
Memorandum

:

To: Mayor and Members of City Council
cc: City Manager, Finance Director, City Law Director
From: Roxanne
Regarding: General Information
Date: June 1, 2018

CALENDAR

6:15 PM – TECHNOLOGY and COMMUNICATIONS COMMITTEE

6:45 PM – PUBLIC HEARING: Review Napoleon Outdoor Recreation Area (NORA)

6:55 PM – PUBLIC HEARING: Review the Proposed 2019 Tax Budget and the Inside Ten (10) Mill Levy Rates Allocated to the City

7:00 PM – CITY COUNCIL MEETING -

C. APPROVAL of MINUTES:

May 21, 2018 Council Meeting Minutes

E. REPORTS from COUNCIL COMMITTEES

G. INTRODUCTION of NEW ORDINANCES and RESOLUTIONS

1. **Ordinance No. 029-18**, an Ordinance Amending Section 505.14 of the Codified Code to Prohibit Dangerous and Vicious Dogs from being on Sidewalks Used by the General Public; Repealing Certain Sections of Ordinance No. 051-09.
2. **Resolution No. 031-18**, a Resolution Adopting the 2019 Tax Budget for the City of Napoleon, Ohio, as required in Sections 5705.28 and 5705.281 of the Ohio Revised Code (ORC) and Directing the Finance Director to File the Same with the County Auditor; and Declaring an Emergency.
3. **Resolution No. 033-18**, a Resolution Authorizing the City Manager to Execute all Documents Necessary to Apply and Accept Ohio Public Works Commission State Capital Improvement Program (SCIP) and Local Transportation Improvement Program (LTIP) Funds for Projects deemed necessary by the City Engineer in the Year 2019.
4. **Ordinance No. 034-18**, an Ordinance to Approve Current April, 2018 Replacement Pages to the Napoleon Codified Ordinances.

H. SECOND READINGS of ORDINANCES and RESOLUTIONS

1. **Resolution No. 032-18**, a Resolution Authorizing the Establishment of the Napoleon Open Refreshment Area (NORA), making Certain Findings and Determinations and Enacting Regulations with Respect thereto; and Declaring an Emergency.
 - a. The application has been revised by the City Manager and a copy is enclosed.

I. THIRD READING of ORDINANCES and RESOLUTIONS

1. **Resolution No. 024-18**, a Resolution Authorizing the Approval and Execution of a First Amendment to the Power Sales Contract between the City of Napoleon, Ohio and American Municipal Power, Inc.

J. GOOD of the CITY (Discussion/Action):

1. **Discussion/Action:** Award of the 2018 Downtown Improvements Project
 - a. Chad's Recommendation of Award Memorandum is enclosed.
2. **Discussion/Action:** Funding Options for Income Tax Refund.
 - a. Enclosed is a Memorandum from Greg and also a copy of the minutes from Tuesday's Finance and Budget Committee meeting.

3. **Discussion/Action:** Direct the Law Director to Draft Legislation to Enter into an Agreement with the Henry County Commissioners for Design of the Waterline Extension across the New River Bridge.
 - a. A copy of the proposed agreement is attached.
4. **Discussion/Action:** Entering into a Contract to Hire for Engineering Services.
5. **Discussion/Action:** Long Term Control Plan (LTCP) Update. (*Refer to Water, Sewer, Refuse, Recycling and Litter Committee and Board of Public Affairs*)
6. **Discussion/Action:** Update on Integrated Planning. (*Refer to Water, Sewer, Refuse, Recycling and Litter Committee and Board of Public Affairs*)
7. **Discussion/Action:** Refuse and Recycling Updates. (*Refer to Water, Sewer, Refuse, Recycling and Litter Committee and Board of Public Affairs*)
8. **Discussion/Action:** Application for Placement of Farmland in an Agricultural District filed by Brad and Laura Hibbard with the City May 30, 2018 (Set a Public Hearing for June 18, 2018 at 6:55 pm).
 - a. A copy of the application submitted by the Hibbard's is enclosed.

INFORMATIONAL ITEMS

1. AMP Weekly Newsletter/May 25, 2018.
2. OML Legislative Bulletin/June 1, 2018.

Records Retention - CM-11 - 2 Years

June 2018						
◀ May						July ▶
Sun	Mon	Tue	Wed	Thu	Fri	Sat
				31	1 9:00 am Healthcare Cost Committee	2
3	4 6:15 pm Technology Comm. 6:45 pm Public Hearing 6:55 pm Public Hearing 7:00 pm City Council	5	6	7	8	9
10	11 6:15 pm BOPA 7:00 pm Water & Sewer Committee 7:30 pm Municipal Properties/ED Committee	12 4:00 pm Records Commission 4:30 pm Board of Zoning Appeals 5:00 pm Planning Commission	13	14	15	16
17	18 6:00 pm-Parks & Rec Comm 6:45 pm-Public Hearing 6:55 pm-Public Hearing 7:00 pm – City Council	19	20	21	22	23
24 Greg Vacation Week ▶ ▶ ▶ ▶	25 6:30 pm Finance & Budget Committee 7:30 pm Safety & Human Resources Comm	26 4:30 pm Civil Service Commission	27 6:30 pm Parks & Rec Board Mtg.	28	29	30

City of Napoleon, Ohio

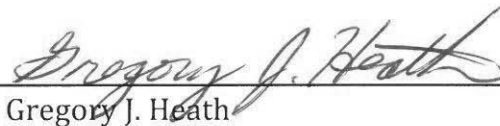
TECHNOLOGY & COMMUNICATIONS COMMITTEE

MEETING AGENDA

Monday, June 04, 2018 at 6:15 pm

LOCATION: City Building, 255 West Riverview Avenue, Napoleon, Ohio

- 1) Approval of Minutes: March 5, 2018. *(In the absence of any objections or corrections, the Minutes shall stand approved.)*
- 2) Update on IT Director Interviews.
- 3) Update on Pending Projects.
- 4) Any other matters currently assigned to the Committee.
- 5) Adjournment.



Gregory J. Heath
Finance Director/Clerk of Council

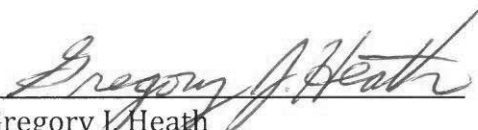
City of Napoleon, Ohio

PUBLIC HEARING AGENDA

Monday, June 4, 2018 at 6:45 pm

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

- A. Review Napoleon Outdoor Refreshment Area (NORA).
- B. Adjournment.



Gregory J. Heath
Finance Director/Clerk of Council

City of Napoleon, Ohio

PUBLIC HEARING AGENDA

Monday, June 4, 2018 at 6:55 pm

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

- A. Review the Proposed 2019 Tax Budget and the Inside Ten (10) Mill Levy Rates Allocated to the City.
- B. Adjournment.



Gregory J. Heath
Finance Director/Clerk of Council



City of Napoleon, Ohio

FINANCE DEPARTMENT

255 West Riverview Avenue, P.O. Box 151

Napoleon, OH 43545-0151

Telephone: (419) 599-1235 Fax: (419) 599-8393

www.napoleonohio.com

Memorandum

To: Members of City Council
Jason P. Maassel, Mayor
Joel L. Mazur, City Manager
Billy D. Harmon, City Law Director

From: Gregory J. Heath, Finance Director/Clerk of Council *GH*
cc: Chris Peddicord, Assistant Finance Director

Date: May 7, 2018
Subject: 2019 Tax Budget

Pursuant to ORC 5705.08 the Fiscal Officer is to certify to City Council any amounts necessary to provide payment for final judgements (if any) into 2019. As of the Date of this memo, No Final Judgements were outstanding to the City, so no certification is required for 2019.

Pursuant to ORC 5705.28 the Fiscal Officer is to present the proposed 2019 Tax Budget in its tentative form for consideration and study to City Council. (Please SEE ATTACHED the 2019 Tax Budget) The 2019 Tax Budget includes only the information related to the City's Inside 10 Mill Tax Levies. In addition, pursuant to ORC 5705.30 two (2) copies have been placed on file in the Finance Department.

A Public Hearing is requested to be set for Monday, June 4, 2018 at 6:55 PM for the purpose of reviewing the 2019 Tax Budget.

I am also requesting City Council to direct the Law Director to Draft Legislation Adopting the 2019 Tax Budget for June 4, 2018.

Attachments

2019 TAX BUDGET

Henry County, Ohio
Office of **NAPOLEON CORP.**, **May 23**, 20**18**

To the County Auditor:

The Council of ~~Said Village~~ ^{City} hereby submits its annual Budget for the year commencing January 1st, 20**19** for consideration of the county budget Commission pursuant to Section 5705.30 of the Revised Code.


Village Fiscal Officer

City

County Auditor

Gregory J. Heath,
Finance Director/Clerk of Council
City of Napoleon, Ohio

County Treasurer

County Prosecuting Attorney

Schedule A

SUMMARY OF AMOUNTS REQUIRED FROM GENERAL PROPERTY TAX APPROVED BY BUDGET COMMISSION AND
COUNTY AUDITOR'S ESTIMATED TAX RATES

City of Napoleon, Ohio			County Auditor's		
City Tax Valuation: \$151,096,730					
FUND					
	Mills	Amount approved by Budget commission Inside 10 M Limitation	Amount to be derived from Levies Outside 10 M Limitation	Inside 10 M Limit	Outside 10 M Limit
1. General Fund	2.0	\$ 302,193			
4. Road and Bridge Fund					
5. Cemetery Fund					
9. Police District Fund	0.6	\$ 90,658			
10. Fire District Fund	0.3	\$ 45,329			
11. Road District Fund					
12. Park Levy Fund					
14. Miscellaneous Funds					
15. General Bond Retirement Fund					
20. Special Levy Funds					
21. Capital Equipment Fund					
28. Ambulance and Emergency Medical Services Fund					
TOTAL		\$ 438,180			

SCHEDULE B**LEVIES OUTSIDE 10 MILL. LIMITATION, EXCLUSIVE OF DEBT LEVIES**

FUND	Max. Rate Authorized to be Levied	County Auditor's Est. of Yield of Levy (Carry to Schedule A, Column II)	
GENERAL FUND:			
Current Expense Levy authorized by voters on 20			
not to exceed 5 years.			
SPECIAL LEVY FUNDS:			
Levy authorized by voters on 20			
not to exceed 5 years			
Levy authorized by voters on 20			
not to exceed 5 years			
Levy authorized by voters on 20____			
not to exceed years			
Levy authorized by voters on 20____			
not to exceed years			
Levy authorized by voters on 20____			
not to exceed years			
Levy authorized by voters on 20____			
not to exceed years			

STATE OF OHIO
COUNTY OF HENRY

Sally Heaston, being first duly sworn, states that she is the General Manager of The Bryan Publishing Company, owner of The Northwest Signal, a daily newspaper, published and of general circulation in the county of Henry aforesaid, and that the annexed notice was published in one issue in said paper, on the 17th day of May, 2018.



Sally Heaston

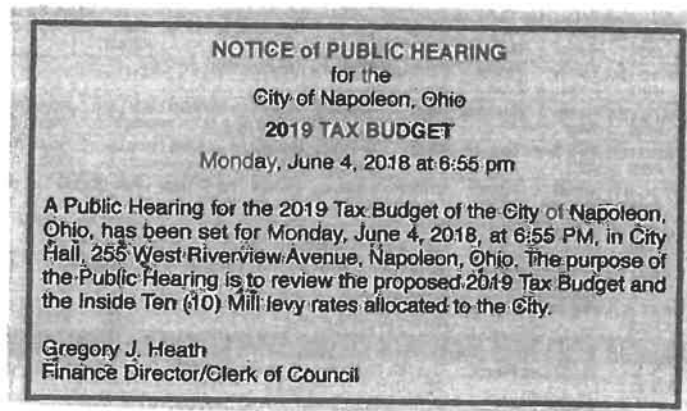
Subscribed and sworn to before me this 17th day of May, 2018



Beverly Griteman
Notary Public, State of Ohio
My Commission Expires February 13, 2021

Printer's Fee: \$45.80

Notary Fee: \$1.50



CITY COUNCIL

AGENDA

Monday, June 04, 2018 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. Approval of Minutes *(in the absence of any objections or corrections, the minutes shall stand approved)*

1. City Council Meeting Minutes: May 21, 2018

D. Citizen Communication

E. Reports from Council Committees

1. **Finance and Budget Committee** met on May 29, 2018; and
 - a. approved the Appointing Authorities negotiating the general guidelines of Option 2 with the entity and report back to the full body of Council.
2. **Safety and Human Resources Committee** meeting for May 29, 2018 was canceled due to lack of agenda items.
3. **Technology and Communications Committee** met earlier tonight with the agenda items:
 - a. Update on IT Director Interviews.
 - b. Update on Pending Projects.

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

1. Civil Service Commission met on May 22, 2018; and
 - a. Set the dates of June 1, 2018 – August 31, 2018 to accept Firefighter/Paramedic Applications from the NTN.
 - b. Set the date of May 30, 2018 – July 31, 2018 to accept Applications for Police Officer from the NTN.
 - c. Set a Special Meeting for Tuesday, August 14, 2018 at 4:30 pm to Approve Police Officer Applications.
 - d. Set the date of Saturday, August 18, 2018 at 10:00 am for the Police Officer Physical Fitness Test.
2. Parks and Recreation Board met on May 30, 2018 with the agenda items:
 - a. Discussion and/or Action on Proposal from the American Legion.
 - b. Discussion and/or Action on Fourth of July Activities.
 - c. Discussion on 2018 Budget Issues.

G. Introduction of New Ordinances and Resolutions

1. **Ordinance No. 029-18**, an Ordinance Amending Section 505.14 of the Codified Code to Prohibit Dangerous and Vicious Dogs from being on Sidewalks Used by the General Public; Repealing Certain Sections of Ordinance No. 051-09.
2. **Resolution No. 031-18**, a Resolution Adopting the 2019 Tax Budget for the City of Napoleon, Ohio, as required in Sections 5705.28 and 5705.281 of the Ohio Revised Code (ORC) and Directing the Finance Director to File the Same with the County Auditor; and Declaring an Emergency.
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4. **Ordinance No. 034-18**, an Ordinance to Approve Current April, 2018 Replacement Pages to the Napoleon Codified Ordinances.

H. Second Readings of Ordinances and Resolutions

1. **Resolution No. 032-18**, a Resolution Authorizing the Establishment of the Napoleon Open Refreshment Area (NORA), making Certain Findings and Determinations and Enacting Regulations with Respect thereto; and Declaring an Emergency.

I. Third Readings of Ordinances and Resolutions

1. **Resolution No. 024-18**, a Resolution Authorizing the Approval and Execution of a First Amendment to the Power Sales Contract between the City of Napoleon, Ohio and American Municipal Power, Inc.

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

1. **Discussion/Action:** Award of the 2018 Downtown Improvements Project.
2. **Discussion/Action:** Funding Options for Income Tax Refund.
3. **Discussion/Action:** Direct the Law Director to Draft Legislation to Enter into an Agreement with the Henry County Commissioners for Design of the Waterline Extension across the New River Bridge.
4. **Discussion/Action:** Entering into a Contract to Hire for Engineering Services.
5. **Discussion/Action:** Long Term Control Plan (LTCP) Update. *(Refer to Water, Sewer, Refuse, Recycling and Litter Committee and Board of Public Affairs)*
6. **Discussion/Action:** Update on Integrated Planning. *(Refer to Water, Sewer, Refuse, Recycling and Litter Committee and Board of Public Affairs)*
7. **Discussion/Action:** Refuse and Recycling Updates. *(Refer to Water, Sewer, Refuse, Recycling and Litter Committee and Board of Public Affairs)*
8. **Discussion/Action:** Application for Placement of Farmland in an Agricultural District filed by Brad and Laura Hibbard with the City May 30, 2018 (Set a Public Hearing for June 18, 2018 at 6:55 pm).

K. Executive Session. *(as may be needed)*

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

M. Adjournment



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: July 2, 2018 @6:15 pm)
- 2. Electric Committee (2nd Monday)**
(Next Regular Meeting: Monday, June 11, 2018 @6:15 pm)
 - a. Review of Power Supply Cost Adjustment Factor for June 2018
 - b. Status of Transmission Ownership.
 - c. Electric Department Report.
- 3. Water, Sewer, Refuse, Recycling & Litter Committee (2nd Monday)**
(Next Regular Meeting: Monday, June 11, 2018 @7:00 pm)
 - a. Long Term Control Plan (LTCP) Update.
 - b. Update on Integrated Planning.
 - c. Refuse and Recycling Update.
- 4. Municipal Properties, Buildings, Land Use & Economic Development Committee (2nd Monday)**
(Next Regular Meeting: Monday, June 11, 2018 @7:30 pm)
 - a. Discussion on Project Schedules.
 - b. Updated Information from Staff on Economic Development (as needed)
- 5. Parks & Recreation Committee (3rd Monday)**
(Next Regular Meeting: Monday, June 18, 2018 @6:00 pm)
- 7. Finance & Budget Committee (4th Monday)**
(Next Regular Meeting: Monday, June 25, 2018 @6:30 pm)
- 8. Safety & Human Resources Committee (4th Monday)**
(Next Regular Meeting: Monday, June 25, 2018 @7:30 pm)
- 9. Personnel Committee (as needed)**

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

- 1. Board of Public Affairs (2nd Monday)**
(Next Regular Meeting: Monday, June 11, 2018 @6:15 pm)
 - a. Review of Power Supply Cost Adjustment Factor for June 2018
 - b. Status of Transmission Ownership.
 - c. Electric Department Report
 - d. Long Term Control Plan (LTCP) Update.
 - e. Update on Integrated Planning.
 - f. Refuse and Recycling Update.
- 2. Board of Zoning Appeals (2nd Tuesday)**
(Next Regular Meeting: Tuesday, June 12, 2018 @4:30 pm)
- 3. Planning Commission (2nd Tuesday)**
(Next Regular Meeting: Tuesday, June 12, 2018 @5:00 pm)
- 4. Tree Commission (3rd Monday)**
(Next Regular Meeting: Monday, July 16, 2018 @6:00 pm)
- 5. Civil Service Commission (4th Tuesday)**
(Next Regular Meeting: Tuesday, June 26, 2018 @4:30 pm)
- 6. Parks & Recreation Board (Last Wednesday)**
(Next Regular Meeting: Wed., June 27, 2018 @6:30 pm)
- 7. Privacy Committee (2nd Tuesday in May & November)**
(Next Regular Meeting: Tuesday, November 13, 2018 @10:30 am)
- 8. Records Commission (2nd Tuesday in June & December)**
(Next Regular Meeting: Tuesday, June 12, 2018 @4:00 pm)
- 9. Housing Council.**
- 10. Health Care Cost Committee (as needed)**
- 11. Preservation Commission (as needed)**
- 12. Napoleon Infrastructure/Economic Development Fund Review Committee [NIEDF] (as needed)**
- 13. Tax Incentive Review Council (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)**

City of Napoleon, Ohio

CITY COUNCIL

MEETING MINUTES

Monday, May 21, 2018 at 7:00 pm

PRESENT

Councilmembers

Joseph D. Bialorucki-Council President, Dan Baer-Council President Pro-Tem, Travis Sheaffer (arrived at 7:10 pm), Jeff Comadoll, Jeff Mires, Lori Sicclair, Ken Haase

Mayor

Jason P. Maassel

City Manager

Joel L. Mazur

Law Director

Billy D. Harmon

Finance Director/Clerk

Gregory J. Heath

Records Clerk/Recorder

Roxanne Dietrich

City Staff

David J. Mack, Chief of Police

Clayton O'Brien, Fire Chief

Chris Peddicord, Assistant Finance Director

Others

Newsmedia; NCTV; Mike Adams-Owner PETRO; Dan Hitchcock-Manager PETRO; Brent Bischoff-Owner Lumberyard Winery; Doug Herman-Owner Eddie J's; Joel Miller-Henry County Chamber

ABSENT

Call to Order

Council President Bialorucki 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 minutes from the May 07, 2018 Council Meeting stand approved as presented.

Citizen Communication

Mike Adams, Owner of PETRO Center. My first question regarding Phase 1 of the Industrial Drive reconstruction where are we schedule wise?

Mazur-as far as I know we are on schedule, I will check on that and let you know when we meet on Thursday.

Adams-are there any changes since the last meeting, any decisions made, is the entire project still 40 hours a week, is the entire project still concrete, entire project closing all exits at the same time?

Mazur-I do not know about the contractor's schedule and what they are doing with the work hours but I can check on that and get back with you sooner than even Thursday.

Hitchcock-wasn't Phase 1 to be from the exit down to the RR tracks?

Mazur-Phase 1 is from Independence to the tracks; Phase 2 is the north side of the overpass and Phase 3 is the south side of the overpass that includes the exit ramps and the intersection.

Hitchcock-was the Phase 1 block off of the whole road from railroad tracks to Independence pulled off?

Mazur-we are accommodating the businesses that are there, because they still have to get to their business.

Hitchcock-so, are you going to accommodate us when you do Phase 3?

**Agenda Item J.2.
Establishment of
Designated Outdoor
Refreshment Area
Moved Up**

Sheaffer Arrived

**Brent Bischoff
Lumberyard Winery**

Mazur-they don't have any other way to operate their business, that is the only entry way and egress for the companies.

Hitchcock-have they thought anymore about doing overtime work?

Mazur-I cannot answer that right now I will have to check with the contractor.

Council President Bialorucki moved up agenda item J. 2. since there are people here who are interested in the DORA.

Mazur recapped the discussion the Municipal Properties Committee had at their last meeting regarding the establishment of the DORA. The application was submitted on May 16th, the boundaries and signage requirements are in compliance with the ORC, included in the application are the safety and sanitation plans, we received letters of participation from area business owners and Napoleon Alive. The committee requested legislation establishing a Napoleon Outdoor Refreshment Area (NORA) be drafted by the Law Director. Harmon noted the legislation cannot pass until 30-60 days after the first read, the earliest it can pass is June 18th, we can do three full reads or pass it under two reads. Baer asked isn't there a public hearing at the next meeting?

Mazur replied we were advised we should have an official public hearing, we set one for June 4th and the second will be on June 18th both are at 6:45 pm.

Sheaffer arrived at 7:10 pm.

Comadoll suggested having no smoking in the designated areas where there is drinking. Bialorucki said the designated area is different than an event that has their own liquor license and fences in an area.

Mazur stated to have the outdoor patios the establishments had to have their liquor license amended and approved. If you want to ban smoking in the right-of-ways, that would be a separate issue. Sheaffer replied we do not have the resources to enforce.

Brent Bischoff, one of the owners of the Lumberyard Winery, said does that include the walkway? Eighty percent of our patrons are from out of Napoleon or the county, we are bringing people in and increasing revenue in Napoleon (they need gas, places to eat and have shopping to do). There is a couple from the southern part of the county that used to go to the Ottawa Walmart now that our winery is open, they are going to the WalMart here in Napoleon, there are buses that come down a couple times month. People can get a glass of wine, walk uptown and do some shopping, during the car show they can walk around with a glass of beer or wine and look at the cars, hopefully this will draw more businesses to town with more people coming in. If someone leaves Ace Hardware and goes down to the courthouse, they can smoke a cigarette why should that change in this district? I can see there being trash issues if they have a cup to get rid of, maybe we will need to put more trash cans on the streets. You can be driving downtown and have someone in front of you throw a cigarette out their car window, there are some that can be right by a trash can and will throw stuff in the street. We have a steady crowd from Bryan, Ottawa, Swanton, Defiance and all over the Toledo area that come into the winery. Some of the guys that come in do not sit at the tables, they do not want to drink wine, with this they can walk to another establishment uptown drink a beer or two and maybe drink a beer on their way back down.

Mazur added there will have to be adequate signage and an official cup. The hours of operation are Monday-Friday 5:00 pm-1:00 am and 12:00 pm-1:00 am

Sicclair asked if the cups will need to be dated so they cannot be taken home and brought back. Mazur stated that even a sharpie marker can be taken off, that's a tough one, I have heard of DORA's designating different colors for each establishment. Mayor Maassel asked, after the 30-60 days this goes down to the state? Mazur replied, yes and the state will send out public notices to the liquor permit establishments notifying them of the NORA. Maassel asked how long does that process take? Mazur said ten days. Mazur noted the first year we will be gathering a lot of data and scheduling up to four meetings to review everything. There is a trash requirement for all establishment owners to have a trash receptacle outside of their establishment. Once you leave an establishment with your cup you cannot re-enter, you must dispose of the cup before you go back into an establishment. Bialorucki asked if you can walk into a non-alcohol establishment with your drink cup? Herman said he talked to Manhattans in Toledo and they told him each business owner would be responsible for how they handle that. Mazur stated, the business owners will have to furnish their own 15oz plastic cups, should they decide to change the design they must notify us thirty days in advance for enforcement purposes. Herman asked if special passage would be required by Council. Harmon responded you would need to give the City a 30-day notice you are changing the design.

Motion: Sheaffer Second: Siclair
to add *Establishment of the Napoleon Open Refreshment Area (NORA)* to the
Agenda

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

Electric Committee met on May 14, 2018 and Chair Sheaffer reported they committee accepted the BOPA recommendation to approve the PSCAF for May 2018.

Chair Siclair reported the **Municipal Properties, Building, Land Use and Economic Development Committee** met on May 14, 2018; and Recommended Council Proceed with Establishment of the Napoleon Outdoor Refreshment Area (NORA) and directed the Law Director to draft legislation; and also recommended Council approve amending Section 505.14 of the Codified Ordinances.

Council President Bialorucki read by title **Resolution No. 026-18**, a Resolution of the City of Napoleon, Ohio Authorizing and Directing the City Manager to Submit a Program Year 2018 Community Development Neighborhood Revitalization Grant Application for the Small Cities Community Development Block Grant (CDBG) Funds in Cooperation with Henry County Commissioners to the Ohio Department of Developmental Services Agency; and Declaring an Emergency.

Motion: Haase Second: Mires
to approve First Read of Resolution No. 026-18.

Mazur reported the fourth and final public meeting was held on May 17th, we received a lot of feedback, the proposed Senior Housing Project that would go to the east of this property has been funded by OHFA (Ohio Housing Funding Agency). Suspension is being requested as the application is due on June 15th.

Motion: Sheaffer Second: Comadoll
to suspend the rule requiring three readings for Resolution No. 026-18.

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

Roll call vote to pass Resolution No. 026-18 under suspension and emergency.
Yea-Bialorucki, Sheaffer, Mires, Haase, Siclair, Comadoll, Baer
Nay-

Council President Bialorucki read by title, **Resolution No. 030-18**, a Resolution Authorizing the Finance Director to Transfer Certain Fund Balances (Transfer No. 2) 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.

Motion: Sheaffer Second: Mires
to approve First Read of Resolution No. 030-18.

Heath said this is to move money from operational funds to capital funds.

Motion: Comadoll Second: Siclair
to suspend the rule requiring three readings for Resolution No. 030-18.

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

Roll call vote to pass Resolution No. 030-18 under suspension and emergency.
Yea-Bialorucki, Sheaffer, Mires, Haase, Siclair, Comadoll, Baer
Nay-

GOOD OF THE CITY

May 2018 PSCAF

Motion: Sheaffer

Second: Haase

To approve the May 2018 PSCAF as three-month averaged factor \$0.01490, JV2 \$0.026532 and JV5 \$0.026532.

Passed

Yea-7

Nay-0

Roll call vote on the above motion:

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

Nay-

Amend Section 505.14 of the Codified Ordinances Dangerous and Vicious Dogs

Harmon reported the City's ordinance has been out-of-date since 2012 regarding breed regulations, our current ordinance lists certain specific breeds as being potentially dangerous or vicious, specifically the pit bull. The state statute changed in 2012 and when challenged, has been struck down. Every six months or so ASPCA calls me and says we are out of compliance, this is to clean up our ordinance.

Motion to Direct the Law Director to Draft Legislation

Motion: Sheaffer

Second: Haase

to direct the Law Director to draft legislation regarding vicious and dangerous dogs to comply with the State Statute.

Passed

Yea-7

Nay-0

Roll call vote on the above motion:

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

Nay-

OPWC Funding

Mazur stated this would allow the City to apply for OPWC grant funding, the project has not been determined, but more than likely it will be a sewer project since they score better.

Motion to Direct Law Director to Prepare Legislation to Apply for OPWC Funding

Motion: Sheaffer

Second: Siclair

to direct the Law Director to prepare legislation to apply for OPWC Funding (Issue II) Grant Money.

Passed

Yea-7

Nay-0

Roll call vote on the above motion:

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

Nay-

2019 Tax Budget

Heath said this is done yearly as required by the ORC for the inside 10 millage, it is required to have a public hearing. I am requesting the Law Director be directed to draft legislation which has to be passed on or before July 15, 2018.

Motion to Direct the Law Director to Draft Legislation

Motion: Sheaffer

Second: Comadoll

to direct the Law Director to prepare legislation adopting the 2019 Tax Budget.

Passed

Yea-7

Nay-0

Roll call vote on the above motion:

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

Nay-

Set Public Hearing for NORA

President Bialorucki set a Public Hearing on the Napoleon Outdoor Refreshment Area (NORA) for Monday, June 4, 2018 at 6:45 pm and Monday, June 18, 2018 at 6:45 pm.

Set Public Hearing for 2019 Tax Budget

President Bialorucki set a Public Hearing on the 2019 Tax Budget for 6:55 pm on Monday, June 4, 2018.

Ottawa Oil Company Liquor License

Heath said this is for an allocation to change the number of shares, no action is required if there are no objections. Chief Mack reported there are not any issues.

Liquor License Transfer

Heath said this is to approve the transfer from Clark J. Hogan dba Hawks to JC Doughgirls LTD dba Hawks and again, if there are not any objections, nothing needs to be done. Chief Mack reported there are not any issues.

AROUND the TABLE

Mazur

I would request an Executive Session for Economic Development and one for Personnel.

I believe everyone received a letter from one of the businesses in town where there were several references to the City of Napoleon not being accommodating to this business, I put together a short list of items that we have done to accommodate the business this best we could, in addition to that, I just wanted to make sure that the statement that was in here that we have to maintain fairness and consistency so that we are not creating any kind of competitive disadvantage for any other businesses so these rules apply to all businesses. For instance, in the C4 area we changed the Table of Permissible Uses to allow for agricultural uses if the property owners decide they would like to operate using agricultural uses in that C4 area they would have to come to the Planning Commission for a Conditional Use Permit this has been discussed at length for several months, we've offered \$5,000 in NIEDF funds to assist with paying for the sewer tap and just going through the four attachments you have, the first two are the more relevant it is a timeline of everything that has occurred with relation to the different meetings and contact that our zoning administrator has had with the business and also copies of the City Council meeting minutes and different Planning Commission meeting minutes, and different Committee meeting minutes with some certain things highlighted and underlined, just if you are ever asked or ever have questions on anything that has happened. Other than that I just wanted to make sure you had this information in front of you so if you are asked you are armed with the correct information.

Sheaffer-Mr. President, I don't want to beat around the bush, I specifically want to call out the Honey Blossom Orchard I'm very disappointed in their blatant false information they've put on and the slanderous information that they have put on Facebook basically saying that we have done nothing to help them when we've done absolutely everything but bend over backwards to them this is simply something that I don't think that they knew what they were buying into that's not our fault that is their issue and there will be no city in the State of Ohio or the United States that would de-annex commercial area just because of one request we have made these Conditional Use Permits that basically almost everything that she wants she could do in there she just wants to be able to take it outside of the

City, she bought land that was in the City knowing what she wanted to do and now is trying to blame us for her mistakes when she purchased it.

Mazur-if I could make one comment to that too, there was one very early on in the first meeting there was a reference to the nuisance laws and in fact the business wanted to de-annex or detach because they wouldn't want to have to deal with nuisance laws including having manure and having odors and the response was from former Councilman Patrick McColley said that Council would be doing a disservice to the other businesses if Council let them detach because the City wouldn't have a mechanism to regulate nuisance issues so that is one of the points that I wanted to make because it may have been forgotten since it was so long ago it was over a year almost a year and a half ago. Sheaffer-there was several mentions on Facebook as well that we have all these farms in Napoleon well you know unless you are counting your backyard little gardens we don't have any farms in the City.

Mazur-everything that they have asked us to do and everything that they have said they wanted to do within the City they can do within the rules, so if something has changed, then we are just not aware of it, but I just wanted to bring that to everyone's attention.

Bialorucki-I appreciate you taking the time, this clarifies a lot of what the City has done we were not going to address it on Facebook, what really bothered me is seeing how many shares, was how many people got to see what was false and a lot of people are talking about the City isn't business friendly and I take that very personal that is why I am on City Council because I love Napoleon and want to do the best to see it grow. I remember that meeting when they came in asking us to de-annex a portion of their property out of the city just so they don't have to abide by the nuisance laws and they didn't care if they were going to disturb their neighbors that have been here for years and obviously if they don't care about their neighbors they don't care about the City either that's why they are demoralizing the City the way they are. Sheaffer-I would like to meet this good ole boy network that's been running everything because as many years as I've been down here I've never met one of them so if you remember the good ole boy network reach out to me and let me know, I'd like to meet ya. Bialorucki-please pass on to everyone that helped you put this together, in addition to all the time I know that staff has spent with this business since they came to Napoleon trying to get through every hoop and everything they can possibly do to avoid the laws, you guys spent a lot of time to try to accommodate them and now the City just spent a lot more time defending the City, so I appreciate the time and effort put into that.

Harmon

I would request an Executive Session for Pending Litigation.

Haase

Nothing tonight.

Mires

I think the guardrail looks good out there, to me it looks better than a metal guardrail, maybe we can dress it up with some flower pots. Mazur replied, the lumber is still bleeding out we will probably stain it next year.

The downtown street lights look very nice, Gary Westhoven and his crew are working on painting them.

I received a complaint about the railroad tracks at Glenwood.

Motion: Comadoll Second: Sheaffer
to come out of Executive Session for Pending Litigation.

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

Motion: Comadoll Second: Sheaffer
to come out of Executive Session for matters that are required to be kept
confidential under Federal, State or other applicable law.

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

President Bialorucki referred to the Finance and Budget Committee *Funding Options for Income Tax Refund*.

Council came out of Executive Sessions at 10:17 pm.

The bills and financial reports were approved as presented with no objections.

Motion: Sheaffer
to adjourn the City Council meeting.

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

The City Council meeting was adjourned at 10:18 pm.

Joseph D. Bialorucki, Council President

Jason P. Maassel, Mayor

Gregory J. Heath, Finance Director/Clerk

ORDINANCE NO. 029-18

AN ORDINANCE AMENDING SECTION 505.14 OF THE CODIFIED CODE TO PROHIBIT DANGEROUS AND VICIOUS DOGS FROM BEING ON SIDEWALKS USED BY THE GENERAL PUBLIC; REPEALING CERTAIN SECTIONS OF ORDINANCE NO. 051-09

WHEREAS, City Council recently reviewed the City's Codified Ordinances in an effort to keep up to date with current regulations; and,

WHEREAS, on February 21, 2012, Ohio House Bill 14 took effect removing pit bulls from the State's definition of vicious dogs; **Now Therefore**,

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

Section 1. That, Section 505.14 of the Napoleon Codified Code shall be amended and enacted as follows:

505.14 DANGEROUS AND VICIOUS DOGS.

(a) As used in this section:

(1) A. "Dangerous dog" means a dog that, without provocation, and subject to subsection (a)(1)B. hereof, has chased or approached in either a menacing fashion or an apparent attitude of attack, or has attempted to bite or otherwise endanger any person, while that dog is off the premises of its owner, keeper or harbinger and not under the reasonable control of its owner, keeper, harbinger or some other responsible person, or not physically restrained or confined in a locked pen which has a top, locked fenced yard or other locked enclosure which has a top.

