

1     ORDINANCE NO. 2012-231

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3     SPONSOR Mr. Pry

4  
5     DATE June 18, 2012                                     COMMITTEE Public Safety

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7     **An Ordinance enacting Section 521.11 of the Codified Ordinances of the County of**  
8     **Summit, entitled "Clandestine Drug Labs," to make the owners of real property**  
9     **responsible for the costs incurred by the County Sheriff's Office in removing chemicals and**  
10    **devices used in the manufacture of methamphetamine and other illegal drugs, for the**  
11    **Sheriff and Executive, and declaring an emergency.**

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13         WHEREAS, the use and manufacture of methamphetamines and other illegal drugs poses  
14    serious challenges to the health, safety and welfare of the residents of Summit County; and

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16         WHEREAS, in particular, the manufacture of methamphetamine and other illegal drugs  
17    is dangerous, and the chemicals and processes used in the manufacture of these drugs poses  
18    serious risk to the health of nearby individuals; and

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20         WHEREAS, the manufacture of methamphetamine and other illegal drugs often takes  
21    place in occupied residential properties as well as motor vehicles, hotels and abandoned and  
22    vacant commercial and residential properties; and

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24         WHEREAS, the County Sheriff's Office routinely uncovers and stops the manufacture of  
25    methamphetamine and other illegal drugs and also collaborates with other municipal and  
26    township police departments to do so; and

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28         WHEREAS, the County Sheriff's Office must remove and clean-up the chemicals and  
29    devices used in the manufacture of methamphetamine and other illegal drugs after discovering  
30    the same, thereby incurring costs to do so; and

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32         WHEREAS, due to the dangerous nature of the chemicals, devices and processes used in  
33    the manufacture of methamphetamine and other illegal drugs, the costs incurred to remove the  
34    same are often substantial; and

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36         WHEREAS, several local municipalities have enacted ordinances making the property  
37    owner responsible for the cost of their police departments for the removal of the chemicals and  
38    devices used in the manufacture of methamphetamine and other illegal drugs; and

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40         WHEREAS, this Council finds and determines, after reviewing all pertinent information,  
41    that it is necessary and in the best interest of the County to enact an ordinance making the owner  
42    of real property responsible for the costs of the County Sheriff's Office in removing chemicals  
43    and devices used in the manufacture of methamphetamine and other illegal drugs.

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45         NOW, THEREFORE, BE IT ORDAINED, by the Council of the County of Summit,  
46    State of Ohio, that:

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4 SECTION 1

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6 Section 521.11 of the Codified Ordinances of the County of Summit, entitled  
7 "Clandestine Drug Labs," is hereby enacted as follows:  
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9 **521.11 CLANDESTINE DRUG LABS.**

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11 (a) Definitions.

12 (1) "Chemical dumpsite" means any place or areas where chemicals or  
13 other materials used, intended to be used or produced in a clandestine drug lab  
14 have been located or disposed.

15 (2) "Clandestine drug lab" means a location used for the unlawful  
16 manufacture or attempt to manufacture controlled substances.

17 (3) "Clandestine drug lab site" means any place or area where the  
18 County Sheriff has determined that conditions associated with the operation of a  
19 clandestine drug lab exist. A clandestine drug lab site may include residential,  
20 commercial, industrial or institutional structures, accessory building, accessory  
21 structures, motor vehicles, a chemical dumpsite or any land.

22 (4) "Controlled substance" means a drug, compound, mixture,  
23 preparation or substance included in Schedules I through V of Section 3719.41 of  
24 the Ohio Revised Code., as amended, or any dangerous drug. Controlled  
25 substance does not include distilled spirits, wine, malt beverages, intoxicating  
26 liquors or tobacco.

27 (5) "Emergency condition" means hazardous conditions associated  
28 with a clandestine drug lab or chemical dumpsite.

