DOCKET
OF A MEETING OF
THE LAKEWOOD CITY COUNCIL
TO BE HELD IN THE COUNCIL CHAMBERS
LAKEWOOD CITY HALL - 12650 DETROIT AVENUE
OCTOBER 16, 2017
7:30 P.M.

The Regular Meetings of Lakewood City Council shall be held on the first and third Mondays of each month at 7:30 P.M., except that when such meeting date falls on a holiday such meeting shall instead be held on the following day. A Docket and Agenda of the business proposed to be transacted by Council will be available in the Clerk’s Office and on the City’s website www.onelakewood.com as soon after 4 PM on the Friday before a Council meeting as possible.

Section 121.08 of the Codified Ordinances of the City of Lakewood establishes rules for the public to follow when speaking before Council:

ADDRESSING COUNCIL – The President may recognize any non-member for addressing Council on any question then pending. In such cases, the person recognized shall address the chair, state his or her name and address and the subject matter he or she desires to discuss. Speakers must be courteous in their language and avoid personalities. When addressed by the Chair, the speaker must yield the floor and comply with all rulings of the chair, said rulings not being open to debate. Except with permission of Council specifically given, speakers shall be limited to five minutes. No person who has had the floor shall again be recognized until all others desiring an opportunity to speak have been given an opportunity to do so.

AGENDA ITEMS PROTOCOL:
The Clerk at the beginning of the meeting will present the AGENDA ITEMS sign-in sheet to the President of Council. Speakers will be called to address Council by the Chair. A citizen must first write his or her name, address and agenda item number on the designated sign-in sheet in order to be recognized.

PUBLIC COMMENT PROTOCOL:
The Clerk at the end of the meeting will present the PUBLIC COMMENT sign-in sheet to the President of Council. Public Comment will be welcomed at the end of a Council Meeting on miscellaneous issues or issues other than agenda items. A citizen must first write his or her name, address and topic on the designated sign-in sheet in order to be recognized. The forum is not designed to be a question and answer session.

I. Pledge of Allegiance
II. Moment of Silence
III. Roll Call

Reading and disposal of the minutes of the Regular Meeting of Council held October 2, 2017.

Reports, legislation and communications from Members of Council, the Mayor and other City Officials.
****OLD BUSINESS****

1. Committee of the Whole Report regarding October 16, 2017 Committee meeting addressing Communication from Mayor Summers, Council President O’Leary and Planning Director Sylvester regarding Recommended Developer for the Mixed-Use Development in the Heart of Lakewood Mr. O’Leary; Chair (To Be Provided)

2. ORDINANCE NO. 33-17 – AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect at the earliest period allowed by law, amending Section 333.01, Driving or Physical Control while under the Influence, as contained in the Traffic Code. (1ST READING & REFERRED TO THE PUBLIC SAFETY COMMITTEE 9/18/17, 2ND READING 10/2/17, REPORTED OUT ON, RECOMMENDED FOR ADOPTION ON THIRD READING) (Pg. 5)

****NEWS BUSINESS****

3. Communication from Councilmember Bullock regarding Sandy Hook Promise’s Say Something Week. (Pg. 29)

4. RESOLUTION NO. 8958-17 - A RESOLUTION declaring October 16 through October 20, 2017 as Say Something Week in Lakewood and encouraging all our citizens to recognize Say Something’s significance. (Pg. 30)

5. Communication from Judge Carroll regarding request for Legislation. (Pg. 31)

6. Communication from Mayor Summers regarding Mayoral appointment to the Lakewood Community Relations Advisory Commission. (Pg. 33)

7. Communication from Finance Director Pae regarding Amended Purchasing and Contracting Ordinance FY2017. (Pg 34)

8. ORDINANCE NO. 43-16B - AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, amending Ordinance 43-16A, adopted October 2, 2017, authorizing the
Mayor (Director of Public Safety), the Director of Public works, the Director of Law, the Director of Finance, and/or the Purchasing Manager to enter into contracts for professional services, and to advertise for bids and enter into contracts for the purchase of repair maintenance and operating supplies, services and equipment as authorized by the 2017 Appropriation Ordinance and the Administrative Code of the City of Lakewood with the lowest and best bidder or bidders or as otherwise provided by law. (Pg. 35)

9. Communication from Human Services Director Gelsomino regarding Community Based Services for At-Risk Children and Families in Cuyahoga County. (Pg. 41)

10. **RESOLUTION NO. 8959-17** – A RESOLUTION to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, authorizing the Mayor or his designee to apply for and enter into an agreement with the Cuyahoga County Division of Children and Family Services for the Community Based Services for At-Risk Children and Families in Cuyahoga County from April 1, 2018 through March 31, 2019. (Pg. 42)

11. Communication from Planning and Development Director Sylvester regarding Property Maintenance Code 1306.34 Bed Bug Ordinance. (Pg. 44)

12. **ORDINANCE NO. 35-17** – AND ORDINANCE to amend Section 1306.34, Responsibility for Pest Extermination, of the Codified Ordinances of the City of Lakewood in order to clarify responsibility for pest identification and extermination. (Pg. 45)

13. Communication from Planning and Development Director Sylvester regarding Parking Plan Review Fee Chapter 1143 and 1173. (Pg. 47)

14. **ORDINANCE NO. 36-17** – AN ORDINANCE to take effect at the earliest period allowed by law, amending various sections and enacting new chapters of the Zoning Code of the Codified Ordinances of the City of Lakewood in order to further clarify and regulate parking plan review in the City. (Pg. 48)

15. Communication from Law Director Butler regarding Resolution authorizing the Mayor to enter into agreement with the Cuyahoga County Board of
Health for the provision of public health services in Lakewood in 2018. (Pg. 53)

16. **RESOLUTION NO. 8960-17** - A RESOLUTION to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, authorizing the Mayor to enter into an agreement with the District Advisory Council of Cuyahoga County, Ohio General Health District for the provision of public health services within the City of Lakewood in an amount not to exceed $214,780.00 for a one-year period commencing January 1, 2018. (Pg. 54)

17. Liquor Permit Application for C1, C2 and D6 Stock types to Simon Beverage; 18414-26 Detroit Avenue, Lakewood, OH. (Pg. 57)
ORDINANCE NO. 33-17

BY:

AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect at the earliest period allowed by law, amending Section 333.01, Driving or Physical Control while under the Influence, as contained in the Traffic Code.

WHEREAS, Sections 333.01 of the Code stand to be updated to reflect recent changes to State Code and provide consistency with the State Code in all areas except penalty; and

WHEREAS, pursuant to the Constitution of the State of Ohio and the Ohio Revised Code, municipalities have the power of local self-government; and

WHEREAS, pursuant to the Constitution of the State of Ohio and the Ohio Revised Code, municipalities have the power to enact laws that are for the health, safety, welfare, comfort and peace of the citizens of the municipality; and

WHEREAS, this Council by a vote of at least five of its members determines that this ordinance is an emergency measure and that it shall take effect immediately, as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood, and that it is necessary for the immediate preservation of the public property, health, and safety and to provide for the usual daily operation of municipal departments; now, therefore

BE IT ORDAINED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. Section 333.01, Driving or Physical Control while under the Influence, of the Lakewood Codified Ordinances, currently reading as follows:

333.01 DRIVING OR PHYSICAL CONTROL WHILE UNDER THE INFLUENCE.

(a) (1) Operation Generally. No person shall operate any vehicle within this Municipality, if, at the time of the operation, any of the following apply:
A. The person is under the influence of alcohol, a drug of abuse, or a combination of them.
B. The person has a concentration of eight-hundredths of one per cent or more but less than seventeen-hundredths of one per cent by weight per unit volume of alcohol in the person’s whole blood.
C. The person has a concentration of ninety-six-thousandths of one per cent or more but less than two hundred four-thousandths of one per cent by weight per unit volume of alcohol in the person’s blood serum or plasma.
D. The person has a concentration of eight-hundredths of one gram or more but less than seventeen-hundredths of one gram by weight of alcohol per two hundred ten liters of the person's breath.

E. The person has a concentration of eleven-hundredths of one gram or more but less than two hundred thirty-eight-thousandths of one gram by weight of alcohol per one hundred milliliters of the person's urine.

F. Except as provided in subsection (m) 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 five hundred 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 one hundred 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 one hundred fifty 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 fifty 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 one hundred fifty 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 fifty 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 two thousand 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 fifty 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-monoacetylmorphine) in the person's urine of at least ten nanograms of heroin metabolite (6-monooacetylmorphine) per milliliter of the person's urine or has a concentration of heroin metabolite (6-monoacetylmorphine) in the person's whole blood or blood serum or plasma of at least ten nanograms of heroin metabolite (6-monooacetylmorphine) per milliliter of the person's whole blood or blood serum or plasma.

6. The person has a concentration of L.S.D. in the person's urine of at least twenty-five nanograms of L.S.D. per milliliter of the person's urine or a concentration of L.S.D. in the person's whole blood or blood serum or plasma of at least ten nanograms of L.S.D. per milliliter of the person's whole blood or blood serum or plasma.

7. The person has a concentration of marihuana in the person's urine of at least ten nanograms of marihuana per milliliter of the person's urine or has a concentration of marihuana in the person's whole blood or blood serum or plasma of at least two nanograms of marihuana per milliliter of the person's whole blood or blood serum or plasma.

8. Either of the following applies:

a. The person is under the influence of alcohol, a drug of abuse or a combination of them, and, as measured by gas chromatography mass spectrometry, the person has a concentration of marihuana metabolite in the person's urine of at least fifteen 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. As measured by gas chromatography mass spectrometry, the person has a concentration of marihuana metabolite in the person's urine of at least thirty-five
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 fifty 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 five hundred 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 one hundred 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 twenty-five 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 Ohio 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 Municipality, the rule is in effect, and the person has a concentration of salvia divinorum or salvinorin A of at least that amount so specified by rule in the person’s urine, in the person’s whole blood, or in the person’s blood serum or plasma.

(2) No person who, within twenty 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 Ohio R.C. 4511.19(A) or (B), 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 Ohio R.C. 4511.191, and being advised by the officer in accordance with Ohio R.C. 4511.192 of the consequences of the person’s refusal or submission to the test or tests, refuse to submit to the test or tests.

(b) Operation After Under-Age Consumption. No person under twenty-one 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 two-hundredths of one per cent but less than eight-hundredths of one per cent by weight per unit volume of alcohol in the person’s whole blood.

(2) The person has a concentration of at least three-hundredths of one per cent but less than ninety-six-thousandths of one per cent by weight per unit volume of alcohol in the person’s blood serum or plasma.

(3) The person has a concentration of at least two-hundredths of one gram but less than eight-hundredths of one gram by weight of alcohol per two hundred ten liters of the person’s breath.

(4) The person has a concentration of at least twenty-eight one-thousandths of one gram but less than eleven-hundredths of one gram by weight of alcohol per one hundred milliliters of the person’s urine.

(c) One Conviction Limitation. 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), (2) or (3) of this section, but the person may not be convicted of more than one violation of these subsections. (ORC 4511.99)

(d) Physical Control.

(1) As used in this subsection, “physical control” means being in the driver’s position of the front seat of a vehicle and having possession of the vehicle’s ignition key or other ignition device.
(2) A. No person shall be in physical control of a vehicle if, at the time of the physical control, any of the following apply:

1. The person is under the influence of alcohol, a drug of abuse, or a combination of them.

2. The person’s whole blood, blood serum or plasma, breath, or urine contains at least the concentration of alcohol specified in subsection (a)(1)B., C., D. or E. hereof.

3. Except as provided in subsection (d)(3) of this section, 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 concentration specified in subsection (a)(1)F. hereof.

B. No person under twenty-one years of age shall be in physical control of a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them or while the person’s whole blood, blood serum or plasma, breath, or urine contains at least the concentration of alcohol specified in subsection (b)(1) to (4) hereof.