B. "Dangerous dog" does not include a police dog that has chased or approached in either a menacing fashion or an apparent attitude of attack, or has attempted to bite or otherwise endanger any person while the police dog is being used to assist one or more law enforcement officers in the performance of their official duties.

(2) "Menacing fashion" means that a dog would cause any person being chased or approached to reasonably believe that the dog will cause physical injury to that person.

(3) "Police dog" means a dog that has been trained, and may be used, to assist one or more law enforcement officers in the performance of their official duties.

(4) A. "Vicious dog" means a dog that, without provocation and subject to subsection (a)(4)B. hereof, meets any of the following:

1. Has killed or caused serious injury to any persons;
2. Has caused injury, other than killing or serious injury to any person, or has killed another dog;
- ~~3. — Belongs to a breed that is commonly known as a pit bull dog. The ownership, keeping or harboring of such a dog shall be prima facie evidence of the ownership, keeping or harboring of a vicious dog.~~

B. "Vicious dog" does not include either of the following:

1. A police dog that has killed or caused serious injury to any person or that has caused injury, other than killing or serious injury, to any person

while the police dog is being used to assist one or more law enforcement officers in the performance of their official duties;

2. A dog that has killed or caused serious injury to any person while a person was committing or attempting to commit a trespass or other criminal offense on the property of the owner, keeper or harbinger of the dog.

~~C. "Pit bull" as used herein includes, but is not limited to, any American Pit Bull Terrier, any Bull Terrier, any Staffordshire Bull Terrier or American Staffordshire Terrier breed of dog, or any mixed breed of dog which contains as an element of its breeding the breed of American Pit Bull Terrier, Bull Terrier, Staffordshire Bull Terrier or American Staffordshire Terrier as to be identifiable as partially of the breed of American Pit Bull Terrier, Bull Terrier, Staffordshire Bull Terrier or American Staffordshire Terrier.~~

(5) "Without provocation" means that a dog was not teased, tormented or abused by a person, or that the dog was not coming to the aid or the defense of a person who was not engaged in illegal or criminal activity and who was not using the dog as a means of carrying out such activity.

(b) Except when a dangerous or vicious dog is lawfully engaged in hunting or training for the purpose of hunting and is accompanied by the owner, keeper, harbinger, or handler of the dog, no owner, keeper or harbinger of a dangerous or vicious dog shall fail to do either of the following:

(1) While that dog is on the premises of the owner, keeper or harbinger, securely confine it at all times in a building, in a locked pen which has a top, locked fenced yard or other locked enclosure which has a top, except that a dangerous dog may, in the alternative, be tied with a leash or tether so that the dog is adequately restrained;

(2) While that dog is off the premises of the owner, keeper or harbinger, keep it on a chain-link leash or tether that is not more than six feet in length and additionally do at least one of the following:

A. Keep that dog in a locked pen which has a top, locked fenced yard or other locked enclosure which has a top;

B. Have the leash or tether controlled by a person who is of suitable age and discretion or securely attach, tie or affix the leash or tether to the ground or stationary object or fixture so that the dog is adequately restrained and station such a person in close enough proximity to that dog so as to prevent it from causing injury to any person;

C. Muzzle that dog.

(c) No owner, keeper or harbinger of a vicious dog shall fail to obtain liability insurance with an insurer authorized to write liability insurance in this State providing coverage in each occurrence, subject to a limit, exclusive of interest and costs, of not less than one hundred thousand dollars (\$100,000) because of damage or bodily injury to or death of a person caused by the vicious dog. The failure to furnish a copy of the liability insurance policy to a Dog Warden or a law enforcement officer that has authority to enforce Section 505.14 within ten (10) days of request by such Dog Warden or law enforcement officer shall be prima facie evidence that the insurance does not exist.

(d) No owner, keeper, or harbinger of a dangerous or vicious dog shall NEGLIGENTLY permit said animal, when within the city, in a public park, public parking lot, or upon any public sidewalk, or upon other public property that is owned,

leased, or controlled by the local, state, or federal government, or upon any private sidewalk or parking lot that is placed for use by the general public, unless the dog is muzzled and on a chain-link leash or tether that is not more than six (6) feet in length, except that such dangerous or vicious dog may be transported in a motor vehicle when meeting the minimum requirements of Section 505.14(b)(2).

(e) If a violation of subsection (b) hereof involves a dangerous dog, whoever violates that subsection is guilty of a misdemeanor of the fourth degree on a first offense and of a misdemeanor of the third degree on each subsequent offense. Additionally, the court may order the offender to personally supervise the dangerous dog that he owns, keeps or harbors, to cause that dog to complete dog obedience training, or to do both, and the court may order the offender to obtain liability insurance pursuant to subsection (c) hereof. The court, in the alternative, may order the dangerous dog to be humanely destroyed by a licensed veterinarian, the Dog Warden or the Humane Society.

(f) If a violation of subsection (b) hereof involves a vicious dog, whoever violates that subsection is guilty of one of the following:

(1) A misdemeanor of the first degree on a first offense. Additionally, the court may order the vicious dog to be humanely destroyed by a licensed veterinarian, the Dog Warden or the Humane Society.

(2) In the event the vicious dog kills or causes serious injury to a person while violating subsection (b), then the charge should be filed pursuant to Section 955.22 of the Ohio Revised Code as a felony.

(g) Whoever violates subsection (c) hereof is guilty of a misdemeanor of the first degree.

(h) Whoever violates subsection (d) hereof is guilty of a misdemeanor of the fourth degree.

(i) ~~Except when an offense involves a pit bull,~~ Whenever an alleged violation of Section 505.14 comes to the attention of the official with authority to enforce Section 505.14, as it relates to a dangerous or vicious dog as herein defined, not being properly insured, restrained or confined, he or she shall promptly investigate prior to the filing of a criminal charge. Should the official, after such investigation, believe that a violation does exist, or believe that the dog is dangerous or vicious, he or she shall promptly notify the owner, keeper, or harborer in the manner prescribed in this section to appear before the City Manager or the City Manager's designee at a date, time and place certain to determine the question as to whether or not the dog is dangerous or vicious as defined in Section 505.14 of the Codified Ordinances.

(1) The investigator shall cause a written report concerning the dangerous or vicious dog to be filed with the City Manager along with any photographs and evidence thereof stating his or her findings.

(2) Notice shall be deemed to be properly served if a copy thereof is:

A. Delivered to the owner, keeper or harborer of the dog by either personal or residential service or by certified mail; or,

B. If the certified letter is returned showing that the letter was not delivered, when a copy thereof is posted in a conspicuous place at the residence of the owner, keeper, or harborer of the dog.

C. Notice of the hearing shall be in substantially the following form:

NOTICE OF HEARING

You are hereby notified that you as an owner, keeper or harbinger of an alleged dangerous or vicious dog, as defined in Section 505.14 of the Codified Ordinances of the City are ordered to appear on _____ at ____ M. at the location of _____. Failure to appear may result in favor of the official alleging the dog is dangerous or vicious.

Dated this _____ day of _____.

/s/ _____
(TITLE OF SIGNER)

A copy of the foregoing notice was served on _____ on the _____ day of _____, _____.

(MANNER OF SERVICE)

/s/ _____
(PERSON SERVING)

D. At the time and place specified in the notice, the City Manager or his or her designee shall hear the matter. The formal rules of evidence shall not apply; however, the hearing shall be recorded. The owner, keeper or harbinger of the dog in question shall have the right to appear in person or by counsel. At the conclusion of the hearing, the City Manager or his or her designee shall make a determination whether or not, by preponderance of the evidence, the dog in question is dangerous or vicious as defined in Section 505.14 of the Codified Ordinances. Service of the decision is deemed completed when the decision is either delivered in person or by regular U.S. mail, proof of mailing required, to the owner, keeper or harbinger or representative of the dog in question, or by posting the order in a conspicuous place on, in or about the residence of the owner, keeper or harbinger. The decision shall be deemed final subject to an appeal filed within ten (10) days from service of the decision to the owner, keeper or harbinger of the dog in question or his or her representative. Appeals shall be taken to the Common Pleas Court of Henry County, Ohio.

Section 2. That, Section 505.14 of the Codified Code as existed prior to the enactment of this Ordinance is repealed.

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

Passed: _____

Joseph D. Bialorucki, 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. 029-18 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. 031-18

A RESOLUTION ADOPTING THE 2019 TAX BUDGET FOR THE CITY OF NAPOLEON, OHIO, AS REQUIRED IN SECTIONS 5705.28 AND 5705.281 OF THE OHIO REVISED CODE (ORC) AND DIRECTING THE FINANCE DIRECTOR TO FILE THE SAME WITH THE COUNTY AUDITOR; AND DECLARING AN EMERGENCY

WHEREAS, at least two (2) copies of the Tax Budget have been on file with the Finance Director for public inspection not less than ten (10) days before its adoption; and,

WHEREAS, the Finance and Budget Committee of Council, by and through the Finance Director, has prepared a Tax Budget pursuant to Article II, Sec. 2.13 of the City of Napoleon, Ohio's Charter, and Sections 5705.28 and 5705.281 of the Ohio Revised Code (O.R.C.); and,

WHEREAS, a Public Hearing was held on June 4, 2018, concerning this 2019 Tax Budget.

WHEREAS, the 2019 Tax Budget must be adopted on or before July 15, 2018;
Now Therefore,

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

Section 1. That, the City Council of Napoleon, Ohio adopts the 2019 Tax Budget, as required by O.R.C. Sections 5705.28 and 5705.281, in the form presented to Council and currently on file in the Office of the Finance Director and marked as the 2019 Tax Budget.

Section 2. That, the Finance Director is hereby directed to file the 2019 Tax Budget with the County Auditor on or before July 20, 2018.

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 meet the July 15 and July 20, 2018 deadlines as noted above; 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: _____

Joseph D. Bialorucki, 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. 031-18 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. 033-18

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO
EXECUTE ALL DOCUMENTS NECESSARY TO APPLY AND
ACCEPT OHIO PUBLIC WORKS COMMISSION STATE
CAPITAL IMPROVEMENT PROGRAM (SCIP) AND LOCAL
TRANSPORTATION IMPROVEMENT PROGRAM (LTIP) FUNDS
FOR PROJECTS DEEMED NECESSARY BY THE CITY
ENGINEER IN THE YEAR 2019**

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

Section 1. That, the City Manager is directed to execute all documents necessary to apply for and accept Ohio Public Works Commission State Capital Improvement Program (SCIP) and Local Transportation Improvement Program (LTIP) funds for the year for projects deemed necessary by the City Engineer in the Year 2019, including but not limited to execution of Grant Agreement(s).

Section 2. That, it is found and determined that all formal actions of this City Council concerning and relating to the adoption of this Resolution were adopted in open meetings of this City Council, and that all deliberations of this City Council and any of its committees that resulted in such formal actions were in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code and the Codified Ordinances of Napoleon Ohio.

Section 3. That, if any other prior Ordinance or Resolution is found to be in conflict with this Resolution, then the provisions of this Resolution shall prevail. Further, if any portion of this Resolution is found to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Resolution or any part thereof.

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

Passed: _____

Joseph D. Bialorucki, 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. 033-18 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. 034-18

AN ORDINANCE TO APPROVE CURRENT APRIL, 2018 REPLACEMENT PAGES TO THE NAPOLEON 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; 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 April 2018 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.

Administrative Code

Fire and Rescue Fees
Municipal Income Tax
Rules and Procedures of Civil Service
Personnel Code

Traffic Code

OVI; Willful Misconduct; Speed
Safety and Equipment
Traffic Schedules

Business Regulation Code

Medical Marijuana

Streets, Utilities and Public Services Code

Water and Sewer Service
Electric Rates
Recreation Facilities

Planning and Zoning Code

General Regulations

Building Code

Adoption

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: _____

Joseph D. Bialorucki, 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. 034-18 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
APRIL 2018 REPLACEMENT PAGES
FOR THE
CODIFIED ORDINANCES
OF NAPOLEON

All new replacement pages bear the footnote "April 2018 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	Cover and Certification Page
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40C, 40D	40C, 40D

PART ONE - ADMINISTRATIVE CODE

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102CCC through 102FFF	102CCC through 102FFF
102QQQ, 102RRR	102QQQ through 102KKKK
121 through 130	121 through 130
187 through 190	187 through 190

PART THREE - TRAFFIC CODE

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PART SEVEN - BUSINESS REGULATION CODE

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None	25

Discard Old Pages

Insert New Pages

PART NINE - STREETS, UTILITIES AND PUBLIC SERVICES CODE

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PART ELEVEN - PLANNING AND ZONING CODE

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PART THIRTEEN - BUILDING CODE

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

Complete to April 16, 2018

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 April 16, 2018.

/s/ Jason Maassel
Mayor

/s/ Gregory J. Heath
Council Clerk

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

Copyright, 1996, by
The Walter H. Drane Company

BUILDING CODE (see also BUILDING CODE, OHIO)				CAT (see ANIMALS)	
administration	1325.01			CATTLE (see ANIMALS)	
BUILDING DEMOLITION				CELL PHONE	
penalty	1325.99			texting while driving prohibited	333.11
permit required	1325.03			use prohibited while driving	335.032
BUILDING OFFICIAL				CEMETERIES	
Ohio Building Code enforcement	1301.03			burial lots; charges	951.04
BUILDING PERMIT				Fund	
fees	1325.04			established	951.01
penalty	1325.99			investment	951.03
BUMPERS	337.29			sources	951.02
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(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	\$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. 074-17. Passed 12-4-17.)

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

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

193.10 (RESERVED FOR FUTURE LEGISLATION).

193.11 ALLOCATION OF FUNDS.

(a) Effective January 1, 2018, the funds collected under the provisions of this chapter shall be deposited in the "General Fund equivalent" of the City for municipal income taxes and shall be disbursed in the following order:

- (1) Such part thereof as shall be necessary to defray all costs of collecting this tax and all costs of administering and enforcing the provisions of this chapter and the rules and regulations adopted by Council in connection therewith.
- (2) Not more than sixty two percent (62%) of the net available tax receipts received annually may be used to defray operating expenses of the City.
- (3) At least thirty eight percent (38%) of the net available tax receipts received annually shall be set aside and used for capital improvements including, but not limited to, development and construction of storm sewers and street improvements; for public buildings, parks, and playgrounds; and for equipment necessary for the Police, Fire, Street, Traffic, and Safety Departments.

(b) Effective January 1, 2019 and thereafter, the funds collected under the provisions of this chapter shall be deposited in the "General Fund equivalent" of the City for municipal income taxes and shall be disbursed in the following order:

- (1) Such part thereof as shall be necessary to defray all costs of collecting this tax and all costs of administering and enforcing the provisions of this chapter and the rules and regulations adopted by Council in connection therewith.
- (2) Not more than fifty percent (50%) of the net available tax receipts received annually may be used to defray operating expenses of the City.
- (3) At least fifty percent (50%) of the net available tax receipts received annually shall be set aside and used for capital improvements including, but not limited to, development and construction of storm sewers and street improvements; for public buildings, parks, and playgrounds; and for equipment necessary for the Police, Fire, Street, Traffic, and Safety Departments." (Ord. 067-17. Passed 11-20-17.)

193.12 BOARD OF REVIEW.

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

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

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

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

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

193.13 APPLICABILITY.

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

193.14 EXEMPTIONS.

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

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

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Municipal Income Tax Effective January 1, 2016

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194.011	Authority to levy tax.	194.084	Credit for tax beyond statute for obtaining refund.
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194.204	Tax for Recreation Fund.	194.306	Consolidated returns.
194.205	Additional definitions.	194.307	Failure to pay tax.
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194.301	Definitions.	194.309	Additional penalties.
194.302	Applicability; taxable situs; apportionment.	194.310	Assessments against taxpayer.
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CROSS REFERENCES

Municipal income taxes - see Ohio R.C. Ch. 718

194.01 AUTHORITY TO LEVY TAX; PURPOSES OF TAX; RATE .

194.011 AUTHORITY TO LEVY TAX .

(A) The tax on income and the withholding tax established by this Chapter 194 are authorized by Article XVIII, Section 3 of the Ohio Constitution. The tax on income and the withholding tax established by this Chapter 194 are deemed to be levied in accordance with, and to be consistent with, the provisions and limitations of Ohio Revised Code 718 (ORC 718). This Chapter is deemed to incorporate the provisions of ORC 718.

(B) The tax is an annual tax levied on the income of every person residing in or earning or receiving income in the municipal corporation, and shall be measured by municipal taxable income. The Municipality shall tax income at a uniform rate. The tax is levied on Municipal Taxable Income, as defined herein. (Ord. 053-15. Passed 11-16-15.)

194.012 PURPOSES OF TAX; RATE.

(A) To provide funds for the purposes of: (1) General municipal operations, (2) Acquisition and maintenance of both personal and real property for the use or benefit of the City, (3) Extension, enlargement, maintenance and improvement of municipal services and facilities, (4) Capital improvements in and of the City, and (5) For the promotion of economic development in and for the City, there is hereby levied a tax at the rate of one percent (1%) upon all the following through June 30, 2009. Effective July 1, 2009, on and after said date, there is hereby levied a tax at the rate of one and three-tenths percent (1.3%) upon all of the following:

- (1) All salaries, wages, and other compensation and net profits earned or received by resident individuals;
- (2) All salaries, wages, and other compensation and net profits earned or received by non-resident individuals for, or derived from, or as a result of, work done, services rendered and business conducted in the City;
- (3) All net profits attributable to the City earned by all resident and nonresident unincorporated businesses, professions and other activities for, or derived from, work done, rentals or services performed, and business or other activities conducted in the City;

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

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

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

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

194.013 ALLOCATION OF FUNDS.

(A) Effective January 1, 2018, the funds collected under the provisions of this Chapter shall be deposited in the "General Fund equivalent" of the City for municipal income taxes and shall be disbursed in the following order:

- (1) Such part thereof as shall be necessary to defray all costs of collecting this tax and all costs of administering and enforcing the provisions of this Chapter and the rules and regulations adopted by Council in connection therewith.
- (2) Not more than sixty two percent (62%) of the net available tax receipts received annually may be used to defray operating expenses of the City.
- (3) At least thirty eight percent (38%) of the net available tax receipts received annually shall be set aside and used for capital improvements including, but not limited to, development and construction of storm sewers and street improvements; for public buildings, parks, and playgrounds; and for equipment necessary for the Police, Fire, Street, Traffic, and Safety Departments.

(B) Effective January 1, 2019 and thereafter, the funds collected under the provisions of this chapter shall be deposited in the "General Fund equivalent" of the City for municipal income taxes and shall be disbursed in the following order:

- (1) Such part thereof as shall be necessary to defray all costs of collecting this tax and all costs of administering and enforcing the provisions of this chapter and the rules and regulations adopted by Council in connection therewith.
- (2) Not more than fifty percent (50%) of the net available tax receipts received annually may be used to defray operating expenses of the City.
- (3) At least fifty percent (50%) of the net available tax receipts received annually shall be set aside and used for capital improvements including, but not limited to, development and construction of storm sewers and street improvements; for public buildings, parks, and playgrounds; and for equipment necessary for the Police, Fire, Street, Traffic, and Safety Departments. (Ord. 067-17. Passed 11-20-17.)

- (E) Exercise the authority provided by law relative to consenting to the compromise and settlement of tax claims;
- (F) Exercise the authority provided by law relative to the use of alternative apportionment methods by taxpayers in accordance with Section 194.062 of this Chapter;
- (G) Make all tax findings, determinations, computations, assessments and orders the Tax Administrator is by law authorized and required to make and, pursuant to time limitations provided by law, on the Tax Administrator's own motion, review, redetermine, or correct any tax findings, determinations, computations, assessments or orders the Tax Administrator has made, but the Tax Administrator shall not review, redetermine, or correct any tax finding, determination, computation, assessment or order which the Tax Administrator has made for which an appeal has been filed with the Local Board of Tax Review or other appropriate tribunal, unless such appeal or application is withdrawn by the appellant or applicant, is dismissed, or is otherwise final;
- (H) Destroy any or all returns or other tax documents in the manner authorized by law;
- (I) Enter into an agreement with a taxpayer to simplify the withholding obligations described in Section 194.051 of this Chapter.
(Ord. 053-15. Passed 11-16-15.)

194.132 AUTHORITY OF TAX ADMINISTRATOR; COMPROMISE OF CLAIM AND PAYMENT OVER TIME.

(A) As used in this section, "claim" means a claim for an amount payable to the Municipality that arises pursuant to the municipal income tax imposed in accordance with this chapter.

(B) The Tax Administrator may do either of the following if such action is in the best interests of the Municipality:

- (1) Compromise a claim;
- (2) Extend for a reasonable period the time for payment of a claim by agreeing to accept monthly or other periodic payments, upon such terms and conditions as the Tax Administrator may require.

(C) The Tax Administrator's rejection of a compromise or payment-over-time agreement proposed by a person with respect to a claim shall not be appealable.

(D) A compromise or payment-over-time agreement with respect to a claim shall be binding upon and shall inure to the benefit of only the parties to the compromise or agreement, and shall not extinguish or otherwise affect the liability of any other person.

- (E)
 - (1) A compromise or payment-over-time agreement with respect to a claim shall be void if the taxpayer defaults under the compromise or agreement or if the compromise or agreement was obtained by fraud or by misrepresentation of a material fact. Any amount that was due before the compromise or agreement and that is unpaid shall remain due, and any penalties or interest that would have accrued in the absence of the compromise or agreement shall continue to accrue and be due.
 - (2) The Tax Administrator shall have sole discretion to determine whether or not penalty, interest, charges or applicable fees will be assessed through the duration of any compromise or payment-over-time agreement.

(F) The Tax Administrator may require that the taxpayer provide detailed financial documentation and information, in order to determine whether or not a payment-over-time agreement will be authorized. The taxpayer's failure to provide the necessary and required information by the Tax Administrator shall preclude consideration of a payment-over-time agreement.

(Ord. 053-15. Passed 11-16-15.)

194.133 AUTHORITY OF TAX ADMINISTRATOR; RIGHT TO EXAMINE.

(A) The Tax Administrator, or any authorized agent or employee thereof may examine the books, papers, records, and federal and state income tax returns of any employer, taxpayer, or other person that is subject to, or that the Tax Administrator believes is subject to, the provisions of this Chapter for the purpose of verifying the accuracy of any return made or, if no return was filed, to ascertain the tax due under this Chapter. Upon written request by the Tax Administrator or a duly authorized agent or employee thereof, every employer, taxpayer, or other person subject to this section is required to furnish the opportunity for the Tax Administrator, authorized agent, or employee to investigate and examine such books, papers, records, and federal and state income tax returns at a reasonable time and place designated in the request.

(B) The records and other documents of any taxpayer, employer, or other person that is subject to, or that a Tax Administrator believes is subject to, the provisions of this Chapter shall be open to the Tax Administrator's inspection during business hours and shall be preserved for a period of six years following the end of the taxable year to which the records or documents relate, unless the Tax Administrator, in writing, consents to their destruction within that period, or by order requires that they be kept longer. The Tax Administrator of a municipal corporation may require any person, by notice served on that person, to keep such records as the Tax Administrator determines necessary to show whether or not that person is liable, and the extent of such liability, for the income tax levied by the Municipality or for the withholding of such tax.

(C) The Tax Administrator may examine under oath any person that the Tax Administrator reasonably believes has knowledge concerning any income that was or would have been returned for taxation or any transaction tending to affect such income. The Tax Administrator may, for this purpose, compel any such person to attend a hearing or examination and to produce any books, papers, records, and federal and state income tax returns in such person's possession or control. The person may be assisted or represented by an attorney, accountant, bookkeeper, or other tax practitioner at any such hearing or examination. This division does not authorize the practice of law by a person who is not an attorney.

(D) No person issued written notice by the Tax Administrator compelling attendance at a hearing or examination or the production of books, papers, records, or federal and state income tax returns under this section shall fail to comply.

(Ord. 053-15. Passed 11-16-15.)

194.134 AUTHORITY OF TAX ADMINISTRATOR; REQUIRING IDENTIFYING INFORMATION.

(A) The Tax Administrator may require any person filing a tax document with the Tax Administrator to provide identifying information, which may include the person's social security number, federal employer identification number, or other identification number requested by the Tax Administrator. A person required by the Tax Administrator to provide identifying information that has experienced any change with respect to that information shall notify the Tax Administrator of the change before, or upon, filing the next tax document requiring the identifying information. A taxpayer registration update form is required of all residents eighteen years and older, and all businesses.

- (B) (1) If the Tax Administrator makes a request for identifying information and the Tax Administrator does not receive valid identifying information within thirty days of making the request, nothing in this chapter prohibits the Tax Administrator from imposing a penalty upon the person to whom the request was directed pursuant to section 194.10 of this Chapter, in addition to any applicable penalty described in section 194.99 of this Chapter.
- (2) If a person required by the Tax Administrator to provide identifying information does not notify the Tax Administrator of a change with respect to that information as required under division (A) of this section within thirty days after filing the next tax document requiring such identifying information, nothing in this chapter prohibits the Tax Administrator from imposing a penalty pursuant to section 194.10 of this Chapter.
- (3) The penalties provided for under divisions (B)(1) and (2) of this section may be billed and imposed in the same manner as the tax or fee with respect to which the identifying information is sought and are in addition to any applicable criminal penalties described in section 194.99 of this Chapter for a violation of 194.15 of this Chapter, and any other penalties that may be imposed by the Tax Administrator by law. (Source: ORC 718.26)

(C) Information Submission by Landlords. On or before May 1 of each year, all property owners who rent to tenants of residential, commercial, or industrial premises, shall file with the Tax Administrator, a report showing the name, address, and phone number, of each tenant who occupies residential, commercial, or industrial premises within the City of Napoleon. The list shall also include all name(s), address(es), and phone number(s), of any tenant who has vacated the property in the preceding twelve (12) month period. The list should also include, when the information is available to the landlord, the date in which the tenant vacated the property, along with the tenant's forwarding address. If a landlord is not in possession of a former tenant's forwarding address or other current contact information, the landlord will not be penalized pursuant to any provision in this Section 194.20. Any information referred to in this Section may be requested at any time under audit by the Tax Administrator. Such report shall be in writing, and shall be delivered to the Tax Administrator by one of the following methods:

- (1) Regular U.S. mail delivery to the City Income Tax Department
- (2) Delivered by electronic mail (E-mail) directly to the City Income Tax Department
- (3) Facsimile transmission directly to the City Income Tax Department
- (4) Hand delivery to the City Income Tax Department.

Forms and instruction for reporting shall be made available on the City's website. For purposes of this Section (B) C, "tenant" means:

- (1) If there is a written lease or rental agreement, the person(s) who signed the written lease or rental agreement with the owner or their agent.
- (2) If there is an oral lease or rental agreement, the person(s) who entered into the oral lease or rental agreement with the owner or their agent.

Failure to comply with this Section (B) C will result in:

- (1) Notification (sent by regular U.S. mail delivery) to landlord and requiring compliance within 30 days.
- (2) Subpoena (sent by certified mail) for the property owner or agent to appear before the Tax Administrator with required documentation (with hearing scheduled within 14 days of date mailed).

- (3) Prohibition. No person shall knowingly fail, refuse, or neglect to file any return or report required under this Chapter or under rules and regulations made under authority thereof; or file or knowingly cause to be filed any incomplete, false or fraudulent return, report or statement; or knowingly fail, refuse, or neglect to withhold or remit any City tax; or knowingly fail, refuse, or neglect to pay any City tax, penalty or interest; or aid or abet another in the filing of any incomplete, false or fraudulent return, report or statement.
- (4) Penalty. Any person who violates this Section (B) is guilty of a misdemeanor of the 1st degree, and in addition to other penalties provided by law, shall be fined not more than \$1,000.00 or imprisoned not more than six (6) months, or both. (Ord. 006-18. Passed 4-2-18.)

194.14 CONFIDENTIALITY.

(A) Any information gained as a result of returns, investigations, hearings, or verifications required or authorized by ORC 718 or by the charter or ordinance of the Municipality is confidential, and no person shall access or disclose such information except in accordance with a proper judicial order or in connection with the performance of that person's official duties or the official business of the Municipality as authorized by ORC 718 or the charter or ordinance authorizing the levy. The Tax Administrator of the Municipality or a designee thereof may furnish copies of returns filed or otherwise received under this chapter and other related tax information to the Internal Revenue Service, the State Tax Commissioner, and Tax Administrators of other municipal corporations.

(B) This section does not prohibit the Municipality from publishing or disclosing statistics in a form that does not disclose information with respect to particular taxpayers.

(C) The Finance Director, or his duly authorized agent or employee in the Department of Taxation, is authorized to examine the books, papers and records of any employer, taxpayer or person subject to the provisions of this chapter, or of any employer, taxpayer or person he reasonably believes to be subject to the provisions of this chapter, for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the City tax due. Every employer, supposed employer, taxpayer and supposed taxpayer shall furnish the Finance Director, or his duly authorized agent or employee in the Department of Taxation, within thirty (30) days following a written request by the Finance Director, or his duly authorized agent or employee in the Department of Taxation, the means, facilities and opportunity for making such examination and investigation as hereby authorized.

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

(E) All returns, investigations, examinations and hearings, and all information and documentation produced therewith, and all information and documentation gained as a result thereof are confidential except for official purposes and except in accordance with proper judicial order and shall be carefully preserved so that they shall not be available for inspection by or dissemination to anyone other than the proper officers, agents and employees of the City for

194.30 FILING NET PROFIT TAXES; ELECTION TO BE SUBJECT TO PROVISIONS OF CHAPTER.

(A) A taxpayer may elect to be subject to sections 194.30 to 194.315 of the Codified Ordinances in lieu of the provisions set forth in the remainder of this chapter. Notwithstanding any other provision of this chapter, upon the taxpayer's election, both of the following shall apply:

- (1) The state tax commissioner shall serve as the sole administrator of the municipal net profit tax for which the taxpayer as defined in 194.301(C) of the Codified Ordinances is liable for the term of the election;
- (2) The commissioner shall administer the tax pursuant to sections 718.80 to 718.95 of the Revised Code, sections 194.30 to 194.315 of the Codified Ordinances, and any applicable provision of Chapter 5703. of the Revised Code.

(B) (1) A taxpayer shall make the initial election on or before the first day of the third month after the beginning of the taxpayer's taxable year by notifying the tax commissioner and the City of Napoleon, on a form prescribed by the tax commissioner.

- (2) (a) The election, once made by the taxpayer, applies to the taxable year in which the election is made and to each subsequent taxable year until the taxpayer notifies the tax commissioner and the City of Napoleon of its termination of the election.
- (b) A notification of termination shall be made, on a form prescribed by the tax commissioner, on or before the first day of the third month of any taxable year.
- (c) Upon a timely and valid termination of the election, the taxpayer is no longer subject to sections 194.30 to 194.315 of the Codified Ordinances, and is instead subject to the provisions set forth in the remainder of this chapter.

(C) The tax commissioner shall enforce and administer sections 194.30 to 194.315 of the Codified Ordinances. In addition to any other powers conferred upon the tax commissioner by law, the tax commissioner may:

- (1) Prescribe all forms necessary to administer those sections;
- (2) Adopt such rules as the tax commissioner finds necessary to carry out those sections;
- (3) Appoint and employ such personnel as are necessary to carry out the duties imposed upon the tax commissioner by those sections.

(D) The tax commissioner shall not be considered a tax administrator, as that term is defined in section 718.01 of the Revised Code and Section 194.03 of the City of Napoleon Codified Ordinances. (Ord. 005-18. Passed 2-19-18.)

194.301 DEFINITIONS.

If a term used in sections 194.30 to 194.315 of the Codified Ordinances that is not otherwise defined in this chapter is used in a comparable context in both the laws of the United States relating to federal income tax and in Title LVII of the Revised Code and the use is not consistent, then the use of the term in the laws of the United States relating to federal income tax shall have control over the use of the term in Title LVII of the Revised Code, unless the term is defined in Chapter 5703. of the Revised Code, in which case the definition in that chapter shall control. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States related to federal income taxes. If a term is defined in both this section and section 194.03 of the Codified Ordinances, the definition in this section shall control for all uses of that term in sections 194.30 to 194.315 of the Codified Ordinances.

As used in sections 194.30 to 194.315 of the Codified Ordinances only:

- (A) "Municipal taxable income" means income apportioned or situated to the municipal corporation under section 194.302 of the Codified Ordinances, as applicable, reduced by any pre-2017 net operating loss carryforward available to the person for the municipal corporation.
- (B) "Adjusted federal taxable income," for a person required to file as a C corporation, or for a person that has elected to be taxed as a C corporation as described in division (D)(5) of section 718.01 of the Revised Code and section 194.03 of the Codified Ordinances, means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:
 - (1) Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income.
 - (2) Add an amount equal to five per cent of intangible income deducted under division (B)(1) of this section, but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in section 1221 of the Internal Revenue Code.
 - (3) Add any losses allowed as a deduction in the computation of federal taxable income if the losses directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code.
 - (4)
 - (a) Except as provided in division (B)(4)(b) of this section, deduct income and gain included in federal taxable income to the extent the income and gain directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code.
 - (b) Division (B)(4)(a) of this section does not apply to the extent the income or gain is income or gain described in section 1245 or 1250 of the Internal Revenue Code.
 - (5) Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income.
 - (6) In the case of a real estate investment trust or regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income.
 - (7) Deduct, to the extent not otherwise deducted or excluded in computing federal taxable income, any income derived from a transfer agreement or from the enterprise transferred under that agreement under section 4313.02 of the Revised Code.
 - (8) Deduct exempt income to the extent not otherwise deducted or excluded in computing adjusted federal taxable income.
 - (9) Deduct any net profit of a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that net profit in the group's federal taxable income in accordance with division (B)(1) of section 194.306 of the Codified Ordinances.
 - (10) Add any loss incurred by a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that loss in the group's federal taxable income in accordance with division (B)(1) of section 194.306 of the Codified Ordinances.

If the taxpayer is not a C corporation, is not a disregarded entity that has made the election described in division (47)(B) of section 194.03 of the Codified Ordinances, and is not a publicly traded partnership that has made the election described in division (23)(D) of section 194.03 of the Codified Ordinances, the taxpayer shall compute adjusted federal taxable income under this section as if the taxpayer were a C corporation, except guaranteed payments and other similar amounts paid or accrued to a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deductible expense unless such payments are in consideration for the use of capital and treated as payment of interest under section 469 of the Internal Revenue Code or United States treasury regulations. Amounts paid or accrued to a qualified self-employed retirement plan with respect to a partner, former partner, shareholder, former shareholder, member, or former member of the taxpayer, amounts paid or accrued to or for health insurance for a partner, former partner, shareholder, former shareholder, member, or former member, and amounts paid or accrued to or for life insurance for a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deduction.

Nothing in division (B) of this section shall be construed as allowing the taxpayer to add or deduct any amount more than once or shall be construed as allowing any taxpayer to deduct any amount paid to or accrued for purposes of federal self-employment tax.

