

GENERAL OFFENSES
ADOPTING ORDINANCE

RIVERSIDE, OHIO

ORDINANCE No. _____

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF RIVERSIDE, OHIO, TO PROVIDE AMENDMENTS TO TITLE 13, GENERAL OFFENSES, SECTIONS: 517.08, 521.09, 529.07, 533.14, 537.07, 545.03, 549.02, and 549.04; TO PROVIDE FOR PENALTIES; TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

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

WHEREAS, certain changes in state statutes require update of the city's general offense regulations; and

WHEREAS, the City Council desires to update the city's general offenses to ensure that they correspond with and do not conflict with state statutes regarding the same or similar topics;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF RIVERSIDE, STATE OF OHIO:

Section 1. *Generally.* The Code of Ordinances of the City of Riverside, Ohio (the "Municipal Code") is hereby amended by adding the provisions as provided under Section 6, below.

Section 2. *Municipal Code to be amended.* The addition, amendment, or removal of section of the Municipal Code, when passed in such form as to indicate the intention of the City Council to make the same a part of the Municipal Code, shall be deemed to be incorporated in the Municipal Code so that reference to the Municipal Code includes such additions, amendments, and removals.

Section 3. *Exclusion of inapplicable provisions from the Municipal Code.* The codifier (meaning the person, agency or organization authorized to prepare supplements to the Municipal Code is authorized to exclude and omit any provisions of this ordinance that are inapplicable to the Municipal Code.

Section 4. *Manner of amending Municipal Code.* For the provisions of this ordinance that are applicable to sections of the Municipal Code, the codifier shall apply the following in preparing a supplement to the Municipal Code:

(a) All portions of this ordinance which have been repealed shall be excluded from the Municipal Code by the omission thereof from reprinted pages.

(b) The codifier may make formal, non-substantive changes in this ordinance and parts of this ordinance included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

(1) Organize the ordinance material into appropriate subdivisions;

- (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Municipal Code printed in the supplement, and make changes in such catchlines, headings and titles;
- (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Municipal Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
- (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ to _____" (inserting section numbers to indicate the sections of the Municipal Code which embody the substantive sections or the ordinance incorporated into the Code); and
- (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Municipal Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Municipal Code.

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

Section 5. Effective date. Provisions of section 6 that duplicate or track state statutes shall not become effective until on or after the effective date of this ordinance.

Section 6. Sections amended. The following sections and subsections of the Municipal Code are new or have been amended with new matter in the Municipal Code, and are hereby approved, adopted and enacted. Additions to the text of the Municipal Code are underlined, and deletions are struck through.

517.08 Raffles.

- (a) (1) Subject to subsection (a)(2) of this section, a charitable organization, a public school, a chartered nonpublic school, a community school, or a veteran's organization, fraternal organization, or sporting organization that is exempt from federal income taxation under subsection 501(a) and is described in subsection 501(c)(3), 501(c)(4), 501(c)(7), 501(c)(8), 501(c)(10), or 501(c)(19) of the Internal Revenue Code may conduct a raffle to raise money for the person or entity ~~organization or school~~ and does not need a license to conduct bingo in order to conduct a raffle drawing that is not for profit.
- (2) If a charitable organization that is described in subsection (a)(1) of this section, but that is not also described in subsection 501(c)(3) of the Internal Revenue Code, conducts a raffle, the charitable organization shall distribute at least 50 percent of the net profit from the raffle to a charitable purpose described in Section 517.01(v) or to a department or agency of the federal government, the state, or any political subdivision.
- (b) Except as provided in subsection (a) of this section, no person shall conduct a raffle drawing that is for profit or a raffle drawing that is not for profit.
- (c) Whoever violates subsection (b) of this section is guilty of illegal conduct of a raffle. Except as otherwise provided in this subsection, illegal conduct of a raffle is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of subsection (b) of this section, illegal conduct of a raffle is a felony and shall be prosecuted under appropriate State law. (ORC 2915.092)

521.09 Noxious or offensive odors.

(a) No person shall erect, continue, use or maintain a dwelling, building, structure or place for a residence or for the exercise of a trade, employment or business, or for the keeping or feeding of an animal which, by occasioning noxious exhalations or noisome or offensive smells, becomes injurious to the health, comfort or property of individuals or of the public. (ORC 3767.13)

(b) No person shall cause or allow offal, filth, or noisome substances to be collected or remain in any place to the damage or prejudice of others or of the public.

(c) No person shall unlawfully obstruct or impede the passage of a navigable river, harbor, or collection of water, or corrupt or render unwholesome or impure, a watercourse, stream, or water, or unlawfully divert such watercourse from its natural course or state to the injury or prejudice of others.

(d) Whoever violates this section is guilty of a misdemeanor of the third degree.

(ORC 3767.13)

529.07 Open container prohibited.

(a) As used in this section:

(1) *Chauffeured limousine* means a vehicle registered under Ohio R.C. 4503.24.

(2) *Street, highway and motor vehicle* have the same meanings as in Ohio R.C. 4511.01.