(3) Subsection (d)(2)A.3. of this section does not apply to a person who is in physical control of 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 subsection (a)(1)F. hereof, if both of the following apply:

A. The person obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs.

B. The person injected, ingested, or inhaled the controlled substance in accordance with the health professional’s directions.

(e) Evidence; Tests.

(1) A. In any criminal prosecution or juvenile court proceeding for a violation of (a)(1)A. of this section or for any 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 Ohio R.C. 2317.02, may be admitted with expert testimony to be considered with any other relevant and competent evidence in determining the guilt or innocence of the defendant.

B. In any criminal prosecution or juvenile court proceeding for a violation of subsection (a) or (b) of this section or for an equivalent offense that is vehicle-related, the court may admit evidence on the concentration of alcohol, drugs of abuse, controlled substances, metabolites of a controlled substance, or a combination of them in the defendant’s whole blood, blood serum or plasma, breath, urine or other bodily substance at the time of the alleged violation as shown by chemical analysis of the substance withdrawn within three hours of the time of the alleged violation. The three-hour time limit specified in this subsection regarding the admission of evidence does not extend or affect the two-hour time limit specified in Ohio 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 section when a person submits to a blood, breath, urine or other bodily substance test at the request of a law enforcement officer under Ohio R.C. 4511.191, or a blood or urine sample is obtained pursuant to a search warrant. Only a physician, a registered nurse, 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 subsection may refuse to withdraw blood under this subsection, if in that person’s opinion, the physical welfare of the person would be endangered by the withdrawing of blood.
The bodily substance withdrawn under subsection (e)(1)B. hereof 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 Ohio R.C. 3701.143.

(2) In a criminal prosecution or juvenile court proceeding for violation of subsection (a) of this section or for an equivalent offense that is vehicle related, if there was at the time the bodily substance was withdrawn a concentration of less than the applicable concentration of alcohol specified in subsections (a) (1) B., C., D. and E. of this section, or less than the applicable concentration of a listed controlled substance or a listed metabolite of a controlled substance specified for a violation of subsection (a)(1)F. of this section, that fact may be considered with other competent evidence in determining the guilt or innocence of the defendant. This subsection does not limit or affect a criminal prosecution or juvenile court proceeding for a violation of subsection (b) of this section or for an equivalent offense that is substantially equivalent to that subsection.

(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 (e)(1)B. hereof, 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 division (A)(5) of Ohio R.C. 4511.191, 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 division (A)(5) of Ohio R.C. 4511.191, the form to be read to the person to be tested, as required under Ohio R.C. 4511.192, shall state that the person may have an independent test performed at the person’s expense. The failure or inability to obtain an additional chemical test by a person shall not preclude the admission of evidence relating to the chemical test or tests taken at the request of a law enforcement officer.

(4) A. As used in subsections (e)(4)B. and C. of this section, “national highway traffic safety administration” means the National Traffic Highway Safety Administration established as an administration of the United States Department of Transportation under 96 Stat. 2415 (1983), 49 U.S.C.A. 105.

B. In any criminal prosecution or juvenile court proceeding for a violation of subsection (a), (b) or (d) 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 or person in physical control 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 (e)(4)B.1. or 2. of this section and if the testimony or evidence is admissible under the Rules of Evidence, the court shall admit the testimony or evidence and the trier of fact shall give it whatever weight the trier of fact considers to be appropriate.
C. Subsection (e)(4) 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 pro-
ceeding of a type described in that subsection, from considering evidence or testimo-
y that is not otherwise disallowed by subsection (e)(4) of this section. (ORC
4511.19; 4511.194)

(f) Forensic Laboratory Reports.

(1) Subject to subsection (f)(3) of this section, in any criminal prosecution or
juvenile court proceeding for a violation of subsection (a) or (b)(1), (2), (3) or (4)
of this section or for an equivalent offense that is substantially
equivalent to any of those subsections, a laboratory report from any laboratory per-
sonnel issued a permit by the Department of Health authorizing an analysis as de-
scribed in this subsection that contains an analysis of the whole blood, blood serum
or plasma, breath, urine, or other bodily substance tested and that contains all of the
information specified in this subsection shall be admitted as prima-facie evidence of
the information and statements that the report contains. The laboratory report shall
contain all of the following:

A. The signature, under oath, of any person who performed the analysis;
B. Any findings as to the identity and quantity of alcohol, a drug of abuse, a
controlled substance, a metabolite of a controlled substance, or a combination of
them that was found;
C. A copy of a notarized statement by the laboratory director or a designee of
the director that contains the name of each certified analyst or test performer in-
volved 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 exper-
ience in performing the type of analysis involved and a certification that the labora-
tory 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 evi-
dence, a report of the type described in subsection (f)(1) of this section is not admis-
sible against the defendant to whom it pertains in any proceeding, other than a pre-
liminary 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 (f)(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 de-
mands 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.

(g) Immunity From Liability For Withdrawing Blood. Except as otherwise
provided in this subsection, any physician, registered nurse or qualified technician,
chemist, or phlebotomist who withdraws blood from a person pursuant to this section
or Ohio R.C. 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 Ohio R.C.
4511.191 or 4511.192, is immune from criminal liability and civil liability based up-
on 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 pro-
pelled in this subsection is not available to a person who withdraws blood if the person
engaged in willful or wanton misconduct.

(h) General OVI Penalty.

(1) Whoever violates any provision of subsections (a) or (b) 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) of this sec-
tion 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 Ohio R.C. Chapter 2929, and this Traffic Code, except as otherwise authorized or required by subsections (h)(1)A. to E. of this section:

A. Except as otherwise provided in subsections (h)(1)B., C., D. or E. of this section, the offender is guilty of a misdemeanor of the first degree, and the offender is subject to any or all of the following penalties:

1. If the sentence is being imposed for a violation of subsections (a)(1) or (a)(2) of this section, a jail term of three days. The court may sentence an offender to both an intervention program and a jail term. The court may impose a jail term in addition to the three-day jail term or intervention program. However, in no case shall the cumulative jail term imposed for the offense exceed six months.

The court may suspend the execution of the three-day jail term under this subsection if the court, in lieu of that suspended term, places the offender under a community control sanction pursuant to Ohio R.C. 2929.25 and requires the offender to attend, for three consecutive days, a drivers’ intervention program certified under Ohio R.C. 3793.10. The court also may suspend the execution of any part of the three-day jail term under this subsection if it places the offender under a community control sanction pursuant to Ohio R.C. 2929.25 for part of the three days, requires the offender to attend for the suspended part of the term a drivers’ intervention program so certified, and sentences the offender to a jail term equal to the remainder of the three consecutive days that the offender does not spend attending the program. The court may require the offender, as a condition of community control and in addition to the required attendance at a drivers’ intervention program, to attend and satisfactorily complete any treatment or education programs that comply with the minimum standards adopted pursuant to Ohio R.C. Chapter 3793 by the Director of Alcohol and Drug Addiction Services that the operators of the drivers’ intervention program determine that the offender should attend and to report periodically to the court on the offender’s progress in the programs. The court also may impose on the offender any other conditions of community control that it considers necessary.

2. In all cases, a fine of not less than three hundred seventy-five dollars ($375.00) and not more than one thousand seventy-five dollars ($1,075).

3. In all cases, a class five license suspension of the offender’s driver’s or commercial driver’s license or permit or nonresident operating privilege from the range specified in division (A)(5) of Ohio R.C. 4510.02. The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.13.

B. Except as otherwise provided in subsection (h)(1)E. of this section, an offender who, within six 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, and the offender is subject to any or all of the following penalties:

1. If the sentence is being imposed for a violation of subsection (a)(1) or (a)(2) of this section, a jail term of ten days. The court shall impose the ten-day jail term under this subsection unless, subject to subsection (h)(3) of this section, it instead imposes a sentence under that subsection consisting of both a jail term and a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition to the ten-day mandatory jail term. The cumulative jail term imposed for the offense shall not exceed six months.

In addition to the jail term or the term of house arrest with electronic monitoring or continuous alcohol monitoring or both types of monitoring and jail term, the court shall require the offender to be assessed by an alcohol and drug treatment program that is authorized by Ohio R.C. 3793.02, subject to subsection (k) of this section, and
shall order the offender to follow the treatment recommendations of the program. The purpose of the assessment is to determine the degree of the offender’s alcohol usage and to determine whether or not treatment is warranted. Upon the request of the court, the program shall submit the results of the assessment to the court, including all treatment recommendations and clinical diagnoses related to alcohol use.

2. In all cases, notwithstanding the fines set forth in Section 303.99, a fine of not less than five hundred twenty-five dollars ($525.00) and not more than one thousand six hundred twenty-five dollars ($1,625).

3. In all cases, a class four license 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 division (A)(4) of Ohio R.C. 4510.02. The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.13. (ORC 4511.19)

4. In all cases, if the vehicle is registered in the offender’s name, immobilization of the vehicle involved in the offense for ninety days in accordance with Ohio R.C. 4503.233 and impoundment of the license plates of that vehicle for ninety days. (ORC 4511.193)

C. Except as otherwise provided in subsection (b)(1)E. of this section, an offender who, within six 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 misdemeanor. The court shall sentence the offender to all of the following:

1. If the sentence is being imposed for a violation of subsection (a)(1) or (a)(2) of this section, a mandatory jail term of thirty consecutive days. The court shall impose the thirty-day mandatory jail term under this subsection unless, subject to subsection (b)(3) of this section, it instead imposes a sentence under that subsection consisting of both a jail term and a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition to the thirty-day mandatory jail term. Notwithstanding the jail terms set forth in Section 303.99, the additional jail term shall not exceed one year, and the cumulative jail term imposed for the offense shall not exceed one year.

2. In all cases, notwithstanding the fines set forth in Section 303.99, a fine of not less than eight hundred fifty dollars ($850.00) and not more than two thousand seven hundred fifty dollars ($2,750).

3. In all cases, a class three license 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 division (A)(3) of Ohio R.C. 4510.02. The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.13. (ORC 4511.19)

4. In all cases, if the vehicle is registered in the offender’s name, criminal forfeiture of the vehicle involved in the offense in accordance with Ohio R.C. 4503.234. Subsection (b)(5) of this section applies regarding any vehicle that is subject to an order of criminal forfeiture under this subsection. (ORC 4511.193)

5. In all cases, the court shall order the offender to participate in an alcohol and drug addiction program authorized by Ohio R.C. 3793.02, subject to subsection (k) of this section, and shall order the offender to follow the treatment recommendations of the program. The operator of the program shall determine and assess the degree of the offender’s alcohol dependency and shall make recommendations for treatment. Upon the request of the court, the program shall submit the results of the assessment to the court, including all treatment recommendations and clinical diagnoses related to alcohol use.

D. Except as otherwise provided in subsection (b)(1)E. of this section, an offender who, within six years of the offense, previously has been convicted of or pleaded guilty to three or four violations of subsection (a) or (b) of this section or
other equivalent offenses or an offender who, within twenty years of the offense, previously has been convicted of or pleaded guilty to five or more violations of that nature is guilty of a felony of the fourth degree and shall be prosecuted under appropriate state law.

E. An offender who previously has been convicted of or pleaded guilty to a violation of Ohio 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 of the third degree and shall 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 as a result of the conviction or guilty plea shall pay a reinstatement fee as provided in division (F)(2) of Ohio R.C. 4511.191.

(3) If an offender is sentenced to a jail term under subsection (b)(1)B.1. or (b)(1)C.1. of this section and if, within sixty 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 sixty-day period following the date of sentencing, the court may impose an alternative sentence under this subsection that includes a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring.

As an alternative to a jail term of ten days required by subsection (h)(1)B.1. of this section, the court, under this subsection, may sentence the offender to five consecutive days in jail and not less than eighteen consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of the five consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring, or both types of monitoring shall not exceed six months. The five consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.