- (C) "Taxpayer" has the same meaning as in section 194.03 of the Codified Ordinances, except that "taxpayer" does not include natural persons or entities subject to the tax imposed under Chapter 5745. of the Revised Code. "Taxpayer" may include receivers, assignees, or trustees in bankruptcy when such persons are required to assume the role of a taxpayer.
- (D) "Tax return" or "return" means the notifications and reports required to be filed pursuant to sections 194.30 to 194.315 of the Codified Ordinances for the purpose of reporting municipal income taxes, and includes declarations of estimated tax.
- (E) "Taxable year" means the calendar year or the taxpayer's fiscal year ending during the calendar year, or fractional part thereof, upon which the calculation of the taxpayer's adjusted federal taxable income is based pursuant to this chapter. If a taxpayer's taxable year is changed for federal income tax purposes, the taxable year for purposes of sections 194.30 to 194.315 of the Codified Ordinances is changed accordingly but may consist of an aggregation of more than one taxable year for federal income tax purposes. The tax commissioner may prescribe by rule an appropriate period as the taxable year for a taxpayer that has had a change of its taxable year for federal income tax purposes, for a taxpayer that has two or more short taxable years for federal income tax purposes as the result of a change of ownership, or for a new taxpayer that would otherwise have no taxable year.
- (F) "Assessment" means a notice of underpayment or nonpayment of a tax issued pursuant to section 194.310 of the Codified Ordinances.
(Ord. 005-18. Passed 2-19-18.)

194.302 APPLICABILITY; TAXABLE SITUS; APPORTIONMENT.

This section applies to any taxpayer that is engaged in a business or profession in the City of Napoleon and that has made the election under section 194.30 of the Codified Ordinances.

- (A) Except as otherwise provided in division (B) of this section, net profit from a business or profession conducted both within and without the boundaries of the City of Napoleon shall be considered as having a taxable situs in the City of Napoleon for purposes of municipal income taxation in the same proportion as the average ratio of the following:

- (1) The average original cost of the real property and tangible personal property owned or used by the taxpayer in the business or profession in the City of Napoleon during the taxable period to the average original cost of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated. As used in the preceding paragraph, tangible personal or real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight;
 - (2) Wages, salaries, and other compensation paid during the taxable period to individuals employed in the business or profession for services performed in the City of Napoleon to wages, salaries, and other compensation paid during the same period to individuals employed in the business or profession, wherever the individual's services are performed, excluding compensation from which taxes are not required to be withheld under section 194.052 of the Codified Ordinances;
 - (3) Total gross receipts of the business or profession from sales and rentals made and services performed during the taxable period in the City of Napoleon to total gross receipts of the business or profession during the same period from sales, rentals, and services, wherever made or performed.
- (B)
 - (1) If the apportionment factors described in division (A) of this section do not fairly represent the extent of a taxpayer's business activity in the City of Napoleon, the taxpayer may request, or the tax commissioner may require, that the taxpayer use, with respect to all or any portion of the income of the taxpayer, an alternative apportionment method involving one or more of the following:
 - (a) Separate accounting;
 - (b) The exclusion of one or more of the factors;
 - (c) The inclusion of one or more additional factors that would provide for a more fair apportionment of the income of the taxpayer to the municipal corporation;
 - (d) A modification of one or more of the factors.
 - (2) A taxpayer request to use an alternative apportionment method shall be in writing and shall accompany a tax return, timely filed appeal of an assessment, or timely filed amended tax return. The taxpayer may use the requested alternative method unless the tax commissioner denies the request in an assessment issued within the period prescribed by division (A) of section 194.310 of the Codified Ordinances.
 - (3) The tax commissioner may require a taxpayer to use an alternative apportionment method as described in division (B)(1) of this section only by issuing an assessment to the taxpayer within the period prescribed by division (A) of section 194.310 of the Codified Ordinances.
- (C) As used in division (A)(2) of this section, "wages, salaries, and other compensation" includes only wages, salaries, or other compensation paid to an employee for services performed at any of the following locations:
 - (1) A location that is owned, controlled, or used by, rented to, or under the possession of one of the following:
 - (a) The employer;
 - (b) A vendor, customer, client, or patient of the employer, or a related member of such a vendor, customer, client, or patient;

- (c) A vendor, customer, client, or patient of a person described in division (C)(1)(b) of this section, or a related member of such a vendor, customer, client, or patient.
 - (2) Any location at which a trial, appeal, hearing, investigation, inquiry, review, court-martial, or similar administrative, judicial, or legislative matter or proceeding is being conducted, provided that the compensation is paid for services performed for, or on behalf of, the employer or that the employee's presence at the location directly or indirectly benefits the employer;
 - (3) Any other location, if the tax commissioner determines that the employer directed the employee to perform the services at the other location in lieu of a location described in division (C)(1) or (2) of this section solely in order to avoid or reduce the employer's municipal income tax liability. If the tax commissioner makes such a determination, the employer may dispute the determination by establishing, by a preponderance of the evidence, that the tax commissioner's determination was unreasonable.
- (D) For the purposes of division (A)(3) of this section, receipts from sales and rentals made and services performed shall be situated to the City of Napoleon as follows:
- (1) Gross receipts from the sale of tangible personal property shall be situated to the City of Napoleon only if, regardless of where title passes, the property meets either of the following criteria:
 - (a) The property is shipped to or delivered within the City of Napoleon from a stock of goods located within the City of Napoleon.
 - (b) The property is delivered within the City of Napoleon from a location outside the City of Napoleon, provided the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the City of Napoleon and the sales result from such solicitation or promotion.
 - (2) Gross receipts from the sale of services shall be situated to the City of Napoleon to the extent that such services are performed in the City of Napoleon.
 - (3) To the extent included in income, gross receipts from the sale of real property located in the City of Napoleon shall be situated to the City of Napoleon.
 - (4) To the extent included in income, gross receipts from rents and royalties from real property located in the City of Napoleon shall be situated to the City of Napoleon.
 - (5) Gross receipts from rents and royalties from tangible personal property shall be situated to the City of Napoleon based upon the extent to which the tangible personal property is used in the City of Napoleon.
- (E) Commissions received by a real estate agent or broker relating to the sale, purchase, or lease of real estate shall be situated to the City of Napoleon in which the real estate is located. Net profit reported by the real estate agent or broker shall be allocated to the City of Napoleon based upon the ratio of the commissions the agent or broker received from the sale, purchase, or lease of real estate located in the City of Napoleon to the commissions received from the sale, purchase, or lease of real estate everywhere in the taxable year.

- (F) If, in computing a taxpayer's adjusted federal taxable income, the taxpayer deducted any amount with respect to a stock option granted to an employee, and if the employee is not required to include in the employee's income any such amount or a portion thereof because it is exempted from taxation under divisions (11)(L) and (34)(A) of section 194.03 of the Codified Ordinances by the City or substantially similar provision of the codified ordinances of another municipal corporation, the taxpayer shall add the amount that is exempt from taxation to the taxpayer's net profit that was apportioned to the City of Napoleon. In no case shall a taxpayer be required to add to its net profit that was apportioned to the City of Napoleon any amount other than the amount upon which the employee would be required to pay tax were the amount related to the stock option not exempted from taxation.
- This division applies solely for the purpose of making an adjustment to the amount of a taxpayer's net profit that was apportioned to the City of Napoleon under this section.
- (G) When calculating the ratios described in division (A) of this section for the purposes of that division or division (B) of this section, the owner of a disregarded entity shall include in the owner's ratios the property, payroll, and gross receipts of such disregarded entity.
- (Ord. 005-18. Passed 2-19-18.)

**194.303 INFORMATION PROVIDED TO TAX ADMINISTRATORS;
CONFIDENTIALITY.**

(A) Any information gained as a result of returns, investigations, hearings, or verifications required or authorized by sections 194.30 to 194.315 of the Codified Ordinances is confidential, and no person shall disclose such information, except for official purposes, in accordance with a proper judicial order, or as provided in section 4123.271 or 5703.21 of the Revised Code. The tax commissioner may furnish the internal revenue service with copies of returns filed. This section does not prohibit the publication of statistics in a form which does not disclose information with respect to particular taxpayers.

(B) In May and November of each year, the tax commissioner shall provide the City of Napoleon tax administrator with the following information for every taxpayer that filed tax returns with the commissioner under sections 194.30 to 194.315 of the Codified Ordinances and that had municipal taxable income apportionable to the City of Napoleon under this chapter for any prior year:

- (1) The taxpayer's name, address, and federal employer identification number;
- (2) The taxpayer's apportionment ratio for, and amount of municipal taxable income apportionable to, the City of Napoleon pursuant to section 194.302 of the Codified Ordinances;
- (3) The amount of any pre-2017 net operating loss carryforward utilized by the taxpayer;
- (4) Whether the taxpayer requested that any overpayment be carried forward to a future taxable year;
- (5) The amount of any credit claimed under section 718.94 of the Revised Code.

(C) Not later than thirty days after each distribution made to municipal corporations under section 718.83 of the Revised Code, the tax commissioner shall provide to the City of Napoleon a report stating the name and federal identification number of every taxpayer that made estimated payments that are attributable to the City of Napoleon and the amount of each such taxpayer's estimated payment.

(D) The information described under divisions (B) and (C) of this section shall be provided to the individual or individuals designated by the City of Napoleon tax administrator under section 718.83(D) of the Revised Code.

- (E) (1) The City of Napoleon expects that the tax commissioner will, pursuant to section 718.84(E) of the Revised Code, provide tax returns and other information it receives in the performance of its administration of the municipal net profits tax for taxpayers making the election provided in section 194.30 of the Codified Ordinances. The tax administrator shall review these returns and information, as well as the information received pursuant to divisions (B) and (C) of this section, and has discretion to refer any taxpayer for audit by the tax commissioner. Such referral shall be made on a form prescribed by the commissioner and shall include any information that forms the basis for the referral.
- (2) If the tax commissioner declines to audit a taxpayer referred by the tax administrator under this section, the City reserves its right to pursue any and all remedies, whether at law or in equity, to ensure that the correct tax liability has been calculated and paid by the taxpayer.
(Ord. 005-18. Passed 2-19-18.)

194.304 FILING OF ANNUAL RETURN; REMITTANCE; DISPOSITION OF FUNDS.

- (A) (1) For each taxable year, every taxpayer shall file an annual return. Such return, along with the amount of tax shown to be due on the return less the amount paid for the taxable year under section 194.308 of the Codified Ordinances, shall be submitted to the tax commissioner, on a form and in the manner prescribed by the commissioner, on or before the fifteenth day of the fourth month following the end of the taxpayer's taxable year.
- (2) If a taxpayer has multiple taxable years ending within one calendar year, the taxpayer shall aggregate the facts and figures necessary to compute the tax due under this chapter, in accordance with sections 194.301, 194.302, and, if applicable, 194.306 of the Codified Ordinances onto its annual return.
- (3) The remittance shall be made payable to the treasurer of state and in the form prescribed by the tax commissioner. If the amount payable with the tax return is ten dollars or less, no remittance is required.
- (B) (1) Each return required to be filed under this section shall contain the signature of the taxpayer or the taxpayer's duly authorized agent and of the person who prepared the return for the taxpayer, and shall include the taxpayer's identification number. Each return shall be verified by a declaration under penalty of perjury.
- (2) (a) The tax commissioner may require a taxpayer to include, with each annual tax return, amended return, or request for refund filed with the commissioner under sections 194.30 to 194.315 of the Codified Ordinances, copies of any relevant documents or other information.
- (b) A taxpayer that files an annual tax return electronically through the Ohio business gateway or in another manner as prescribed by the tax commissioner shall either submit the documents required under this division electronically as prescribed at the time of filing or, if electronic submission is not available, mail the documents to the tax commissioner. The department of taxation shall publish a method of electronically submitting the documents required under this division on or before January 1, 2019.

- (3) After a taxpayer files a tax return, the tax commissioner may request, and the taxpayer shall provide, any information, statements, or documents required to determine and verify the taxpayer's municipal income tax.

- (D) (1) (a) Any taxpayer that has duly requested an automatic extension for filing the taxpayer's federal income tax return shall automatically receive an extension for the filing of a tax return with the commissioner under this section. The extended due date of the return shall be the fifteenth day of the tenth month after the last day of the taxable year to which the return relates.
- (b) A taxpayer that has not requested or received a six-month extension for filing the taxpayer's federal income tax return may request that the commissioner grant the taxpayer a six-month extension of the date for filing the taxpayer's municipal income tax return. If the commissioner receives the request on or before the date the municipal income tax return is due, the commissioner shall grant the taxpayer's extension request.
- (c) An extension of time to file under division (D)(1) of this section is not an extension of the time to pay any tax due unless the tax commissioner grants an extension of that date.
- (2) If the commissioner considers it necessary in order to ensure payment of a tax imposed in accordance with section 194.011 of the Codified Ordinances, the commissioner may require taxpayers to file returns and make payments otherwise than as provided in this section, including taxpayers not otherwise required to file annual returns.

(E) Each return required to be filed in accordance with this section shall include a box that the taxpayer may check to authorize another person, including a tax return preparer who prepared the return, to communicate with the tax commissioner about matters pertaining to the return. The return or instructions accompanying the return shall indicate that by checking the box the taxpayer authorizes the commissioner to contact the preparer or other person concerning questions that arise during the examination or other review of the return and authorizes the preparer or other person only to provide the commissioner with information that is missing from the return, to contact the commissioner for information about the examination or other review of the return or the status of the taxpayer's refund or payments, and to respond to notices about mathematical errors, offsets, or return preparation that the taxpayer has received from the commissioner and has shown to the preparer or other person.

(F) When income tax returns or other documents require the signature of a tax return preparer, the tax commissioner shall accept a facsimile or electronic version of such a signature in lieu of a manual signature. (Ord. 005-18. Passed 2-19-18.)

194.305 ELECTRONIC FILING.

(A) All taxpayers that have made the election allowed under section 194.30 of the Codified Ordinances shall file any tax return or extension for filing a tax return, and shall make payment of amounts shown to be due on such returns, electronically, either through the Ohio business gateway or in another manner as prescribed by the tax commissioner.

(B) A taxpayer may apply to the commissioner, on a form prescribed by the commissioner, to be excused from the requirement to file returns and make payments electronically. For good cause shown, the commissioner may excuse the applicant from the requirement and permit the applicant to file the returns or make the payments by nonelectronic means.

- (C) The tax commissioner may adopt rules establishing the following:
- (1) The format of documents to be used by taxpayers to file returns and make payments by electronic means;
 - (2) The information taxpayers must submit when filing tax returns by electronic means. (Ord. 005-18. Passed 2-19-18.)

194.306 CONSOLIDATED RETURNS.

- (A) As used in this section:

- (1) "Affiliated group of corporations" means an affiliated group as defined in section 1504 of the Internal Revenue Code, except that, if such a group includes at least one incumbent local exchange carrier that is primarily engaged in the business of providing local exchange telephone service in this state, the affiliated group shall not include any incumbent local exchange carrier that would otherwise be included in the group.
 - (2) "Consolidated federal income tax return" means a consolidated return filed for federal income tax purposes pursuant to section 1501 of the Internal Revenue Code.
 - (3) "Consolidated federal taxable income" means the consolidated taxable income of an affiliated group of corporations, as computed for the purposes of filing a consolidated federal income tax return, before consideration of net operating losses or special deductions. "Consolidated federal taxable income" does not include income or loss of an incumbent local exchange carrier that is excluded from the affiliated group under division (A)(1) of this section.
 - (4) "Incumbent local exchange carrier" has the same meaning as in section 4927.01 of the Revised Code.
 - (5) "Local exchange telephone service" has the same meaning as in section 5727.01 of the Revised Code.
- (B)
- (1) A taxpayer that is a member of an affiliated group of corporations may elect to file a consolidated tax return for a taxable year if at least one member of the affiliated group of corporations is subject to municipal income tax in that taxable year and if the affiliated group of corporations filed a consolidated federal income tax return with respect to that taxable year. The election is binding for a five-year period beginning with the first taxable year of the initial election unless a change in the reporting method is required under federal law. The election continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing consolidated tax returns under division (B)(2) of this section or a taxpayer receives permission from the tax commissioner. The tax commissioner shall approve such a request for good cause shown.
 - (2) An election to discontinue filing consolidated tax returns under this section must be made on or before the fifteenth day of the fourth month of the year following the last year of a five-year consolidated tax return election period in effect under division (B)(1) of this section. The election to discontinue filing a consolidated tax return is binding for a five-year period beginning with the first taxable year of the election.
 - (3) An election made under division (B)(1) or (2) of this section is binding on all members of the affiliated group of corporations subject to a municipal income tax.

- (4) When a taxpayer makes the election allowed under section 194.30 of the Codified Ordinances, a valid election made by the taxpayer under division (B)(1) or (2) of section 194.063 of the Codified Ordinances is binding upon the tax commissioner for the remainder of the five-year period.
- (5) When an election made under section 194.30 of the Codified Ordinances is terminated, a valid election made under this section is binding upon the tax administrator for the remainder of the five-year period.

(C) A taxpayer that is a member of an affiliated group of corporations that filed a consolidated federal income tax return for a taxable year shall file a consolidated tax return for that taxable year if the tax commissioner determines, by a preponderance of the evidence, that intercompany transactions have not been conducted at arm's length and that there has been a distortive shifting of income or expenses with regard to allocation of net profits to a municipal corporation. A taxpayer that is required to file a consolidated tax return for a taxable year shall file a consolidated tax return for all subsequent taxable years unless the taxpayer requests and receives written permission from the commissioner to file a separate return or a taxpayer has experienced a change in circumstances.

(D) A taxpayer shall prepare a consolidated tax return in the same manner as is required under the United States department of treasury regulations that prescribe procedures for the preparation of the consolidated federal income tax return required to be filed by the common parent of the affiliated group of which the taxpayer is a member.

- (E)
 - (1) Except as otherwise provided in divisions (E)(2), (3), and (4) of this section, corporations that file a consolidated tax return shall compute adjusted federal taxable income, as defined in section 194.301 of the Codified Ordinances, by substituting "consolidated federal taxable income" for "federal taxable income" wherever "federal taxable income" appears in that division and by substituting "an affiliated group of corporation's" for "a C corporation's" wherever "a C corporation's" appears in that division.
 - (2) No corporation filing a consolidated tax return shall make any adjustment otherwise required under division (B) of section 194.301 of the Codified Ordinances to the extent that the item of income or deduction otherwise subject to the adjustment has been eliminated or consolidated in the computation of consolidated federal taxable income.
 - (3) If the net profit or loss of a pass-through entity having at least eighty per cent of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated federal taxable income for a taxable year, the corporation filing a consolidated tax return shall do one of the following with respect to that pass-through entity's net profit or loss for that taxable year:
 - (a) Exclude the pass-through entity's net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purpose of making the computations required in section 194.302 of the Codified Ordinances, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to a municipal corporation. If the entity's net profit or loss is so excluded, the entity shall be subject to taxation as a separate taxpayer on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.

- (b) Include the pass-through entity's net profit or loss in the consolidated federal taxable income of the affiliated group and, for the purpose of making the computations required in section 194.302 of the Codified Ordinances, include the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to a municipal corporation. If the entity's net profit or loss is so included, the entity shall not be subject to taxation as a separate taxpayer on the basis of the entity's net profits that are included in the consolidated federal taxable income of the affiliated group.
- (4) If the net profit or loss of a pass-through entity having less than eighty per cent of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated federal taxable income for a taxable year, all of the following shall apply:
 - (a) The corporation filing the consolidated tax return shall exclude the pass-through entity's net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purposes of making the computations required in section 194.302 of the Codified Ordinances, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to a municipal corporation;
 - (b) The pass-through entity shall be subject to municipal income taxation as a separate taxpayer in accordance with sections 194.30 to 194.315 of the Codified Ordinances on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.

(F) Corporations filing a consolidated tax return shall make the computations required under section 194.302 of the Codified Ordinances by substituting "consolidated federal taxable income attributable to" for "net profit from" wherever "net profit from" appears in that section and by substituting "affiliated group of corporations" for "taxpayer" wherever "taxpayer" appears in that section.

(G) Each corporation filing a consolidated tax return is jointly and severally liable for any tax, interest, penalties, fines, charges, or other amounts applicable under section 194.30 to 194.315 of the Codified Ordinances or Chapter 5703. of the Revised Code to the corporation, an affiliated group of which the corporation is a member for any portion of the taxable year, or any one or more members of such an affiliated group.
(Ord. 005-18. Passed 2-19-18.)

194.307 FAILURE TO PAY TAX.

If a taxpayer that has made the election allowed under 194.30 of the Codified Ordinances fails to pay any tax as required under sections 194.30 to 194.315 of the Codified Ordinances, or any portion of that tax, on or before the date prescribed for its payment, interest shall be assessed, collected, and paid, in the same manner as the tax, upon such unpaid amount at the rate per annum prescribed by section 5703.47 of the Revised Code from the date prescribed for its payment until it is paid or until the date an assessment is issued under section 194.310 of the Codified Ordinances, whichever occurs first.
(Ord. 005-18. Passed 2-19-18.)

194.308 DECLARATION OF ESTIMATED TAXES.

- (A) As used in this section:
- (1) "Combined tax liability" means the total amount of a taxpayer's income tax liabilities to all municipal corporations in this state for a taxable year.
 - (2) "Estimated taxes" means the amount that the taxpayer reasonably estimates to be the taxpayer's combined tax liability for the current taxable year.
- (B)
- (1) Except as provided in division (B)(4) of this section, every taxpayer shall make a declaration of estimated taxes for the current taxable year, on the form prescribed by the tax commissioner, if the amount payable as estimated taxes is at least two hundred dollars.
 - (2) Except as provided in division (B)(4) of this section, a taxpayer having a taxable year of less than twelve months shall make a declaration under rules prescribed by the commissioner.
 - (3) The declaration of estimated taxes shall be filed on or before the fifteenth day of the fourth month after the beginning of the taxable year or on or before the fifteenth day of the fourth month after the taxpayer becomes subject to tax for the first time.
 - (4) The tax commissioner may waive the requirement for filing a declaration of estimated taxes for any class of taxpayers after finding that the waiver is reasonable and proper in view of administrative costs and other factors.
- (C) Each taxpayer shall file the declaration of estimated taxes with, and remit estimated taxes to, the tax commissioner at the times and in the amounts prescribed in division (C)(1) of this section. Remitted taxes shall be made payable to the treasurer of state.
- (1) The required portion of the combined tax liability for the taxable year that shall be paid through estimated taxes shall be as follows:
 - (a) On or before the fifteenth day of the fourth month after the beginning of the taxable year, twenty-two and one-half per cent of the combined tax liability for the taxable year;
 - (b) On or before the fifteenth day of the sixth month after the beginning of the taxable year, forty-five per cent of the combined tax liability for the taxable year;
 - (c) On or before the fifteenth day of the ninth month after the beginning of the taxable year, sixty-seven and one-half per cent of the combined tax liability for the taxable year;
 - (d) On or before the fifteenth day of the twelfth month of the taxable year, ninety per cent of the combined tax liability for the taxable year.
 - (2) If the taxpayer determines that its declaration of estimated taxes will not accurately reflect the taxpayer's tax liability for the taxable year, the taxpayer shall increase or decrease, as appropriate, its subsequent payments in equal installments to result in a more accurate payment of estimated taxes.
 - (3)
 - (a) Each taxpayer shall report on the declaration of estimated taxes the portion of the remittance that the taxpayer estimates that it owes to each municipal corporation for the taxable year.
 - (b) Upon receiving a payment of estimated taxes under this section, the commissioner shall immediately forward the payment to the treasurer of state. The treasurer shall credit the payment in the same manner as in division (B) of section 718.85 of the Revised Code.

- (D) (1) In the case of any underpayment of estimated taxes, there shall be added to the taxes an amount determined at the rate per annum prescribed by section 5703.47 of the Revised Code upon the amount of underpayment for the period of underpayment, unless the underpayment is due to reasonable cause as described in division (E) of this section. The amount of the underpayment shall be determined as follows:
- (a) For the first payment of estimated taxes each year, twenty-two and one-half per cent of the combined tax liability, less the amount of taxes paid by the date prescribed for that payment;
 - (b) For the second payment of estimated taxes each year, forty-five per cent of the combined tax liability, less the amount of taxes paid by the date prescribed for that payment;
 - (c) For the third payment of estimated taxes each year, sixty-seven and one-half per cent of the combined tax liability, less the amount of taxes paid by the date prescribed for that payment;
 - (d) For the fourth payment of estimated taxes each year, ninety per cent of the combined tax liability, less the amount of taxes paid by the date prescribed for that payment.
- (2) The period of the underpayment shall run from the day the estimated payment was required to be made to the date on which the payment is made. For purposes of this section, a payment of estimated taxes on or before any payment date shall be considered a payment of any previous underpayment only to the extent the payment of estimated taxes exceeds the amount of the payment presently due.
- (3) All amounts collected under this section shall be considered as taxes collected under sections 194.30 to 194.315 of the Codified Ordinances and shall be credited and distributed to municipal corporations in accordance with section 718.83 of the Revised Code.
- (E) An underpayment of any portion of a combined tax liability shall be due to reasonable cause and the penalty imposed by this section shall not be added to the taxes for the taxable year if any of the following apply:
- (1) The amount of estimated taxes that were paid equals at least ninety per cent of the combined tax liability for the current taxable year, determined by annualizing the income received during the year up to the end of the month immediately preceding the month in which the payment is due.
 - (2) The amount of estimated taxes that were paid equals at least one hundred per cent of the tax liability shown on the return of the taxpayer for the preceding taxable year, provided that the immediately preceding taxable year reflected a period of twelve months and the taxpayer filed a municipal income tax return for that year.
- (Ord. 005-18. Passed 2-19-18.)

194.309 ADDITIONAL PENALTIES.

- (A) In addition to any other penalty imposed by sections 194.30 to 194.315 of the Codified Ordinances or Chapter 5703. of the Revised Code, the following penalties shall apply:
- (1) If a taxpayer required to file a tax return under sections 194.30 to 194.315 of the Codified Ordinances fails to make and file the return within the time prescribed, including any extensions of time granted by the tax commissioner, the commissioner may impose a penalty not exceeding

twenty-five dollars per month or fraction of a month, for each month or fraction of a month elapsing between the due date, including extensions of the due date, and the date on which the return is filed. The aggregate penalty, per instance, under this division shall not exceed one hundred fifty dollars.

- (2) If a person required to file a tax return electronically under sections 194.30 to 194.315 of the Codified Ordinances fails to do so, the commissioner may impose a penalty not to exceed the following:
 - (a) For each of the first two failures, five per cent of the amount required to be reported on the return;
 - (b) For the third and any subsequent failure, ten per cent of the amount required to be reported on the return.
- (3) If a taxpayer that has made the election allowed under section 194.30 of the Codified Ordinances fails to timely pay an amount of tax required to be paid under this chapter, the commissioner may impose a penalty equal to fifteen per cent of the amount not timely paid.
- (4) If a taxpayer files what purports to be a tax return required by sections 194.30 to 194.315 of the Codified Ordinances that does not contain information upon which the substantial correctness of the return may be judged or contains information that on its face indicates that the return is substantially incorrect, and the filing of the return in that manner is due to a position that is frivolous or a desire that is apparent from the return to delay or impede the administration of sections 194.30 to 194.315 of the Codified Ordinances, a penalty of up to five hundred dollars may be imposed.
- (5) If a taxpayer makes a fraudulent attempt to evade the reporting or payment of the tax required to be shown on any return required under sections 194.30 to 194.315 of the Codified Ordinances, a penalty may be imposed not exceeding the greater of one thousand dollars or one hundred per cent of the tax required to be shown on the return.
- (6) If any person makes a false or fraudulent claim for a refund under section 194.311 of the Codified Ordinances, a penalty may be imposed not exceeding the greater of one thousand dollars or one hundred per cent of the claim. Any penalty imposed under this division, any refund issued on the claim, and interest on any refund from the date of the refund, may be assessed under section 194.310 of the Codified Ordinances without regard to any time limitation for the assessment imposed by division (A) of that section.

(B) For purposes of this section, the tax required to be shown on a tax return shall be reduced by the amount of any part of the tax paid on or before the date, including any extensions of the date, prescribed for filing the return.

(C) Each penalty imposed under this section shall be in addition to any other penalty imposed under this section. All or part of any penalty imposed under this section may be abated by the tax commissioner. The commissioner may adopt rules governing the imposition and abatement of such penalties.

(D) All amounts collected under this section shall be considered as taxes collected under sections 194.30 to 194.315 of the Codified Ordinances and shall be credited and distributed to municipal corporations in the same proportion as the underlying tax liability is required to be distributed to such municipal corporations under section 718.83 of the Revised Code.
(Ord. 005-18. Passed 2-19-18.)

194.310 ASSESSMENTS AGAINST TAXPAYER.

(A) If any taxpayer required to file a return under section 194.30 to 194.315 of the Codified Ordinances fails to file the return within the time prescribed, files an incorrect return, or fails to remit the full amount of the tax due for the period covered by the return, the tax commissioner may make an assessment against the taxpayer for any deficiency for the period for which the return or tax is due, based upon any information in the commissioner's possession.

The tax commissioner shall not make or issue an assessment against a taxpayer more than three years after the later of the date the return subject to assessment was required to be filed or the date the return was filed. Such time limit may be extended if both the taxpayer and the commissioner consent in writing to the extension. Any such extension shall extend the three-year time limit in section 194.311 of the Codified Ordinances for the same period of time. There shall be no bar or limit to an assessment against a taxpayer that fails to file a return subject to assessment as required by sections 194.30 to 194.315 of the Codified Ordinances, or that files a fraudulent return. The commissioner shall give the taxpayer assessed written notice of the assessment as provided in section 5703.37 of the Revised Code. With the notice, the commissioner shall provide instructions on how to petition for reassessment and request a hearing on the petition.

(B) Unless the taxpayer assessed files with the tax commissioner within sixty days after service of the notice of assessment, either personally or by certified mail, a written petition for reassessment signed by the authorized agent of the taxpayer assessed having knowledge of the facts, the assessment becomes final, and the amount of the assessment is due and payable from the taxpayer to the treasurer of state. The petition shall indicate the taxpayer's objections, but additional objections may be raised in writing if received by the commissioner prior to the date shown on the final determination. If the petition has been properly filed, the commissioner shall proceed under section 5703.60 of the Revised Code.

(C) After an assessment becomes final, if any portion of the assessment remains unpaid, including accrued interest, a certified copy of the tax commissioner's entry making the assessment final may be filed in the office of the clerk of the court of common pleas in the county in which the taxpayer has an office or place of business in this state, the county in which the taxpayer's statutory agent is located, or Franklin county.

Immediately upon the filing of the entry, the clerk shall enter a judgment against the taxpayer assessed in the amount shown on the entry. The judgment may be filed by the clerk in a loose-leaf book entitled "special judgments for municipal income taxes," and shall have the same effect as other judgments. Execution shall issue upon the judgment upon the request of the tax commissioner, and all laws applicable to sales on execution shall apply to sales made under the judgment.

If the assessment is not paid in its entirety within sixty days after the day the assessment was issued, the portion of the assessment consisting of tax due shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the day the commissioner issues the assessment until the assessment is paid or until it is certified to the attorney general for collection under section 131.02 of the Revised Code, whichever comes first. If the unpaid portion of the assessment is certified to the attorney general for collection, the entire unpaid portion of the assessment shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the date of certification until the date it is paid in its entirety. Interest shall be paid in the same manner as the tax and may be collected by issuing an assessment under this section.

(D) All money collected under this section shall be credited to the municipal income tax fund and distributed to the municipal corporation to which the money is owed based on the assessment issued under this section.

(E) If the tax commissioner believes that collection of the tax will be jeopardized unless proceedings to collect or secure collection of the tax are instituted without delay, the commissioner may issue a jeopardy assessment against the taxpayer liable for the tax. Immediately upon the issuance of the jeopardy assessment, the commissioner shall file an entry with the clerk of the court of common pleas in the manner prescribed by division (C) of this section. Notice of the jeopardy assessment shall be served on the taxpayer assessed or the taxpayer's legal representative in the manner provided in section 5703.37 of the Revised Code within five days of the filing of the entry with the clerk. The total amount assessed is immediately due and payable, unless the taxpayer assessed files a petition for reassessment in accordance with division (B) of this section and provides security in a form satisfactory to the commissioner and in an amount sufficient to satisfy the unpaid balance of the assessment. Full or partial payment of the assessment does not prejudice the commissioner's consideration of the petition for reassessment.

(F) Notwithstanding the fact that a petition for reassessment is pending, the taxpayer may pay all or a portion of the assessment that is the subject of the petition. The acceptance of a payment by the treasurer of state does not prejudice any claim for refund upon final determination of the petition.

If upon final determination of the petition an error in the assessment is corrected by the tax commissioner, upon petition so filed or pursuant to a decision of the board of tax appeals or any court to which the determination or decision has been appealed, so that the amount due from the taxpayer under the corrected assessment is less than the portion paid, there shall be issued to the taxpayer, its assigns, or legal representative a refund in the amount of the overpayment as provided by section 194.311 of the Codified Ordinances, with interest on that amount as provided by that section. (Ord. 005-18. Passed 2-19-18.)

194.311 REFUND APPLICATIONS.

(A) An application to refund to a taxpayer the amount of taxes paid on any illegal, erroneous, or excessive payment of tax under sections 194.30 to 194.315 of the Codified Ordinances, including assessments, shall be filed with the tax commissioner within three years after the date of the illegal, erroneous, or excessive payment of the tax, or within any additional period allowed by division (A) of section 194.310 of the Codified Ordinances. The application shall be filed in the form prescribed by the tax commissioner.

- (B) (1) On the filing of a refund application, the tax commissioner shall determine the amount of refund to which the applicant is entitled. The amount determined shall be based on the amount overpaid per return or assessment. If the amount is greater than ten dollars and not less than that claimed, the commissioner shall certify that amount to the director of budget and management and the treasurer of state for payment from the tax refund fund created in section 5703.052 of the Revised Code. If the amount is greater than ten dollars but less than that claimed, the commissioner shall proceed in accordance with section 5703.70 of the Revised Code.
- (2) Upon issuance of a refund under this section, the commissioner shall notify each municipal corporation of the amount refunded to the taxpayer attributable to that municipal corporation, which shall be deducted from the municipal corporation's next distribution under section 718.83 of the Revised Code.

(C) Any portion of a refund determined under division (B) of this section that is not issued within ninety days after such determination shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the ninety-first day after such determination until the day the refund is paid or credited. On an illegal or erroneous assessment, interest shall be paid at that rate from the date of payment on the illegal or erroneous assessment until the day the refund is paid or credited.
(Ord. 005-18. Passed 2-19-18.)

194.312 AMENDED RETURNS.

(A) If any of the facts, figures, computations, or attachments required in an annual return filed by a taxpayer that has made the election allowed under section 194.30 of the Codified Ordinances and used to determine the tax due under sections 194.30 to 194.315 of the Codified Ordinances must be altered as the result of an adjustment to the taxpayer's federal income tax return, whether initiated by the taxpayer or the internal revenue service, and such alteration affects the taxpayer's tax liability under those sections, the taxpayer shall file an amended return with the tax commissioner in such form as the commissioner requires. The amended return shall be filed not later than sixty days after the adjustment is agreed upon or finally determined for federal income tax purposes or after any federal income tax deficiency or refund, or the abatement or credit resulting therefrom, has been assessed or paid, whichever occurs first. If a taxpayer intends to file an amended consolidated municipal income tax return, or to amend its type of return from a separate return to a consolidated return, based on the taxpayer's consolidated federal income tax return, the taxpayer shall notify the commissioner before filing the amended return.