(b) No person shall have in the person's possession an opened container of beer or intoxicating liquor in any of the following circumstances:

(1) Except as provided in subsection (c)(1)E. hereof, in an agency store;

(2) Except as provided in subsection (c) hereof, on the premises of the holder of any permit issued by the Division of Liquor Control;

(3) In any other public place;

(4) Except as provided in subsection (d) or (e) hereof, while operating or being a passenger in or on a motor vehicle on any street, highway or other public or private property open to the public for purposes of vehicular travel or parking;

(5) Except as provided in subsection (d) or (e) hereof, while being in or on a stationary motor vehicle on any street, highway or other public or private property open to the public for purposes of vehicular travel or parking.

(c) (1) A person may have in the person's possession an opened container of any of the following:

A. Beer or intoxicating liquor that has been lawfully purchased for consumption on the premises where bought from the holder of an A-1-A, A-2, A-2(f), A-3a, D-1, D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, D-5l, D-5m, D-5n, D-5o, D-7, D8, E, F, F-2, F-5, F-7 or F-8 permit;

B. Beer, wine, or mixed beverages served for consumption on the premises by the holder of an F-3 permit, wine served as a tasting sample by an A-2 permit holder or S permit holder for consumption on the premises of a farmers market for which an F-10 permit has been issued, or wine served for consumption on the premises by the holder of an F-4 or F-6 permit;

C. Beer or intoxicating liquor consumed on the premises of a convention facility as provided in Ohio R.C. 4303.201;

- D. Beer or intoxicating liquor to be consumed during tastings and samplings approved by rule of the Liquor Control Commission.
- E. Spirituous liquor to be consumed for purposes of a tasting sample, as defined in Ohio R.C. 4301.171.

(2) A person may have in the person's possession on an F liquor permit premises an opened container of beer or intoxicating liquor that was not purchased from the holder of the F permit if the premises for which the F permit is issued is a music festival and the holder of the F permit grants permission for that possession on the premises during the period for which the F permit is issued. As used in this section, "music festival" means a series of outdoor live musical performances, extending for a period of at least three consecutive days and located on an area of land of at least forty acres.

(3) A. A person may have in the person's possession on a D-2 liquor permit premises an opened or unopened container of wine that was not purchased from the holder of the D-2 permit if the premises for which the D-2 permit is issued is an outdoor performing arts center, the person is attending an orchestral performance, and the holder of the D-2 permit grants permission for the possession and consumption of wine in certain predesignated areas of the premises during the period for which the D-2 permit is issued.

B. As used in subsection (c)(3)A. of this section:

- 1. "Orchestral performance" means a concert comprised of a group of not fewer than 40 musicians playing various musical instruments.
- 2. "Outdoor performing arts center" means an outdoor performing arts center that is located on not less than 150 acres of land and that is open for performances from the first day of April to the last day of October of each year.

(4) A person may have in the person's possession an opened or unopened container of beer or intoxicating liquor at an outdoor location at which the person is attending an orchestral performance as defined in subsection (c)(3)B.1. hereof if the person with supervision and control over the performance grants permission for the possession and consumption of beer or intoxicating liquor in certain predesignated areas of that outdoor location.

(5) A person may have in the person's possession on an F-9 liquor permit premises an opened or unopened container of beer or intoxicating liquor that was not purchased from the holder of the F-9 permit if the person is attending either of the following:

- A. An orchestral performance and the F-9 permit holder grants permission for the possession and consumption of beer or intoxicating liquor in certain predesignated areas of the premises during the period for which the F-9 permit is issued;
- B. An outdoor performing arts event or orchestral performance that is free of charge and the F-9 permit holder annually hosts not less than 25 other events or performances that are free of charge on the permit premises.

As used in subsection (c)(5) hereof, "orchestral performance" has the same meaning as in subsection (c)(3)B. of this section.

(6) A. A person may have in the person's possession on the property of an outdoor motorsports facility an opened or unopened container of beer or intoxicating liquor that was not purchased from the owner of the facility if both of the following apply:

- 1. The person is attending a racing event at the facility; and
- 2. The owner of the facility grants permission for the possession and consumption of beer or intoxicating liquor on the property of the facility;

B. As used in subsection (c)(6)A. of this section:

- 1. "Racing event" means a motor vehicle racing event sanctioned by one or more motor racing sanctioning organizations.