As an alternative to the mandatory jail term of twenty consecutive days required by subsection (h)(1)B.2. of this section, the court, under this subsection, may sentence the offender to ten consecutive days in jail and not less than thirty-six consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of the ten consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring or both types of monitoring shall not exceed six months. The ten consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.

As an alternative to a mandatory jail term of thirty consecutive days required by subsection (h)(1)C.1. of this section, the court, under this subsection, may sentence the offender to fifteen consecutive days in jail and not less than fifty-five consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of the fifteen consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring or both types of monitoring shall not exceed one year. The fifteen consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.

As an alternative to the mandatory jail term of sixty consecutive days required by subsection (h)(1)C.2. of this section, the court, under this subsection, may sentence the offender to thirty consecutive days in jail and not less than one hundred ten consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of the thirty consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring, or both
types of monitoring shall not exceed one year. The thirty consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.

(4) If an offender’s driver’s or occupational driver’s license or permit or nonresident operating privilege is suspended under subsection (h) of this section and if Ohio 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 division (A)(7) of that section requires that 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 Ohio R.C. 4503.231, except as provided in division (B) of that section, the court, for any second or subsequent offenses within a six year period, shall impose that condition as one of the conditions of the limited driving privileges granted to the offender, except as provided in division (B) of Ohio R.C. 4503.231.

(5) If title to a motor vehicle that is subject to an order of criminal forfeiture under this section is assigned or transferred and division (B)(2) or (3) of Ohio R.C. 4503.234 applies, in addition to or independent of any other penalty established by law, the court may fine the offender the value of the vehicle as determined by publications of the national auto dealers association. The proceeds of any fine so imposed shall be distributed in accordance with division (C)(2) of that section.

(6) In all cases in which an offender is sentenced under subsection (h) of this section, the offender shall provide the court with proof of financial responsibility as defined in Ohio 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 Ohio R.C. 2929.18 or 2929.28 in an amount not exceeding five thousand dollars ($5,000) 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 (h) of this section.

(7) As used in subsection (h) of this section, “electronic monitoring”, “mandatory prison term” and “mandatory term of local incarceration” have the same meanings as in Ohio R.C. 2929.01.

(8) Vehicle Operation After Underage Alcohol Consumption Penalty. Whoever violates subsection (b) of this section is guilty of operating a vehicle after underage alcohol consumption and shall be punished as follows:

1) Except as otherwise provided in subsection (i)(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 division (A)(6) of Ohio R.C. 4510.02.

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 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 division (A)(4) of Ohio R.C. 4510.02.

3) If the offender also is convicted of or also pleads guilty to a specification of the type described in Ohio 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 division (E) of Ohio R.C. 2929.24. (ORC 4511.19)

4) The offender shall provide the court with proof of financial responsibility as defined in Ohio 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 Ohio R.C. 2929.28, in an amount not exceeding
five thousand dollars ($5,000) 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. (ORC 4511.19)

(j) Physical Control Penalty. Whoever violates subsection (d) hereof is guilty of having physical control of a vehicle while under the influence, a misdemeanor of the first degree. In addition to other sanctions imposed, the court may impose on the offender 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 division (A)(7) of Ohio R.C. 4510.02. (ORC 4511.194)

(k) Compliance With Ohio R.C. Chapter 3793 Standards. 
(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 Ohio R.C. Chapter 3793 by the Director of Alcohol and Drug Addiction Services.

(2) An offender who stays in a driver's intervention program or in an alcohol treatment program under an order issued under this section shall pay the cost of the stay in the program. However, if the court determines that an offender who stays in an alcohol treatment program under an order issued under this section is unable to pay the cost of the stay in the program, the court may order that the cost be paid from the court's indigent drivers' alcohol treatment fund.

(l) Appeal Does Not Stay Operation of License Suspension. If a person whose driver's or commercial driver's license or permit or nonresident operating privilege is suspended under this section files an appeal regarding any aspect of the person's trial or sentence, the appeal itself does not stay the operation of the suspension.

(m) Subsection (a)(1)F. of this section does not apply to a person who operates a vehicle while the person has a concentration of a listed controlled substance or a listed metabolite of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds the amount specified in that subsection, if both of the following apply:

(1) The person obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs.

(2) The person injected, ingested, or inhaled the controlled substance in accordance with the health professional's directions.

(n) The prohibited concentrations of a controlled substance or a metabolite of a controlled substance listed in subsection (a)(1)F. of this section also apply in a prosecution of a violation of Ohio R.C. 2923.16(D) in the same manner as if the offender is being prosecuted for a prohibited concentration of alcohol.

(o) Conflict of Terms. All terms defined in Ohio R.C. 4510.01 apply to this section. If the meaning of a term defined in Ohio R.C. 4510.01 conflicts with the meaning of the same term as defined in Ohio R.C. 4501.01 or this Traffic Code, the term as defined in Ohio R.C. 4510.01 applies to this section. (ORC 4511.19)

(p) Indigent Drivers Alcohol Treatment Fund. Twenty-five dollars ($25.00) of any fine imposed for a violation of subsection (a) hereof shall be deposited into the municipal or county indigent drivers alcohol treatment fund pursuant to Ohio R.C. 4511.193.

(ORC 4511.193)

(q) Definitions. As used in this section:
(1) "Equivalent offense" means any of the following:
A. A violation of division (A) or (B) of Ohio R.C. 4511.19;
B. A violation of a municipal OVI ordinance;
C. A violation of Ohio R.C. 2903.05 in a case in which the offender was subject to the sanctions described in division (D) of that section;
D. A violation of division (A)(1) of Ohio R.C. 2903.06 or 2903.08 or a municipal ordinance that is substantially equivalent to either of those divisions;
E. A violation of division (A)(2), (3) or (4) of Ohio R.C. 2903.06, division (A)(2) of Ohio R.C. 2903.08, or former Ohio 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;
F. A violation of division (A) or (B) of Ohio R.C. 1547.11;
G. 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;
H. A violation of an existing or former municipal ordinance, law of another state, or law of the United States that is substantially equivalent to division (A) or (B) of Ohio R.C. 4511.19 or division (A) or (B) of Ohio R.C. 1547.11;
I. A violation of a former law of this State that was substantially equivalent to division (A) or (B) of Ohio R.C. 4511.19 or division (A) or (B) of Ohio R.C. 1547.11;

(2) "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.

(3) "Community residential sanction", “continuous alcohol monitoring”, “jail”, “mandatory prison term”, “mandatory term of local incarceration”, “sanction” and “prison term” have the same meanings as in Ohio R.C. 2929.01.

(4) "Drug of abuse” has the same meaning as in Ohio R.C. 4506.01.

(5) "Equivalent offense that is vehicle-related” means an equivalent offense that is any of the following:
A. A violation described in subsection (q)(1), (2), (3), (4) or (5) hereof;
B. A violation of an existing or former municipal ordinance, law of another state, or law of the United States that is substantially equivalent to division (A) or (B) of Ohio R.C. 4511.19;
C. A violation of a former law of this state that was substantially equivalent to division (A) or (B) of Ohio R.C. 4511.19.

shall be and hereby is repealed, and new Section 333.01, Driving or Physical Control while under the Influence, of the Lakewood Codified Ordinances is enacted to read as follows:

333.01 DRIVING OR PHYSICAL CONTROL WHILE UNDER THE INFLUENCE.

(a) (1) Operation Generally. No person shall operate any vehicle within this Municipality, if, at the time of the operation, any of the following apply:
A. The person is under the influence of alcohol, a drug of abuse, or a combination of them.
B. The person has a concentration of eight-hundredths of one per cent or more but less than seventeen-hundredths of one per cent by weight per unit volume of alcohol in the person’s whole blood.
C. The person has a concentration of ninety-six-thousandths of one per cent or more but less than two hundred four-thousandths of one per cent by weight per unit volume of alcohol in the person's blood serum or plasma.

D. The person has a concentration of eight-hundredths of one gram or more but less than seventeen-hundredths of one gram by weight of alcohol per two hundred ten liters of the person's breath.

E. The person has a concentration of eleven-hundredths of one gram or more but less than two hundred thirty-eight-thousandths of one gram by weight of alcohol per one hundred milliliters of the person's urine.

F. Except as provided in subsection (m) 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 five hundred 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 one hundred 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 one hundred fifty nanograms of cocaine per milliliter of the person's urine or a concentration of cocaine in the person's whole blood or blood serum or plasma of at least fifty 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 one hundred fifty 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 fifty 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 two thousand 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 fifty nanograms of heroin per milliliter of the person's whole blood or blood serum or plasma.

5. The person has a concentration of heroin metabolite (6-monoacetyl morphine) in the person's urine of at least ten nanograms of heroin metabolite (6-monoacetyl morphine) per milliliter of the person's urine or has a concentration of heroin metabolite (6-monoacetyl morphine) in the person's whole blood or blood serum or plasma of at least ten nanograms of heroin metabolite (6-monoacetyl morphine) per milliliter of the person's whole blood or blood serum or plasma.

6. The person has a concentration of L.S.D. in the person's urine of at least twenty-five nanograms of L.S.D. per milliliter of the person's urine or a concentration of L.S.D. in the person's whole blood or blood serum or plasma of at least ten nanograms of L.S.D. per milliliter of the person's whole blood or blood serum or plasma.

7. The person has a concentration of marihuana in the person's urine of at least ten nanograms of marihuana per milliliter of the person's urine or has a concentration of marihuana in the person's whole blood or blood serum or plasma of at least two nanograms of marihuana per milliliter of the person's whole blood or blood serum or plasma.

8. Either of the following applies:

a. The person is under the influence of alcohol, a drug of abuse or a combination of them, and, as measured by gas chromatography mass spectrometry, the person has a concentration of marihuana metabolite in the person's urine of at least fifteen 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. As measured by gas chromatography mass spectrometry, the person has a concentration of marihuana metabolite in the person’s urine of at least thirty-five 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 fifty 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 five hundred 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 one hundred 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 twenty-five 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 Ohio 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 Municipality, the rule is in effect, and the person has a concentration of salvia divinorum or salvinorin A of at least that amount so specified by rule in the person’s urine, in the person’s whole blood, or in the person’s blood serum or plasma.

2) No person who, within twenty 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 Ohio R.C. 4511.19(A) or (B), 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 Ohio R.C. 4511.191, and being advised by the officer in accordance with Ohio R.C. 4511.192 of the consequences of the person’s refusal or submission to the test or tests, refuse to submit to the test or tests.

(b) Operation After Under-Age Consumption. No person under twenty-one 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 two-hundredths of one per cent but less than eight-hundredths of one per cent by weight per unit volume of alcohol in the person’s whole blood.

(2) The person has a concentration of at least three-hundredths of one per cent but less than ninety-six-thousandthds of one per cent by weight per unit volume of alcohol in the person’s blood serum or plasma.

(3) The person has a concentration of at least two-hundredths of one gram but less than eight-hundredths of one gram by weight of alcohol per two hundred ten liters of the person’s breath.

(4) The person has a concentration of at least twenty-eight one-thousandths of one gram but less than eleven-hundredths of one gram by weight of alcohol per one hundred milliliters of the person’s urine.

