

September 2013							October 2013							November 2013						
S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S
1	2	3	4	5	6	7		1	2	3	4	5						1	2	
8	9	10	11	12	13	14	6	7	8	9	10	11	12	3	4	5	6	7	8	9
15	16	17	18	19	20	21	13	14	15	16	17	18	19	10	11	12	13	14	15	16
22	23	24	25	26	27	28	20	21	22	23	24	25	26	17	18	19	20	21	22	23
29	30						27	28	29	30	31			24	25	26	27	28	29	30

 Calendar

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
<b>29</b>	<b>30</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b> BISHER - OFF/Afternoon	<b>5</b>
<b>6</b>	<b>7</b> 7:00 PM City COUNCIL Meeting AV BISHER - Out Until 13:00	<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>	<b>12</b>
<b>13</b>	<b>14</b> 6:30 PM Electric Committee Board of Public Affairs (BOPA) 7:00 PM Water/Sewer Committee 7:30 PM Municipal Properties/ED Committee Meeting AV	<b>15</b>	<b>16</b>	<b>17</b>	<b>18</b>	<b>19</b>
<b>20</b>	<b>21</b> 6:00 PM City Tree Commission Mtg. 7:00 PM City COUNCIL Meeting 8:00 PM Parks & Rec Committee Mtg. AV	<b>22</b>	<b>23</b>	<b>24</b>	<b>25</b>	<b>26</b>
<b>27</b>	<b>28</b> 6:00 PM Halloween Parade 6:30 PM Finance & Budget Committee Mtg. 7:30 PM Safety & Human Resources Committee Mtg. AV - Shery AMP Fall Conference	<b>29</b> AMP Fall Conference	<b>30</b> AMP Fall Conference	<b>31</b> AMP Fall Conference	<b>1</b>	<b>2</b>

City of Napoleon, Ohio

## CITY COUNCIL

LOCATION: City Hall Offices, 255 West Riverview Avenue, Napoleon, Ohio

### MEETING AGENDA

**Monday, October 7, 2013 at 7:00 PM**

- A. **Attendance** *(Noted by the Clerk)*
- B. **Prayer & Pledge of Allegiance**
- C. **Approval of Minutes:** Sept. 16 & 23 *(In the absence of any objections or corrections, the minutes shall stand approved.)*
- D. **Citizen Communication**
- E. **Reports from Council Committees**
  - 1. **Parks & Recreation Committee** did not meet on Monday, Sept. 16 due to lack of agenda items.
  - 2. **Finance & Budget Committee** *(Majority Report)* met on Monday, Sept. 23 and:
    - a. Discussed and tabled *Debt Funding Limits for Water & Sewer Projects*
    - b. Recommended to increase the City's requirement to bid from \$25,000 to \$30,000
    - c. Recommended to request legislation to approve the 3<sup>rd</sup> quarter budget adjustments and to authorize transfer of appropriations into the Reserve Fund
  - 3. **Safety & Human Resources Committee** did not meet on Sept. 23 due to lack of agenda items.
- F. **Reports from Other Committees, Commissions and Boards** *(Informational Only-Not Read)*
  - 1. **Civil Service Commission** met on Thursday, September 19 with the following agenda items:
    - a. Administer & Grade the Civil Service Test for the Position of Police Lieutenant
    - b. Certify the Eligible List for Police Lieutenant
  - 2. **Parks & Recreation Board** met on Wednesday, Sept. 25 with the following agenda items:
    - a. Review of Parks & Recreation Rates & Fees
    - b. Discussion on 2014 Capital Improvements
    - c. Discussion and/or Action on Trick or Treat Night Recommendation
- G. **Introduction of New Ordinances and Resolutions**
  - 1. **Ordinance No. 053-13** An Ordinance creating 101 General Reserve Balance Fund
  - 2. **Ordinance No. 054-13** An Ordinance supplementing the annual appropriation measure (Supplement No. 3) for the year 2013; and Declaring an Emergency
  - 3. **Resolution No. 055-13** A Resolution authorizing the Finance Director to transfer certain fund balances from respective funds to other funds per Section 5705.14 ORC on an as needed basis in fiscal year 2013, listed in Exhibit "A" (Transfer No. 3); and Declaring an Emergency
  - 4. **Resolution No. 056-13** A Resolution authorizing the City Manager to do a Unisom contract (Water Tower Antennae)
  - 5. **Resolution No. 057-13** A Resolution authorizing a contract with Jones & Henry on Water Plant Design in the amount of \$1,908,000
- H. **Second Readings of Ordinances and Resolutions**
  - 1. **Ordinance No. 042-13** An Ordinance amending Sections 1101.01 and 1145.01 of the Planning and Zoning Code of the City of Napoleon, Ohio to add certain definitions and make additions to the Table of Permissible Uses *(Tabled until October 7)*
  - 2. **Resolution No. 048-13** A Resolution authorizing the City of Napoleon, Ohio, to enter into an agreement with the City of Cleveland, Ohio, for services relating to the collection of Income Tax
- I. **Third Readings of Ordinances and Resolutions**
  - 1. **Ordinance No. 045-13** An Ordinance establishing a utility billing "Rounding-Up" Program for the City of Napoleon, establishing a program for all monies received as a result of voluntary participation, and directing that all funds so received be utilities to assist utility customers with the payment of their utility bills
  - 2. **Resolution No. 046-13** A Resolution authorizing the City Manager and/or the City Finance Director to enter into an agreement with Northwestern Ohio Community Action Commission, Inc. for professional services regarding the administration of the Caring Fund
- J. **Good of the City** *Any other business as may properly come before Council, including but not limited to:*
  - 1. **Discussion/Action:** Recommendation to increase the City requirement to bid from \$25,000 to \$30,000

2. **Discussion/Action:** Recommendation to request legislation to approve 3<sup>rd</sup> quarter budget adjustments and to authorize transfer of appropriations into the Reserve Fund
  3. **Discussion/Action:** Recommendation on Trick or Treat Night – Thursday, Oct. 31 from 6:00-7:30 pm
  4. **Discussion/Action:** Application for Change of Corporate Stock Ownership for Liquor License – Ottawa Oil Co., Inc.
  5. **Discussion/Action:** Approve plans, specifications and contracts to bid drainage and stone on parking lot on Perry Street
  6. **Discussion/Action:** Regarding the Water Rate Study
  7. **Discussion/Action:** Regarding the status of a new Water Plant
  8. **Discussion/Action:** 2014 Budget Request from Henry County CIC (*Assign to Committee*)
- K. Executive Session:** Collective Bargaining Negotiations and Compensation of Personnel
- L. Approve Payment of Bills and Approve Financial Reports** (*In the absence of any objections or corrections, the payment of bills and financial reports shall stand approved.*)
- M. Adjournment**

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*Gregory J. Heath, Finance Director/Clerk of Council*

**A. Items Referred or Pending in Committees of Council**

**1. Technology & Communication Committee (1<sup>st</sup> Monday)**

*(Next Regular Meeting: Monday, November 4 @ 8:00 PM)*

October meeting is canceled due to lack of agenda items.

**2. Electric Committee (2<sup>nd</sup> Monday)**

*(Next Regular Meeting: Monday, October 14 @ 6:30 PM)*

a. Review of Electric Billing Determinants

b. Electric Department Report

c. New Energy Efficiency Contract for 2014-2016

**3. Water, Sewer, Refuse, Recycling & Litter Committee (2<sup>nd</sup> Monday)**

*(Next Regular Meeting: Monday, October 14 @ 7:00 PM)*

**4. Municipal Properties, Buildings, Land Use & Economic Development Committee (2<sup>nd</sup> Monday)**

*(Next Regular Meeting: Monday, October 14 @ 7:30 PM)*

a. Updated Info from Staff on Economic Development (as needed)

**5. Parks & Recreation Committee (3<sup>rd</sup> Monday)**

*(Next Regular Meeting: Monday, October 21 @ 8:00 PM.)*

**6. Finance & Budget Committee (4<sup>th</sup> Monday)**

*(Next Regular Meeting: Monday, October 28 @ 6:30 PM)*

a. Debt Funding Limits For Water & Sewer Projects (Tabled)

**7. Safety & Human Resources Committee (4<sup>th</sup> Monday)**

*(Next Meeting: Monday, October 28 @ 7:30 PM)*

Last 2013 Regular Meeting with Townships scheduled for November 25

**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, October 14 @ 6:30 PM)*

a. Review of Electric Billing Determinants

b. Electric Department Report

c. New Energy Efficiency Contract for 2014-2016

**2. Board of Zoning Appeals (2<sup>nd</sup> Tuesday)**

*(Next Regular Meeting: Tuesday, November 12 @ 4:30 PM)*

October meeting is canceled due to lack of agenda items.

**3. Planning Commission (2<sup>nd</sup> Tuesday)**

*(Next Regular Meeting: Tuesday, November 12 @ 5:00 PM)*

October meeting is canceled due to lack of agenda items.

**4. Tree Commission (3<sup>rd</sup> Monday)**

*(Next Regular Meeting: Monday, October 21 @ 6:00 PM)*

**5. Civil Service Commission (4<sup>th</sup> Tuesday)**

*(Next Regular Meeting: Tuesday, October 29 @ 4:30 PM)*

**6. Parks & Recreation Board (Last Wednesday)**

*(Next Regular Meeting: Wednesday, October 30 @ 6:30 PM)*

**7. Privacy Committee (2<sup>nd</sup> Tuesday in May & November)**

*(Next Regular Meeting: Tuesday, November 12 @ 10:30 AM)*

**8. Records Commission (2<sup>nd</sup> Tuesday in June & December)**

*(Next Regular Meeting: Tuesday, December 9 @ 4:00 PM)*

**9. Housing Council (1<sup>st</sup> Monday of the month after the TIRC meeting)**

*(Next Regular Meeting: Monday, May 5, 2014 @ 6:30 PM)*

**10. Health Care Cost Committee (As needed)**

**11. Preservation Commission (As needed)**

**12. Infrastructure/Economic Development Fund Review Committee (As needed)**

**13. Tax Incentive Review Council (As needed)**

**14. Volunteer Firefighters' Dependents Fund Board (As needed)**

**15. Lodge Tax Advisory & Control Board (As needed)**

**16. Board of Building Appeals (As needed)**

**17. ADA Compliance Board (As needed)**

**18. NCTV Advisory Board (As needed)**

City of Napoleon, Ohio  
**CITY COUNCIL**

**Meeting Minutes**

Monday, September 16, 2013 at 7:00 PM

<b>PRESENT</b>	
<b>Council</b>	John Helberg (President), Jeffrey Lankenau, Travis Sheaffer, Patrick McColley, Christopher Ridley, Jason Maassel, Jon Tassler
<b>Mayor</b>	Ronald A. Behm
<b>City Manager</b>	Dr. Jon A. Bisher
<b>Law Director</b>	Trevor M. Hayberger
<b>Finance Director/Clerk</b>	Gregory J. Heath
<b>Recorder</b>	Barbara Nelson
<b>City Staff</b>	Jason Baker, Fire Captain Robert Bennett, Fire Chief Matt Bilow, Wastewater Plant Superintendent Chad Lulfs, City Engineer Robert McColley, CIC Director Christine Peddicord, Asst. Finance Director Dan Wachtman, MIS Administrator Robert Weitzel, Police Chief News Media, NCTV, Others
<b>Others</b>	
<b>ABSENT</b>	
<b>Council</b>	None
<b>Call To Order</b>	President Helberg called the meeting to order at 7:00 p.m. with the Lord's Prayer followed by the Pledge of Allegiance.
<b>Swearing In Of Fire Captain</b>	Mayor Behm swore in Jason Baker, Fire Captain for the City of Napoleon. Baker is from Paulding County and lives in Defiance County. He has been a full-time Napoleon Fire Fighter/Paramedic for 5 years.
<b>Minutes Approved</b>	Minutes of the September 16 Council meeting stand approved with no objections.
<b>Citizen Communication</b>	None
<b>Reports From Committees</b>	The Technology & Communication Committee did not meet on Tuesday, September 3 due to lack of agenda items.  Acting Chairman McColley reported that the Electric Committee met on Monday, September 9 and recommended approval of September electric billing determinants  Chairman Lankenau reported that the Water, Sewer, Refuse, Recycling and Litter Committee met on September 9 and recommended: <ol style="list-style-type: none"><li>1. To request legislation to terminate the water contract with Malinta</li><li>2. To move forward with Unison site leasing contract for the water tower</li></ol> The Municipal Properties, Buildings, Land Use and Economic Development Committee did not meet on September 9 due to lack of agenda items.
<b>Introduction Of Ordinance No. 048-13</b>	President Helberg read by title Ordinance No. 048-13 A Resolution authorizing the City of Napoleon, Ohio to enter into an agreement with the City of Cleveland, Ohio for services relating to the collection of income tax

**Motion To Approve  
First Read**

Motion: McColley                      Second: Ridley  
To approve first read of Ordinance No. 048-13

**Discussion**

Heath said this issue went to committee. The primary purpose of this agreement is to get access to the Federal database. Dennis Bernaciak is here from the Central Collections Agency. We need an agreement with them and they will do collections for us. We will transmit our database. They will compare and process any hits they get on it. The next piece of legislation tonight is the tax amnesty program. The final piece will be online filing. We are working on that now and will probably go with CMI. We have to figure this out budgetarily. It may be on the 3<sup>rd</sup> quarter budget adjustments.

Bernaciak introduced himself, stating CCA's service is an alliance with the City of Cleveland and City of Napoleon to help Napoleon locate taxpayers who should be filing and may not be. The IRS is very protective of its information and allows sharing under very strict circumstances. They originally only shared information with municipalities with more than 250,000 residents. In 2005, Congress passed a law that allowed the IRS to share information with organizations that have an aggregate of more than 250,000 residents. CCA qualifies because the City of Cleveland had the 250,000 residents and any CCA member community meets that standard. The law says CCA can research information about a municipality's residents using the IRS database, but cannot share this information with anyone, including member communities. CCA will copy the City's taxpayer database and find unknown taxpayers by comparing the City's database against a list of people who filed Form 1040 using a City of Napoleon address. If the taxpayer is on Napoleon's list, CCA does nothing. If they are not on the City's list, CCA will examine their income to see if it is taxable by the City. If their only income source is pension, Social Security, interest or capital gains, CCA will not tax them. Others will be contacted by CCA by letter. The City will have the opportunity to review the content of that letter, but not who is receiving the letter. The City sets criteria/thresholds as to who receives this letter and decides the policies on assessing interest penalties.