(B) In the case of an underpayment, the amended return shall be accompanied by payment of any combined additional tax due together with any penalty and interest thereon. An amended return required by this section is a return subject to assessment under section 194.310 of the Codified Ordinances for the purpose of assessing any additional tax due under this section, together with any applicable penalty and interest. The amended return shall not reopen those facts, figures, computations, or attachments from a previously filed return no longer subject to assessment that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal tax return.

(C) In the case of an overpayment, an application for refund may be filed under this division within the sixty-day period prescribed for filing the amended return, even if that period extends beyond the period prescribed in section 194.311 of the Codified Ordinances, if the application otherwise conforms to the requirements of that section. An application filed under this division shall claim refund of overpayments resulting from alterations to only those facts, figures, computations, or attachments required in the taxpayer's annual return that are affected, either directly or indirectly, by the adjustment to the taxpayer's federal income tax return unless it is also filed within the time prescribed in section 194.311 of the Codified Ordinances. The application shall not reopen those facts, figures, computations, or attachments that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal income tax return.
(Ord. 005-18. Passed 2-19-18.)

194.313 EXAMINATION OF RECORDS AND OTHER DOCUMENTS AND PERSONS.

(A) The tax commissioner, or any authorized agent or employee thereof, may examine the books, papers, records, and federal and state income tax returns of any taxpayer or other person that is subject to sections 194.30 to 194.315 of the Codified Ordinances for the purpose of verifying the accuracy of any return made or, if no return was filed, to ascertain the tax due as

required under those sections. Upon written request by the commissioner or a duly authorized agent or employee thereof, every taxpayer or other person subject to this section is required to furnish the opportunity for the commissioner, authorized agent, or employee to investigate and examine such books, papers, records, and federal and state income tax returns at a reasonable time and place designated in the request.

(B) The records and other documents of any taxpayer or other person that is subject to sections 194.30 to 194.315 of the Codified Ordinances shall be open to the tax commissioner's inspection during business hours and shall be preserved for a period of six years following the end of the taxable year to which the records or documents relate, unless the commissioner, in writing, consents to their destruction within that period, or by order requires that they be kept longer. The commissioner may require any person, by notice served on that person, to keep such records as the commissioner determines necessary to show whether or not that person is liable, and the extent of such liability, for the income tax levied by a municipal corporation.

(C) The tax commissioner may examine under oath any person that the commissioner reasonably believes has knowledge concerning any income that was or would have been returned for taxation or any transaction tending to affect such income. The commissioner may, for this purpose, compel any such person to attend a hearing or examination and to produce any books, papers, records, and federal income tax returns in such person's possession or control. The person may be assisted or represented by an attorney, accountant, bookkeeper, or other tax practitioner at any such hearing or examination. This division does not authorize the practice of law by a person who is not an attorney.

(D) No person issued written notice by the tax commissioner compelling attendance at a hearing or examination or the production of books, papers, records, or federal income tax returns under this section shall fail to comply.
(Ord. 005-18. Passed 2-19-18.)

194.314 CREDITS.

(A) A credit, granted by resolution or ordinance of the City of Napoleon pursuant to section 194.081 or 194.082 of the Codified Ordinances, shall be available to a taxpayer that has made the election allowed under section 194.30 of the Codified Ordinances, against the municipal corporation's tax on income. A municipal corporation shall submit the following information to the tax commissioner on or before the later of January 31, 2018, or the thirty-first day of January of the first year in which the taxpayer is eligible to receive the credit:

- (1) A copy of the agreement entered into by the City of Napoleon and taxpayer under section 194.081 or 194.082 of the Codified Ordinances;
 - (2) A copy of the ordinance or resolution authorizing the agreement entered into between the City of Napoleon and the taxpayer.
- (B) (1) Each taxpayer that claims a credit shall submit, with the taxpayer's tax return, documentation issued by the City of Napoleon granting the credit that confirms the eligibility of the taxpayer for the credit, the amount of the credit for which the taxpayer is eligible, and the tax year to which the credit is to be applied.
- (2) Such documentation shall be provided in the form prescribed by the tax commissioner.

- (3) Nothing in this section shall be construed to authorize the tax commissioner to enter into an agreement with a taxpayer to grant a credit, to determine if a taxpayer meets the conditions of a tax credit agreement entered into by the City of Napoleon and taxpayer under section 194.081 or 194.082 of the Codified Ordinances, or to modify the terms or conditions of any such existing agreement.
(Ord. 005-18. Passed 2-19-18.)

194.315 RECKLESS VIOLATIONS; PENALTIES.

(A) Except as provided in division (B) of this section, whoever recklessly violates division (A) of section 194.304 of the Codified Ordinances shall be guilty of a misdemeanor of the first degree and shall be subject to a fine of not more than one thousand dollars or imprisonment for a term of up to six months, or both.

(B) Each instance of access or disclosure in violation of division (A) of section 194.304 of the Codified Ordinances constitutes a separate offense.

(C) These specific penalties shall not be construed to prevent the City from prosecuting any and all other offenses that may apply.
(Ord. 005-18. Passed 2-19-18.)

194.97 COLLECTION AFTER TERMINATION OF CHAPTER.

(A) This Chapter shall continue in full force and effect insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions and proceedings for collecting any tax so levied or enforcing any provisions of this Chapter are concerned, it shall continue in full force and effect until all of the taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of taxes or for the punishment of violations of this Chapter have been fully terminated, subject to the limitations contained in Section 194.19.

(B) Annual returns due for all or any part of the last effective year of this Chapter shall be due on the date provided in Section 194.091 as though the same were continuing.
(Ord. 053-15. Passed 11-16-15.)

194.98 SAVINGS CLAUSE.

If any sentence, clause, section or part of this Chapter, or any tax imposed against, or exemption from tax granted to, any taxpayer or forms of income specified herein is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall affect only such clause, sentence, section or part of this chapter so found and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of the legislative authority of the Municipality that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included in this Chapter.
(Ord. 053-15. Passed 11-16-15.)

194.99 VIOLATIONS; PENALTY.

(A) Except as provided in division (B) of this section, whoever violates Section 194.15 of this Chapter, division (A) of Section 194.14 of this Chapter, or Section 194.051 of this Chapter by failing to remit municipal income taxes deducted and withheld from an employee, shall be guilty of a misdemeanor of the first degree and shall be subject to a fine of not more than one thousand dollars or imprisonment for a term of up to six months, or both. In addition, the violation is punishable by dismissal from office or discharge from employment, or both.

(B) Any person who discloses information received from the Internal Revenue Service in violation of Internal Revenue Code Sec. 7213(a), 7213A, or 7431 shall be guilty of a felony of the fifth degree and shall be subject to a fine of not more than five thousand dollars plus the costs of prosecution, or imprisonment for a term not exceeding five years, or both. In addition, the violation is punishable by dismissal from office or discharge from employment, or both.

(C) Each instance of access or disclosure in violation of division (A) of Section 194.14 of this Chapter constitutes a separate offense.

(D) Whoever violates any provision of this Chapter for which violation no penalty is otherwise provided, is guilty of a misdemeanor of the first degree and shall be subject to a fine of not more than one thousand dollars or imprisonment for a term of up to six months, or both. In addition, the violation is punishable by dismissal from office or discharge from employment, or both. By way of an illustrative enumeration, violations of this Chapter shall include but not be limited to the following acts, conduct, and/or omissions:

- (1) Fail, neglect or refuse to make any return or declaration required by this Chapter; or
- (2) Knowingly make any incomplete return; or
- (3) Willfully fail, neglect, or refuse to pay the tax, penalties, and interest, or any combination thereof, imposed by this Chapter; or
- (4) Cause to not be remitted the city income tax withheld from qualifying wages of employees to the Municipality municipal corporation as required by Section 194.051; or
- (5) Neglect or refuse to withhold or remit municipal income tax from employees; or
- (6) Refuse to permit the Tax Administrator or any duly authorized agent or employee to examine his or her books, records, papers, federal and state income tax returns, or any documentation relating to the income or net profits of a taxpayer; or
- (7) Fail to appear before the Tax Administrator and to produce his or her books, records, papers, federal and state income tax returns, or any documentation relating to the income or net profits of a taxpayer upon order or subpoena of the Tax Administrator; or
- (8) Refuse to disclose to the Tax Administrator any information with respect to such person's income or net profits, or in the case of a person responsible for maintaining information relating to his or her employers' income or net profits, such person's employer's income or net profits; or
- (9) Fail to comply with the provisions of this chapter or any order or subpoena of the Tax Administrator; or
- (10) To avoid imposition or collection of municipal income tax, willfully give to an employer or prospective employer false information as to his or her true name, correct social security number and residence address, or willfully fail to promptly notify an employer or a prospective employer of any change in residence address and date thereof; or
- (11) Fail, as an employer, agent of an employer, or other payer, to maintain proper records of employees residence addresses, total qualifying wages paid and municipal tax withheld, or to knowingly give the Tax Administrator false information; or
- (12) Willfully fail, neglect, or refuse to make any payment of estimated municipal income tax for any taxable year or any part of any taxable year in accordance with this Chapter; or

- (13) Attempt to do anything whatsoever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this Chapter.
- (14) For purposes of this Section, any violation that does not specify a culpable mental state or intent, shall be one of strict liability and no culpable mental state or intent shall be required for a person to be guilty of that violation.
- (15) For purposes of this Section, the term "person" shall, in addition to the meaning prescribed in Section 194.03, include in the case of a corporation, association, pass-through entity or unincorporated business entity not having any resident owner or officer within the city, any employee or agent of such corporation, association, pass-through entity or unincorporated business entity who has control or supervision over or is charged with the responsibility of filing the municipal income tax returns and making the payments of the municipal income tax as required by this Chapter.
(Ord. 053-15. Passed 11-16-15.)

- 5) 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.
- 6) To obtain general legal advice from the public body's attorney.

No decision-making (formal action including actual voting) is permitted in executive session. Further, intertwined non-expected 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 2.26 **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.

Rule 2.27 **Conflict In Rules Governing Meetings And Hearings**

If a conflict exists between a meeting rule and a hearing rule, the rule pertaining to the purpose of the gathering shall prevail.

Rule 2.28 **Expenditure Of Funds By Commission**

Subject to budgetary constraints and appropriation of funds, a commission member may expend funds, not to exceed two hundred dollars (\$200.00), for a proper public purpose, without prior approval of the commission or body of council.

Subject to budgetary constraints and appropriation of funds, the commission, as a whole, may expend funds, not to exceed twenty-five thousand dollars (\$25,000); each purchase or contract, subject to approval of the purchase order by the City Manager. Any amounts exceeding twenty-five thousand dollars (\$25,000) shall be subject to approval of the body of council.
(Ord. 78-03. Passed 9-2-03.)

Rule 2.29 **Travel Expenses**

Subject to budgetary constraints and appropriation of funds, travel policies and reimbursable expenses applicable to city employees pursuant to the city's policy manual and/or personnel code shall apply to commission members while on official city business.

Rule 2.30 **Official Roster**

The city manager shall cause to be prepared and maintained a current official roster showing the names, dates of appointment, titles, rate of pay, and other data as directed by the commission of all persons employed in the Classified Competitive Civil Service. (Ord. 039-10. Passed 6-7-10.)

195.03 RULE 3 POSITION CLASSIFICATION.

Rule 3.1 **Classification**

All positions in the city shall be classified unless otherwise excluded or exempted by charter or ordinance or resolution of council.

The director of each department or designee shall establish and may amend or have amended from time to time each such positions, designate the duties, responsibilities, qualifications, compensation and title thereof and promptly communicate the same, regarding any competitive classified position to the commission. Such title shall be designated in all communications to the commission pertaining to such position. The commission may establish educational requirements for examinations or appointments to positions under its jurisdiction.
(Ord. 112-01. Passed 10-1-01.)

195.04 RULE 4 EXAMINATIONS.

Rule 4.1 **Place Of Examination And Administration**

Commission examinations may be held at such places as the commission deems advisable and shall be administered under its direction. The commission may designate others to conduct examinations on their behalf, subject to its review and approval. Absent written legislation or motion properly approved by this Commission establishing a different procedure, the Commission shall use the National Testing Network to administer the examinations for original appointment for City of Napoleon, Ohio Police Officer and Firefighter/Paramedic positions.

Rule 4.2 **Notice Of Examination For Original Appointment**

Absent written legislation or motion properly approved by this Commission establishing a different procedure, notice of competitive examinations for original appointment shall be provided by the National Testing Network. Absent written legislation or motion properly approved by this Commission establishing a different procedure, notice shall be accomplished through the current procedure used by the National Testing Network, including several recruitment channels such as links to National Testing Network department websites, and online and local job advertising.

Rule 4.3 **Promotional Examination For Competitive Classified Positions**

Notice of competitive examinations for promotion shall be provided by the office of the finance director (or council clerk when one exists). The commission may authorize the clerk's providing of this notice to be completed by the city's human resource department when such department exists. Notice of competitive promotional examinations to be held shall be given by posting of bulletins in conspicuous places in the departments whose employees may be interested. Such notice shall be given not less than (30) days prior to the examination. Such notice shall contain the following information:

- 1) The title of the position for which the promotional examination is to be held.
- 2) The class or classes of employees who are eligible to make application for admission to the examination.
- 3) The salary range for the position.
- 4) The last day and hour on which applications will be received.
- 5) The minimum qualifications of education and experience required for all applicants, if any.
- 6) The place where application blanks may be secured and the place where they must be filed, and any other information that may be deemed necessary.

Rule 4.4 Human Resource Department Assistance

In addition to examination notice and publication assistance by the human resource department pursuant to Rule 4.3, the commission may authorize city's human resource department, when one exists, to accept applications, preliminarily evaluate the same for consideration by the Commission, and to distribute study guides.

Rule 4.5 Examination Scope: Subjects And Weight Thereof**Rule 4.5.1 Examination for Original Appointment**

Examinations for original appointment shall be practical in character and shall relate directly to those matters which will fairly test the relative capacity of the person examined to discharge the particular duties of the position for which appointment is sought. Absent written legislation or motion properly approved by this Commission establishing a different procedure, the Commission shall use the services of the National Testing Network for original appointment examinations for Police Officer and Firefighter/Paramedic.

Rule 4.5.2 Promotional Examination

Promotional examinations shall relate to those matters that test the relative capacity of the person examined to discharge the particular duties of the position for which promotion is sought.

Rule 4.5.3 Method of Examination

Examinations 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. Structured interviews conducted by the appointing authority after an eligible list is certified shall not be construed as part of the testing process by the commission, but merely a process of selection by the appointing authority.

Rule 4.6 Medical And/Or Psychological As A Requirement For Appointment To The Competitive Classified Service

When a medical or psychological examination is required for appointment to the competitive service, such requirement shall be published in the examination announcement. Disclosure of any reports prepared by the examining practitioner is subject to Chapter 1347 of the Ohio Revised Code. Medical examinations shall be required for all competitive examinations (conducted in the police and fire departments), including examinations required by the Police and Fire Disability and Pension Fund. Such medical examinations shall be post-offer, pre-employment, except any examinations necessary to determine whether an applicant is fit to participate in the examination process. Psychological examinations may be conducted at the request of the appointing authority.

Rule 4.7 Admitting Applicants To Examination

No applicant shall be admitted to any assembled examination more than thirty (30) minutes after the advertised time for beginning such examination, or after any applicant competing in any such examination has completed his or her work and left the examination room, except by special permission of the person in charge, who, at his or her discretion, may admit the applicant conditionally, subject to the final approval or disapproval of such admission by the commission.

Rule 4.8 **No Extension Of Time To Be Given**

No applicant in any examination shall be given a longer time on any subject than prescribed by the commission. The commission may establish separate time limits for reasonable individual accommodation of otherwise qualified applicants with disabilities.

Rule 4.9 **Examination Fraud Prohibited**

No person or office shall:

- 1) Willfully or corruptly by himself or herself or in cooperation with one (1) or more persons defect, deceive, or obstruct any person in respect of his or her right of examination, appointment, or employment arising under these Rules and Procedures; or
- 2) Willfully or corruptly, falsely mark, grade, estimate or report upon the examination or proper standing of any person examined, registered or certified pursuant to the provisions of these Rules and Procedures, or aid in so doing; or
- 3) Willfully or corruptly make any false representations concerning the results of such examinations or concerning any person examined; or
- 4) Willfully or corruptly furnish to any person any special or secret information for the purpose of either improving or injuring the prospects or chances of any person so examined, registered or certified, or to be appointed, employed or promoted; or
- 5) Willfully personate any other person, or permit or aid in any manner any other person to personate him or her, in connection with any examination, registration, or appointment, or application or request to be examined, registered or appointed; or
- 6) Furnish any false information about himself or herself, or any other person, in connection with any examination, registration, or appointment or application or request to be examined, registered or appointed; or
- 7) Make known or assist in making known to any applicant for examination, any question to be asked on such examination; or
- 8) Being an applicant, take an examination to assist any other applicant in any manner whatsoever; or
- 9) Personally solicit a favor from any member of the commission, appointing authority, or have any person in his or her behalf solicit a favor; or
- 10) Being an applicant in any examination, be found to be using any means of information, other than that provided in the examination itself, such as memoranda, pamphlets or books of any kind to assist him or her in answering the questions.

Any applicant found in violation of this rule, in addition to any other penalty found in rule or law, shall have his or her examination papers taken up and filed with a zero marking when the circumstances justify such action.

Rule 4.10 **Visitors At Examination**

No visitors shall be admitted to the examination room during any examination except by special permission of the examiner in charge. The examiner in charge may provide for assistance for applicants with disabilities who are otherwise qualified, provided, however, that such applicants notify the commission, in writing, no later than forty-eight (48) hours prior to the examination that such assistance will be required. Any such assistance shall be limited to reading the examination and/or marking the answers as directed by the applicants. Any outside assistants shall be approved and/or provided by the commission.

Rule 4.11 **Inspection Of Examination Papers**

Any competitor shall have the right at any time within the period of fifteen (15) days after receiving his or her notice of examination grade to review own papers and inform himself or herself as to the markings given him or her on each subject or question and to submit in writing for the commission's consideration, any objection or protest he or she may wish to make concerning the grades given him or her. No objection or protest concerning an examination, not submitted in writing, shall be considered unless it relates to the conduct of examiners, the securing of unlawful assistance by a competitor or such other circumstances in connection with an examination as would call for an investigation on the part of the commission, and which would require that the information submitted be given in confidence. An applicant who exercises the right to inspect his or her examination papers shall not be permitted to again take an examination for the same classification within a six (6) month period following the inspection, unless an alternate form of examination is given. Inspection shall not be permitted of standardized tests prepared by experts outside the city service, where such inspection would tend to reduce the validity of test results.

Rule 4.12 **Examinations Postponed**

Examinations, unless postponed, must be held upon dates fixed by the commission. Examinations may be postponed by order of the commission, which order shall designate the reason therefor. Reasonable efforts shall be made to inform applicant of cancellation or postponements. The type of notice is within the sole discretion of the commission.

Rule 4.13 **Educational Prerequisites - Educational Credit**

The Civil Service Commission may establish specific educational requirements as prerequisites for examination for positions under its jurisdiction, or for certification of persons for appointment to such positions. Educational credit, which may include education credit by way of certification, and/or by way of prior in service training within the department for which an eligible list is being created, shall not be a part of, but shall be a credit to be added to the person's base earned grade given in the regular examination in which the person receives a passing grade resulting from the competitive examination for original appointment to positions under the jurisdiction of the commission where the commission has elected to grant such credit. The commission may grant such credit in an amount and under conditions deemed appropriate by the commission when determining fitness and merit; provided, that such amount is established in advance of any affected examination; and provided, that no such credit shall be added to a person's examination grade unless the applicant achieves at least the minimum passing grade as established in Rule 4.17 on the examination without counting any additional credit; moreover, in order to be eligible to receive the credit, the applicant must submit proof of such education at the time of filing the application. Any additional credit given under this provision shall be in terms of a percent of the person's base earned grade given in the applicant's regular examination, unless otherwise method is authorized by the commission.

Rule 4.14 **Release Time For Examinations**

City employees shall be allowed necessary time off without loss of pay to compete in any civil service examination conducted by the commission for the classification in which the employee is serving as a provisional. The appointing authority may grant time off without loss of pay for up to two (2) additional examinations during any one (1) calendar year. If the employee wishes to take additional examinations, the appointing authority may require that the employee take vacation leave, compensatory time or leave without pay.

Rule 4.15 **Rating Of Applicants**

Exclusions and extra credits:

Rule 4.15.1 **Credit For Veteran's Service Credit In Examinations For Original Appointment.**

In the case of an original appointment, the commission may grant veteran's service credit, which shall also mean military service credit, to any applicant who has completed service in the uniformed services and who has (1) been honorably discharged from the uniformed services or (2) transferred to the reserve with evidence of satisfactory service; and, any member of the national guard or a reserve component of the armed forces of the United States who has completed more than one hundred eighty days (180) of active duty service pursuant to an executive order of the President of the United States or an act of the Congress of the United States. Credit for service in the armed forces of the United States shall not be a part of but shall be a credit to be added to the applicant's base earned grade resulting from the competitive examination for original appointment to positions under the commission's jurisdiction where the commission has elected to grant such credit. The commission may grant veteran's service credit in an amount

and under conditions deemed appropriate by the commission when determining fitness and merit; provided that such amount is established in advance of any affected examination; and provided that no such credit shall be added to an applicant's examination grade unless the applicant achieves at least the minimum passing grade as established in Rule 4.17 on the examination without counting any additional credit; moreover, in order to be eligible to receive the credit, the applicant must submit proof of honorable discharge or applicable military service (a certificate of service or honorable discharge or equivalent as determined by the commission) at the time of filing the application. Any additional credit given under this provision shall be in terms of a percent of the person's base earned grade given in the applicant's regular examination, unless another method is authorized by the commission.

Rule 4.15.2 Seniority Credit Prohibited

Except as otherwise provided in Rule 9.5.2(1) of these rules and procedures, in promotional examinations, no additional credit for seniority or efficiency in the civil service of the city, the state, or any other political subdivision of Ohio shall be added to the examination grade. This provision shall not be construed as limiting the commission's ability to use seniority as a tie breaker.

Rule 4.15.3 Political or Religious Questions Prohibited.

No questions in any examination shall relate to political or religious opinions or affiliations.

Rule 4.16 Examination Grading Methods

The total grade attainable in each examination, except for special credits as outlined above, shall be one hundred (100%) percent. In examinations composed of more than one (1) part the method of scoring shall be:

- 1) Each part of the examination shall be separately rated and the proficiency of each competitor determined on the basis of a scale of one hundred (100%) percent for maximum possible attainment.
- 2) Each part shall be assigned a weight which shall be based on the relative value of the part to that of the entire examination expressed in terms of tenth (1-10th) of the total.
- 3) The earned grade of each examinee in each part of the examination shall be multiplied by the weight assigned to the part and the sum of the total shall be the earned grade for the participant.
- 4) Notwithstanding the above, any physical agility portion of the examination for original appointment to the position of Police Officer shall be administered by the commission and shall be based on the Cooper Standards. In the event that an applicant fails the physical agility portion, no further consideration to the applicant for appointment shall be given. If the applicant has passed the physical certification process of the Ohio Peace Office Training Academy (OPOTA) within the previous year, but not more than one (1) year prior to the date of the original examination for Police Officer, the commission will accept that certification for the physical agility portion of the original examination for Police Officer.

The physical agility portion of the original examination for Firefighter/Paramedic will be administered by the National Testing Network using the standard of the Firefighter's Mile. The commission will accept the Firefighter Mile card for the physical agility portion of the original examination for Firefighter/Paramedic.

Upon completion of the grading process, each applicant shall be notified by regular U.S. mail, with proof of mailing required to his or her last address on file with the commission, as to his or her grade.

Rule 4.17 **Passing Grade**

The passing grade of any examination administered pursuant to these Rules and Procedures, exclusive of any additional credits that may offered, shall be a minimum of seventy (70%) percent.

Rule 4.18 **Changing Of Grades**

No grades given in any examination shall be changed after the posting of an eligible list, except after the consideration of reasons submitted in writing by the competitor objecting and report thereon by the commission's properly authorized examiners; provided that the commission may correct clerical errors of examiners or employees at any time before the cancellation of such lists.

Rule 4.19 **Repeating Examinations**

An applicant who has competed in a civil service examination may not repeat that examination or take an examination for the same classification within six (6) months from the date of original examination, unless an alternative form of examination is given, or unless other standards are specified in the examination announcement, provided that the commission may waive in writing this rule upon written request from an applicant stating substantial reasons for granting such waiver.

Rule 4.20 **Preservation Of Examination Papers**

Applications and final scores of all candidates for employment in the classified service shall be secured on file in the office of the finance director, or in the case when a specific council clerk exists, then such clerk, until such time as a new examination is given. (Ord. 017-18. Passed 4-16-18.)

195.05 RULE 5 APPLICATIONS.

Rule 5.1 **Residency Required**

Every applicant for examination at time of application must be a resident of the State of Ohio or signify in writing his or her intention to become and remain, upon appointment, a resident of the State of Ohio and his or her intention to meet all city residency requirements, unless such requirements are specifically waived in the examination announcement or otherwise waived in statute or rule.

Rule 5.2 **Citizenship Required**

Every applicant for examination in the police and fire division must be a U.S. Citizen at the time of application or must have legally declared their intention of becoming one.

Rule 5.3 **Age Requirement**

No application or examination will be accepted unless the applicant is within the age limits, if any, fixed by the commission in the examination announcement.

Rule 5.4 **Application Blanks Furnished**

Application blanks for examinations shall be furnished by the commission. On the application blank the applicant shall state his or her name, address, and other such information as may reasonably be required concerning his or her education, experience, health, physical and mental capacity. The commission may determine and provide for the submission of any other relevant information either on the application blank or supplemental sheet. No inquiry shall be made as to the religious or political affiliations, nor as to the racial or ethnic origin of the applicant.

Rule 5.5 **Character And Fitness Of Applicant**

Satisfactory information produced at any time to the commission, either before or after examination, that an applicant has committed acts which demonstrate character traits which would be detrimental to successful performance of the employment sought, or of his or her dismissal for good cause from any branch of public service, or of his or her conviction of a felony, or has a pattern of poor work habits and performance with previous employers, or has made a false statement of a material fact, or uses illegal drugs, or has attempted to commit deception or fraud on application or examination, shall be sufficient to exclude him or her from examination, or to remove his or her name from any eligible list, providing such person shall be notified as to the reason and shall be given an opportunity for a review by the commission. All documentation submitted by applicants or appointing authorities as to character and fitness shall be subject to investigation by the commission.

Rule 5.6 **Completion Of Application Blanks**

Application blanks must be filled out in ink or be typed and shall be completed and signed by the applicant, in his or her own handwriting, or other manner as approved in writing by the commission, notarized and filed with the commission within the time limit fixed by the commission for the particular examination.

Rule 5.7 **Applications**

Except for Rule 5.5 of these Rules, the completed application will be the sole criteria in determining an applicant's eligibility for any examination. Information showing that an applicant meets all of the minimum qualifications as stated on an examination announcement must appear on the application itself. No additional information will be accepted after the filing deadline.

E. Reinstated Employees

A reinstated employee shall be paid at a base pay within the approval range for the position to which he/she is reinstated. The appointing authority will establish the rate of pay.

F. Rates for Classes to be Established by Ordinance

The class plan rates of pay for each class of positions prescribed in the position classification plan for the City shall be changed by and rates of pay for new classes of positions shall be established by council in the form of ordinances, or amendments thereto which provide for such rates.

(h) Rest Periods

Hourly employees may schedule with department head up to two (2) fifteen (15) minute rest periods during each work day which is scheduled to last eight (8) hours or more. Each rest period shall be taken at the work site, and shall in no circumstances exceed fifteen (15) minutes in length from the time productive work ceases until it begins again. Rest periods shall not be scheduled or taken in the first one and one half (1-1/2) hours of the work day.

(i) Retirement Contribution Pick-Up

May be established by the City in separate legislation.

(j) Salaries and Wages

Executive and management officers and employees' salaries for the following executive and management officers and employees shall be established by ordinance or resolution:

- City Manager
- City Finance Director
- City Law Director

(k) Total Remuneration

The salary or hourly rate, plus reimbursement for expenses incurred by approved use of private automobile on City business, uniform allowance, official travel expense, and any special provisions outlined in this pay plan shall be the total remuneration for any employee. [Except as otherwise provided herein, no employee covered by this plan shall receive pay from the City in addition to that authorized under the schedules provided in the pay plan for services rendered by him/her, either in the discharge of his/her duties, or any additional duties which may be imposed upon him/her or which he/she may undertake or volunteer to perform.]

(l) **Shift Differential Pay - Non-Bargaining Hourly Employees in the Police Department**

Non-bargaining hourly employees in the Police Department working between the hours of 3:00 p.m. and 11:00 p.m. (2nd shift) shall receive shift premium pay at the rate of two and one quarter (2-1/4%) percent of their rate of pay for those hours worked. Those non-bargaining hourly employees in the Police Department working between the hours of 11:00 p.m. and 7:00 a.m. (3rd shift) shall receive shift premium pay at the rate of two percent (2%) of their rate of pay for those hours worked (whether that be regular time, overtime, or acting time pay for either shift). (Ord. 042-14. Passed 8-4-14.)

197.15 MAJOR PAID BENEFITS

(a) **Hospital and Medical Benefits**

(1) **Applicability**

This section (Major Paid Benefits) applies to all members or officers of the appointing authority and other full-time regular employees, both classified and unclassified; specifically exempt from this section are members of city council, the mayor, and, except as herein provided, the judge of the municipal court. Section 197.15(d) (Pensions) applies to members of council and the mayor. The judge of the municipal court shall receive City shared contributions towards benefits as contained in this Section 197.15 to the extent permitted by law. Unless specifically authorized for part-time, permanent part-time or temporary employees by this Code or other controlling law, such part-time, permanent part-time, or temporary employees are not eligible for major benefits, paid leave, or any other benefits described in this Code.

(2) **Scope of Health Benefits**

Subject to reasonable cost containment measures, the City provides group hospitalization, surgical, and extended medical benefits for each full-time regular employee in accordance with the benefit schedule provided in the City's plan as on file in the office of the City Finance Director marked "City of Napoleon Health Benefit Plan (#HBP-1)" and as may be amended from time to time by resolution of Council. The Health Benefit Plan shall include covered services, co-pays and premium contribution.

(3) **Preventative Care Wellness Program**

The City of Napoleon cares about the health and safety of employees. The goal of a Preventative Care Wellness program is to educate employees on how to use their benefits wisely and to promote participation in health and wellness programs. As determined by the Healthcare Cost Committee, employee premiums may be adjusted for employees that choose to participate or not. In addition, employee incentives may be provided to employees who choose to participate in the wellness program. Should funding be made available by the healthcare provider, all incentives must be pre-approved by said healthcare provider.

Examples of incentives may include Wellness Fairs, wellness magazine subscriptions, registration fees for walkathons (5k, etc.), athletic shoes, water bottles, fitness trackers, discounted diet programs, discounted gym memberships on-site chair massages, healthy eating cookbooks, etc. Wellness events and challenges may take place throughout the year to earn incentives. If an employee has an idea for a program or event they are encouraged to submit them to a member on the Healthcare Cost Committee or Human Resources. (Ord. 11-18. Passed 4-16-18.)

(b) **Life Insurance**

A death benefit, for non-bargaining employees, in the amount of thirty thousand dollars (\$30,000) shall be paid, under the terms of an insurance policy, to the designated beneficiary of a full-time regular employee of the City upon his/her death, providing such death occurs after the employee has completed thirty (30) days from the date of employment and the first of the month thereafter. Each employee shall furnish the City with a beneficiary designation. In the event the employee has failed to designate a beneficiary then the benefit shall be made to his/her estate, upon the application of the legal representative. The City will provide a certificate of insurance to each employee.

(c) **Leaves of Absence - Continuation of Premiums**

Upon the written request of an employee on leave of absence, the City will continue the employee's coverage under the group life and health insurance plans, and will pay its share of the premiums for such plans in accordance with the provisions of this section for a maximum of thirty (30) days, except as otherwise provided in Section 197.19(g) of this code and except as otherwise provided by law that supersedes this code. On the first day of the month following the commencement of the employee's leave of absence, the employee will then and thereafter be solely responsible for the payment of all subsequent such premiums.

(d) **Pension Funds**

Employees shall be provided coverage under the Public Employees Retirement - System or Police and Fireman's Disability and Pension Fund as appropriate.

(e) **Severance Pay**

Upon retirement, death, resignation, or termination, employees shall be paid for all, if any accumulated but unpaid vacation, holidays, regular pay and overtime pay, or compensatory time due and owed to them as of their last date of employment. In case of death, the above payments shall be made to the employee's estate or designated survivor(s).

(f) **Unemployment Compensation/Workers Compensation**

Employees shall be provided unemployment compensation coverage and workers compensation as required by law. (Ord. 042-14. Passed 8-4-14.)

197.16 PAID LEAVES OF ABSENCE

(a) **Applicability**

The provisions of this chapter shall apply only to employees who are full-time regular employees unless otherwise expressly applied to other than full-time regular employees. This chapter (Paid Leaves of Absence) shall also expressly apply to members or officers of the appointing authority and other full-time regular unclassified employees, excluding elected officials. Starting as of the first pay period for 2015, this would include Assistant Fire Chiefs. Nothing in this provision (a) shall be construed as prohibiting the limiting or restricting of applicability of a leave policy to "key employees" as may be provided in a specific policy.

(b) Applications for Time Off and Scheduling of Time Off

The following guidelines will be followed when applying for and authorizing time off. Vacation, holidays, personal holidays, and compensatory time are considered time off. Any and all combinations of the above may be used when applying for time off.

Number of Days Off	Minimum Notice
less than 5	7 days
5 plus	35 days

To reserve vacation time, employees must apply for their vacations by November 25th of the year prior to the year the vacations will be taken and priority for time off within the above categories will be determined by departmental seniority from an employee's most recent employment date. With regard to any vacation application received after November 25th, priority for time off within the above categories will be determined by departmental seniority from an employee's most recent employment date only when employees apply for vacation on the same calendar day. Advanced application for vacation may be made so long as the employee will have credited the requested hours at the time the employee's vacation is to commence; however, an employee may not, in advance, lock in vacation dates for multiple years.

Exceptions to minimum notice may be permitted subject to the approval of the appropriate supervisor.

Authorization of time off is subject to availability of personnel, and the recognized City objective of minimizing overtime paid.

(c) Bereavement Leave**(1) General**

A full-time regular employee may be granted a leave of absence with pay to attend the funeral of a member of his/her immediate family. Such leave of absence will be granted between the day of death until and including the day of the funeral, not to exceed three (3) calendar days and shall not be charged against the employee's accumulated sick leave. Immediate family, for the purposes of this Section, shall be defined as the employee's grandparents, brother, sister, father, father-in-law, mother, mother-in-law, spouse, child, stepchild, grandchild, or legal guardian.

A full-time regular employee shall be granted a one (1) day leave of absence with pay to attend the funeral of his/her spouse's brother, sister and grandparents, or the employee's son-in-law, daughter-in-law, aunt and uncle.