(c) One Conviction Limitation. 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), (2) or (3) of this section, but the person may not be convicted of more than one violation of these subsections. (ORC 4511.99)
(d) Physical Control.
   (1) As used in this subsection, "physical control" means being in the driver’s position of the front seat of a vehicle and having possession of the vehicle’s ignition key or other ignition device.
   (2) A. No person shall be in physical control of a vehicle if, at the time of the physical control, any of the following apply:
      1. The person is under the influence of alcohol, a drug of abuse, or a combination of them.
      2. The person’s whole blood, blood serum or plasma, breath, or urine contains at least the concentration of alcohol specified in subsection (a)(1)B., C., D. or E. hereof.
      3. Except as provided in subsection (d)(3) of this section, 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 concentration specified in subsection (a)(1)F. hereof.
   B. No person under twenty-one years of age shall be in physical control of a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them or while the person’s whole blood, blood serum or plasma, breath, or urine contains at least the concentration of alcohol specified in subsection (b)(1) to (4) hereof.
   (3) Subsection (d)(2)A. of this section does not apply to a person who is in physical control of 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 subsection (a)(1)F. hereof, if both of the following apply:
      A. The person obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs.
      B. The person injected, ingested, or inhaled the controlled substance in accordance with the health professional’s directions.
   (e) Evidence: Tests.
   (1) A. In any criminal prosecution or juvenile court proceeding for a violation of (a)(1)A. of this section or for any 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 Ohio R.C. 2317.02, may be admitted with expert testimony to be considered with any other relevant and competent evidence in determining the guilt or innocence of the defendant.
   B. In any criminal prosecution or juvenile court proceeding for a violation of subsection (a) or (b) of this section or for an equivalent offense that is vehicle-related, the court may admit evidence on the concentration of alcohol, drugs of abuse, controlled substances, metabolites of a controlled substance, or a combination of them in the defendant’s whole blood, blood serum or plasma, breath, urine or other bodily substance at the time of the alleged violation as shown by chemical analysis of the substance withdrawn within three hours of the time of the alleged violation. The three-hour time limit specified in this subsection regarding the admission of evidence does not extend or affect the two-hour time limit specified in Ohio 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 section when a person submits to a blood, breath, urine or other bodily substance test at the request of a law enforcement officer under Ohio R.C. 4511.191, 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 subsection may refuse to withdraw blood under this subsection, if in that person’s opinion, the physical welfare of the person would be endangered by the withdrawing of blood.

The bodily substance withdrawn under subsection (e)(1)B. hereof 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 Ohio R.C. 3701.143.

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

(2) In a criminal prosecution or juvenile court proceeding for violation of subsection (a) of this section or for an equivalent offense that is vehicle related, if there was at the time the bodily substance was withdrawn a concentration of less than the applicable concentration of alcohol specified in subsections (a)(1)B., C., D. and E. of this section, or less than the applicable concentration of a listed controlled substance or a listed metabolite of a controlled substance specified for a violation of subsection (a)(1)F. of this section, that fact may be considered with other competent evidence in determining the guilt or innocence of the defendant. This subsection does not limit or affect a criminal prosecution or juvenile court proceeding for a violation of subsection (b) of this section or for an equivalent offense that is substantially equivalent to that subsection.

(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 (e)(1)B. hereof, 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 division (A)(5) of Ohio R.C. 4511.191, 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 division (A)(5) of Ohio R.C. 4511.191, the form to be read to the person to be tested, as required under Ohio R.C. 4511.192, shall state that the person may have an independent test performed at the person’s expense. The failure or inability to obtain an additional chemical test by a person shall not preclude the admission of evidence relating to the chemical test or tests taken at the request of a law enforcement officer.

(4) A. As used in subsections (c)(4)B. and C. of this section, “national highway traffic safety administration” means the National Traffic Highway Safety Administration established as an administration of the United States Department of Transportation under 96 Stat. 2415 (1983), 49 U.S.C.A. 105.

B. In any criminal prosecution or juvenile court proceeding for a violation of subsection (a), (b) or (d) 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 or person in physical control 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 (e)(4)B.1. or 2. of this section and if the testimony or evidence is admissible under the Rules of Evidence, the court shall admit the testimony or evidence and the trier of fact shall give it whatever weight the trier of fact considers to be appropriate.

C. Subsection (e)(4)B. of this section does not limit or preclude a court, in its determination of whether the arrest of a person was supported by probable cause or its determination of any other matter in a criminal prosecution or juvenile court proceeding of a type described in that subsection, from considering evidence or testimony that is not otherwise disallowed by subsection (e)(4)B. of this section. (ORC 4511.19; 4511.194)

(f) Forensic Laboratory Reports.

(1) Subject to subsection (f)(3) of this section, in any criminal prosecution or juvenile court proceeding for a violation of subsection (a)(1)B., C., D., E., F., or (b)(1), (2), (3) or (4) of this section or for an equivalent offense that is substantially equivalent to any of those subsections, a laboratory report from any laboratory personnel issued a permit by the Department of Health authorizing an analysis as described in this subsection that contains an analysis of the whole blood, blood serum or plasma, breath, urine, or other bodily substance tested and that contains all of the information specified in this subsection shall be admitted as prima-facie evidence of the information and statements that the report contains. The laboratory report shall contain all of the following:

A. The signature, under oath, of any person who performed the analysis;
B. Any findings as to the identity and quantity of alcohol, a drug of abuse, a controlled substance, a metabolite of a controlled substance, or a combination of them that was found;
C. A copy of a notarized statement by the laboratory director or a designee of the director that contains the name of each certified analyst or test performer involved with the report, the analyst’s or test performer’s employment relationship with the laboratory that issued the report, and a notation that performing an analysis of the type involved is part of the analyst’s or test performer’s regular duties;
D. An outline of the analyst’s or test performer’s education, training, and experience in performing the type of analysis involved and a certification that the laboratory satisfies appropriate quality control standards in general and, in this particular analysis, under rules of the Department of Health.

(2) Notwithstanding any other provision of law regarding the admission of evidence, a report of the type described in subsection (f)(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 (f)(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.

(g) Immunity from Liability for Withdrawing Blood. Except as otherwise provided in this subsection, any physician, registered nurse, emergency medical technician-intermediate, emergency medical technician-paramedic, or qualified technician, chemist, or phlebotomist who withdraws blood from a person pursuant to this section or Ohio R.C. 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 Ohio R.C. 4511.191 or 4511.192, is immune from criminal liability and civil liability based up-
on a claim of assault and battery or any other claim that is not a claim of malpractice, for any act performed in withdrawing blood from the person. The immunity provided in this subsection also extends to an emergency medical service organization that employs an emergency medical technician-intermediate or emergency medical technician-paramedic who withdraws blood under this section. The immunity provided in this subsection is not available to a person who withdraws blood if the person engaged in willful or wanton misconduct.

As used in this subsection, "emergency medical technician-intermediate" and "emergency medical technician-paramedic" have the same meanings as in Ohio R.C. 4765.01.

(b) General OVI Penalty.

1. Whoever violates any provision of subsections (a)(1)A. to E. 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)F. 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 Ohio R.C. Chapter 2929, and this Traffic Code, except as otherwise authorized or required by subsections (b)(1)A. to E. of this section:

A. Except as otherwise provided in subsections (b)(1)B., C., D. or E. of this section, the offender is guilty of a misdemeanor of the first degree, and the offender is subject to any or all of the following penalties:

1. If the sentence is being imposed for a violation of subsections (a)(1)A., B., C., D., or (a)(2) of this section, a jail term of three days. The court may sentence an offender to both an intervention program and a jail term. The court may impose a jail term in addition to the three-day jail term or intervention program. However, in no case shall the cumulative jail term imposed for the offense exceed six months.

The court may suspend the execution of the three-day jail term under this subsection if the court, in lieu of that suspended term, places the offender under a community control sanction pursuant to Ohio R.C. 2929.25 and requires the offender to attend, for three consecutive days, a drivers' intervention program certified under Ohio R.C. 3799.10 5119.38. The court also may suspend the execution of any part of the three-day jail term under this subsection if it places the offender under a community control sanction pursuant to Ohio R.C. 2929.25 for part of the three days, requires the offender to attend for the suspended part of the term a drivers' intervention program so certified, and sentences the offender to a jail term equal to the remainder of the three consecutive days that the offender does not spend attending the program. The court, considering available jail space and other factors, may also suspend the execution of the three day jail term under this subsection if the court, in lieu of the suspended term, imposes a term of community control supervision with terms and conditions of community control supervision to include community work service, alcohol and/or drug educational or treatment programs, counseling for mental health and/or substance abuse, or any other appropriate terms and conditions designed to protect the public from future crime by the offender and others and to punish the offender. The court may require the offender, as a condition of community control and in addition to the required attendance at a drivers' intervention program, to attend and satisfactorily complete any treatment or education programs that comply with the minimum standards adopted pursuant to Ohio R.C. Chapter 2793 5119 by the Director of Alcohol and Drug Mental Health and Addiction Services that the operators of the drivers' intervention program determine that the offender should attend and to report periodically to the court on the offender's progress in the programs. The court may impose on the offender any other conditions of community control that it considers necessary.

If the court grants unlimited driving privileges to a first-time offender under Ohio R.C. 4510.022, all penalties imposed upon the offender by the court under subsection (b)(1)A. of this section for the offense apply, except that the court shall
suspend any mandatory or additional jail term imposed by the court under subsection (b)(1)A.1. of this section upon granting unlimited driving privileges in accordance with Ohio R.C. 4510.022.

2. In all cases, a fine of not less than three hundred seventy-five dollars ($375.00) and not more than one thousand seventy-five dollars ($1,075).  

3. In all cases, a class five license suspension of the offender’s driver’s or commercial driver’s license or permit or nonresident operating privilege from the range specified in division (A)(5) of Ohio R.C. 4510.02. The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.12. In all cases, a suspension of the offender’s driver’s or commercial driver’s license or permit or nonresident operating privilege for a definite period of one to three years. The court may grant limited driving privileges relative to the suspension under Ohio 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 Ohio R.C. 4510.022.

B. Except as otherwise provided in subsection (b)(1)E. of this section, an offender who, within six (6) 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, and the offender is subject to any or all of the following penalties:

1. If the sentence is being imposed for a violation of subsection (a)(1) or (a)(2) of this section, a jail term of ten days. The court shall impose the ten-day jail term under this subsection unless, subject to subsection (b)(3) of this section, it instead imposes a sentence under that subsection consisting of both a jail term and a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition to the ten-day mandatory jail term. The cumulative jail term imposed for the offense shall not exceed six months.

In addition to the jail term or the term of house arrest with electronic monitoring or continuous alcohol monitoring or both types of monitoring and jail term, the court shall require the offender to be assessed by an alcohol and drug treatment program that is authorized by Ohio R.C. 3793.02 §19.21, subject to subsection (k) of this section, and shall order the offender to follow the treatment recommendations of the program. The purpose of the assessment is to determine the degree of the offender’s alcohol usage and to determine whether or not treatment is warranted. Upon the request of the court, the program shall submit the results of the assessment to the court, including all treatment recommendations and clinical diagnoses related to alcohol use.

2. In all cases, notwithstanding the fines set forth in Section 303.99, a fine of not less than five hundred twenty-five dollars ($525.00) and not more than one thousand six hundred twenty-five dollars ($1,625).

3. In all cases, a class four license 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 division (A)(4) of Ohio R.C. 4510.02. The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.13. In all cases, a suspension of the offenders drivers license, commercial drivers license, temporary instruction permit, probationary license, or nonresident operating privilege for a definite period of one to seven years. The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.13 (ORC 4511.19). In all cases, if the vehicle is registered in the offender’s name, immobilization of the vehicle involved in the offense for ninety days in accordance with Ohio R.C. 4503.233 and impoundment of the license plates of that vehicle for ninety days. (ORC 4511.193)

C. Except as otherwise provided in subsection (b)(1)E. of this section, an offender who, within six (6) years of the offense, previously has been convicted of or
pledged guilty to two violations of subsection (a) or (b) of this section or other equivalent offenses is guilty of a misdemeanor. The court shall sentence the offender to all of the following:

1. If the sentence is being imposed for a violation of subsection (a)(1) or (a)(2) of this section, a mandatory jail term of thirty consecutive days. The court shall impose the thirty-day mandatory jail term under this subsection unless, subject to subsection (h)(3) of this section, it instead imposes a sentence under that subsection consisting of both a jail term and a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition to the thirty-day mandatory jail term. Notwithstanding the jail terms set forth in Section 303.99, the additional jail term shall not exceed one year, and the cumulative jail term imposed for the offense shall not exceed one year.

