

ORDINANCE NO. 65-00

AN ORDINANCE AMENDING CHAPTER 503 OF THE CODIFIED ORDINANCES OF THE CITY OF NAPOLEON, OHIO (NUISANCE ABATEMENT) BY ESTABLISHING GENERAL PROVISIONS OF THE NUISANCE ORDINANCE; CREATING A DEFINITION SECTION, DECLARING NUISANCES AFFECTING HEALTH, NUISANCES OFFENDING DECENCY, NUISANCES AFFECTING PEACE AND SAFETY; CREATING A PROHIBITION SECTION; DEFINING UNSANITARY HABITATIONS, CREATING AN AGRICULTURAL EXCEPTION; ESTABLISHING A NEW PENALTY SECTION FOR VIOLATIONS; ESTABLISHING PROCEDURES FOR ABATEMENT; ESTABLISHING INSPECTION AND NOTICE REQUIREMENTS, HEARING REQUIREMENTS, APPEAL PROCESS AND ORDER OF ABATEMENT; ALLOWING FOR ABATEMENT WITHOUT HEARING WHEN AN EMERGENCY EXISTS; PROVISION NOT LIMITING DAMAGES IN CASE OF FAILING TO ABATE; ESTABLISHING LIABILITY FOR COSTS OF ABATEMENT; ALLOWING OTHER PROCEDURES TO BE FOLLOWED CONCERNING ABANDONED AND JUNK MOTOR VEHICLES; PROVIDING THAT OTHER ABATEMENT METHODS ARE PERMISSIBLE FOR ALL NUISANCES; PROVIDING FOR INJUNCTIONS, VIOLATIONS AND CONTEMPT; ESTABLISHING COSTS RELATED TO ABATING DANGEROUS PROPERTY AND OTHER TYPE ABATEMENTS; PROVISION ADOPTED FOR APPROPRIATION OF PROPERTY TO REHABILITATE, DEMOLISH OR SELL; ADOPTING PROVISION FOR ORDER OF ABATEMENT OR VACATION UTILIZING BOARD OF HEALTH; PROVIDING FOR ENFORCEMENT THROUGH COURT ACTION; PROVIDING FOR CONTROLLING LAW ON PRIVY VAULTS, CESSPOOLS AND SEPTIC TANKS; GIVING POWER TO THE CITY TO FILL OR DRAIN LAND; ESTABLISHING AUTHORITY TO COLLECT SERVICE OF PROCESS FEES; PROVIDING FOR METHOD OF DEALING WITH SPECIFIC TYPE OBSCENITY ACTIVITY CONSTITUTING A NUISANCE; AND, PROVIDING FOR INJUNCTIVE RELIEF FOR CERTAIN OBSCENITY AND SEX VIOLATIONS; PROVIDING FOR HEARING WHEN DEALING WITH ABANDONED OR JUNK VEHICLES ON PRIVATE PROPERTY; REPEALING LANGUAGE THAT EXISTED IN CHAPTER 503 PRIOR TO THE ADOPTION OF THIS ORDINANCE

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NAPOLEON, OHIO:
THAT,

Section 1. That, Chapter 503 of the Codified Ordinances as contained in Exhibit "A" attached is amended as follows:

GENERAL PROVISIONS

(A) The provisions of this Ordinance shall be enforceable within this City concurrently with the state and federal laws relative to sanitation and health, and the regulations, resolutions or orders of the local health district having authority within the City relative thereto, and shall not be construed as modifying, repealing, limiting, or affecting in any manner such laws, regulations or orders.

(B) The enumeration of specific nuisances in this Ordinance shall not be deemed to make lawful any other act or condition declared to be a nuisance by any other City ordinance, state law, federal law, or court decision. In addition to what are specifically declared in this Ordinance to be public nuisances, those offenses which are known to the common law and statutes of Ohio as public nuisances may, in case any thereof exist within the City limits, be treated as such and be proceeded against as is provided in this Ordinance; or in accordance with any other provisions of law.

(C) Provisions within this Ordinance shall be deemed to be an enlargement and not a limitation or restriction of the power or authority of the City or any officer thereof to take any action or bring any suit or proceeding, in respect to public nuisances, otherwise provided for by law, ordinance, resolution or rule of the City.

Section 2. DEFINITIONS: For the purpose of this Ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Whenever the word nuisance(s) is used in this Ordinance it refers to a public nuisance.

CITY: The City of Napoleon, Ohio.

COUNCIL: The City Council of Napoleon, Ohio.

NUISANCE:

- (A) That which is defined and declared by ordinances or resolutions to be such; or,
- (B) Those offenses which are known to the common law and statutes of Ohio as such; or,
- (C) Any deterioration of structural materials or lack of repair or maintenance that is a hazard to the health, safety or welfare of its occupants or the public or, is in such a condition that if not abated, will become a blighting or deteriorating factor in the neighborhood which impairs or adversely affects the value of neighboring property; or,
- (D) Unlawfully doing an act or omitting to perform a duty, which act or omission does any one (1) or more of the following:
 - (1) Annoys, injures or endangers the safety, health, comfort or repose of others; or
 - (2) Offends public decency; or,
 - (3) Unlawfully interferes with, obstructs or tends to obstruct, or renders dangerous for passage a lake or basin or any public park, square, alley, highway or street.

STORM DRAINAGE SYSTEM: (some times termed "Storm Sewer System") shall mean any stream, creek, ditch, watercourse, drainage conduit, sewer, pond, lake, drainage

easement, or topographical configuration which acts to channel the course of surface water flow; or any combination of the above; or all other natural outlets which empty into any of the above which carry storm and surface water drainage.

PERSON: Includes any individual, corporation, association, partnership, trustee, lessee, agent, assignee or another entity.

PLACE: Includes any building, erection, or place or any separate part or portion thereof or the ground itself.

Section 3. NUISANCES AFFECTING HEALTH

The following are hereby declared to be health nuisances affecting public health:

- (A) All decayed or unwholesome food offered for sale to the public;
- (B) All pools of stagnant water or vessels holding stagnant water in which mosquitoes can breed;
- (C) Carcasses of animals not buried or otherwise disposed of in a sanitary manner within twenty-four (24) hours after death;
- (D) Accumulations of manure, rubbish, litter, trash, rubble, refuse, debris, paper, combustible materials, offal or waste, or matter of any kind or form which is uncared for, discarded, or abandoned, or improperly stacked building materials all of which are potential breeding places for flies, mosquitoes or other vermin;
- (E) Leaking septic tanks or sewer lines or other sewage existing in an unsanitary manner and which could cause disease transmission;
- (F) Noxious weeds and other rank growths of vegetation upon private property that annoys, injures or endangers the safety, health, comfort or repose of others or takes away from the comfort of adjoining property including but not limited to:

(1)

Buckthorn	Perennial Sowthistle
Canada Thistle	Poison Hemlock
Corncockle	Poison Ivy
Cressleaf Groundsel	Poison Oak
Curly Dock	Poison Sumac
Dodder	Purple Loosestrife
Field Bindweed	Quackgrass
French Weed	Russian Knapweed
Hairy Whitetop	Russian Thistle
Hedge Bindweed	Serrated Tussock
Hoary Cress	Shatter Cane
Horsenettle	Wild Carrot
Johnsongrass	Wild Garlic
Leafy Spurge	Wild Mustard

Mile-A-Minute Weed
Musk Thistle
Oxeye Daisy

Wild Onion
Wild Parsnip

(2) Grapevines when growing in groups of one hundred (100) or more and not pruned, sprayed, cultivated, or otherwise maintained for two (2) consecutive years;

(3) Bushes of the species of tall, common, or European barberry, further known as *berberis vulgaris* or its horticultural varieties;

(4) Any weeds, grass, or plants, other than trees, bushes, flowers, or other ornamental plants, growing to a height exceeding twelve (12) inches; and,

(5) All vegetation at any state of maturity which:

(a) Regardless of height, harbors, conceals, or invites deposits or accumulation of refuse or trash,

(b) Harbors rodents or vermin,

(c) Gives off unpleasant or noxious odors,

(d) Constitutes a fire or traffic hazard.

