



City of NAPOLEON, OHIO

255 West Riverview Avenue - P.O. Box 151
Napoleon, Ohio 43545
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www.napoleonohio.com

*Delivered
1-15-04
4PM
Personally handed
to owner in a
meeting between
CM + LD conf. Rm.*

January 29, 2004

Mayor
J. Andrew Small

Mr. Shreeji of Sturgis
Park Quality Inn
2395 Scott Street
Napoleon, Ohio 43545

RE: Park Quality Inn

Members of Council
Glenn A. Miller, President
Terri A. Williams
Michael J. DeWit
Steven C. Small
James Hershberger
Travis B. Sheaffer
John A. Helberg

City Manager
Dr. Jon A. Bisher

Finance Director
Gregory J. Heath

Law Director
David M. Grahn

Dear Sir:

Because of previous misunderstandings between the City of Napoleon and yourself, I am addressing several issues of concern of the City in this written format so at some later time there is a reference for you as to the City's position concerning these topics. Although the City has multiple concerns with the operation of the above referenced property, this letter will only address the three (3) most grave circumstances.

REDUCTION of SERVICE CHARGES

The first area that needs to be addressed is the City's position concerning utility service changes to your establishment. At a previous meeting in an effort to reduce the total water charges to your building, you asked what could be done to lower your monthly bill. After analysis of past water use, it was recommended by the City that your service be reduced from a four inch (4") meter to a two inch (2") meter. Although you would realize no savings on actual water quantity used, there would be a substantial reduction in the monthly meter charge. This course of action was agreed to by you and the City in our October 28, 2003 meeting. I agreed to change the meter and appurtenances at no charge to you. This action was accomplished by City personnel on November 11, 2003.

ADDITIONAL METERING

An additional course of action that may also be of savings to you was discussed at our October 28, 2003 meeting. That action was the separation of utilities, water and electric between you and a lessee that is in your building. The City stated that they would assist you in this separation but clearly this is an optional action that is at the discretion of you the property owner. Although there was some misunderstanding on your part as to whom would pay for this utility separation, I assure you that there was never any intent that the City would waive or grant a variance of the charges associated with the exercising of this option. The City of Napoleon Rules for Water and Sewer Service Rule 28.2 states: "the City Manager may grant a variance or exceptions" to the rules. I did not grant any exception to the fees for water tap and service lines as stated in Section 32 Appendix "A" Fees, Water Tap and Service Line Fees: paragraph (B) (copy attached to this letter).

Attached to this correspondence also is an accounting of the fees that you must pay if this water meter separation is to occur. Understand that on two (2) separate occasions, Friday January 9, 2004 and Tuesday, January 13, 2004, crews from the City were told that you and your plumber were ready to begin work. Let me be clear that before any action is taken in the future by the City, all fees and permits must be paid and obtained by you through the Building and Zoning Department located in the Napoleon Municipal Building at 255 West Riverview Avenue. I want to reiterate however, that this separation of utilities must be analyzed for pay back by you and the decision to proceed is entirely at your discretion.

This optionary discretion is NOT the case concerning the next two (2) issues.

INSTALLATION of BACKFLOW PREVENTION

The next issue is that of Backflow Prevention. The City of Napoleon Rules for Water and Sewer Service Rule 24.2 states: *"if in the judgment of the Operations Superintendent, an approved backflow prevention device is necessary for the safety of the public water system, the Operations Superintendent will give notice to the water customer and/or property owner to install such an approved device immediately. The water customer and/or property owner, at his/her own expense, shall install such an approved device at a location and in a manner approved by the Operations Superintendent and shall have inspections and tests made of such approved devices as required by the Operations Superintendent."*

This letter serves as your notice that such a backflow device must be installed on your service. This is customary when a service is upgraded or changed. Please be advised that Rule 26.7 Backflow Device Required (B) states: *"It shall be a violation of these Rules for an owner or possessor of real property, being served by City water service, to knowingly, recklessly or negligently have or continue such service of water until a suitable backflow device, as approved by the Operations Superintendent and the Ohio Environmental Protection Agency, has been properly installed and properly working."*

I want to reiterate that the installation of this device is NOT at your option and must be completed within sixty (60) days of this notice. Any coordination for this installation that you require from the City should be done through Mr. Charlie Heinze or Mr. Jeff Marihugh at the Water Department. If this action is NOT accomplished within the sixty (60) day timeframe, then Rule 27 (A) Penalty Section states: *"Any person found violating Rules 26.1 (A-1), (A-2), or (A-3); 26.2; 26.6; 26.7; 26.9; 26.11 (A-2); 26.13 or 26.16 shall be deemed guilty of a misdemeanor of the first degree and the penalties as contained in Chapter 501.99 of the Codified Ordinances of the City of Napoleon, Ohio shall apply. Each day a violation continues constitutes a separate violation"*. Although this backflow installation is of importance to the City, the final issue that I want to address in this letter is of the greatest concern to the City.

RAW SEWAGE DISCHARGE

The issue of sanitary sewer backup on your property requires your immediate action. This issue was brought to your attention in a January 9, 2004 letter to you from the Building/Zoning Division. In the letter you were ordered by the City to make these repairs within ten (10) days. At the time of this writing, January 15, 2004, no action whatsoever has been observed that indicates that these emergency repairs are being made. I repeat again that this is NOT an optional action on you the property owner's part. As was stated in the January 9, 2004 letter, if you do not comply in the ten (10) day timeframe, then you can anticipate that proceedings will be taken against you on Monday, January 19, 2004. Understand that proceedings under Nuisance Abatement Code Section 503.03(e) states: *"Penalties; any person who shall violate a provision of this code shall, upon conviction thereof, be subject to fines of up to \$500.00 and up to 60 days in imprisonment for each offense, each day the violations continue shall constitute a separate offense."*

Mr. Shreeji of Sturgis
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The Ohio Environmental Protection Agency and the Henry County Health Department have been notified of this discharge.

REVIEW of ISSUES

In conclusion, I will repeat that any additional utility metering you desire is at your option and your cost. Once any additional metering is installed either you or another party must sign a utility contract for that new account and pay the appropriate deposit. Typically, a deposit on a new commercial water/sewer account for a restaurant would be approximately \$550.00.

On the issue of backflow prevention, recall that the action is mandatory and unless specifically addressed by the Operations Superintendent, must be completed within sixty (60) days of this letter.

Of the greatest urgency; however, is the abatement of the discharge of raw sewage upon your parking lot. Action must be taken by you immediately to stop this from occurring.

We are confident that all of these issues will be resolved within the denoted timeframes to avoid any of the enforcement penalties mentioned.

Sincerely,

Dr. Jon A. Bisher
City Manager

JAB:rd
Enclosure
cc: Mayor Small
Mr. Glenn A. Miller, Council President

Records Retention - CM-5 - 1 Year