2. In all cases, notwithstanding the fines set forth in Section 303.99, a fine of not less than eight hundred fifty dollars ($850.00) and not more than two thousand seven hundred fifty dollars ($2,750).

3. In all cases, a class three license 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 division (A)(3) of Ohio R.C. 4510.02. The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.12 (ORC 4511.19). In all cases, a suspension of the offender’s driver’s license, commercial driver’s license, temporary instruction permit, probationary license, or nonresident operating privilege for a definite period of two to twelve years. The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.12 (ORC 4511.19).

4. In all cases, if the vehicle is registered in the offender’s name, criminal forfeiture of the vehicle involved in the offense in accordance with Ohio R.C. 4503.234. Subsection (h)(5) of this section applies regarding any vehicle that is subject to an order of criminal forfeiture under this subsection. (ORC 4511.193)

5. In all cases, the court shall order the offender to participate in an alcohol and drug addiction program authorized by Ohio R.C. 3793.02 5112.21, subject to subsection (k) of this section, and shall order the offender to follow the treatment recommendations of the program. The operator of the program shall determine and assess the degree of the offender’s alcohol dependency and shall make recommendations for treatment. Upon the request of the court, the program shall submit the results of the assessment to the court, including all treatment recommendations and clinical diagnoses related to alcohol use.

D. Except as otherwise provided in subsection (h)(1)E. of this section, an offender who, within six to ten years of the offense, previously has been convicted of or pleaded guilty to three or four violations of subsection (a) or (b) of this section or other equivalent offenses or an offender who, within twenty years of the offense, previously has been convicted of or pleaded guilty to five or more violations of that nature is guilty of a felony of the fourth degree and shall be prosecuted under appropriate state law.

E. An offender who previously has been convicted of or pleaded guilty to a violation of Ohio 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 of the third degree and shall 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 as a result of the conviction or guilty plea shall pay a reinstatement fee as provided in division (F)(2) of Ohio R.C. 4511.191.

(3) If an offender is sentenced to a jail term under subsection (b)(1)B.1. or (h)(1)C.1. of this section and if, within sixty 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 sixty-day period following the date of sentencing, the court may impose an alternative sentence under this subsection that includes a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring.

As an alternative to a jail term of ten days required by subsection (h)(1)B.1. of this section, the court, under this subsection, may sentence the offender to five consecutive days in jail and not less than eighteen consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of the five consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring, or both types of monitoring shall not exceed six months. The five consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.

As an alternative to the mandatory jail term of twenty consecutive days required by subsection (h)(1)B.2. of this section, the court, under this subsection, may sentence the offender to ten consecutive days in jail and not less than thirty-six consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of the ten consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring, or both types of monitoring shall not exceed six months. The ten consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.

As an alternative to a mandatory jail term of thirty consecutive days required by subsection (h)(1)C.1. of this section, the court, under this subsection, may sentence the offender to fifteen consecutive days in jail and not less than fifty-five consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of the fifteen consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring, or both types of monitoring shall not exceed one year. The fifteen consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.

As an alternative to the mandatory jail term of sixty consecutive days required by subsection (h)(1)C.2. of this section, the court, under this subsection, may sentence the offender to thirty consecutive days in jail and not less than one hundred ten consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of the thirty consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring, or both types of monitoring shall not exceed one year. The thirty consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.

(4) If an offender's driver's or occupational driver's license or permit or non-resident operating privilege is suspended under subsection (h) of this section and if Ohio 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 division (A)(7) of that section requires that 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 Ohio R.C. 4503.231, except as provided in division (B) of that section, the court, for any second or subsequent offenses within a six-year period, shall impose that condition as one of the conditions of the limited driving privileges granted to the offender, except as provided in division (B) of Ohio R.C. 4503.231.

(5) If title to a motor vehicle that is subject to an order of criminal forfeiture under this section is assigned or transferred and division (B)(2) or (3) of Ohio R.C. 4503.234 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 publi-
sions of the national auto dealers association. The proceeds of any fine so imposed shall be distributed in accordance with division (C)(2) of that section.

(6) In all cases in which an offender is sentenced under subsection (h) of this section, the offender shall provide the court with proof of financial responsibility as defined in Ohio 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 Ohio R.C. 2929.18 or 2929.28 in an amount not exceeding five thousand dollars ($5,000) 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 (h) of this section.

(7) As used in subsection (h) of this section, “electronic monitoring”, “mandatory prison term” and “mandatory term of local incarceration” have the same meanings as in Ohio R.C. 2929.01.

(i) Vehicle Operation after Underage Alcohol Consumption Penalty. Whoever violates subsection (b) of this section is guilty of operating a vehicle after underage alcohol consumption and shall be punished as follows:

(1) Except as otherwise provided in subsection (i)(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 division (A)(6) of Ohio R.C. 4510.02. The court may grant limited driving privileges relative to the suspension under Ohio 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 the suspension as authorized under Ohio R.C. 4510.022. If the court grants unlimited driving privileges under Ohio R.C. 4510.022, the court shall suspend any jail term imposed under subsection(i)(1) of this section as required under R.C. 4510.022.

(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 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 division (A)(4) of Ohio R.C. 4510.02. The court may grant limited driving privileges relative to the suspension under Ohio 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 Ohio 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 division (E) of Ohio R.C. 2929.24. (ORC 4511.19)

(4) The offender shall provide the court with proof of financial responsibility as defined in Ohio 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 Ohio R.C. 2929.28, in an amount not exceeding five thousand dollars ($5,000) 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. (ORC 4511.19)

(j) Physical Control Penalty. Whoever violates subsection (d) hereof is guilty of having physical control of a vehicle while under the influence, a misdemeanor of the first degree. In addition to other sanctions imposed, the court may impose on the offender 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 division (A)(7) of Ohio R.C. 4510.02. (ORC 4511.194)

(k) Compliance With Ohio R.C. Chapter 3793 5119 Standards.

(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 Ohio R.C. Chapter 3793 5119 by the Director of Alcohol and Drug Mental Health and Addiction Services.

(2) An offender who stays in a driver’s intervention program or in an alcohol treatment program under an order issued under this section shall pay the cost of the stay in the program. However, if the court determines that an offender who stays in an alcohol treatment program under an or-der issued under this section is unable to pay the cost of the stay in the program, the court may order that the cost be paid from the court’s indigent drivers’ alcohol treatment fund.

(l) Appeal Does Not Stay Operation of License Suspension. If a person whose driver’s or commercial driver’s license or permit or nonresident operating privilege is suspended under this section files an appeal regarding any aspect of the person’s trial or sentence, the appeal itself does not stay the operation of the suspension.

(m) Subsection (a)(1)F. of this section does not apply to a person who operates a vehicle while the person has a concentration of a listed controlled substance or a listed metabolite of a controlled substance in the person’s whole blood, blood serum or plasma, or urine that equals or exceeds the amount specified in that subsection, if both of the following apply:

(1) The person obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs.

(2) The person injected, ingested, or inhaled the controlled substance in accordance with the health professional’s directions.

(n) The prohibited concentrations of a controlled substance or a metabolite of a controlled substance listed in subsection (a)(1)F. of this section also apply in a prosecution of a violation of Ohio R.C. 2923.16(D) in the same manner as if the offender is being prosecuted for a prohibited concentration of alcohol.

(o) Conflict of Terms. All terms defined in Ohio R.C. 4510.01 apply to this section. If the meaning of a term defined in Ohio R.C. 4510.01 conflicts with the meaning of the same term as defined in Ohio R.C. 4501.01 or this Traffic Code, the term as defined in Ohio R.C. 4510.01 applies to this section. (ORC 4511.19)

(p) Indigent Drivers Alcohol Treatment Fund. Twenty-five dollars ($25.00) of any fine imposed for a violation of subsection (a) hereof shall be deposited into the municipal or county indigent drive3rs alcohol treatment fund pursuant to Ohio R.C. 4511.193.

(ORC 4511.193)

(q) Definitions. As used in this section:

(1) “Equivalent offense” means any of the following:

A. A violation of division (A) or (B) of Ohio R.C. 4511.19;

B. A violation of a municipal OVI ordinance;

C. A violation of Ohio R.C. 2903.04 in a case in which the offender was subject to the sanctions described in division (D) of that section;

D. A violation of division (A)(1) of Ohio R.C. 2903.06 or 2903.08 or a municipal ordinance that is substantially equivalent to either of those divisions;

E. A violation of division (A)(2), (3) or (4) of Ohio R.C. 2903.06, division (A)(2) of Ohio R.C. 2903.08, or former Ohio 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;

F. A violation of division (A) or (B) of Ohio R.C. 1547.11;

G. 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 ski, 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;

H. A violation of an existing or former municipal ordinance, law of another state, or law of the United States that is substantially equivalent to division (A) or (B) of Ohio R.C. 4511.19 or division (A) or (B) of Ohio R.C. 1547.11;

I. A violation of a former law of this State that was substantially equivalent to division (A) or (B) of Ohio R.C. 4511.19 or division (A) or (B) of Ohio R.C. 1547.11;

2) "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.

3) "Community residential sanction", "continuous alcohol monitoring", "jail", "mandatory prison term", "mandatory term of local incarceration", "sanction" and "prison term" have the same meanings as in Ohio R.C. 2929.01.

4) "Drug of abuse" has the same meaning as in Ohio R.C. 4506.01.

5) "Equivalent offense that is vehicle-related" means an equivalent offense that is any of the following:
A. A violation described in subsection (q)(1), (2), (3), (4) or (5) hereof;
B. A violation of an existing or former municipal ordinance, law of another state, or law of the United States that is substantially equivalent to division (A) or (B) of Ohio R.C. 4511.19;
C. A violation of a former law of this state that was substantially equivalent to division (A) or (B) of Ohio R.C. 4511.19.

Section 2. It is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council and that all such deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Section 3. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in its preamble, and provided it receives the affirmative vote of at least five members of Council this ordinance shall take effect and be in force immediately, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: ____________________________

PRESIDENT

__________________________

CLERK

Approved: ____________________________

MAYOR
October 16, 2017

Lakewood City Council
Mayor Michael P. Summers
12650 Detroit Avenue
Lakewood, Ohio 44107

Re: Sandy Hook Promise’s Say Something Week

Dear Mayor and Members of Council:

This week, schools around the country - and in Lakewood - are participating in Sandy Hook Promise’s Say Something Week. Today, both Harding and Garfield middle schools received a Sandy Hook Promise Presenter for a school-wide Say Something assemblies. To help their efforts, tonight I present a resolution to Council that would proclaim this week the Say Something Week for Lakewood.

Say Something is a violence prevention effort especially focused on schools to train students, school staff, and parents to watch for warning signs for school shooters, empowering them to “say something” before an incident. Say Something Week raises awareness and educates students and the community through training, media events, advertising, public proclamations, contests and school awards. Say Something Week reinforces the power young people have to prevent tragedies and Say Something to a trusted adult to protect a friend from hurting them self or others.

I respectfully request adoption of this resolution tonight to express our support for this worthy effort.

Sincerely,

Thomas R. Bullock III
Member of Council at Large
RESOLUTION NO.  

A RESOLUTION declaring October 16 through 20, 2017 as Say Something Week in Lakewood and to encourage all our citizens to recognize Say Something’s significance.

WHEREAS, when it comes to violence, suicide and threats, most are known by at least one other individual before the incident occurs; and

WHEREAS, 80% of school shooters told someone of their violent plans prior to the event. 7 out of 10 people who complete suicide told someone of their plans or gave some type of warning or indication; and

WHEREAS, Say Something teaches students in Middle and High School how to look for warning signs, signals and threats, especially in social media, from individuals who may want to hurt themselves or others and to Say Something to a trusted adult to get them help.

