
Memorandum

:

TO: Mayor and City Council
cc: City Manager, Finance Director, City Law Director
FROM: Roxanne
SUBJECT: General Information
DATE: December 1, 2017

CALENDAR

6:30 PM – SPECIAL SAFETY AND HUMAN RESOURCES COMMITTEE MEETING

7:00 PM – CITY COUNCIL MEETING

C. PRESENTATION BY MAYOR (2017 LADY CATS STATE CHAMPION WATER POLO TEAM)

D. MAYOR'S PRESENTATION OF THE 2018 BUDGET

E. APPROVAL OF MINUTES:

November 20, 2017 Regular Meeting Minutes
November 20, 2017 Special Meeting Minutes
November 27, 2017 Special Meeting Minutes

I. INTRODUCTION OF NEW ORDINANCES AND RESOLUTIONS

1. **Ordinance No. 072-17**, an Ordinance Amending the City of Napoleon, Ohio Municipal Income Tax Code for the Purpose of Adhering to the Changes Outlined in House Bill 49; and Declaring an Emergency. (Tabled)
2. **Resolution No. 073-17**, a Resolution Authorizing the Expenditure of Funds Over Twenty-Five Thousand Dollars (\$25,000.00) for the Purpose of Installing Utilities in the Right-of-Way at Parcel Number 28-0700780000, Independence Drive, Napoleon, Ohio, commonly known as the Spec Building, which was not included in the 2017 Master Bid Resolution; and Declaring an Emergency. (Suspension Requested)
3. **Ordinance No. 074-17**, an Ordinance Amending Chapter 143, Section 143.06 of Part One of the Codified Ordinances of the City of Napoleon, Ohio, a City of Napoleon, Ohio Fire and Rescue Fee Schedule; and Declaring an Emergency. (Suspension Requested)
4. **Ordinance No. 075-17**, an Ordinance to Approve Current October 2017 Replacement Pages to the City of Napoleon, Ohio Codified Ordinances.
5. **Resolution No. 077-17**, a Resolution Authorizing the Expenditure of Funds Over Twenty-Five Thousand Dollars (\$25,000.00) for the Purchase of a Rescue Airboat and Trailer for the City of Napoleon Fire Department, Utilizing the Federal Cooperative Purchasing Program, which was not included in the 2017 Master Bid Resolution; and Declaring an Emergency. (Suspension Requested)
6. **Resolution No. 078-17**, a Resolution Approving the Provisions of a Certain Collective Bargaining Agreement No. 2016-MED-08-0802 between the City of Napoleon and Local 240 Napoleon Police Officers Association IUPA, AFL-CIO for the Term Commencing from

December 1, 2017 Through November 30, 2019; Authorizing the City Manager to Execute the same; and Declaring an Emergency. (Suspension Requested)

7. **Resolution No. 079-17**, a Resolution Approving the Provisions of a Certain Collective Bargaining Agreement No. 2017- between the City of Napoleon and Local 3363 International Association of Fire Fighters for the Term Commencing from January 1, 2018 through December 31, 2019; Authorizing the City Manager to Execute the same; and Declaring an Emergency. (Suspension Requested)
8. **Ordinance No. 080-17**, an Ordinance Establishing the Appropriation Measure (Budget) of the City of Napoleon, Ohio for the Fiscal Year Ending December 31, 2018, Listed in Exhibit "A"; and Declaring an Emergency.
9. **Resolution No. 081-17**, 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 2018, Listed in Exhibit "A"; and Declaring an Emergency.
10. **Resolution No. 082-17**, a Resolution Authorizing the Expenditure of Funds and Authorizing a Department Director to take Bids on Certain Projects, Services, Equipment, Materials, or Supplies without the Requirement for Additional Legislation to do so in the Year 2018; and Declaring an Emergency.
11. **Resolution No. 083-17**, a Resolution Authorizing Expenditure of Funds in Excess of Twenty-Five Thousand Dollars (\$25,000.00) in and for the Year 2018 as it relates to Reoccurring Costs Associated with the Operation of the City, for Payment of Expenses, and for Purchases Associated with Vendors Utilized by Multiple Departments within the City; Elimination of Necessity of Competitive Bidding in and for the Year 2018 as it Relates to Certain Transactions; Declaring an Emergency.

J. SECOND READINGS OF ORDINANCES AND RESOLUTIONS - None

K. THIRD READINGS OF ORDINANCES AND RESOLUTIONS

1. **Ordinance No. 068-17**, an Ordinance Amending Various Sections of the Rules and Regulations of City Council for the City of Napoleon, Ohio.

L. GOOD OF THE CITY *(Any other business as may properly come before Council, including but not limited to):*

1. **Discussion/Action:** Entering into Emergency Medical Service Contract with the Village of Florida.
2. **Discussion/Action:** Approval of Specifications and Documentation for the City Door Controller Project.

M. Executive Session (Personnel)

N. Approve Payment of Bills and Approve Financial Reports

MISCELLANEOUS INFORMATION

1. Canceled
 - Technology and Communications Committee Meeting
2. Press Release: New Recycling Guidelines
3. OML Newsletter/November 22, 2017

DECEMBER 2017

Sun	Mon	Tue	Wed	Thu	Fri	Sat
Nov. 26	27	28	29	30	Dec. 1	2
	6:00 pm – Special Joint Meeting Council and Finance & Budget 7:30 pm – Safety & Human Resources		6:30 pm Park & Rec Board			
3	4	5	6	7	8	9
	6:30 pm–Special Safety & Human Resources Mtg. 7:00 pm - Council					
10	11	12	13	14	15	16
	6:30 pm - Electric Committee & BOPA 7:00 pm Water/Sewer Comm. 7:30 pm – Municipal Properties ED Comm.	4:00 pm - Records Commission			10:00 am Healthcare Cost Committee	
17	18	19	20	21	22	23
	4pm-Civil Service Comm 6:00 pm Parks & Rec Committee Tree Commission 6:15 pm –Adhoc Comm Strategic Vision 7:00 pm – City Council		11:00 am Bid Opening WTP/WWTP Chemicals			
24	Closed 25	26	27	28	29	30
		CLOSED "Floating Holiday"	6:30 pm – Finance & Budget Committee 7:30 pm – Safety & Human Resources			
31	Closed January 01	02	03	04	05	06
		6:15 pm Technology Committee 7:00 pm - Council				

City of Napoleon, Ohio

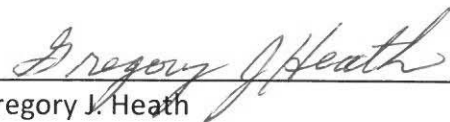
SAFETY AND HUMAN RESOURCES COMMITTEE

SPECIAL MEETING AGENDA

Monday, December 04, 2017 at 6:30 pm

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

- 1) Discussion on Entering into Emergency Medical Service Contract with the Village of Florida.
- 2) Any other matters currently assigned to the Committee.
- 3) Adjournment.



Gregory J. Heath
Finance Director/Clerk of Council

CITY COUNCIL

MEETING MINUTES

MONDAY, NOVEMBER 20, 2017 AT 7:00 PM

PRESENT

Council

Travis Sheaffer-Council President, Joseph D. Bialorucki-Council President Pro-Tem, Jeff Comadoll, Dan Baer, Rita Small, Jeff Mires, Lori Siclair

Mayor

Jason P. Maassel

City Manager

Joel L. Mazur

Law Director

Billy D. Harmon

Finance Director/Clerk

Gregory J. Heath

City Staff

Dave Mack, Chief of Police

Recorder/Records Clerk

Roxanne Dietrich

Others

Newsmedia, NCTV, Ken Haase

ABSENT

Prayer

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

Approval of Minutes

Hearing no objections or corrections, the regular meeting minutes of November 6, 2017 and the Special Council meeting minutes from November 10, 2017 and November 11, 2017 stand approved as presented.

Citizen Communication

None.

Council Committee Reports

The **Electric Committee** met on November 13, 2017 and approved the November 2017 PSCAF, they heard an update on the status of Transmission Operator, and removed the item *Electric Vehicle Rebate* from the agenda.

The **Water and Sewer Committee** did not meet due to lack of agenda items.

Chairperson Siclair reported the **Municipal Properties, Building, Land Use and Municipal Properties Committee** met on November 13, 2017 and was updated on the progress of the Downtown Improvements project and retabled this item and tabled the discussion on flowerpots vs. guardrail in the City Parking Lot.

The **Parks and Rec Committee** did not meet tonight due to lack of agenda items.

The **Ad-hoc Committee on Strategic Vision and Organizational Health** did not meet tonight.

Introduction of Ordinance No. 072-17 HB 49-Muni Income Tax

Council President Sheaffer read Ordinance No. 072-17, an Ordinance Amending the City of Napoleon, Ohio Municipal Income Tax Code for the Purpose of Adhering to the Changes Outlined in House Bill 49; and Declaring an Emergency.

Motion to Approve First Read of 072-17

Motion: Bialorucki Second: Small
to approve first read of Ordinance No. 072-17

Discussion

Harmon stated Frost Brown Todd the attorney representing Napoleon and other municipalities filed an injunction against the legal affect from HB 49 and HB5. This coalition is challenging the municipal tax provisions in those two bills. HB49 would centralize collection of municipal net profit taxes with the State Department of Taxation depriving municipalities of oversight/tax collection, there would be negative effects for

BAER	The Safety and Human Resources Committee will meet next Monday at 7:30 pm with the townships.
SICLAIR	No Items.
HARMON	Requested an Executive Session for Pending Litigation.
MAZUR	The Police Department did a great impromptu job changing the parade route. I would request an Executive Session regarding Economic Development and an Executive Session regarding Personnel.
Motion to go Into Executive Session for Pending Litigation	Motion: Comadoll Second: Bialorucki to go into Executive Session for Pending Litigation.
Passed Yea-7 Nay-0	Roll call vote on the above motion: Yea-Mires, Small, Bialorucki, Sheaffer, Comadoll, Baer, Sicliar Nay-
Motion to go Into Executive Session for Economic Development	Motion: Small Second: Siclair To go into Executive Session for Economic Development.
Passed Yea-7 Nay-0	Roll call vote on the above motion: Yea-Mires, Small, Bialorucki, Sheaffer, Comadoll, Baer, Sicliar Nay-
Motion to go Into Executive Session for Personnel	Motion: Comadoll Second: Small To go into Executive Session for Personnel.
Passed Yea-7 Nay-0	Roll call vote on the above motion: Yea-Mires, Small, Bialorucki, Sheaffer, Comadoll, Baer, Sicliar Nay-
	Council went into Executive Session at 7:23 pm.
Motion to Come Out of Executive Session for Pending Litigation	Motion: Siclair Second: Bialorucki to come out of Executive Session for Pending Litigation.
Passed Yea-7 Nay-0	Roll call vote on the above motion: Yea-Mires, Small, Bialorucki, Sheaffer, Comadoll, Baer, Sicliar Nay-
	Council President Sheaffer reported Pending Litigation was discussed in Executive Session and no action was taken.

Passed
Yea-7
Nay-0

Motion: Small Second: Bialorucki
to come out of Executive Session for Economic Development.

Roll call vote on the above motion:
Yea-Mires, Small, Bialorucki, Sheaffer, Comadoll, Baer, Sicliar
Nay-

Council President Sheaffer reported Economic Development was discussed in Executive Session and no action was taken.

Motion to Come Out of Executive Session for Personnel

Passed
Yea-7
Nay-0

Motion: Bialorucki Second: Siclair
to come out of Executive Session for Personnel

Roll call vote on the above motion:
Yea-Mires, Small, Bialorucki, Sheaffer, Comadoll, Baer, Sicliar
Nay-

Council President Sheaffer reported Personnel was discussed in Executive Session and no action was taken.

Council came out of Executive Session at 8:31 pm.

Approval of Bills

The bills and reports stand approved as presented with no objections.

Motion to Adjourn

Motion: Small
to adjourn the City Council meeting.

Passed
Yea-7
Nay-0

Roll call vote on the above motion:
Yea-Mires, Small, Bialorucki, Sheaffer, Comadoll, Baer, Siclair
Nay-

Adjournment

The City Council meeting was adjourned at 8:32 pm.

Approved:

December 04, 2017

Travis Sheaffer, Council President

Jason P. Maassel, Mayor

Gregory J. Heath, Finance Director/Clerk

CITY COUNCIL

Special Meeting Minutes

Monday, November 20, 2017 at 7:30 pm

PRESENT

City Council

Mayor

Finance Director/Clerk

City Manager

Recorder/Records Clerk

City Staff

Others

ABSENT

Travis Sheaffer-Council President, Joe Bialorucki-Council President Pro-Tem, Jeff Comadoll, Dan Baer, Rita Small, Jeff Mires, Lori Siclair

Jason P. Maassel

Gregory J. Heath

Joel L. Mazur

Roxanne Dietrich

Dave Mack, Chief of Police

Ken Haase

Call to Order

Council President Sheaffer called the Special City Council meeting to order at 8:38 pm.

Review of Small Funds

101 - General Fund Reserve Balance. We are moving an additional \$100,000 into this fund to bring the balance up to \$205,000. Mazur added my goals are to have \$1 million in the General Fund carryover and \$250,000 in the Reserve Fund.

Heath continued,

123 - Special Events Fund was never eliminated but could be.

130 - Economic Development Fund comes from the General Fund.

147 - Unclaimed Monies Fund is statutory, annual any unclaimed monies that go back for the past three years are moved into this fund.

195 - Law Library Fund is another statutory fund for court costs and fines, half goes to the county law library and the other half to the General Fund.

243 - Fire Loss Claim Fund is needed pursuant to our codifieds, if there is a fire, the insurance company must pay money to us to make sure the property is taken care of so it does not become a nuisance.

290 - 291 are the Police and Fire Pension Funds, inside millage certification is solely for the police and fire pensions, these are statutory required funds.

The Water Tower Cleaning Improvements Fund was closed out.

561 - Sanitation Depreciation Fund monies are put aside to buy equipment.
61,982,000

170 - Municipal Income Tax Fund is split three ways; Recreation Fund gets .2% and the net is split 62% - 38%.

Additional Requests

100 -General Fund Additional Requests

100-1100 City Council

\$10,000 - for a consultant for the Organizational Health and Strategic Vision.

Sheaffer explained this is a carryover from last year and is a part of the vision project to bring someone in.

100-1500 Finance/Administrative

\$2,460 - to upgrade the Accounts Payable Clerk hourly salary scale by \$1.00 an hour.

100-1520 Finance/Utility Billing

\$5,750 - to upgrade the Utility Billing Supervisor salary scale equal to that of the Income Tax Administrator.

100-1600 Information Technology/Administration

\$36,870 – this Additional Request is to make the part-time MIS technician a full-time position and rename it “IT Specialist”. Baer asked if the plan is to eventually have two full time positions. Mazur answered “yes, there has been discussion on having redundancy with the county and not hiring the IT Director until mid-year”. Sheaffer voiced his concern about waiting that long with the number of projects that need to be completed.

100-1700 Engineering/City Engineer

\$3,200 - to increase the Licensed Staff Engineer top scale by 4% and change his title to Assistant City Engineer. The City Engineer proposed changing the Assistant City Engineer to an hourly position and creating a new pay scale starting at \$32.50 with the top of the scale at \$37.50 this is proposal is much higher and over the top scale of what the City Manager is presenting.

100-2100 Police

\$15,160 - 4% increase for the Lieutenant pay scale.

\$400 - Owens Community College Consortium Annual Membership allows officers to attend unlimited consortium classes free of charge.

\$7,000 - Lexipol is an online policy membership service. Mazur suggested signing up for one year to update policies and then re-subscribe in a couple of years.

\$800 - National Testing Network is a professional service where the network does the testing for Civil Service.

200 -5100 Streets

\$5,230 - to hire a secretary one month before the Service Building Secretary retires for training purposes.

210 EMS Transport Service Fund

Raise allocation by \$5,000 for fire truck. Mazur explained \$1,000 will come from the townships and \$4,000 from the City that will be split between the 242 and CIP funds.

220 Recreation Fund

\$3,000 – Council directed an additional \$3,000 be put toward the fireworks.

Allocation will be \$12,500 from General Fund and \$12,500 from the Parks and Rec Fund.

400-1100 CIP/City Council

\$5,500 for an additional entrance sign to the City added by the City Manager.

510-6200 Water Revenue Fund/Water Treatment Plant

\$3,640 – the additional request is to make the pay scale of the Water Treatment Plant Chief Operator equal to the Wastewater Treatment Plant Chief Operator’s pay scale.

560-6400 Sanitation (Refuse) Fund

\$58,940 – the Operations Superintendent has requested a new full-time MSW II position for refuse collection.

100-1700-53310

\$5,000 – added by the City Manager for grant application assistance to have the engineering consultant, Mannik & Smith, apply for a grant to build sidewalks along Jahns Road connecting the road with the Ohio Buckeye Trail walking path. This would be a 2019 or 2020 construction project, there are traffic safety issues that could be cleaned up.

Motion to Table 2018 Budget Review

Passed
Yea-7
Nay-0

Special Council Joint Meeting with Finance and Budget Committee

Motion to Adjourn

Passed
Yea-7
Nay-0

Approved:

December 04, 2017

Gregory J. Heath, Finance Director/Clerk of Council

CITY COUNCIL

Special Meeting Minutes

Monday, November 27, 2017 at 6:00 pm

PRESENT

City Council

Mayor

City Manager

Finance Director/Clerk

City Law Director

Recorder/Records Clerk

City Staff

Others

ABSENT

Call to Order

Motion to Untable Review 2018 Budget Proposals

Passed

Yea-6

Nay-0

Review of Additional Requests

POLICE/SAFETY SERVICES

Motion to Approve Adding 4% to the Lieutenant Scale Owens CC Membership Lexipol Online Policy National Testing Network

Passed

Yea-6

Nay-0

Travis Sheaffer-Council President (arrived at 6:21 pm), Joseph D. Bialorucki-Council President Pro-Tem, Jeff Comadoll, Dan Baer, Rita Small, Jeff Mires, Lori Sicclair
Jason P. Maassel
Joel L. Mazur
Gregory J. Heath
Billy D. Harmon
Roxanne Dietrich
Dave Mack, Chief of Police
Clayton O'Brien, Fire Chief
Ken Haase, Northwest Signal

Council President Pro-Tem Bialorucki called the Special Council meeting to order at 6:00 pm.

Motion: Small Second: Comadoll
To untable *Review 2018 Budget Proposals*.

Roll Call Vote on the above Motion:
Yea- Bialorucki, Comadoll, Baer, Sicclair, Mires, Small
Nay-

It was the consensus to review the Additional Requests by *Council as a whole*.

Motion: Comadoll Second: Mires
to approve:
100-2100-51130 - adding 4% to Police Lieutenant Salary Scale
100-2100-52010 - \$400 Annual Membership to Owens Comm. College Consortium
100-2100-53300 - \$7,000 Lexipol Online Policy and Training Subscription
100-2100-53300 - \$800 National Testing Network

Roll Call Vote on the above Motion:
Yea-Bialorucki, Comadoll, Baer, Sicclair, Mires, Small
Nay-

STREETS SCM&R FUND**Motion to Approve Hiring Service Building Secretary One Month Prior to Retirement**

Motion: Comadoll

Second: Small

to approve:

200-5100-51100 - \$5,230 to hire a new Service Building Secretary one month before the current secretary's retirement.

Passed**Yea-6****Nay-0**

Roll Call Vote on the above Motion:

Yea-Bialorucki, Comadoll, Baer, Siclair, Mires, Small

Nay-

EMS TRANSPORT FUND**Motion to Approve Additional \$5,000 Allocation Contingent Upon Approval by Townships**

Motion: Comadoll

Second: Siclair

to approve:

210-9900-59620 - \$5,000 Additional Allocation contingent upon approval by the townships.

Discussion

Maassel stated we fully intend to approve this, the last thing we want is a ladder truck that is not working.

Passed**Yea-6****Nay-0**

Roll Call Vote on the above Motion:

Yea-Bialorucki, Comadoll, Baer, Siclair, Mires, Small

Nay-

**RECREATION LEVY FUND
Additional \$3,000 Out of Parks and Rec Fund
Discussion**

Maassel expressed his concern on taking an additional \$3,000 out of the Parks and Recreation Fund for fireworks without the Parks and Recreation Board's knowledge and approval. Comadoll suggested asking fraternal organizations for donations.

Motion to Recommend to the Parks and Rec Board \$3,000 for Fireworks from Parks and Rec Fund and Other Funding Options

Motion: Baer

Second: Comadoll

to refer to the Parks and Board taking an additional \$3,000 from the Parks and Rec Fund for fireworks and to also look at other funding options for fireworks.

Passed**Yea-6****Nay-0**

Roll Call Vote on the above Motion:

Yea-Bialorucki, Comadoll, Baer, Siclair, Mires, Small

Nay-

**400 CIP 1100 City Council Entrance Sign to the City
Discussion**

Mazur stated he would recommend this sign go on Appian Avenue, that area has a lot of traffic but does not have a new city sign.

Motion to Approve Additional Entrance Sign

Motion: Small

Second: Comadoll

to approve:

400-1100-57200 - \$5,500 for an Additional Entrance Sign to the City

Passed**Yea-6****Nay-0**

Roll Call Vote on the above Motion:

Yea-Bialorucki, Comadoll, Baer, Siclair, Mires, Small

Nay-

ENGINEERING/CITY ENG.
Discussion

Mazur stated the intent is to put a sidewalk in from the railroad down Jahns Road and put in a crossing that goes towards the river and connects to the Buckeye Trail picking up where the boat ramp is and heading downtown. We are looking into two funding sources, the ODNR Clean Ohio Trails is a 80/20 split to help fund the engineering and ODOT fund would be for construction of the project. Comadoll asked if anyone has talked with Dr. Krueger who is in charge of the Buckeye Trail. Mazur answered he did not have a formal meeting but did talk to him.

Motion to Approve Applying for ODNr and ODOT Grant Funds

Motion: Baer
to approve:
\$5,000 – 100-1700-53310 to apply for ODNr and ODOT grant funds.

Passed
Yea-7
Nay-0

Roll Call Vote on the above Motion:
Yea-Bialorucki, Sheaffer, Comadoll, Baer, Siclair, Mires, Small
Nay-

CITY COUNCIL/LEGISLATIVE

Sheaffer explained this was originally put in the 2017 budget. Mazur added we are looking at updating the 2009 City Master Plan that could help outline the City's strategic vision. Sheaffer said what facilitated this was the emphasis on organizational health; however, with changes in the last year, it not a priority.

Motion to Remove Org. Health and Strategic Vision Consultant Services

Motion: Bialorucki Second: Siclair
to Remove the Additional Request:
\$10,000 - 1000-1500-51100 for Consultant Services.

Passed
Yea-7
Nay-0

Roll Call Vote on the above Motion:
Yea-Bialorucki, Sheaffer, Comadoll, Baer, Siclair, Mires, Small
Nay-

Motion to Go Into Executive Session for Personnel Issues

Motion: Bialorucki Second: Comadoll
to go into Executive Session for Personnel Issues.

Passed
Yea-7
Nay-0

Roll Call Vote on the above Motion:
Yea-Bialorucki, Sheaffer, Comadoll, Baer, Siclair, Mires, Small
Nay-

Council went into Executive Session at 6:36 pm.

Motion to Come Out of Executive Session

Motion: Bialorucki Second: Small
to come out of Executive Session.

Passed
Yea-7
Nay-0

Roll Call Vote on the above Motion:
Yea-Bialorucki, Sheaffer, Comadoll, Baer, Siclair, Mires, Small
Nay-

Council President Sheaffer reported personnel was discussed in Executive Session and no action was taken.

7:13 Council Came Out of Executive Session

FINANCE/ADMINISTRATION

Motion to Approve Adding \$1.00 to Accounts Payable Clerk Top Pay Scale

Motion: Comadoll
to approve:

Second:

\$2,460 – 100-1500-51100 adding \$1.00 to the Accounts Payable Clerk Top Scale, a 5.24% Increase.

Passed

Yea-7

Nay-0

Roll Call Vote on the above Motion:

Yea-Bialorucki, Sheaffer, Comadoll, Baer, Siclair, Mires, Small

Nay-

FINANCE/UTILITY BILLING

Motion to Approve Adding \$2.33 to Utility Billing Supervisor Top Pay Scale Over a Two-Year Period at a 50/50 Split

Motion: Comadoll
to approve:

Second: Bialorucki

\$5,750 – 100-1520-51100 upgrading the Utility Billing Supervisor to salary scale \$2.33 over a two (2) year period at a 50/50 split, a 10.83% Increase.

Passed

Yea-7

Nay-0

Roll Call Vote on the above Motion:

Yea-Bialorucki, Sheaffer, Comadoll, Baer, Siclair, Mires, Small

Nay-

INFORMATION

**TECHNOLOGY/ADMIN
Motion to Approve Making MIS Technician a Full Time IT Specialist**

Motion: Comadoll
to approve:

Second: Baer

\$36,870 – 100-1600-51100 making the part-time MIS technician a full-time IT Specialist.

Passed

Yea-7

Nay-0

Roll Call Vote on the above Motion:

Yea-Bialorucki, Sheaffer, Comadoll, Baer, Siclair, Mires, Small

Nay-

ENGINEERING/CITY ENG.

Motion to Add \$1.30 to Top Pay Scale of Licensed Staff Engineer

Motion: Small
to approve:

Second: Mires

\$3,200 – 100-1700-51100 by Adding \$1.30 to the Top Scale of the Licensed Staff Engineer, a 4% Increase.

Passed

Yea-7

Nay-0

Roll Call Vote on the above Motion:

Yea-Bialorucki, Sheaffer, Comadoll, Baer, Siclair, Mires, Small

Nay-

WATER REVENUE FUND

Motion to Add \$1.48 to Chief WTP Operator Top Pay Scale

Motion: Comadoll

Second: Small

\$3,640 – 510-6200-51100 to add \$1.48 to the Top Pay Scale of the Water Treatment Plant Chief Operator, a 5.39% Increase.

Passed
Yea-7
Nay-0

SANITATION/RECYCLING
Motion to Eliminate
Request for Full Time
MSWII Position

Motion: Comadoll Second: Mires
to eliminate the request, for this year, for a Full Time MSWII Position.

**Motion to Direct Law
Director to Draft Legislation
2% Increase for Non-
Bargaining for 2018**

Motion: Bialorucki Second: Comadoll
to direct the Law Director to draft legislation for non-bargaining employees with a 2% increase.

Motion to Adjourn

Motion: Small Second: Bialorucki
to adjourn the Special Council meeting at 7:21 pm.

Approved:

Travis Sheaffer, Council President

Gregory J. Heath, Finance Director/Clerk of Council

CITY COUNCIL

MEETING AGENDA

Monday, December 04, 2017 at 7:00 pm

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

- A. Attendance** *(Noted by the Clerk)*
- B. Prayer and Pledge of Allegiance**
- C. Presentation by Mayor (2017 Lady Cats State Champion Water Polo Team)**
- D. Mayor's Presentation of the 2018 Budget**
- E. Approval of Minutes** *(in the absence of any objections or corrections, the minutes shall stand approved)*
 - 1. November 20, 2017 Regular City Council Meeting Minutes
 - 2. November 20, 2017 Special Meeting Minutes
 - 3. November 27, 2017 Special Meeting Minutes
- F. Citizen Communication**
- G. Reports from Council Committees**
 - 1. **Finance and Budget Committee** met in Special Sessions with Council on November 10, 11, 20 and 27, 2017 to review the proposed 2018 Budget.
 - 2. **Safety and Human Resources Committee** met on November 27, 2017 in a joint meeting with the Townships and Henry County South Joint Ambulance District and reviewed the current contracts, and set a Special Meeting for Monday, December 4, 2017 at 6:30 pm for discussion on entering into an EMS contract with the Village of Florida.
 - 3. **Technology Committee** due to lack of agenda items, did not meet earlier this evening.
- H. Reports from Other Committees, Commissions and Boards** *(Informational Only-Not Read)*
 - 1. **Civil Service Commission** did not meet on November 28, 2017 due to lack of agenda items.
 - 2. **Parks and Rec Board** met on November 29, 2017; and reviewed the 2018 Budget and discussed the Parks and Recreation Service Award.
- I. Introduction of New Ordinances and Resolutions**
 - 1. **Ordinance No. 072-17**, an Ordinance Amending the City of Napoleon, Ohio Municipal Income Tax Code for the Purpose of Adhering to the Changes Outlined in House Bill 49; and Declaring an Emergency. (Tabled)
 - 2. **Resolution No. 073-17**, a Resolution Authorizing the Expenditure of Funds Over Twenty-Five Thousand Dollars (\$25,000.00) for the Purpose of Installing Utilities in the Right-of-Way at Parcel Number 28-0700780000, Independence Drive, Napoleon, Ohio, commonly known as the Spec Building, which was not included in the 2017 Master Bid Resolution; and Declaring an Emergency. *(Suspension Requested)*
 - 3. **Ordinance No. 074-17**, an Ordinance Amending Chapter 143, Section 143.06 of Part One of the Codified Ordinances of the City of Napoleon, Ohio, a City of Napoleon, Ohio Fire and Rescue Fee Schedule; and Declaring an Emergency. *(Suspension Requested)*
 - 4. **Ordinance No. 075-17**, an Ordinance to Approve Current October 2017 Replacement Pages to the City of Napoleon, Ohio Codified Ordinances.
 - 5. **Resolution No. 077-17**, a Resolution Authorizing the Expenditure of Funds Over Twenty-Five Thousand Dollars (\$25,000.00) for the Purchase of a Rescue Airboat and Trailer for the City of Napoleon Fire Department, Utilizing the Federal Cooperative Purchasing Program, which was not included in the 2017 Master Bid Resolution; and Declaring an Emergency. *(Suspension Requested)*
 - 6. **Resolution No. 078-17**, a Resolution Approving the Provisions of a Certain Collective Bargaining Agreement No. 2016-MED-08-0802 between the City of Napoleon and Local 240 Napoleon Police Officers Association IUPA, AFL-CIO for the Term Commencing from December 1, 2017 Through November 30, 2019; Authorizing the City Manager to Execute the same; and Declaring an Emergency. *(Suspension Requested)*

7. **Resolution No. 079-17**, a Resolution Approving the Provisions of a Certain Collective Bargaining Agreement No. 2017- between the City of Napoleon and Local 3363 International Association of Fire Fighters for the Term Commencing from January 1, 2018 through December 31, 2019; Authorizing the City Manager to Execute the same; and Declaring an Emergency. *(Suspension Requested)*
8. **Ordinance No. 080-17**, an Ordinance Establishing the Appropriation Measure (Budget) of the City of Napoleon, Ohio for the Fiscal Year Ending December 31, 2018, Listed in Exhibit "A"; and Declaring an Emergency.
9. **Resolution No. 081-17**, 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 2018, Listed in Exhibit "A"; and Declaring an Emergency.
10. **Resolution No. 082-17**, a Resolution Authorizing the Expenditure of Funds and Authorizing a Department Director to take Bids on Certain Projects, Services, Equipment, Materials, or Supplies without the Requirement for Additional Legislation to do so in the Year 2018; and Declaring an Emergency.
11. **Resolution No. 083-17**, a Resolution Authorizing Expenditure of Funds in Excess of Twenty-Five Thousand Dollars (\$25,000.00) in and for the Year 2018 as it relates to Reoccurring Costs Associated with the Operation of the City, for Payment of Expenses, and for Purchases Associated with Vendors Utilized by Multiple Departments within the City; Elimination of Necessity of Competitive Bidding in and for the Year 2018 as it Relates to Certain Transactions; Declaring an Emergency.

J. Second Readings of Ordinances and Resolutions

K. Third Readings of Ordinances and Resolutions

1. **Ordinance No. 068-17**, an Ordinance Amending Various Sections of the Rules and Regulations of City Council for the City of Napoleon, Ohio.

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

1. **Discussion/Action:** Entering into Emergency Medical Service Contract with the Village of Florida.
2. **Discussion/Action:** Approval of Specifications and Documentation for the City Door Controller Project.

M. Executive Session (Personnel)

N. 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.)*

O. Adjournment



Gregory J. Heath
Finance Director/Clerk of Council

A. ITEMS REFERRED OR PENDING IN COMMITTEES OF COUNCIL

- 1. Technology & Communication Committee (1st Monday)**
(Next Regular Meeting: December 4, 2017 @6:15 pm)
- 2. Electric Committee (2nd Monday)**
(Next Regular Meeting: Monday, December 11, 2017 @6:30 pm)
 - a. Review of Power Supply Cost Adjustment Factor for December, 2017
 - b. Transmission Operator for Northside Substation
 - c. Electric Vehicle Rebate (Tabled)
 - d. Electric Department Report
- 3. Water, Sewer, Refuse, Recycling & Litter Committee (2nd Monday)**
(Next Regular Meeting: Monday, December 11, 2017 @7:00 pm)
 1. Review Utility Promissory Note (January 08, 2018).
- 4. Municipal Properties, Buildings, Land Use & Economic Development Committee (2nd Monday)**
(Next Regular Meeting: Monday, December 11, 2017 @7:30 pm)
 - a. Downtown Improvements (Tabled)
 - b. Updated Information from Staff on Economic Development (as needed)
- 5. Parks & Recreation Committee (3rd Monday)**
(Next Regular Meeting: Monday, December 18, 2017 @6:00 pm)
- 6. Ad Hoc Committee on Organizational Health and Strategic Vision (3rd Monday)**
(Next Regular Meeting: Mon., December 18, 2017 at 6:15 pm)
 - a. Discussion on Mission and Strategic Vision.
- 7. Finance & Budget Committee (4th Monday)**
(Next Regular Meeting: Wednesday, December 27, 2017 @6:30 pm)
- 8. Safety & Human Resources Committee (4th Monday)**
(Next Regular Meeting: Wednesday, December 27, 2017 @7:30 pm)
- 9. Personnel Committee (as needed)**
- 10. Ad-hoc Committee on Council Rules (as needed)**

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

- 1. Board of Public Affairs (2nd Monday)**
(Next Regular Meeting: Monday, December 11, 2017 @6:30 pm)
 - a. Review of Power Supply Cost Adjustment Factor for December, 2017
 - b. Discussion on Transmission Operator for Northside Substation
 - c. Electric Vehicle Rebate (Tabled)
- 4. Electric Department Report**
- 5. Review Utility Promissory Note (January 08, 2018).**
- 2. Board of Zoning Appeals (2nd Tuesday)**
(Next Regular Meeting: Tuesday, December 12, 2017 @4:30 pm)
- 3. Planning Commission (2nd Tuesday)**
(Next Regular Meeting: Tuesday, December 12, 2017 @5:00 pm)
- 4. Tree Commission (3rd Monday)**
(Next Regular Meeting: Monday, December 18, 2017 @6:00 pm)
- 5. Civil Service Commission (4th Tuesday)**
(Next Regular Meeting: Wednesday, December 27, 2017 @4:30 pm; Special Meeting on Monday, Dec. 18, 2017 at 4:00 pm)
- 6. Parks & Recreation Board (Last Wednesday)**
(Next Regular Meeting: Wed., December 27, 2017 @6:30 pm)
- 7. Privacy Committee (2nd Tuesday in May & November)**
(Next Regular Meeting: Tuesday, May 8, 2018 @10:30 am)
- 8. Records Commission (2nd Tuesday in June & December)**
(Next Regular Meeting: Tuesday, December 12, 2017 @4:00 pm)
- 9. Housing Council (1st Monday of the month after the TIRC meeting)**
- 10. Health Care Cost Committee (Next Meeting: Friday, December 15, 2017 at 10:00 am)**
- 11. Preservation Commission (as needed)**
- 12. Napoleon Infrastructure/Economic Development Fund Review Committee (NIEDF) (as needed)**
- 13. Tax Incentive Review Council (as needed)**
- 14. Volunteer Firefighters' Dependents Fund Board (as needed)**
- 15. Volunteer Peace Officers' Dependents Fund Board (as needed)**
- 16. Lodge Tax Advisory & Control Board (as needed)**
- 17. Board of Building Appeals (as needed)**
- 18. ADA Compliance Board (as needed)**
- 19. NCTV Advisory Board (as needed)**

ORDINANCE NO. 072-17

AN ORDINANCE AMENDING THE CITY OF NAPOLEON, OHIO MUNICIPAL INCOME TAX CODE, FOR THE PURPOSE OF ADHERING TO THE CHANGES OUTLINED IN HOUSE BILL 49; AND DECLARING AN EMERGENCY

WHEREAS, the Home Rule Amendment of the Ohio Constitution, Article XVII, Section 3, provides that “Municipalities shall have authority to exercise all powers of local self-government,” and the municipal taxing power is one of such powers of local self-government delegated by the people of the State to the people of municipalities; and,

WHEREAS, the General Assembly has determined it is necessary and appropriate to comprehensively review and amend Chapter 718 of the Ohio Revised Code, setting forth statutory requirements for municipal income tax codes in Ohio; and

WHEREAS, more specifically, the General Assembly enacted H. B. 49, and mandated that municipal income tax codes be amended by January 1, 2018 such that any income or withholding tax is “levied in accordance with the provisions and limitations specified in Ohio Revised Code Chapter 718;” and,

WHEREAS, upon a detailed review of H. B. 49 and the Codified Ordinances of the City of Napoleon, this Ordinance is found and determined by this Council to enact the amendments required to be in accord with the provisions and limitations specified in Chapter 718 of the Revised Code. **Now Therefore;**

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

Section 1. That, Chapter 194 of the Codified Ordinances of Napoleon, Ohio was adopted as set forth in the document entitled “Chapter 194, Municipal Income Tax, Effective January 1, 2016” attached to Ord. No. 053-15 as Exhibit A and incorporated therein by reference.

Section 2. That, Chapter 193 of the Codified Ordinances of Napoleon, Ohio remains in full force and effect for all taxable years prior to 2016.

Section 3. That, Ordinance No. 053-15 took effect on January 1, 2016, and remains in effect and in force to date.

Section 4. That, this Ordinance No. 072-17 amends Ordinance No. 036-16 so as to incorporate and adopt all identified changes noted herein, including the changes as noted in the attached Exhibit A entitled “Am. Sub. H. B. No. 49.” The remaining, unchanged portions of Ordinance No.(s) 053-15 and 036-16 remain in full force and effect.

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 the City of Napoleon, Ohio.

Section 6. That, this Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health or safety of the City and its inhabitants, and for the further reason that this legislation must be in effect at the earliest possible time in order to allow the City to timely implement the changes expounded in House Bill 49; therefore, provided it receives the required number of votes for passage as emergency legislation, it shall be in full force and effect immediately upon its passage; otherwise, it shall be in full force and effect at the earliest time permitted by law.

Passed: _____

Travis B. Sheaffer, Council President

Approved: _____

Jason P. Maassel, 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. 072-17 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. 073-17

A RESOLUTION AUTHORIZING THE EXPENDITURE OF FUNDS OVER TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00) FOR THE PURPOSE OF INSTALLING UTILITIES IN THE RIGHT OF WAY AT PARCEL NUMBER 28-0700780000, INDEPENDENCE DRIVE, NAPOLEON, OHIO, COMMONLY KNOWN AS THE SPEC BUILDING, WHICH WAS NOT INCLUDED IN THE 2017 MASTER BID RESOLUTION; AND DECLARING AN EMERGENCY

WHEREAS, the City of Napoleon is currently installing utilities in the right of way at Parcel No. 28-0700780000, Independence Drive, Napoleon, Ohio pursuant to its contractual obligation as outlined in the Economic Development Agreement that the City signed with Ventures In Space, Ltd; and,

WHEREAS, in order to fulfill its contractual obligation to Ventures In Space, Ltd. the City must purchase various things such as pipe, manholes, catch basins, valves, fittings, fire hydrants, and other appurtenances, and must also pay certain amounts for labor; and,

WHEREAS, the purchases and labor involved in this project were previously quoted to the City of Napoleon at an estimated amount less than the twenty five thousand dollar (\$25,000.00) threshold which requires public bidding and council approval as to expenditures; and

WHEREAS, this matter is being brought before Council at this time because it has been brought to staff's attention that a necessary change order for this project will put the total project price over the twenty five thousand dollar (\$25,000.00) bidding/council approval threshold; and,

WHEREAS, upon due consideration Council believes it is in the best interest of the City of Napoleon to eliminate the necessity for competitive bidding for this project; and,

WHEREAS, Council further finds that the expenses related to this project are necessary and proper.

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

Section 1. That, the City of Napoleon authorizes the expenditure of funds in excess of twenty five thousand dollars (\$25,000.00) for the purpose of installing utilities in the right of way at Parcel No. 28-0700780000, Independence Drive, Napoleon, Ohio, commonly known as the Spec Bldg.

Section 2. That, Council finds it to be in the best interest of the City to eliminate the necessity for competitive bidding for this project so as not to cause significant delays in construction and so that the City continues fulfilling its contractual obligations.

Section 3. That, the City Manager is authorized and instructed to contract for the purchases and labor necessary to complete this project.

Section 4. 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 5. 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 6. That, for the reasons listed above, this Resolution is declared to be an emergency measure necessary for the immediate preservation of the public peace, health or safety of the City and its inhabitants; therefore, provided it receives the required number of votes for passage as emergency legislation, it shall be in full force and effect immediately upon its passage; otherwise, it shall be in full force and effect at the earliest time permitted by law.

Passed: _____

Travis B. Sheaffer, Council President

Approved: _____

Jason P. Maassel, 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. 073-17 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. 074-17

**AN ORDINANCE AMENDING CHAPTER 143, SECTION 143.06
OF PART ONE OF THE CODIFIED ORDINANCES OF THE CITY
OF NAPOLEON, OHIO, A CITY OF NAPOLEON, OHIO FIRE
AND RESCUE FEE SCHEDULE; AND DECLARING AN
EMERGENCY**

WHEREAS, this Council recently passed Ordinance 058-17 creating and enacting Chapter 143, Section 143.06 of Part One of the Codified Ordinances of the City of Napoleon, Ohio Fire and Rescue Fee Schedule; and,

WHEREAS, the Napoleon Fire Chief desires and recommends that a modification be made to said Fee Schedule; and,

WHEREAS, this Council has considered the recommendation of the Fire Chief, and now deems appropriate the requested change.

Now Therefore,

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

Section 1. That, upon recommendation of the City of Napoleon Fire Chief, the City hereby adopts the following amended schedule of fees, listed in this Ordinance below, for services rendered by Napoleon Fire & Rescue, to be known as the Napoleon Fire & Rescue Fee Schedule, in accordance with current County of Henry, State of Ohio fees.

Section 2. That Part One, Administrative Code, Title Five, Administrative, Chapter 143, Fire/Rescue Department, Section 143.06, Fee Schedule, be amended to read as follows:

143.06 Fee Schedule

The City of Napoleon hereby adopts and establishes a schedule of fees for services rendered by Napoleon Fire and Rescue as follows:

Service	Type	Description	Cost per Hour or Incident
Education	Public Education	CPR/includes AED	\$45.00/person
Education	Public Education	CPR	\$9.00/high school student
Education	Public Education	Fire Extinguisher	Free

Education	Public	Use of Fire Safety Trailer (out of	\$150.00
Education	Education	County)	
Education	Training Facility	Use of building – no burn	\$50.00/hour
Education	Training Facility	Use of building and Bullex Fire Simulator (includes 1 safety officer)	\$55.00/hour
Education	Training Facility	Use of building – live burn	\$60.00/hour
Education	Training Facility	Lead Instructor	\$50.00/hour
Education	Training Facility	Assistant instructor	\$35.00/hour
Education	Training Facility	Safety Officer (required for ALL use of building)	\$50.00/hour
Education	Training Facility	Vehicle Fire (up to 2 cars)	\$50.00/hour
Education	Training Facility	Vehicle Extrication (up to 2 cars)	\$50.00/hour
Education	Training Facility	Fire Engine	\$125.00/hour
Education	Training Facility	Ladder Truck	\$150.00/hour
Public Relations	Stand by	Football Game	\$100.00/game
Inspection	Fire Prevention	Initial Fire Inspection	Free
Inspection	Fire Prevention	Re-Inspection	Free
Inspection	Fire Prevention	Third Inspection	\$50.00
Inspection	Fire Prevention	All subsequent re-inspections	Increase by \$50.00/inspection
False Alarm	Incident Response	Third False Alarm (Commercial)	\$250.00
False Alarm	Incident Response	Fourth False Alarm (Commercial)	\$500.00
False Alarm	Incident Response	Fifth False Alarm (Commercial)	\$750.00
False Alarm	Incident Response	Third False Alarm (Residential)	\$100.00
False Alarm	Incident Response	Fourth False Alarm (Residential)	\$200.00
False Alarm	Incident Response	Fifth False Alarm (Residential)	\$300.00
Hazardous Materials	Incident Response	Hazardous Materials spills greater than 25 gallons	Itemized
Hazardous Materials	Incident Response	Engine/Pumper	\$125.00/hour
Hazardous Materials	Incident Response	Ladder Truck	\$150.00/hour
Hazardous Materials	Incident Response	Tender	\$50.00/hour
Hazardous Materials	Incident Response	EMS Transport Vehicle (does not include transport fee)	\$100.00
Hazardous Materials	Incident Response	Hazardous Materials (trailer and pick up)	\$150.00/incident

Hazardous Materials	Incident Response	Support Vehicle (secondary unit needed by IC)	\$10.00/hour or actual cost
Hazardous Materials	Incident Response	Decontamination	\$200.00/incident
Hazardous Materials	Incident Response	Incident Commander	\$35.00/hour (each)
Hazardous Materials	Incident Response	Operations Officer	\$25.00/hour (each)
Hazardous Materials	Incident Response	Support Staff	\$15.00/hour (each)
Hazardous Materials	Incident Response	Fire and EMS Personnel (on scene and standby)	Actual hourly rate (each)
Hazardous Materials	Incident Response	Other Personnel and Government Employees	Actual hourly rate (each)
Hazardous Materials	Incident Response	Station fees (if utilized as part of the operation)	\$200.00 first hour; \$25.00 after \$500.00 maximum
Hazardous Materials	Incident Response	Supplies	Charged at replacement cost
Hazardous Materials	Incident Response	Administrative fees	15% of total billing

Section 3. 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 4. 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 5. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the City and for the further reason that this Ordinance is required to be in effect at the earliest possible time to allow for emergency services to be rendered in a timely manner, emergency services also utilized by the City inhabitants when needed outside the City's jurisdictional boundaries; therefore, provided it receives the required number of votes for passage as emergency legislation, it shall be in full force and effect immediately upon its passage; otherwise, it shall be in full force and effect at the earliest time permitted by law.