If a resident brings the City a letter they received from CCA, the City cannot accept that information from the resident. The City can advise the resident to forward the sealed envelope to CCA. Once CCA receives the information, the wall is shattered and CCA can share it with the City. Residents will have questions about why they must send information to Cleveland. Some people will be angry. After the initial program, CCA can run other programs. They can do a comparison of tax returns filed with the City and compare it with residents' 1040 income.

CCA retains 5% of the money they collect for the City. There is an annual audit at the end of the year. CCA calculates the transaction base comparing the City vs entire agency to determine a percentage. They also determine the percentage for the number of dollars collected for the City vs the entire agency. The average of those two percentages determines the City's share of the cost. At the end of the year CCA looks at the amount the City owes. If there is a shortage, it is adjusted the following month. If there is an overage, it is used to reduce the amount the following month. The City never writes a check to CCA. The bill is deducted from what CCA collects.

McColley asked what mechanism is used if someone does not respond to the letter. Bernaciak said CCA sends a second letter, then a third letter using the person's Federal tax information to estimate income and tax due and what they owe the City

per calculation. If the City typically files criminal charges for non-payment of taxes, CCA files the charges on the City's behalf. McColley asked if the charges are made public at that time. Bernaciak said they are not because the IRS says this is confidential information. The City Law Department cannot do prosecution on this. The IRS has an independent law firm that handles it in the local court. The lawyer will discuss the case with the Municipal Court Judge and establish a taxpayer diversion program. When the taxpayer shows up for arraignment, CCA explains they can have the charges held in abeyance if they agree to enter the diversion program. The taxpayer must acknowledge the tax is due and supply the correct information regarding their income. A payment plan is established. If the taxpayer agrees, charges are annulled. There is no charge and no public record. Residents get every opportunity to resolve the issue with minimum pain. If they don't follow through, it goes to court.

Bernaciak said CCA looks at the most current year's tax return, but they can go back up to six years if the City wants that. Heath said implementation of this program will not occur this year. He requested first read. McColley asked about online filing. Heath said we originally hoped to have a Special Membership expanded to include CCA's online filing program, but there are too many technical issues involved. It appears the CMI program will give us an online filing capability. Bernaciak said using CCA's special program with the City's online filing saves time for the City because of their matching capability. CCA looks at information on the City return vs 1040 and notes discrepancies. This can eliminate the need for residents to mail in W-2s and supporting schedules and save work for the City Tax Department.

**Passed**  
**Yea-7**  
**Nay-0**

Roll call vote to approve first read of Ordinance No. 048-13  
Yea- Lankenau, Ridley, Maassel, Tassler, Helberg, McColley, Sheaffer  
Nay-

**Introduction Of  
Resolution No. 049-13**

President Helberg read by title Resolution No. 049-13 A Resolution authorizing the City Finance Director to conduct an Amnesty Program to encourage the payment of delinquent income tax accounts

**Motion To Approve  
First Read**

Motion: McColley                      Second: Maassel  
To approve first read of Resolution No. 049-13

**Discussion**

Heath said this tax amnesty program allows individuals the ability to file late returns from 11/1/13 thru 11/30/13 without having to pay penalties. They must pay interest.

**Motion To Suspend  
The Rules**

Motion: Sheaffer                      Second: Ridley  
To suspend the rules requiring three readings

**Passed**  
**Yea-7**  
**Nay-0**

Roll call vote on above motion:  
Yea- Lankenau, Ridley, Maassel, Tassler, Helberg, McColley, Sheaffer  
Nay-

**Passed**  
**Yea-7**  
**Nay-0**

Roll call vote to pass Resolution No. 049-13 under suspension of the rules  
Yea- Lankenau, Ridley, Maassel, Tassler, Helberg, McColley, Sheaffer  
Nay-

**Introduction Of  
Resolution No. 050-13**

President Helberg read by title Resolution No. 050-13 A Resolution authorizing City Manager to enter into an agreement or subsidy stipulation with the Public Utilities Commission of Ohio ("PUCO") and Michigan Southern Railroad Company dba Napoleon, Defiance & Western Railway ("Railroad") for certain railroad crossing

	upgrades; and Declaring an Emergency
<b>Motion To Approve First Read</b>	Motion: McColley                      Second: Ridley To approve first read of Resolution No. 050-13
<b>Discussion</b>	Lulfs said he met with the PUCO regarding railroads. Due to safety concerns, PUCO offered to supply funding to install gates & new signals at signalized railroad crossings in the City and the railroad agreed. Some sidewalks need to be relocated plus some curbs. We will not see any costs associated with this project, but must sign off on the contract. This involves crossings at Oakwood, Woodlawn & Haley. They want to start this fall but don't know if it is possible. Lulfs requested suspension. Scott Street is already in the project. They hope to complete the crossing on Scott St. in one weekend. Curb work will take more time. PUCO will cover gates and signals but not the crossings themselves.
<b>Motion To Suspend The Rules</b>	Motion: Lankenau                      Second: Ridley To suspend the rules requiring three readings
<b>Passed Yea-7 Nay-0</b>	Roll call vote on above motion: Yea- Lankenau, Ridley, Maassel, Tassler, Helberg, McColley, Sheaffer Nay-
<b>Passed Yea-7 Nay-0</b>	Roll call vote to pass Resolution No. 050-13 under suspension of the rules Yea- Lankenau, Ridley, Maassel, Tassler, Helberg, McColley, Sheaffer Nay-
<b>Introduction Of Resolution No. 051-13</b>	President Helberg read by title Resolution No. 051-13 A Resolution authorizing the City Manager to terminate or assign the City of Napoleon's Water Purchase Agreement with the Village of Malinta, Ohio; and Declaring an Emergency
<b>Motion To Approve First Read</b>	Motion: Lankenau                      Second: Ridley To approve first read of Resolution No. 051-13
<b>Discussion</b>	Bisher said this legislation came out of committee. McClure is having water issues. There have been issues getting water through Malinta to McClure. A waterline was installed from Grelton to McClure. One way to resolve this is for Malinta to join the Water Sewer District (WSD) or assign our contract to WSD and move water through Malinta. This has not been resolved politically. The Ohio EPA wants McClure on this water system by the end of the month. This legislation allows Bisher to assign the City's contract with Malinta to WSD or terminate it. Ridley asked how this impacts revenue. Lankenau said it is revenue neutral, but there will be more revenue with McClure added. Bisher said the line has been in the ground since May, but they haven't pumped water due to contractual arrangements.
<b>Motion To Suspend The Rules</b>	Motion: Ridley                              Second: Lankenau To suspend the rules requiring three readings
<b>Passed Yea-7 Nay-0</b>	Roll call vote on above motion: Yea- Lankenau, Ridley, Maassel, Tassler, Helberg, McColley, Sheaffer Nay-
<b>Passed Yea-7 Nay-0</b>	Roll call vote to pass Resolution No. 051-13 under suspension of the rules Yea- Lankenau, Ridley, Maassel, Tassler, Helberg, McColley, Sheaffer Nay-



**Ordinance No. 042-13  
Is Tabled Until 10/7/13**

President Helberg said Ordinance No. 042-13 is tabled until October 7, 2013  
Hayberger said the purpose of tabling is to allow people to come in and discuss concerns. No one is here to ask questions.

**Second Read Of  
Ordinance No. 045-13**

President Helberg read by title Ordinance No. 045-13 An Ordinance establishing a utility billing "Rounding-Up" Program for the City of Napoleon, establishing a program for all monies received as a result of voluntary participation, and directing that all funds so received be utilized to assist utility customers with the payment of their utility bills

**Motion To Approve  
Second Read**

Motion: Ridley                      Second: Lankenau  
To approve second read of Ordinance No. 045-13

**Discussion**

Heath said there has been no change since the last reading.

**Passed**  
**Yea-7**  
**Nay-0**

Roll call vote to approve second read of Ordinance No. 045-13  
Yea- Lankenau, Ridley, Maassel, Tassler, Helberg, McColley, Sheaffer  
Nay-

**Second Read Of  
Resolution No. 046-13**

President Helberg read by title Resolution No. 046-13 A Resolution authorizing the City Manager and/or the City Finance Director to enter into an agreement with Northwestern Ohio Community Action Commission, Inc. for professional services regarding the administration of the Caring Fund

**Motion To Approve  
Second Read**

Motion: McColley                      Second: Maassel  
To approve second read of Resolution No. 046-13

**Discussion**

Heath said there has been no change since the last reading.

**Passed**  
**Yea-7**  
**Nay-0**

Roll call vote to approve second read of Resolution No. 046-13  
Yea- Lankenau, Ridley, Maassel, Tassler, Helberg, McColley, Sheaffer  
Nay-

**No 3<sup>rd</sup> Readings**

There were no third readings of Ordinances and Resolutions.

**GOOD OF THE CITY  
Discussion/Action**

**Motion To Approve  
Billing Determinants**

Motion: Maassel                      Second: McColley  
To accept the recommendation for approval of September electric billing determinants as follows:  
Generation Charge: Residential @ \$.08226; Commercial @ \$.09825; Large Power @ \$.05605; Industrial @ \$.05605; Demand Charge Large Power @ \$10.78; Industrial @ \$11.46; JV Purchased Cost: JV2 @ \$.04060; JV5 @ \$.04060

Ridley requested that the Council agenda include the increase or decrease in amounts from the month before.

**Passed**  
**Yea-7**  
**Nay-0**

Roll call vote on above motion:  
Yea- Lankenau, Ridley, Maassel, Tassler, Helberg, McColley, Sheaffer  
Nay-

**Plans/Specifications  
For W/W Chemicals**

Matt Bilow, Wastewater Treatment Plant Superintendent requested approval for plans and specifications to bid water/wastewater treatment chemicals for 2014.

<b>Motion To Approve</b>	Motion: McColley                      Second: Tassler To approve plans/specifications for 2014 Water & Wastewater Treatment Chemicals
<b>Passed</b> <b>Yea-7</b> <b>Nay-0</b>	Roll call vote on above motion: Yea- Lankenau, Ridley, Maassel, Tassler, Helberg, McColley, Sheaffer Nay-
<b>Bridge Loan Request From Donovan Law Office</b>	Robert McColley said two properties at the corner of Main & Perry Streets are being demolished. Part of this project is stabilizing the side of John Donovan's building This is not part of Donovan's deal and he gets no benefit from it. The money for stabilization can come out of the Infrastructure Fund for a short-term loan. This is in the best interest of the City. There is \$74,000 in the fund now with \$34,000 promised to NWA. This leaves enough to pay for the \$20,000 bridge loan to John Donovan. Bisher said the project will pay Mr. Donovan, but Donovan doesn't want to front the money. He will get paid back as the project proceeds. Ridley noted that if the project is not done before the end of the year, we will lose the grant money. Bisher said we are getting it done.
<b>Motion To Approve</b>	Motion: Ridley                              Second: Lankenau To approve the committee recommendation for a Bridge Loan in the amount of \$20,000 to John Donovan for 120 days at 0% interest
<b>Passed</b> <b>Yea-7</b> <b>Nay-0</b>	Roll call vote on above motion: Yea- Lankenau, Ridley, Maassel, Tassler, Helberg, McColley, Sheaffer Nay-
<b>Wording of Dispatch Initiative for Ballot</b>	Hayberger read a proposed ballot question for the dispatch initiative: <i>(A majority affirmative vote is necessary for passage.) Shall the City of Napoleon cease operating its Police, Fire and EMS dispatch as it currently operates and outsource said operations to the Henry County Sheriff? YES NO</i>  Hayberger said this could be on the ballot on the first Tuesday in May 2014 and must be at the Board of Elections 90 days before that. Tassler asked if this is an advisory poll from residents. Hayberger said there is nothing he can write that will lock it in and force Council to do this. It would be an advisory opinion. Mayor Behm said Council voted to do this.
<b>Motion To Draft Legislation</b>	Motion: Ridley                              Second: Sheaffer To direct the Law Director to draft legislation necessary for the initiative
<b>Passed</b> <b>Yea-5</b> <b>Nay-</b> <b>Abstain - 2</b>	Roll call vote on above motion: Yea- Ridley, Maassel, Tassler, Helberg, Sheaffer Nay- Abstain – Lankenau, McColley
<b>Raising the City's Minimum Requirement to Bid from \$25,000 to \$50,000 Referred To Finance &amp; Budget</b>	President Helberg referred <i>Raising the City's Minimum Requirement to Bid from \$25,000 to \$50,000</i> to the Finance & Budget Committee
<b>Unison Contract for Water Tower</b>	Lankenau said we would assign the Verizon contract to Unison and they will service Verizon's payments. We get a lump sum upfront for that. Tassler said the current

contract with Verizon would bring in \$662,000 over a 40-year period. The contract with Unison pays \$248,000 over 40 years. Lankenau said the bigger fear is Verizon will go away. Bisher said Nextel did. Tassler said he doesn't want Council chambers full of Verizon customers if Verizon pulls their antenna. Bisher said Verizon is not pulling its antenna. We have a contract with them. McColley said Unison may provide more service in the area for other carriers.