WHEREAS, Say Something will benefit young people, educators, administrators, community based organizations and parents and caretakers by building a culture of looking out for one another; and

WHEREAS, by reporting possible threats of violence when someone sees, reads or hears something, entire communities will become safer and lives will be saved; and

WHEREAS, Sandy Hook Promise, a national, non-profit organization led by family members whose loved ones were killed in the tragic mass shooting at Sandy Hook Elementary School on December 14, 2012 supports sensible solutions that protect children and prevent gun violence by bringing individuals and communities together, to look out for and care for one another; and

WHEREAS, Sandy Hook Promise’s Say Something Program, is being celebrated as part of National Say Something Week at schools throughout Lakewood and Ohio; and

WHEREAS, through Say Something, young people will see a positive change for everyone and save lives by looking out for one another.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LAKEWOOD: That this Council does hereby declare October 16-20, 2017 Say Something Week in Lakewood and encourage all our citizens to recognize Say Something’s significance.

Section 1. That Lakewood City Council officially declares October 16 – 20, 2017 as Say Something Week in the City of Lakewood.

Section 2. That the Clerk of Council be and is hereby authorized and directed to certify a copy of this Resolution and that it be spread upon the minutes of the meeting.

 Adopted: ____________________________President

 Approved: ____________________________Clerk

Mayor
October 10, 2017

Lakewood City Council  
12650 Detroit Avenue  
Lakewood, Ohio 44107

Re: request for legislation.

To the Member of Lakewood City Council:

I am submitting this request to the Lakewood City Council, as the judge of the Lakewood Municipal Court, to take action and enact legislation for the safety of everyone in the Lakewood City Hall. As we all are aware, violence is an ongoing and increasing problem. Government buildings at all levels are potential targets. As the judge, I have responsibilities and obligations to ensure the safety of court employees, as well as litigants, attorneys and witnesses.

Despite warnings posted on the doors of each entrance, weapons, including knives and a shotgun, are brought into Lakewood City Hall unchecked. The court deals with the problems of the community. That’s its purpose. These problems, however, often include violence, substance abuse and mental health issues. Violent conduct as well as its source is unpredictable.

I realize that people coming to the Lakewood Court are the primary source of violent conduct in the city hall, but not the only source. I have witnessed disruptive conduct by people coming into this building upset over parking tickets, building permits, income taxes, animal restrictions and other issues unrelated to the Lakewood Court. Regardless of the source or reason for such conduct, the risk of harm extends to every person in city hall, whether an employee or any other person coming to city hall to obtain a building or block party permit or other legitimate business purpose.

In compliance with the Rules of Superintendence of the Supreme Court of Ohio, I have formed an Advisory Security Committee. Councilman O’Malley has agreed to serve as Council’s representative on the committee. The Rules of Superintendence as well as the laws of the State of Ohio authorize a judge to take whatever necessary steps to secure both the court facilities and the surrounding court area.

I have attempted to work with the Administration in an effort to secure the City Hall Lobby. Rather than just ordering the general areas of public access to be closed off with metal detectors and other safety measures, I recognize that any court action may affect the operation of the administration and City council and want to work with both of the other branches of government.
This formal request is being made pursuant to R.C. 1901.36 as the elected official representing the judicial branch of our municipal government to place this matter on the City Council’s docket. As the legislative authority, City Counsel has the statutory obligation to fund the court’s security needs. I recognize that this involves taxpayer dollars and have proposed various inexpensive options to secure the building. Other alternative proposals by the administration would be far more costly and would not achieve the same level of security. In addition to the costs of security measures, there is also the potential civil liability for disregard of a known risk.

There needs to be both discussion and action, along with legislation, to address these serious safety concerns to restrict and/or close building entrances and take other safety measures. I respectfully request the opportunity to address City Council and be available for any questions or concerns.

Respectfully submitted,

Judge Patrick Carroll
October 2, 2017

Lakewood City Council
Lakewood, Ohio 44107

Re: Mayoral appointment to the Lakewood Community Relations Advisory Commission

Dear Members of Council:

It is with great pleasure that I announce my appointment of Sam Gantous to the Lakewood Community Relations Advisory Commission. His term will begin immediately and expire on December 31, 2019.

I am grateful that this fine Lakewood citizen is willing to volunteer his time, energy and knowledge to improve the quality of our community. I am confident that he will bring commitment, prudence and enthusiasm to this important responsibility.

Sincerely,

Michael P. Summers
October 16, 2017

Lakewood City Council

Re: Amended Purchasing and Contracting Ordinance FY2017

Dear Members of Council:

Attached is an amended ordinance reflecting increased contracting authority in the amount of $25,000.

Increasing/Decreasing Materials, Supplies & Equipment Contracts Contracting Authority for:

- $25,000 Reforestation

The items included are part of the 2017 Appropriation Ordinance.

Please consider suspending the rules and adopting this evening in light of the urgency of tree-removal issues emerging this fall under Section 565.14 of the Codified Ordinances.

Respectfully,

[Signature]

Jennifer R. Pae
Director of Finance
ORDINANCE NO: 43-16B

AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, amending Ordinance 43-16A, adopted October 2, 2017, authorizing the Mayor (Director of Public Safety), the Director of Public Works, the Director of Law, the Director of Finance, and/or the Purchasing Manager to enter into contracts for professional services, and to advertise for bids and enter into contracts for the purchase of repair maintenance and operating supplies, services and equipment as authorized by the 2017 Appropriation Ordinance and the Administrative Code of the City of Lakewood with the lowest and best bidder or bidders or as otherwise provided by law.

WHEREAS, this Council desires to provide the authorization to the Mayor (Director of Public Safety), the Director of Public Works, the Director of Law, the Director of Finance, and/or the Purchasing Manager to enter into contracts for professional services, and to advertise for bids and enter into contracts for the purchase of repair maintenance and operating supplies, services and equipment as authorized by the 2017 Appropriation Ordinance and the Administrative Code of the City of Lakewood with the lowest and best bidder or bidders or as otherwise provided by law, and

WHEREAS, this Council by a vote of at least five of its members determines that this ordinance is an emergency measure, and that this ordinance shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood, and that it is necessary for the immediate preservation of the public peace, property, health and safety, and to provide for the usual daily operation of municipal departments in that delay could impair the City’s ability to provide necessary services in a timely manner for fiscal year 2017, now, therefore,

BE IT ORDAINED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. Section 1 of Ordinance 43-16A, adopted October 2, 2017, currently reading as follows:

Section 1. That the Mayor (Director of Public Safety), the Director of Public Works, the Director of Law, the Director of Finance, and/or the Purchasing Manager be and are hereby authorized and directed to enter into a contract or contracts for supplies, services and equipment with the lowest and best bidder or bidders or as otherwise provided by law, as follows:

Professional services contracts included in the 2017 Budget are as follows:

1) Legal Services........................................................................................................... 225,000
2) Recodification of Ordinances .............................................................................. 12,500
3) Financial Audit....................................................................................................... 75,000
4) Hospitalization and Health Care Benefit Consulting Services........................ 45,000
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<thead>
<tr>
<th>Service Description</th>
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<tbody>
<tr>
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<td>$30,000</td>
</tr>
<tr>
<td>Risk Management Consulting Services</td>
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<tr>
<td>Healthcare, Physicals, Drug &amp; Alcohol Testing</td>
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<td>Employee Assistance Program</td>
<td>$15,000</td>
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<td>Housing and Building Plans Examinations</td>
<td>$150,000</td>
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<td>Lakewood Jail Medical Services</td>
<td>$50,000</td>
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<tr>
<td>Band Concerts</td>
<td>$15,000</td>
</tr>
<tr>
<td>Municipal Engineering Consultant</td>
<td>$60,000</td>
</tr>
<tr>
<td>Debt Issuance Costs</td>
<td>$150,000</td>
</tr>
<tr>
<td>Integrated Wet Weather Plan Professional Services</td>
<td>$500,000</td>
</tr>
<tr>
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<tr>
<td>Professional Services related to Lakewood Hospital</td>
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<td><strong>Sub-Total</strong></td>
<td><strong>$2,365,500</strong></td>
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<td>Property &amp; Liability Insurance Contracts</td>
<td>$450,000</td>
</tr>
<tr>
<td>Workers’ Comp Stop Loss Insurance</td>
<td>$90,000</td>
</tr>
<tr>
<td>Life Insurance</td>
<td>$20,000</td>
</tr>
<tr>
<td>Hospitalization and Health Care Benefit Services</td>
<td>$7,500,000</td>
</tr>
<tr>
<td>Medical Claims Billing Service</td>
<td>$100,000</td>
</tr>
<tr>
<td>Sentenced Prisoners Full Jail Service</td>
<td>$300,000</td>
</tr>
<tr>
<td>Home Delivered Meals</td>
<td>$47,500</td>
</tr>
<tr>
<td>Distribution System Leak Survey</td>
<td>$40,000</td>
</tr>
<tr>
<td>Disposal of Screenings and Grit (WWTP)</td>
<td>$10,000</td>
</tr>
<tr>
<td>Excavation Spoils Removal</td>
<td>$100,000</td>
</tr>
<tr>
<td>Roll of Box for Street Sweeping</td>
<td>$60,000</td>
</tr>
<tr>
<td>Solid Waste Disposal Site</td>
<td>$900,000</td>
</tr>
<tr>
<td>Organic Waste Disposal</td>
<td>$30,000</td>
</tr>
<tr>
<td>Waste Collections – Condominiums</td>
<td>$95,000</td>
</tr>
<tr>
<td>Biosolids Disposal</td>
<td>$103,000</td>
</tr>
<tr>
<td>Roll-Off Box for Construction Debris</td>
<td>$65,000</td>
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<tr>
<td>Site to Receive &amp; Process Yard Waste</td>
<td>$45,000</td>
</tr>
<tr>
<td>Lab Analysis Service</td>
<td>$25,000</td>
</tr>
<tr>
<td>Citywide Computer Hrdwr Op. Sys., &amp; Software Maint Contracts</td>
<td>$550,000</td>
</tr>
<tr>
<td>Communications Services</td>
<td>$100,000</td>
</tr>
<tr>
<td>Water Meter Program Maintenance</td>
<td>$25,000</td>
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<tr>
<td>Telephone Service</td>
<td>$82,500</td>
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<tr>
<td>Cellular Phone Service</td>
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<tr>
<td>Laundry Service-Police Department</td>
<td>$12,000</td>
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<tr>
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<td>Elevator Maintenance</td>
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<tr>
<td>Copier Maintenance Service</td>
<td>$25,000</td>
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<tr>
<td>Postage, Mailing Services, Equipment Lease/Maintenance</td>
<td>$275,000</td>
</tr>
<tr>
<td>Rental and Laundry of Uniforms</td>
<td>$15,000</td>
</tr>
<tr>
<td>Advertising</td>
<td>$30,000</td>
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<tr>
<td>Printing Services</td>
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<tr>
<td>CRIS/LEADS Fees</td>
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</tr>
<tr>
<td>Parking Citation Billing Service</td>
<td>$50,000</td>
</tr>
<tr>
<td>Fireworks Display</td>
<td>$40,000</td>
</tr>
</tbody>
</table>
Materials, supplies, and equipment authorized for purchase under the 2017 Budget are as follows:

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<thead>
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<th>Item</th>
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<tr>
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<td>Concrete Supplies</td>
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<tr>
<td>Asphalt Cold Patch</td>
<td>25,000</td>
</tr>
<tr>
<td>Crack Sealant</td>
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<tr>
<td>Road Salt (Sodium Chloride)</td>
<td>300,000</td>
</tr>
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<td>25,000</td>
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<tr>
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<tr>
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<td>80,000</td>
</tr>
<tr>
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<td>600,000</td>
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<td>37,000</td>
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<tr>
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<td>175,000</td>
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Sub-Total .......................................................................................... $3,752,000

Total ................................................................................................. $18,592,500

shall be and is hereby amended to read:

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17) Administrative Professional Services .............................................................................. 300,000
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</tr>
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</table>

Sub-Total................................................................................................ $3,777,000

Total ........................................................................................................ $18,617,500
Section 2. Contracts for supplies, services and equipment in excess of $7,500 and for professional services in excess of $5,000 shall not be awarded except as approved herein or further approved by Resolution of Council.

