

ORDINANCE NO. 21-00

CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMEMBER Susan W. Lunan ON THE 16th DAY OF October, 2000

AN ORDINANCE REPEALING EXISTING CHAPTER 434 OF THE CENTERVILLE MUNICIPAL CODE AND ENACTING NEW CHAPTER 434 IN ORDER TO COMPLY WITH NEW LEGISLATIVE AMENDMENTS TO THE STATE OF OHIO'S STATUTE ON DRIVING UNDER THE INFLUENCE OF ALCOHOL.

WHEREAS, the General Assembly has enacted several legislative changes to Ohio's DUI statute; and

WHEREAS, to promote public safety it is essential that the City of Centerville incorporate said changes into its Municipal Code;

NOW THEREFORE,

THE MUNICIPALITY OF CENTERVILLE HEREBY ORDAINS:

Section 1. That existing Chapter 434 of the Centerville Municipal Code is hereby repealed.

Section 2. That the following Chapter 434 is hereby enacted:

434.01 DRIVING OR PHYSICAL CONTROL WHILE UNDER THE INFLUENCE.

(a) Driving Under Influence. No person shall operate any vehicle within the Municipality if any of the following applies:

- (1) The person is under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse;
- (2) The person has a concentration of ten-hundredths of one percent or more but less than seventeen-hundredths of one percent by weight of alcohol in the person's blood;
- (3) The person has a concentration of ten-hundredths of one gram or more less than seventeen-hundredths of one gram by weight of alcohol per 210 liters of the person's breath;
- (4) The person has a concentration of fourteen-hundredths of one gram or more but less than two hundred thirty-eight-thousandths of one gram by weight of alcohol per 100 milliliters of the person's urine;
- (5) The person has a concentration of seventeen-hundredths of one percent or more by

weight of alcohol in the person's blood;

- (6) The person has a concentration of seventeen-hundredths of one gram or more by weight of alcohol per 210 liters of the person's breath; or
- (7) The person has a concentration of two hundred thirty-eight-thousandths of one gram or more by weight of alcohol per 100 milliliters of the person's urine.

(b) **Persons Under Twenty-One Years of Age.** No person under twenty-one years of age shall operate any vehicle within the Municipality if any of the following applies:

- (1) The person has a concentration of at least two-hundredths of one percent but less than ten-hundredths of one percent by weight of alcohol in the person's blood.
- (2) The person has a concentration of at least two-hundredths of one gram but less than ten-hundredths of one gram by weight of alcohol per 210 liters of the person's breath.
- (3) The person has a concentration of at least twenty-eight one-thousandths of one gram but less than fourteen-hundredths of one gram by weight of alcohol per 100 milliliters of the person's urine.

(c) **Prosecution.** In any proceeding arising out of one incident, a person may be charged with a violation of paragraph (a)(1) hereof and a violation of paragraph (b)(1), (2) or (3) hereof, but the person may not be convicted of more than one violation of such paragraphs. (ORC 4511.19(A) to (C))

(d) Physical Control.

(1) In general. No person shall be in actual physical control of any vehicle within the Municipality if any of the following applies:

A. The person is under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse;

B. The person has a concentration of ten-hundredths of one percent or more but less than seventeen-hundredths of one percent by weight of alcohol in the person's blood;

C. The person has a concentration of ten-hundredths of one gram or more but less than seventeen-hundredths of one gram by weight of alcohol per 210 liters of the person's breath;

D. The person has a concentration of fourteen-hundredths of one gram or more but less than two hundred thirty-eight-thousandths of one gram by weight of alcohol per 100 milliliters of the person's urine;

E. The person has a concentration of seventeen-hundredths of one percent or more by weight of alcohol in the person's blood.

F. The person has a concentration of seventeen-hundredths of one gram or more by weight of alcohol per 210 liters of the person's breath; or

G. The person has a concentration of two hundred thirty-eight-thousandths of one gram or more by weight of alcohol per 100 milliliters of the person's urine.

(2) Persons under twenty-one years of age. No person under twenty-one years of age shall be in actual physical control of any vehicle within the Municipality if any of the following applies:

A. The person has a concentration of at least two-hundredths of one percent but less than ten-hundredths of one percent by weight of alcohol in the person's blood.

B. The person has a concentration of at least two-hundredths of one gram but less than ten-hundredths of one gram by weight of alcohol per 210 liters of the person's breath.

C. The person has a concentration of at least twenty-eight one-thousandths of one gram but less than fourteen-hundredths of one gram by weight of alcohol per 100 milliliters in the person's urine.

(3) Prosecution. In any proceeding arising out of one incident, a person may be charged with a violation of paragraph (d)(1)A. hereof and a violation of paragraph (d)(2)A., B. or C. hereof, but the person may not be convicted of more than one violation of such paragraphs.

(e) Evidence; Tests.

- (1) In any criminal prosecution or juvenile court proceeding for a violation of this section, the court may admit evidence on the concentration of alcohol, drugs of abuse, or alcohol and drugs of abuse, in the defendant's blood, breath or urine, or other bodily substance, at the time of the alleged violation as shown by chemical analysis of the defendant's blood, urine, breath or other bodily substance withdrawn within two hours of the time of such alleged violation.

When a person submits to a blood test at the request of a police officer under Ohio R.C. 4511.191, only a physician, a registered nurse or a qualified technician or chemist shall withdraw blood for the purpose of determining its alcohol, drug, or alcohol and drug content. This limitation does not apply to the taking of breath or urine specimens. A physician, a registered nurse or a qualified technician or chemist may refuse to withdraw blood for the purpose of determining the alcohol, drug, or alcohol and drug content of the blood if, in the opinion of the physician, nurse, technician or chemist, the physical welfare of the person would be endangered by the withdrawing of blood.

Such bodily substance shall be analyzed in accordance with methods approved by the Ohio 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 a violation of subsection (a) hereof, if there was, at the time the bodily substance was withdrawn, a concentration of less than ten-hundredths of one percent by weight of alcohol in the defendant's blood, less than ten-hundredths of one gram by weight of alcohol per 210 liters of the defendant's breath, or less than fourteen-hundredths of one gram by weight of alcohol per 100 milliliters of the defendant's urine, such 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) hereof.
- (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 or agent, immediately upon the completion of the chemical test analysis.

The person tested may have a physician, a registered nurse or a qualified technician or chemist of the person's own choosing administer a chemical test or tests in addition to any administered at the request of a police officer and shall be so advised. 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 police officer.

(4) Any physician, registered nurse or qualified technician or chemist who withdraws blood from a person pursuant to this section, and any hospital, first-aid station or clinic at which blood is withdrawn from a person pursuant to this section, is immune from criminal liability, and from civil liability that is based upon a claim of assault and battery or based upon any other claim that is not in the nature of a claim of malpractice, for any act performed in withdrawing blood from the person. (ORC 4511.19(D))

(f) Implied Consent; Administrative License Suspension; Five-Day Hearings; Appeals; Occupational Driving Privileges; Termination and Credit of Suspensions; Return of Licenses and Permits; Indigent Drivers Alcohol Treatment Fund.

- (1) Implied consent to chemical tests. Any person who operates a vehicle upon a highway or any public or private property used by the public for vehicular travel or parking within this Municipality shall be deemed to have given consent to a chemical test or tests of the person's blood, breath or urine for the purpose of determining the alcohol, drug, or alcohol and drug, content of the person's blood, breath or urine if arrested for operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, or for operating a vehicle with a prohibited concentration of alcohol in the blood, breath or urine. The chemical test or tests shall be administered at the request of a police officer having reasonable grounds to believe the person to have been operating a vehicle upon a highway or any public or private property used by the public for vehicular travel or parking in this Municipality while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, or with a prohibited concentration of alcohol in the blood, breath or urine. The law enforcement agency by which the officer is employed shall designate which of the tests shall be administered.
- (2) Dead or unconscious persons. Any person who is dead or unconscious, or who is otherwise in a condition rendering the person incapable of refusal, shall be deemed not to have withdrawn consent as provided by paragraph (f)(1) hereof and the test or tests may be administered, subject to Ohio R.C. 313.12 to 313.16.
- (3) Advising arrestees of options and consequences. Any person under arrest for operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, or for operating a vehicle with a prohibited concentration of alcohol in the blood, breath or urine, shall be advised at a police station, or at a hospital, first-aid station or clinic to which the person has been taken for first-aid or medical treatment, of both of the following:

- A. The consequences, as specified in paragraph (f)(9) hereof and Ohio R.C. 4511.191(E), of the person's refusal to submit upon request to a chemical test designated by the law enforcement agency as provided in paragraph (f)(1) hereof;
- B. The consequences, as specified in paragraph (f)(10) hereof and Ohio R.C. 4511.191(F), of the person's submission to the designated chemical test if the person is found to have a prohibited concentration of alcohol in the blood, breath or urine.
- (4) Certification of advice. The advice given pursuant to paragraph (f)(3) hereof shall be in a written form containing the information described in paragraph (f)(5) hereof and shall be read to the person. The form shall contain a statement that the form was shown to the person under arrest and read to the person in the presence of the arresting officer and either another police officer, a civilian police employee or an employee of a hospital, first-aid station or clinic, if any, to which the person has been taken for first-aid or medical treatment. The witnesses shall certify to this fact by signing the form.
- (5) Form of advice. The form required by paragraph (f)(4) hereof shall read as follows:

"You now are under arrest for operating a vehicle while under the influence of alcohol, a drug of abuse, or both alcohol and a drug of abuse, and will be requested by a police officer to submit to a chemical test to determine the concentration of alcohol, drugs of abuse, or alcohol and drugs of abuse, in your blood, breath or urine.

If you refuse to submit to the requested test or if you submit to the requested test and are found to have a prohibited concentration of alcohol in your blood, breath or urine, your driver's or commercial driver's license or permit or nonresident operating privilege will be immediately suspended for the period of time specified by law by the officer, on behalf of the State Registrar of Motor Vehicles. You may appeal this suspension at your initial appearance before the court that hears the charges against you resulting from the arrest, and your initial appearance will be conducted no later than five days after the arrest. This suspension is independent of the penalties for the offense, and you may be subject to other penalties upon conviction."

(6) Seizure of license or permit; forwarding same to court; notice of suspension; verification of residence; sworn report to Registrar. If a person under arrest, as described in paragraph (f)(3) hereof, is not asked by a police officer to submit to a chemical test designated as provided in paragraph (f)(1) hereof, the arresting officer shall seize the Ohio or out-of-state driver's or commercial driver's license or permit of the person and immediately forward the seized license or permit to the court in which the arrested person is to appear on the charge for which the person was arrested. If the arrested person does not have the person's driver's or commercial driver's license or permit on the person's self or in the person's vehicle, the arresting officer shall order the arrested person to surrender it to the law enforcement agency that employs the officer within twenty-four hours after the arrest, and, upon the surrender, the officer's employing agency immediately shall forward the license or permit to the court in which the arrested person is to appear on the charge for which the person was arrested. Upon receipt of the license or permit, the court shall retain it pending the initial appearance of the arrested person and any action taken under Ohio R.C. 4511.196 or subsection (i) hereof.