Passed: _____

Travis B. Sheaffer, Council President

Approved: _____

Jason P. Maassel, 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. 074-17 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. 075-17

AN ORDINANCE TO APPROVE CURRENT OCTOBER 2017 REPLACEMENT PAGES TO THE CITY OF NAPOLEON, OHIO CODIFIED ORDINANCES

WHEREAS, certain provisions within the Codified Ordinances should be amended to conform with current State law as required by the Ohio Constitution; and

WHEREAS, various ordinances of a general and permanent nature have been passed by Council which should be included in the Codified Ordinances; and

WHEREAS, the City has heretofore entered into a contract with the Walter H. Drane Company to prepare and publish such revision which is before Council;

Now Therefore,

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

Section 1. That, the Ordinances of the City of Napoleon, Ohio, of a general and permanent nature, as revised, recodified, rearranged and consolidated into component codes, titles, chapters and sections within the October 2017 replacement pages to the Codified Ordinances are hereby approved and adopted; such having been certified as correct by the Clerk of Council and the Mayor.

Section 2. That, among others, the following sections and chapters are hereby added, amended or repealed as respectively indicated in order to comply with current State law.

Charter

Table of Contents through Page 26

Administrative Code

143.01	Composition and Control of the City Fire/Rescue Department
197.17	Trauma Leave
197.18	Vacations
197.19	Other Leaves of Absence

Traffic Code

303.04	Road Workers, Motor Vehicles and Equipment Excepted
303.041	Emergency, Public Safety and Coroner's Vehicles Exempt
303.05	Applications to Persons Riding, Driving Animals Upon Roadway
303.06	Freeway Use Prohibited by Pedestrians, Bicycles and Animals
303.07	Application to Drivers of Government Vehicles
303.08	Impounding of Vehicles; Redemption
303.081	Impounding Vehicles on Private Residential or Agricultural Property
303.082	Private Tow-Away Zones
303.083	Release of Vehicle; Records; Charges
303.09	Leaving Junk Vehicles on Private or Public Property Without Permission or Notification

303.10	Providing False Information to Police Officer
303.99	General Traffic Code Penalties
313.09	Driver's Duties Upon Approaching Ambiguous or Non-Working Traffic Signal
313.10	Unlawful Purchase, Possession or Sale
313.11	Portable Signal Preemption Devices Prohibited
333.01	OVI: Willful Misconduct Speed
335.09	Display of License Plates; Expired or Unlawful Plates
335.10	License Plates to be Unobstructed
335.11	Registration Within Thirty Days of Residency
335.12	Stopping After Accident Upon Streets; Collision With Unattended Vehicle
335.13	Stopping After Accident Upon Property Other Than Street
335.14	Vehicle Accident Resulting in Damage to Realty
351.05	Manner of Angle Parking
351.06	Selling, Repairing Vehicle; Advertising
351.07	Unattended Vehicle: Duty to Stop Engine, Remove Key, Set Brake and Turn Wheels
351.08	Opening Vehicle Door on Traffic Side
351.09	Vehicles to be Parked Entirely Within Spaces
351.10	Bus Stops
351.11	Blocking Streets and Alleys Prohibited
351.12	Prohibition Against Parking on Streets or Highways
351.13	Parking on Posted Private Property
351.14	All Night Parking
351.15	Trucks, Trailers, Oversize Vehicles
351.16	Parking Prohibited on One or Both Sides of Street
351.17	Parking Time Limits
351.18	Central City Parking District
351.19	Vehicular Weight Limits for City-Owned Parking Lots
351.20	Parking Prohibitions for Immobilized, Disabled or Unlicensed Vehicles
351.21	Street lawns
351.99	Penalty

General Offenses Code

501.01	Definitions
501.06	Limitation of Criminal Prosecution
501.07	Requirements for Criminal Liability

Business Regulations Code

711	Amusement Devices and Arcades (Repealed)
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Planning and Zoning Code

1101.01	Definitions
1145.01	Table of Permissible Uses

Fire Code

1501.01	Adoption
1501.02	Purpose
1501.03	Application
1501.04	Enforcement
1501.05	Compliance
1501.06	Posting Arson Laws
1501.07	Setting Fire Which Spread

Section 3. That, the complete text of all current Codified changes are set forth in the current replacement pages to the City of Napoleon's Codified Ordinances, said pages which are attached to this Ordinance as Exhibit "A." Any summary publication of this Ordinance shall include a complete listing of these sections. Notice of adoption of each new section by reference to its title shall constitute sufficient publication of new matter contained therein.

Section 4. 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 5. 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 6. That, upon passage, this Ordinance shall take effect at the earliest time permitted by law.

Passed: _____

Travis B. Sheaffer, Council President

Approved: _____

Jason P. Maassel, 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. 034-17 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

INSTRUCTIONS FOR INSERTING
OCTOBER 2017 REPLACEMENT PAGES
FOR THE
CODIFIED ORDINANCES
OF NAPOLEON

All new replacement pages bear the footnote "October 2017 Replacement". Please discard old pages and insert these new replacement pages immediately as directed in the following table.

Discard Old Pages

Insert New Pages

PRELIMINARY

Cover and Certification Page
9, 10
17, 18
21 through 26
40C, 40D
46A, 46B

Cover and Certification Page
9, 10
17, 18
21 through 26
40C, 40D
46A, 46B

CHARTER

Table of Contents Page
through 25

Table of Contents Page
through 26

PART ONE - ADMINISTRATIVE CODE

43 through 44A
197 through 203

43 through 44D
197 through 203

PART THREE - TRAFFIC CODE

15 through 22C
37, 38
63 through 74
98A through 98E
139 through 142A

15 through 22C
37, 38
63 through 74
98A through 98F
139 through 142A

PART FIVE - GENERAL OFFENSES CODE

3, 4
9, 10

3, 4
9, 10

PART SEVEN - BUSINESS REGULATION CODE

Table of Contents Page
through 8

Table of Contents Page
through 3

Discard Old Pages

Insert New Pages

PART ELEVEN - PLANNING AND ZONING CODE

7 through 10
19, 20
137, 138
144A

7 through 10
19, 20
137, 138
144A

PART FIFTEEN - FIRE PREVENTION CODE

3, 4

3, 4

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

Complete to October 16, 2017

CERTIFICATION

We, Jason Maassel, Mayor and Gregory J. Heath, Council Clerk of Napoleon, Ohio pursuant to Article II Section 2.15 of the Charter and Section 121.03 of the Administrative Code, hereby certify that the general and permanent ordinances of the City of Napoleon, Ohio, as revised, rearranged, compiled, renumbered as to sections, codified and printed herewith in component codes are correctly set forth and constitute the Codified Ordinances of Napoleon, Ohio, 1996, as amended to October 16, 2017.

/s/ Jason Maassel
Mayor

/s/ Gregory J. Heath
Council Clerk

Codified, edited and prepared for
publication by
THE WALTER H. DRANE COMPANY
Cleveland, Ohio

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The Walter H. Drane Company

GENERAL INDEX

EDITOR'S NOTE: References are to individual code sections. As additional aids for locating material, users are directed to:

- (a) The Comparative Section Table which indicates in the Codified Ordinances the disposition of the ordinances or resolutions integrated therein.
- (b) The table of contents preceding each component code, and the sectional analysis preceding each chapter.
- (c) The cross references to related material following each chapter analysis.

ABANDONMENT

excavations	521.03
motor vehicle as nuisance	503.13
nonconforming projects or uses	1129.07

ACCIDENT

impounding vehicle	303.08
injurious material on street	311.01
off-highway motorcycle	375.07
property other than street, on	335.13, 335.14
realty, damaging	335.14
snowmobile or all purpose vehicle	375.07
street, on	335.12
unattended vehicle	335.12, 335.13

ADA COMPLIANCE BOARD

complaints, filing	171.07
duties, powers	171.04

ADA COMPLIANCE BOARD (Cont.)

established	171.01
function	171.02
meetings	171.05
members; appointment	171.03
rules	171.05

ADDRESSES

building numbering	1325.06
--------------------	---------

ADMINISTRATIVE DEPARTMENTS

creation	Chtr. 4.01
directors	
employment status	Chtr. 4.04
established	Chtr. 4.02
powers; authority	Chtr. 4.05
qualifications	Chtr. 4.03

ADOPTION BY REFERENCE

Ohio Building Code	1301.01
--------------------	---------

ADVERTISING (see also SIGNS)

motor vehicle, parked; display 351.06
planned developments 1143.02
traffic control device, on 313.07

AIDING OR ABETTING 501.10**AIR POLLUTION**

odors 1127.17, 1127.18
smoke 1127.14
vehicle air cleaner required 337.25

**ALCOHOL (see INTOXICANTS;
INTOXICATION)****ALLEY**

closing, temporary 312.09, 901.02
damage to; fine 331.47
defined 301.03
parking in 351.11
right of way
 entering 331.17
 junction of alleys 331.16
 leaving 331.22, 331.23
speed limit 333.03
turning into 331.11
unintended use by vehicle 331.46
vacating (see VACATION OF STREETS
AND ALLEYS)

ALL PURPOSE VEHICLE

accident report 375.07
bike path, prohibited on 331.37
certificate of title 375.08
definitions 375.01
equipment 375.02
governmental exception 375.08
operation
 permitted 375.04
 prohibited 375.03
operator's license 375.05
registration 375.06
snow emergency 375.04
Traffic Code application 375.03

AMENDMENTS

Charter Chtr. 10.01
civil service rules 195.16
Codified Ordinances 101.04
Planning and Zoning
 Code 1121.01 et seq.

**AMERICANS WITH DISABILITIES ACT
(see ADA COMPLIANCE
BOARD)****ANIMAL-DRAWN VEHICLES**

freeway, prohibited on 303.06(b)
lights, emblem 337.10

CRUELTY

dogs, restraining 505.16

CULPABILITY

criminal liability 501.07
 knowingly 501.08(b)
 mental states 501.08
 negligently 501.08(d)
 purposely 501.08(a)
 recklessly 501.08(c)

CURB

cutting; permit,
 inspection fee 919.18
 driving over 331.37
 maintenance 901.01
 parking on prohibited 351.03
 snow removal 901.01

CURFEW

conduct, unlawful
 establishment owner or
 operator 507.04
 juvenile 507.02
 parent 507.03
 definitions 507.01
 penalty 507.99
 probationary license 335.031
 temporary instruction permit 335.03

DANGEROUS ORDNANCE (see WEAPONS)**DEFINITIONS (see also specific subject involved)**

culpability 501.08
 law enforcement officer 501.01
 offense of violence 501.01
 physical harm 501.01
 property 501.01
 Traffic Code Ch. 301

DEPARTMENTS, ADMINISTRATIVE

(see also specific department involved)

creation Chtr. 4.01
 heads Chtr. 4.02

DIRT BIKE (see MOTORCYCLE, OFF-HIGHWAY)**DISCRIMINATION**

employees 197.02(d)
 housing (see FAIR HOUSING PRACTICES)

DISTURBING THE PEACE

muffler noise 337.20
 noise control 531.03
 racing vehicle motor 331.36
 squealing tires, peeling 331.36
 vehicle exhaust noise 331.36

DOGS (see ANIMALS)**DRAG RACING 333.07****DRAINAGE**

compliance required 521.05
 nuisance abatement 503.21
 planned developments 1143.02

DRIVER'S LICENSE (see also COMMERCIAL DRIVERS)

application falsification 335.04(e)
 display 335.06
 fictitious, revoked, altered 335.04(a)
 lending 335.04(b)
 motorcycle, off-highway 375.05
 motorcycle operator 335.01(a)
 motorized bicycle 373.10
 nonresident driver 335.01(b)
 Ohio license required for
 in state residents 335.021

DRIVER'S LICENSE (Cont.)

permitting operation without possession	335.02
more than one	335.02
someone else's	335.04(c)
probationary; curfew	335.031
prohibited acts	335.04
required	335.01
restriction violation	335.07
revoked or suspended	
driving with	335.07
failure to surrender	335.04(d)
reinstatement requirements,	
noncompliance with	335.073
snowmobile or all purpose vehicle	375.05
suspended, driving under temporary, licensed driver required	335.074
	335.03

DRIVEWAY

construction; repair	913.01 et seq.
maintenance	901.01
off-street parking and loading areas	1139.05
parking in front of	351.03
planned developments	1143.02
right of way	
entering	331.17
leaving	331.22, 331.23
snow removal	901.01
turning into	331.11

DRIVING

accident (see ACCIDENT)	
alley, unintended use of	331.46
allowing another to drive illegally	335.05
approaching stationary public safety, emergency, road service vehicle	333.031
assured clear distance	331.09, 333.03
backing vehicle	331.13
cell phone use prohibited	335.032
certificate of title required	335.08

DRIVING (Cont.)

change of course	331.14
closed road, on	331.26, 331.48
control of vehicle	333.08
crosswalk, obstructing	331.33
damage to streets, highways, alleys, public right-of-ways; fine	331.47
directional signals required	337.30
divided street	331.31
drag racing	333.07
driver's view, control	331.25, 337.21
drunk or drugged	333.01
earplugs prohibited	331.43
electronic wireless communication device use prohibited while driving	335.032
entering or crossing roadway from other than roadway	
duty to yield	331.22
stopping at sidewalk	331.23
exhaust noises	331.36
financial responsibility law suspension or cancellation, driving under	335.072
fire hose, over	331.28
following	
emergency or safety vehicle	331.27
too closely	331.09
grade crossing	331.39, 331.40
hazardous zones	331.07
intersection	
obstructing	331.33
right of way	331.16
shortcutting	331.41
turning at	331.10
lanes, within	331.08
lane-use control	
signal indications	313.04
left side of street	331.06
one-way street	331.30
operate defined	301.201
OVI suspension, under	335.071
passing	
left of center	331.05
left side	331.03
no passing zones	331.07
right side	331.02, 331.04

FEES

alley, vacating	909.01, 909.02
Appeals Board (see ZONING APPEALS BOARD)	
boat dock storage	955.21
cemetery	951.04, 951.05
Community Center fees	955.10
dog park	955.20
fire/rescue	143.06
garbage collection	925.12 et seq.
Golf Course, Municipal	955.09 et seq.
legal process	145.07
license	
arborist	917.04
automobile graveyard	723.02(g)
bicycle	374.04
junkyard	723.02(g)
recycling center	723.02(g)
motor vehicle impounded;	
storage	145.06
nuisance abatement	503.22
parks and recreation	955.05
peddlers and solicitors certificate of registration	735.03
permit	
building	1325.04
carnival	739.03(k)
commercial and heavy vehicle	339.02
fireworks exhibition	1519.02
outdoor public entertainment	739.03(k)
signs	1335.25, 1335.27
Planning and Zoning Code	1105.02
recreation program	955.19
sewer service; taps	931.02 et seq.
shelter house	955.10
streets, vacating	909.01, 909.02
subdivision	1105.02
Swimming Pool, Municipal	955.16, 955.17
video service (see VIDEO SERVICE PROVIDER FEE)	
water service; taps	931.02 et seq.

FENCES

barbed wire or electric	521.07
junkyards, recycling center, etc.	723.03
zoning regulations	1127.08

FINANCE (see also CONTRACTS AND PURCHASES)

budget; Council authority	Chtr. 2.13
---------------------------	------------

FINANCE DEPARTMENT

cash reserve	137.05
creation	Chtr. 4.07
departments, control of	137.10
Director (see FINANCE DIRECTOR)	
established	137.01
financial transaction device, payments by	137.12
investment policy	137.06
seal	137.04
Taxation Department as part of	193.08

FINANCE DIRECTOR

Acting Director	137.09
appointment	137.02
assistants to	137.03
auditor, clerk, treasurer; substituted for	137.08
bond	137.07
duties	
generally	137.01
income tax	193.07, 193.09
residency requirements	137.02

FIRE

arson (see ARSON)	
fire loss claims; insurance proceeds	137.11
open burning (see OPEN BURNING)	
setting fires which spread	1501.07
unfriendly; alarm duties	1501.08

FIREARM (see WEAPONS)**FIRE CHIEF**

promotion to 155.02(b)

FIRE CODE, OHIO

adoption 1501.01
 application 1501.03
 compliance 1501.05
 conflict 1511.12
 copies 1501.11
 enforcement 1501.04
 equipment
 certification of installers 1501.10(b)
 sale or use 1501.10(a)
 Fire Safety Inspector;
 disclosure 1501.09
 penalty 1501.99
 purpose 1501.02

FIRE/RESCUE DEPARTMENT

administrative head 143.02
 Auxiliary 143.05
 Chief (see FIRE CHIEF)
 control 143.01
 duties 143.03
 emergency; additional fire
 personnel 143.04
 fee schedule 143.06
 members 143.01

FIRE HOSE

driving over 331.28

FIRE HYDRANT

location; spacing 1525.01(b)
 parking near prohibited 351.03

FIREMAN

directing traffic 303.02(a)

FIREMEN

additional in emergencies 143.04

FIRE STATION

parking near prohibited 351.03

FIRE TRUCK

approaching when stationary 333.031
 following, parking near 331.27

FIREWORKS (see also EXPLOSIVES)

definitions 1519.01
 exceptions to
 regulations 1519.04, 1519.05
 penalty 1519.99
 possession; sale; discharge 1519.04
 public exhibition permit
 exhibitor's conduct 1519.03
 fee; bond; records 1519.02

FLOOD DAMAGE PREVENTION

abrogation and greater
 restriction 1339.06
 administration 1339.09 et seq.
 Administrator
 designated 1339.11
 duties 1339.12
 applicable lands 1339.03
 compliance 1339.05
 definitions 1339.02
 development permit 1339.09, 1339.10
 findings of fact 1339.01
 flood hazard areas 1339.04
 flood hazard reduction
 standards 1339.14 et seq.
 floodways 1339.16
 general provisions 1339.01 et seq.
 interpretation 1339.07
 penalty 1339.99
 purpose 1339.01
 standards 1339.14, 1339.15
 variances 1339.13
 warning, liability
 disclaimer 1339.08

FLOOD PLAIN DISTRICTS

- conditional uses 1137.01(c), 1141.03(b)
- established 1137.01(a)
- performance standards 1137.01(b)

FMLA LEAVE 197.19(h)

FOWL (see ANIMALS)

- coloring; sale or display 505.12
- running at large 505.01

FREEWAY (see STREETS)**FUNDS**

- boards and commissions 156.01
- Cemetery Fund 951.01 et seq.
- income tax
 - contributions 193.11, 193.21
 - lodging tax, from 191.20
- Sewer Revenue Fund 935.04

FUNERAL PROCESSION

- driving in 331.24

GARBAGE AND RUBBISH (see also SOLID WASTE)

- bags; ties 925.07
- burning 925.05
- commercial or licensed
 - collections 925.10
- containers, placement of 925.08
- definitions 925.01
- disposal required 925.03
- dumping 925.05
- hazardous or infectious waste 925.23
- liquid waste 1127.19
- penalty 925.99
- private haulers 925.11
- public utility, as 925.02
- public utility payments 925.16
- rates and charges
 - generally 925.12
 - requests 925.19
 - special service 925.17
 - tires; whiteware 925.18
- recycling center license 723.02
- refuse, miscellaneous 925.09

GARBAGE AND RUBBISH (Cont.)

- residential 925.06
- rules and regulations 925.14
- Sanitation Department service 925.04
- schedules 925.12
- tags, purchase of 925.16
- unauthorized removal 925.15
- yard waste management 925.20 et seq.

GOLF COURSE, MUNICIPAL

- approval needed for play 955.13
- fees
 - greens; carts 955.12
 - privilege 955.09
- penalty 955.99
- persons permitted on 955.11

GRASS (see WEEDS AND GRASS)**GUN (see WEAPONS)****HANDICAPPED PERSONS**

- blind pedestrian 371.02
- mobility device 371.12
- parking locations 351.04
- ramps added to dwellings 1127.03(b)
- wheelchair, motorized
 - defined 301.52
 - operation of 371.11

HEALTH BOARD

- established 161.01

HEIGHT REGULATIONS

- exceptions 1127.03(d)
- fences, screening, walls 1127.08
- regulations Ch,1147

HIGHWAY (see STREETS)

HITCHHIKING 371.06

HIT-SKIP (see ACCIDENT)

HORN 337.19

HORSES (see ANIMALS)**HOTEL**

- tax (see LODGING TAX)

HOUSING (see FAIR HOUSING PRACTICES)**HUNTING**

Canada Geese	505.15
prohibited	505.11

IDENTITY THEFT PREVENTION POLICY 137.13**IMPOUNDING**

private tow-away zones	303.082
vehicle	
private residential or	
agricultural property	303.081
release; records; charge	303.081
traffic violation	303.08

IMPOUNDMENT

motor vehicle; storage fee	145.06
----------------------------	--------

IMPROVEMENTS

construction; repair	913.01 et seq.
subdivisions (see SUBDIVISION REGULATIONS)	

INCOME TAX EFFECTIVE JANUARY 1, 2016

annual return	194.09
assessment	194.17
audit	194.11
authority to levy	194.01
Board of Tax Review	194.18
collection at source	194.05
confidentiality	194.14
credit	194.08
definitions	194.03
effective date	194.02
estimated tax; declaration of	194.07
fees and charges	194.10
fraud	194.15
income subject to tax	
individuals	194.04
net profit	194.06
penalty and interest	194.10
rounding	194.12
rules	194.20
statute of limitations	194.19
Tax Administrator	194.13, 194.16
violations; penalty	194.99

INCOME TAX (THRU 12-31-15)

applicability	193.13
collection at source	193.17
confidential information,	
divulging	193.09
credit for tax paid to other	
municipality	193.05
declaration of estimated	193.19
definitions	193.01
effective date; fiscal year	193.04
effective period	193.16
exemptions	193.14
Finance Director	
duties	193.07
investigative powers	193.09
funds, allocation of	193.11
imposition	193.02
interest	193.98
losses	193.03
peddlers and solicitors	735.02(d)
penalty	
civil	193.98
divulging confidential	
information	193.09
general	193.99
prohibition, criminal	193.99
Recreation Fund	193.21
refunds	193.15
return and payment	193.18
Review Board	193.12
rules and regulations	193.06
statute of limitations	193.20
Taxation Department	193.08
withholding by employer	193.17

INDECENCY (see OBSCENITY; SEXUAL OFFENSES)**INDUSTRIAL DISTRICTS (see also ZONING DISTRICTS)**

established	1135.01
I-1 Enclosed Industrial	1135.02

INDUSTRIAL DISTRICTS (Cont.)

I-2 Open Industrial 1135.03
 use requirements Ch,1147 Table 4

INITIATIVE

Charter provision Chtr. 9.01

INSURANCE

driving without 335.072
 fire loss claims 137.11
 subdivisions 1105.11

INSURANCE FRAUD 545.07

INTERSECTION

defined 301.17
 obstructing 331.33
 fences, screening, walls,
 plantings obstructing
 vision 1127.08(d)
 parking in 351.03
 right of way 331.16, 331.17
 shortcutting 331.41
 stop signs 313.02, 331.19
 turning at 331.10

INTOXICANT, HARMFUL

possessing, using 513.07
 trafficking 513.11

INTOXICATION

criminal liability 501.07
 driving while intoxicated;
 testing 333.01
 walking on street 371.09

J TURN

defined 301.53

JAYWALKING 371.03

JUNK MOTOR VEHICLE

impounding 303.08
 nuisance abatement 503.13
 public or private property 303.09

JUNKYARDS

conditional use regulations 1141.03(b)
 definitions 723.01
 license; fees 723.02
 penalty 723.99
 screening from public view 723.03

JURISDICTION 501.05

JUVENILE (see also MINOR)

material harmful to;
 nuisance 503.24

KEYS

parking, removal 303.03, 351.07

KNIFE (see WEAPONS)**LANDSCAPING**

construction in right of way 919.14

LAW DEPARTMENT

counsel, special 135.06
 creation Chtr. 4.08
 established 135.01
 Law Director
 Acting Law Director 135.09
 appointment; qualifications 135.04
 assistants to 135.10
 Civil Division; duties 135.02
 compensation, benefits 135.05
 Criminal Division; duties 135.03
 firearms, carrying 135.11
 references to 135.08
 legal intern 135.07

LAW ENFORCEMENT (see specific subject involved)

LAW ENFORCEMENT OFFICER (see
also POLICE OFFICER;
PUBLIC SERVANT)

defined 501.01
ignition key removal 303.03

LIABILITY

criminal
intoxication 501.07
organizational 501.11
personal 501.07

LICENSE (see also PERMIT)

arborist 917.04
automobile graveyard 723.02
driving (see DRIVER'S LICENSE)
fees (see FEES)
junkyards 723.02
recycling center 723.02
sign contractor 1335.12

LICENSE PLATES

display, expired or unlawful 335.09
illegal
impounding vehicle 303.08
use of 335.11
rear, illumination 337.04
registration within thirty days
of residency 335.111

LIGHTS, VEHICLE (see VEHICLE
LIGHTS)**LIMITATION OF
PROSECUTION** 501.06**LIQUOR** (see INTOXICANTS;
INTOXICATION)**LITTERING**

motor vehicle, from 331.42

LODGING TAX

administration 191.10

LODGING TAX (Cont.)

appeals 191.17
assessment; notice; hearing 191.16
certificates 191.11, 191.13
collection 191.04, 191.05
conflict of laws 191.19
debt, as; liability 191.18
definitions 191.01
exemptions 191.07 et seq.
false information 191.09
funds, use of 191.20
levy 191.02, 191.03
Lodge Tax Advisory and
Control Board 191.21
lodging subject to 191.06
nonpayment penalty 191.15
penalty 191.99
records 191.14
refusal to pay 191.09
return and payment 191.15
stated; charged separately 191.12

LOTS

definitions 1101.01
district regulations Ch.1147
divided by district lines 1125.04
encroaching on required area 1127.01
filling, draining 521.05
minimum 1127.12
nonconforming 1129.03

MANAGEMENT DEPARTMENT

Charter provision Chtr. 4.06
established 133.01

MANAGER, CITY (see also PUBLIC
SERVANT)

Acting City Manager 133.05
appointment; removal Chtr. 4.06
assistants 133.06
Council not to interfere 133.02
departments under control of 133.07
land use agreements 133.03

<u>Ord. No</u>	<u>Date</u>	<u>C.O. Section</u>	<u>Ord. No.</u>	<u>Date</u>	<u>C.O. Section</u>
022-08	3-12-08	143.01	50-09	6-1-09	Repeals 1301.02, 1301.03, 1301.99
040-08	5-19-08	955.15	51-09	6-1-09	505.14
045-08	6-2-08	339.12	56-09	7-20-09	195.06
052-08	8-4-08	931.08	80-09	12-7-09	193.21
070-08	10-6-08	Repeals 505.01 to 505.08, 505.10, 505.12, 505.13, 509.01 to 509.07, 509.99, 513.01 to 513.13, 513.99, 517.01 to 517.15, 517.99, 521.01, 521.02, 521.08, 521.09, 521.10, 525.01 to 525.17, 525.99, 529.01 to 529.08, 529.99, 533.01 to 533.13, 533.99, 537.01 to 537.18, 537.99, 541.01 to 541.10, 541.99, 545.01 to 545.21, 545.99, 549.01 to 549.07, 549.10, 549.11, 553.01 to 553.05, 553.99	89-09	11-30-09	193.11
			Res.		
			92-09	12-21-09	137.13
			001-10	2-1-10	Repeals 191.22
			002-10	1-18-10	TRAF. SCH. XI
			005-10	2-1-10	931.09(c)
			019-10	5-3-10	931.09
			020-10	4-5-10	951.08
			039-10	6-7-10	195.01, 195.02, 195.04, 195.06 to 195.09, 195.12, 195.14, 195.99
			040-10	6-21-10	305.01
			041-10	6-21-10	331.46, 331.47
			044-10	6-21-10	503.02, 503.03, 503.06, 503.08, 503.10, 503.11
			052-10	7-19-10	503.07, 503.08
			060-10	9-7-10	101.99
			074-10	12-20-10	1101.01, 1105.01, 1105.02, 1105.04 to 1105.15, 1121.01 to 1121.05, 1125.01 to 1125.05, 1127.01, 1127.03, 1127.06, 1127.08, 1127.09, 1127.11 to 1127.21, 1129.01 to 1129.08, 1131.01, 1131.03 to 1131.06, 1133.01 to 1133.07, 1135.01 to 1135.03, 1137.01, 1138.09, 1139.02 to 1139.04, 1139.07, 1139.09 to 1139.12, 1141.01 to 1141.04, 1143.01 to 1143.06, 1145.01, Ch. 1147, 1147.99
071-08	10-6-08	501.06			
072-08	10-6-08	503.06, 503.23, 503.24			
073-08	10-6-08	505.11, 505.15			
074-08	10-6-08	521.07			
075-08	10-6-08	511.99			
076-08	10-6-08	711.01			
077-08	10-6-08	955.07			
088-08	12-8-08	925.07, 925.13, 925.17, 925.18			
090-08	12-8-08	955.02, 955.09, 955.10			
091-08	1-5-09	193.01, 193.03, 193.04, 193.18			
093-08	12-15-08	197.08, 197.14 to 197.16, 197.18			
103-08	1-19-09	193.02			
007-09	2-16-09	1325.03, 1325.04			
027-09	4-6-09	TRAF. SCH. III	086-10	12-6-10	193.11
31-09	5-18-09	181.01	099-10	12-20-10	931.07
32-09	5-21-09	1138.01 to 1138.11	012-11	3-7-11	143.01
			017-11	3-21-11	165.01

COMPARATIVE SECTION TABLE

40D

<u>Ord. No</u>	<u>Date</u>	<u>C.O. Section</u>	<u>Ord. No.</u>	<u>Date</u>	<u>C.O. Section</u>
032-11	6-20-11	TRAF. SCH. II	065-14	11-17-14	939.02
033-11	6-20-11	Repeals 1525.01	002-15	1-19-15	197.16, 197.18
035-11	7-18-11	197.03	004-15	1-19-15	955.09
038-11	8-1-11	105.02	015-15	3-16-15	939.02
043-11	8-15-11	TRAF. SCH. V, XI, XIII	021-15	4-6-15	955.19
054-11	9-6-11	107.06	044-15	8-3-15	955.09
80-11	12-19-11	931.07	045-15	8-3-15	955.20
Res.			053-15	11-16-15	194.01 to 194.20, 194.97, 194.98, 194.99
088-11	11-21-11	193.11	057-15	11-16-15	193.11, 194.013
99-11	12-19-11	133.07, 139.01, 139.02, 142.01	060-15	12-21-15	955.21
12-12	2-6-12	1335.08, 1335.32	013-16	5-16-16	137.06
15-12	3-5-12	197.01, 197.03, 197.11	026-16	9-6-16	1121.03
16-12	3-5-12	195.01, 195.08, 195.14	036-16	9-19-16	194.051, 194.091
48-12	7-2-12	931.10	037-16	11-7-16	TRAF. SCH. II
56-12	9-17-12	939.05	050-16	11-21-16	193.11, 194.013
60-12	9-17-12	931.08	051-16	12-21-16	931.07
67-12	11-19-12	925.13	010-17	6-5-17	197.18
70-12	12-3-12	121.03	030-17	5-1-17	1145.01
Res.			036-17	6-5-17	1101.01
73-12	11-19-12	193.11	038-17	9-18-17	Repeal Ch. 711
002-13	2-4-13	955.09, 955.10, 955.16, 955.19	057-17	9-18-17	1501.01
015-13	3-18-13	955.09	058-17	10-16-17	143.06
042-13	10-21-13	1101.01, 1145.01			
045-13	10-7-13	137.14			
059-13	11-18-13	197.18			
067-13	12-16-13	931.07			
Res.					
068-13	12-16-13	193.11			
010-14	4-21-14	931.07			
027-14	5-19-14	931.13			
028-14	5-19-14	931.09			
042-14	8-4-14	197.01 to 197.19			

TABLE A - Street Dedication and Plat Approval (Cont.)

<u>Ord. No.</u>	<u>Date</u>	<u>Description</u>
79-00	9-5-00	Approves final plat of Replat of Lot 2, Lankenau Subdivision.
107-00	9-18-00	Approves final plat of Heritage Town Center Subdivision.
108-00	10-2-00	Approves replat of subdivision of Lot 3, German Mutual Subdivision.
48-01	5-21-01	Approves final plat of Michaelis Lot Split Subdivision.
44-02	5-20-02	Accepts conveyance of private street property by quit-claim deeds; designating Fairview Drive as a public street.
Res. 51-02	6-3-02	Accepts dedicated easements, r-o-ws and public improvements for Picket Fences Subdivision, Gerken Hoeffel 4th Addition, Twin Oaks 5th Addition and German Mutual Subdivision of Lot 3.
52-02	6-3-02	Accepts dedicated streets in Picket Fences Subdivision, Picket Fences Subdivision - Phase II, Gerken Hoeffel 4th Addition and Twin Oaks 5th Addition Subdivision.
78-02	6-17-02	Accepts dedicated streets (Bonaparte Dr. and KenJames Court) in KenJames Court Condominiums Development Phase 1 and 2 Dedication Plats.
Res. 79-02	6-17-02	Accepts easements, r-o-ws and public improvements in dedication plats known as Bonaparte Drive - KenJames Court Phase 1 and Phase 2.
06-03	2-17-03	Accepts dedication of Lynn Ave.
Res. 16-03	3-17-03	Accepts dedicated r-o-ws, easements and public improvements for Gerken-Hoeffel 4th and 5th Addition.
Res. 39-03	4-21-03	Accepts waterline along Beckham St. and within a 25-ft. easement on W. boundary of Picket Fences Subdivision to where it extends into rural Henry County.
50-03	5-17-03	Accepts Cambridge St. in final plat of Picket Fences Phase III.
Res. 51-03	5-19-03	Accepts dedicated r-o-ws, easements and public improvements for Picket Fences Subdivision Phases II and III.
52-03	6-2-03	Accepts Commerce Drive between S.R. 424 and RR crossing in Replat of Napoleon Commerce Park-Plat 1.
Res. 53-03	5-19-03	Accepts r-o-ws, easements and public improvements in Replat of Napoleon Commerce Park-Plat 1.
Res. 115-04	11-1-04	Accepts r-o-ws, easements and public improvements in Picket Fences Subdivision Phase IV.
116-04	11-1-04	Accepts Oxford and Cambridge Sts. in final plat of Picket Fences Phase IV.
142-04	2-7-05	Accepts Commerce Dr. in Napoleon Commerce Park Plat II.
Res. 143-04	2-7-05	Accepts r-o-ws, and utility easements, including buffer zone, in Napoleon Commerce Park Plat II.
Res. 59-05	6-6-05	Accepts r-o-ws, and utility easements in plat of Gerken-Hoeffel Sixth Addition.
60-05	6-6-05	Accepts Clairmont Ave. in Gerken-Hoeffel Sixth Addition.

TABLE A - Street Dedication and Plat Approval (Cont.)

<u>Ord. No.</u>	<u>Date</u>	<u>Description</u>
057-07	7-2-07	Accepts Appian Ave. (in Replat of Meyers Replat of Lots 24 & 25 and Part of Lots 23 & 26 of E.T. Barns 1st Addition).
Res. 074-07	9-4-07	Accepts dedicated r-o-w-s and utility easements with plat known as "Twin Oaks 6th Addition" (a major subdivision).
075-07	9-4-07	Accepts Williamsburg Ave. in plat of "Twin Oaks 6th Addition" (a major subdivision).
Res. 035-08	5-5-08	Accepts dedicated r-o-w-s and utility easements associated with the plat know as "Picket Fences Phase V" a major subdivision.
036-08	5-5-08	Accepts extension of Oxford Street as found in the plat of "Picket Fences Phase V", a major subdivision.
Res. 041-08	5-19-08	Accepts dedication of the lift station from the Henry County Hospital.
009-09	1-19-09	Accepts dedication of a part of Clarmont Avenue as identified in a plat known as the "Clairmont Avenue Right-of-Way Dedication Plat".
Res. 046-17	8-7-17	Authorizing the City Manager to dedicate a portion of City owned property as right of way for the Industrial Drive Street Improvements Project, P.I.D. Number 102253.

CHARTER OF THE CITY OF NAPOLEON, OHIO

ARTICLE I - INCORPORATION, NAME AND POWERS

- Section 1.01 Name and Boundaries.
- Section 1.02 Powers.
- Section 1.03 Exercise of Powers.

ARTICLE II - COUNCIL

- Section 2.01 Number, Selection and Term.
- Section 2.02 Qualifications.
- Section 2.03 Organization.
- Section 2.04 President of Council.
- Section 2.05 Compensation.
- Section 2.06 Quorum.
- Section 2.07 Meetings.
- Section 2.08 Vacancies. (11-8-16)
- Section 2.09 Rules and Journal of Council.
- Section 2.10 Council Employees.
- Section 2.11 Standing Committees of Council.
- Section 2.12 Personnel Committee.
- Section 2.13 Annual Budget.
- Section 2.14 Powers of Council.
- Section 2.15 Ordinances and Resolutions.

ARTICLE III - MAYOR

- Section 3.01 Term.
- Section 3.02 Qualifications.
- Section 3.03 Office and Compensation.
- Section 3.04 Powers and Duties.
- Section 3.05 Election to Fill Vacancy.

ARTICLE IV - ADMINISTRATIVE DEPARTMENTS

- Section 4.01 Creation of Departments.
- Section 4.02 Department Directors.
- Section 4.03 Director Qualifications.
- Section 4.04 Director Employment Status.
- Section 4.05 General Powers and Authority of Directors.
- Section 4.06 Department of Management.
- Section 4.07 Department of Finance
- Section 4.08 Department of Law.

ARTICLE V - BOARDS AND COMMISSIONS

- Section 5.01 Civil Service Commission.
- Section 5.02 Planning Commission.
- Section 5.03 Board of Zoning Appeals.
- Section 5.04 Board of Public Affairs.
- Section 5.05 Board of Building Appeals.
- Section 5.06 Parks and Recreation Board.
- Section 5.07 Charter Review Commission. (11-8-16)
- Section 5.08 Other Boards and Commissions.

ARTICLE VI - PURCHASE, SALE, LEASE AND CONTRACT

- Section 6.01 Local Method for Acquiring, Constructing, Disposing of Property.
- Section 6.02 Local Method for Acquiring or Providing Services Permitted.
- Section 6.03 Local Threshold Amounts for Bidding Construction or Property Permitted.
- Section 6.04 Local Threshold Amounts for Bidding Services Permitted.
- Section 6.05 Elimination of Competitive Bid or Proposal Permitted.
- Section 6.06 Exemption From Bidding Requirements in Emergency.
- Section 6.07 Local Standard for Award of Contract.

ARTICLE VII - UTILITIES AND FRANCHISING

- Section 7.01 Utility Regulation.
- Section 7.02 Franchises.

ARTICLE VIII - OPEN MEETINGS AND PUBLIC RECORDS

- Section 8.01 Meetings of Public Bodies.
- Section 8.02 Public Records.

ARTICLE IX - INITIATIVE, REFERENDUM AND RECALL

- Section 9.01 Initiative.
- Section 9.02 Referendum.
- Section 9.03 Removal From Office and Recall. (11-8-16)

ARTICLE X - GENERAL PROVISIONS

- Section 10.01 Amendment to Charter.
- Section 10.02 Effect of Partial Invalidity.
- Section 10.03 Interpretation.
- Section 10.04 General Laws to be Applicable.

ARTICLE XI - TRANSITIONAL PROVISIONS

- Section 11.01 Amendment of Existing Charter and Effective Date.
- Section 11.02 Effect of Charter on Existing Laws, Rights and Obligations.
- Section 11.03 Continuance of Present Officials.
- Section 11.04 Continuance of Present Employees.

ARTICLE I - INCORPORATION, NAME AND POWERS

Section 1.01 Name and Boundaries

The inhabitants of the City of Napoleon, Ohio, as its limits are now or hereafter may be established, shall be and continue to be a municipal corporation of the State of Ohio under the name "City of Napoleon, Ohio" (hereinafter called "the City").

Section 1.02 Powers

Except as prohibited or restricted by the Constitution of Ohio and/or this Charter, the City shall have and may exercise all powers, functions, rights, privileges and immunities, general and special, governmental and proprietary that are now or hereafter may be granted to, possessed by or exercised by municipal corporations under the Constitution or laws of Ohio. The enumeration of particular powers in this Charter shall not be deemed to be exclusive. In addition to the powers enumerated herein, the City shall have and may exercise all other powers which, under the Constitution or laws of Ohio, it would be competent for this Charter specifically to enumerate.

Section 1.03 Exercise of Powers

Except as provided in this Charter, all powers of the City shall be vested in the officers provided for in this Charter. Where any power is not assigned to a specific officer, it shall be considered to be among the powers of the City Council (hereinafter called "Council") and may be assigned by Council to any officer of the City so long as such offices are not incompatible or a conflict of interest does not exist. All powers shall be exercised as provided by this Charter, or, if not so provided, as provided by ordinance, resolution or other action of Council. When not provided by this Charter or by ordinance, resolution or other action of Council, the City's powers shall be exercised as provided by the laws of Ohio until Council may provide otherwise.

ARTICLE II COUNCIL

Section 2.01 Number, Selection and Term

Council shall consist of seven (7) members to be elected at large and by partisan ballot at a General Municipal Election (held on the first (1st) Tuesday after the first (1st) Monday in November in odd numbered years) for a term of four (4) years. Each candidate for Council shall be nominated at a partisan primary election held in odd numbered years in accordance with the laws of Ohio, except that a person desiring to become a candidate for the office of Council as an independent candidate shall file a valid and sufficient nominating petition in accordance with the laws of Ohio. The terms of office shall remain staggered terms as existed prior to July 1, 2001 with four (4) persons elected to serve at a general municipal election and three (3) persons elected to serve at the next following general municipal election. The term of office of each Council member shall begin on the first (1st) day of January next following his or her election, subject to being qualified. Except in case of death, resignation, recall, removal or forfeiture of office of the Council member, the member shall hold office until his or her successor is elected and qualified.

Section 2.02 Qualifications

(A) **Eligibility.** No person shall be eligible to be a Council member unless he or she has been a resident and qualified elector of the City for at least one (1) continuous year immediately prior to his or her filing for office or his OR HER appointment. Council members shall continue to be residents and qualified electors of the City during their terms of office. Except as provided by this Charter, no Council member shall hold any other elected public office or employment with the City. For the purpose of this section, "employment with the City" shall mean, employed by the City of Napoleon and being compensated from this Municipal Corporation's Treasury; and, "elected public office" shall mean, "elected public office of this Municipality".

(B) **Judge of Qualifications.** Council shall be the sole and final judge of the qualification of its members as well as the sole and final judge in determining if there has been a violation thereof. Any Council member who ceases to possess, or who violates, any of the qualifications set forth in this Section shall forfeit his or her office. The failure of any Council member to maintain these qualifications shall not render void or ineffective any ordinance, resolution or other action of Council taken during the time he or she was not so qualified.

Section 2.03 Organization

At the first regular meeting in January following the general municipal election, Council shall meet for the purpose of organization.

Section 2.04 President of Council

(A) **President & President Pro-Tem.** At the organizational meeting, but in no event later than January 15th next following the organizational meeting, Council shall elect one (1) of its members to serve as President of Council (hereinafter called "the Council President") and one of its members as President Pro-Tem of Council (hereinafter called "the Council President Pro-Tem"), each of whom shall, except in case of death, resignation, recall, removal or forfeiture of office, serve for a term of two (2) years or until his or her successor is elected and qualified. The Council President Pro-Tem shall be cloaked with all power and authority of the Council President in any absence of the Council President, except that he or she shall not possess the power and authority of the Mayor when the Council President is in the dual capacity of Acting Mayor and Council President.

(B) **Appointment to Standing Committee.** The Council President shall select and appoint the standing committees of Council, subject to approval by Council. If Council fails to act by January 31st next following the organizational meeting, the selections and appointments by the Council President shall become effective. The Council President may appoint him or herself to standing committees as well as other committees, boards and commissions, subject to Council approval when required.

(C) **Presiding Officer.** The Council President shall serve as the presiding officer of Council except that, in the absence of the Council President, the Council President Pro-Tem shall preside. In the event that both the Council President and Council President Pro-Tem are absent, then those members present shall select a presiding officer after the Clerk of Council calls the meeting to order. While presiding over meetings of Council, the presiding officer may vote upon all matters coming before Council, but in no case shall he or she, in his or her dual capacity as a Council member and as presiding officer of Council, cast more than one (1) vote on any matter.

(D) **President as Acting Mayor.** If the Mayor is temporarily absent from the City, or becomes temporarily disabled by sickness, accident or for any other reason, or in case of an emergency and the Mayor is absent, or whenever authorized by the Mayor, the Council President also shall have those powers and perform those duties of the Mayor until the Mayor returns, except he or she shall have no power to veto ordinances or resolutions, to order reconsideration, or to make or remove mayoral appointments, all as provided by this Charter. The Mayor may act to make appointments or removals, in writing, or to veto ordinances or resolutions as provided for in this Charter, while he or she is temporarily disabled or temporarily absent or absent from the City. If the Mayor dies, resigns or is removed from office, or if the office of Mayor becomes vacant for any other reason, the Council President also shall serve as Acting Mayor for the unexpired term or until a successor to the Mayor is elected and qualified as provided by this Charter, but for no longer than his or her term as a Council member, except he or she shall have no power to veto ordinances or resolutions or order reconsideration as provided by this Charter.

(E) **Temporarily Absent or Disabled Defined.** Notwithstanding any other provision in this Charter for the calculating of days, for the purpose of this Article, "Temporarily absent" or "temporarily disabled" shall not be deemed to occur until the expiration of at minimum fourteen (14) consecutive calendar days from the commencement of the disability or absence.