Section 3. It is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council, and that all such deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Section 4. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in the preamble, and provided it receives the affirmative vote of at least five members of Council, this ordinance shall take effect and be in force immediately upon its adoption by the Council and approval by the Mayor, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: ________________________

President

______________________________

Clerk

Approved: _______________________

Mayor
October 16, 2017

Lakewood City Council
Lakewood, Ohio 44107

RE: Community Based Services for At-Risk Children and Families in Cuyahoga County

Dear Members of Council:

Attached for your approval is an Emergency Resolution authorizing the Mayor or his designee to apply for funds and enter into an Agreement with Cuyahoga County Division of Children and Family Services for Community Based Services for At-Risk Children and Families in Cuyahoga County. Services identified in this RFP have been provided by the Division of Youth, with funding from Cuyahoga County, since 2006. The intent of this work remains the same, to improve family functioning and child wellbeing for natural, foster and kinship families, support youth aging out of foster care, increase overall family stability and access to community-based services. These services are critical to families and children who are facing complex challenges and have limited natural support systems.

On September 25, 2017, Cuyahoga County released a Request for Proposal (RFP) for the April 1, 2018 to March 31, 2019 grant period which requires a corporate resolution to apply for and accept funding. The grant application is due on October 27, 2017, before Council’s next meeting on November 6, 2017. Therefore, I respectfully request your approval tonight to include this required document in our proposal prior to the deadline. Previous contracts have been $320,464 with the general fund contributing approximately $50,000. This RFP is not expected to exceed $420,000.

Thank you for your consideration.

Sincerely,

Antoinette B. Gelsomino
Director

The City of Lakewood, Department of Human Services, provides a continuum of responsive programs and services that enhance and promote the health and well-being of individuals, families and the community.
RESOLUTION NO.                                               BY:

A RESOLUTION to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, authorizing the Mayor or his designee to apply for and enter into an agreement with the Cuyahoga County Division of Children and Family Services for the Community Based Services for At-Risk Children and Families in Cuyahoga County from April 1, 2018 through March 31, 2019.

WHEREAS, the City of Lakewood has recently received notification from the Cuyahoga County Division of Children and Family Services of the deadline for proposals to accept funding under the Neighborhood Collaborative Services program through 2018/19, such deadline being October 27, 2017; and

WHEREAS, under new procurement rules promulgated by Cuyahoga County, the City of Lakewood is required to produce a resolution permitting contracting authority and authority to submit a proposal along with the proposal; and

WHEREAS, the program funding requires no expenditure of City matching funds; and

WHEREAS, this Council by a vote of at least five of its members determines that this resolution is an emergency measure, and that this resolution shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood, and that it is necessary for the immediate preservation of the public property, health and safety, and to provide for the usual daily operation of municipal departments in that this legislation is necessary to include this resolution with the proposal for 2018-19 Community Based Services for At-Risk Children and Families in Cuyahoga County program funds; now, therefore

BE IT RESOLVED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. The Mayor or his designee is hereby authorized to enter into an agreement with the Cuyahoga County Division of Children and Family Services for the Community Based Services for At-Risk Children and Families in Cuyahoga County program to accept and expend funds under that program through March 31, 2019.

Section 2. The Mayor or his designee is hereby authorized to submit a grant proposal to Cuyahoga County for the provision of Community Based Services for At-Risk Children and Families in Cuyahoga County for the program year beginning April 1, 2018 and ending March 31, 2019.

Section 3. It is found and determined that all formal actions of this Council concerning and relating to the passage of this resolution were adopted in an open meeting of this Council, and that all such deliberations of this Council and of any of its committees that resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements.

Section 4. This resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the
usual daily operation of the City for the reasons set forth and defined in the preamble to this resolution, and provided it receives the affirmative vote of at least five members of Council, this resolution shall take effect and be in force immediately upon its adoption by the Council and approval by the Mayor, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: ____________________________

President

Clerk

Approved: ____________________________

Mayor
October 16, 2017

Lakewood City Council
Lakewood, Ohio 44107

RE: Property Maintenance Code 1306.34 Bed Bug Ordinance

Dear Members of Council,

Attached is an ordinance to amend the city's property maintenance code to clarify the responsibility of the eradication of pests in the building code.

The Bed Bug Task force was convened in the summer of 2015 to put a strategy together to address the local and national issue of bed bug infestations. Part of the work of the task force involved the city partnering with its non-profit partner LakewoodAlive to conduct a year of field work, research and data collection in the area of bedbug identification and elimination. Their work greatly informed the proposed changes to the ordinance.

Building on the good work of LakewoodAlive and the Bedbug Task Force the Planning Department is recommending the adoption of the language on the attached ordinance to replace the existing language in 1306.34. The proposed code changes will achieve the following:

- Clarify responsibility for pest identification and extermination
- Require tenants to promptly notify landlords of suspected or known infestations
- Align Lakewood's Property Maintenance Code with proposed changes to the state property maintenance code and the city's bed bug policy
- Increase the efficiency of government

The proposed code changes will allow the city and its partners to deploy programs and tactics that are flexible, and effectively address the issue of bed bugs in the city.

Please refer the ordinance to the appropriate committee for review and recommendation.

Sincerely,

Bryce Sylvester, AICP
Director of Planning and Development
ORDINANCE NO.                        BY:

AN ORDINANCE to amend Section 1306.34, Responsibility for Pest Extermination, of the Codified Ordinances of the City of Lakewood in order to clarify responsibility for pest identification and extermination.

WHEREAS, it is necessary and desirable to amend the Property Maintenance and Safety Code of the City to clarify responsibility for pest identification and extermination; and

WHEREAS, pursuant to the Constitution of the State of Ohio and the Ohio Revised Code, municipalities have the power of local self-government, and the power to enact laws that are for the health, safety, welfare, comfort and peace of the citizens of the municipality; now, therefore,

BE IT ORDAINED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. Section 1306.34, Responsibility for Pest Extermination, of the Codified Ordinances of the City of Lakewood, currently reading as follows:

1306.34. RESPONSIBILITY FOR PEST EXTERMINATION

Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, vermin, rodents or other pests therein or on the premises and every occupant of a dwelling unit in a dwelling unit containing more than one dwelling unit and every occupant of an occupiable structure shall be responsible for such extermination whenever his dwelling unit or occupiable structure is the only one infested. Notwithstanding the foregoing, whenever the occupant fails to maintain a dwelling or an occupiable structure in a rat-proof or insect-proof condition or whenever infestation exists in two or more occupancies in an occupiable structure, or in the shared or public parts of a dwelling containing two or more dwelling units, or in the shared or public parts of an occupiable structure, extermination thereof shall be the responsibility of the owner.

shall be and hereby is repealed, and new Section 1306.34, Responsibility for Pest Extermination, of the Codified Ordinances of the City of Lakewood, is hereby enacted to read as follows:

1306.34. RESPONSIBILITY FOR PEST EXTERMINATION

(a) An owner of an occupiable structure shall take such measures necessary to prevent and control the harborage and free movement of insects, vermin, rodents or other pests within the structure. An owner of an occupiable structure is solely responsible for the extermination of insects, vermin, rodents or other pests within the structure. No owner shall fail to exterminate insects, vermin, rodents or other pests as required herein.

(b) The occupant of an occupiable structure, if not the owner, shall promptly notify the owner of the structure when the occupant knows of or suspects an infestation of insects, vermin, rodents or other pests within the structure. The occupant shall
grant the owner and the owner’s agents or contractors access to every portion of
the structure reasonably necessary for the inspection and extermination of in-
sects, vermin, rodents or other pests within the structure. No occupant shall fail
to promptly notify an owner or fail to grant the owner or the owner’s agents or
contractors reasonable access as required herein.

Section 2. It is found and determined that all formal actions of this Council concerning
and relating to the passage of this ordinance were adopted in an open meeting of this Council,
and that all such deliberation of the Council and of any of its committees that resulted in such
formal action were in meetings open to the public in compliance with all legal requirements.

Adopted: ______________________

______________________________
President

______________________________
Clerk

Approved: ______________________

______________________________
Mayor
October 16, 2017

Lakewood City Council
Lakewood, OH 44107

RE: Parking Plan Review Fee Chapter 1143 and 1173

Dear Members of Council:

The Parking Plan review in Chapter 1143 of the Zoning Code has been an effective regulation to continue to ensure adequate parking while maintaining our urban fabric. Currently, a Parking Plan does not have any fees associated with its review by the Planning Commission.

As the City’s commercial development continues to expand and Parking Plan reviews become more common, we believe a review fee is appropriate. This item will be addressed through the update of Sections 1143.09 and 1173.06.

Please refer the matter to the Planning Commission for a review and recommendation.

Sincerely,

Bryce Sylvester
Director
ORDINANCE NO.  

AN ORDINANCE to take effect at the earliest period allowed by law, amending various sections and enacting new chapters of the Zoning Code of the Codified Ordinances of the City of Lakewood in order to further clarify and regulate parking plan review in the City.

WHEREAS, the Zoning Code of the Codified Ordinances of the City of Lakewood stands to be updated to further clarify and regulate parking plan review in the City; and

WHEREAS, pursuant to the Constitution of the State of Ohio and the Ohio Revised Code, municipalities have the power of local self-government; and

WHEREAS, pursuant to the Constitution of the State of Ohio and the Ohio Revised Code, municipalities have the power to enact laws that are for the health, safety, welfare, comfort and peace of the citizens of the municipality; now, therefore

BE IT ORDAINED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. Section 1143.09, Parking Plan Review; Planning Commission, currently reading as follows:

1143.09 PARKING PLAN REVIEW: PLANNING COMMISSION.

The Commission shall review applications for parking plans that do not meet the set schedule in 1143.05. In addition to Section 1143.09 and Section 1143.10, the Commission may consider the following when reviewing an application:

(a) Impact on central character of residential neighborhoods taking on overflow parking;
(b) Available surface parking lots in the neighborhood that could be used for shared parking;
(c) Similarly scaled projects throughout the City to compare parking footprint;
(d) When a restaurant use is proposed, the total number of tables to parking spaces:
(e) Total number of employees:
(f) Alternative forms of transportation available in the neighborhood;
(g) Implementation of bicycle facilities, including but not limited to, bicycle racks, covered bicycle parking, and shower facilities for employees;
(h) Peak demand for parking spaces from all uses compared to the total supply of spaces:
(i) Traffic impact analysis and/or a traffic demand study;
(j) For uses defined as Institutional or Public Assembly in Schedule 1143.05, the following guidelines:
   (1) One space for each 80 square feet of all auditoria and public assembly rooms: and
(2) One space for each employee.

is hereby repealed, and new Section 1143.09, Parking Plan Review; Planning Commission, is hereby enacted to read as follows:

1143.09 PARKING PLAN REVIEW: PLANNING COMMISSION.

(a) The Commission shall review applications for parking plans that do not meet the set schedule in 1143.05. In addition to Section 1143.09 and Section 1143.10, the Commission may consider the following when reviewing an application:

(a1) Impact on central character of residential neighborhoods taking on overflow parking;
(b2) Available surface parking lots in the neighborhood that could be used for shared parking;
(e2) Similarly scaled projects throughout the City to compare parking footprint;
(d4) When a restaurant use is proposed, the total number of tables to parking spaces:
(e5) Total number of employees:
(f6) Alternative forms of transportation available in the neighborhood;
(g7) Implementation of bicycle facilities, including but not limited to, bicycle racks, covered bicycle parking, and shower facilities for employees;
(h8) Peak demand for parking spaces from all uses compared to the total supply of spaces:
(i9) Traffic impact analysis and/or a traffic demand study;
(j10) For uses defined as Institutional or Public Assembly in Schedule 1143.05, the following guidelines:
(1A.) One space for each 80 square feet of all auditoria and public assembly rooms; and
(2B.) One space for each employee.