If a person under arrest as described in paragraph (f)(3) hereof is asked by a police officer to submit to a chemical test designated as provided in paragraph (f)(1) hereof, and is advised of the consequences of the person's refusal or submission, as provided in paragraphs (f)(3), (4) and (5) hereof, and if the person either refuses to submit to the designated chemical test or submits to the designated chemical test and the test results indicate that the person's blood contained a concentration of ten-hundredths of one percent or more by weight of alcohol, the person's breath contained a concentration of ten-hundredths of one gram or more by weight of alcohol per 210 liters of the person's breath, or the person's urine contained a concentration of fourteen-hundredths of one gram or more by weight of alcohol per 100 milliliters of the person's urine at the time of the alleged offense, the arresting officer shall do all of the following:

- A. On behalf of the State Registrar, serve a notice of suspension upon the person that advises the person that independent of any penalties or sanctions imposed upon the person pursuant to any other section of this Traffic Code or any section of the Ohio Revised Code or any other municipal ordinance, the person's driver's or commercial driver's license or permit or nonresident operating privilege is suspended, that the suspension takes effect immediately, that the suspension will last at least until the person's initial appearance on the charge that will be held within

five days after the date of the person's arrest or the issuance of a citation to the person, and that the person may appeal the suspension at the initial appearance; seize the Ohio or out-of-state driver's or commercial driver's license or permit of the person; and immediately forward the seized license or permit to the State Registrar. If the arrested person does not have the person's driver's or commercial driver's license or permit on the person's self or in the person's vehicle, the arresting officer shall order the person to surrender it to the law enforcement agency that employs the officer within twenty-four hours after the service of the notice of suspension, and, upon the surrender, the officer's employing agency shall immediately forward the license or permit to the State Registrar.

- B. Verify the current residence of the person and, if it differs from that on the person's driver's or commercial driver's license or permit, notify the State Registrar of the change;
- C. In addition to forwarding the arrested person's driver's or commercial driver's license or permit to the State Registrar, send to the State Registrar, within forty-eight hours after the arrest of the person, a sworn report that includes all of the following statements:
 - 1. That the officer had reasonable grounds to believe that, at the time of the arrest, the arrested person was operating a vehicle upon a highway or public or private property used by the public for vehicular travel or parking within this Municipality while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, or with a prohibited concentration of alcohol in the blood, breath or urine;
 - 2. That the person was arrested and charged with operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, or with operating a vehicle with a prohibited concentration of alcohol in the blood, breath or urine;
 - 3. That the officer asked the person to take the designated chemical test, advised the person of the consequences of submitting to the chemical test or refusing to take the chemical test, and gave the person the form described in paragraphs (f)(4) and (f)(5) hereof;

4. That the person refused to submit to the chemical test or that the person submitted to the chemical test and the test results indicated that the person's blood contained a concentration of ten-hundredths of one percent or more by weight of alcohol, the person's breath contained a concentration of ten-hundredths of one gram or more by weight of alcohol per 210 liters of the person's breath, or the person's urine contained a concentration of fourteen-hundredths of one gram or more by weight of alcohol per 100 milliliters of the person's urine at the time of the alleged offense;
 5. That the officer served a notice of suspension upon the person as described in paragraph (f)(6)A. hereof.
- (7) Sworn report to arrestee and court. The sworn report of an arresting officer completed under paragraph (f)(6)C. hereof shall be given by the officer to the arrested person at the time of the arrest or sent to the person by regular first class mail by the State Registrar as soon thereafter as possible, but no later than fourteen days after receipt of the report. An arresting officer may give an unsworn report to the arrested person at the time of the arrest, provided the report is complete when given to the arrested person and subsequently is sworn to by the arresting officer. As soon as possible, but no later than forty-eight hours after the arrest of the person, the arresting officer shall send a copy of the sworn report to the court in which the arrested person is to appear on the charge for which the person was arrested.
 - (8) Effect of report; use on appeal. The sworn report of an arresting officer completed and sent to the State Registrar and the court under paragraphs (f)(6)C. and (f)(7) hereof is prima-facie proof of the information and statements that it contains and shall be admitted and considered as prima-facie proof of the information and statements that it contains in any appeal under paragraph (f)(13) hereof relative to any suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege that results from the arrest covered by the report.
 - (9) Registrar's record of suspension for persons refusing to take test. Upon receipt of the sworn report of an arresting officer completed and sent to the State Registrar and a court pursuant to paragraphs (f)(6)C. and (f)(7) hereof, in regard to a person who refused to take the designated chemical test, the State Registrar shall enter into the Registrar's records the fact that the person's driver's or commercial driver's license or permit or nonresident operating privilege was suspended by the arresting officer under paragraph (f)(6)A. hereof and the period of the

suspension, as determined under Ohio R.C. 4511.191(E)(1)(a) to (d). The suspension shall be subject to appeal as provided in paragraph (f)(13) hereof. The suspension or denial imposed under Ohio R.C. 4511.191(E)(1)(a) to (d) shall continue for the entire one-year, two-year, three-year or five-year period, subject to appeal as provided herein and subject to termination as provided in paragraph (f)(16) hereof.

- (10) Registrar's record of suspension for persons who fail test. Upon receipt of the sworn report of an arresting officer completed and sent to the State Registrar and a court pursuant to paragraph (f)(6)C. and (f)(7) hereof, in regard to a person whose test results indicate that the person's blood contained a concentration of ten-hundredths of one percent or more by weight of alcohol, the person's breath contained a concentration of ten-hundredths of one gram or more by weight of alcohol per 210 liters of the person's breath, or the person's urine contained a concentration of fourteen-hundredths of one gram or more by weight of alcohol per 100 milliliters of the person's urine at the time of the alleged offense, the State Registrar shall enter into the State Registrar's records the fact that the person's driver's or commercial driver's license or permit or nonresident operating privilege was suspended by the arresting officer under paragraph (f)(6)A. hereof and the period of the suspension, as determined under Ohio R.C. 4511.191(F)(1) to (4). The suspension shall be subject to appeal as provided in paragraph (f)(13) hereof.
- (11) Effective period of suspension. A suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege under paragraph (f)(6)A. hereof, for the period of time described in Ohio R.C. 4511.191(E) or (F), is effective immediately from the time at which the arresting officer serves the notice of suspension upon the arrested person. Any subsequent finding that the person is not guilty of the charge that resulted in the person being requested to take, or in the person taking, the chemical test or tests under paragraph (f)(1) hereof, affects the suspension only as described in Ohio R.C. 4511.191(H)(2).
- (12) Initial appearance. If a person is arrested for operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, or for operating a vehicle with a prohibited concentration of alcohol in the blood, breath or urine, and regardless of whether the person's driver's or commercial driver's license or permit or nonresident operating privilege is or is not suspended under paragraph (f)(9) or (10) hereof, the person's initial appearance on the charge resulting from the arrest shall be held within five days of the person's arrest or the issuance of the citation to the person, subject to any continuance granted by the court pursuant to paragraph (f)(13) hereof regarding the issues specified in that paragraph.

(13) Appeal of suspension at initial appearance. If a person is arrested for operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, or for operating a vehicle with a prohibited concentration of alcohol in the blood, breath or urine, and if the person's driver's or commercial driver's license or permit or nonresident operating privilege is suspended under paragraph (f)(9) or (10) hereof, the person may appeal the suspension at the person's initial appearance on the charge resulting from the arrest, in the court in which the person will appear on that charge, pursuant to this paragraph (f)(13) and Ohio R.C. 4511.191(H).

If the person appeals the suspension at the person's initial appearance, the appeal does not stay the operation of the suspension, subject to Ohio R.C. 4511.191(H)(2).

If the person appeals the suspension at the person's initial appearance, either the person or the State Registrar may request a continuance of the appeal. Either the person or the State Registrar shall make the request for a continuance of the appeal at the same time as the making of the appeal. Neither the request for nor the granting of a continuance stays the operation of the suspension that is the subject of the appeal.

The scope, procedures and conditions of the appeal shall be as provided in Ohio R.C. 4511.191(H)(1) and (2).

(14) Petition for occupational driving privileges by persons refusing to take test.

A. A person is not entitled to request, and a court shall not grant to the person, occupational driving privileges under this paragraph if a person's driver's or commercial driver's license or permit or nonresident operating privilege has been suspended pursuant to paragraph (f)(9) hereof, and the person, within the preceding seven years, has refused three previous requests to consent to a chemical test of the person's blood, breath or urine to determine its alcohol content or has been convicted of or pleaded guilty to three or more violations of one or more of the following:

1. Ohio R.C. 4511.19(A) or (B) or subsection (a) or (b) hereof;
2. An ordinance of another municipality relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse;
3. An ordinance of another municipality relating to operating a vehicle with a prohibited concentration of alcohol in the blood, breath or urine;
4. Ohio R.C. 2903.04 in a case in which the person was subject to the sanctions described in Ohio R.C. 2903.04(D);

5. Ohio R.C. 2903.06(A)(1) or Ohio R.C. 2903.08(A)(1) or a municipal ordinance that is substantially similar to either of those provisions:
 6. Ohio R.C. 2903.06(A)(2), (3) or (4), Ohio R.C. 2903.08(A)(2) or former Ohio R.C. 2903.07, or a municipal ordinance that is substantially similar to any of those provisions, in a case in which the jury or judge found that the person was under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse; or
 7. A statute of the United States or of any other state or a municipal ordinance of a municipal corporation located in any other state that is substantially similar to Ohio R.C. 4511.19(A) or (B) or subsection (a) or (b) hereof.
- B. Any other person who is not described in paragraph (f)(14)A. hereof and whose driver's or commercial driver's license or nonresident operating privilege has been suspended pursuant to paragraph (f)(9) hereof may file a petition requesting occupational driving privileges in the common pleas court, municipal court, county court, mayor's court, or, if the person is a minor, juvenile court, with jurisdiction over the related criminal or delinquency case. The petition may be filed at any time subsequent to the date on which the notice of suspension is served upon the arrested person. The person shall pay the costs of the proceeding, notify the State Registrar of the filing of the petition, and send the State Registrar a copy of the petition.
- C. The proceedings upon such petition shall be as set forth in Ohio R.C. 4511.191(I)(1) to (3).
- (15) Petition for occupational driving privileges by persons who fail test. If a person's driver's or commercial driver's license or permit or nonresident operating privilege has been suspended pursuant to paragraph (f)(10) hereof, and the person, within the preceding seven years, has been convicted of or pleaded guilty to three or more violations of Ohio R.C. 4511.19(A) or (B), subsection (a) or (b) hereof, an ordinance of another municipality relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, an ordinance of another municipality relating to operating a vehicle with a prohibited concentration of alcohol in the blood, breath or urine, Ohio R.C. 2903.04 in a case in which the person was subject to the sanctions described in Ohio R.C. 2903.04(D), or Ohio R.C. 2903.06, 2903.07 or 2903.08, or a municipal ordinance that is substantially similar to Ohio R.C. 2903.07, in a case in which the jury or judge found that the person was under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, or a statute of the United

States or of any other state or a municipal ordinance of a municipal corporation located in any other state that is substantially similar to Ohio R.C. 4511.19(A) or (B) or subsection (a) or (b) hereof, the person is not entitled to request, and the court shall not grant to the person, occupational driving privileges under this paragraph. Any other person whose driver's or commercial driver's license or nonresident operating privilege has been suspended pursuant to paragraph (f)(10) hereof may file in the court with jurisdiction over the Municipality a petition requesting occupational driving privileges in accordance with Ohio R.C. 4507.16. The petition may be filed at any time subsequent to the date on which the arresting officer serves the notice of suspension upon the arrested person.

The proceedings upon such petition shall be as set forth in Ohio R.C. 4511.191(I)(4).

