

ORDINANCE NO. 2003- 161

ENACTING SECTION 501.14, ARREST OF PERSON VIOLATING PROBATION OR COMMUNITY CONTROL SANCTION, OF THE CODIFIED ORDINANCES OF THE CITY OF MASON, OHIO, EFFECTIVE JANUARY 1, 2004, AND DECLARING AN EMERGENCY.

WHEREAS, by statute, the Mason Municipal Court is situated within the corporate limits of the City of Mason; and

WHEREAS, Mason Municipal Court has the judicial authority to sentence defendants to probation and/or community control sanctions; and

WHEREAS, effective January 1, 2004, the Ohio Legislature amended Ohio Revised Code Section 2951.08 regarding arrest of persons on probation or under community controls sanctions (see Am. Sub. House Bill 490 of the 124th Session of the General Assembly); and

WHEREAS, violations of probation and/or community control sanctions are punishable as separate criminal offenses; and

WHEREAS, it is the intention of the City of Mason, through its Constitutionally granted Home Rule authority, to exercise its local police powers by enacting an ordinance reflecting the amendments made to the Ohio Revised Code; and

WHEREAS, section 501.14 of the Codified Ordinances of the City of Mason shall become effective on January 1, 2004.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Mason, Ohio, seven members elected thereto concurring:

Section 1. That Section 501.14 of the Codified Ordinances of the City of Mason is hereby enacted to read as set forth in Exhibit A, attached hereto.

Section 2. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and general welfare and shall be effective January 1, 2004. The reason for said declaration of emergency is the necessity for the Code of Ordinances to comply with the Ohio Revised Code on this date.

Passed this 8th day of December, 2003.

___Attest:___



Mayor



Clerk of Council

10/17/2003
185321.1

EXHIBIT "A"

501.14 ARREST OF PERSON VIOLATING PROBATION OR COMMUNITY CONTROL SANCTION

(a) During a period of community control, any field officer or probation officer may arrest the person under a community control sanction without a warrant and bring the person before the judge or magistrate before whom the cause was pending. During a period of community control, any peace officer may arrest the person under a community control sanction without a warrant upon the written order of the chief probation officer of the probation agency if the person under a community control sanction is under the supervision of that probation agency or on the order of an officer of the adult parole authority created pursuant to section 5149.02 of the Revised Code if the person under a community control sanction is under the supervision of the authority. During a period of community control, any peace officer may arrest the person under a community control sanction on the warrant of the judge or magistrate before whom the cause was pending.

During a period of community control, any peace officer may arrest the person under a community control sanction without a warrant if the peace officer has reasonable ground to believe that the person has violated or is violating any of the following that is a condition of the person's community control sanction:

- (1) A condition that prohibits ownership, possession, or use of a firearm, deadly weapon, ammunition, or dangerous ordnance;
- (2) A condition that prohibits the person from being within a specified structure or geographic area;
- (3) A condition that confines the person to a residence, facility, or other structure;
- (4) A condition that prohibits the person from contacting or communicating with any specified individual;
- (5) A condition that prohibits the person from associating with a specified individual;
- (6) A condition as provided in division (A)(1)(a) of section 2929.25 of the Revised Code or in division (A)(1) of section 2929.15 or (A)(8) of section 2929.27 of the Revised Code that requires that the person not ingest or be injected with a drug of abuse and submit to random drug testing and requires that the results of the drug test indicate that the person did not ingest or was not injected with a drug of abuse.

(b) Upon making an arrest under this section, the arresting field officer, probation officer, or peace officer or the department or agency of the arresting officer promptly shall notify the chief probation officer or the chief probation officer's designee that the person has been arrested. Upon being notified that a peace officer has made an arrest under this section, the chief probation officer or designee, or another probation officer designated by the chief probation officer, promptly shall bring the person who was arrested before the judge or magistrate before whom the cause was pending.

(c) Nothing in this section limits the powers of arrest granted to certain law enforcement officers and citizens under sections 2935.03 and 2935.04 of the Revised Code.

(d) A probation officer shall receive the actual and necessary expenses incurred in the performance of the officer's duties.

(e) As used in this section, "random drug testing" has the same meaning as in section 5120.63 of the Revised Code.