**Motion To Direct  
Law Director To  
Prepare Legislation**

Motion: Sheaffer                      Second: Lankenau  
To direct the Law Director to prepare legislation for the Unison Contract for the Water Tower

**Passed**  
**Yea-7**  
**Nay-0**

Roll call vote on above motion:  
Yea- Lankenau, Ridley, Maassel, Tassler, Helberg, McColley, Sheaffer  
Nay-

**Good Of The City**  
**(Cont.)**

**Bisher**

Bisher said the closing of the Lagrange/Scott St intersection has been moved back to September 30 for 30 days.  
Bisher thanked NCTV for showing up.  
Bisher thanked Council & the Mayor for coming to the employee picnic today. Dan Wachtman, Tony Cotter and Rob McColley did the work. Bisher thanked them, noting that Jim Hershberger would appreciate their efforts.

**Hayberger**

Hayberger – no items

**Lankenau**

Lankenau – no items

**Sheaffer**

Sheaffer asked why the bills show we paid for a meal for snow plowing. Bisher said this may be a class someone attended. He will check on this.  
Sheaffer completed all required FEMA training for emergency preparedness.

**McColley**

McColley said it was a good picnic today.

**Mayor Behm**

Mayor Behm said Jon Tassler can't serve on the Parks & Recreation Board anymore. He appointed Joe Bialaruki for the remainder of Tassler's term.

**Motion To Appoint J.  
Bialaruki To Parks &  
Rec Board**

Motion: Maassel                      Second: Lankenau  
To appoint Joe Bialaruki for the remainder of Jon Tassler's term on the Parks & Recreation Board, expiring 12/31/14.

**Passed**  
**Yea-7**  
**Nay-0**

Roll call vote on above motion:  
Yea- Lankenau, Ridley, Maassel, Tassler, Helberg, McColley, Sheaffer  
Nay-

**Helberg**

Helberg – no items

**Tassler**

Tassler said he had complaints about the line being moved on Briarheath moving 4' closer to them due to street striping. They are worried about their mailboxes coming off. Lulfs said this will not affect snowplowing. It was adjusted 2' due to parking being allowed on the other side of the road. We started doing that on other streets in town including N. Perry and W. Maumee.  
Tassler asked if there have been asbestos inspections on Yeager Street. Chief Bennett said this was done as part of a grant.  
Tassler canceled the Safety and Human Resources Committee scheduled for 9/23

due to lack of agenda items.

**Maassel**

Maassel asked if Scott Street will get blacktopped before the State November 15 deadline. Lulfs said the project is on schedule. He does not believe there is a deadline of 11/15. It depends on the temperature and if asphalt manufacturers are making asphalt at that time. We will try to get it done before Thanksgiving. Maassel requested that Jon Tassler get a permanent nameplate instead of temporary. Maassel requested that Jim Hershberger's family be invited to the Oct. 7 meeting.

**Ridley**

Ridley asked about the letter from the EPA that was included in the packet. Bisher said we asked to do additional testing during the next three years. The EPA is still considering this, but we must do additional testing on overflows. We asked for relief and got additional requirements. Bisher believes if we do the testing, we will be okay in the end. Lulfs said it is not his intention to accept that letter. He will tell the EPA that they cannot force us to do additional monitoring because it violates the orders they issued. We will do the studies. Lulfs will respond to the letter on Sept. 30. Ridley asked about a bill from Tom's Reconditioning. Bisher said there was nothing out of the ordinary. Lulfs said college students used his vehicle for the summer. He sent it to be cleaned up.

**Heath**

Heath said there is more Action on House Bill 5. He recommended that Council contact their legislators and let them know how we feel.

Helberg asked Bennett for some background information for the three people who were sworn in at the last Council meeting. Helberg apologized for not asking for this information when they were sworn in. Bennett said Anthony Caligiuri worked for Northwood for 5-6 years. He had his certifications and did well on the test and interview process. Sarah Wagner worked at the Rossford Fire Dept. for 4 years. She has all of her certifications. She came very highly recommended. Morgan McCoy, the new Human Resources Director, is from Norwood, Ohio, has a 6-year-old daughter, and lives in Harrison Township. She worked with personnel at Alex Products before coming here.

**3<sup>rd</sup> Quarter Budget Adjustment Assigned To Finance & Budget**

Heath requested that *3<sup>rd</sup> Quarter Budget Adjustments* be assigned to Committee. Helberg assigned *3<sup>rd</sup> Quarter Budget Adjustments* to the Finance & Budget Committee.

**Motion To Go Into Executive Session For Collective Bargaining**

Motion: McColley                      Second: Lankenau  
To go into Executive Session to discuss collective bargaining negotiations

**Passed**  
**Yea-7**  
**Nay-0**

Roll call vote on above motion:  
Yea- Lankenau, Ridley, Maassel, Tassler, Helberg, McColley, Sheaffer  
Nay-

**Into Executive Session For Compensation Of Personnel**

Motion: McColley                      Second: Maassel  
To go into Executive Session to discuss compensation of personnel for the City Manager, Law Director and Finance Director

**Passed**  
**Yea-7**  
**Nay-0**

Roll call vote on above motion:  
Yea- Lankenau, Ridley, Maassel, Tassler, Helberg, McColley, Sheaffer  
Nay-

Council went into Executive Session at 8:15 p.m.

**Motion To Come Out  
Of Executive Session**

Motion: Maassel                      Second: Lankenau  
To come out of Executive Session for both topics of conversation

**Passed**  
**Yea-7**  
**Nay-0**

Roll call vote on above motion:  
Yea- Lankenau, Ridley, Maassel, Tassler, Helberg, McColley, Sheaffer  
Nay-

**Out Of Executive  
Session**

Council came out of Executive Session at 9:28 p.m. President Helberg reported that the discussion was regarding collective bargaining negotiations and compensation of personnel. No action was taken on either item.

**Approval Of Bills**

Bills and reports stand approved as presented with no objections.

**Motion To Adjourn**

Motion: Sheaffer                      Second: Lankenau  
To adjourn the meeting.

**Passed**  
**Yea -7**  
**Nay -0**

Roll call vote on above motion:  
Yea- Lankenau, Ridley, Maassel, Tassler, Helberg, McColley, Sheaffer  
Nay-

**Adjournment**

Meeting adjourned at 9:29 p.m.

**Approved:**  
**October 7, 2013**

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John A. Helberg, Council President

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Ronald A. Behm, Mayor

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Gregory J. Heath, Finance Director/Clerk of Council

City of Napoleon, Ohio  
**CITY COUNCIL**

**Special Meeting Minutes**

Monday, September 23, 2013 at 6:15 PM

**PRESENT**

**City Council**

**City Staff**

**Recorder**

**Others**

**ABSENT**

**Council**

**Call To Order**

**Introduction Of  
Resolution No. 052-13**

**Motion To Approve  
First Read**

**Discussion**

John Helberg – President, Patrick McColley, Christopher Ridley, Jason Maassel,  
Jon Tassler

Ronald Behm, Mayor  
Dr. Jon Bisher, City Manager  
Trevor Hayberger, Law Director  
Gregory Heath, Finance Director/Clerk of Council  
Chad Lulfs, City Engineer  
Sheryl Rathge, Executive Assistant  
Barbara Nelson  
News Media

Jeffrey Lankenau, Travis Sheaffer

President Helberg called the meeting to order at 6:16 pm.

President Helberg read by title Resolution No. 052-13 A Resolution authorizing the City Manager to execute any and all documents to purchase property and authorizing the expenditure of funds in excess of \$25,000.00 for said purchase; and declaring an emergency

Motion: McColley                      Second: Maassel  
To approve first read of Resolution No. 052-13

Bisher said Council agreed to incentivize two building owners by agreeing to purchase the property if they cleaned up the demolition. There are four costs for Mr. Jones in the contract. We started at \$60,000. It remains at \$60,000 now, but it can go as high as \$75,000. If there is more cost than \$75,000, Jones starts losing money. There are two fixed costs: (1) development cost of \$5,000 and (2) \$25,000 to purchase Cain's property. The two variable costs are (1) stabilizing Donovan's building and (2) demolition and hauling debris offsite. This is how we are using the grant money; otherwise, that money goes back to the State. Jones initially brought us a deal to give us the building for \$1. We accept that, but it is structured this way to use the grant money.

Hayberger distributed Exhibit A (below) detailing costs per contract:

- 1. The City's down payment of \$25,000.00 to Jones for this contract shall be used by Jones to purchase Cain's property (also known as sections A 3 and 4 of this contract).*
- 2. Jones shall demolish and carry away the debris as outlined above, if successful and completed on time, Jones shall receive half of this cost from the Private Downtown Revitalization Grant, with the remaining balance up to \$25,000.00 to be paid for by Jones from the proceeds of this contract.*
- 3. Stabilization and improvements to the Donovan Building as outlined above, if successful and completed on time, Mr. Donovan shall receive half of this cost from the Private Downtown Revitalization Grant, with the remaining balance up to \$20,000.00 to*

*be paid for by Jones from the proceeds of this contract.*

*4. If all contingencies are met and complete on time, Steve Lankenau shall receive \$5,000.00 for his professional services as development cost. Mr. Lankenau shall receive half of this cost from the Private Downtown Revitalization Grant, with the remaining balance of \$2,500.00 to be paid by the City.*

Bisher said the structural stabilization cost for Donovan's building should not be more than \$10,000. We don't know what the cost will be to parge the outside of the building. Council approved a \$20,000 temporary bridge loan from the CIC so Donovan did not have to pay any money upfront.

We ran all of this through the local and Ohio Historical Society (OHS) and made it through most of those obstacles. There will be two 15-day waiting periods for full environment-als. We are trying to get to those quickly so we can start demolition. We struggled with adjusting the downtown area that the grant is for and have not gotten the extension yet to include these two buildings and parking lot as of today.

We can stabilize Donovan's building immediately, but have to wait the two back-to-back waiting periods before tearing down the other buildings. The City intends to put in drainage and fill the holes before the end of the year and get grant money for it. The numbers should be between \$60,000 and \$75,000. We have to spend \$60,000 in order to live up to our grant promise. Additional moneys will come out of budgeted money that was not spent this year. We may have to reallocate money for this.

Helberg asked if we already gave money to Jones to buy Cain's building, if this doesn't happen on the timeline, who owns that building? Hayberger said Jones owns it. If the deal doesn't happen, Jones owes us that \$25,000. We needed to get Cain out of the deal in order to move forward more smoothly. Bisher said Council was clear on moving forward with this. We can require that the buildings be taken down, but with downtown grant money the building owners walk away with a better feeling. The goal is to use the grant to get the buildings down. The whole thing gets convoluted, but we will try to reach the goal. 100 things could still go wrong.

McColley said if they don't take the buildings down, they owe us \$25,000. What if they are half-done? Do they submit receipts along the way? Hayberger said we have been very clear at every step that it is mandatory for the buildings to be down by December 2. Bisher said all of our filling and drainage must be done by the end of the year to get grant reimbursement. There will be a stoned lot that is not a finished parking lot. Bisher plans to put the parking lot in the budget for 2014. There are three restaurants in the immediate area and properties across the street that need parking. Hayberger said Weirauch talked with all the construction guys and it does not appear to be a problem. Engineers have been in all the buildings. Helberg said the penalty is that Jones has two buildings to take down on his own dime if it isn't done on time. Hayberger said there is already a huge incentive for everyone to get it done.

Helberg asked if he can vote on this. Bisher said it is just acquisition of property. Hayberger said Helberg is okay to vote. Ridley asked when we will hear back on the extension of the downtown area. Bisher said we hoped to hear today but that didn't happen. We pressed hard on this and may have made them mad. Hayberger said most of the rest of the block is already in the grant area. McColley asked if we need another special Council meeting in a few days. Bisher said once he has the authority to purchase, we should be okay. We are prepaying the \$25,000.

Ridley asked if we will wait to pay the \$25,000 until we hear from the State. Hayberger said we don't have a signed contract with Jones right now. That will be the trigger. Bisher said Jones can't get the other half of his money if it's not in the area. Someone has to go first. This is a press-on issue. There's no turning back. It will be expensive for the owners if they can't make this work. There has been no indication that OHS won't approve the extension of the downtown area, but he doesn't have it in writing yet.

**Motion To Suspend  
The Rules**

Motion: Maassel Second:  
To suspend the rules requiring three readings

Hayberger said they are supposed to close Thursday. Ridley said he is uncomfortable fronting \$25,000 without knowing what OHS will say. Hayberger said even if we front it, Jones is responsible to pay it back in our contract with him. If this doesn't go through, the money comes back to us. Bisher said Jones needs the money to fulfill his part of the contract.

**Motion Seconded**

Tassler seconded the motion to suspend the rules requiring three readings.

**Passed  
Yea-5  
Nay-0**

Roll call vote on above motion:  
Yea – Ridley, Maassel, Tassler, Helberg, McColley  
Nay -

Ridley asked the city's risk if this falls through. Hayberger said right now it is \$25,000, but the contract says that money will come back if the deal falls through. Ridley said we are risking the process by which we get that back. Helberg said Jones has the bigger risk.

**Passed  
Yea-5  
Nay-0**

Roll call vote to pass Resolution No. 052-13 under suspension of the rules:  
Yea- Ridley, Maassel, Tassler, Helberg, McColley  
Nay-

**Motion To Adjourn**

Motion: McColley Second: Tassler  
To adjourn the meeting at 6:39 pm

**Passed  
Yea - 5  
Nay - 0**

Roll call vote on above motion.  
Yea – Ridley, Maassel, Tassler, Helberg, McColley  
Nay -

\_\_\_\_\_  
John Helberg, President

**Date Approved:  
October 7, 2013**

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Ronald Behm, Mayor

\_\_\_\_\_  
Gregory Heath, Finance Director/Clerk of Council



*City of Napoleon, Ohio*

## Finance & Budget Committee

### Majority Report

The Finance & Budget Committee met on Monday, September 23, 2013, and:

- a. Discussed and tabled *Debt Funding Limits For Water & Sewer Projects*
- b. Recommended to increase the City's requirement to bid from \$25,000 to \$30,000
- c. Recommended to request legislation to approve the 3<sup>rd</sup> quarter budget adjustments and to authorize transfer of appropriations into the Reserve Fund

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Chris Ridley, Chair

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John Helberg, Committee

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Jason Maassel, Committee

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Mayor Ronald Behm, Committee

**ORDINANCE NO. 042-13**

**AN ORDINANCE AMENDING SECTIONS 1101.01 AND 1145.01 OF THE PLANNING AND ZONING CODE OF THE CITY OF NAPOLEON, OHIO TO ADD CERTAIN DEFINITIONS AND MAKE ADDITIONS TO THE TABLE OF PERMISSIBLE USES.**

**WHEREAS**, the City Planning Commission having reviewed the proposed amendments and having passed said amendments under their Resolution PC-13-03, and;

**WHEREAS**, The City Council does approve of said amendments and the Planning Commission's Resolution PC-13-03, **NOW THEREFORE**;

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

Section 1. That, the following Sections of the Planning and Zoning Code for the City of Napoleon, shall be amended and enacted as follows:

Section 2. 1101.01 DEFINITIONS. For the purpose of this Planning and Zoning Code found in Part 11, Chapters 1101 through 1147, both chapters inclusive, the following definitions shall apply unless the context clearly indicates or requires a different meaning and except when expressly limited to a certain section or provision of this Planning and Zoning Code. When the word is found in the singular form, it may also be interpreted as being defined in the plural form and vice versa.