- (16) Termination of suspensions. A suspension of the driver's or commercial driver's license or permit of a resident, a suspension of the operating privilege of a nonresident, or a denial of a driver's or commercial driver's license or permit pursuant to paragraph (f)(9) or (10) hereof, shall be terminated by the State Registrar, and credit for suspensions imposed pursuant to paragraph (f)(9) or (10) hereof shall be made by the State Registrar against any judicial suspension, pursuant to Ohio R.C. 4511.191(K).
- (17) Return of licenses and permits. At the end of a suspension period under this subsection (f), subsection (i) hereof, Ohio R.C. 4511.196 or Ohio R.C. 4507.16(B), and upon the request of the person whose driver's or commercial driver's license or permit was suspended and who is not otherwise subject to suspension, revocation or disqualification, the State Registrar shall return the driver's or commercial driver's license or permit to the person pursuant to and under the conditions set forth in Ohio R.C. 4511.191(L).
- (18) Suspension concurrent with disqualification. Suspension of a commercial driver's license under paragraph (f)(9) or (10) hereof shall be concurrent with any period of disqualification of a commercial driver's license under Ohio R.C. 2301.374 or 4506.16.
- (19) Indigent Drivers Alcohol Treatment Fund.
 - A. If there is in the Municipality a municipal court, or at such time as there is established in the Municipality a municipal court, if there is at present no such court in the Municipality, the Municipality shall establish an Indigent Drivers Alcohol Treatment Fund. All revenue that the Ohio General Assembly appropriates to the Indigent Drivers Alcohol Treatment Fund for transfer to a municipal indigent drivers alcohol treatment fund, all portions of fees that are paid under Ohio R.C. 4511.191(L) and

that are credited under that division to the Indigent Drivers Alcohol Treatment Fund in the State Treasury for a municipal indigent drivers alcohol treatment fund, and all portions of fines that are specified for deposit into a municipal indigent drivers alcohol treatment fund by Ohio R.C. 4511.193, or by subsection (g) or (j) hereof, shall be deposited into the Municipal Indigent Drivers Alcohol Treatment Fund in accordance with Ohio R.C. 4511.191(N)(2) and paragraph (f)(19)B. hereof. Additionally, all portions of fines that are paid for a violation of Ohio R.C. 4511.19 or 4507.02(B)(2), or this section or Section 436.07(b) of this Traffic Code, and that are required under Ohio R.C. 4511.99(A)(1), (2), (5) or (6), or paragraph (j)(1), (2), (5) or (6) of this section, or Ohio R.C. 4507.99(B)(5), or Section 436.07(i)(5) of this Traffic Code, to be deposited into a municipal indigent drivers alcohol treatment fund shall be deposited into the Municipal Indigent Drivers Alcohol Treatment Fund in accordance with such sections, subsections and paragraphs.

B. That portion of the license reinstatement fee that is paid under Ohio R.C. 4511.191(L) and that is credited under that division to a municipal indigent drivers alcohol treatment fund shall be deposited into the Municipal Indigent Drivers Alcohol Treatment Fund as follows:

1. If the suspension in question was imposed under this section or Ohio R.C. 4511.191, that portion of the fee shall be deposited as follows: If the fee is paid by a person who was charged in a municipal court with the violation that resulted in the suspension, the portion shall be deposited into the Municipal Indigent Drivers Alcohol Treatment Fund under the control of that court.
2. If the suspension in question was imposed under Ohio R.C. 4507.16(B), that portion of the fee shall be deposited as follows: If the fee is paid by a person whose license or permit was suspended by a municipal court, the portion shall be deposited into the Municipal Indigent Drivers Alcohol Treatment Fund under the control of that court.

C. Expenditures from the Municipal Indigent Drivers Alcohol Treatment Fund shall be made only upon order of a municipal court judge and only for payment of the cost of the attendance at an alcohol and drug addiction treatment program of a person who is convicted of, or found to be a juvenile traffic offender by reason of, a violation of subsection (a) hereof, of Ohio R.C. 4511.19(A), or of a substantially similar municipal ordinance, who is ordered

by the court to attend the alcohol and drug addiction treatment program, and who is determined by the court to be unable to pay the cost of attendance at the treatment program, or for payment of the costs specified in paragraph (f)(19)D. hereof in accordance with that paragraph. A reasonable amount, not to exceed five percent of the amounts credited to and deposited into the Municipal Indigent Drivers Alcohol Treatment Fund serving every court whose program is administered by the State Board of Alcohol, Drug Addiction and Mental Health Services established pursuant to Ohio R.C. 340.02, shall be paid to the Board to cover the costs it incurs in administering the Municipal Indigent Drivers Alcohol Treatment program.

D. If a municipal court determines, in consultation with the State Alcohol and Drug Addiction Services Board or the State Board of Alcohol, Drug Addiction and Mental Health Services established pursuant to Ohio R.C. 340.02 or 340.021 and serving the alcohol, drug addiction and mental health district in which the court is located, that the funds in the Municipal Indigent Drivers Alcohol Treatment Fund under the control of the court are more than sufficient to satisfy the purpose for which the Fund was established, as specified in paragraphs (f)(19)A. to C. hereof, the court may declare a surplus in the Fund. If the court declares a surplus in the Fund, the court may expend the amount of the surplus in the Fund for alcohol and drug abuse assessment and treatment of persons who are charged in the court with committing a criminal offense or with being a delinquent child or juvenile traffic offender and in relation to whom both of the following apply:

1. The court determines that substance abuse was a contributing factor leading to the criminal or delinquent activity or the juvenile traffic offense with which the person is charged.
2. The court determines that the person is unable to pay the cost of the alcohol and drug abuse assessment and treatment for which the surplus money will be used.

(ORC 4511.191)

(g) Deposit of Twenty-Five Dollars (\$25.00) of Fine Into Indigent Drivers Alcohol Treatment Fund; Vehicle Immobilization or Forfeiture Orders by Court.

(1) Deposit of moneys into Fund. Twenty-five dollars (\$25.00) of any fine imposed for a violation of subsection (a) or (b) hereof shall be deposited into the Municipal Indigent Drivers Alcohol Treatment Fund, created pursuant to paragraph (f)(19) hereof, in accordance with this subsection (g), Ohio R.C. 733.40, Ohio R.C. 1901.024(A) and (B), Ohio R.C. 1901.31(F) or Ohio R.C. 1907.20(C). Regardless of whether the fine is imposed by a municipal court, a mayor's court or a juvenile court, if the fine was imposed for a violation of subsection (a) or (b) hereof, the twenty-five dollars (\$25.00) that is subject to this subsection (g) shall be deposited into the Indigent Drivers Alcohol Treatment Fund of the municipal corporation in which is located the municipal court that has jurisdiction over the Municipality. Regardless of whether the fine is imposed by a county court, a mayor's court or a juvenile court, if the fine was imposed for a violation of subsection (a) or (b) hereof, the twenty-five dollars (\$25.00) that is subject to this subsection (g) shall be deposited into the Indigent Drivers Alcohol Treatment Fund of the county in which is located the county court that has jurisdiction over the Municipality. The deposit shall be made in accordance with Ohio R.C. 733.40, Ohio R.C. 1901.024(A) and (B), Ohio R.C. 1901.31(F) or Ohio R.C. 1907.20(C).

(2) Authority and effect of immobilization and impoundment by court. The requirements and sanctions imposed by this paragraph (g)(2) and paragraph (g)(3) hereof are an adjunct to and derive from the State's exclusive authority over the registration and titling of motor vehicles and do not comprise a part of the criminal sentence to be imposed upon a person who violates subsection (a) or (b) hereof.

(3) Immobilization of vehicles and impoundment of license plates by court.

A. The court shall follow paragraph (g)(3)B. hereof if a person is convicted of or pleads guilty to a violation of subsection (a) or (b) hereof and if the circumstances described in paragraph (g)(3)B.2. hereof apply or if, within the period of time specified in paragraph (g)(3)B.1. or 2. hereof, the offender has been convicted of or pleaded guilty to any violation of the following:

1. Ohio R.C. 4511.19 or subsection (a) or (b) hereof;
2. An ordinance of any other municipality relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse;
3. An ordinance of any other municipality relating to operating a vehicle with a prohibited concentration of alcohol in the blood, breath or urine;
4. Ohio R.C. 2903.04 in a case in which the offender was subject to the sanctions described in Ohio R.C. 2903.04(D);

5. Ohio R.C. 2903.06(A)(1) or Ohio R.C. 2903.08(A)(1) or a municipal ordinance that is substantially similar to either of those provisions;
 6. Ohio R.C. 2903.06(A)(2), (3) or (4), Ohio R.C. 2903.08(A)(2) or former Ohio R.C. 2903.07, or a municipal ordinance that is substantially similar to any of those provisions, in a case in which the jury or judge found that the offender was under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse; or
 7. A statute of the United States or of any other state or a municipal ordinance of a municipal corporation located in any other state that is substantially similar to Ohio R.C. 4511.19(A) or (B) or subsection (a) or (b) hereof.
- B. If the circumstances described in paragraph (g)(3)A. hereof apply, the court, in addition to and independent of any sentence that it imposes upon the offender for the offense, regardless of whether the vehicle the offender was operating at the time of the offense is registered in the offender's name or in the name of another person, and subject to Ohio R.C. 4503.235, shall do whichever of the following is applicable:
1. Except as otherwise provided in paragraph (g)(3)B.2. hereof, if, within six years of the current offense, the offender has been convicted of or pleaded guilty to one violation described in this paragraph (g)(3)A. hereof, the court shall order the immobilization for ninety days of the vehicle the offender was operating at the time of the offense and the impoundment for ninety days of the license plates of that vehicle. The order for the immobilization and impoundment shall be issued and enforced in accordance with Ohio R.C. 4503.233.
 2. If, within six years of the current offense, the offender has been convicted of or pleaded guilty to two or more violations described in this paragraph (g)(3)A. hereof, or if the offender previously has been convicted of or pleaded guilty to a violation of Ohio R.C. 4511.19(A) or subsection (a) hereof, under circumstances in which the violation was a felony and regardless of when the violation and the conviction or guilty plea occurred, the court shall order the criminal forfeiture to the State of the vehicle the offender was operating at the time of the offense. The order of criminal forfeiture shall be issued and enforced in accordance with Ohio R.C. 4503.234. (ORC 4511.193)

(h) Seizure and Detention of Vehicle and License Plates Where Arrestee Has Prior Conviction; Return, Impoundment, Immobilization or Forfeiture After Disposition of Charge; Rights of Vehicle Owner.

(1) Definitions. As used in this subsection (h):

A. "Vehicle operator" means a person who is operating a vehicle at the time it is seized under paragraphs (h)(2) to (5) hereof.

B. "Vehicle owner" means either of the following:

1. The person in whose name is registered, at the time of the seizure, a vehicle that is seized under paragraphs (h)(2) to (5) hereof;
2. A person to whom the certificate of title to a vehicle that is seized under paragraphs (h)(2) to (5) hereof has been assigned and who has not obtained a certificate of title to the vehicle in that person's name, but who is deemed by the court as being the owner of the vehicle at the time the vehicle was seized under paragraphs (h)(2) to (5) hereof.

C. "Interested party" includes the owner of a vehicle seized under this subsection, all lienholders, the defendant, the owner of the place of storage at which a vehicle seized under this subsection is stored, and the person that caused the vehicle to be removed.

(2) Seizure of vehicle and license plates by arresting officer; exceptions; notice to operator.