2. "Outdoor motorsports facility" means an outdoor racetrack to which all of the following apply:
 - a. It is two and four-tenths miles or more in length.
 - b. It is located on 200 acres or more of land.
 - c. The primary business of the owner of the facility is the hosting and promoting of racing events.
 - d. The holder of a D-1, D-2 or D-3 permit is located on the property of the facility.
- (7) A. A person may have in the person's possession an opened container of beer or intoxicating liquor at an outdoor location within an outdoor refreshment area created under Ohio R.C. 4301.82, if the opened container of beer or intoxicating liquor was purchased from an A-1, A-1-A, A-1c, A-2, A-2f, D class, or F class permit holder to which both of the following apply:
 1. The permit holder's premises is located within the outdoor refreshment area.
 2. The permit held by the permit holder has an outdoor refreshment area designation.
- B. Subsection (c)(7) of this section does not authorize a person to do either of the following:
 1. Enter the premises of an establishment within an outdoor refreshment area while possessing an opened container of beer or intoxicating liquor acquired elsewhere;
 2. Possess an opened container of beer or intoxicating liquor while being in or on a motor vehicle within an outdoor refreshment area unless the possession is otherwise authorized under subsection (d) or (e) of this section.
- C. As used in division (c)(7) of this section, "D class permit holder" does not include a D-6 or D-8 permit holder.
- (8) A. A person may have in the person's possession on the property of a market, within a defined F-8 permit premises, an opened container of beer or intoxicating liquor that was purchased from a D permit premises that is located immediately adjacent to the market if both of the following apply:
 1. The market grants permission for the possession and consumption of beer and intoxicating liquor within the defined F-8 permit premises;
 2. The market is hosting an event pursuant to an F-8 permit and the market has notified the Division of Liquor Control about the event in accordance with Ohio R.C. 4303.208(A)(3).
- B. As used in subsection (c)(8) of this section, market means a market, for which an F-8 permit is held, that has been in operation since 1860.
- (d) This section does not apply to a person who pays all or a portion of the fee imposed for the use of a chauffeured limousine pursuant to a prearranged contract, or the guest of such a person, when all of the following apply:
 - (1) The person or guest is a passenger in the limousine;
 - (2) The person or guest is located in the limousine, but is not occupying a seat in the front compartment of the limousine where the operator of the limousine is located;
 - (3) The limousine is located on any street, highway, or other public or private property open to the public for purposes of vehicular travel or parking.
- (e) An opened bottle of wine that was purchased from the holder of a permit that authorizes the sale of wine for consumption on the premises where sold is not an opened container for the purposes of this section if both of the following apply:
 - (1) The opened bottle of wine is securely resealed by the permit holder or an employee of the permit holder before the bottle is removed from the premises. The bottle shall be secured in such a manner that it is visibly apparent if the bottle has been subsequently opened or tampered with.

- (2) The opened bottle of wine that is resealed in accordance with subsection (e)(1) of this section is stored in the trunk of a motor vehicle or, if the motor vehicle does not have a trunk, behind the last upright seat or in an area not normally occupied by the driver or passengers and not easily accessible by the driver.
 - (f) (1) Except if an ordinance or resolution is enacted or adopted under subsection (f)(2) of this section, this section does not apply to a person who, pursuant to a prearranged contract, is a passenger riding on a commercial quadricycle when all of the following apply:
 - A. The person is not occupying a seat in the front of the commercial quadricycle where the operator is steering or braking.
 - B. The commercial quadricycle is being operated on a street, highway or other public or private property open to the public for purposes of vehicular travel or parking.
 - C. The person has in their possession on the commercial quadricycle an opened container of beer or wine.
 - D. The person has in their possession on the commercial quadricycle not more than either 36 ounces of beer or 18 ounces of wine.
 - (2) The legislative authority of a municipal corporation or township may enact an ordinance or adopt a resolution, as applicable, that prohibits a passenger riding on a commercial quadricycle from possessing an opened container or beer or wine.
 - (3) As used in this section, "commercial quadricycle" means a vehicle that has fully-operative pedals for propulsion entirely by human power and that meets all of the following requirements:
 - A. It has four wheels and is operated in a manner similar to a bicycle.
 - B. It has at least five seats for passengers.
 - C. It is designed to be powered by the pedaling of the operator and the passengers.
 - D. It is used for commercial purposes.
 - E. It is operated by the vehicle owner or an employee of the owner.
 - (g) This section does not apply to a person that has in the person's possession an opened container of beer or intoxicating liquor on the premises of a market if the beer or intoxicating liquor has been purchased from a D liquor permit holder that is located in the market.
- As used in subsection (g) of this section, "market" means an establishment that:
- (1) Leases space in the market to individual vendors, not less than 50 percent of which are retail food establishments or food service operations licensed under Ohio R.C. Chapter 3717;
 - (2) Has an indoor sales floor area of not less than 22,000 square feet;
 - (3) Hosts a farmer's market on each Saturday from April through December. (ORC 4301.62)
- (h)(1) As used in this section, "alcoholic beverage" has the same meaning as in section 4303.185 of the Revised Code.
- (2) An alcoholic beverage in a closed container being transported under section 4303.185 of the Revised Code to its final destination is not an opened container for the purposes of this section if the closed container is securely sealed in such a manner that it is visibly apparent if the closed container has been subsequently opened or tampered with after sealing.
- (i) This section does not apply to a person that has in the person's possession an opened container of homemade beer or wine that is served in accordance with division (E) of section 4301.201 of the Revised Code.
- (j) ~~H~~ Whoever violates this section is guilty of a minor misdemeanor (ORC 4301.99(A))

533.14 Unlawful advertising of massage.

- (a) No person, by means of a statement, solicitation, or offer in a print or electronic publication, sign, placard, storefront display, or other medium, shall advertise massage, relaxation massage, any other massage technique or method, or any related service, with the suggestion or promise of sexual activity.
- (b) Whoever violates this section is guilty of unlawful advertising of massage, a misdemeanor of the first degree.
- (c) Nothing in this section prevents the legislative authority of a municipal corporation or township from enacting any regulation of the advertising of massage further than and in addition to the provisions of subsections (a) and (b) of this section. (ORC 2927.17)
- (d) As used in this section, "sexual activity" has the same meaning as in section 2907.01 of the Revised Code.