- (1) **ABUTTING.** Bordering, adjoining, or across the street or alley.
- (2) **ACCESSORY BUILDING.** A building subordinate or incidental to the principal structure or use located on the same lot on which the main building or use is situated and which is reasonably necessary and incidental to the conduct of the primary use of such building or main use.
- (3) **ACCESSORY USE.** As defined in Section 1145.01(d).
- (4) **ADMINISTRATOR.** The Zoning Administrator in and for the City of Napoleon, Ohio.
- (5) **ADULT ENTERTAINMENT.** Vendors of adult sexually oriented merchandise, services, or entertainment, including but not limited to an adult arcade, adult bookstore, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, nude model studio, featured burlesque, adult live entertainment, or sexual encounter center.
- (6) **AGRICULTURAL.** The use of a tract of land for growing crops in the open or for dairying, pasturage, horticulture or viticulture.
- (7) **ALTER OR ALTERATION:** For the sole purpose of Chapter 1138, any material change in the external architectural features of any property, including demolition, removal or construction, but not including landscaping of property; otherwise means any material change.

- (8) AIRPORT. A use devoted to the take-off, landing, and storing of aircraft.
- (9) ALLEY. A permanent service way providing a secondary means of access to abutting lands.
- (10) ANTENNA. Equipment designed to transmit or receive electronic signals or radio waves.
- (11) ANIMAL HOSPITAL/VETERINARY CLINIC. A place that provides animal preventive and medical care, pet dental, pet surgery, and/or other vet services; may also provide a full range of general medical and surgical services as well as specialized treatments to animals, including, but not limited to: wellness, spay/neuter, advanced diagnostic services, internal medicine, oncology, ophthalmology, dermatology, cardiology, neurology, boarding, grooming, and vaccinations.
- (12) APARTMENT. A room or set of rooms fitted with housekeeping facilities and used or leased as a dwelling; also, a building containing several individual apartments.
- (13) APPLICANT. A person submitting an application for development, a permit, or other required approvals. "Applicant" includes the owner of the property subject to the application and any person designated by the owner to represent the owner.
- (14) ARCHITECTURAL FEATURE. Those elements that characterize an architectural style including, but not limited to windows, doors, porches, cornices, decorative trim, and exterior surface material.
- (15) ARTIFICIAL LAKE, POND, OR RESERVOIR. A man made or created lake, pond or reservoir as below defined:
- A. LAKE. A considerable inland body of standing water.
  - B. POND. An inland body of stagnant water without an outlet (except overflow drains) that is larger than a puddle and smaller than a lake.
  - C. RESERVOIR. An inland body of water that is kept and collected in quantity.
- (16) ASSISTED LIVING UNITS.
- A. DEPENDENT: A multiple-family housing form with central dining facilities provided as a basic service to each dwelling unit. Each dwelling unit may contain cooking facilities, but shall contain sanitary facilities.
  - B. INDEPENDENT: A multiple-family housing form with full facilities for self-sufficiency in each individual dwelling unit.
- (17) AUTO WASH. A structure, or portion thereof, containing commercial facilities for washing vehicles, using production line methods with a chain conveyor, blower, steam cleaning device, or other mechanical devices. Also, the term includes a hand operated wand type manual auto wash facility when the operation is equivalent in intensity to a mechanical auto wash.
- (18) AUTO REPAIR. Includes engine rebuilding, rebuilding or reconditioning of motor vehicles; collision service, such as body, frame or fender straightening and repair, overall painting, undercoating or steam cleaning of automobiles.

(19) **BANKS.** An establishment for the custody, loan, exchange, or issue of money, for the extension of credit and for facilitating the transaction of funds.

(20) **BASE FLOOD.** The flood having a one percent (1%) chance of being equaled or exceeded in any given year. Also known as the one hundred (100) year flood.

(21) **BASEMENT.** A story partly or wholly underground where more than one-half of its height is above the average level of the adjoining ground. A basement shall be counted as a story for purpose of height measurement.

(22) **BED & BREAKFAST.** A transient lodging establishment, generally in a single-family dwelling that is the principal residence of the operator or detached guest house, primarily engaged in providing overnight or otherwise temporary lodging for the general public and may, but not be required to, provide meals for compensation.

(23) **BLOCK.** A unit of property bounded by streets, or by streets or railroad right-of-way, waterways, or other barriers.

(24) **BLOCK FRONTAGE.** Property abutting on one side of a street and lying between the two nearest intersecting or intercepting streets, or between the nearest intersecting or intercepting street and railroad right-of-way, waterway, or other definite barrier.

(25) **BOARDING HOUSE.** A residential use where meals are provided to its residents, consisting of at least one (1) dwelling unit together with more than two (2) rooms that are rented or are designed or intended to be rented but which rooms, individually or collectively, do not constitute separate dwelling units. A boarding house is distinguished from a tourist home in that the former is designed to be occupied by longer term residents (at least month-to-month tenants) as opposed to overnight or weekly guests. A boarding house is distinguished from a rooming house in that meals are provided to its residents.

(26) **BORROW PIT.** An excavated area where material has been dug for use as a fill at another location.

(27) **BUILDING.** Any structure having a roof supported by columns or walls, and designed or intended for shelter, support, enclosure or protection of persons, animals or chattels, excluding small play houses for child play and small dog houses capable of sheltering no more than one (1) dog that is commonly found in residential areas.

(28) **BUILDING AREA.** The horizontal area of a building, including all projections from the building.

(29) **BUILDING MATERIALS.** Articles or things used for construction, excluding tools, machinery, and appurtenances.

(30) **BUILDING, DETACHED.** A building having no structural connection with the principal building on a premises.

(31) **BUILDING SETBACK LINES.** The lines nearest the front and across a lot establishing the minimum open space to be provided between the front line of buildings and structures, and the front lot line.

(32) **CEMETERY.** Any land, five acres or more, used for the burial of the dead and dedicated as a cemetery, including columbariums, crematories, mausoleums,

and mortuaries when operated in conjunction with and within the boundary of such cemetery.

(33) **CERTIFICATE OF APPROPRIATENESS:** A certificate issued by the Preservation Commission indicating that a proposed alteration, demolition, or in-fill new construction within the preservation district boundaries is in accordance with the provisions of Chapter 1138.

(34) **CERTIFICATE OF ZONING.** A certificate signed by the Administrator indicating that the use of the land, building or structure complies with the provisions of this Planning and Zoning Code.

(35) **CERTIFY.** Whenever this Planning and Zoning Code or the Administrator requires that some agency certify the zoning existence of some fact or circumstance to the City, the certification shall mean a writing from some agency in the form of letter or other document, as determined by the Administrator.

(36) **CHANGE.** For the sole purpose of Chapter 1138, any alteration, demolition, removal, or construction involving any property subject to the provisions of this Planning and Zoning Code, including signs, notwithstanding the Sign Code.

(37) **CHILD CARE INSTITUTION.** An institutional facility housing more than nine (9) orphaned, abandoned, dependent, abused, or neglected children.

(38) **CIRCULATION AREA.** That portion of the vehicle accommodation area used for access to the vehicle accommodation area. Essentially, driveways and other maneuvering area (other than parking aisles) comprise the circulation area.

(39) **CITY.** The City of Napoleon, Ohio.

(40) **CLUBS.** Buildings and facilities operated for a social, educational, or recreational purpose, but not for profit or to render a service which is customarily carried out as a business.

(41) **COLLOCATION.** The use of a wireless telecommunication facility by more than one wireless telecommunication provider.

(42) **COMMON OPEN SPACE.** An area within a development designed and intended for the use or enjoyment of all residents of the development or for the use and enjoyment of the public in general.

(43) **COMBINATION USE.** A use consisting of combination on one (1) lot of two (2) or more principal uses separately listed in the Table of Permissible Uses. Under some circumstance, when a second principal use may be regarded as accessory to the first, a combination use is not established (see accessory uses). In addition, when two (2) or more separately owned or separately operated enterprises occupy the same lot, and all such enterprises fall within the same principal use classification, this does not constitute a combination use.

(44) **COMMERCE:** The exchange of goods, productions, services, or property of any kind; or, the buying, selling, and exchanging of articles or services.

(45) **COMMERCIAL.** Relates to or is connected with trade and traffic or commerce in general; is or is designated to be occupied with business or commerce.

(46) **COMMERCIAL RECREATIONAL FACILITIES.** Any establishment of which the main purpose is to provide the general public with an amusing or entertaining

activity and where tickets are sold or fees are collected for the activity. Commercial recreation facilities include, but are not limited to, skating rinks, water slides, miniature golf courses, arcades, bowling alleys, and billiard halls, but not movie theaters.

(47) **COMMERCIAL SCHOOLS.** Schools operated for profit such as business schools, training schools for trade, real estate, training and similar schools, but not including elementary, intermediate or high schools for education of children.

(48) **COMMERCIAL SEMI-TRUCK SALES/SERVICE.** An establishment that for profit sells, services, or repairs commercial semi-truck vehicles or the like as a part of its business.

(49) **COMMISSION.** Unless the context clearly indicates otherwise, means the City Planning Commission.

(50) **COMMON WALL.** A wall that is common to two (2) buildings, such as in a shopping center setting having multiple businesses adjacent to each other.

(51) **COMPREHENSIVE PLAN.** See Master Plan.

(52) **CONDITIONAL USE PERMIT.** A permit that may be issued by the City for a use that is not otherwise permissive as a matter of right in the same sense that a "permitted use" is, for uses that have been determined by the City to have a significant impact, thus requiring a hearing which is administrative in nature. Also, for uses that have not been identified as a permitted use within the Planning and Zoning Code. The conditional use permit may contain conditions for, or restrictions on, the said use. Also considered to be a type of "use permit", may also be referred to as a special use.

(53) **CORNER LOT.** A lot at the junction of and abutting two (2) or more intersecting streets.

(54) **CONVENIENCE STORE.** A one-story retail store that contains less than 2,000 square feet of gross floor area, that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase a relatively few items (in contrast to a "supermarket"). It is designed to attract and depends upon a large volume of stop-and-go traffic.

(55) **COUNCIL.** The City Council of the City of Napoleon, Ohio.

(56) **CUL-DE-SAC.** A short street having one end open to traffic and being permanently terminated by a vehicle turnaround.

(57) **DAY CARE CENTER.** Any care arrangement that provides day care on a regular basis for more than four (4) hours per day for more than five (5) children or adults or a combination thereof.

(58) **DEMOLITION:** The razing or destruction, whether entirely or in part, of a building or structure, and for the purpose of Chapter 1138, includes demolition by neglect.

(59) **DETACHED BUILDING.** Also known as building, detached, a building having no structural connection with the principal building on a premises.

(60) **DEVELOPER.** A person who is responsible for any undertaking in the developing of real estate, or a person that improves and subdivides land.

(61) **DEVELOPMENT.** An act, process or result of developing real estate which is to be done pursuant to a zoning permit or conditional use permit.

(62) DISTRICT. A geographically defined area subject to certain minimum zoning standards as established in this Planning and Zoning Code.

(63) DRIVE-IN. Any place or premises used for the sale, dispensing, or serving of food, refreshments, beverages, or services to customers in vehicles, including those establishments where customers may serve themselves and may carry out or consume the above on or off the premises.

(64) DRIVEWAY. That portion of the vehicle accommodation area that consists of a travel lane bounded on either side by an area that is not part of the vehicle accommodation area.

(65) DWELLING. A building or portion thereof, designed or used as living quarters. When the context demands, dwelling includes single-family dwellings, two (2)-family dwellings, and multiple-family dwellings, but not including hotels, motels, bed and breakfast, rooming and boarding houses.

(66) DWELLING, SINGLE-FAMILY. A building containing only one (1) dwelling unit.

(67) DWELLING, TWO-FAMILY. A building containing only two (2) dwelling units.

(68) DWELLING UNIT. An enclosure containing sleeping, kitchen, and bathroom facilities designed for and held ready for use as a permanent dwelling by one (1) family.

(69) EASEMENT. A grant by a property owner for the use of a strip of land by a person for a specified purpose or multiple purposes.

(70) EFFECTIVE DATE OF THIS PLANNING AND ZONING CODE. Any reference to the effective date of the Planning and Zoning Code, or Zoning Code, means July 17, 1995; however, the reference shall also be deemed to include the effective date of any amendment thereto.

(71) EMERGENCY. An unforeseen combination of circumstances, or the resulting state that calls for immediate actions.

(72) ENGINEERING DEPARTMENT RULES AND REGULATIONS. City of Napoleon Engineering Rules and Regulations CNER98-1, and to the extent permitted by law, means the most current amendment thereto.

(73) ENTERTAINMENT AND SPECTATOR SPORT FACILITIES. A structure or facility for the presentation of performing arts, including indoor motion picture theaters, theaters for live performances and indoor and outdoor concert halls, athletic and other events to spectators. Entertainment and spectator complexes includes restaurants as an accessory use. Entertainment and spectator complexes does not include places for adult entertainment.

