, or is a motor vehicle as defined in Section 4501.01 of the Ohio Revised Code.

(C) Whoever violates this section is guilty of ~~petty~~ **misdemeanor** theft, a misdemeanor of the first degree.

(R.C. 2913.02)

(Ord. No. 0-135-21, § I, 11-15-2021)

13.05.01. Definitions.

For the purposes of this chapter the words and phrases defined hereunder shall have the meanings therein respectively ascribed to them:

- (A) A "habitual sex offender" includes any person who is convicted two or more times, in separate criminal actions, for commission of any of the sex offenses set forth in Paragraph (M) of this section. Convictions which result from or are connected with the same act, or result from offenses committed at the same time, shall be counted for the purpose of this section as one conviction. Any conviction set aside pursuant to law, is not a conviction for purposes of this section.
- (B) "Harmful to juveniles." Any material or performance is "harmful to juveniles" if it is offensive to prevailing standards in the adult community with respect to what is suitable for juveniles, and if any of the following apply:
 - (1) It tends to appeal to the prurient interests of juveniles;
 - (2) It contains a display, description, or representation of sexual activity, masturbation, sexual excitement, or nudity;
 - (3) It contains a display, description, or representation, of bestiality or extreme or bizarre violence, cruelty, or brutality;
 - (4) It contains a display, description, or representation of human bodily functions of elimination;
 - (5) It makes repeated use of foul language;
 - (6) It contains a display, description, or representation in lurid detail of the violent physical torture, dismemberment, destruction, or death of a human being;
 - (7) It contains a display, description, or representation of criminal activity which tends to glorify or glamorize such activity, and which with respect to juveniles has a dominant tendency to corrupt.
- (C) "Juvenile," shall mean an unmarried person under 18 years of age.
- (D) "Material," shall mean any book, magazine, newspaper, pamphlet, poster, print, picture, figure, image, description, motion picture film, phonographic record or tape, or other tangible thing capable of arousing interest through sight, sound, or touch.
- (E) "Nudity," shall mean the showing, representation, or depiction of human male or female genitals, pubic area, or buttocks with less than full, opaque covering, or of a female breast with less than full, opaque covering of any portion thereof below the top of the nipple, or of covered male genitals in a discernible turgid state.
- (F) "Obscene"—When considered as a whole, and judged with reference to ordinary adults, or, if it is designed for sexual deviates or other especially susceptible groups, judged with reference to such group, any material or performance is "obscene" if any of the following apply:

- (1) Its dominant appeal is to prurient interests;
 - (2) Its dominant tendency is to arouse lust by displaying or depicting sexual activity, masturbation, sexual excitement, or nudity in a way which tends to represent human beings as mere objects of sexual appetite;
 - (3) Its dominant tendency is to arouse lust by displaying or depicting bestiality or extreme or bizarre violence, cruelty, or brutality;
 - (4) Its dominant tendency is to appeal to scatological interests by displaying or depicting human bodily functions of elimination in a way which inspires disgust or revulsion in persons with ordinary sensibilities without serving any genuine scientific, educational, sociological, moral, or artistic purpose;
 - (5) It contains a series of displays or descriptions of sexual activity, masturbation, sexual excitement, nudity, bestiality extreme or bizarre violence, cruelty, or brutality, or human bodily functions of elimination, the cumulative effect of which is a dominant tendency to appeal to prurient or scatological interests, when the appeal to such interests is primarily for its own sake or for commercial exploitation, rather than primarily for scientific, educational, sociological, moral, or artistic purpose.
- (G) "Performance," shall mean any motion picture, preview, trailer, play, show, skit, dance, or other exhibition performed before an audience.
- (H) "Prostitute," shall mean a male or female who promiscuously engages in sexual activity for hire, regardless of whether the hire is paid to the prostitute or to another.
- (I) "Sexual activity," shall mean sexual conduct or sexual contact, or both. "Sexual activity for hire" means an implicit or explicit agreement to provide sexual activity in exchange for anything of value paid to the person engaging in such sexual activity, to any person trafficking that person, or to any person associated with either such person.
- ~~(R.C. 2907.231 and R.C. 2907.01)~~
- (J) "Sexual conduct," shall mean vaginal intercourse between a male and a female, and anal intercourse, fellatio, and cunnilingus between persons regardless of sex. Penetration, however slight, is sufficient to complete vaginal or anal intercourse.
- (K) "Sexual contact," shall mean any touching of an erogenous zone of another, including without limitation the thigh, genitals, buttock, pubic region, or, if such person is a female, a breast, for the purpose of sexually arousing or gratifying either person.
- (L) "Sexual excitement," shall mean the condition of human male or female genitals when in a state of sexual stimulation or arousal.
- (M) A "Sex offense"
- (1) A violation of Section 2907.02, 2907.03, 2907.05, 2907.08, or 2907.09, of the Revised Code, a felony violation under Section 2907.04 of the Revised Code, a violation of Division (A)(4) of Section 2907.06 of the Revised Code, and a violation of Division (A) or (B) of Section 2907.07 of the Revised Code;