537.07 Endangering children.

- (a) No person, who is the parent, guardian, custodian, person having custody or control, or person in loco parentis of a child under 18 years of age or a mentally or physically handicapped child under 21 years of age, shall create a substantial risk to the health or safety of the child, by violating a duty of care, protection or support. It is not a violation of a duty of care, protection or support under this subsection when the parent, guardian, custodian or person having custody or control of a child treats the physical or mental illness or defect of the child by spiritual means through prayer alone, in accordance with the tenets of a recognized religious body.
- (b) No person shall abuse a child under 18 years of age or a mentally or physically handicapped child under 21 years of age.
- (c) (1) No person shall operate a vehicle, streetcar, or trackless trolley in violation of Section 333.01(a) of the Traffic Code when one or more children under 18 years of age are in the vehicle. Notwithstanding any other provision of law, a person may be convicted at the same trial or proceeding of a violation of subsection (c) hereof and a violation of Section 333.01(a) of the Traffic Code that constitutes the basis of the charge of the violation of subsection (c) hereof.

For purposes of Ohio R.C. 4511.191 to 4511.197 and all related provisions of law, a person arrested for a violation of subsection (c) hereof shall be considered to be under arrest for operating a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them or for 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.
- (2) As used in subsection (c) hereof:
 - A. *Controlled substance* has the same meaning as in Ohio R.C. 3719.01.
 - B. *Vehicle, streetcar, and trackless trolley* have ~~has~~ the same meaning as in Ohio R.C. 4511.01.
- (d) Whoever violates this section is guilty of endangering children.
 - (1) Whoever violates subsection (a) or (b) hereof is guilty of a misdemeanor of the first degree. If the violation results in serious physical harm to the child involved, or if the offender previously has been convicted of an offense under this section, Ohio R.C. 2919.22 or of any offense involving neglect, abandonment, contributing to the delinquency of or physical abuse of a child, endangering children is a felony and shall be prosecuted under appropriate State law.
 - (2) Whoever violates subsection (c) hereof is guilty of a misdemeanor of the first degree. Endangering children is a felony and shall be prosecuted under appropriate State law if either of the following applies:

- A. The violation results in serious physical harm to the child involved or the offender previously has been convicted of an offense under Ohio R.C. 2919.22 or any offense involving neglect, abandonment, contributing to the delinquency of, or physical abuse of a child.
 - B. The violation results in serious physical harm to the child involved and the offender previously has been convicted of a violation of Ohio R.C. 2919.22(C) or subsection (c) hereof, Ohio R.C. 2903.06, or 2903.08, Section 2903.07 as it existed prior to March 23, 2000, or Ohio R.C. 2903.04 in a case in which the offender was subject to the sanctions described in division (D) of that section.
- (3) In addition to any term of imprisonment, fine, or other sentence, penalty, or sanction it imposes upon the offender pursuant to subsection (d)(2) hereof, or pursuant to any other provision of law, the court also may impose upon the offender any of the sanctions provided under Ohio R.C. 2919.22(E)(5)(d).
- (e) (1) If a person violates subsection (c) hereof and if, at the time of the violation, there were two or more children under 18 years of age in the motor vehicle involved in the violation, the offender may be convicted of a violation of subsection (c) hereof for each of the children, but the court may sentence the offender for only one of the violations.
- (2) A. If a person is convicted of or pleads guilty to a violation of subsection (c) hereof but the person is not also convicted of and does not also plead guilty to a separate charge charging the violation of Section 333.01(a) of the Traffic Code that was the basis of the charge of the violation of subsection (c) hereof, both of the following apply:
- 1. For purposes of the provisions of the Traffic Code penalty that set forth the penalties and sanctions for a violation of Section 333.01(a) of the Traffic Code, the conviction of or plea of guilty to the violation of subsection (c) hereof shall not constitute a violation of Section 333.01(a) of the Traffic Code.
 - 2. For purposes of any provision of law that refers to a conviction of or plea of guilty to a violation of Section 333.01(a) of the Traffic Code and that is not described in subsection (e)(2)A.1. hereof, the conviction of or plea of guilty to the violation of subsection (c) hereof shall constitute a conviction of or plea of guilty to a violation of Section 333.01(a) of the Traffic Code.
- B. If a person is convicted of or pleads guilty to a violation of subsection (c) hereof and the person also is convicted of or pleads guilty to a separate charge charging the violation of Section 333.01(a) of the Traffic Code that was the basis of the charge of the violation of subsection (c) hereof, the conviction of or plea of guilty to the violation of subsection (c) hereof shall not constitute, for purposes of any provision of law that refers to a conviction of or plea of guilty to a violation of Section 333.01(a) of the Traffic Code, a conviction of or plea of guilty to a violation of Section 333.01(a) of the Traffic Code. (ORC 2919.22)