(G) All buildings, walls, and other structures which have been damaged by fire, decay, or otherwise and which endanger the health, peace and safety of the public;

(H) Any solid or industrial waste, including but not limited to garbage, tin cans, bottles, rubbish, refuse, trash, construction waste or demolition waste, tree trimmings, manufacturing waste or industrial waste dumped, thrown, burned, spilled or abandoned, except such waste disposed of lawfully in a landfill or incinerator;

(I) Trees damaged or dead to the extent that a limb, tree or part could fall;

(J) Garbage cans which do not have tight fitting lids or which are contrary to the ordinances, resolutions, rules or regulations relating thereto;

(K) Any animal or animals kept or maintained in an unsanitary condition or surroundings; and,

(L) Discharge into any part of the storm drainage system of any:

(1) Untreated sewage, sewage solids, process wastewater, refuse, explosive or combustible liquid, solid or gas, oils, greases, industrial waste or other polluted water, except where a federal state or local permit for connections discharge or disposal has been obtained,

(2) Waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction which other wastes or constitute a hazard to humans or animals or to cause corrosion, discoloration or deposition structures and equipment, or,

(3) Any solid or viscous substances in such quantities or of such size capable of causing obstruction to the flow in the stormwater drainage system or other interference with the proper operation of the drainage system of the City.

Section 4. NUISANCES OFFENDING DECENCY

The following are hereby declared to be public nuisances affecting public morals and decency:

(A) All houses, buildings or places where gambling devices, slot machines, punch board and other such contrivances of similar character involving any elements of chance as a consideration or any type of gambling, bookmaking, wagering or betting is carried on, and all gambling equipment, except where such gambling is permitted by applicable law;

(B) Any place in or upon which lewdness, assignation, or prostitution is conducted, permitted, continued, or exists, or any place in or upon which lewd, indecent, lascivious or obscene films or plate negatives, film or plate positives, films designed to be projected on a screen for exhibition films, or glass slides either in negative or positive form designed for exhibition by projection on a screen, are photographed, manufactured, developed, screened, exhibited, or otherwise prepared or shown, and the personal property and contents used in conducting and maintaining any such place for any such purpose. This Ordinance shall not affect any newspaper, magazine, or other publication entered as second class matter by the post office department;

(C) Any room, house, building, boat, vehicle, structure, or place where beer or intoxicating liquor is manufactured, sold, bartered, possessed, or kept in violation of law and all property kept and used in maintaining the same, and all property designed for the unlawful manufacture of beer or intoxicating liquor and beer or intoxicating liquor contained in the room, house, building, boat, structure, or place, or the operation of such a room, house, building, boat, structure, or place as described in this paragraph where the operation of that place substantially interferes with public decency, sobriety, peace, and good order. "Violation of law" includes, but is not limited to, sales to any person under the legal drinking age as prohibited in division (A) of section 4301.22 or division (A) of section 4301.69 of the Revised Code and any violation of section 2913.46 or 2925.03 of the Revised Code.

Section 5. NUISANCES AFFECTING PEACE AND SAFETY

The following are hereby declared to be public nuisances affecting public peace and safety:

(A) All trees, hedges, signs or other obstructions, or any portion of the same, so located as to prevent persons driving vehicles approaching an intersection of streets from having a clear safe view of traffic approaching such intersection;

(B) All limbs of trees which project over a public sidewalk or street and which are less than eight (8) feet above the surface of the public sidewalk and nine (9) feet above the surface of the street;

(C) All wires over streets, alley or public grounds which are not authorized or permitted by the City or which are strung so that the lowest portion is less than fifteen (15) feet above the surface of the ground;

(D) All buildings, walls and other structures which have been damaged by fire decay or otherwise and which are so situated as to endanger the safety of the public, or which are otherwise built, erected or maintained in violation of any ordinance, resolution, rule or regulation of the City or any rule, regulation or statute of the State or Federal Government;

(E) All explosives, inflammable liquids and other dangerous substances stored in any manner, in any amount other than that permitted by rule, regulation, resolution or ordinance of the City or any rule, regulation or statute of the State of Federal Government;

(F) All loud or unusual noises and annoying vibrations which offend the peace and quiet of persons of ordinary sensibilities, including but not limited to those found in Chapter 531 of the Codified Ordinances;

(G) All hanging signs, awnings, canopies and other similar structures over the streets or sidewalks so situated or constructed as to endanger public safety or to be contrary to rule, regulation, resolution or ordinance of the City or rule, regulation or statute of the State or Federal Government;

(H) The allowing of rainwater, ice or snow, to fall from any building or structure upon any sidewalk or the causing of water to flow across a sidewalk;

(I) All barbed wire fences, except when it is the top portion of a fence that is at least six foot (6') in height, exclusive of the barb wire and for industrial and commercial purposes;

(J) Any fence charged with electricity anywhere in the City, except a low voltage underground wire used as what is commonly referred to as an "invisible fence";

(K) Any motor vehicle which meets at least one (1) of the following conditions:

(1) being a motor vehicle extensively damaged (such damage including but not limited to any of the following: missing wheels, tires, fenders, motor, or transmission), apparently inoperable, left standing more than seventy-two (72) hours, and not in a building, which becomes a potential breeding place for flies, mosquitoes or other vermin or varmint, or potential place of attraction for child play, except when the person owning the land where the motor vehicle is located is operating a junkyard or scrap metal processing facility licensed under authority of § 4707.05 through 4749.12, or regulated under the authority of the City, or if the property on which the motor vehicle is left is not subject to licensure or regulation by any governmental authority, unless the person having the right to the possession of the property can establish that the motor vehicle is part of a bona fide commercial operation; or if the motor vehicle is a collector's vehicle that is either licensed or concealed by means of building. (There shall exist a presumption that the motor vehicle is inoperable when there is not displayed a current valid license plate);

(2) leaking oil, gas, or antifreeze type fluids on the street, floor or ground which becomes a potential hazard to the environment or for fire;

(3) abandoned, left standing more than seventy-two (72) consecutive hours and not in a building, which becomes a potential breeding place for flies, mosquitoes or other vermin or varmint, or potential place of attraction for child play.

Section 6. NUISANCES PROHIBITED; HABITATION DEEMED UNCLEAN; AGRICULTURAL EXCEPTION

(A) ***Prohibition Against Nuisance in General:*** Except as provided in division (O) of this Section, no person shall create any nuisance in the City, and no person shall by inaction permit a nuisance to occur or continue on any property under such person's control, nor shall any person permit a nuisance to occur involving any personal property under such person's control.

