

**VILLAGE OF COVINGTON, OHIO**

**ORDINANCE NO. 04-23**

**AN ORDINANCE APPROVING, ADOPTING AND ENACTING AMERICAN LEGAL PUBLISHING'S OHIO BASIC CODE, 2023 EDITION, AS THE CODE OF ORDINANCES FOR THE VILLAGE OF COVINGTON, OHIO, AND DECLARING AN EMERGENCY.**

**WHEREAS**, the present general and permanent ordinances of the municipality are inadequately arranged and classified and are insufficient in form and substance for the complete preservation of the public peace, health, safety and general welfare of the municipality and for the proper conduct of its affairs.

**WHEREAS**, American Legal Publishing Corporation publishes a Code of Ordinances suitable for adoption by municipalities in Ohio.

**WHEREAS**, it is necessary to provide for the usual daily operation of the municipality and 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 Covington, State of Ohio, that:

**SECTION 1:** American Legal Publishing's Ohio Basic Code, 2023 Edition, as reviewed and approved by the Legislative Authority, is hereby adopted and enacted. Any prior version of the Ohio Basic Code which may have been previously adopted by the municipality is hereby repealed as obsolete and is hereby replaced in its entirety by this Ohio Basic Code, 2023 Edition.

**SECTION 2:** One copy of American Legal Publishing's Ohio Basic Code, 2023 Edition, certified as correct by the Mayor and Clerk of the Legislative Authority, as required by Ohio Revised Code § 731.23, shall be kept in its initial form on file in the office of the Clerk of the municipality and retained as a permanent ordinance record of the municipality. The Clerk of the municipality is authorized and directed to publish a summary of all new matters contained in the Code of Ordinances as required by Ohio Revised Code § 731.23. Such summary is attached hereto and marked as "Exhibit A".

**SECTION 3:** All ordinances and resolutions or parts thereof which are in conflict or inconsistent with any provision of the Ohio Basic Code, 2023 Edition, as adopted in Section 1 hereof, are hereby repealed as of the effective date of this ordinance, except as follows:

- (A) The enactment of the Ohio Basic Code, 2023 Edition, shall not be construed to affect a right or liability accrued or incurred under any legislative provision prior to the effective date of such enactment, or an action or proceeding for the enforcement of such right or liability. Such enactment shall not be construed to relieve any person from punishment for an act committed in violation of any such legislative provision, nor to affect an indictment or prosecution therefor. For such purposes, any such legislative provision shall continue in full force

notwithstanding its repeal for the purpose of revision and codification.

(B) The repeal of provided above shall not affect:

- (1) The grant of creation of a franchise, license, right, easement or privilege;
- (2) The purchase, sale, lease or transfer of property;
- (3) The appropriation or expenditure of money or promise or guarantee of payment;
- (4) The assumption of any contract or obligation;
- (5) The issuance and delivery of any bonds, obligations or other instruments of indebtedness;
- (6) The levy or imposition of taxes, assessments or charges;
- (7) The establishment, naming, vacating or grade level of any street or public way;
- (8) The dedication of property or plat approval;
- (9) The annexation or detachment of territory;
- (10) Any legislation enacted subsequent to the adoption of this ordinance.
- (11) Any legislation specifically superseding the provision of the Ohio Basic Code.

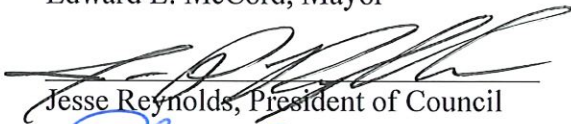
**SECTION 4:** Whenever reference is made in any documents, publications, or signs of the municipality, including but not limited to traffic tickets and traffic-control signs, to a section as it existed in a former edition of the Ohio Basic Code, the reference shall extend and apply to the section referred to as subsequently amended, revised, recodified, or renumbered.

**SECTION 5:** 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 municipality, and shall take effect at the earliest date provided by law.

ADOPTED: February 6, 2023:



Edward L. McCord, Mayor



Jesse Reynolds, President of Council



Rhonda Gill, Fiscal Officer

Exhibit A

OHIO BASIC CODE, 2023 EDITION — SUMMARY OF CONTENTS

Notice is hereby given that on the 6 day of February, 2023, there was enacted by the Legislative Authority of the Municipality of Canton, Ohio, an ordinance entitled "An Ordinance Approving, Adopting and Enacting American Legal Publishing's Ohio Basic Code, 2023 Edition, as the Code of Ordinances for the Municipality of Canton, Ohio."

