

# June

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2 7:00 pm City Council	3	4	5	6	7
8	9 6:30 pm Electric Comm. 6:30 pm BOPA 7:00 pm Water and Sewer Comm. 7:30 Muni Prop. Comm.	10 4:30 pm BZA 5:00 pm Planning Commission	11	12	13	14
15	16 6:00 pm Tree Commn. 6:00 pm Parks & Rec Comm. 7:00 pm City Council	17 8:15am Records Commission	18	19 <b>JUNETEENTH OFFICE WILL BE CLOSED</b>	20	21
22	23 6:00 Finance & Budget Comm. 7:30 Safety & Human Resources Comm.	24 4:30 pm Civil Service	25 6:30 pm Parks & Rec Board	26	27	28
29	30					



# *City of Napoleon, Ohio*

*255 West Riverview Avenue, P.O. Box 151  
Napoleon, OH 43545  
Telephone: (419) 592-4010 Fax: (419) 599-8393  
www.napoleonohio.com*

## *Memorandum*

**To:** Mayor and City Council, City Manager,  
City Finance Director, Law Director,  
Department Supervisors, News Media  
**From:** Marrisa Flogaus, Acting Clerk  
**Date:** May 30, 2025  
**Subject:** Technology and Communications Committee–  
Cancellation

The regularly scheduled meeting of the Technology and Communications Committee for Monday, June 02, 2025, at 6:30 pm has been **CANCELED** due to lack of agenda items.

City of Napoleon, Ohio  
CITY COUNCIL  
MEETING AGENDA

**Monday, June 02, 2025, at 7:00 pm**

LOCATION: Council Chambers, 255 West Riverview Avenue, Napoleon, Ohio

**A. Call to Order**

**B. Attendance** (Noted by Clerk)

**C. Prayer and Pledge of Allegiance**

**D. Swearing in of City Manager: Lori Siclair**

**E. Approval of Minutes** (in the absence of any objections or corrections, the minutes shall stand approved)  
May 19, 2025, Regular Council Meeting Minutes

**F. Citizen Communication**

**G. Reports from Council Committees**

1. The Finance and Budget Committee did not meet on May 26, 2025 due to a lack of agenda items.
2. The Safety and Human Resources Committee met on May 27, 2025 at 7:00pm and;
  - a. Discussed/ Reviewed Township EMS Cost and Revenues
3. The Technology Committee did not meet on June 2, 2023 due to a lack of agenda items.

**H. Reports from Other Committees, Commissions and Boards** (*Informational Only-Not Read*)

1. The Civil Service Commission did not meet on May 27, 2025 due to a lack of agenda items.
2. The Parks and Rec Board met on May 29, 2025 at 6:00pm and;
  - a. Approved the Fourth of July Celebration Activities and Events
  - b. Received an update on recreation programming and facility operations
  - c. Recommend to fund the \$5,800 towards the stainless steel counter tops at the concession stand

**I. Introduction of New Ordinances and Resolutions**

1. **Ordinance No. 020-25**, An Ordinance allowing ODOT to work inside City limits to remove and replace the existing pavement on US 6/24 from the US 6 interchange to the Maumee River Bridge and repair bridges within the same section; and declaring an emergency
2. **Ordinance No. 021-25**, An Ordinance providing for the issuance and sale of bonds in the maximum principal amount of \$650,000, for the purpose of paying the costs of improving the municipal fire facilities by acquiring a pumper fire truck, together with all necessary and related appurtenances thereto, and declaring an emergency

**J. Second Reading of Ordinances and Resolutions**

1. **Resolution No. 019-25**, A Resolution authorizing the transfer of certain property to wit: approximately 15.705 acres, more or less of real property, part of parcel NO. 41-110048.0000, owned by the City of Napoleon to the Community Improvement Corporation of Henry County, Ohio; and declaring an emergency

**K. Third Reading of Ordinances and Resolutions**

1. **Resolution No. 018-25**, A Resolution authorizing a community reinvestment area (CRA) agreement with Woodland Custom Home within Napoleon CRA #7; and declaring an emergency

**L. Good of the City** (Any other business as may properly come before Council, including but not limited to):

1. Discussion/Action: to award the Design Contract for the Maumee River Waterline Crossing
2. Discussion/Action: April 2025 Replacement Pages for the Codified Ordinances of Napoleon (Direct the Law Director to Draft Legislation)
3. Discussion/Action: Appointment of James Andrew Small to the Records Commission
4. Discussion/Action: to Accept a donation of \$1,500.00 from the Napoleon Eagles to the Police Department for summer youth activities

5. Discussion/Action: to Accept a donation of \$1,000.00 from Goodville Mutual Casualty Company to the Police Department for summer youth activities
6. Discussion/Action: Approval of the City of Napoleon Finance Director to enter into an agreement with Squire Patton Boggs for the purchase of the fire equipment bond not to exceed \$13,500

**M. Executive Session**

**N. Approve Payments of Bills** (In the absence of any objections or corrections, the payment of bills shall stand approved.)

**O. Adjournment**



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Marrisa Flogaus, Acting Clerk

**A. ITEMS REFERRED OR PENDING IN COMMITTEES OF COUNCIL**

1. **Technology & Communication Committee (1<sup>st</sup> Monday)**  
*(Next Regular Meeting: June 2, 2025 @ 6:15 pm)*
2. **Electric Committee (2<sup>nd</sup> Monday)**  
*(Next Regular Meeting: Monday, June 09, 2025 @ 6:30 pm)*
  - a. Review of Power Supply Cost Adjustment Factor for June 2025
  - b. Electric Department Report
3. **Water, Sewer, Refuse, Recycling & Litter Committee (2<sup>nd</sup> Monday)**  
*(Next Regular Meeting: Monday, June 09, 2025 @7:00 pm)*
4. **Municipal Properties, Buildings, Land Use & Economic Development Committee (2<sup>nd</sup> Monday)**  
*(Next Regular Meeting: Monday, June 09, 2025 @7:30 pm)*
5. **Parks & Recreation Committee (3<sup>rd</sup> Monday)**  
*(Next Regular Meeting: Monday, June 16, 2025 @6:00 pm)*
6. **Finance & Budget Committee (4<sup>th</sup> Monday)**  
*(Next Regular Meeting: Monday, June 23, 2025 @6:30 pm)*
7. **Safety & Human Resources Committee (4<sup>th</sup> Monday)**  
*(Next Regular Meeting: Monday, June 23, 2025 @7:30 pm)*
8. **Personnel Committee (as needed)**

**B. Items Referred or Pending in Other City Committees, Commissions & Boards**

1. **Board of Public Affairs (2<sup>nd</sup> Monday)**  
*(Next Regular Meeting: Monday, June 09, 2025 @6:30 pm)*
  - a. Review of Power Supply Cost Adjustment Factor for April 2025
  - b. Electric Department Report
2. **Board of Zoning Appeals (2<sup>nd</sup> Tuesday)**  
*(Next Regular Meeting: Tuesday, June 10, 2025 @4:30 pm)*
3. **Planning Commission (2<sup>nd</sup> Tuesday)**  
*(Next Regular Meeting: Tuesday, June 10, 2025 @5:00 pm)*
4. **Tree Commission (3<sup>rd</sup> Monday)**  
*(Next Regular Meeting: Monday, June 16, 2025 @6:00 pm)*
5. **Civil Service Commission (4<sup>th</sup> Tuesday)**  
*(Next Regular Meeting: Tuesday, June 24, 2025 @4:30 pm)*
6. **Parks & Recreation Board (Last Wednesday)**  
*(Next Regular Meeting: Wednesday, June 25, 2025 @6:30 pm)*
7. **Privacy Committee (2nd Tuesday in May & November)**  
*(Next Regular Meeting: Tuesday, November 11, 2025 @10:30 am)*
8. **Records Commission (2<sup>nd</sup> Tuesday in June & December)**  
*(Next Regular Meeting: Tuesday, June 17, 2025 @ 8:15am)*
9. **Housing Council (1<sup>st</sup> Monday after the TIRC meeting)**
10. **Health Care Cost Committee (as needed)**
11. **Preservation Commission (as needed)**
12. **Napoleon Infrastructure/Economic Development Fund Review Committee (NIEDF) (as needed)**
13. **Tax Incentive Review Council**
14. **Volunteer Firefighters' Dependents Fund Board (as needed)**
15. **Volunteer Peace Officers' Dependents Fund Board (as needed)**
16. **Lodge Tax Advisory & Control Board (as needed)**
17. **Board of Building Appeals (as needed)**
18. **ADA Compliance Board (as needed)**

**City of Napoleon, Ohio**  
**City Council Meeting Minutes**  
**Monday, May 19, 2025, at 7:00 pm**

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**Present**

Council Members	Ross Durham-Council President, Brittany Schwab-Council President Pro-Tem, Ken Haase, Robert L. Weitzel, Tom Weaver, Jordan McBride, Dr. David Cordes
Mayor	Joseph Bialorucki
Acting City Manager	Chad Lulfs
Law Director	Billy Harmon
Clerk of Council	Marrisa Flogaus
City Staff	Justin Ruffer- Assistant Police Chief, David Bowen- Fire Chief, Trevor Ashbaugh- Fire Lieutenant, Marcus Hennig- Patrol Officer, Jaiden Falke- Patrol Officer, Tony Cotter- Parks and Rec Director
Others	News-Media

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**Call to Order**

Council President Durham called the City Council meeting to order at 7:00 pm with the Lord's Prayer followed by the Pledge of Allegiance

**Swearing in of Patrol Officer: Jaiden Falke and Marcus Hennig**

Mayor Bialorucki swore in Patrol Officers Jaiden Falke and Marcus Hennig

**Approval of Minutes**

In the absence of any objections or corrections, the minutes from the May 05, 2025, meeting were approved as presented.

**Citizen Communication- None**

**Reports from Council Committees**

The Electric Committee did not meet on May 12, 2025 due to being canceled by the chair.

The Water, Sewer, Refuse, Recycling and Litter Committee met on May 12, 2025 at 7:00pm to discuss a billing dispute at 146 W. Maumee Avenue and; recommended 50 % Credit to Water and Sewer for the billing months of March and April.

The Municipal Properties, Building, Land Use and Economic Development Committee did not meet on May 12, 2024 due to lack of agenda items.

The Parks and Recreation Commission did not meet earlier tonight due to lack of agenda items.

**Introduction of new Ordinances and Resolutions**

**Resolution No. 019-25- Property Transfer to CIC**

Council President Durham read by title Resolution No. 019-25, a Resolution authorizing the transfer of certain property to wit: approximately 15.705 acres, more or less of real property, part of parcel NO. 41-110048.0000, owned by the City of Napoleon to the Community Improvement Corporation of Henry County, Ohio; and declaring an emergency

Motion: Haase                      Second: Weitzel  
to approve first read of Resolution No. 019-25

Lulfs stated this is the property that located at 1602 Glenwood Ave. It was originally purchased several years ago for a potential site for a new water plant. At that time it was determined that the cost to build new was going to be 1.5-2 the cost of rehabbing our existing plant, so we went forward with rehabbing our existing plant. We then utilized a portion of the property to relocate a pump station that had to be replaced. The remaining property has sat vacant since. At one time there was consideration of building a

road through that road over to Scott. St. However, with the upcoming rehabilitation of RT. 24 the underpass area that we owned was split off and sold to the State of Ohio to help make the rehabilitation of Rt. 24 easier. With that the City no longer has a purpose for the property, so this legislation would allow us to transfer it to the CIC for potential sale.

Roll call vote on the above motion

Yeas- Schwab, Durham, Haase, Weitzel, McBride, Weaver, Cordes

Nays-

Yeas-7, Nays-0. Motion Passed.

### **Second read of Ordinances and Resolutions**

#### **Resolution No. 018-25- Woodland Custom Home CRA**

Council President Durham read by title Resolution No. 018-25, a Resolution authorizing a community reinvestment area (CRA) agreement with Woodland Custom Home within Napoleon CRA #7; and declaring an emergency

Motion: Weitzel            Second: Schwab  
to approve Second read of Resolution No. 018-25

Lulfs stated there are no changes to this. This is the CRA agreement with Woodland Custom Home for three lots on Hudson St. They'll build three residential family homes.

Roll call vote on the above motion

Yeas- Schwab, Durham, Haase, Weitzel, McBride, Weaver, Cordes

Nays-

Yeas-7, Nays-0. Motion Passed.

### **Third read of Ordinances and Resolutions-None**

#### **Good of the City (discussion/action)**

#### **Approval of the Power Supply Cost Adjustment Factor for May 2025 as PSCA 3- month averaged factor \$0.01585 and JV2 \$0.043782**

Garringer stated this is in line with typically May pricing. There's really nothing more that's skewing these numbers. It's a little bit below the last two Mays that we've had. I would ask that Council approve.

Motion: Schwab            Second: Weaver  
to approve the Power Supply Cost Adjustment Factor for May 2025 as PSCA 3- month averaged factor \$0.01585 and JV2 \$0.043782

Roll call vote on the above motion

Yeas- Schwab, Durham, Haase, Weitzel, McBride, Weaver, Cordes

Nays-

Yeas-7, Nays-0. Motion Passed.

#### **Approval of the Plans and Specifications for the Pool and Golf Course Storage Building**

Lulfs stated the Parks and Recreation Director, Tony Cotter, is here, so I'll let him talk about his proposed building. Cotter stated this item was in the 2025 Budget. We're asking for approval of the Plans and Specification so we can build a 40X100 building located just west of the pool catty-cornered from the back side of the clubhouse. The building would be utilized for storage of miscellaneous pool and golf course items. Many of which our outside, especially golf course items. This is the best area that we have. Schwab asked what the bid came in at. Cotter replied the engineers estimate is \$160,000. Schwab asked for confirmation that this has not been out to bid. Lulfs replied this is the approval of the

specifications. It's a design build project, so we will advertise this later in the week and we will receive bids within 3-4 weeks. Then we'll bring the bids back to Council with a recommendation. I know Cotter worked on this with the former City Manager, Andrew Small. I tried to help where I could. There have been several iterations of this building to try to get it within their approved budget number. Cotter stated we'll wait for the golf season to end, so we won't ask for the building to start until after November 1st with a completion date in 2026.

Motion:                      Second: Weitzel  
To approve the Plans and Specifications for the Pool and Golf Course Storage Building

Roll call vote on the above motion  
Yeas- Schwab, Durham, Haase, Weitzel, McBride, Weaver, Cordes  
Nays-  
Yeas-7, Nays-0. Motion Passed.

**Direct the Law Director to draft the appropriate legislation to permit the Ohio Department of Transportation (ODOT) to rehabilitate US 6/24 and complete bridge repairs (ODOT PID: 110524 HEN US 6/24 11.32/4.62) inside the City of Napoleon Corporation limits.**

Lulfs stated this came in late last week. I apologize not getting anything in your packet regarding this. It showed up from ODOT. As I mentioned they're going to be doing some rehabilitation on US 6/24. They have several bridge replacements, including the one over the property we used to own where Fosters used to have the drive through and rail crossing. The limits from the project are from RT 6 out near Westmoreland to the RT 6 river bridge. Anytime ODOT wants to work within the City's Corporations Limits they require legislation from the local municipality. They are requesting to have the legislation in their hands by September 1<sup>st</sup>. There will be no cost to the City for this project.

Motion: McBride              Second: Haase  
to direct the law director to draft legislation

Roll call vote on the above motion  
Yeas- Schwab, Durham, Haase, Weitzel, McBride, Weaver, Cordes  
Nays-  
Yeas-7, Nays-0. Motion Passed.

**Purchase of a fire truck**

Motion: Haase              Second: Schwab  
to un-table the discussion of the Purchase of a fire truck

Roll call vote on the above motion  
Yeas- Schwab, Durham, Haase, Weitzel, McBride, Weaver, Cordes  
Nays-  
Yeas-7, Nays-0. Motion Passed.

Bowen stated after tabling last meeting the Finance Director and I had some work to do. Since that time I have met with 2 of the 3 townships. Harmon had some work to do as well and he did outstanding at it. I had two of the townships sign Addendum #2 for putting their money up front. Napoleon Township has given me a verbal that they will sign theirs tomorrow at their meeting. The only thing we would be financing would be the \$650,000 or if we decided to do a budget adjustment out of the 242 Capital Equipment account it would be \$550,000. Other than that nothing has changed in the specs. The Council President sent out the list of questions he had and I sent back my responses (see attached). Does anyone



have any questions or concerns with those responses. Durham stated I really appreciate all the time you put into dissecting the need. For those of us who aren't on the Safety and Human Resource Committee I think those answers painted a full picture for us. I'm very thankful for your time in that. Durham asked if we could make those questions available. Harmon replied I would absolutely. Lulfs stated if that not something we can do we can include it in the next council packet if legislation is drafted. Garringer stated I reached out to Squire Patton Boggs who we've done work with before. They would be the bonding company we'd want to use to work through the process of obtain our debt. We last used them in 2020-2021 when we refinanced the water fund and pool debt. They're familiar with Napoleon and their process, so we would want to hire them to walk us through the process. With talking with them the leasing option, which isn't a bad idea doesn't count towards our debt limit. If we do what called private placement, which I would advise us to do because it would be cheaper. It would county towards our debt limit. As a City we are only allowed to have so much debt. It's a percentage, but I'm being told by Squire Patton Boggs that we are well below our debt limit. Makes me nervous because I can tell you that we have over \$11 million in debt, but I'm also being assured by the experts that we're in good shape. If we go private placement we can only go 10 years. If we go lease we could possible get 15, but I would have to get clarification. Again, I'm stating we should probably go private placement just because the interest rate would be far less. There's going to be a cost for issuance to have Patton Boggs and a company called Sudsina who helps us get our debt. We have to pay them to get the process. Picture it like a closing cost for a mortgage. We will have a little cost to that. It's been estimated up towards \$30,000 depending on how much you're loaning out. This was originally calculated over \$1 million, but now were looking less than that. We need to tone into how much we're going to put down. We're going to tone in on how much we have to finance. We can get there. Right now, we have June 1<sup>st</sup> as a date the truck could increase 2.5-3%. Once we pass that date we can get more in tune with that. If we get the addendums of the townships paying that would go towards the principal. Those are positive signs that for sure we'll get the money for that. There was some discussion instead of putting \$250,000 down we could put \$350,000. I would encourage this if Council would like to. That's another \$100,000 in the fire equipment fund that could go towards the truck. The less money you borrow the less you have to in interest and the cheaper your payment would be. The other thing that going to take place. I'm not telling you to do one thing or another. If you go one read and suspend the rules that's sooner they can go to the market. If you go three reads they can't go to the market for another 30 days. What I mean by go to market is if they go today it could be 4% and if you go out another 30-45 days it could be 3.5 or 4.5%. There are a little bit of variables, but were getting within range of what we want to do. If we want to continue with the purchasing of the truck I would ask to have the law director enact legislation for the next meeting. Harmon and I talked about how Squire Patton Boggs would help us with that process. I'll just mention that we should make a decision on \$250,000 or \$350,000 for the down payment. I'll just throw out suggestions. You guys could discuss that here or you could refer it to the Finance and Budget Committee meeting, but I'm afraid that might just prolong the process. I would say that the 242 Fund has an unencumbered balance of \$547,000. So my advice would be to go to \$350,000 and we would still be okay. Chief, do you have anything to add. Bowen replied no, I heard direct the law director to draft legislation. Harmon stated with that I'm going to ask you to draft the addendum that I already drafted. I wanted things to move, so I put together a quick addendum that locks in the townships contribution and protects the City at the same time as far as ownership and various other things. That's been drafted and handed off. Durham stated we need to make a final determination on the initial down payment. I agree with what Councilman Weitzel said last meeting. I think we can up that down payment to \$350,000. Like the Finance Director said this evening it's less that we have to finance. That's my personal opinion, but I'm open for discussion. Schwab replied I agree. I feel with putting the extra \$10000 down it's going to be more beneficial in the long run.

Motion: McBride

Second: Cordes

To direct the law director to draft the appropriate funding financing legislation in conjunction with Squire Patton Boggs pursuant to the finance directors recommendations

Roll call vote on the above motion

Yeas- Schwab, Durham, Haase, Weitzel, McBride, Weaver, Cordes

Nays-

Yeas-7, Nays-0. Motion Passed.

Motion: McBride Second: Cordes

To direct the law director to draft an addendum to the fire contracts with the townships

Roll call vote on the above motion

Yeas- Schwab, Durham, Haase, Weitzel, McBride, Weaver, Cordes

Nays-

Yeas-7, Nays-0. Motion Passed.

### **Around the Table**

Garringer- I appreciate our fireman coming out to show their support. I also appreciate what they had to deal with this past weekend with the fire on E. Main St. great job for containing it and doing everything you could to make sure everyone was safe.

Weaver- I agree with Garringer comment.

Cordes- I agree with Garringer.

Schwab- I'm going to steal Garringers as well.

Bialorucki- We received a letter from the American Legion Bert G. Taylor Post 300 inviting Council members to join them in observing Memorial Day in Napoleon. On Monday their going to have their event that they do every year at 10:00am. This year they're going to do something different. They're going to start on the river bridge at 10:00am where they'll recognize those who lost their life at sea. They'll throw a wreath into the river. Then they'll proceed to the Henry County War Memorial for the main service. They are asking how many of us are planning on attending. I look forward to this. I used to look forward to cooking out, golf and other things on Memorial Day. I've attended this 8 years in a row now and I would never miss it. It's awesome, so if you guys have time please come out and join. Let me know after the meeting if you think you'll attend. Anyone else who wants to come out your welcome to join. I also want to thank Flogaus for being our acting clerk. She's probably doing triple duty with Ramirez leaving, so thank you. I know your new City Manager is on vacation, so you're doing a lot of things. Thank you very much. Also, what Garringer said about the fire this weekend. Thank you all for your service and everything you do. Also, thank you to Ridgeville, Liberty Center, Malinta, Hamler and McClure fire departments for supporting us with that.

Haase- I think everything's been covered.

Weitzel- Nothing for me.

McBride- Echo what Garringer said about the work Chief and his team have done to inform us about the fire truck and the patience to get us to understand why, how and when. I appreciate all that. It made it a lot easier on us, so thank you for all of that.

Harmon- Nothing additional. Thank you.

Lulfs- I want to mention to Chief Bowen and his staff that I'm very aware of how much time that could take. It's a lot. Nice job, there's light at the end of the tunnel. One thing I did want to mention. Late last week the electric department sent 4 of our guys and 2 trucks to Lansing for mutual aide. I'm not certain how long they'll be up there but well continue to monitor. Just keep every in your thoughts. Sicclair is out through Friday, May 23. She'll be back just in time for a holiday.

Durham- I just want to thank Lulfs for being out here tonight. I'll echo the Mayor comments earlier.

**Approve Payment of Bills and Financial Reports (In the absence of any objections or corrections, the payment of bills and financial reports shall stand approved)**

Haase stated I have a question. On page 3 there was a \$29,000 payment for a sewer backup. Lulfs replied we had a storm event in February. There was a resident on Jahns Rd. whose house was connected the sanitary sewer. It was discovered that the City's main was plugged up and we flooded their basement with the unfriendly type of sewer water. We have been working with them for several months now. They received several quotes to repair the basement. We reimburse the cleaning cost as well as the lowest quote they received. I appreciate their patience with us to work through that process. We did take off the amount that their insurance covered. I can tell you that the total cost is not quite double what we're covering, but its close.

**Adjournment**

Motion: Schwab                      Second: Haase  
to adjourn the City Council meeting at 7:33 pm

Roll call vote on the above motion

Yeas- Schwab, Durham, Haase, Weitzel, McBride, Weaver, Cordes

Nays-

Yeas-7, Nays-0. Motion Passed.

**Approved**

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J. Ross Durham, Council President

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Joe Bialorucki, Mayor

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Marrisa Flogaus, Acting Clerk

City of Napoleon Council Members,

At the request of President Durham, I have provided answers to some questions on specific topics he had after the most recent Council Meeting.

**Operational Need & Functionality**

**• *How does this new truck improve our current response capabilities compared to our existing fleet?***

A: The purchase of this apparatus greatly enhances our capabilities. The additions that were added to this piece of apparatus fit “today’s” fire department. The current Engine 805 has limited space to carry the additional equipment that is vital to our mission. The improvements that have been made to equipment allow us to have more battery powered equipment that increases productivity and allows us to provide a better service while saving weight, space and time. The current E805 was not built with charging capabilities in mind. The current E805 does not have a foam system which creates more equipment having to be carried on the apparatus to be able to produce this added product to the water supply. With today’s fire service becoming more and more EMS driven, the new engine will be able to accommodate the rising need for EMS in the fire service. Currently, we are only able to provide very basic life support out of E805. The goal for the new engine will have an EMS component to allow members to perform full advanced life support operations apart from transporting the patient. This will allow for a better service being provided to our citizens. The purchase of this new engine will also extend the life of our current front-line engine while affording our members and the citizens a more capable, better serviced, more reliable reserve/mutual aid engine. With the recommended service life of a fire engine being identified by NFPA as 25 years (15 years front line, 10 years reserve), this allows for E811 (2007), to still serve the organization in a reserve mutual aid role as it is more reliable and better equipped than the current E805.

**• *What specific operational gaps or issues are we addressing with this purchase?***

A: Currently when E811 (front line engine) goes down for something as simple as routine service, we limit our abilities to provide the same level of service. This new engine is almost a mirror to E811. It is a different manufacturer as the current front-line engine (American LaFrance) filed for bankruptcy not long after we took delivery of E811. With the age of E811 (18 years) things tend to break or need attention. There are times when this takes multiple

days as parts are becoming harder and harder to come by with the company no longer in business. Due to our response area, there is a need to have a fully functional reserve engine in the fleet that is comparable to the front-line apparatus.

As previously stated, the current E805 was not built for today's fire service. Things have been added to it, in an attempt to bring it up to our needs, but that has come with its own problems. This apparatus has been on fire 3 times, due to electrical issues. Once was due to the lights in the cabinets which, were an issue from the manufacturer, once was due to an overloaded wire ran to an inverter from the batteries then to a power strip, and once was due to a solenoid shorting out on the apparatus. I understand that 2 of these issues could happen to any apparatus, but the third was an issue caused by trying to make this dated apparatus meet our needs. Now, I don't recall and cannot find whether this addition was done by City personnel or by a 3<sup>rd</sup> party as it was many years ago, but I do know that while installing the new radio into this apparatus, A/C Stiriz and I dug into the wiring a little bit and honestly can't believe this has not been a more frequent issue.

As with any fleet, in any municipality or in the private sector, a replacement plan for equipment needs to be in place. Things wear out, things break, things become outdated. We have gotten away from this over the years and unfortunately it is on our shoulders to right the course.

More importantly, we are addressing firefighter safety. Standards (NFPA 1901) in the fire service have changed greatly since current E805 was placed in service. The current E805 was built to the standard at that time. This new engine will be built with firefighter safety in mind. From safety while responding with the addition of airbags, to additional lighting for safety on scene, the apparatus committee had our most important asset in mind, our firefighters.

• ***How often would we expect to use this new truck in a typical year?***

A: E811 has responded to an average of 205 calls per year for the past 5 years or approximately 1 response every other day. The new engine will be a front-line engine and respond to a similar call volume.

- ***Will, and if so, how will this truck allow us to respond to calls more efficiently or expand the services we provide?***

A: Having the ability to carry more equipment allows for this new engine to respond more readily to a larger variety of calls, thus making it more efficient while expanding the services that can be provided out of a fire engine.

### **Cost & Budget Justification**

- ***If we set a maximum budget of \$1,100,000, can your preferred truck configuration stay within that?***

A: Our preferred engine proposal was \$1,495,000, which meets present and future department needs and the updated safety regulations of the NFPA. We were able to trim as needed, and where possible, to get the price to \$1,109,799, but this does not include any fees or interest charges. The engine at that price will meet the present needs of the department as well as the safety regulations of the NFPA. I would ask that the budget be set at \$1,110,000.

- ***Are there any non-essential components or features you're willing to eliminate to reduce the price?***

A: It is my belief that all non-essential components have already been eliminated from this new engine. Some things that have been cut could be seen as preventative or beneficial, but maybe not essential as we currently are working without them.

- ***Have you received any quotes from competing manufacturers or dealers to compare cost/value?***

A: We have received quotes from Pierce and Sutphen. These two manufacturers, as explained in our previous meetings, were recommended by the apparatus committee. Sutphen is the cheapest of the 2 and has a shorter lead time on delivery of the engine. The committee did look at multiple manufacturers but were not convinced that those manufacturers could meet our needs.

• ***How do you recommend we pay for this truck?***

A: Ultimately, I wish there was a way that we could make this purchase without having to finance it. I say this because we are going to be starting the process of replacing a 25-year-old ladder truck in the future and I just don't like stacking payments. In looking at what we are going to potentially be spending on interest, I support Councilman Weitzel's suggestion. If we are going to finance this new engine, we should make a budget adjustment out of the 242 account and supply a larger down payment to keep the payments as low as possible. The 242 account was designed for these types of purchases and that is where the money should come from. Currently, this account cannot absorb the extreme inflation that happened to fire apparatus without changes. We have a plan now and I am working diligently at researching revenue ideas to support that plan, so it has the least impact on the general fund as well as the public.

