

**AN ORDINANCE FOR THE VILLAGE OF GEORGETOWN, OHIO, AMENDING SECTIONS 73.01, 73.011 AND 96.12 OF THE 2003 EDITION OF THE OHIO BASIC CODE, EFFECTIVE JUNE 30, 2003, TO REFLECT THE STATE OF OHIO'S REDUCTION IN THE LEGAL ALCOHOL LIMIT FOR OPERATING A MOTOR VEHICLE, AND DECLARING AN EMERGENCY.**

**WHEREAS**, the Village has adopted American Legal Publishing's Ohio Basic Code, 2003 Edition.

**WHEREAS**, effective June 30, 2003, the Ohio Legislature amended Ohio Revised Code §§ 1547.11, 4511.19 and 4511.191 by reducing the legal alcohol limit for operating a motor vehicle (see House Bill 87 of the 125th Session of the General Assembly).

**WHEREAS**, §§ 73.01, 73.011, and 96.12 of the 2003 Edition of the Ohio Basic Code do not reflect these amendments.

**WHEREAS**, it is necessary to provide for the immediate preservation of the public peace, health, safety and general welfare of the municipality that this ordinance take effect at an early date.

**NOW, THEREFORE, BE IT ORDAINED BY THE LEGISLATIVE AUTHORITY OF THE VILLAGE OF GEORGETOWN, OHIO:**

- Section 1.** Effective June 30, 2003, §§ 73.01 (*Driving While Intoxicated or Drugged*), 73.011 (*Implied Consent*) and 96.12 (*Operating Under Influence of Alcohol or Drugs Prohibited*) of the 2003 Edition of the Ohio Basic Code are amended to read as set forth in Exhibit A, attached hereto.
- Section 2.** This ordinance is declared to be an emergency measure necessary for the immediate preservation of the peace, health, safety and general welfare of the people of this Village, and shall take effect at the earliest date provided by law.

Date

Passed: 6-12-2003

Attest:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Clerk of the Legislative Authority

**§ 73.01 DRIVING WHILE INTOXICATED OR DRUGGED.**

(A) No person shall operate any vehicle within this municipality if any of the following apply:

(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 0.08% ~~0.10%~~ or more but less than 0.17% by weight of alcohol in the person's blood.

(3) The person has a concentration of 0.08 ~~0.10~~ grams or more but less than 0.17 grams by weight of alcohol per 210 liters of the person's breath.

(4) The person has a concentration of 0.11 ~~0.14~~ grams or more but less than 0.238 grams by weight of alcohol per 100 milliliters of the person's urine.

(5) The person has a concentration of 0.17% or more by weight of alcohol in the person's blood.

(6) The person has a concentration of 0.17 grams or more by weight of alcohol per 210 liters of the person's breath.

(7) The person has a concentration of 0.238 grams or more by weight of alcohol per 100 milliliters of the person's urine.

(B) No person under 21 years of age shall operate any vehicle within this municipality if any of the following apply:

(1) The person has a concentration of at least 0.02% but less than 0.08% ~~0.10%~~ by weight of alcohol in the person's blood.

(2) The person has a concentration of at least 0.02 grams but less than 0.08 ~~0.10~~ grams by weight of alcohol per 210 liters of the person's breath.

(3) The person has a concentration of at least 0.028 grams but less than 0.11 ~~0.14~~ grams by weight of alcohol per 100 milliliters of the person's urine.

(C) In any proceeding arising out of one incident, a person may be charged with a violation of division (A)(1) and a violation of division (B)(1), (2), or (3) of this section, but the person may not be convicted of more than one violation of these divisions.

(D) (1) In any criminal prosecution 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, 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 the alleged violation. When a person submits to a blood test at the request of a police officer under R.C. § 4511.191 or a substantially

provided in division (E)(1) and (2) below.

(1) Except as otherwise provided in division (E)(2) of this section, the offender is guilty of a misdemeanor of the first degree and shall be subject to any fines, terms of imprisonment, sanctions and regulations as provided in R.C. § 4511.99(A).