(B) ***Prohibition Against Noxious Odors:*** Except as provided in division (O) of this Section, no person shall erect, continue to use, or maintain a building, structure, or place for the exercise of a trade, employment, or business or for keeping or feeding an animal which, by occasioning noxious exhalations or noisome or offensive smells, becomes injurious to the health, comfort, or property of individuals or of the public.

(C) ***Prohibition Against Collection of Filth:*** Except as provided in division (O) of this Section, no person shall cause or allow offal, filth, or noisome substances to be collected or remain in any place to the damage or prejudice of others or of the public.

(D) ***Prohibition Against Impeding or Polluting Waterways:*** No person shall unlawfully obstruct or impede the passage of a navigable river, harbor, or collection of water, or corrupt or render unwholesome or impure a watercourse, stream of water, or unlawfully divert such watercourse from its natural course or state to the injury or prejudice of others.

(E) ***Prohibition Against Unsanitary Habitations:*** It shall be unlawful for any person to lease, let, permit the occupancy of, permit the continuation of the occupancy of, or continue the occupancy of a structure or building or any portion thereof used for human habitation, unless such structure or building or portion thereof is free from unclean and unsanitary conditions as defined in § 6(N) of this Ordinance and unless there is compliance with the provisions of the subsequent sections.

(F) ***Prohibition Against Unsanitary Vaults:*** It shall be unlawful for any person being the owner, lessor, occupant, or person in charge of any premises upon which a privy vault, cesspool, or septic tank is located to permit such vault, pool, or tank, or any building, fixture, or device appurtenant thereto, to become foul, noisome, filthy, or offensive to neighboring property owners.

(G) ***Prohibition Against Deposit of Dead Animals, Offal Upon Land or Water:*** No person shall put the carcass of a dead animal or the offal from a slaughter house, butcher's establishment, packing house or fish house, or spoiled meat, spoiled fish, or other putrid substance or the contents of a privy vault, upon or into a lake, river, bay, creek, pond, canal, road, street, alley, lot, meadow, public ground, market place, or common. No owner or occupant of such place shall knowingly permit such thing to remain therein to the annoyance of any citizen or neglect to remove or abate the nuisance occasioned thereby within twenty-four (24) hours after knowledge of the existence thereof, or after notice thereof in writing from an "Inspector" as defined in division (D) of § 9 of this Ordinance.

(H) ***Prohibition Against Defiling Spring or Well:*** No person shall maliciously put a dead animal, carcass, or part thereof, or other putrid, nauseous, or offensive substance into, or befoul, a well, spring, brook, or branch of running water, or a reservoir of a waterworks, of which use is or may be made for domestic purposes.

(I) ***Prohibition Against Abandoned Refrigerators:*** No person shall abandon, discard, or knowingly permit to remain on premises under his or her control, in a place accessible to children, any abandoned or discarded icebox, refrigerator, or other airtight or semi-airtight container which has a capacity of one and one half (1-1/2) cubic feet or more and an opening of fifty (50) square inches or more and which has a door or lid equipped with a hinge, latch, or other fastening device capable of securing such door or lid, without rendering the equipment harmless to human life by removing such hinges, latches or other hardware which may cause a person to be confined therein. This Section shall not apply to an icebox, refrigerator or other airtight or semi-airtight container located in that part of a building occupied by a dealer, warehouse official or repair technician.

(J) ***Prohibition Against Discarding Litter:*** Discarding of Litter is controlled by §§ 331.42 and 521.08 of the Codified Ordinances; however, may also be considered creating, permitting or maintaining a nuisance under this Ordinance.

(K) ***Prohibition Against Trees and Shrubbery Obstruction:*** The pruning of trees or shrubs to prevent obstruction shall be controlled by § 917.02 of the Codified Ordinances; however, may also be considered creating, permitting or maintaining a nuisance under this Ordinance.

(L) ***Prohibition Against Dumping of Refuse in City:*** The dumping of refuse in the City is controlled by § 925.05 of the Codified Ordinances; however, may also be considered creating, permitting or maintaining a nuisance under this Ordinance.

(M) ***Prohibition Against Weeds and Litter on Private Property:*** No person owning or having charge of land within the City shall fail to keep such property free and clear from all litter, noxious weeds and rank vegetation, nor shall such person fail to cut all such weeds and vegetation on the lots owned or controlled by him or her at least twice in every year, once between June 1 and July 1 and once between August 1 and September 1, unless otherwise authorized, in writing, by the Zoning Administrator or Nuisance Officer for just cause.

(N) ***When Habitations are Deemed Unsanitary:*** A structure, building, or any portion thereof used for human habitation shall be deemed to be in an unclean and unsanitary condition when any of the following conditions exist:

- (1) Infection with communicable disease;
- (2) Absence of the toilet facilities required by law;
- (3) Presence of sewer gas;
- (4) Accumulation of dirt, filth, litter, refuse, or other offensive or dangerous substances likely to cause sickness among the occupants;
- (5) Defective or improperly used drainage, plumbing, or ventilation facilities likely to cause sickness.

(O) ***Agriculture Exceptions:*** Persons who are engaged in agriculture-related activities, as agriculture is defined in § 519.01 of the Revised Code, and who are conducting those activities outside the City, or inside the City when such activities were engaged into inside the City prior to the adoption of this Ordinance, in accordance with generally accepted agricultural practices, and in such a manner so as not to have a substantial, adverse effect on the public health, safety, or welfare, are exempt from paragraphs (A), (B) and (C) above and from any ordinances, resolutions, rules, or other enactments of the City that prohibit excessive noise.

Section 7. PENALTY

(A) Whoever violates divisions (B), (C) or (D) of § 6 of this Ordinance is guilty of a misdemeanor of the third degree. A separate offense shall be deemed committed each day during or on which a violation continues or occurs.

(B) Whoever violates division (G) of § 6 of this Ordinance is guilty of a minor misdemeanor. A separate offense shall be deemed committed each day during or on which a violation continues or occurs.

(C) Whoever violates division (H) of § 6 of this Ordinance is guilty of a minor misdemeanor.

(D) Whoever violates division (I) of § 6 of this Ordinance shall be guilty of a misdemeanor of the fourth degree. A separate offense shall be deemed committed each day during or on which a violation continues or occurs.

(E) Whoever is guilty of contempt under § 16 of this Ordinance is guilty of a misdemeanor of the first degree.

(F) Whenever, under this Ordinance, any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is otherwise provided, whoever violates any such provision shall be punished by a fine not exceeding one thousand dollars (\$1,000.00), a term of imprisonment not exceeding six (6) months, or both. A separate offense shall be deemed committed each day during or on which a violation continues or occurs.

Section 8. PROCEDURE FOR ABATEMENT

The procedure provided in this Ordinance for abatement of nuisances shall apply to all nuisances arising under the laws of the City, except in those instances where the specific procedure for the abatement of the nuisance is otherwise provided. In cases where specific procedure for the abatement exists under other provisions of the Codified Ordinances, such specific procedure shall not be deemed an exclusive procedure, but rather an additional alternative abatement procedure to the one (1) contained in this Ordinance. This procedure for abatement does not apply to abatement of nuisances on land being used under a municipal building or construction permit or license, a municipal permit or license, or a conditional zoning permit or variance to operate a junkyard, scrap metal processing facility, or similar business, or a permit or license issued pursuant to RC Chapter 3734, §§ 4737.05 to 4737.12, or RC Chapter 6111, so long as the land is being used in strict conformance with such permit,

license or variance and so long as the nuisance discovered is reasonable, usual and customarily accepted result of the activity for which the permit, license or variance was obtained.