• ***Is this purchase eligible for any state, federal, or grant-based cost offsets?***

A: Yes, we applied for the AFG grant and we were denied. We paid a professional grant writer to submit it for us as this was an attempt to secure \$1,000,000. We felt we had a good chance, but we did not score anywhere near high enough to receive any funding. The plan to move forward is to try again when it comes time to replace the ladder truck, as well as when we need to replace our air-packs.

**Fleet Planning & Long-Term Impact**

• ***What's the anticipated service life of this truck?***

A: The plan is to get back into a rotation that maximizes the service life of all apparatus. Aside from something out of the ordinary happening to this apparatus, the anticipated service life for this apparatus would be 25 years.

• ***Are there any upcoming capital equipment needs that council should begin preparing for after this purchase?***

A: Yes, as previously stated, we will be facing replacement of the ladder truck in the next few years. Air-packs are at the end of their 15-year service life in 2028, and Medic 804 is scheduled to be replaced in 2029. We will be looking to replace the extrication equipment that is currently on E805 closer to the delivery of the new truck as the set that is on that truck will be 20+ years old.

With the building, we are looking at the need to replace the front apron as it is beginning to crumble and fall apart. The east side parking lot was recommended by our crack sealing company to be replaced. I am researching when that asphalt was originally placed but it is continuing to crack and crumble. We have multiple entry doors on the east side of the building that are rusting out of their casings and are not sealing correctly. These are not things that will need to be done immediately, but my focus when I became Chief was to work on things methodically. First, we needed to get people, and we have done a good job of recruiting and retaining employees. Next, we wanted to work on a replacement plan for apparatus. We are getting there. Then it was to work on the building. I don't want a new building, there is a lot of history here and I love being on the river. I'd rather rehab this building if possible and stay right here.

***• What maintenance or annual operating costs do you project for this truck compared to what we currently use?***

A: Knowing the repairs that are needed to the current engine 805, I would say the cost would be less. Also, there are standard warranties that come with the purchase of a new apparatus that will help with costs. Looking at the ambulances, our annual costs for repairs over the past couple of years have been low due to most of the repairs other than preventive being covered by recall or under warranty.

**Community & Mutual Aid Benefit**

***• Will this truck be shared through mutual aid with neighboring jurisdictions?***

A: This new engine will not be shared through mutual aid unless necessary. E811 will be the primary engine used for mutual aid calls. That's not to say it won't happen, because if the crew is out on a PR event or training and a call for a mutual aid fire comes in, they are not going to return to the station, they will respond from their location.

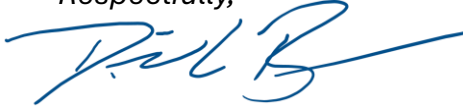
***• Does this purchase position us as a more valuable regional partner in emergency response?***

A: It absolutely does. This allows us to place a more reliable, capable, and functional engine in the position of reserve/mutual aid.



*I appreciate these questions and hope I have answered them sufficiently. Should you have any further questions, concerns, or would like further clarification on these responses, please feel free to reach out to me.*

*Respectfully,*

A handwritten signature in blue ink, appearing to read "D. L. Bowen", with a long horizontal flourish extending to the right.

*Chief David L. Bowen*

**PRELIMINARY LEGISLATION**  
(CONSENT)

Ordinance No. : 020-25

PID No. : 110524

County/Route/Section : HEN US 6/24 11.32/4.62

The following is an Ordinance enacted by the City of Napoleon of Henry County, Ohio, hereinafter referred to as the Local Public Agency (LPA).

**SECTION I – Project Description**

WHEREAS, the STATE has determined the need for the described project:

*A Major Rehabilitation project to remove and replace the existing pavement on US 6/24 from the US 6 interchange to the Maumee River Bridge and repair bridges within the same section.*

NOW THEREFORE, be it ordained by the City of Napoleon of Henry County, Ohio.

**SECTION II – Consent Statement**

Being in the public interest, the LPA gives consent to the Director of Transportation to complete the above described project as detailed in the LPA-ODOT-Let Agreement entered into between the parties, if applicable.

**SECTION III – Cooperation Statement**

The LPA shall cooperate with the Director of Transportation in the development and construction of the above described project and shall enter into a LPA Federal ODOT Let Project Agreement, if applicable, as well as any other agreements necessary to develop and construct the Project.

*The State shall assume and bear 100% of all of the costs of the improvement.*

*The LPA agrees to pay 100% of the cost of those features requested by the LPA which are determined by the State and Federal Highway Administration to be unnecessary for the Project. No such features have been identified to date.*

**SECTION IV Authority to Sign**

The LPA hereby authorizes the City Manager of said City of Napoleon to enter into and execute contracts with the Director of Transportation which are necessary to develop plans for and to complete the above-described project; and to execute contracts with ODOT pre-qualified consultants for the preliminary engineering phase of the Project.

**PID No.: 110524**

5/27/2025

Upon request of ODOT, the City Manager is also empowered to execute any appropriate documents to affect the assignment of all rights, title, and interests of the City of Napoleon to ODOT arising from any agreement with its consultant in order to allow ODOT to direct additional or corrective work, recover damages due to errors or omissions, and to exercise all other contractual rights and remedies afforded by law or equity.

#### **SECTION V – Utilities and Right-of-Way Statement**

The LPA agrees that all right-of-way required for the described project will be acquired and/or made available in accordance with current State and Federal regulations. The LPA also understands that right-of-way costs include eligible utility costs.

The LPA agrees that all utility accommodation, relocation and reimbursement will comply with the current provisions of 23 CFR 645 and the ODOT Utilities Manual.

#### **SECTION VI – Maintenance**

Upon completion of the Project, and unless otherwise agreed, the LPA shall: (1) provide adequate maintenance for the Project in accordance with all applicable State and Federal law, including, but not limited to, Title 23, U.S.C., Section 116; (2) provide ample financial provisions, as necessary, for the maintenance of the Project; (3) maintain the right-of-way, keeping it free of obstructions; and (4) hold said right-of-way inviolate for public highway purposes.

#### **SECTION VII-Emergency measure**

(as applicable)

The Ordinance is hereby declared to be an emergency measure to expedite the highway project and to promote highway safety. Following appropriate legislative action, it shall take effect and be in force immediately upon its passage and approval, otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed: \_\_\_\_\_, 2025.  
(Date)

Attested: \_\_\_\_\_  
Clerk of Council

\_\_\_\_\_  
Lori Siclair, City Manager

\_\_\_\_\_  
J. Ross Durham, President of Council

5/27/2025

**CERTIFICATE OF COPY  
STATE OF OHIO**

City of Napoleon of Henry County, Ohio

I, \_\_\_\_\_, as Clerk of the City of Napoleon of Henry County, Ohio, do hereby  
certify that the foregoing is a true and correct copy of the Ordinance adopted by the legislative Authority of the said  
City of Napoleon on the \_\_\_\_\_ day of \_\_\_\_\_, 2025.  
(LPA)

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal, if applicable,  
this \_\_\_\_\_ day of \_\_\_\_\_ 2025.

**SEAL**

\_\_\_\_\_  
Clerk of Council

City of Napoleon of Henry County, Ohio

(If the LPA is designated as a City then the "City Seal" is required. If no Seal, then a letter stating "No Seal is required to accompany the  
executed legislation.)

## ORDINANCE NO. 021-25

**AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF BONDS IN THE MAXIMUM PRINCIPAL AMOUNT OF \$650,000, FOR THE PURPOSE OF PAYING THE COSTS OF IMPROVING THE MUNICIPAL FIRE FACILITIES BY ACQUIRING A PUMPER FIRE TRUCK, TOGETHER WITH ALL NECESSARY AND RELATED APPURTENANCES THERETO, AND DECLARING AN EMERGENCY.**

**WHEREAS**, this City Council has requested that the Finance Director, as fiscal officer of this City, certify the estimated life or period of usefulness of the Improvement described in Section 2 and the maximum maturity of the Bonds described in Section 2; and

**WHEREAS**, the Finance Director has certified to this City Council that the estimated life or period of usefulness of the Improvement is at least five (5) years and that the maximum maturity of the Bonds is ten (10) years;

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of Napoleon, Henry County, Ohio, that:

Section 1. Definitions and Interpretation. In addition to the words and terms elsewhere defined in this Ordinance, unless the context or use clearly indicates another or different meaning or intent:

*“Authorized Denominations”* means the minimum denominations or any integral multiple in excess thereof as set forth in the Certificate of Award.

*“Bond Proceedings”* means, collectively, this Ordinance, the Certificate of Award and such other proceedings of the City, including the Bonds, that provide collectively for, among other things, the rights of holders of the Bonds.

*“Bond Register”* means all books and records necessary for the registration, exchange and transfer of Bonds as provided in Section 5.

*“Bond Registrar”* means the Finance Director, the Original Purchaser or a bank or trust company authorized to do business in the State of Ohio, as designated by the Finance Director in the Certificate of Award pursuant to Section 4 as the initial authenticating agent, bond registrar, transfer agent and paying agent for the Bonds under the Certificate of Award and until a successor Bond Registrar shall have been designated by the City and, thereafter, *“Bond Registrar”* shall mean the successor Bond Registrar.

*“Bonds”* means, collectively, the Serial Bonds and the Term Bonds, each as is designated as such in the Certificate of Award.

*“Certificate of Award”* means the certificate authorized by Section 6, to be executed by the Finance Director, setting forth and determining those terms or other matters pertaining to the

Bonds and their issuance, sale and delivery as this Ordinance requires or authorizes to be set forth or determined therein.

“*City*” means the City of Napoleon, Ohio.

“*City Law Director*” means the City Law Director of the City or any person serving in an interim or acting capacity with respect to that office.

“*City Manager*” means the City Manager of the City or any person serving in an interim or acting capacity with respect to that office.

“*Clerk of Council*” means the Clerk of Council of the City Council or any person serving in an interim or acting capacity with respect to that office.

“*Closing Date*” means the date of physical delivery of, and payment of the purchase price for, the Bonds.

“*Code*” means the Internal Revenue Code of 1986, as amended, the Regulations (whether temporary or final) under that Code or the statutory predecessor of that Code, and any amendments of, or successor provisions to, the foregoing and any official rulings, announcements, notices, procedures and judicial determinations regarding any of the foregoing, all as and to the extent applicable. Unless otherwise indicated, reference to a Section of the Code includes any applicable successor section or provision and such applicable Regulations, rulings, announcements, notices, procedures and determinations pertinent to that Section.

“*Finance Director*” means the Finance Director of the City or any person serving in an interim or acting capacity with respect to that office.

“*Financing Costs*” shall have the meaning given in Section 133.01 of the Ohio Revised Code.

“*Interest Payment Dates*” means, unless otherwise specified in the Certificate of Award, June 1 and December 1 of each year that the Bonds are outstanding, commencing on the date specified in the Certificate of Award.

“*Mandatory Redemption Date*” shall have the meaning set forth in Section 3(b).

“*Mandatory Sinking Fund Redemption Requirements*” shall have the meaning set forth in Section 3(e)(i).

“*Mayor*” means the Mayor of the City or any person serving in an interim or acting capacity with respect to that office.

“*Original Purchaser*” means the purchaser of the Bonds specified in the Certificate of Award.

“*Principal Payment Dates*” means, unless otherwise specified in the Certificate of Award, December 1 in each of the years from and including 2026 to and including 2035; *provided* that the

first Principal Payment Date may be advanced up to one year and the last Principal Payment Date may be advanced by such number of years as determined necessary by the Finance Director, and *provided further* that in no case shall the final Principal Payment Date exceed the maximum maturity limitation referred to in the preambles hereto, all of which determinations shall be made by the Finance Director in the Certificate of Award in such manner as to be in the best interest of and financially advantageous to the City.

“*Regulations*” means Treasury Regulations issued pursuant to the Code or to the statutory predecessor of the Code.

“*Serial Bonds*” means those Bonds designated as such and maturing on the dates set forth in the Certificate of Award, bearing interest payable on each Interest Payment Date and not subject to mandatory sinking fund redemption.

“*Term Bonds*” means those Bonds designated as such and maturing on the date or dates set forth in the Certificate of Award, bearing interest payable on each Interest Payment Date and subject to mandatory sinking fund redemption.

The captions and headings in this Ordinance are solely for convenience of reference and in no way define, limit or describe the scope or intent of any Sections, subsections, paragraphs, subparagraphs or clauses hereof. Reference to a Section means a section of this Ordinance unless otherwise indicated.

Section 2. Authorized Principal Amount and Purpose; Application of Proceeds. This City Council determines that it is necessary and in the best interest of the City to issue bonds of this City in the maximum principal amount of \$650,000 (the “*Bonds*”) for the purpose of paying the costs of improving the municipal fire facilities by acquiring a pumper fire truck, together with all necessary and related appurtenances thereto (the “*Improvement*”). The Bonds shall be issued pursuant to Chapter 133 of the Ohio Revised Code, the Charter of the City, this Ordinance and the Certificate of Award.

The principal amount of Bonds to be issued shall not exceed the maximum principal amount specified in this Section 2 and shall be an amount determined by the Finance Director in the Certificate of Award to be the principal amount of Bonds that is required to be issued at this time for the purpose described in this Section 2, taking into account the costs of the Improvement, the estimates of the Financing Costs and the interest rates on the Bonds.

The proceeds from the sale of the Bonds received by the City (or withheld by the Original Purchaser on behalf of the City) shall be paid into the proper fund or funds, and those proceeds are hereby appropriated and shall be used for the purpose for which the Bonds are being issued, including without limitation but only to the extent not paid by others, the payment of the costs of issuing and servicing the Bonds, printing and delivery of the Bonds, legal services including obtaining the approving legal opinion of bond counsel, fees and expenses of any municipal advisor and/or paying agent, and all other Financing Costs and costs incurred incidental to those purposes. The Certificate of Award may authorize the Original Purchaser to withhold certain proceeds from the purchase price of the Bonds to provide for the payment of Financing Costs related to the Bonds on behalf of the City. Any portion of those proceeds received by the City representing premium

(after payment of any Financing Costs identified in the Certificate of Award) or accrued interest shall be paid into the Bond Retirement Fund.

Section 3. Denominations; Dating; Principal and Interest Payment and Redemption Provisions. The Bonds shall be issued in one lot and only as fully registered bonds, in Authorized Denominations, but in no case as to a particular maturity date exceeding the principal amount maturing on that date. The Bonds shall be dated as provided in the Certificate of Award, *provided* that their dated date shall not be more than sixty (60) days prior to the Closing Date. If requested by the Original Purchaser, the Finance Director is hereby authorized to prepare one bond representing the aggregate principal amount of Bonds maturing on all of the Principal Payment Dates, all as set forth in the Certificate of Award.

(a) Interest Rates and Payment Dates. The Bonds shall bear interest at the rate or rates per year and computed on the basis as shall be determined by the Finance Director, subject to subsection (c) of this Section 3, in the Certificate of Award. Interest on the Bonds shall be payable at such rate or rates on the Interest Payment Dates until the principal amount has been paid or provided for. The Bonds shall bear interest from the most recent date to which interest has been paid or provided for or, if no interest has been paid or provided for, from their date.

(b) Principal Payment Schedule. The Bonds shall mature or be payable pursuant to Mandatory Sinking Fund Redemption Requirements on the Principal Payment Dates in principal amounts as shall be determined by the Finance Director, subject to subsection (c) of this Section 3, in the Certificate of Award, which determination shall be in the best interest of and financially advantageous to the City.

Consistent with the foregoing and in accordance with the determination of the best interest of and financial advantages to the City, the Finance Director shall specify in the Certificate of Award (i) the aggregate principal amount of Bonds to be issued as Serial Bonds, the Principal Payment Date or Dates on which those Bonds shall be stated to mature and the principal amount thereof that shall be stated to mature on each such Principal Payment Date and (ii) the aggregate principal amount of Bonds to be issued as Term Bonds, the Principal Payment Date or Dates on which those Bonds shall be stated to mature, the principal amount thereof that shall be stated to mature on each such Principal Payment Date, the Principal Payment Date or Dates on which Term Bonds shall be subject to mandatory sinking fund redemption (each a “*Mandatory Redemption Date*”) and the principal amount thereof that shall be payable pursuant to Mandatory Sinking Fund Redemption Requirements on each Mandatory Redemption Date.

(c) Conditions for Establishment of Interest Rates and Principal Payment Dates and Amounts. The rate or rates of interest per year to be borne by the Bonds, and the principal amount of Bonds maturing or payable pursuant to Mandatory Sinking Fund Redemption Requirements on each Principal Payment Date, shall be such that the total principal and interest payments on the Bonds in any fiscal year in which principal is payable is not more than three times the amount of those payments in any other fiscal year. The net interest cost for the Bonds determined by taking into account the respective principal amounts of the Bonds and terms to maturity or Mandatory Sinking Fund Redemption Requirements of those principal amounts of Bonds shall not exceed 6.00%.



(d) Payment of Debt Charges. The debt charges on the Bonds shall be payable in lawful money of the United States of America without deduction for the services of the Bond Registrar as paying agent. Principal of and any premium on the Bonds shall be payable when due upon presentation and surrender of the Bonds at the main office of the Bond Registrar; *provided, however,* to the extent that the Bonds are represented by a single Term Bond as permitted by this Section 3, principal of the Bonds which is redeemed pursuant to a Mandatory Sinking Fund Redemption Requirement shall be payable when due without prior presentation or surrender of the Bond but redemption of such principal shall be duly endorsed on the Bond Register, and in the case of the final principal payment due hereunder, surrender of the Bond at the main office of the Bond Registrar. Interest on a Bond shall be paid on each Interest Payment Date by check or draft mailed to the person in whose name the Bond was registered, and to that person's address appearing, on the Bond Register at the close of business on the 15<sup>th</sup> day of the calendar month next preceding that Interest Payment Date.

(e) Redemption Provisions. The Bonds shall be subject to redemption prior to stated maturity as follows:

(i) Mandatory Sinking Fund Redemption of Term Bonds. If any of the Bonds are issued as Term Bonds, the Term Bonds shall be subject to mandatory redemption in part by lot and be redeemed pursuant to mandatory sinking fund redemption requirements, at a redemption price of 100% of the principal amount redeemed, plus accrued interest to the redemption date, on the applicable Mandatory Redemption Dates and in the principal amounts payable on those Dates, for which provision is made in the Certificate of Award (such Dates and amounts being referred to as the "*Mandatory Sinking Fund Redemption Requirements*").

The aggregate of the moneys to be deposited with the Bond Registrar for payment of principal of and interest on any Term Bonds on each Mandatory Redemption Date shall include an amount sufficient to redeem on that Date the principal amount of Term Bonds payable on that Date pursuant to the Mandatory Sinking Fund Redemption Requirements (less the amount of any credit as hereinafter provided).

The City shall have the option to deliver to the Bond Registrar for cancellation Term Bonds in any aggregate principal amount and to receive a credit against the then current or any subsequent Mandatory Sinking Fund Redemption Requirement (and corresponding mandatory redemption obligation) of the City, as specified by the Finance Director, for Term Bonds stated to mature on the same Principal Payment Date and bearing interest at the same rate as the Term Bonds so delivered. That option shall be exercised by the City on or before the 45th day preceding any Mandatory Redemption Date with respect to which the City wishes to obtain a credit, by furnishing the Bond Registrar a certificate, signed by the Finance Director, setting forth the extent of the credit to be applied with respect to the then current or any subsequent Mandatory Sinking Fund Redemption Requirement for Term Bonds stated to mature on the same Principal Payment Date and bearing interest at the same rate as the Term Bonds so delivered. If the certificate is not timely furnished to the Bond Registrar, the current Mandatory Sinking Fund Redemption Requirement (and corresponding mandatory redemption obligation) shall not be reduced. A credit against the then current or any subsequent Mandatory Sinking Fund Redemption

Requirement (and corresponding mandatory redemption obligation), as specified by the Finance Director, also shall be received by the City for any Term Bonds which prior thereto have been redeemed (other than through the operation of the applicable Mandatory Sinking Fund Redemption Requirements) or purchased for cancellation and canceled by the Bond Registrar, to the extent not applied theretofore as a credit against any Mandatory Sinking Fund Redemption Requirement, for Term Bonds stated to mature on the same Principal Payment Date and bearing interest at the same rate as the Term Bonds so redeemed or purchased and canceled.

Each Term Bond so delivered, or previously redeemed, or purchased and canceled, shall be credited by the Bond Registrar at 100% of the principal amount thereof against the then current or subsequent Mandatory Sinking Fund Redemption Requirements (and corresponding mandatory redemption obligations), as specified by the Finance Director, for Term Bonds stated to mature on the same Principal Payment Date and bearing interest at the same rate as the Term Bonds so delivered, redeemed or purchased and canceled.

(ii) Optional Redemption. The Bonds of the maturities and interest rates specified in the Certificate of Award (if any are so specified) shall be subject to optional redemption by and at the sole option of the City, in whole or in part in Authorized Denominations, on the dates and at the redemption prices (expressed as a percentage of the principal amount to be redeemed), plus accrued interest to the redemption date, to be determined by the Finance Director in the Certificate of Award; provided that the redemption price for any optional redemption date shall not be greater than 103%.

If optional redemption of Term Bonds at a redemption price exceeding 100% of the principal amount to be redeemed is to take place as of any Mandatory Redemption Date applicable to those Term Bonds, the Term Bonds, or portions thereof, to be redeemed optionally shall be selected by lot prior to the selection by lot of the Term Bonds of the same maturity (and interest rate within a maturity if applicable) to be redeemed on the same date by operation of the Mandatory Sinking Fund Redemption Requirements. Bonds to be redeemed pursuant to this paragraph shall be redeemed only upon written notice from the Finance Director to the Bond Registrar, given upon the direction of the City by passage of an ordinance or adoption of a resolution. That notice shall specify the redemption date and the principal amount of each maturity (and interest rate within a maturity if applicable) of Bonds to be redeemed, and shall be given at least 45 days prior to the redemption date or such shorter period as shall be acceptable to the Bond Registrar.

(iii) Partial Redemption. If fewer than all of the outstanding Bonds are called for optional redemption at one time and Bonds of more than one maturity (or interest rate within a maturity if applicable) are then outstanding, the Bonds that are called shall be Bonds of the maturity or maturities and interest rate or rates selected by the City. If fewer than all of the Bonds of a single maturity (or interest rate within a maturity if applicable) are to be redeemed, the selection of Bonds of that maturity (or interest rate within a maturity if applicable) to be redeemed, or portions thereof in Authorized Denominations, shall be made by the Bond Registrar by lot in a manner determined by the Bond Registrar. In the case of a partial redemption of Bonds by lot when Bonds of denominations greater than the Authorized Denominations are then outstanding, each Authorized Denomination unit of

principal thereof shall be treated as if it were a separate Bond of the Authorized Denomination. If it is determined that one or more, but not all, of the Authorized Denomination units of principal amount represented by a Bond are to be called for redemption, then, upon notice of redemption of an Authorized Denomination unit or units, the registered owner of that Bond shall surrender the Bond to the Bond Registrar (A) for payment of the redemption price of the Authorized Denomination unit or units of principal amount called for redemption (including, without limitation, the interest accrued to the date fixed for redemption and any premium), and (B) for issuance, without charge to the registered owner, of a new Bond or Bonds of any Authorized Denomination or Denominations in an aggregate principal amount equal to the unmatured and unredeemed portion of, and bearing interest at the same rate and maturing on the same date as, the Bond surrendered.

(iv) Notice of Redemption. The notice of the call for redemption of Bonds shall identify (A) by designation, letters, numbers or other distinguishing marks, the Bonds or portions thereof to be redeemed, (B) the redemption price to be paid, (C) the date fixed for redemption, and (D) the place or places where the amounts due upon redemption are payable. The notice shall be given by the Bond Registrar on behalf of the City by mailing a copy of the redemption notice by first-class mail, postage prepaid, at least 30 days prior to the date fixed for redemption, to the registered owner of each Bond subject to redemption in whole or in part at the registered owner's address shown on the Bond Register maintained by the Bond Registrar at the close of business on the 15th day preceding that mailing. Failure to receive notice by mail or any defect in that notice regarding any Bond, however, shall not affect the validity of the proceedings for the redemption of any Bond.

(v) Payment of Redeemed Bonds. In the event that notice of redemption shall have been given by the Bond Registrar to the registered owners as provided above, there shall be deposited with the Bond Registrar on or prior to the redemption date, moneys that, in addition to any other moneys available therefor and held by the Bond Registrar, will be sufficient to redeem at the redemption price thereof, plus accrued interest to the redemption date, all of the redeemable Bonds for which notice of redemption has been given. Notice having been mailed in the manner provided in the preceding paragraph hereof, the Bonds and portions thereof called for redemption shall become due and payable on the redemption date, and, subject to the provisions of Section 3(d), upon presentation and surrender thereof at the place or places specified in that notice, shall be paid at the redemption price, plus accrued interest to the redemption date. If moneys for the redemption of all of the Bonds and portions thereof to be redeemed, together with accrued interest thereon to the redemption date, are held by the Bond Registrar on the redemption date, so as to be available therefor on that date and, if notice of redemption has been deposited in the mail as aforesaid, then from and after the redemption date those Bonds and portions thereof called for redemption shall cease to bear interest and no longer shall be considered to be outstanding. If those moneys shall not be so available on the redemption date, or that notice shall not have been deposited in the mail as aforesaid, those Bonds and portions thereof shall continue to bear interest, until they are paid, at the same rate as they would have borne had they not been called for redemption. All moneys held by the Bond Registrar for the redemption of particular Bonds shall be held in trust for the account of the registered owners thereof and shall be paid to them, respectively, upon presentation and surrender of

those Bonds; *provided* that any interest earned on the moneys so held by the Bond Registrar shall be for the account of and paid to the City to the extent not required for the payment of the Bonds called for redemption.

Section 4. Execution and Authentication of Bonds; Appointment of Bond Registrar. The Bonds shall be signed by the City Manager and the Finance Director, in the name of the City and in their official capacities, *provided* that either or both of those signatures may be a facsimile. The Bonds shall also be countersigned by the Mayor, *provided* that the signature of the Mayor may be a facsimile. The Bonds shall be issued in the Authorized Denominations and numbers as requested by the Original Purchaser and approved by the Finance Director, shall be numbered as determined by the Finance Director in order to distinguish each Bond from any other Bond, and shall express upon their faces the purpose, in summary terms, for which they are issued and that they are issued pursuant to Chapter 133 of the Ohio Revised Code, the Charter of the City, this Ordinance and the Certificate of Award.

The Finance Director is hereby authorized to designate in the Certificate of Award the Finance Director, the Original Purchaser or a bank or trust company authorized to do business in the State of Ohio to act as the initial Bond Registrar. The Finance Director shall provide for the payment of the services rendered and for reimbursement of expenses incurred pursuant to the Certificate of Award, except to the extent paid or reimbursed by the Original Purchaser in accordance with the Certificate of Award, from the proceeds of the Bonds to the extent available and then from other money lawfully available and appropriated or to be appropriated for that purpose.

No Bond shall be valid or obligatory for any purpose or shall be entitled to any security or benefit under the Bond Proceedings unless and until the certificate of authentication printed on the Bond is signed by the Bond Registrar as authenticating agent. Authentication by the Bond Registrar shall be conclusive evidence that the Bond so authenticated has been duly issued, signed and delivered under, and is entitled to the security and benefit of, the Bond Proceedings. The certificate of authentication may be signed by any authorized officer or employee of the Bond Registrar or by any other person acting as an agent of the Bond Registrar and approved by the Finance Director on behalf of the City. The same person need not sign the certificate of authentication on all of the Bonds.

Section 5. Registration; Transfer and Exchange.

(a) Bond Register. So long as any of the Bonds remain outstanding, the City will cause the Bond Registrar to maintain and keep the Bond Register at its main office. Subject to the provisions of Section 3(d), the person in whose name a Bond is registered on the Bond Register shall be regarded as the absolute owner of that Bond for all purposes of the Bond Proceedings. Payment of or on account of the debt charges on any Bond shall be made only to or upon the order of that person; neither the City nor the Bond Registrar shall be affected by any notice to the contrary, but the registration may be changed as provided in this Section 5. All such payments shall be valid and effectual to satisfy and discharge the City's liability upon the Bond, including interest, to the extent of the amount or amounts so paid.

(b) Transfer and Exchange. Any Bond may be exchanged for Bonds of any Authorized Denomination upon presentation and surrender at the main office of the Bond Registrar, together with a request for exchange signed by the registered owner or by a person legally empowered to do so in a form satisfactory to the Bond Registrar. A Bond may be transferred only on the Bond Register upon presentation and surrender of the Bond at the main office of the Bond Registrar together with an assignment signed by the registered owner or by a person legally empowered to do so in a form satisfactory to the Bond Registrar. Upon exchange or transfer the Bond Registrar shall complete, authenticate and deliver a new Bond or Bonds of any Authorized Denomination or Denominations requested by the owner equal in the aggregate to the unmatured principal amount of the Bond surrendered and bearing interest at the same rate and maturing on the same date; *provided, however*, if the Bond submitted for exchange or transfer represents more than one maturity, the Bond Registrar is authorized if necessary, after review by the Finance Director and bond counsel for the City, to deliver a new Bond or Bonds representing the appropriate principal amounts, Principal Payment Dates and denominations.