(F) **Dual Capacity Compensation.** In the event the Council President serves in the dual capacity of Mayor and Council President due to the death, resignation, recall, removal or forfeiture of office of the Mayor, the Council President shall be entitled to receive the greater of the two (2) salaries established for the positions during the time of the dual service of Acting Mayor and Council President.

Section 2.05 Compensation

The salary of Council members shall be established by ordinance or resolution and may be changed by ordinance or resolution; however, except as otherwise provided in this Charter, no such change shall affect any Council member's salary during his or her current term of office. Any change in the salary of Council members shall be effective commencing with the terms of office of Council members elected at the next general municipal election occurring not less than twelve (12) months after the enactment of such change.

Section 2.06 Quorum

A majority of the current members of Council shall constitute a quorum for the transaction of business at any Council meeting, but a number less than a quorum may adjourn a meeting and compel the attendance of absent members in such manner and under such penalties as Council may provide. For the purpose of this Charter, "current members of Council" means, "those current elected or appointed members serving in office".

Section 2.07 Meetings

(A) **Regular Meetings.** After the organizational meeting, Council shall meet at such times as may be provided by its rules and regulations or by ordinance or resolution; but, it shall hold regular meetings at least twice during each calendar month.

(B) **Special Meetings.** Special meetings may be called by a vote of Council taken at any meeting thereof, or by the Clerk of Council upon written request of the Council President, the Mayor or any three (3) Council members. Any such request shall state the time, place, date and purpose of the meeting. Notice in writing of each special meeting called, except by approved motion of Council, shall be given to each Council member and the Mayor not less than twenty-four (24) hours prior to the meeting by serving the same to each of them personally, by leaving a copy thereof at his or her usual place of residence, or by electronic mail or by facsimile transmission when the Council member or Mayor authorizes electronic or facsimile notice. Service of notice may be waived in writing and shall be deemed conclusively to be waived by attendance at the special meeting. If the Mayor or any Council member is absent, notice in writing of the special meeting and the results thereof shall be given promptly after such meeting to each absentee in the manner hereinbefore provided. Public notice of each special meeting shall be given as provided by this Charter, or if this Charter is silent, as provided by ordinance, resolution or other action of Council. When not so provided by this Charter, ordinance, resolution or other action of Council, then notice shall be as provided by the laws of Ohio until the Council may provide otherwise.

(C) **Emergency Meetings.** Emergency meetings may be called when a situation or situations requires immediate official action as determined in the sole and final judgment of the person or persons authorized above to call a special meeting. An emergency meeting shall be considered a "special meeting" of an emergency nature. For such meeting, any notice requirement as required for a special meeting shall be an immediate notice.

(D) **Adjournment or Recess of Meeting.** Any regular or special meeting of Council may be reconvened after adjournment or recess to another time, date or place without giving additional notice, so long as the time, date or place is announced at the meeting prior to adjournment or recess.

Section 2.08 Vacancies

If a vacancy occurs on Council and within thirty (30) days thereafter, those Central Committee members living in the City, from the same political party as the vacated member at the time of his or her election or appointment to Council, may recommend to Council a person to fill the vacancy for the unexpired term. If a person is so recommended, he or she shall not become a Council member unless approved by Council. If no person is so recommended by such Central Committee members or if a person so recommended is not approved by Council, Council may select another replacement within fifteen (15) days. If Council fails to select another replacement within fifteen (15) days, the Mayor shall select a replacement. If the person to be replaced ran as an independent or third-party candidate at the time of his or her election or appointment, the replacement shall be selected by Council; but, if Council fails to select a replacement within thirty (30) days after the vacancy occurs, the Mayor shall select a replacement. If a vacancy date cannot be determined with a reasonable degree of certainty, then the vacancy date shall be as concluded by approved motion of Council. (Amended November 8, 2016)

Section 2.09 Rules and Journal of Council

Council shall adopt its own rules and regulations and its own rules of procedure, and shall cause to be kept a journal of its proceedings. Voting upon any ordinance, resolution or other matter shall be by roll call, and the vote of each Council member shall be entered upon the journal.

Section 2.10 Council Employees

Council shall appoint a Clerk of Council and may appoint other similar type employees to directly serve the Council, all of whom shall serve at the pleasure of Council and all of whom may be suspended or removed by Council at any time, with or without cause. The Clerk of Council and such other employees shall have those powers and perform those duties as Council may provide.

Section 2.11 Standing Committees of Council

The following standing committees of Council are established by this Charter:

Finance and Budget;
Safety and Human Resources;
Electric;
Water, Sewer, Refuse, Recycling and Litter;
Parks and Recreation;
Technology and Communication; and,
Municipal Properties, Buildings, Land Use and Economic Development.

Each standing committee shall consist of three (3) Council members. Each Council member shall serve as chairperson of one (1) standing committee and shall serve on two (2) other standing committees. Each committee shall be governed by the rules and regulations of Council. Each committee shall investigate and study matters referred to it for consideration and shall report its findings and recommendations to Council as a whole. The Mayor shall serve as an ad hoc member of both the Finance and Budget Committee, and the Municipal Properties, Buildings, Land Use and Economic Development Committee, with full voting rights in both committees.

In the event there is a lack of a quorum at any standing committee meeting, the most senior member of Council who is not a member of the committee present at the commencement of the meeting may act and continue to act as a pro-tem standing committee member thereto, with full voting rights therein, until such regular standing committee member arrives.

Section 2.12 Personnel Committee

A Personnel Committee, consisting of the Mayor and two (2) Council members appointed by the Council President, such appointments being subject to approval of Council, is established by this Charter. The Personnel Committee shall, when a vacancy exists for the office of City Manager, City Finance Director or City Law Director due to death, resignation, or removal, investigate and subsequently recommend in writing one (1) or more suitable persons for appointment. The members of the Personnel Committee shall select one (1) of its members as chairperson. All recommendations of the Personnel Committee shall be presented by the Mayor to Council as a whole.

Section 2.13 Annual Budget

The Finance and Budget Committee shall prepare annually a budget, and the Mayor shall present it to Council as a whole for consideration, amendment if appropriate, and approval. The chairperson of the Finance and Budget Committee shall serve as chairperson of the budget process. The budget shall provide a complete financial plan of all City funds, receipts, activities and expenditures for the ensuing fiscal year and shall be in such form as Council may require. It shall indicate proposed expenditures for current operations and proposed capital expenditures during the ensuing fiscal year and the method of financing such expenditures. The total of proposed expenditures shall not exceed the total of proposed available funds. As used in this Charter "budget" shall include the tax budget and annual appropriation ordinance or resolution, and amendments thereto.

Section 2.14 Powers of Council

All legislative powers of the City shall be vested in Council, except as provided by this Charter and/or the Constitution of Ohio. Without limitation of the foregoing, Council shall have and possess the following powers:

- (1) The power to levy taxes and assessments and incur debts subject to the limitations imposed thereon by the Constitution of Ohio;
- (2) The power to adopt and to provide for the enforcement of local police, sanitary and other similar regulations as are not in conflict with the general laws of Ohio;
- (3) The power to provide for the exercise of all powers of local self-government granted to the City by the Constitution of Ohio in a manner not inconsistent with this Charter and/or the Constitution of Ohio;
- (4) To establish other offices, departments, divisions, boards, bureaus, agencies and commissions, and to combine, change and abolish any office, department, division, board, bureau, agency or commission established by Council;
- (5) To adopt and amend an administrative code that is not in conflict with the Constitution of Ohio and/or this Charter which shall provide for the organization of City government, define the powers and duties of each organizational unit, define the administrative procedures to be followed, and establish the procedures for giving notice of all meetings and of all ordinances, resolutions and other actions of which notice are required by this Charter or the laws of Ohio. Where the administrative code is silent, notice of all meetings and notice of all ordinances, resolutions and other actions which are required by this Charter or the laws of Ohio, shall be as provided by the laws of Ohio, except as otherwise provided by this Charter or, where not so otherwise provided by this Charter, then, as Council may provide otherwise by ordinance or resolution. Where the administrative code is silent, the officers and employees of the City shall have those powers and perform those duties customarily possessed and exercised by similarly-situated officers and employees by the laws of Ohio, except as otherwise provided by this Charter or, where not so otherwise provided by this Charter, then, as Council may provide otherwise by ordinance or resolution;
- (6) To employ an auditor to make an audit of the financial affairs of any officer, employee or department of the City whenever such audit is decided necessary;
- (7) To fix the number of employees in the various departments of the City, to fix the nature and amount of their compensation and benefits, and to require any officer, employee or member of any office, department, division, board, bureau, agency or commission of the City, whether elected or appointed, to furnish a bond at the expense of the City, which may be a bond covering all or any number of persons required to furnish a bond, for the faithful performance of his or her duties;
- (8) To make or cause to be made investigations of any office, department, division, board, bureau, agency, commission or employee of the City;
- (9) To compel, by the issuance of subpoenas, the attendance of witnesses and the production of documents and other evidence which are decided necessary in the conduct of any hearing or investigation;
- (10) To establish by ordinance or resolution the rates, fees and other charges made to consumers of all municipal utilities and services;

- (11) To adopt, amend and abolish model or standard codes, in whole or in part, prepared and published by public or private agencies on such matters as building construction, plumbing, heating, ventilating, air conditioning, electric wiring, smoke regulation, fire prevention and other similar regulatory subjects by reference to the date and source of the code without reproducing the same in full in the ordinance or resolution. In all cases in which such a code, or part thereof, shall be adopted by reference, full publication of the code by the City shall not be required; but at least one (1) copy of each such code, or adopted parts thereof, shall be kept in the principal governmental building of the City, as determined by Council, for reference and consultation by interested persons during regular office hours;
- (12) To, convey upon officers, departments, divisions, boards, bureaus, agencies, commissions, or employees of the City the power and authority to administer oaths, and conduct investigations and hearings; to compel, by the issuance of subpoenas, the attendance of witnesses, the production of documents and/or other evidence necessary to conduct hearings and/or investigations; and,
- (13) To appoint an acting director when a director is ill, suspended, removed, or otherwise disqualified to act.

Section 2.15 Ordinances and Resolutions

(A) **Proposed Legislation.** Each proposed ordinance or resolution shall be introduced in writing and the adoption, effective date, revision, amendment and signing thereof shall be as provided by the laws of Ohio, except as otherwise provided by this Charter or, where not so otherwise provided by this Charter, then, as Council may provide otherwise by ordinance or resolution. Nevertheless, where this Charter or Council may not be contrary to Ohio law as it relates to adoption, effective date, revision, amendment or signing of ordinances or resolutions, due to the subject matter, as determined in case law by a court of competent jurisdiction, it shall be as provided by the laws of Ohio.

(B) **Law Department Review.** Every ordinance and resolution shall be reviewed by the City's Department of Law before its enactment.

(C) **Passage Requirements.** Except as may otherwise be provided in this Charter, ordinances, resolutions, motions or other actions, except procedural matters, shall be valid and effective when enacted or passed by the affirmative vote of a majority of the current members of Council. Each ordinance and resolution shall be read on three (3) separate days, unless this requirement is dispensed with by an affirmative vote of at least two-thirds (2/3) of the current members of Council. Readings shall be by title only, unless the Council requires readings be taken in full by an affirmative vote of its members. Council may suspend any rule requiring three (3) readings of any matter by the affirmative vote of two-thirds (2/3) of the current members of Council. Council may pass an ordinance or resolution as an emergency measure by the affirmative vote of two-thirds (2/3) of the current members of Council. Except as may otherwise be provided in this Charter, Council may take action upon any other procedural matter by the affirmative vote of a majority of those Council members present at the meeting. Motions may not be a substitute for an ordinance or resolution; however, the reverse is acceptable. Approval of appointments may be by motion. Removals may be by motion, regardless if the appointment was made in the form of an ordinance or resolution.

(D) **Signature Requirement & Veto.** Upon passage, every ordinance and resolution of Council shall be signed by the presiding officer and shall be presented promptly to the Mayor for his or her approval. If the Mayor approves the ordinance or resolution as presented, he or she shall sign it. If the Mayor does not approve the ordinance or resolution presented, in whole, he or she shall, during the same meeting when the ordinance or resolution was passed, veto such ordinance or resolution and during such meeting make a statement of his or her objections. Upon receipt of the Mayor's veto and objections, Council may reconsider its vote by approved motion utilizing any reconsideration process established. Upon reconsideration, if Council approves the ordinance or resolution by two-thirds (2/3) of the current members of Council, it shall take effect the same as if it had received the Mayor's approval and signature. In the event the Mayor is unable to attend a Council meeting where an ordinance or resolution is being considered for passage, and the Mayor has prior notice thereto, the Mayor may exercise his or her veto by filing the same in writing, along with his or her objections, with the Clerk of Council prior to the meeting. If the ordinance or resolution is passed, the Council Clerk shall present the written veto and objections to the presiding officer on the Mayor's behalf. The presentment of the same shall be treated as a valid veto and the procedure herebefore provided shall be followed as though the Mayor was present. In the event that the Mayor is absent from a Council meeting and an ordinance or resolution is presented for passage without prior notice to the Mayor, the Mayor shall be permitted ten (10) calendar days from the date of passage to exercise a veto which may be exercised in writing in the manner herebefore provided. The failure of the Mayor to strictly follow the veto procedure as contained herein shall constitute a complete waiver thereof and the ordinance or resolution shall stand enacted; moreover, the mere failure or refusal of the Mayor or presiding officer to sign an ordinance or resolution shall not invalidate the ordinance or resolution.

(E) **Mayor's Order of Reconsideration.** Upon failure of any ordinance or resolution, the Mayor may order a one (1) time reconsideration by Council, so long as such order is made at the same Council meeting when the ordinance or resolution failed. No motion is required of Council upon an order of reconsideration and, the Council shall immediately reconsider the proposed ordinance or resolution at that meeting.

(F) **Publication of Legislation.** All ordinances and resolutions shall be published one (1) time after passage in a newspaper of general circulation in the City, and/or Council may determine that publication shall be by other electronic media. Ordinances or resolutions containing words in excess of that number provided for by ordinance or resolution of Council may be published merely by summary. Council may establish criteria for what constitutes an adequate summary. In the event of the publication of ordinances or resolutions by summary, there shall be a notice in such publication that a copy of the complete ordinance or resolution is on file in the office of the Clerk of Council for inspection during business hours and that copies of such ordinance or resolution shall be furnished to any person, upon request, for a reasonable fee. The City Law Director shall review all proposed summary form publication for legal accuracy and sufficiency prior to publication. The Clerk of Council shall cause the ordinance or resolution to remain posted in the principal municipal building for a period not less than ten (10) calendar days immediately following the notice. Nothing in this Section shall be construed as to prohibit publication in accordance with the laws of Ohio; moreover, in the event there is no newspaper of general circulation in the City, or there are no electronic media available, Council may provide some other method of publication or giving notice of ordinances and resolutions, which may include, but not necessarily be limited to, posting copies in two (2) public places within the City.

(G) **Publication in Book Form.** When ordinances or resolutions are revised, codified, rearranged, published in book form, and certified as correct by the Clerk of Council and the Mayor, publication of a notice of such action shall be a sufficient publication. A new ordinance or resolution so published in book form, which has not been published as required by the laws of Ohio, this Charter, or as otherwise provided by Council, and which contains entirely new matter, shall be published as required by the laws of Ohio, this Charter, or as Council may provide. If such revision or codification is made by the City and contains new matter, it shall be a sufficient publication of such codification, including the new matter, to publish, in the manner allowed by this Charter, a notice of the enactment of such codifying ordinance or resolution, containing the title of the ordinance or resolution and a summary of the new matters covered by it. Revision and codification of ordinances and resolutions may be made under appropriate titles, chapters, and sections and in one (1) ordinance or resolution containing one (1) or more subjects.

ARTICLE III MAYOR

Section 3.01 Term

There shall be a Mayor of the City who shall be elected by a partisan ballot at a general municipal election for a term of four (4) years. Each candidate for Mayor shall be nominated at a partisan primary election held in odd numbered years in accordance with the laws of Ohio, except that a person desiring to become a candidate for the office of Mayor as an independent candidate shall file a valid and sufficient nominating petition in accordance with the laws of Ohio. The Mayor shall assume office on the first (1st) day of January of the year following his or her election, subject to being qualified. Except in the case of death, resignation, recall, removal or forfeiture of office of the Mayor, the Mayor shall hold office until his or her successor is elected and qualified.

Section 3.02 Qualifications

(A) **Eligibility.** No person shall be eligible to be elected Mayor unless he or she has been a resident and qualified elector of the City for at least one (1) continuous year immediately prior to his or her filing for office. The Mayor shall continue to be a resident and qualified elector of the City during his or her term of office. The Mayor shall not hold any other elected public office or employment with the City. For the purpose of this Section, "employment with the City" shall mean, employed by the City of Napoleon and being compensated from this municipal corporation's treasury; and, "elected public office" shall mean, "elected public office of this Municipality".

(B) **Forfeiture of Office.** If the Mayor ceases to possess, or violates, any of the qualifications set forth in this Section, he or she shall forfeit his or her office. The failure of the Mayor to maintain these qualifications shall not render void or ineffective any instrument executed, any ceremony performed, or any other action taken by him or her during the time he or she was not so qualified.

Section 3.03 Office and Compensation

The Mayor's office shall be located within the City's principal governmental building. The Mayor's salary shall be established by ordinance or resolution and may be changed by ordinance or resolution; however, no such change shall affect the Mayor's salary during his or her current term of office. Any change in the Mayor's salary shall be effective commencing with the term of office of the Mayor elected at the next general municipal election occurring not less than twelve (12) months after the enactment of such change.

Section 3.04 Powers and Duties

(A) **Powers and Duties - General.** The Mayor may administer oaths, may exercise all judicial powers which are granted by the Constitution or the laws of Ohio and may perform marriages as allowed by the laws of Ohio. Further, the Mayor shall involve him or herself chiefly, though not exclusively, in the following areas:

- (1) In the overall policy and direction of the City by setting an agenda for the City as a whole, and from time-to-time proposing legislation to Council and otherwise offering direction concerning general and specific issues;
- (2) In the nurture and growth of the City, working with all appropriate entities to promote economic development. Except in case of a conflict of interest, the Mayor shall be involved in economic development boards and commissions in which the City is a participant; and, shall be designated by Council to serve on such board or commission, when such designation is required, when next a vacancy exists, and when not otherwise prohibited by any appointment process. If the Mayor, for cause, declines to serve on such a board or commission, Council shall appoint another elected official of the City to serve in his or her place; and,
- (3) In constituent affairs, not exclusive of Council, but in conjunction with them, dealing with concerns, both group and individual, as may from time-to-time be presented.

(B) **Record Retention Member.** The Mayor shall serve on the records retention Committee of the City.

(C) **Ceremonial Head.** The Mayor shall be the ceremonial head of the City.

(D) **Duty to Execute Documents.** The Mayor shall execute all documents and countersign all bonds and notes issued by the City that may be required by law.

(E) **Council Meeting Attendance.** The Mayor should attend all Council meetings, at which he shall have the right to participate in Council meetings but not to vote.

(F) **State of City Address.** The mayor shall prepare and present to Council annually a State of the City Address no later than the first (1st) regular meeting in February.

(G) **Safety Service Appointments in Emergency.** The Mayor shall be the person authorized to call upon entities and agencies for additional fire and police personnel and make the appointments thereto in case of a riot or other like emergency in accordance with the laws of Ohio; however, once called and appointed, such authority to control the entities and agencies shall be relinquished to an officer or department as provided by Council.

(H) **Prohibited Activities.** The Mayor shall not appoint him or herself to boards, commissions, and committees of which he or she has the power of appointment. Further, the Mayor shall have no authority in the supervision and conduct of the administrative departments of the City, except when Council decides necessary.

Section 3.05 Election to Fill Vacancy

If the office of Mayor becomes vacant, a successor shall be elected at the next general municipal election provided that such election shall occur more than one (1) year prior to expiration of the term and such vacancy shall occur prior to the deadline for filing as a candidate for such position at such election. The person elected shall take office on the first (1st) day of January next following such election and, except in case of death, resignation, removal or forfeiture of office of the Mayor, shall serve the remainder of the unexpired term or until his or her successor is elected and qualified.

ARTICLE IV ADMINISTRATIVE DEPARTMENTS**Section 4.01 Creation of Departments**

The administrative functions of the City shall be conducted by a Department of Management, a Department of Finance, a Department of Law, and such other departments as may be established by Council. All other departments established by Council shall be subordinate to the above mentioned departments as assigned by Council by ordinance or resolution.

Section 4.02 Department Directors

The Department of Management, Department of Finance and Department of Law shall each be under the direction and control of a director.

Section 4.03 Director Qualifications

The director of the Department of Management (hereinafter called "City Manager"), director of the Department of Finance (hereinafter called "City Finance Director") and director of the Department of Law (hereinafter called "City Law Director") shall be appointed by Council based solely on qualifications required for the respective department after consideration of the Personnel Committee's recommendation.

Section 4.04 Director Employment Status

The City Manager, City Finance Director, and City Law Director shall each serve at the pleasure of Council and may be suspended or removed by Council at any time, with or without cause, by a two-thirds (2/3) affirmative vote of the current members of Council.

Section 4.05 General Powers and Authority of Directors

The director shall be the appointing authority in his or her respective department and have sole power and authority to appoint and suspend all assistant directors or department heads within his or her respective department. Each director upon giving prior notice to Council, to the Mayor and, in the case of the City Manager and City Finance Director, to the City Law Director, may remove an assistant director or department head within his or her respective department, subject to any applicable civil service law if such person is in the classified service, and subject to any Charter provision. Each director shall have the sole power and authority to appoint, suspend or remove all other employees in his or her respective department, subject to any applicable civil service law if such person is in the classified service, without prior notice to Council. Each director in his or her respective department may delegate any or all power and authority he or she possesses to his or her assistant director or a subordinate department head. Each director may prescribe and assign duties associated with his or her position to any employee in his or her respective department. If a conflict should arise concerning any assigned duty or duties of the directors, and such conflict cannot be resolved by permitting a subordinate within the department

to handle the task, then the director having the conflict shall request Council to assign his or her duty or duties to another officer in the City with respect to such matter and Council is empowered to do so. In the case of the City Law Director, where the task requires a person to be an Ohio licensed attorney, special counsel may be appointed by the City Law Director or Council.

Section 4.06 Department of Management

The Department of Management shall be under the direction and control of a City Manager. The City Manager shall be the general manager of the City and shall have those powers and perform those duties customarily held and performed by city managers. The City Manager shall be responsible to Council for the proper administration of all business, affairs and departments of the City, except for the Departments of Finance and Law. To that end, the City Manager shall be considered the chief administrative and executive officer of the City and shall have the following power, authority, and perform the following duties:

- (1) To assist the Budget Committee in preparing the annual budget and appropriation program as directed by Council;
- (2) To attend all Council meetings, unless excused from attendance by the Council President or by Council. He or she shall have the right to participate in Council meetings, but not to vote;
- (3) To formulate, arrange, and execute contracts or agreements and franchises on behalf of the City, subject to approval by Council as determined by Council; except that the City Law Director and City Finance Director shall award and execute all contracts or agreements specifically pertaining to the operation and functions of their respective departments, subject to approval by Council as determined by Council;
- (4) To recommend measures for adoption to Council;
- (5) To see that the laws, ordinances, resolutions and other Council actions are faithfully executed;
- (6) To appoint a subordinate as Acting City Manager in his or her temporary absence, other than an absence due to suspension. When appointment is made by the City Manager, the Acting City Manager and City Manager shall have concurrent powers and duties during the City Manager's temporary absence. Any appointment of an Acting City Manager by Council pursuant to their authority, shall supersede any appointment made by the City Manager;
- (7) To establish traffic control in the City in accordance with a procedure established by Council;
- (8) To generally manage and oversee the operations of subordinate departments under the Department of Management, including the prescribing of general rules and regulations therefor; and,
- (9) To have such other powers and perform such other duties, not inconsistent with or contrary to this Charter, as Council may provide.

Section 4.07 Department of Finance

The Department of Finance shall be under the direction and control of a City Finance Director. The City Finance Director shall be the chief accounting, financial and fiscal officer of the City and shall have those powers and perform those duties customarily held and performed by finance directors, auditors, clerks (may, but not necessarily to be construed as Clerk of Councils) and treasurers of cities under the laws of Ohio. The City Finance Director shall have the following power, authority and perform the following duties:

- (1) To assist the Budget Committee in preparing the annual budget and appropriation program as directed by Council;
- (2) To attend all Council meetings, unless excused from attendance by the Council President or by Council. He or she shall have the right to participate in Council meetings, but not to vote;
- (3) To be responsible for the accounting, collection, control and custody of public funds and disbursements;
- (4) To countersign all bonds and notes issued by the City;
- (5) To generally manage and oversee the operations of subordinate departments under the Department of Finance, including the prescribing of general rules and regulations therefor;
- (6) To appoint a subordinate as Acting City Finance Director in his or her temporary absence, other than an absence due to suspension. When appointment is made by the City Finance Director, the Acting City Finance Director and City Finance Director shall have concurrent powers and duties during the City Finance Director's temporary absence. Any appointment of an Acting City Finance Director by Council pursuant to their authority, shall supersede any appointment made by the City Finance Director; and,
- (7) To have such other powers and perform such other duties, not inconsistent with or contrary to this Charter, as Council may provide.

Section 4.08 Department of Law

(A) **Powers and Duties - General.** The Department of Law shall be under the direction and control of a City Law Director. The City Law Director shall be an attorney-at-law admitted and licensed to practice law in Ohio. The City Law Director shall have those powers and perform those duties customarily held and performed by law directors, solicitors, prosecutors and city attorneys of cities under the laws of Ohio; being the chief legal advisor to the City.

(B) **Representation Restrictions.** The Law Director shall not, but his or her assistants may, with the City Law Director's written consent, privately serve as legal counsel to any school district, including the City's school district, county, township, or other municipality or political subdivision. The City Law Director or any assistant thereto, shall not, through the City's law department, serve as legal counsel for any of the entities here before mentioned, except by consent of the Council; and then, only pursuant to a contract between the entity and the City that is approved by Council, with any compensation under such contract for such services being paid into the municipal treasury. For the purpose of this Section "privately" means, when not otherwise providing a service through the City's Department of Law.

(C) **Meeting Attendance.** The City Law Director shall attend all Council meetings, unless excused from attendance by the Council President or by Council. He or she shall have the right to participate in Council meetings, but not to vote.

(D) **Department Manager.** The City Law Director shall generally manage and oversee the operations of subordinate departments under the Department of Law, including the prescribing of general rules and regulations therefor.

(E) **Acting Law Director.** To appoint an Acting City Law Director, not necessarily a subordinate thereto, in his or her temporary absence, other than an absence due to suspension. When appointment is made by the City Law Director, the Acting City Law Director and City Law Director shall have concurrent powers and duties during the City Law Director's temporary absence. Any appointment of an Acting City Law Director by Council pursuant to their authority, shall supersede any appointment made by the City Law Director.

(F) **Special Counsel Permitted.** Nothing in this Charter shall be construed to limit or prevent Council or the City Law Director from engaging the legal advice or services of any other person or firm to prosecute, defend or otherwise participate in any complaint, controversy, suit, proceeding, project or other matter involving the City or the City's obligations, and to compensate each person or firm therefor, or when otherwise permitted as provided in this Charter, subject to appropriation of funds by Council, as the same is hereby authorized. However, Council shall not interfere with the City Law Director in matters of criminal prosecution or when taking action against the Council or the Mayor as may be required by law.

ARTICLE V BOARDS AND COMMISSIONS

Section 5.01 Civil Service Commission

(A) **Establishment of Commission.** There shall be a Civil Service Commission consisting of three (3) members each of whom shall be a resident and qualified elector of the City. Each member shall be appointed by the Mayor, subject to approval by Council: one (1) for a term of two (2) years, one (1) for a term of four (4) years, and one (1) for a term of six (6) years. Each alternate year thereafter, the Mayor shall appoint one (1) person, as successor of the member whose term expires, to serve a term of six (6) years, subject to approval by Council. Any vacancy shall be filled for the unexpired term. The Mayor, at any time, may remove any member from office for misconduct, neglect of duty, malfeasance in office, or other cause, subject to approval by Council. No more than two (2) members shall be from the same political party.

(B) **Duties.** The Civil Service Commission shall have those powers and perform those duties as provided by the laws of Ohio, except as otherwise provided by this Charter or, where not so otherwise provided by this Charter, then, as Council may provide otherwise by ordinance or resolution.

(C) **Administrative Rules.** The Civil Service Commission may adopt administrative rules pertaining to civil service, subject to approval by ordinance or resolution of Council.

(D) **Classification of Employees.** When not otherwise established in this Charter, Council may determine that certain positions and employees in the civil service of the City are classified and that others are unclassified; nevertheless, at minimum, the department heads of the police department and fire department (ie. chief of each department) shall be subject to civil service review for suspension in excess of five (5) days and/or dismissal.

(E) **Educational Prerequisites and Credit.** Notwithstanding Ohio Revised Code Section 124.22 or any other provision of the laws of Ohio, the Civil Service Commission may establish specific educational requirements as prerequisites for examinations for positions under its jurisdiction, or for certification of persons for appointment to such positions. The Civil Service Commission may grant educational credit in an amount and under conditions deemed appropriate

by the Civil Service Commission, when determining the relative merit and fitness of candidates for original appointment to positions under its jurisdiction. However, such amount must be established in advance of any affected examination, and no educational credit shall be added to an applicant's examination grade unless the applicant achieves at least the minimum passing grade on the examination without counting credit for education.

(F) **Veteran's Service Credit.** Notwithstanding Ohio Revised Code Section 124.23 or any other provision of the laws of Ohio, the Civil Service Commission may grant veteran's service credit in an amount and under conditions deemed appropriate by the Civil Service Commission, when determining the relative merit and fitness of candidates for original appointment to positions under its jurisdiction. However, such amount must be established in advance of any affected examination, and no veteran's service credit shall be added to an applicant's examination grade unless the applicant achieves at least the minimum passing grade on the examination without counting credit for veteran's service.

(G) **Examination Police and Fire Chiefs - General.** Notwithstanding Ohio Revised Code Sections 124.31, 124.44, 124.45, or any other provision of the laws of Ohio, in order to avail the City of the best possible candidates, the Council, by ordinance or resolution, may require the Civil Service Commission to examine, rank, and certify for appointment persons to the positions of chief of police and fire chief regardless of prior service with the City and without regard to any time-in-rank requirements that might otherwise restrict the field of candidates under the laws of Ohio. In such case, no extra credit for seniority or efficiency shall be added to the score of any candidate for either of those two (2) positions, without prior approval of Council, as that would disadvantage qualified persons who have not previously been employed by the City.

(H) **Method of Examination for Police and Fire Chief.** Examinations for the positions of police chief or fire chief may include written examination, oral examination, performance examination, evaluation of experience, practical demonstrations of skills, and/or such other forms of examination as the Civil Service Commission deems appropriate.

(I) **Exempt From Service.** Except as otherwise provided herein, to the extent permitted by law, exempt from the services of the City Civil Service Commission are the City health district and employees thereof, if any, and the City school district and employees thereof. Such services may only be acquired through a contract between the entity desiring the service and the City, when so approved by Council.

(J) **Local Code to Prevail.** To the extent permitted by law, the Council may, by ordinance or resolution, or through the approval of an administrative civil service code by ordinance or resolution, supersede and/or replace any or all of the laws of Ohio pertaining to civil service, including but not limited to Ohio Revised Code Chapter 124 and any or all of this state's administrative code, so long as not in conflict with the Constitution of Ohio and/or this Charter.

Section 5.02 Planning Commission

(A) **Establishment of Board.** There shall be a Planning Commission consisting of five (5) members as follows: The Mayor and four (4) residents and qualified electors of the City, who shall be appointed by the Mayor, subject to approval by Council: one (1) for a term of one (1) year, one (1) for a term of two (2) years, one (1) for a term of three (3) years, and one (1) for a term of four (4) years. Each year thereafter, the Mayor shall appoint one (1) person, as successor

of the member whose term expires, to serve a term of four (4) years, subject to approval by Council. Any vacancy shall be filled for the unexpired term. The Mayor, at any time, may remove any member from office for misconduct, neglect of duty, malfeasance in office, or other cause, subject to approval by Council. Council, by ordinance or resolution, may increase the number of members of the Planning Commission and provide for the method of appointment thereto.

(B) **General Power.** The Planning Commission, who shall also serve as the Platting Commission, shall have those powers and perform those duties as provided by the laws of Ohio, except as otherwise provided by this Charter or, where not so otherwise provided by this Charter, then, as Council may provide otherwise by ordinance or resolution.

(C) **Commission.** The Planning Commission shall hold hearings when required, and be recommendational to Council as it relates to its duties as a Planning and Platting Commission, unless otherwise provided by ordinance or resolution of Council.

(D) **Duties.** The Planning Commission shall:

- (1) Recommend for adoption, general rules, standards and specifications for construction of improvements shown in subdivision plats within the City, including any amendments thereto;
- (2) Recommend for adoption, general rules and regulations governing plats and subdivisions of land within the City;
- (3) Recommend zone classifications and zoning code regulations, including any amendments thereto;
- (4) Recommend for adoption a master and/or thoroughfare plan for the City, including any amendments thereto;
- (5) Recommend the approval or disapproval of any preliminary or final plat within the City;
- (6) Recommend the approval or disapproval related to the construction or authorization for construction of those things contained in Ohio Revised Code 713.02 or any similar provision under the laws of Ohio;
- (7) Recommend the vacation of any street and/or alley within the City;
- (8) Recommend the approval or disapproval of a special or conditional use permit, with or without special conditions; and,
- (9) Recommend the granting of variances within the authority of the Planning Commission.

(E) **Action by Council Upon Recommendation.** Notwithstanding the laws of Ohio, recommendations of the Planning Commission shall be immediately forwarded to Council by the Planning Commission for review at the next regularly scheduled Council meeting or at a special meeting called for such purpose. Those recommendations for those things contained in paragraph (D), items (5), (6), (8), and (9) of this Section shall stand as approved or disapproved by Council, as recommended by the Planning Commission, without further action of Council, unless Council rejects or modifies such recommendation by motion of Council, with two-thirds (2/3) vote of the current members of Council concurring thereto, within thirty (30) days of the Planning Commission meeting where the recommendation was made for approval or disapproval; except that in the case of a preliminary or final plat, then such rejection or modification shall be within a shorter period of time as may be required by law for plat approval.

(F) **Council Authority.** The Council may accept, reject or modify any other Planning Commission recommendation by approved motion having a majority vote of those current Council members, except that any ordinance or resolution to amend the zoning code that differs from a recommendation of the Planning Commission shall not pass without a three-fourths (3/4) vote of the current members of Council concurring thereto. No such ordinance seeking to amend the provisions of a zoning code which is in accordance with the report and recommendation submitted by the Planning Commission shall be deemed to pass or take effect without an affirmative vote of at least a majority of the current Council members.

(G) **Public Improvement Acceptance.** Acceptance of public improvements shall be by ordinance or resolution of Council regardless of the recommendation process as herein provided, unless otherwise permitted to be accepted by other means under the laws of Ohio.

(H) **Legislative Authority over Planning.** Nothing in this Section shall be construed as to limit Council's inherent legislative power as it relates to planning and zoning.

Section 5.03 Board of Zoning Appeals

(A) **Establishment of Board.** There shall be a Board of Zoning Appeals consisting of five (5) members, each of whom shall be a resident and qualified elector of the City. Each member shall be appointed by the Mayor, subject to approval by Council: one (1) for a term of one (1) year, one (1) for a term of two (2) years, one (1) for a term of three (3) years, one (1) for a term of four (4) years, and one (1) for a term of five (5) years. Each year thereafter, the Mayor shall appoint one (1) person, as successor of the member whose term expires, to serve a term of five (5) years, subject to approval by Council. Any vacancy shall be filled for the unexpired term. The Mayor, at any time, may remove any member from office for misconduct, neglect of duty, malfeasance in office, or other cause, subject to approval by Council. One (1) member, but only one (1), shall be a member of the Planning Commission.

(B) **Duties.** The Board of Zoning Appeals shall have those powers and perform those duties as Council may provide by ordinance or resolution.

Section 5.04 Board of Public Affairs

(A) **Establishment of Board.** There shall be a Board of Public Affairs consisting of three (3) members, each of whom shall be a resident and qualified elector of the City, appointed by the Mayor, subject to approval by Council: one (1) for a term of one (1) year, one (1) for a term of two (2) years, and one (1) for a term of three (3) years. Each year thereafter, the Mayor shall appoint one (1) person, as successor of the member whose term expires, to serve a term of three (3) years, subject to approval by Council. Any vacancy shall be filled for the unexpired term. The Mayor, at any time, may remove any member from office for misconduct, neglect of duty, malfeasance in office, or other cause, subject to approval by Council.

(B) **Duties.** The Board of Public Affairs shall advise Council about rates, fees, charges, improvements, rules and regulations pertaining to utilities owned or operated by the City. The Board of Public Affairs also shall have those powers and perform those duties as Council may provide by ordinance or resolution.

Section 5.05 Board of Building Appeals

(A) **Establishment of Board.** There shall be a Board of Building Appeals consisting of five (5) members, each of whom shall be a resident and qualified elector of the City, appointed by the Mayor and approved by Council: one (1) for a term of one (1) year, two (2) for a term of two (2) years, and two (2) for a term of three (3) years. Each year thereafter, the Mayor shall appoint one (1) or more persons (as the case may be), as successors of the members whose terms expire, to serve a term of three (3) years, subject to approval by Council. Any vacancy shall be filled for the unexpired term. The Mayor, at any time, may remove any member from office for misconduct, neglect of duty, malfeasance in office, or other cause, subject to approval by Council.

(B) **Duties.** The Board of Building Appeals shall have those powers and perform those duties as Council may provide by ordinance or resolution.

Section 5.06 Parks and Recreation Board

(A) **Establishment of Board.** There shall be a Parks and Recreation Board consisting of seven (7) members, each of whom shall be a resident and qualified elector of the City. Each member shall be appointed by the Mayor, subject to approval by Council: two (2) for a term of one (1) year, two (2) for a term of two (2) years, and three (3) for a term of three (3) years. Each year thereafter, the Mayor shall appoint one (1) or more persons (as the case may be), as successors of the members whose terms expire, to serve a term of three (3) years, subject to approval by Council. Any vacancy shall be filled for the unexpired term. The Mayor, at any time, may remove any member from office for misconduct, neglect of duty, malfeasance in office, or other cause, subject to approval by Council.

(B) **Duties.** The Parks and Recreation Board shall generally act in an advisory capacity, making recommendations to Council concerning the development, maintenance and operation of playgrounds, recreational facilities, and programs for the City, including fees and rates thereof; however, the Parks and Recreation Board also shall have those powers and perform those duties as Council may provide by ordinance or resolution.

Section 5.07 Charter Review Commission

(A) **Establishment of Commission.** No later than the year 2008, and at least every eight (8) years thereafter, there shall be a Charter Review Commission consisting of seven (7) members, each of whom shall be a resident and qualified elector of the City: five (5) of whom shall be appointed by Council and two (2) of whom shall be appointed by the Mayor. Two (2), but not more than two (2) of the Council appointments may be Council members.

(B) **Duties.** The Charter Review Commission shall review the City's Charter to determine whether any amendments, additions, deletions or other changes are necessary or would be advisable or beneficial, and, within the time designated by Council and as otherwise provided by Council, shall bring any and all proposed amendments, additions, deletions or other changes to the attention of Council.

(Amended November 8, 2016)

Section 5.08 Other Boards and Commissions

Council may establish or abolish other boards and commissions as it decides necessary, and may provide them with those powers and duties as it decides necessary. The method and duration of appointment to any other boards and commissions shall be as Council may provide; however, each appointee shall be a resident and qualified elector of the City.

ARTICLE VI PURCHASE, SALE, LEASE AND CONTRACT

Section 6.01 Local Method for Acquiring, Constructing, Disposing of Property

Council may provide, by ordinance or resolution, a method for the City to purchase, construct, lease, sell, or to otherwise dispose of real property and, tangible or intangible personal property, including the contracting therefor, that may be contrary to any provision of the laws of Ohio.

Section 6.02 Local Method for Acquiring or Providing Services Permitted

Council may provide, by ordinance or resolution, a method for the City to purchase, sell, or otherwise provide services, including but not limited to, professional design services of an architect or engineer or a firm thereof, and/or the contracting therefor, that may be contrary to any provision of the laws of Ohio.

Section 6.03 Local Threshold Amounts for Bidding Construction or Property Permitted

Council may provide, by ordinance or resolution, threshold amounts required for competitive bidding or the seeking of proposals related to any purchase, construction, sale or lease of any real property and tangible or intangible personal property, including the contracting therefor, to or from the City, that may be contrary to the laws of Ohio.

Section 6.04 Local Threshold Amounts for Bidding Services Permitted

Council may provide, by ordinance or resolution, threshold amounts required for competitive bidding, the seeking of proposals or the selection process for the purchase or sale of services, including, but not limited to, professional design services of an architect or engineer or a firm thereof, to or from the City, that may be contrary to the laws of Ohio.

Section 6.05 Elimination of Competitive Bid or Proposal Permitted

When the City may otherwise be required by the laws of Ohio, ordinance or resolution, to make any purchase or contract of any type of property or services, or contract for purchases or services by competitive bid, the proposal process, or qualified base selection process, Council may eliminate the necessity therefor in the best interest of the City, as determined in the sole discretion of Council by a majority vote of the current members of Council.

Section 6.06 Exemption from Bidding Requirements in Emergency

Contracts or agreements for professional services, sole source contracts or agreements, and contracts or agreements which are necessitated by an emergency that threatens the health or safety of the inhabitants of the City, or contracts or agreements that are immediately necessary for the preservation or replacement of City real or personal property or facilities, shall be exempt from bidding. In addition, matters that are exempt from bidding under Section 6.05 of this Article and the laws of Ohio are also exempt from bidding.

Section 6.07 Local Standard for Award of Contract

The standard for awarding contracts or agreements as a result of competitive bidding or proposal process shall be as established by ordinance or resolution of Council. The directors of the Department of Management, Department of Finance and Department of Law shall make awards of contracts and agreements for the respective departments, subject to approval of Council when so required by Council.

ARTICLE VII UTILITIES AND FRANCHISING

Section 7.01 Utility Regulation

All grants shall be subject to the right of the City, whether in terms reserved or not, to control, regulate, in, over, under or across all streets, alleys or public places occupied by any such public utility; the Council may cause to be reconstructed, relocated or discontinued any such structure or fixture; and the Council may pass all regulatory ordinances effecting such utilities which may be required in the interests of public health, safety, or accommodation.

Section 7.02 Franchises

(A) **Non-City Owned or Operated Utility - General.** To the extent permitted by law, no non-City owned or operated utility, including but not limited to, gas, telephone, telecommunication, cable television, water, sewer or electric, shall operate in the City without a franchise or prior permission of Council.

(B) **Franchise Restrictions.** To the extent permitted by law, no franchise or non-City owned or operated utility operating in the City shall be assignable without the consent of the Council by ordinance or resolution first advertised, and any attempted assignment without such ordinance or resolution shall be void and of no effect.

(C) **Right to Purchase.** All grants of the right to exercise a franchise made by the Council shall reserve to the City the right to purchase or lease all property of the utility used, for the operation of the utility at a price either fixed in the ordinance or resolution making the grant, or to be fixed in a manner provided by such ordinance or resolution, which price shall in no event include any value for the grant. Nothing in ordinance or resolution granting a franchise shall prevent the City from acquiring such property by condemnation proceedings or in any other lawful mode, which rights shall be in addition to those reserved in the ordinance or resolution making such grant. Upon the acquisition of such property by purchase condemnation, or otherwise, all grants shall at once terminate.

ARTICLE VIII OPEN MEETINGS AND PUBLIC RECORDS

Section 8.01 Meetings of Public Bodies

All meetings of public bodies of the City shall be open to the public, except as allowed by the laws of Ohio or as Council may further provide by ordinance or resolution for matters declared in such ordinance or resolution to require confidentiality, including but not limited to, obtaining general legal advice from the public body's attorney and matters of a competitive nature relating to any City owned or operated utility. Except as herein provided, only the public body calling an executive session and its invited guests may attend such executive session. The Mayor shall not be excluded from an executive session of Council.

Section 8.02 Public Records

(A) **Local Method of Record Retention.** Council may, by ordinance or resolution, establish a method for record retention, disclosure and destruction that may be contrary to the laws of Ohio.

(B) **Record Exemption.** Notwithstanding any provision of the laws of Ohio, no record received, created, or maintained by the City related to any City owned or operated utility is required to be released as a public record when, disclosing such record would more likely than not provide or create a competitive disadvantage to any of the City's owned or operated utilities or be of economic value to a competitor or a person other than the City.

ARTICLE IX INITIATIVE, REFERENDUM AND RECALL

Section 9.01 Initiative

The electors of the City shall have the same right and power to initiate or propose any legislation as is now or hereafter may be provided by the Constitution or laws of Ohio.

Section 9.02 Referendum

The electors of the City shall have the same right and power to approve or reject any legislation passed by Council as is now or hereafter may be provided by the Constitution or laws of Ohio.

Section 9.03 Removal from Office and Recall

(A) **Power to Recall.** The electors of the City shall have the right and power to remove from office by a recall election any officer of the City holding an elective office, but only after that officer has served six (6) months of his or her term. A petition demanding the removal of an elected officer may be filed with the Clerk of Council, who shall note thereon the name and address of the person filing the petition and the date of such filing, and deliver a receipt to that person.

The separate parts of the petition shall be bound together and filed as one (1) document. Each part shall contain the name and office of the person whose removal is sought and a statement in not more than two hundred (200) words of the grounds for removal. The petition shall be signed by at least that number of electors which equals twenty-five percent (25%) of the number of electors voting at the last general municipal election. Within ten (10) days after filing the petition, the Clerk of Council shall determine whether or not it meets the requirements hereof. If the Clerk of Council finds the petition insufficient, he or she promptly shall certify the particulars in which the petition is insufficient, deliver a copy of his or her certificate to the person who filed the petition, and make a record of such delivery. The person who filed the petition shall be allowed a one (1) time period of twenty (20) days after the day on which the delivery of the certificate was made to him or her to make the petition sufficient. If the Clerk of Council finds the petition sufficient, he or she promptly shall certify it to Council, deliver a copy of the petition and his or her certificate to the officer whose removal is sought, and make a record of such delivery if the officer does not resign.