29 (6) "Expense" means any expense incurred by the County Sheriff due  
30 to the use of his/her employees, agents, materials and/or equipment to investigate,  
31 mitigate, minimize, remove or abate any hazardous condition at a clandestine  
32 drug lab site or chemical dumpsite.

33 (7) "Household hazardous wastes" means wastes generated from a  
34 clandestine drug lab. Such wastes shall be treated, stored, transported or disposed  
35 of in a manner consistent with all federal, State of Ohio and/or local regulations.

36 (8) "Manufacture" means the production, cultivation, quality control  
37 and standardization by mechanical, physical or pharmaceutical means, packing,  
38 repacking, tableting, encapsulating, labeling, relabeling, filling or other process,  
39 of controlled substances. Manufacture does not include manufacturing which  
40 occurs in a pharmacy or licensed pharmaceutical manufacturing facility.

41 (9) "Owner" means any person, corporation, limited liability company  
42 or other entity that may legally hold title to land under Ohio law who alone or  
43 jointly or severally with others has legal title to any land, buildings or structures  
44 associated with a clandestine drug lab site or chemical dumpsite, with or without  
45 accompanying actual possession thereof. Owner also includes a seller or  
46 purchaser under a land contract, whether recorded or not, or the executor,  
47 executrix, administrator, administratrix, trustee or guardian of the estate of either  
48 the person with legal title or the land contract seller or purchaser.  
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4 (b) Emergency condition. Where, in the opinion of the County Sheriff or  
5 his/her designee, an emergency condition exists, the County Sheriff's Office staff, acting  
6 alone or in concert with any other law enforcement agency or public health agency, may  
7 dismantle and dispose of drug processing apparatus and/or chemicals and take any other  
8 action necessary to abate the immediate threat of the emergency condition to the health  
9 and safety of the public. The presence of an emergency condition is hereby determined  
10 to constitute an immediate threat to the health and safety of the public, and the County  
11 Sheriff need not provide notice to the owner or any other person prior to taking any  
12 action to abate the emergency condition.  
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14 (c) Costs associated to Cleanup. When the County Sheriff has taken action to  
15 abate an emergency condition as set forth in subsection (b), the owner shall be  
16 responsible for the expenses incurred by the County Sheriff in so doing, together with an  
17 administrative charge, as set forth in subsection (e), which shall be paid to the County by  
18 the owner within thirty (30) days of receipt of the notice provided for in this subsection.  
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20 Following the abatement of an emergency condition and calculation of the County  
21 Sheriff's expenses, the County Sheriff or his/her designee shall serve written notice to the  
22 owner, which shall include the following statements: (i) that an emergency condition  
23 existed on the property, (ii) that action was taken by the County Sheriff to abate the same,  
24 (iii) the expenses incurred by the County Sheriff to abate the emergency condition,  
25 together with an administrative charge, as set forth in subsection (e), and (iv) that  
26 payment for said expenses and administrative costs shall be paid by the owner to the  
27 County within thirty (30) days of receipt of the notice. Expenses associated with the first  
28 occurrence of an emergency condition submitted to the owner shall not exceed \$1,200.00,  
29 including the administrative charge as set forth in subsection(e).

30 The notice shall be served upon the owner by personal service or by certified mail  
31 at either the property at issue or the tax mailing address maintained by the Fiscal Officer.  
32 If personal service and certified mail service are not successful, then the notice may be  
33 served by posting the notice in a conspicuous location at the property at issue and  
34 mailing, by regular mail with proof of mailing, to the tax mailing address maintained by  
35 the Fiscal Officer.

36 (d) Appeal. Any person subject to a notice and order to pay the cost of  
37 abating an emergency condition under this Section may request and shall be granted a  
38 hearing on the matter before an Appeals Committee consisting of the County Sheriff or  
39 his/her designee, County Executive or his/her designee and County Council President or  
40 his/her designee.