If manual signatures on behalf of the City are required, the Bond Registrar shall undertake the exchange or transfer of Bonds only after the new Bonds are signed by the authorized officers of the City. In all cases of Bonds exchanged or transferred, the City shall sign and the Bond Registrar shall authenticate and deliver Bonds in accordance with the provisions of the Bond Proceedings. The exchange or transfer shall be without charge to the owner, except that the City and Bond Registrar may make a charge sufficient to reimburse them for any tax or other governmental charge required to be paid with respect to the exchange or transfer. The City or the Bond Registrar may require that those charges, if any, be paid before the procedure is begun for the exchange or transfer. All Bonds issued and authenticated upon any exchange or transfer shall be valid obligations of the City, evidencing the same debt, and entitled to the same security and benefit under the Bond Proceedings as the Bonds surrendered upon that exchange or transfer. Neither the City nor the Bond Registrar shall be required to make any exchange or transfer of (i) Bonds then subject to call for redemption between the 15th day preceding the mailing of notice of Bonds to be redeemed and the date of that mailing, or (ii) any Bond selected for redemption, in whole or in part.

Section 6. Sale of the Bonds to the Original Purchaser. The Finance Director is authorized to sell the Bonds at private sale to the Original Purchaser at a purchase price, not less than 97% of the aggregate principal amount thereof, as shall be determined by the Finance Director in the Certificate of Award, plus accrued interest (if any) on the Bonds from their date to the Closing Date, and shall be awarded by the Finance Director with and upon such other terms as are required or authorized by this Ordinance to be specified in the Certificate of Award, in accordance with law and the provisions of this Ordinance. The Finance Director is authorized, if it is determined to be in the best interest of the City, to combine the issue of Bonds with one or more other bond issues of the City into a consolidated bond issue pursuant to Section 133.30(B) of the Ohio Revised Code in which case a single Certificate of Award may be utilized for the consolidated bond issue if appropriate and consistent with the terms of this Ordinance.

The Finance Director shall sign and deliver the Certificate of Award and shall cause the Bonds to be prepared and signed and delivered, together with a true transcript of proceedings with reference to the issuance of the Bonds, to the Original Purchaser upon payment of the purchase price.

The Mayor, the City Manager, the Finance Director, the City Law Director, the Clerk of Council and other City officials, as appropriate, are each authorized and directed to sign any transcript certificates, financial statements and other documents and instruments and to take such actions as are necessary or appropriate to consummate the transactions contemplated by this Ordinance. Any actions heretofore taken by the Mayor, the City Manager, the Finance Director, the City Law Director, the Clerk of Council or other City official, as appropriate, in doing any and all acts necessary in connection with the issuance and sale of the Bonds are hereby ratified and confirmed.

Section 7. Provision for Tax Levy. There shall be levied on all the taxable property in the City, in addition to all other taxes, a direct tax annually during the period the Bonds are outstanding in an amount sufficient to pay the debt charges on the Bonds when due, which tax shall not be less than the interest and sinking fund tax required by Section 11 of Article XII of the Ohio Constitution. The tax shall be within the ten-mill limitation imposed by law, shall be and is ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers, in the same manner and at the same time that taxes for general purposes for each of those years are certified, levied, extended and collected, and shall be placed before and in preference to all other items and for the full amount thereof. The proceeds of the tax levy shall be placed in the Bond Retirement Fund, which is irrevocably pledged for the payment of the debt charges on the Bonds when and as the same fall due.

In each year to the extent receipts from the municipal income tax are available for the payment of the debt charges on the Bonds and are appropriated for that purpose, the amount of the tax shall be reduced by the amount of such receipts so available and appropriated in compliance with the following covenant. To the extent necessary, the debt charges on the Bonds shall be paid from municipal income taxes lawfully available therefor under the Constitution and the laws of the State of Ohio and the Charter of the City; and the City hereby covenants, subject and pursuant to such authority, including particularly Section 133.05(B)(7) of the Ohio Revised Code, to appropriate annually from such municipal income taxes such amount as is necessary to meet such annual debt charges.

Nothing in the preceding paragraph in any way diminishes the irrevocable pledge of the full faith and credit and general property taxing power of the City to the prompt payment of the debt charges on the Bonds.

Section 8. Federal Tax Considerations. The City covenants that it will use, and will restrict the use and investment of, the proceeds of the Bonds in such manner and to such extent as may be necessary so that (a) the Bonds will not (i) constitute private activity bonds or arbitrage bonds under Sections 141 or 148 of the Code or (ii) be treated other than as bonds the interest on which is excluded from gross income under Section 103 of the Code, and (b) the interest on the Bonds will not be an item of tax preference under Section 57 of the Code.

The City further covenants that (a) it will take or cause to be taken such actions that may be required of it for the interest on the Bonds to be and remain excluded from gross income for federal income tax purposes, (b) it will not take or authorize to be taken any actions that would adversely affect that exclusion, and (c) it, or persons acting for it, will, among other acts of compliance, (i) apply the proceeds of the Bonds to the governmental purpose of the borrowing,

(ii) restrict the yield on investment property, (iii) make timely and adequate payments to the federal government, (iv) maintain books and records and make calculations and reports and (v) refrain from certain uses of those proceeds, and, as applicable, of property financed with such proceeds, all in such manner and to the extent necessary to assure such exclusion of that interest under the Code.

The Finance Director or any other officer of the City having responsibility for issuance of the Bonds is hereby authorized (a) to make or effect any election, selection, designation, choice, consent, approval, or waiver on behalf of the City with respect to the Bonds as the City is permitted to or required to make or give under the federal income tax laws, including, without limitation thereto, any of the elections available under Section 148 of the Code, for the purpose of assuring, enhancing or protecting favorable tax treatment or status of the Bonds or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing the rebate amount or payments or penalties with respect to the Bonds, or making payments of special amounts in lieu of making computations to determine, or paying, excess earnings as rebate, or obviating those amounts or payments with respect to the Bonds, which action shall be in writing and signed by the officer, (b) to take any and all other actions, make or obtain calculations, make payments, and make or give reports, covenants and certifications of and on behalf of the City, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the Bonds, and (c) to give one or more appropriate certificates of the City, for inclusion in the transcript of proceedings for the Bonds, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Bonds, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of the interest on and the tax status of the Bonds. The Finance Director or any other officer of the City having responsibility for issuance of the Bonds is specifically authorized to designate the Bonds as "qualified tax-exempt obligations" if such designation is applicable and desirable, and to make any related necessary representations and covenants.

Section 9. Financing Costs. The expenditure of the amounts necessary to pay any Financing Costs in connection with the Bonds, to the extent not paid or reimbursed by the Original Purchaser in accordance with the Certificate of Award, is authorized and approved, and the Finance Director is authorized to provide for the payment of any such amounts and costs from the proceeds of the Bonds to the extent available and otherwise from any other funds lawfully available that are appropriated or shall be appropriated for that purpose.

Section 10. Bond Counsel. The legal services of the law firm of Squire Patton Boggs (US) LLP, as bond counsel, are hereby retained. Those legal services shall be in the nature of legal advice and recommendations as to the documents and the proceedings in connection with the authorization, sale and issuance of the Bonds and rendering at delivery related legal opinions, all as set forth in the form of engagement letter from that firm which is now on file in the office of the Clerk of Council. In providing those legal services, as an independent contractor and in an attorney-client relationship, that firm shall not exercise any administrative discretion on behalf of this City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State of Ohio, any county or municipal corporation or of this City, or the execution of public trusts. For those legal services, that firm shall be paid just and reasonable compensation and shall be reimbursed for actual out-of-pocket expenses incurred in providing those legal services. To the extent they are not paid or reimbursed pursuant to the Certificate of

Award, the Finance Director is authorized and directed to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment as written statements are submitted by that firm. The amounts necessary to pay those fees and any reimbursement are hereby appropriated from the proceeds of the Bonds, if available, and otherwise from available moneys in the General Fund.

Section 11. Municipal Advisor. The services of Sudsina & Associates, LLC, as municipal advisor, are hereby retained. The municipal advisory services shall be in the nature of financial advice and recommendations in connection with the issuance and sale of the Bonds. In rendering those municipal advisory services, as an independent contractor, that firm shall not exercise any administrative discretion on behalf of the City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State of Ohio, the City or any other political subdivision, or the execution of public trusts. That firm shall be paid just and reasonable compensation for those municipal advisory services and shall be reimbursed for the actual out-of-pocket expenses it incurs in rendering those municipal advisory services. To the extent they are not paid or reimbursed pursuant to the Certificate of Award, the Finance Director is authorized and directed to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment as written statements are submitted by that firm. The amounts necessary to pay those fees and any reimbursement are hereby appropriated from the proceeds of the Bonds, if available, and otherwise from available moneys in the General Fund.

Section 12. Certification and Delivery of Ordinance and Certificate of Award. The Clerk of Council is directed to promptly deliver or cause to be delivered a certified copy of this Ordinance and an executed copy of the Certificate of Award to the County Auditor of Henry County, Ohio.

Section 13. Satisfaction of Conditions for Bond Issuance. This City Council determines that all acts and conditions necessary to be done or performed by the City or to have been met precedent to and in the issuing of the Bonds in order to make them legal, valid and binding general obligations of the City have been performed and have been met, or will at the time of delivery of the Bonds have been performed and have been met, in regular and due form as required by law; that the full faith and credit and general property taxing power (as described in Section 7) of the City are pledged for the timely payment of the debt charges on the Bonds; that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Bonds; and that the Bonds are being authorized and issued pursuant to Chapter 133 of the Ohio Revised Code, the Charter of the City, this Ordinance, the Certificate of Award and other authorizing provisions of law.

Section 14. Compliance with Open Meeting Requirements. This City Council finds and determines that all formal actions of this City Council and any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Council or any of its committees, and that all deliberations of this City Council and of any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law, including Section 121.22 of the Ohio Revised Code.

Section 15. Effective Date. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health, or safety in the City and for



the further reason that this Ordinance is required to be immediately effective in order to issue and sell the Bonds, which is necessary to enable the City to facilitate the timely execution of a contract relating to the acquisition of the Improvement; wherefore, this Ordinance shall be in full force and effect immediately upon its passage.

Passed: \_\_\_\_\_, 2025

\_\_\_\_\_  
J. Ross Durham, Council President

Approved: \_\_\_\_\_, 2025

\_\_\_\_\_  
Joseph Bialorucki, Mayor

VOTE ON PASSAGE \_\_\_\_\_ Yea \_\_\_\_\_ Nay \_\_\_\_\_ Abstain

Attest:

\_\_\_\_\_  
Marrisa Flogaus, Clerk of Council

*I, Marrisa Flogaus, Clerk of Council of the City of Napoleon, do hereby certify that the foregoing Ordinance No. 021-25 was duly published in the Northwest Signal, a newspaper of general circulation in said City on the \_\_\_\_\_ day of \_\_\_\_\_, 2025; and I further certify the compliance with rules established in Chapter 103 of the Codified Ordinances of Napoleon, Ohio and the laws of the State of Ohio pertaining to Public Meetings.*

\_\_\_\_\_  
*Marrisa Flogaus, Clerk of Council*

#### **CERTIFICATION OF RECORDS**

I, Marrisa Flogaus, Clerk of Council, of the City of Napoleon, Ohio, do hereby certify and attest that this document to be a **True and Correct** copy of Ordinance Number 021-25, passed \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Marrisa Flogaus, Clerk of Council

\_\_\_\_\_  
Date


## FISCAL OFFICER'S CERTIFICATE

To the City Council of the City of Napoleon, Ohio:

As fiscal officer of the City of Napoleon, Ohio, I certify in connection with your proposed issue of bonds in the maximum principal amount of \$650,000 (the "*Bonds*"), to be issued for the purpose of paying the costs of improving the municipal fire facilities by acquiring a pumper fire truck, together with all necessary and related appurtenances thereto (the "*Improvement*"), that:

1. The estimated life or period of usefulness of the Improvement is at least five (5) years.
2. The maximum maturity of the Bonds, calculated in accordance with Section 133.20 of the Ohio Revised Code, is ten (10) years.

Dated: May 30, 2025

  
\_\_\_\_\_  
Finance Director  
City of Napoleon, Ohio



Sutphen Corp.  
Columbus Ohio  
24-30 mo Lead Time



The below figures represent the respective costs should the City of Napoleon decide to make the purchase of the recommended fire engine with an increase to the down payment out of the 242 Fund.

Cost	\$ 1,109,799.00
Down Payment	\$ 350,000.00
Total Due	\$ 759,799.00

Net Shared Cost	Percentage	Cost
City Cost	75.680%	\$ 575,015.88
Twp Cost	24.320%	\$ 184,783.12
Total	100.000%	\$ 759,799.00

Breakdown	Percentage	Cost
City	75.6800%	\$ 575,015.88
Napoleon Twp	13.1500%	\$ 99,913.57
Harrison Twp	9.4900%	\$ 72,104.93
Freedom Twp	1.6800%	\$ 12,764.62
Twp Total	24.3200%	\$ 184,783.12
Overall Total	100.0000%	\$ 759,799.00



## **RESOLUTION NO. 019-25**

### **A RESOLUTION AUTHORIZING THE TRANSFER OF CERTAIN PROPERTY TO WIT: APPROXIMATELY 15.705 ACRES, MORE OR LESS OF REAL PROPERTY, PART OF PARCEL NO. 41-110048.0000, OWNED BY THE CITY OF NAPOLEON TO THE COMMUNITY IMPROVEMENT CORPORATION OF HENRY COUNTY, OHIO; AND DECLARING AN EMERGENCY**

**WHEREAS**, the City, by Ordinance 34-86, passed July 21, 1986, designated the Community Improvement Corporation of Henry County, Ohio (hereinafter called "the CIC") as the agency and instrumentality of the City for the industrial, commercial, distribution and research development of the City pursuant to Chapter 1724.10 of the Ohio Revised Code; and,

**WHEREAS**, the City and the CIC have since entered into an amended Agreement and Plan of Industrial, Commercial, Distribution and Research Development (Amendment No. 2 dated March 21, 2011; Ordinance No. 017-11); and,

**WHEREAS**, pursuant to Article VIII Section 13 of the Ohio Constitution, which provides for economic development, and the Ohio Revised Code, the Agreement and Plan provides in pertinent part, that in furtherance of the Plan, the CIC [may/will] sell or lease any lands or interests in lands owned by the City determined from time to time by the Council of the City not to be required by the City for its purposes, for uses determined by the Council of the City as those that will promote the welfare of the people of the City, stabilize the economy, preserve, maintain or provide employment, and assist in the development of industrial, commercial, distribution and research activities to the benefit of the people of the City; moreover, that such sale or lease may be made without advertising and receipt of bids when in the best interest of the City, the City specifying the consideration of such sale or lease; and,

**WHEREAS**, the Agreement and Plan also provides in pertinent part, that the City may convey to the CIC lands and interest in lands owned by the City and determined by the Council of the City not to be required by the City for its purposes, and that such conveyance of such land or interests in land will promote the welfare of the people of the City, stabilize the economy, provide employment and assist in the development of industrial, commercial, distribution and research activities to the benefit of the people of the City and preserve, maintain or provide additional opportunities for their gainful employment; moreover, that such sale or lease shall be made without advertising and receipt of bids when in the best interest of the City, the City determining the consideration of such sale or lease; further, if any lands or interests in lands conveyed by the City to the CIC are sold by the CIC at a price in excess of the consideration received by the City from the CIC therefore, such excess shall be paid to the City after deducting therefrom the following costs to the extent incurred by the CIC; the costs of acquisition and sale by the CIC, taxes, assessments, costs of maintenance, costs of improvements to the land by the CIC, debt service charges of the CIC attributable to such lands or interests, and a reasonable service fee determined by the CIC; and,

**WHEREAS**, it has been presented and requested by the Executive Director of the CIC that transfer of approximately fifteen and seven hundred and five one-thousandths

(15.705) acres of land owned by the City to the CIC be made in order to further the Plan for Economic Development, consistent with Ohio Revised Code Section 1724.10; and,

**WHEREAS**, the subject property for which the CIC requests transfer (“Subject Property”) is approximately fifteen and seven hundred and five one thousandths (15.705) acres of land, more or less, located at 1602 Glenwood Avenue; and,

**WHEREAS**, the Subject Property is part of Parcel No. 41-110048.0000 as found in the Henry County Auditor’s Office; and,

**WHEREAS**, the CIC agrees to hold title to and transfer the Subject Property at the appropriate time to any eventual transferee (and potentially eventually back to the City) as determined and agreed upon by simple majority vote of its Board of Trustees consistent with all laws and regulations and the aforementioned Agreement and Plan and the supplemental purchase agreement; and,

**WHEREAS**, the City Manager, being the official in charge of the property, has advised this Council that the Subject Property is no longer needed for a public purpose;

**Now Therefore,**

**BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NAPOLEON, OHIO:**

Section 1. That, part of Parcel No. 41-110048.0000, approximately fifteen and seven hundred and five one thousandths (15.705) acres, located in the City of Napoleon, Henry County, Ohio, is hereby determined by this Council not to be required by the City for its purposes, and that such conveyance of such land or interests in land will promote the welfare of the people of the City, stabilize the economy, provide employment and assist in the development of industrial, commercial, distribution and research activities to the benefit of the people of the City and preserve, maintain or provide additional opportunities for their gainful employment.

Section 2. That, being consistent with the City’s Charter, Ordinances, Resolutions and the Agreement and Plan, as well as being consistent with the Ohio Revised Code, the parcel or parcels identified in Section 1 of this Resolution shall be transferred to the CIC of Henry County, Ohio without necessity of advertisement or receipt of bids, the same being determined by this Council as being in the best interest of the City; moreover, the City Manager is authorized to execute all agreements, deeds, and other documents required to complete said transfer(s).

Section 3. That, Council determines that the consideration for the conveyance of the Parcel identified in Section 1 of this Resolution shall be as found in a certain real estate purchase agreement and escrow agreement between the CIC and a third party substantially in the form as currently on file in the office of the City Finance Director.

Section 4. That, if any parcel or parcels of land as identified in Section 1 of this Resolution so conveyed by the City to the CIC is or are sold by the CIC at a price in excess of the consideration received by the City from the CIC therefore, then such excess shall be paid to the City after deducting therefrom the following costs to the extent incurred by the CIC; the costs of acquisition and sale by the CIC, taxes, assessments, costs of maintenance, costs of improvements to the land by the CIC, debt service charges of the CIC attributable to such lands or interests, and a reasonable service fee determined by the CIC.

Section 5. That, nothing in Section 4 of this Resolution shall be construed as relieving the CIC of its obligations under the land purchase agreement.

Section 6. That, it is found and determined that all formal actions of this City Council concerning and relating to the adoption of this Resolution 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 7. That, if any other prior Ordinance or Resolution is found to be in conflict with this Resolution, then the provisions of this Resolution shall prevail. Further, if any portion of this Resolution is found to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Resolution or any part thereof.

Section 8. That, this Resolution is declared to be an emergency measure necessary for the immediate preservation of the public peace, health or safety of the City and its inhabitants, and for the further reason that this legislation must be in effect at the earliest possible time for the furtherance of economic development within the City of Napoleon, all of which affects the public peace, health or safety accessible to our citizens; therefore, provided it receives the required number of votes for passage as emergency legislation, it shall be in full force and effect immediately upon its passage; otherwise, it shall be in full force and effect at the earliest time permitted by law.

Passed: \_\_\_\_\_

\_\_\_\_\_  
J. Ross Durham, Council President

Approved: \_\_\_\_\_

\_\_\_\_\_  
Joseph D. Bialorucki, Mayor

VOTE ON PASSAGE \_\_\_\_ Yea \_\_\_\_ Nay \_\_\_\_ Abstain

Attest:

\_\_\_\_\_  
Mikayla Ramirez, Clerk of Council

*I, Mikayla Ramirez, Clerk of Council for the City of Napoleon, do hereby certify that the foregoing Resolution No. 019-25 was duly published in the Northwest Signal, a newspaper of general circulation in said City, on the \_\_\_\_\_ day of \_\_\_\_\_, 2025; & I further certify the compliance with rules established in Chapter 103 of the Codified Ordinances Of Napoleon Ohio and the laws of the State of Ohio pertaining to Public Meetings.*

\_\_\_\_\_  
Mikayla Ramirez, Clerk of Council

## **RESOLUTION NO. 018-25**

### **A RESOLUTION AUTHORIZING A COMMUNITY REINVESTMENT AREA (CRA) AGREEMENT WITH WOODLAND CUSTOM HOME WITHIN NAPOLEON CRA #7; AND DECLARING AN EMERGENCY**

**WHEREAS**, the Ohio Reinvestment Area Program, pursuant to Ohio Revised Code Chapter 3735, authorizes the City to grant real property tax exemptions on eligible new investments; and,

**WHEREAS**, the City by Resolution 114-01 adopted on October 1, 2001 that designated an area (CRA 7) as a Community Reinvestment Area pursuant to Ohio Revised Code Chapter 3735 and, with the adoption of Resolution No. 65-02 adopted June 17, 2002 enlarged the area; and,

**WHEREAS**, the Director of Development determined that the area so designated by the City contained the characteristics set forth in Ohio Revised Code Section 3735.66; and,

**WHEREAS**, the Director of Development certified the area as a community reinvestment area known as Zone No. 069-53550-02 (the "Area"); and,

**WHEREAS**, Woodland Custom Home made application that will involve a total capital investment in real property currently estimated at \$598,720.00, plus or minus ten percent (10%), in new construction of three (3) single-family residential houses between 1,378 and 1,648 square feet each located on lots 8 and 9 on parcel number 41- 009151.0122, and lot 10 on parcel number 41-009151.0123, Hudson Street, Napoleon, Ohio; and,

**WHEREAS**, it was recommended by the Director of the Community Improvement Corporation of Henry County, Ohio, contracted administrator of the CRAs for the City, that Woodland Custom Home receive a fifty percent (50%) abatement for ten (10) years on the proposed real property improvements; and,

**WHEREAS**, the appropriate school(s) were provided with all legally required notices; and,

**WHEREAS**, the Napoleon Area City School District Board of Education, either waived the timeliness of the notice requirement(s) and approved the proposed agreement or, timely received the notice(s) and made approval; **Now Therefore**,

### **BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NAPOLEON, OHIO:**

Section 1. That, the City approves and consents to the Community Reinvestment Area Agreement with Woodland Custom Home described herein, in substantially the form as being currently on file with the City Finance Director, subject to any changes deemed appropriate by the City Manager and approved as to form and correctness by the City Law Director; said agreement having been reviewed by this Council.

Section 2. That, the City Manager is both authorized and directed to execute the Community Reinvestment Area Agreement referred to in Section 1 of this Resolution in the name of and on behalf of the City.

Section 3. That, it is found and determined that all formal actions of this City Council concerning and relating to the adoption of this Resolution 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 Ohio Revised Code Section 121.22 and the Codified Ordinances of the City of Napoleon, Ohio.

Section 4. That, if any prior Ordinance or Resolution is found to be in conflict with this Resolution, then the provisions of this Resolution shall prevail. Further, if any portion of this Resolution is found to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Resolution or any part thereof.

Section 5. That, this Resolution is declared to be an emergency measure necessary for the immediate preservation of the public peace, health or safety of the City and its inhabitants, and for the further reason that this legislation must be in effect at the earliest possible time to expeditiously proceed with this development project for the economic welfare of the inhabitants of the City; therefore, provided it receives the required number of votes for passage as emergency legislation, it shall be in full force and effect immediately upon its passage; otherwise, it shall be in full force and effect at the earliest time permitted by law. Further, the Emergency Clause is necessary to begin the construction process in a timely manner, and for further reasons as stated in the Preamble hereof.

Passed: \_\_\_\_\_  
Ross Durham, Council President

Approved: \_\_\_\_\_  
Joseph D. Bialorucki, Mayor

VOTE ON PASSAGE \_\_\_\_ Yea \_\_\_\_ Nay \_\_\_\_ Abstain

Attest:

\_\_\_\_\_  
Mikayla Ramirez, Clerk of Council

*I, Mikayla Ramirez, Clerk of Council for the City of Napoleon, do hereby certify that the foregoing Resolution No. 018-25 was duly published in the Northwest Signal, a newspaper of general circulation in said City, on the \_\_\_\_\_ day of \_\_\_\_\_, 2025; and I further certify the compliance with the rules established in Chapter 103 of the Codified Ordinances of Napoleon, Ohio and the laws of the State of Ohio pertaining to Public Meetings.*

\_\_\_\_\_  
*Mikayla Ramirez, Clerk of Council*



# City of Napoleon, Ohio

## Department of Public Works

255 West Riverview Avenue, P.O. Box 151

Napoleon, OH 43545

Chad E. Lulfs, P.E., P.S., Director of Public Works

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

[www.napoleonohio.com](http://www.napoleonohio.com)

## Memorandum

**To:** Lori L. Siclair, City Manager  
**From:** Chad E. Lulfs, P.E., P.S., Director of Public Works  
**cc:** Mayor & City Council  
Kevin Garringer, Finance Director  
Brian Okuley, Operations Superintendent  
Jeff Weis, Water Treatment Plant Superintendent  
Marrisa Flogaus, Clerk of Council  
**Date:** May 22, 2025  
**Subject:** Maumee River Waterline Crossing ~ Contract Approval

Quality Based Selection (QBS) was utilized to select a consulting firm for the above referenced project. The firms that submitted Qualification Statements were ranked as follows:

1. Jones & Henry Engineers, Ltd.
2. Peterman Associates, Inc.

Negotiations with Jones & Henry Engineers, Ltd. (J&H) were opened immediately upon selection. A representative from J&H outlined their requirements in the contract. Some of their requirements were counter to the City of Napoleon's standard contracts. After a brief discussion, J&H confirmed that they would not enter into a contract with the City for this project.

Once we had reached an impasse and J&H confirmed in writing that they were no longer interested in working with the City on this project, I contacted Peterman Associates, Inc. (PAI) and began negotiations with them. After several weeks we were able to come to an agreement.

The Scope of Services (SOS) are as follows: design of a new waterline from Orchard Lane/W. Riverview Avenue into Meyerholtz Park. From Meyerholtz Park the waterline will be drilled under the Maumee River and extend to County Road Z. From this point it will turn northeast and be connected with the existing 6" waterline on County Road Z. The existing 16" river crossing from the intake facility to Moorings Drive will be abandoned. Soil borings and borings in the riverbed will be performed. Property acquisition is under a separate contract with Hoff Consulting Services and began earlier this year. Appraisals have been completed and we are approaching an agreement with the property owner.

The project schedule is as follows:

Begin Geotechnical Investigation	August 1, 2025
Begin Engineering Design	October 1, 2025
50% Design Completion Submittal	February 1, 2026
75% Design Completion Submittal	May 1, 2026
95% Design Completion Submittal	July 1, 2026
Final Design Plan Submittal	August 31, 2026
Tentative Project Bid/Award	January 31, 2027

The project budget is \$400,000.00. The negotiated price for the design contract is \$379,558.00.

**Having reviewed the submitted Qualification Statements and after extensive negotiations, it is my recommendation that Council award the design contract for the Maumee River Waterline Crossing to Peterman Associates, Inc. in the amount of \$379,558.00.** If you have any questions or require additional information, please contact me at your convenience.

*CEL*

INSTRUCTIONS FOR INSERTING  
APRIL 2025 REPLACEMENT PAGES  
FOR THE  
CODIFIED ORDINANCES  
OF NAPOLEON

All new replacement pages bear the footnote "April 2025 Replacement". Please discard old pages and insert these new replacement pages immediately as directed in the following table.

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**CODIFIED  
ORDINANCES  
OF THE  
CITY OF  
NAPOLEON  
OHIO**

Local legislation current through March 17, 2025

State legislation current through December 31, 2024

CERTIFICATION

We, Joseph Bialorucki, Mayor and Mikayla Ramirez, Executive Assistant to Appointing Authority - Clerk of Council of Napoleon, Ohio pursuant to Article II Section 2.15 of the Charter and Section 121.03 of the Administrative Code, hereby certify that the general and permanent ordinances of the City of Napoleon, Ohio, as revised, rearranged, compiled, renumbered as to sections, codified and printed herewith in component codes are correctly set forth and constitute the Codified Ordinances of Napoleon, Ohio, 1996, as amended to March 17, 2025.

/s/ Joseph Bialorucki  
Mayor

/s/ Mikayla Ramirez  
Clerk of Council

Codified, edited and prepared for  
publication by  
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CITY OF NAPOLEON  
ROSTER OF OFFICIALS  
(2025)

CITY OFFICIALS

Mayor  
City Manager  
City Law Director  
City Finance Director

Joseph Bialorucki  
Lori Sinclair  
Billy D. Harmon  
Kevin Garringer



The Publisher expresses its appreciation  
to

DAVID M. GRAHN  
Director of Law

GREGORY J. HEATH  
Director of Finance

and all other City officials who gave  
time and counsel to the 1996 recodification  
of the City's ordinances.

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(b) The Finance Director, or his duly authorized agent or employee in the Department of Taxation, is authorized to examine any person, employer, or taxpayer under oath concerning any compensation or net profits which were or should have been returned for taxation or any City tax which was or should have been withheld or paid, and for this purpose, may compel by subpoena or otherwise the production of books, papers, records and federal and state income tax returns and records and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such persons have knowledge of such compensation, net profits, information or documentation.