***(74) ESSENTIAL SERVICES. THE ERECTION, CONSTRUCTION, ALTERATION OR MAINTENANCE BY PUBLIC UTILITIES OR MUNICIPAL OR OTHER GOVERNMENTAL AGENCIES OF UNDERGROUND OR OVERHEAD GAS, ELECTRICAL, STEAM, OR WATER TRANSMISSION OR DISTRIBUTION SYSTEMS; COLLECTION, COMMUNICATION, SUPPLY OR DISPOSAL SYSTEMS INCLUDING POLES, WIRES, MAINS, DRAINS, SEWERS, PIPES,***

***TRAFFIC SIGNALS, HYDRANTS AND OTHER SIMILAR EQUIPMENT AND ACCESSORIES IN CONNECTION THEREWITH, NOT INCLUDING BUILDINGS, WHICH ARE NECESSARY FOR THE FURNISHING OF ADEQUATE SERVICE BY SUCH PUBLIC UTILITIES OR MUNICIPAL OR OTHER GOVERNMENTAL AGENCIES FOR THE PUBLIC HEALTH, SAFETY, OR GENERAL WELFARE.***

~~(74)~~ (75) EXCAVATION OF SAND, GRAVEL, CLAY, STONE & TOPSOIL FACILITY. Business duly engaged in the extraction, excavation, fill, or grading for any purpose of gravel, soil, sand, stone, rock, clay or topsoil.

~~(75)~~ (76) FAMILY. Persons related by blood or marriage living together as a single house keeping unit or up to six (6) unrelated persons living together as a single house keeping unit.

~~(76)~~ (77) FARM MARKETS & STANDS. An occasional or periodic market held in an open area or in a structure where groups of individual sellers offer for sale to the public such items as fresh produce, seasonal fruits, fresh flowers, arts and craft items, and food and beverages (but not to include second hand goods) dispensed from booths located on site.

~~(77)~~ (78) FILLING STATION. Buildings and premises where fuel may be supplied and dispensed.

~~(78)~~ (79) FLOODPLAIN. Any land area susceptible to be inundated by water from the base flood. As used in this Planning and Zoning Code, the term refers to that area designed as subject to flooding from the base flood (100 year flood) on the "flood boundary and floodway map" prepared by the U.S. Department of Housing and Urban Development, a copy of which is on file in the Zoning Department.

~~(79)~~ (80) FLOODWAY. The channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1') foot. As used in this Planning and Zoning Code, the term refers to that area designated as a floodway on the "flood boundary and floodway map" prepared by the U.S. Department of Housing and Urban Development, a copy of which is on file in the Zoning Department.

~~(80)~~ (81) FLOOR AREA (GROSS). The total gross area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage. Floor area is synonymous with gross floor area.

~~(81)~~ (82) FOOD PROCESSING. The preparation, processing, or canning and packaging of food products.

~~(82)~~ (83) FRONTAGE. All the property on one (1) side of a street between two (2) intersecting streets (crossing or terminating) measured along the line of the street, or if the street is dead-ended, then all of the property abutting on one (1) side between an intersecting street and the dead end of the street.

~~(83)~~ (84) FRONT LINE OF BUILDINGS. The line of the face of the building nearest the front lot line.

~~(84)~~ (85) FRONT LOT LINE. That boundary of a lot which abuts a public street, or where no public street exists, abuts a private road. On a "through lot" both street lines are deemed to be front lot lines.



~~(85)~~ (86) FRONT YARD. The area extending across the full width of the lot and lying between the front lot line and a line parallel thereto, and having a distance between them equal to the required front yard depth as prescribed for each zoning district. Front yards shall be measured by a line at right angles to the front lot line, or by the radial line in the case of a curved front lot line. On corner lots, the front yard shall be the yard which abuts on the narrowest street frontage on the lot.

~~(86)~~ (87) FUNCTIONAL EQUIVALENT FAMILY. A collective number of individuals domiciled together in one (1) dwelling unit whose relationship is of a continuing non-transient domestic character and who are living and cooking as a single nonprofit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, coterie, organization or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature or for an anticipated limited duration of a school term or terms or other similar determinable period.

~~(87)~~ (88) GRADE. For buildings having walls adjoining one (1) street only. The elevation of the sidewalk at the center of the wall adjoining the street.

A. For buildings having walls adjoining more than one (1) street. The average of the elevation of the sidewalk at the center of all walls adjoining the streets.

B. For buildings having no wall adjoining the street -- the average level of the ground adjacent to the exterior walls of the building. Any wall approximately parallel to and not more than five (5) feet from a street line is to be considered as adjoining the street.

C. Street grade - the elevation of the pavement measured at the centerline intersection of two (2) streets.

~~(88)~~ (89) GROCERY STORES. Stores where most of the floor area is devoted to the sale of food products for home preparation and consumption, which typically also offer other home care and personal care products, and which are substantially larger and carry a broader range of merchandise than convenience stores.

~~(89)~~ (90) GROUND FLOOR AREA. The area of a building within its largest outside dimensions computed on a horizontal plane at the ground floor level, exclusive of open porches, breezeways, terraces, garages, and exterior stairways.

~~(90)~~ (91) GSF. Gross square feet.

~~(91)~~ (92) HEIGHT OF BUILDING. The vertical distance measured from the ground level to the highest point of the roof for a flat roof; to the deck line of a mansard roof; and to the mean height between eaves and ridges for gable, hip, and gambrel roofs.

~~(92)~~ (93) HIGH-VOLUME TRAFFIC GENERATION. Large amounts of traffic generated by an establishment as it relates to traffic flow in the immediate area.

~~(93)~~ (94) HISTORIC DESIGN REVIEW GUIDELINES: The building construction and building rehabilitation criteria derived from local historical and architectural information and reflecting the Secretary of the Interior's standards for rehabilitation to be used by the Preservation Commission in considering certificate of appropriateness applications.

~~(94)~~ **(95)** HISTORIC RESOURCE: A publicly or privately owned building of historic significance, eligible for listing or already listed on the National Register of Historic Places, thus deserving protection.

~~(95)~~ **(96)** HISTORIC SIGNIFICANCE: Attributes of a building or district that possess integrity of location, setting, design, materials, workmanship, and association with:

- A. Events that have made a significant contribution to the broad patterns of history, or
- B. Persons significant in the past,
- C. Architectural characteristics of a type, period, or method of construction, or
- D. Have yielded or may be likely to yield information in prehistory or history.

~~(96)~~ **(97)** HOME. Same as dwelling.

~~(97)~~ **(98)** HOME OCCUPATION. Occupations or activity regularly engaged in for personal monetary gain and meeting all of the following standards:

- A. The home occupations conducted within a dwelling that is the bona fide residence of the principal practitioner or in an accessory building thereto which is normally associated with residential use. The home occupation is carried on wholly indoors and should be imperceptible from off the premise;
- B. Having no signs or displays of any sort in connection with a home occupation;
- C. Having no commodities, merchandise or wares of any kind being sold or distributed on the premises;
- D. Having only those persons residing on the premises as employees of the home occupation;
- E. Having no exterior storage, dumping or burial on the premises of materials or refuse resulting from the operation of the home occupation;
- F. Having no equipment or process being used in the home occupation which creates noise, vibration, glare, fumes, odors, dust, or electrical interference that is excessive or otherwise inconsistent with typical residential uses; and,
- G. Having no additional parking demand or increase in traffic or congestion in the public right-of-way above that normally experienced in a residential neighborhood.

***(99) HOSPITAL. FACILITIES PROVIDING MEDICAL OR SURGICAL CARE TO PATIENTS AND OFFERING INPATIENT (OVERNIGHT) CARE.***

~~(98)~~ **(100)** HOSPITALITY FACILITIES. Lodging facilities with full service dining facilities that may include meeting rooms, conference facilities and other site and building amenities catering to lodging occupants.

~~(99)~~ **(101)** HOTEL. An establishment that furnishes lodging and sometimes meals, entertainment and various personal services for the public.

***(102) INSTITUTIONAL USE. A USE THAT PROVIDES A PUBLIC SERVICE AND IS OPERATED BY A FEDERAL, STATE OR LOCAL GOVERNMENT, PUBLIC OR PRIVATE UTILITY, PUBLIC OR PRIVATE SCHOOL OR COLLEGE, TAX-EXEMPT ORGANIZATION, AND/OR A PLACE OF RELIGIOUS ASSEMBLY. EXAMPLES INCLUDE: PUBLIC AGENCY, PUBLIC SAFETY AND EMERGENCY SERVICES, ESSENTIAL AND UTILITY SERVICES, CULTURAL, SERVICE AND RELIGIOUS FACILITIES, PUBLIC/PRIVATE HEALTH FACILITIES OR OTHER SIMILAR USES.***

~~(100)~~ ***(103)*** JUNK YARD. An establishment or place of business that is maintained or operated for the purpose of storing, keeping, buying, or selling junk. For the purposes of this Planning and Zoning Code, the term "junk yard" also includes scrap metal processing facilities and salvage yards.

~~(101)~~ ***(104)*** JURISDICTION. The corporate limits of the City of Napoleon, Ohio, and those other areas of jurisdiction authorized by law.

~~(102)~~ ***(105)*** KENNELS. Any lot or premises on which five (5) or more dogs, cats or other household pets, or combination thereof, are either permanently or temporarily boarded.

~~(103)~~ ***(106)*** LAND AREA. When gross, meaning the area contained within the boundaries of a parcel of land; when net, meaning the area contained within the boundaries of a parcel of land after deducting dedicated rights of way or private roads and access easements.

~~(104)~~ ***(107)*** LATTICE. A support structure constructed of vertical metal struts and cross braces forming a triangular or square structure which often tapers from the foundation.

~~(105)~~ ***(108)*** LABORATORIES. A building or group of buildings in which are located facilities for scientific research, investigation, testing, or experimentation, but not facilities for manufacture or sale of products, except as incidental to the main purpose of the laboratory.

~~(106)~~ ***(109)*** LIVESTOCK. Farm type animals or poultry kept or raised for use, pleasure or profit, such as chickens, turkeys, pigs, goats, sheep, horses, buffalo, cattle, and the like, kept or raised as one or many.

~~(107)~~ ***(110)*** LOADING AND UNLOADING AREA. That portion of the vehicle accommodation area used to satisfy the requirements of the parking sections of this Planning and Zoning Code.

~~(108)~~ ***(111)*** LOT. A portion of a subdivision or other parcel of land intended as a unit for transfer or ownership or for development. Lot includes the word parcel and when the context demands, the word plat. When the context demands, also means a portion of land.

~~(109)~~ ***(112)*** LOT AREA. The total area circumscribed by the boundaries of a lot, except that:

A. When the legal instrument creating a lot shows the boundary of the lot extending into a public street right-of-way, then the lot boundary for purposes of computing the lot area shall be the street right-of-way line, or if the right-of-way line

cannot be determined, a line running parallel to and thirty (30') feet from the center of the traveled portion of the street; and,

B. In a residential district, when a private road that serves more than three (3) dwelling units is located along any lot boundary, then the lot boundary for purposes of computing the lot area shall be the inside boundary of the traveled portion of that road.

~~(110)~~ (113) LOT COVERAGE. The total ground area of a lot, usually expressed as a percentage of the lot area that is covered, occupied, or enclosed by principal and accessory buildings or structures.

~~(111)~~ (114) LOT OF RECORD. A lot which is part of a duly recorded plat of a subdivision; or, a parcel of land which has been conveyed by the identical description by deed or record recorded prior to; or, a parcel of land conveyed by a deed or record, if, on the date of the recording of said deed, such parcel met all the requirements of this Planning and Zoning Code or regulations then in effect.

~~(112)~~ (115) LOW-VOLUME TRAFFIC GENERATION. Small amounts of traffic generated by an establishment as it relates to traffic flow in the immediate area.

~~(113)~~ (116) MANUFACTURED HOME(S). A dwelling unit that:

A. Is not constructed in accordance with the standards set forth in the state or local building code applicable to site built homes; and,

B. Is composed of one (1) or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site on its own chassis; and,

C. Exceeds forty (40') feet in length and eight (8') feet in width, or,

D. Regardless of the above is classified as a manufactured home, Class A, B or C.

~~(114)~~ (117) MANUFACTURED HOME, CLASS A. A manufactured home, also referred to as mobile home, Class A, constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction and that satisfies each of the following additional criteria:

A. The home has a length not exceeding four (4) times its width; and,

B. The pitch of the home's roof has minimum vertical rise of one (1') foot for each five (5') feet of horizontal run, and the roof finished with a type of shingle that is commonly used in standard residential construction; and,

C. The exterior siding consists of wood, vinyl, hardboard, aluminum, (vinyl covered or painted, but in no case exceeding the reflectivity of gloss white paint) comparable in composition, appearance, and durability to the external siding commonly used in standard residential construction; and,

D. A continuous, permanent masonry foundation, unpierced except for required ventilation and access, is installed under the home; and,

E. The tongue, axles, transporting lights, and removable towing apparatus are removed after placement on the foundation and before occupancy.

~~(115)~~ (118) MANUFACTURED HOME, CLASS B. A manufactured home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction but that does not satisfy the criteria necessary to qualify the house as a Class A manufactured home. Also referred to as a mobile home, Class B.

~~(116)~~ (119) MANUFACTURED HOME, CLASS C. Any manufactured home that does not meet the definitional criteria of Class A or Class B manufactured home. Also referred to as a mobile home, Class C.

~~(117)~~ (120) MANUFACTURED HOME PARK. A residential use in which more than one (1) manufactured home is located on a single lot. Also may mean a mobile home park.

~~(118)~~ (121) MANUFACTURING, GENERAL. Manufacturing, processing or assembling of materials in a manner that would create any of the commonly recognized nuisance conditions or characteristics described below in the manufacturing, light definition.