A. The arresting officer or another officer of the law enforcement agency that employs the arresting officer, in addition to any action that the arresting officer is required or authorized to take by subsection (f) hereof or by any other provision of law, shall seize the vehicle that a person was operating at the time of the alleged offense and its license plates if either of the following applies:

1. The person is arrested for a violation of subsection (a) hereof and, within six years of the alleged violation, the person previously has been convicted of or pleaded guilty to one or more violations of the following:

a. Ohio R.C. 4511.19(A) or (B) or subsection (a) or (b) hereof;

b. An ordinance of another municipality that is substantially similar to subsection (a) or (b) hereof;

c. Ohio R.C. 2903.04 in a case in which the offender was subject to the sanctions described in Ohio R.C. 2903.04(D);

d. Ohio R.C. 2903.06(A)(1) or Ohio R.C. 2903.08(A)(1) or a municipal ordinance that is substantially similar to either of those provisions;

e. Ohio R.C. 2903.06(A)(2), (3) or (4), Ohio R.C. 2903.08(A)(2) or former Ohio R.C. 2903.07, or a municipal ordinance that is substantially similar to any of those provisions, in a case in which the jury or judge found that the offender was under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse; or

f. A statute of the United States or of any other state or a municipal ordinance of a municipal corporation located in any other state that is substantially similar to Ohio R.C. 4511.19(A) or (B) or subsection (a) or (b) hereof.

2. The person is arrested for a violation of Ohio R.C. 4511.19(A), subsection (a) hereof, or an ordinance of another municipality that is substantially similar to subsection (a) hereof, and the person previously has been convicted of or pleaded guilty to a violation of Ohio R.C. 4511.19(A), under circumstances in which the violation was a felony, regardless of when the prior felony violation of Ohio R.C. 4511.19(A) and the conviction or guilty plea occurred.

B. Except as otherwise provided in this paragraph and paragraphs (h)(3) to (5) hereof, the officer making an arrest of the type described in paragraph (h)(2)A. hereof shall seize the vehicle and its license plates regardless of whether the vehicle is registered in the name of the person who was operating it or in the name of another person. This section does not apply to or affect any rented or leased vehicle that is being rented or leased for a period of thirty days or less, except that a law enforcement agency that employs a law enforcement officer who makes an arrest of a type that is described in paragraph (h)(2)A. hereof and that involves a rented or leased vehicle of this type, shall notify, within twenty-four hours after the officer makes the arrest, the lessor or owner of the vehicle regarding the circumstances of the arrest and the location at which the vehicle may be picked up. At the time of the seizure of the vehicle, the law enforcement officer who made the arrest shall give the vehicle operator written notice that the vehicle and its license plates have been seized; that the vehicle either will be kept by the officer's law enforcement agency or will be immobilized at least until the operator's initial appearance on

the charge of the offense for which the arrest was made; that, at the initial appearance, the court, in certain circumstances, may order that the vehicle and license plates be released to the vehicle owner until the disposition of that charge; that, if the vehicle operator is convicted of that charge, the court generally must order the immobilization of the vehicle and the impoundment of its license plates, or the forfeiture of the vehicle; and that, if the operator is not the vehicle owner, the operator immediately should inform the vehicle owner that the vehicle and its license plates have been seized and that the vehicle owner may be able to obtain their return or release at the initial appearance or thereafter.

- (3) Notice to court and vehicle owner. The arresting officer or a law enforcement officer of the agency that employs the arresting officer shall give written notice of the seizure to the court that will conduct the initial appearance of the vehicle operator. The notice shall be given when the charges are filed against the vehicle operator. Upon receipt of the notice, the court promptly shall determine whether the vehicle operator is the vehicle owner and whether there are any liens recorded on the certificate of title to the vehicle. If the court determines that the vehicle operator is not the vehicle owner, it promptly shall send by regular mail written notice of the seizure of the motor vehicle to the vehicle owner and to all lienholders recorded on the certificate of title. The written notice to the vehicle owner and lienholders shall contain all of the information required by paragraph (h)(2)B. hereof to be in a notice to be given to the vehicle operator and also shall specify the date, time and place of the vehicle operator's initial appearance. The notice also shall inform the vehicle owner that if title to a motor vehicle that is subject to an order for criminal forfeiture under this section is assigned or transferred and Ohio R.C. 4503.234(C)(2) or (3) applies, the court may fine the vehicle operator the value of the vehicle. The notice to the vehicle owner also shall state that if the vehicle is immobilized under Ohio R.C. 4503.233(A), seven days after the end of the period of immobilization a law enforcement agency will send the vehicle owner a notice, informing the vehicle owner that if the release of the vehicle is not obtained in accordance with Ohio R.C. 4503.233(D)(3), the vehicle shall be forfeited. The notice also shall inform the vehicle owner that the vehicle owner may be charged expenses or charges incurred under this subsection and Ohio R.C. 4503.233 for the removal and storage of the vehicle.

The written notice that is given to the vehicle operator or is sent or delivered to the vehicle owner if the vehicle owner is not the vehicle operator also shall state that if the vehicle operator pleads guilty to or is convicted of the offense for which the vehicle operator was arrested and the court issues an immobilization and impoundment order relative to that vehicle, Ohio R.C. 4503.233(D)(4) prohibits the vehicle from being sold during the period of immobilization without the prior approval of the court.

- (4) Release of vehicle and license plates to vehicle owner. At or before the initial appearance, the vehicle owner may file a motion requesting the court to order that the vehicle and its license plates be released to the vehicle owner. Except as provided in paragraphs (h)(2) to (5) hereof and subject to the payment of expenses or charges incurred in the removal and storage of the vehicle, the court, in its discretion, then may issue an order releasing the vehicle and its license plates to the vehicle owner. Such an order may be conditioned upon such terms as the court determines appropriate, including the posting of a bond in an amount determined by the court. If the vehicle operator is not the vehicle owner and if the vehicle owner is not present at the vehicle operator's initial appearance, and if the court believes that the vehicle owner was not provided with adequate notice of the initial appearance, the court, in its discretion, may allow the vehicle owner to file a motion within seven days of the initial appearance. If the court allows the vehicle owner to file such a motion after the initial appearance, the extension of time granted by the court does not extend the time within which the initial appearance is to be conducted. If the court issues an order for the release of the vehicle and its license plates, a copy of the order shall be made available to the vehicle owner. If the vehicle owner presents a copy of the order to the law enforcement agency that employs the law enforcement officer who arrested the person who was operating the vehicle, the law enforcement agency promptly shall release the vehicle and its license plates to the vehicle owner upon payment by the vehicle owner of any expenses or charges incurred in the removal and storage of the vehicle.
- (5) Disposition of seized vehicles and license plates. A vehicle seized under paragraph (h)(2)A. hereof either shall be towed to a place specified by the law enforcement agency that employs the arresting officer, to be safely kept by the agency at that place for the time and in the manner specified in this subsection (h), or shall be otherwise immobilized for the time and in the manner specified in this subsection (h). A law enforcement officer of that agency shall remove the identification license plates of the vehicle, and they shall be safely kept by the agency for the time and in the manner specified in this subsection (h). No vehicle that

is seized and either towed or immobilized pursuant to paragraphs (h)(2) to (5) hereof shall be considered contraband for purposes of Ohio R.C. 2933.41, 2933.42 or 2933.43. The vehicle shall not be immobilized at any place other than a commercially operated private storage lot, a place owned by a law enforcement agency or other government agency, or a place to which one of the following applies:

- A. The place is leased by or otherwise under the control of a law enforcement agency or other government agency.
 - B. The place is owned by the vehicle operator, the vehicle operator's spouse, or a parent or child of the vehicle operator.
 - C. The place is owned by a private person, and, prior to the immobilization, the private person that owns the place, or the authorized agent of that private person, has given express written consent for the immobilization to be carried out at that place.
 - D. The place is a street or highway on which the vehicle is parked in accordance with law.
- (6) Keeping of vehicles and license plates pending initial appearance of operator. A vehicle that is seized under paragraphs (h)(2) to (5) hereof shall be safely kept at the place to which it is towed or otherwise moved by the law enforcement agency that employs the arresting officer until the initial appearance of the vehicle operator relative to the charge in question. The license plates of the vehicle that are removed pursuant to paragraphs (h)(2) to (5) hereof shall be safely kept by the law enforcement agency that employs the arresting officer until the initial appearance of the vehicle operator relative to the charge in question.
- (7) Initial appearance; sentence; orders for immobilization of vehicle, impoundment of license plates or forfeiture of vehicle. At the initial appearance or not less than seven days prior to the date of final disposition, the court shall notify the vehicle operator, if the vehicle operator is the vehicle owner, that if title to a motor vehicle that is subject to an order for criminal forfeiture under this section is assigned or transferred and Ohio R.C. 4503.234 applies, the court may fine the vehicle operator the value of the vehicle. If, at the initial appearance, the vehicle operator pleads guilty to the violation of subsection (a) hereof, or pleads no contest to and is convicted of the violation, the court shall impose sentence upon the vehicle operator pursuant to subsection (j) hereof; the court, except as provided in paragraphs (h)(6) through (8) hereof, and subject to Ohio R.C. 4503.235, shall order the immobilization of the vehicle and the impoundment of its license plates under Ohio R.C. 4503.233 and subsection (g) hereof or subsection (j) hereof, or the criminal forfeiture of the vehicle under Ohio R.C. 4503.234 and subsection (g) hereof or subsection (j) hereof, whichever is applicable; and the vehicle and its license plates shall not be returned

or released to the vehicle owner. If the vehicle operator is not the vehicle owner, and the vehicle owner is not present at the vehicle operator's initial appearance, and if the court believes that the vehicle owner was not provided adequate notice of the initial appearance, the court, in its discretion, may refrain for a period of time not exceeding seven days from ordering the immobilization of the vehicle and the impoundment of its license plates, or the criminal forfeiture of the vehicle, so that the vehicle owner may appear before the court to present evidence as to why the court should not order the immobilization of the vehicle and the impoundment of its license plates, or the criminal forfeiture of the vehicle. If the court refrains from ordering the immobilization of the vehicle and the impoundment of its license plates, or the criminal forfeiture of the vehicle, Ohio R.C. 4503.235 applies relative to the order of immobilization and impoundment, or the order of forfeiture.

- (8) Dismissal of charge; return of vehicle and license plates. If, at any time, the charge that the vehicle operator violated subsection (a) hereof is dismissed for any reason, the court shall order that the vehicle seized at the time of the arrest and its license plates immediately be released to the vehicle owner subject to the payment of expenses or charges incurred in the removal and storage of the vehicle.
- (9) Retention of vehicle and license plates pendente lite; disposition upon final adjudication of charge. If a vehicle is seized under paragraphs (h)(2) to (5) hereof and is not returned or released to the vehicle owner pursuant to paragraphs (h)(6) to (8) hereof, the vehicle or its license plates shall be retained until the final disposition of the charge in question. Upon the final disposition of that charge, the court shall do whichever of the following is applicable:
- A. If the vehicle operator is convicted of or pleads guilty to the violation of subsection (a) hereof, the court shall impose sentence upon the vehicle operator pursuant to subsection (j) hereof and, subject to Ohio R.C. 4503.235, shall order the immobilization of the vehicle the vehicle operator was operating at the time of, or that was involved in, the offense, and the impoundment of its license plates under Ohio R.C. 4503.233, subsection (g) hereof or subsection (j) hereof, or the criminal forfeiture of the vehicle under Ohio R.C. 4503.234, subsection (g) hereof or subsection (j) hereof, whichever is applicable.
- B. If the vehicle operator is found not guilty of the violation of subsection (a) hereof, the court shall order that the vehicle and its license plates immediately be released to the vehicle owner upon the payment of any expenses or charges incurred in its removal and storage.