(c) All returns, investigations, examinations and hearings, and all information and documentation produced therewith, and all information and documentation gained as a result thereof are confidential except for official purposes and except in accordance with proper judicial order and shall be carefully preserved so that they shall not be available for inspection by or dissemination to anyone other than the proper officers, agents and employees of the City for official purposes. Any person disclosing any such information or documentation is guilty of a misdemeanor of the 1st degree. Each disclosure shall constitute a separate offense. In addition to the above penalties, any officer, agent or employee of the City who violates any provision of this chapter relative to disclosures of confidential information shall be dismissed immediately from the service of the City. (Ord. 123-95. Passed 11-27-95)

#### **193.10 (RESERVED FOR FUTURE LEGISLATION).**

#### **193.11 ALLOCATION OF FUNDS.**

(a) Effective January 1, 2025, the funds collected under the provisions of this chapter shall be deposited in the "General Fund equivalent" of the City for municipal income taxes and shall be disbursed in the following order:

- (1) Such part thereof as shall be necessary to defray all costs of collecting this tax and all costs of administering and enforcing the provisions of this chapter and the rules and regulations adopted by Council in connection therewith.
- (2) Not more than sixty-five percent (65%) of the net available tax receipts received annually may be used to defray operating expenses of the City.
- (3) At least thirty-five percent (35%) of the net available tax receipts received annually shall be set aside and used for capital improvements including, but not limited to, development and construction of storm sewers and street improvements; for public buildings, parks, and playgrounds; and for equipment necessary for the Police, Fire, Street, Traffic, and Safety Departments.

(b) Effective January 1, 2026 and thereafter, the funds collected under the provisions of this chapter shall be deposited in the "General Fund equivalent" of the City for municipal income taxes and shall be disbursed in the following order:

- (1) Such part thereof as shall be necessary to defray all costs of collecting this tax and all costs of administering and enforcing the provisions of this chapter and the rules and regulations adopted by Council in connection therewith.
- (2) Not more than sixty-five percent (65%) of the net available tax receipts received annually may be used to defray operating expenses of the City.
- (3) At least thirty-five percent (35%) of the net available tax receipts received annually shall be set aside and used for capital improvements including, but not limited to, development and construction of storm sewers and street improvements; for public buildings, parks, and playgrounds; and for equipment necessary for the Police, Fire, Street, Traffic, and Safety Departments. (Ord. 039-24. Passed 12-16-24.)

**193.12 BOARD OF REVIEW.**

(a) A Board of Review, consisting of the three members of the Finance and Budget Committee of Council is created by this chapter. The members of the Board of Review shall serve without compensation.

(b) A majority of the Board of Review shall constitute a quorum. The Board of Review shall adopt its own procedural rules and shall keep a record of its meetings, business and transactions for its hearings and meetings.

(c) All hearings and meetings of the Board of Review shall be conducted privately and the provisions of Section 193.09 with reference to the confidential character of information and documentation required to be disclosed by this chapter shall apply to such matters. The hearing or meeting will be informal in nature and the rules of evidence and procedure shall not apply.

(d) Any taxpayer dissatisfied with any ruling or decision of the Finance Director which was made under the authority conferred by this chapter and who or which is otherwise in compliance with the filing of tax returns and the payment of any taxes, penalties or interest due thereon, who has filed the required returns or other documents pertaining to the contested issued, may appeal therefrom to the Board of Review. This appeal must be in writing, shall state with particularity why the decision should be deemed incorrect or unlawful, and shall be filed within thirty (30) days after the Finance Director has issued the decision. The Board must schedule a hearing within forty-five (45) calendar days of receiving the appeal unless the taxpayer expressly waives the hearing and chooses instead to permit the Board to render its decision on the writings submitted by the taxpayer and the Finance Director. If the taxpayer does not waive the hearing, the taxpayer is entitled to appear before the Board and bring representation of his or her choosing. The records of the hearing are not open to the public nor is the hearing subject to the local or state open meeting laws. The Board must issue a written decision within ninety (90) days after the final hearing and send a notice of its decision to the taxpayer within fifteen (15) days after issuing its decision. (ORC 718.11)

(e) Whenever the Finance Director issues a decision that is appealable to the Board of Review, he or she must inform the taxpayer of their right of appeal and the manner in which the appeal is to be filed. (ORC 718.11; Ord. 135-04. Passed 12-6-04.)

**193.13 APPLICABILITY.**

This chapter shall not apply to any person as to whom or to which it is beyond the power of the City Council to impose the tax herein provided for. (1978 Code 94.14)

**193.14 EXEMPTIONS.**

(a) The provisions of this chapter shall not be construed as levying the City tax upon any of the following:

- (1) Compensation or allowances received from local, state or federal governments because of active duty service in the armed forces of the United States by the person rendering such service or as a result of another person rendering such service;
- (2) Poor relief, pensions, social security, unemployment compensation, except for supplemental unemployment benefits or similar payments and disability benefits due to total and permanent disability received from private industry, or from local, state or federal governments, or from charitable, religious or educational organizations;

- (4) The entire portion of the distributive share of all net profits, not otherwise attributable to the City, earned by a resident, individual, resident owner of an unincorporated business entity, or resident partner for, or derived from, work done, rentals or services performed, and business or other activities conducted outside the City, and not otherwise lawfully levied against by another municipality;
- (5) The entire portion of the distributive share of all net profits, not otherwise attributable to the City, earned by a non-resident individual, non-resident owner of an unincorporated business activity, or non-resident partner for, or derived from, work done, rentals or services performed, and business or other activities conducted in the City and not levied against the unincorporated business entity itself;
- (6) All net profits attributable to the City earned by corporations for, or derived from, work done, rentals or services performed, and business or other activities conducted in the City;
- (7) All net profits earned by fiduciaries of resident individuals for, or derived from, business conducted;
- (8) All net profits attributable to the City earned by fiduciaries of non-resident individuals for, or derived from, business conducted in the City; and
- (9) The gross proceeds earned or derived from gaming, wagering, lotteries, including but not limited to the Ohio State Lottery, or lotteries where the State of Ohio is a part thereof, or games or schemes of chance, by residents of the City; and/or, the gross proceeds earned or derived from gaming, wagering, lotteries, or games or schemes of chance, when any part of the activity is engaged into or conducted in the City, by nonresidents, are all subject to the City tax to the same extent includable on the recipient's federal tax return, whether or not the recipient is required to file a federal tax return and whether or not the recipient pays federal income tax on the gross proceeds, except that it shall not be taxed as a business income unless the person subject to this tax has a federal gamblers' permit effective during the tax year in which income from gaming, wagering, lotteries or schemes or games of chance is received.

(B) The portion of the net profits attributable to the City of a taxpayer doing work, rendering services or conducting business both within and outside the City shall be determined in the same proportion as the average ratio of the following:

- (1) The average original cost of the real and tangible personal property owned or used by the taxpayer in the business in the City during the taxable period to the average original cost of all real and tangible personal property owned or used by the taxpayer in the business during the same period, wherever situated. As used in this paragraph, real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight (8);
- (2) Salaries, wages and other compensation paid during the taxable period to persons employed in the business and salespeople for work done or services rendered in the City to compensation paid during the same period to persons employed in the business and salespeople, wherever their work is done or their services are rendered;
- (3) Gross receipts of the business during the taxable period from sales made and services rendered in the City to gross receipts of the business during the same period from sales and services, wherever made or rendered.  
If the foregoing allocation formula does not produce an equitable result, another basis may, under uniform regulations, be substituted so as to produce such result.

- (C) As used in subsection (b) hereof, "sales made in the City" means:
- (1) All sales of tangible personal property which is delivered within the City regardless of where title passes if shipped or delivered from stock of goods within the City;
  - (2) All sales of tangible personal property which is delivered within the City regardless of where title passes even though transported from a point outside the City if the taxpayer is regularly engaged through its own employees and salespeople in the solicitation or promotion of sales within the City and the sales result from such solicitation or promotion;
  - (3) All sales of tangible personal property which is shipped from a place within the City to purchasers outside the City regardless of where title passes if the taxpayer is not, through its own employees and salespeople regularly engaged in the solicitation or promotion of sales at the place where delivery is made.
- (Portions also approved by voters 5-5-09; Ord. 053-15. Passed 11-16-15.)

#### **194.013 ALLOCATION OF FUNDS.**

(a) Effective January 1, 2025, the funds collected under the provisions of this Chapter shall be deposited in the "General Fund equivalent" of the City for municipal income taxes and shall be disbursed in the following order:

- (1) Such part thereof as shall be necessary to defray all costs of collecting this tax and all costs of administering and enforcing the provisions of this Chapter and the rules and regulations adopted by Council in connection therewith.
- (2) Not more than sixty-five percent (65%) of the net available tax receipts received annually may be used to defray operating expenses of the City.
- (3) At least thirty-five percent (35%) of the net available tax receipts received annually shall be set aside and used for capital improvements including, but not limited to, development and construction of storm sewers and street improvements; for public buildings, parks, and playgrounds; and for equipment necessary for the Police, Fire, Street, Traffic, and Safety Departments.
- (4) One-hundred percent (100%) of the net available tax receipts received annually pursuant to Napoleon Ordinance 194.081 may be used to defray operating expenses incurred due to the provision of police and fire services.

(b) Effective January 1, 2026 and thereafter, the funds collected under the provisions of this chapter shall be deposited in the "General Fund equivalent" of the City for municipal income taxes and shall be disbursed in the following order:

- (1) Such part thereof as shall be necessary to defray all costs of collecting this tax and all costs of administering and enforcing the provisions of this chapter and the rules and regulations adopted by Council in connection therewith.
- (2) Not more than sixty-five percent (65%) of the net available tax receipts received annually may be used to defray operating expenses of the City.
- (3) At least thirty-five percent (35%) of the net available tax receipts received annually shall be set aside and used for capital improvements including, but not limited to, development and construction of storm sewers and street improvements; for public buildings, parks, and playgrounds; and for equipment necessary for the Police, Fire, Street, Traffic, and Safety Departments.

- (4) One-hundred percent (100%) of the net available tax receipts received annually pursuant to Napoleon Ordinance 194.081 may be used to defray operating expenses incurred due to the provision of police and fire services. (Ord. 039-24. Passed 12-16-24.)

#### **194.014 STATEMENT OF PROCEDURAL HISTORY; STATE MANDATED CHANGES TO MUNICIPAL INCOME TAX.**

(A) Significant and wide-ranging amendments to ORC 718 were enacted by Am Sub HB 5, passed by the 130th General Assembly, and signed by Governor Kasich on December 19, 2014, and H.B. 5 required municipal corporations to conform to and adopt the provisions of ORC 718 in order to have the authority to impose, enforce, administer and collect a municipal income tax.

(B) As mandated by H.B. 5, this Municipal Income Tax Ordinance 053-15, effective January 1, 2016, comprehensively adopts Chapter 194 in accordance with the provisions of ORC 718 to allow the City to continue the income tax and withholding tax administration and collection efforts on behalf of the City. (Ord. 053-15. Passed 11-16-15.)

#### **194.02 EFFECTIVE DATE; FISCAL YEAR.**

(A) Ordinance 053-15, effective January 1, 2016, and corresponding changes to ORC 718, apply to municipal taxable years beginning on or after January 1, 2016. All provisions of this Chapter 194 apply to taxable years beginning 2016 and succeeding taxable years.

(B) Ordinance 053-15 does not repeal the existing sections of Chapter 193 for any taxable year prior to 2016, but rather adopts Chapter 194 effective January 1, 2016 and continuing for each taxable year thereafter. For municipal taxable years beginning before January 1, 2016, the City shall continue to administer, audit, and enforce the income tax of the Municipality under ORC 718 and Ordinances and Resolutions of the City as that Chapter and those Ordinances and Resolutions existed before January 1, 2016.

(C) The City tax shall be levied, collected and paid with respect to compensation earned or received and with respect to the net profits earned or received on a calendar year basis, except as herein provided. When the fiscal year of a taxpayer is other than the calendar year that may be otherwise permitted by law, and a modification of this Tax Code impacts such fiscal taxpayer, then the City tax shall be levied upon that part of the net profits for the fiscal year which are earned or received on or after the effective date of such modification until the close of the taxpayer's fiscal year, and, thereafter, shall be levied on the taxpayer's fiscal-year basis. (Ord. 053-15. Passed 11-16-15.)

#### **194.03 DEFINITIONS.**

Any term used in this Chapter that is not otherwise defined in this Chapter has the same meaning as when used in a comparable context in laws of the United States relating to federal income taxation or in Title LVII of the Ohio Revised Code, unless a different meaning is clearly required. If a term used in this Chapter that is not otherwise defined in this Chapter is used in a comparable context in both the laws of the United States relating to federal income tax and in Title LVII of the Ohio Revised Code and the use is not consistent, then the use of the term in the laws of the United States relating to federal income tax shall control over the use of the term in Title LVII of the Ohio Revised Code. For purposes of this Section 194.03, the singular shall include the plural, and the masculine shall include the feminine and the gender-neutral.



As used in this Chapter:

- (1) "ADJUSTED FEDERAL TAXABLE INCOME," for a person required to file as a C corporation, or for a person that has elected to be taxed as a C corporation under division 23(D) of this section, means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:
- (A) Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income.
  - (B) Add an amount equal to five per cent (5%) of intangible income deducted under division (1)(A) of this section, but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in section 1221 of the Internal Revenue Code;
  - (C) Add any losses allowed as a deduction in the computation of federal taxable income if the losses directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;
  - (D)
    - (i) Except as provided in division (1)(D)(ii) of this section, deduct income and gain included in federal taxable income to the extent the income and gain directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;
    - (ii) Division (1)(D)(i) of this section does not apply to the extent the income or gain is income or gain described in section 1245 or 1250 of the Internal Revenue Code.
  - (E) Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income;
  - (F) In the case of a real estate investment trust or regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income;
  - (G) Deduct, to the extent not otherwise deducted or excluded in computing federal taxable income, any income derived from a transfer agreement or from the enterprise transferred under that agreement under section 4313.02 of the Ohio Revised Code;
  - (H)
    - (i) Except as limited by divisions (1)(H)(ii), (iii) and (iv) of this section, deduct any net operating loss incurred by the person in a taxable year beginning on or after January 1, 2017. The amount of such net operating loss shall be deducted from net profit that is reduced by exempt income to the extent necessary to reduce municipal taxable income to zero, with any remaining unused portion of the net operating loss carried forward to not more than five consecutive taxable years following the taxable year in which the loss was incurred, but in no case for more years than necessary for the deduction to be fully utilized.
    - (ii) No person shall use the deduction allowed by division (1)(H) of this section to offset qualifying wages.
    - (iii)
      - (a) For taxable years beginning in 2018, 2019, 2020, 2021, or 2022, a person may not deduct, for purposes of an income tax levied by a municipal corporation that levies an income tax before January 1, 2016, more than fifty per cent (50%) of the amount of the deduction otherwise allowed by division (1)(H)(i) of this section.

## CHAPTER 303

### Enforcement, Impounding and Penalty

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| <p><b>303.01 Compliance with lawful order of police officer; fleeing.</b></p> <p><b>303.02 Traffic direction in emergencies; obedience to school guard.</b></p> <p><b>303.03 Officer may remove ignition key.</b></p> <p><b>303.04 Road workers, motor vehicles and equipment excepted.</b></p> <p><b>303.041 Emergency, public safety and coroner's vehicles exempt.</b></p> <p><b>303.05 Application to persons riding, driving animals upon roadway.</b></p> <p><b>303.06 Freeway use prohibited by pedestrians, bicycles and animals.</b></p> <p><b>303.07 Application to drivers of government vehicles.</b></p> | <p><b>303.08 Impounding of vehicles; redemption.</b></p> <p><b>303.081 Impounding vehicles on private residential or agricultural property.</b></p> <p><b>303.082 Private tow-away zones.</b></p> <p><b>303.083 Impounding vehicles on public property.</b></p> <p><b>303.09 Leaving junk vehicles on private or public property without permission or notification.</b></p> <p><b>303.10 Providing false information to police officer.</b></p> <p><b>303.99 General Traffic Code penalties.</b></p> <p><b>303.991 Committing an offense while distracted penalty.</b></p> |
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#### CROSS REFERENCES

See sectional histories for similar State law

Disposition of unclaimed vehicles - see Ohio R.C. 737.32, 4513.62 et seq.

Citations for minor misdemeanors - see Ohio R.C. 2935.26 et seq.

Power of trial court of record to suspend or revoke license for certain violations - see Ohio R.C. 4507.16, 4507.34

State point system suspension - see Ohio R.C. 4507.40

Uniform application of Ohio Traffic Law - see Ohio R.C. 4511.06

Marking motor vehicles used by traffic officers - see Ohio R.C. 4549.13

Distinctive uniform required for traffic officers - see Ohio R.C. 4549.15

Exceptions for emergency or public safety vehicles - see TRAF. 331.20, 333.06

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#### **303.01 COMPLIANCE WITH LAWFUL ORDER OF POLICE OFFICER; FLEEING.**

(a) No person shall fail to comply with any lawful order or direction of any police officer invested with authority to direct, control or regulate traffic.

(b) No person shall operate a motor vehicle so as willfully to elude or flee a police officer after receiving a visible or audible signal from a police officer to bring the person's motor vehicle to a stop.

(EDITOR'S NOTE: Refer to Ohio R.C. 2921.331 for filing charges under subsection (b) hereof since the jury or judge as trier of fact may determine the violation to be a felony.)

- (c)
  - (1) Whoever violates this section is guilty of failure to comply with an order or signal of a police officer.
  - (2) A violation of subsection (a) of this section is a misdemeanor of the first degree.
  - (3) Except as provided in subsections (c)(4) and (c)(5) of this section, a violation of subsection (b) of this section is a felony to be prosecuted under appropriate state law.
  - (4) A violation of subsection (b) of this section is a felony and shall be prosecuted under appropriate state law if the jury or judge as trier of fact finds by proof beyond a reasonable doubt that in committing the offense, the offender was fleeing immediately after the commission of a felony.
  - (5)
    - A. A violation of subsection (b) of this section is a felony and shall be prosecuted under appropriate state law if the jury or judge as trier of fact finds any of the following by proof beyond a reasonable doubt:
      - 1. The operation of the motor vehicle by the offender was a proximate cause of serious physical harm to persons or property.
      - 2. The operation of the motor vehicle by the offender caused a substantial risk of serious physical harm to persons or property.
    - B. If a police officer pursues an offender who is violating subsection (b) of this section and subsection (c)(5)A. of this section applies, the sentencing court, in determining the seriousness of an offender's conduct for purposes of sentencing the offender for a violation of subsection (b) of this section, shall consider, along with the factors set forth in Ohio R.C. 2929.12 and 2929.13 that are required to be considered, all of the following:
      - 1. The duration of the pursuit;
      - 2. The distance of the pursuit;
      - 3. The rate of speed at which the offender operated the motor vehicle during the pursuit;
      - 4. Whether the offender failed to stop for traffic lights or stop signs during the pursuit;
      - 5. The number of traffic lights or stop signs for which the offender failed to stop during the pursuit;
      - 6. Whether the offender operated the motor vehicle during the pursuit without lighted lights during a time when lighted lights are required;
      - 7. Whether the offender committed a moving violation during the pursuit;
      - 8. The number of moving violations the offender committed during the pursuit;
      - 9. Any other relevant factors indicating that the offender's conduct is more serious than conduct normally constituting the offense

(d) In addition to any other sanction imposed for a violation of subsection (a) of this section, the court shall impose a class five suspension from the range specified in Ohio R.C. 4510.02(A)(5). If the offender previously has been found guilty of an offense under this section or under Ohio R.C. 2921.331 or any other substantially equivalent municipal ordinance, in addition to any other sanction imposed for the offense, the court shall impose a class one

suspension as described in Ohio R.C. 4510.02(A)(1). The court may grant limited driving privileges to the offender on a suspension imposed for a misdemeanor violation of this section as set forth in R.C. § 4510.021. No judge shall suspend any portion of the suspension under a class one suspension of an offender's license, permit, or privilege required by this division. (ORC 2921.331)

### **303.02 TRAFFIC DIRECTION IN EMERGENCIES; OBEDIENCE TO SCHOOL GUARD.**

(a) Police officers shall direct or regulate traffic in accordance with the provisions of this Traffic Code, provided that, in the event of fire or other emergency or to expedite traffic or safeguard pedestrians, they are authorized to direct traffic as conditions may require notwithstanding the provisions of this Traffic Code. Firemen, when at the scene of a fire, may direct or assist the police in directing traffic thereat or in the immediate vicinity. The direction of traffic may be by word or audible signal, by gesture or visible signal or by any combination thereof. No person shall fail to comply with any lawful order or direction of any police officer or fireman issued pursuant to this section.

(b) No person shall fail to comply with any lawful order or direction of any school crossing guard invested with authority to direct, control or regulate traffic in the vicinity of the school to which such guard may be assigned.

(c) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

### **303.03 OFFICER MAY REMOVE IGNITION KEY.**

A law enforcement officer may remove the ignition key left in the ignition switch of an unlocked and unattended motor vehicle parked on a street or highway, or any public or private property used by the public for purposes of vehicular travel or parking. The officer removing such key shall place notification upon the vehicle detailing his name and badge number, the place where such key may be reclaimed and the procedure for reclaiming such key. The key shall be returned to the owner of the motor vehicle upon presentation of proof of ownership. (ORC 4549.05)

### **303.04 ROAD WORKERS, MOTOR VEHICLES AND EQUIPMENT EXCEPTED.**

(a) The provisions of this Traffic Code do not apply to persons, teams, motor vehicles, and other equipment while actually engaged in work upon the surface of a highway within an area designated by traffic control devices, but apply to such persons and vehicles when traveling to or from such work.

(b) The driver of a highway maintenance vehicle owned by this state or any political subdivision of this state, while the driver is engaged in the performance of official duties upon a street or highway, provided the highway maintenance vehicle is equipped with flashing lights and such other markings as are required by law, and such lights are in operation when the driver and vehicle are so engaged, shall be exempt from criminal prosecution for violations of Sections 331.01 to 331.04, 331.06 to 331.08, 331.31, 333.04, 337.01 and Ohio R.C. 4511.66 and 5577.01 to 5577.09.

(c) (1) This section does not exempt a driver of a highway maintenance vehicle from civil liability arising from a violation of Sections 331.01 to 331.04, 331.06 to 331.08, 331.31, 333.04, 337.01 or Ohio R.C. 4511.66 or 5577.01 to 5577.09.

- (2) This section does not exempt a driver of a vehicle who is not a state employee and who is engaged in the transport of highway maintenance equipment from criminal liability for a violation of Ohio R.C. 5577.01 to 5577.09.

(d) As used in this section, "engaged in the performance of official duties" includes driving a highway maintenance vehicle to and from the manufacturer or vehicle maintenance provider and transporting a highway maintenance vehicle, equipment, or materials to and from a work location. (ORC 4511.04)

### **303.041 EMERGENCY, PUBLIC SAFETY AND CORONER'S VEHICLES EXEMPT.**

(a) Ohio R.C. 4511.12, 4511.13, 4511.131, 4511.132, 4511.14, 4511.202, 4511.21, 4511.211, 4511.22, 4511.23, 4511.25, 4511.26, 4511.27, 4511.28, 4511.29, 4511.30, 4511.31, 4511.32, 4511.33, 4511.34, 4511.35, 4511.36, 4511.37, 4511.38, 4511.39, 4511.40, 4511.41, 4511.42, 4511.43, 4511.431, 4511.432, 4511.44, 4511.441, 4511.57, 4511.58, 4511.59, 4511.60, 4511.61, 4511.62, 4511.66, 4511.68, 4511.681 and 4511.69 and all sections of this Traffic Code or other municipal ordinances that are substantially equivalent to the sections listed above, do not apply to the driver of an emergency vehicle or public safety vehicle if the emergency vehicle or public safety vehicle is responding to an emergency call, is equipped with and displaying at least one flashing, rotating or oscillating light visible under normal atmospheric conditions from a distance of 500 feet to the front of the vehicle and if the driver of the vehicle is giving an audible signal by siren, exhaust whistle or bell. This section does not relieve the driver of an emergency vehicle or public safety vehicle from the duty to drive with due regard for the safety of all persons and property upon the highway. (ORC 4511.041)

(b) Ohio R.C. 4511.25, 4511.26, 4511.27, 4511.28, 4511.29, 4511.30, 4511.31, 4511.32, 4511.33, 4511.35, 4511.36, 4511.37, 4511.38 and 4511.66, and all sections of this Traffic Code or other municipal ordinances that are substantially equivalent to the sections listed above, do not apply to a coroner, deputy coroner, or coroner's investigator operating a motor vehicle in accordance with Ohio R.C. 4513.171. This section does not relieve a coroner, deputy coroner, or coroner's investigator operating a motor vehicle from the duty to drive with due regard for the safety of all persons and property upon the highway. (ORC 4511.042)

### **303.05 APPLICATION TO PERSONS RIDING, DRIVING ANIMALS UPON ROADWAY.**

Every person riding, driving or leading an animal upon a roadway shall be subject to the provisions of this Traffic Code applicable to the driver of a vehicle, except those provisions of such sections which by their nature are inapplicable. (ORC 4511.05)

### **303.06 FREEWAY USE PROHIBITED BY PEDESTRIANS, BICYCLES AND ANIMALS.**

- (a) No person, unless otherwise directed by a police officer, shall:
- (1) As a pedestrian, occupy any space within the limits of the right-of-way of a freeway, except: in a rest area; on a facility that is separated from the roadway and shoulders of the freeway and is designed and appropriately marked for pedestrian use; in the performance of public works or official duties; as a result of an emergency caused by an accident or breakdown of a motor vehicle; or to obtain assistance;

- (2) Occupy any space within the limits of the right of way of a freeway, with: an animal-drawn vehicle; a ridden or led animal; herded animals; a pushcart; a bicycle, except on a facility that is separated from the roadway and shoulders of the freeway and is designed and appropriately marked for bicycle use; an electric bicycle; a bicycle with motor attached; a motor driven cycle with a motor which produces not to exceed five brake horsepower; an agricultural tractor; farm machinery; except in the performance of public works or official duties.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.  
(ORC 4511.051)

### **303.07 APPLICATION TO DRIVERS OF GOVERNMENT VEHICLES.**

The provisions of this Traffic Code applicable to the drivers of vehicles shall apply to the drivers of all vehicles owned or operated by the United States, any state or any political subdivision thereof, including this Municipality, except as may be otherwise provided by law and subject to such specific exceptions as are set forth with reference to authorized emergency and public safety vehicles.

### **303.08 IMPOUNDING OF VEHICLES; REDEMPTION.**

(a) Police officers are authorized to provide for the removal of a vehicle under the following circumstances:

- (1) When any vehicle is left unattended upon any street, bridge or causeway and is so illegally parked so as to constitute a hazard or obstruction to the normal movement of traffic, or so as to unreasonably interfere with street cleaning or snow removal operations.
- (2) When any vehicle or "abandoned junk motor vehicle" as defined in Ohio R.C. 4513.63 is left on private property for more than forty-eight consecutive hours without the permission of the person having the right to the possession of the property, or on a public street or other property open to the public for purposes of vehicular travel or parking, or upon or within the right of way of any road or highway, for forty-eight consecutive hours or longer, without notification to the Police Chief of the reasons for leaving such vehicle in such place. Prior to disposal of an "abandoned junk motor vehicle" as defined in Ohio R.C. 4513.63, it shall be photographed by a law enforcement officer.
- (3) When any vehicle has been stolen or operated without the consent of the owner and is located upon either public or private property.
- (4) When any vehicle displays illegal license plates or fails to display the current lawfully required plates and is located upon any public street or other property open to the public for purposes of vehicular travel or parking.
- (5) When any vehicle has been used in or connected with the commission of a felony and is located upon either public or private property.

- (6) When any vehicle has been damaged or wrecked so as to be inoperable or violates equipment provisions of this Traffic Code whereby its continued operation would constitute a condition hazardous to life, limb or property, and is located upon any public street or other property open to the public for purposes of vehicular travel or parking.
- (7) When any vehicle is left unattended either on public or private property due to the removal of an ill, injured or arrested operator, or due to the abandonment thereof by the operator during or immediately after pursuit by a law enforcement officer.
- (8) When any vehicle has been operated by any person who has failed to stop in case of an accident or collision and is located either on public or private property.
- (9) When any vehicle has been operated by any person who is driving without a lawful license or while his license has been suspended or revoked and is located upon a public street or other property open to the public for purposes of vehicular travel or parking.
- (10) When any vehicle is found for which two or more citation tags for violations of this Traffic Code have been issued and the owner or operator thereof has failed to respond to such citation tags as lawfully required, and is located upon a public street or other property open to the public for purposes of vehicular travel or parking.

(b) Any vehicle removed under authority of subsection (a)(2) hereof shall be ordered into storage and/or disposed of as provided under Ohio R.C. 4513.60 et seq. Any other vehicle removed under authority of this section shall be ordered into storage and the Municipal police shall forthwith notify the registered vehicle owner of the fact of such removal and impounding, reasons therefor and the place of storage. Any person desiring to redeem an impounded vehicle shall appear at the police offices to furnish satisfactory evidence of identity and ownership or right to possession. Prior to issuance of a release form, the claimant, owner or operator shall either pay the amount due for any fines for violations on account of which such vehicle was impounded or, as the court may require, post a bond in an amount set by the court, to appear to answer to such violations. The pound operator shall release such vehicle upon the receipt of the release form and payment of all towage and storage charges.