545.03 Property exceptions as felony offense.

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

- (a) A credit card;
- (b) A printed form for a check or other negotiable instrument, that on its face identifies the drawer or maker for whose use it is designed or identifies the account on which it is to be drawn, and that has not been executed by the drawer or maker or on which the amount is blank;
- ~~(c) A firearm or dangerous ordnance as defined in Ohio R.C. 2923.11;~~
- (c) A motor vehicle identification license plate as prescribed by Ohio R.C. 4503.22, a temporary license placard or windshield sticker as prescribed by Ohio R.C. 4503.182, or any comparable license

- plate, placard or sticker as prescribed by the applicable law of another state or the United States;
- (d) A blank form for a certificate of title or a manufacturer's or importer's certificate to a motor vehicle, as prescribed by Ohio R.C. 4505.07;
- (e) A blank form for any license listed in Ohio R.C. 4507.01(A). (ORC 2913.71)

549.02 Carrying concealed weapons.

- (a) No person shall knowingly carry or have, concealed on the person's person or concealed ready at hand, any of the following:
 - (1) A deadly weapon other than a handgun;
 - (2) A handgun other than a dangerous ordnance;
 - (3) A dangerous ordnance.
- (b) No person who has been issued a concealed handgun license, shall do any of the following:
 - (1) If the person is stopped for a law enforcement purpose, and is carrying a concealed handgun, before or at the time a law enforcement officer asks if the person is carrying a concealed handgun, knowingly fail to disclose that the person is carrying a concealed handgun, provided that it is not a violation if the person fails to disclose that fact to an officer during the stop and the person already has notified another officer of that fact during the same stop; promptly inform any law enforcement officer who approaches the person after the person has been stopped that the person has been issued a concealed handgun license and that the person then is carrying a concealed handgun;
 - (2) If the person is stopped for a law enforcement purpose and is carrying a concealed handgun, knowingly fail to keep the person's hands in plain sight at any time after any law enforcement officer begins approaching the person while stopped and before the law enforcement officer leaves, unless the failure is pursuant to and in accordance with directions given by a law enforcement officer;
 - (3) If the person is stopped for a law enforcement purpose, if the person is carrying a concealed handgun, and if the person is approached by any law enforcement officer while stopped, knowingly remove or attempt to remove the loaded handgun from the holster, pocket, or other place in which the person is carrying it, knowingly grasp or hold the loaded handgun, or knowingly have contact with the loaded handgun by touching it with the person's hands or fingers at any time after the law enforcement officer begins approaching and before the law enforcement officer leaves, unless the person removes, attempts to remove, grasps, holds, or has contact with the loaded handgun pursuant to and in accordance with directions given by the law enforcement officer;
 - (43) If the person is stopped for a law enforcement purpose and is carrying a concealed handgun, knowingly disregard or fail to comply with any lawful order of any law enforcement officer given while the person is stopped, including, but not limited to, a specific order to the person to keep the person's hands in plain sight.
- (c) (1) This section does not apply to any of the following:
 - A. An officer, agent or employee of this or any other state or the United States, or to a law enforcement officer, who is authorized to carry concealed weapons or dangerous ordnance, or is authorized to carry handguns and is acting within the scope of the officer's, agent's or employee's duties;
 - B. Any person who is employed in this State, who is authorized to carry concealed weapons or dangerous ordnance or is authorized to carry handguns, and who is subject to and in compliance with the requirements of Ohio R.C. 109.801 unless the appointing authority of

the person has expressly specified that the exemption provided in subsection (c)(1)B. hereof does not apply to the person;

C. A person's transportation or storage of a firearm, other than a firearm described in Ohio R.C. 2923.11(G) to (M) in a motor vehicle for any lawful purpose if the firearm is not on the actor's person;

D. A person's storage or possession of a firearm, other than a firearm described in Ohio R.C. 2923.11(G) to (M) in the actor's own home for any lawful purpose.