~~(119)~~ (122) MANUFACTURING, LIGHT. Production, processing, assembling, packaging, or treatment of food and non-food products; or manufacturing and/or assembly of electronic instruments and equipment and electrical devices. These facilities should involve limited outside storage of materials, not require federal air quality discharge permits, and be compatible with any contiguous or nearby residential uses because there are few or no offensive nuisance conditions that are detectable from the boundaries of the subject property, such as, but not limited to:

A. Continuous, frequent or repetitive noises or vibrations;

B. Noxious or toxic fumes, odors or emissions;

C. Electrical disturbances; or,

D. Night illumination into residential areas.

E. Exceptions: Noise and vibrations from temporary construction; noise from vehicles or trains entering or leaving the site; noise and vibrations occurring less than fifteen (15) minutes per day; and noise detectable only as part of a composite of sounds from various off-site sources.

~~(120)~~ (123) MARGINAL ACCESS STREETS. Streets that are parallel to and adjacent to an arterial street and that are designed to provide access to abutting properties so that these properties are somewhat sheltered from the effects of the through traffic on the arterial street and so that the flow of traffic on the arterial streets is not impeded by the direct driveway access from a large number of abutting properties.

~~(121)~~ (124) MASSAGE/ RELAXATION ESTABLISHMENT - An establishment that for profit uses touch through rubbing or kneading of parts of the body to aid circulation, relax the muscles, or provides sensual stimulation or therapy; or, an establishment that through other means such as fragrance, provides a means for relieving stress.

~~(122)~~ (125) MASTER PLAN. The plan of the City, or any of its parts, for the orderly development of the City, including all parts thereto, including the Thoroughfare Plan. Also, may include the Official Zone Map. To the extent permitted by law, means

the most current adopted Master Plan. Master Plan as used in this Planning and Zoning Code also means the City's Comprehensive Plan.

~~(123)~~ (126) MICROWAVE RECEIVING ANTENNA. A dish shaped device greater than thirty-nine (39") inches in diameter designed to receive signals transmitted from ground mounted transmitters.

~~(124)~~ (127) MINIMUM LOT AREA. That area of a lot in any zoning district, exclusive of the area of any street, road, or access easement on or across such lot.

~~(125)~~ (128) MONOPOLE. A support structure constructed of a single, self supporting hollow metal tube securely anchored to a foundation.

***(129) MORTUARIES. AN ESTABLISHMENT PROVIDING SERVICES SUCH AS PREPARING THE HUMAN DEAD FOR BURIAL AND ARRANGING AND MANAGING FUNERALS AND MAY INCLUDE LIMITED CARETAKER FACILITIES. THIS CLASSIFICATION EXCLUDES CEMETERIES, CREMATORIUMS AND COLUMBARIUMS.***

~~(126)~~ (130) MOTEL. An establishment consisting of a group of attached or detached living or sleeping accommodations with bathroom and closet space, located on a single zoning lot, and designed primarily for use by tourists and that furnishes customary hotel services.

~~(127)~~ (131) MULTI-FAMILY DWELLINGS. A multi-family residential use other than a multi-family conversion or multi-family townhouse.

~~(128)~~ (132) MULTI-FAMILY CONVERSION. A multi-family dwelling containing not more than four (4) dwelling units and which results from the conversion of a single building containing at least two thousand square feet of gross floor area that was originally designed, constructed, and occupied as a single-family dwelling.

~~(129)~~ (133) NEIGHBORHOOD BUSINESS LESS THAN 10,000 SQUARE FEET. Establishments primarily engaged in the provision of frequently or recurrently needed goods for household consumption, such as prepackaged food and beverages and limited household supplies. Neighborhood stores does not include fuel pumps or the selling of fuel for motor vehicles. Typical uses include neighborhood markets and small retail outlets.

~~(130)~~ (134) NEIGHBORHOOD UTILITIES FACILITIES. Utility facilities that are designed to serve the immediately surrounding neighborhood and that must, for reasons associated with the purpose of the utility in question, be located in or near the neighborhood where such facilities are proposed to be located.

~~(131)~~ (135) NOISE. Any sound that annoys, endangers or injures the safety or health of humans or animals, annoys or disturbs a reasonable person of normal sensitivities, or endangers or injures personal or real property.

~~(132)~~ (136) NONCONFORMING LOT. A lot existing on or before the effective date of this Planning and Zoning Code (and not created for the purposes of evading the restrictions of this Planning and Zoning Code) that does not meet the minimum area requirement of the district in which the lot is located.

~~(133)~~ (137) NONCONFORMING PROJECT. Any structure, development or undertaking that is incomplete on the effective date of this Planning and Zoning Code and

would be inconsistent with any regulation applicable to the district in which it is located if completed as proposed or planned.

~~(134)~~ (138) **NONCONFORMING USE.** An existing use of land or building which fails to comply with the requirements set forth in this Planning and Zoning Code applicable to the district in which such use is located or, a situation that occurs when, on the effective date of this Planning and Zoning Code, an existing lot or structure or use of an existing lot or structure does not conform to one (1) or more of the regulations applicable to the district in which the lot or structure is located. Among other possibilities, a nonconforming use may arise because a lot does not meet minimum square footage/acreage requirements, because structures exceed maximum height limitations, because the relationship between existing buildings and the land (in such case matters as density and setback requirements) is not in conformity with this Planning and Zoning Code, or because land or buildings are used for purposes made unlawful by this Planning and Zoning Code. Nonconforming signs, unless specific to an overlay district, are not regarded as nonconforming uses for purposes of this Planning and Zoning Code, but are governed by provisions of Chapter 1335.

~~(135)~~ (139) **NURSERY/GREENHOUSE.** A space, building or structure, or combination thereof, for the storage of live trees, shrubs, flowers or plants offered for retail sale on the premises including products used for gardening or landscaping.

~~(136)~~ (140) **NURSING CARE INSTITUTION.** An institutional facility maintained for the purpose of providing skilled nursing care and medical supervision at a lower level than that available in a hospital to more than nine (9) persons.

~~(137)~~ (141) **OFFICE.** A building or part thereof where a professional person conducts his or her professional business, or where it is the directing headquarters of a business or enterprise, having work such as clerical, bookkeeping, records, or consulting.

~~(138)~~ (142) **OIL AND GAS WELLS.** Any perforation through the earth's surface designated to find and release both petroleum oil and gas hydrocarbons.

~~(139)~~ (143) **OPEN SPACE.** The total horizontal area of a lot excluding the building area, but including parking areas and recreational areas.

~~(140)~~ (144) **ORIGINAL PLANNING AND ZONING CODE.** Means the Zoning Code in existence prior to July 17, 1995 or any amendment thereto that existed prior to July 17, 1995.

~~(141)~~ (145) **OUTSIDE STORAGE.** Any premises not indoors used for the temporary storage of household goods or personal items which is placed on a site for the use of the occupants of a dwelling or building for a limited period of time.

~~(142)~~ (146) **PARKING SPACE.** A portion of the vehicle accommodation area set aside for the parking of one (1) vehicle.

~~(143)~~ (147) **PERMITTED USE(S).** Permitted use(s) are those allowed as of right and as expressly permitted by this Planning and Zoning Code, provided the landowner meets all other local, state and federal requirements.

~~(144)~~ (148) **PERSON.** An individual, trustee, executor, other fiduciary, corporation, firm, partnership, association, organization, or other entity acting as a unit.

~~(145)~~ (149) PERSONAL SERVICES. An establishment or place of business primarily engaged in the provisions of frequent or recurrent needed services of a personal nature. Typical uses include, but are not limited to, beauty and nail salons, licensed massage establishment, barbershops, shoe repair shops, tailor shops, laundromats and dry cleaners.

~~(146)~~ (150) PERSONAL WIRELESS SERVICES. Commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services as defined by federal law at 47 U.S.C. §332(c)(7).

~~(147)~~ (151) PLANT CULTIVATION. The cultivation of crops, fruit trees, nursery stock, truck garden products and similar plant materials outside of structures, such as greenhouses, but not including such plant cultivation as is conducted on residential properties for the primary benefit of the resident family.

~~(148)~~ (152) PLANNED APARTMENT DEVELOPMENT (PAD). A development constructed on a tract of land of a minimum acreage requirement and developed as a multi-apartment complex.

~~(149)~~ (153) PLANNED CLUSTER DEVELOPMENT (PCLD). A development constructed on a tract of land of a minimum acreage requirement and having a minimum number of dwelling units contained within and having a minimum number of principal buildings.

~~(150)~~ (154) PLANNED COMMERCIAL DEVELOPMENT (PCD). A development constructed on a tract of land of a minimum acreage requirement and having a minimum number of principal buildings and a maximum number of commercial establishments within a single building.

~~(151)~~ (155) PLANNED DEVELOPMENT (PD). A Planned Apartment Development, Planned Cluster Development, Planned Commercial Development, and Planned Residential Development.

~~(152)~~ (156) PLANNED RESIDENTIAL DEVELOPMENT (PRD). A development constructed on a tract of not less than five (5) acres of land under single ownership, planned and developed as an integral unit, and consisting of single-family detached dwellings combined with either two (2) family dwellings or multi-family dwellings, or both, all developed in accordance with Section 1143.06.

~~(153)~~ (157) PLANNING AND ZONING CODE. Part 11 of the Codified Ordinances commencing with Chapter 1101 and ending with Chapter 1147, both chapters inclusive; also means any newly enacted Planning And/or Zoning Ordinance not currently codified.

~~(154)~~ (158) PLANNING COMMISSION. The Planning Commission of the City of Napoleon, Ohio.

~~(155)~~ (159) PLANNING JURISDICTION. The area within the City's corporate limits as well as the area beyond the City's corporate limits within which the City is authorized to plan for and regulate development.

~~(156)~~ (160) PLAT. A map or chart of a tract or parcel of land.



~~(157)~~ (161) PRESERVATION COMMISSION. A Preservation Commission established pursuant to Chapter 181 of the Codified Ordinances having certain specified powers and duties.

~~(158)~~ (162) PRESERVATION DISTRICT. Clearly identified area(s) designated on the Official Zone Map that contain a significant concentration of historic resources.

~~(159)~~ (163) PRINCIPAL BUILDING. The primary building on a lot or a building that houses a principal use.

~~(160)~~ (164) PRINCIPAL USE. The main use of land or buildings as distinguished from a subordinate or accessory use.

~~(161)~~ (165) PRINTING. An establishment in which the principal business consists of duplicating and printing services using photography, blueprint, or offset printing equipment, including publishing, binding and engraving.

~~(162)~~ (166) PRIVATE ROAD. A private drive or thoroughfare other than a street or alley permanently reserved in order to provide a means of access to a zoning lot.

~~(163)~~ (167) PROPERTY LINES. The lines bounding a zoning lot.

**(168) PUBLIC SERVICE FACILITY. ANY BUILDING HELD, USED, OR CONTROLLED EXCLUSIVELY FOR PUBLIC TRANSPORTATION SYSTEMS OR FACILITIES, WATER SYSTEMS OR FACILITIES, WASTEWATER SYSTEMS OR FACILITIES, STORM DRAINAGE SYSTEMS OR FACILITIES, FIRE, POLICE, AND EMERGENCY SYSTEMS OR FACILITIES, PARKS AND RECREATION, ELECTRIC UTILITIES, GAS UTILITIES, CABLE FACILITIES, OR OTHER PUBLIC UTILITIES.**

**(169) PUBLIC/PRIVATE UTILITY. A PERSON, FIRM, OR CORPORATION, MUNICIPAL DEPARTMENT, BOARD OR COMMISSION DULY AUTHORIZED TO FURNISH AND FURNISHING UNDER GOVERNMENTAL REGULATIONS TO THE PUBLIC: GAS, STEAM, ELECTRICITY, SEWAGE DISPOSAL, COMMUNICATION, TELEGRAPH, TRANSPORTATION OR WATER.**

~~(164)~~ (170) PUBLISHING. A commercial printing operation involving a process that is considered printing, imprinting, reproducing, or duplicating images and using printing methods including, but not limited to, off-set printing, lithography, web offset, flexographic and screen process printing.

~~(165)~~ (171) PURELY RESIDENTIAL STRUCTURES. For the sole purpose of Chapter 1138, dwellings used exclusively for residential purposes.

~~(166)~~ (172) REAR LOT LINE. That boundary of a lot which is most distant from, and is most nearly parallel to, the front lot line.

~~(167)~~ (173) REAR YARD. The space area extending across the rear of a lot and being the required minimum horizontal distance between the rear lot line and the rear of the main building or any projection thereof, other than the projections of uncovered steps, unenclosed balconies, or unenclosed porches. On all lots, the rear yard shall be in the rear of the front yard.

~~(168)~~ (174) REASONABLE ACCOMMODATION USE. Provisions for providing housing opportunities suited to the needs of persons entitled to housing accommodations under law.

~~(169)~~ (175) RECREATIONAL VEHICLES/ EQUIPMENT OUTDOOR SALES. An establishment that sells or stores for sale, in the open, vehicles or equipment used or designed for recreation.

~~(170)~~ (176) RECYCLING CENTER. Any place in which personal property is or may be salvaged for reuse, resale, or reduction or similar disposition, and is owned, possessed, collected, accumulated, dismantled, or sorted, including, but not limited to, used or salvaged metals, paper, glass, plastic, rubber, and the associated processing equipment.

~~(171)~~ (177) REPAIR SERVICES, CONSUMER. Provisions of repair services to individuals and households, but not to firms. Excludes vehicle sales and service uses. Typical uses include appliance repair shops, locksmiths, shoe and apparel repair and musical instrument repair.

~~(172)~~ (178) RESTAURANT CARRY-OUT ONLY. A restaurant at which patrons are served from a counter and the food or beverage is served in disposable containers or wrappers for consumption off the premises.

~~(173)~~ (179) RESTAURANT DRIVE-IN. A restaurant at which any patrons are served from a drive-by window or while within a motor vehicle or where food is consumed within the motor vehicle on the premises.

~~(174)~~ (180) RESTAURANT FAST FOOD. A restaurant at which patrons are served from a counter and the food or beverage is served in disposable containers or wrappers for consumption on or off the premises.