(B) **Failure to Resign.** If the officer does not resign within five (5) days after the day on which such delivery is made, Council, by ordinance or resolution, shall fix a day for holding a recall election, not less than sixty (60) days nor more than seventy-five (75) days after the date of such delivery. The Clerk of Council shall certify the ordinance or resolution providing for such election to the appropriate election authorities upon receipt from the person filing the petition of a bond, cash, certified check or cashier's check in an amount equal to the cost of such election as reasonably estimated by the Clerk of Council, such security to be retained and used by the City to pay the costs of the recall election if a majority of the votes cast are against the recall of the officer, otherwise to be returned to the person filing the petition upon certification of the results of the election.

(C) **Ballot Wording and Eligibility of Appointment.** At the recall election, this question shall be placed upon the ballot substantially in the following form or as otherwise permitted by the board of elections: "Shall (naming the officer) be allowed to continue as (naming the office)?", with provisions on the ballot for voting affirmatively or negatively. In the event a majority of the vote is negative, the officer shall be considered as removed, his or her office shall be considered vacant, and the vacancy shall be filled as provided by this Charter, or if this Charter is silent, as Council may decide. The person removed at the recall election shall not be eligible for appointment to the vacancy thereby created.

(D) **No Additional Recall.** If an officer against whom a recall petition is filed is continued in office by the vote at the recall election, no other recall petition shall be filed against him or her for a period of two (2) years.

(E) **Removal by Council.** Council may remove the Mayor or a Council member for gross misconduct, malfeasance, misfeasance, or nonfeasance in office; or for conviction while in office of a crime involving moral turpitude or for any felony conviction; or if adjudicated legally incompetent; or for a violation of his or her oath of office; or for persistent failure to abide by the Rules of Council. However, such removal shall not take place without the concurrence (affirmative vote) of five (5) members of Council, and also not until the accused Mayor or Council member has been notified in writing of the charge against him or her at least ten (10) days in advance of a public hearing upon such charge, and at which time he or she (or his or her counsel should the Mayor or Council member choose to retain counsel) shall be given an opportunity to be heard and present evidence at a public hearing called by Council. An accused member of Council shall not vote on the question of his or her removal. Upon the removal of such officer, the vacancy thereby created in such office shall be filled in the manner provided by this Charter, and the officer so removed shall not be eligible for appointment to fill such vacancy.
(Amended November 8, 2016)

ARTICLE X GENERAL PROVISIONS

Section 10.01 Amendment to Charter

This Charter, or any part of it, may be amended by submission of the question to the electors at a general municipal election if one shall occur not less than sixty (60) nor more than one hundred and twenty (120) days after passage of an ordinance providing for the submission; otherwise it shall be at a special election to be called and held within the time aforesaid. Amendments to this Charter shall be as provided by this Charter, so long as not otherwise prohibited by the Constitution of Ohio, and as provided by the Constitution of Ohio. If any proposed amendment is approved by a majority of the electors voting, it shall become part of this Charter, except that if two (2) or more inconsistent proposed amendments on the same subject are submitted at the same election, only the one (1) receiving the highest number of affirmative votes, but not less than a majority, shall become part of this Charter.

Section 10.02 Effect of Partial Invalidity

A determination that any part of this Charter is invalid shall not invalidate or impair the force or effect of the remainder of this Charter or of any other part of it, except to the extent that such other part is wholly dependent for its operation upon the part declared invalid.

Section 10.03 Interpretation

(A) **Headings.** The article and section headings in this Charter have been inserted for convenience in reference and are not intended to define or limit the scope of, or otherwise affect, any provision of this Charter.

(B) **General Rules.** Except as expressly provided in this Charter, or as the context otherwise requires, the masculine term or pronoun, if any, includes the feminine, the singular term includes the plural, and the plural term includes the singular. The time within or by which any act or thing is required to be done by any provision of this Charter shall be computed by excluding the first day and including the last day, except that when the last day falls on a Saturday, Sunday or City recognized holiday or other legal holiday, the act may be done on the next succeeding day which is not a Saturday, Sunday or City recognized holiday or other legal holiday.

(C) **Interpretation.** In order that a ready means may be at hand for reconciling any conflicts, resolving any inconsistencies and clarifying any obscurities which may be discovered in the language of this Charter, the power is vested in Council to interpret the various articles, sections and provisions of this Charter in harmony with the spirit thereof, by ordinance, resolution or other action of Council passed by the affirmative vote of at least two-thirds (2/3) of the current members of Council.

Section 10.04 General Laws to be Applicable

All laws of Ohio applicable to municipalities, now in force or as hereafter enacted, and which are not inconsistent with or contrary to this Charter, or with ordinances, resolutions or other actions hereafter enacted or passed by Council, shall be applicable to the City; provided, however, that nothing contained in this Charter shall be construed as limiting the power of Council to enact any ordinance or resolution or take any other action not in conflict with the Constitution of Ohio or with the express provisions of this Charter.

ARTICLE XI TRANSITIONAL PROVISIONS**Section 11.01 Amendment of Existing Charter and Effective Date**

It is the intention and purpose of this Charter to amend in its entirety the existing City Charter that was adopted at an election held on November 7, 1950 and which was later amended at an election held on November 2, 1992; moreover, to repeal the prior wording in those articles, sections and/or provisions so amended by this amended Charter, as existed prior to the effective date of this amended Charter, to the extent to conform herewith. To that end, this amended Charter shall become effective on January 1, 2018.

Section 11.02 Effect of Charter on Existing Laws, Rights and Obligations

The adoption of this Charter shall not affect any pre-existing laws, rights or obligations of the City, including, but not limited to, any right, liability, pending suit or prosecution, either on behalf of or against the City or any officer thereof, any franchise granted by the City, or any pending proceedings for the authorization of public improvements or the levy of assessments therefor. All ordinances, resolutions and other actions of the City in force on the effective date of this Charter and not inconsistent with or contrary to its provisions shall continue in full force and effect until amended, repealed or rescinded by Council. The mere changing of an article number, section number or the like in this Charter, shall not render any ordinance, resolution or provision thereof invalid.

Section 11.03 Continuance of Present Officials

All officers of the City, who are holding office on the effective date of this Charter, shall continue in office and in the performance of their duties until the respective terms for which they were elected or appointed shall expire, and, at that time, any such office which is discontinued by this Charter or any future amendment thereto shall be abolished. All members of boards and commissions of the City, which are affected by the provisions of this Charter or any future amendments thereto, shall continue in office and in the performance of their duties until the expiration of their terms. Notwithstanding any other provision of this Charter, reorganization of Council committees is permitted immediately upon the effective date of this Charter. The powers which are conferred and the duties which are imposed upon any officer, board, commission or department of the City under the laws of Ohio, or under any ordinance, resolution or other action of the City, in force on the effective date of this Charter or any amendments thereto, shall, if such office, board, commission or department is abolished by this Charter, be thereafter exercised and discharged by the officer, commission, board or department upon whom are imposed corresponding functions, powers and duties, if any, by this Charter or by any ordinance, resolution or other action of Council thereafter enacted.

Section 11.04 Continuance of Present Employees

The adoption of this Charter or any future amendment thereto, shall not affect the continuation of employment of any employee of the City, who, thereafter, shall be subject in all respects to the provisions of this Charter.

CHAPTER 143 Fire/Rescue Department

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| <p>143.01 Composition and control of the City Fire/Rescue Department.</p> <p>143.02 Administrative head of Fire/Rescue Department.</p> <p>143.03 General duties of Fire/Rescue Department.</p> | <p>143.04 Additional fire personnel in emergency situation.</p> <p>143.05 Auxiliary fire/rescue.</p> <p>143.06 Fee schedule.</p> |
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CROSS REFERENCES

Fire protection contracts - see Ohio R.C. 9.60
 Schooling, buildings and equipment - see Ohio R.C. 715.03, 732.23
 General duties - see Ohio R.C. 737.11

143.01 COMPOSITION AND CONTROL OF THE CITY FIRE/RESCUE DEPARTMENT.

(a) The regular Fire/Rescue Department of the City shall be composed of a department head known as the "Fire Chief", and such other officers, fire fighters, fire rescue personnel, drivers, emergency medical personnel, fire safety inspectors, paramedics, secretaries, clerks and other employees as provided by legislation of the City, the Organizational Chart of the City, and/or the Administrative Code of the City.

(b) Definitions. For purposes of this chapter, the following words and phrases shall have the following meanings ascribed to them respectively.

- (1) "Fire Chief" means the Chief of the regular Fire/Rescue Department.
- (2) "Regular Fire/Rescue Department" means the Fire/Rescue Department of the City composed of the full-time and part-time paid personnel and its auxiliary.

(c) Notwithstanding any prior ordinance or resolution to the contrary, the regular Fire/Rescue Department shall be composed of the following:

- 1 Fire Chief (full-time)
- 3 Officer of the supervisory grade (full-time)
- 6 Firefighter/Paramedics or
Firefighter/Emergency Medical technicians, or
combination thereof (full-time)
- 5 Officers of supervisory grade (part-time)
- 1 (not to exceed 50) Staff of any combination of the following:
Firefighters, paramedics, emergency medical technicians (any level),
firefighter/paramedics, firefighter/emergency medical technicians,
secretary, communication officers (all of part-time status as approved by the
City Manager)
- 1 (not to exceed 20) Auxiliary officers.

(d) The making of an assignment by the Chief of one or more officers to any job or division such as fire fighters, drivers, fire safety inspectors, paramedics, arson investigators, and other similar positions shall not be construed as disturbing the composition of the regular Fire/Rescue Department or violating subsection (c) hereof; moreover, temporary vacancies in the regular Fire/Rescue Department shall not be construed as a departure from this section; finally, adding or eliminating secretaries, clerks, communication and the like positions shall not be construed as disturbing the composition of the regular Fire/Rescue Department.

(e) Nothing in this chapter shall be construed as limiting the number of additional officers that may be required in case of an emergency.
(Ord. 012-11. Passed 3-7-11.)

143.02 ADMINISTRATIVE HEAD OF FIRE/RESCUE DEPARTMENT.

The Fire Chief of the regular Fire/Rescue Department shall have direction and control over all personnel in the City's regular Fire/Rescue Department, including all auxiliary employees and other officers in the auxiliary unit. However, the City Manager maintains his or her power and authority over the Department as found in Article IV, of the City's Charter and Chapter 133 of the Administrative Code.

(Ord. 81-01. Passed 7-2-01.)

143.03 GENERAL DUTIES OF FIRE/RESCUE DEPARTMENT.

The Fire/Rescue Department shall protect the lives and property of the people in case of fire or other emergency. The Fire/Rescue Department shall perform such other duties as are provided by ordinance, resolution, and/or statute. In case of a conflict between an ordinance or resolution and a statute, the ordinance or resolution shall prevail where permitted.

(Ord. 81-01. Passed 7-2-01.)

143.04 ADDITIONAL FIRE PERSONNEL IN EMERGENCY SITUATION.

(a) In case of riot or other like emergency, Ohio R.C. 737.10 shall control, the Mayor being the person appointing the additional firemen and officers and being the person who calls upon the agencies or entities for assistance as authorized by Ohio R.C. 737.10; however, once appointed, said additional firemen and officers shall come under the control of the City Manager, Fire Chief or other supervisory officer of the regular Fire/Rescue Department. Nothing in this section shall be construed as superseding or modifying in any way any provision of a contract entered into pursuant to law.

(b) City fire personnel and necessary equipment and apparatus related thereto may be provided to any requesting state agency or instrumentality, county, or political subdivision of this State, or a governmental entity of an adjoining state without a contract to provide fire protection only after having received a request from a person with proper authority and only after approval by the City Manager, Fire Chief or other authorized supervisory officer of the regular Fire/Rescue Department. The provisions of Ohio R.C. 9.60 and 737.10 are applicable to this section insofar as they pertain hereto. Nothing in this section shall be construed as superseding or modifying in any way any provision of a contract entered into pursuant to law.

(c) Except as otherwise provided in subsection (a) hereof, the City Manager, Fire Chief, or other authorized officer of the regular Fire/Rescue Department may call another governmental entity to provide additional fire protection, together with appropriate equipment and apparatus, as may be necessary to protect persons and property of the Municipality. The City may, but is not required to, reimburse the political subdivision which furnished the aid for any expenses incurred by them as a result of rendering the aid. Nothing in this section shall be construed as superseding or modifying in any way any provision of a contract entered into pursuant to law. Officers provided are to be provided under the authority of Ohio R.C. 9.60 or other applicable law or contract.

(Ord. 81-01. Passed 7-2-01.)

143.05 AUXILIARY FIRE/RESCUE.

(a) There is created in and for the regular Fire/Rescue Department a Fire/Rescue Auxiliary, not to be construed as a volunteer fire department.

(b) The City Manager and the Fire Chief shall have the power to determine the qualifications, duties and powers of the members of the auxiliary force, as well as the number of its members, so long as the number is within the level(s) established in Section 143.01.

(c) Remuneration shall be one dollar (\$1.00) per year per person, unless otherwise provided by Council. (Ord. 81-01. Passed 7-2-01.)

143.06 FEE SCHEDULE.

The City of Napoleon hereby adopts and establishes a schedule of fees for services rendered by Napoleon Fire and Rescue as follows:

Service	Type	Description	Cost per Hour or Incident
Education	Public Education	CPR/includes AED	\$45.00/person
Education	Public Education	CPR	\$9.00/high school student
Education	Public Education	Fire Extinguisher	Free
Education	Public Education	Use of Fire Safety Trailer (out of County)	\$150.00
Education	Training Facility	Use of building - no burn	\$50.00/hour
Education	Training Facility	Use of building and Bullex Fire Simulator (includes 1 safety officer)	\$55.00/hour

Service	Type	Description	Cost per Hour or Incident
Education	Training Facility	Use of building - live burn	\$60.00/hour
Education	Training Facility	Lead Instructor	\$50.00
Education	Training Facility	Assistant Instructor	\$35.00
Education	Training Facility	Safety Officer (required for ALL use of building)	\$50.00/hour
Education	Training Facility	Vehicle Fire (up to 2 cars)	\$50.00/hour
Education	Training Facility	Vehicle Extrication (up to 2 cars)	\$50.00/hour
Education	Training Facility	Fire Engine	\$125.00/hour
Education	Training Facility	Ladder Truck	\$150.00/hour
Public Relations	Stand by	Football Game	\$100.00/game
Inspection	Fire Prevention	Initial Fire Inspection	Free
Inspection	Fire Prevention	Re-Inspection	Free
Inspection	Fire Prevention	Third Inspection	\$50.00
Inspection	Fire Prevention	All subsequent re-inspections	Increase by \$50.00/inspection
False Alarm	Incident Response	Third False Alarm (Commercial)	\$250.00
False Alarm	Incident Response	Fourth False Alarm (Commercial)	\$500.00
False Alarm	Incident Response	Fifth False Alarm (Commercial)	\$750.00
False Alarm	Incident Response	Third False Alarm (Residential)	\$100.00
False Alarm	Incident Response	Fourth False Alarm (Residential)	\$200.00

Service	Type	Description	Cost per Hour or Incident
False Alarm	Incident Response	Fifth False Alarm (Residential)	\$300.00
Hazardous Materials	Incident Response	Hazardous Materials spills greater than 25 gallons	Itemized
Hazardous Materials	Incident Response	Engine/Pumper	\$125.00/hour
Hazardous Materials	Incident Response	Ladder Truck	\$150.00/hour
Hazardous Materials	Incident Response	Tender	\$50.00/hour
Hazardous Materials	Incident Response	EMS Transport Vehicle (does not include transport fee)	\$100.00
Hazardous Materials	Incident Response	Hazardous Materials (trailer and pick up)	\$150.00/incident
Hazardous Materials	Incident Response	Support Vehicle (secondary unit needed by IC)	\$10.00/hour or actual cost
Hazardous Materials	Incident Response	Decontamination	\$200.00/incident
Hazardous Materials	Incident Response	Incident Commander	\$35.00/hour (each)
Hazardous Materials	Incident Response	Operations Officer	\$25.00/hour (each)
Hazardous Materials	Incident Response	Support Staff	\$15.00/hour (each)
Hazardous Materials	Incident Response	Fire and EMS Personnel (on scene and standby)	Actual hourly rate (each)
Hazardous Materials	Incident Response	Other Personnel and Government Employees	Actual hourly rate (each)
Hazardous Materials	Incident Response	Station fee (if utilized as part of the operation)	\$200.00 first hour; \$25.00 after \$500.00 maximum

Service	Type	Description	Cost per Hour or Incident
Hazardous Materials	Incident Response	Supplies	Charged at replacement cost
Hazardous Materials	Incident Response	Administrative fees	15% of total billing

(Ord. 058-17. Passed 10-16-17.)

In addition to what has been stated herein, President's Day shall be considered a legal holiday for the Assistant Chief of the Fire/Rescue Department position(s); regardless, President's Day shall not be construed as a legal holiday for the City for any other purpose. This is intentionally left in the Code despite other changes to The Personnel Code affecting the Assistant Fire Chief.

(4) Failure to Work on Holiday

To become eligible for holiday pay, the employee must work the full last scheduled work day prior to, and the full next scheduled work day after, each of the City observed legal holidays listed unless the employee was otherwise in active pay status.

Employees who are scheduled to work on a designated City observed legal holiday and do not report for work on the holiday shall not be entitled to holiday pay unless their reason for not reporting would ordinarily constitute an acceptable excuse under the applicable provisions of this Code. (Ord. 002-15. Passed 1-19-15.)

197.17 TRAUMA LEAVE

Applicability: This chapter is applicable to full-time regular employees of the classified service.

If a full-time regular employee in the classified service, while acting in his/her official capacity, is involved in an incident resulting in death or permanent disfigurement or disability to a person, or witnesses the death or permanent disfigurement or disability of a fellow employee, or witnesses the death of a person due to the application of deadly force by another, that employee shall receive trauma leave upon request of the employee to relieve the stress which has resulted from such incident.

The duration of such trauma leave shall be approved by the appointing authority, however, under no circumstances shall such trauma leave exceed thirty (30) days.

While on such trauma leave, the employee shall receive his/her normal rate of pay for such days, and they shall not be charged to his/her sick leave or any other accumulated but unused leave time.

Prior to his/her return to work, the City shall require the employee to take an examination, conducted by a physician, to determine if the affect of the trauma is relieved to the extent that the employee is both physically and mentally capable to perform the essential duties of the job. If determined incapable of doing so as a result of such examination, the employee may be placed on paid leave of absence, unpaid leave of absence, or disability separation. The cost of such examination shall be paid by the City.
(Ord. 042-14. Passed 8-4-14.)

197.18 VACATIONS**(a) Entitlement**

All full-time, regular employees earn annual vacation leave. Vacation leave may be utilized, except as otherwise specifically provided in a collective bargaining agreement under Ohio R.C. 4117, as it is accrued. Vacation entitlement will be calculated from hire date with the amount of vacation leave to which an employee is entitled to be based upon length of service and calculated and earned, except as otherwise provided in Section 197.19(h), on a biweekly basis as follows:

Full-time, regular employees:

Years of Service	Annual Hours	Bi-Weekly Accrual Hours	Yearly Balance Limit
Less than 6 years	80 hours	3.077 hours/each normal pay	80 hours per year
6 years but less than 12	120 hours	4.616 hours/each normal pay	120 hours per year
12 years or more	160 hours	6.154 hours/each normal pay	160 hours per year

(b) Effect of Time Spent on Authorized Leave of Absence

Time spent on any authorized leave of absence, whether paid or unpaid, shall be counted in determining length of service for purposes of vacation eligibility.

(c) Scheduling of Vacations

Vacations will be arranged to give consideration to the desire of the employee in accordance with a procedure established by the employee's department head which will not interfere with City operations.

(d) When Vacation May be Used

Accrued vacation leave may be taken by an employee at any time after accrual and entitlement, subject to the minimum increments established, so long as properly scheduled in accordance with other provisions of this Code, policy manual or work rule.

An employee shall not allow his/her total vacation time to exceed his/her maximum yearly accrual entitlement for any employment year without prior approval from the appointing authority. For the purpose of this section, the twelve month span of time between employee's anniversary date is an employment year.

This provision is applicable to accrued vacation as a result of sick leave conversion which is authorized in Section 197.16(e)(12) of this Code. When carryover is requested by a department director, such approval may be by the council president, with notification to the body of council, or merely by the body of council.

(e) **Vacation Forfeiture**

Employees shall forfeit their right to take or to be paid for any vacation leave to their credit which is in excess of any authorized balance; moreover, any vacation time accrued in the first year of service shall be forfeited if any employee fails to complete one (1) year of continuous service.

(f) **Accrual**

Vacation leave is accrued only while on active pay status, excluding overtime and in accordance with Section 197.18(a).

(g) **Lump Sum Payment of Vacation**

In the event an employee is denied the opportunity to schedule and take accrued vacation leave due to operational needs of the City, or in the event an employee fails to schedule and take accrued vacation leave due to the operational needs of the City, the appointing authority may authorize a year-end lump sum payment to the employee in an amount not to exceed the monetary value of the employee's annual vacation accrual as provided in Section 197.18(a). In the case of a department director, lump sum payment may be approved by the council president, with notification to the body of council, or merely by the body of council.

(h) **Prior Service Credit.**

- A. Except as otherwise provided for in separate legislation, and except as otherwise specifically excluded by a collective bargaining agreement under Ohio R.C. 4117, to determine prior service for the purpose of computing the amount of vacation leave for an employee first employed on or after June 1, 2017 by the City of Napoleon, the employee shall have all the amount of prior Ohio public service for any governmental body in the State of Ohio credited to that employee in determining accrual rate.

Except as otherwise provided for in separate legislation, and except as otherwise specifically excluded by a collective bargaining agreement under Ohio R.C. 4117, to determine prior service for the purpose of computing the amount of vacation leave for an employee first employed on or after July 5, 1987, but prior to June 1, 2017, by the City of Napoleon, the employee shall have only his or her prior service with the City of Napoleon counted.

Those employees (not elected officials) who were employed by the City of Napoleon prior to July 5, 1987 shall have all their public service with the State of Ohio or any of its political subdivisions credited pursuant to Ohio R.C. 9.44 (A). An employee who has retired in accordance with the provisions of any retirement plan offered by the State of Ohio and who is employed by the State of Ohio or any political subdivision of said State on or after June 24, 1987, shall not have his or her prior service with the State of Ohio or any political subdivision of said State counted for the purpose of computing vacation leave.

- B. If a newly hired employee has earned prior service credit from previous qualified employment, the employee may be credited for previously earned vacation time from said previous qualified employment, up to two (2) weeks of vacation time, (80 working hours), upon hire at an accrual rate equivalent to the applicable tier rate based on the number of years of prior service, subject to approval by the appointing authority. Additional credit for previously earned vacation time from previous qualified employment may be given upon affirmative vote of council.
- C. Except as may be otherwise provided for by separate legislation, employees entitled to prior service credit for purpose of computing vacation leave shall have their anniversary date deferred to their most recent date of employment with the City of Napoleon for purposes of: (1) vacation use or, (2) any use or forfeiture policy regarding vacation.
- D. Elected officials are not entitled to prior service credit for purpose of calculating vacation benefit, if any. (Ord. 010-17. Passed 6-5-17.)

197.19 OTHER LEAVES OF ABSENCE

(a) Leave of Absence In General

(1) Application

The provisions of this chapter shall apply only to full-time regular employees. This Chapter shall, unless otherwise stated, also apply to members or officers of the appointing authority, except members of city council and the mayor.

(2) Authorization of unpaid leave

The authorization of a leave of absence without pay is a matter of administrative discretion. The City shall decide in each individual case if a leave of absence is to be granted, within the limitations of this Code.

(3) Sick Leave Credit and Vacation Credit

An employee on leave of absence without pay does not earn sick leave or vacation credit. However, the time spent on authorized unpaid leave of absence is to be counted in determining length of service for purpose of calculating vacation eligibility or other purposes where seniority is a factor, unless otherwise stated to the contrary in other applicable ordinance or resolution.

(4) **Falsification of Leave**

Any leave of absence obtained through false representation, deceit, or fraud may be cause for disciplinary action up to and including dismissal.

(5) **Reinstatement From Leave**

Upon completion of a leave of absence, the employee is to be returned to the position formerly occupied, or to a similar position if the employee's former position no longer exists. Any replacement in the position while an employee is on leave is to be on a temporary basis.

(b) **Court Leave**

Court leave with pay will be granted to an employee who is summoned and required to appear for jury duty by the United States, the State of Ohio, or a political subdivision during regular working hours. Court leave with pay will be granted to any employee subpoenaed and required to appear as a plaintiff, defendant, or witness in a criminal or civil matter related to City business so long as the action in controversy is not a controversy between the City and the employee so appearing.

Employees will not be entitled to court leave when appearing in court for criminal or civil cases being heard in connection with the employee's personal matters, such as traffic court, divorce proceedings, custody, appearing as directed with juvenile, etc. Such absences may be charged to leave without pay, vacation or other accumulated compensable time upon approval of the employee's supervisor.

Employees shall honor any subpoena issued to them including those for Worker's Compensation and Unemployment Compensation.

Employees are expected to report for work if, after court or jury duty responsibilities are met, two (2) hours or more of the employee's regularly scheduled shift remains.

All moneys received as compensation, unless jury duty was served totally outside of regular working hours, shall be turned over to the City.

(c) **Temporary Disability Leave**

Temporary disability leave shall be considered, subject to qualification, under the pregnancy and temporary disability leave policy of the City as contained in the City's Employment Policy Manual.

(d) **Injury Leave**

Injury leave shall be considered, subject to qualification, under worker's compensation or the FMLA or pregnancy and temporary disability leave policies of the City as contained in the City's Employment Policy Manual.

(e) **Reinstatement after Injury or after Leave Due to Injury**

(1) General.

An employee who is absent due to Injury Leave as defined in the Section (Injury Leave), or who has been separated from service due to injury or physical disability incurred in the performance of duty, will be considered for reinstatement only through the reinstatement application process, provided that such application shall be filed not later than the earliest of the following:

- Twenty four (24) months after the injury occurred; or,
- Twelve (12) months after leave from service under the provisions of this Chapter; or,
- The date of service eligibility retirement.

(2) Payment of Accumulated Sick Leave after Injury

Except for part-time, permanent employees, any employee who is permanently separated from City service due to a service related disability compensated by the Ohio Bureau of Workers Compensation or the appropriate Retirement System Fund, as a result of a bodily injury received in the line of duty, shall receive a lump sum payment for one-half (1/2) of his/her accumulated but unused sick leave. Such lump sum payment shall reduce the employee's sick leave credit to zero. If the one-half (1/2) lump sum payment has not been made before the employee dies, the designated beneficiary of any employee who dies as a proximate result of such an injury shall receive payment for the full balance of the accumulated but unused sick leave.

(f) Military Leave

All employees who are members of the Ohio National Guard, the Ohio Defense Corps, the Naval Militia, or members of other reserve components of the Armed Forces of the United States are entitled to leave of absence from their respective duties without loss of pay for such time not to exceed a total of thirty-one (31) days in any one (1) calendar year. If while on active duty the employee's total gross wages are less than what they earn in City employment, the City will pay the employee the salary difference. If while on active duty the employee's total gross military wages are equal to or greater than what they earn in gross wages through City employment, the employee will not receive any salary reimbursement from the City.

- The employee is required to submit to his/her supervisor an order or statement from the appropriate military commander as evidence of such duty. There is no requirement that the service be in one (1) continuous period of time. The maximum number of hours for which payment may be made in any one (1) calendar year under this provision is one hundred seventy six (176) hours. Compensation received for the above purposes, not to exceed one hundred seventy six (176) hours, shall be submitted to the city finance director upon return from such duty, or as soon as possible. The city finance director will give the employee a receipt for the same.
- Employees who have worked for the City for at least thirty (30) calendar days will be granted a leave of absence without pay to be inducted or to otherwise enter military service. They are not paid for such leave unless they are members of reserve components as specified in the first paragraph of this Section.

- An appointment may be made to fill a vacancy created when an employee enters military service. However, if the person filling such a vacancy also enters military service he/she may be reinstated to the position after completion of service only if the first employee (the original incumbent) fails to apply to reinstatement within ninety (90) days of discharge or made written waiver of all rights to the position.
- An employee who voluntarily re-enlists while on active duty or a commissioned officer who voluntarily enters into extended duty beyond that required upon accepting a commission, is not eligible for reinstatement.
- Employees who are members of the Ohio National Guard will be granted emergency leave for mob, riot, flood, civil defense, or similar duties when so ordered by the Governor or assist civil authorities. Such leave will be without pay if it exceeds authorized paid military leave for the year. This leave will cover the official period of the emergency.
- Except for veterans that voluntarily re-enlist while on active duty or who voluntarily enters into extended duty beyond that required, a veteran separated or discharged under honorable conditions must in order to be reinstated, make application for re-employment to the former position within ninety (90) days from the date of release from service, or within ninety (90) days after release from hospitalization due to in service injury or illness which has not exceeded a period of more than one (1) year.

The following procedure will apply:

- A copy of a discharge or certificate of service must accompany all requests for reinstatement or reappointment;
- If a proper copy of discharge or certification is in order, reinstatement shall be accomplished within thirty (30) days after application is received by the appointing authority;
- Any change in classification or pay range which would have accrued to the position if the employee had been on the job shall apply.

(g) Unpaid Personal Leave

Any unpaid personal leave of absence requested must be submitted to the department head and approved by the appointing authority or his/her designated representative at least three (3) working days prior to the start of such leave. Unless otherwise specified, unpaid personal leave of absence is without benefits. Unpaid personal leave of absence, if approved, shall not exceed thirty (30) day intervals, and unless otherwise specified, shall be granted or denied at the discretion of the appointing authority or his/her designated representative.

Unpaid personal leaves of absences will generally not be granted for the purpose of working elsewhere, which includes self employment.

303.04 ROAD WORKERS, MOTOR VEHICLES AND EQUIPMENT EXCEPTED.

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

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

- (c) (1) This section does not exempt a driver of a highway maintenance vehicle from civil liability arising from a violation of Sections 331.01 to 331.04, 331.06 to 331.08, 331.31, 333.04, 337.01 or Ohio R.C. 4511.66 or 5577.01 to 5577.09.
- (2) This section does not exempt a driver of a vehicle who is not a state employee and who is engaged in the transport of highway maintenance equipment from criminal liability for a violation of Ohio R.C. 5577.01 to 5577.09.

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

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

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

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

303.05 APPLICATION TO PERSONS RIDING, DRIVING ANIMALS UPON ROADWAY.

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

303.06 FREEWAY USE PROHIBITED BY PEDESTRIANS, BICYCLES AND ANIMALS.

(a) No person, unless otherwise directed by a police officer, shall:

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

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.051)

303.07 APPLICATION TO DRIVERS OF GOVERNMENT VEHICLES.

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

303.08 IMPOUNDING OF VEHICLES; REDEMPTION.

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

- (1) When any vehicle is left unattended upon any street, bridge or causeway and is so illegally parked so as to constitute a hazard or obstruction to the normal movement of traffic, or so as to unreasonably interfere with street cleaning or snow removal operations.

- (2) When any vehicle or "abandoned junk motor vehicle" as defined in Ohio R.C. 4513.63 is left on private property for more than forty-eight consecutive hours without the permission of the person having the right to the possession of the property, or on a public street or other property open to the public for purposes of vehicular travel or parking, or upon or within the right of way of any road or highway, for forty-eight consecutive hours or longer, without notification to the Police Chief of the reasons for leaving such vehicle in such place. Prior to disposal of an "abandoned junk motor vehicle" as defined in Ohio R.C. 4513.63, it shall be photographed by a law enforcement officer.
- (3) When any vehicle has been stolen or operated without the consent of the owner and is located upon either public or private property.
- (4) When any vehicle displays illegal license plates or fails to display the current lawfully required plates and is located upon any public street or other property open to the public for purposes of vehicular travel or parking.
- (5) When any vehicle has been used in or connected with the commission of a felony and is located upon either public or private property.
- (6) When any vehicle has been damaged or wrecked so as to be inoperable or violates equipment provisions of this Traffic Code whereby its continued operation would constitute a condition hazardous to life, limb or property, and is located upon any public street or other property open to the public for purposes of vehicular travel or parking.
- (7) When any vehicle is left unattended either on public or private property due to the removal of an ill, injured or arrested operator, or due to the abandonment thereof by the operator during or immediately after pursuit by a law enforcement officer.
- (8) When any vehicle has been operated by any person who has failed to stop in case of an accident or collision and is located either on public or private property.
- (9) When any vehicle has been operated by any person who is driving without a lawful license or while his license has been suspended or revoked and is located upon a public street or other property open to the public for purposes of vehicular travel or parking.
- (10) When any vehicle is found for which two or more citation tags for violations of this Traffic Code have been issued and the owner or operator thereof has failed to respond to such citation tags as lawfully required, and is located upon a public street or other property open to the public for purposes of vehicular travel or parking.

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

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

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

303.081 IMPOUNDING VEHICLES ON PRIVATE RESIDENTIAL OR AGRICULTURAL PROPERTY.

- (a) (1) The Chief of Police upon complaint of any person adversely affected may order into storage any motor vehicle, other than an abandoned junk motor vehicle as defined in Ohio R.C. 4513.63, that has been left on private residential or private agricultural property for at least four hours without the permission of the person having the right to the possession of the property. The Chief of Police, upon complaint of a repair garage or place of storage, may order into storage any motor vehicle, other than an abandoned junk motor vehicle, that has been left at the garage or place of storage for a longer period than that agreed upon. When ordering a motor vehicle into storage pursuant to this section, the Chief of Police may arrange for the removal of the motor vehicle by a towing service and shall designate a storage facility.
- (2) A towing service towing a motor vehicle under subsection (a)(1) of this section shall remove the motor vehicle in accordance with that subsection. The towing service shall deliver the motor vehicle to the location designated by the Chief of Police not more than two hours after the time it is removed from the private property, unless the towing service is unable to deliver the motor vehicle within two hours due to an uncontrollable force, natural disaster, or other event that is not within the power of the towing service.
- (3) Subject to subsection (b) of this section, the owner of a motor vehicle that has been removed pursuant to this subsection may recover the vehicle only in accordance with subsection (d) of this section.
- (4) As used in this section "private residential property" means private property on which is located one or more structures that are used as a home, residence or sleeping place by one or more persons, if no more than three separate households are maintained in the structure or structures. "Private residential property" does not include any private property on which is located one or more structures that are used as a home, residence or sleeping place by two or more persons, if more than three separate households are maintained in the structure or structures.

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

the owner or operator oral or written notification that the owner or operator may pay not more than one-half of that fee to obtain release of the motor vehicle. That fee may be paid by use of a major credit card unless the towing service uses a mobile credit card processor and mobile service is not available at the time of the transaction.

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

- (c) (1) The Chief of Police shall maintain a record of motor vehicles that the Chief orders into storage pursuant to subsection (a)(1) of this section. The record shall include an entry for each such motor vehicle that identifies the motor vehicle's license number, make, model and color, the location from which it was removed, the date and time of the removal, the telephone number of the person from whom it may be recovered, and the address of the place to which it has been taken and from which it may be recovered. The Chief of Police shall provide any information in the record that pertains to a particular motor vehicle to any person who, either in person or pursuant to a telephone call, identifies self as the owner or operator of the motor vehicle and requests information pertaining to its location.
- (2) Any person who registers a complaint that is the basis of the Police Chief's order for the removal and storage of a motor vehicle under subsection (a)(1) of this section shall provide the identity of the law enforcement agency with which the complaint was registered to any person who identifies self as the owner or operator of the motor vehicle and requests information pertaining to its location.
- (d) (1) The owner or lienholder of a motor vehicle that is ordered into storage pursuant to subsection (a)(1) of this section may reclaim it upon both of the following:
 - A. Payment of all applicable fees established by the Public Utilities Commission in rules adopted under Ohio R.C. 4921.25 or, if the vehicle was towed within a municipal corporation that has established fees for vehicle removal and storage, payment of all applicable fees established by the municipal corporation.
 - B. Presentation of proof of ownership, which may be evidenced by a certificate of title to the motor vehicle, a certificate of registration for the motor vehicle, or a lease agreement.
When the owner of a vehicle towed under this section retrieves the vehicle, the towing service or storage facility in possession of the vehicle shall give the owner written notice that if the owner disputes that the motor vehicle was lawfully towed, the owner may be able to file a civil action under Ohio R.C. 4513.611.
- (2) Upon presentation of proof of ownership as required under subsection (d)(1)B. of this section, the owner of a motor vehicle that is ordered into storage under subsection (a)(1) of this section may retrieve any personal items from the motor vehicle without retrieving the vehicle and without paying any fee. However, a towing service or storage facility may charge an after-hours retrieval fee established by the Public Utilities Commission in

rules adopted under Ohio R.C. 4921.25 if the owner retrieves the personal items after hours, unless the towing service or storage facility fails to provide the notice required under division (B)(3) of Ohio R.C. 4513.69, if applicable.

The owner of a motor vehicle shall not do either of the following:

- A. Retrieve any personal item that has been determined by the sheriff or chief of police, as applicable, to be necessary to a criminal investigation;
- B. Retrieve any personal item from a vehicle if it would endanger the safety of the owner unless the owner agrees to sign a waiver of liability.

For purposes of subsection (d)(2) of this section, "personal items" do not include any items that are attached to the motor vehicle.

- (3) If a motor vehicle that is ordered into storage pursuant to subsection (a)(1) of this section remains unclaimed by the owner for thirty days, the procedures established by Ohio R.C. 4513.61 and 4513.62 apply.

- (e)
 - (1) No person shall remove, or cause the removal of, any motor vehicle from any private residential or private agricultural property other than in accordance with subsection (a)(1) of this section or Ohio R.C. 4513.61 to 4513.65.
 - (2) No towing service or storage facility shall fail to comply with the requirements of this section.

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

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

303.082 PRIVATE TOW-AWAY ZONES.

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

- (1) The owner of the private property posts on the property a sign, that is at least eighteen inches by twenty-four inches in size, that is visible from all entrances to the property, and that includes all of the following information:
 - A. A statement that the property is a tow-away zone;
 - B. A description of persons authorized to park on the property. If the property is a residential property, the owner of the private property may include on the sign a statement that only tenants and guests may park in the private tow-away zone, subject to the terms of the property owner. If the property is a commercial property, the owner of the private property may include on the sign a statement that only customers may park in the private tow-away zone. In all cases, if it is not apparent which persons may park in the private tow-away zone, the owner of the private property shall include on the sign the address of the property on which the private tow-away zone is located, or the name of the business that is located on the property designated as a private tow-away zone.
 - C. If the private tow-away zone is not enforceable at all times, the times during which the parking restrictions are enforced;

- D. The telephone number and the address of the place from which a towed vehicle may be recovered at any time during the day or night;
- E. A statement that the failure to recover a towed vehicle may result in the loss of title to the vehicle as provided in division (B) of Ohio R.C. 4505.101.

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

- (2) A towing service ensures that a vehicle towed under this section is taken to a location from which it may be recovered that complies with all of the following:
 - A. It is located within twenty-five linear miles of the location of the private tow-away zone, unless it is not practicable to take the vehicle to a place of storage within twenty-five linear miles.
 - B. It is well-lighted.
 - C. It is on or within a reasonable distance of a regularly scheduled route of one or more modes of public transportation, if any public transportation is available in the municipal corporation or township in which the private tow-away zone is located.
- (b)
 - (1) If a vehicle is parked on private property that is established as a private tow-away zone in accordance with subsection (a) of this section, without the consent of the owner of the private property or in violation of any posted parking condition or regulation, the owner of the private property may cause the removal of the vehicle by a towing service. The towing service shall remove the vehicle in accordance with this section. The vehicle owner and the operator of the vehicle are considered to have consented to the removal and storage of the vehicle, to the payment of the applicable fees established by the Public Service Commission in rules adopted under Ohio R.C. 4921.25, and to the right of a towing service to obtain title to the vehicle if it remains unclaimed as provided in Ohio R.C. 4505.101. The owner or lienholder of a vehicle that has been removed under this section, subject to subsection (c) of this section, may recover the vehicle in accordance with subsection (g) of this section.
 - (2) If a municipal corporation requires tow trucks and tow truck operators to be licensed, no owner of a private property located within the municipal corporation shall cause the removal and storage of any vehicle pursuant to subsection (b) of this section by an unlicensed tow truck or unlicensed tow truck operator.
 - (3) No towing service shall remove a vehicle from a private tow-away zone except pursuant to a written contract for the removal of vehicles entered into with the owner of the private property on which the private tow-away zone is located.

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

transaction. Upon payment of that fee, the towing service shall give the vehicle owner or operator a receipt showing both the full amount normally assessed and the actual amount received and shall release the vehicle to the owner or operator. Upon its release the owner or operator immediately shall move the vehicle so that the vehicle is not parked on the private property established as a private tow-away zone without the consent of the owner of the private property or in violation of any posted parking condition or regulation.

- (d) (1) Prior to towing a vehicle under subsection (b) of this section, a towing service shall make all reasonable efforts to take as many photographs as necessary to evidence that the vehicle is clearly parked on private property in violation of a private tow-away zone established under subsection (a) of this section.
The towing service shall record the time and date of the photographs taken under this section. The towing service shall retain the photographs and the record of the time and date, in electronic or printed form, for at least thirty days after the date on which the vehicle is recovered by the owner or lienholder or at least two years after the date on which the vehicle was towed, whichever is earlier.
- (2) A towing service shall deliver a vehicle towed under subsection (b) of this section to the location from which it may be recovered not more than two hours after the time it was removed from the private tow-away zone, unless the towing service is unable to deliver the motor vehicle within two hours due to an uncontrollable force, natural disaster, or other event that is not within the power of the towing service.
- (e) (1) If an owner of a private property that is established as a private tow-away zone in accordance with subsection (a) of this section causes the removal of a vehicle from that property by a towing service under subsection (b) of this section, the towing service, within two hours of removing the vehicle, shall provide notice to the Police Department concerning all of the following:
 - A. The vehicle's license number, make, model and color;
 - B. The location from which the vehicle was removed;
 - C. The date and time the vehicle was removed;
 - D. The telephone number of the person from whom the vehicle may be recovered;
 - E. The address of the place from which the vehicle may be recovered.
- (2) The Chief of Police shall maintain a record of any vehicle removed from private property in the Chief's jurisdiction that is established as a private tow-away zone of which the Chief has received notice under this section. The record shall include all information submitted by the towing service. The Chief shall provide any information in the record that pertains to a particular vehicle to a person who, either in person or pursuant to a telephone call, identifies self as the owner, operator or lienholder of the vehicle, and requests information pertaining to the vehicle.
- (f) (1) When a vehicle is removed from private property in accordance with this section, within three days of the removal, the towing service or storage facility from which the vehicle may be recovered shall cause a search to be made of the records of the Bureau of Motor Vehicles to ascertain the identity of the owner and any lienholder of the motor vehicle. The Registrar of Motor Vehicles shall insure that such information is provided in a timely manner. Subject to subsection (f)(4) of this section, the towing service or storage facility shall send notice to the vehicle owner and any known lienholder as follows:

- A. Within five business days after the Registrar of Motor Vehicles provides the identity of the owner and any lienholder of the motor vehicle, if the vehicle remains unclaimed, to the owner's and lienholder's last known address by certified or express mail with return receipt requested or by a commercial carrier service utilizing any form of delivery requiring a signed receipt;
 - B. If the vehicle remains unclaimed thirty days after the first notice is sent, in the manner required under subsection (f)(1)A. of this section;
 - C. If the vehicle remains unclaimed forty-five days after the first notice is sent, in the manner required under subsection (f)(1)A. of this section.
- (2) Sixty days after any notice sent pursuant to subsection (f)(1) of this section is received, as evidenced by a receipt signed by any person, or the towing service or storage facility has been notified that delivery was not possible, the towing service or storage facility, if authorized under subsection (B) of Ohio R.C. 4505.101, may initiate the process for obtaining a certificate of title to the motor vehicle as provided in that section.
 - (3) A towing service or storage facility that does not receive a signed receipt of notice, or a notification that delivery was not possible, shall not obtain, and shall not attempt to obtain, a certificate of title to the motor vehicle under division (B) of Ohio R.C. 4505.101.
 - (4) With respect to a vehicle concerning which a towing service or storage facility is not eligible to obtain title under Ohio R.C. 4505.101, the towing service or storage facility need only comply with the initial notice required under subsection (f)(1)A. of this section.
- (g) (1) The owner or lienholder of a vehicle that is removed under subsection (b) of this section may reclaim it upon both of the following:
 - A. Presentation of proof of ownership, which may be evidenced by a certificate of title to the vehicle, a certificate of registration for the motor vehicle or a lease agreement;
 - B. Payment of the following fees:
 - 1. All applicable fees established by the Public Utilities Commission in rules adopted under Ohio R.C. 4921.25, except that the lienholder of a vehicle may retrieve the vehicle without paying any storage fee for the period of time that the vehicle was in the possession of the towing service or storage facility prior to the date the lienholder received the notice sent under subsection (f)(1)A. of this section;
 - 2. If notice has been sent to the owner and lienholder as described in subsection (f) of this section, a processing fee of twenty-five dollars (\$25.00).
 - (2) A towing service or storage facility in possession of a vehicle that is removed under authority of subsection (b) of this section shall show the vehicle owner, operator or lienholder who contests the removal of the vehicle all photographs taken under subsection (d) of this section. Upon request, the towing service or storage facility shall provide a copy of all photographs in the medium in which the photographs are stored, whether paper, electronic, or otherwise.

- (3) When the owner of a vehicle towed under this section retrieves the vehicle, the towing service or storage facility in possession of the vehicle shall give the owner written notice that if the owner disputes that the motor vehicle was lawfully towed, the owner may be able to file a civil action under Ohio R.C. 4513.611.
- (4) Upon presentation of proof of ownership, which may be evidenced by a certificate of title to the vehicle, a certificate of registration for the motor vehicle or a lease agreement, the owner of a vehicle that is removed under authority of subsection (b) of this section may retrieve any personal items from the vehicle without retrieving the vehicle and without paying any fee. The owner of the vehicle shall not retrieve any personal items from a vehicle if it would endanger the safety of the owner, unless the owner agrees to sign a waiver of liability. For purposes of subsection (g)(4) of this section, "personal items" do not include any items that are attached to the vehicle.