(c) No owner or operator shall remove an impounded vehicle from the place of storage without complying with the above procedure. Possession of a vehicle which has been impounded and unlawfully taken from the place of storage, by the owner or operator, shall constitute prima-facie evidence that it was so removed by the owner or operator.

(d) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

### **303.081 IMPOUNDING VEHICLES ON PRIVATE RESIDENTIAL OR AGRICULTURAL PROPERTY.**

- (a) (1) The chief of a law enforcement agency of the municipal corporation, upon complaint of any person adversely affected may order into storage any motor vehicle, other than an abandoned junk motor vehicle as defined in Ohio R.C. 4513.63, that has been left on private residential or private agricultural property for at least four hours without the permission of the person having the right to the possession of the property. The chief, upon complaint of a repair garage or place of storage, may order into storage

any motor vehicle, other than an abandoned junk motor vehicle, that has been left at the garage or place of storage for a longer period than that agreed upon. When ordering a motor vehicle into storage pursuant to this section, the chief may arrange for the removal of the motor vehicle by a towing service and shall designate a storage facility.

- (2) A towing service towing a motor vehicle under subsection (a)(1) of this section shall remove the motor vehicle in accordance with that subsection. The towing service shall deliver the motor vehicle to the location designated by the chief not more than two hours after the time it is removed from the private property, unless the towing service is unable to deliver the motor vehicle within two hours due to an uncontrollable force, natural disaster, or other event that is not within the power of the towing service.
- (3) Subject to subsection (b) of this section, the owner of a motor vehicle that has been removed pursuant to this subsection may recover the vehicle only in accordance with subsection (d) of this section.
- (4) As used in this section "private residential property" means private property on which is located one or more structures that are used as a home, residence or sleeping place by one or more persons, if no more than three separate households are maintained in the structure or structures. "Private residential property" does not include any private property on which is located one or more structures that are used as a home, residence or sleeping place by two or more persons, if more than three separate households are maintained in the structure or structures.

(b) If the owner or operator of a motor vehicle that has been ordered into storage pursuant to subsection (a)(1) of this section arrives after the motor vehicle has been prepared for removal, but prior to its actual removal from the property, the towing service shall give the owner or operator oral or written notification at the time of such arrival that the vehicle owner or operator may pay a fee of not more than one-half of the fee for the removal of the motor vehicle established by the Public Utilities Commission in rules adopted under Ohio R.C. 4921.25, in order to obtain release of the motor vehicle. However, if the vehicle is within a municipal corporation and the municipal corporation has established a vehicle removal fee, the towing service shall give the owner or operator oral or written notification that the owner or operator may pay not more than one-half of that fee to obtain release of the motor vehicle. That fee may be paid by use of a major credit card unless the towing service uses a mobile credit card processor and mobile service is not available at the time of the transaction.

Upon payment of the applicable fee, the towing service shall give the vehicle owner or operator a receipt showing both the full amount normally assessed and the actual amount received and shall release the motor vehicle to the owner or operator. Upon its release, the owner or operator immediately shall move it so that it is not on the private residential or private agricultural property without the permission of the person having the right to possession of the property, or is not at the garage or place of storage without the permission of the owner, whichever is applicable.

- (c) (1) The chief of a law enforcement agency in the municipal corporation shall maintain a record of motor vehicles that the chief orders into storage pursuant to subsection (a)(1) of this section. The record shall include an entry for each such motor vehicle that identifies the motor vehicle's license number, make, model and color, the location from which it was removed, the date and time of its removal, the telephone number of the person from whom it may be recovered, and the address of the place to which it has been taken and from which it may be recovered. The chief shall provide any information in the record that pertains to a particular motor vehicle to any person who,



- either in person or pursuant to a telephone call, identifies self as the owner or operator of the motor vehicle and requests information pertaining to its location.
- (2) Any person who registers a complaint that is the basis of the chief's order for the removal and storage of a motor vehicle under subsection (a)(1) of this section shall provide the identity of the law enforcement agency with which the complaint was registered to any person who identifies self as the owner or operator of the motor vehicle and requests information pertaining to its location.
- (d) (1) The owner or lienholder of a motor vehicle that is ordered into storage pursuant to subsection (a)(1) of this section may reclaim it upon both of the following:
- A. Payment of all applicable fees established by the Public Utilities Commission in rules adopted under Ohio R.C. 4921.25 or, if the vehicle was towed within a municipal corporation that has established fees for vehicle removal and storage, payment of all applicable fees established by the municipal corporation.
  - B. Presentation of proof of ownership, which may be evidenced by a certificate of title to the motor vehicle, a certificate of registration for the motor vehicle, or a lease agreement.
- (2) When the owner of a vehicle towed under this section retrieves the vehicle, the towing service or storage facility in possession of the vehicle shall give the owner written notice that if the owner disputes that the motor vehicle was lawfully towed, the owner may be able to file a civil action under Ohio R.C. 4513.611.
- (3) Upon presentation of proof of ownership as required under subsection (d)(1)B. of this section, the owner of a motor vehicle that is ordered into storage under subsection (a)(1) of this section may retrieve any personal items from the motor vehicle without retrieving the vehicle and without paying any fee. However, a towing service or storage facility may charge an after-hours retrieval fee established by the Public Utilities Commission in rules adopted under Ohio R.C. 4921.25 if the owner retrieves the personal items after hours, unless the towing service or storage facility fails to provide the notice required under division (B)(3) of Ohio R.C. 4513.69, if applicable. The owner of a motor vehicle shall not do either of the following:
- A. Retrieve any personal item that has been determined by the chief to be necessary to a criminal investigation;
  - B. Retrieve any personal item from a vehicle if it would endanger the safety of the owner unless the owner agrees to sign a waiver of liability.
- For purposes of subsection (d)(2) of this section, "personal items" do not include any items that are attached to the motor vehicle.
- (4) If a motor vehicle that is ordered into storage pursuant to subsection (a)(1) of this section remains unclaimed by the owner for thirty days, the procedures established by Ohio R.C. 4513.61 and 4513.62 apply.
- (e) (1) No person shall remove, or cause the removal of, any motor vehicle from any private residential or private agricultural property other than in accordance with subsection (a)(1) of this section or Ohio R.C. 4513.61 to 4513.65.
- (2) No towing service or storage facility shall fail to comply with the requirements of this section.

(f) This section does not apply to any private residential or private agricultural property that is established as a private tow-away zone in accordance with Section 303.082.

(g) Whoever violates subsection (e) of this section is guilty of a minor misdemeanor. (ORC 4513.60)

### **303.082 PRIVATE TOW-AWAY ZONES.**

(a) The owner of a private property may establish a private tow-away zone, but may do so only if all of the following conditions are satisfied:

- (1) The owner of the private property posts on the property a sign, that is at least eighteen inches by twenty-four inches in size, that is visible from all entrances to the property, and that includes all of the following information:
  - A. A statement that the property is a tow-away zone;
  - B. A description of persons authorized to park on the property. If the property is a residential property, the owner of the private property may include on the sign a statement that only tenants and guests may park in the private tow-away zone, subject to the terms of the property owner. If the property is a commercial property, the owner of the private property may include on the sign a statement that only customers may park in the private tow-away zone. In all cases, if it is not apparent which persons may park in the private tow-away zone, the owner of the private property shall include on the sign the address of the property on which the private tow-away zone is located, or the name of the business that is located on the property designated as a private tow-away zone.
  - C. If the private tow-away zone is not enforceable at all times, the times during which the parking restrictions are enforced;
  - D. The telephone number and the address of the place from which a towed vehicle may be recovered at any time during the day or night;
  - E. A statement that the failure to recover a towed vehicle may result in the loss of title to the vehicle as provided in division (B) of Ohio R.C. 4505.101.

In order to comply with the requirements of subsection (a)(1) of this section, the owner of a private property may modify an existing sign by affixing to the existing sign stickers or an addendum in lieu of replacing the sign.

- (2) A towing service ensures that a vehicle towed under this section is taken to a location from which it may be recovered that complies with all of the following:
  - A. It is located within twenty-five linear miles of the location of the private tow-away zone, unless it is not practicable to take the vehicle to a place of storage within twenty-five linear miles.
  - B. It is well-lighted.
  - C. It is on or within a reasonable distance of a regularly scheduled route of one or more modes of public transportation, if any public transportation is available in the municipal corporation or township in which the private tow-away zone is located.

- (b) (1) If a vehicle is parked on private property that is established as a private tow-away zone in accordance with subsection (a) of this section, without the consent of the owner of the private property or in violation of any posted parking condition or regulation, the owner of the private property may cause the removal of the vehicle by a towing service. The towing service shall remove the vehicle in accordance with this section. The vehicle owner and

the operator of the vehicle are considered to have consented to the removal and storage of the vehicle, to the payment of the applicable fees established by the Public Service Commission in rules adopted under Ohio R.C. 4921.25, and to the right of a towing service to obtain title to the vehicle if it remains unclaimed as provided in Ohio R.C. 4505.101. The owner or lienholder of a vehicle that has been removed under this section, subject to subsection (c) of this section, may recover the vehicle in accordance with subsection (g) of this section.

- (2) If a municipal corporation requires tow trucks and tow truck operators to be licensed, no owner of a private property located within the municipal corporation shall cause the removal and storage of any vehicle pursuant to subsection (b) of this section by an unlicensed tow truck or unlicensed tow truck operator.
- (3) No towing service shall remove a vehicle from a private tow-away zone except pursuant to a written contract for the removal of vehicles entered into with the owner of the private property on which the private tow-away zone is located.

(c) If the owner or operator of a vehicle that is being removed under authority of subsection (b) of this section, arrives after the vehicle has been prepared for removal, but prior to the actual removal from the property, the towing service shall give the vehicle owner or operator oral or written notification at the time of such arrival that the vehicle owner or operator may pay a fee of not more than one-half of the fee for the removal of the vehicle established by the Public Service Commission in rules adopted under Ohio R.C. 4921.25, in order to obtain release of the vehicle. That fee may be paid by use of a major credit card unless the towing service uses a mobile credit card processor and mobile service is not available at the time of the transaction. Upon payment of that fee, the towing service shall give the vehicle owner or operator a receipt showing both the full amount normally assessed and the actual amount received and shall release the vehicle to the owner or operator. Upon its release the owner or operator immediately shall move the vehicle so that the vehicle is not parked on the private property established as a private tow-away zone without the consent of the owner of the private property or in violation of any posted parking condition or regulation.

- (d)
  - (1) Prior to towing a vehicle under subsection (b) of this section, a towing service shall make all reasonable efforts to take as many photographs as necessary to evidence that the vehicle is clearly parked on private property in violation of a private tow-away zone established under subsection (a) of this section.  
The towing service shall record the time and date of the photographs taken under this section. The towing service shall retain the photographs and the record of the time and date, in electronic or printed form, for at least thirty days after the date on which the vehicle is recovered by the owner or lienholder or at least two years after the date on which the vehicle was towed, whichever is earlier.
  - (2) A towing service shall deliver a vehicle towed under subsection (b) of this section to the location from which it may be recovered not more than two hours after the time it was removed from the private tow-away zone, unless the towing service is unable to deliver the motor vehicle within two hours due to an uncontrollable force, natural disaster, or other event that is not within the power of the towing service.

- (e) (1) If an owner of a private property that is established as a private tow-away zone in accordance with subsection (a) of this section causes the removal of a vehicle from that property by a towing service under subsection (b) of this section, the towing service, within two hours of removing the vehicle, shall provide notice to the law enforcement agency of the municipal corporation concerning all of the following:
- A. The vehicle's license number, make, model and color;
  - B. The location from which the vehicle was removed;
  - C. The date and time the vehicle was removed;
  - D. The telephone number of the person from whom the vehicle may be recovered;
  - E. The address of the place from which the vehicle may be recovered.
- (2) The chief of a law enforcement agency of the municipal corporation shall maintain a record of any vehicle removed from private property in the chief's jurisdiction that is established as a private tow-away zone of which the chief has received notice under this section. The record shall include all information submitted by the towing service. The chief shall provide any information in the record that pertains to a particular vehicle to a person who, either in person or pursuant to a telephone call, identifies self as the owner, operator or lienholder of the vehicle, and requests information pertaining to the vehicle.
- (f) (1) When a vehicle is removed from private property in accordance with this section, within three business days of the removal, the towing service or storage facility from which the vehicle may be recovered shall cause a search to be made of either of the following to ascertain the identity of the owner and any lienholder of the vehicle:
- A. The records of the Bureau of Motor Vehicles;
  - B. The records of any vendor or vendors, approved by the Registrar of Motor Vehicles, that are capable of providing real-time access to owner and lienholder information.
- (2) The towing service or storage facility may search the National Motor Vehicle Title Information System in order to determine the state in which the vehicle is titled. The entity that provides the record of the owner and any lienholder under this division shall ensure that such information is provided in a timely manner.
- (3) Subject to subsection (f)(6) of this section, the towing service or storage facility shall send notice to the vehicle owner and any known lienholder as follows:
- A. Within five business days after the applicable entity provides the identity of the owner and any lienholder of the motor vehicle, if the vehicle remains unclaimed, to the owner's and lienholder's last known address by certified or express mail with return receipt requested, by certified mail with electronic tracking, or by a commercial carrier service utilizing any form of delivery requiring a signed receipt.
  - B. If the vehicle remains unclaimed thirty days after the first notice is sent, in the manner required under subsection (f)(3)A. of this section.
- (4) Sixty days after any notice sent pursuant to subsection (f)(3) of this section is received, as evidenced by a receipt signed by any person, or the towing service or storage facility has been notified that delivery was not possible, the towing service or storage facility, if authorized under Ohio R.C. 4505.101(B), may initiate the process for obtaining a certificate of title to the motor vehicle as provided in that section.

- (5) A towing service or storage facility that does not receive a signed receipt of notice, or a notification that delivery was not possible, shall not obtain, and shall not attempt to obtain, a certificate of title to the motor vehicle under Ohio R.C. 4505.101(B).
- (6) With respect to a vehicle concerning which a towing service or storage facility is not eligible to obtain title under Ohio R.C. 4505.101, the towing service or storage facility need only comply with the initial notice required under subsection (f)(3)A. of this section.
- (g)
  - (1) The owner or lienholder of a vehicle that is removed under subsection (b) of this section may reclaim it upon both of the following:
    - A. Presentation of proof of ownership, which may be evidenced by a certificate of title to the vehicle, a certificate of registration for the motor vehicle or a lease agreement;
    - B. Payment of the following fees:
      - 1. All applicable fees established by the Public Utilities Commission in rules adopted under Ohio R.C. 4921.25, except that the lienholder of a vehicle may retrieve the vehicle without paying any storage fee for the period of time that the vehicle was in the possession of the towing service or storage facility prior to the date the lienholder received the notice sent under subsection (f)(1)A. of this section;
      - 2. If notice has been sent to the owner and lienholder as described in subsection (f) of this section, a processing fee of twenty-five dollars (\$25.00).
  - (2) A towing service or storage facility in possession of a vehicle that is removed under authority of subsection (b) of this section shall show the vehicle owner, operator or lienholder who contests the removal of the vehicle all photographs taken under subsection (d) of this section. Upon request, the towing service or storage facility shall provide a copy of all photographs in the medium in which the photographs are stored, whether paper, electronic, or otherwise.
  - (3) When the owner of a vehicle towed under this section retrieves the vehicle, the towing service or storage facility in possession of the vehicle shall give the owner written notice that if the owner disputes that the motor vehicle was lawfully towed, the owner may be able to file a civil action under Ohio R.C. 4513.611.
  - (4) Upon presentation of proof of ownership, which may be evidenced by a certificate of title to the vehicle, a certificate of registration for the motor vehicle or a lease agreement, the owner of a vehicle that is removed under authority of subsection (b) of this section may retrieve any personal items from the vehicle without retrieving the vehicle and without paying any fee. The owner of the vehicle shall not retrieve any personal items from a vehicle if it would endanger the safety of the owner, unless the owner agrees to sign a waiver of liability. For purposes of subsection (g)(4) of this section, "personal items" do not include any items that are attached to the vehicle.
- (h) No person shall remove, or cause the removal of any vehicle from private property that is established as a private tow-away zone under this section, or store such a vehicle other than in accordance with this section, or otherwise fail to comply with any applicable requirement of this section.

(i) This section does not affect or limit the operation of Ohio R.C. 4513.60 or Ohio R.C. 4513.61 to 4613.65 as they relate to property other than private property that is established as a private tow-away zone under subsection (a) of this section.

(j) Whoever violates subsection (h) of this section is guilty of a minor misdemeanor.

(k) As used in this section, "owner of a private property" or "owner of the private property" includes, with respect to a private property, any of the following:

- (1) Any person who holds title to the property;
- (2) Any person who is a lessee or sublessee with respect to a lease or sublease agreement for the property;
- (3) A person who is authorized to manage the property;
- (4) A duly authorized agent of any person listed in subsections (k)(1) to (3) of this section. (ORC 4513.601)

### **303.083 IMPOUNDING VEHICLES ON PUBLIC PROPERTY.**

(a) The chief of a law enforcement agency of the municipal corporation, within the chief's respective territorial jurisdiction, or a state highway patrol trooper, upon notification to the chief of such action and of the location of the place of storage, may order into storage any motor vehicle, including an abandoned junk motor vehicle as defined in Ohio R.C. 4513.63, that:

- (1) Has come into the possession of the chief, or state highway patrol trooper as a result of the performance of the chief's or trooper's duties; or
- (2) Has been left on a public street or other property open to the public for purposes of vehicular travel, or upon or within the right-of-way of any road or highway, for forty-eight hours or longer without notification to the chief of the reasons for leaving the motor vehicle in such place. However, when such a motor vehicle constitutes an obstruction to traffic it may be ordered into storage immediately unless either of the following applies:
  - A. The vehicle was involved in an accident and is subject to Ohio R.C. 4513.66, or any substantially equivalent municipal ordinance;
  - B. The vehicle is a commercial motor vehicle. If the vehicle is a commercial motor vehicle, the chief, or state highway patrol trooper shall allow the owner or operator of the vehicle the opportunity to arrange for the removal of the motor vehicle within a period of time specified by the chief, or state highway patrol trooper. If the chief, or state highway patrol trooper determines that the vehicle cannot be removed within the specified period of time, the chief, or state highway patrol trooper shall order the removal of the vehicle.
- (3) Subject to subsection (c) of this section, the chief shall designate the place of storage of any motor vehicle so ordered removed.

(b) If the chief, or a state highway patrol trooper issues an order under subsection (a) of this section and arranges for the removal of a motor vehicle by a towing service, the towing service shall deliver the motor vehicle to the location designated by the chief not more than two hours after the time it is removed.

- (c) (1) The chief shall cause a search to be made of the records of an applicable entity listed in Ohio R.C. 4513.601(F)(1) to ascertain the identity of the owner and any lienholder of a motor vehicle ordered into storage by the chief, or by a state highway patrol trooper within five business days of the removal of the vehicle. Upon obtaining such identity, the chief shall send or cause to be sent to the owner or lienholder at the owner's or lienholder's last known address by certified or express mail with return receipt requested, by

certified mail with electronic tracking, or by a commercial carrier service utilizing any form of delivery requiring a signed receipt. The notice shall inform the owner or lienholder that the motor vehicle will be declared a nuisance and disposed of if not claimed within ten days of the date of the sending of the notice.

- (2) A. The owner or lienholder of the motor vehicle is responsible for payment of any expenses or charges incurred in its removal and storage and may reclaim the motor vehicle upon payment of those expenses or charges, and presentation of proof of ownership, which may be evidenced by a certificate of title or memorandum certificate of title to the motor vehicle, a certificate of registration for the motor vehicle, or a lease agreement. Upon presentation of proof of ownership evidenced as provided above, the owner of the motor vehicle also may retrieve any personal items from the vehicle without retrieving the vehicle and without paying any fee. However, a towing service or storage facility may charge an after-hours retrieval fee established by the Public Utilities Commission in rules adopted under Ohio R.C. 4921.25 if the owner retrieves the personal items after hours, unless the towing service or storage facility fails to provide the notice required under Ohio R.C. 4513.69(B)(3), if applicable. However, the owner shall not do either of the following:
  - 1. Retrieve any personal item that has been determined by the chief, or a state highway patrol trooper, as applicable, to be necessary to a criminal investigation;
  - 2. Retrieve any personal item from a vehicle if it would endanger the safety of the owner, unless the owner agrees to sign a waiver of liability.
- B. For purposes of subsection (c)(2) of this section, "personal items" do not include any items that are attached to the vehicle.
- (3) If the owner or lienholder of the motor vehicle reclaims it after a search of the applicable records has been conducted and after notice has been sent to the owner and any lienholder as described in this section, and the search was conducted by the place of storage, and the notice was sent to the motor vehicle owner by the place of storage, the owner or lienholder shall pay to the place of storage a processing fee of twenty-five dollars (\$25.00), in addition to any expenses or charges incurred in the removal and storage of the vehicle.

(d) If the owner or lienholder makes no claim to the motor vehicle within ten days of the date of sending the notice, and if the vehicle is to be disposed of at a public auction as provided in Ohio R.C. 4513.62 or any substantially equivalent municipal ordinance, the chief, without charge to any party, shall file with the Clerk of Courts of the county in which the place of storage is located an affidavit showing compliance with the requirements of this section. Upon presentation of the affidavit, the Clerk, without charge, shall issue a salvage certificate of title, free and clear of all liens and encumbrances, to the chief. If the vehicle is to be disposed of to a motor vehicle salvage dealer or other facility as provided in Ohio R.C. 4513.62 or any substantially equivalent municipal ordinance, the chief shall execute in triplicate an affidavit, as prescribed by the Registrar of Motor Vehicles, describing the motor vehicle and the manner in which it was disposed of, and that all requirements of this section have been complied with. The chief shall retain the original of the affidavit for the chief's records, and shall furnish two copies to the motor vehicle salvage dealer or other facility. Upon presentation of a copy of the affidavit by the motor vehicle salvage dealer, the Clerk of Courts, within thirty days of the presentation, shall issue a salvage certificate of title, free and clear of all liens and encumbrances.

(e) Whenever a motor vehicle salvage dealer or other facility receives an affidavit for the disposal of a motor vehicle as provided in this section, the dealer or facility shall not be required to obtain an Ohio certificate of title to the motor vehicle in the dealer's or facility's own name if the vehicle is dismantled or destroyed and both copies of the affidavit are delivered to the Clerk of Courts.

(f) No towing service or storage facility shall fail to comply with this section.  
(ORC 4513.61)

### **303.09 LEAVING JUNK VEHICLES ON PRIVATE OR PUBLIC PROPERTY WITHOUT PERMISSION OR NOTIFICATION.**

(a) No person shall willfully leave any vehicle or an "abandoned junk motor vehicle" as defined in Ohio R.C. 4513.63 on private property for more than seventy-two hours without the permission of the person having the right to the possession of the property or on a public street or other property open to the public for purposes of vehicular travel or parking, or upon or within the right of way of any road or highway, for forty-eight hours or longer, without notification to the chief of the law enforcement agency of the municipal corporation of the reason for leaving the motor vehicle in such place.

For purposes of this section, the fact that a vehicle has been so left without permission or notification is prima-facie evidence of abandonment. Nothing contained in this section shall invalidate the provisions of other ordinances regulating or prohibiting the abandonment of motor vehicles on streets, highways, public property or private property within the Municipality.

(b) Whoever violates this section is guilty of a minor misdemeanor, and shall also be assessed any costs incurred by the Municipality in disposing of such junk motor vehicle, less any money accruing to the Municipality from such disposal.

### **303.10 PROVIDING FALSE INFORMATION TO POLICE OFFICER.**

(a) No person shall knowingly present, display or orally communicate a false name, social security number or date of birth to a law enforcement officer who is in the process of issuing to the person a traffic ticket or complaint.  
(ORC 4513.361)

(b) No person shall knowingly make a false statement as to any matter or thing required by the provisions of this Traffic Code. (1978 Code 71.12)

(c) Whoever violates this section is guilty of a misdemeanor of the first degree.

### **303.99 GENERAL TRAFFIC CODE PENALTIES.**

(a) General Misdemeanor Classifications. Whoever violates any provision of this Traffic Code for which violation no penalty is otherwise provided, is guilty of a minor misdemeanor. (ORC 4513.99)

(b) Penalties. Whoever is convicted of or pleads guilty to a violation of this Traffic Code shall be imprisoned for a definite term or fined, or both, which term of imprisonment and fine shall be fixed by the court as provided in this section.



<u>Classification of Misdemeanor</u>	<u>Maximum Term of Imprisonment</u>	<u>Maximum Fine</u>
First degree	180 days	\$1,000.00
Second degree	90 days	750.00
Third degree	60 days	500.00
Fourth degree	30 days	250.00
Minor (ORC 2929.24; 2929.28)	No imprisonment	150.00

(c) Felony Offenses. A prosecution for any offense which is classified as a felony under state law shall be filed under the appropriate state law section.

### **303.991 COMMITTING AN OFFENSE WHILE DISTRACTED PENALTY.**

(a) As used in this section and each section of the Traffic Code where specified, all of the following apply:

- (1) "Distracted" means doing either of the following while operating a vehicle:
  - A. Using an electronic wireless communications device, as defined in Ohio R.C. 4511.204, in violation of that section.
  - B. Engaging in any activity that is not necessary to the operation of a vehicle and impairs, or reasonably would be expected to impair, the ability of the operator to drive the vehicle safely.
- (2) "Distracted" does not include operating a motor vehicle while wearing an earphone or earplug over or in both ears at the same time. A person who so wears earphones or earplugs may be charged with a violation of Section 331.43.
- (3) "Distracted" does not include conducting any activity while operating a utility service vehicle or a vehicle for or on behalf of a utility, provided that the driver of the vehicle is acting in response to an emergency, power outage or a circumstance affecting the health or safety of individuals.  
As used in subsection (a)(3) of this section:
  - A. "Utility" means an entity specified in division (A), (C), (D), (E) or (G) of Ohio R.C. 4905.03.
  - B. "Utility service vehicle" means a vehicle owned or operated by a utility.

(b) If an offender violates any section of this Traffic Code which provides for an enhanced penalty for an offense committed while distracted and the distracting activity is a contributing factor to the commission of the violation, the offender is subject to the applicable penalty for the violation and, notwithstanding Ohio R.C. 2929.28, is subject to an additional fine of not more than one hundred dollars (\$100.00) as follows:

- (1) Subject to Traffic Rule 13, if a law enforcement officer issues an offender a ticket, citation or summons for a violation of any section of the Traffic Code that indicates that the offender was distracted while committing the violation and that the distracting activity was a contributing factor to the commission of the violation, the offender may enter a written plea of guilty and waive the offender's right to contest the ticket, citation or summons in a trial provided that the offender pays the total amount of the fine established for the violation and pays the additional fine of one hundred dollars (\$100.00).

In lieu of payment of the additional fine of one hundred dollars (\$100.00), the offender instead may elect to attend a distracted driving safety course, the duration and contents of which shall be established by the Ohio Director of Public Safety. If the offender attends and successfully completes the course, the offender shall be issued written evidence that the offender successfully completed the course. The offender shall be required to pay the total amount of the fine established for the violation, but shall not be required to pay the additional fine of one hundred dollars (\$100.00), so long as the offender submits to the court both the offender's payment in full and such written evidence within ninety days of the underlying violation that resulted in the imposition of the additional fine under this section.

- (2) If the offender appears in person to contest the ticket, citation or summons in a trial and the offender pleads guilty to or is convicted of the violation, the court, in addition to all other penalties provided by law, may impose the applicable penalty for the violation and may impose the additional fine of not more than one hundred dollars (\$100.00).

If the court imposes upon the offender the applicable penalty for the violation and an additional fine of not more than one hundred dollars (\$100.00), the court shall inform the offender that, in lieu of payment of the additional fine of not more than one hundred dollars (\$100.00), the offender instead may elect to attend the distracted driving safety course described in subsection (b)(1) of this section. If the offender elects the course option and attends and successfully completes the course, the offender shall be issued written evidence that the offender successfully completed the course. The offender shall be required to pay the total amount of the fine established for the violation, but shall not be required to pay the additional fine of not more than one hundred dollars (\$100.00), so long as the offender submits to the court the offender's payment and such written evidence within ninety days of the underlying violation that resulted in the imposition of the additional fine under this section.

(c) If a law enforcement officer issues an offender a ticket, citation, or summons for a violation of subsection (b) of this section that indicates that the offender was distracted while committing the violation and that the distracting activity was a contributing factor to the commission of the violation, the officer shall do both of the following:

- (1) Report the issuance of the ticket, citation, or summons to the officer's law enforcement agency;
- (2) Ensure that such report indicates the offender's race.  
(ORC 4511.991)



## TITLE FIVE - Vehicles

- Chap. 331. Operation Generally.
- Chap. 333. OVI; Willful Misconduct; Speed.
- Chap. 335. Licensing; Accidents.
- Chap. 337. Safety and Equipment.
- Chap. 339. Commercial and Heavy Vehicles.
- Chap. 341. Commercial Drivers.
- Chap. 343. Low-Speed Vehicles, Under-Speed Vehicles, Utility Vehicles, and Mini-Trucks.