In the event of the death of any other relative of an employee, the employee shall, upon request, be excused for one (1) day to attend the funeral, with such leave day being deducted from the employee's accumulated vacation, compensatory time, personal holiday, or sick leave balance at the employee's discretion. Alternatively, the employee may elect to take an unpaid leave day.

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 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. 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.

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

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

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

- (6) In all cases in which an offender is sentenced under subsection (h) of this section, the offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, the court, in addition to any other penalties provided by law, may order restitution pursuant to Ohio R.C. 2929.18 or 2929.28 in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during or after committing the offense for which the offender is sentenced under subsection (h) of this section.
- (7) A court may order an offender to reimburse a law enforcement agency for any costs incurred by the agency with respect to a chemical test or tests administered to the offender if all of the following apply:
 - A. The offender is convicted of or pleads guilty to a violation of subsection (a) of this section.
 - B. The test or tests were of the offender's whole blood, blood serum or plasma, or urine.
 - C. The test or tests indicated that the offender had a prohibited concentration of a controlled substance or a metabolite of a controlled substance in the offender's whole blood, blood serum or plasma, or urine at the time of the offense.
- (8) 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.

(d) Notwithstanding any provision of law to the contrary, no law enforcement officer shall cause an operator of an automobile being operated on any street or highway to stop the automobile for the sole purpose of determining whether a violation of subsection (b) hereof has been or is being committed or for the sole purpose of issuing a ticket, citation or summons for a violation of that nature or causing the arrest of or commencing a prosecution of a person for a violation of that nature, and no law enforcement officer shall view the interior or visually inspect any automobile being operated on any street or highway for the sole purpose of determining whether a violation of that nature has been or is being committed.

(e) All fines collected for violations of subsection (b) hereof shall be forwarded to the Treasurer of State for deposit as provided in Ohio R.C. 4513.263.

- (f) (1) Subject to subsection (f)(2) of this section, the failure of a person to wear all of the available elements of a properly adjusted occupant restraining device in violation of subsection (b)(1) or (3) or the failure of a person to ensure that each minor who is a passenger of an automobile being operated by that person is wearing all of the available elements of a properly adjusted occupant restraining device, in violation of subsection (b)(2) of this section, shall not be considered or used by the trier of fact in a tort action as evidence of negligence or contributory negligence. But the trier of fact may determine based on evidence admitted consistent with the Ohio rules of evidence that the failure contributed to the harm alleged in the tort action and may diminish a recovery of compensatory damages that represents noneconomic loss, as defined in Ohio R.C. 2307.011 in a tort action that could have been recovered but for the plaintiff's failure to wear all of the available elements of a properly adjusted occupant restraining device. Evidence of that failure shall not be used as a basis for a criminal prosecution of the person other than a prosecution for a violation of this section; and shall not be admissible as evidence in a criminal action involving the person other than a prosecution for a violation of this section.
- (2) If, at the time of an accident involving a passenger car equipped with occupant restraining devices, any occupant of the passenger car who sustained injury or death was not wearing an available occupant restraining device, was not wearing all of the available elements of such a device, or was not wearing such a device as properly adjusted, then, consistent with the Rules of Evidence, the fact that the occupant was not wearing the available occupant restraining device, was not wearing all of the available elements of such a device, or was not wearing such a device as properly adjusted is admissible in evidence in relation to any claim for relief in a tort action to the extent that the claim for relief satisfies all of the following:
- A. It seeks to recover damages for injury or death to the occupant.
 - B. The defendant in question is the manufacturer, designer, distributor or seller of the passenger car.
 - C. The claim for relief against the defendant in question is that the injury or death sustained by the occupant was enhanced or aggravated by some design defect in the passenger car or that the passenger car was not crashworthy.
- (g) (1) Whoever violates subsection (b)(1) of this section shall be fined thirty dollars (\$30.00).
- (2) Whoever violates subsection (b)(3) of this section shall be fined twenty dollars (\$20.00).

- (3) Except as otherwise provided in this subsection, whoever violates subsection (b)(4) of this section is guilty of a minor misdemeanor. If the offender previously has been convicted of or pleaded guilty to a violation of subsection (b)(4) of this section, whoever violates subsection (b)(4) of this section is guilty of a misdemeanor of the third degree.
(ORC 4513.263)

337.28 USE OF SUNSCREENING, NONTRANSPARENT AND REFLECTORIZED MATERIALS.

(a) Requirements.

- (1) No person shall operate, on any highway or other public or private property open to the public for vehicular travel or parking, lease, or rent any motor vehicle that is required to be registered in this State with any suncreening material, or other product or material which has the effect of making the windshield or windows nontransparent or would alter the windows' color, increase its reflectivity, or reduce its light transmittance, unless the product or material satisfies one of the following exceptions:
- A. Any manufacturer's tinting or glazing of motor vehicle windows or windshields that is otherwise in compliance with or permitted by "Federal Motor Vehicle Safety Standard Number 205" (FMVSS 205) in effect at the time of the manufacture of the motor vehicle until such standard is subsequently repealed or reduced. In "Federal Motor Vehicle Safety Standard Number 205" (FMVSS 205) "manufacturer" means any person engaged in the manufacturing or assembling of motor vehicles or motor vehicle equipment, including any person importing motor vehicles or motor vehicle equipment for resale. "Federal Motor Vehicle Safety Standard Number 205" (FMVSS), Code of Federal Regulations, Title 49, Part 571, can be obtained online at web site <http://www.gpo.gov>.
 - B. Any suncreening material or other product or material applied to the windshield when used in conjunction with the safety glazing materials of such window, has a light transmittance of not less than seventy per cent plus or minus three per cent and is not red or yellow in color.
 - C. Any suncreening material or other product or material applied to the side windows to the immediate right or left the driver, so long as such material, when used in conjunction with the safety glazing materials of such windows, has a light transmittance of not less than fifty per cent plus or minus three per cent and is not red or yellow in color.
 - D. Any suncreening material or other product or material applied to a window not otherwise listed in subsections (a)(1)A. to C. or E. of this section, except that outside left and right rear view mirrors are required if the suncreening material is applied to the rear window and the suncreening material, when used in conjunction with the safety glazing material of such window, has a light transmittance of less than fifty per cent plus or minus three per cent.
 - E. Any suncreening material or other product or material applied along the top of the windshield and that does not extend downward beyond the AS-1 line or five inches from the top of the windshield, whichever is closer to the top, is not regulated by this section.

- (2) No person shall install in any motor vehicle any glass or other material that fails to conform to the specifications of this section.
 - (3) No used motor vehicle dealer or new motor vehicle dealer, as defined in Ohio R.C. 4517.01, shall sell any motor vehicle that fails to conform to the specifications of this section.
 - (4) No reflectorized materials shall be permitted upon or in any front windshield, side windows, sidewings or rear window.
 - (5) No person shall operate on any highway or other public or private property open to the public for vehicular travel or parking, lease, or rent any motor vehicle that is required to be registered in this State that is equipped with privacy drapes, louvers, curtains or blinds unless the drapes, louvers, curtains or blinds are open and secure during vehicle operation.
 - (6) All motor vehicles, beginning with the 1990 model year, must be equipped with labels identifying sunscreening material. All sunscreening material must indicate the manufacturer's name and the percentage level of light transmission of the material permanently installed between the material and the surface to which the material is applied or affixed. Such label must be legible and must be placed in the lower left-hand corner of the vehicle window when viewed from the outside. (OAC 4501-41-03)
- (b) Exemptions. The provisions of this section do not apply to:
- (1) A motor vehicle registered in this State in the name of a person, or the person's parent, legal guardian or spouse who has an affidavit signed by a physician licensed to practice in this State under Ohio R.C. Chapter 4731 or an affidavit signed by an optometrist licensed to practice in this State under Ohio R.C. Chapter 4725 that states that the person has a physical condition that makes it necessary to equip such motor vehicle with sunscreening material which would be of a light transmittance and/or luminous reflectance in violation of this section. Such affidavit shall be in the possession of the person so afflicted or the driver at all times while in the motor vehicle;
 - (2) The windows to the rear of the driver in chauffeured limousines as defined herein;
 - (3) The windows to the rear of the driver in those vehicles designed and used to transport corpses which include hearses and other vehicles adapted for such use; and
 - (4) The manufacturer's tinting or glazing of motor vehicle windows or windshields that is otherwise in compliance with or permitted by "Federal Motor Vehicle Safety Standard Number 205" (FMVSS 205) in effect at the time of the manufacture of the motor vehicle as provided in subsection (a) hereof. "Federal Motor Vehicle Safety Standard Number 205" (FMVSS 205), Code of Federal Regulations, Title 49, Part 571, can be obtained online at web site <http://www.gpo.gov>. (OAC 4501-41-05)
- (c) Definitions. As used in this section, certain terms are defined as follows:
- (1) "Motor vehicle" has the same meaning as specified in Section 301.20.
 - (2) "Sunscreening material" means products or materials, including film, glazing and perforated sunscreening, which, when applied to the windshield or windows of a motor vehicle, reduce the effects of the sun with respect to light reflectance or transmittance.

- (3) "Transmittance" means the ratio of the amount of total light, expressed in percentages, which is allowed to pass through the product or material, including glazing, to the amount of total light falling on the product or material and the glazing.
- (4) "Windshield" means the front exterior viewing device of a motor vehicle.
- (5) "Window" means any device designed for exterior viewing from a motor vehicle, except the windshield or any roof-mounted viewing device.
- (6) "Manufacturer" unless otherwise specified in this section, means any person who engages in the manufacturing or assembling of sunscreening products or materials or any person who fabricates, laminates or tempers a safety glazing material, incorporating, during the manufacturing process, the capacity to reflect or reduce the transmission of light.
- (7) "Chauffeured limousine" means a motor vehicle that is designed to carry nine or fewer passengers and is operated for hire on an hourly basis pursuant to a prearranged contract for the transportation of passengers on public roads and highways along a route under the control of the person hiring the vehicle and not over a defined and regular route. "Prearranged contract" means an arrangement, made in advance of boarding, to provide transportation from a specific location in a chauffeured limousine at a fixed rate per hour or trip. "Chauffeured limousine" does not include any vehicle that is used exclusively in the business of funeral directing.
(OAC 4501-41-02)

(d) Penalty. Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.241)

337.29 BUMPER HEIGHTS.

(a) Definitions.

- (1) "Passenger car" means any motor vehicle with motive power, designed for carrying ten persons or less, except a multipurpose passenger vehicle or motorcycle.
- (2) "Multipurpose passenger vehicle" means a motor vehicle with motive power, except a motorcycle, designed to carry ten persons or less, that is constructed either on a truck chassis or with special features for occasional off-road operation.
- (3) "Truck" means every motor vehicle, except trailers and semitrailers, designed and used to carry property and having a gross vehicle weight rating of 10,000 pounds or less.
- (4) "Manufacturer" has the same meaning as in Ohio R.C. 4501.01.
- (5) "Gross vehicle weight rating" means the manufacturer's gross vehicle weight rating established for the vehicle.
- (6) "Body floor height" means the vertical distance between top of the frame rail and the bottom of the passenger compartment (cab) floor. In the event that the vehicle is a truck body, floor height will be measured by the vertical distance between the passenger compartment (cab) floor and the floor of the truck bed.
- (7) "Bumper height" means the vertical distance between the ground and the highest point of the bottom of the bumper, measured when the vehicle is laden on a level surface with the vehicle tires inflated to the manufacturer's recommended pressure.
- (8) "Frame" means the main longitudinal structural members of the chassis of the vehicle or, for vehicles with unitized body construction, the lowest main longitudinal structural members of the body of the vehicle.

- (9) "Wheel track distance" means the distance on the ground between the center of the tire tread on one side of the vehicle, and the center of the tire tread on the opposite side. (OAC 4501-43-02)

(b) Prohibitions; Application.

- (1) No person shall operate upon a street or highway any passenger car, multipurpose passenger vehicle or truck registered in this State that does not conform to the requirements of this section.
- (2) No person shall modify any motor vehicle registered in this State in such a manner as to cause the vehicle body or chassis to come in contact with the ground, expose the fuel tank to damage from collision, or cause the wheels to come in contact with the body under normal operation, and no person shall disconnect any part of the original suspension system of the vehicle to defeat the safe operation of that system including the installation of inverted, altered or modified suspension system component parts which results in elevation of the height of the vehicle bumper or frame unit which is not in compliance with this section.
- (3) No person shall operate upon a street or highway any passenger car, multipurpose passenger vehicle or truck registered in this State without a bumper on the front and rear of the vehicle if such vehicle was equipped with bumpers as standard equipment by the manufacturer.
- (4) No person shall operate upon a street or highway any passenger car, multipurpose passenger vehicle or truck registered in this State if the difference in height between the body floor and the top of the frame exceeds four inches.
- (5) Nothing contained in this section shall be construed to prohibit either of the following:
 - A. The installation upon a passenger car, multipurpose passenger vehicle or truck registered in this State of heavy duty equipment, including shock absorbers and overload springs as long as such equipment does not cause the vehicle to be in violation of this section;
 - B. The operation on a street or highway of a passenger car, multipurpose passenger vehicle or truck registered in this State with normal wear to the suspension system if the normal wear does not adversely affect the control of the vehicle.
- (6) This section does not apply to any specially designed or modified passenger car, multipurpose passenger vehicle or truck when operated off a street or highway in races and similar events.
- (7) A specially designed or modified passenger car, multipurpose passenger vehicle or truck which does not conform to this section shall not be operated on a street or highway.
(OAC 4501-43-03)

(c) Specifications.

- (1) The horizontal bumper shall be at least 4.5 inches in vertical height, centered on the vehicle's centerline, and extend no less than the width of the respective wheel track distances. Bumpers shall be horizontal load bearing bumpers and attached to the vehicle frame to effectively transfer impact when engaged.

- (2) Maximum bumper heights shall be determined by the type of vehicle at time of manufacture. If other than a passenger vehicle, the maximum bumper height shall be determined by the gross vehicle weight rating (GVWR) at the time of manufacture. The height shall be measured in terms of the vertical distance between the ground and the bottom of the bumper. Maximum bumper heights are as follows:

	<u>Front (inches)</u>	<u>Rear (inches)</u>
Passenger Vehicles	22	22
All Other Vehicles:		
4,500 lbs. and under GVWR	24	26
4,501 lbs. to 7,500 lbs. GVWR	27	29
7,501 lbs. to 10,000 lbs. GVWR	28	31

- (3) If the body and/or truck bed height is altered the difference in height between the body floor and/or the truck bed floor to the top of the frame rail shall not exceed four inches.
- (4) For any vehicle with bumpers or attaching components which have been modified or altered from the original manufacturer's design in order to conform with the maximum bumper requirements of this section, the bumper height shall be measured from a level surface to the bottom of the vehicle frame rail at the most forward and rearward points of the frame rail. Frame rail height if bumper modified or altered:

	<u>Front (inches)</u>	<u>Rear (inches)</u>
Passenger Vehicles	22	22
All Other Vehicles:		
4,500 lbs. and under GVWR	24	26
4,501 lbs. to 7,500 lbs. GVWR	27	29
7,501 lbs. to 10,000 lbs. GVWR	28	31

- (5) The height restriction in this subsection (c) applies to the distance from the ground to the bottom of the frame rail under any one or more of the following conditions:
- A. A motor vehicle is not equipped with a front and rear bumper.
 - B. The bumper height relative to the frame rails has been altered.
 - C. A supplemental bumper has been installed or an addition to the original or replacement has been made.
- (OAC 4501-43-04)

- (d) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.99)

337.30 DIRECTIONAL SIGNALS REQUIRED.

- (a) (1) No person shall operate any motor vehicle manufactured or assembled on or after January 1, 1954, unless the vehicle is equipped with electrical or mechanical directional signals.
- (2) No person shall operate any motorcycle or motor-driven cycle manufactured or assembled on or after January 1, 1968, unless the vehicle is equipped with electrical or mechanical directional signals.

(b) "Directional signals" means an electrical or mechanical signal device capable of clearly indicating an intention to turn either to the right or to the left and which shall be visible from both the front and rear.

(c) All mechanical signal devices shall be self-illuminating devices when in use at the times mentioned in Section 337.02.

(d) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.261)

SCHEDULE II. PARKING TIME LIMITS.

(a) Parking limitations (restrictions) are as listed in the following Parking Space/Parking List Summaries as contained in this subparagraph (a):

Parking Space Summary				
Street	Between	Side	Restriction	Spaces
Clinton St., E.	Perry St./Monroe St.	S	30 Min. (2A-5A) 2 Hour (5A - 6P) Handicapped Parking Only	1
Clinton St., E.	Perry St./Monroe St.	S	30 Min. (2A - 5A) 2 Hour (5A - 6P)	2-17
Clinton St., E.	Monroe St./Perry St.	N	30 Min. (2A - 5A) 2 Hour (5A - 6P) Handicapped Parking Only	1
Clinton St., E.	Monroe St./Perry St.	N	30 Min. (2A - 5A) 2 Hour (5A - 6 P)	2
Clinton St., E.	Monroe St./Perry St.	N	30 Min. (2A - 5A) 2 Hour (5A - 6P) Handicapped Parking Only	3
Clinton St., E.	Monroe St./Perry St.	N	30 Min. (2A - 5A) 2 Hour (5A - 6 P)	4-18
Clinton St., W.	Scott St./Perry St.	N	No parking, during church service; and at times of special events approved by Chief of Police.	1 (166 Feet)
Clinton St., W.	Webster St./Scott St.	S	None	1-7
Clinton St., W.	Scott St./Perry St.	S	30 Min. (2A - 5A) 2 Hour (5A - 6P)	1-9
Main St. Parking Lot	Main St./Alley	W	30 Min. (2A - 5A) 10 Hour (5A - 2A)	1-8
Main St. Parking Lot	Main St./Alley	W. Center	30 Min. (2A - 5A) 10 Hour (5A - 2A)	1-11
Main St. Parking Lot	Main St./Alley	W		9-12

Street	Between	Side	Restriction	Spaces
Main St. Parking Lot	Main St./Alley	E. Center	30 Min. (2A - 5A) 10 Hour (5A - 2A)	1-10
Main St. Parking Lot	Main St./Alley	E	30 Min. (2A - 5A) 10 Hour (5A - 2A)	1-10
Main St. W.	Perry St./Scott St.	S	No parking all day	5-21
Main St. W.	Perry St./Scott St.	N	No parking all day	1-2
Main St. W.	Webster St./Scott St.	S	No Parking (7:30A - 8:30A) No Parking (2:30 P - 3:30P) on school days	17-27
Main St., W.	Scott St./Webster St.	N		1-8
Main St., W.	Scott St./Webster St.	S		1-2
Main St., W.	Webster St./Avon Pl.	N		1-15
Main St., W.	Webster St./Avon Pl.	S	4 Hour (7:30A - 3:30P) on school days	1-2
Main St., W.	Avon Pl./Webster St.	S		3-7
Main St., W.	Avon Pl./Webster St.	S	No Parking (7:30A - 8:30A) No Parking (2:30P - 3:30P) on school days	8-14
Main St., W.	Avon Pl./Webster St.	S	Handicapped Parking Only	15-16
Main St., W.	Webster St./Scott St.	S		28-29
Main St., W.	Perry St./Scott St.	S	30 Min. (2A - 5A) 2 Hour (5A - 6P)	1-4
Main St., W.	Perry St./Scott St.	N	Handicapped Parking only	1
Main St., W.	Perry St./Scott St.	N	None	2-3
Meekison St.	Perry St/Appian Ave.	Both	No parking at all times	
Monroe St. Parking Lot	Shelby St./Clinton St., E.	E	County Government use only	1-6
Monroe St. Parking Lot	Shelby St./Clinton St., E.	E	30 Min (2A - 5P)	7-18

Street	Between	Side	Restriction	Spaces
Monroe St. Parking Lot	Shelby St./Clinton St., E.	W	30 Min (2A - 5A)	1-16
Monroe St.	Alley/to sign	E	No Parking 8A - 3:30P on school days	1 (50 Feet)
Monroe St.	Sign/Clinton St.	E	No Parking 8A - 9A and 3P - 3:30P school days only	1 (110 Feet)
Monroe St.	Shelby St./Clinton St., E.	W		1-11
Monroe St.	Shelby St./Clinton St.	W	Handicapped Parking only	12
Monroe St.	Washington St., E./Riverview Ave.	W	No parking	0
Monroe St.	Clinton St./Washington St.	W	30 Min. (2A - 5A) Handicapped Parking only	1
Monroe St.	Clinton St./Washington St.	W	30 Min. (2A - 5A)	2-16
Monroe St.	Washington St./Alley	E	30 Min. (2A - 5A)	1-5
Monroe St.	Clinton St./Shelby St.	E	30 Min. (2A - 5A)	1-14
Oakwood Ave.	Railroad St./Perry St.	W		1-25
Oakwood Ave.	Perry St./Monroe St.	E		1-11
Perry St.	Riverview Ave./Front St.	W	5 Min. - (loading zone)	1 (40 Feet)
Perry St.	Riverview Ave./Washington St.	E	30 Min. (2A - 5A) 2 Hour (5A - 6P)	2-6, 9

Street	Between	Side	Restriction	Spaces
Perry St.	Riverview Ave./Washington St.	E	Handicapped Parking only	1, 7-8
Perry St.	Riverview Ave./Washington St.	E	Police use only	10
Perry St.	Shelby St./Railroad St.	E	30 Min. (2A - 5P) All day	9-11
Perry St.	Shelby St./Railroad St.	W	2 Hour	1-6
Perry St.	Clinton St./Washington St.	E	30 Min. (2A - 5A) 2 Hour (5A - 6P) Handicapped Parking only	1
Perry St.	Clinton St./Washington St.	E	30 Min. (2A - 5A) 2 Hour (5A - 6P)	2-11
Perry St.	Clinton St./Washington St.	W	2 Hour (5A - 6P) 30 Min. (2A - 5A) Handicapped Parking only	1, 7
Perry St.	Clinton St./Washington St.	W	30 Min. (2A - 5A) 2 Hour (5A - 6P)	2-6 8-11
Perry St.	Clinton St./Shelby St.	E	30 Min. (2A - 5A) 2 Hour (5A - 6P)	1-4
Perry St.	Clinton St./Shelby St.	E	30 Min. (2A - 5A) 2 Hour (5A - 6P) Handicapped Parking only	5
Perry St.	Shelby St./Railroad St.	E	30 Min. (2A - 5A) All Day	10-12
Perry St.	Shelby St./Clinton St.	W	30 Min. (2A - 5A) 2 Hour (5A - 6P)	1-5
Perry St.	Washington St./Main St.	W	30 Min. (2A - 5A) 2 Hour (5A - 6P)	1-4
Scott St.	Clinton St./Washington St.	W	2 Hour (5A - 6P) 30 Min. (2A - 5A)	1-6
Scott St.	Washington St./Main St.	W	30 Min. (2A - 5A) 2 Hour (5A - 6P)	1-10

Street	Between	Side	Restriction	Spaces
Scott St.	Main St./Washington St.	E	30 Min. (2A - 5A) 2 Hour (5A - 6P)	1-7
Scott St.	Washington St./Clinton St.	E	2 Hour (5A - 6P) 30 Min. (2A - 5A) Handicapped Parking only	1
Scott St.	Washington St./Clinton St.	E	30 Min. (2A - 5A) 2 Hour (5A - 6P)	2-5
Scott St.	Clinton St./Shelby St.	E	30 Min. (2A - 5A) 2 Hour (5A - 6P) Special Event parking within block only with Chief of Police approval	1 (80 Feet)
Shelby St. Parking Lot	Alley/Perry St.	N	30 Min. (2A - 5A) 10 Hour (5A - 2A)	1-13
Shelby St. Parking Lot	Alley/Perry St.	Center	30 Min. (2A - 5A) 10 Hour (5A - 2A)	1-13
Shelby St. Parking Lot	Alley/Perry St.	S	30 Min. (2A - 5A) 10 Hour (5A - 2A)	1-11
St. Paul Methodist Church Parking Lot	Washington St./Alley	E	30 Min. (2A - 5A)	1-14
St. Paul Methodist Church Parking Lot	Washington St./Alley	W	30 Min. (2A - 5A)	1-5
St. Paul Methodist Church Parking Lot	Washington St./Alley	W	30 Min. (2A - 5A) Handicap Parking Only	6-7
St. Paul Methodist Church Parking Lot	Washington St./Alley	W	30 Min. (2A - 5A)	8-13
Washington St., E.	Hobson St./Monroe St.	S	30 Min.	1-5
Washington St., E.	Hobson St./Monroe St.	S	5 Min. (loading zone only)	6

Street	Between	Side	Restriction	Spaces
Washington St., E.	Hobson St./Monroe St.	S		7-9
Washington St., E.	Hobson St./Monroe St.	N		1-11
Washington St., E.	Monroe St./Perry St.	S	30 Min. (2A - 5A) 2 Hour (5A - 6P)	1-4
Washington St., E.	Monroe St./Perry St.	S	Sheriff use only	11-13
Washington St., W.	Webster St./Avon Pl.	S		1-5
Washington St., W.	Webster St./Avon Pl.	S	Handicap Parking Only	6
Washington St., W.	Webster St./Avon Pl.	S		7
Washington St., E.	Monroe St./Perry St.	N	30 Min. (2A - 5A) 2 Hour (5A - 6P) Handicap Parking Only	1, 5
Washington St., E.	Monroe St./Perry St.	S	30 Min. (2A - 5A) 2 Hour (5A - 6P)	6-7 9-10
Washington St., E.	Monroe St./Perry St.	S	30 Min.	5, 8
Washington St., E.	Monroe St./Perry St.	S	30 Min. (2A - 5A) 2 Hour (5A - 6P)	14-18
Washington St., E.	Monroe St./Perry St.	N	30 Min. (2A - 5A) 2 Hour (5A - 6P)	2-4 6-15
Washington St., E.	Monroe St./Perry St.	N	30 Min.	16
Washington St., E.	Monroe St./Perry St.	N	30 Min. (2A - 5A) 2 Hour (5A - 6P)	17-19
Washington St., W.	Scott St./Perry St.	S	30 Min. (2A - 5A) 2 Hour (5A - 6P)	1-10
Washington St., W.	Scott St./Perry St.	S	30 Min. (2A - 5A) 2 Hour (5A - 6P) Handicapped Parking only	11-12
Washington St., W.	Scott St./Perry St.	S	30 Min. (2A - 5A) 2 Hour (5A - 6P)	13-22

Street	Between	Side	Restriction	Spaces
Washington St., W.	Scott St./Perry St.	N	30 Min. (2A - 5A) 2 Hour (5A - 6P)	1-6
Washington St., W.	Scott St./Perry St. needs restriction sign	N	30 Min. (2A - 5A) 2 Hour (5A - 6P) Handicapped Parking only	7
Washington St., W.	Scott St./Perry St.	S	30 Min. (2A - 5A) 2 Hour (5A - 6P)	8-21
Washington St., W.	Scott St./Webster St.	N	Handicapped Parking only 30 Min.	1
Washington St., W.	Scott St./Webster St.	N	30 Min.	2-4
Washington St., W.	Scott St./Webster St.	N		5-7
Washington St., W.	Scott St./Webster St.	S	Special event parking within block only with Chief of Police approval	1 (180 Feet)
Washington St., W.	Scott St./Webster St.	N	No Parking except during Church services and at times of special events approved by Chief of Police	8-10
Webster St.	Washington St./Clinton St.	E	Handicap Parking Only	1
Webster St.	Washington St./Clinton St.	E	4 Hour (7A - 5P) 30 Min. (2A - 5A)	2-5
Webster St.	Washington St./Clinton St.	E	Handicapped Parking only	6-7
Webster St.	Washington St./Clinton St.	E	4 Hour (7A - 5P) 30 Min. (2A - 5A)	8-9
Webster St.	Washington St./Main St.	W	4 Hour (7A - 5P) 30 Min. (2A - 5A)	1-8
Webster St.	Washington St./Main St.	W	Handicapped Parking only	9
Webster St.	Washington St./Main St.	W	18 Hour	10-18

Street	Between	Side	Restriction	Spaces
Webster St.	Main St./Washington St.	E	18 Hour	1-17
Webster St.	Washington St./Clinton St.	E	18 Hour	10-22
Webster St.	Clinton St./Washington St.	W	18 Hour	1-22
Briarheath Ave.	Clairmont Ave./Westmont Ave.	W		1-3
Briarheath Ave.	Westmont Ave./Westchester Ave.	W		1-3
Main St. Concrete Parking Lot	Main St./Alley	E (side)		1-5
Main St. Concrete Parking Lot	Main St./Alley	E (side center)		1-3
Main St. Concrete Parking Lot	Main St./Alley	W (side center)		1-3
Main St. Concrete Parking Lot	Main St./Alley	E (side west)		1-4
Main St. Concrete Parking Lot	Main St./Alley	W (side west)		1-4
Main St. Concrete Parking Lot	Main St./Alley	W (side west)	Motorcycle Only	5

(Ord. 009-18. Passed 4-16-18.)

(b) Additionally, Section 351.14 of the Traffic Code titled "All Night Parking" establishes thirty (30) minute restrictions between the hours of 2:00 a.m. and 5:00 a.m. unless posted (signed) otherwise.

(Ord. 032-11. Passed 6-20-11.)

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.

Chap. 747. Medical Marijuana.

CHAPTER 747
Medical Marijuana

747.01 Definitions.

747.99 Penalty.

747.02 Cultivation, processing, testing, packing, storage or retail dispensing of medical marijuana prohibited.

747.01 DEFINITIONS.

(a) "Marijuana" has the same meaning as marihuana as defined in section 3719.01 of the Ohio Revised Code.

(b) "Medical marijuana" means marijuana that is cultivated, processed, dispensed, tested, possessed, or used for a medical purpose.

(c) "Medical marijuana-related business or home occupation" means a business or home occupation use, involving in whole or in part, the cultivation, processing, distribution, and/or wholesale or retail sale of medical marijuana on the premises. This definition shall specifically include, but is not limited to, dispensaries of medical marijuana; facilities for the cultivation, packing, transportation, processing, storage, and/or sale of medical marijuana; and bakeries or kitchens producing edible forms of medical marijuana or products containing the same.
(Ord. 059-17. Passed 11-6-17.)

747.02 CULTIVATION, PROCESSING, TESTING, PACKING, STORAGE, OR RETAIL DISPENSING OF MEDICAL MARIJUANA PROHIBITED.

(a) The cultivation, processing, testing, packing, storage, or retail dispensing of medical marijuana within the City of Napoleon is hereby prohibited.

(b) No medical marijuana-related business or home occupation may be established, operated, or maintained within the City of Napoleon, nor shall any provision of the Planning and Zoning Code be construed to permit the use of any property for that purpose. This prohibition shall apply to all zoning districts within the City.
(Ord. 059-17. Passed 11-6-17.)

747.99 PENALTY.

Whoever violates Section 747.02 is guilty of a misdemeanor of the first degree. Each day of violation shall constitute a separate offense.
(Ord. 059-17. Passed 11-6-17.)

CHAPTER 931 Water and Sewer Service

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|---|---|
| <p>931.01 Adoption of rules; approval of rates, charges and fees.</p> <p>931.02 Rates, charges and fees.</p> <p>931.03 Errors.</p> <p>931.04 Supplementary rules.</p> <p>931.05 Power of law.</p> <p>931.06 Deposits.</p> <p>931.07 Water rates.</p> <p>931.08 Water tap and service line fees.</p> | <p>931.09 Sanitary sewer rates for inside and outside corporation limits.</p> <p>931.10 Sanitary sewer tap fees.</p> <p>931.11 North Pointe Service Area recoupment fees.</p> <p>931.12 Overflow abatement charge.</p> <p>931.13 Sewer lateral charge.</p> <p>931.99 Penalty.</p> |
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CROSS REFERENCES

Power to provide and regulate water system - see Ohio R.C. 715.08, 717.01, 743.01

Management and control of water system - see Ohio R.C. 743.02 et seq.

Management and control of sewage system - see Ohio R.C. 729.50

931.01 ADOPTION OF RULES; APPROVAL OF RATES, CHARGES AND FEES.

The City of Napoleon's Rules for Water and Sewer Service, attached to original Ordinance 82-97, and made a part of this chapter, are hereby adopted and enacted, in and for the City of Napoleon, Ohio.

(Ord. 82-97. Passed 10-20-97.)

931.02 RATES, CHARGES, AND FEES.

All rates, charges, and fees contained in this chapter as well as those contained in said Rules for Water and Sewer Service, including those contained in Appendix "A" of said Rules are approved, adopted, and enacted and may be amended from time to time by separate legislation.

(Ord. 82-97. Passed 10-20-97.)

931.03 ERRORS.

If a manifest error be discovered in the City's Rules for Water and Sewer Service consisting of misspelling of any word or words, the omission of any word or words necessary to express the intention of the provisions affected, the use of a word or words to which no meaning can be attached or the use of a word or words when another word or words were clearly intended to express the intent, the spelling shall be corrected, and the word or words supplied, omitted or substituted as will conform with the manifest intention, and the provision shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of the error.

(Ord. 82-97. Passed 10-20-97.)

931.04 SUPPLEMENTARY RULES.

The City Manager is hereby empowered to make supplementary Rules as may be necessary to properly administer said Rules for Water and Sewer Service; however, no change shall be made in Rule 26 or 27, or Sub Rules ("provisions") thereof, unless duly authorized by Napoleon's City Council in accordance with law. Nothing in this section shall be construed as requiring Council approval for Rule changes related to specifications, methods, or techniques.
(Ord. 82-97. Passed 10-20-97.)

931.05 POWER OF LAW.

All rules, including specifically Rule 26 (Violations and Prohibitions) and Sub Rules thereof, expressly carry the same power of law as if adopted by separate ordinance.
(Ord. 82-97. Passed 10-20-97.)

931.06 DEPOSITS.

Within ninety days of the effective date of this chapter, the Finance Director shall return all deposits received prior to the effective date of this chapter related to residential utilities, held in excess of twelve continuous months, without interest, for those accounts that demonstrate to the Finance Director, by evidence of a good payment history, that collection of said account is of low risk. Moreover, the Finance Director shall continue existing deposit procedures until January 1, 1998 at which time procedures shall be in accordance with Rule 17 of the adopted Napoleon City Rules for Water and Sewer Service.
(Ord. 82-97. Passed 10-20-97.)

931.07 WATER RATES.

The water rates charged by the City shall be as follows except as may otherwise be permitted by rule:

- (a) A City approved water meter shall be utilized for determining use of water.
- (b) The following rates are established and shall be charged to all classes of water users, until otherwise changed.
 - (1) Effective with the first billing cycle in the year 2016, to be reflected in the first billing in February of the year 2016, except for direct sales as established in subsection (b)(5)C hereof, the net rate per month per service shall be the sum of the commodity charge plus the capacity charge set forth in subsection (b)(6) hereof. The commodity charge shall be computed as follows:
 - A. Units of water used inside the corporation:
 - Units: 1 up to 10 = \$5.20 each unit, then
 - Units: 11 up to 250 = \$4.95 each unit, then
 - Units: Over 250 = \$3.75 each unit.

Note: One Unit of Water is defined as 100 cubic feet.
 - B. Units of water used outside the corporation: *
 - Units: 1 up to 10 = \$7.80 each unit, then
 - Units: 11 up to 250 = \$7.43 each unit, then
 - Units: Over 250 = \$5.63 each unit.