A summary of the subjects, including all new matters contained in the Code of Ordinances, as adopted, are as follows. The majority of Basic Code provisions are based directly on state law.

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**UPDATE:** On November 2, 2022, in *City of Columbus v. State of Ohio*, 19CV002281, the Franklin County Common Pleas Court issued a preliminary injunction against both the current and previous versions of Ohio Revised Code § 9.68. The Court found that the City is likely to prevail on the merits of its home rule challenge.

### NOTE REGARDING OHIO REVISED CODE § 9.68

As amended by Senate Bill 156 (134th General Assembly), Ohio Revised Code § 9.68 reads:

#### *9.68 Regulation of arms prohibited – challenging political subdivisions.*

(A) *The individual right to keep and bear arms, being a fundamental individual right that predates the United States Constitution and Ohio Constitution, and being a constitutionally protected right in every part of Ohio, the general assembly finds the need to provide uniform laws throughout the state regulating the ownership, possession, purchase, other acquisition, transport, storage, carrying, sale, other transfer, manufacture, taxation, keeping, and reporting of loss or theft of firearms, their components, and their ammunition, and knives. The general assembly also finds and declares that it is proper for law-abiding people to protect themselves, their families, and others from intruders and attackers without fear of prosecution or civil action for acting in defense of themselves or others. Except as specifically provided by the United States Constitution, Ohio Constitution, state law, or federal law, a person, without further license, permission, restriction, delay, or process, including by any ordinance, rule, regulation, resolution, practice, or other action or any threat of citation, prosecution, or other legal process, may own, possess, purchase, acquire, transport, store, carry, sell, transfer, manufacture, or keep any firearm, part of a firearm, its components, and its ammunition, and any knife. Any such further license, permission, restriction, delay, or process interferes with the fundamental individual right described in this division and unduly inhibits law-abiding people from protecting themselves, their families, and others from intruders and attackers and from other legitimate uses of constitutionally protected arms, including hunting and sporting activities, and the state by this section preempts, supersedes, and declares null and void any such further license, permission, restriction, delay, or process.*

(B) *A person, group, or entity adversely affected by any manner of ordinance, rule, regulation, resolution, practice, or other action enacted or enforced by a political subdivision in conflict with division (A) of this section may bring a civil action against the political subdivision seeking damages from the political subdivision, declaratory relief, injunctive relief, or a combination of those remedies. Any damages awarded shall be awarded against, and paid by, the political subdivision. In addition to any actual damages awarded against the political subdivision and other relief provided with respect to such an action, the court shall award reasonable expenses to any person, group, or entity that brings the action, to be paid by the political subdivision, if either of the following applies:*

(1) *The person, group, or entity prevails in a challenge to the ordinance, rule, regulation, resolution, practice, or action as being in conflict with division (A) of this section.*

(2) *The ordinance, rule, regulation, resolution, practice, or action or the manner of its enforcement is repealed or rescinded after the civil action was filed but prior to a final court determination of the action.*

(C) *As used in this section:*

(1) *The possession, transporting, or carrying of firearms, their components, their ammunition, or knives include, but are not limited to, the possession, transporting, or carrying, openly or concealed on a person's person or concealed ready at hand, of firearms, their components, their ammunition, or knives.*

(2) *"Firearm" has the same meaning as in section 2923.11 of the Revised Code.*

(3) *"Reasonable expenses" include, but are not limited to, reasonable attorney's fees, court costs, expert witness fees, and compensation for loss of income.*

(4) *"Knife" means a cutting instrument and includes a sharpened or pointed blade.*

(5) *"Arms" includes firearms and knives.*

(D) *This section does not apply to either of the following:*

(1) *A zoning ordinance that regulates or prohibits the commercial sale of knives, firearms, firearm components, or ammunition for firearms in areas zoned for residential or agricultural uses;*

(2) *A zoning ordinance that specifies the hours of operation or the geographic areas where the commercial sale of knives, firearms, firearm components, or ammunition for firearms may occur, provided that the zoning ordinance is consistent with zoning ordinances for other retail establishments in the same geographic area and does not result in a de facto prohibition of the commercial sale of knives, firearms, firearm components, or ammunition for firearms in areas zoned for commercial, retail, or industrial uses.*

There continues to be widespread uncertainty as to the effect of this law on municipal ordinances that relate to knives, firearms and weapons (such as Ohio Basic Code Chapter 137), and the law is currently being challenged on several grounds. Before issuing citations for any knife-, firearms- or weapons-related offenses under any Ohio Basic Code sections, please consult with the Village Attorney and/or the Ohio Municipal League for advice and direction.