(h) No person shall remove, or cause the removal of any vehicle from private property that is established as a private tow-away zone under this section, or store such a vehicle other than in accordance with this section, or otherwise fail to comply with any applicable requirement of this section.

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

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

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

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

303.083 RELEASE OF VEHICLE; RECORDS; CHARGES.

(EDITOR'S NOTE: The provisions of former Section 303.083 as amended are now codified in Section 303.081.)

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

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

For purposes of this section, the fact that a vehicle has been so left without permission or notification is prima-facie evidence of abandonment. Nothing contained in this section shall invalidate the provisions of other ordinances regulating or prohibiting the abandonment of motor vehicles on streets, highways, public property or private property within the Municipality. (ORC 4513.64)

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

303.10 PROVIDING FALSE INFORMATION TO POLICE OFFICER.

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

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

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

303.99 GENERAL TRAFFIC CODE PENALTIES.

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

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

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

(ORC 2929.24; 2929.28)

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

- (2) Except as otherwise provided in this subsection, whoever violates subsection (a)(2) of this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates subsection (a)(2) of this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates subsection (a)(2) of this section is guilty of a misdemeanor of the third degree.
(ORC 4511.17)

313.09 DRIVER'S DUTIES UPON APPROACHING AMBIGUOUS OR NON-WORKING TRAFFIC SIGNAL.

(a) The driver of a vehicle who approaches an intersection where traffic is controlled by traffic control signals shall do all of the following, if the signal facing the driver exhibits no colored lights, colored lighted arrows or exhibits a combination of such lights or arrows that fails to clearly indicate the assignment of right of way, or if the vehicle is a bicycle, the signals are otherwise malfunctioning, due to the failure of a vehicle detector to detect the presence of the bicycle:

- (1) Stop at a clearly marked stop line, but if none, stop before entering the crosswalk on the near side of the intersection, or, if none, stop before entering the intersection;
- (2) Yield the right of way to all vehicles in the intersection or approaching on an intersecting road, if the vehicles will constitute an immediate hazard during the time the driver is moving across or within the intersection or junction of roadways.
- (3) Exercise ordinary care while proceeding through the intersection.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
(ORC 4511.132)

313.10 UNLAWFUL PURCHASE, POSSESSION OR SALE.

(a) As used in this section, "traffic control device" means any sign, traffic control signal or other device conforming to and placed or erected in accordance with the manual adopted under Ohio R.C. 4511.09 by authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic, including signs denoting the names of streets and highways, but does not mean any pavement marking.

(b) No individual shall buy or otherwise possess or sell, a traffic control device, except when one of the following applies:

- (1) In the course of the individual's employment by the State or a local authority for the express or implied purpose of manufacturing, providing, erecting, moving or removing such a traffic control device;
- (2) In the course of the individual's employment by any manufacturer of traffic control devices other than a State or local authority;

- (3) For the purpose of demonstrating the design and function of a traffic control device to State or local officials;
- (4) When the traffic control device has been purchased from the State or a local authority at a sale of property that is no longer needed or is unfit for use;
- (5) The traffic control device has been properly purchased from a manufacturer for use on private property and the person possessing the device has a sales receipt for the device or other acknowledgment of sale issued by the manufacturer.

(c) This section does not preclude, and shall not be construed as precluding, prosecution for theft in violation of Ohio R.C. 2913.02 or a municipal ordinance relating to theft, or for receiving stolen property in violation of Ohio R.C. 2913.51 or a municipal ordinance relating to receiving stolen property.

(d) Whoever violates this section is guilty of a misdemeanor of the third degree.
(ORC 4511.18)

313.11 PORTABLE SIGNAL PREEMPTION DEVICES PROHIBITED.

- (a)
 - (1) No person shall possess a portable signal preemption device.
 - (2) No person shall use a portable signal preemption device to affect the operation of a traffic control signal.

(b) Subsection (a)(1) of this section does not apply to any of the following persons and subsection (a)(2) of this section does not apply to any of the following persons when responding to an emergency call:

- (1) A peace officer, as defined in Ohio R.C. 109.71(A)(11), (12), (14) or (19);
 - (2) A State highway patrol trooper;
 - (3) A person while occupying a public safety vehicle as defined in Ohio R.C. 4511.01(E)(1), (3) or (4).

(c) Whoever violates subsection (a)(1) of this section is guilty of a misdemeanor of the fourth degree. Whoever violates subsection (a)(2) of this section is guilty of a misdemeanor of the first degree.

(d) As used in this section, "portable signal preemption device" means a device that, if activated by a person, is capable of changing a traffic control signal to green out of sequence.
(ORC 4511.031)

5. The person has a concentration of heroin metabolite (6-monoacetyl morphine) in the person's urine of at least ten nanograms of heroin metabolite (6-monoacetyl morphine) per milliliter of the person's urine or has a concentration of heroin metabolite (6-monoacetyl morphine) in the person's whole blood or blood serum or plasma of at least ten nanograms of heroin metabolite (6-monoacetyl morphine) per milliliter of the person's whole blood or blood serum or plasma.
6. The person has a concentration of L.S.D. in the person's urine of at least twenty-five nanograms of L.S.D. per milliliter of the person's urine or a concentration of L.S.D. in the person's whole blood or blood serum or plasma of at least ten nanograms of L.S.D. per milliliter of the person's whole blood or blood serum or plasma.
7. The person has a concentration of marihuana in the person's urine of at least ten nanograms of marihuana per milliliter of the person's urine or has a concentration of marihuana in the person's whole blood or blood serum or plasma of at least two nanograms of marihuana per milliliter of the person's whole blood or blood serum or plasma.
8. Either of the following applies:
 - a. The person is under the influence of alcohol, a drug of abuse or a combination of them, and, as measured by gas chromatography mass spectrometry, the person has a concentration of marihuana metabolite in the person's urine of at least fifteen nanograms of marihuana metabolite per milliliter of the person's urine or has a concentration of marihuana metabolite in the person's whole blood or blood serum or plasma of at least five nanograms of marihuana metabolite per milliliter of the person's whole blood or blood serum or plasma.
 - b. As measured by gas chromatography mass spectrometry, the person has a concentration of marihuana metabolite in the person's urine of at least thirty-five nanograms of marihuana metabolite per milliliter of the person's urine or has a concentration of marihuana metabolite in the person's whole blood or blood serum or plasma of at least fifty nanograms of marihuana metabolite per milliliter of the person's whole blood or blood serum or plasma.

9. The person has a concentration of methamphetamine in the person's urine of at least five hundred nanograms of methamphetamine per milliliter of the person's urine or has a concentration of methamphetamine in the person's whole blood or blood serum or plasma of at least one hundred nanograms of methamphetamine per milliliter of the person's whole blood or blood serum or plasma.
 10. The person has a concentration of phencyclidine in the person's urine of at least twenty-five nanograms of phencyclidine per milliliter of the person's urine or has a concentration of phencyclidine in the person's whole blood or blood serum or plasma of at least ten nanograms of phencyclidine per milliliter of the person's whole blood or blood serum or plasma.
 11. The State Board of Pharmacy has adopted a rule pursuant to Ohio R.C. 4729.041 that specifies the amount of salvia divinorum and the amount of salvinorin A that constitute concentrations of salvia divinorum and salvinorin A in a person's urine, in a person's whole blood, or in a person's blood serum or plasma at or above which the person is impaired for purposes of operating any vehicle within this Municipality, the rule is in effect, and the person has a concentration of salvia divinorum or salvinorin A of at least that amount so specified by rule in the person's urine, in the person's whole blood, or in the person's blood serum or plasma.
- (2) No person who, within twenty years of the conduct described in subsection (a)(2)A. of this section, previously has been convicted of or pleaded guilty to a violation of Ohio R.C. 4511.19(A) or (B), or any other equivalent offense shall do both of the following:
- A. Operate any vehicle within this Municipality while under the influence of alcohol, a drug of abuse or a combination of them;
 - B. Subsequent to being arrested for operating the vehicle as described in subsection (a)(2)A. of this section, being asked by a law enforcement officer to submit to a chemical test or tests under Ohio R.C. 4511.191, and being advised by the officer in accordance with Ohio R.C. 4511.192 of the consequences of the person's refusal or submission to the test or tests, refuse to submit to the test or tests.

(b) Operation After Under-Age Consumption. No person under twenty-one years of age shall operate any vehicle within this Municipality, if, at the time of the operation, any of the following apply:

- (1) The person has a concentration of at least two-hundredths of one per cent but less than eight-hundredths of one per cent by weight per unit volume of alcohol in the person's whole blood.
- (2) The person has a concentration of at least three-hundredths of one per cent but less than ninety-six-thousandths of one per cent by weight per unit volume of alcohol in the person's blood serum or plasma.
- (3) The person has a concentration of at least two-hundredths of one gram but less than eight-hundredths of one gram by weight of alcohol per two hundred ten liters of the person's breath.

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

(c) One Conviction Limitation. In any proceeding arising out of one incident, a person may be charged with a violation of subsection (a)(1)A. or (a)(2) and a violation of subsection (b)(1), (2) or (3) of this section, but the person may not be convicted of more than one violation of these subsections. (ORC 4511.99)

(d) Physical Control.

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

(e) Evidence; Tests.

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

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

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

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

(f) Forensic Laboratory Reports.

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

(g) Immunity From Liability For Withdrawing Blood. Except as otherwise provided in this subsection, any physician, registered nurse, emergency medical technician-intermediate, emergency medical technician-paramedic, or qualified technician, chemist, or phlebotomist who withdraws blood from a person pursuant to this section or Ohio R.C. 4511.191 or 4511.192, and any hospital, first-aid station, or clinic at which blood is withdrawn from a person pursuant to this section or Ohio R.C. 4511.191 or 4511.192, is immune from criminal liability and civil liability based upon a claim of assault and battery or any other claim that is not a claim of malpractice, for any act performed in withdrawing blood from the person. The immunity provided in this subsection also extends to an emergency medical service organization that employs an emergency medical technician-intermediate or emergency medical technician-paramedic who withdraws blood under this section. The immunity provided in this subsection is not available to a person who withdraws blood if the person engaged in willful or wanton misconduct.

As used in this subsection, "emergency medical technician-intermediate" and "emergency medical technician-paramedic" have the same meanings as in Ohio R.C. 4765.01.

(h) General OVI Penalty.

(1) Whoever violates any provision of subsections (a)(1)A. to I. or (a)(2) of this section is guilty of operating a vehicle under the influence of alcohol, a drug of abuse, or a combination of them. Whoever violates subsection (a)(1)J. of this section is guilty of operating a vehicle while under the influence of a listed controlled substance or a listed metabolite of a controlled substance. The court shall sentence the offender for either offense under Ohio R.C. Chapter 2929, and this Traffic Code, except as otherwise authorized or required by subsections (h)(1)A. to E. of this section:

A. Except as otherwise provided in subsections (h)(1)B., C., D. or E. of this section, the offender is guilty of a misdemeanor of the first degree, and the court shall sentence the offender to all of the following:

1. If the sentence is being imposed for a violation of subsections (a)(1)A., B., C., D., E., or J. of this section, a mandatory jail term of three consecutive days. As used in this subsection, three consecutive days means seventy-two consecutive hours. The court may sentence an offender to both an intervention program and a jail term. The court may impose a jail term in addition to the three-day mandatory jail term or intervention program. However, in no case shall the cumulative jail term imposed for the offense exceed six months.

The court may suspend the execution of the three-day jail term under this subsection if the court, in lieu of that suspended term, places the offender under a community control sanction pursuant to Ohio R.C. 2929.25 and requires the offender to attend, for three consecutive days, a drivers' intervention program certified under Ohio R.C. 5119.38.

The court also may suspend the execution of any part of the three-day jail term under this subsection if it places the offender under a community control sanction pursuant to Ohio R.C. 2929.25 for part of the three days, requires the offender to attend for the suspended part of the term a drivers' intervention program so certified, and sentences the

offender to a jail term equal to the remainder of the three consecutive days that the offender does not spend attending the program. The court may require the offender, as a condition of community control and in addition to the required attendance at a drivers' intervention program, to attend and satisfactorily complete any treatment or education programs that comply with the minimum standards adopted pursuant to Ohio R.C. Chapter 5119 by the Director of Mental Health and Addiction Services that the operators of the drivers' intervention program determine that the offender should attend and to report periodically to the court on the offender's progress in the programs. The court also may impose on the offender any other conditions of community control that it considers necessary.

If the court grants unlimited driving privileges to a first-time offender under Ohio R.C. 4510.022, all penalties imposed upon the offender by the court under subsection (h)(1)A.1. of this section for the offense apply, except that the court shall suspend any mandatory or additional jail term imposed by the court under subsection (h)(1)A.1. of this section upon granting unlimited driving privileges in accordance with Ohio R.C. 4510.022.

2. If the sentence is being imposed for a violation of subsection (a)(1)F., G., H. or I. or (a)(2) of this section, except as otherwise provided in this subsection, a mandatory jail term of at least three consecutive days and a requirement that the offender attend, for three consecutive days, a drivers' intervention program that is certified pursuant to Ohio R.C. 5119.38. As used in this subsection, three consecutive days means seventy-two consecutive hours. If the court determines that the offender is not conducive to treatment in a drivers' intervention program, if the offender refuses to attend a drivers' intervention program, or if the jail at which the offender is to serve the jail term imposed can provide a drivers' intervention program, the court shall sentence the offender to a mandatory jail term of at least six consecutive days.

If the court grants unlimited driving privileges to a first-time offender under Ohio R.C. 4510.022, all penalties imposed upon the offender by the court under subsection (h)(1)A.2. of this section for the offense apply, except that the court shall suspend any mandatory or additional jail term imposed by the court under subsection (h)(1)A.2. of this section upon granting unlimited driving privileges in accordance with Ohio R.C. 4510.022.

The court may require the offender, under a community control sanction imposed under Ohio R.C. 2929.25, to attend and satisfactorily complete any treatment or education programs that comply with the minimum standards adopted pursuant to Ohio R.C. Chapter 5119 by the Director of Mental Health and Addiction Services, in addition to the required attendance at drivers' intervention program, that the operators of the drivers' intervention program determine

that the offender should attend and to report periodically to the court on the offender's progress in the programs. The court also may impose any other conditions of community control on the offender that it considers necessary.

3. In all cases, a fine of not less than three hundred seventy-five dollars (\$375.00) and not more than one thousand seventy-five dollars (\$1,075).
4. In all cases, a suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege for a definite period of one to three years. The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.13. The court may grant unlimited driving privileges with an ignition interlock device relative to the suspension and may reduce the period of suspension as authorized under Ohio R.C. 4510.022.

B. Except as otherwise provided in subsection (h)(1)E. of this section, an offender who, within ten years of the offense, previously has been convicted of or pleaded guilty to one violation of subsection (a) or (b) of this section or one other equivalent offense is guilty of a misdemeanor of the first degree. The court shall sentence the offender to all of the following:

1. If the sentence is being imposed for a violation of subsection (a)(1)A., B., C., D., E., or J. of this section, a mandatory jail term of ten consecutive days. The court shall impose the ten-day mandatory jail term under this subsection unless, subject to subsection (h)(3) of this section, it instead imposes a sentence under that subsection consisting of both a jail term and a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition to the ten-day mandatory jail term. The cumulative jail term imposed for the offense shall not exceed six months.

In addition to the jail term or the term of house arrest with electronic monitoring or continuous alcohol monitoring or both types of monitoring and jail term, the court shall require the offender to be assessed by a community addiction services provider that is authorized by Ohio R.C. 5119.21, subject to subsection (k) of this section, and shall order the offender to follow the treatment recommendations of the services provider. The purpose of the assessment is to determine the degree of the offender's alcohol usage and to determine whether or not treatment is warranted. Upon the request of the court, the services provider shall submit the results of the assessment to the court, including all treatment recommendations and clinical diagnoses related to alcohol use.

2. If the sentence is being imposed for a violation of subsection (a)(1)F., G., H. or I. or (a)(2) of this section, except as otherwise provided in this subsection, a mandatory jail term of twenty consecutive days. The court shall impose the twenty-day mandatory jail term under this subsection unless,

subject to subsection (h)(3) of this section, it instead imposes a sentence under that subsection consisting of both a jail term and a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition to the twenty-day mandatory jail term. The cumulative jail term imposed for the offense shall not exceed six months.

In addition to the jail term or the term of house arrest with electronic monitoring or continuous alcohol monitoring or both types of monitoring and jail term, the court shall require the offender to be assessed by a community addiction services provider that is authorized by Ohio R.C. 5119.21, subject to subsection (k) of this section, and shall order the offender to follow the treatment recommendations of the services provider. The purpose of the assessment is to determine the degree of the offender's alcohol usage and to determine whether or not treatment is warranted. Upon the request of the court, the services provider shall submit the results of the assessment to the court, including all treatment recommendations and clinical diagnoses related to alcohol use.

3. In all cases, notwithstanding the fines set forth in Section 303.99, a fine of not less than five hundred twenty-five dollars (\$525.00) and not more than one thousand six hundred twenty-five dollars (\$1,625).
 4. In all cases, a suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege for a definite period of one to seven years. The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.13. (ORC 4511.19)
 5. In all cases, if the vehicle is registered in the offender's name, immobilization of the vehicle involved in the offense for ninety days in accordance with Ohio R.C. 4503.233 and impoundment of the license plates of that vehicle for ninety days. (ORC 4511.193)
- C. Except as otherwise provided in subsection (h)(1)E. of this section, an offender who, within ten years of the offense, previously has been convicted of or pleaded guilty to two violations of subsection (a) or (b) of this section or other equivalent offenses is guilty of a misdemeanor. The court shall sentence the offender to all of the following:
1. If the sentence is being imposed for a violation of subsection (a)(1)A., B., C., D., E., or J. of this section, a mandatory jail term of thirty consecutive days. The court shall impose the thirty-day mandatory jail term under this subsection unless, subject to subsection (h)(3) of this section, it instead imposes a sentence under that subsection consisting of both a jail term and a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition

- to the thirty-day mandatory jail term. Notwithstanding the jail terms set forth in Section 303.99, the additional jail term shall not exceed one year, and the cumulative jail term imposed for the offense shall not exceed one year.
2. If the sentence is being imposed for a violation of subsection (a)(1)F., G., H. or I. or (a)(2) of this section, a mandatory jail term of sixty consecutive days. The court shall impose the sixty-day mandatory jail term under this subsection unless, subject to subsection (h)(3) of this section, it instead imposes a sentence under that subsection consisting of both a jail term and a term of electronically monitored house arrest with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition to the sixty-day mandatory jail term. Notwithstanding the terms of imprisonment set forth in Section 303.99, the additional jail term shall not exceed one year, and the cumulative jail term imposed for the offense shall not exceed one year.
 3. In all cases, notwithstanding the fines set forth in Section 303.99, a fine of not less than eight hundred fifty dollars (\$850.00) and not more than two thousand seven hundred fifty dollars (\$2,750).
 4. In all cases, a suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege for a definite period of two to twelve years. The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.13. (ORC 4511.19)
 5. In all cases, if the vehicle is registered in the offender's name, criminal forfeiture of the vehicle involved in the offense in accordance with Ohio R.C. 4503.234. Subsection (h)(5) of this section applies regarding any vehicle that is subject to an order of criminal forfeiture under this subsection. (ORC 4511.193)
 6. In all cases, the court shall order the offender to participate with a community addiction services provider authorized by Ohio R.C. 5119.21, subject to subsection (k) of this section, and shall order the offender to follow the treatment recommendations of the services provider. The operator of the services provider shall determine and assess the degree of the offender's alcohol dependency and shall make recommendations for treatment. Upon the request of the court, the services provider shall submit the results of the assessment to the court, including all treatment recommendations and clinical diagnoses related to alcohol use.

- D. Except as otherwise provided in subsection (h)(1)E. of this section, an offender who, within ten years of the offense, previously has been convicted of or pleaded guilty to three or four violations of subsection (a) or (b) of this section or other equivalent offenses or an offender who, within twenty years of the offense, previously has been convicted of or pleaded guilty to five or more violations of that nature is guilty of a felony of the fourth degree and shall be prosecuted under appropriate state law.
- E. An offender who previously has been convicted of or pleaded guilty to a violation of Ohio R.C. 4511.19(A) that was a felony, regardless of when the violation and the conviction or guilty plea occurred, is guilty of a felony of the third degree and shall be prosecuted under appropriate state law.
- (2) An offender who is convicted of or pleads guilty to a violation of subsection (a) of this section and who subsequently seeks reinstatement of the driver's or occupational driver's license or permit or nonresident operating privilege suspended under this section as a result of the conviction or guilty plea shall pay a reinstatement fee as provided in division (F)(2) of Ohio R.C. 4511.191.
- (3) If an offender is sentenced to a jail term under subsection (h)(1)B.1. or 2. or (h)(1)C.1. or 2. of this section and if, within sixty days of sentencing of the offender, the court issues a written finding on the record that, due to the unavailability of space at the jail where the offender is required to serve the term, the offender will not be able to begin serving that term within the sixty-day period following the date of sentencing, the court may impose an alternative sentence under this subsection that includes a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. As an alternative to a mandatory jail term of ten consecutive days required by subsection (h)(1)B.1. of this section, the court, under this subsection, may sentence the offender to five consecutive days in jail and not less than eighteen consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of the five consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring, or both types of monitoring shall not exceed six months. The five consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest. As an alternative to the mandatory jail term of twenty consecutive days required by subsection (h)(1)B.2. of this section, the court, under this subsection, may sentence the offender to ten consecutive days in jail and not less than thirty-six consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of the ten consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring or both types of monitoring shall not exceed six months. The ten consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.

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

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

- (4) If an offender's driver's or occupational driver's license or permit or nonresident operating privilege is suspended under subsection (h) of this section and if Ohio R.C. 4510.13 permits the court to grant limited driving privileges, the court may grant the limited driving privileges in accordance with that section. If division (A)(7) of that section requires that the court impose as a condition of the privileges that the offender must display on the vehicle that is driven subject to the privileges restricted license plates that are issued under Ohio R.C. 4503.231, except as provided in division (B) of that section, the court shall impose that condition as one of the conditions of the limited driving privileges granted to the offender, except as provided in division (B) of Ohio R.C. 4503.231.
- (5) If title to a motor vehicle that is subject to an order of criminal forfeiture under this section is assigned or transferred and division (B)(2) or (3) of Ohio R.C. 4503.234 applies, in addition to or independent of any other penalty established by law, the court may fine the offender the value of the vehicle as determined by publications of the national auto dealers association. The proceeds of any fine so imposed shall be distributed in accordance with division (C)(2) of that section.

- (6) In all cases in which an offender is sentenced under subsection (h) of this section, the offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, the court, in addition to any other penalties provided by law, may order restitution pursuant to Ohio R.C. 2929.18 or 2929.28 in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during or after committing the offense for which the offender is sentenced under subsection (h) of this section.
- (7) As used in subsection (h) of this section, "electronic monitoring", "mandatory prison term" and "mandatory term of local incarceration" have the same meanings as in Ohio R.C. 2929.01.

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

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

- (2) Display or display for sale or sell as a dealer or acting on behalf of a dealer, a motor vehicle without having obtained a manufacturer's or importer's certificate, a certificate of title, or an assignment of a certificate of title for it as provided in Ohio R.C. Chapter 4505;
- (3) Fail to surrender any certificate of title or any certificate of registration or license plates upon cancellation of the same by the Registrar of Motor Vehicles and notice of the cancellation as prescribed in Ohio R.C. Chapter 4505;
- (4) Fail to surrender the certificate of title to a clerk of a court of common pleas as provided in Ohio R.C. Chapter 4505 in case of the destruction or dismantling or change of a motor vehicle in such respect that it is not the motor vehicle described in the certificate of title;
- (5) Violate any rules adopted pursuant to Ohio R.C. Chapter 4505;
- (6) Except as otherwise provided in Ohio R.C. Chapter 4505 and Chapter 4517, sell at wholesale a motor vehicle the ownership of which is not evidenced by an Ohio certificate of title, or the current certificate of title issued for the motor vehicle, or the manufacturer's certificate of origin, and all title assignments that evidence the seller's ownership of the motor vehicle, and an odometer disclosure statement that complies with Ohio R.C. 4505.06 and subchapter IV of the "Motor Vehicle Information and Cost Savings Act", 86 Stat. 961 (1972), 15 U.S.C. 1981;
- (7) Operate in this Municipality a motor vehicle knowing that the certificate of title to the vehicle or ownership of the vehicle as otherwise reflected in the automated title processing system has been canceled.

(b) This section does not apply to persons engaged in the business of warehousing or transporting motor vehicles for the purpose of salvage disposition.

(c) Whoever violates this section shall be fined not more than two hundred dollars (\$200.00) or imprisoned not more than ninety days, or both. (ORC 4505.18)

335.09 DISPLAY OF LICENSE PLATES; EXPIRED OR UNLAWFUL PLATES.

- (a) (1) No person who is the owner or operator of a motor vehicle shall fail to display in plain view on the front and rear of the motor vehicle a license plate that bears the distinctive number and registration mark assigned to the motor vehicle by the Ohio Director of Public Safety, including any county identification sticker and any validation sticker issued under Ohio R.C. 4503.19 and 4503.191, as follows:
 - A. A manufacturer of motor vehicles or dealer therein, the holder of an in transit permit, and the owner or operator of a motorcycle, motorized bicycle or moped, motor-driven cycle or motor scooter, autocycle, cab-enclosed motorcycle, manufactured home, mobile home, trailer or semitrailer shall display a license plate on the rear only.
 - B. A motor vehicle that is issued two license plates shall display the validation sticker only on the rear license plate, except that a commercial tractor that does not receive an apportioned license plate under the international registration plan shall display the validation sticker on the front of the commercial tractor.
 - C. An apportioned vehicle receiving an apportioned license plate under the international registration plan shall display the license plate only on the front of a commercial tractor and on the rear of all other vehicles.

- (2) All license plates shall be securely fastened so as not to swing, and shall not be covered by any material that obstructs their visibility.
- (3) No person to whom a temporary license placard or windshield sticker has been issued for the use of a motor vehicle under Ohio R.C. 4503.182, and no operator of that motor vehicle, shall fail to display the temporary license placard in plain view from the rear of the vehicle either in the rear window or on an external rear surface of the motor vehicle, or fail to display the windshield sticker in plain view on the rear window of the motor vehicle. No temporary license placard or windshield sticker shall be covered by any material that obstructs its visibility.

(b) A law enforcement officer shall only issue a ticket, citation or summons, or cause the arrest or commence a prosecution, for the failure to display a license plate in plain view on the front of a parked motor vehicle if the officer first determines that another offense has occurred and either places the operator or vehicle owner under arrest or issues a ticket, citation, or summons to the operator or vehicle owner for the other offense.

(c) No person shall operate or drive upon the public streets or highways within this Municipality a motor vehicle acquired from a former owner who has registered the same, while such vehicle displays the distinctive number or identification mark assigned to it upon its original registration. (ORC 4549.11)

(d) No person who is the owner of a motor vehicle and a resident of Ohio shall operate or drive such motor vehicle upon the public streets or highways within this Municipality, while it displays a distinctive number or identification mark issued by or under the authority of another state, without complying with the laws of Ohio relating to the registration and identification of motor vehicles. (ORC 4549.12)

(e) No person shall operate or drive any vehicle upon any public street or highway within this Municipality upon which is displayed an expired license plate or an expired validation sticker.

(f) No person shall operate or drive a motor vehicle upon the public streets or highways within the Municipality if it displays a license plate or a distinctive number or identification mark that meets any of the following criteria:

- (1) Is fictitious;
- (2) Is a counterfeit or an unlawfully made copy of any distinctive number or identification mark;
- (3) Belongs to another motor vehicle, provided that this section does not apply to a motor vehicle that is operated on the public streets and highways within this Municipality when the motor vehicle displays license plates that originally were issued for a motor vehicle that previously was owned by the same person who owns the motor vehicle that is operated on the public streets and highways during the thirty day period described in Ohio R.C. 4503.12(C).

A person who fails to comply with the transfer of registration provisions of Ohio R.C. 4503.12 and is charged with a violation of that section shall not be charged with a violation of this section. (ORC 4549.08; Ord. 16-00. Passed 3-6-00.)

(g) Whoever violates Section 335.09(a), (b) or (e) is guilty of a minor misdemeanor; whoever violates Section 335.09(c) or (d) is guilty of a minor misdemeanor on the first offense and a misdemeanor of the fourth degree on each subsequent offense; whoever violates Section 335.09(f) is guilty of a misdemeanor of the fourth degree on the first offense and a misdemeanor of the third degree on each subsequent offense.

335.10 LICENSE PLATES TO BE UNOBSTRUCTED.

(EDITOR'S NOTE: Former Section 335.10 was repealed by Ordinance 112-02, passed August 19, 2002.)

335.11 USE OF ILLEGAL LICENSE PLATES; TRANSFER OF REGISTRATION.

(EDITOR'S NOTE: The provisions of former Section 335.11 are now codified in Section 335.09.)

335.111 REGISTRATION WITHIN THIRTY DAYS OF RESIDENCY.

(a) Within thirty days of becoming a resident of this State, any person who owns a motor vehicle operated or driven upon the public roads or highways shall register the vehicle in this State. If such a person fails to register a vehicle owned by the person, the person shall not operate any motor vehicle in this Municipality under a license issued by another state.

(b) (1) Whoever violates subsection (a) of this section is guilty of a minor misdemeanor.

(2) The offense established under subsection (b)(1) of this section is a strict liability offense and strict liability is a culpable mental state for purposes of Ohio R.C. 2901.20. The designation of this offense as a strict liability offense shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense.

(c) For purposes of subsection (a) of this section, "resident" means any person to whom any of the following applies:

(1) The person maintains their principal residence in this State and does not reside in this State as a result of the person's active service in the United States Armed Forces.

(2) The person is determined by the Registrar of Motor Vehicles to be a resident in accordance with standards adopted by the Registrar under Ohio R.C. 4507.01. (ORC 4503.111)

335.12 STOPPING AFTER ACCIDENT UPON STREETS; COLLISION WITH UNATTENDED VEHICLE.

(a) (1) In the case of a motor vehicle accident or collision with persons or property on a public road or highway, the operator of the motor vehicle, having knowledge of the accident or collision, immediately shall stop the operator's motor vehicle at the scene of the accident or collision. The operator shall remain at the scene of the accident or collision until the operator has given the operator's name and address and, if the operator is not the owner, the name and address of the owner of that motor vehicle, together with the registered number of that motor vehicle, to all of the following:

A. Any person injured in the accident or collision;

B. The operator, occupant, owner or attendant of any motor vehicle damaged in the accident or collision;

C. The police officer at the scene of the accident or collision.

- (2) In the event an injured person is unable to comprehend and record the information required to be given under subsection (a)(1) of this section, the other operator involved in the accident or collision shall notify the nearest police authority concerning the location of the accident or collision, and the operator's name, address and the registered number of the motor vehicle the operator was operating. The operator shall remain at the scene of the accident or collision until a police officer arrives, unless removed from the scene by an emergency vehicle operated by a political subdivision or an ambulance.
 - (3) If the accident or collision is with an unoccupied or unattended motor vehicle, the operator who collides with the motor vehicle shall securely attach the information required to be given in this section, in writing, to a conspicuous place in or on the unoccupied or unattended motor vehicle.
- (b)
- (1) Whoever violates subsection (a) of this section is guilty of failure to stop after an accident. Except as otherwise provided in subsection (b)(2) or (3) of this section, failure to stop after an accident is a misdemeanor of the first degree.
 - (2) If the accident or collision results in serious physical harm to a person, failure to stop after an accident is a felony and shall be prosecuted under appropriate State law.
 - (3) If the accident or collision results in the death of a person, failure to stop after an accident is a felony and shall be prosecuted under appropriate State law.
 - (4) In all cases, the court, in addition to any other penalties provided by law, shall impose upon the offender a class five suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(5) of Ohio R.C. 4510.02. No judge shall suspend the first six months of suspension of an offender's license, permit, or privilege required by this subsection.

The offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then, in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.18 or 2929.28 in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the motor vehicle before, during or after committing the offense charged under this section. (ORC 4549.02)

335.13 STOPPING AFTER ACCIDENT UPON PROPERTY OTHER THAN STREET.

- (a) (1) In the case of a motor vehicle accident or collision resulting in injury or damage to persons or property on any public or private property other than a public road or highway, the operator of the motor vehicle, having knowledge of the accident or collision, shall stop at the scene of the accident or collision. Upon request of any person who is injured or damaged, or any other person, the operator shall give that person the operator's name and address, and, if the operator is not the owner, the name and address of the owner of that motor vehicle, together with the registered number of that motor vehicle, and, if available, exhibit the operator's driver's or commercial driver's license.

- (2) If the operator of the motor vehicle involved in the accident or collision does not provide the information specified in subsection (a)(1) of this section, the operator shall give that information, within twenty-four hours after the accident or collision, to the Police Department.
 - (3) If the accident or collision is with an unoccupied or unattended motor vehicle, the operator who collides with the motor vehicle shall securely attach the information required under subsection (a)(1) of this section, in writing, to a conspicuous place in or on the unoccupied or unattended motor vehicle.
- (b)
- (1) Whoever violates subsection (a) of this section is guilty of failure to stop after a nonpublic road accident. Except as otherwise provided in subsection (b)(2) or (3) of this section, failure to stop after a nonpublic road accident is a misdemeanor of the first degree.
 - (2) If the accident or collision results in serious physical harm to a person, failure to stop after a nonpublic road accident is a felony and shall be prosecuted under appropriate State law.
 - (3) If the accident or collision results in the death of a person, failure to stop after a nonpublic road accident is a felony and shall be prosecuted under appropriate State law.
 - (4) In all cases, the court, in addition to any other penalties provided by law, shall impose upon the offender a class five suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(5) of Ohio R.C. 4510.02. No judge shall suspend the first six months of suspension of an offender's license, permit, or privilege required by this subsection.

The offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then, in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.18 or 2929.28 in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the motor vehicle before, during or after committing the offense charged under this section. (ORC 4549.021)

335.14 VEHICLE ACCIDENT RESULTING IN DAMAGE TO REALTY.

(a) The driver of any vehicle involved in an accident resulting in damage to real property, or personal property attached to real property, legally upon or adjacent to a public road or highway immediately shall stop and take reasonable steps to locate and notify the owner or person in charge of the property of that fact, of the driver's name and address, and of the registration number of the vehicle the driver is driving and, upon request and if available, shall exhibit the driver's or commercial driver's license.

If the owner or person in charge of the property cannot be located after reasonable search, the driver of the vehicle involved in the accident resulting in damage to the property, within twenty-four hours after the accident, shall forward to the police authority in the municipality in which the accident or collision occurred, the same information required to be given to the owner or person in control of the property and give the location of the accident and a description of the damage insofar as it is known.

(b) Whoever violates subsection (a) of this section is guilty of failure to stop after an accident involving the property of others, a misdemeanor of the first degree.

The offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then, in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.28 in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the motor vehicle before, during or after committing the offense charged under this section. (ORC 4549.03)

(i) Nothing in this section shall be construed to require a person or organization to apply for a removable windshield placard or special license plates if the parking card or special license plates issued to the person or organization under prior law have not expired or been surrendered or revoked.

(j) As used in this section:

- (1) "Handicapped person" means any person who has lost the use of one or both legs or one or both arms, who is blind, deaf, or so severely handicapped as to be unable to move without the aid of crutches or a wheelchair, or whose mobility is restricted by a permanent cardiovascular, pulmonary, or other handicapping condition.
- (2) "Person with a disability that limits or impairs the ability to walk" has the same meaning as in Ohio R.C. 4503.44.
- (3) "Special license plates" and "removable windshield placard" mean any license plates or removable windshield placard or temporary removable windshield placard issued under Ohio R.C. 4503.41 or 4503.44, and also mean any substantially similar license plates or removable windshield placard or temporary removable windshield placard issued by a state, district, country, or sovereignty.
(ORC 4511.69; Ord. 134-00. Passed 12-28-00.)

351.05 MANNER OF ANGLE PARKING.

Upon streets where angle parking is permitted, no person shall stop, stand or park a vehicle other than at the angle to the curb or edge of the roadway as is indicated by appropriate signs or markings.

351.06 SELLING, REPAIRING VEHICLE; ADVERTISING.

(a) No person shall park upon a highway any vehicle displayed for sale, or operate or park on any highway any vehicle for the primary purpose of displaying advertising.
(1978 Code 76.08)

(b) No person shall let stand or park any vehicle on any street, City parking lot (leased or owned), or other public property for the purpose of repairing it. This section shall not be construed to prohibit the making of such necessary emergency repairs as will permit a vehicle to proceed, so long as such standing or parking of the motor vehicle for such purpose does not exceed two consecutive hours. (Ord. 75-96. Passed 7-1-96.)

351.07 UNATTENDED VEHICLE: DUTY TO STOP ENGINE, REMOVE KEY, SET BRAKE AND TURN WHEELS.

(a) No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition, removing the key from the ignition, effectively setting the parking brake, and, when the motor vehicle is standing upon any grade, turning the front wheels to the curb or side of the highway.

The requirements of this section relating to the stopping of the engine, locking of the ignition and removing the key from the ignition of a motor vehicle do not apply to any of the following:

- (1) A motor vehicle that is parked on residential property;
- (2) A motor vehicle that is locked, regardless of where it is parked;
- (3) An emergency vehicle;
- (4) A public safety vehicle.

351.08 OPENING VEHICLE DOOR ON TRAFFIC SIDE.

No person shall open the door of a vehicle on the side available to moving traffic unless and until it is reasonably safe to do so, and can be done without interfering with the movement of other traffic, nor shall any person leave a door open on the side of a vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers.
(ORC 4511.70(C))

351.09 VEHICLES TO BE PARKED ENTIRELY WITHIN SPACES.

At each place where individual parking spaces are marked off, every vehicle shall be parked entirely within the individual parking space. (1978 Code 76.07)

351.10 BUS STOPS.

(a) No person shall leave standing, park or stop any vehicle, except a commercial bus, in any bus stop location during the following hours:

12:00 Midnight	-	1:00 a.m.
7:00 a.m.	-	8:00 a.m.
1:00 p.m.	-	2:00 p.m.
4:00 p.m.	-	5:00 p.m.

The standing, parking and stopping of vehicles shall be permitted in such locations during all other times, subject to all other prohibitions, restrictions and regulations regarding the standing, parking and stopping of vehicles.

(b) Appropriate signs prohibiting the standing, parking and stopping of vehicles as described in subsection (a) above shall be posted at such locations.

(c) Whenever any police officer finds a vehicle standing, parked or stopped in violation of this section, the officer, in addition to all other remedies provided by law, may move the vehicle or have the vehicle towed immediately at the owner's expense or require the driver or other person in charge of the vehicle to move the vehicle immediately.
(1978 Code Traf. Sch. VIII)

351.11 BLOCKING STREETS AND ALLEYS PROHIBITED.

No person shall stop, park, or leave standing any vehicle, whether attended or unattended, upon a street or alley in such manner or under such conditions as to leave available less than ten continuous feet of the width of the paved, improved or main traveled part of the street or alley for the free passage of other vehicles, except the following:

- (a) The driver of any vehicle engaged by or on behalf of the City may stop temporarily during the actual conduct of City business;
- (b) The driver of any vehicle engaged by or on behalf of any utility company may stop temporarily during actual conduct of the utility company's business;
- (c) The driver of any vehicle may stop temporarily during actual loading or unloading;
or
- (d) The driver of any vehicle may stop temporarily when necessary in obedience to traffic regulations, traffic-control devices, or a police officer. (1978 Code 76.06)

351.12 PROHIBITION AGAINST PARKING ON STREETS OR HIGHWAYS.

Upon any street or highway outside a business or residence district, no person shall stop, park or leave standing any vehicle, whether attended or unattended, upon the paved or main traveled part of the street or highway if it is practicable to stop, park or so leave such vehicle off the paved or main traveled part of such street or highway. In every event, a clear and unobstructed portion of the street or highway opposite such standing vehicle shall be left for the free passage of other vehicles, and a clear view of such stopped vehicle shall be available from a distance of 200 feet in each direction upon such street or highway.

This section does not apply to the driver of any vehicle which is disabled while on the paved or improved or main traveled portion of a street or highway in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving the disabled vehicle in such position. (ORC 4511.66)

351.13 PARKING ON POSTED PRIVATE PROPERTY.

If an owner of private property posts on the property in a conspicuous manner, prohibition against parking on the property or conditions and regulations under which parking is permitted, no person shall do either of the following:

- (a) Park a vehicle on the property without the owner's consent;
- (b) Park a vehicle on the property in violation of any condition or regulation posted by the owner. (Ord. 006-07. Passed 2-5-07.)

351.14 ALL NIGHT PARKING.

No person, except emergency personnel on emergency calls, shall park a vehicle on any street within the Central City Parking District, or in any other parking district, or in any City-owned or operated parking lot, or in a posted parking zone, for longer than thirty continuous minutes between the hours of 2:00 a.m. and 5:00 a.m. of any day unless authorized by the City Manager or Chief of Police for good cause as determined by either or otherwise authorized by law. (Ord. 63-96. Passed 6-3-96.)

351.15 TRUCKS, TRAILERS, OVERSIZE VEHICLES.

No person shall park any semitractor, or any other vehicle that is of such size or weight that it weighs more than 7,000 pounds, or is longer than twenty-four feet, or is wider than eight feet, or is higher than eight feet, upon any street or alley for longer than is necessary for loading or unloading such vehicle. (1978 Code 76.11)

351.16 PARKING PROHIBITED ON ONE OR BOTH SIDES OF STREET.

Where on-street parking is prohibited on one or both sides of a street by the erection of appropriate signs as set forth in Schedule I of the Traffic Schedules, no person shall park any vehicle at any time in violation thereof. (1978 Code 76.12)

351.17 PARKING TIME LIMITS.

(a) Where parking is permitted for a specific period of time only by the erection of appropriate signs, no person shall park any vehicle at any time in violation thereof except as provided in Section 351.04.

(b) Where parking is prohibited between or at specific times by the erection of appropriate signs, no person shall park any vehicle at any time in violation thereof.

(c) Time limits for restricted parking zones shall be as set forth in Schedule II of the Traffic Schedules. (1978 Code 76.13)

351.18 CENTRAL CITY PARKING DISTRICT.

(a) There is established a parking control district in the central portion of the City, which is bounded by and includes both sides of the streets as contained in Schedule XII of Part III of the Traffic Code and shall be known as the Central City Parking District.

(b) All parking on public property within this district shall be in individually marked spaces.

(c) The time limits or other restrictions for marked spaces shall be as set forth in Schedule II of the Traffic Schedules, except as otherwise modified in accordance with law. (Ord. 17-00. Passed 5-1-00.)

351.19 VEHICULAR WEIGHT LIMITS FOR CITY-OWNED PARKING LOTS.

Except for temporary stopping for the purpose of loading or unloading and making deliveries, no vehicle with a gross vehicular weight more than 13,000 pounds shall be left standing or parked in any City-owned or operated parking lot. (1978 Code 76.17)

351.20 PARKING PROHIBITIONS FOR IMMOBILIZED, DISABLED OR UNLICENSED VEHICLES.

(a) No person shall park or place any immobilized or disabled vehicle on a street, alley, right of way or street lawn in excess of sixty minutes.

(b) No person shall park or place any vehicle (a vehicle that is normally required to display license plates during its operation on a public street) on a street, alley or right of way without displaying current and valid license plates that are permissible for display on the vehicle. (Ord. 17-00. Passed 5-1-00.)

351.21 STREET LAWNS.

(a) Defined. "Street lawn" means the entire width between the edge of a curb or roadway in the event no curb is present, and the edge of a sidewalk or the right-of-way boundary if no sidewalk is present. This area may also be known as the planting strip, curb strip, parkway, greenbelt, or devils strip.

(b) Parking Prohibited.

- (1) No person shall park a motor vehicle on the street lawn of any property used for residential purposes or zoned residentially, except with the expressed consent of the owner or person in lawful possession of the property bordering the street lawn and when in compliance with subsection (b)(2) hereof.
- (2) No person shall park a motor vehicle on the street lawn unless:
 - A. The use of the area does not endanger or interfere with motoring or pedestrian traffic; and
 - B. The motor vehicle that is parked upon the street lawn is at a minimum distance of fifty feet from the closest point of an intersection.
- (3) Greater distances, other than as stated in subsection(b)(2)B hereof, may be established by the City Manager as it relates to parking on street lawns when established for health, safety and welfare reasons; however, if greater distances are established, signs shall be posted and the requirements of Section 305.01 shall be followed.

(c) Surfacing. Effective with the passage of this section, no person shall surface a street lawn with asphaltic or concrete materials or gravel or other material not in conformance with the City Engineer's minimum standards and not until the express written permission of the City Manager is given. Any unauthorized or nonconforming street lawn surface may be removed by the City at the expense of the violator.

(d) Fines, Citations and Violations.

- (1) This section shall be part of the City's parking regulations and fines may be levied as provided for in Section 353.07.
- (2) Parking citations (tickets) may be issued pursuant to Section 353.05 for violations of subsections (b)(1) and (2) hereof.
- (3) A violation of subsection (b)(1) and (2) hereof shall constitute illegal parking and shall be a minor misdemeanor and the violator shall be fined not less than ten (\$10.00) dollars nor more than the maximum fine allowed for minor misdemeanors, in accordance with the provisions of Section 353.99(a). Further, Section 353.99(c) shall be applicable to this section. A violation of subsection (c) hereof shall constitute a misdemeanor of the minor degree and shall be punishable by not more than the maximum fine allowed for minor misdemeanors. Each day that a violation of subsection (c) hereof is continued shall constitute a separate violation.
(Ord. 17-00. Passed 5-1-00.)

351.99 PENALTY.

(EDITOR'S NOTE: See Sections 353.07 and 353.99 for parking penalties.)