## CHAPTER 331 Operation Generally

(EDITOR'S NOTE: Please see also Chapter 371 for certain additional duties of motor vehicle operators relative to pedestrian traffic.)

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| <p>331.01 Driving upon right side of roadway; exceptions.</p> <p>331.02 Passing to right when proceeding in opposite directions.</p> <p>331.03 Overtaking, passing to left; driver's duties.</p> <p>331.04 Overtaking and passing upon right.</p> <p>331.05 Overtaking, passing to left of center.</p> <p>331.06 Additional restrictions on driving upon left side of roadway.</p> <p>331.07 Hazardous or no passing zones.</p> <p>331.08 Driving in marked lanes or continuous lines of traffic.</p> <p>331.09 Following too closely.</p> <p>331.10 Turning at intersections.</p> <p>331.11 Turning into private driveway, alley or building.</p> <p>331.12 "U" turns restricted.</p> <p>331.13 Starting and backing vehicles.</p> <p>331.14 Signals before changing course, turning or stopping.</p> <p>331.15 Hand and arm signals.</p> <p>331.16 Right of way at intersections.</p> <p>331.17 Right of way when turning left.</p> <p>331.18 Operation of vehicle at yield signs.</p> <p>331.19 Operation of vehicle at stop signs.</p> <p>331.20 Emergency or public safety vehicles at stop signals or signs.</p> <p>331.21 Right of way of public safety or coroner's vehicle.</p> <p>331.211 Report of vehicle failing to</p> | <p>yield right of way to public safety vehicle.</p> <p>331.22 Driving onto roadway from place other than roadway: duty to yield.</p> <p>331.23 Driving onto roadway from place other than roadway; stopping at sidewalk.</p> <p>331.24 Right of way of funeral procession.</p> <p>331.25 Driver's view and control to be unobstructed by load or persons.</p> <p>331.26 Driving upon street posted as closed for repair.</p> <p>331.27 Following and parking near emergency or safety vehicles.</p> <p>331.28 Driving over fire hose.</p> <p>331.29 Driving through safety zone.</p> <p>331.30 One-way streets and rotary traffic islands.</p> <p>331.31 Driving upon divided roadways.</p> <p>331.32 Entering and exiting controlled-access highway.</p> <p>331.33 Obstructing intersection, crosswalk or grade crossing.</p> <p>331.34 Failure to control; weaving; full time and attention.</p> <p>331.35 Occupying travel trailer, fifth wheel vehicle, or manufactured or mobile home while in motion.</p> <p>331.36 Squealing tires, "peeling", cracking exhaust noises.</p> <p>331.37 Driving upon sidewalks, street lawns or curbs.</p> |
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| 331.38 Stopping for school bus;<br>discharging children.                  | 331.44 Vehicle launching or<br>retrieving boats.                               |
| 331.39 Driving across grade crossing.                                     | 331.45 Center turning lane.  |
| 331.40 Stopping at grade crossing.  | 331.46 Prohibition against unintended<br>use of alleys by use of a<br>vehicle. |
| 331.401 Slow-moving vehicles or<br>equipment crossing railroad<br>tracks. | 331.47 Damage to streets, highways,<br>alleys and public right-of-ways.        |
| 331.41 Shortcutting; avoiding traffic<br>control devices.                 | 331.48 Vehicular operation on<br>street closed due to rise in<br>water level.  |
| 331.42 Littering from motor vehicle.                                      | 331.49 Restrictions on the operation<br>of school buses.                       |
| 331.43 Wearing earplugs or<br>earphones prohibited.                       |  |

#### CROSS REFERENCES

See sectional histories for similar State law

Obedience to traffic control devices - see TRAF. 313.01

Operation of bicycles and motorcycles - see TRAF. 373.01  
et seq.

School bus operation - see OAC Ch. 4501-3

#### 331.01 DRIVING UPON RIGHT SIDE OF ROADWAY; EXCEPTIONS.

(a) Upon all roadways of sufficient width, a vehicle shall be driven upon the right half of the roadway, except as follows:

- (1) When overtaking and passing another vehicle proceeding in the same direction, or when making a left turn under the rules governing such movements;
- (2) When an obstruction exists making it necessary to drive to the left of the center of the highway; provided, any person so doing shall yield the right of way to all vehicles traveling in the proper direction upon the unobstructed portion of the highway within such distance as to constitute an immediate hazard;
- (3) When driving upon a roadway divided into three or more marked lanes for traffic under the rules applicable thereon;
- (4) When driving upon a roadway designated and posted with signs for one-way traffic;
- (5) When otherwise directed by a police officer or traffic control device.

- (b) (1) Upon all roadways any vehicle proceeding at less than the prevailing and lawful speed of traffic at the time and place and under the conditions then existing shall be driven in the right-hand lane then available for traffic, and far enough to the right to allow passing by faster vehicles if such passing is safe and reasonable, except under any of the following circumstances:
  - A. When overtaking and passing another vehicle proceeding in the same direction;
  - B. When preparing for a left turn;
  - C. When the driver must necessarily drive in a lane other than the right-hand lane to continue on the driver's intended route.
- (2) Nothing in subsection (b)(1) of this section requires a driver of a slower vehicle to compromise the driver's safety to allow overtaking by a faster vehicle.

4511.771, irrespective of whether or not the bus has fifteen or more children aboard at any time. "School bus" does not include a van owned and operated by a head start agency, irrespective of its color, lights, or markings.

- (g) (1) Whoever violates subsection (a) of this section may be fined an amount not to exceed five hundred dollars (\$500.00). A person who is issued a citation for a violation of subsection (a) of this section is not permitted to enter a written plea of guilty and waive the person's right to contest the citation in a trial but instead must appear in person in the proper court to answer the charge.
- (2) In addition to and independent of any other penalty provided by law, the court or mayor may impose upon an offender who violates this section a class seven suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (a)(7) of Ohio R.C. 4510.02. When a license is suspended under this section, the court or mayor shall cause the offender to deliver the license to the court, and the court or clerk of the court immediately shall forward the license to the Registrar of Motor Vehicles, together with notice of the court's action. (ORC 4511.75)

### **331.39 DRIVING ACROSS GRADE CROSSING.**

- (a) (1) Whenever any person driving a vehicle approaches a railroad grade crossing, the person shall stop within fifty feet, but not less than fifteen feet from the nearest rail of the railroad if any of the following circumstances exist at the crossing:
  - A. A clearly visible electric or mechanical signal device gives warning of the immediate approach of a train or other on-track equipment.
  - B. A crossing gate is lowered.
  - C. A flagperson gives or continues to give a signal of the approach or passage of a train or other on-track equipment.
  - D. There is insufficient space on the other side of the railroad grade crossing to accommodate the vehicle the person is operating without obstructing the passage of other vehicles, pedestrians, or railroad trains, notwithstanding any traffic control signal indication to proceed.
  - E. An approaching train is emitting an audible signal or is plainly visible and is in hazardous proximity to the crossing.
  - F. There is insufficient undercarriage clearance to safely negotiate the crossing.
  - G. There is insufficient space on the other side of the railroad grade crossing to accommodate the vehicle the person is operating without obstructing the passage of other on-track equipment.
  - H. Approaching on-track equipment is emitting an audible signal or is plainly visible and is in hazardous proximity to the crossing.
- (2) A.
  - A person who is driving a vehicle and who approaches a railroad grade crossing shall not proceed as long as any of the circumstances described in subsections (a)(1)A. to F. of this section exist at the crossing.
  - B. A person who is driving a vehicle and who approaches a railroad grade crossing shall not recklessly proceed as long as any of the circumstances described in subsections (a)(1)G. or H. of this section exist at the crossing.

(b) No person shall drive any vehicle through, around, or under any crossing gate or barrier at a railroad crossing while the gate or barrier is closed or is being opened or closed unless the person is signaled by a law enforcement officer or flagperson that it is permissible to do so.

- (c) (1) Whoever violates this section is guilty of a misdemeanor of the fourth degree.
- (2) In lieu of a fine or jail term for a violation of this section, a court may instead order the offender to attend and successfully complete a remedial safety training or presentation regarding rail safety that is offered by an authorized and qualified organization that is selected by the court. The offender shall complete the presentation within a time frame determined by the court, not to exceed 180 days after the court issues the order. The offender shall notify the court of the successful completion of the presentation. When the offender notifies the court of the successful completion of the presentation, the court shall waive any fine or jail term that it otherwise would have imposed for a violation of this section.
- (ORC 4511.62)

#### **331.40 STOPPING AT GRADE CROSSING.**

- (a) (1) Except as provided in subsection (b) of this section, the operator of any bus, any school vehicle, or any vehicle transporting a material or materials required to be placarded under 49 C.F.R. Parts 100 through 185, before crossing at grade any track of a railroad, shall stop the vehicle and, while so stopped, shall listen through an open door or open window and look in both directions along the track for any approaching train or other on-track equipment, and for signals indicating the approach of a train or other on-track equipment, and shall proceed only upon exercising due care after stopping, looking, and listening as required by this section. Upon proceeding, the operator of such a vehicle shall cross only in a gear that will ensure there will be no necessity for changing gears while traversing the crossing and shall not shift gears while crossing the tracks.
- (2) This section does not apply at grade crossings when the Ohio Public Utilities Commission has authorized and approved an exempt crossing as provided in this subsection.
- A. Any local authority may file an application with the Commission requesting the approval of an exempt crossing. Upon receipt of such a request, the Commission shall authorize a limited period for the filing of comments by any party regarding the application and then shall conduct a public hearing in the community seeking the exempt crossing designation. The Commission shall provide appropriate prior public notice of the comment period and the public hearing. By registered mail, the Commission shall notify each railroad operating over the crossing of the comment period.
- B. After considering any comments or other information received, the Commission may approve or reject the application. By order, the Commission may establish conditions for the exempt crossing designation, including compliance with division (b) of 49 C.F.R. Part 392.10, when applicable. An exempt crossing designation becomes effective only when appropriate signs giving notice of the exempt designation are erected at the crossing as ordered by the Commission and any other conditions ordered by the Commission are satisfied.

- C. By order, the Commission may rescind any exempt crossing designation made under this section if the Commission finds that a condition at the exempt crossing has changed to such an extent that the continuation of the exempt crossing designation compromises public safety. The Commission may conduct a public hearing to investigate and determine whether to rescind the exempt crossing designation. If the Commission rescinds the designation, it shall order the removal of any exempt crossing signs and may make any other necessary order.
- (3) As used in this section:
  - A. "School vehicle" means any vehicle used for the transportation of pupils to and from a school or school-related function if the vehicle is owned or operated by, or operated under contract with, a public or nonpublic school.
  - B. "Bus" means any vehicle originally designed by its manufacturer to transport sixteen or more passengers, including the driver, or carries sixteen or more passengers, including the driver.
  - C. "Exempt crossing" means a highway rail grade crossing authorized and approved by the Public Utilities Commission under subsection (a)(2) hereof at which vehicles may cross without making the stop otherwise required by this section.
- (4) Except as otherwise provided in this subsection (a)(4), whoever violates subsection (a) hereof is guilty of a minor misdemeanor. If the offender previously has been convicted of or pleaded guilty to one or more violations of subsection (a) hereof or Ohio R.C. 4511.76, 4511.761, 4511.762, 4511.764, 4511.77 or 4511.79, or a municipal ordinance that is substantially similar to any of those sections, whoever violates subsection (a) hereof is guilty of a misdemeanor of the fourth degree. (ORC 4511.63)
- (b)
  - (1) When authorized stop signs are erected at railroad grade crossings, the operator of any vehicle shall stop within fifty but not less than fifteen feet from the nearest rail of the railroad tracks and shall exercise due care before proceeding across such grade crossing.
  - (2) Except as otherwise provided in this subsection, whoever violates this subsection (b)(1) hereof is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.61)

### **331.401 SLOW-MOVING VEHICLES OR EQUIPMENT CROSSING RAILROAD TRACKS.**

(a) No person shall operate or move any crawler-type tractor, steam shovel, derrick, roller, or any equipment or structure having a normal operating speed of six or less miles per hour or a vertical body or load clearance of less than nine inches above the level surface of a roadway, upon or across any tracks at a railroad grade crossing without first complying with subsections (a)(1) and (a)(2) of this section.



- (1) Before making any such crossing, the person operating or moving any such vehicle or equipment shall first stop the same, and while stopped the person shall listen and look in both directions along such track for any approaching train or other on-track equipment and for signals indicating the approach of a train or other on-track equipment, and shall proceed only upon exercising due care.
- (2) No such crossing shall be made when warning is given by automatic signal or crossing gates or a flagperson or otherwise of the immediate approach of a railroad train or car or other on-track equipment.

(b) If the normal sustained speed of the vehicle, equipment, or structure is not more than three miles per hour, the person owning, operating, or moving the same shall also give notice of the intended crossing to a station agent or superintendent of the railroad, and a reasonable time shall be given to the railroad to provide proper protection for the crossing. Where the vehicles or equipment are being used in constructing or repairing a section of highway lying on both sides of a railroad grade crossing, and in this construction or repair it is necessary to repeatedly move the vehicles or equipment over the crossing, one daily notice specifying when the work will start and stating the hours during which it will be prosecuted is sufficient.

(c) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

(d) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991. (ORC 4511.64)

### **331.41 SHORTCUTTING; AVOIDING TRAFFIC CONTROL DEVICES.**

(a) No person shall operate a vehicle across public or private property marked with signs "No Through Traffic" or words of similar import for the purpose of passing from one roadway to another.

(b) No person shall operate a vehicle across public or private property for the purpose of avoiding compliance with a traffic control device.

(c) It shall be prima-facie evidence of a violation of this section for the operator of a vehicle to cross public or private property as provided herein without using the service of such property, stopping the engine or both.

(d) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

**331.42 LITTERING FROM MOTOR VEHICLE.**

(a) No operator or occupant of a motor vehicle shall, regardless of intent, throw, drop, discard or deposit litter from any motor vehicle in operation upon any street, road or highway, except into a litter receptacle in a manner that prevents its being carried away or deposited by the elements.

(b) No operator of a motor vehicle in operation upon any street, road or highway shall allow litter to be thrown, dropped, discarded or deposited from the motor vehicle, except into a litter receptacle in a manner that prevents its being carried away or deposited by the elements.

(c) As used in this section, "litter" means garbage, trash, waste, rubbish, ashes, cans, bottles, wire, paper, cartons, boxes, automobile parts, furniture, glass or anything else of an unsightly or unsanitary nature.

(d) Whoever violates this section is guilty of a minor misdemeanor.  
(ORC 4511.82)

**331.43 WEARING EARPLUGS OR EARPHONES PROHIBITED.**

(a) As used in this section:

- (1) "Earphones" means any device that covers all or a portion of both ears and that does either of the following:
  - A. Through either a physical connection to another device or a wireless connection, provides the listener with radio programs, music, or other information;
  - B. Provides hearing protection."Earphones" does not include speakers or other listening devices that are built into protective headgear.
- (2) "Earplugs" means any device that can be inserted into one or both ears and that does either of the following:
  - A. Through either a physical connection to another device or a wireless connection, provides the listener with radio programs, music, or other information;
  - B. Provides hearing protection.

(b) No person shall operate a motor vehicle while wearing earphones over, or earplugs in, both ears.

(c) This section does not apply to:

- (1) Any person wearing a hearing aid;
- (2) Law enforcement personnel while on duty;
- (3) Fire Department personnel and emergency medical service personnel while on duty;
- (4) Any person engaged in the operation of equipment for use in the maintenance or repair of any highway;
- (5) Any person engaged in the operation of refuse collection equipment;
- (6) Any person wearing earphones or earplugs for hearing protection while operating a motorcycle.

(d) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.84)

#### **331.44 VEHICLES LAUNCHING OR RETRIEVING BOATS.**

(a) All vehicles launching or retrieving boats shall have the right-of-way at all boat launches in the City.

(b) All traffic on streets, alleys, or drives and crossings intersecting launching areas in the City shall stop and give the right-of-way to vehicles launching or retrieving boats.

(c) Stop signs shall be erected on all streets, drives, and alleys intersecting and crossing landing areas in the City. (1978 Code 72.33)

(d) Whoever violates any provision of this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

#### **331.45 CENTER TURNING LANE.**

(a) On streets or roadways providing for vehicle traffic in both directions where a center lane is reserved for left turn only, such lane shall not be entered by a vehicle or a motor vehicle, except for making left turns as hereinafter provided. Entry into such lane for left turns shall not be made more than 100 feet from the point of turning, except that no person shall traverse a street or roadway intersection while operating a vehicle or a motor vehicle in whole or in part in the center lane. There shall be no travel or passing of other traffic in such turning lane. This section is not applicable when passing in the event of an emergency or when directed by a police officer or during construction, striping or pavement of the street or roadway.

(b) Signs shall be erected at appropriate points as determined by the City Manager designating the center lane as reserved for left turn purposes only. (Ord. 44-96. Passed 5-6-96.)

(c) Whoever violates any provision of this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

#### **331.46 PROHIBITION AGAINST UNINTENDED USE OF ALLEYS BY USE OF A VEHICLE.**

(a) No person, by use of a vehicle as defined in Section 301.51, shall use an alley for non intended use as prescribed by Section 301.03.

(b) It is not a defense to this section that the alley was not posted with notice of restricted access.

(c) A violation of subsection (a) hereof is a minor misdemeanor. (Ord. 041-10. Passed 6-21-10.)

**331.47 DAMAGE TO STREETS, HIGHWAYS, ALLEYS AND PUBLIC RIGHT-OF-WAYS.**

(a) No person shall negligently damage any street, highway, alley or public right-of-ways as defined in Chapter 301 within the corporation limits by any means.

(b) Any person found in violation of this section shall be deemed guilty of an unclassified misdemeanor punishable by a fine not to exceed five hundred dollars (\$500.00). In addition to criminal fines that may be imposed by this section, the City is entitled to court ordered restitution for labor and material costs associated with repairs.  
(Ord. 041-10. Passed 6-21-10.)

**331.48 VEHICULAR OPERATION ON STREET CLOSED DUE TO RISE IN WATER LEVEL.**

(a) No person shall operate a vehicle on or onto a public street or highway that is temporarily covered by a rise in water level, including groundwater or an overflow of water, and that is clearly marked by a sign that specifies that the road is closed due to the rise in water level and that any person who uses the closed portion of the road may be fined up to two thousand dollars (\$2,000).

(b) A person who is issued a citation for a violation of subsection (a) hereof is not permitted to enter a written plea of guilty and waive the person's right to contest the citation in court, but instead must appear in person in the proper court to answer the charge.

- (c) (1) Whoever violates subsection (a) hereof is guilty of a minor misdemeanor.  
(2) In addition to the financial sanctions authorized or required under Section 501.99 and to any costs otherwise authorized or required under any provision of law, the court imposing the sentence upon an offender who is convicted of or pleads guilty to a violation of subsection (a) hereof shall order the offender to reimburse one or more rescuers for the cost any such rescuer incurred in rescuing the person, excluding any cost of transporting the rescued person to a hospital or other facility for treatment of injuries, up to a cumulative maximum of two thousand dollars (\$2,000). If more than one rescuer was involved in the emergency response, the court shall allocate the reimbursement proportionately, according to the cost each rescuer incurred. A financial sanction imposed under this section is a judgment in favor of the rescuer and, subject to a determination of indigency under division (B) of Ohio R.C. 2929.28, a rescuer may collect the financial sanction in the same manner as provided in Ohio R.C. 2929.28.

(d) As used in this section:

- (1) "Emergency medical service organization", "firefighting agency" and "private fire company" have the same meanings as in Ohio R.C. 9.60.  
(2) "Rescuer" means a state agency, political subdivision, firefighting service, private fire company, or emergency medical service organization.  
(ORC 4511.714.)

**331.49 RESTRICTIONS ON THE OPERATION OF SCHOOL BUSES.**

(a) No person shall operate a vehicle used for pupil transportation within this Municipality in violation of the rules of the Ohio Department of Education and Workforce or the Ohio Department of Public Safety. No person, being the owner thereof, or having the supervisory responsibility therefor, shall permit the operation of a vehicle used for pupil transportation within this Municipality in violation of the rules of the Ohio Department of Education and Workforce or the Ohio Department of Public Safety.

(b) As used in this section, "vehicle used for pupil transportation" means any vehicle that is identified as such by the Ohio Department of Education and Workforce by rule and that is subject to O.A.C. Chapter 3301-83.

(c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If the offender previously has been convicted of or pleaded guilty to one or more violations of this section or Ohio R.C. 4511.76, or Ohio R.C. 4511.63, 4511.761, 4511.762, 4511.764, 4511.77, or 4511.79 or a municipal ordinance that is substantially equivalent to any of those sections, whoever violates this section is guilty of a misdemeanor of the fourth degree. (ORC 4511.76(C), (H), (I))

**CHAPTER 333**  
**OVI; Willful Misconduct; Speed**

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| <b>333.01</b> Driving or physical control while under the influence.<br><b>333.02</b> Operation in willful or wanton disregard of safety.<br><b>333.03</b> Maximum speed limits; assured clear distance ahead.<br><b>333.031</b> Approaching a stationary public safety, emergency, or road service vehicle. | <b>333.04</b> Stopping vehicle; slow speed; posted minimum speeds.<br><b>333.05</b> Speed limitations over bridges.<br><b>333.06</b> Speed exceptions for emergency or safety vehicles.<br><b>333.07</b> Street racing, stunt driving and street takeovers prohibited.<br><b>333.08</b> Operation without reasonable control.<br><b>333.09</b> Electronic wireless communication device use prohibited while driving. |
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**CROSS REFERENCES**

See sectional histories for similar State law  
 Drug of abuse defined - see Ohio R.C. 3719.011(A)  
 Alcohol defined - see Ohio R.C. 4301.01(B)(1)  
 Alteration of prima-facie speed limits - see Ohio R.C. 4511.21, 4511.22(B), 4511.23  
 Failure to control vehicle - see TRAF. 331.34  
 Walking on highway while under the influence - see TRAF. 371.09

**333.01 DRIVING OR PHYSICAL CONTROL WHILE UNDER THE INFLUENCE.**

- (a) (1) Operation Generally. No person shall operate any vehicle within this Municipality, if, at the time of the operation, any of the following apply:
- A. The person is under the influence of alcohol, a drug of abuse, or a combination of them.
  - B. The person has a concentration of eight-hundredths of one per cent or more but less than seventeen-hundredths of one per cent by weight per unit volume of alcohol in the person's whole blood.
  - C. The person has a concentration of ninety-six-thousandths of one per cent or more but less than two hundred four-thousandths of one per cent by weight per unit volume of alcohol in the person's blood serum or plasma.
  - D. The person has a concentration of eight-hundredths of one gram or more but less than seventeen-hundredths of one gram by weight of alcohol per two hundred ten liters of the person's breath.
  - E. The person has a concentration of eleven-hundredths of one gram or more but less than two hundred thirty-eight-thousandths of one gram by weight of alcohol per one hundred milliliters of the person's urine.

- F. The person has a concentration of seventeen-hundredths of one per cent or more by weight per unit volume of alcohol in the person's whole blood.
- G. The person has a concentration of two hundred four-thousandths of one per cent or more by weight per unit volume of alcohol in the person's blood serum or plasma.
- H. The person has a concentration of seventeen-hundredths of one gram or more by weight of alcohol per two hundred ten liters of the person's breath.
- I. The person has a concentration of two hundred thirty-eight-thousandths of one gram or more by weight of alcohol per one hundred milliliters of the person's urine.
- J. Except as provided in subsection (m) of this section, the person has a concentration of any of the following controlled substances or metabolites of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds any of the following:
  - 1. The person has a concentration of amphetamine in the person's urine of at least five hundred nanograms of amphetamine per milliliter of the person's urine or has a concentration of amphetamine in the person's whole blood or blood serum or plasma of at least one hundred nanograms of amphetamine per milliliter of the person's whole blood or blood serum or plasma.
  - 2. The person has a concentration of cocaine in the person's urine of at least one hundred fifty nanograms of cocaine per milliliter of the person's urine or has a concentration of cocaine in the person's whole blood or blood serum or plasma of at least fifty nanograms of cocaine per milliliter of the person's whole blood or blood serum or plasma.
  - 3. The person has a concentration of cocaine metabolite in the person's urine of at least one hundred fifty nanograms of cocaine metabolite per milliliter of the person's urine or has a concentration of cocaine metabolite in the person's whole blood or blood serum or plasma of at least fifty nanograms of cocaine metabolite per milliliter of the person's whole blood or blood serum or plasma.
  - 4. The person has a concentration of heroin in the person's urine of at least two thousand nanograms of heroin per milliliter of the person's urine or has a concentration of heroin in the person's whole blood or blood serum or plasma of at least fifty nanograms of heroin per milliliter of the person's whole blood or blood serum or plasma.

- (4) The person has a concentration of at least twenty-eight one-thousandths of one gram but less than eleven-hundredths of one gram by weight of alcohol per one hundred milliliters of the person's urine.

(c) One Conviction Limitation. In any proceeding arising out of one incident, a person may be charged with a violation of subsection (a)(1)A. or (a)(2) and a violation of subsection (b)(1), (2) or (3) of this section, but the person may not be convicted of more than one violation of these subsections. (ORC 4511.19)

(d) Physical Control.

- (1) As used in this subsection, "physical control" means being in the driver's position of the front seat of a vehicle and having possession of the vehicle's ignition key or other ignition device.
- (2) A. No person shall be in physical control of a vehicle if, at the time of the physical control, any of the following apply:
1. The person is under the influence of alcohol, a drug of abuse, or a combination of them.
  2. The person's whole blood, blood serum or plasma, breath, or urine contains at least the concentration of alcohol specified in subsection (a)(1)B., C., D. or E. hereof.
  3. Except as provided in subsection (d)(3) of this section, the person has a concentration of a listed controlled substance or a listed metabolite of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds the concentration specified in subsection (a)(1)J. hereof.
- B. No person under twenty-one years of age shall be in physical control of a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them or while the person's whole blood, blood serum or plasma, breath, or urine contains at least the concentration of alcohol specified in subsection (b)(1) to (4) hereof.
- (3) Subsection (d)(2)A.3. of this section does not apply to a person who is in physical control of a vehicle while the person has a concentration of a listed controlled substance or a listed metabolite of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds the amount specified in subsection (a)(1)J. hereof, if both of the following apply:
- A. The person obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs.
  - B. The person injected, ingested, or inhaled the controlled substance in accordance with the health professional's directions.

(e) Evidence: Tests.

- (1) A. In any criminal prosecution or juvenile court proceeding for a violation of subsection (a)(1)A. of this section or for an equivalent offense that is vehicle-related, the result of any test of any blood, oral fluid, or urine withdrawn and analyzed at any health care provider, as defined in Ohio R.C. 2317.02, may be admitted with expert testimony to be considered with any other relevant and competent evidence in determining the guilt or innocence of the defendant.



- B. In any criminal prosecution for a violation of subsection (a) or (b) of this section or for an equivalent offense that is vehicle-related, the court may admit evidence on the presence and concentration of alcohol, drugs of abuse, controlled substances, metabolites of a controlled substance, or a combination of them in the defendant's whole blood, blood serum or plasma, breath, urine, oral fluid, or other bodily substance at the time of the alleged violation as shown by chemical analysis of the substance withdrawn within three hours of the time of the alleged violation. The three-hour time limit specified in this division regarding the admission of evidence does not extend or affect the two-hour time limit specified in Ohio R.C. 4511.192(A) as the maximum period of time during which a person may consent to a chemical test or tests as described in that section. The court may admit evidence on the presence and concentration of alcohol, drugs of abuse, or a combination of them as described in this division when a person submits to a blood, breath, urine, oral fluid, or other bodily substance test at the request of a law enforcement officer under Ohio R.C. 4511.191 or a substantially equivalent municipal ordinance, or a blood or urine sample is obtained pursuant to a search warrant. Only a physician, a registered nurse, an emergency medical technician-intermediate, an emergency medical technician-paramedic, or a qualified technician, chemist, or phlebotomist shall withdraw a blood sample for the purpose of determining the alcohol, drug, controlled substance, metabolite of a controlled substance, or combination content of the whole blood, blood serum, or blood plasma. This limitation does not apply to the taking of breath, oral fluid, or urine specimens. A person authorized to withdraw blood under this division may refuse to withdraw blood under this division, if in that person's opinion, the physical welfare of the person would be endangered by the withdrawing of blood. The bodily substance withdrawn under this subsection (d)(1)B. shall be analyzed in accordance with methods approved by the Director of Health by an individual possessing a valid permit issued by the Director pursuant to Ohio R.C. 3701.143.
- C. As used in subsection (e)(1)B. of this section, "emergency medical technician-intermediate" and "emergency medical technician-paramedic" have the same meanings as in Ohio R.C. 4765.01.
- (2) In a criminal prosecution or juvenile court proceeding for violation of subsection (a) of this section or for an equivalent offense that is vehicle related, if there was at the time the bodily substance was withdrawn a concentration of less than the applicable concentration of alcohol specified in subsections (a)(1)B., C., D. and E. of this section, or less than the applicable concentration of a listed controlled substance or a listed metabolite of a controlled substance specified for a violation of subsection (a)(1)J. of this section, that fact may be considered with other competent evidence in determining the guilt or innocence of the defendant. This subsection does not limit or affect a criminal prosecution or juvenile court proceeding for a violation of subsection (b) of this section or for an equivalent offense that is substantially equivalent to that subsection.