- (2) Subsection (a)(2) of this section does not apply to any person who, at the time of the alleged carrying or possession of a handgun, either is carrying a valid concealed handgun license or is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in Ohio R.C. 2923.125(G)(1), unless the person knowingly is in a place described in Ohio R.C. 2923.126(B).
- (d) It is an affirmative defense to a charge under subsection (a)(1) of this section of carrying or having control of a weapon other than a handgun and other than a dangerous ordnance, that the actor was not otherwise prohibited by law from having the weapon, and that any of the following applies:
- (1) The weapon was carried or kept ready at hand by the actor for defensive purposes, while the actor was engaged in or was going to or from the actor's lawful business or occupation, which business or occupation was of a character or was necessarily carried on in a manner or at a time or place as to render the actor particularly susceptible to criminal attack, such as would justify a prudent person in going armed.
- (2) The weapon was carried or kept ready at hand by the actor for defensive purposes, while the actor was engaged in a lawful activity and had reasonable cause to fear a criminal attack upon the actor, a member of the actor's family, or the actor's home, such as would justify a prudent person in going armed.
- (3) The weapon was carried or kept ready at hand by the actor for any lawful purpose and while in the actor's own home.
- (e) No person who is charged with a violation of this section shall be required to obtain a concealed handgun license as a condition for the dismissal of the charge.
- (f) (1) Whoever violates this section is guilty of carrying concealed weapons. Except as otherwise provided in this subsection or subsections (f)(2), (5) and (6) of this section, carrying concealed weapons in violation of subsection (a) of this section is a misdemeanor of the first degree. Except as otherwise provided in this subsection or subsections (f)(2), (5) and (6) of this section, if the offender previously has been convicted of a violation of this section or of any offense of violence, if the weapon involved is a firearm that is either loaded or for which the offender has ammunition ready at hand, or if the weapon involved is dangerous ordnance, carrying concealed weapons in violation of subsection (a) of this section is a felony and shall be prosecuted under appropriate State law. Except as otherwise provided in subsections (f)(2), (5) and (6) of this section, if the weapon involved is a firearm and the violation of this section is committed at premises for which a D permit has been issued under Ohio R.C. Ch. 4303, or if the offense is committed aboard an aircraft, or with purpose to carry a concealed weapon aboard an aircraft, regardless of the weapon involved, carrying concealed weapons in violation of subsection (a) of this section is a felony and shall be prosecuted under appropriate State law.
- (2) Except as provided in subsection (f)(5) of this section, if a person being arrested for a violation of subsection (a)(2) of this section promptly produces a valid concealed handgun license, and if at the time of the violation the person was not knowingly in a place described in Ohio R.C. 2923.126(B), the officer shall not arrest the person for a violation of that subsection. If the person is not able to promptly produce any concealed handgun license and if the person is not in a place described in that section, the officer may arrest the person for a violation of that subsection, and the offender shall be punished as follows:

A. The offender shall be guilty of a minor misdemeanor if both of the following apply:

1. Within ten days after the arrest, the offender presents a concealed handgun license, which license was valid at the time of the arrest to the law enforcement agency that employs the arresting officer.
2. At the time of the arrest, the offender was not knowingly in a place described in Ohio R.C. 2923.126(B).

B. The offender shall be guilty of a misdemeanor and shall be fined five hundred dollars (\$500.00) if all of the following apply:

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

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

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

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

- (4) Except as otherwise provided herein, carrying concealed weapons in violation of subsection (b)(2) or (b)(3) hereof is a misdemeanor of the first degree. If the offender has previously been convicted or pleaded guilty to a violation of Ohio R.C. 2923.12(B)(2) or (B)(4) or a substantially equivalent municipal ordinance, carrying concealed weapons is a felony and shall be prosecuted under appropriate state law. In addition to any other penalty or sanction imposed for a violation of subsection (b)(2) or (b)(3) hereof, the offender's concealed handgun license shall be suspended pursuant to Ohio R.C. 2923.128(A)(2).

- (5) If a person being arrested for a violation of subsection (a)(2) of this section is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in Ohio R.C. 2923.125(G)(1), and if at the time of the violation the person was not knowingly in a place described in Ohio R.C. 2923.126(B), the officer shall not arrest the person for a violation of that division. If the person is not able to promptly produce a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in Ohio R.C. 2923.125(G)(1) and if the person is not in a place described in Ohio R.C. 2923.126(B), the officer shall issue a citation and the offender shall be assessed a civil penalty of not more than five hundred dollars (\$500.00). The citation shall be automatically dismissed and the civil penalty shall not be assessed if both of the following apply:

A. Within ten days after the issuance of the citation, the offender presents a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in Ohio R.C. 2923.125(G)(1), which

were both valid at the time of the issuance of the citation to the law enforcement agency that employs the citing officer.

B. At the time of the citation, the offender was not knowingly in a place described in Ohio R.C. 2923.126(B).

(6) If a person being arrested for a violation of subsection (a)(2) of this section is knowingly in a place described in Ohio R.C. 2923.126(B)(5), and is not authorized to carry a handgun or have a handgun concealed on the person's person or concealed ready at hand under that division, the penalty shall be as follows:

A. Except as otherwise provided in this subsection, if the person produces a valid concealed handgun license within ten days after the arrest and has not previously been convicted or pleaded guilty to a violation of subsection (a)(2) of this section, the person is guilty of a minor misdemeanor;

B. Except as otherwise provided in this subsection, if the person has previously been convicted of or pleaded guilty to a violation of subsection (a)(2) of this section, the person is guilty of a misdemeanor of the fourth degree;

C. Except as otherwise provided in this subsection, if the person has previously been convicted of or pleaded guilty to two violations of subsection (a)(2) of this section, the person is guilty of a misdemeanor of the third degree;

D. Except as otherwise provided in this subsection, if the person has previously been convicted of or pleaded guilty to three or more violations of subsection (a)(2) of this section, or convicted of or pleaded guilty to any offense of violence, if the weapon involved is a firearm that is either loaded or for which the offender has ammunition ready at hand, or if the weapon involved is a dangerous ordnance, the person is guilty of a misdemeanor of the second degree.