CODIFIED ORDINANCES OF NAPOLEON
PART FIVE - GENERAL OFFENSES CODE

CHAPTER 501
General Provisions and Penalty

501.01	Definitions.	501.08	Culpable mental states.
501.02	Classification of offenses.	501.09	Attempt.
501.03	Common law offenses abrogated.	501.10	Complicity.
501.04	Rules of construction.	501.11	Organizational criminal liability.
501.05	Criminal law jurisdiction.	501.12	Personal accountability for organizational conduct.
501.06	Limitation of criminal prosecution.	501.13	Conspiracy.
501.07	Requirements for criminal liability.	501.99	Penalties for misdemeanors.

CROSS REFERENCES

See sectional histories for similar State law
 Limitation of prosecution for income tax violations - see Ohio R.C. 718.06
 Modification of sentence - see Ohio R.C. 2929.10(C), (D)
 Penalty considerations - see Ohio R.C. 2929.22
 Citation issuance for minor misdemeanors - see Ohio R.C. 2935.26 et seq.

501.01 DEFINITIONS.

As used in the Codified Ordinances:

- (a) "Force" means any violence, compulsion or constraint physically exerted by any means upon or against a person or thing.
- (b) "Deadly force" means any force that carries a substantial risk that it will proximately result in the death of any person.
- (c) "Physical harm to persons" means any injury, illness or other physiological impairment, regardless of its gravity or duration.
- (d) "Physical harm to property" means any tangible or intangible damage to property that, in any degree, results in loss to its value or interferes with its use or enjoyment. "Physical harm to property" does not include wear and tear occasioned by normal use.

- (e) "Serious physical harm to persons" means any of the following:
 - (1) Any mental illness or condition of such gravity as would normally require hospitalization or prolonged psychiatric treatment;
 - (2) Any physical harm that carries a substantial risk of death;
 - (3) Any physical harm that involves some permanent incapacity, whether partial or total, or that involves some temporary, substantial incapacity;
 - (4) Any physical harm that involves some permanent disfigurement, or that involves some temporary, serious disfigurement;
 - (5) Any physical harm that involves acute pain of such duration as to result in substantial suffering, or that involves any degree of prolonged or intractable pain.
- (f) "Serious physical harm to property" means any physical harm to property that does either of the following:
 - (1) Results in substantial loss to the value of the property, or requires a substantial amount of time, effort or money to repair or replace;
 - (2) Temporarily prevents the use or enjoyment of the property, or substantially interferes with its use and enjoyment for an extended period of time.
- (g) "Risk" means a significant possibility, as contrasted with a remote possibility, that a certain result may occur or that certain circumstances may exist.
- (h) "Substantial risk" means a strong possibility, as contrasted with a remote or significant possibility, that a certain result may occur or that certain circumstances may exist.
- (i) "Offense of violence" means any of the following:
 - (1) A violation of Ohio R.C. 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.21, 2903.211, 2903.22, 2905.01, 2905.02, 2905.11, 2905.32, 2907.02, 2907.03, 2907.05, 2909.02, 2909.03, 2909.24, 2911.01, 2911.02, 2911.11, 2917.01, 2917.02, 2917.03, 2917.31, 2919.25, 2921.03, 2921.04, 2921.34, 2923.161, 2903.04(A)(1), 2911.12(A)(1) to (3) or 2919.22(B)(1) to (4), or felonious sexual penetration in violation of former Ohio R.C. 2907.12;
 - (2) A violation of an existing or former municipal ordinance or law of this or any other state or the United States, substantially equivalent to any section listed in subsection (i)(1) hereof;
 - (3) An offense, other than a traffic offense, under an existing or former municipal ordinance or law of this or any other state or the United States, committed, purposely or knowingly, and involving physical harm to persons or a risk of serious physical harm to persons;
 - (4) A conspiracy or attempt to commit, or complicity in committing any offense under subsection (i)(1), (2) or (3) hereof.
- (j) (1) "Property" means any property, real or personal, tangible or intangible, and any interest or license in that property. "Property" includes, but is not limited to, cable television service, other telecommunications service, telecommunications devices, information service, computers, data, computer software, financial instruments associated with computers, other documents associated with computers, or copies of the documents, whether in machine or human readable form, trade secrets, trademarks, copyrights, patents, and property protected by a trademark, copyright, or

(h) As used in this section, "computer", "computer system", "computer network", "information service", "telecommunication", "telecommunications device", "telecommunications service", "data", and "writing" have the same meaning as in Ohio R.C. 2913.01. (ORC 2901.11)

501.06 LIMITATION OF CRIMINAL PROSECUTION.

(a) Except as otherwise provided in this section, a prosecution shall be barred unless it is commenced within the following periods after an offense is committed:

- (1) For misdemeanor other than a minor misdemeanor, two years;
- (2) For a minor misdemeanor, six months.

(b) If the period of limitation provided in subsection (a) hereof has expired, prosecution shall be commenced for an offense of which an element is fraud or breach of a fiduciary duty, within one year after discovery of the offense either by an aggrieved person, or by his legal representative who is not himself a party to the offense.

(c) If the period of limitation provided in subsection (a) hereof has expired, prosecution shall be commenced for an offense involving misconduct in office by a public servant as defined in Section 2921.01 of the Ohio Revised Code, at any time while the accused remains a public servant, or within two years thereafter.

(d) An offense is committed when every element of the offense occurs. In the case of an offense of which an element is a continuing course of conduct, the period of limitation does not begin to run until such course of conduct or the accused's accountability for it terminates, whichever occurs first.

(e) A prosecution is commenced on the date an indictment is returned or an information filed, or on the date a lawful arrest without a warrant is made, or on the date a warrant, summons, citation or other process is issued, whichever occurs first. A prosecution is not commenced by the return of an indictment or the filing of an information unless reasonable diligence is exercised to issue and execute process on the same. A prosecution is not commenced upon issuance of a warrant, summons, citation or other process, unless reasonable diligence is exercised to execute the same.

(f) The period of limitation shall not run during any time when the corpus delicti remains undiscovered.

(g) The period of limitation shall not run during any time when the accused purposely avoids prosecution. Proof that the accused absented himself from this Municipality or concealed his identity or whereabouts is prima-facie evidence of his purpose to avoid prosecution.

(h) The period of limitation shall not run during any time a prosecution against the accused based on the same conduct is pending in this State, even though the indictment, information or process which commenced the prosecution is quashed or the proceedings thereon are set aside or reversed on appeal.

(i) The period of limitation for a violation of any provision of this General Offenses Code that involves a physical or mental wound, injury, disability or condition of a nature that reasonably indicates abuse or neglect of a child under eighteen years of age or of a child with a developmental disability or physical impairment under twenty-one years of age shall not begin to run until either of the following occurs:

- (1) The victim of the offense reaches the age of majority.

- (2) A public children services agency, or a municipal or county peace officer that is not the parent or guardian of the child, in the county in which the child resides or in which the abuse or neglect is occurring or has occurred has been notified that abuse or neglect is known, suspected, or believed to have occurred. (ORC 2901.13)

(j) This section shall not apply to prosecutions commenced within the period of limitations set forth in Ohio R.C. 718.12(B) for violations of the Municipal income tax ordinance. (Ord. 071-08. Passed 10-6-08.)

501.07 REQUIREMENTS FOR CRIMINAL LIABILITY.

(a) Except as provided in subsection (b) hereof, a person is not guilty of an offense unless both of the following apply:

- (1) The person's liability is based on conduct that includes either a voluntary act, or an omission to perform an act or duty that the person is capable of performing;
- (2) The person has the requisite degree of culpability for each element as to which a culpable mental state is specified by the language defining the offense.

(b) When the language defining an offense does not specify any degree of culpability, and plainly indicates a purpose to impose strict criminal liability for the conduct described in the section, then culpability is not required for a person to be guilty of the offense. The fact that one subsection of a section plainly indicates a purpose to impose strict liability for an offense defined in that subsection does not by itself plainly indicate a purpose to impose strict criminal liability for an offense defined in other subsections of the section that do not specify a degree of culpability.

- (c)
- (1) When language defining an element of an offense that is related to knowledge or intent or to which mens rea could fairly be applied neither specifies culpability nor plainly indicates a purpose to impose strict liability, the element of the offense is established only if a person acts recklessly.
 - (2) Subsection (c)(1) of this section does not apply to offenses defined in the Traffic Code.
 - (3) Subsection (c)(1) of this section does not relieve the prosecution of the burden of proving the culpable mental state required by any definition incorporated into the offense.

(d) Voluntary intoxication may not be taken into consideration in determining the existence of a mental state that is an element of a criminal offense. Voluntary intoxication does not relieve a person of a duty to act if failure to act constitutes a criminal offense. Evidence that a person was voluntarily intoxicated may be admissible to show whether or not the person was physically capable of performing the act with which the person is charged.

(e) As used in this section:

- (1) Possession is a voluntary act if the possessor knowingly procured or received the thing possessed, or was aware of the possessor's control of the thing possessed for a sufficient time to have ended possession.
- (2) Reflexes, convulsions, body movements during unconsciousness or sleep, and body movements that are not otherwise a product of the actor's volition, are involuntary acts.
- (3) "Culpability" means purpose, knowledge, recklessness or negligence, as defined in Section 501.08.

CODIFIED ORDINANCES OF NAPOLEON
PART SEVEN - BUSINESS REGULATION CODE

Chap. 711. Amusement Devices and Arcades. (Repealed)

Chap. 723. Junkyards.

Chap. 735. Soliciting and Peddling.

Chap. 739. Outdoor Public Entertainment.

Chap. 743. Video Service Provider Fee.

CODIFIED ORDINANCES OF NAPOLEON
PART SEVEN - BUSINESS REGULATION CODE

CHAPTER 711
Amusement Devices and Arcades (Repealed)

EDITOR'S NOTE: Former Chapter 711 was repealed by Ordinance 38-17.

NOTE: The next printed page is page 9.

- (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.
(Ord. 042-13. Passed 10-21-13.)
- (62.1) **DOMESTIC ANIMAL OR PET.** As referred to in Section 1101.01(197.1), and as defined in Ohio Administrative Code Section 901:1-17-02(1), shall be defined as "livestock, or other animals that through long association with humans have been bred to a degree resulting in genetic changes affecting the temperament, color, confirmation, or other attributes of the species to an extent that makes them different from nondomestic animals of their kind," with the City of Napoleon, Ohio's current Codified Ordinances previously defining "Livestock" as 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. (Ord. 036-17. Passed 6-5-17.)

- (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.
- (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.
- (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.

- (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.
- (78) **FILLING STATION.** Buildings and premises where fuel may be supplied and dispensed.
- (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.
- (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.
- (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.
- (82) **FOOD PROCESSING.** The preparation, processing, or canning and packaging of food products.
- (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.
- (84) **FRONT LINE OF BUILDINGS.** The line of the face of the building nearest the front lot line.
- (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.
- (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.
- (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.
- (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.
- (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.
- (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.
- (91) **GSF.** Gross square feet.
- (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.
- (93) **HIGH-VOLUME TRAFFIC GENERATION.** Large amounts of traffic generated by an establishment as it relates to traffic flow in the immediate area.
- (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.
- (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.
- (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.
- (97) **HOME.** Same as dwelling.
- (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,

- (196) **SIDE LOT LINE.** Any boundary of a lot which is not a front lot line or a rear lot line.
- (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.
(Ord. 042-13. Passed 10-21-13.)
- (197.1) **SPECIALIZED ANIMAL RAISING** Shall be defined as the use of land and buildings for the raising and care of fur-bearing animals such as rabbits and domestic pets; and the stabling and care of horses, animal kennels, pigeon raising and raising of any other domestic animals or birds of a similar nature.
(Ord. 036-17. Passed 6-5-17.)
- (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.
- (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.
- (200) **STRUCTURE.** Anything constructed or erected which requires location on the ground or attachment to something having a location on the ground.
- (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.
- (202) **SUBDIVIDER.** Any person engaged in subdivision of land within the jurisdiction of the City.
- (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.
- (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.
- (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.
- (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".
- (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.
- (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.
- (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.
- (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.
- (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.
- (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".
- (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.

	RESIDENTIAL				COMMERCIAL					INDUSTRIAL	
AGRICULTURAL:	R-1	R-2	R-3	R-4	C-1	C-2	C-3	C-4	C-5	I-1	I-2
FARM MARKETS & STANDS					C			C	P		
KENNELS								P		P	
PLANT CULTIVATION								C		P	
SPECIALIZED ANIMAL RAISING								C		P	

	RESIDENTIAL				COMMERCIAL					INDUSTRIAL	
RESIDENTIAL:	R-1	R-2	R-3	R-4	C-1	C-2	C-3	C-4	C-5	I-1	I-2
ONE FAMILY DWELLING	P	P	P	P							
TWO FAMILY DWELLING	P	P	P	P							
MULTIPLE FAMILY DWELLING				P							
DAY CARE CENTERS				C			C	P			
APARTMENTS ABOVE 1ST FLOOR			P	P	P			P			
BED & BREAKFAST			P	P	P						
FUNCTIONAL EQUIVALENT FAMILY	C	C	C	C							
HOME OCCUPATION	P			C	C						
REASONABLE ACCOMMODATION USE	C	C	C	C							
ASSISTED LIVING UNITS				P							
MANUFACTURED HOMES										P	

	RESIDENTIAL				COMMERCIAL					INDUSTRIAL	
INSTITUTIONAL:	R-1	R-2	R-3	R-4	C-1	C-2	C-3	C-4	C-5	I-1	I-2
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 Service	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 Facilities	P	P	P	P	P		P	P	P	P	P
Wireless Telecommunication Facilities										C	C

(Ord. 030-17. Passed 5-1-17.)

CODIFIED ORDINANCES OF NAPOLEON
PART FIFTEEN - FIRE PREVENTION CODE

CHAPTER 1501
Ohio Fire Code

1501.01	Adoption.	1501.09	Disclosure of true Fire Safety
1501.02	Purpose.		Inspector status.
1501.03	Application.	1501.10	Fire equipment sale or use;
1501.04	Enforcement.		certification of installers.
1501.05	Compliance.	1501.11	Copies.
1501.06	Posting arson laws.	1501.12	Conflict.
1501.07	Setting fires which spread.	1501.99	Penalty.
1501.08	Unfriendly fires in		
	building; alarm duties.		

CROSS REFERENCES

See sectional histories for similar State law
 Appeals of orders - see Ohio R.C. 119.12
 State certification of firefighters - see Ohio R.C. 737.08, 737.22, 737.33
 State certification of Fire Safety Inspectors - see Ohio R.C. 3737.01(C), 3737.34
 Fire investigation - see Ohio R.C. 737.27, 737.24 et seq.
 Entry and Inspection - see Ohio R.C. 737.34 et seq., 3737.14, 3737.41, 3737.42
 Common Pleas Court jurisdiction - see Ohio R.C. 3737.44(A), 3737.51(H)
 Ohio Fire Code - see Ohio R.C. 3737.82 et seq.; OAC Ch. 1301:7-1 et seq.
 Fire extinguishing and alarm systems in rest and nursing homes -
 see Ohio R.C. 3721.071
 Self-service filling stations - see Ohio R.C. 3741.14
 Fireworks exhibitions - see Ohio R.C. 3743.50 et seq.

1501.01 ADOPTION.

There is hereby adopted by the Municipality, the most recent edition of the Ohio Fire Code (OFC) as adopted by the Ohio Division of State Fire Marshal, Department of Commerce, and as published in Division 1301:7 of the Ohio Administrative Code (OAC).
 (Ord. 057-17. Passed 9-18-17.)

1501.02 PURPOSE.

The purpose of the Ohio Fire Code as adopted herein is to prescribe minimum standards and regulations governing conditions hazardous to life and property from fire or explosion.

1501.03 APPLICATION.

The Ohio Fire Code as adopted herein applies to the use of all lands and properties within the Municipality and such other lands or properties owned by the Municipality which are situated outside the corporate limits thereof.

1501.04 ENFORCEMENT.

(a) No person shall serve as Municipal Fire Safety Inspector unless he has received a certificate issued by the State Board of Emergency Medical Services under former Ohio R.C. 3303.07 or 4765.55 evidencing his satisfactory completion of a fire safety inspection training program.
(ORC 3737.34)

(b) For Municipal criminal proceedings, the complaint, warrant or summons, or the issuance of a citation in minor misdemeanor cases shall be, as is prescribed in the Ohio Rules of Criminal Procedure, by referencing the numerical designation of the applicable Municipal ordinance, including the specific provision of the Ohio Fire Code, or any order issued pursuant thereto, provided such order fixes a reasonable time for abatement of the violation. State enforcement proceedings for violation of Ohio R.C. Chapter 3737 or the Ohio Fire Code shall be as is prescribed in Ohio R.C. 3737.41 to 3737.46.

(c) A copy of such complaint or citation shall be prominently posted at or near each place a violation referred to occurs.

(d) Upon request of the Municipal Fire Safety Inspector, the Municipal Legal Officer shall institute and prosecute any necessary action or proceeding to enforce this chapter or Ohio R.C. Chapter 3737.

1501.05 COMPLIANCE.

(a) No person shall knowingly violate any provision of the Ohio Fire Code as adopted herein or any order issued pursuant thereto. (ORC 3737.51(A))

(b) No person shall fail to comply with the fire prevention measures or fire protection activities as prescribed in the Ohio Fire Code, or fail to obtain a permit or license for the various uses or activities as required by such Code, or fail to comply with the Municipal application and plan submission and processing requirements including payment of the fees designated therefor.

1501.06 POSTING ARSON LAWS.

The owner, operator or lessee of any transient residential building shall post the provisions of Ohio R.C. 2909.02 and 2909.03 in a conspicuous place in each room occupied by guests in such building. The owner, operator or lessee of any nontransient residential building, institution, school or place of assembly shall post the provisions of such sections in conspicuous places upon such premises. No person shall fail to comply with this section. (ORC 3737.61)

1501.07 SETTING FIRES WHICH SPREAD.

No person shall set, kindle or cause to be set or kindled any fire, which through his negligence, spreads beyond its immediate confines to any structure, field or wood lot.
(ORC 3737.62)

RESOLUTION NO. 077-17

A RESOLUTION AUTHORIZING THE EXPENDITURE OF FUNDS OVER TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00) FOR THE PURCHASE OF A RESCUE AIRBOAT AND TRAILER FOR THE CITY OF NAPOLEON FIRE DEPARTMENT, UTILIZING THE FEDERAL COOPERATIVE PURCHASING PROGRAM, WHICH WAS NOT INCLUDED IN THE 2017 MASTER BID RESOLUTION; AND DECLARING AN EMERGENCY

WHEREAS, the City of Napoleon Fire Department desires to purchase a rescue airboat and trailer; and,

WHEREAS, the rescue airboat and trailer can be purchased utilizing the Federal Cooperative Purchasing Program, and,

WHEREAS, the Council believes it is in the best interest of the City of Napoleon to eliminate the necessity for competitive bidding for the immediate preservation of the public health and safety of the City of Napoleon and its inhabitants, **Now Therefore**,

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

Section 1. That, the City of Napoleon authorizes the expenditure of funds in excess of twenty five thousand dollars (\$25,000.00) for the purchase of a rescue airboat and trailer utilizing the Federal Cooperative Purchasing Program. Also, Council finds it to be in the best interest of the City to eliminate the necessity for competitive bidding for the immediate preservation of the public health and safety of the City of Napoleon and its inhabitants.

Section 2. That, the City Manager is authorized to enter into a contract for said purchase.

Section 3. That, it is found and determined that all formal actions of this City Council concerning and relating to the adoption of this Resolution were adopted in open meetings of this City Council, and that all deliberations of this City Council and any of its committees that resulted in such formal actions were in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code and the Codified Ordinances of Napoleon Ohio.

Section 4. 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 5. That, this Resolution is declared to be an emergency measure necessary for the immediate preservation of the public peace, health or safety of the City and its inhabitants; therefore, provided it receives the required number of votes for passage as emergency legislation, it shall be in full force and effect immediately upon its passage; otherwise, it shall be in full force and effect at the earliest time permitted by law.

Passed: _____

Travis B. Sheaffer, Council President

Approved: _____

Jason P. Maassel, 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. 077-17 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. 078-17

A RESOLUTION APPROVING THE PROVISIONS OF A CERTAIN COLLECTIVE BARGAINING AGREEMENT NO. 2016-MED-08-0802 BETWEEN THE CITY OF NAPOLEON AND LOCAL 240 NAPOLEON POLICE OFFICERS ASSOCIATION IUPA, AFL-CIO FOR THE TERM COMMENCING FROM DECEMBER 1, 2017 THROUGH NOVEMBER 30, 2019; AUTHORIZING THE CITY MANAGER TO EXECUTE THE SAME; AND DECLARING AN EMERGENCY

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

Section 1. That, the provisions of a certain Collective Bargaining Agreement (hereinafter referred to as "the Agreement") between the City of Napoleon, Ohio (hereinafter called "the City") and the Napoleon Police Officers Association IUPA, AFL-CIO Local 240 (hereinafter called "the Union") for the term commencing December 1, 2017 through November 30, 2019, both dates inclusive, (a true and complete copy of which is on file in the office of the City Finance Director marked as City Contract No. 2016-MED-08-0802) have been reviewed and are approved by this Council.

Section 2. That, upon ratification of the Agreement by the Union, the City Manager is authorized and directed to execute the Agreement in the name of and on behalf of the City, subject to any non-material amendments, additions, or deletions as deemed necessary or advisable by the City Manager and approved by the City Law Director. The Agreement may contain a provision that allows the terms and conditions of the Agreement to be retroactively applied; the same being hereby approved if so exists.

Section 3. That, it is found and determined that all formal actions of this City Council concerning and relating to the adoption of this Resolution were adopted in open meetings of this City Council, and that all deliberations of this City Council and any of its committees that resulted in such formal actions were in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code and the Codified Ordinances of Napoleon Ohio.

Section 4. 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 5. That, this Resolution is declared to be an emergency measure necessary for the immediate preservation of the public peace, health or safety of the City and its inhabitants, and for the further reason that this legislation must be in effect at the earliest possible time to allow essential City services to continue without distraction or disruption; therefore, provided it receives the required number of votes for passage as emergency legislation, it shall be in full force and effect immediately upon its passage; otherwise, it shall be in full force and effect at the earliest time permitted by law.

Passed: _____

Travis B. Sheaffer, Council President

Approved: _____

Jason P. Maassel, 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. 078-17 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. 079-17

A RESOLUTION APPROVING THE PROVISIONS OF A CERTAIN COLLECTIVE BARGAINING AGREEMENT NO. 2013-18 BETWEEN THE CITY OF NAPOLEON AND LOCAL 3363 INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS FOR THE TERM COMMENCING FROM JANUARY 1, 2018 THROUGH DECEMBER 31, 2019; AUTHORIZING THE CITY MANAGER TO EXECUTE THE SAME; AND DECLARING AN EMERGENCY

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

Section 1. That, the provisions of a certain Collective Bargaining Agreement (hereinafter referred to as "the Agreement") between the City of Napoleon, Ohio (hereinafter called "the City") and Local 3363 International Association of Fire Fighters (hereinafter called "the Union") for the term commencing January 1, 2018 through December 31, 2019, both dates inclusive, (a true and complete copy of which is on file in the office of the City Finance Director marked as City Contract No. 2013-18) have been reviewed and are approved by this Council.

Section 2. That, upon ratification of the Agreement by the Union, the City Manager is authorized and directed to execute the Agreement in the name of and on behalf of the City, subject to any non-material amendments, additions, or deletions as deemed necessary or advisable by the City Manager and approved by the City Law Director. The Agreement may contain a provision that allows the terms and conditions of the Agreement to be retroactively applied, the same being hereby approved if it so exists.

Section 3. That, it is found and determined that all formal actions of this City Council concerning and relating to the adoption of this Resolution were adopted in open meetings of this City Council, and that all deliberations of this City Council and any of its committees that resulted in such formal actions were in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code and the Codified Ordinances of Napoleon Ohio.

Section 4. 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 5. That, this Resolution is declared to be an emergency measure necessary for the immediate preservation of the public peace, health or safety of the City and its inhabitants, and for the further reason that this legislation must be in effect at the earliest possible time to allow essential City services to continue without distraction or disruption; therefore, provided it receives the required number of votes for passage as emergency legislation, it shall be in full force and effect immediately upon its passage; otherwise, it shall be in full force and effect at the earliest time permitted by law.

Passed: _____

Travis B. Sheaffer, Council President

Approved: _____

Jason P. Maassel, 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. 079-17 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. 080-17

AN ORDINANCE ESTABLISHING THE APPROPRIATION MEASURE (BUDGET) OF THE CITY OF NAPOLEON, OHIO FOR THE FISCAL YEAR ENDING DECEMBER 31, 2018, LISTED IN EXHIBIT "A"; AND DECLARING AN EMERGENCY

WHEREAS, Council desires to pass the annual appropriation measure of the City of Napoleon for the fiscal year ending December 31, 2018;

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

Section 1. That the annual appropriation measure be passed, and the sums as contained in Exhibit "A", attached hereto and made a part of this Ordinance, are set aside and appropriated for the fiscal year ending December 31, 2018.

Section 2. 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 the City of Napoleon, Ohio.

Section 3. 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, only that portion shall be held invalid and the remainder shall remain valid.

Section 4. That, pursuant to 121.03 (f) of the Codified Ordinances of the City of Napoleon, Ohio, this Ordinance is declared to be an Ordinance providing for appropriations for the current expenses of the City appropriations immediately required for the City to operate; therefore, this Ordinance shall be in full force and effect immediately upon its passage, subject to the approval by the Mayor, otherwise it shall take effect at the earliest time permitted by law.

Passed: _____

Travis B. Sheaffer, Council President

Approved: _____

Jason P. Maassel, 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. 080-17 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

**2018 APPROPRIATION BUDGET - ORIGINAL BUDGET
BUDGET SUMMARY BY FUND, DEPARTMENT AND CATEGORY**

ORDINANCE No. 080-17 FUND / DEPARTMENT	===== 2018 ORIGINAL APPROVED BUDGET =====			2018 FUND TOTAL
	PERSONAL SERVICES	OTHER	TOTAL	
<u>100 GENERAL FUND</u>				
1100 City Council/Legislative	40,650	7,700	48,350	
1200 Mayor/Executive	17,250	3,100	20,350	
1300 City Manager/Administrative	231,820	32,920	264,740	
1370 City Manager/Human Resources	92,020	20,030	112,050	
1400 Law Director/Administrative	197,860	49,360	247,220	
1500 Finance/Administrative	436,190	105,990	542,180	
1520 Finance/Utility Billing	129,980	92,620	222,600	
1600 Information Systems/Administrative	163,390	44,950	208,340	
1700 Engineering/City Engineer	441,110	68,350	509,460	
1800 Municipal Court/Judicial	473,090	95,160	568,250	
1900 General Government/Miscellaneous	0	309,400	309,400	
2100 Police/Safety Services	1,683,180	263,240	1,946,420	
2101 Police/Code Enforcement	38,810	10,740	49,550	
2200 Fire/Safety Services	928,250	181,640	1,109,890	
3100 Building Inspections/Zoning & Planning	0	0	0	
4700 Cemetery/Operations	101,630	27,160	128,790	
5130 Service/Buildings, Properties, Equipment	73,140	17,730	90,870	
9800 Reimbursements-Shared Expense	0	23,000	23,000	
9900 Transfer Accounts	0	295,780	295,780	
Total - 100 General Fund	5,048,370	1,648,870	6,697,240	\$6,697,240
<u>101 GENERAL FUND RESERVE BALANCE FUND</u>				
1900 General Government/Miscellaneous	0	0	0	\$0
<u>123 SPECIAL EVENTS FUND</u>				
1900 General Government/Miscellaneous	0	11,500	11,500	\$11,500
<u>130 ECONOMIC DEVELOPMENT FUND</u>				
3500 Economic Development	0	37,400	37,400	\$37,400
<u>147 UNCLAIMED MONIES FUND</u>				
9400 Unclaimed Monies Agency Accounts	0	1,000	1,000	
9900 Transfer Accounts	0	1,500	1,500	
Total - 147 Unclaimed Monies Fund	0	2,500	2,500	\$2,500
<u>170 MUNICIPAL INCOME TAX FUND</u>				
1510 Finance/Income Tax Collection	130,080	204,640	334,720	
9900 Transfer Accounts	0	3,865,280	3,865,280	
Total - 170 Municipal Income Tax Fund	130,080	4,069,920	4,200,000	\$4,200,000
<u>180 KWH TAX (GF) COLLECTION FUND</u>				
9800 Reimbursements-Shared Expense	0	202,940	202,940	
9900 Transfer Accounts	0	317,060	317,060	
Total - 180 KWH Tax (GF) Collection Fund	0	520,000	520,000	\$520,000

**2018 APPROPRIATION BUDGET - ORIGINAL BUDGET
BUDGET SUMMARY BY FUND, DEPARTMENT AND CATEGORY**

<u>ORDINANCE No. 080-17</u> <u>FUND / DEPARTMENT</u>	===== 2018 ORIGINAL APPROVED BUDGET =====			<u>2018 FUND TOTAL</u>
	<u>PERSONAL SERVICES</u>	<u>OTHER</u>	<u>TOTAL</u>	
<u>195 LAW LIBRARY FUND</u>				
1800 Municipal Court/Judicial	0	11,000	11,000	
9900 Transfer Accounts	0	11,000	11,000	
	-----	-----	-----	
Total - 195 Law Library Fund	0	22,000	22,000	\$22,000
	=====	=====	=====	
<u>200 STREET CONSTR., MAINT. & REPAIR FUND</u>				
5100 Service/Streets Maintenance and Properties	196,630	181,700	378,330	
5110 Service/Ice and Snow Removal	32,000	61,600	93,600	
5120 Service/Storm Drainage	11,000	8,500	19,500	
	-----	-----	-----	
Total - 200 Street (SCM&R) Fund	239,630	251,800	491,430	\$491,430
	=====	=====	=====	
<u>201 STATE HIGHWAY IMPROVEMENT FUND</u>				
5100 Service/Streets Maintenance and Properties	0	36,200	36,200	\$36,200
	=====	=====	=====	
<u>202 MUNICIPAL (50%) MV LICENSE TAX FUND</u>				
5100 Service/Streets Maintenance and Properties	0	25,000	25,000	\$25,000
	=====	=====	=====	
<u>203 MUNICIPAL (100%) MV LICENSE TAX FUND</u>				
5100 Service/Streets Maintenance and Properties	0	74,000	74,000	
9900 Transfer Accounts	0	0	0	
	-----	-----	-----	
Total - 203 Municipal 100% MV License Tax Fund	0	74,000	74,000	\$74,000
	=====	=====	=====	
<u>204 COUNTY MV LIC.PERMISSIVE TAX FUND</u>				
5100 Service/Streets Maintenance and Properties	0	56,500	56,500	\$56,500
	=====	=====	=====	
<u>210 EMS TRANSPORT SERVICE FUND</u>				
2200 Fire/Safety Services	0	170,000	170,000	
9800 Reimbursements-Shared Expense	0	205,000	205,000	
9900 Transfer Accounts	0	27,440	27,440	
	-----	-----	-----	
Total - 210 EMS Transport Service Fund	0	402,440	402,440	\$402,440
	=====	=====	=====	
<u>220 RECREATION FUND</u>				
4100 Parks/Administrative	111,870	7,000	118,870	
4200 Recreation/Golf Operating	148,460	102,350	250,810	
4300 Recreation/Pool Operating	47,380	56,940	104,320	
4400 Recreation/Programs	245,630	202,190	447,820	
	-----	-----	-----	
Total - 220 Recreation Fund	553,340	368,480	921,820	\$921,820
	=====	=====	=====	
<u>227 NAPOLEON CEMETERY TRUST FUND</u>				
4700 Cemetery/Grounds	0	6,000	6,000	\$6,000
	=====	=====	=====	

**2018 APPROPRIATION BUDGET - ORIGINAL BUDGET
BUDGET SUMMARY BY FUND, DEPARTMENT AND CATEGORY**

<u>ORDINANCE No. 080-17</u> <u>FUND / DEPARTMENT</u>	===== 2018 ORIGINAL APPROVED BUDGET =====			<u>2018 FUND TOTAL</u>
	<u>PERSONAL SERVICES</u>	<u>OTHER</u>	<u>TOTAL</u>	
<u>240 HOTEL/MOTEL TAX FUND</u>				
3800 Travel and Tourism	0	42,000	42,000	
9900 Transfer Accounts	0	42,000	42,000	
	-----	-----	-----	
Total - 240 Hotel Motel Tax Fund	0	84,000	84,000	\$84,000
	=====	=====	=====	
<u>242 FIRE EQUIPMENT FUND</u>				
2200 Fire/Safety Services	0	16,000	16,000	\$16,000
	=====	=====	=====	
<u>243 REFUND-FIRE LOSS FUND</u>				
1900 General Government/Miscellaneous	0	0	0	\$0
	=====	=====	=====	
<u>261 CDBG PROGRAM INCOME FUND</u>				
3300 Contracts-Grt.Srv.-MVPLN	0	42,000	42,000	\$42,000
	=====	=====	=====	
<u>270 INDIGENT DRIVERS ALCOHOL FUND</u>				
1800 Municipal Court/Judicial	0	25,000	25,000	\$25,000
	=====	=====	=====	
<u>271 LAW ENFORCEMENT & EDUCATION FUND</u>				
2100 Police/Safety Services	3,000	1,400	4,400	\$4,400
	=====	=====	=====	
<u>272 COURT COMPUTERIZATION FUND</u>				
1800 Municipal Court/Judicial	0	42,100	42,100	
9800 Reimbursements-Shared Expense	0	10,000	10,000	
	-----	-----	-----	
Total - 272 Court Computerization Fund	0	52,100	52,100	\$52,100
	=====	=====	=====	
<u>273 LAW ENFORCEMENT TRUST FUND</u>				
2100 Police/Safety Services	0	1,000	1,000	\$1,000
	=====	=====	=====	
<u>274 MANDATORY DRUG FINE FUND</u>				
2100 Police/Safety Services	3,000	500	3,500	\$3,500
	=====	=====	=====	
<u>275 MUNICIPAL PROBATION SERVICE FUND</u>				
1810 Municipal Court/Probation Department	6,940	10,700	17,640	\$17,640
	=====	=====	=====	
<u>277 PROBATION OFFICERS GRANT FUND</u>				
1810 Municipal Court/Probation Department	49,290	0	49,290	\$49,290
	=====	=====	=====	
<u>278 COURT SPECIAL PROJECTS FUND</u>				
1800 Municipal Court/Judicial	0	67,750	67,750	\$67,750
	=====	=====	=====	
<u>279 HANDICAP PARKING FINE FUND</u>				
1800 Municipal Court/Judicial	0	1,100	1,100	\$1,100
	=====	=====	=====	
<u>280 CERTIFIED POLICE TRAINING FUND</u>				
1800 Municipal Court/Judicial	5,000	500	5,500	\$5,500
	=====	=====	=====	

2018 APPROPRIATION BUDGET - ORIGINAL BUDGET **BUDGET SUMMARY BY FUND, DEPARTMENT AND CATEGORY**

<u>ORDINANCE No. 080-17</u> <u>FUND / DEPARTMENT</u>	===== 2018 ORIGINAL APPROVED BUDGET =====			<u>2018 FUND TOTAL</u>
	<u>PERSONAL SERVICES</u>	<u>OTHER</u>	<u>TOTAL</u>	
<u>281 INDIGENT DRVS.INTERLCK.& AL.MNTR.FUND</u>				
2100 Police/Safety Services	0	5,000	5,000	\$5,000
	=====	=====	=====	
<u>288 JUSTICE REINVESTMENT INCENTIVE GRANT</u>				
1800 Municipal Court/Probation Department	14,740	9,740	24,480	\$24,480
	=====	=====	=====	
<u>290 POLICE PENSION FUND</u>				
2100 Police/Safety Services	84,310	0	84,310	\$84,310
	=====	=====	=====	
<u>291 FIRE PENSION FUND</u>				
2200 Fire/Safety Services	42,150	0	42,150	\$42,150
	=====	=====	=====	
<u>295 IRS 125 BENEFITS PLAN FUND</u>				
1900 General Government/Miscellaneous	0	2,220	2,220	\$2,220
	=====	=====	=====	
<u>300 GENERAL BOND RETIREMENT FUND</u>				
8100 General Obligation Debt Services	0	75,820	75,820	\$75,820
	=====	=====	=====	
<u>310 SA BOND RETIREMENT FUND</u>				
8500 Special Assessment Debt Services	0	34,980	34,980	\$34,980
	=====	=====	=====	
<u>400 CAPITAL IMPROVEMENT FUND</u>				
1100 City Council/Legislative	0	5,500	5,500	
1300 City Manager/Administrative	0	2,730	2,730	
1370 City Manager/Human Resources	0	0	0	
1400 Law Director/Administrative	0	7,000	7,000	
1500 Finance/Administrative	0	55,600	55,600	
1600 Information Systems/Administrative	0	48,500	48,500	
1700 Engineering/City Engineer	0	64,500	64,500	
1800 Municipal Court/Judicial	0	5,000	5,000	
2100 Police/Safety Services	0	87,250	87,250	
2200 Fire/Safety Services	0	26,000	26,000	
4200 Recreation/Golf Operating	0	25,000	25,000	
4300 Recreation/Pool Operating	0	10,000	10,000	
4400 Recreation/Programs	0	0	0	
4700 Cemetery/Grounds	0	10,000	10,000	
5100 Service/Streets Maintenance and Properties	0	3,752,800	3,752,800	
5130 Service/Buildings, Properties, Equipment	0	70,000	70,000	
5200 Service/Garage Rotary	0	0	0	
9900 Transfer Accounts	0	125,310	125,310	
	=====	=====	=====	
Total - 400 Capital Improvement Fund	0	4,295,190	4,295,190	\$4,295,190
	=====	=====	=====	
<u>401 CIP FUNDING RESERVE FUND</u>				
1900 General Government/Miscellaneous	0	0	0	\$0
	=====	=====	=====	

2018 APPROPRIATION BUDGET - ORIGINAL BUDGET **BUDGET SUMMARY BY FUND, DEPARTMENT AND CATEGORY**

<u>ORDINANCE No. 080-17</u> <u>FUND / DEPARTMENT</u>	===== 2018 ORIGINAL APPROVED BUDGET =====			<u>2018 FUND TOTAL</u>
	<u>PERSONAL SERVICES</u>	<u>OTHER</u>	<u>TOTAL</u>	
<u>500 ELECTRIC UTILITY REVENUE FUND</u>				
1520 Finance/Utility Billing	0	30,700	30,700	
6110 Electric/Operations, Distribution System	1,344,330	1,222,200	2,566,530	
6111 Electric/Purchased Power	0	13,300,000	13,300,000	
9800 Reimbursement Accounts-Shared Expenses	0	929,690	929,690	
9900 Transfer Accounts	0	860,500	860,500	
Total - 500 Electric Utility Revenue Fund	1,344,330	16,343,090	17,687,420	\$17,687,420
<u>503 ELECTRIC DEVELOPMENT FUND</u>				
6110 Electric/Operations, Distribution System	0	433,400	433,400	
9900 Transfer Accounts	0	0	0	
Total - 503 Economic Development Fund	0	433,400	433,400	\$433,400
<u>510 WATER REVENUE FUND</u>				
1520 Finance/Utility Billing	0	12,280	12,280	
6200 Water/Treatment Plant Operations	554,320	1,285,380	1,839,700	
6210 Water/Distribution System	449,630	366,190	815,820	
9800 Reimbursement Accounts-Shared Expenses	0	495,530	495,530	
9900 Transfer Accounts	0	717,940	717,940	
Total - 510 Water Revenue Fund	1,003,950	2,877,320	3,881,270	\$3,881,270
<u>511 WATER DEPRECIATION RESERVE FUND</u>				
6210 Water/Distribution System	0	335,000	335,000	\$335,000
<u>512 WATER DEBT RESERVE FUND</u>				
8300 Revenue Funds Debt Services	0	209,600	209,600	\$209,600
<u>513 WATER OWDA BOND RETIREMENT FUND</u>				
8300 Revenue Funds Debt Services	0	22,280	22,280	\$22,280
<u>519 WATER PLANT REN.&IMP.PROJECT FUND</u>				
6200 Water/Treatment Plant Operations	0	10,992,940	10,992,940	
9900 Transfer Accounts	0	72,530	72,530	
Total - 519 Water Plant Ren.& Imp.Prj.Fund	0	11,065,470	11,065,470	\$11,065,470
<u>520 SEWER (WWT) UTILITY REVENUE FUND</u>				
1520 Finance/Utility Billing	0	12,280	12,280	
6300 Sewer(WWT)/Treatment Plant Operations	639,620	1,391,870	2,031,490	
6310 Sewer(WWT)/Collection System	68,990	101,050	170,040	
6311 Sewer(WWT)/Cleaning, Imp. (SSO & CSO)	173,450	37,850	211,300	
9800 Reimbursement Accounts-Shared Expenses	0	551,890	551,890	
9900 Transfer Accounts	0	1,409,250	1,409,250	
Total - 520 Sewer (WWT) Uty. Revenue Fund	882,060	3,504,190	4,386,250	\$4,386,250

**2018 APPROPRIATION BUDGET - ORIGINAL BUDGET
BUDGET SUMMARY BY FUND, DEPARTMENT AND CATEGORY**

<u>ORDINANCE No. 080-17</u> <u>FUND / DEPARTMENT</u>	===== 2018 ORIGINAL APPROVED BUDGET =====			<u>2018 FUND TOTAL</u>
	<u>PERSONAL SERVICES</u>	<u>OTHER</u>	<u>TOTAL</u>	
<u>521 SEWER (WWT) UTY.REP. & IMP. FUND</u>				
6300 Sewer(WWT)/Treatment Plant Operations	0	2,262,500	2,262,500	\$2,262,500
	=====	=====	=====	
<u>522 SEWER (WWT) UTILITY RESERVE FUND</u>				
8300 Revenue Funds Debt Services	0	451,390	451,390	\$451,390
	=====	=====	=====	
<u>523 OWDA SA DEBT RETIREMENT FUND</u>				
8600 Special Assessment Debt Services (OWDA)	0	105,250	105,250	\$105,250
	=====	=====	=====	
<u>532 WILLIAMS PUMP STATION IMPROVEMENT PROJECT FUND</u>				
6310 Sewer(WWT)/Collection System	0	1,518,830	1,518,830	
8800 State & EPA Loans Debt Services	0	0	0	
	-----	-----	-----	
Total - 532 Williams Pump Sta.Imp.Prj.Fund	0	1,518,830	1,518,830	\$1,518,830
	=====	=====	=====	
<u>560 SANITATION (REFUSE) REVENUE FUND</u>				
1520 Finance/Utility Billing	0	6,140	6,140	
6400 Sanitation(Refuse)/Collection and Disposal	209,360	168,580	377,940	
6410 Sanitation(Refuse)/SRS-Seasonal Pickup Progr	0	62,550	62,550	
6411 Sanitation(Refuse)/SRS-Yard Waste Site	0	66,550	66,550	
6412 Sanitation(Refuse)/SRS-Mosquito Control	0	68,870	68,870	
6420 Sanitation(Refuse)/Recycling Programs	79,370	67,250	146,620	
9800 Reimbursement Accounts-Shared Expenses	0	161,980	161,980	
9900 Transfer Accounts	0	40,000	40,000	
	-----	-----	-----	
Total - 560 Sanitation(Refuse) Revenue Fund	288,730	641,920	930,650	\$930,650
	=====	=====	=====	
<u>561 SANITATION (REFUSE) DEP.RESERVE FUND</u>				
6400 Sanitation(Refuse)/Collection and Disposal	0	5,000	5,000	\$5,000
	=====	=====	=====	
<u>580 METER DEP. (ELECTRIC & WATER) FUND</u>				
6500 Meter Deposits/Unapplied Cash	0	30,000	30,000	\$30,000
	=====	=====	=====	
<u>600 CENTRAL GARAGE/FUEL ROTARY FUND</u>				
5200 Service/Central Garage	172,030	92,600	264,630	
5600 Service/Fuel Purchase Rotary	0	55,000	55,000	
	-----	-----	-----	
Total - 600 Central Garage/Fuel Rotary Fund	172,030	147,600	319,630	\$319,630
	=====	=====	=====	
* GRAND TOTAL - ALL FUNDS	\$9,870,950	\$52,210,450	\$62,081,400	\$62,081,400
	=====	=====	=====	=====

RESOLUTION NO. 081-17

**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 2018, LISTED IN EXHIBIT "A"; AND
DECLARING AN EMERGENCY**

WHEREAS, the City is a charter municipality having those powers of self government as stated in Article I of its Charter; and

WHEREAS, in order to provide Fund Balances for approved expenditures in certain funds on an as needed basis, it is necessary to transfer funds from respective funds to other funds; Now Therefore,

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

Section 1. That, pursuant to Section 5705.14 of the ORC and this Resolution, the Finance Director is hereby authorized and directed to transfer monies among the various funds on an as needed basis in Fiscal Year 2018 as listed in Exhibit "A" attached hereto and made a part of this Resolution.

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 the City 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, only that portion shall be held invalid and the remainder shall remain valid.

Section 4. That, this Resolution is declared to be an emergency measure necessary for the immediate preservation of the public peace, health or safety of the City and its inhabitants, and for the further reason that this legislation must be in effect at the earliest possible time to assure the prompt and efficient conduct of the municipal operations related to public peace, health or safety of the City; therefore, provided it receives the required number of votes for passage as emergency legislation, it shall be in full force and effect immediately upon its passage; otherwise, it shall be in full force and effect at the earliest time permitted by law.