Note: One Unit of Water is defined as 100 cubic feet.
 - C. Direct sales at the plant: \$8.18 per 1,000 gallons.
 - (2) In addition, there shall be a capacity charge (base charge) per service as follows:

Capacity of Service (Meter size in inches)	Capacity Charge (Inside Corporation)	Capacity Charge (Outside Corporation)*
A. 1.00 and less	\$11.07	\$16.60
B. 1.25	39.72	59.58
C. 1.50	62.93	94.41
D. 2.00	128.01	192.02
E. 3.00 and up	353.14	529.68
F. 4.00	600.00	900.00
G. 6.00	1,000.00	1,500.00
H. 8.00	1,500.00	2,250.00
I. 10.00 AND UP	2,000.00	3,000.00

- (3) Effective with the first billing cycle in the year 2017, to be reflected in the first billing in February of the year 2017, except for direct sales as established in subsection (b)(7)C hereof, the net rate per month per service shall be the sum of the commodity charge plus the capacity charge set forth in subsection (b)(8) hereof. The commodity charge shall be computed as follows:

- A. Units of water used inside the corporation:
 Units: 1 up to 10 = \$5.86 each unit, then
 Units: 11 up to 250 = \$5.58 each unit, then
 Units: Over 250 = \$4.22 each unit.
 Note: One Unit of Water is defined as 100 cubic feet.
- B. Units of water used outside the corporation: *
 Units: 1 up to 10 = \$8.79 each unit, then
 Units: 11 up to 250 = \$8.37 each unit, then
 Units: Over 250 = \$6.33 each unit.
 Note: One Unit of Water is defined as 100 cubic feet.
- C. Direct sales at the plant: \$8.43 per 1,000 gallons.

- (4) In addition, there shall be a capacity charge (base charge) per service as follows:

Capacity of Service (Meter size in inches)	Capacity Charge (Inside corporation)	Capacity Charge (Outside corporation)*
A. 1.00 and less	\$11.07	\$16.60
B. 1.25	39.72	59.58
C. 1.50	62.93	94.41
D. 2.00	128.01	192.02
E. 3.00 and up	353.14	529.68
F. 4.00	600.00	900.00
G. 6.00	1,000.00	1,500.00
H. 8.00	1,500.00	2,250.00
I. 10.00 and up	2,000.00	3,000.00

- (5) Effective with the first billing cycle in the year 2018 to be reflected in the first billing in February of the year 2018, except for the direct sales as established in Subsection (b)(5)C hereof, the net rate per month per service shall be the sum of the commodity charge plus the capacity charge set forth in Subsection (b)(6) hereof. The commodity charge shall be computed as follows:

A. Units of water used inside the Corporation:
 Units: 1 up to 10 = \$6.58 each unit, then
 Units: 11 up to 250 = \$6.27 each unit, then
 Units: over 250 = \$4.75 each unit.
 Note: one unit of water is defined as 100 cubic feet.

B. Units of water used outside the Corporation: *
 Units: 1 up to 10 = \$9.87 each unit, then
 Units: 11 up to 250 = \$9.41 each unit, then
 Units: over 250 = \$7.13 each unit.
 Note: one unit of water is defined as 100 cubic feet.

C. Direct sales at the plant: \$8.43 per 1,000 gallons.

- (6) In addition, there shall be a capacity charge (base charge) per service as follows:

Capacity of Service (Meter size in inches)	Capacity Charge (Inside Corporation)	Capacity Charge (Outside Corporation)*
A. 1.00 and less	\$11.07	\$16.60
B. 1.25	39.72	59.58
C. 1.50	62.93	94.41
D. 2.00	128.01	192.02
E. 3.00 and up	353.14	529.68
F. 4.00	600.00	900.00
G. 6.00	1,000.00	1,500.00
H. 8.00	1,500.00	2,250.00
I. 10.00 and up	2,000.00	3,000.00

- (7) Effective with the first billing cycle in the year 2019 to be reflected in the first billing in February of the year 2019, except for the direct sales as established in Subsection (b)(5)C hereof, the net rate per month per service shall be the sum of the commodity charge plus the capacity charge set forth in Subsection (b)(6) hereof. The commodity charge shall be computed as follows:

- A. Units of water used inside the Corporation:
 Units: 1 up to 10 = \$7.38 each unit, then
 Units: 11 up to 250 = \$7.02 each unit, then
 Units: over 250 = \$5.32 each unit.
 Note: one unit of water is defined as 100 cubic feet.
- B. Units of water used outside the Corporation: *
 Units: 1 up to 10 = \$11.07 each unit, then
 Units: 11 up to 250 = \$10.53 each unit, then
 Units: over 250 = \$7.98 each unit.
 Note: one unit of water is defined as 100 cubic feet.
- C. Direct sales at the plant: \$8.43 per 1,000 gallons.

- (8) In addition, there shall be a capacity charge (base charge) per service as follows:

Capacity of Service (Meter size in inches)	Capacity Charge (Inside Corporation)	Capacity Charge (Outside Corporation)*
A. 1.00 and less	\$11.07	\$16.60
B. 1.25	39.72	59.58
C. 1.50	62.93	94.41
D. 2.00	128.01	192.02
E. 3.00 and up	353.14	529.68
F. 4.00	600.00	900.00
G. 6.00	1,000.00	1,500.00
H. 8.00	1,500.00	2,250.00
I. 10.00 and up	2,000.00	3,000.00

- (c) The capacity of service shall be determined by the City and, normally, shall be equal to the size of the consumer's water meter.

*Except for bulk sales direct from the Water Plant, both capacity and commodity water charges outside the City are charged at approximately fifty percent (50%) higher than in the City, unless otherwise modified by rule or terms of a contract. Nothing in this section shall be construed to prohibit the City from increasing or decreasing the percentage stated in a contract where not otherwise prohibited by law.

- (d) No deduction in capacity charge (from the beginning of time) is applicable as it relates to governmental buildings, schools, and charitable institutions.

- (e) Water testing fees shall be as follows:

- | | | |
|------------------------------------|----------|---------------|
| (1) Testing bacteria | mmo/mugg | /Smp \$20.00 |
| (2) Calibrate chlorine meters | | /Mtr \$30.00 |
| (3) Testing for special samples | | /Smp \$40.00 |
| (4) Weekend testing for any sample | | /Smp \$100.00 |
- (Ord. 088-17. Passed 12-18-17.)

931.08 WATER TAP AND SERVICE LINE FEES.

The water tap rates and service line fees charged by the City shall be as follows, except as may be permitted by rule:

- (a) Water tap and service line fees shall be as follows:

<u>DIA</u> <u>Size Tap</u>	<u>Meter Size</u>	<u>Tap and Service Line Charge</u>	
		<u>Inside City</u>	<u>Outside City</u>
1.00"	5/8"	\$ 1,200.00	\$ 1,680.00
1.00"	3/4"	1,300.00	1,820.00
1.00"	1"	1,400.00	1,960.00

(b) Commercial Service (CS).

- (1) Availability for commercial service. Applicable and available to multiple dwelling units containing two (2) or more living quarters or dwelling units such as manufactured housing (mobile homes) or apartment complexes when master metered; also applicable and available to commercial, business, professional, industrial, agricultural, and other similar pursuits requiring electrical service.
- (2) Commercial rate schedule.

Customer Charge (Single Phase): \$12.00

Customer Charge (Three Phase): \$18.00

Distribution Charge

All kWh: \$0.0235

Power Supply Charge

All KWH: \$0.0885

- (3) Riders. Customers under this schedule shall be subject to the applicable Power Supply Cost Adjustment, and Transition Cost Riders.

(c) Commercial Service-Demand (CSD).

- (1) Availability for commercial service-demand. Applicable and available to multiple dwelling units containing two (2) or more living quarters or dwelling units such as manufactured housing (mobile homes) or apartment complexes when master metered; also available and applicable to commercial, business, professional, industrial, agricultural and other similar pursuits requiring electrical service.
- (2) Rates.

Customer Charge (Single Phase): \$12.00

Customer Charge (Three Phase): \$18.00

Distribution Charges

All kW: \$4.57

All kWh: \$0.0054

Power Supply Charge

All kWh: \$0.0885

- (3) Riders. Customers under this schedule shall be subject to the applicable Power Supply Cost Adjustment, and Transition Cost Riders.

- (4) Adjustment for primary metering. Where the transformer installation (regardless of ownership) is utilized solely to furnish service to a single customer, the utility may meter the service on the primary side of the transformers, and in such case, the measured values of the meter shall be reduced by five percent (5%), unless otherwise certified by testing at a lesser or greater percentage.
 - (5) Substation credit. When the customer furnishes and maintains the complete substation equipment including any other apparatus necessary for the customer to take service at the voltage of the primary transmission or distribution line from which said customer is to receive service, the monthly bill shall be credited by an amount equal to \$0.15 multiplied by the billing demand.
 - (6) Billing demand. Billing demand shall be the measured demand during the month.
- (d) Large Power Service (LPS).
- (1) Availability for large power service. Applicable and available for service to customers with contracted measured demands of 50 kW or greater and less than 1,500 kW having an average monthly usage of 300 or more kWh (less amount of kWh may qualify at request of customer and approval of City) per 1 kW of demand over a twelve month calendar year and used for nonresidential purposes.
 - (2) Rates.

Customer Charge:	\$100.00
Distribution Charges	
All kVa:	\$6.23
All kWh:	\$0.0028
Power Supply Charges	
All kVa:	\$11.60
All kWh:	\$0.0476
 - (3) Riders. Customers under this schedule shall be subject to the applicable Power supply Cost Adjustment, and Transition Cost Riders.
 - (4) Adjustment for primary metering. Where the transformer installation (regardless of ownership) is utilized solely to furnish service to a single customer, the Utility may meter the service on the primary side of the transformers, and in such case, the measured values of the meter shall be reduced by five percent (5%), unless otherwise certified by testing at a lesser or greater percentage.

- (i) Daily greens fees shall be as follows:
- (1) Generally.
Weekdays:
 9 holes \$10.00
 18 holes \$14.00
Saturday, Sunday and nationally recognized holidays:
 9 holes \$12.00
 18 holes \$16.00
 - (2) Junior Greens Fees.
Weekdays:
 9 holes \$5.00
 18 holes \$10.00
Weekends and Nationally Recognized Holidays:
 9 holes \$7.00
 18 holes \$14.00
Prepaid Discount Card For Greens fees
 9 holes, for ten rounds \$80.00
- (j) Fee for motorized cart use shall be as follows:
- (1) Motorized cart fee: The privilege of using a non-City motorized cart on the course is restricted to persons holding a valid annual golf privilege card. The cart shall be used only by the holder of such card or his or her immediate family, and guests accompanied by the holder or a member of the holder's immediate family. The annual privilege fee is \$260.00 if gas powered, with an additional \$20.00 being charged if the motorized cart is electrically powered.
 - (2) Motorized cart rental 9 holes
 \$7.00 per person with a maximum of two carts per group.
 - (3) Motorized cart rental 18 holes
 \$10.00 per person with a maximum of two carts per group.
 - (4) Prepaid discount motorized cart rental for 10 rounds of 9 holes
 \$55.00 per person
- (k) Pull cart fee shall be as follows:
- (1) Pull fee: No charge for using one's own cart.
 - (2) Pull cart rental: \$1.50 (up to 18 holes)
- (l) Golf clubs rental: \$2.00 (up to 18 holes)
- (m) Greens privilege fee and cart use fee shall be for the golfing season from April 1 through October 31, both dates inclusive, subject to the extension of the season by Director of the Parks and Recreation Department. The City has the right to close the course at any time for special events, unplayable conditions, or for other cause deemed appropriate by the Parks and Recreation Department.
- (n) The daily greens fee and daily cart rental fees during "off peak times" of the annual golf season for promotional reasons shall be reduced in an amount of thirty percent (30%) of the herein established rates. What constitutes and is declared "off peak times" is in the sole discretion of the Parks and Recreation Director.
- (o) Discounts shall apply to senior citizens as follows: \$3.00 off regular greens fees and \$2.00 off per person motorized cart rentals, both during the times of 8:00 a.m. through 1:00 p.m. on days of weekdays only, excluding nationally recognized holidays.
- (p) Nothing in this section shall be construed as to limit City Council's authority to adjust daily, weekly, monthly, or annual rates.
 (Ord. 004-15. Passed 1-19-15.)

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

Number of Employees	Annual Fee
25 and under	\$1,000.00
26 - 49	\$2,000.00
50 - 99	\$3,000.00
100 - 199	\$4,500.00
200 and above	\$6,500.00

(Ord. 003-18. Passed 3-5-18.)

955.10 SHELTER HOUSE/COMMUNITY CENTER RATES.

- (a) Shelter house rentals shall be as follows:

Rental Times	Ritter (Weekday)	Ritter (Weekend)	Wayne (Weekday)	Wayne (Weekend)
9:00 a.m.12:00 p.m.	\$35.00	\$40.00	\$30.00	\$35.00
1:00 p.m.-5:00 p.m.	35.00	40.00	30.00	35.00
9:00 a.m.-5:00 p.m.	40.00	45.00	35.00	40.00
6:00 p.m. - 11:00 p.m.	40.00	45.00	35.00	40.00
1:00 p.m. -11:00 p.m.	45.00	50.00	40.00	45.00
9:00 a.m.-11:00 p.m.	50.00	55.00	45.00	50.00

Weekend rates will also apply on all City observed holidays; no proration of fees permitted.

Due at time of making reservation is a non-refundable \$5.00 application fee and a \$50.00 security deposit. The security deposit is refundable upon the facility being cleaned, not damaged and the timely return of all keys, except that in the event that a cancellation occurs less than 7 days prior to the reserved date; then the rental amount shall be forfeited to the City and deducted from the security deposit, not to exceed \$50.00. Any monies to be returned to the tenant will be paid within 30 days after the rental date.

(b) Rental of the Community Center at Oberhaus Park shall be as follows:

Rental Times	Weekday	Weekend
9:00 a.m. - 12:00 p.m.	\$50.00	\$60.00
1:00 p.m. - 5:00 p.m.	60.00	70.00
9:00 a.m. - 5:00 p.m.	80.00	90.00
6:00 p.m. - 11:00 p.m.	80.00	90.00
1:00 p.m. - 11:00 p.m.	90.00	100.00
9:00 a.m. - 11:00 p.m.	110.00	120.00

Weekend rates will also apply on all City observed holidays; no proration permitted.

Due at time of making reservation is a non-refundable \$5.00 application fee and a \$50.00 security deposit. Full amount of rental is due when picking up the key. The security deposit is refundable upon the facility being cleaned, not damaged and the timely return of all keys, except that in the event that a cancellation occurs less than 7 days prior to the reserved date, then the rental amount shall be forfeited to the City and deducted from the security deposit, not to exceed \$50.00. Any monies to be returned to the tenant will be paid within 30 days after the rental date.

(c) Notwithstanding any other provision of these Codified Ordinances, the use of the Community Center at Oberhaus Park by the Napoleon based Rotary Club and Lions Club shall be pursuant to the terms and conditions established by separate agreement between the clubs and the City. Priority in reservation may be given to the clubs by the Parks and Recreation Director absent any provision in the agreement.

(d) Except as provided herein, reservations shall only be made in the calendar year the facility is intended to be reserved. During the month of December in the preceding year, residents, as defined in this chapter, shall be permitted to reserve dates for the following year.

(e) Terms and conditions of any rental agreement shall be established by the City Manager and approved as to form and correctness by the Law Director.
(Ord. 002-13. Passed 2-4-13.)

955.11 PERSONS PERMITTED ON COURSE.

The municipal golf course is open to the public; however, the course shall only be entered for authorized recreational purposes. During the golf season when the course is open for play, no person is permitted on the municipal golf course unless registered and playing on a valid annual golf privilege card or upon the payment of the established greens fee. Caddies while working or authorized municipal employees while in the performance of their duties are exempt from this

provision. Playing of golf shall be only during the golf season unless otherwise permitted; further, if permitted at times when the club house is closed, registration is not required.
(Ord. 30-97. Passed 5-5-97.)

955.12 PERSONS EXEMPT FROM GREENS FEES.

(EDITOR'S NOTE: Former Section 955.12 was repealed by Ordinance 18-2003, passed March 3, 2002.)

955.13 PLAY UPON COURSE SUBJECT TO APPROVAL OF GREENSKEEPER.

Any play upon the course shall be subject to the approval of the greenskeeper who will determine playing conditions from the standpoint of damage to the greens and course.
(1978 Code 96.19)

955.14 RULES AND REGULATIONS.

The following rules and regulations shall be in effect:

- (a) "a.m." is to be considered until 9:30 a.m.
- (b) Military personnel on active duty, while on authorized leave, shall play without charge, upon presentation of a proper military identification card.
- (c) Annual golf privilege cards. Annual golf privilege cards are valid from March 15 to October 31 of each year. Payment of annual golf privilege fees exempt holders from daily greens fees throughout the golf season as well as providing holders with specific golf privileges related to some special golf dates and times as may be established. (Ord. 30-97. Passed 5-5-97.)

PARKS

955.15 CLOSING HOURS.

(a) Except as herein provided, the municipal parks shall be closed between the hours of 11:00 p.m. and sunrise.

(b) No person, without privilege to do so, shall knowingly enter or remain upon any municipal park at any time a municipal park is closed.

(c) It is an affirmative defense to a charge under division (b) of this section if the person involved is engaged in an activity properly authorized by the City Manager or other City official designated by the City Manager to authorize such activity.

(d) Notwithstanding any other provision of this Code, when declared by the City Manager to be in the interest of public peace, health, or safety, the City Manager may vary the hours established in this Section 955.15 by journalizing the same with the Parks and Recreation Department and having the varied hours posted at the park.
(Ord. 040-08. Passed 5-19-08.)

MUNICIPAL SWIMMING POOL

955.16 SWIMMING POOL ADMISSION.

(a) The annual swim admission card for the Municipal Swimming Pool shall be as follows:

- (1) Family annual swim admission card fee:
 - Resident: \$100.00
 - Nonresident: \$125.00

- (2) Adult individual annual swim admission card fee:
 - Resident: \$70.00
 - Non-resident: \$80.00
 - (3) Child individual annual swim admission card:
 - Resident: \$60.00
 - Non-resident: \$70.00
 - (4) Senior citizen annual swim admission card fee:
 - Resident: \$50.00
 - Non-resident: \$60.00
- (b) The daily swim admission fee for the Municipal Swimming Pool shall be as follows:
- (1) Daily admission fee for children:
\$2.50 each.
 - (2) Daily admission fee for adults:
\$3.00 each.
- (c) The Director of Parks, Recreation and Cemeteries is authorized to establish up to six special pool events per season on which a reduced daily recreation admission fee could be offered on a per person or per family basis.
- (d) Annual swim admission cards are seasonal and are valid in the summer season of each year during hours as determined by the Parks and Recreation Department.
- (e) Pool facility exclusive use rental under terms and conditions and times as authorized by the Parks and Recreation Director (subject to specific approval and terms as set by the Parks and Recreation Director; additionally, Parks and Recreation Director reserves the right to deny rental for any reason):
- (1) Saturday or Sunday evening from 6-9 p.m. \$150.00
 - (2) All day Friday, Saturday, and Sunday: \$500.00
- (f) Nothing in this section shall be construed as to limit City Council's authority to adjust daily, weekly, monthly or annual rates. (Ord. 002-13. Passed 2-4-13.)

955.17 DAILY RATES.

(EDITOR'S NOTE: See Section 955.16.)

955.18 OPENING AND CLOSING OF MUNICIPAL SWIMMING POOL.

(a) Except as provided in divisions (c) and (d) of this section or except in case of an accident, emergency or disaster, the Municipal Swimming Pool, hereinafter called the Swimming Pool, in the City shall be kept open at all times during regular hours in the summer season, normally being Memorial Day weekend through Labor Day, if the air temperature at the Swimming Pool is 73°F or higher, and the Swimming Pool Manager is directed to so keep the Swimming Pool open.

(b) In the event the air temperature at the Swimming Pool at any time during regular hours in the summer season is less than 73°F, the Swimming Pool Manager is authorized to close the Swimming Pool for the duration of that day.

(c) In the event the weather conditions at the Swimming Pool become dangerous or threatening at any time during regular hours in the summer season, the Swimming Pool Manager is authorized to close the Swimming Pool for the duration of that day as he/she determines prudent in the exercise of his/her best judgment.

(d) The City has the right to close the Swimming Pool at anytime during the season for special events or other cause deemed appropriate by the Parks and Recreation Department. (Ord. 30-97. Passed 5-5-97.)

955.19 RECREATION PROGRAM PARTICIPATION FEES.

(a) Rates (per participant):

Activity	(Rates)	
	Resident	Nonresident
Tee Ball	\$20	\$30
Youth Little League	\$20	\$30
Junior Little League	\$20	\$30
Henry Co. Bank Lge. Softball	\$20	\$30
Rookie League Softball	\$20	\$30
Minor League Softball	\$20	\$30

Major League Softball	\$20	\$30
Little Cats Basketball	\$20	\$30
Wild Kittens Basketball	\$20	\$30
Kiddy Cats Basketball	\$20	\$30
Flag Football	\$20	\$30

Activity	(Rates)	
	Resident	Nonresident
Intramural Basketball	\$20	\$30
Tennis Lessons/League	\$20	\$30
Soccer	\$20	\$30
Safety City	\$10	\$15
Outdoor Education Program (per activity)	\$5	\$5

(Ord. 021-15. Passed 4-6-15.)

(b) Reduced Recreation Program User Fee Policy: The City of Napoleon Parks and Recreation Department, as part of its continued goal of offering recreation programming to all of its residents, has made available the following reduced Recreation Program policy for those families that need financial assistance:

Eligibility: Reduced fees or “grants” are allowable for City operated youth recreation programs only.

- (1) Grants shall be considered based on an individual(s) participation in the Napoleon Area Schools District Free and Reduced Lunch Program.
 - A. Verification of enrollment in the program will be through the assistance of Napoleon Area Schools.
 - B. Authorization must be given by applicant for the Napoleon Area Schools to release free/reduced lunch program information to the City of Napoleon. Consideration for grants will not be given if authorization is not received.
 - C. Application for grants shall be submitted at the City of Napoleon offices at the time of program registration.
 - D. All requests for grants must be submitted on the appropriate application form.
 - E. Each application shall be considered individually. Completion of the application does not automatically ensure approval of fee reduction.
 - F. Applicants shall be notified of their status prior to the start of the program.
- (2) If application is approved, families (parents or guardians) who have been approved for the grant shall be required to pay 25% of the current Recreation Program rate if they are enrolled in the Free Lunch Program. Families shall be required to pay 50% of the current Recreation Program rate if they are enrolled in the Reduced Lunch Program. The appropriate fee must be paid to the City prior to the start of the program.
 - A. Failure to pay will disqualify the applicant for participation of the Reduced Program Fee Program. Participation in the Recreation Program is still allowed at the regular program rate.
 - B. Only two (2) Reduced Fee grants shall be awarded per person, per year.
 - C. If a grant recipient cancels his/her participation in the Recreation Program without a bona fide reason (injury, illness, etc.) the grant may not be transferred to another program or activity in that year. That individual will not be permitted to any subsequent application requests during that year. This shall be determined solely by the Parks and Recreation Director.
- (3) Recreation Program registration form must still be completed.
- (4) Online registration is not available for the Reduced Fee Program.
- (5) Additional costs not associated with the City's Recreation Program participation fee may still apply (supplies, equipment, etc.)
(Ord. 002-13. Passed 2-4-13.)

955.20 DOG PARK FEES.

The annual membership fee for the Dog Park is ten dollars (\$10.00) which includes the key fob, on the condition that the person submits a completed application and all pet vaccination documentation as required or listed in the park rules. The City reserves the right to terminate the membership, key fob access, and/or deny any person or animal access for any reason.
(Ord. 045-15. Passed 8-3-15.)

955.21 PRIVATE BOAT DOCK STORAGE FEE AT RITTER PARK.

The annual fee for the storage of private boat docks at the Ritter Park boat ramp area parking lot is \$50.00 per dock. Each stored dock must have a valid permit tag issued annually by the City of Napoleon. Any person utilizing this dock storage space at Ritter Park must abide by all other rules and regulations as issued by the City of Napoleon Parks and Recreation Department, and as may be amended from time to time.
(Ord. 060-15. Passed 12-21-15.)

955.99 PENALTY.

Whoever violates any provision of this chapter where no other penalty is provided is guilty of a minor misdemeanor. (A.O.)

Whoever violates Section 955.15(b) is deemed guilty of a misdemeanor of the 4th degree.
(Ord. 142-96. Passed 12-16-96.)

CHAPTER 1127 General Regulations

1127.01	Application of district regulations.	1127.13	Temporary emergency, construction, or repair dwellings.
1127.02	Building setback lines. (Repealed)	1127.14	Smoke.
1127.03	Exceptions.	1127.15	Noise.
1127.04	Access and frontage.	1127.16	Vibration.
1127.05	Residential accessory buildings. (Repealed)	1127.17	Odors.
1127.06	One principal building per lot.	1127.18	Air pollution.
1127.07	Conversions. (Repealed)	1127.19	Disposal of liquid wastes.
1127.08	Fence, screening and wall location, and height limitation.	1127.20	Satellite antennas, microwave antennas and equipment.
1127.09	Buildings relocated.	1127.21	Wireless telecommunication facilities.
1127.10	Residential lot usage. (Repealed)	1127.22	Cultivation, processing, testing, packing, storage or retail dispensing of medical marijuana prohibited in all districts.
1127.11	Easements.		
1127.12	The minimum lot size.		

CROSS REFERENCES

Interpretation of boundaries - see P. & Z. 1125.03
Zoning of annexed land - see P. & Z. 1125.05

1127.01 APPLICATION OF DISTRICT REGULATIONS.

The regulations set forth in this Planning and Zoning Code within each district shall be minimum regulations and shall apply uniformly to each type of structure or use of land, except as hereinafter provided.

- (a) **Regulations Apply.** No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall be erected, constructed, moved, or structurally altered, except in conformity with the regulations herein specified for the district in which it is located.
- (b) **Lot Areas and Yards May Not Be Encroached On.** No building shall be erected, reconstructed, or structurally altered in any manner which will encroach on or reduce the required yard setbacks, lot area per dwelling unit, ground floor area of dwellings, or lot coverage provisions established for the district in which such building or use is located.

- (c) **Yards Are Separate.** No part of a required yard, open space, or off-street parking or loading space used for the purpose of complying with this Planning and Zoning Code shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.
- (d) **No Reduction in Yards.** No yard or lot existing at the time of passage of this Planning and Zoning Code shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this code shall meet at least the minimum requirements established by this Planning and Zoning Code.
- (e) **Division of Zoning Lots.** No improved zoning lot shall hereafter be divided into two or more zoning lots and no portion of any improved zoning lot shall be sold, unless all improved zoning lots resulting from each such division or sale shall conform with all the applicable regulations of the zoning district in which the property is located and the provisions of Chapter 1105.
(Ord. 074-10. Passed 12-20-10.)

1127.02 BUILDING SETBACK LINES. (REPEALED)

(EDITOR'S NOTE: Former Section 1127.02 was repealed by Ordinance 074-10.)

1127.03 EXCEPTIONS.

(a) **Application.** Any yard or setback line so placed or oriented that none of the specific terms in this Planning and Zoning Code are applicable shall necessitate a determination by the Zoning Administrator of a suitable dimension as generally required for a similar situation in the same zone district. Further, in the event that no setback line is established in this Planning and Zoning Code where a use is nonconforming to the zone, the most restrictive setback for the zone where the nonconforming use is situated shall apply.

Minimum required yards or building setback distances shall be unobstructed and open to the sky, except for customary projections as provided in subsections (b) and (c) hereof.

(b) **Front Yard Encroachments.** No structure or part thereof shall project into a required front yard except:

- (1) An eave, cornice overhang, awning, or bay window not exceeding five feet; or
- (2) The ordinary projection of belt courses, sills, lintels, chimneys, and other similar ornamental and architectural features not exceeding 18 inches; or
- (3) Unenclosed, uncovered steps, entrance platforms, terraces, or landings not over 18 inches above grade which may project into the required yard a distance of not more than four feet; or
- (4) Ramps used for persons under disability to gain ingress and egress to the dwelling or attached structure. Such ramps shall be no greater in dimension than necessary to provide for safe ingress and egress as approved by the Zoning Administrator.

(j) The applicant for a Wireless Telecommunication Tower and/or Antenna Facility shall be responsible for all expenses incurred by the City for any technical and/or engineering services deemed necessary by the Zoning Administrator, the Planning Commission, or the Board of Zoning Appeals, to perform any reviews required by the Codified Ordinances which are not covered by the fees set forth in this section.

(k) **EXISTING STRUCTURES.** Subject to the provisions of this section, any Wireless Telecommunication Tower and/or Antenna Facility erected prior to the effective date of this Planning and Zoning Code is hereby declared to be a legal nonconforming structure.

(l) **EXEMPTION OF CERTAIN CITY PROPERTY.** Regardless of the provisions of this section, a Wireless Telecommunication Facility may be permitted on any property owned or controlled by the City and used for public services and shall be constructed, erected, maintained, extended and removed under such conditions, standards and regulations as required by the Council.

(m) **VARIANCE.** The Planning Commission has exclusive authority to any other board or commission to recommend the granting of a variance to any of the provisions of this Section 1127 as applied to any Wireless Telecommunication Facility application pending before the Planning Commission, except that, notwithstanding any other section of this Planning and Zoning Code, no variance shall be granted as it relates to siting of a wireless telecommunication tower. The Planning Commission shall make a determination on a proposed variance of any provisions of this section based on the criteria (1) through (8) of this subsection (m), inclusive. The Planning Commission's consideration of a variance under this subsection shall not be based upon the environmental effects of radio frequency emissions from the Facility so long as the applicant's proposed Facility will meet the Federal Communications Commission's (FCC) requirements for such emissions.

- (1) The Wireless Telecommunication Facility as proposed will be in keeping with the land use policies established by the City.
- (2) The Facility as proposed will be in harmony with the general and specific purposes for which the Planning and Zoning Code, including this chapter, were enacted and for which the regulations of the district in question were established.
- (3) The Facility as proposed will not create any public nuisance.
- (4) The Facility as proposed will not have a substantial or undue adverse impact upon adjacent property, the character of the neighborhood or area, or the public peace, health, safety and general welfare.
- (5) The Facility as proposed will be constructed, arranged and operated so as not to excessively interfere with the use and development of neighboring property in accordance with the applicable district regulations.
- (6) The Facility as proposed will be served adequately by essential public facilities and services such as streets, public utilities, drainage structures, police and fire protection.
- (7) The Facility as proposed will not result in unnecessary destruction, loss, or damage of any natural, scenic, or historic feature of significant importance.
- (8) The Facility as proposed complies with all other standards imposed on it by this chapter.

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

**1127.22 CULTIVATION, PROCESSING, TESTING, PACKING, STORAGE, OR
RETAIL DISPENSING OF MEDICAL MARIJUANA PROHIBITED IN
ALL DISTRICTS.**

(a) The cultivation, processing, testing, packing, storage, or retail dispensing of medical marijuana shall be a prohibited use in all zoning districts within the City of Napoleon.

(b) Use of property in violation of this section shall constitute a nuisance.

(c) In addition to other penalties provided by law, the Director of Law shall be authorized to institute civil proceedings in a court of competent jurisdiction to enjoin violations of this Section; for monetary damages arising from violations of this Section; and to take all actions necessary to secure enforcement of any injunction and collect upon any damage award, judgment, or fine in contempt levied in relation to a violation of this Section.
(Ord. 059-17. Passed 11-6-17.)

CODIFIED ORDINANCES OF NAPOLEON

PART THIRTEEN - BUILDING CODE

TITLE ONE - Model Codes Adopted

- Chap. 1301. Residential Building Code of Ohio for One-, Two- and Three-Family Dwellings.
- Chap. 1311. BOCA National Property Maintenance Code.

TITLE THREE - Building Administration

- Chap. 1325. Administration and Enforcement.

TITLE FIVE - Additional Building Standards

- Chap. 1335. Sign Code.
- Chap. 1339. Flood Damage Prevention.
- Chap. 1343. Improvement Districts. (Repealed)

CODIFIED ORDINANCES OF NAPOLEON

PART THIRTEEN - BUILDING CODE

TITLE ONE - Model Codes Adopted

Chap. 1301. Residential Building Code of Ohio for One-,
Two- and Three-Family Dwellings.

Chap. 1311. BOCA National Property Maintenance Code.

CHAPTER 1301

Residential Building Code of Ohio for One-, Two- and Three-Family Dwellings

1301.01 Adoption.

CROSS REFERENCES

See sectional histories for similar State law

Removal of unsafe structures - see Ohio R.C. 715.26(B), 715.261

Power to enact further and additional regulations - see Ohio R.C. 3781.01

Authorization by Board of Building Standards - see Ohio R.C. 3781.12

Enforcement - see Ohio R.C. 3781.03, 3781.031, 3781.10(E), 3781.102, 3781.19

Final jurisdiction - see Ohio R.C. 3781.04

Application - see Ohio R.C. 3781.06, 3781.10(E), 3781.11(A)

Submission of plans - see Ohio R.C. 3791.04

Dead bolt locks in apartment buildings - see Ohio R.C. 3781.103

Smoke detection system for apartments and condominiums - see

Ohio R.C. 3781.104

Automatic sprinkler systems - see Ohio R.C. 3781.105, 3791.041 et seq.

Fire suppression systems - see Ohio R.C. 3781.108

Use of public buildings by handicapped persons - see Ohio R.C. 3781.111

Energy conservation - see Ohio R.C. 3781.181, 3781.182, 3781.21

Abandoned service stations - see Ohio R.C. 3791.11 et seq.

Safety standards for refuse containers - see Ohio R.C. 3791.21

1301.01 ADOPTION.

There is hereby amended and adopted by this Municipality, the most recent edition of the Residential Code of Ohio (RCO) as adopted by the Ohio Board of Building Standards, Department of Industrial Relations, and as published in Division 4101:8 of the Ohio Administrative Code (OAC). (Ord. 070-17. Passed 11-6-17.)

(EDITOR'S NOTE: The next printed page is page 9.)