- C. If the charge that the vehicle operator violated subsection (a) hereof is dismissed for any reason, the court shall order that the vehicle and its license plates immediately be released to the vehicle owner upon the payment of any expenses or charges incurred in its removal and storage.
- (10) Credit of period of detention of vehicle and license plates against period of immobilization and impoundment. If a vehicle is seized under paragraphs (h)(2) to (5) hereof, the time between the seizure of the vehicle and either its release to the vehicle owner under paragraphs (h)(6) to (8) hereof, or the issuance of an order of immobilization of the vehicle under Ohio R.C. 4503.233, shall be credited against the period of immobilization ordered by the court.
- (11) Towing and storage charges. The vehicle owner may be charged expenses or charges incurred in the removal and storage of the immobilized vehicle. The court with jurisdiction over the case, after notice to all interested parties, including lienholders, and after an opportunity for them to be heard, if the vehicle owner fails to appear in person, without good cause, or if the court finds that the vehicle owner does not intend to seek release of the vehicle at the end of the period of immobilization under Ohio R.C. 4503.233 or that the vehicle owner is not or will not be able to pay the expenses and charges incurred in its removal and storage, may order that title to the vehicle be transferred, in order of priority, first into the name of the person who removed it, next into the name of a lienholder, or lastly into the name of the owner of the place of storage.

Any lienholder that receives title under a court order shall do so on the condition that it pay any expenses or charges incurred in the vehicle's removal and storage. If the person who receives title to the vehicle is the person who removed it, the person shall receive title on the condition that it pay any lien on the vehicle. The court shall not order that title be transferred to any person other than the owner of the place of storage if the person refuses to receive the title. Any person who receives title either may keep title to the vehicle or may dispose of the vehicle in any legal manner that the person considers appropriate, including assignment of the certificate of title to the motor vehicle to a salvage dealer or a scrap metal processing facility. The person shall not transfer the vehicle to the person who is the vehicle's immediate previous owner.

If the person assigns the motor vehicle to a salvage dealer or scrap metal processing facility, the person shall send the assigned certificate of title to the motor vehicle to the clerk of the court of common pleas of the county in which the salvage dealer or scrap metal processing facility is located. The person shall mark the face of the certificate of title with the words "For Destruction" and shall deliver a photocopy of the certificate of title to the salvage dealer or scrap metal processing facility for its records.

Whenever a court issues an order under this paragraph (h)(11), the court shall also order removal of the license plates from the vehicle and cause them to be sent to the Registrar of Motor Vehicles if they have not already been sent to the Registrar. Thereafter, no further proceedings shall take place under this section or under Ohio R.C. 4503.233.

Prior to initiating a proceeding under this paragraph (h)(11), and upon payment of the fee under Ohio R.C. 4505.14(B), any interested party may cause a search to be made of the public records of the Ohio Bureau of Motor Vehicles or the Clerk of the Court of Common Pleas to ascertain the identity of any lienholder of the vehicle. The initiating party shall furnish this information to the clerk of the court with jurisdiction over the case, and the clerk shall provide notice to the vehicle owner, the defendant, any lienholder, and any other interested parties listed by the initiating party, at the last known address supplied by the initiating party, by certified mail or, at the option of the initiating party, by personal service or ordinary mail. (ORC 4511.195)

(i) Initial Appearance; New Suspension of License.

- (1) Initial appearance to be held within five days of arrest or citation. If a person is arrested for operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, or for operating a vehicle with a prohibited concentration of alcohol in the blood, breath or urine, and regardless of whether the person's driver's or commercial driver's license or permit or nonresident operating privilege is or is not suspended under paragraph (f)(9) or (10) hereof, the person's initial appearance on the charge resulting from the arrest shall be held within five days of the person's arrest or the issuance of the citation to the person.
- (2) Imposition of new suspension of license or permit upon termination of prior suspension at initial appearance. If a person is arrested as described in paragraph (i)(1) hereof, if the person's driver's or commercial driver's license or permit or nonresident operating privilege has been suspended under paragraph (f)(9) or (10) hereof, in relation to that arrest, if the person appeals the suspension in accordance with

paragraph (f)(13) hereof, and if the judge, magistrate or mayor terminates the suspension in accordance with Ohio R.C. 4511.191(H)(2), the judge, magistrate or mayor may impose a new suspension of the person's license, permit or nonresident operating privilege, notwithstanding the termination of the suspension imposed under paragraph (f)(9) or (10) hereof, if the judge, magistrate or mayor determines that the person's continued driving will be a threat to public safety.

- (3) Imposition of new suspension of license or permit at initial appearance without prior suspension. If a person is arrested as described in paragraph (i)(1) hereof, and if the person's driver's or commercial driver's license or permit or nonresident operating privilege has not been suspended under paragraph (f)(9) or (10) hereof, in relation to that arrest, the judge, magistrate or mayor may impose a suspension of the person's license, permit or nonresident operating privilege if the judge, magistrate or mayor determines that the person's continued driving will be a threat to public safety.
- (4) Duration of new suspension; credit of suspension period against later judicial suspension. A suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege under paragraph (i)(2) or (3) hereof shall continue until the complaint on the charge resulting from the arrest is adjudicated on the merits. A court that imposes a suspension under paragraph (i)(3) hereof shall send the person's driver's license or permit to the State Registrar. If the court possesses the driver's or commercial driver's license or permit of a person in the category described in paragraph (i)(3) hereof and the court does not impose a suspension under paragraph (i)(3) hereof, the court shall return the license or permit to the person if the license or permit has not otherwise been suspended or revoked.

Any time during which the person serves a suspension of the person's driver's or commercial driver's license or permit or nonresident operating privilege that is imposed pursuant to paragraph (i)(2) or (3) hereof shall be credited against any judicial suspension of the person's license, permit or nonresident operating privilege that is imposed pursuant to Ohio R.C. 4507.16(B).

(ORC 4511.196)

(j) Penalty for Operation Under Influence; Mandatory Imprisonment. Whoever violates paragraph (a)(1), (2), (3) or (4) hereof shall, in addition to the license suspension or revocation provided for in Ohio R.C. 4507.16, in addition to any disqualification imposed under Ohio R.C. 2301.374 or 4506.16, and in addition to any license suspension, vehicle impoundment, immobilization or forfeiture, seizure and detention of any license, vehicle or license plates, or any other penalty or consequence provided for in this section or in the Ohio Revised Code, be subject to the penalties provided in paragraph (j)(1), (2), (3) or (4) hereof.

Whoever violates paragraph (a)(5), (6) or (7) hereof shall, in addition to the license suspension or revocation provided for in Ohio R.C. 4507.16, in addition to any disqualification imposed under Ohio R.C. 2301.374 or 4506.16, and in addition to any license suspension, vehicle impoundment, immobilization or forfeiture, seizure and detention of any license, vehicle or license plates, or any other penalty or consequence provided for in this section or in the Ohio Revised Code, be subject to the penalties provided in paragraph (j)(5), (6), (7) or (8) hereof.

- (1) No prior convictions; driver's intervention program; portion of fine to be deposited in enforcement and education fund. Except as otherwise provided in paragraph (j)(2), (3) or (4) hereof, the offender is guilty of a misdemeanor of the first degree and shall be subject to the penalty provided in Section 408.01 and the court shall sentence the offender to a term of imprisonment of three consecutive days and may sentence the offender, pursuant to Ohio R.C. 2929.21, to a longer term of imprisonment. In addition, the court shall impose upon the offender a fine of not less than two hundred fifty dollars (\$250.00) and not more than one thousand dollars (\$1,000).

The court may suspend the execution of the mandatory three consecutive days of imprisonment that it is required to impose by this paragraph if the court, in lieu of the suspended term of imprisonment, places the offender on probation and requires the offender to attend, for three consecutive days, a drivers' intervention program that is certified pursuant to Ohio R.C. 3793.10. The court also may suspend the execution of any part of the mandatory three consecutive days of imprisonment that it is required to impose by this paragraph if the court places the offender on probation for part of the three consecutive days; requires the offender to attend, for that part of the three consecutive days, a drivers' intervention program that is certified pursuant to Ohio R.C. 3793.10, and sentences the offender to a term of imprisonment equal to the remainder of the three consecutive days that the offender does not spend attending the drivers' intervention program. The court may require the offender, as a condition of probation, 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, in addition to the required attendance at a drivers' intervention program, that the operators of the drivers' intervention program determine that the offender should attend, and to report periodically to the court on his or her progress in the programs. The court also may impose any other conditions of probation on the offender that it considers necessary.

Of the fine imposed pursuant to this paragraph, twenty-five dollars (\$25.00) shall be paid to an enforcement and education fund established by Council.

This share shall be used by the Municipality to pay only those costs it incurs in enforcing this section and in informing the public of the laws governing the operation of a motor vehicle while under the influence of alcohol, the dangers of operating a motor vehicle while under the influence of alcohol, and other information relating to the operation of a motor vehicle and the consumption of alcoholic beverages. Fifty dollars (\$50.00) of the fine imposed pursuant to this paragraph shall be paid to the political subdivision that pays the cost of housing the offender during the offender's term of incarceration to the credit of the fund that pays the cost of the incarceration. If the offender was confined as a result of the offense prior to being sentenced for the offense but is not sentenced to a term of incarceration, the fifty dollars (\$50.00) shall be paid to the political subdivision that paid the cost of housing the offender during that period of confinement. The political subdivision shall use this share to pay or reimburse incarceration or treatment costs it incurs in housing or providing drug and alcohol treatment to persons who violate Ohio R.C. 4511.19 or this section and to pay for ignition interlock devices and electronic house arrest equipment for persons who violate those sections. Twenty-five dollars (\$25.00) of the fine imposed pursuant to this paragraph shall be deposited into the County or Municipal Indigent Drivers Alcohol Treatment Fund under the control of the court that imposes the fine, as created by the County or the Municipality pursuant to Ohio R.C. 4511.191(N) or paragraph (f)(19) hereof. The balance of the fine shall be disbursed as otherwise provided by law.

(2) One prior conviction; driver's intervention program; portion of fine to be deposited in enforcement and education fund; immobilization of vehicles and impoundment of license plates.

A. Except as otherwise provided in paragraph (j)(4) hereof, the offender is guilty of a misdemeanor of the first degree and shall be subject to the penalty provided in Section 408.01, and, except as provided in this subsection, the court shall sentence the offender to a term of imprisonment of ten consecutive days and may sentence the offender, pursuant to Ohio R.C. 2929.21, to a longer term of imprisonment if, within six years of the offense, the offender has been convicted of or pleaded guilty to one violation of the following:

1. Ohio R.C. 4511.19(A) or (B) or subsection (a) or (b) hereof;
2. An ordinance of another municipality relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse;

3. An ordinance of another municipality relating to operating a vehicle with a prohibited concentration of alcohol in the blood, breath or urine;
4. Ohio R.C. 2903.04 in a case in which the offender was subject to the sanctions described in Ohio R.C. 2903.04(D);
5. Ohio R.C. 2903.06(A)(1) or Ohio R.C. 2903.08(A)(1) or a municipal ordinance that is substantially similar to either of those provisions;
6. Ohio R.C. 2903.06(A)(2), (3) or (4), Ohio R.C. 2903.08(A)(2) or former Ohio R.C. 2903.07, or a municipal ordinance that is substantially similar to any of those provisions, in a case in which the jury or judge found that the offender was under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse; or
7. A statute of the United States or of any other state or a municipal ordinance of a municipal corporation located in any other state that is substantially similar to Ohio R.C. 4511.19(A) or (B).

As an alternative to the term of imprisonment required to be imposed by this paragraph, but subject to paragraph (j)(12) hereof, the court may impose upon the offender a sentence consisting of both a term of imprisonment of five consecutive days and not less than eighteen consecutive days of electronically monitored house arrest, as defined in Ohio R.C. 2929.23(A)(4). The five consecutive days of imprisonment and the period of electronically monitored house arrest shall not exceed six months. The five consecutive days of imprisonment do not have to be served prior to or consecutively with the period of electronically monitored house arrest.

