

## **OHIO STATE LAW PAMPHLET**

### **INTRODUCTION**

State laws in Ohio impact many provisions in the ordinance codes of Ohio municipal corporations. This pamphlet is intended to assist attorneys for municipal corporations in the identification of provisions in ordinance codes that may require revision in light of state law. The information in this pamphlet is based upon the experience of the legal staff of Municipal Code Corporation in working with the ordinance codes of Ohio municipal corporations.

This pamphlet is current through File 107 of the 132nd General Assembly (2017-2018), 2017 State Issue 1, and 2018 State Issue 1 (May election).

Not all provisions of this pamphlet will apply to a particular Code, nor does this pamphlet purport to include all state laws that may somehow affect the language of a Code.

The provisions of this pamphlet are intended to assist city, town and county attorneys and are not intended to be a substitute for the advice of counsel.

It is not the intent of Municipal Code Corporation in publishing this pamphlet to provide legal advice. An attorney admitted to practice in Ohio must be consulted as to the applicability of a given statute or case to a particular situation.

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## GENERAL PROVISIONS

1. *Self-government.* Ohio Const. art. XVIII, § 3 grants municipal corporations the authority to exercise all powers of local self-government and enforce police, sanitary and similar regulation, as are not in conflict with general laws.
2. *Penalty for ordinance violations.* While ORC 715.67 imposes limits on penalties for ordinance violations, case law indicates that such section is invalid in light of Ohio Const. art. XVIII, § 3. See *Matthews v. Russell*, 87 Ohio App. 443, 95 N.E.2d 696 (1949).

## ADMINISTRATION

1. *Depositories.* The provisions of ORC ch. 135 were recently amended.

## ANIMALS

1. *Dog control ordinances.* Dog control ordinances are restricted. See ORC 955.221.
2. *Assistance dogs.* Under certain enumerated circumstances, assistance dogs for a blind, deaf or hearing impaired or mobility impaired person cannot be prohibited from public places. See ORC 955.43.
3. *Dog sales.* Regulation of the sale, delivery, barter, auction, broker, or transfer of a dog to a person from a pet store is preempted to the state. See ORC 956.23.

## BUILDINGS AND BUILDING REGULATIONS

1. *Uniform statewide building code.* State residential building standards constitute minimum requirements, and additional local requirements are ineffective if disapproved by the state. See ORC 3781.01.

## BUSINESSES

1. *Ambulance service.* Regulation by municipal corporations of ambulance services is restricted. See ORC 4766.10.
2. *Auctions and auctioneers.* The regulation and licensing of auctioneers, auction firms and auction sales is preempted to the state. See ORC 4707.111.
3. *Bail bond agents.* Surety bail bond agents who are licensed and appointed in accordance with ORC 3905.83 to 3905.95 are exempt from payment of any licensing fee imposed by a municipal corporation to perform any of the functions, duties, or powers prescribed for surety bail bond agents under those sections. See ORC 3905.851.
4. *Check-cashing businesses.* The regulation of check-cashing businesses is preempted to the state. See ORC 1315.30.
5. *Loans and credit.* The business of originating, granting, servicing, and collecting loans and other forms of credit in the state and the manner in which any such business is conducted is preempted to the state. See ORC 1.63.
6. *Manufactured homes.*
  - a. Local regulation of manufactured home parks is restricted. See ORC 4781.52.
  - b. The regulation and licensing of manufactured housing installers and regulating and inspecting the installation of manufactured housing and manufactured housing foundations and support systems is preempted to the state. See ORC 4781.14.
7. *Motor vehicle collision repair operators.* Certain municipal ordinances limited to the registration of persons engaged in business as motor vehicle collision repair operators are preempted. See ORC 4775.11.
8. *Pawnbrokers.* Regulation of pawnbrokers is preempted to the state. See ORC 4727.21.

9. *Scrap metal dealers.* Regulation of scrap metal dealers (including tag and hold) is restricted. See ORC 4737.044.

10. *Transportation networks ("Uber").* Subject to certain exceptions, the subject of licensing, registration, taxation and regulation of transportation network companies, transportation network company drivers, or transportation network company services is preempted to the state. See ORC 4925.09.

11. *Motor vehicle salvage dealers.* Subject to certain exceptions, the state is the sole regulator for the registration, licensing, and regulation of motor vehicle salvage dealers. See ORC 4738.19.

#### **ENVIRONMENT**

1. *Smoking.* The Smoke Free Workplace Act (ORC 3794.01 et seq.) supersedes all less restrictive local ordinances. See ORC 3794.04.

2. *Fertilizer.* No municipal corporation may enact, adopt, or continue in effect local legislation relating to the registration, packaging, labeling, sale, storage, distribution, use, or application of fertilizers. See ORC 905.503.

3. *Solid waste disposal facilities.* Local regulation of certain solid waste facilities is restricted. See ORC 3734.05(E), 3734.058.

#### **FIRE PREVENTION**

1. *Cigarette ignition.* Regulation by municipal corporations of ignition property of cigarettes cannot conflict with statute. See ORC 3739.15.

#### **OFFENSES AND MISCELLANEOUS PROVISIONS**

1. *Watercraft.* Local regulation of watercraft is restricted. See ORC 1547.02, 1547.61.

2. *Medical marijuana.* Local regulation of medical marijuana is restricted. See ORC 3796.29.

3. *Firearms.* Local regulation of firearms is restricted. See ORC 9.68.

#### **TAXATION**

1. *Municipal income tax.* The provisions of ORC ch. 718 were revised in 2018.

#### **TELECOMMUNICATIONS**

1. *Use of public ways.* The provisions of ORC ch. 4939 were amended in 2018.

#### **ZONING**

1. *Family day-care homes.* Certain family day-care homes are considered residential uses. See ORC 5104.054.

2. *Small wind farms.* Small wind farms are considered a public utility for zoning purposes. See ORC 713.081.