RESOLUTION NO. 032-18

A RESOLUTION AUTHORIZING THE ESTABLISHMENT OF THE NAPOLEON OUTDOOR REFRESHMENT AREA (NORA), MAKING CERTAIN FINDINGS AND DETERMINATIONS AND ENACTING REGULATIONS WITH RESPECT THERETO; AND DECLARING AN EMERGENCY

WHEREAS, effective April 30, 2017, enacted Ohio Revised Code Section 4301.82 now authorizes cities in Ohio with a population less than thirty-five thousand (35,000) to designate within their corporate limits outdoor refreshment areas for the purpose of complimenting the cultural and economic success of the designated area. Outdoor Refreshment Areas allow individuals, subject to local time and place regulations, to possess and consume alcoholic beverages in designated public places provided the beverage is purchased from qualified permitted premises within the area. The operative effect is to exempt such individuals from open container laws. Locally established time and place regulations are coordinated with scheduled cultural activities within the designated area; and,

WHEREAS, several of the businesses and establishments within the suggested area have petitioned the City for an establishment of an outdoor refreshment area to be known as the Napoleon Outdoor Refreshment Area (NORA). The petition reflects the nature and types of establishments that will be located within the outdoor refreshment area. The proposed area is consistent with existing zoning and the proposed hours of operation and rules will ensure the continued public health and safety within the area; and,

WHEREAS, Ohio Revised Code Section 4301.82(F)(1) requires the City to establish requirements that the City determines necessary to ensure public health and safety in the area; and,

WHEREAS, Ohio Revised Code Section 4301.82(F)(2) provides for notice of this proposed action to be published in a newspaper of general circulation once a week for two (2) consecutive weeks; and,

WHEREAS, the outdoor refreshment area application as submitted, to include the premises of the permit holders located at the street addresses on Exhibit A meets the requirements of Ohio Revised Code Section 4301.82(B)(1 – 5), it being further clarified that the boundary of the designated outdoor refreshment area includes the premises of the permit holders located at the street addresses listed on Exhibit A; and,

WHEREAS, approval of the outdoor refreshment area will serve to enhance the experiences of the patrons of the business establishments and the special events within the area. **Now Therefore**,

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

Section 1. That, pursuant to Ohio Revised Code 4301.82 there is hereby established and designated the Napoleon Outdoor Refreshment Area with the boundaries of the area, including the street addresses, as comprised and described in the application being attached hereto as Exhibit A and incorporated herein.

Section 2. That, it is hereby found and determined the Council of the City of Napoleon, Ohio for the purpose to insure the public health and safety within the area that the following are identified in Exhibit A and incorporated herein:

1. The number, spacing, and type of signage designating the area;
2. The hours of operation for the area;
3. The number of personnel needed to ensure public safety in the area;
4. The sanitation plan to maintain the appearance and public health of the area;
and,
5. The number of personnel needed to execute the sanitation plan.

Section 3. That, it is hereby further found and determined by this Council that all beer and intoxicating liquor served in the area shall be served solely in new, unused official NORA cups.

Section 4. That, it is hereby further found and determined by this Council that the business, artistic, cultural and entertainment establishments located within the area will be enhanced hereby.

Section 5. That, the area will encompass no fewer than four (4) qualified liquor permit holders, all of which are identified in Exhibit A, attached hereto and made a part hereof, by business name, address, liquor permit type and liquor permit number.

Section 6. Also included in Exhibit A and in accordance with Ohio Revised Code Section 4301.82(F)(1)(c) are the hours of operation for the outdoor refreshment area, which will apply to all activity within the area, only as may be limited by approval of special event permitting. Also, the uses of the land within the proposed outdoor refreshment area are in accord with the Master Zoning Plan of the City of Napoleon, Ohio; and that the hours and rules of the area set forth in Exhibit A and incorporated herein, will ensure public health and safety.

Section 7. That, the sanitation plan that will help maintain the appearance and public health of the area as described in Exhibit A, attached hereto and made a part hereof, is hereby approved as meeting the requirements of Ohio Revised Code Section 4301.82(F)(1)(e – f), including the manner in which the number of personnel needed to carry out the sanitation plan shall be determined.

Section 8. That, the Municipal Properties, Buildings, Land Use, and Economic Development Committee of Council shall meet with the office of the City Manager to in regularly scheduled meetings review, and adjust if necessary, the security requirements of the outdoor refreshment area, as established herein, to ensure public health and safety is maintained. The first such meeting shall take place not more than forty-five (45) days after the initial implementation of the outdoor refreshment area.

Section 9. That, the Clerk of Council is hereby instructed forthwith to provide notice, including forwarding a copy of this Resolution No. 032-18, as required by Ohio Revised Code Section 4301.82 of the establishment of this outdoor refreshment area to the Superintendent of the Ohio Department of Commerce Division of Liquor Control and to the investigative unit of the Ohio Department of Public Safety, all in accordance with Ohio Revised Code Sections 4301.82(c) and 4301.82(F)(3).

Section 10. 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 11. 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 12. That, this Resolution is declared to be an emergency measure necessary for the immediate preservation of the public peace, health or safety of the City and its inhabitants, and for the further reason that this legislation must be in effect at the earliest possible time for the furtherance of economic development within the City of Napoleon, all of which affects the public peace, health or safety accessible to our citizens; therefore, provided it receives the required number of votes for passage as emergency legislation, it shall be in full force and effect immediately upon its passage; otherwise, it shall be in full force and effect at the earliest time permitted by law. Further, the Emergency Clause is necessary to begin the outdoor refreshment area application process in a timely manner, and for further reasons as stated in the Preamble hereof.

Passed: _____

Joseph D. Bialorucki, 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. 032-18 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

Application to the Napoleon City Council
for the establishment of
Napoleon Outdoor Refreshment Area



The office of the City Manager respectfully submits the following application to the Napoleon City Council to approve and enact the Napoleon Outdoor Refreshment Area in accordance with ORC 4301.82

Submitted May 16, 2018

By: _____

Joel L. Mazur, City Manager

Contents:

- 1.0 Overview
- 2.0 Specific Boundaries of the NORA
- 3.0 Land Use and Zoning
- 4.0 The Hours of Operation for the NORA
- 5.0 Public Safety Plan
- 6.0 Sanitation and Public Health Plan
- 7.0 Letters of Participation
- 8.0 Rules of the NORA

1.0 Overview

The Office of the City Manager of the City of Napoleon is submitting this application to the Napoleon City Council to approve and enact the Napoleon Outdoor Refreshment Area (NORA), in accordance with Section 4301.82 of the Ohio Revised Code. This allows municipalities with a population under 35,000 residents to create a Designated Outdoor Refreshment Area that is no larger than 150 contiguous acres in size. Napoleon City Council approval would create a Designated Outdoor Refreshment Area within most of Napoleon's Downtown, meeting or exceeding all of the requirements of ORC 4301.82, for the cultural and economic betterment of the businesses, residents, and property owners within the NORA, as well as the whole of Napoleon by further establishing Napoleon's Downtown as a destination for entertainment, culture, and activity.

The application filing must be advertised once a week for two consecutive weeks in a newspaper of general circulation. Council may approve of the establishment of the Designated Outdoor Refreshment Area between 30 and 60 days after the application notice is first published.

The city has strong experience in providing adequate security, public health measures and leadership for large and small events held in Napoleon's Downtown and would use the experience to manage and enforce the rules and administration of the NORA; an example includes the Henry County Rib Fest and, in previous years, a fall festival. The Chamber and many neighborhood stakeholders are very confident that this experience and the commitment to the overall advancement of Napoleon's Downtown is the perfect foundation of skills to administer the NORA.

As outlined in this Application, the City Manager will be working with the Napoleon Downtown stakeholders, Napoleon City Council, Safety, Sanitation, and Transportation officials to ensure a safe, professional implementation of the NORA. Through regular communication with all affected city departments and downtown stakeholders, the City Manager will precisely tailor the NORA safety and sanitation needs as time and experience progress, as permitted in ORC 4301.82.

Thank you to the many business owners of Napoleon's Downtown Business District, the Napoleon Law Director, the Napoleon Police Department, the Napoleon Operations Department and Napoleon City Council for their support and involvement in developing this Application.

2.0 Specific Boundaries of the NORA, Including Street Addresses

2.1 **See Exhibit A: Map of Boundaries**

2.2 **Boundary Description**

The Point Of Beginning be the southwest corner of the west end of the W. Front St. right of way,

Commencing northwest to the northwest corner of the W. Front St. right of way,

Then northeast along the W. Front St. right of way to the intersection of the west right of way of Scott St.,

Then northwest along the Scott St. right of way to the intersection of the centerline of right of way for W. Main St.,

Then east along W. Main St. centerline to the intersection of Scott St. centerline of right of way,

Then northwest along Scott St. centerline to the intersection of the north right of way of W. Clinton St.,

Then northeast along the north right of way of W. Clinton St. to the west property line of 126 W. Clinton St.,

Then northwest along the west property line of 126 W. Clinton St. to the intersection of the centerline of Shelby Ave.,

Then northeast along the centerline of Shelby Ave. to the intersection of the centerline of Monroe St. right of way,

Then southeast along the centerline of Monroe St. right of way to the intersection of the centerline of E. Riverview Ave. right of way,

Then southwest along the centerline of E. Riverview Ave. right of way to the intersection of the centerline of N. Perry St. right of way,

Then southeast along the centerline of N. Perry St. right of way to the intersection of the centerline of W. Front St. right of way,

Then southwest along the centerline of W. Front St. right of way to the east property line of 207 W. Front St.,

Then along the east property line of 207 W. Front St. to the south property line of 207 W. Front St.,

Then southwest along the south property line of 207 W. Front St. and continuing along the south property lines of W. Front St. to the west property line of 235 W. Front St.,

Then northwest along the west property line of 235 W. Front St. to the intersection of the south right of way line of W. Front St.,

Then southwest along the south right of way line of W. Front St. to The Point Of Beginning.

2.3 Parcels Included Within the Boundary of the NORA

PARCEL	PROPERTY OWNER	PROPERTY ADDRESS		
410094213220	MUDDY RIVER PROPERTIES, LLC	113	E	CLINTON
410092190089	UNITED TELEPHONE CO	115	E	CLINTON
410094213880	DRY CREEK, LLC	116	E	CLINTON
410094213900	DRY CREEK, LLC	118	E	CLINTON
410094213940	HENRY CTY COMMISSIONERS	120	E	CLINTON
410094213920	NAPOLEON OHIO LODGE NO 929	126	E	CLINTON
410094213320	JULIE'S PORTRAIT CREATIONS	127	E	CLINTON
410094213680	JT BLDG MAINTENENCE	114	W	CLINTON
410090330220	FAMILY VIDEO MOVIE CLUB, INC	125	W	CLINTON
410094214440	GM CARNAHAN, LLC	118	W	FRONT
410094214420	SIEBENECK HOLDINGS, LLC	133	W	FRONT
411302540000	ALEXANDER, KATHERINE R	215	W	FRONT
411302480000	MEYERS, WILLIAM R	235	W	FRONT
411302560000	ALEXANDER, KATHERINE R	209 & 211	W	FRONT
410090340380	CITY OF NAPOLEON	112	W	MAIN
410090340340	CITY OF NAPOLEON	124	W	MAIN
410090610140	FUNKHOUSER MOTOR CO, LLC	125	W	MAIN
410090610060	LANKENAU, CHRISTINE M	103-105-107	W	MAIN
410094211960	PEPER, EDMUND G	555		MONROE
410094214460	KERN, KYLE	501	N	PERRY
410094214520	KERN, KYLE E	525	N	PERRY
410090610080	ROOD, SCOTT	535	N	PERRY
410090610040	NAPOLEON EAGLES, LTD, LLC	539	N	PERRY
410094210940	ZEEJER PROPERTIES, LLC	540	N	PERRY
410094212060	ZEEJER PROPERTIES, LLC	602	N	PERRY
410095580220	CITY OF NAPOLEON	603	N	PERRY
410094212080	KELLER PLASTERING, LTD	606	N	PERRY
410095580180	DONOVAN, JOHN	607	N	PERRY
410095580160	DONOVAN, JOHN	609	N	PERRY
410094212000	DRK INVESTMENTS NAPOLEON, LLC	610	N	PERRY
410090340480	NAPOLEON CHAMBER OF COM	611	N	PERRY
410095580140	NAPOLEON CHAMBER OF COM	611	N	PERRY
410094212020	HENRY CTY COMMISSIONERS	612	N	PERRY
410095580120	NAPOLEON DIVINE INSPIRATIONS	613	N	PERRY

410094212040	MANAHAN, THOMAS R	614	N	PERRY
410095580100	CASPER JAMES, LLC	615	N	PERRY
410095580060	ROESSING RENTALS DOWNTOWN, LLC	621	N	PERRY
410095580040	BLACKWOOD CONSTRUCTION SERVICES	625	N	PERRY
410095580020	BLACKWOOD CONSTRUCTION SERVICES	631	N	PERRY
410094212100	HENRY CTY COMMISSIONERS	660	N	PERRY
410095570020	PNC BANK NATIONAL ASSOC	701	N	PERRY
410095570040	PNC BANK NATIONAL ASSOC	701	N	PERRY
410095570060	LANKENAU PROPERTIES I, LTD	705	N	PERRY
410095570080	STATE BANK & TRUST CO	709	N	PERRY
410095570100	B & I TV CENTER	711	N	PERRY
410094213060	COLLINS, JACK	712	N	PERRY
410095570120	WEIDEMAN REAL ESTATE	713	N	PERRY
410094213040	716 PERRY ST, LLC	714	N	PERRY
410090330160	STATE BANK & TRUST CO	715	N	PERRY
410095570140	PNC BANK NATIONAL ASSOC	715	N	PERRY
410094213080	716 PERRY, LLC	716	N	PERRY
410095560120	TONJES, JAMES L	719	N	PERRY
410095560020	TONJES, JAMES L	719	N	PERRY
410094213100	BRIGHT NET PROPERTIES, LLC	720	N	PERRY
410095560100	HILVERS, LARRY D	721	N	PERRY
410094213140	TOGETHER WE CAN MAKE A	722	N	PERRY
410094213120	OBERHAUS, CATHY J	724	N	PERRY
410094213160	BICKFORD, DORIS	726	N	PERRY
410094213180	LANKENAU PROPERTIES I, LTD	730	N	PERRY
410094213200	GKK PROPERTIES, LLC	734	N	PERRY
410094213720	NATIONAL CITY BANK	801	N	PERRY
410094213760	HOWARD'S FRIENDLY SERVICE	808	N	PERRY
410094213740	KOESTER CORPORATION	809	N	PERRY
410094213780	SCHLADE, JEFFREY M	810	N	PERRY
410094213800	HOWARD'S FRIENDLY SERVICE	812	N	PERRY
410094213700	KOESTER CORPORATION	813	N	PERRY
410094213820	AGUILAR, JO A	814	N	PERRY
410094213840	TKO SOLUTIONS, LLC	816	N	PERRY
410094213860	TKO SOLUTIONS, LLC	818	N	PERRY
410095580200	CITY OF NAPOLEON	605 & 605 1/2	N	PERRY
410095580080	CASPER JAMES, LLC	617 & 619	N	PERRY
410095560080	TONJES, JAMES L	723-725	N	PERRY
410094211980	ACKERMAN, KERRY S	125		REISER
410090340320	LAUF, JEFFREY S	606		SCOTT
410090340300	LAUF, JEFFERY S	612		SCOTT

410094560020	MEYERS, MARY K	712		SCOTT
410094213600	EMANUEL LUTHERAN CHURCH	810		SCOTT
410090340260	FROST INSURANCE AGENCY, INC	620 & 624		SCOTT
410094213000	HENRY CTY COMMISSIONERS	108	E	WASHINGTON
410094212980	HENRY CTY COMMISSIONERS	110	E	WASHINGTON
410094540040	HENRY COUNTY BANK	112	E	WASHINGTON
410094540020	HENRY COUNTY BANK	122	E	WASHINGTON
410094212920	HOLGATE STATE BANK	122	E	WASHINGTON
410094212900	HOLGATE STATE BANK	126	E	WASHINGTON
410094213020	HENRY CTY COMMISSIONERS	102-104	E	WASHINGTON
410090440020	BEILHARZ, KENT	111	W	WASHINGTON
410090330180	DERROW PROPERTIES, INC	114	W	WASHINGTON
410090330200	STATE BANK & TRUST CO	114	W	WASHINGTON
410090340080	MEISTER, BRADLEY E	115	W	WASHINGTON
410090330100	DERROW PROPERTIES, INC	116	W	WASHINGTON
410090330140	DERROW PROPERTIES, INC	116	W	WASHINGTON
410090340100	ROESSING RENTALS DOWNTOWN, LLC	117	W	WASHINGTON
410090330080	BEHNFELDT, JOSHUA A	118	W	WASHINGTON
410090340120	MODEN, WILLIAM R JR	119	W	WASHINGTON
410090330060	DERROW PROPERTIES, INC	120	W	WASHINGTON
410090340140	RATLIFF, KORIN L	121	W	WASHINGTON
410090340160	MEEKSON, MARY F	123	W	WASHINGTON
410090340180	IVY LEAGUE FLORIST & DESIGN	125	W	WASHINGTON
410090340200	IVY LEAGUE FLORIST & DESIGN	127	W	WASHINGTON
410090340220	IVY LEAGUE FLORIST & DESIGN	129	W	WASHINGTON
410090340240	SCHUETTE, GREG L	135	W	WASHINGTON
410090440021	LIVING WATERS TABERNACLE	107 & 109	W	WASHINGTON
410094570020	RITTENHOUSE PROPERTIES, LTD	130 - 136	W	WASHINGTON

2.4 Addresses to be Included in the NORA

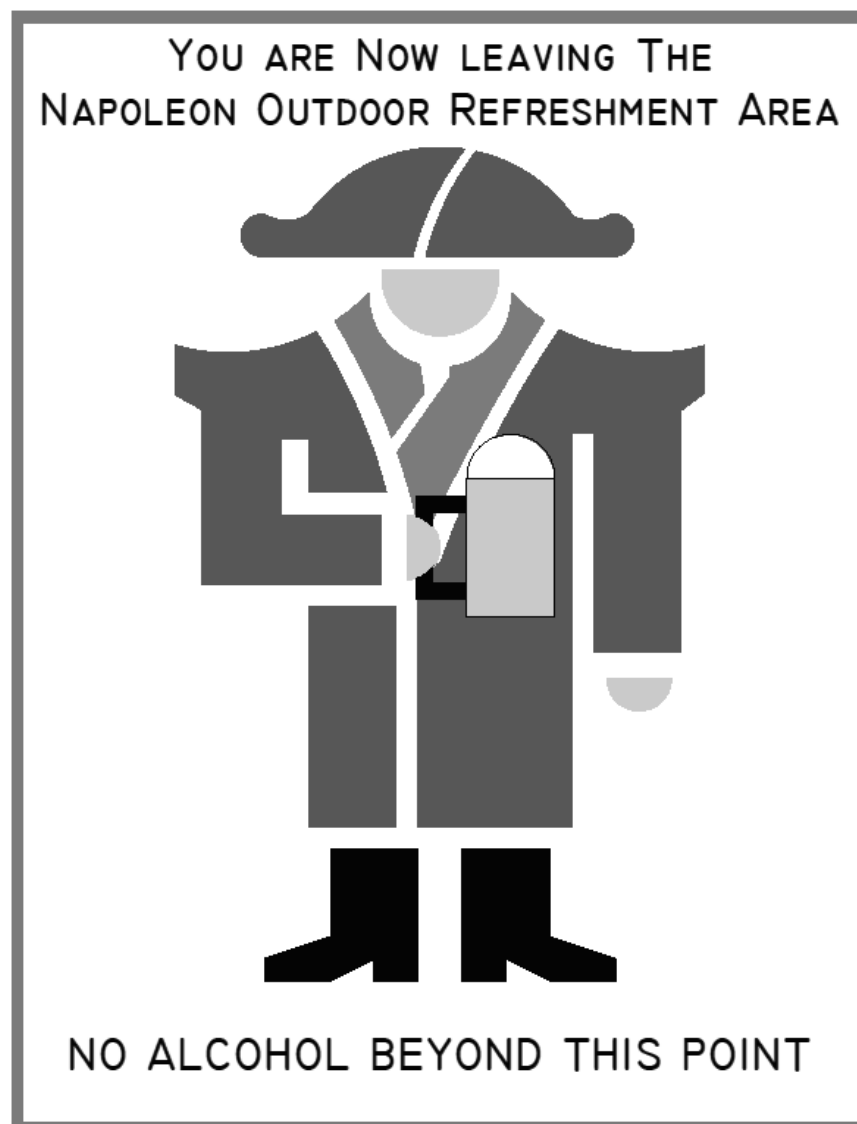
<u>Street Name</u>	<u>Range</u>	<u>Even/Odd</u>
<u>Clinton Street</u>	<u>111-130</u>	<u>Even & Odd</u>
<u>Front Street</u>	<u>118 - 211</u>	<u>Even & Odd</u>
<u>Main</u>	<u>103-131</u>	<u>Even & Odd</u>
<u>Monroe</u>	<u>555</u>	<u>Even & Odd</u>
<u>Perry</u>	<u>501-525</u>	<u>Odd</u>
<u>Perry</u>	<u>535-818</u>	<u>Odd & Even</u>
<u>Reiser</u>	<u>129 & 540</u>	-
<u>Scott Street</u>	<u>606 - 799</u>	<u>Even & Odd</u>
<u>Washington Street</u>	<u>102-137</u>	<u>Even & Odd</u>

2.4 Acreage

Said description of land contains approximately 27.~~105~~ acres (See Exhibit A: Map of Boundaries).

2.5 Signage

The City of Napoleon has determined that 8 signs produced by the City in a style consistent with the standard City of Napoleon signage, are necessary to adequately designate the NORA. The signs locations are depicted in Exhibit A: Map of Boundaries. The design of the signs is shown below:



3.0 Land Use and Zoning

3.1 Land Use

Generally, the land use of all parcels within the NORA consists of all commercial establishments, except for a few residential or mixed use structures. The majority are retail businesses, dining establishments or service oriented businesses. The establishment of the NORA is within the City of Napoleon's Master Plan. The NORA is within the City of Napoleon's Downtown Revitalization District. There are more than four (4) liquor permit holders within the NORA. Below is a list of establishments within the NORA that hold liquor permits:

ESTABLISHMENT NAME	ADDRESS			PERMIT TYPE	PERMIT NUMBER
NAPOLEON OHIO ELKS LODGE NO 929	126	E	CLINTON	D4, D6	8984010929
LUMBERYARD WINERY	118	W	FRONT	A2, B2A, D6, S	3236676
FRATERNAL ORDER OF EAGLES #4428	539	N	PERRY	D1, D2, D3, D3A, D6	6303598
EDDIE J'S BAR & GRILL	617 & 619	N	PERRY	D5, D6	2445743
FLATROCK BREWERY	621	N	PERRY	A1C	27711260006
BRICK N' BREW PUB	631	N	PERRY	D5, D6	8200721
SPENGLER'S	713	N	PERRY	D2, D2X, D3	9470007
GRACIES TAQUERIA LLC	814	N	PERRY	D2, PENDING	3308090
FLATROCK PUB & LOUNGE	127	W	WASHINGTON	A1A	27711260001
FLATROCK BREWING COMPANY	125	W	WASHINGTON	A3A, PENDING	27711260001

3.2 Zoning

All of the land within the NORA is zoned as C-1 General Commercial. The definition is as follows:

1133.03 DENSITY AND DIMENSIONAL REGULATIONS FOR C-1 GENERAL COMMERCIAL DISTRICT.

The following applies to a C-1 General Commercial District:

- (a) Permissible Uses. Permissible uses shall be in accordance with Chapter 1145.
- (b) General Provisions. Except as provided, the conduct of permitted uses herein shall be within completely enclosed buildings. Outside storage is prohibited, except when determined by the Zoning Administrator that the storage is

minimal and subordinate to the permitted use. In general, accessory uses which clearly demonstrate subordination to the permitted use are permitted.

- (c) Minimum Lot Size. The minimum lot size shall be in accordance with Chapter 1147.
 - (d) Minimum Setback Lines. The minimum permissible setback lines shall be in accordance with Chapter 1147 and this section. Nonconforming rebuild(s) shall have setbacks as determined by the Planning Commission.
 - (e) Maximum Height of Buildings. The maximum permissible height of buildings shall be in accordance with Chapter 1147.
 - (f) Maximum Lot Coverage. The maximum lot coverage shall be in accordance with Chapter 1147.
 - (g) Off-Street Parking and Loading (see Chapter 1139).
 - (h) Signs (see Chapter 1335).
- (Ord. 074-10. Passed 12-20-10.)

4.0 The Hours of Operation for the NORA

Monday through Friday, 5:00 p.m. to 1:00 a.m. (Last NORA sales)

Saturday and Sunday 12:00 p.m. to 1:00 a.m. (Last NORA sales)

Special Events/Holidays falling on a weekday (M-F), 12:00 p.m. to 1:00 a.m. (Last NORA sales)

Holidays shall be defined as New Year's Day, Memorial Day, the Fourth of July, Labor Day, Thanksgiving Day, the day after Thanksgiving, Christmas Eve and Christmas Day.

Special events will be identified by the City 3 days prior to the event by way of a press release that will be sent to the local news media and posted on the City's website.

All NORA beverages MUST be finished and disposed of by 2:00 a.m.

5.0 Public Safety Plan

Safety and Security Plan:

The City of Napoleon Police Department commits to the continued patrol and monitoring of Napoleon's Downtown and the NORA as often as possible during NORA Hours of Operation. This is not an open-ended commitment, and shall be tailored to be adequate and sufficient for public safety in an efficient, ongoing basis. There will be a minimum of 2 officers on shift at any given time. There will be a minimum of three officers on shift during the evenings on Thursdays, Fridays and Saturdays.

It is understood that on-duty officers' first responsibility is to respond to calls for service or reported crime, whether or not those calls are in the NORA. It is also understood that another security mechanism is Contracted Security, which is the use of auxiliary officers when available or through privately hired security detail, especially during the early implementation of the NORA and during larger scale special events.

This Security Plan will be reviewed continuously, and may be updated at any time, but only with the coordination and approval of the Office of the City Manager and City Council with direct assistance and recommendations of the City of Napoleon Police Department, to ensure public safety at all times is both sufficient and adequate.

If it is determined by City officials that additional security is needed for any reason, the City reserves the right to suspend the NORA and Rules of the NORA until any security issues are resolved.

The City of Napoleon will keep the speed limit to 25 MPH through the NORA, except on Riverview Ave., which will remain as at 35 MPH.

Security Plan Review:

The City Council Municipal Properties, Building, Land Use, and Economic Development Committee will meet with the Office of the City Manager in the regularly scheduled meetings no less than four (4) times during the first year of operation to review and adjust, if necessary, this Security Plan to ensure Public Safety is maintained. The first such meeting will take place no more than forty five (45) days after the initial implementation of the NORA. It is understood that the general composition of this Security Plan, with approval by Napoleon City Council, can be altered or improved at any time.

6.0 Sanitation and Public Health Plan

Trash Receptacles:

The City of Napoleon owns and maintains trash receptacles throughout the NORA and will continue to maintain the trash receptacles. Maintenance of the trash receptacles will be monitored by the Operations Department of the City of Napoleon. City owned and maintained trash receptacles will be reviewed during the regularly scheduled City Council Municipal Properties, Building, Land Use, and Economic Development Committee meetings in conjunction with the Security Plan Review described in Section 5.0 of this document.

The City reserves the right to modify the current maintenance schedule of trash receptacles as needed. One Refuse Crew will service the receptacles at a minimum of one time per week. The frequency may increase if volumes increase. This is anticipated during the summer and fall months. The Operations Department will respond to calls when receptacles need serviced during regular business hours.

The establishments that have liquor permits to serve alcohol on their premises shall maintain a trash receptacle of adequate size near the main entrance of the facility. The establishment may request a variance to this requirement in writing to the City Manager, who may modify this requirement with justification.

Street Sweeping:

The City of Napoleon Operations Department will continue its current schedule of street sweeping in the NORA.

7.0 Letters of Participation

See Exhibit B: Letters of Participation.

8.0 Rules of the NORA

Rules of Ohio Substitute House Bill 47:

ORC4301.62(C)(7)(a):

A person may have in the person's possession an opened container of beer, wine or intoxicating liquor at an outdoor location within an outdoor refreshment area (ORA) created under section 4301.82 of the Ohio Revised Code if the opened container of beer or intoxicating liquor was purchased from a qualified permit holder to which both of the following apply:

- (i) The permit holder's premises is located within the outdoor refreshment area.
- (ii) The permit held by the permit holder has an outdoor refreshment area designation.

ORC 4301.62(C)(7)(b):

Outdoor Refreshment Area Participants may NOT:

- (i) Enter the premises of an establishment within an outdoor refreshment area while possessing an opened container of beer or intoxicating liquor acquired elsewhere;
- (ii) Possess an opened container of beer or intoxicating liquor while being in or on a motor vehicle within an outdoor refreshment area.

ORC 4301.82(F)(1)(g):

ALL beer, wine, or intoxicating liquor must be contained in the Official Cup of the ORA. No other container will be permitted.

Additional Rules Specific to the NORA:

- Only One (1) Official Cup will be permitted at a time per NORA Participant
- All NORA beverages must be served in a new, unused Official Cup
- Used Official Cups must be disposed of before entering any establishment that serves alcohol in the NORA
- Private property owners reserve the right to prohibit the consumption of alcohol on their property. Adequate signage shall be placed and clearly displayed at owner's expense in order for this rule to be enforced.
- Assumption of Good Behavior by NORA Participants:

A Participant can expect to enjoy the NORA without restraint, questioning, or harassment by Contracted Security, the City or any NORA entity SO LONG AS the Participant correctly follows all of the Rules of the NORA, and maintains a decorum of Good Behavior, free of public drunkenness, property destruction, or any action that

disrupts the enjoyment of another Participant, or disrupts any establishment, property owner, resident, visitor, passerby, or patron within the NORA.

Rules Specific to the NORA Alcohol Establishment Owners/Operators:

The Alcohol Establishment Owners/Operators shall supply their own Official NORA Cups. Official NORA Cups will be able to hold no more than sixteen (16) fluid ounces, and will be composed of plastic.

The design of the Official Cup shall not show children consuming alcohol, Santa Claus or any other Holiday figure using alcohol, and shall not use sayings or slogans that encourage the consumption of large quantities of alcohol.

The design of the Official Cup may have logos for sponsors. However, the Official Cup shall not have logos from liquor, wine or beer companies or establishments.

If an alcoholic beverage is poured into an Official Cup, then the patron must leave the establishment and may not stay inside of the establishment to consume the beverage.

The Alcohol Establishment Owners/Operators may attach a fee or a To-Go Charge on every NORA beverage sold, accompanied by an Official NORA Cup.

The Alcohol Establishment Owners/Operators shall submit to the Office of the City Manager, a design that shall be printed on every Official NORA Cup prior to serving Participants or patrons. If the design of the Official NORA Cup is changed, the new design shall be submitted to the Office of the City Manager at a minimum of 30 days prior to the change of design. If a design is changed, only the Official NORA Cups with the new design will be recognized by Law Enforcement. This includes a change in logos for sponsors.

****Violation of any of these Rules of The Area shall be considered a minor misdemeanor and violators face warnings and/or fines up to \$150.00 in accordance with ORC 4301.62****

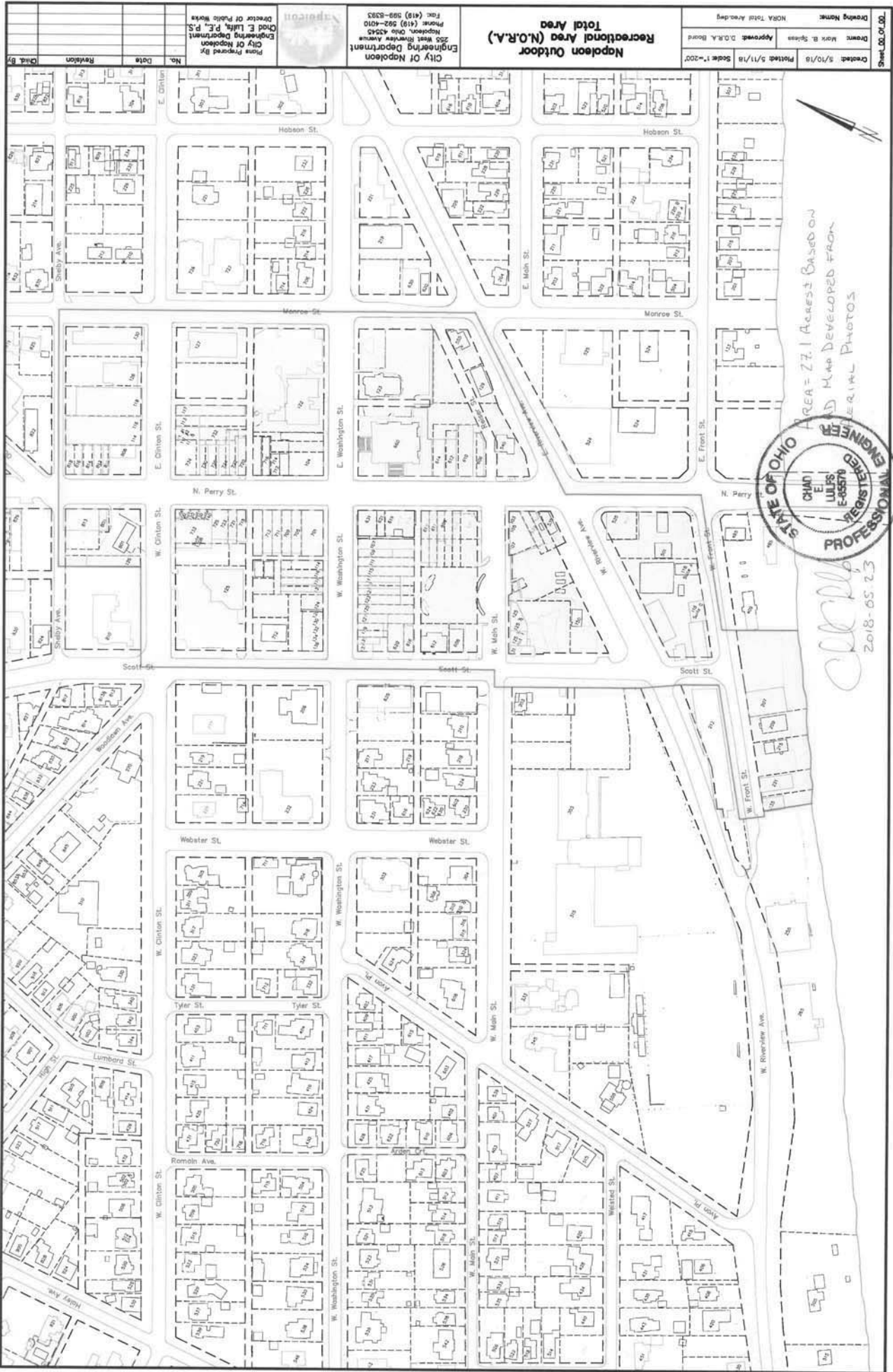
****The City of Napoleon reserves the right to enforce additional penalties that are in violation of the Napoleon Municipal any federal, state or local cCode, rule or regulation -as needed****

Napoleon Outdoor
Recreational Area (N.O.R.A.)
Walking Area

City Of Napoleon
Engineering Department
255 West Riverview Avenue
Napoleon, Ohio 43545
Phone: (419) 592-4010
Fax: (419) 599-8393

Plans Prepared By:
City Of Napoleon
Engineering Department
Shad E. Lufts, P.E., P.S.
Director Of Public Works

No.	Date	Revision	Chkd. By



May 1, 2018

City Council Members
City of Napoleon
255 W. Riverview Ave.
Napoleon, Ohio 43545

RE: Designated Outdoor Refreshment Area for the City of Napoleon Downtown Area

City Council Members:

As business owners and stakeholders of the City of Napoleon's Downtown area, we fully support the creation of a Designated Outdoor Refreshment Area as described in the Ohio Revised Code Section 4301.82.

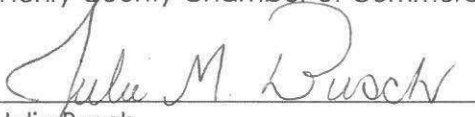
Napoleon's downtown has been steadily improving over the past several years. With the addition of the pocket park, city parking lot, road improvements and sidewalk space, the downtown has the look and feel of what a downtown should. The aesthetics of Napoleon's downtown will drastically improve even more with the painting of sidewalks and crosswalks, potential for painting murals and addition of flowers pots and hanging baskets.