In addition, the court shall impose upon the offender a fine of not less than three hundred fifty dollars (\$350.00) and not more than one thousand five hundred dollars (\$1,500).

In addition to any other sentence that it imposes upon the offender, the court may require the offender to attend a drivers' intervention program that is certified pursuant to Ohio R.C. 3793.10. If the officials of the drivers' intervention program determine that the offender is alcohol dependent, they shall notify the court, and the court shall order the offender to obtain treatment through an alcohol and drug addiction program authorized by Ohio R.C. 3793.02. The cost of the treatment shall be paid by the offender.

Of the fine imposed pursuant to this paragraph, thirty-five dollars (\$35.00) shall be paid to an enforcement and education fund established by Council. This share shall be used by the Municipality to pay only those costs it incurs in enforcing this section and in informing the public of the laws governing the operation of a motor vehicle while under the influence of alcohol, the dangers of operating a motor vehicle while under the influence of alcohol, and other information relating to the operation of a motor vehicle and the consumption of alcoholic beverages. One hundred fifteen dollars (\$115.00) of the fine imposed pursuant to this paragraph shall be paid to the political subdivision that pays the cost of housing the offender during the offender's term of incarceration. This share shall be used by the political subdivision to pay or reimburse incarceration or treatment costs it incurs in housing or providing drug and alcohol treatment to persons who violate Ohio R.C. 4511.19 or this section and to pay for ignition interlock devices and electronic house arrest equipment for persons who violate such sections, and shall be paid to the credit of the fund that pays the cost of the incarceration. Fifty dollars (\$50.00) of the fine imposed pursuant to this paragraph shall be deposited into the County or Municipal Indigent Drivers Alcohol Treatment Fund under the control of the court that imposes the fine, as created by the County or the Municipality pursuant to Ohio R.C. 4511.191(N) or paragraph (f)(19) hereof. The balance of the fine shall be disbursed as otherwise provided by law.

B. Regardless of whether the vehicle the offender was operating at the time of the offense is registered in the offender's name or in the name of another person, the court, in addition to the penalties imposed under paragraph (j)(2)A. hereof and all other penalties provided by law, and subject to Ohio R.C. 4503.235, shall order the immobilization for ninety days of the vehicle the offender was operating at the time of the offense and the impoundment for ninety days of the identification license plates of that vehicle. The order for the immobilization and impoundment shall be issued and enforced in accordance with Ohio R.C. 4503.233.

(3) Two prior convictions; alcohol and drug addiction program; portion of fine to be deposited in enforcement and education fund; immobilization of vehicles and impoundment of license plates.

A. Except as otherwise provided in paragraph (j)(4) hereof and except as provided in this subsection, if, within six years of the offense, the offender has been convicted of or pleaded guilty to two violations identified in paragraph (j)(2)A. hereof, the court shall sentence the offender to a term of imprisonment of thirty consecutive days and may sentence the offender to a longer

definite term of imprisonment of not more than one year. As an alternative to the term of imprisonment required to be imposed by this paragraph, but subject to paragraph (j)(12) hereof, the court may impose upon the offender a sentence consisting of both a term of imprisonment of fifteen consecutive days and not less than fifty-five consecutive days of electronically monitored house arrest, as defined in Ohio R.C. 2929.23(A)(4). The fifteen consecutive days of imprisonment and the period of electronically monitored house arrest shall not exceed one year. The fifteen consecutive days of imprisonment do not have to be served prior to or consecutively with the period of electronically monitored house arrest.

In addition, the court shall impose upon the offender a fine of not less than five hundred fifty dollars (\$550.00) and not more than two thousand five hundred dollars (\$2,500).

In addition to any other sentence that it imposes upon the offender, the court shall require the offender to attend an alcohol and drug addiction program authorized by Ohio R.C. 3793.02. The cost of the treatment shall be paid by the offender. If the court determines that the offender is unable to pay the cost of attendance at the treatment program, the court may order that payment of the cost of the offender's attendance at the treatment program be made from that court's Indigent Drivers Alcohol Treatment Fund.

Of the fine imposed pursuant to this paragraph, one hundred twenty-three dollars (\$123.00) shall be paid to an enforcement and education fund established by Council. This share shall be used by the Municipality to pay only those costs it incurs in enforcing this section and in informing the public of the laws governing the operation of a motor vehicle while under the influence of alcohol, the dangers of operating a motor vehicle while under the influence of alcohol, and other information relating to the operation of a motor vehicle and the consumption of alcoholic beverages. Two hundred seventy-seven dollars (\$277.00) of the fine imposed pursuant to this section shall be paid to the political subdivision that pays the cost of housing the offender during the offender's term of incarceration. This share shall be used by the political subdivision to pay or reimburse incarceration or treatment costs it incurs in housing or providing drug and alcohol treatment to persons who violate Ohio R.C. 4511.19 or this section, and to pay for ignition interlock devices and electronic house arrest equipment for persons who violate such sections, and shall be paid to the credit of the fund that pays the cost of incarceration. The balance of the fine shall be disbursed as otherwise provided by law.

- B. Regardless of whether the vehicle the offender was operating at the time of the offense is registered in the offender's name or in the name of another person, the court, in addition to the penalties imposed under paragraph (j)(3)A. hereof and all other penalties provided by law, and subject to Ohio R.C. 4503.235, shall order the criminal forfeiture to the State of the vehicle the offender was operating at the time of the offense. The order of criminal forfeiture shall be issued and enforced in accordance with Ohio R.C. 4503.234.
- (4) Three or more prior convictions; alcohol and drug addiction program; portion of fine to be deposited in enforcement and education fund; forfeiture of vehicle to State.
- A. If, within six years of the offense, the offender has been convicted of or pleaded guilty to three or more violations identified in paragraph (j)(2)A. hereof, and if sentence is not required to be imposed under Ohio R.C. 4511.99(A)(4)(a)(ii), the offender is guilty of a felony of the fourth degree and the court shall impose such penalties upon the offender as are provided for in Ohio R.C. 4511.99(A)(4)(a).

In addition to any other sanction that it imposes upon the offender under this section or under Ohio R.C. 4511.99(A)(4)(a)(i) or (ii), the court shall require the offender to attend an alcohol and drug addiction program authorized by Ohio R.C. 3793.02. The cost of the treatment shall be paid by the offender. If the court determines that the offender is unable to pay the cost of attendance at the treatment program, the court may order that payment of the cost of the offender's attendance at the treatment program be made from the court's Indigent Drivers Alcohol Treatment Fund.

Of the fine imposed pursuant to this paragraph, two hundred ten dollars (\$210.00) shall be paid to an enforcement and education fund established by Council. This share shall be used by the Municipality to pay only those costs it incurs in enforcing this section and in informing the public of the laws governing operation of a motor vehicle while under the influence of alcohol, the dangers of operation of a motor vehicle while under the influence of alcohol, and other information relating to the operation of a motor vehicle and the consumption of alcoholic beverages. Four hundred forty dollars (\$440.00) of the fine imposed pursuant to this paragraph shall be paid to the political subdivision that pays the cost of housing the offender during the offender's term of incarceration. This share shall be used by the

political subdivision to pay or reimburse incarceration or treatment costs it incurs in housing or providing drug and alcohol treatment to persons who violate Ohio R.C. 4511.19 or this section and to pay for ignition interlock devices and electronic house arrest equipment for persons who violate such sections, and shall be paid to the credit of the fund that pays the cost of incarceration. The balance of the fine shall be disbursed as otherwise provided by law.

B. Regardless of whether the vehicle the offender was operating at the time of the offense is registered in the offender's name or in the name of another person, the court, in addition to the penalties imposed under paragraph (j)(4)A. hereof and all other penalties provided by law, and subject to Ohio R.C. 4503.235, shall order the criminal forfeiture to the State of the vehicle the offender was operating at the time of the offense. The order of criminal forfeiture shall be issued and enforced in accordance with Ohio R.C. 4503.234.

If title to a motor vehicle that is subject to an order for criminal forfeiture under this subsection is assigned or transferred and Ohio R.C. 4503.234(C)(2) or (3) applies, in addition to or independent of any other penalty established by law, the court may fine the offender the value of the vehicle as determined by publications of the National Auto Dealer's Association. The proceeds from any fine imposed under this paragraph (j)(4) shall be distributed in accordance with Ohio R.C. 4503.234(D)(4).

(5) Enhanced penalty for high alcohol concentration; no prior convictions; drivers' intervention program; portion of fine to be deposited in enforcement and education fund.

A. Except as otherwise provided in paragraph (j)(6), (7) or (8) hereof, the offender is guilty of a misdemeanor of the first degree and shall be subject to the penalty provided in Section 408.01 and the court shall sentence the offender to one of the following:

1. A term of imprisonment of at least three consecutive days and a requirement that the offender attend, for three consecutive days, a driver's intervention program that is certified pursuant to Ohio R.C. 3793.10.
2. If the court determines that the offender is not conducive to treatment in the program, if the offender refuses to attend the program, or if the place of imprisonment can provide a drivers' intervention program, a term of imprisonment of at least six consecutive days.

B. In addition, the court shall impose upon the offender a fine of not less than two hundred fifty dollars (\$250.00) and not more than one thousand dollars (\$1,000).

The court may require the offender, as a condition of probation, 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, in addition to the required attendance at a drivers' intervention program, 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 any other conditions of probation on the offender that it considers necessary.

Of the fine imposed pursuant to this paragraph, twenty-five dollars (\$25.00) shall be paid to an enforcement and education fund established by Council. This share shall be used by the Municipality to pay only those costs it incurs in enforcing this section and in informing the public of the laws governing the operation of a motor vehicle while under the influence of alcohol, the dangers of operating a motor vehicle while under the influence of alcohol, and other information relating to the operation of a motor vehicle and the consumption of alcoholic beverages. Fifty dollars (\$50.00) of the fine imposed pursuant to this paragraph shall be paid to the political subdivision that pays the cost of housing the offender during the offender's term of incarceration to the credit of the fund that pays the cost of the incarceration. The political subdivision shall use this share to pay or reimburse incarceration or treatment costs it incurs in housing or providing drug and alcohol treatment to persons who violate Ohio R.C. 4511.19 or this section and to pay for ignition interlock devices and electronic house arrest equipment for persons who violate such sections. Twenty-five dollars (\$25.00) of the fine imposed pursuant to this paragraph shall be deposited into the County or Municipal Indigent Drivers Alcohol Treatment Fund under the control of the court that imposes the fine, as created by the County or the Municipality pursuant to Ohio R.C. 4511.191(N) or paragraph (f)(19) hereof. The balance of the fine shall be disbursed as otherwise provided by law.

(6) Enhanced penalty for high alcohol concentration; one prior conviction; drivers' intervention program; portion of fine to be deposited in enforcement and education fund; immobilization of vehicles and impoundment of license plates.

A. Except as otherwise provided in paragraph (j)(8) hereof, and except as provided in this subsection, if, within six years of the offense, the offender has been convicted of or pleaded guilty to one violation of subsection (a) or (b) hereof, another municipal ordinance relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, another municipal ordinance relating to operating a vehicle with a prohibited concentration of alcohol in the blood, breath or urine, Ohio R.C. 4511.19, Ohio R.C. 2903.04 in a case in which the offender was subject to the sanctions described in Ohio R.C. 2903.04(D), Ohio R.C. 2903.06, 2903.07 or 2903.08, Section 434.10 of this Traffic Code in a case in which the jury or judge found that the offender was under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, or a statute of the United States or of any other state or a municipal ordinance of a municipal corporation located in any other state that is substantially similar to Ohio R.C. 4511.19(A) or (B) or subsection (a) or (b) hereof, the offender is guilty of a misdemeanor of the first degree and shall be subject to the penalty provided in Section 408.01 and the court shall sentence the offender to a term of imprisonment of twenty consecutive days and may sentence the offender, pursuant to Ohio R.C. 2929.21, to a longer term of imprisonment. As an alternative to the term of imprisonment required to be imposed by this paragraph, but subject to paragraph (j)(12) hereof, the court may impose upon the offender a sentence consisting of both a term of imprisonment of ten consecutive days and not less than thirty-six consecutive days of electronically monitored house arrest as defined in Ohio R.C. 2929.23(A). The ten consecutive days of imprisonment and the period of electronically monitored house arrest shall not exceed six months. The ten consecutive days of imprisonment do not have to be served prior to or consecutively with the period of electronically monitored house arrest.

