



City of Napoleon, Ohio

Zoning Department

255 West Riverview Avenue, P.O. Box 151
Napoleon, OH 43545

Mark B. Spiess, Senior Engineering Technician / Zoning Administrator

Telephone: (419) 592-4010 Fax: (419) 599-8393

www.napoleonohio.com

April 11, 2019

D & B Cole Properties, LLC
13101 Wapakoneta Rd.
Weston, Ohio 43569

Re: Notice of Violation

D & B Cole Properties,

It has been brought to my attention that the property located at 2601 Scott Street in Napoleon, Ohio is not in compliance with the conditions placed on your Special Use Permit, Chapter 1141 of the City of Napoleon Codified Ordinances, approved by the City of Napoleon Planning Commission and City Council. Attached is documentation of the Special Use Permit for reference.

Motion 69-92:

- A. That only whole, complete, undamaged and operable motor vehicles (but only as defined in (B) below) shall be displayed for sale on the permit site. No other motor vehicles shall be permitted on the permit site except those of prospective purchasers, the permit-holder and employees of the permit-holder.
- B. Only automobiles and light trucks of four wheels with the maximum one (1) capacity shall be displayed for sale on the permit site. There shall be no semi-tractors, large commercial trucks (either van type or flat-bed type), farm tractors or other motor vehicles on the permit site at any time.
- C. The permit site, at all times, shall be kept in an orderly and sightly condition as is customary for a used-car sales lot within the City.

1105.02 (f) (1) Violations

1. No person shall recklessly violate any provision of this Planning and Zoning Code or any condition or restriction contained in a conditional use permit.

1147.99 Penalties

Persons Violating. Any person found violating Section 1105.2 (f) (1) or (2) of this Planning and Zoning Code shall be deemed guilty of an unclassified misdemeanor punishable by a fine not to exceed \$1,000.00 for each violation. Each day a violation continues shall constitute a separate offense.

1105.02 (f) (5) Remedies

In addition to any penalty found in Section 1147.99, the Council, Zoning Administrator, or agent thereof, or other aggrieved person may, to the extent permitted by law, institute an action for an injunction, mandamus, or other legal proceeding to prevent a violation of this Planning and Zoning Code, and to abate any illegal condition, or to cause the removal of any illegal changes or alterations by appropriate legal means.

The Zoning Administrator may institute a suit for mandatory injunction directing a person to remove a structure erected in violation of the provisions of this Planning and Zoning Code, or to make the same comply with its terms. If said suit filed on behalf of the City is successful, the respondent shall, to the extent not otherwise prohibited by law, bear the costs of the action, including reasonable attorney fees

1105.02 (f) (4) Nuisances

Any buildings erected, raised, or converted, or land or premises used in violation of any provision of this Planning and Zoning Code, is declared to be a nuisance, and the owner thereof shall be liable for maintaining a nuisance, which may be restrained or enjoined or abated by appropriate action or proceeding

503.06 (A) Nuisances Prohibited; Habitation deemed unclean; Agricultural Exception

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

503.99 Penalty

(a) Whoever violates divisions (b), (c) or (d) of Section 503.06 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) or (m) of Section 503.06 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 Section 503.06 is guilty of a minor misdemeanor.

(d) Whoever violates division (i) of Section 503.06 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 Section 503.15 is guilty of a misdemeanor of the first degree.

(f) Notwithstanding Section 101.99 of the City of Napoleon Codified Ordinances, whenever, under this chapter, 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

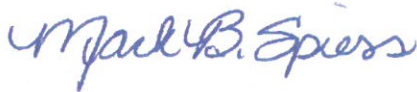
offense shall be deemed committed each day during or on which a violation continues or occurs.

Upon receipt of this notice, you are required to:

1. Abate the violation(s) or provide acceptable remedies.
2. Reply in writing to this Notice of Violation within fourteen (14) calendar days. The reply shall include:
 - a. Description(s) and date(s) of action(s) taken to abate the violation.
 - b. Description(s) and expeditious time schedules of action(s) yet to be taken to abate the violation(s).

Your written response, and any questions regarding this Notice of Violation, should be directed to my office at 255 W. Riverview Ave., Napoleon, Ohio 43545, phone: (419) 592-4010.