- (3) Upon the request of the person who was tested, the results of the chemical test shall be made available to the person or the person's attorney, immediately upon the completion of the chemical test analysis. If the chemical test was obtained pursuant to subsection (e)(1)B. hereof, the person tested may have a physician, a registered nurse, or a qualified technician, chemist or phlebotomist of the person's own choosing administer a chemical test or tests, at the person's expense, in addition to any administered at the request of a law enforcement officer. If the person was under arrest as described in division (A)(5) of Ohio R.C. 4511.191, the arresting officer shall advise the person at the time of the arrest that the person may have an independent chemical test taken at the person's own expense. If the person was under arrest other than described in division (A)(5) of Ohio R.C. 4511.191, the form to be read to the person to be tested, as required under Ohio R.C. 4511.192, shall state that the person may have an independent test performed at the person's expense. The failure or inability to obtain an additional chemical test by a person shall not preclude the admission of evidence relating to the chemical test or tests taken at the request of a law enforcement officer.
- (4) A. As used in subsections (e)(4)B. and C. of this section, "national highway traffic safety administration" means the National Traffic Highway Safety Administration established as an administration of the United States Department of Transportation under 96 Stat. 2415 (1983), 49 U.S.C.A. 105.
- B. In any criminal prosecution or juvenile court proceeding for a violation of subsection (a) or (b) of this section, of a municipal ordinance relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, or of a municipal ordinance relating to operating a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath, oral fluid, or urine, if a law enforcement officer has administered a field sobriety test to the operator of the vehicle involved in the violation and if it is shown by clear and convincing evidence that the officer administered the test in substantial compliance with the testing standards for any reliable, credible, and generally accepted field sobriety tests that were in effect at the time the tests were administered, including but not limited to any testing standards then in effect that were set by the National Highway Traffic Safety Administration, all of the following apply:
1. The officer may testify concerning the results of the field sobriety test so administered.
  2. The prosecution may introduce the results of the field sobriety test so administered as evidence in any proceedings in the criminal prosecution or juvenile court proceeding.
  3. If testimony is presented or evidence is introduced under subsection (e)(4)B.1. or 2. of this section and if the testimony or evidence is admissible under the Rules of Evidence, the court shall admit the testimony or evidence and the trier of fact shall give it whatever weight the trier of fact considers to be appropriate.

- C. Subsection (e)(4)B. of this section does not limit or preclude a court, in its determination of whether the arrest of a person was supported by probable cause or its determination of any other matter in a criminal prosecution or juvenile court proceeding of a type described in that subsection, from considering evidence or testimony that is not otherwise disallowed by subsection (e)(4)B. of this section. (ORC 4511.19; 4511.194)

(f) Forensic Laboratory Reports.

- (1) Subject to subsection (f)(3) of this section, in any criminal prosecution or juvenile court proceeding for a violation of subsection (a)(1)B., C., D., E., F., G., H., I., or J. or (b)(1), (2), (3) or (4) of this section or for an equivalent offense that is substantially equivalent to any of those subsections, a laboratory report from any laboratory personnel issued a permit by the Department of Health authorizing an analysis as described in this subsection that contains an analysis of the whole blood, blood serum or plasma, breath, urine, or other bodily substance tested and that contains all of the information specified in this subsection shall be admitted as prima-facie evidence of the information and statements that the report contains. The laboratory report shall contain all of the following:
- A. The signature, under oath, of any person who performed the analysis;
  - B. Any findings as to the identity and quantity of alcohol, a drug of abuse, a controlled substance, a metabolite of a controlled substance, or a combination of them that was found;
  - C. A copy of a notarized statement by the laboratory director or a designee of the director that contains the name of each certified analyst or test performer involved with the report, the analyst's or test performer's employment relationship with the laboratory that issued the report, and a notation that performing an analysis of the type involved is part of the analyst's or test performer's regular duties;
  - D. An outline of the analyst's or test performer's education, training, and experience in performing the type of analysis involved and a certification that the laboratory satisfies appropriate quality control standards in general and, in this particular analysis, under rules of the Department of Health.
- (2) Notwithstanding any other provision of law regarding the admission of evidence, a report of the type described in subsection (f)(1) of this section is not admissible against the defendant to whom it pertains in any proceeding, other than a preliminary hearing or a grand jury proceeding, unless the prosecutor has served a copy of the report on the defendant's attorney or, if the defendant has no attorney, on the defendant.
- (3) A report of the type described in subsection (f)(1) of this section shall not be prima-facie evidence of the contents, identity, or amount of any substance if, within seven days after the defendant to whom the report pertains or the defendant's attorney receives a copy of the report, the defendant or the defendant's attorney demands the testimony of the person who signed the report. The judge in the case may extend the seven-day time limit in the interest of justice.

As an alternative to a mandatory jail term of thirty consecutive days required by subsection (h)(1)C.1. of this section, the court, under this subsection, may sentence the offender to fifteen consecutive days in jail and not less than fifty-five consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of the fifteen consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring or both types of monitoring shall not exceed one year. The fifteen consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.

As an alternative to the mandatory jail term of sixty consecutive days required by subsection (h)(1)C.2. of this section, the court, under this subsection, may sentence the offender to thirty consecutive days in jail and not less than one hundred ten consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of the thirty consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring, or both types of monitoring shall not exceed one year. The thirty consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.

- (4) If an offender's driver's or occupational driver's license or permit or nonresident operating privilege is suspended under subsection (h) of this section and if Ohio R.C. 4510.13 permits the court to grant limited driving privileges, the court may grant the limited driving privileges in accordance with that section. If division (A)(7) of that section requires that the court impose as a condition of the privileges that the offender must display on the vehicle that is driven subject to the privileges restricted license plates that are issued under Ohio R.C. 4503.231, except as provided in division (B) of that section, the court shall impose that condition as one of the conditions of the limited driving privileges granted to the offender, except as provided in division (B) of Ohio R.C. 4503.231.
- (5) If title to a motor vehicle that is subject to an order of criminal forfeiture under this section is assigned or transferred and division (B)(2) or (3) of Ohio R.C. 4503.234 applies, in addition to or independent of any other penalty established by law, the court may fine the offender the value of the vehicle as determined by publications of the national auto dealers association. The proceeds of any fine so imposed shall be distributed in accordance with division (C)(2) of that section.
- (6) In all cases in which an offender is sentenced under subsection (h) of this section, the offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, the court, in addition to any other penalties provided by law, may order restitution pursuant to Ohio R.C. 2929.18 or 2929.28 in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during or after committing the offense for which the offender is sentenced under subsection (h) of this section.

- (7) A court may order an offender to reimburse a law enforcement agency for any costs incurred by the agency with respect to a chemical test or tests administered to the offender if all of the following apply:
  - A. The offender is convicted of or pleads guilty to a violation of subsection (a) of this section.
  - B. The test or tests were of the offender's whole blood, blood serum or plasma, oral fluid, or urine.
  - C. The test or tests indicated that the offender had one of the following at the time of the offense:
    - 1. A prohibited concentration of a controlled substance or a metabolite of a controlled substance in the offender's whole blood, blood serum or plasma, or urine;
    - 2. A drug of abuse or a metabolite of a drug of abuse in the offender's oral fluid.
- (8) A court may warn any person who is convicted of or who pleads guilty to a violation of subsection (a) of this section or an equivalent offense that a subsequent violation of this section or an equivalent offense that results in the death of another or the unlawful termination of another's pregnancy may result in the person being guilty of aggravated vehicular homicide under Ohio R.C. 2903.06. The court may warn the person of the applicable penalties for that violation under Ohio R.C. 2903.06 and 2929.142.
- (9) As used in subsection (h) of this section, "electronic monitoring", "mandatory prison term" and "mandatory term of local incarceration" have the same meanings as in Ohio R.C. 2929.01.

(i) Vehicle Operation After Underage Alcohol Consumption Penalty. Whoever violates subsection (b) of this section is guilty of operating a vehicle after underage alcohol consumption and shall be punished as follows:

- (1) Except as otherwise provided in subsection (i)(2) of this section, the offender is guilty of a misdemeanor of the fourth degree. In addition to any other sanction imposed for the offense, the court shall impose a class six suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(6) of Ohio R.C. 4510.02. The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.13. The court may grant unlimited driving privileges with an ignition interlock device relative to the suspension and may reduce the period of suspension as authorized under Ohio R.C. 4510.022. If the court grants unlimited driving privileges under Ohio R.C. 4510.022, the court shall suspend any jail term imposed under subsection (i)(1) of this section as required under that section.
- (2) If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one or more violations of subsection (a) of this section or other equivalent offenses, the offender is guilty of a misdemeanor of the third degree. In addition to any other sanction imposed for the offense, the court shall impose a class four suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(4) of Ohio R.C. 4510.02. The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.13.

(b) This section does not relieve the driver of a public safety vehicle, emergency vehicle, road service vehicle, waste collection vehicle, vehicle used by the Public Utilities Commission to conduct motor vehicle inspections in accordance with Ohio R.C. 4923.04 and 4923.06, or a highway maintenance vehicle from the duty to drive with due regard for the safety of all persons and property upon the highway.

(c) No person shall fail to drive a motor vehicle in compliance with subsection (a)(1) or (2) of this section when so required by subsection (a) of this section.

- (d) (1) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
- (2) Notwithstanding Section 303.99(b), upon a finding that a person operated a motor vehicle in violation of subsection (c) of this section, the court, in addition to all other penalties provided by law, shall impose a fine of two times the usual amount imposed for the violation.
- (3) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(e) The offense established under this section is a strict liability offense and Ohio R.C. 2901.20 does not apply. The designation of this offense as a strict liability offense shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense. (ORC 4511.213)

#### **333.04 STOPPING VEHICLE; SLOW SPEED; POSTED MINIMUM SPEEDS.**

(a) No person shall stop or operate a vehicle at such an unreasonably slow speed as to impede or block the normal and reasonable movement of traffic, except when stopping or reduced speed is necessary for safe operation or to comply with law.

(b) Whenever, in accordance with Ohio R.C. 4511.22(B), the minimum speed limit of a controlled-access highway, expressway or freeway has been declared and the appropriate signs giving notice have been erected as required, operators of motor vehicles shall be governed by the speed limitations set forth on such signs. No person shall operate a motor vehicle below the speed limits posted upon such signs except when necessary for safe operation or in compliance with law.

(c) In a case involving a violation of this section, the trier of fact, in determining whether the vehicle was being operated at an unreasonably slow speed, shall consider the capabilities of the vehicle and its operator.

(d) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.22)

### **333.05 SPEED LIMITATIONS OVER BRIDGES.**

(a) No person shall operate a vehicle over any bridge or other elevated structure constituting a part of a street at a speed which is greater than the maximum speed that can be maintained with safety to such bridge or structure, when such structure is posted with authorized signs stating such maximum speed. Such signs shall be erected and maintained at a distance of at least 100 feet before each end of such structure.

(b) Upon the trial of any person charged with a violation of this section, proof of the determination of the maximum speed and the existence of such signs shall constitute prima-facie evidence of the maximum speed which can be maintained with safety to such bridge or structure.

(c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.23)

### **333.06 SPEED EXCEPTIONS FOR EMERGENCY OR SAFETY VEHICLES.**

The prima-facie speed limitations set forth in Section 333.03 do not apply to emergency vehicles or public safety vehicles when they are responding to emergency calls and are equipped with and displaying at least one flashing, rotating or oscillating light visible under normal atmospheric conditions from a distance of 500 feet to the front of the vehicle and when the drivers thereof sound audible signals by bell, siren or exhaust whistle. This section does not relieve the driver of an emergency vehicle or public safety vehicle from the duty to drive with due regard for the safety of all persons using the street or highway. (ORC 4511.24)

### **333.07 STREET RACING, STUNT DRIVING AND STREET TAKEOVERS PROHIBITED.**

(a) As used in this section:

- (1) **BURNOUT.** A maneuver performed while operating a vehicle whereby the vehicle is kept in a stationary position, but the wheels of the vehicle are spun, which may cause the tires of the vehicle to become heated and emit smoke from the friction.
- (2) **DOUGHNUT.** A maneuver performed while operating a vehicle whereby the front or rear of the vehicle is rotated around the opposite set of wheels in a continuous motion, which may cause a circular skid-mark pattern of rubber on the driving surface, or the tires of the vehicle to become heated and emit smoke from the friction, or both.

- (3) **DRIFTING.** A maneuver performed while operating a vehicle whereby the vehicle is driven in a manner that causes a controlled, sideways skid during a turn, with the front wheels pointing in a direction that is the opposite of the direction of the turn.
- (4) **STREET RACING.** The operation of two or more vehicles from a point side by side at accelerating speeds in a competitive attempt to out-distance each other or the operation of one or more vehicles over a common selected course, from the same point to the same point, wherein timing is made of the participating vehicles involving competitive accelerations or speeds. The operation of two or more vehicles side by side either at speeds in excess of prima-facie lawful speeds established by Ohio R.C. 4511.21(B)(1)(a) to (B)(9) or rapidly accelerating from a common starting point to a speed in excess of such prima-facie lawful speeds shall be prima-facie evidence of street racing.
- (5) **STREET TAKEOVER.** Blocking or impeding the regular flow of vehicle or pedestrian traffic on a public road, street, or highway or on private property that is open to the general public for the purpose of street racing or stunt driving.
- (6) **STUNT DRIVING.** Performing or engaging in burnouts, doughnuts, drifting, or wheelies, or allowing a passenger to ride either partially or fully outside of the vehicle while operating that vehicle.
- (7) **WHEELIE.** A maneuver performed while operating a vehicle whereby the front wheel or wheels of the vehicle are raised off of the ground or whereby two wheels that are on the same side of the vehicle are raised off of the ground.

(b) No person shall knowingly participate in street racing, stunt driving, or street takeover upon any public road, street, or highway, or on private property that is open to the general public.

(c) Whoever violates this section is guilty of street racing, stunt driving, or street takeover, a misdemeanor of the first degree. In addition to any other sanctions, the court shall suspend the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege for not less than thirty days or more than three years. No judge shall suspend the first thirty days of any suspension of an offender's license, permit, or privilege imposed under this division.

(d) Persons rendering assistance in any manner to street racing, stunt driving, or street takeover shall be equally charged as the participants.

(e) This section does not apply to the competitive operation of vehicles on public or private property when the political subdivision with jurisdiction of the location or owner of the property knowingly permits such operation thereon. (ORC 4511.251)

### **333.08 OPERATION WITHOUT REASONABLE CONTROL.**

(a) No person shall operate a motor vehicle, agricultural tractor, or agricultural tractor that is towing, pulling, or otherwise drawing a unit of farm machinery on any street, highway, or property open to the public for vehicular traffic without being in reasonable control of the vehicle, agricultural tractor or unit of farm machinery.

(b) Whoever violates this section is guilty of operating a motor vehicle or agricultural tractor without being in control of it, a minor misdemeanor.  
(ORC 4511.202)



**333.09 ELECTRONIC WIRELESS COMMUNICATION DEVICE USE  
PROHIBITED WHILE DRIVING.**

(a) No person shall operate a motor vehicle on any street, highway, or property open to the public for vehicular traffic while using, holding, or physically supporting with any part of the person's body an electronic wireless communications device.

(b) Subsection (a) of this section does not apply to any of the following:

- (1) A person using an electronic wireless communications device to make contact, for emergency purposes, with a law enforcement agency, hospital or health care provider, fire department, or other similar emergency agency or entity.
- (2) A person driving a public safety vehicle while using an electronic wireless communications device in the course of the person's duties.
- (3) A person using an electronic wireless communications device when the person's motor vehicle is in a stationary position and is outside a lane of travel, at a traffic control signal that is currently directing traffic to stop, or parked on a road or highway due to an emergency or road closure;
- (4) A person using and holding an electronic wireless communications device directly near the person's ear for the purpose of making, receiving, or conducting a telephone call, provided that the person does not manually enter letters, numbers, or symbols into the device;
- (5) A person receiving wireless messages on an electronic wireless communications device regarding the operation or navigation of a motor vehicle; safety-related information, including emergency, traffic, or weather alerts; or data used primarily by the motor vehicle, provided that the person does not hold or support the device with any part of the person's body;
- (6) A person using the speaker phone function of the electronic wireless communications device, provided that the person does not hold or support the device with any part of the person's body;
- (7) A person using an electronic wireless communications device for navigation purposes, provided that the person does not do either of the following during the use:
  - A. Manually enter letters, numbers, or symbols into the device;
  - B. Hold or support the device with any part of the person's body;
- (8) A person using a feature or function of the electronic wireless communications device with a single touch or single swipe, provided that the person does not do either of the following during the use:
  - A. Manually enter letters, numbers, or symbols into the device;
  - B. Hold or support the device with any part of the person's body;
- (9) A person operating a commercial truck while using a mobile data terminal that transmits and receives data;
- (10) A person operating a utility service vehicle or a vehicle for or on behalf of a utility, if the person is acting in response to an emergency, power outage, or circumstance that affects the health or safety of individuals;
- (11) A person using an electronic wireless communications device in conjunction with a voice-operated or hands-free feature or function of the vehicle or of the device without the use of either hand except to activate, deactivate, or initiate the feature or function with a single touch or swipe, provided the person does not hold or support the device with any part of the person's body;
- (12) A person using technology that physically or electronically integrates the device into the motor vehicle, provided that the person does not do either of the following during the use:

- A. Manually enter letters, numbers, or symbols into the device;
- B. Hold or support the device with any part of the person's body;
- (13) A person storing an electronic wireless communications device in a holster, harness, or article of clothing on the person's body.

(c) If a law enforcement officer issues an offender a ticket, citation or summons for a violation of subsection (a) of this section, the officer shall do both of the following:

- (1) Report the issuance of the ticket, citation, or summons to the officer's law enforcement agency;
- (2) Ensure that such report indicates the offender's race.

(d) Whoever violates subsection (a) of this section is guilty of operating a motor vehicle while using an electronic wireless communication device, an unclassified misdemeanor, and shall be punished as provided in subsections (d)(1) to (5) of this section.

- (1) The offender shall be fined, and is subject to a suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege, as follows:

- A. Except as provided in subsections (d)(1)B., (d)(1)C., (d)(1)D. and (d)(2) of this section, the court shall impose upon the offender a fine of not more than one hundred fifty dollars (\$150.00).
- B. If, within two years of the violation, the offender has been convicted of or pleaded guilty to one prior violation of this section, Ohio R.C. 4511.204, or a substantially equivalent municipal ordinance, the court shall impose upon the offender a fine of not more than two hundred fifty dollars (\$250.00).
- C. If, within two years of the violation, the offender has been convicted of or pleaded guilty to two or more prior violations of this section, Ohio R.C. 4511.204, or a substantially equivalent or municipal ordinance, the court shall impose upon the offender a fine of not more than five hundred dollars (\$500.00). The court also may impose a suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege for ninety days.
- D. Notwithstanding subsections (d)(1)A. to (d)(1)C. of this section, if the offender was operating the motor vehicle at the time of the violation in a construction zone where a sign was posted in accordance with Ohio R.C. 4511.98, the court, in addition to all other penalties provided by law, shall impose upon the offender a fine of two times the amount imposed for the violation under subsections (d)(1)A., (d)(1)B., or (d)(1)C. of this section, as applicable.

- (2) If the offender is in the category of offenders to whom subsection (d)(1)A of this section applies, in lieu of payment of the fine of one hundred fifty dollars (\$150.00) under subsection (d)(1)A. of this section and the assessment of points under subsection (d)(4) of this section, the offender instead may elect to attend the distracted driving safety course, as described in Section 303.991. If the offender attends and successfully completes the course, the offender shall be issued written evidence that the offender successfully completed the course. The offender shall not be required to pay the fine and shall not have the points assessed against that offender's driver's license if the offender submits the written evidence to the court. This subsection does not apply with respect to any offender in the category of offenders to whom subsection (d)(1)B., C., or D. of this section applies.

- (3) The court may impose any other penalty authorized under Ohio R.C. 2929.21 to 2929.28. However, the court shall not impose a fine or a suspension not otherwise specified in subsection (d)(1) of this section. The court also shall not impose a jail term or community residential sanction.
- (4) Except as provided in subsection (d)(2) of this section, points shall be assessed for a violation of subsection (a) of this section in accordance with Ohio R.C. 4510.036.
- (5) The offense established under this section is a strict liability offense and Ohio R.C. 2901.20 does not apply. The designation of this offense as a strict liability offense shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense.

(e) A prosecution for an offense in violation of this section does not preclude a prosecution for an offense in violation of Ohio R.C. 4511.204 based on the same conduct. However, the two offenses are allied offenses of similar import under Ohio R.C. 2941.25.

- (f)
  - (1) A law enforcement officer does not have probable cause and shall not stop the operator of a motor vehicle for the purposes of enforcing this section unless the officer visually observes the operator using, holding, or physically supporting with any part of the person's body the electronic wireless communications device.
  - (2) A law enforcement officer who stops the operator of a motor vehicle for a violation of subsection (a) of this section shall inform the operator that the operator may decline a search of the operator's electronic wireless communications device. The officer shall not do any of the following:
    - A. Access the device without a warrant unless the operator voluntarily and unequivocally gives consent for the officer to access the device;
    - B. Confiscate the device while awaiting the issuance of a warrant to access the device;
    - C. Obtain consent from the operator to access the device through coercion or any other improper means. Any consent by the operator to access the device shall be voluntary and unequivocal before the officer may access the device without a warrant.

(g) As used in this section:

- (1) "Electronic wireless communications device", includes any of the following:
  - A. A wireless telephone;
  - B. A text-messaging device;
  - C. A personal digital assistant;
  - D. A computer, including a laptop computer and a computer tablet;
  - E. Any device capable of displaying a video, movie, broadcast television image, or visual image;
  - F. Any other substantially similar wireless device that is designed or used to communicate text, initiate or receive communication, or exchange information or data.

An "electronic wireless communications device" does not include a two-way radio transmitter or receiver used by a person who is licensed by the federal communications commission to participate in the amateur radio service.

- (2) "Utility" means an entity specified in Ohio R.C. 4905.03(A), (C), (D), (E) or (G).
- (3) "Utility service vehicle" means a vehicle owned or operated by a utility.
- (4) "Voice-operated or hands-free feature or function" means a feature or function that allows a person to use an electronic wireless communications device without the use of either hand, except to activate, deactivate, or initiate the feature or function with a single touch or single swipe.  
(ORC 4511.204)



- (2) A person using an electronic wireless communications device whose motor vehicle is in a stationary position and the motor vehicle is outside a lane of travel;
  - (3) A person using a navigation device in a voice-operated or hands-free manner who does not manipulate the device while driving.
- (c)
- (1) Except as provided in subsection (c)(2) of this section, whoever violates subsection (a) of this section shall be fined one hundred fifty dollars (\$150.00). In addition, the court shall impose a class seven suspension of the offender's driver's license or permit for a definite period of sixty days.
  - (2) If the person previously has been adjudicated a delinquent child or a juvenile traffic offender for a violation of this section, whoever violates this section shall be fined three hundred dollars (\$300.00). In addition, the court shall impose a class seven suspension of the person's driver's license or permit for a definite period of one year.
- (d) The filing of a sworn complaint against a person for a violation of Ohio R.C. 4511.205 does not preclude the filing of a sworn complaint for a violation of a substantially equivalent municipal ordinance for the same conduct. However, if a person is adjudicated a delinquent child or a juvenile traffic offender for a violation of Ohio R.C. 4511.205 and is also adjudicated a delinquent child or a juvenile traffic offender for a violation of a substantially equivalent municipal ordinance for the same conduct, the two offenses are allied offenses of similar import under Ohio R.C. 2941.25.
- (e) As used in this section, "electronic wireless communications device" includes any of the following:
- (1) A wireless telephone;
  - (2) A personal digital assistant;
  - (3) A computer, including a laptop computer and a computer tablet;
  - (4) A text-messaging device;
  - (5) Any other substantially similar electronic wireless device that is designed or used to communicate via voice, image, or written word.
- (ORC 4511.205)

### **335.04 CERTAIN ACTS PROHIBITED.**

- (a) No person shall do any of the following:
- (1) Display, or cause or permit to be displayed, or possess any identification card, driver's or commercial driver's license, temporary instruction permit or commercial driver's license temporary instruction permit knowing the same to be fictitious, or to have been canceled, suspended or altered;
  - (2) Lend to a person not entitled thereto, or knowingly permit a person not entitled thereto to use any identification card, driver's or commercial driver's license, temporary instruction permit or commercial driver's license temporary instruction permit issued to the person so lending or permitting the use thereof;
  - (3) Display or represent as one's own, any identification card, driver's or commercial driver's license, temporary instruction permit or commercial driver's license temporary instruction permit not issued to the person so displaying the same;
  - (4) Fail to surrender to the Registrar of Motor Vehicles, upon the Registrar's demand, any identification card, driver's or commercial driver's license, temporary instruction permit or commercial driver's license temporary instruction permit that has been suspended or canceled;

- (5) In any application for an identification card, driver's or commercial driver's license, temporary instruction permit or commercial driver's license temporary instruction permit, or any renewal, reprint, or duplicate thereof, knowingly conceal a material fact, or present any statement required under Ohio R.C. 4507.08 or 4507.081 when knowing the same to be false or fictitious.
- (b) Whoever violates this section is guilty of a misdemeanor of the first degree. (ORC 4507.30)

### **335.05 WRONGFUL ENTRUSTMENT OF A MOTOR VEHICLE.**

- (a) No person shall permit a motor vehicle owned by the person or under the person's control to be driven by another if any of the following apply:
  - (1) The offender knows or has reasonable cause to believe that the other person does not have a valid driver's or commercial driver's license or permit or valid nonresident driving privileges.
  - (2) The offender knows or has reasonable cause to believe that the other person's driver's or commercial driver's license or permit or nonresident operating privileges have been suspended or canceled under Ohio R.C. Chapter 4510, or any other provision of the Ohio Revised Code or this Traffic Code.
  - (3) The offender knows or has reasonable cause to believe that the other person's act of driving the motor vehicle would violate any prohibition contained in Ohio R.C. Chapter 4509.
  - (4) The offender knows or has reasonable cause to believe that the other person's act of driving would violate Ohio R.C. 4511.19 or any substantially equivalent municipal ordinance.
  - (5) The offender knows or has reasonable cause to believe that the vehicle is the subject of an immobilization waiver order issued under Ohio R.C. 4503.235 and the other person is prohibited from operating the vehicle under that order.
- (b) Without limiting or precluding the consideration of any other evidence in determining whether a violation of subsection (a)(1), (2), (3), (4) or (5) of this section has occurred, it shall be prima-facie evidence that the offender knows or has reasonable cause to believe that the operator of the motor vehicle owned by the offender or under the offender's control is in a category described in subsection (a)(1), (2), (3), (4) or (5) of this section if any of the following applies:
  - (1) Regarding an operator allegedly in the category described in subsection (a)(1), (3) or (5) of this section, the offender and the operator of the motor vehicle reside in the same household and are related by consanguinity or affinity.
  - (2) Regarding an operator allegedly in the category described in subsection (a)(2) of this section, the offender and the operator of the motor vehicle reside in the same household, and the offender knows or has reasonable cause to believe that the operator has been charged with or convicted of any violation of law or ordinance, or has committed any other act or omission, that would or could result in the suspension or cancellation of the operator's license, permit or privilege.
  - (3) Regarding an operator allegedly in the category described in subsection (a)(4) of this section, the offender and the operator of the motor vehicle occupied the motor vehicle together at the time of the offense.