- (2) A violation of Paragraph (A) or (B) of Section 13.05.02, a violation of Paragraph (A)(4) of Section 13.05.03, a violation of Sections 13.05.04, 13.05.05, or a violation of Section 13.05.13 of the Athens City Code;
- (3) A violation of any former law of this state, substantially equivalent to any offense listed in Paragraph (M)(1) of this section;
- (4) An offense under an existing or former municipal ordinance or law of another state of the federal government, substantially equivalent to any offense listed in Paragraph (M)(1) of this section;
- (5) Violation of any prohibition against conspiracy or attempt to commit, or complicity in committing, any offense listed in Paragraph (M)(1), (2) or (3) of this section.

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

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

(Ord. No. 0-139-22, § I, 12-5-2022)

(R.C 2907.01)

13.05.08. Prostitution.

- (A) No person shall recklessly induce, entice, or procure another to engage in sexual activity for hire in exchange for the person giving anything of value to the other person.
- (B) No person shall recklessly induce, entice, or procure another to engage in sexual activity for hire in exchange for the person giving anything of value to the other person if the other person is a person with a developmental disability and the offender knows or has reasonable cause to believe that the other person is a person with a developmental disability. A person with a developmental disability has the same meaning as found in R.C. 2905.32.
- (~~B~~C) Whoever violates this section (A) is guilty of prostitution, a misdemeanor of the third- first degree.
- (D) Whoever violates section (B) is guilty of engaging in prostitution with a person with a developmental disability, a felony of the third degree.

(R.C. 2907.231)

(Ord. No. 0-139-22, § I, 12-5-2022)

13.05.13. Corruption of a minor.

- (A) No person, 18 years of age or older, shall engage in sexual conduct with another, ~~not the spouse of the offender,~~ when the offender knows such other person is over 12 but less than 16 years of age, or the offender is reckless in that regard.
- (B) This section shall not apply if the offender is four or more years older than the other person.
- (C) Whoever violates this section is guilty of corrupting a minor, a misdemeanor of the first degree.

(R.C. 2907.04)

(Ord. No. 0-135-21, § I, 11-15-2021)

Introduced by All Members of Council
Committee of the Whole

AN ORDINANCE AMENDING TITLE 13, GENERAL OFFENSES, SECTIONS 13.02.04, 13.03.01, 13.05.01, 13.05.08, AND 13.05.13; AND REPEALING ALL ORDINANCES INCONSISTENT THEREWITH.

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

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

SECTION I: The Code of Ordinances of the City of Athens, Ohio (meaning City Municipal Code) is hereby amended by adding certain provisions.

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

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

SECTION IV: Supplementation of Code.