(2) If, within six years of the offense, the offender has been convicted of or pleaded guilty to three or more violations of divisions (A) or (B) of this section, R.C. § 4511.19(A) or (B), a municipal ordinance relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse; a municipal ordinance relating to operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine; R.C. § 2903.04 in a case in which the offender was subject to the sanctions described in division (D) of that section, or R.C. § 2903.06, 2903.07 or 2903.08 or a municipal ordinance that is substantially similar to R.C. § 2903.07 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 municipality located in any other state that is substantially similar to R.C. § 4511.19(A) or (B), the offender is guilty of a felony to be prosecuted under appropriate state law.  
(R.C. § 4511.99(A)) (Rev. 2000)

(F) (1) Whoever violates division (B) of this section is guilty of operating a motor vehicle after underage alcohol consumption and shall be punished as follows:

(a) Except as otherwise provided in division (F)(1)(b) of this section, the offender is guilty of a misdemeanor of the fourth degree;

(b) The offender is guilty of a misdemeanor of the third degree if, within one year of the offense, the offender has been convicted of or pleaded guilty to any violation of the following:

1. Divisions (A) or (B) of this section or R.C. § 4511.19(A) or (B);
2. A municipal ordinance relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse;
3. A municipal ordinance relating to operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine;
4. R.C. § 2903.04 in a case in which the offender was subject to the sanctions described in division (D) of that section;
5. R.C. §§ 2903.06(A)(1) or 2903.08(A)(1) or a municipal ordinance that is substantially similar to either of those divisions;
6. R.C. §§ 2903.06(A)(2), (3) or (4) or 2903.08(A)(2) or a municipal ordinance that is substantially similar to any of those divisions, or former 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;

of the United States or of any other state or a municipal ordinance of a

chemical test to determine  
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 immediately will be suspended for the period of time specified by law by the officer, on behalf of the 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.

(D) (1) If a person under arrest as described in division (C)(1) of this section is not asked by a police officer to submit to a chemical test designated as provided in division (A) of this section, the arresting officer shall seize the state 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 he or she 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 him or her to surrender it to the law enforcement agency that employs the officer within 24 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 he or she 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 R.C. § 4511.196. If a person under arrest as described in division (C)(1) of this section is asked by a police officer to submit to a chemical test designated as provided in division (A) above and is advised of the consequences of his or her refusal or submission as provided in division (C) above, and if the person either refuses to submit to the designated chemical test or the person submits to the designated chemical test and the test results indicate that his or her blood contained a concentration of 0.08% ~~0.10%~~ or more by weight of alcohol, his or her breath contained a concentration of 0.08 ~~0.10~~ grams or more by weight of alcohol per 210 liters of his or her breath, or his or her urine contained a concentration of 0.11 ~~0.14~~ grams or more by weight of alcohol per 100 milliliters of his or her urine at the time of the alleged offense, the arresting officer shall do all of the following:

(a) On behalf of the Registrar, serve a notice of suspension upon the person that advises the person that, independent of any penalties or sanctions imposed upon him or her pursuant to any other section of the Revised Code or any other municipal ordinance his or her 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 his or her initial appearance on the charge that will be held within five days after the date of his or her arrest or the issuance of a citation to him or her, and that he or she may appeal the suspension at the initial appearance; seize the state 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 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 him or her to surrender it to the law enforcement agency that employs the officer within 24 hours after the service of the notice of suspension, and upon the surrender, the officer's employing agency immediately shall forward the license or permit to the 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 Registrar of the change;

the arrested person's driver's or commercial driver's license or permit report that

or streets within this municipality. . . .  
this section that the alleged offender drove under suspension because of a substantial emergency, provided  
no other person was reasonably available to drive in response to the emergency.  
(R.C. § 4511.192)

(G) Whoever violates division (F) of this section is guilty of a misdemeanor of the first degree. The court, in addition to or independent of all other penalties provided by law, may suspend for a period not to exceed one year the driver's or commercial driver's license or permit or nonresident operating privilege of any person who pleads guilty to or is convicted of a violation of division (F) of this section.  
(R.C. § 4511.99(B)) Penalty, see § 70.99

**Statutory reference:**

*Disposition of fines, immobilization of vehicle and impoundment of license plates, criminal forfeiture for municipal ordinance conviction, see R.C. § 4511.193*  
*Effect of refusal to submit to test, seizure of license, suspension periods, appeal procedures, occupational driving privileges, and indigent drivers alcohol treatment funds, see R.C. § 4511.191(C) - (N)*  
*Judicial pretrial suspension, initial appearance, see R.C. § 4511.196*  
*Seizure of vehicles upon arrest, see R.C. § 4511.195*

**§ 96.12 OPERATING UNDER INFLUENCE OF ALCOHOL OR DRUGS PROHIBITED.**

(A) No person shall operate or be in physical control of any vessel underway or shall manipulate any water skis, aquaplane, or similar device on the waters in this municipality if any of the following applies:

(1) The person is under the influence of alcohol or a drug of abuse, or the combined influence of alcohol and a drug of abuse.