(b) The fees for parking plan applications shall be pursuant to Section 1173.06.

Section 2. Section 1173.06, Fees, currently reading as follows:

1173.06 FEES.

(a) Fee for an application for:

<table>
<thead>
<tr>
<th>(1) Variance</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Residential:</td>
<td>$25.00</td>
</tr>
<tr>
<td>B. Commercial:</td>
<td>$50.00</td>
</tr>
<tr>
<td>(2) Similar Use</td>
<td></td>
</tr>
<tr>
<td>A. Residential:</td>
<td>$25.00</td>
</tr>
<tr>
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</tr>
<tr>
<td>(3) Conditional Use</td>
<td></td>
</tr>
<tr>
<td>A. Residential:</td>
<td>$75.00</td>
</tr>
<tr>
<td>B. Commercial:</td>
<td>$150.00</td>
</tr>
</tbody>
</table>
C. Mixed Use Overlay District: $250.00

(4) HPD and HP Designation

A. Residential $25.00
B. Commercial: $50.00
(b) Minor Subdivision: $200.00
(c) Lot Consolidation: $200.00
(d) Lot Split: $200.00
(e) Major Subdivision: $400.00
(f) Planned Development: $500.00

(g) Fee for an application for an amendment to the Zoning Ordinance by a property owner shall be $500.00. It shall be submitted to the Secretary of the Planning Commission who shall convey the $500.00 to the Finance Department for a receipt.

(h) Certificate of Occupancy

(1) Residential: $50.00
(2) Commercial: $75.00
(i) Other

(1) Boutique: $25.00
(2) Fences: $25.00
(3) Satellite dish antenna: $10.00 per antenna

(4) Wireless telecommunication tower, facilities and antennas:
A. New wireless telecommunication tower and related facility - $1,500.00 deposit upon which expenses incurred by the City will be drawn and the balance, if any, returned to the applicant upon final inspection prior to authorization of commencement of the use.
B. New wireless telecommunication antenna and related facilities (without tower) - $500.00
C. Annual inspection fee - $100.00
D. Reimbursement of expenses - The applicant for a wireless telecommunication tower and/or antenna facility shall be responsible for all expenses incurred by the City for any technical and/or engineering services deemed necessary by the Director, the Commissioner, the Commission, the Board or the Architectural Review Board to perform the reviews required by Chapter 1159 which are not covered by the fees set forth in subsection (4) of this Section 1173.06.

is hereby repealed, and new Section 1173.06, Fees, is hereby enacted to read as follows:

1173.06 FEES.

(a) Fee for an application for:

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<th>(1) Variance</th>
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</tr>
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<tr>
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</tr>
</tbody>
</table>
### B. Commercial:
- $50.00

#### (2) Similar Use
A. Residential: $25.00
B. Commercial: $50.00

#### (3) Conditional Use
A. Residential: $75.00
B. Commercial: $150.00
C. Mixed Use Overlay District: $250.00

#### (4) HPD and HP Designation
A. Residential: $25.00
B. Commercial: $50.00

#### (b) Minor Subdivision:
$200.00

#### (c) Lot Consolidation:
$200.00

#### (d) Lot Split:
$200.00

#### (e) Major Subdivision:
$400.00

#### (f) Planned Development:
$500.00

(gh) Fee for an application for an amendment to the Zoning Ordinance by a property owner shall be $500.00. It shall be submitted to the Secretary of the Planning Commission who shall convey the $500.00 to the Finance Department for a receipt.

#### (h) Certificate of Occupancy

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<td>Commercial</td>
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</table>

#### (ii) Other

<table>
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<tr>
<th>Type</th>
<th>Fee</th>
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</tr>
<tr>
<td>Fences</td>
<td>$25.00</td>
</tr>
</tbody>
</table>

#### (3) Satellite dish antenna:
$10.00 per antenna

(4) Wireless telecommunication tower, facilities and antennas:
A. New wireless telecommunication tower and related facility - $1,500.00 deposit upon which expenses incurred by the City will be drawn and the balance, if any, returned to the applicant upon final inspection prior to authorization of commencement of the use.
B. New wireless telecommunication antenna and related facilities (without tower) - $500.00
C. Annual inspection fee - $100.00
D. Reimbursement of expenses - The applicant for a wireless telecommunication tower and/or antenna facility shall be responsible for all expenses incurred by the City for any technical and/or engineering services deemed necessary by the Director, the Commissioner, the Commission, the Board or the Ar-
chitectural Review Board to perform the reviews required by Chapter 1159
which are not covered by the fees set forth in subsection (i)(4) of this Section
1173.06.

Section 3. It is found and determined that all formal actions of this Council concerning
and relating to the passage of this ordinance were adopted in an open meeting of this Council and
that all such deliberations of this Council and of any of its committees that resulted in such for-
mal action were in meetings open to the public in compliance with all legal requirements.

Adopted: ___________________________  
PRESIDENT

Approved: ___________________________  
CLERK

MAYOR

52
October 16, 2017

Lakewood City Council
12650 Detroit Avenue
Lakewood, Ohio 44107

Re: Resolution authorizing the Mayor to enter into agreement with the Cuyahoga County Board of Health for the provision of public health services in Lakewood in 2018

Dear Members of Council:

Please find attached a resolution that, if adopted, would permit Mayor Summers to enter into an agreement with the District Advisory Council of Cuyahoga County (by its Board of Health) for the provision of public health services in Lakewood in 2018. This legislation is introduced pursuant to Rev. Code § 3709.07.

The resolution is ready for adoption this evening but may be referred to committee for further review.

Very truly yours,

Kevin M. Butler
RESOLUTION NO. 

A RESOLUTION to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, authorizing the Mayor to enter into an agreement with the District Advisory Council of Cuyahoga County, Ohio General Health District for the provision of public health services within the City of Lakewood in an amount not to exceed $214,780.00 for a one-year period commencing January 1, 2018.

WHEREAS, the Cuyahoga County Board of Health has proposed providing public health services for residents of the City of Lakewood at a per capita rate of $4.12, which represents a 0% increase for the services over last year; and

WHEREAS, it is necessary to continue public health services to residents of the City of Lakewood through the District Advisory Council of Cuyahoga County, Ohio General Health District; and

WHEREAS, this Council by a vote of at least five of its members determines that this resolution is an emergency measure, and that this resolution shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood, and that it is necessary for the immediate preservation of the public property, health and safety, and to provide for the usual daily operation of municipal services, in that this agreement must be in effect prior to January 1, 2018 to continue health services; now, therefore

BE IT RESOLVED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. The Mayor, on behalf of the City, is hereby authorized to enter into an agreement, attached as Exhibit A, with the District Advisory Council of Cuyahoga County, Ohio General Health District for the provision of public health services within the City of Lakewood in an amount not to exceed $214,780.00 for a one-year period commencing January 1, 2018 pursuant to the authority granted in Section 3709.07 of the Ohio Revised Code.

Section 2. It is found and determined that all formal actions of this Council concerning and relating to the passage of this resolution were adopted in an open meeting of this Council, and that all such deliberation of the Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Section 3. This resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in the preamble to this resolution, and provided it receives the affirmative vote of at least five members of Council, this resolution shall take effect and be in force immediately upon its adoption by the
Council and approval by the Mayor, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: ____________________________

President of Council

Clerk of Council

Approved: ____________________________

Mayor

55
CONTRACT FOR PUBLIC HEALTH SERVICES
(City with a General Health District - Authority--Sec.3709.08 O.C.)

WHEREAS, the District Advisory Council of the Cuyahoga County, Ohio, General Health District, at a meeting held March 15, 2017, by a majority vote of members representing the townships and villages did vote affirmatively on the question of providing public health services to the City of Lakewood, Ohio, and did authorize the Chairman of the District Advisory Council to enter into a contract with the Mayor of Lakewood, Ohio, for providing public health services therein; and

WHEREAS, the Council of the City of Lakewood, at a Council meeting held __________, by majority vote of all members did vote affirmatively on the question of contracting with the District Advisory Council of the Cuyahoga County General Health District for providing public health services to the City of Lakewood and did authorize the Mayor to enter into a contract with the Chairman of the District Advisory Council of the Cuyahoga County General Health District to provide public health services.

NOW, THEREFORE, pursuant to such authority, David Smith on behalf of the District Advisory Council of the Cuyahoga County General Health District and Michael P. Summers on behalf of the City of Lakewood do agree as follows:

The General Health District of Cuyahoga County, Ohio, hereby agrees to provide health services for the City of Lakewood for the year 2018. These health services will be provided by the District Board of Health of Cuyahoga County and will include all necessary medical, nursing, sanitary, laboratory and such other health services as are required by the Statutes of the State of Ohio. Air pollution enforcement services, as described in Chapter 3704 of the Ohio Revised Code, will be conducted through the designated agent, the Cleveland Division of Air Pollution Control. This authorization is contingent upon renewal of the contract between the Ohio EPA and the City of Cleveland and satisfactory performance of the contract terms and conditions regarding air pollution control in Cuyahoga County. The Board of Health reserves the right to alter, modify or amend this contract provision with notice to the City.

The City of Lakewood hereby agrees, in return for the health services which will be provided by the District Board of Health of Cuyahoga County for the year 2018, to pay to the Cuyahoga County General Health District the sum of Two Hundred Fourteen Thousand Seven Hundred Eighty Dollars ($214,780.00). This sum of Two Hundred Fourteen Thousand Seven Hundred Eighty Dollars ($214,780.00) shall be paid by the City of Lakewood to the Cuyahoga County General Health District, no later than July 1, 2018. In the event payment is not made by July 1, 2018, the City of Lakewood hereby directs the Fiscal Officer of Cuyahoga County to place to the credit of the District Health Fund of Cuyahoga County, and the Fiscal Office of Cuyahoga County is hereby authorized to deduct said sum of Two Hundred Fourteen Thousand Seven Hundred Eighty Dollars ($214,780.00) in one installment from the regular tax settlement to be made for said city for the year 2018. This contract shall be in full force and effect from January 1, 2018 through December 31, 2018.

This agency is an equal provider of services and an equal employment opportunity employer-Civil Rights Act 1964

IN WITNESS WHEREOF, we hereunder subscribe our names.

City of Lakewood

By_________________________
Mayor

Date________________________

Cuyahoga County General Health District

By_________________________
Chairman, District Advisory Council

Date________________________

Approved As To Legal Form:

[Signature]
Director of Law, City of Lakewood

56
IMPORTANT NOTICE

PLEASE COMPLETE AND RETURN THIS FORM TO THE DIVISION OF LIQUOR CONTROL WHETHER OR NOT THERE IS A REQUEST FOR A HEARING.

REFER TO THIS NUMBER IN ALL INQUIRIES

C STCK 8164133-0001

(MUST MARK ONE OF THE FOLLOWING)

WE REQUEST A HEARING ON THE ADVISABILITY OF ISSUING THE PERMIT AND REQUEST THAT THE HEARING BE HELD ☐ IN OUR COUNTY SEAT. ☐ IN COLUMBUS.

WE DO NOT REQUEST A HEARING. ☐

DID YOU MARK A BOX? IF NOT, THIS WILL BE CONSIDERED A LATE RESPONSE.

PLEASE SIGN BELOW AND MARK THE APPROPRIATE BOX INDICATING YOUR TITLE:

(Signature) (Title) - ☐ Clerk of County Commissioner (Date)
☐ Clerk of City Council
☐ Township Fiscal Officer

CLERK OF LAKEWOOD CITY COUNCIL
12650 DETROIT AV
LAKEWOOD OHIO 44107