(g) If a law enforcement officer stops a person to question the person regarding a possible violation of this section, for a traffic stop, or for any other law enforcement purpose, if the person surrenders a firearm to the officer, either voluntarily or pursuant to a request or demand of the officer, and if the officer does not charge the person with a violation of this section or arrest the person for any offense, the person is not otherwise prohibited by law from possessing the firearm, and the firearm is not contraband, the officer shall return the firearm to the person at the termination of the stop. If a court orders a law enforcement officer to return a firearm to a person pursuant to the requirement set forth in this subsection, Ohio R.C. 2923.163(B) applies.

(h) For purposes of this section, "deadly weapon" or "weapon" does not include any knife, razor, or cutting instrument if the instrument was not used as a weapon.

(ORC 2923.12)

549.04 Improperly handling firearms in a motor vehicle.

(a) No person shall knowingly transport or have a firearm in a motor vehicle, unless the person may lawfully possess that firearm under applicable law of this state or the United States, the firearm is unloaded, and the firearm is carried in one of the following ways:

(1) In a closed package, box or case;

(2) In a compartment which can be reached only by leaving the vehicle;

(3) In plain sight and secured in a rack or holder made for the purpose;

(4) If the firearm is at least 24 inches in overall length as measured from the muzzle to the part of the stock furthest from the muzzle and if the barrel is at least 18 inches in length, either in plain sight with the action open or the weapon stripped, or, if the firearm is of a type on which the action will not stay open or which cannot easily be stripped, in plain sight.

(b) No person who has been issued a concealed handgun license, or who is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in Ohio R.C. 2923.125(G)(1), who is the driver or an occupant of a motor vehicle that is stopped as a result of a traffic stop or a stop for another law enforcement purpose or is the driver or an occupant of a commercial motor vehicle that is stopped by an employee of the motor carrier enforcement unit for the purposes defined in Ohio R.C. 5503.34, and who is transporting or has a loaded handgun in the motor vehicle or commercial motor vehicle in any manner, shall do any of the following:

- (1) ~~Fail to promptly inform any law enforcement officer who approaches the vehicle while stopped that the person has been issued a concealed handgun license or is authorized to carry a concealed handgun as an active duty member of the armed forces of the United States and that the person then possesses or has a loaded handgun in the motor vehicle.~~ Before or at the time a law enforcement officer asks if the person is carrying a concealed handgun, knowingly fail to disclose that the person then possesses or has a loaded handgun in the motor vehicle, provided that it is not a violation of this division if the person fails to disclose that fact to an officer during the stop and the person already has notified another officer of that fact during the same stop:
- (2) ~~Fail to promptly inform the employee of the unit who approaches the vehicle while stopped that the person has been issued a concealed handgun license or is authorized to carry a concealed handgun as an active duty member of the armed forces of the United States and that the person then possesses or has a loaded handgun in the commercial motor vehicle.~~ Before or at the time an employee of the motor carrier enforcement unit asks if the person is carrying a concealed handgun, knowingly fail to disclose that the person then possesses or has a loaded handgun in the commercial motor vehicle, provided that it is not a violation of this division if the person fails to disclose that fact to an employee of the unit during the stop and the person already has notified another employee of the unit of that fact during the same stop:
- (3) Knowingly fail to remain in the motor vehicle while stopped, or knowingly fail to keep the person's hands in plain sight at any time after any law enforcement officer begins approaching the person while stopped and before the law enforcement officer leaves, unless the failure is pursuant to and in accordance with directions given by a law enforcement officer.
- (4) Knowingly have contact with the loaded handgun by touching it with the person's hands or fingers in the motor vehicle at any time after the law enforcement officer begins approaching and before the law enforcement officer leaves, unless the person has contact with the loaded handgun pursuant to and in accordance with directions given by the law enforcement officer:
- ~~(5)~~ (4) Knowingly disregard or fail to comply with any lawful order of any law enforcement officer given while the motor vehicle is stopped, including, but not limited to, a specific order to the person to keep the person's hands in plain sight.

(c) (1) This section does not apply to any of the following:

- A. An officer, agent or employee of this or any other state or the United States, or a law enforcement officer, when authorized to carry or have loaded or accessible firearms in motor vehicles and acting within the scope of the officer's, agent's or employee's duties;
- B. Any person who is employed in this State, who is authorized to carry or have loaded or accessible firearms in motor vehicles, and who is subject to and in compliance with the requirements of Ohio R.C. 109.801, unless the appointing authority of the person has expressly specified that the exemption provided in subsection (c)(1)B. does not apply to the person.

(2) Subsection (a) of this section does not apply to a person who transports or possesses a handgun in a motor vehicle if, at the time of that transportation or possession, both of the following apply:

- A. The person transporting or possessing the handgun is either carrying a valid concealed handgun license or is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of

firearms training that meets or exceeds the training requirements described in Ohio R.C. 2923.125(G)(1).

B. The person transporting or possessing the handgun is not knowingly in a place described in Ohio R.C. 2923.126(B).

(3) Subsection (a) of this section does not apply to a person if all of the following apply:

A. The person possesses a valid all-purpose vehicle permit issued under Ohio R.C. 1533.103 by the Chief of the Division of Wildlife.

B. The person is on or in an all-purpose vehicle as defined in Ohio R.C. 1531.01 on private or publicly owned lands or on or in a motor vehicle during the open hunting season for a wild quadruped or game bird.