Section 9. ABATEMENT

(A) Unless otherwise specifically provided, whenever an alleged nuisance comes to the attention of the office of the Building Inspector, Zoning Administrator, Nuisance Officer, Police Chief, Fire Chief, Fire Inspector, Health Officer, or other person designated by the City Manager, hereinafter collectively referred to as "Inspector" of the existence of a public nuisance as defined in this Ordinance, he/she shall promptly inspect or cause to be inspected the premises on which it is alleged a public nuisance exists. Should the Inspector, after such inspection find that a public nuisance does exist, he/she shall promptly notify the person from who the property records of Henry County, Ohio appears to be the owner of the property and/or premises in accordance with division (D) of this Section. The notice shall refer to the provisions of rule, regulation, resolution, ordinance or law being violated and shall state that, unless the nuisance is abated within fifteen (15) days (a shorter period of time as jointly determined by the City Manager and inspector in the case where there exists potential for physical harm to person or property), proceedings will be taken in accordance with the provisions of this Ordinance or other applicable rule or law; moreover, the City will abate the nuisance at the expense of the owner.

(B) The "Inspector" shall cause a written report to be filed with the City Manager along with any photographs thereof stating his/her findings.

(C) In all cases of nuisances the Inspector as referred to in division (A) of this Section shall cause a written notice to be served upon the person that maintains, operates or permits a nuisance, and copied to any lien holder and owner of the property if different that the person who is maintaining, operating or permitting the nuisance, which shall be substantially in the form as follows:

"Notice to Abate Nuisance

The City of Napoleon to _____

You are hereby notified that the nuisance as defined in Rule/Law/Ordinance/Resolution _____ maintained, operated or permitted to exist by you located at (address) _____ consisting of _____ must be abated by (removal) destruction (a discontinuance) of the same and that if this notice is not complied with within ____ days of service of this notice, you are directed to appear before the undersigned in Room _____ at City Hall located at _____ on _____ (date and hour) and to show cause why the same shall not be abated and that upon your failure to so appear the undersigned will take necessary steps to abate such nuisance. The cost of abatement incurred by the City shall be assessed against you, and a lien may be imposed on the property to secure such payment. If the abatement concerns a motor vehicle or other personal property, you are advised that it may be sold or disposed of in order to abate and/or to cover the cost of abatement.

Special Notice to Owner/Lienholder:

You are notified that an abatement has been initiated involving real or personal property of which you have a recorded interest; therefore, to protect your interest therein you may appear at the above noted hearing.

Dated this ____ day of _____.

/s/ _____

(Title of Signer)

A copy of the foregoing notice was served on _____ on the ____ day of _____, _____.

(manner of service)

/s/ _____

(Person serving)"

If such person(s) cannot be found, then a copy of the notice may be served by delivery to any member of the family or upon the officer or agent of the entity over sixteen (16) years of age and found on the premises described in the notice or at the residence of the person named therein and, if service cannot be had in such manner, then by posting a copy in some conspicuous place on the premises described in the notice and sending a copy certified mail, return receipt requested, to the person at the last known address. If the certified letter is not signed for within five (5) days of mailing, it is sufficient service to then send mailing by regular U.S. mail with proof of mailing. If the address of the owner or other person having charge of the land is unknown, it is sufficient to publish the notice once in a newspaper of general circulation in the county. At the time the place specified in the notice the City Manager shall hear the matter. The person so complained of shall have the right to appear in person or by counsel. At the conclusion of the hearing, the City Manager may vacate the notice, declare such condition to be a nuisance and order it abated summarily or, if impractical to do so, may abate the same in accordance with the statutes of the State then in force.

Section 10. EMERGENCIES

If any nuisance exists in such a condition so menacing to the public health, peace or safety, as determined by the City Manager after review of the report for abatement, that it is necessary that it be summarily abated, the City Manager may proceed to abate the nuisance without a hearing.

Section 11. ORDER OF ABATEMENT

In all cases where the City Manager shall have determined, after hearing, or notice of hearing and default, that any nuisance shall be abated, he/she shall issue an order requiring the abatement of the nuisance within a time named in the order, and shall have served the order of abatement upon the person who maintains, operates, or permits the nuisances. In the event the nuisance is not abated by the party himself or herself within the time provided in the order, which shall be a reasonable time under the circumstances, the City Manager shall forthwith

cause the nuisance to be abated. All expenses incurred shall, when approved by the Council, be paid out of the money in the treasury of the City not otherwise appropriated.

Section 12. APPEALS

(A) **Right to Appeal:** An appeal to the City Council may be taken by any person aggrieved where it is alleged there is an error in any order, requirement, decision or determination made by the City Manager in the enforcement of this Ordinance.

(B) **Notice of Appeal:** An appeal shall be taken within ten (10) City business days from the determination complained of by filing with the City Finance Director a notice of appeal, specifying the grounds thereof. The City Finance Director, upon receipt of notice, shall forthwith transmit to the Council and the City Manager true copies of all the paper constituting the record of the matter. Upon receipt of the record, the City Finance Director shall set the matter for public hearing before the Council. Notice of said public hearing shall be given by publication once in a news paper of general circulation in the City, and by sending regular U.S. mail to the last known address of the appealing party at least three (3) days in advance of the hearing. A thirty-five dollar (\$35.00) deposit is required for an appeal, refundable should the appealing party prevail; moreover, if expenses are incurred by the City in removing personal property as the subject of abatement, a bond covering the expense must be posted by the owner if release of the property is requested pending appeal. Said deposit and/or bond may be waived by the City Finance Director upon a showing of indigence.

(C) **Council Action:** The Council shall hold a public hearing and may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as is consistent with this Ordinance and all other applicable resolutions, ordinances and statutes. The concurring vote of a majority of the current members of the Council shall be necessary to reverse any order of the City Manager.

(D) **Stay of Proceedings:** An appeal stays all proceedings in furtherance of the action appealed from, unless the City Manager from whom the appeal is taken certifies to the Council, after the notice of appeal shall have been filed with him/her, that by reason of facts stated in writing, a stay would in his/her opinion cause imminent peril to life or property.

Section 13. DAMAGES

The fact that the City has caused a nuisance to be abated after proper procedure and default, failure or refusal of party to abate the nuisance shall in no way excuse the party from any damage which may have resulted prior thereto to any person.

Section 14. ABANDONED MOTOR VEHICLES/JUNK MOTOR VEHICLES

In addition to the methods set out in this Ordinance for abatement of nuisance, abandoned vehicles, junk motor vehicles, or abandoned junk motor vehicles may be dealt with in the manner provided by state law to wit: Chapter 4513 of the Revised Code, except when the motor vehicle is located on private property, prior to being removed therefrom by the City, such owner and/or lien holder of the vehicle shall be given notice and a right to hearing and

appeal in accordance with §§ 9,11 & 12 of this Ordinance, unless § 10 of this Ordinance applies.

Section 15. OTHER MATTER IN ABATING NUISANCES

Nothing in this Ordinance shall be deemed to limit the use of other lawful methods of abating nuisances.