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

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

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

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

(4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections 13.02.04, 13.03.01, 13.05.01, 13.05.08, and 13.05.13; and

(5) Make other non-substantive changes necessary to preserve the original meaning of ordinance sections inserted into the City's Municipal Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the City's Municipal Code.

(c) In preparing a supplement to the City's Municipal Code, the pages of a supplement shall be so numbered that they will fit properly into the City's Municipal Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the City's Municipal Code will be current through the date of the adoption of the latest ordinance included in the supplement.

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

SECTION VI: Any ordinances or resolutions inconsistent herewith are hereby repealed.

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

SECTION VIII: The Athens City Municipal Code, Title 13, General Offenses, is hereby amended as attached hereto and incorporated herein by reference.

SECTION IX: This Ordinance shall be in effect and full force upon passage and approval by the Mayor.

President of Council

ATTEST:

APPROVED:

Clerk of Council

Mayor

R--24

Introduced by All Members of Council

**A RESOLUTION AFFIRMING THE CITY OF ATHENS' RESPECT FOR THE
INDIGENOUS HISTORY OF THE LAND NOW KNOWN AS ATHENS, OHIO.**

WHEREAS, the act of acknowledging the land on which the City of Athens resides serves as a reminder of the importance of honoring history, people, and the planet as we work to improve our city's legacy; and

WHEREAS, the Athens Community Relations Commission encourages local organizations to consider adopting a land acknowledgment to make visible the richness and vibrancy of Indigenous peoples as well as the oppressive history that led to their removal and the theft of their lands; and

WHEREAS the U.S. Department of Arts and Culture calls on all individuals and organizations "to open public events and gatherings with acknowledgment of the traditional Native inhabitants of the land" and;

WHEREAS the content of this resolution reflects input from and consultation with official tribal representatives from across the Ohio region; and

WHEREAS, the first recorded session of Athens City Council to include a land acknowledgment was on August 7, 2023 and City Council meetings have included one or more land acknowledgements each month since that date; and

WHEREAS, the Ohio University Charles J. Ping Institute for the Teaching of the Humanities published *About this Place: Once Home to 40 Tribes and the Traditional Home of the Shawnee Peoples*, which explains, "The Southeastern Ohio region was at one time a convergence zone of some 40 tribes" including the Mingo, Erie, Lenape, Wyandot, and Miami people, as well as others that shared in the rich hunting grounds and relative safety that these lands provided"; and

WHEREAS, through city officials' participation in the National League of Cities' (NLC) Racial Equity and Leadership Institute, City Council members received the NLC's research brief titled *Roadmap To Repair: A Guide to How Cities Can Acknowledge and Address the History of Harm to Indigenous Peoples, Rebuild Trust, and Repair Relationships*, which indicates, "A good land acknowledgement includes action and a commitment to repair relationships with the Tribe(s) that have historically called your city home."

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ATHENS, OHIO:

SECTION I: Athens City Council hereby confirms its intent to include the reading of a land acknowledgment during regular session meetings of Athens City Council.

SECTION II: Athens City Council will include information about the City's efforts to convey respect for Indigenous history within the "City Resource Guide for Inclusion and Accessibility" established as a diversity and inclusion goal within the *Athens 2040 Comprehensive Plan*.

SECTION III: Athens City Council hereby confirms its intention to publicly acknowledge the importance of Indigenous Heritage Month on an annual basis.

SECTION IV: Athens City Council encourages city officials to replace references to Columbus Day with references to Indigenous Peoples' Day in City business when appropriate.

SECTION V: Athens City Council hereby encourages residents of Southeast Ohio to demonstrate respect for the histories, former tribal lands, place names, large earthworks, and environmental values of Indigenous people.

SECTION VI: This resolution shall be in full force and effect at the earliest moment permitted by law upon its passage and approval by the Mayor.

President of Council

ATTEST:

APPROVED:

Clerk of Council

Mayor