(f) The offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then, in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.28 in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during, or after committing the offense that is a misdemeanor of the first degree under this section for which the offender is sentenced. (ORC 4510.14)

- (g) (1) If a person is convicted of or pleads guilty to a violation of a municipal ordinance that is substantially equivalent to Ohio R.C. 4510.14, the court, in addition to and independent of any sentence that it imposes upon the offender for the offense, if the vehicle the offender was operating at the time of the offense is registered in the offender's name, shall do whichever of the following is applicable:
- A. If, within six years of the current offense, the offender has not been convicted of or pleaded guilty to a violation of Ohio R.C. 4510.14 or former division (D)(2) of Ohio R.C. 4507.02, or a municipal ordinance that is substantially equivalent to that section or former division, the court shall order the immobilization for thirty days of the vehicle involved in the offense and the impoundment for thirty days of the license plates of that vehicle in accordance with Ohio R.C. 4503.233.
  - B. If, within six years of the current offense, the offender has been convicted of or pleaded guilty to one violation of Ohio R.C. 4510.14 or former division (D)(2) of Ohio R.C. 4507.02, or a municipal ordinance that is substantially equivalent to that section or former division, the court shall order the immobilization for sixty days of the vehicle involved in the offense and the impoundment for sixty days of the license plates of that vehicle in accordance with Ohio R.C. 4503.233.
  - C. If, within six years of the current offense, the offender has been convicted of or pleaded guilty to two or more violations of Ohio R.C. 4510.14 or former division (D)(2) of Ohio R.C. 4507.02 or a municipal ordinance that is substantially equivalent to that section or former division, the court shall order the criminal forfeiture to the State of the vehicle the offender was operating at the time of the offense.
- (2) An order for immobilization and impoundment of a vehicle under this section shall be issued and enforced in accordance with Ohio R.C. 4503.233 and 4507.02, as applicable. The court shall not release a vehicle from immobilization ordered under this section unless the court is presented with current proof of financial responsibility with respect to that vehicle.
- (3) An order for criminal forfeiture of a vehicle under this section shall be issued and enforced under Ohio R.C. 4503.234. Upon receipt of a copy of the order from the court, neither the Registrar of Motor Vehicles nor a Deputy Registrar shall accept any application for the registration or transfer of registration of any motor vehicle owned or leased by the person named in the declaration of forfeiture. The period of registration denial shall be five years after the date of the order unless, during that period, the court having jurisdiction of the offense that led to the order terminates the forfeiture and notifies the Registrar of the termination. The Registrar then shall take the necessary measures to permit the person to register a vehicle owned or leased by the person or to transfer registration of the vehicle. (ORC 4510.161)



- (h) As used in this section:
- (1) "Electronic monitoring" has the same meaning as in Ohio R.C. 2929.01.
  - (2) "Equivalent offense" means any of the following:
    - A. A violation of a municipal ordinance, law of another state, or law of the United States that is substantially equivalent to subsection (a) of this section;
    - B. A violation of a former law of this State that was substantially equivalent to subsection (a) of this section.
  - (3) "Jail" has the same meaning as in Ohio R.C. 2929.01.
  - (4) "Mandatory jail term" means the mandatory term in jail of three, ten, or thirty consecutive days that must be imposed under subsection (b)(1), (2) or (3) of this section upon an offender convicted of a violation of subsection (a) of this section and in relation to which all of the following apply:
    - A. Except as specifically authorized under this section, the term must be served in a jail.
    - B. Except as specifically authorized under this section, the term cannot be suspended, reduced, or otherwise modified pursuant to any provision of the Ohio Revised Code.
- (ORC 4510.14)

(i) It is an affirmative defense to any prosecution brought under this section that the alleged offender drove under suspension, without a valid permit or driver's or commercial driver's license, or in violation of a restriction because of a substantial emergency, and because no other person was reasonably available to drive in response to the emergency.  
(ORC 4510.04)

**335.072 DRIVING UNDER FINANCIAL RESPONSIBILITY LAW  
SUSPENSION OR CANCELLATION; DRIVING UNDER A  
NONPAYMENT OF JUDGMENT SUSPENSION.**

(a) No person, whose driver's or commercial driver's license or temporary instruction permit or nonresident's operating privilege has been suspended or canceled pursuant to Ohio R.C. Chapter 4509, shall operate any motor vehicle within this municipality, or knowingly permit any motor vehicle owned by the person to be operated by another person in the municipality, during the period of the suspension or cancellation, except as specifically authorized by Ohio R.C. Chapter 4509.

(b) No person shall operate any motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking in this Municipality if the person's driver's or commercial driver's license or temporary instruction permit or nonresident operating privilege has been suspended pursuant to Ohio R.C. 4509.37 or 4509.40 for nonpayment of a judgment.

(c) Upon the request or motion of the prosecuting authority, a noncertified copy of the law enforcement automated data system report or a noncertified copy of a record of the Registrar of Motor Vehicles that shows the name, date of birth and social security number of a person charged with a violation of subsection (a) or (b) of this section may be admitted into evidence as prima-facie evidence that the license of the person was under either a financial responsibility law suspension at the time of the alleged violation of subsection (a) of this section or a nonpayment

of judgment suspension at the time of the alleged violation of subsection (b) of this section. The person charged with a violation of subsection (a) or (b) of this section may offer evidence to rebut this prima-facie evidence.

(d) Whoever violates subsection (a) of this section is guilty of driving under financial responsibility law suspension or cancellation and shall be punished as provided in subsection (d)(1) to (d)(3) hereof. Whoever violates subsection (b) of this section is guilty of driving under a nonpayment of judgment suspension and shall be punished as provided in subsection (d)(1) to (d)(3) hereof.

- (1) Except as otherwise provided in subsection (d)(2) of this section, the offense is an unclassified misdemeanor. When the offense is an unclassified misdemeanor, the offender shall be sentenced pursuant to Ohio R.C. 2929.21 to 2929.28, except that the offender shall not be sentenced to a jail term; the offender shall not be sentenced to a community residential sanction pursuant to Ohio R.C. 2929.26; notwithstanding division (A)(2)(a) of Ohio R.C. 2929.28, the offender may be fined up to one thousand dollars (\$1,000); and, notwithstanding division (A)(3) of Ohio R.C. 2929.27, the offender may be ordered pursuant to division (C) of that section to serve a term of community service of up to five hundred hours. The failure of an offender to complete a term of community service imposed by the court may be punished as indirect criminal contempt under division (A) of Ohio R.C. 2705.02 that may be filed in the underlying case.
- (2) If, within three years of the offense, the offender previously was convicted of or pleaded guilty to two or more violations of Ohio R.C. 4510.16, or any combination of two violations of Ohio R.C. 4510.16 or Ohio R.C. 4510.11 or 4510.111, or a substantially equivalent municipal ordinance, the offense is a misdemeanor of the fourth degree.
- (3) The offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.28 in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during or after committing the offense for which the offender is sentenced under this section. (ORC 4510.16)

(e) No person who has knowingly failed to maintain proof of financial responsibility in accordance with Ohio R.C. 4509.101 shall produce any document or present to a peace officer an electronic wireless communications device that is displaying any text or images with the purpose to mislead a peace officer upon the request of a peace officer for proof of financial responsibility made in accordance with Ohio R.C. 4509.101. Whoever violates this subsection (e) hereof is guilty of falsification, a misdemeanor of the first degree. (ORC 4509.102)

(f) It is an affirmative defense to any prosecution brought under this section that the alleged offender drove under suspension, without a valid permit or driver's or commercial driver's license, or in violation of a restriction because of a substantial emergency, and because no other person was reasonably available to drive in response to the emergency. (ORC 4510.04)

**335.073 DRIVING WITHOUT COMPLYING WITH LICENSE  
REINSTATEMENT REQUIREMENTS.**

(a) No person whose driver's license, commercial driver's license, temporary instruction permit, or nonresident's operating privilege has been suspended shall operate any motor vehicle upon a public road or highway or any public or private property after the suspension has expired unless the person has complied with all license reinstatement requirements imposed by the court, the Bureau of Motor Vehicles, or another provision of the Ohio Revised Code.

(b) Upon the request or motion of the prosecuting authority, a noncertified copy of the law enforcement automated data system report or a noncertified copy of a record of the Registrar of Motor Vehicles that shows the name, date of birth, and social security number of a person charged with a violation of subsection (a) of this section may be admitted into evidence as prima-facie evidence that the license of the person had not been reinstated by the person at the time of the alleged violation of subsection (a) hereof. The person charged with a violation of subsection (a) hereof may offer evidence to rebut this prima-facie evidence.

(c) Whoever violates this section is guilty of failure to reinstate a license and shall be punished as follows:

- (1) Except as provided in subsection (c)(2) of this section, whoever violates subsection (a) hereof is guilty of an unclassified misdemeanor. When the offense is an unclassified misdemeanor, the offender shall be sentenced pursuant to Ohio R.C. 2929.21 to 2929.28, except that the offender shall not be sentenced to a jail term; the offender shall not be sentenced to a community residential sanction pursuant to Ohio R.C. 2929.26; notwithstanding division (A)(2)(a) of Ohio R.C. 2929.28, the offender may be fined up to one thousand dollars (\$1,000); and, notwithstanding division (A)(3) of Ohio R.C. 2929.27, the offender may be ordered pursuant to division (C) of that section to serve a term of community service of up to five hundred hours. The failure of an offender to complete a term of community service imposed by the court may be punished as indirect criminal contempt under division (A) of Ohio R.C. 2705.02 that may be filed in the underlying case.
- (2) If, within three years of a violation of subsection (a) of this section, the offender previously has pleaded guilty to or been convicted of two or more violations of Ohio R.C. 4510.21(A) or a substantially equivalent municipal ordinance, the offender is guilty of a misdemeanor of the first degree.
- (3) In all cases, the court may impose upon the offender a class seven suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary driver's license, or nonresident operating privilege from the range specified in division (A)(7) of Ohio R.C. 4510.02. (ORC 4510.21)

(d) It is an affirmative defense to any prosecution brought under this section that the alleged offender drove under suspension, without a valid permit or driver's or commercial driver's license, or in violation of a restriction because of a substantial emergency, and because no other person was reasonably available to drive in response to the emergency.  
(ORC 4510.04)

**335.074 DRIVING UNDER LICENSE FORFEITURE OR CHILD SUPPORT  
SUSPENSION.**

(a) No person shall operate any motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking in this Municipality whose driver's or commercial driver's license has been suspended pursuant to Ohio R.C. 2151.354, 2935.27, 3123.58, 4301.99, 4510.032, 4510.22 or 4510.33.

(c) When any child who is less than eight years of age and less than four feet nine inches in height, who is not required by subsection (a) or (b) of this section to be secured in a child restraint system, is being transported in a motor vehicle, other than a taxicab or public safety vehicle as defined in Ohio R.C. 4511.01 or a vehicle that is regulated under Ohio R.C. 5104.011, that is required by the United States Department of Transportation to be equipped with seat belts at the time of manufacture or assembly, the operator of the motor vehicle shall have the child properly secured in accordance with the manufacturer's instructions on a booster seat that meets federal motor vehicle safety standards.

(d) When any child who is at least eight years of age but not older than fifteen years of age and who is not otherwise required by subsection (a), (b) or (c) hereof to be secured in a child restraint system or booster seat, is being transported in a motor vehicle, other than a taxicab or public safety vehicle as defined in Ohio R.C. 4511.01, that is required by the United States Department of Transportation to be equipped with seat belts at the time of manufacture or assembly, the operator of the motor vehicle shall have the child properly restrained either in accordance with the manufacturer's instructions in a child restraint system that meets federal motor vehicle safety standards or in an occupant restraining device as defined in Ohio R.C. 4513.263.

(e) Notwithstanding any provision of law to the contrary, no law enforcement officer shall cause an operator of a motor vehicle being operated on any street or highway to stop the motor vehicle for the sole purpose of determining whether a violation of subsection (c) or (d) of this section has been or is being committed or for the sole purpose of issuing a ticket, citation, or summons for a violation of subsection (c) or (d) of this section or causing the arrest of or commencing a prosecution of a person for a violation of subsection (c) or (d) of this section, and absent another violation of law, a law enforcement officer's view of the interior or visual inspection of a motor vehicle being operated on any street or highway may not be used for the purpose of determining whether a violation of subsection (c) or (d) of this section has been or is being committed.

(f) The Ohio Director of Public Safety shall adopt such rules as are necessary to carry out this section.

(g) The failure of an operator of a motor vehicle to secure a child in a child restraint system, a booster seat or an occupant restraining device as required by this section is not negligence imputable to the child, is not admissible as evidence in any civil action involving the rights of the child against any other person allegedly liable for injuries to the child, is not to be used as a basis for a criminal prosecution of the operator of the motor vehicle other than a prosecution for a violation of this section, and is not admissible as evidence in any criminal action involving the operator of the motor vehicle other than a prosecution for a violation of this section.

(h) This section does not apply when an emergency exists that threatens the life of any person operating or occupying a motor vehicle that is being used to transport a child who otherwise would be required to be restrained under this section. This section does not apply to a person operating a motor vehicle who has an affidavit signed by a physician licensed to practice in this State under Ohio R.C. Chapter 4731 a clinical nurse specialist or certified nurse practitioner licensed to practice in this State under Ohio R.C. Chapter 4723, or a chiropractor licensed to practice in this State under Ohio R.C. Chapter 4734 that states that the child who otherwise would be required to be restrained under this section has a physical impairment that makes use of a child restraint system, booster seat or an occupant restraining device impossible or impractical, provided that the person operating the vehicle has safely and appropriately restrained the child in accordance with any recommendations of the physician, nurse or chiropractor as noted on the affidavit.

(i) Nothing in this section shall be construed to require any person to carry with the person the birth certificate of a child to prove the age of the child, but the production of a valid birth certificate for a child showing that the child was not of an age to which this section applies is a defense against any ticket, citation or summons issued for violating this section.

(j) Whoever violates subsection (a), (b), (c) or (d) of this section shall be punished as follows, provided that the failure of an operator of a motor vehicle to secure more than one child in a child restraint system, booster seat, or occupant restraining device as required by this section that occurred at the same time, on the same day, and at the same location is deemed to be a single violation of this section:

- (1) Except as otherwise provided in subsection (j)(2) of this section, the offender is guilty of a minor misdemeanor and shall be fined not less than twenty-five dollars (\$25.00) nor more than seventy-five dollars (\$75.00).
- (2) If the offender previously has been convicted of or pleaded guilty to a violation of subsection (a), (b), (c) or (d) of this section or of a state law or municipal ordinance that is substantially similar to any of those subsections, the offender is guilty of a misdemeanor of the fourth degree.  
(ORC 4511.81)

### **337.27 DRIVERS AND PASSENGERS REQUIRED TO WEAR SEAT BELTS.**

(a) As used in this section:

- (1) "Automobile" means any commercial tractor, passenger car, commercial car or truck that is required to be factory-equipped with an occupant restraining device for the operator or any passenger by regulations adopted by the United States Secretary of Transportation pursuant to the "National Traffic and Motor Vehicle Safety Act of 1966," 80 Stat. 719, 15 U.S.C.A. 1392.
- (2) "Occupant restraining device" means a seat safety belt, shoulder belt, harness or other safety device for restraining a person who is an operator of or passenger in an automobile and that satisfies the minimum Federal vehicle safety standards established by the United States Department of Transportation.
- (3) "Passenger" means any person in an automobile, other than its operator, who is occupying a seating position for which an occupant restraining device is provided.
- (4) "Commercial tractor," "passenger car," and "commercial car" have the same meanings as provided in Ohio R.C. 4501.01.
- (5) "Vehicle" and "motor vehicle", as used in the definitions of the terms set forth in subsection (a)(4) hereof, have the same meanings as provided in Chapter 301.
- (6) "Tort action" means a civil action for damages for injury, death, or loss to person or property. "Tort action" includes a product liability claim, as defined in Ohio R.C. 2307.71 and an asbestos claim, as defined in Ohio R.C. 2307.91, but does not include a civil action for damages for breach of contract or another agreement between persons.

(b) No person shall do either of the following:

- (1) Operate an automobile on any street or highway unless that person is wearing all of the available elements of a properly adjusted occupant restraining device, or operate a school bus that has an occupant restraining device installed for use in its operator's seat unless that person is wearing all of the available elements of the device, as properly adjusted;

**939.05 NET METERING.**

(a) Net Metering. Net Metering means measuring the difference between the electricity supplied over the electric distribution system (power grid) and the electricity generated by the consumer's solar power system which is fed back into the electric distribution system over a specific billing period.

(b) Availability of Service. Net Metering is available to qualifying consumers on a first come, first served basis, until the nameplate capacity of all participating generators is equal to the maximum program limit of three percent (3.0%) of the system peak demand of all customers during the previous calendar year. The City Manager reserves the right to deny any consumer, for any reason, the ability to enter into a net metering agreement with the City.

(c) Conditions of Service.

- (1) A qualifying consumer is one whose generating facility complies with all the following requirements:
  - A. Is owned and operated by the consumer and is located on the consumer-generator's premises;
  - B. Is designed and installed to operate in parallel with the City's Electric System without adversely affecting the operation of equipment and service of the City and its consumers and without presenting safety hazards to City and consumer personnel; and
  - C. Is intended primarily to offset part or all of the consumer-generator's electricity needs.
- (2) The consumer's generating equipment:
  - A. Shall be installed in accordance with the manufacturer's specifications as well as all applicable provisions of the National Electrical Code. All equipment and installations shall comply with all applicable safety and performance standards established by the National Electrical Code, the Institute of Electrical and Electronic Engineers, and Underwriters Laboratories.
  - B. Shall be installed in compliance with the Standards for Interconnection and Parallel Operation of Small-Scaled, Customer-Owned Solar, Wind, Hydroelectric or Fuel Cell Powered Generating Facilities up to 25kW (residential) or 100 kW (commercial/industrial), and with all applicable requirements of Wood County Building Inspection (inside corporation limits) or Napoleon Power and Light (outside corporation limits).
- (3) An application for interconnection with the City's distribution system must be made by the consumer or the consumer's authorized representative. The interconnection permit must provide at least the following information regarding the consumer-generator's facility: Inverter type, array size, certification, and manufacturer's specifications including details about circuit protective devices; generation facility certifications; the installing electrician name, address, and phone number; and proof of inspection and approval from the appropriate City inspector(s).

(d) Metering. Net energy metering shall be accomplished using a single meter capable of registering the flow of electricity in each direction. If the existing electrical meter installed at the consumer's facility is not capable of measuring the flow of electricity in two directions, the consumer shall be responsible for all expenses for the purchase and installation of an appropriate meter with such capability. The City may, at the consumer's or the city's expense and with written consent of the consumer, install one or more additional meters to monitor the flow of electricity.

(e) Rate. At the end of the billing period a calculation will be made to determine the difference, if any, between the amount of kWh supplied to the consumer from the city's system and the amount of kWh supplied to the city's system from the consumer.

(1) Credit: If the consumer generator's facility feeds more kWh of electricity back to the City's system than the City supplies to the consumer, at the same site, during the billing period, then fifty percent (50%) of the excess kWh will be given as a kWh credit for the beginning of the next billing period for the same site. At no time will the consumer be entitled to, nor compensated for, any monetary payout of the excess electricity fed back to the city's system.

(2) Billing Period: The billing period is January 1st through either December 31st of each calendar year or the last day of the month in which the consumer ceases operation of the net metering agreement, whichever comes first.

(3) For Example: At the end of the billing period it was determined that consumer X's solar system delivered to the City's system 100 kWh, then consumer X would receive a credit of 50 kWh for that same site.

(f) Special Terms and Conditions.

(1) Each consumer under a net meter system must carry a minimum of one hundred thousand dollars (\$100,000.00) in liability insurance naming the City as an additional insured.

(2) The consumer-generator must install and maintain a manual disconnect switch that will disconnect the net metering facility from the Napoleon Utilities electric system. The disconnect switch must be a lockable, load-break switch that plainly indicates whether it is in the open or closed position. The disconnect switch must be readily accessible to Napoleon Utility personnel at all times and located within ten (10) feet of the meter. The disconnect switch may be located more than ten (10) feet from the billing meter provided that permanent instructions are posted at the meter indicating the precise location of the disconnect switch. This information must be indicated on the application form and approved by the Utility.

(g) Additional Charges. The consumer shall pay any additional charges, as determined by the City, for equipment, labor, metering, testing or inspections that are requested by the consumer or needed by the City.

(h) Length of Term. Contracts under this schedule shall be automatically renewed on January 1st of each year, unless either the consumer or the City provides written notice to terminate the agreement within ten (10) calendar days of the renewal.  
(Ord. 011-24. Passed 5-6-24.)

(EDITOR'S NOTE: The next printed page is page 65.)

(EDITOR'S NOTE: Subsections (g) through (I) were eliminated by Ordinance 051-23.)

- (j) Fee for motorized cart use shall be as follows:
  - (1) Motorized cart fee: The privilege of using a non-City motorized cart on the course is restricted to persons holding a valid annual golf privilege card. The cart shall be used only by the holder of such card or his or her immediate family, and guests accompanied by the holder or a member of the holder's immediate family. The annual privilege fee is \$260.00 if gas powered, with an additional \$20.00 being charged if the motorized cart is electrically powered.
  - (2) Motorized cart rental 9 holes  
\$8.00 per person with a maximum of two carts per group.
  - (3) Motorized cart rental 18 holes  
\$11.00 per person with a maximum of two carts per group.
  - (4) Prepaid discount motorized cart rental for 10 rounds of 9 holes  
\$60.00 per person
  - (5) Private cart rate - drive on/trailering to the Course:
    - (a) 9 holes - \$4.00
    - (b) 18 holes - \$5.50
    - (c) Prepaid cart rental card - 10 rounds - \$30.00
    - (d) Annual cart membership - \$130.00  
(Ord. 051-23. Passed 12-4-23.)
- (k) Pull cart fee shall be as follows:
  - (1) Pull fee: No charge for using one's own cart.
  - (2) Pull cart rental: \$1.50 (up to 18 holes)
- (l) Golf clubs rental: \$2.00 (up to 18 holes)
- (m) Greens privilege fee and cart use fee shall be for the golfing season from April 1 through October 31, both dates inclusive, subject to the extension of the season by Director of the Parks and Recreation Department. The City has the right to close the course at any time for special events, unplayable conditions, or for other cause deemed appropriate by the Parks and Recreation Department.
- (n) The daily greens fee and daily cart rental fees during "off peak times" of the annual golf season for promotional reasons shall be reduced in an amount of thirty percent (30%) of the herein established rates. What constitutes and is declared "off peak times" is in the sole discretion of the Parks and Recreation Director.
- (o) Discounts shall apply to senior citizens as follows: \$3.00 off regular greens fees and \$2.00 off per person motorized cart rentals, both during the times of 8:00 a.m. through 1:00 p.m. on days of weekdays only, excluding nationally recognized holidays.
- (p) Nothing in this section shall be construed as to limit City Council's authority to adjust daily, weekly, monthly, or annual rates. (Ord. 004-15. Passed 1-19-15.)
- (q) Due to the devastating rain and weather that was experienced in the 2015 Golf Season:



- (1) Any member who has paid their dues as of August 3rd, 2015 will receive 50% off of a membership for the 2016 season, and Cart rental will be given at no charge for the remainder of the 2015 season.
  - (2) Any player purchasing a greens fee at full price shall receive a cart rental at no charge. Those not wishing to use a motorized cart will receive 50% off of a 9 hole or 18 hole greens fee. The 50% reduction has a cap of 18 holes per day. (Ord. 044-15. Passed 8-3-15.)
- (r) In order to provide an opportunity for area employers to offer healthy recreational activities for their employees, a Corporate Membership rate shall be created per the following:
- (1) The Corporate Membership will be available for eligible employees. Eligible employees' family members are not included in the Corporate Membership benefit.
  - (2) The Corporate Membership will be available for eligible employees of a company that has purchased a Corporate Membership; that Corporate Membership must be paid in full to the Napoleon Golf Course before the usage is permitted.
  - (3) The Corporate Membership will include unlimited greens fees for eligible employees.
  - (4) The Corporate Membership does not include cart rentals.
  - (5) The following table establishes the fees for a Corporate Membership to the employer, based on number of employees:

<u>Number of Employees</u>	<u>Annual Fee</u>
25 and under	\$1,200.00
26 - 49	\$2,200.00
50 - 99	\$3,200.00
100 - 199	\$4,700.00
200 and above	\$6,700.00

(Ord. 007-25. Passed 3-17-25.)

- (s) In order to provide an opportunity for area organizations to offer golf outings, a golf outing rate shall be created per the following:

<u>Number of Holes</u>	<u>Fee per Participant</u>
9	\$16.00
18	\$26.00

(Ord. 051-23. Passed 12-4-23.)

- (t) In order to provide an opportunity for the public to utilize the Municipal golf facilities between the months of November through March, a golf simulator rate shall be created per the following:
- (1) Golf simulator hours of operation shall be subject to the discretion of the Director of the Parks and Recreation Department.
  - (2) The City has the right to close the simulator at any time for any cause deemed appropriate by the Parks and Recreation Department.
  - (3) Nothing in this section shall be construed as to limit City Council's authority to adjust golf simulator rates.
  - (4) The following table establishes the fees for rental of the golf simulator:



## Fraternal Order of Eagles 4428, Napoleon

539 N. Perry St.  
Napoleon, Ohio  
419-592-2112

May 15, 2025

Officer Bradley Strickland  
255 West Riverview  
Napoleon, OH 43545

Dear Officer Strickland,

It is with great pleasure that the Napoleon Eagles would like to present you with this donation of \$1,500.00 to support your Napoleon Police Department Summer Youth activities.

Sincerely,

Scott Steward  
Secretary

44107

**OHIO STATE EAGLES**

**CHARITY FUND**

1170 RICHFIELD CENTER  
BEAVERCREEK, OH 45430

JPMorgan Chase Bank, N.A.

25-3/440

VOID IF NOT CASHED IN 90 DAYS

5/12/2025

**PAY TO THE ORDER OF** Napoleon Police Department

One Thousand Five Hundred and 00/100 \*\*\*\*\*

\$ \*\*1,500.00

DOLLARS

Napoleon Police Department  
255 W Riverview Ave  
PO Box 151  
Napoleon, OH 43545

MEMO

c/o Napoleon Eagles #4428 (Summer Activities)



*[Handwritten signature]*



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THIS DOCUMENT CONTAINS HEAT SENSITIVE INK. TOUCH OR PRESS HERE. RED IMAGE DISAPPEARS WITH HEAT

Security Features Included.



Details on back.

INVOICE NUMBER	DATE	DESCRIPTION	INVOICE AMOUNT
PROGRAMS	05/16/25	YOUTH SUMMER PROGRAMS	1,000.00

CHECK DATE 05/20/25 TOTAL \$ 1,000.00

THIS DOCUMENT IS PROTECTED BY MULTIPLE SECURITY FEATURES INCLUDING A WATERMARK ON THE BACK, INVISIBLE FIBERS IN THE PAPER AND A VOID PANTOGRAPH

**GOODVILLE MUTUAL CASUALTY COMPANY**

625 West Main Street, PO Box 489  
New Holland, PA 17557-0489

Fulton Bank  
Lancaster PA 17602

60-142  
313

Check Date	Check No.
05/20/25	0000140459

Check Amount
\$*****1,000.00


PAY ONE THOUSAND DOLLARS & 00/100

TO THE ORDER OF

NAPOLEON POLICE DEPARTMENT  
310 GLENWOOD AVE  
NAPOLEON, OH 43545



AUTHORIZED SIGNATURE



AUTHORIZED SIGNATURE

⑈0000140459⑈ ⑆031301422⑆ 0093073159⑈

May 29, 2025

**VIA E-MAIL**

Kevin Garringer  
Finance Director  
City of Napoleon, Ohio  
255 W. Riverview Avenue  
Napoleon, Ohio 43545

**Re: City of Napoleon, Ohio  
(Not to Exceed) \$650,000 Fire Equipment Bonds, Series 2025**

Dear Kevin:

We are pleased that the City of Napoleon, Ohio (the “*City*”) has requested Squire Patton Boggs (US) LLP (the “*Firm*”) to serve as the City’s bond counsel in connection with its issuance of the above-captioned bonds (the “*Bonds*”).

The Firm’s services will include those customarily provided by bond counsel in connection with issues such as the Bonds, including the rendering of our legal opinion (the “*Bond Opinion*”), provided that the proceedings for the issuance of the Bonds have been completed to our satisfaction. The Bond Opinion will address the validity and legality of the Bonds, the source of payment and security for the Bonds, the excludability of interest on the Bonds from gross income for federal income tax purposes, and certain other tax aspects of the Bonds under federal law and under the laws of the State of Ohio. The Firm will address the Bond Opinion to the City and the original purchaser and will deliver it on the date that the City delivers the Bonds to the original purchaser in exchange for their purchase price. For those legal services, the Firm shall be paid just and reasonable compensation in an amount not expected to exceed \$13,500, and shall be reimbursed for the actual out-of-pocket expenses it incurs in rendering those legal services.

As the City’s bond counsel, the Firm will represent the City. The City will be the Firm’s client, and an attorney-client relationship will exist between the Firm and the City. We assume that all other parties to the transaction described above will retain such counsel as they deem necessary and appropriate to represent their interests in this transaction. We further assume that all other parties understand that, in this transaction, we represent only the City, that we are not counsel to any other party, and that we are not acting as an intermediary among the parties.

Kevin Garringer  
May 29, 2025  
Page 2

The City's proposed issuance of the Bonds will involve other parties. The Firm conducts a national practice in the area of public finance that involves the representation of issuers, underwriters and other parties in the issuance of governmental debt obligations. In addition, the Firm conducts a national and international corporate law practice that includes the representation of financial institutions and other businesses in transactions, litigation and other matters. As a result of the extent and diversity of that practice, the Firm may currently represent or may have represented one or more of the original purchasers of the Bonds or other parties involved in the issuance of the Bonds in matters unrelated to the City or its issuance of the Bonds. The Firm may also commence such representations during the time it is serving the City as bond counsel in these matters. Considering the lack of relationship that such other matters have to the City or to its issuance of the Bonds, the Firm does not expect any such other representations to conflict with its fulfillment of its professional obligations to the City as bond counsel in connection with those matters. We request that the City, by signing and returning a copy of this letter, acknowledge and consent to the Firm's serving the City as bond counsel for the issuance of the Bonds though the Firm serves, may have served or may serve other parties to that issuance in other, unrelated matters.

The Firm appreciates the opportunity to represent the City in this matter. Please confirm that the City desires for the Firm to proceed with this engagement as described in this letter by signing a copy of this letter and returning it to us. Please retain the original for the City's files.

Very truly yours,

*Christopher J. Franzmann*

Christopher J. Franzmann, Partner

CJF/pf

**Engagement Letter Accepted:**

**CITY OF NAPOLEON, OHIO**

By: \_\_\_\_\_

Printed: Kevin Garringer

Title: Finance Director

Dated: \_\_\_\_\_