In addition, the court shall impose upon the offender a fine of not less than three hundred fifty dollars (\$350.00) and not more than one thousand five hundred dollars (\$1,500).

In addition to any other sentence that it imposes upon the offender, the court may require the offender to attend a drivers' intervention program that is certified pursuant to Ohio R.C. 3793.10. If the officials of the drivers' intervention program determine that the offender is alcohol dependent, they shall notify the court, and the court shall order the offender to obtain treatment through an alcohol and drug addiction program authorized by Ohio R.C. 3793.02. The offender shall pay the cost of the treatment.

Of the fine imposed pursuant to this paragraph, thirty-five dollars (\$35.00) shall be paid to an enforcement and education fund established by Council. This share shall be used by the Municipality to pay only those costs it incurs in enforcing this section and in informing the public of the laws governing the operation of a motor vehicle while under the influence of alcohol, the dangers of operating a motor vehicle while under the influence of alcohol, and other information relating to the operation of a motor vehicle and the consumption of alcoholic beverages. One hundred fifteen dollars (\$115.00) of the fine imposed pursuant to this paragraph shall be paid to the political subdivision that pays the cost of housing the offender during the offender's term of incarceration. The political subdivision shall use this share to pay or reimburse incarceration or treatment costs it incurs in housing or providing drug and alcohol treatment to persons who violate Ohio R.C. 4511.19 or this section and to pay for ignition interlock devices and electronic house arrest equipment for persons who violate such sections, and this share shall be paid to the credit of the fund that pays the cost of the incarceration. Fifty dollars (\$50.00) of the fine imposed pursuant to this paragraph shall be deposited into the County or Municipal Indigent Drivers Alcohol Treatment Fund under the control of the court that imposes the fine, as created by the County or Municipality pursuant to Ohio R.C. 4511.191(N) or paragraph (f)(19) hereof. The balance of the fine shall be disbursed as otherwise provided by law.

B. Regardless of whether the vehicle the offender was operating at the time of the offense is registered in the offender's name or in the name of another person, the court, in addition to the penalties imposed under paragraph (j)(6)A. hereof and all other penalties provided by law, and subject to Ohio R.C. 4503.235, shall order the immobilization for ninety days of the vehicle the offender was operating at the time of the offense and the impoundment for ninety days of the identification license plates of that vehicle. That order for the immobilization and impoundment shall be issued and enforced in accordance with Ohio R.C. 4503.233.

(7) Enhanced penalty for high alcohol concentration; two prior convictions; drivers' intervention program; portion of fine to be deposited in enforcement and education fund; immobilization of vehicles and impoundment of license plates.

A. Except as otherwise provided in paragraph (j)(8) hereof and except as provided in this subsection, if, within six years of the offense, the offender has been convicted of or pleaded guilty to two violations of subsection (a) or (b) hereof, another municipal ordinance relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, another municipal ordinance relating to operating a vehicle with a prohibited concentration of alcohol in the blood, breath or urine, Ohio R.C. 4511.19, Ohio R.C. 2903.04 in a case in which the offender was subject to the sanctions described in Ohio R.C. 2903.04(D), Ohio R.C. 2903.06, 2903.07 or 2903.08, Section 434.10 of this Traffic Code in a case in which the jury or judge found that the offender was under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, or a statute of the United States or of any other state, or a municipal ordinance of a municipal corporation located in any other state, that is substantially similar to Ohio R.C. 4511.19(A) or (B) or subsection (a) or (b) hereof, the court shall sentence the offender to a term of imprisonment of sixty consecutive days and may sentence the offender to a longer definite term of imprisonment of not more than one year. As an alternative to the term of imprisonment required to be imposed by this paragraph, but subject to paragraph (j)(12) hereof, the court may impose upon the offender a sentence consisting of both a term of imprisonment of thirty consecutive days and not less than 110 consecutive days of electronically monitored house arrest as defined in Ohio R.C. 2929.23(A). The thirty consecutive days of imprisonment and the period of electronically monitored house arrest shall not exceed one year. The thirty consecutive days of imprisonment do not have to be served prior to or consecutively with the period of electronically monitored house arrest.

In addition, the court shall impose upon the offender a fine of not less than five hundred fifty dollars (\$550.00) and not more than two thousand five hundred dollars (\$2,500).

In addition to any other sentence that it imposes upon the offender, the court shall require the offender to attend an alcohol and drug addiction program authorized by Ohio R.C. 3793.02. The offender shall pay the cost of the treatment. If the court determines that the offender is unable to pay the cost of attendance at the treatment program, the court may order that payment of the cost of the offender's attendance at the treatment program be made from that court's Indigent Drivers Alcohol Treatment Fund.

Of the fine imposed pursuant to this paragraph, one hundred twenty-three dollars (\$123.00) shall be paid to an enforcement and education fund established by Council. This share shall be used by the Municipality to pay only those costs it incurs in enforcing this section and in informing the public of the laws governing the operation of a motor vehicle while under the influence of alcohol, the dangers of operating a motor vehicle while under the influence of alcohol, and other information relating to the operation of a motor vehicle and the consumption of alcoholic beverages. Two hundred seventy-seven dollars (\$277.00) of the fine imposed pursuant to this paragraph shall be paid to the political subdivision that pays the cost of housing the offender during the offender's term of incarceration. The political subdivision shall use this share to pay or reimburse incarceration or treatment costs it incurs in housing or providing drug and alcohol treatment to persons who violate Ohio R.C. 4511.19 or this section and to pay for ignition interlock devices and electronic house arrest equipment for persons who violate such sections, and this share shall be paid to the credit of the fund that pays the cost of incarceration. The balance of the fine shall be disbursed as otherwise provided by law.

B. Regardless of whether the vehicle the offender was operating at the time of the offense is registered in the offender's name or in the name of another person, the court, in addition to the penalties imposed under paragraph (j)(7)A. hereof and all other penalties provided by law, and subject to Ohio R.C. 4503.235, shall order the immobilization for 180 days of the vehicle the offender was operating at the time of the offense and the impoundment for 180 days of the identification license plates of that vehicle. The order for the immobilization and impoundment shall be issued and enforced in accordance with Ohio R.C. 4503.233.

(8) Enhanced penalty for high alcohol concentration; three or more prior convictions; drivers' intervention program; portion of fine to be deposited in enforcement and education fund; forfeiture of vehicle to State.

A. If, within six years of the offense, the offender has been convicted of or pleaded guilty to three or more violations of subsection (a) or (b) hereof, another municipal ordinance relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, another municipal ordinance relating to operating a vehicle with a prohibited concentration of alcohol in the blood, breath or urine, Ohio R.C. 4511.19, Ohio R.C. 2903.04 in a case in which the offender was subject to the sanctions described in Ohio R.C. 2903.04(D), Ohio R.C. 2903.06, 2903.07 or 2903.08, Section 434.10 of this Traffic Code in a case in which the jury or judge found that the offender was under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, or a statute of the United States or of any other state, or a municipal ordinance of a municipal corporation located in any other state, that is substantially similar to Ohio R.C. 4511.19(A) or (B) or subsection (a) or (b) hereof, and if sentence is not required to be imposed under Ohio R.C. 4511.99(A)(8)(a)(ii), the offender is guilty of a felony of the fourth degree and the court shall impose such penalties upon the offender as are provided for in Ohio R.C. 4511.99(A)(8)(a)(i).

In addition to any other sanction that it imposes upon the offender under this paragraph or Ohio R.C. 4511.99(A)(8)(a)(i) or (ii), the court shall require the offender to attend an alcohol and drug addiction program authorized by Ohio R.C. 3793.02. The cost of the treatment shall be paid by the offender. If the court determines that the offender is unable to pay the cost of attendance at the treatment program, the court may order that payment of the cost of the offender's attendance at the treatment program be made from the court's Indigent Drivers Alcohol Treatment Fund.

Of the fine imposed pursuant to this paragraph, two hundred ten dollars (\$210.00) shall be paid to an enforcement and education fund established by Council. This share shall be used by the Municipality to pay only those costs it incurs in enforcing this section and in informing the public of the laws governing operation of a motor vehicle while under the influence of alcohol, the dangers of operation of a motor vehicle while under the influence of alcohol, and other information relating to the operation of a motor vehicle and the consumption of alcoholic beverages. Four hundred forty dollars (\$440.00) of the fine

imposed pursuant to this paragraph shall be paid to the political subdivision that pays the cost of housing the offender during the offender's term of incarceration. The political subdivision shall use this share to pay or reimburse incarceration or treatment costs it incurs in housing or providing drug and alcohol treatment to persons who violate Ohio R.C. 4511.19 or this section and to pay for ignition interlock devices and electronic house arrest equipment for persons who violate such sections, and this share shall be paid to the credit of the fund that pays the cost of incarceration. The balance of the fine shall be disbursed as otherwise provided by law.

B. Regardless of whether the vehicle the offender was operating at the time of the offense is registered in the offender's name or in the name of another person, the court, in addition to the sanctions imposed under paragraph (j)(8)A. hereof, and all other sanctions provided by law, and subject to Ohio R.C. 4503.235, shall order the criminal forfeiture to the State of the vehicle the offender was operating at the time of the offense. The order of criminal forfeiture shall be issued and enforced in accordance with Ohio R.C. 4503.234.

C. If title to a motor vehicle that is subject to an order for criminal forfeiture under this section is assigned or transferred and Ohio R.C. 4503.234(C)(2) or (3) applies, in addition to or independent of any other penalty established by law, the court may fine the offender the value of the vehicle as determined by publications of the National Auto Dealer's Association. The proceeds from any fine imposed under this paragraph shall be distributed in accordance with Ohio R.C. 4503.234(D)(4).

(9) Work release from imprisonment.

A. Except as provided in paragraph (j)(9)B. hereof, upon a showing that imprisonment would seriously affect the ability of an offender sentenced pursuant to paragraph (j)(1), (2), (3), (4), (5), (6), (7) or (8) hereof to continue the offender's employment, the court may authorize that the offender be granted work release from imprisonment after the offender has served the three, six, ten, twenty, thirty or sixty consecutive days of imprisonment that the court is required by paragraph (j)(1), (2), (3), (5), (6) or (7) hereof to impose. No court shall authorize work release from imprisonment during the three, six, ten, twenty, thirty or sixty consecutive days of imprisonment that the court is required by paragraph (j)(1), (2), (3), (5), (6) or (7) hereof to impose. The duration of the work release shall not exceed the time necessary each day for the offender to commute to and from the place of employment and the place of imprisonment and the time actually spent under employment.

B. An offender who is sentenced pursuant to paragraph (j)(2), (3), (6) or (7) hereof to a term of imprisonment followed by a period of electronically monitored house arrest is not eligible for work release from imprisonment, but that person shall be permitted work release during the period of electronically monitored house arrest. The duration of the work release shall not exceed the time necessary each day for the offender to commute to and from the place of employment and the offender's home or other place specified by the sentencing court and the time actually spent under employment.