~~(175)~~ (181) RESTAURANT FULL SERVICE. An establishment maintained, operated, and/ or advertised or held out to the public as a place where food and beverages are served to the public on demand from a menu during stated business hours, served in and on reusable containers and dinnerware, to be consumed on the premises primarily inside the building at tables, booths, or counters, with chairs, benches or stools.

~~(176)~~ (182) RESTAURANT OUTDOOR CAFÉ. An outdoor service area as a part of a restaurant.

~~(177)~~ (183) RETAIL BUSINESS. Businesses involved in the sale, lease or rent of new or used products to the general public. This excludes animal services, business equipment sales and services, construction sales and services, food and beverage retail sales, gasoline and fuel sales and vehicle sales and service. Typical uses include department stores, drug stores, apparel stores and furniture stores.

~~(178)~~ (184) ROAD. All ways used to provide motor vehicle access to (i) two (2) or more lots; or, (ii) two (2) or more distinct areas or buildings in developments. As used in this Planning and Zoning Code, may mean depending on the contexts used, either private or public road.

~~(179)~~ (185) ROOMING HOUSE. A residential use, where meals are not provided to its residents, consisting of at least one (1) dwelling unit together with more than two (2) rooms that are rented or are designed or intended to be rented but which rooms, individually or collectively, do not constitute separate dwelling units. A rooming

house is distinguished from a tourist home in that the former is designed to be occupied by longer term residents (at least month-to-month tenants) as opposed to overnight or weekly guests. A rooming house is distinguished from a boarding house in that meals are not provided to its residents.

~~(180)~~ **(186)** SALVAGE YARD. An establishment or place for the purpose of selling salvage motor vehicle parts and secondarily for the purpose of selling at retail salvage motor vehicles or manufacturing or selling a product of gradable scrap metal. For the purpose of this definition "salvage yard" also means junk yards and scrap metal processing facilities.

~~(181)~~ **(187)** SATELLITE ANTENNA. A dish-shaped device greater than thirty-nine (39") inches in diameter designed to receive signals transmitted from orbiting satellites. Also, an antenna of any size greater than thirty-nine (39") inches in diameter, shape or description designed for the purpose of receiving microwave transmissions from satellites.

~~(182)~~ **(188)** SCRAP METAL PROCESSING FACILITIES. Establishments or places having facilities processing iron, steel, or nonferrous scrap and whose principal product is scrap iron and steel or nonferrous scrap for sale for remelting purposes. For the purpose of this definition "scrap metal processing facilities" also means junk yards and salvage yards.

~~(183)~~ **(189)** SCREENING. Acceptable things or material that adequately protects against injury or danger, or when the context demands, acceptable things or material that adequately shields the view from others.

~~(184)~~ **(190)** SECRETARY OF THE INTERIOR'S STANDARDS. Ten standards first developed by the Department of the Interior to evaluate proposed treatments of historic properties and to ensure that work affecting a historic property would be consistent with the character of the building and the district in which it is located.

~~(185)~~ **(191)** SELF- SERVICE STORAGE. A facility designed and used for the temporary storage of household goods or personal items which is placed on a site for the use of the occupants of a dwelling or building for a limited period of time.

~~(186)~~ **(192)** SEMI-TRUCK VEHICLES. Are truck tractors designed to pull a freight trailer.

~~(187)~~ **(193)** SERVICE STATION. A building or premises used for the retail sale of fuel (stored only in underground tanks and to be dispensed from fixed equipment), lubricants, air, water and other commodities designed for motor vehicles, aircraft and boats. Such an operation includes space and facilities for selling, installing, or adjusting tires, batteries, parts and accessories within a completely enclosed building provided that such repair and installation are of minor auto repair nature and may include accessory convenience store merchandise primarily sold to patrons purchasing gasoline and/or services.

~~(188)~~ **(194)** SEXUALLY ORIENTED BUSINESS. A business establishment providing entertainment or products of a sexual nature.

~~(189)~~ **(195)** SHOPPING CENTER. A single piece of real estate containing more than three (3) commercial establishments and a total business space of more than

three thousand two hundred (3,200) square feet planned, constructed and managed as a total entity with customer and employee parking provided on site.

~~(190)~~ (196) SIDE LOT LINE. Any boundary of a lot which is not a front lot line or a rear lot line.

~~(191)~~ (197) SIDE YARD. The space area between the main buildings and the side line of the lot and extending from the required front yard building setback line to the required rear yard building setback line and being the minimum horizontal distance between a side lot line and the side of the main buildings, or any projections thereto.

~~(192)~~ (198) STORY. That portion of a building included between the surface of any floor and the surface of the floor next above it. If there is no floor above it, then the space between such floor and the ceiling next above it shall be the story.

~~(193)~~ (199) STREET. A right-of-way, dedicated to and accepted for the public use or, declared as such by a governmental authority having ownership or control thereof, which affords the principal means of access to abutting property. A street may be designated as a highway, thoroughfare, parkway, boulevard, road, avenue, lane, drive, place, or other appropriate name. A street may also be identified according to type of use, as follows:

A. ARTERIAL STREETS. Those streets designated in the Thoroughfare Plan for large volumes of traffic movement. Certain arterial streets may be classified as business streets to serve congested business sections, and others as limited access highways to which entrances and exits are provided only at controlled intersections, with access denied to abutting properties.

B. FEEDER STREETS. Those streets designated in the Thoroughfare Plan as important streets to facilitate the collection of traffic from residential streets, to permit circulation within neighborhood areas and to provide convenient ways for traffic to reach arterial streets.

C. RESIDENTIAL STREETS. Those streets not designated in the Thoroughfare Plan as arterial or feeder streets. When they are designed for the primary purpose of providing access to abutting property on one (1) side only, they are identified as marginal access streets. Another type of residential street is a cul-de-sac.

D. LOCAL STREET. A street that has a sole function to provide access to abutting properties. It serves or is designed to serve at least ten (10) but not more than twenty-five (25) dwelling units and is expected to or does handle between seventy-five (75) and two hundred (200) trips per day.

~~(194)~~ (200) STRUCTURE. Anything constructed or erected which requires location on the ground or attachment to something having a location on the ground.

~~(195)~~ (201) STRUCTURAL ALTERATION. Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders, or any substantial change in the exterior walls or the roof.

~~(196)~~ (202) SUBDIVIDER. Any person engaged in subdivision of land within the jurisdiction of the City.

~~(197)~~ (203) SUBDIVISION.

A. The division of any parcel of land shown as a unit or as contiguous units on the last preceding tax roll into two (2) or more parcels, sites, or lots, any one (1) of which is less than five (5) acres for the purpose, whether immediate or future; or,

B. The improvement of one (1) or more parcels of land for residential, commercial, or industrial structures or groups of structures involving the division or allocation of land, for the opening, widening, or extension of any street, except private streets or private roads serving industrial structures; the division or allocation of land as open spaces for common use by owners, occupants, or lease holders or as easements for the extension and maintenance of public sewer, water, storm drainage, or other public facilities.

~~(198)~~ (204) SUBDIVISION, MINOR. A subdivision that does not involve any of the following:

A. The creation of more than a total of three (3) lots; or,

B. The creation of any new public streets.

~~(199)~~ (205) TECHNICALLY SUITABLE. The location of a wireless telecommunication antenna(s) reasonably serves the purpose for which it is intended within the band width of frequencies for which the owner or operator of the antenna(s) has been licensed by the Federal Communications Commission (FCC) to operate without a significant loss of communication capability within developed areas of the City.

~~(200)~~ (206) TELECOMMUNICATION(S). The technology that enables information to be exchanged through the transmission of voice, video or data signals by means of electrical or magnetic systems and includes the term "personal wireless services".

~~(201)~~ (207) TEMPORARY EMERGENCY CONSTRUCTION, OR REPAIR DWELLING. A dwelling (Which may be a manufactured home) that is:

A. Located on the same lot as a dwelling made uninhabitable by fire, flood, or other natural disaster and occupied by the persons displaced by such disaster; or,

B. Located on a nonresidential construction site and occupied by persons having construction or security responsibilities over such construction site.

~~(202)~~ (208) THROUGH LOT. A lot having a pair of opposite lot lines along two (2) more or less parallel public streets, and which is not a corner lot.

~~(203)~~ (209) THOROUGHFARE PLAN. A part of the master plan, which sets forth the location, alignment, dimensions, identification, and classification of existing and proposed public streets, highways, and other thoroughfares.

~~(204)~~ (210) TOURIST HOME. A building in which one (1) but not more than five (5) rooms are used to provide or offer overnight accommodations to transient guests for compensation.

~~(205)~~ (211) TOWER. Any structure typically higher than its diameter and high relative to its surroundings having a principal function to support an antenna, windmill or other fixed object.

~~(206)~~ (212) TRACT. A lot (see lot). The term tract is used interchangeably with the term lot, particularly in the context of subdivisions, where one (1) "tract" is subdivided into several "lots".

~~(207)~~ (213) TRANSPORT & TRUCKING. Any premises used by a motor freight company as a carrier of goods, which is the origin or destination point of goods being transported, for the purpose of storing, transferring, loading and unloading goods.

~~(208)~~ (214) TRAVEL TRAILER. A structure that:

A. Is intended to be transported over the streets and highways (either as a motor vehicle or attached to or hauled by a motor vehicle); and,

B. Is designed for temporary use as sleeping quarters but that does not satisfy one (1) or more of the definitional criteria of a manufactured home.

~~(209)~~ (215) USE. The activity or function that actually takes place or is intended to take place on a lot.

~~(210)~~ (216) USE PERMIT. A permit that may be issued by the City which authorizes the recipient to make use of property in accordance with the requirements of this Planning and Zoning Code as well as any additional requirements imposed by the City, commonly referred to as a "conditional" use permit.

~~(211)~~ (217) UTILITY FACILITIES. Any above-ground structures or facilities (other than buildings, unless such buildings are used as storage incidental to the operation of such structures or facilities) owned by a governmental entity, a nonprofit organization, a corporation, or any entity defined as a public utility for any purpose by (the appropriate provision of state law) and used in connection with the production, generation, transmission, delivery, collection, or storage of water, sewage, electricity, gas, oil, or electronic signals. Excepted from this definition are utility lines and supporting structures declared in this Planning and Zoning Code to be a permissible use.

~~(212)~~ (218) VARIANCE. A grant of permission by the applicable zoning administrator, board, or commission, or Council, that due to hardship or when in the best interest of the community, authorizes the recipient to do that which, according to the strict letter of this Planning and Zoning Code, the recipient could not otherwise legally do. A variance should not to be construed to mean a conditional use permit.

~~(213)~~ (219) VEHICLE(S). Means every device, in, upon, or by which any person or property may be transported or drawn upon a highway, except motorized wheelchairs, devices moved by power collected from overhead electric trolley wires or used exclusively upon stationary rails or tracks and devices other than bicycles moved by human power.

~~(214)~~ (220) VEHICLE ACCOMMODATION AREA. That portion of a lot that is used by vehicles for access, circulation, parking, and loading and unloading. It comprises the total of circulation areas, loading and unloading areas, and parking areas.

~~(215)~~ (221) VIBRATION. Earthborne vibrations from any operation, activity, or land use.

~~(216)~~ (222) WAREHOUSING. Wholesale, storage and warehousing services within enclosed structures.

~~(217)~~ (223) WHOLESALE BUSINESS. A business that sells products meant for resale by the purchaser.

~~(218)~~ (224) WIND GENERATOR (TURBINE). A device which is placed outside of a structure that is used for the generation of electricity through the use of

propellers or turbine blades or, which means a wind operated device used to generate electricity or produce water acting on oblique vanes or sails that radiate from a horizontal shaft; also may include a windmill.

~~(219)~~ (225) WIRELESS TELECOMMUNICATION ANTENNA OR "ANTENNA" OR "ANTENNA ARRAY". As used in Section 1127.21, means the physical device or array of physical devices through which an electromagnetic, wireless telecommunication signal authorized by the FCC is transmitted or received. Antennas used by amateur radio operators are excluded from this definition as it relates to Section 1127.21 of this Planning and Zoning Code.

~~(220)~~ (226) WIRELESS TELECOMMUNICATION EQUIPMENT SHELTER OR "EQUIPMENT SHELTER". As used in Section 1127.21, means the structure or cabinet in which the electronic receiving and relay equipment for a wireless telecommunications facility is housed.

~~(221)~~ (227) WIRELESS TELECOMMUNICATION FACILITY OR "FACILITY". As used in Section 1127.21, means a facility consisting of the equipment, towers, and structures involved in receiving telecommunications or radio signals from a mobile radio communications source and transmitting those signals to a central switching computer which connects the mobile unit with the land-based telephone lines for the provision of personal wireless services.

~~(222)~~ (228) WIRELESS TELECOMMUNICATION TOWER OR "TOWER". As used in Section 1127.21, means any structure, other than a building, that elevates the wireless telecommunication antenna and may include accessory transmission and receiving equipment.

~~(223)~~ (229) WHOLESALE SALES. On-premises sales of goods primarily to customers engaged in the business of reselling the goods, or an article involved in creating a finished product.

~~(224)~~ (230) YARD. An open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portions of a structure from the ground upward.

~~(225)~~ (231) ZONING. To partition land by ordinance into sections which may be reserved for different uses.

~~(226)~~ (232) ZONING ADMINISTRATOR. Such officer as may be designated from time to time by the City Manager. Such officer who is the administrative officer of this Planning and Zoning Code and who shall, in furtherance of such authority carry out the duties described in the City's Administrative Code; also called "Administrator".

~~(227)~~ (233) ZONING LETTER. A letter indicating the Zoning Administrator's interpretation or decision regarding any section of this Planning and Zoning Code.

~~(228)~~ (234) ZONING LOT. A single tract of land located within a single block, which, at the time of filing for a building permit, is designated by its owner or developer as a tract to be used, developed, or built on as a unit under single ownership or control. Therefore, a "zoning lot" may or may not coincide with a lot of record.