41 (1) Filing. The person shall file with the County Sheriff a written  
42 request for a hearing and shall set forth the name, address and telephone number  
43 of the appellant and a brief statement of the grounds for the hearing and appeal  
44 from the notice and order to pay the cost of abating the emergency condition.  
45 Requests shall be filed within 7 days after the notice and order is personally  
46 served, mailed or posted, whichever occurs first, and shall be accompanied by a  
47 non-refundable deposit of \$15.00, which shall be paid to the County Sheriff.  
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5 (2) Hearing.

6 A. Upon receipt of the request for a hearing, the County  
7 Sheriff or his/her designee shall set a time and place for a hearing, and  
8 shall notify the other members of the Appeals Committee. Written notice  
9 of the hearing shall be sent by regular mail to the address provided by the  
10 appellant in the request for a hearing. The hearing shall be held within a  
11 reasonable time after a request has been filed.

12 B. At the hearing, the appellant shall be given an opportunity  
13 to be heard and to show cause why the obligation to pay and/or the amount  
14 to be paid under subsection (c) should be modified or dismissed. The  
15 failure of the appellant or his representative to appear and present the  
16 appellant's position at the hearing shall be grounds for dismissal of the  
17 request.

18 C. Upon consideration of the evidence presented at the  
19 hearing, Appeals Committee, by a majority vote, may affirm, modify or  
20 dismiss the obligation to pay or the amount to be paid under subsection  
21 (c). The appellant shall be notified in writing of the decision, which shall  
22 be sent by the County Sheriff or his/her designee by regular mail to the  
23 address provided by the appellant in the request for a hearing or to the  
24 appellant's representative.

25 D. Any person aggrieved by the decision of the Appeals  
26 Committee under division (d) of this section may seek relief pursuant to  
27 Chapter 2506 of the Ohio Revised Code.

28 (e) Administrative charge. In addition to the expenses set forth in division (c)  
29 of this section, the owner shall pay an administrative charge of \$200.00 for each time that  
30 the County Sheriff abates an emergency condition at a property, to cover the  
31 administrative costs associated with such abatement and the enforcement of this Section.  
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33 (f) Failure to pay; lien upon property. If, after thirty (30) days of receipt of  
34 the notice provided for in subsection (c), the owner has failed to make the required  
35 payment, the County Sheriff shall certify said non-payment to the County Fiscal Officer,  
36 who shall enter a lien in the amount of the total expenses and administrative charge upon  
37 the property, to be collected as other taxes and assessments.  
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39 (g) Preemption. This chapter shall be null and void on the day that statewide  
40 legislation goes into effect, incorporating either the same or substantially similar  
41 provisions as are contained in this Section, or in the event that a pertinent state or federal  
42 administrative agency issues and promulgates regulations preempting such action by the  
43 County of Summit.  
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45 SECTION 2  
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47 This Ordinance is hereby declared to be an emergency measure in the interest of the  
48 health, safety and welfare of the citizens of the County of Summit, Ohio, and for the further  
49 reason that it is necessary in order to immediately ensure, due to budgetary concerns, that the  
50 County recovers its costs when removing chemicals and devices used in the manufacture of  
51 illegal methamphetamines and other illegal drugs.  
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SECTION 3

Provided this Ordinance receives the affirmative vote of eight members, it shall take effect immediately upon its adoption and approval by the Executive; otherwise, it shall take effect and be in force at the earliest time provided by law.


SECTION 4

It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

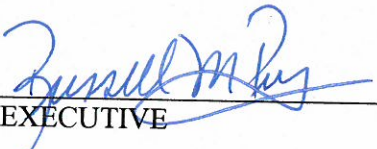
INTRODUCED June 4, 2012

ADOPTED June 18, 2012

  
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CLERK OF COUNCIL

  
\_\_\_\_\_  
PRESIDENT OF COUNCIL

APPROVED June 18, 2012

  
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EXECUTIVE

ENACTED EFFECTIVE June 18, 2012

Voice Vote: 11-0. YES: Komunale, Crawford, Feeman, Kostandaras  
Kurt, Lee, Prentice, Rodgers, Roemer, Schmidt, Shapiro