(2) The person has a concentration of 0.08% ~~0.10%~~ or more by weight of alcohol in the person's blood.

(3) The person has a concentration of 0.11 ~~0.14~~ grams or more by weight of alcohol per 100 milliliters of the person's urine.

(4) The person has a concentration of 0.08 ~~0.10~~ grams or more by weight of alcohol per 210 liters of the person's breath.

(B) No person under 21 years of age shall operate or be in physical control of any vessel underway or shall manipulate any water skis, aquaplane, or similar device on the waters in this municipality if any of the following applies:

(1) The person has a concentration of at least 0.02% but less than 0.08% ~~0.10%~~ by weight of alcohol in the person's blood.

(2) The person has a concentration of at least 0.028 grams but less than 0.11 ~~0.14~~ grams by weight of alcohol per 100 milliliters of the person's urine.

(3) The person has a concentration of at least 0.02 grams but less than 0.08 ~~0.10~~ grams by weight of

of alcohol, a drug of abuse, or the combined influence of alcohol and a drug of abuse, relating to operating or being in physical control of any vessel underway or manipulating any water skis, aquaplane, or similar device on the waters of this state with a prohibited concentration of alcohol in the blood, breath, or urine, if a law enforcement officer has administered a field sobriety test to the operator or person found to be in physical control of the vessel underway involved in the violation or the person manipulating the water skis, aquaplane, or similar device involved in the violation and if it is shown by clear and convincing evidence that the officer administered the test in substantial compliance with the testing standards for reliable, credible and generally accepted field sobriety tests for vehicles that were in effect at the time the tests were administered, including, but not limited to, any testing standards then in effect that have been set by the National Highway Traffic Safety Administration, that by their nature are not clearly inapplicable regarding the operation or physical control of vessels underway or the manipulation of water skis, aquaplanes, or similar devices, all of the following apply:

(a) The officer may testify concerning the results of the field sobriety test so administered.

(b) The prosecution may introduce the results of the field sobriety test so administered as evidence in any proceedings in the criminal prosecution or juvenile court proceeding.

(c) If testimony is presented or evidence is introduced under division (E)(1)(a) or (E)(1)(b) of this section and if the testimony or evidence is admissible under the Rules of Evidence, the court shall admit the testimony or evidence, and the trier of fact shall give it whatever weight the trier of fact considers to be appropriate.

(2) Division (E)(1) of this section does not limit or preclude a court, in its determination of whether the arrest of a person was supported by probable cause or its determination of any other matter in a criminal prosecution or juvenile court proceeding of a type described in that division, from considering evidence or testimony that is not otherwise disallowed by division (E)(1) of this section.

(F) (1) As used in division (E) of this section, *NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION* has the same meaning as in R.C. § 4511.19.

(2) For the purposes of this section, *OPERATE* means that a vessel is being used on the waters in this state when the vessel is not securely affixed to a dock or to shore or to any permanent structure to which the vessel has the right to affix or that a vessel is not anchored in a designated anchorage area or boat camping area that is established by the United States Coast Guard, this state, or a political subdivision and in which the vessel has the right to anchor.  
(R.C. § 1547.11) (Rev. 2003)

(G) Whoever violates this section is guilty of a misdemeanor of the first degree and shall be punished as provided in division (G)(1), (2), or (3) of this section.

(1) Except as otherwise provided in division (G)(2) or (3) of this section, the court shall sentence the offender to a term of imprisonment of three consecutive days and may sentence the offender pursuant to 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 \$150 nor more than \$1,000. The court may suspend the execution of the mandatory three consecutive days of imprisonment that it is required to impose by this division (G)(1) if the court, in lieu of the suspended term, imposes a condition that requires the offender to attend, for three consecutive days,