- (10) Mandatory imprisonment or electronically monitored house arrest. Notwithstanding any section of the Ohio Revised Code or of this Traffic Code that authorizes the suspension of the imposition or execution of a sentence, the placement of an offender in any treatment program in lieu of imprisonment or the use of a community control sanction for an offender convicted of a felony, no court shall suspend the ten, twenty, thirty or sixty consecutive days of imprisonment required to be imposed on an offender by paragraph (j)(2), (3), (6) or (7) hereof. No court shall place an offender who is sentenced pursuant to paragraph (j)(2), (3), (4), (6), (7) or (8) hereof in any treatment program in lieu of imprisonment until after the offender has served the ten, twenty, thirty or sixty consecutive days of imprisonment required to be imposed pursuant to paragraph (j)(2), (3), (4), (6), (7) or (8) hereof, and no court that imposes a sentence of imprisonment and a period of electronically monitored house arrest upon an offender under paragraph (j)(2), (3), (6) or (7) hereof shall suspend any portion of the sentence or place the offender in any treatment program in lieu of imprisonment or electronically monitored house arrest. Notwithstanding any section of the Ohio Revised Code or of this Traffic Code that authorizes the suspension of the imposition or execution of a sentence or the placement of an offender in any treatment program in lieu of imprisonment, no court, except as specifically authorized by paragraph (j)(1) or (5) hereof, shall suspend the three or more consecutive days of imprisonment required to be imposed by paragraph (j)(1) or (5) hereof or place an offender who is sentenced pursuant to paragraph (j)(1) or (5) hereof in any treatment program in lieu of imprisonment until after the offender has served the three or more consecutive days of imprisonment required to be imposed pursuant to paragraph (j)(1) or (5) hereof.
- (11) Minimum standards of alcohol treatment program. No court shall sentence an offender to an alcohol treatment program pursuant to paragraph (j)(1), (2), (3), (4), (5), (6), (7) or (8) hereof unless the treatment program complies with the minimum standards adopted pursuant to Ohio R.C. Chapter 3793 by the Director of Alcohol and Drug Addiction Services.

(12) Prerequisites to imposition of alternative sentences. No court shall impose the alternative sentence of a term of imprisonment plus a term of electronically monitored house arrest permitted to be imposed by paragraph (j)(2), (3), (6) or (7) hereof, unless, within sixty days of the date of sentencing, the court issues a written finding, entered into the record, that due to the unavailability of space at the incarceration facility where the offender is required to serve the term of imprisonment imposed upon the offender, the offender will not be able to commence serving the term of imprisonment within the sixty-day period following the date of sentencing. If the court issues such a written finding, the court may impose the alternative sentence comprised of a term of imprisonment and a term of electronically monitored house arrest permitted to be imposed by paragraph (j)(2), (3), (6) or (7) hereof. (ORC 4511.99(A))

(k) Penalty for Operation After Underage Alcohol Consumption.

(1) Whoever violates subsection (b) hereof is guilty of operating a motor vehicle after underage alcohol consumption and shall be subject to the following penalties:

A. Except as provided in paragraph (k)(1)B. hereof, the offender is guilty of a misdemeanor of the fourth degree and shall be subject to the penalty provided in Section 408.01.

B. The offender is guilty of a misdemeanor of the third degree and shall be subject to the penalty provided in Section 408.01 if, within one year of the offense, the offender has been convicted of or pleaded guilty to any violation of the following:

1. Ohio 4511.19(A) or (B) or subsection (a) or (b) hereof;
2. An ordinance of another municipality relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse;
3. An ordinance of another municipality relating to operating a vehicle with a prohibited concentration of alcohol in the blood, breath or urine;
4. Ohio R.C. 2903.04 in a case in which the offender was subject to the sanctions described in Ohio R.C. 2903.04(D);
5. Ohio R.C. 2903.06(A)(1) or Ohio R.C. 2903.08(A)(1) or a municipal ordinance that is substantially similar to either of those provisions;

6. Ohio R.C. 2903.06(A)(2), (3) or (4) or Ohio R.C. 2903.08(A)(2) or a municipal ordinance that is substantially similar to any of those provisions, or former Ohio R.C. 2903.07 or a substantially similar municipal ordinance in a case in which the jury or judge found that the offender was under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse; or
 7. A statute of the United States or of any other state or a municipal ordinance of a municipal corporation located in any other state that is substantially similar to Ohio R.C. 4511.19(A) or (B) or subsection (a) or (b) hereof.
- (2) In addition to or independent of all other penalties provided by law, the offender's driver's or commercial driver's license or permit or nonresident operating privilege shall be suspended in accordance with, and for the period of time specified in, Ohio R.C. 4507.16(E).
(ORC 4511.99(N))

(l) Three Consecutive Days Defined. As used in subsection (j) hereof, three consecutive days means seventy-two consecutive hours.
(ORC 4511.991)

(m) License Suspension or Denial for Violation of Out-of-State D.U.I. Statutes and Ordinances.

- (1) General authority and responsibilities of Registrar; appeals. The State Registrar shall suspend for the period of time specified in this paragraph the driver's or commercial driver's license or permit of, or deny for such period of time the issuance of a driver's or commercial driver's license or permit to, any person who is a resident of this Municipality and is convicted of or pleads guilty to a violation of a statute of any other state or a municipal ordinance of a municipal corporation located in any other state that is substantially similar to Ohio R.C. 4511.19 and subsections (a) and (b) hereof. Upon receipt of a report from another state, made pursuant to Ohio R.C. 4507.60, indicating that a resident of this Municipality was convicted of or pleaded guilty to an offense described in this subsection (m), the State Registrar shall send a notice by regular first class mail to the person, at the person's last known address as shown in the records of the State Bureau of Motor Vehicles, informing the person of the suspension or denial, that the suspension or denial will take effect twenty-one days from the date of the notice, and that if the person wishes to appeal the suspension or denial, the person must file a notice of appeal within

twenty-one days of the date of the notice requesting a hearing on the matter. If the person requests a hearing, the State Registrar shall hold the hearing not more than forty days after receipt by the State Registrar of the notice of appeal. The filing of a notice of appeal does not stay the operation of the suspension or denial that must be imposed pursuant to this subsection (m). The scope of the hearing shall be limited to whether the person actually was convicted of or pleaded guilty to the offense for which the suspension or denial is to be imposed.

The period of suspension or denial the State Registrar is required to impose under this paragraph shall end either on the last day of any period of suspension of the person's nonresident operating privilege imposed by the state or Federal court located in the other state or the date six months and twenty-one days from the date of the notice sent by the State Registrar to the person under this paragraph, whichever is earlier.

- (2) Authority of Registrar re minors; appeals. The State Registrar shall suspend for the period of time specified in this paragraph the driver's or commercial driver's license or permit of, or deny for such period of time the issuance of a driver's or commercial driver's license or permit to, any child who is a resident of this Municipality and is convicted of or pleads guilty to a violation of a statute of any other state or a municipal ordinance of a municipal corporation located in any other state that is substantially similar to Ohio R.C. 4511.19 and subsection (a) and (b) hereof. Upon receipt of a report from another state, made pursuant to Ohio R.C. 4507.60, indicating that a child who is a resident of this Municipality was convicted of or pleaded guilty to an offense described in this subsection (m), the State Registrar shall send a notice by regular first class mail to the child, at the child's last known address as shown in the records of the State Bureau of Motor Vehicles, informing the child of the suspension or denial, that the suspension or denial will take effect twenty-one days from the date of the notice, and that if the child wishes to appeal the suspension or denial the child must file a notice of appeal within twenty-one days of the date of the notice requesting a hearing on the matter. If the child requests a hearing, the State Registrar shall hold the hearing not more than forty days after receipt by the State Registrar of the notice of appeal. The filing of a notice of appeal does not stay the operation of the suspension or denial that must be imposed pursuant to this subsection (m). The scope of the hearing shall be limited to whether the child actually was convicted of or pleaded guilty to the offense for which the suspension or denial is to be imposed.

The period of suspension the State Registrar is required to impose under this paragraph shall end either on the last day of any period of suspension of the child's nonresident operating privilege imposed by the state or Federal court located in the other state or the date six months and twenty-one days from the date of the notice sent by the State Registrar to the child under this paragraph, whichever is earlier. If the child is a resident of this Municipality who is sixteen years of age or older and does not have a current, valid Ohio driver's or commercial driver's license or permit, the notice shall inform the child that the child will be denied issuance of a driver's or commercial driver's license or permit for six months beginning on the date of the notice. If the child has not attained the age of sixteen years on the date of the notice, the notice shall inform the child that the period of denial of six months shall commence on the date the child attains the age of sixteen years.

- (3) Petition for occupational driving privileges. Any person whose license or permit has been suspended pursuant to paragraph (m)(1) or (2) hereof may file a petition in the municipal or county court, or, in case the person is under eighteen years of age, the juvenile court, in whose jurisdiction the person resides, agreeing to pay the cost of the proceedings and alleging that the suspension would seriously affect the person's ability to continue the person's employment.

The proceedings upon such petition shall be as set forth in Ohio R.C. 4507.169(E).

- (4) Definitions. As used in paragraphs (m)(1) and (2) hereof:

A. "Child" means a person who is under the age of eighteen years, except that any person who violates a statute or ordinance described in paragraph (m)(2) hereof prior to attaining eighteen years of age shall be deemed a "child" irrespective of the person's age at the time the complaint or other equivalent document is filed in the other state or a hearing, trial or other proceeding is held in the other state on the complaint or other equivalent document, and irrespective of the person's age when the period of license suspension or denial prescribed in paragraph (m)(2) hereof is imposed.

B. "Is convicted of or pleads guilty to" means, as it relates to a child who is a resident of this Municipality, that in a proceeding conducted in a state or Federal court located in another state for a violation of a statute or ordinance described in paragraph (m)(2) hereof, the result of the proceeding is any of the following:

1. Under the laws that govern the proceedings of the court, the child is adjudicated to be or admits to being a delinquent child or a juvenile traffic offender for a violation described in this subsection that would be a crime if committed by an adult;

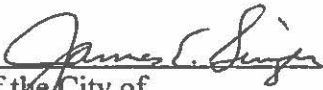
2. Under the laws that govern the proceedings of the court, the child is convicted of or pleads guilty to a violation described in this subsection;
3. Under the laws that govern the proceedings of the court, irrespective of the terminology utilized in those laws, the result of the court's proceedings is the functional equivalent of paragraph (m)(4)B.1. or 2. hereof.

(ORC 4507.169)

- (n) Penalty for Physical Control. Whoever violates subsection (d) hereof is guilty of a misdemeanor of the third degree and shall be subject to the penalty provided in Section 408.01.

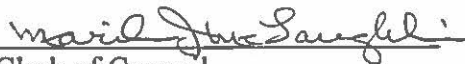
Section 3. This ordinance shall become effective from and after the earliest date allowed by law.

PASSED THIS 16th day of October, 2000.



Mayor of the City of
Centerville, Ohio

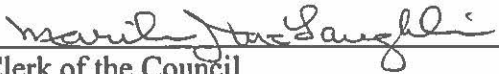
ATTEST:



Clerk of Council
City of Centerville, Ohio

CERTIFICATE

The undersigned, Clerk of Council of the City of Centerville, Ohio, hereby certifies the foregoing to be a true and correct copy of Ordinance No. 21-00, passed by the Council of the City of Centerville, Ohio on the 16th day of October, 2000.



Clerk of the Council

Approved as to form, consistency with the Charter and

Constitutional Provisions.
Department of Law
Robert N. Farquhar
Municipal Attorney