Section 16. NUISANCES GENERALLY; INJUNCTIONS; VIOLATION; CONTEMPT

(A) Any person who uses, occupies, establishes, or conducts a nuisance, or aids and abets therein, and the owner, agent, or lessee of any interest in any such nuisance together with the persons employed in or in control of any such nuisance by any such owner, agent, or lessee is guilty of maintaining a nuisance and shall be enjoined as provided in RC §§ 3767.03 through 3767.06. (RC § 3767.02)

(B) In case of the violation of any injunction or closing order granted under RC §§ 3767.01 through 3767.11, or of a restraining order or the commission of any contempt of court in proceedings under such sections, the court or, in vacation, a judge thereof, may summarily try and punish the offender. The trial may be had upon affidavits or either party may demand the production and oral examination of witnesses. (RC § 3767.07)

Editors Note: Statutory reference: Abatement of nuisance, bond, see RC § 3767.03; Content of judgment and order, disposition of property seized, see RC § 3767.06; Priority of actions, evidence, costs, see RC § 3767.05; Procedure in injunction action, see RC § 3767.04

Section 17. COLLECTION OF COST OF ABATING PROPERTY CONDITION; INJUNCTION; REHABILITATION

(A) Any person who fails to remove and abate any nuisance after proper notice, the opportunity to be heard, and final order shall be liable to the City for all expenses incurred in the removal and abatement of the nuisance. The City shall have its right of action to recover such costs, and a lien on the property may be imposed to secure payment of such costs.

(B) Collection of costs of abating property.

(1) As used in this division, total cost means any costs incurred due to the use of employees, materials, or equipment of the City, any costs arising out of contracts for labor, materials, or equipment, and costs of service of notice or publication required under this Ordinance.

(2) The City may collect the total cost of removing, repairing, or securing insecure, unsafe, structurally defective, abandoned, deserted, or open and vacant buildings or other structures, of making emergency corrections of hazardous conditions, or of abating any nuisance by any of the following methods:

(a) The Council shall make a written return utilizing the services of the City Finance Director which may certify to the County Auditor of the City's action under this Ordinance, the total costs, together with a proper description of lands. The County Auditor who shall place the costs upon the tax duplicate. The costs are a lien upon such lands from and after the date of entry. These amounts, when allowed, shall be entered upon the tax

duplicate and be a lien upon such lands from and after the date of entry and be collected as other taxes and returned to the City with the general fund; or,

(b) The City may also recover through a separate civil proceeding.

(C) Injunction for Failure to Comply with Abatement Order

An injunction may be granted for failure to comply with any order of abatement. Further, no person shall erect, alter, repair or maintain any residential building, office, mercantile building, workshop or factory, including a public or private garage, or other structure, within the City unless all ordinances and resolutions enacted pursuant to RC §§ 715.26 to 715.29, inclusive, are fully complied with. In the event any building or structure is being erected, constructed, altered, repaired or maintained in violation of such ordinances, resolutions or codes, or there is imminent threat of violation, the City or the owner of any contiguous or neighboring property who would be especially damaged by such violation, in addition to any other remedies provided by law, may institute a suit for injunction to prevent or terminate such violation.

(D) Appropriation of property to rehabilitate; demolition or sale.

(1) In order to rehabilitate a building or structure that the City has determined to be a threat to the public health, safety or welfare, that has been declared a nuisance under RC Chapters 3707, 3709 or 3781, and that either has been found to be insecure, unsafe, structurally defective, unhealthful, or unsanitary under RC §§ 715.26 through 715.30 or violated a building code or ordinance adopted under RC § 731.231, the City may appropriate, in the manner provided by RC §§ 163.01 through 163.22, any such building or structure and the real property of which it is a part. The City shall rehabilitate the building or structure or cause it to be rehabilitated within two (2) years after the appropriation so that the building or structure is no longer a public nuisance, insecure, unsafe, structurally defective, unhealthful or unsanitary, or a threat to the public health, safety, or welfare, in violation of a building code or ordinance adopted under RC § 731.231. Any building or structure appropriated pursuant to this division which is not rehabilitated within two (2) years shall be demolished.

(2) If, during the rehabilitation process, the City retains title to the building or structure and the real property of which it is a part, then within one hundred eighty (180) days after the rehabilitation is complete, the City shall appraise the rehabilitated building or structure and the real property of which it is a part, and shall sell the building or structure and property at public auction. The City shall advertise the public auction in a newspaper of general circulation in the City one (1) time a week for three (3) consecutive weeks prior to the date of sale. The City shall sell the building or structure and real property to the highest and best bidder. No property that the City acquires pursuant to this division shall be leased.

Section 18. ORDER FOR ABATEMENT OR VACATION OF PREMISES

If the local Board of Health having authority in the City ascertains from examination or reports of its inspectors or sanitary officers or otherwise determines that a public nuisance, as defined in § 6(N) of this Ordinance, exists in or upon any structure or building, or portion thereof, and

has notified the owner, occupant, or person in charge of the premises to abate the nuisance or vacate the premises, it shall be unlawful to occupy or permit the occupancy of the premises or portion thereof until the nuisance has been completely abated and the building or portion thereof has been rendered clean and sanitary in accordance with the terms of the notices of the Board of Health.

Section 19. ENFORCEMENT THROUGH COURT PROCEEDINGS

Whenever the Board of Health or City Manager certifies to the City Law Director any failure to comply with any order or notice of abatement or vacation, with the request that civil proceedings for the enforcement thereof be instituted, the City Law Director shall institute any and all proceedings, either legal or equitable, that may be appropriate or necessary for the enforcement of the order or notice and the abatement of the nuisance against which the order or notice was directed. These suits or proceedings shall be brought in the name of the City. Proceedings under this Section shall not relieve any party defendant from criminal prosecution or punishment under this Nuisance Code or any other criminal law or ordinance in force within the City.

Section 20. LOCATION OF PRIVY VAULTS, CESSPOOLS, AND SEPTIC TANKS

Location and operation of privy vaults, cesspools, and septic tanks shall be controlled by the City of Napoleon Rules for Water and Sewer Service as duly adopted. Improper having, maintaining or operating a privy vault, cesspool, and septic tank, shall constitute causing, allowing or permitting a public nuisance.

Editor's Note: Statutory reference: Power to regulate refuse disposal, see RC § 715.43 Power to regulate privies, see RC § 715.40

Section 21. REMOVAL OF CONTENTS OF VAULT

Whenever any part of the waste in any privy vault or cesspool extends to a point less than three feet below the surface of the ground adjacent thereto, or whenever use of any such vault or cesspool is abandoned or where such use or maintenance is prohibited by ordinance or health order, the owner, lessor, occupant or person in charge of such premises shall cause the vault or cesspool to be emptied of its contents, thoroughly cleaned, and disinfected, and if abandoned, to be filled with clean earth or mineral matter to the level of the adjacent ground.

Section 22. POWER OF THE CITY TO FILL OR DRAIN LAND

(A) The City may fill or drain any lot or land within its limits on which water at any time becomes stagnant, remove all putrid substances from any lot, and remove all obstructions from culverts, covered drains, or private property, laid in any natural watercourse, creek, brook, or branch, which obstruct the water naturally flowing therein, causing it to flow back or become stagnant, in a way prejudicial to the health, comfort, or convenience of any of the citizens of the neighborhood. If such culverts or drains are of insufficient capacity, the City may make them of such capacity as reasonable to accommodate the flow of such water at all times.