Passed: _____

Travis B. Sheaffer, Council President

Approved: _____

Jason P. Maassel, 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. 0 -17 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

2018 APPROPRIATION BUDGET - TRANSFER OF FUNDS**RESOLUTION No. 081-17****BUDGET REVIEW - 2018 TRANSFER OF FUNDS****= TRANSFER AMOUNTS =****FUND NAME, FROM - TO, PURPOSE****FROM****TO**

FROM: 100 GENERAL FUND	\$100,000	
TO: 101 GENERAL RESERVE BALANCE FUND		\$100,000
Purpose: Move Excess Reserves in 100 General Fund to 101 General Reserve Balance Fund.		
FROM: 100 GENERAL FUND	\$11,500	
TO: 123 SPECIAL EVENTS FUND		\$11,500
Purpose: Subsidize Fall Festival and other events as sponsored through the Chamber of Commerce.		
FROM: 100 GENERAL FUND	\$8,150	
TO: 130 ECONOMIC DEVELOPMENT FUND		\$8,150
Purpose: Subsidize the Economic Development Fund programs due to insufficient funds in the 130 ED I		
FROM: 100 GENERAL FUND	\$1,800	
TO: 295 IRS 125 EMPLOYEE FRINGE BENEFITS FUND		\$1,800
Purpose: Subsidize Administrative Expenditures of Employee 125 Flexible Spending Benefits Fund.		
FROM: 100 GENERAL FUND	\$174,330	
TO: 600 CENTRAL ROTARY CHARGES FUND		\$174,330
Purpose: Subsidize Operating Expenditures of Central Garage Rotary Charges Fund.		
FROM: 147 UNCLAIMED MONIES FUND	\$1,500	
TO: 100 GENERAL FUND		\$1,500
Purpose: Payment of Unclaimed Funds back to the 100 General Fund.		
FROM: 170 MUNICIPAL INCOME TAX FUND	\$2,050,140	
TO: 100 GENERAL FUND		\$2,050,140
Purpose: Net Transfer (62%) of Income Tax Receipts to 100 General Fund.		
FROM: 170 MUNICIPAL INCOME TAX FUND	\$558,600	
TO: 220 RECREATION FUND		\$558,600
Purpose: Transfer of Income Tax Levy Receipts to 220 Recreation Fund.		
FROM: 170 MUNICIPAL INCOME TAX FUND	\$1,256,540	
TO: 400 CAPITAL IMPROVEMENT FUND		\$1,256,540
Purpose: Net Transfer (38%) of Income Tax Receipts to 400 CIP Fund.		
FROM: 180 KWH TAX COLLECTION (GF) FUND	\$317,060	
TO: 100 GENERAL FUND		\$317,060
Purpose: Transfer of Net Balance of KWH Tax Funds into the General Fund.		

2018 APPROPRIATION BUDGET - TRANSFER OF FUNDS**RESOLUTION No. 081-17****BUDGET REVIEW - 2018 TRANSFER OF FUNDS****= TRANSFER AMOUNTS =****FUND NAME, FROM - TO, PURPOSE****FROM****TO**

FROM: 195 LAW LIBRARY FUND	\$11,000	
TO: 100 GENERAL FUND		\$11,000
Purpose: Transfer of City Share for Highway Patrol Fine Monies per ORC.		
FROM: 210 EMS TRANSPORT SERVICE FUND	\$27,440	
TO: 242 FIRE EQUIPMENT FUND		\$27,440
Purpose: City Share of Township Contract (80% of \$90,000/ Yearly) for a Total of \$72,000, Funded \$26,000 from 210 Fund & \$46,000 from 400 Fund.		
FROM: 240 HOTEL-MOTEL TAX FUND	\$42,000	
TO: 100 GENERAL FUND		\$42,000
Purpose: City's Net Share of Total Collections (50%) on a 6% Rate, per Ordinance to 100 General Fund		
FROM: 400 CAPITAL IMPROVEMENT FUND	\$51,750	
TO: 300 GENERAL BOND RETIREMENT FUND		\$51,750
Purpose: Retirement of General Bond Obligation Debt.		
FROM: 400 CAPITAL IMPROVEMENT FUND	\$48,560	
TO: 242 FIRE EQUIPMENT FUND		\$48,560
Purpose: City Share of Township Contract (80% of \$90,000/ Yearly) for a Total of \$72,000, Funded \$26,000 from 210 Fund & \$46,000 from 400 Fund.		
FROM: 400 CAPITAL IMPROVEMENT FUND	\$25,000	
TO: 401 CIP FUNDING RESERVE FUND		\$25,000
Purpose: Funding Reserves for Current and Future Capital Purchases.		
FROM: 500 ELECTRIC REVENUE FUND	\$520,000	
TO: 180 KWH TAX COLLECTION (GF) FUND		\$520,000
Purpose: Transfer to 180 kWH (GF Equivalent) Tax Fund, 100 General Fund share of kWH Tax.		
FROM: 500 ELECTRIC REVENUE FUND	\$340,500	
TO: 503 ELECTRIC DEVELOPMENT FUND		\$340,500
Purpose: Funding Reserves for Current and Future Capital Purchases.		
FROM: 510 WATER REVENUE FUND	\$435,000	
TO: 511 WATER DEPR. FUND		\$435,000
Purpose: Funding Reserves for Current and Future Capital Purchases.		

2018 APPROPRIATION BUDGET - TRANSFER OF FUNDS**RESOLUTION No. 081-17****BUDGET REVIEW - 2018 TRANSFER OF FUNDS****= TRANSFER AMOUNTS =****FUND NAME, FROM - TO, PURPOSE****FROM****TO**

FROM: 510 WATER REVENUE FUND	\$209,600	
TO: 512 WATER DEBT RESERVE FUND		\$209,600
Purpose: Funding for Debt Payments on Water Projects.		
FROM: 510 WATER REVENUE FUND	\$19,400	
TO: 513 WATER OWDA BOND RETIREMENT FUND		\$19,400
Purpose: Funding for OWDA Debt Payments on Water Projects.		
FROM: 510 WATER REVENUE FUND	\$53,940	
TO: 519 WATER PLANT RENOVATION & IMPRMNT. FUND		\$53,940
Purpose: Funding for Debt Service on New Water Plant Fund.		
FROM: 520 SEWER (WWT) REVENUE FUND	\$88,310	
TO: 523 OWDA SA BOND RETIREMENT FUND		\$88,310
Purpose: Funding for OWDA Debt Payments on Sewer Projects.		
FROM: 520 SEWER (WWT) REVENUE FUND	\$894,550	
TO: 521 SEWER REPLACEMENT & IMP. FUND		\$894,550
Purpose: Funding Reserves for Current and Future Capital Purchases.		
FROM: 520 SEWER (WWT) REVENUE FUND	\$426,390	
TO: 522 SEWER UTILITY RESERVE FUND		\$426,390
Purpose: Funding for Capital and Debt Payments.		
FROM: 560 SANITATION REVENUE FUND	\$40,000	
TO: 561 SANITATION DEPRECIATION RES. FUND		\$40,000
Purpose: Funding Reserves for Current and Future Capital Purchases.		
TOTALS - FROM	7,713,060	
TOTALS - TO		7,713,060
	=====	=====

RESOLUTION NO. 082-17

A RESOLUTION AUTHORIZING THE EXPENDITURE OF FUNDS AND AUTHORIZING A DEPARTMENT DIRECTOR TO TAKE BIDS ON CERTAIN PROJECTS, SERVICES, EQUIPMENT, MATERIALS, OR SUPPLIES WITHOUT THE REQUIREMENT FOR ADDITIONAL LEGISLATION TO DO SO IN THE YEAR 2018; AND DECLARING AN EMERGENCY

WHEREAS, each year from time to time, a Department Director (City Manager, City Finance Director, or City Law Director) is required to come to Council for authority to take bids for certain projects, services, or the purchase or lease of equipment, materials or supplies used in the City operations; and,

WHEREAS, in order to provide a more feasible, economical, and expedited method of bidding procedures, it is deemed necessary to give to the above mentioned Department Directors authority to bid such projects, services, equipment, materials, or supplies without the necessity of continued legislation; **Now Therefore**,

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

Section 1. That, the City Manager, City Finance Director, and City Law Director, for their respective departments, subject to Council's approval as to the specifications, plans, agreements, and other related bid documents when applicable, are hereby authorized to advertise and receive bids or take proposals as applicable for the projects, services, equipment, materials, or supplies that are anticipated to be in excess of twenty five thousand dollars (\$25,000.00) as listed in attached Exhibit "A", (such exhibit being incorporated into this Resolution by attachment and made a part hereof), without the necessity of further legislation in the year 2018; further, Council finds that the expenditure of funds in excess of \$25,000.00 for each project, service, equipment, material, or supply listed in said Exhibit "A", is necessary and authorized, subject to an approved motion of Council permitting the respective Department Director to make award. If a contract for said project, service, equipment, material, or supply is awarded to a successful bidder (lowest and best) as a result of a competitive bid, the City Manager, City Finance Director, and City Law Director, for their respective departments, are directed to enter into a contract with the awardee subject to the terms and conditions of an agreement approved by Council, said agreement subject to any non-material changes deemed appropriate by the respective Department Director and approved as to form and correctness by the City Law Director. In the case of a non-competitive bid, the City Manager, City Finance Director, and City Law Director, for their respective departments, are directed to enter into a contract with the awarded subject to the terms and conditions of an agreement approved by Council, said agreement subject to any non-material changes deemed appropriate by the respective Department Director and approved as to form and correctness by the City Law Director

Section 2. That, Council reserves the right, by motion of Council, to approve for award, direct no award, reject all or some bids, or rebid, when deemed in the best interest of the City as it relates to the projects identified in Section 1 of this Resolution; moreover, Council may waive any informalities in the bidding process.

Section 3. That, Chapters 105 and 106 of the Codified Ordinances of Napoleon, Ohio, shall continue to be applicable to any projects, services, equipment, materials, or supplies listed in attached Exhibit "A"; moreover, nothing in this Resolution shall be construed as limiting the Department Directors in making purchases or contracting for services in any manner as provided for in said Chapters, statutory law or as otherwise provided by Council. When competitive bidding is required for any project, service, equipment, material or supply as a matter of law, it shall be utilized unless otherwise eliminated by act of Council. When quality based selection is required for any project listed in Exhibit "A" for architectural, engineering, or construction management services as a matter of law, then the quality based selection process shall be utilized unless otherwise eliminated by act of Council. Also, Council hereby finds that the expenditure of funds in excess of \$25,000.00 for each architectural, engineering, or construction management service as found in Exhibit "A" is necessary and approved as a proper public expenditure of funds, subject to approved motion of Council permitting the Department Director to make the award. Finally, the combining of projects, or the contracting or purchase of services, equipment, materials, or supplies is permitted of any project or item listed in Exhibit "A" without necessity of further authorization by Council.

Section 4. That, a Department Director is authorized to use this Resolution for authority for said bids and/or purchases as contained in this Resolution.

Section 5. That, any item listed in attached Exhibit "A" may be leased in lieu of purchasing when deemed appropriate by the respective Department Director.

Section 6. That, all leases, purchases and contracts for projects, services, equipment, materials, or supplies is subject to appropriation and certification of funds.

Section 7. That, any trade-ins shall be controlled by §107.05(c) of the Codified Ordinances of Napoleon, Ohio, as may be amended from time to time.

Section 8. 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 §121.22 of the Ohio Revised Code and the Codified Ordinances of the City of Napoleon, Ohio.

Section 9. That, if any other prior resolution or ordinance 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 10. That, this Resolution is declared to be an emergency measure necessary for the immediate preservation of the public peace, health or safety of the City and its inhabitants, and for the further reason that this legislation must be in effect at the earliest possible time to allow the timely purchase of materials, supplies, equipment or services essential to provide public peace, health or safety; therefore, provided it receives the required number of votes for passage as emergency legislation, it shall be in full force and effect immediately upon its passage; otherwise, it shall be in full force and effect at the earliest time permitted by law.

Passed: _____

Travis B. Sheaffer, Council President

Approved: _____

Jason P. Maassel, 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. 082-17 was duly published in the Northwest Signal, a newspaper of general circulation in said City, on the _____ day of _____, 20____; & 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. 082-17 Exhibit A

DEPARTMENT/CATEGORY/ITEM DESCRIPTION
<u>1300 CITY MANAGER/ADMINISTRATION</u>
Facilities management system
<u>1800 MUNICIPAL COURT/JUDICIAL</u>
Security cameras and hearing impaired equipment
<u>1600 MIS</u>
New telephone system (all departments)
Copy machines (various departments)
New door system
<u>1700 ENGINEERING/CITY ENGINEER</u>
GIS software
Surveying services
<u>2100 POLICE/SAFETY SERVICES</u>
Patrol car – replacement of one (1) vehicle
<u>2200 FIRE/SAFETY SERVICES</u>
None
<u>4400 RECREATION/PARKS AND PROGRAMS</u>
New playground equipment
<u>5100 SERVICES/STREETS SCM&R</u>
Roadside mowing (contracted)
Ice and snow removal (salt contracts)
Tree trimming and stump removal (contracted)
Street loader
<u>- ROAD & STREET IMPROVEMENT PROGRAMS</u>
Street striping and misc. painting (contracted)
Milling and resurfacing local streets (annual)
Materials – crack sealing, stone and other
Annual concrete grinding
Spray patching and street materials – yearly program
Downtown Resurfacing Project – Phase II
GIS setup
City parking lot repaving
Industrial Drive improvements
Scott Street traffic study
Scott Street soil borings
Park Street Improvement Project – Phase II
<u>6110 ELECTRIC/OPERATIONS DIST.</u>
Bucket truck
Wood poles

<u>5130 SERVICES/BUILDING MAINTENANCE & PROPERTY</u>
Service truck
Reel trailer
- <u>STREET LIGHTING IMPROVEMENT PROGRAM</u>
Street lighting improvements
- <u>ELECTRIC FEEDER LINE IMPROVEMENTS</u>
Electrical underground upgrades and maintenance
Electrical overhead upgrades and maintenance
- <u>TRANSFORMER REPLACEMENT & DISPOSAL PROGRAMS</u>
Transformer replacement and disposal (inventory)
- <u>ELECTRICAL IMPROVEMENTS & UPGRADES</u>
New system growth and updates
<u>6200 WATER TREATMENT PLANT OPERATIONS</u>
Outside services clean sludge lagoons (contracted)
TOC analyzer for Water Plant
Chemicals (Water Treatment Plant)
Chemicals (Miex resin and salt)
Hanger for Perry St. Bridge
Service truck
<u>6210 WATER DISTRIBUTION SYSTEM</u>
Leak detention and repair program
Valve asset and water loss program
Water supplies (yokes, stops, saddles, valve, etc.)
Service truck
<u>6300 SEWER/WASTEWATER TREATMENT PLANT</u>
Digester cleaning and inspection
Various sanitary sewer emergency repairs (contracted)
Sanitary sewer cleaning program (contracted)
Long Term Control Plan updates (contracted)
Storm sewer improvements
Chemicals (Wastewater Treatment Plant)
Sanitary lateral repairs in City ROW
Park Street Improvements – Phase II
Williams Pumping Station replacement
SCADA program replacement
<u>6400, 6410, 6411, 6420 SANITATION/COLLECTION & DISPOSAL</u>
Landfill services (contracted)
Yard waste grinding (contracted)
Recycling services (contracted)

Resolution No. 082-17 Exhibit A

Chemicals for mosquito control

RESOLUTION NO. 083-17

A RESOLUTION AUTHORIZING EXPENDITURE OF FUNDS IN EXCESS OF TWENTY FIVE THOUSAND DOLLARS (\$25,000.00) IN AND FOR THE YEAR 2018 AS IT RELATES TO REOCCURRING COSTS ASSOCIATED WITH THE OPERATION OF THE CITY, FOR PAYMENT OF EXPENSES, AND FOR PURCHASES ASSOCIATED WITH VENDORS UTILIZED BY MULTIPLE DEPARTMENTS WITHIN THE CITY; ELIMINATION OF NECESSITY OF COMPETITIVE BIDDING IN AND FOR THE YEAR 2018 AS IT RELATES TO CERTAIN TRANSACTIONS; DECLARING AN EMERGENCY

WHEREAS, the City each year has reoccurring costs associated with the conducting of business with groups or associations established for or on behalf of the political subdivisions or instrumentalities of the State, which annually exceed twenty five thousand dollars (\$25,000.00); and,

WHEREAS, the City each year has reoccurring costs associated with the conducting of business, many which result in mandatory payments or merely occurs as a result of the method of accounting utilized by the City's Finance Department; and,

WHEREAS, for convenience and efficiency, purchase orders are annually written to vendors by multiple departments of the City with a combined total that exceeds twenty five thousand dollars (\$25,000.00); Now Therefore,

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

Section 1. That, the expenditure of funds by the City in excess of twenty five thousand dollars (\$25,000.00), in and for the year 2018, is hereby necessary and authorized as a proper public expenditure, subject to appropriation of funds, for purchases, services, coverage, or benefits listed in said Exhibit "A".

Section 2. That, the expenditure of funds by the City in excess of twenty five thousand dollars (\$25,000.00), in and for the year 2018, is hereby necessary and authorized as a proper public expenditure, subject to appropriation of funds, for the following purchases associated with recreation, fund balance maintenance, public labor costs, public auditing, utilities, bonding, accounting, the payment of debt service, postal service, banking, permitting, and codification listed in said Exhibit "B".

Section 3. That, the expenditure of funds in excess of twenty five thousand dollars (\$25,000.00) is hereby necessary and authorized as a proper public expenditure, subject to appropriation of funds, for the City's cumulative purchase of product, supply, equipment and/or services periodically through the year 2018 from the following vendors; however, in no event shall the amount exceed twenty five thousand dollars (\$25,000.00) for any one purchase of product, supply, equipment and/or services or any one specific project under the authority of this Resolution listed in said Exhibit "C":

Section 4. That, due to nature or uniqueness of the transactions or vending listed in Sections 1, 2 and 3 of this Resolution, except for the prohibition in Section 3 regarding the one time purchase over twenty five thousand dollars (\$25,000.00), any requirement that may exist for competitive bidding is hereby eliminated in the best interest of the City.

Section 5. That, nothing in this Resolution shall be construed as to eliminate the necessity of quality based selection as it relates to architect, engineer or construction services for any one project that would otherwise require such a selection process, as such elimination of quality based selection would require separate Council action; moreover, nothing in this Resolution shall be construed as to eliminate

the restriction found in Section 3 of this Resolution as it relates to a single purchase or project expenditures.

Section 6. That, it is found and determined that all formal actions of this City Council concerning and relating to the adoption of this Resolution were adopted in open meetings of this City Council, and that all deliberations of this City Council and any of its committees that resulted in such formal actions were in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code and the Codified Ordinances of Napoleon Ohio.

Section 7. That, if any other prior Ordinance or Resolution is found to be in conflict with this Resolution, then the provisions of this Resolution shall prevail. Further, if any portion of this Resolution is found to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Resolution or any part thereof.

Section 8. That, this Resolution is declared to be an emergency measure necessary for the immediate preservation of the public peace, health or safety of the City and its inhabitants, and for the further reason that this legislation must be in effect at the earliest possible time to allow for prompt purchases required to remain operational, being operational essential to public peace, health or safety; therefore, provided it receives the required number of votes for passage as emergency legislation, it shall be in full force and effect immediately upon its passage; otherwise, it shall be in full force and effect at the earliest time permitted by law.

Passed: _____

Travis B. Sheaffer, Council President

Approved: _____

Jason P. Maassel, 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. 083-17 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

EXHIBIT "A"

American Municipal Power, Inc.	For: Contracted Power Purchase and Services
BORMA Benefit Plans	For: Insurance Premiums (Health)
CIC of Henry County, Ohio	For: Economic Development Services
Four County Career Center	For: Training Services
Henry County Auditor	For: Auditor Fees and Assessment Fees
Henry County Chamber of Commerce	For: Chamber Programs
Henry County EMA	For: Emergency Management Agency
Henry County Engineer	For: Engineering Shared Projects and Materials
Henry County Regional Water/Sewer District	For: Payments for Water Collections
Auditor of State of Ohio	For: Annual Auditing Services
John Donovan - Law Librarian	For: Law Library Payments
MAN Unit	For: Police Services and Narcotics Task Force
Maumee Valley Planning	For: CHIS/CHIP Grant Administration
Napoleon/Henry County Chamber of Commerce	For: Tourist Bureau and other
Ohio Bureau of Workers Compensation	For: Employee Worker's Comp. Insurance Coverage
Ohio Police Pension Fund	For: Police Pension Payment
Ohio Fire Pension Fund	For: Fire Pension Payment
Ohio Public Employers' Retirement System	For: Pension Payments
Public Entities Pool (PEP)	For: Insurance Premiums (Property & Casualty)
Thomas R. Manahan, Attorney at Law	For: Prosecutor & Other Legal Related Services
Treasurer State of Ohio	For: Various Items

EXHIBIT "B"

Bonded Chemical	For: Chemicals at Water Treatment Plant
Calfee, Halter & Griswold, LLP	For: Specialized Legal Services
Cargill Salt	For: Miex Water Treatment Chemicals
Cedar Point Accounting Dept.	For: Tickets for Resale
City of Napoleon, Fuel Rotary	For: Fuel Purchases
City of Napoleon, Garage Rotary	For: Garage Rotary Services
City of Napoleon, Income Tax	For: Refunds of Income Taxes
City of Napoleon, Payroll	For: Payroll Postings
City of Napoleon, Reimbursements	For: Inter-fund Reimbursements
City of Napoleon, Rescue	For: Township Portion of EMS Revenues
City of Napoleon, Utility	For: Meter Deposit Refunds
City of Napoleon, Utility	For: Utility Services
City of Napoleon, Utility	For: Water and Sewer Refunds
City of Napoleon, Utility	For: Electric Refunds
Embarq (Centurylink)	For: Telephone Services
Farmer and Merchant's State Bank	For: Banking and Debt Service Payments
Huntington National Bank	For: Banking & Debt Service Payments
Napoleon Area Schools	For: NCTU and Other
Napoleon, Inc.	For: Newspaper Publication Services
National City Bank	For: Debt Service Payment
Ohio CAT	For: Equipment Rental & Parts
Ohio Gas Company	For: Utility Services
Ohio Water Development (OWDA)	For: Debt Service Payment
OMEGA JV5/Amp-Ohio Inc.	For: Purchase of Power
OMEGA JV6/Amp-Ohio Inc.	For: Purchase of Power
PNC Bank, N.A.	For: Debt Service Payments
Rescue-Township Charges (EMS)	For: EMS Revenues to Townships
Robinson Salt	For: Salt for Miex Plant
Schonhardt and Associates	For: CAFR Preparation
Smart Bill, LTD	For: Outsourcing of Utility Bill Printing and Mailing
Squires, Patton, Boggs (US) LLP	For: Bond Counsel (Professional Services)
The Accumed Group	For: EMS Billings and Collections
Treasurer State of Ohio	For: Payments to State
US Bank N.A.	For: Debt Service Payments
US EPA (Treasurer, State of Ohio)	For: Permits
US Postmaster	For: Postal Services and Supply

Verizon Wireless

Walter Drain Co.

Weltman, Weinberg & Reis

For: Wireless Phone Services

For: Codification Services (Professional Services)

For: Collection Services

EXHIBIT "C"

A & A Custom Crushing	For: Concrete Crushing
Advanced Rehabilitation Technology	For: Sewer Cleaning and Rehabilitation
AECOM	For: Engineering Services (Professional Services)
Alloway	For: Professional Services – Lab Testing
American Pavements, LLC	For: Road Construction
Anixter Inc.	For: Electrical Transformers, Parts and Supplies
Aramark	For: Uniform Services
ART Advanced Rehab	For: Manhole Linings
Auglaize Tree Service	For: Tree Services
Baldwin Poles	For: Utility Poles
Bauer Lawn Maintenance, Inc.	For: Brush Grinding & Leaf Disposal
BGL Asset Services, LLC	For: Inspections & Bridge Management & Repair
Bob Ross Auto Group	For: Operations Pickup Truck
Boundtree Medical Supply, LLC	For: Medical Supplies
Brownstown Electric Supply	For: Electrical Supplies
Buckeye Pumps	For: Pump Repairs and Parts
Burch Hydro	For: Electrical Supplies
Burke Excavating and Mowing	For: Construction and Mowing Services
Bryan Excavating	For: Construction Services
Cahaba Timber	For: Wood Electric Poles
Cargill, Inc.	For: Salt
CBW Tank Cleaning	For: Digester Cleaning
CDW Government, Inc.	For: Computers and Supplies
Chemtrade Chemicals US, LLC	For: Chemicals
City Blue, Inc.	For: Survey Supplies
Clarke Mosquito Control Product	For: Mosquito Control Supply
Clemons Nelson	For: Legal Services
CMI (Creative Microsystems, Inc.)	For: Software and Hardware Systems
Columbus Equipment	For: Operations Parts and Supplies
Concrete Specialist Company, Ltd.	For: Concrete Repair/Replacement
D & R Demolition Corp.	For: Concrete Crushing
Darr's Cleaning, Inc.	For: Sewer Cleaning and Inspection
Defiance County Landfill	For: Sanitation Dumping Services
Dennis Panning Excavating	For: Yard Waste Hauling and Disposal
Detroit Salt Company	For: Salt
Downtown	For: Downtown Renovation Vendors

Enaqua	For: Parts for UV Units
Estabrook, Corp.	For: Pump Supplies and Repairs
Ferguson Waterworks	For: Operations Parts and Supplies
Finley Fire Equipment	For: Fire Engines and Service Repairs
Fire Safety Services Inc.	For: Fire Services and Supply
Fire Service, Inc.	For: Fire Services and Supply
Fitzenrider, Inc.	For: Heating and Air Conditioning Service Work
Ft. Defiance Service Master	For: Cleaning and Sanitizing Services
Garcia Surveyors, Inc.	For: Surveying Services (Professional Services)
Gerken Asphalt Paving, Inc.	For: Paving Materials & Asphalt Laying
Go Green, Inc.	For: Brush Grinding Services
Henschen and Associates, Inc.	For: Software and Hardware Systems
Huron Lime	For: Lime Chemicals
Hydro Dyne Engineering, Inc.	For: Wastewater Remanufacturing of Screens
IXOM Water Care	For: Water Treatment Supplies
Jack Doheny Supplies Ohio, Inc.	For: Wastewater Supplies
J.A. Hillis Excavating, LLC	For: Excavation Services
Jennings Strauss & Salmon, LLC	For: Transmission Tariff Consultant
K-Tech	For: Beet Heet
Kalida Truck	For: Vehicle Accessories
Koester Corp.	For: Engineering Services
Kuhlman Corp.	For: Parts and Supply
Kurtz Ace Hardware	For: Supply
Lingvai Excavating, LLC	For: Construction Services
Lingvai Paving, LLC	For: Paving Services
The Mannik and Smith Group, Inc.	For: Engineering Services (Professional Services)
Masterpiece Sign Graphics, Inc.	For: Signs
The Accumed Group	For: Ambulance Billing Services
Meeder Investment Management	For: Investment Management Services
Meggar	For: Electrical Testing Equipment
Mel Lanzer Co.	For: Construction Services
Melrose Pyrotechnics, Inc.	For: Fireworks
Michael D. Draper	For: Janitorial Services
Mid-Ohio Sludge Management	For: Sludge Removal
Midwest Compost	For: Digester Cleaning
Miller Brothers Construction	For: Trucking, Hauling, and Excavating Services
Milsoft	For: Outage Management Software
Mississippi Lime	For: Lime Chemicals

Mohre Electronics Co.	For: Radio Services, Parts and Supply
Morton Salt	For: Road Salt
Neptune Equipment Co. (NECO)	For: Meter Parts and Supplies
Newegg Business	For: Computers and Supplies
Northwest Landscape Service	For: Landscaping and Supplies, Roadside and City Owned Property Mowing
Northwest Pools	For: Pool Chemicals
Ohio Dpt. of Transportation (ODOT)	For: Road Salt & Other Items
Office Depot	For: Office Supply
O'Reilly Auto Parts	For: Parts & Supplies
Orica Water Care, Inc.	For: MIEX Water Treatment Chemicals
Path Master	For: Traffic Signals Supplies and Services
Paulding County Engineer's Office	For: Cold Patch
Pepco	For: Supplies
Peterson Construction Company	For: Construction Services
Parker Hannfin Corp.	For: Water Meter Analyzer
Perrysburg Pipe and Supply	For: Parts and Supply
Perry Corporation	For: Copier, Scanner and Printer Supplies
Peterman Associates, Inc.	For: Engineering Services (Professional Services)
POET Ethanol Products	For: Chemical for Water Treatment
Poggemeyer Design Group	For: Electrical Engineering Services
Porter's BP, LLC	For: Gas and Diesel Fuel
Powerhouse Supply	For: Electrical Parts and Supplies
Premier Patching, Inc.	For: Road Patching
Quality Cleaning (Michael D. Draper)	For: Janitorial Services
Reed City Power Line Supply Co.	For: Electrical Parts and Supply
Reinke Ford	For: Automotive Services
Residex, LLC	For: Golf Course Chemicals
Reveille	For: Engineering Services
Rich Ford	For: Vehicle Repair Services
RTEC Communications, Inc.	For: Communication Supplies & Equipment
S & S Directional Boring	For: Directional Boring
Saylor Tree Service, LLC	For: Tree Services
Schneider	For: Software for Metering
Schweiter Engineering	For: Electrical Substation Materials
Snyder Chevrolet, Inc.	For: Automotive Services
Solomon Corporation	For: Transformers and Electric Supplies
Southeastern Equipment	For: Operations Parts and Supplies

Spectrum Engineering Corp.	For: Engineering Services (Professional Services)
Stantec Consulting Services, Inc.	For: Engineering Services (Professional Services)
Superior Uniform Sales, Inc.	For: Uniform Services
Survalent Technology	For: SCADA Programming Services
Thomas Spillis	For: Janitorial Services
Toledo Edison	For: Contracted Power Services
Toledo Fence & Supply Co.	For: Fencing Supplies
T & R Electric	For: Transformers
Tri City Industrial Power	For: Batteries & Other Power Supplies
Univar	For: Chemicals for Water Treatment
US Utility Contractor Co.	For: Traffic and Electrical Services
USALCO	For: Chemicals for Water Treatment
Utility Service Group	For: Chemicals for Water Treatment
Utility Services	For: NERC Compliance Services
Utility Truck Equipment	For: Bucket Truck
Vermeer	For: Wood Chipper/Parts
Vernon Nagel, Inc.	For: Trucking, Hauling, and Excavating Services
Viking Trucking, Inc.	For: Trucking and Hauling Services
Vince's TV and Appliance	For: Networking and Computer Supplies
Wachs Water Service, LLC	For: Water Valve Servicing Program
Werlor, Inc.	For: Brush Grinding Services/Recycling Services
Wesco Distribution, Inc.	For: Electrical Supplies
Wood County Land Fill	For: Sanitation Dumping Services
Woods Auto Supply	For: Parts and Supply
WR Meyers Co., Inc.	For: Construction and Excavating Services
Wright Express FSC-WEX, Inc.	For: Fuel Purchases
Zacks Recycling, LLC	For: Recycling Services
Zimmerman, Jack	For: Road Striping Services

ORDINANCE NO. 068-17

**AN ORDINANCE AMENDING VARIOUS SECTIONS OF THE
RULES AND REGULATIONS OF CITY COUNCIL FOR THE CITY
OF NAPOLEON, OHIO; AND DECLARING AN EMERGENCY**

WHEREAS, City Council previously created an ad hoc committee entitled the “Council Rules and Review Committee” and said ad hoc committee met in regular meetings to review with staff the Rules and Regulations of City Council for the City of Napoleon, Ohio; and,

WHEREAS, after review and recommendation from the Law Director the Council Rules and Review Committee accepted proposed amendments from the Law Director and sent the issue of amendment of the Council rules to the full body of Council; and,

WHEREAS, City Council met at a regular meeting and discussed said amendments and thereafter the City Council moved for the Law Director to bring back appropriate legislation approving said amendments as listed in attached “Exhibit A”; and,

WHEREAS, City Council acknowledges that from time to time it must review the various rules and regulations of the City of Napoleon; and,

WHEREAS, City Council now desires to amend the Rules and Regulations for the City Council for the City of Napoleon; **Now Therefore**,

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

Section 1. That, the City of Napoleon does hereby amend the Rules and Regulations of City Council for the City of Napoleon, as set forth in “Exhibit A” which is attached and incorporated herein.

Section 2. That, it is found and determined that all formal action 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 3. That, unless otherwise stated, 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 4. That, this Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health, or safety of the City and its inhabitants, and for the further reason that this legislation must be in effect at the earliest possible time to allow for the timely and efficient passage of said rules; therefore, provided the required number of votes for passage as emergency legislation, it shall be in

full force and effect immediately upon its passage; otherwise, it shall be in full force and effect at the earliest time permitted by law

Passed: _____

Travis B. Sheaffer, Council President

Approved: _____

Jason P. Maassel, 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. 068-17 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

RULES
AND
REGULATIONS
OF
CITY COUNCIL

CITY OF NAPOLEON, OHIO

#CRR-2001

HISTORY

Adopted - January 3, 1994 - Ordinance No. 1-94

Repealed In Entirety And Adopted - October 3, 1994 - Ordinance No. 85-94

Amended - November 21, 1994 - Ordinance No. 104-94

Amended - January 3, 1995 - Ordinance No. 1-95 - Repealed Ordinance No. 104-94

Amended - June 2, 1997 - Ordinance No. 53-97

Amended - September 15, 1997 - Ordinance No. 78-97

Amended - December 22, 1997 - Ordinance No. 123-97

Amended - March 29, 1999 - Ordinance No. 18-99

Amended - October 4, 1999 - Ordinance No. 71-99

Repealed In Entirety And Adopted June 4, 2001 - Ordinance No. 67-01

Amended – July 21, 2003 – Ordinance No. 70-03

Amended – January 19, 2004 – Resolution No. 122-03

Amended – October 6, 2008 – Ordinance No. 078-08

Amended – April 6, 2009 – Ordinance No. 028-09

Amended – January 16, 2012 – Ordinance No. 007-12

Amended – June 15, 2015 – Ordinance No. 029-15

Amended – October XX, 2017 – Ordinance No. 0XX-17

RULE 1	MEETINGS, PLACE, TIME OF CONVEYING, QUORUM, ORDER OF BUSINESS .1	
Rule 1.1	Place of Meetings	1
Rule 1.2	Public Meetings.....	1
Rule 1.3	Regular Meetings.....	1
Rule 1.4	Special Meetings	1
Rule 1.5	Emergency Meetings	1
Rule 1.6	Adjournment.....	2
Rule 1.7	Quorum	2
Rule 1.8	Order Of Business	2
Rule 1.8.1	The Clerk	2
Rule 1.8.2	Prayer	2
Rule 1.8.3	Pledge of Allegiance	2
Rule 1.8.4	Minutes	2
Rule 1.8.5	Citizen Communication	2
Rule 1.8.6	Report from Committee	2
Rule 1.8.7	Second Reading Of Ordinances And Resolutions	2
Rule 1.8.8	Third Reading Of Ordinances And Resolutions	2
Rule 1.8.9	Any Other Business As May Properly Come Before Council (Pay Bills), (Miscellaneous), Action/Discussion, Etc.	2
Rule 1.8.10	Adjournment.....	2
Rule 1.8.11	Introduction Of Items By The Presiding Officer.....	2
Rule 1.8.12	Payment Of Bills	2
Rule 1.9	Council Agenda.....	3
Rule 1.10	Agenda for the Organizational Meeting	3
RULE 2	OFFICERS AND EMPLOYEES OF COUNCIL.....	4
Rule 2.1	Presiding Officer.....	4
Rule 2.2	Votes Necessary for Election of Officers and Employees	4
Rule 2.3	Roll Call Votes	4
Rule 2.4	Protocol for Election of President and President Pro-Tem	5
Rule 2.5	Seating Order for Council	5
Rule 2.6	City Clerk.....	6
Rule 2.6.1	Title of All Ordinance and Resolutions	6
Rule 2.6.2	Preambles.....	6
Rule 2.6.3	Ordinances and Resolutions.....	6
Rule 2.6.4	The Minutes	6
Rule 2.6.5	Cumulative Subject Index.....	6
RULE 3	COMMITTEES.....	7
Rule 3.1	Standing Committees of Council.....	7
Rule 3.1.1	Finance and Budget	7
Rule 3.1.2	Safety and Human Resources	7
Rule 3.1.3	Electric	7
Rule 3.1.4	Water, Sewer, Refuse, Recycling and Litter	7
Rule 3.1.5	Parks and Recreation	7
Rule 3.1.6	Technology and Communication.....	7
Rule 3.1.7	Municipal Properties, Building, Land Use and Economic Development	7
Rule 3.2	Committee Meetings.....	8

Rule 3.3	Committee Rules.....	8
Rule 3.4	Committee Reports.....	8
Rule 3.5	Ad Hoc Committees.....	9
Rule 3.6	Committee Members.....	9
Rule 3.7	Council Members Ad Hoc Members of Committees.....	9
Rule 3.8	Joint Sessions Of Committees, Boards, Commissions.....	9
Rule 3.9	Personnel Committee	10
Rule 3.10	Audit Committee.....	10
RULE 4	DUTIES OF MEMBERS.....	11
Rule 4.1	Duties, Privileges, and Decorum of Members.....	11
Rule 4.1.1	Attendance	11
Rule 4.1.2	Duty To vote	11
Rule 4.1.3	Recording Votes	11
Rule 4.2	Right of Floor.....	11
Rule 4.3	Time Limits for Speaking	11
Rule 4.4	Member Called to Order	12
Rule 4.5	Appeal from Ruling of Chair	12
Rule 4.6	Reading from Written Matter.....	12
Rule 4.7	Personal Privilege	12
RULE 5	MOTIONS.....	13
Rule 5.1	Motions in General.....	13
Rule 5.2	Purpose and Form Of Motions.....	13
Rule 5.3	Precedence of Motions	13
Rule 5.3.1	To Enter Executive Session	13
Rule 5.3.2	To Adjourn.....	13
Rule 5.3.3	To Fix The Hour Of Adjournment.....	13
Rule 5.3.4	For The Previous Question	13
Rule 5.3.5	To Lay On The Table.....	13
Rule 5.3.6	To Suspend Rules	13
Rule 5.3.7	To Refer To A Committee	13
Rule 5.3.8	To Amend	13
Rule 5.4	Questions.....	13
Rule 5.5	Motion to Lay On The Table.....	14
Rule 5.6	Reconsideration by Motion Of Council.....	14
Rule 5.7	Reconsideration by Order of Mayor.....	14
RULE 6	ORDINANCES AND RESOLUTIONS.....	15
Rule 6.1	Character of Ordinance or Resolution.....	15
Rule 6.2	Ordinances and Resolutions	15
Rule 6.2.1	Presiding Officer to Present Legislation	15
Rule 6.2.2	Law Director Review	15
Rule 6.3	Passage Requirements/Suspension of Rules/Emergency Clause.....	16
Rule 6.4	Signing and Delivery to Mayor; Veto	16
Rule 6.5	Publishing of Ordinance and Resolutions	17
Rule 6.6	A Resolution Enacting Clause May Be.....	17
Rule 6.7	An Ordinance Enacting Clause May Be.....	17
Rule 6.8	Except Those Submitted By Initiative Petition, Which Shall Be	17

Rule 6.9	Form and Amendments	17
Rule 6.10	Reference to Committee Regarding Legislation	18
Rule 6.11	Committee Referrals.....	18
Rule 6.12	Relieving Committee.....	18
Rule 6.13	Advance Production of Ordinances and Resolutions	18
Rule 6.14	Ordinances Appropriating Money	18
<hr/>		
RULE 7	DEPARTMENT HEADS.....	19
<hr/>		
Rule 7.1	Attendance of Department Heads.....	19
Rule 7.2	Clerk's Report on Pending Measures	19
Rule 7.3	Approval of Mayor's Appointments	19
<hr/>		
RULE 8	COUNCIL CHAMBER AND RULES	20
<hr/>		
Rule 8.1	Use of Council Chamber	20
Rule 8.2	Rules, Suspension, Amendment, and Other.....	20
Rule 8.2.1	Suspension of Rules.....	20
Rule 8.2.2	Amendment of Rules	20
Rule 8.2.3	Other Rules	20
Rule 8.2.4	Executive Session	20
Rule 8.3	Presumption of Validity	22
<hr/>		
RULE 9	COUNCIL BUSINESS EXPENDITURES/COMPUTERS	23
<hr/>		
Rule 9.1	Expenditure of Funds by Council Members	23
Rule 9.2	Travel Expenses.....	23
Rule 9.3	Information Technology Usage	23
Rule 9.4	Internet Access.....	23
Rule 9.5	Business Meeting Expenditures.....	23
<hr/>		
RULE 10	GENERAL AND MISCELLANEOUS RULES.....	24
<hr/>		
Rule 10.1	Continuity of Legislative Authority	24
Rule 10.2	Council Action.....	24
Rule 10.3	Expectations of Council – Decorum - Removal.....	24
Rule 10.4	Anonymous Complaints against City Employees and Personnel	25

RULE 1 MEETINGS, PLACE, TIME OF CONVEYING, QUORUM, ORDER OF BUSINESS

Rule 1.1 Place of Meetings

All meetings of the council shall be held in the place designated as council chamber in the city municipal building, unless otherwise ordered by the council.

Rule 1.2 Public Meetings

Except as provided by charter, ordinance, resolution, rule or statute, all meetings of the council or committees thereof shall be public, and, upon request of any citizen desiring to be heard on any matter then under consideration by the council, the council may hear the citizen or, on motion, send it to a committee and hear such citizen at such time and for such period as council or the committee may determine. Persons desiring to be heard by any committee of council on any matter then under consideration may by consent of such committee be given an opportunity to be heard thereon. All public comments, whether at council or at committee meetings, shall be limited to five (5) minutes per person, unless council president or committee chairperson grants an extension. Each extension shall be for an additional five (5) minutes, unless council president or committee chairperson states at the time of granting the extension any other increment. All minutes and the record of the council shall be open to the public at all reasonable times.

Rule 1.3 Regular Meetings

The council of the city shall hold regular meetings at 7:00 p.m. on the first and third Monday of each calendar month at the municipal building. However, if the first or third Monday shall be an observed city holiday, the council shall meet on the following day.

Rule 1.4 Special Meetings

Special meetings may be called by a vote of council taken at any meeting thereof, or by the clerk of council upon written request of the council president, the mayor or any three (3) council members. Any such request shall state the time, place, date and purpose of the meeting. Notice in writing of each special meeting called, except by approved motion of council, shall be given to each council member and the mayor not less than twenty-four (24) hours prior to the meeting by serving the same to each of them personally, by leaving a copy thereof at his or her usual place of residence, or by electronic mail or by facsimile transmission when the council member or mayor authorizes electronic or facsimile notice. Service of notice may be waived in writing and shall be deemed conclusively to be waived by attendance at the special meeting. If the mayor or any council member is absent, notice in writing of the special meeting and the results thereof shall be given promptly after such meeting to each absentee in the manner hereinbefore provided. Public notice of each special meeting shall be given pursuant to Chapter 103 of the Codified Ordinances.

Rule 1.5 Emergency Meetings

Emergency meetings may be called when a situation or situations requires immediate official action as determined in the sole and final judgment of the person or persons authorized above to call a special meeting. An emergency meeting shall be considered a “special meeting” of an emergency nature. For such meeting, any notice requirement as required for a special meeting shall be an immediate notice.

Rule 1.6 Adjournment

Any regular or special meeting of council may be reconvened after adjournment or recess to another time, date or place without giving additional notice, so long as the time, date or place is announced at the meeting prior to adjournment or recess.

Rule 1.7 Quorum

A majority of the current members of council shall constitute a quorum for the transaction of business at any council meeting, but a number less than a quorum may adjourn a meeting and compel the attendance of absent members in such manner and under such penalties as council may provide.

Rule 1.8 Order Of Business**Rule 1.8.1 The Clerk**

The clerk shall note the attendance of the council members, the mayor and administrative staff at the call of the meeting.

Rule 1.8.2 Prayer**Rule 1.8.3 Pledge of Allegiance****Rule 1.8.4 Minutes**

(In the absence of any objections or corrections, minutes shall stand approved, see rule 2.1)

Rule 1.8.5 Citizen Communication**Rule 1.8.6 Report from Committees****Rule 1.8.7 Second Reading Of Ordinances And Resolutions****Rule 1.8.8 Third Reading Of Ordinances And Resolutions****Rule 1.8.9 Any Other Business As May Properly Come Before Council (Pay Bills),
(Miscellaneous), Action/Discussion, Etc.****Rule 1.8.10 Adjournment****Rule 1.8.11 Introduction Of Items By The Presiding Officer**

The presiding officer may, without objection, permit a member to introduce an ordinance, resolution, or motion out of the regular order or rearrange the agenda.

Rule 1.8.12 Payment Of Bills

The city bills shall stand approved unless a bill or bills are otherwise disapproved by motion of council. The city finance director, in director's sole discretion, may pay bills prior to approval when deemed necessary. This rule is not to be construed in any way to limit council's authority to review bills.

Rule 1.9 Council Agenda

Clerk shall set the council agenda with approval of the council president. Failure of the council president to approve within twenty-four (24) hours of the clerk sending the agenda constitutes approval. It shall be the duty of the clerk to have set aside conspicuously in the city record a portion to be entitled the "agenda". Under this title the clerk shall arrange and have printed in consecutive order by title ordinances and resolutions that are on for passage at the next meeting of council. When action upon any measure appearing upon the agenda is postponed to a day certain, such measure shall be considered on said day to which postponed whether or not it appears on the agenda of said day. The mayor or three (3) council members may add items to the agenda.

Rule 1.10 Agenda for the Organizational Meeting

In addition to the normal agenda the agenda for the organizational meeting shall include, in this order:

1. Call to Order by Clerk of Council.
2. Prayer and Pledge of Allegiance.
3. Swearing in (Oath of Office) of Mayor and Council Members Elect.
4. Election of President of Council.
5. Election of President Pro-Tem of Council.
6. Seating Order of City Council.
7. Appointment of Standing Committees of Council.
8. Appointment of Personnel Committee.
9. Setting of Meeting Dates and Times for Regular Meetings of Council.
10. Setting of Meetings Dates and Times for Standing Committees of Council.
11. Appointment of Clerk of Council.