~~(229)~~ (235) ZONE MAP. A map entitled "Napoleon, Ohio, Zone Map 2006", and to the extent permitted by law, any amendments thereto.

~~(230)~~ (236) ZONING CODE. The portion of the Codified Ordinances beginning with Chapter 1105 and ending with Chapter 1147, both chapters inclusive; also means any newly enacted Zoning Ordinance not currently codified. The Planning and Zoning Code of the City.

~~(231)~~ (237) ZONING ORDINANCE. A duly passed ordinance related to the zoning of the City.

~~(232)~~ (238) ZONING PERMIT. A permit issued by the Zoning Administrator that authorizes the recipient to make use of property in accordance with the requirements of this Planning and Zoning Code.

(Ord. 074-10. Passed 12-20-10.)

Section 3. That, Section 1145.01 of the Planning and Zoning Code for the City of Napoleon, shall be amended and enacted to remain essentially the same with the exception that the Table of Permissible Uses shall be amended to include the “Institutional” table, as outlined below:

Institutional	Residential				Commercial					Industrial	
	R1	R2	R3	R4	C1	C2	C3	C4	C5	I1	I2
Cemetery	C	C	C	C	C		C	C	C	C	C
Child Day Care Centers				C	P		P	P	P		
Clubs, Lodges, Fraternal and Civic Assembly				C	P		P	P	P		
Convalescent and Nursing Homes				C	P		P	P	P		
Essential Services	P	P	P	P	P		P	P	P	P	P
Hospital					P		P	P	P		
Institutional Use			C	C	P		P	P	P	P	
Mortuaries and Funeral Homes			C	C	P		P	P	P		
Public and Private Schools			C	C	P		P	P	P		
Public Service Facility	P	P	P	P	P		P	P	P	P	P



Wireless Telecommunication Facilities											C	C
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Section 4. That, Sections 1101.01 and 1145.01 of the as existed prior to the enactment of this Ordinance shall be repealed.

Section 5. That, it is found and determined that all formal actions of this City Council concerning and relating to the adoption of this Ordinance were adopted in open meetings of this City Council, and that all deliberations of this City Council and any of its committees that resulted in such formal actions were in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code and the Codified Ordinances of Napoleon Ohio.

Section 6. That, if any other prior Ordinance or Resolution is found to be in conflict with this Ordinance, then the provisions of this Ordinance shall prevail. Further, if any portion of this Ordinance is found to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance or any part thereof.

Section 7. That, upon passage, this Ordinance shall take effect at the earliest time permitted by law.

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

\_\_\_\_\_  
John A. Helberg, Council President

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

\_\_\_\_\_  
Ronald A. Behm, Mayor

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

Attest:

\_\_\_\_\_  
Gregory J. Heath, Clerk/Finance Director

*I, Gregory J. Heath, Clerk/Finance Director of the City of Napoleon, do hereby certify that the foregoing Ordinance No. 042-13 was duly published in the Northwest Signal, a newspaper of general circulation in said City, on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_; & 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.*

\_\_\_\_\_  
Gregory J. Heath, Clerk/Finance Director

**RESOLUTION NO. 048-13**

**A RESOLUTION AUTHORIZING THE CITY OF NAPOLEON, OHIO TO ENTER INTO AN AGREEMENT WITH THE CITY OF CLEVELAND, OHIO FOR SERVICES RELATING TO THE COLLECTION OF INCOME TAX**

**WHEREAS**, the Codified Ordinance of the City of Cleveland ("Cleveland"), authorize Cleveland to enter into an agreement with another municipal corporation to act as the agent of the other municipal corporation, provide a central collection facility for the collection of income tax, and do all things allowed by law to accomplish such purpose; and,

**WHEREAS**, this Council finds it to be in the best interest of the City of Napoleon to enter into an agreement with Cleveland to allow Cleveland to act as agent for administration of the income tax laws of the City of Napoleon and collection of income tax due and owing to the City of Napoleon; and,

**WHEREAS**, such administration and collection shall be restricted to delinquency issues referred to Cleveland by the City of Napoleon, including collection of outstanding balances and pursuit of non-filed tax returns and other delinquency programs as agreed to by Cleveland and the City of Napoleon; now therefore,

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

Section 1. That, the Napoleon City Finance Director is hereby authorized to enter into an agreement for the central collection of municipal income tax, as attached hereto, with Cleveland on behalf of the City of Napoleon, to allow Cleveland to act as agent for the purpose of administering income tax laws of the City of Napoleon and collecting income tax due and owing to the City of Napoleon or delinquency issues referred to Cleveland by the City of Napoleon.

Section 2. 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 3. 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 4. That, this Resolution shall take effect at the earliest time permitted by law.

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

\_\_\_\_\_  
John A. Helberg, Council President

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

\_\_\_\_\_  
Ronald A. Behm, Mayor

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

Attest:

\_\_\_\_\_  
Gregory J. Heath, Clerk/Finance Director

*I, Gregory J. Heath, Clerk/Finance Director of the City of Napoleon, do hereby certify that the foregoing Resolution No. 048-13 was duly published in the Northwest Signal, a newspaper of general circulation in said City, on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_; & 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.*

\_\_\_\_\_  
*Gregory J. Heath, Clerk/Finance Director*

**ORDINANCE NO. 045-13**

**AN ORDINANCE ESTABLISHING A UTILITY BILLING "ROUNDING-UP" PROGRAM FOR THE CITY OF NAPOLEON, ESTABLISHING A PROGRAM FOR ALL MONIES RECEIVED AS A RESULT OF VOLUNTARY PARTICIPATION, AND DIRECTING THAT ALL FUNDS SO RECEIVED BE UTILIZED TO ASSIST UTILITY CUSTOMERS WITH THE PAYMENT OF THEIR UTILITY BILLS**

**WHEREAS**, the City of Napoleon desires to establish a utility "caring Fund" to assist needy Napoleon utility customers with the payment of their Napoleon utility bills; and,

**WHEREAS**, the City desires to fund that program by establishing a utility billing "Rounding-Up" program so that monies will be available to assist Napoleon utility customers with the payment of those bills; now therefore,

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

Section 1. That, the City of Napoleon does hereby establish a utility "Caring Fund" to assist needy Napoleon utility customers with the payment of their Napoleon utility bills.

Section 2. That, the City of Napoleon does hereby establish a utility billing "Rounding-Up" program for its utility bills, which means that each bill of any City of Napoleon utility customer opting into the program will be "rounded-up" to the next whole dollar.

Section 3. That, all monies generated as a result of the City of Napoleon utility billing "Rounding-Up" program, and any other donations received for the same purpose, shall be deposited into a separate caring fund which shall be called the City of Napoleon "Caring Fund", and said funds shall be kept by the City of Napoleon, or contracted out to a third party for holding in trust and/or expensed, either as deemed by the City's Finance Director.

Section 4. That, all monies deposited into the City of Napoleon "Caring Fund" shall be utilized to assist needy Napoleon utility customers with the payment of their City of Napoleon utility bills.

Section 5. That, any City of Napoleon utility customer that does desire to participate in the City of Napoleon utility billing "Rounding-Up" program shall have the right to "opt in" the program. The City Finance Director shall establish regulations relating to the program.

Section 6. That, the City of Napoleon utility billing "Rounding-Up" program shall commence with the December, 2013, utility bills.

Section 7. That, it is found and determined that all formal actions of this City Council concerning and relating to the adoption of this Ordinance were adopted in open meetings of this City Council, and that all deliberations of this City Council and any of its committees that resulted in such formal actions were in compliance with all legal

requirements, including Section 121.22 of the Ohio Revised Code and the Codified Ordinances of Napoleon Ohio.

Section 8. That, if any other prior Ordinance or Resolution is found to be in conflict with this Ordinance, then the provisions of this Ordinance shall prevail. Further, if any portion of this Ordinance is found to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance or any part thereof.

Section 9. That, upon passage, this Ordinance shall take effect at the earliest time permitted by law.

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

\_\_\_\_\_  
John A. Helberg, Council President

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

\_\_\_\_\_  
Ronald A. Behm, Mayor

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

Attest:

\_\_\_\_\_  
Gregory J. Heath, Clerk/Finance Director

*I, Gregory J. Heath, Clerk/Finance Director of the City of Napoleon, do hereby certify that the foregoing Ordinance No. 045-13 was duly published in the Northwest Signal, a newspaper of general circulation in said City, on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_; & 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.*

\_\_\_\_\_  
Gregory J. Heath, Clerk/Finance Director

**RESOLUTION NO. 046-13**

**A RESOLUTION AUTHORIZING THE CITY MANAGER AND/  
OR THE CITY FINANCE DIRECTOR TO ENTER INTO AN  
AGREEMENT WITH NORTHWESTERN OHIO COMMUNITY  
ACTION COMMISSION, INC. FOR PROFESSIONAL SERVICES  
REGARDING THE ADMINISTRATION OF THE CARING FUND**

**WHEREAS**, the City of Napoleon desires to establish a Caring Fund to assist needy City of Napoleon utility customers with the payment of their City of Napoleon utility bills; and,

**WHEREAS**, this City of Napoleon has established a utility "Rounding-Up" program; and,

**WHEREAS**, the City is now desirous of entering into an agreement with Northwestern Ohio Community Action Commission, Inc. for their professional services to administer the Caring Fund, Now Therefore,

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

Section 1. That, the City Manager and/or the City Finance Director is authorized to enter into an agreement with Northwestern Ohio Community Action Commission, Inc. for their professional services to administer the Caring Fund.

Section 2. 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 3. 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 4. That, this Resolution be in full force and effect at the earliest time permitted by law.

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

\_\_\_\_\_  
John A. Helberg, Council President

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

\_\_\_\_\_  
Ronald A. Behm, Mayor

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

Attest:

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Gregory J. Heath, Clerk/Finance Director

*I, Gregory J. Heath, Clerk/Finance Director of the City of Napoleon, do hereby certify that the foregoing Resolution No. 046-13 was duly published in the Northwest Signal, a newspaper of general circulation in said City, on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_; & 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.*

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*Gregory J. Heath, Clerk/Finance Director*

**MEMORANDUM OF UNDERSTANDING  
BETWEEN THE CITY OF NAPOLEON AND  
NORTHWEST OHIO COMMUNITY ACTION COMMISSION, INC.  
REGARDING ADMINISTRATION OF THE CARING FUND**

1. The City of Napoleon hereby contracts with Northwest Ohio Community Action (hereinafter referred to as "NOCAC") to certify low to moderate income residents who have a City utility shut-off (disconnect) notice and meet income guidelines to receive utility assistance through the City of Napoleon Caring Fund.

2. The NOCAC will use an intake process that is consistent with that used for our other emergency assistance programs. All applicants must show proof of identity, a Napoleon City utility customer and family income. In addition, they must supply utility shut-off (disconnect) notices, relevant bills, and information on payment history. Attached as Exhibit A, are the General Guidelines to be utilized for the application process.

3. After the application process is complete and the Napoleon City utility customer is approved for assistance from the Caring Fund, NOCAC will notify the City when use of the Caring Fund is utilized to cover a designated amount of the Napoleon City utility customer's utility bill.

4. NOCAC will keep appropriate records, similar to those used for other NOCAC emergency assistance programs.

5. NOCAC shall carry public liability insurance in an amount and form as approved by the City, and agrees to hold harmless and indemnify the City from any and all losses, claims, damages, and judgments that may arise out of this contract or any of the activities contemplated herein.

6. City to forward monies monthly to NOCAC representing funds received from the "Rounding-Up" program or other donations.

7. NOCAC will maintain funds in a separate bank account, and will provide monthly reconciliation statements to the City.



8. This contract may be terminated by either party upon thirty (30) days written notice.

For Northwest Ohio Community Action Commission, Inc.:

\_\_\_\_\_  
Executive Director

\_\_\_\_\_  
Date:

For the City of Napoleon:

\_\_\_\_\_  
Dr. Jon A. Bisher  
City Manager

\_\_\_\_\_  
Date:

Approved as to form and correctness:

\_\_\_\_\_  
Trevor M. Hayberger  
City Law Director

**EXHIBIT A**  
**GENERAL GUIDELINES FOR USE OF CARING FUND MONIES**  
**FOR THE CITY OF NAPOLEON**

The Caring Fund is an extremely valuable resource for providing utility assistance for City of Napoleon utility customers. Northwest Ohio Community Action Commission, Inc. (hereinafter referred to as "NOCAC") certifies City of Napoleon utility customers who meet income guidelines and have a City utility shut-off(disconnect)notice to receive utility assistance through the City of Napoleon's Caring Fund.

- The City may refer clients to NOCAC.
- NOCAC uses an intake process that is consistent with that used for our other emergency assistance programs. All applicants must show proof of identity, City of Napoleon utility customers and verification of family income. In addition, they must provide utility shut-off (disconnect) notices and any relevant bills, or bill history as requested.
- As with other funds and resources, all Caring Fund assistance decisions are made on a case-by-case basis. Consideration is given to the amount requested, the amount of the total bill, size of the family, other resources used and sustainability of the current household situation.
- Clients are generally limited to one assistance per year from the Caring Fund, and other NOCAC programs, unless NOCAC personnel determine that there are extenuating circumstances that would justify an additional payment.
- If appropriate, clients are also referred to other organizations that might be able to provide utility assistance.
- Payment history and accounts receivable information as requested from the City will be provided to NOCAC prior to any disposition of funds.
- Funds are dispensed after a process of consultation between the NOCAC and the client. Final decisions are made prior to shut off dates by NOCAC. Clients are

encouraged to do a co-pay on their utilities and casework is done with the client to try to avoid repeat instances of need for assistance.

- NOCAC will maintain a monthly log for City of Napoleon utility requests showing what was requested and the disposition of each case.
- NOCAC will keep appropriate records similar to those used for other emergency assistance programs. NOCAC will keep a running tally of dollars expended from the Caring Fund so as to maintain an acceptable balance in the fund at all times.