(B) The Council may, by ordinance or resolution, direct the owner to fill or drain such lot, remove such putrid substance or other obstructions, and if necessary, enlarge such culverts or covered drains to meet the requirements thereof.

(C) After service of a copy of such ordinance or resolution, or after a publication thereof in a newspaper of general circulation in the City for two (2) consecutive weeks, the owner, or his or her agent or attorney, shall comply with the directions of the ordinance or resolution within the time therein specified.

(D) In case of the failure or refusal of such owner to comply with the ordinance or resolution, the work required thereby may be done at the expense of the City, and the amount of money so expended shall be recovered from the owner before any court of competent jurisdiction. This expense from the time of the adoption of the ordinance or resolution shall be a lien on such lot, which may be enforced by suit in the Court of Common Pleas, and like proceedings may be had as directed in relation to the improvement of streets.

(E) The officers connected with the local Health Department having authority in the City shall see that this Section is strictly and promptly enforced. (RC § 715.47)

Editor's Note: Statutory reference. List of prohibited and secondary noxious weeds, see OAC §§ 901:5-31-01 and 901:5-37-01

Section 23. FEES FOR SERVICE AND RETURN

Any marshal, police chief, police officer, sheriff, deputy, inspector or the City's finance director, may make service and return of the notice provided for in this Ordinance and shall be allowed the same fees as that provided for service and return of summons in civil cases before a magistrate.

Section 24. OBSCENE ACTIVITY CONSTITUTING A NUISANCE

Premises used or occupied for repeated violations of § 533.11 of the Codified Ordinances of the City of Napoleon or RC §§ 2907.31 or 2907.32 constitute a nuisance subject to abatement pursuant to RC 3767. (RC § 2907.37(B))

Editor's note: Statutory reference: Disseminating matter harmful to juveniles, see RC § 2907.31 Pandering obscenity, see RC § 2907.32

Section 25. INJUNCTION FOR VIOLATIONS RELATED TO DISSEMINATING OR DISPLAYING MATTERS HARMFUL TO JUVENILES

Where it appears that § 533.11 of the Codified Ordinances of the City of Napoleon or RC §§ 2907.31 or 2907.32 is being or is about to be violated, the City Law Director may bring an action to enjoin the violation. The defendant, upon his or her request, is entitled to trial on the merits within five (5) days after the joinder of the issues, and the court shall render judgment within five (5) days after the trial is concluded. (RC § 2907.37(A))

Section 26. Chapter 503 of the Codified Ordinances of the City of Napoleon as existed prior to the enactment of this Ordinance shall be repealed.

Section 27. It is found and determined that all formal actions of this City Council concerning and relating to the adoption of this Ordinance were adopted in open meetings of this City Council, and that all deliberations of this City Council and any of its committees that resulted in such formal actions were in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code and the Codified Ordinances of Napoleon Ohio.

Section 28. If any other prior Ordinance or Resolution is found to be in conflict with this Ordinance, then the provisions of this Ordinance shall prevail. Further, if any portion of this Ordinance is found to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance or any part thereof.

Section 29. Upon passage, this Ordinance shall take effect at the earliest time permitted by law.

Passed: July 3, 2000

Michael J. DeWit
Michael J. DeWit, Council President

Approved: 7-3-00

J. Andrew Small
J. Andrew Small, Mayor

VOTE ON PASSAGE 5 Yea 0 Nay 0 Abstain

Attest: Gregory J. Heath
Gregory J. Heath, Clerk/Finance Director

I, Gregory J. Heath, Clerk/Finance Director of the City of Napoleon, do hereby certify that the foregoing Ordinance No. 65-00 was duly published in the Northwest Signal, a newspaper of general circulation in said City, on the _____ day of _____, 19 ____; & I further certify the compliance with rules established in Ordinance 103 of the Codified Ordinances Of Napoleon Ohio and the laws of the State of Ohio pertaining to Public Meetings.

Gregory J. Heath, Clerk/Finance Director

**CHAPTER 503
Abatement of Nuisances**

503.01	Conditions constituting a nuisance.	503.06	Authority of city.
503.02	Additional nuisances.	503.07	Notice to owner to cut noxious weeds; remove litter; services.
503.03	Complaints, inspection of premises.	503.08	Failure to comply with notice.
503.04	Abatement of nuisances.	503.09	Junk motor vehicles.
503.05	Abatement by city.	503.99	Penalty.

CROSS REFERENCES

Power to abate - see Ohio R.C. 715.44
 Nuisances - see Ohio R.C. Ch. 3767
 Impounding vehicles - see TRAF. 303.08 et seq.

503.01 CONDITIONS CONSTITUTING A NUISANCE.

For the purpose of abating public nuisances and assessing for the cost thereof, and prescribing the conduct, whether of omission or commission, of any natural person, or business operating as a proprietorship, partnership, unincorporated association, or corporation, as owner or occupier of any lot of land within the corporate limits of the City, or of any building, house, or other structure on any such lot of land, a public nuisance shall exist when:

- (a) There is caused or permitted any such building, house, or structure to become so out of repair and dilapidated that, in the condition it is permitted to be and remain, it shall or will, if its condition is permitted to continue, endanger the life, limb, or property of, or cause hurt, damage, or injury to persons or property using or being upon the streets or public ways of the city adjoining such lot of land, by reason of the collapse of such building or house, or by the falling of parts thereof or of objects therefrom, or
- (b) There is caused or permitted any tree, stack, or other object to remain standing upon such lot of land in such condition that it shall or will, if the condition is suffered to continue, endanger the life, limb, or property, or cause hurt, damage or injury to persons or property upon the public streets or public ways adjacent thereto, by the falling thereof or of parts thereof, or materially interferes with the peaceful and lawful use, comfort, and enjoyment of owners or occupants of a proximate or adjacent lot of land or structure thereon, or

- (c) There is caused or permitted an excavation or cellar of any lot of land to be unguarded or remain in such a condition that it shall or will, if the condition is permitted to continue, endanger the life, limb, or property, or cause hurt, damage, or injury to persons using or property being used upon the public streets or public ways adjacent thereto, by falling or being cast therein, or
 - (d) There is caused or permitted the accumulation on any such lot of land or in any such building, house, or structure, of earth, rubbish, or other materials which shall or will, if the condition is permitted to continue, attract or propagate vermin or insects endangering the public health, or
 - (e) There is caused or permitted any building, house, or structure to become so out of repair and dilapidated that it constitutes a fire hazard liable to catch on fire or communicate fire because of its condition and lack of repair, or
 - (f) There is caused or permitted the accumulation on any lot of land or in any building, house, or structure, of rubbish or other materials in an amount and in a condition that it constitutes a fire hazard by reason of the likelihood of its catching on fire or communicating fire, or
 - (g) There is caused or permitted the conduct of any business thereon or therein which by reason of noxious odors generated thereby, or of smoke, dust, and dirt being cast therefrom, endangers or is harmful to the public health, welfare, or safety, or materially interferes with the peaceful and lawful use, comfort, and enjoyment of owners or occupants of a proximate or adjacent lot of land or structure thereon, or
 - (h) There is permitted any building, house, or structure to become so out of repair and dilapidated that, due to lack of adequate maintenance, or neglect, it endangers the public health, welfare, or safety, or materially interferes with the peaceful enjoyment of owners or occupants of adjacent property, or
 - (i) There is caused or permitted any loud, unnecessary, or unusual noise, or any noise which annoys, disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others, or
 - (j) There is caused or permitted any placing, throwing, or sweeping into any street, avenue, alley, park, or public ground, of any dirt, paper, nails, pieces of glass or board, fruit parings or skins, garbage, waste, leaves or clippings, ashes, cans, bottles, cans, boxes, furniture, oil, parts of automobiles, or any other matter of an unsightly or unsanitary nature, or there is caused or permitted any placing, throwing, or sweeping of such matter upon any sidewalk or street crossing, or on any driveway, or upon the floor, stairway, or hallway of any public building, theater, railway depot, railway platform, or property of another, or
 - (k) There is caused or permitted any accumulation of any paper, fruit parings or skins, garbage, waste, ashes, cans, boxes, or any other matter of an unsightly or unsanitary nature, in such manner that such matter could be blown onto any street, avenue, alley, park, public ground, sidewalk, or property of another.
- (1978 Code 92.01)