RULE 2 OFFICERS AND EMPLOYEES OF COUNCIL

Rule 2.1 Presiding Officer

The president of council, and in the president's absence, the president of council pro-tem, shall preside over the meetings of the council until the president arrives. In the absence of both the president and president pro-tem the city clerk shall call the council to order; and if after the roll is noted and a quorum is present, the council shall choose one of its members as "presiding officer" who shall preside until the president or president pro-tem of council arrives. The president pro-tem or presiding officer shall discharge all the duties and be cloaked with all the powers of the president of council during, but not beyond, that specific meeting, except as provided in the city charter. (In no case shall the president pro-tem possess the power and authority of the mayor when the council president is in the dual capacity of acting mayor and council president.) The presiding officer shall sign all documents (i.e. resolutions and ordinances) as the presiding officer. Except as provided above, the presiding officer shall call all meetings of the council to order at the hour appointed and shall proceed with the order of business. In any case, if a quorum is present, the presiding officer shall give the members an opportunity for correcting the journal of the previous meeting as delivered. In the absence of any objections or corrections, the minutes shall stand approved. The presiding officer shall preserve order and decorum, prevent personal attacks or the impugning of members motives, confine members in debate to the question under discussion, and decide all points of order subject to an appeal to the council.

Rule 2.2 Votes Necessary for Election of Officers and Employees

Except as herein provided, no candidate for president or president pro-tem of council shall be declared elected unless the person shall have received a majority vote of all current members of council, and no person shall be employed by this council except pursuant to a majority vote of all current members of council. No vacancy that council is authorized to fill shall be filled except pursuant to majority vote of all current members of council. In the event of a tie vote of the current members of council when electing the president and/or present pro-tem as provided for in this Rule 2.2, the winner shall be decided by the flip of a coin, unless another method is approved by majority vote of all the current members of council.

Rule 2.3 Roll Call Votes

Upon the roll call for the election of president and president pro-tem of council, or employee of council, or for filling any vacancy in the membership of council, each member shall respond by stating the name of the candidate of their choice eligible for such office or appointment. Once a response is given by a member, a motion may be made for nomination for appointment or position. If the motion receives a second (2nd), said person shall become eligible for such office or position. A vote in the open shall be taken among all current members of council for filling such office or position. Rule 2.2 shall control in determining who is elected.

Rule 2.4 Protocol for Election of President and President Pro-Tem

In separate actions, the Clerk of Council shall request each member of Council for a name of a candidate for President of Council and a name of a candidate for President Pro-Tem of Council. This shall be asked by first in elected or appointed seniority order (Seniority Or der defined as the number of total consecutive years served on City Council from the latest appointment or election date with no break in service), and then alphabetically by last name order for those with equal number of years.

When requested by the Clerk of Council for a nomination for President or President Pro-Tem of Council, each Council Member may: 1) state a name 2) may state their own name 3) may pass if name has already been previously stated and a motion made. Once a name is stated a motion will be requested for the stated name. If a motion (1st) is made, a second (2nd) will be requested. If a second (2nd) is received, then that name will be eligible to be voted on. The Clerk of Council shall proceed to the next member of Council until all members have had their opportunity to state a candidate for President or President Pro-Tem of Council. Members of Council may nominate themselves for President or President Pro-Tem of Council. Once a given name is stated, and motion and second received, that given name does not need to be repeated by the next person in line.

A vote shall then be taken on each name given, starting with the first eligible name. Each Council Member will be asked to vote **Yes** or **No** on each name presented. The person receiving a clear majority of Yes votes shall be appointed to the office President or President Pro-Tem of Council. In the case of a tie vote on three (3) or more names, than a new vote shall be taken until one of those persons receives a clear majority vote. In the case of a tie vote on two (2) names only, the winner shall be decided by the flip of a coin, unless another method is approved by majority vote of all the current members of Council. Members of Council may Vote for themselves for President or President Pro-Tem of Council.

Rule 2.5 Seating Order for Council

Seating Order shall be from President to President Pro-Tem to Seniority Order, as listed in the example below, unless modified by a majority vote of Council:

COUNCIL SEATING ORDER

Mayor	President
1st Senior	President Pro-Tem
3rd Senior	2nd Senior
5th Senior	4th Senior

A motion to approve to the Seating Order will be requested. If a motion (1st) is made, a second (2nd) will be requested. If a second (2nd) is received, then a vote will be taken to approve the Seating Order of Council. If a simple majority is received, then Seating Order of Council stands approved.

Rule 2.6 City Clerk

The council shall establish a procedure to select a name for clerk of council. Once a name is selected, if a motion (1st) is made, a second (2nd) will be requested. If a second (2nd) is received, then a vote will be taken to approve the clerk of council. If a simple majority is received, then the appointment of the clerk of council stands approved. Failure to get approval by city council would require the city council to submit a different name for appointment and vote. The clerk shall keep the record of the council, and he or she shall be the editor of the city record. He or she shall keep a proper file of all papers and documents that are a part of the transactions of the council, of meetings of committees, and all orders of the council, and shall make such records available to the public when required by law. He or she shall cause to be kept minutes of each meeting, which shall be kept in record form and made available for public inspection when required by law. The record of meetings shall be kept electronically or in the form of loose sheet records and need not be printed in the city record nor copied in any other book. The city record shall contain attendance of members at the meetings. In addition, the clerk shall report to council the absence of members from council meetings and shall perform such other and further duties as may from time to time by charter, ordinance, resolution, rule or statute be required of him or her. The city clerk, as editor of the city record, shall see that the following rules are observed in the preparation and introduction of ordinances and resolutions and in the editing and printing of the city record the clerk is cloaked with the power and authority to correct clearly typographical errors in all minutes, ordinances, resolutions, motions, or other measures, without prior or subsequent action of council.

Rule 2.6.1 Title of All Ordinance and Resolutions

The title of all ordinances and resolutions shall be confined to a brief statement of the subject matter of the bill and shall be printed in bold face type.

Rule 2.6.2 Preambles

Preambles or “whereas” in ordinances and resolutions shall be restricted to one paragraph, except where a “whereas” is an essential part of the ordinance or resolution.

Rule 2.6.3 Ordinances and Resolutions

Ordinances and resolutions shall, in their preparation, be divided into short sections, whenever practicable, in order to permit amendments being made without printing so much of the original ordinance or resolution.

Rule 2.6.4 The Minutes

The minutes, if any, proceedings and reports of any administrative boards or any committee, shall be prepared and kept in the clerk's office.

Rule 2.6.5 Cumulative Subject Index

Once each year the clerk shall prepare for distribution and print in the city record a cumulative subject index covering the ordinances and resolutions passed by council.

RULE 3 COMMITTEES

Rule 3.1 Standing Committees of Council

The following standing Committees of Council have been established by Charter:

Rule 3.1.1 Finance and Budget

Rule 3.1.2 Safety and Human Resources

Rule 3.1.3 Electric

Rule 3.1.4 Water, Sewer, Refuse, Recycling and Litter

Rule 3.1.5 Parks and Recreation

Rule 3.1.6 Technology and Communication

Rule 3.1.7 Municipal Properties, Building, Land Use and Economic Development

Rule 3.1.8 The Appointment of Standing Committees

The council president shall select and appoint the standing committees, subject to approval of council. If council fails to act by January 31st next following the organizational meeting of council, the selections and appointments of the council president shall become effective. Prior to selection or appointment to the standing committees, the council president may allow in an open council meeting for members of council to request committee appointments, first being for the chair thereof. Requests made shall be in accordance with elected or appointed seniority on council (number of total consecutive years served on city council from the latest appointment or election date with no break in service, and then alphabetically by last name order for those with equal number of years). After chair requests are completed, the members in accordance with seniority shall be given the opportunity to select a non-chair position of the standing committees; thereafter, junior members in reverse order shall be allowed to request remaining open seats on the standing committees.

Once Committee members are selected, the President of Council should declare appointments made. A motion to approve to the Appointment of Standing Committees will be requested. If a motion (1st) is made, a second (2nd) will be requested. If a second (2nd) is received, then a vote will be taken to approve the Appointment of Standing Committees. If a simple majority is received, then the Appointment of Standing Committees stands approved. Failure to get approval by City Council would require the procedure to be follow again until a simple majority vote of Council is received.

Each standing committee shall consist of three (3) council members. Each council member shall serve as chairperson of one (1) standing committee and shall serve on two (2) other standing committees. Each committee shall be governed by the rules and regulations of council. Each committee shall investigate and study matters referred to it for consideration and shall report its findings and recommendations to Council as a whole. The mayor shall serve as an ad hoc member of the finance and budget committee, and the municipal properties, buildings, land use and economic development committee, with full voting rights in both committees.

In the event there is a lack of a quorum at any standing committee meeting, the most senior member of council who is not a member of the committee present at the meeting may act and continue to act as a pro-tem standing committee member thereto, with full voting rights therein, until such regular standing committee member arrives.

Rule 3.2 Committee Meetings

A majority of the members of a committee shall constitute a quorum for the transaction of business. Council President, Clerk of council and Chairperson of standing committee shall set their respective regular monthly date and time of their standing committee. Once the regular monthly dates and times are set for the committee meetings, a motion may be made and a vote taken by council to approve and affirm the dates and times. The schedule shall be posted upon the bulletin board in the city's principal municipal building. Should the chairperson of a committee find it necessary to hold the meeting at another time or place, notice shall be provided pursuant to chapter 103 of the codified ordinances. All committee meetings shall be open, (except that, upon approved motion, an executive session may be entered into for a proper purpose) and committee report containing a record of the attendance of members of the committee and the action taken thereat shall be kept by the committee in a record provided for that purpose. Such record shall be kept on file with the clerk of council and open to public inspection as other public records. Absence of a member of a committee from three consecutive meetings, unless authorized by the chairman of the committee, may, upon the recommendation of the committee cause the removal of the member from the committee by the president of council (except that the mayor may not be removed by the council president from committees that the mayor serves pursuant to the city charter). No legislation shall be amended while in committee, and it shall be the duty of the committee to recommend to council the approval, disapproval, or amendment of any legislation under consideration by the committee. A majority of the members of a committee shall be necessary for the recommendation of approval, disapproval, or amendment of any legislation pending before a committee. All other motions shall require only a majority vote of the members of committee present. Committee meetings may be called as study sessions whereupon, unless permitted by the chairman, no person from the audience will be given the floor to speak.

Rule 3.3 Committee Rules

Except in case of obvious inconsistency or inapplicability, committee hearings shall be governed by the rules applicable to council proceedings.

Rule 3.4 Committee Reports

No proposed ordinance, resolution, petition, or other matter shall be considered by a committee unless referred thereto by council, the council president or the mayor. No ordinance, resolution, petition, or other matter which has been referred, except as provided for in Rule 6.12, shall be approved or disapproved and reported out until it shall have first been considered at a committee meeting called as provided for herein. The question of the recommendation for approval or disapproval on any matter shall be put by the chairman upon motion of any member, which shall not require a second. If a majority of the members of the committee vote affirmatively on such matter shall be reported forthwith to council as a non-adverse recommendation, but if a majority of the members of the committee vote negatively on the question, the matter shall be reported forthwith to council as an adverse recommendation. The vote on all matters before the committee

shall be recorded in the committee minutes. When a majority of the committee has reported, recommending or not recommending action of the matter under consideration the minority may present a minority report. All such reports shall be in writing and signed by the members of the committee voting in favor of or against the report. Reports may merely consist of the recommendation of the committee, the body of council relying on the committee minutes for explanation. If a committee cannot reach an affirmation or negative recommendation after three (3) considerations, it shall be reported out as no recommendation, unless the time is extended by approval of council.

Rule 3.5 Ad Hoc Committees

When no committee exists to cover a given topic for consideration, the president of council may, upon approved motion, appoint an “ad hoc” committee made up of those members of council deemed appropriate by the president. The president shall appoint a chairman thereof.

Rule 3.6 Committee Members

Upon approved motion of council, committee members (except the mayor as a committee member on a committee he or she is required to serve on pursuant to the city's charter) at any time may be removed from any committee they are currently serving and be placed on a substitute committee.

Rule 3.7 Council Members Ad Hoc Members of Committees

The council president may at will appoint ad hoc committees, subject to approval of council, except as may otherwise be provided by the city's charter, ordinance, or resolution regarding membership thereof. Notwithstanding the provisions of chapter 121 of the Ohio Revised Code, council members may attend committee meetings as an ex-officio ad hoc member thereto without the necessity of calling for a committee of the whole; moreover, such gathering shall not constitute or be construed as a regular or special council meeting, as such meetings shall follow the rules applicable to committee meetings; however, any council person, who is not a regular member of the convened committee, serving as such ex-officio ad hoc member thereof, should be a mere passive observer in a ministerial fact gathering capacity or informational session. Nothing in this rule shall be construed as to prohibit such council person from answering questions when inquired of by the committee, nor does it bar a council person from entering into discussions with the committee; however, no such council person, as an ex-officio ad hoc member, (except as provided in rule 3.1 that provides for a pro tem member) may make a motion, second a motion, or vote on any issue before the committee while in committee. Nothing contained herein shall be construed to bar such council person from participating in discussions, motions, voting or other action when the subject matter is considered by the council as a whole. This provision is not to be construed to prevent council persons appointed to ad hoc committees from carrying out their role as a committee member. Finally, (except as provided in rule 3.1 that provides for a pro tem member) the absence or presence of an ad hoc ex-officio council member at a committee meeting shall not affect the number required for a quorum in order to function as a committee.

Rule 3.8 Joint Sessions Of Committees, Boards, Commissions

Notwithstanding the provisions of chapter 121 of the Ohio Revised Code, council members, committee members, board members or commission members may attend meetings of each other; however, if attended for the purpose of a prearranged discussion

of the public business by a majority of its members, it should be published as a joint session and called and conducted as such. Both bodies should call their respective body to order and have minutes taken and prepared for each. Visiting members of bodies, other than that body scheduled for an official session, may attend; however, if a quorum of the visiting body should happen to formulate, then those visiting attendees shall be mere passive observers in a ministerial fact gathering capacity or informational session. Nothing in this rule shall be construed to mean that council meetings are required to call “joint session” with committees of council while meeting as a council of the whole.

Rule 3.9 Personnel Committee

A personnel committee, consisting of the mayor and two (2) council members appointed by the council president is established by the charter. Council President shall appoint two (2) Council members to the Personnel Committee. If a motion (1st) is made, a second (2nd) will be requested. If a second (2nd) is received, then a vote will be taken to approve the Appointment of Personnel Committee. If a simple majority is received, then the Appointment of the Personnel Committee stands approved. Failure to get approval by City Council would require the Council President to re-submit names for appointment and vote.

The personnel committee shall, when a vacancy exists for the office of city manager, city finance director or city law director due to death, resignation, or removal, investigate and subsequently recommend in writing one (1) or more suitable persons for appointment. The members of the personnel committee shall select one (1) of its members as chairperson. All recommendations of the personnel committee shall be presented by the mayor to council as a whole.

Rule 3.10 Audit Committee

Notwithstanding any rule to the contrary, the finance and budget committee of the city council shall also serve as the “audit committee” of the city. The audit committee shall serve as a liaison between management and its auditors, where the primary functions of such committee shall be to monitor and review the city’s accounting and financial reporting practices and to follow up on citations and recommendations made by its auditors. The audit committee meeting may but is not required to be published separate and apart from any finance and budget committee meeting; however, matters considered by the audit committee shall perform its functions at least quarterly each year; moreover, the committee should be made available to the auditors before and after each audit.

RULE 4 DUTIES OF MEMBERS

Rule 4.1 Duties, Privileges, and Decorum of Members**Rule 4.1.1 Attendance**

The clerk shall publish in the city record the names of the members present and absent and if appropriate the time of arrival or departure.

Rule 4.1.2 Duty To vote

Every member present shall vote on all questions upon the call of the vote, except in case of conflict. A vote shall be yea or nay or an equivalent thereof. No member shall vote on any question in which such member is financially interested, unless otherwise permitted by law, or which in any way involves personal or private rights. The mere abstention does not vacate the seat nor reduce or enlarge the required number of votes required for passage or defeat of any motion, ordinance, resolution or other measure.

Rule 4.1.3 Recording Votes

On the passage of every ordinance, resolution or motion and on the appointment of every officer, the vote shall be taken by yeas and nays or an equivalent thereof, entered in full upon the records, and published in the official journal. Upon the call of the yeas and nays the clerk shall call the names of members in the following manner:

- 1) The member immediately to the right of the member who voted first (1st) at the prior regular council meeting shall be called first (1st), then followed by the remaining member nearest to their right until every member has voted or otherwise abstained.

Rule 4.2 Right of Floor

When any member is about to address the council, the member shall respectfully address themselves to the presiding officer, and when recognized by the chair shall confine themselves to the question under debate, avoid personalities and refrain from impugning the motives of any other member's argument or vote. When two (2) or more members ask recognition at the same time, the presiding officer shall name the member who is first to speak and the exercise of such discretion by the presiding officer shall not be subject to appeal under rule 4.5.

Rule 4.3 Time Limits for Speaking

No member shall be allowed to speak for a longer time than five (5) minutes at any one (1) time without permission of the council. No member shall speak more than once on the same motion until every other member desiring to speak on that motion shall have had an opportunity to do so, nor shall the mayor nor any manager or staff member speak longer than five (5) minutes upon the same motion, ordinance, or question without the consent of the council.

Rule 4.4 Member Called to Order

If any member, in speaking or otherwise, transgresses the rules of the council, the presiding officer shall call the offending member to order. The member so called to order shall refrain from further speaking unless permitted by the presiding officer to explain. Any member may, by raising the point of order, call the attention of the presiding officer to such transgression. The point of order shall be decided by the presiding officer without debate. Every such decision of the presiding officer shall be subject to appeal to the council by any two (2) members.

Rule 4.5 Appeal from Ruling of Chair

Any member may appeal to the council from a ruling of the presiding officer, the member making the appeal may briefly state his or her reason for the same, and the presiding officer may briefly explain his ruling; but there shall be no debate on the appeal and no other member shall participate in the discussion. The presiding officer shall then put the question, "Shall the decision of the chair be sustained?" If a majority of the members present vote yea, the ruling of the chair is sustained; otherwise it is overruled.

Rule 4.6 Reading from Written Matter

Any member while discussing a question may read from books, papers, or documents, any matter pertinent to the subject under consideration without asking leave; provided, however, that such reading shall be subject to and included within the time limitation prescribed in Rule 4.3.

Rule 4.7 Personal Privilege

Any member may rise to explain a matter personal to himself and on stating that it is a matter of personal privilege, he or she shall be recognized by the presiding officer, but shall not discuss a question or issue in such explanation. Such explanation shall not consume more than five (5) minutes of time unless extended by consent of the council. Matters of personal privilege shall yield only to a motion to recess or adjourn.

RULE 5 MOTIONS

Rule 5.1 Motions in General

Council may take action by a motion approved by a vote of at least a majority of those attending the meeting, unless otherwise a greater majority is provided by charter provision, ordinance, resolution, or rule, and when action by ordinance or resolution is not otherwise required.

The use of a motion is ordinarily in the parliamentary procedure to expedite and control the deliberations of the legislative authority in the transaction of business. As a general rule, however, the council authority may act by motion where the legislative character of the action is not involved.

Rule 5.2 Purpose and Form Of Motions

Motions shall be used to expedite the orderly transaction of the business of council and shall not be substituted for resolutions or ordinances. A second (2nd) shall be required for any motion except as specifically provided for in a rule, but upon demand of any member any motion shall be reduced to writing. Any such motion may be withdrawn by the maker before it has been amended or voted upon. When a motion is made it shall be stated by the presiding officer before any debate shall be in order. All motions which have been entertained by the presiding officer shall be entered upon the minutes.

Rule 5.3 Precedence of Motions

When a question is before the council no motion shall be entertained except the following:

- Rule 5.3.1 To Enter Executive Session
- Rule 5.3.2 To Adjourn
- Rule 5.3.3 To Fix The Hour Of Adjournment
- Rule 5.3.4 For The Previous Question
- Rule 5.3.5 To Lay On The Table
- Rule 5.3.6 To Suspend Rules
- Rule 5.3.7 To Refer To A Committee
- Rule 5.3.8 To Amend

These motions shall have precedence in the order indicated. The Motion to adjourn and the motion for the previous question shall be put to a vote without debate; the motion to fix the hour of adjournment shall be debatable only as to the time of such adjournment; and all other motions shall be debatable.

Rule 5.4 Questions

Any member may ask the presiding officer to call the main questions and it is up to the presiding officer to recognize or not the member's request.

Rule 5.5 Motion to Lay On The Table

The motion to lay on the table shall dispose of the action unless removed from the table by the majority of all current members of council.

Rule 5.6 Reconsideration by Motion Of Council

After the decision of any question, any member who voted with the majority may move for reconsideration of any action at the same or the next succeeding meeting provided, however, that a resolution authorizing or relating to any contract may be reconsidered at any time before the final execution thereof. A motion to reconsider shall require a majority vote of all current members of council. After a motion for reconsideration has once been acted upon, no other motion for reconsideration thereof shall be made without unanimous consent of the all current members of council (example for illustration only; to correct error).

Rule 5.7 Reconsideration by Order of Mayor

Upon failure of any ordinance or resolution, the mayor may order a one (1) time reconsideration by council, so long as such order is made at the same council meeting when the ordinance or resolution failed. No motion is required of council upon an order of reconsideration and, the council shall immediately reconsider the proposed ordinance or resolution at that meeting.

RULE 6 ORDINANCES AND RESOLUTIONS

Rule 6.1 Character of Ordinance or Resolution

The nature of the subject matter determines the character of the legislation as an ordinance or resolution and not the form or designation applied by council. If the substance of a legislative act is such that it should be an ordinance, and all the rules prescribed for the adoption or passage and publication of ordinances have been observed and complied with, it takes effect as an ordinance; and vice versa as to a resolution.

Rule 6.2 Ordinances and Resolutions

Each proposed ordinance or resolution shall be introduced in writing and the adoption, effective date, revision, amendment and signing thereof shall be as provided by the laws of Ohio, except as otherwise provided by the city's charter or, where not so otherwise provided by the charter, then, as council may provide otherwise by ordinance or resolution. Nevertheless, where the charter or council may not be contrary to Ohio law as it relates to adoption, effective date, revision, amendment or signing of ordinances or resolutions, due to the subject matter, as determined in case law by a court of competent jurisdiction, it shall be as provided by the laws of Ohio.

Rule 6.2.1 Presiding Officer to Present Legislation

The presiding officer shall present the ordinance and resolution to open the floor for discussion. Introduction shall be by title in the same manner as prescribed for passage (see rule 6.3). At any time a motion may be entered to further or dispose of the ordinance or resolution.

An ordinance or resolution shall be introduced only by written introduction. Said ordinance or resolution shall receive first (1st) reading and a vote taken thereof. If approved after first (1st) reading, said ordinance or resolution shall receive a second (2nd) reading at the next meeting of council. If said ordinance or resolution is approved at the second (2nd) reading, said ordinance or resolution shall have a third (3rd) reading for passage or defeat at the next meeting of council. Second (2nd) and third (3rd) readings may be dispensed with by motion and approval of council (suspension of rules). A majority of current council members is required for first (1st) and second (2nd) readings, and for any final passage of any ordinance or resolution. Ordinances or resolutions which are amended on the third (3rd) reading shall automatically receive the status of second (2nd) reading and shall receive an additional reading at the next meeting, unless said rule is suspended.

Nothing in this rule shall be construed as to prohibit the reading in full of any ordinance or resolution, and if the same is read in full, it shall not affect the validity thereof.

Rule 6.2.2 Law Director Review

Every ordinance and resolution shall be reviewed by the city's department of law before its enactment.

Rule 6.3 Passage Requirements/Suspension of Rules/Emergency Clause

Except as may otherwise be provided in the charter and/or rule 6.2 regarding certain subject matter legislation, all ordinances, resolutions, motions or other actions, except procedural matters, shall be valid and effective when enacted or passed by the affirmative vote of a majority of the current members of council. Each ordinance and resolution shall be read on three (3) separate days, unless this requirement is dispensed with by an affirmative vote of at least two-thirds (2/3) of the current members of council. Readings shall be by title only, unless the council requires readings be taken in full by an affirmative vote of its members. Council may pass an ordinance or resolution as an emergency measure by the affirmative vote of two-thirds (2/3) or more of the current members of council. Except as may otherwise be provided in the charter, council may take action upon any other procedural matter by the affirmative vote of a majority of those council members present at the meeting. Motions may not be a substitute for an ordinance or resolution; however, the reverse is acceptable. Approval of appointments may be by motion. Removals may be by motion, regardless if the appointment was made in the form of an ordinance or resolution.

If such emergency measure fails to receive the affirmative two-thirds (2/3) vote or more of all current members, but receives at least a majority vote of all current members, the ordinance or resolution shall be considered approved for the current reading as a non-emergency measure. An emergency clause may be added at any time by proper amendment.

Rule 6.4 Signing and Delivery to Mayor; Veto

Upon passage, every ordinance and resolution of council shall be signed by the presiding officer and shall be presented promptly to the mayor for his or her approval. If the mayor approves the ordinance or resolution as presented, he or she shall sign it. If the mayor does not approve the ordinance or resolution presented, in whole, he or she shall, during the same meeting when the ordinance or resolution was passed, veto such ordinance or resolution and during such meeting make a statement of his or her objections. Upon receipt of the mayor's veto and objections, council may reconsider its vote by approved motion utilizing any reconsideration process established. Upon reconsideration, if council approves the ordinance or resolution by two-thirds (2/3) of the current members of council, it shall take effect the same as if it had received the mayor's approval and signature. In the event the mayor is unable to attend a council meeting where an ordinance or resolution is being considered for passage, and the mayor has prior notice thereto, the mayor may exercise his or her veto by filing the same in writing, along with his or her objections, with the clerk of council prior to the meeting. If the ordinance or resolution is passed, the council clerk shall present the written veto and objections to the presiding officer on the mayor's behalf. The presentment of the same shall be treated as a valid veto and the procedure herebefore provided shall be followed as though the mayor was present. In the event that the mayor is absent from a council meeting and an ordinance or resolution is presented for passage without prior notice to the mayor, the mayor shall be permitted ten (10) calendar days from the date of passage to exercise a veto which may be exercised in writing in the manner herebefore provided. The failure of the mayor to strictly follow the veto procedure as contained herein shall constitute a complete waiver thereof and the ordinance or resolution shall stand enacted; moreover, the mere failure or refusal of the mayor or presiding officer to sign an ordinance or resolution shall not invalidate the ordinance or resolution.

Rule 6.5 Publishing of Ordinance and Resolutions

All ordinances and resolutions shall be published one (1) time after passage in a newspaper of general circulation in the city, and/or council may determine that publication shall be by other electronic media. Ordinances or resolutions containing words in excess of one word may be published merely by summary. Council may establish criteria for what constitutes an adequate summary. In the event of the publication of ordinances or resolutions by summary, there shall be a notice in such publication that a copy of the complete ordinance or resolution is on file in the office of the clerk of council for inspection during business hours and that copies of such ordinance or resolution shall be furnished to any person, upon request, for a reasonable fee. The city law director shall review all proposed summary form publication for legal accuracy and sufficiency prior to publication. The clerk of council shall cause the ordinance or resolution to remain posted in the principal municipal building for a period not less than ten (10) calendar days immediately following the notice. Nothing in this section shall be construed as to prohibit publication in accordance with the laws of Ohio; moreover, in the event there is no newspaper of general circulation in the city, or there are no electronic media available, council may provide some other method of publication or giving notice of ordinances and resolutions, which may include, but not necessarily be limited to, posting copies in two (2) public places within the city.

Rule 6.6 A Resolution Enacting Clause May Be

“Be it resolved by the council of the City of Napoleon, Ohio, with two-thirds (2/3) or more of its current members thereto concurring.”

or

“Be it resolved by the council of the City of Napoleon, Ohio.”

The above are merely suggested enacting clauses and are in no way to be construed as conclusive.

Rule 6.7 An Ordinance Enacting Clause May Be

“Be it ordained by the council of the City of Napoleon, Ohio.”

or

“Be it ordained by the council of the City of Napoleon, Ohio, with two-thirds (2/3) or more of its current members thereto concurring.”

or

“Be it enacted by the council of the City of Napoleon, Ohio.”

The above are merely suggested enacting clauses and are in no way to be construed as conclusive

Rule 6.8 Except Those Submitted By Initiative Petition, Which Shall Be

“Be it ordained by the people of the City of Napoleon, Ohio.”

Rule 6.9 Form and Amendments

All ordinances before introduction shall be in typewritten form. When practical, no ordinance or resolution or section thereof shall be revised or amended unless the new

ordinance or resolution contains the entire ordinance or resolution, or section or subsection revised or amended, and the original ordinance, resolution, section, or sections or subsections so amended shall be repealed. A section shall be construed as a section number or individual letter or subsection of a larger section thereof. A strikeout feature is an acceptable procedure to demonstrate change or modification in legislation.

Rule 6.10 Reference to Committee Regarding Legislation

Any ordinance or resolution referred to committee shall, after due consideration and at least one (1) meeting, report the same back with or without recommendations for approval or disapproval for introduction and/or action; if introduced then or previously, it shall be acted upon in accordance with these rules.

Rule 6.11 Committee Referrals

Any pending ordinance, resolution, petition, or other matter of a non-emergency status may, be referred by the council president to any committee to which previously referred under these rules, or to any appropriate committee so designated for purpose of study and/or recommendation. Unless otherwise objected to by approved motion of council the referral shall be deemed approved. Any ordinance, resolution, petition or other matter of an emergency status may be referred by the council president or mayor without necessity of approval of council. In any case, when referred back to the council, such ordinance, resolution, petition, or other matter shall have the same standing as it had at the time when referred. Nothing in this rule shall be construed as limiting the authority of council as a whole to refer any ordinance, resolution, petition or other matter to a committee. (See also rule 3.4)

Rule 6.12 Relieving Committee

Upon vote of the majority of the current members of council a committee may be relieved of it's duties to consider an ordinance or resolution and the council as a whole may proceed with the steps of passage or defeat of such ordinance or resolution.

Rule 6.13 Advance Production of Ordinances and Resolutions

When practical, copies of all first (1st) reading of ordinances and resolutions to be introduced for passage and adoption under suspension of the rules (without reading on three (3) separate days) shall be delivered to each member of the council for viewing at least twenty-four (24) hours prior to the date of introduction. No objection to this rule by the affected council member shall be a waiver thereof.

Rule 6.14 Ordinances Appropriating Money

No money shall be appropriated except by ordinance or resolution.

RULE 7 DEPARTMENT HEADS

Rule 7.1 Attendance of Department Heads

The heads of all departments, unless excused by the department director or president of council, shall be required to attend the regular and special meetings of council. Further, the city manager, city finance director and city law director, unless excused by the president of council or the body of council, shall be required to attend the regular, special meetings and emergency meetings of council and shall be provided with seats on the floor of the council chambers. They shall be required, at any such meeting, to answer such questions relating to the affairs of the city under their respective supervision and control as may be put to them by any member of the council. The mayor shall be entitled to take part in the discussion on all questions before the council.

Rule 7.2 Clerk's Report on Pending Measures

The city clerk shall keep the members of council informed regarding the status of pending ordinances and resolutions. All ordinances and resolutions to be acted upon by committees or the council on Monday should as a general rule be in the hands of the clerk not later than the preceding Thursday at 11:00 a.m.

Rule 7.3 Approval of Mayor's Appointments

Whenever the approval of council is required for appointments by the mayor, the president of council, upon request of the mayor for approval of any appointment, may forthwith appoint an ad hoc committee to which shall be referred the name of each person whose appointment is submitted for approval of council. If referred to an ad hoc committee, then not later than the second (2nd) meeting of council following such reference, the committee shall report to council its recommendation thereon. Thereupon council as part of the appropriate order of business shall proceed to vote upon the approval of each appointment, the question being "Shall the council approve the appointment by the mayor?" If a majority of all current members of council vote yea, the appointment shall be deemed approved. If the matter is not referred to a special committee pursuant to this rule, then council shall act upon the approval no later than the next council meeting.

RULE 8 COUNCIL CHAMBER AND RULES

Rule 8.1 Use of Council Chamber

The council chamber shall generally be used for meetings of the council or committees thereof. The city conference room may be used for committee meetings.

Rule 8.2 Rules, Suspension, Amendment, and Other**Rule 8.2.1 Suspension of Rules**

Any provision of these council rules may be suspended at any meeting of the council, by a majority vote of all the current members, except when a greater number is required by law or by the rules. The vote on any such suspensions shall be taken by yeas and nays and entered upon the records.

Rule 8.2.2 Amendment of Rules

These rules may be amended or new rules adopted by ordinance or resolution, by a majority vote of all the current members to council.

Rule 8.2.3 Other Rules

The proceedings of the council shall be governed by the city charter and the ordinances and resolutions of the City of Napoleon, Ohio, including these rules. Where no local law or local rule exists, then the state law shall control. If no local or state law or local rule exists, then Robert's Rules of Parliamentary Practice shall control. It shall be the duty of the presiding officer to adhere to and enforce such laws and rules.

Rule 8.2.4 Executive Session

Council or its committees may, by entering into executive session, exclude members of the public and staff from a portion of a public meeting to discuss matters as stated below and other matters as authorized by law. Only members of the public body, its invited staff and invited guests may attend. Council or any given committee shall not exclude any of its members or the mayor from an executive session.

1) Personnel

To consider the appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a public employee or official or (to consider) the investigation of charges or complaints against a public employee, official, licensee, or regulated individual, unless the employee, official, licensee, or regulated individual request a public hearing; however, this provision does not allow the public body to consider the discipline of an elected official for conduct related to the performance of the person's official duties or to consider the person's removal from office.

2) Property

To consider the purchase of property (real or personal property, whether it is tangible or intangible). Also, to consider the sale of property by competitive bid (real or personal property) if disclosure of the information would result in a

competitive advantage to the other side. No member may use this exception as subterfuge for providing covert information to prospective buyers or sellers.

3) Court Action

To discuss pending or imminent court action with the council's or committee's attorney. Court action is pending if a lawsuit has been commenced; court action is imminent if it is on the point of happening or is impending.

4) Collective Bargaining

To prepare for, conduct, or review collective bargaining strategy.

5) Confidential Matters

To discuss matters required to be kept confidential by federal law, federal rules, state statutes, or other applicable law.

6) Security Arrangements

To discuss specialized details of security arrangements where disclosure might reveal information that could be; used to commit, or avoid prosecution for a violation of the law.

7) Protect Utility

To discuss matters of a competitive nature relating to any city owned or operated utility.

8) Economic Development

To consider confidential information related to the marketing plans, specific business strategy, production techniques, trade secrets, or personal financial statements of an applicant for economic development assistance, or to negotiations with other political subdivisions respecting requests for economic development assistance, provided that both of the following conditions apply:

(1) The information is directly related to a request for economic development assistance that is to be provided or administered under any provision of chapter 715, 725, 1724, or 1728 or sections 701.07, 3735.67 to 3735.70, 5709.40 to 5709.43, 5709.61 to 5709.69, 5709.73 to 5709.75, or 5709.77 to 5709.81 of the revised code, or that involves public infrastructure improvements or the extension of utility services that are directly related to an economic development project.

(2) A unanimous quorum of the public body determines, by a roll call vote, that the executive session is necessary to protect the interests of the applicant or the possible investment or expenditure of public funds to be made in connection with the economic development project.

9) Any other matters allowed by the laws of the State of Ohio

No decision-making (formal action including actual voting) is permitted in executive session. Further, intertwined non-excepted matters are prohibited from discussion while in executive session. Minutes shall not be taken in executive session.

An executive session must always begin and end in open session. First there shall be a motion that states the purpose for the executive session, and the motion must be specific as to the matters to be discussed (i.e. to discuss the dismissal of a public employee), it is not sufficient to state "personnel." Second, after the motion, there must be a second and a roll call vote taken, with a majority of a quorum of the public body. The vote shall be recorded in the minutes. When the executive session has concluded, a motion and second should be received with a roll call vote taken to adjourn the executive session. It should be reported if any action or no action was taken. The adjournment and reporting of action or no action shall be recorded in the minutes.

Rule 8.3 Presumption of Validity

A general presumption exists in favor of the validity of enactment by a municipal legislative body and continues until bad faith or abuse of legislative discretion by its members is clearly proven, or it is manifest that the legislative authority has exceeded its powers, or if the legislation bears no reasonable relation to the public health, safety, welfare, or morals. The burden of proving the invalidity of a municipal legislative enactment rests upon the one challenging its validity.

The general presumption of validity of municipal legislation extends to the validity of the procedure for its passage, the proper reason for its enactment, and the public purpose and necessity. The presumption of validity continues until the contrary is shown beyond a reasonable doubt.

RULE 9 COUNCIL BUSINESS EXPENDITURES/COMPUTERS

Rule 9.1 Expenditure of Funds by Council Members

Subject to budgetary constraints and with prior approval of the Council President, a council person may expend funds for a proper public purpose, without prior approval of the body of council. Except as otherwise may be permitted by ordinance, resolution, other applicable measure, or as stated above in this rule, all other expenditures made by council members shall be pre-approved by motion, or when required by law, legislation of council.

Rule 9.2 Travel Expenses

Travel policies and reimbursable expenses applicable to city employees pursuant to the city's policy manual and/or personnel code shall apply to council persons while on official city business.

Rule 9.3 Information Technology Usage

The mayor and council members shall be required to follow all policies contained in the city's policy manual and/or personnel code applicable to information technology usage. Electronic equipment and communications systems provided to elected officials, if any, are considered City property to be used for valid business purposes only. Any tax liability associated with this Rule, or non-conformance with this Rule, is that of the user of the information technology.

Rule 9.4 Internet Access

The mayor and council members shall be required to follow all policies contained in the city's policy manual and/or personnel code applicable to internet access or usage. Any tax liability associated with this Rule, or non-conformance with this Rule, is that of the user.

Rule 9.5 Business Meeting Expenditures

From time to time council as a whole or its committees may incur legitimate expenses while on or during city business (example: meals during a business meeting, work session or city sponsored activity), in the event of expenditure of funds, it will be reimbursed or payable by the city upon approval by council in the same manner as approval for payment of other bills that are authorized for a proper public purpose. Under no circumstances will alcoholic beverages be found to be a legitimate business expense for the purpose of this Rule and Rule 9.1.

RULE 10 GENERAL AND MISCELLANEOUS RULES

Rule 10.1 Continuity of Legislative Authority

The municipal legislative body, unlike the general assembly or the congress, is a continuing body. This is true regardless of the changing membership and reorganization of that body after each regular municipal election. As a continuing body it may complete unfinished business lawfully commenced by the preceding local legislative body. Contracts that are not signed during the term for which all the members of the legislative authority are elected are invalid. However, a succeeding council may ratify the acts of prior council by motion.

Rule 10.2 Council Action

The legislative power of the City of Napoleon, Ohio, is exercised by the enactment of an ordinance or adoption of a resolution, and by approval of proper motions.

Rule 10.3 Expectations of Council – Decorum - Removal

Rule 10.3.1: It is expected that Council members shall act in a professional and respectful manner to all appointing authorities, department heads, employees of the City of Napoleon and citizens of the City of Napoleon.

Rule 10.3.2: Council members shall respect the chain of command of the City of Napoleon and if approached by an employee other than an appointing authority the council member shall inquire as to whether the employee has followed the proper chain of command.

Rule 10.3.3: Council members shall maintain confidentiality of discussions, writings, or other forms of media or modes of communication that the council member knows or should know said matter should be kept confidential, subject to any public record statutes, sunshine laws, or any other duty to report.

Rule 10.3.4: All members of Council shall conduct themselves with decorum at all times while in the confines of the council chambers. Proper business casual attire shall be worn at all regular meetings of Council.

Rule 10.3.5: Upon the concurrence of a majority vote of Council, the first violation by a member of Council of council rules regarding expectations, order, or decorum shall result in the offending member receiving a verbal warning from the presiding officer detailing the infraction. In addition, with the concurrence of two-thirds affirmative vote of Council, the member may be expelled from the remainder of the meeting after having been notified of the violation(s) against him or her and provided an opportunity to address them.

Rule 10.3.6: Council may remove the Mayor or a Council member for gross misconduct, malfeasance, misfeasance, or nonfeasance in office; or for conviction while in office of a crime involving moral turpitude or for any felony conviction; or if adjudicated legally incompetent; or for a violation of his or her oath of office; or for persistent failure to abide by the Rules of Council. However, such

removal shall not take place without the concurrence (affirmative vote) of five (5) members of Council, and also not until the accused Mayor or Council member has been notified in writing of the charge against him or her at least ten (10) days in advance of a public hearing upon such charge, and at which time he or she (or his or her counsel should the Mayor or Council member choose to retain counsel) shall be given an opportunity to be heard and present evidence at a public hearing called by Council. An accused member of Council shall not vote on the question of his or her removal. Upon the removal of such officer, the vacancy thereby created in such office shall be filled in the manner provided by this Charter, and the officer so removed shall not be eligible for appointment to fill such vacancy.

Rule 10.4 Anonymous Complaints against City Employees and Personnel

For Council to be able to properly respond to complaints it is imperative that they have a verifiable valid name, phone number and address. Any non-verifiable letters or other communications given to or sent to Council may be discarded pursuant to the proper records retention schedule, without further inquiry.



City of Napoleon, Ohio


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Memorandum

To: *City Council, Mayor, City Law Director, City Manager, Department Supervisors, Newsmedia*
From: *Gregory J. Heath, Finance Director/Clerk of Council*
Date: *December 1, 2017*
Subject: *Technology and Communications Committee –  Cancellation*

The regularly scheduled meeting of the Technology and Communications Committee for Monday, December 4, 2017 at 6:15 pm has been CANCELED due to lack of agenda items.



City of *NAPOLÉON*, Ohio

Operations Department

1775 Industrial Dr., P.O. Box 151, Napoleon, OH 43545

Phone: 419/599-1891 Fax: 419/592-4379

Web Page: www.napoleonohio.com

Operations Superintendent
Jeffrey H. Rathge

Water Distribution Foreman
Brian Okuley

Streets/Sewer Foreman
Roger Eis

Refuse/Recycling Foreman
Perry Hunter

Head Mechanic
Tony Kuhlman

PRESS RELEASE

The Recycling Program now has updated guidelines effective immediately. The only change to the guidelines that were already in place is the City will no longer accept glass. We ask that you no longer put glass or other items in the recycle bins that are not on the guidelines list. The City reserves the right to reject recycling bins if contaminations are high according to the guidelines provided. If the recycle bins are rejected, the employees will put a copy of the new guidelines in the bin.

Enclosed for your convenience is a copy of the guidelines for the recycling services.

Should you have any questions regarding this matter, please contact the Operations Department at (419)599-1891.



City of **NAPOLEON**, Ohio

OPERATIONS DEPARTMENT

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RECYCLING GUIDELINES & RULES

❖ **NO GLASS**: We are no longer accepting glass of any kind.

❖ **CARDBOARD (MUST BE CLEAN & DRY)**

- **Corrugated Cardboard**: Remove ALL packing material (plastic bags, Styrofoam packing peanuts, bubble wrap).
- **Pasteboard (Cereal boxes, Cracker boxes, etc.)**: Remove wax or plastic liners.

Not accepted: Paper milk cartons, drink boxes or any wax-coated material.

❖ **PAPER PRODUCTS (MUST BE CLEAN & DRY)**

- **Newspapers**: DO NOT tie with strings or put in plastic bags.
- **Junk Mail**
- **Wrapping Paper**: EXCLUDING Mylar paper and all bows/ribbons.
- **Magazines**
- **Catalogs/Slick Inserts** (very shiny or very smooth)

Not accepted: Paper towels and napkins.

❖ **CANS (DRAIN COMPLETELY & RINSE CLEAN)**

- **Beverage (Aluminum and Bi-Metal)**: You may flatten to save room in your container.
- **Steel Cans (Tin cans)**: Labels may remain on the cans. You may rinse the lids and put in the recycling container. HELPFUL HINT: To avoid the sharp edges, place the lid inside the can and pinch shut.

❖ **PLASTIC BOTTLES AND CONTAINERS:**

- Only #1 and #2 plastic. Lids and caps **MUST** be thrown away; do not put back on bottles or containers.

Not accepted: bottles that contained oil, antifreeze or any other petrochemical; #3, #4, #5, #6, #7 plastics; styrofoam, plastic toys, laundry baskets, pails or planting pots **EVEN** if they are marked #2; plastic bags **EVEN** if they are marked #2 (*please take back to the store if they offer a recycling program*).

OMLSVC Announces Partnership with RealTerm LED Lighting

From: "Ohio Municipal League Service Corporation" <zwade@omloho.org>

11/29/17 10:59 AM

To: rdietrich@napoleonohio.com



November, 2017

Street lighting is one of the largest items in the municipal energy budget. Converting to LEDs can greatly reduce energy consumption (40-70%) and costs, reduce maintenance costs, and improve public safety and security. The Ohio Municipal League (OML) believes that cities and villages can utilize the upgrade opportunity to also add a networked lighting control system and smart city devices to obtain further cost reductions and service enhancements.

Since 1952, the OML has been the voice of municipalities in the state legislature and the guardian of municipal rights. One of the core functions of the OML Service Corporation (OMLSC) is to find and properly vet municipal service providers that can meet the highest standards for the lowest possible cost.

The OML is pleased to announce that it has endorsed RealTerm Energy as a best value service provider for LED Street Lighting Conversions. Upgrading a streetlight network to LED is quite complex and requires some very specialized resources. RealTerm Energy (RTE) has built its reputation for designing and developing the most customized and innovative solutions resulting in increased system performance, greater savings, new revenue streams, and the highest level of customer care in the industry. The OMLSC is pleased to be able to partner with RealTerm Energy to bring its range of valuable services to the Ohio municipal marketplace.

RealTerm Energy is a leader in providing LED street lighting conversions for a broad base of municipal and utility clients. Services include a popular full turnkey service, enhanced asset assessment and business case, smart city services, procurement assistance, and everything in between. In each case, solutions are tailored to the needs of the streetlight owner.

Dedicated to street lighting and related smart city applications, RTE's expert team has completed over 170 projects across the U.S. and in Canada. RTE's complete GIS, lighting design, communications, community relations, project management, and client services departments ensure project are completed quickly and properly. Its clients

have attested that it is tenacious when it comes to making things right and will work together with all parties involved to resolve any issues that arise during or after a project.



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Executive Director

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