Yours truly,



Mark B. Spiess
Sr. Eng. Tech / Zoning Admin.
City of Napoleon, Ohio

cc: Joel L. Mazur, City Manger
Chad E. Lulfs, P.E., P.S., Director Of Public Works
Billy Harmon, City Law Director
Chief David J. Mack, Chief of Police
Kevin Schultheis, Code Enforcement Officer

MOTION NO. 69-92

A MOTION ACCEPTING THE WRITTEN REPORT, FINDINGS OF FACT AND RECOMMENDATION OF THE PLANNING COMMISSION OF THE CITY OF NAPOLEON, OHIO; AND APPROVING THE ISSUANCE OF A SPECIAL-USE PERMIT TO BARBARA HOGREFE TO PERMIT THE OUTSIDE STORAGE OF USED MOTOR VEHICLES FOR SALE AT 2601 NORTH SCOTT STREET IN THE CITY OF NAPOLEON, SUBJECT TO CERTAIN CONDITIONS.

WHEREAS, an application by Barbara Hogrefe for a special-use permit to permit the outside storage of used motor vehicles for sale at 2601 North Scott Street in the City of Napoleon, Ohio (hereinafter called "the City") was filed with the City Zoning Administrator pursuant to certain provisions of Chapter 151 of the City's Revised Code of General Ordinances; and

WHEREAS, the City Planning Commission held a public hearing on such application on July 14, 1992 (i.e. Hearing #92/12) and, as a result thereof, made certain written findings of fact and a recommendation to this City Council that such special-use permit be granted, subject to certain conditions.

NOW, THEREFORE, BE IT MOVED AND APPROVED BY THE COUNCIL OF THE CITY OF NAPOLEON, STATE OF OHIO:

Section 1. That the written report, findings of fact and recommendation of the Planning Commission of the City of Napoleon, Ohio (hereinafter called "the City") for the issuance of a special-use permit to Barbara Hogrefe to permit the outside storage of used motor vehicles for sale at 2601 North Scott Street in the City, subject to certain conditions, are accepted.

Section 2. That such special-use permit is approved, subject to the following conditions:

(A) That only whole, complete, undamaged and operable motor vehicles (but only as defined in (B) below) shall be displayed for sale on the permit site. No other motor vehicles shall be permitted on the permit site except those of prospective purchasers, the permit-holder and employees of the permit-holder.

(B) Only automobiles and light trucks of four wheels with a maximum one (1) capacity shall be displayed for sale on the permit site. There shall be no semi-tractors, large commercial trucks (either van type or flat-bed type), farm tractors or other motor vehicles on the permit site at any time.

(C) The permit site, at all times, shall be kept in an orderly and sightly condition as is customary for a used-car sales lot within the City.

(D) If the City Zoning Administrator, or his designee, determines that such special-use permit, or any condition for the issuance of such special-use permit, has been violated, the City Zoning Administrator, or his designee, shall give written notice thereof to the permit holder and such violation shall be submitted to the City Planning Commission for a public hearing. Upon hearing and upon finding that such violation occurred, or continues to occur, the City Planning Commission shall make and submit to City Council written findings of fact and shall recommend to City Council that such special-use permit be amended, suspended or revoked, or that no action be taken. Upon receipt of the City Planning

Commission's written findings of fact and recommendation, City Council shall commence action to accept, reject, modify or otherwise act upon such recommendation within thirty (30) days after receipt thereof.

Section 3. That it is found and determined that all formal actions of this City Council concerning and relating to the adoption of this Motion 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 City's Revised Code of General Ordinances.

Section 4. That this Motion shall be in full force and effect immediately after its passage.

Passed: July 20th, 1992


Steven R. Lankenau, Mayor

Attest:


Rupert W. Schweinhagen, Finance Director

HOGREFE2.MOT

Incoming Work for Law Department

Department ENGINEERING

Project VIOLATION LETTER REVIEW

Date Submitted 4-4-19 to Law dept. 4/8

Desired Date

Requesting Emergency Clause? Yes No

Requesting Suspension of the Rules? Yes No

If yes, please explain the reason for the request:


Requesting Department Head

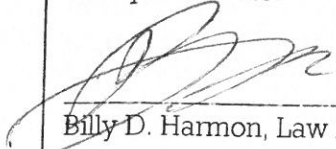
 Acting
Approved by Joel Mazur, City Manager

Comments:

FIX SPELLING & GRAMMAR & LEAVE NUISANCE PROVISIONS IN ORDER
BY TOPIC & NOT BY SEQUENTIAL ORDINANCE
NUMBER

Law Department use only:

Completed date: 4/9


Billy D. Harmon, Law Director



City of Napoleon, Ohio

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SIGHTLY?

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LEAVE
ARE THEY BEING BA
CITED FOR ANY OF
THESE SECTIONS?
IF NOT, TAKE OUT?

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