503.02 ADDITIONAL NUISANCES.

In addition to what are specifically declared in this chapter to be public nuisances, those offenses which are known to the common law and the statutes of Ohio as public nuisances may, in case any thereof exist within the city limits, be treated as such and be proceeded against as is provided in this chapter; or in accordance with any other provisions of law. Whenever the word Nuisances is used in this chapter it refers to a public nuisance. (1978 Code 92.02)

503.03 COMPLAINTS, INSPECTION OF PREMISES.

(a) Whenever complaint is made to the office of the City Manager, or the Building Inspector, or the Police Chief, or the Fire Chief, or the Fire Inspector, hereinafter referred to as "inspector," of the existence of a public nuisance as defined in Sections 503.01 and 503.02 hereof, he shall promptly inspect or cause to be inspected the premises on which it is alleged a public nuisance exists. Should the City Manager or inspector, after such inspection or after routine inspection without such complaint, find that a public nuisance does exist, he shall promptly notify the person, firm, or corporation who, from the property records of Henry County, Ohio, appears to be the owner of the premises. Said inspector shall also leave a copy of the notice with the person in possession or charge of the premises, if any, or if there be no such person, he shall post a copy of the notice on the premises. The notice shall refer to the provisions of this chapter and shall state that, unless the nuisance is abated, proceedings will be taken in accordance with provisions of this chapter.

(b) The inspector shall make a written report of his finding to the City Manager.
(1978 Code 92.03)

503.04 ABATEMENT OF NUISANCES.

In the event that the City Manager based on the written report of the inspector concurs with the inspector in finding or otherwise finds that a public nuisance exists and that the nature thereof is such as to require its abatement, the City Manager or the inspector shall cause photographs to be made of the nuisance and shall promptly cause a second written notice to be served on the owner, lessee, agent, or tenant having charge of the premises. The second written notice shall demand that the nuisance be abated by the owner or person in charge of the premises within 30 days thereafter, unless a shorter period of time is reasonable under the circumstances. If a period less than 30 days is allowed to abate the nuisance, the time to be specified shall be determined by the inspector and the City Manager. If there be no such person, the notice shall be posted on the premises. Any notice required by this section or Section 503.03 may be served on the owner personally or by certified mail return receipt requested. Any notice given pursuant to this section shall state that if the nuisance is not abated within the time stated, the City will seek permission to abate the nuisance at the expense of the owner. (1978 Code 92.04)

503.05 ABATEMENT BY CITY.

(a) Should the nuisance referred to in Section 503.04 hereof not be abated within the time stated in the second notice given pursuant to the section, the City Manager or his authorized representative shall file through the Law Director a petition in the Municipal Court requesting permission for the City to enter on the premises and abate the nuisance. After a full hearing on the petition whereat the owner or other person in charge of the premises shall be given an opportunity to be heard, if the Court is satisfied that a public nuisance does exist requiring abatement, the Court may order that the City be permitted to enter on the premises and to abate the nuisance. In abating any nuisance, the City Manager may take such action as is necessary to complete the abatement of the same, and, should it be practicable to sell or salvage any material resulting from the abatement, he may cause the same to be sold at public or private sale at the best price obtainable and keep an account of the proceeds thereof. The proceeds shall be deposited in the General Fund of the City, and any difference in the amount so received and the cost of the abatement shall be reported to the Council. The total cost of abating the nuisance less the proceeds, if any, of the sale of any material salvaged in the course of abatement may be collected by the City pursuant to the provisions of Ohio R.C. 715.261.

(b) Should the proceeds of the sale of any material salvaged in the course of the abatement exceed the cost thereof, the amount of such excess shall be paid to the owner of the premises upon the filing of a claim thereof and proof of title and right to the surplus.

(c) The City Manager may utilize any labor or equipment of the City in making the abatement or may contract for the abatement if the contract may be let without any expense to the City. (1978 Code 92.05)

503.06 AUTHORITY OF CITY.

Sections 503.01 to 503.05 shall be deemed to be an enlargement and not a limitation or restriction on the power or authority of the City or any officer thereof to take any action or bring any suit or proceeding, in respect to public nuisances, otherwise provided for by law or ordinance of the City. (1978 Code 92.06)

503.07 NOTICE TO OWNER TO CUT NOXIOUS WEEDS; REMOVE LITTER; SERVICES.

(a) As used in this section "litter" shall mean garbage, waste, peelings of vegetables or fruits, rubbish, ashes, cans, bottles, wire, paper, cartons, boxes, parts of automobiles, wagons, furniture, glass, oil of an unsightly or unsanitary nature, or anything else of an unsightly or unsanitary nature.

(b) On written information that noxious weeds are growing on lands within the City and are about to spread or mature seeds, the City Manager shall cause a written notice to be served on the owner, lessee, agent, or tenant having charge of such land, notifying him that noxious weeds are growing on such lands and that they must be cut and destroyed within five days after the service of such notice.

(c) On a finding by the City Manager that litter has been placed on lands within the City and has not been removed and constitutes a detriment to public health, the City Manager shall cause a written notice to be served on the owner, and, if different on the lessee, agent, or tenant having charge of the littered land, notifying him that litter is on the land and that it must be collected and removed within 15 days after the service of the notice.

(d) If the owner or other person having charge of the land is a nonresident of the City, whose address is known, the notice shall be sent to his address by certified mail. If the address of the owner or other person having charge of the land is unknown, it is sufficient to publish the notice once in a newspaper of general circulation in the County.

(e) This section does not apply to the land being used under a municipal building, construction permit or license, a municipal permit or license, or a conditional zoning permit or variance to operate a junk yard, scrap metal processing facility, or similar businesses, or a permit or license issued pursuant to Ohio R.C. Chapter 3734, 4737.05 through 4737.12, or Chapter 6111. (1978 Code 92.07)

503.08 FAILURE TO COMPLY WITH NOTICES.

(a) For the purpose of this section, "litter" shall have the same meaning as in Section 503.07.