C. The person is on or in an all-purpose vehicle as defined in Ohio R.C. 1531.01 or a motor vehicle that is parked on a road that is owned or administered by the Division of Wildlife.

(d) (1) The affirmative defenses authorized in Section 549.02(d)(1) and (2) are affirmative defenses to a charge under subsection (a) that involves a firearm other than a handgun.

(2) It is an affirmative defense to a charge under subsection (a) of improperly handling firearms in a motor vehicle that the actor transported or had the firearm in the motor vehicle for any lawful purpose and while the motor vehicle was on the actor's own property, provided that the affirmative defense is not available unless the person, immediately prior to arriving at the actor's own property, did not transport or possess the firearm in a motor vehicle in a manner prohibited by subsection (a) while the motor vehicle was being operated on a street, highway, or other public or private property used by the public for vehicular traffic.

(e) (1) No person who is charged with a violation of subsection (a) shall be required to obtain a concealed handgun license as a condition for the dismissal of the charge.

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

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

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

(g) If a law enforcement officer stops a motor vehicle for a traffic stop or any other purpose, if any person in the motor vehicle surrenders a firearm to the officer, either voluntarily or pursuant to a request or demand of the officer, and if the officer does not charge the person with a violation of this section or arrest the person for any offense, the person is not otherwise prohibited by law from possessing the firearm, and the firearm is not contraband, the officer shall return the firearm to the person at the termination of the stop. If a court orders a law enforcement officer to return a firearm to a person pursuant to the requirement set forth in this subsection, Ohio R.C. 2923.163(B) applies.

(h) As used in this section:

(1) *Motor vehicle*, *street* and *highway* have the same meanings as in Ohio R.C. 4511.01.

(2) A. *Unloaded* means:

1. With respect to a firearm other than a firearm described in subsection (h)(2)B. of this section, that no ammunition is in the firearm in question, no magazine or speed loader containing ammunition is inserted into the firearm in question and one of the following applies:
 - a. There is no ammunition in a magazine or speed loader that is in the vehicle in question and that may be used with the firearm in question.
 - b. Any magazine or speed loader that contains ammunition and that may be used with the firearm in question is stored in a compartment within the vehicle in question that cannot be accessed without leaving the vehicle or is stored in a container that provides complete and separate enclosure.
2. For the purposes of subsection (h)(2)A.1.b. of this section, a "container that provides complete and separate enclosure" includes, but is not limited to, any of the following:
 - a. A package, box or case with multiple compartments, as long as the loaded magazine or speed loader and the firearm in question either are in separate compartments within the package, box, or case, or, if they are in the same compartment, the magazine or speed loader is contained within a separate enclosure in that compartment that does not contain the firearm and that closes using a snap, button, buckle, zipper, hook and loop closing mechanism, or other fastener that must be opened to access the contents or the firearm is contained within a separate enclosure of that nature in that compartment that does not contain the magazine or speed loader;
 - b. A pocket or other enclosure on the person of the person in question that closes using a snap, button, buckle, zipper, hook and loop closing mechanism, or other fastener that must be opened to access the contents.
3. For the purposes of subsection (h)(2)A. of this section, ammunition held in stripper-clips or in en-bloc clips is not considered ammunition that is loaded into a magazine or speed loader.

B. *Unloaded* means, with respect to a firearm employing a percussion cap, flintlock, or other obsolete ignition system, when the weapon is uncapped or when the priming charge is removed from the pan.

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

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

(i) Subsection (h)(2) of this section does not affect the authority of a person who is carrying a valid concealed handgun license to have one or more magazines or speed loaders containing ammunition anywhere in a vehicle, without being transported as described in that subsection, as long as no ammunition is in a firearm, other than a handgun, in the vehicle other than as permitted under any other provision of this chapter or Ohio R.C. Ch. 2923. A person who is carrying a valid concealed handgun license may have one or more magazines or speed loaders containing ammunition anywhere in a vehicle without

further restriction, as long as no ammunition is in a firearm, other than a handgun, in the vehicle other than as permitted under any provision of this chapter or Ohio R.C. Ch. 2923. (ORC 2923.16)

Section 7. Penalties. Unless another penalty is expressly provided, every person convicted of a violation of any provision of the Code or any ordinance, rule, or regulation adopted or issued in pursuance thereof shall be punished by a fine or imprisonment, or both. The fine shall not to exceed \$500.00 and imprisonment shall not exceed six months.

Section 9. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance or its application to any person or circumstance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional and, to that end, the provisions hereof are hereby declared to be severable

Section 10. Repeal of conflicting provisions. All ordinances and parts of ordinances in conflict herewith are expressly repealed.

Section 11. Adoption and effective dates. The adoption date of this ordinance is _____. The effective date of this ordinance is _____.

SO ORDAINED this ____ day of _____, 2022.

CITY OF RIVERSIDE, OHIO

Mayor

ATTEST:

I certify that the foregoing ordinance was duly passed by the City Council of Riverside, Ohio, on the ____ day of _____, 202____.

City Clerk

APPROVED AS TO FORM:

City Attorney