(b) If the owner, lessee, or tenant having charge of the lands mentioned in Section 503.07 fails to comply with the notice required by such section, the City Manager shall cause such noxious weeds to be cut and destroyed or such litter removed and may employ the necessary labor to perform the task. All expenses incurred shall, when approved by Council, be paid out of any money in the treasury of the City not otherwise appropriated. The total cost of cutting and destroying such noxious weeds or removing such litter, may be collected by the City pursuant to the provisions of Ohio R.C. 715.261. (1978 Code 92.08)

503.09 JUNK MOTOR VEHICLES.

(a) For purposes of this section, "junk motor vehicle" means any motor vehicle meeting the requirements of Ohio R.C. 4513.63 (B), (C), (D), and (E) that is left uncovered in the open on private property for more than 72 hours with the permission of the person having the right to the possession of the property, except if the person is operating a junkyard or scrap metal processing facility licensed under authority of Ohio R.C. 4737.05 through 4797.12, or regulated under authority of the City, or if the property on which the motor vehicle is left is not subject to licensure or regulation by any governmental authority, unless the person having the right to the possession of the property can establish that the motor vehicle is part of a bona fide commercial operation; or if the motor vehicle is a collector's vehicle. (Ord. 141-96. Passed 12-16-96.)

(b) This section shall not prevent a person from storing or keeping, or restrict him in the method of storing or keeping, any collector's vehicle on private property, with the permission of the person having the right to the possession of the property, except that the City may require a person having such permission to conceal by means of buildings, fences, vegetation, terrain, or other suitable obstruction, any unlicensed collector's vehicle stored in the open. (1978 Code 92.20)

(c) The Chief of Police, the Zoning Administrator or their designees may send notice, by certified mail with return receipt requested, to the person having the right to the possession of the property on which a junk motor vehicle is left, that within ten days of receipt of the notice, the junk motor vehicle shall either be covered by being housed in a garage or other suitable structure, or shall be removed from the property. (Ord. 141-96. Passed 12-16-96)

(d) No person shall willfully leave a junk motor vehicle uncovered in the open for more than ten days after receipt of a notice as provided in this section. The fact that a junk motor vehicle is so left is prima facie evidence of willful failure to comply with the notice, and each subsequent period of 30 days that a junk motor vehicle continues to be so left constitutes a separate offense. (1978 Code 92.20)

503.99 PENALTY.

(a) Any person who shall neglect or refuse to obey a proper order issued by the City Manager or his duly authorized representative, pursuant Sections 503.01 to 503.05, shall be guilty of a minor misdemeanor for each offense. Each and every day after the time specified in any notice provided for herein that such nuisance shall be permitted to exist shall be deemed a separate and distinct offense hereunder. No proceeding under this section may be maintained unless the City Manager or his duly authorized representative shall unanimously find that a public nuisance as defined in this chapter exists and should be abated.

(b) Whoever shall violate Section 503.07 or 503.08 or fail to comply with any of the provisions hereof for which another penalty is not provided, shall be guilty of a minor misdemeanor for each offense. Each week that a condition in violation of the provisions of this chapter shall be permitted to continue shall constitute a separate offense.

(c) Whoever violates Section 503.09 is guilty of a minor misdemeanor on a first offense; on a second offense, such person is guilty of a misdemeanor of the fourth degree; on each subsequent offense, such person is guilty of a misdemeanor of the third degree. (1978 Code 92.99)

(The next printed page is page 23.)

7/14

ABSTRACT (SUMMARY) TO ORDINANCE NO. 65-00, PASSED 7/3/2000

(PURSUANT TO ARTICLE II, SECTION 2.15 OF THE CITY CHARTER, CHAPTER 121 OF THE CODE OF ORDINANCES AND COUNCIL RULE 6.2.4

AN ORDINANCE AMENDING CHAPTER 503 OF THE CODIFIED ORDINANCES OF THE CITY OF NAPOLEON, OHIO (NUISANCE ABATEMENT) BY ESTABLISHING GENERAL PROVISIONS OF THE NUISANCE ORDINANCE; CREATING A DEFINITION SECTION, DECLARING NUISANCES AFFECTING HEALTH, NUISANCES OFFENDING DECENCY, NUISANCES AFFECTING PEACE AND SAFETY; CREATING A PROHIBITION SECTION; DEFINING UNSANITARY HABITATIONS, CREATING AN AGRICULTURAL EXCEPTION; ESTABLISHING A NEW PENALTY SECTION FOR VIOLATIONS; ESTABLISHING PROCEDURES FOR ABATEMENT; ESTABLISHING INSPECTION AND NOTICE REQUIREMENTS, HEARING REQUIREMENTS, APPEAL PROCESS AND ORDER OF ABATEMENT; ALLOWING FOR ABATEMENT WITHOUT HEARING WHEN AN EMERGENCY EXISTS; PROVISION NOT LIMITING DAMAGES IN CASE OF FAILING TO ABATE; ESTABLISHING LIABILITY FOR COSTS OF ABATEMENT; ALLOWING OTHER PROCEDURES TO BE FOLLOWED CONCERNING ABANDONED AND JUNK MOTOR VEHICLES; PROVIDING THAT OTHER ABATEMENT METHODS ARE PERMISSIBLE FOR ALL NUISANCES; PROVIDING FOR INJUNCTIONS, VIOLATIONS AND CONTEMPT; ESTABLISHING COSTS RELATED TO ABATING DANGEROUS PROPERTY AND OTHER TYPE ABATEMENTS; PROVISION ADOPTED FOR APPROPRIATION OF PROPERTY TO REHABILITATE, DEMOLISH OR SELL; ADOPTING PROVISION FOR ORDER OF ABATEMENT OR VACATION UTILIZING BOARD OF HEALTH; PROVIDING FOR ENFORCEMENT THROUGH COURT ACTION; PROVIDING FOR CONTROLLING LAW ON PRIVY VAULTS, CESSPOOLS AND SEPTIC TANKS; GIVING POWER TO THE CITY TO FILL OR DRAIN LAND; ESTABLISHING AUTHORITY TO COLLECT SERVICE OF PROCESS FEES; PROVIDING FOR METHOD OF DEALING WITH SPECIFIC TYPE OBSCENITY ACTIVITY CONSTITUTING A NUISANCE; AND, PROVIDING FOR INJUNCTIVE RELIEF FOR CERTAIN OBSCENITY AND SEX VIOLATIONS; PROVIDING FOR HEARING WHEN DEALING WITH ABANDONED OR JUNK VEHICLES ON PRIVATE PROPERTY; REPEALING LANGUAGE THAT EXISTED IN CHAPTER 503 PRIOR TO THE ADOPTION OF THIS ORDINANCE

*EXISTS
per Linda*

NOTICE

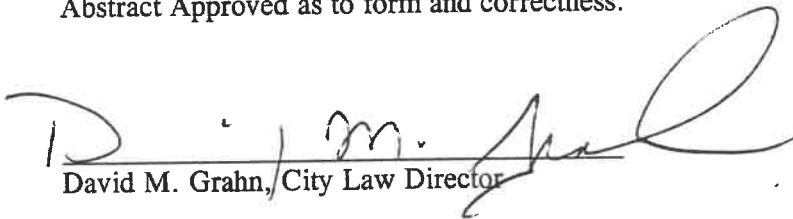
A copy of the complete text of Ordinance No. 65-00 is on file in the office of the City Finance Director. Such Ordinance may be viewed or obtained during business hours of 8 a.m. to 5 p.m., Monday through Friday, at the office of the Finance Director, the location being 255 West Riverview Avenue, Napoleon, Ohio. A copy of all or part of Ordinance No. 65-00 may be obtained from the City Finance Director upon the payment of a reasonable fee therefore.

Attest:



Gregory J. Heath, Clerk/Finance Director

Abstract Approved as to form and correctness:



David M. Grahn, City Law Director

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