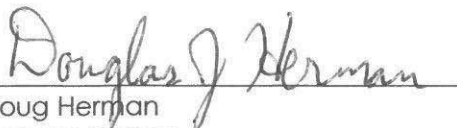
Now we are seeing an increase in activity not only with daily walking traffic but also with events. The Armory Arts and Events Center brings people into our downtown that otherwise would not come to Napoleon and we have more and more organizations holding events in downtown as well. These events include the Rib Fest, Witches Brew, and Symphony of Trees to name a few.

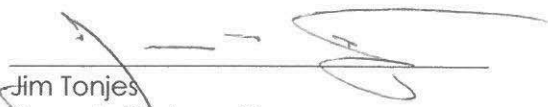
We recognize that the culture of the city government in Napoleon is changing and is becoming friendlier for businesses to thrive. We feel that the members of the downtown business district, in cooperation with the City of Napoleon, can attract and retain new and existing businesses in downtown by continuing to improve. Having a Designated Outdoor Refreshment Area would help attract more activity and give a social and economic boost to the Central Business District.

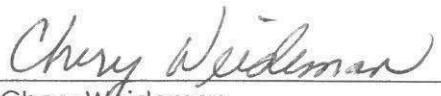
We sincerely appreciate your consideration and would gladly attend any public forums to provide additional comments.



Joel Miller
Executive Director
Henry County Chamber of Commerce


Julie Busch
Business Owner
The Armory Arts and Event Center


Doug Herman
Business Owner
Eddie J's Bar and Grille


Jim Tonjes
Property/Business Owner
Downtown Napoleon


Chery Weideman
Business Owner
Spengler's Restaurant


Lawrence Pritchard III
Business Owner
Flatrock Brewery

May 1, 2018

City Council Members
City of Napoleon
255 W. Riverview Ave.
Napoleon, Ohio 43545

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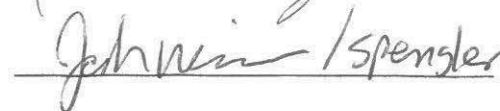

Daniel B. Schmitt Memory Keepers


Joan Cichocki


Ellie Cichocki


William D. Dwyer


Rita R. Spengler


John W. Spengler

City Council Members
City of Napoleon
255 W. Riverview Ave.
Napoleon, Ohio 43545

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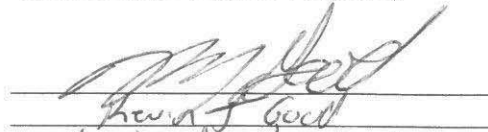
Sean Baker
Business Owner
B&I TV and Appliance



Michelle Fruth
Business Owner
Country Gourmet


DONALD WIEMKEN
WENDT SALES
BUSINESS OWNER

Judy Korak
Business Owner
Just Stuff


Jack Collins
Business Owner
Jack Collins Insurance Agency
Kevin F. Good
Kurtz Ace Hardware
Business Owner

May 9, 2018

City Council Members
City of Napoleon
255 W. Riverview Avenue
Napoleon, OH 43545

RE: Napoleon DORA (Downtown Outdoor Refreshment Area)

City Council Members:

Napoleon Alive would like to express our support for a DORA in Napoleon. We believe this would be a great addition to our community.

- 1) Events downtown could be enhanced with a DORA such as the Cruise Ins. People from Spengler's, Eddie J's Grille,... could more than gawk from afar but actually go over and support the event. 50/50's, Bake Sales,... would all be enhanced and the car owners would enjoy the public appreciation. Fundraisers like last years Witches Walk put on by CASA would have more of a draw and be more participant friendly if they could carry their drinks with them. We believe more events like this would occur with a DORA.
- 2) Increase use of downtown. The Pocket Park is a prime example of an area that could be used more frequently by the ARTS Council and similar groups. Other events could happen in Main Street Parking Lot, by Family Video,...
- 3) Fight "Brain Drain". Young people move away saying there is nothing to do here. We can fight this with having a refreshment area and enhanced events in our community. Currently the city is trying to attract more housing into the community and we believe initiatives like this will help retain and attract young people. Also help the local work force attract educated people to the area.
- 4) Allow us to differentiate ourselves when we market Napoleon. Help us attract bus tours,... in a way other area communities couldn't.
- 5) Allow our local businesses to expand their customer base. Eddie J's Grille, Spengler's, Flat Rock, Lumberyard, Clubs,... could create Corn Hole leagues and different outdoor events to attract people to Napoleon.
- 6) Attract more businesses to the community to fill places such as Brick n Brew,....

Napoleon Alive hopes you consider this by early Summer and support the growth of our community.

Respectfully,

Napoleon Alive

Shigat Gostelman
Mary Hayler
Jayne Klutort
DM
Doug Herman

RESOLUTION NO. 024-18

A RESOLUTION AUTHORIZING THE APPROVAL AND EXECUTION OF A FIRST AMENDMENT TO THE POWER SALES CONTRACT BETWEEN THE CITY OF NAPOLEON, OHIO AND AMERICAN MUNICIPAL POWER, INC.

WHEREAS, the City of Napoleon (the "Municipality") is a member of the American Municipal Power, Inc. ("AMP", and formerly known as American Municipal Power-Ohio, Inc.), a non-profit corporation in the State of Ohio whose members are Ohio Municipal Corporations that own and operate electric utility systems; and,

WHEREAS, AMP exists for a public purpose, namely to assist the municipally-owned electric systems of the State of Ohio in obtaining and providing safe, reliable, and reasonably priced electric power for their citizens and customers; and,

WHEREAS, the City of Napoleon, Ohio owns and operates an electric utility system for the sale of electric power and associated energy for the benefit of its citizens and taxpayers; and

WHEREAS, in order to satisfy the electric power and energy requirements of its electric utility system, Municipality has heretofore purchased, economical, environmentally sound and reliable power and energy from, or arranged by, American Municipal Power, Inc. of which Municipality is a member; and

WHEREAS, in furtherance of such purpose and in accordance with Resolution No. 065-11, passed unanimously by City Council on October 17, 2011, Municipality, along with other members (collectively "Participants"), became a Participant in a solar project known as the "AMP Solar Project I"; and,

WHEREAS, AMP has developed, including, as appropriate, the financing, acquisition, construction, ownership and operation of the AMP Solar Project I and made other arrangements related thereto, which AMP and, in certain cases, the Project participants, have deemed necessary to enable AMP to fulfill its obligations thereunder to sell and transmit, or otherwise make available, electric capacity and energy to the Project participants pursuant to the AMP Solar Project I Power Sales; and

WHEREAS, the participants of the Power Sales Contract desire to create flexibility, by amending the Power Sales Contract, for a participant to prepay the debt-related revenue requirements associated with its project share so that, on a going-forward basis, such participant would pay a reduced Solar Project Rate, in a manner that results in no detrimental impact to the remaining participants or the Project; **Now Therefore**,

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

Section 1. That, the First Amendment to the Power Sales Contract between this Municipality and AMP, substantially in the form attached hereto, and on file with the Finance Director, including Appendices thereto, is approved, and the City Manager is hereby authorized to execute and deliver such First Amendment, with such changes as the City Manager may approve as neither inconsistent with this Resolution nor materially detrimental to the Municipality, his execution of the First Amendment to be conclusive evidence of such approval.

Section 2. That, the City Manager is hereby authorized to enter into the First Amendment to the Power Sales Contract, upon the effective date of 12:00 am, April 1st, 2018.

Section 3. That, the following definitions are added to Section 1 of the Power Sales Contract:

Financing Participant shall mean a Participant that, with respect to any Bonds, has not fully paid the relevant Financing Revenue Requirements. For avoidance of doubt, a Participant may be a Non-Financing Participant with respect to some Bonds, and a Financing Participant with respect to other Bonds.

Financing Revenue Requirements shall mean, for any Bonds, Section 5(A) Items (viii), (ix), (xi), and (xii) relevant to such Bonds.

Non-Financing Participant shall mean a Participant that, with respect to any Bonds, has fully paid the relevant Financing Revenue Requirements. For avoidance of doubt, a Participant may be a Non-Financing Participant with respect to some Bonds, and a Financing Participant with respect to other Bonds.

Section 4. That, Section 5(C) of the Power Sales Contract is deleted in its entirety and replaced with the following:

(C) The rates and charges to each of the Participants under this Contract, as set forth on the Rate Schedule, shall be a uniform PSR to the Points of Delivery, provided that: (i) each Participant which has had capacity and energy made available hereunder at a Secondary Point of Delivery shall be responsible for the cost of Supplemental Transmission Service or other services related to such delivery and, if not paid to a third party transmission entity by the Participant, the Participant shall be charged an additional amount equal to the additional cost to AMP, if any, of delivery to such Secondary Point of Delivery, including any state and local taxes incurred as a result of such delivery or sale, as set forth on the Rate Schedule; (ii) amounts, if any, respecting reactive power requirements or power factor standards as set forth in Section 10 hereof shall be charged an additional amount equal to such cost; and (iii) the Financing Revenue Requirements for any Bonds shall not be payable by any Non-Financing Participant with respect to such Bonds.

Section 5. That, the following language is added to Section 15 of the Power Sales Contract:

(B) With respect to any Bonds issued or to be issued, a Participant may elect to become a Non-Financing Participant, provided, however, that no such election may materially adversely affect the security afforded by the provisions of this Contract for the payment of the principal, interest, and premium, if any, on the Bonds, except as, and to the extent, permitted by the Trust Indenture. In order to become a Non-Financing Participant with respect to any Bonds outstanding, a Participant must fully pay the Financing Revenue Requirements then outstanding with respect to such Bonds, as

reasonably determined by AMP. In furtherance of Section 22 of this Contract, prior to becoming a Non-Financing Participant with respect to any Bonds, the Participant shall furnish to AMP an opinion, substantially in the form of Appendix A attached hereto, of counsel retained by such Participant and acceptable to AMP.

Section 6. That, A Participant's election to become a Non-Financing Participant shall not modify, in any way, such Participant's obligations to pay Revenue Requirements, including Financing Revenue Requirements, in connection with any Step Up Power purchased by such Participant.

Section 7. That, all other terms and conditions of the Power Sales Contract shall remain in full force and effect.

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

Section 9. 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 10. That, if any section, subsection, paragraph, clause or provision or any part thereof of this Resolution shall be finally adjudicated by a court of competent jurisdiction to be invalid, the remainder of this Resolution shall be unaffected by such adjudication and all the remaining provisions of this Resolution shall remain in full force and effect as though such section, subsection, paragraph, clause or provision or any part thereof so adjudicated to be invalid had not, to the extent of such invalidity, been included herein.

Section 11. That, shall be in full force and effect at the earliest time permitted by law.

Passed: _____

Joseph D. Bialorucki, 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. 024-18 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

FIRST AMENDMENT TO
POWER SALES CONTRACT REGARDING THE
AMERICAN MUNICIPAL POWER SOLAR PROJECT I
AMONG AMERICAN MUNICIPAL POWER, INC. AND
EACH OF THE PARTICIPANTS, INCLUDING
THE _____ OF _____, OHIO

This First Amendment to Power Sales Contract is entered into as of April 1, 2018 by and between American Municipal Power, Inc. (“AMP”) on the one hand, and the Participants (as hereinafter defined), on the other hand.

WHEREAS, AMP and each of the Participants listed therein (the “Participants”, and together with AMP, the “Parties”) entered into a Power Sales Contract regarding the American Municipal Power, Inc. Solar Project I dated as of October 1, 2011 (the “Power Sales Contract”);

WHEREAS, Section 5(C) of the Power Sales Contract requires, among other things, that rates and charges to each of the Participants be a uniform Solar Project Rate to the Points of Delivery, as such terms are defined therein; and

WHEREAS, the Participants wish to create the flexibility, by amending the Power Sales Contract, for a Participant to prepay the debt-related Revenue Requirements associated with its Project Share so that, on a going-forward basis, such Participant would pay a reduced Solar Project Rate, in a manner that results in no detrimental impact to the remaining Participants or the Project.

NOW THEREFORE, the Parties agree as follows:

1. The following definitions are added to Section 1 of the Power Sales Contract:

Financing Participant shall mean a Participant that, with respect to any Bonds, has not fully paid the relevant Financing Revenue Requirements. For avoidance of doubt, a Participant may be a Non-Financing Participant with respect to some Bonds, and a Financing Participant with respect to other Bonds.

Financing Revenue Requirements shall mean, for any Bonds, Section 5(A) Items (viii), (ix), (xi), and (xii) relevant to such Bonds.

Non-Financing Participant shall mean a Participant that, with respect to any Bonds, has fully paid the relevant Financing Revenue Requirements. For avoidance of doubt, a Participant may be a Non-Financing Participant with respect to some Bonds, and a Financing Participant with respect to other Bonds.

2. Section 5(C) of the Power Sales Contract is deleted in its entirety and replaced with the following:

(C) The rates and charges to each of the Participants under this Contract, as set forth on the Rate Schedule, shall be a uniform PSR to the Points of Delivery, provided that: (i) each Participant which has had capacity and energy made available hereunder at a Secondary Point of Delivery shall be responsible for the cost of Supplemental Transmission Service or other services related to such delivery and, if not paid to a third party transmission entity by the Participant, the Participant shall be charged an additional amount equal to the additional cost to AMP, if any, of delivery to such Secondary Point of Delivery, including any state and local taxes incurred as a result of such delivery or sale, as set forth on the Rate Schedule; (ii) amounts, if any, respecting reactive power requirements or power factor standards as set forth in Section 10 hereof shall be charged an additional amount equal to such cost; and (iii) the Financing Revenue Requirements for any Bonds shall not be payable by any Non-Financing Participant with respect to such Bonds.

3. The following language is added to Section 15 of the Power Sales Contract:

(B) With respect to any Bonds issued or to be issued, a Participant may elect to become a Non-Financing Participant, provided, however, that no such election may materially adversely affect the security afforded by the provisions of this Contract for the payment of the principal, interest, and premium, if any, on the Bonds, except as, and to the extent, permitted by the Trust Indenture. In order to become a Non-Financing Participant with respect to any Bonds outstanding, a Participant must fully pay the Financing Revenue Requirements then outstanding with respect to such Bonds, as reasonably determined by AMP. In furtherance of Section 22 of this Contract, prior to becoming a Non-Financing Participant with respect to any Bonds, the Participant shall furnish to AMP an opinion, substantially in the form of Appendix A attached hereto, of

counsel retained by such Participant and acceptable to AMP.

4. A Participant's election to become a Non-Financing Participant shall not modify, in any way, such Participant's obligations to pay Revenue Requirements, including Financing Revenue Requirements, in connection with any Step Up Power purchased by such Participant.

5. All other terms and conditions of the Power Sales Contract shall remain in full force and effect.

[signature page follows]

IN WITNESS WHEREOF, the duly authorized representatives of the Parties have caused this First Amendment to Power Sales Contract to be executed as of the date first written above.

_____ OF _____, OHIO

APPROVED AS TO FORM:

By: _____

By: _____

Title: _____

AMERICAN MUNICIPAL POWER, INC.

APPROVED AS TO FORM:

By: _____

Marc S. Gerken, PE
President/CEO

By: _____

Rachel Gerrick
SVP and General Counsel for
Corporate Affairs

[TO BE RECEIVED FROM COUNSEL TO EACH NON-FINANCING PARTICIPANT]

[LETTERHEAD OF ATTORNEY FOR PARTICIPANT]

[DATE]

Rachel Gerrick
American Municipal Power, Inc.
Senior Vice President and General Counsel for Corporate Affairs
1111 Schrock Road
Columbus, Ohio 43229

Re: Legal Opinion Pertaining to AMP Solar Project I

I am an attorney admitted to practice in the State of Ohio and I have acted as counsel to the _____ of _____, Ohio (the “Participant”), which has entered into a Power Sales Contract regarding the American Municipal Power Solar Project I (as amended, the “PSC”) between the Participant, American Municipal Power, Inc. (“AMP”) and other political subdivision members of AMP, and have acted as such in connection with the Participant’s action to become a Non-Financing Participant.

In so acting, I have examined the following to the extent necessary to render this opinion:

- (a) The PSC, including the First Amendment to the PSC;
- (b) The laws and constitution of the State of Ohio;
- (c) Any relevant ordinance and/or charter provisions of the Participant;
- (d) Outstanding instruments relating to bonds, notes or other indebtedness of, or relating to, the Participant’s electric utility system;
- (e) The opinion dated _____ given by [me/ prior counsel to the Participant] relating to the PSC (the “Original Opinion”).

Based on such examination and having regard to applicable legal principles, I am of the opinion that:

1. The governing body which has the requisite authority to authorize an appropriate officer of the Participant to take action to become a Non-Financing Participant under the PSC (the “Action”) is the _____ of the _____ of

_____, Ohio. The _____ duly approved the Action by legislative action duly and lawfully adopted at a meeting or meetings duly called and held pursuant to any necessary public notice at which any necessary quorums were present and acting throughout. Such legislative action has become effective.

2. The Action does not contravene in any material respect any applicable resolution, ordinance or charter provision, or any order, injunction, judgment, decree, rule or regulation of any court or administrative agency having jurisdiction over the Participant or its property or, in any material respect, result in a breach or violation of any of the terms and provisions of, or constitute a default under, any bond ordinance, trust agreement, indenture, mortgage, deed of trust or other agreement to which the Participant is a party or by which it or its property is bound and relating to the Participant's electric utility system.

3. Except to the extent, if any, set forth below, to the best of my knowledge after due inquiry, there is no litigation or other proceedings pending or threatened against the Participant in any court, regulatory agency or other tribunal of competent jurisdiction (either local, State or Federal) questioning the creation, organization or existence of the Participant or its municipal electric utility system or the validity, legality or enforceability of the PSC or the Participant's Action.

4. To the best of my knowledge after due inquiry, there exist no facts or circumstances which would invalidate the opinions provided in the Original Opinion, as of the date thereof.

With respect to the existence of (i) litigation, (ii) instruments relating to outstanding bonds, notes or other indebtedness, (iii) orders, injunctions, judgments, or decrees of any court or administrative agency having jurisdiction over the Participant or its property and (iv) bond ordinances, trust agreements, indentures, mortgages, deed of trusts or other agreements, in each case relating to the Participant's electric utility system and for purposes of the opinions expressed in paragraphs 2, 3 and 4 above, I have relied upon written representations of the appropriate officers of the Participant and/or the Utility Governing Body or the attached opinion of other counsel.

Very truly yours,



City of Napoleon, Ohio

Department of Public Works

255 West Riverview Avenue, P.O. Box 151

Napoleon, OH 43545

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

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

www.napoleonohio.com

Memorandum

To: Joel L. Mazur, City Manager
From: Chad E. Lulfs, P.E., P.S., Director of Public Works
cc: Mayor & City Council
Greg Heath, City Finance Director
Date: May 31, 2018
Subject: 2018 Downtown Improvements – Recommendation of Award

On Wednesday, May 30, 2018, bids were opened and read aloud for the above referenced project. One bid was submitted and read as follows:

Vernon Nagel, Inc.

Base Bid: \$1,031,580.50
Alternate Bid: \$411,092.70
Total Bid: \$1,442,673.20

The Engineer's Estimate for this project is \$940,000.00. This project consists of: replacing the existing cast iron waterline on N. Perry Street from Clinton Street through the Oakwood Avenue intersection, on Clinton Street from Scott Street to Monroe Street, and on W. Washington Street from Scott Street to Perry Street; replacing portions of the concrete walks on the same sections of streets; resurfacing the same portions of the streets; and re-striping parking in this area. The completion date for this project is October 13, 2018.

Having reviewed the submitted bid, it is my recommendation that Council award Vernon Nagel, Inc. the contract for the BASE BID ONLY for the 2018 Downtown Improvements in the amount of \$1,031,580.50. If you have any questions or require additional information, please contact me at your convenience.

CEL



City of Napoleon, Ohio

FINANCE DEPARTMENT

255 West Riverview Avenue, P.O. Box 151

Napoleon, OH 43545-0151

Telephone: (419) 599-1235 Fax: (419) 599-8393

www.napoleonohio.com

J2

Memorandum

To: Members of City Council
Members of Finance and Budget Committee
Joel L. Mazur, City Manager
Billy D. Harmon, City Law Director

From: Gregory J. Heath, Finance Director/Clerk of Council

Date: May 31, 2018 <-As Revised

Subject: Income Tax Refunds & Budgetary Review

The City recently received an Income Tax Refund request that exceeds the normal annual budget for refunds. This refund is substantial and will require budgetary adjustments in 2018 and possible special budgetary considerations during the 2019 budgetary review. This is a budgetary issue, not a cash issue. There is adequate cash to pay these refunds; however, this does impact the budget in certain funds.

The 170 Income Tax Fund is impacted in the form of inadequate appropriations to pay the refunds, and will need to be supplemented at some point in time. The following table lists the impact to the 100 General Fund and the 400 Capital Improvement (CIP) Fund, assuming these refunds are paid back as allocated:

<u>FY Filed</u>	<u>REFUNDS Due</u> <u>Per City Ord.</u>	<u>100 General Fund</u> <u>62% Allocation</u>	<u>400 CIP Fund</u> <u>38% Allocation</u>
2013 ->	Refund Request Rejected due to Exceeding City Statute of Limitations.		
2014	\$171,762	\$106,492	\$ 65,270
2015	\$207,644	\$128,739	\$ 78,905
2016	\$242,495	\$150,347	\$ 92,148
Totals	\$621,901	\$385,578	\$236,323

Current Unappropriated Funds for the 100 General Fund and the 400 CIP Fund are:

<u>Fund</u> <u>Name</u>	<u>Unappropriated</u> <u>Balance 100 GF</u>	<u>Unappropriated</u> <u>Balance 400 CIP</u>
100 General Fund	\$933,951	
400 CIP Fund		\$126,844
Total Over/(Under Need)	\$548,000	(\$109,679)

(Income Tax Refunds – Continued Next Page)

(Income Tax Refunds – Continued)

It is noted, the amounts listed does not take into account the 2013 refund request of \$114,567 that exceeds the City Ordinance statute of limitations, and any potential refunds that might occur for 2017 once a final return is filed, up to a potential \$350,000. In addition, they do not reflect any potential interest that may be due pursuant to the City Ordinance.

City Potential Options:

Option 1 – Pay The Refunds as Filed in 2018:

This option is to accept the returns as filed and pay the Refunds back in 2018.

<u>FY Paid</u>	<u>FY Filed</u>	<u>REFUNDS Due</u> <u>Per City Ord.</u>	<u>100 General Fund</u> <u>62% Allocation</u>	<u>400 CIP Fund</u> <u>38% Allocation</u>	<u>Refnd.Paid</u> <u>in FY 2018</u>
2018	2014	\$171,762	\$106,492	\$ 65,270	\$171,762
2018	2015	\$207,644	\$128,739	\$ 78,905	\$207,644
2018	2016	\$242,495	\$150,347	\$ 92,148	\$242,495
Totals in 2018		\$621,901	\$385,578	\$236,323	\$621,901

Positives – Will pay back all refunds currently due except the final 2017 not yet filed.

Negatives – Will require a Budgetary Reallocation or a Cutback in the 400 CIP Fund of \$109,679.

“ - Will lower Carryover Balances available for 2019 in both funds.

“ - Taxpayer may take legal action on the 2013 Refund currently not listed.

Option 2 – Pay The Refunds as Filed over Two (2) Years 2018 and 2019:

This option is to accept the returns as filed and pay the Refunds back over two (2) year period in 2018 and 2019.

<u>FY Paid</u>	<u>FY Filed</u>	<u>REFUNDS Due</u> <u>Per City Ord.</u>	<u>100 General Fund</u> <u>62% Allocation</u>	<u>400 CIP Fund</u> <u>38% Allocation</u>	<u>Refund</u> <u>Paid in FY</u>
2018	2014	\$171,762	\$106,492	\$ 65,270)->	\$379,406
	2015	\$207,644	\$128,739	\$ 78,905)	
2019	2016	\$242,495	\$150,347	\$ 92,148 ->	\$242,495
Totals		\$621,901	\$385,578	\$236,323	\$621,901

Positives – Will pay back all refunds currently due except the final 2017 not yet filed.

“ - Will be of a less impact to the 2018 Budget.

Negatives – Will require a Budgetary Reallocation or a Cutback in the 400 CIP Fund of \$17,331.

“ - Will still lower Carryover Balances available for 2019 in both funds, but as a lesser rate.

“ - Taxpayer may take legal action on the 2013 Refund currently not listed.

Option 3 – Pay The Refunds as Filed in 2018, however, using only 400 CIP Funds:

This option is to accept the returns as filed and pay the Refunds back in 2018 using only 400 CIP Funds.

<u>FY Paid</u>	<u>FY Filed</u>	<u>REFUNDS Due</u> <u>Per City Ord.</u>	<u>100 General Fund</u> <u>0% Allocation</u>	<u>400 CIP Fund</u> <u>100% Allocation</u>	<u>Refnd.Paid</u> <u>in FY 2018</u>
2018	2014	\$171,762	\$ -0-	\$171,762	\$171,762
2018	2015	\$207,644	\$ -0-	\$207,644	\$207,644
2018	2016	\$242,495	\$ -0-	\$242,495	\$242,495
Totals in 2018		\$621,901	\$ -0-	\$621,901	\$621,901

(Income Tax Refunds – Continued Next Page)

(Income Tax Refunds – Continued Next Page)

It is noted, this option is only showing the 400 CIP Fund at a 100%. However, it could be allocated in any manner as Council directs (Exp. 50% 100 GF and 50% 400 CIP Fund).

Positives – Will pay back all refunds currently due except the final 2017 not yet filed.

“ - Will not impact the 100 General Fund if left at 100% to 400 CIP Fund.

Negatives – Will require a Budgetary Reallocation or a Cutback in the 400 CIP Fund of \$621,901.

“ - Will lower Carryover Balance available for 2019 in the 400 CIP Fund.

“ - Taxpayer may take legal action on the 2013 Refund currently not listed.

It is noted there can be many variations on the Options listed. These are proposed options only for general discussion.

Any final option chosen will require budgetary and expenditure changes for the current and possibly next year. Any budgetary changes for 2018 would require legislative action.

In addition, if this is the “new normal” for income taxes, and it appears to be, then the Estimated Revenues for both current and future Income Taxes will need to be reduced by approximately \$200,000 a year. Future budgets would have to take this into account.

Let me know if you have any additional questions.

Tuesday, May 29, 2018 at 6:30 pm

PRESENT	
Committee Members	Joseph D. Bialorucki-Chairman, Jeff Comadoll, Ken Haase, Jason Maassel
City Manager	Joel L. Mazur
Finance Director/Clerk	Gregory J. Heath
Recorder/Records Clerk	Roxanne Dietrich
Others	
ABSENT	
Call to Order	Chairman Bialorucki called the Finance and Budget Committee meeting to order at 6:31 pm.
Approval of Minutes	Hearing no objections or corrections, the minutes of the March 26, 2018 Finance and Budget Committee meeting stand approved as presented.
Motion to Untable Municipal Tax Code (Tabled)	Motion: Maassel Second: Haase to untable discussion on Municipal Tax Code.
Passed	Roll call vote on the above motion:
Yea-4	Yea- Maassel, Bialorucki, Comadoll, Haase
Nay-0	Nay-
Discussion	Heath said he is satisfied with the way it works and the results. Mazur stated the penalty is an M1 which is pretty stiff, but the Judge can reduce it to a lesser charge. Bialorucki noted if the Judge is reducing the charges, we may as well leave it where it is, that way if there is a multiple offender she can use a stiffer penalty. Bialorucki removed Municipal Tax Code from the agenda.
Funding Options for Income Tax Refund	Heath reviewed the Memo he passed out with funding options for the income tax refund, there are four known years, I recommend rejecting year 2013 as it exceeds our statute of limitations. The question is, how do we fund the \$621,900 refund payment? The City Ordinance reads no expenditure allocations or collections or refunds can go against the Recreation Levy, all expenses are allocated to the General and Capital Funds. This is a budgetary issue to the funds being impacted. Funds currently available that are not appropriated or unallocated are; in the General Fund there is \$932,951 and the Capital Improvement Fund has \$126,844 of unappropriated funds. What are the options if they choose to challenge, they would have to take it to the Board of Tax Appeals and if they do not like the boards' decision, they can take it to the Common Pleas Court. For 2017, I estimated the number at \$350,000, the City will not accept any more advance payments from this entity and they have been informed not to send us anymore business tax in advance. We have come up with three (3) payments options:

Option 1

- Accept the returns as filed and pay all refunds back in 2018.
- Use current allocations of 62% from the General Fund and 38% from the CIP, we would have to come up with \$385,578 from the General Fund and \$236,322 in from CIP. The General Funds would just have to be appropriated, the 400 CIP fund we will need to find \$110,000 from current appropriated projects.
- Positives-we pay back all refunds currently due except 2017 that has not been filed yet.
- Negatives-will impact budgetary reallocation, there will be lower carryover balances available for 2019 in both funds and the taxpayer may still take legal action on the 2013 refund that is currently not listed.

Option 2

- Accept the returns as filed and pay refunds over a two (2) year period in 2018 and 2019.
- This will still impact the funds; however, going over a two-year period gives you a little more budgetary flexibility. The 2014 and 2015 refunds would be paid in 2018 and the refund for 2016 would be paid in 2019.
- Positives-we pay back all refunds currently due, except 2017 which has not been filed, this payback will have a less budgetary impact in 2018.
- Negatives-will impact budgetary reallocation, there will be lower carryover balances available for 2019 in both funds and the taxpayer may still take legal action on the 2013 refund that is currently not listed.

Option 3

- Accept the returns as filed and pay all refunds out of the 400 CIP funds. Mazur stated you can do any variation you would like it does not have to be the 62%–38% split.
- Payment of all refunds, except for 2017 that has not been filed yet, this will not impact the General Fund which is the primary operational services fund, there will have to be cutbacks as this would lower the carryover balance in the 400 CIP account and the taxpayer may still take legal action on the 2013 refund that is currently not listed.

Heath went on, any of the options will require legislation to budget funds into the proper accounts. I feel the \$200,000 deduction a year is the new normal in income tax; however, we will not accept \$200,000 excessive tax estimates, we are going to keep the tax estimate we will accept under \$50,000.

Maassel asked what the 2013 number is that you do not want to pay. Heath responded \$114,567. Interest payments on the tax paid by the City are not included either, we could be paying another \$30,000 in interest. Our Ordinance states you go back to the date of filing, this is something Council may want to look at and consider changing for the future. Bialorucki asked what the interest rate is. Heath answered, there are two different ordinances for the time period, there was a much higher rate a few years ago (5%-7%) than what the per annum rate is now (3%). Maassel confirmed, the known number is \$621,900 plus there is another \$350,000 for 2017 that has not been filed and interest of \$30,000, we are really close to a million dollars.

Mazur's thoughts were, to have a lesser impact on services, using CIP funds on the high end and the lower end of the General Fund. Heath said currently there is \$3.7 million of unencumbered appropriations in the 400 CIP fund. If you cut into the General Fund deep enough you are talking positions and services. Maassel does

not like idea of using CIP funds, our roads need to be maintained and repaired. Heath said in the CIP fund for Industrial Drive there was budgeted \$2.9 million and \$2.63 million is needed but that does not include any change orders. Mazur added the entire downtown improvements project was bid out with the base bid estimate at \$940,000, will see how the bids come in tomorrow, there is \$1.3 million appropriated. Bialorucki confirmed the amount budgeted for streets will all be used for the downtown project. Heath noted there is still capital items that were budgeted for in 2018 but have not been purchased yet. The only other funds are the enterprise funds, this would impact rates and must be legally approved by the court. Bialorucki asked how soon does a decision need to be made? Heath responded he wants direction today if it is their intent to pay back the \$621,900 yet this year, even if we spread the payment over a couple of years this year's budget will be impacted. Maassel suggested paying 62% out of 100-General Fund and 38% out of 400-CIP over a two (2) year period. Bialorucki asked, what about the 2017 refund if it comes back around \$350,000 and they want paid in 2019? I like splitting up the payments in 2018 and 2019 with more being paid this year if we imagine there is another \$350,000 to be paid. Maassel commented, basically we are looking at paying back \$1 million dollars plus possible interest.

**Motion for Appointed
Authorities to Negotiate
Option 2 with Entity**

Motion: Maassel Second: Comadoll
to give the appointed authorities the ability to negotiate the general guidelines of
Option 2 with the entity and to report back to the full body of Council.

Passed
Yea-4
Nay-0

Roll call vote on the above motion:
Yea- Maassel, Bialorucki, Comadoll, Haase
Nay-

Motion to Adjourn

Motion: Maassel Second: Haase
to adjourn the Finance and Budget Committee meeting at 7:43 pm.

Passed
Yea-4
Nay-0

Roll call vote on the above motion:
Yea-Maassel, Bialorucki, Comadoll, Haase
Nay-

Approved:

Joseph D. Bialorucki-Chair

COUNTY/CITY AGREEMENT FOR REIMBURSEMENT OF BRIDGE & ROADWAY PLAN REVISIONS FOR NEW WATERLINE EXTENSION

THIS AGREEMENT entered into between the County of Henry, State of Ohio by and through its Board of County Commissioners (hereinafter called the “County”) and the City of Napoleon, Ohio, by and through its City Manager, (hereinafter called the “City”).

WHEREAS, the County entered an agreement (Agreement No. Maumee River Crossing, Henry County, Ohio) with Mannik & Smith Group, Inc. (hereinafter called “MSG”), which includes authorizing MSG to perform Bridge & Roadway plan revisions for new waterline extension for the New River Bridge (hereinafter called the “Bridge”) in the amount of \$37,572.00; and,

WHEREAS, the City owns the waterline that it wants the Bridge to carry; and,

WHEREAS, by Resolution No. _____ passed by the Board of Commissioners of Henry County on _____ and by authority of the City Manager as authorized in Sections 133.01(d) (13) and Chapter 105 of the Codified Ordinances of the City of Napoleon, Ohio, duly passed by City Council, this Contract is being entered into.

NOW THEREFORE, the parties do mutually agree to bind themselves as follows:

1. The County shall pay the amount of \$37,572.00 to MSG to perform Bridge & Roadway Plan revisions for new water line extension for the Bridge.
2. The City shall reimburse the County the amount of \$37,572.00 within 30 days of the date of the County’s payment to MSG.
3. This Agreement shall be for the calendar year of 2018 and thereafter expire; moreover, to the extent permitted by law. Either party may terminate this Agreement by giving thirty (30) days written notice to the other party. Termination under this provision by a party of this Agreement shall not constitute a waiver of any other right or remedy it may have at law or in equity for breach of this Agreement.
4. Neither party to this Agreement shall assign all or any part of this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld.
5. If any party to this Agreement shall fail to fulfill in reasonable, timely, and proper manner, its obligations under this Agreement, or if any party shall substantially violate any of the covenants, agreements, or stipulations of this Agreement, the non-violating party shall thereupon have the right to terminate this Agreement by giving written notice to the violating party of such termination and specifying an effective date of said termination. Termination by a party under this

provision shall not constitute a waiver of any other right or remedy it may have at law or in equity for breach of this Agreement.

6. All amendments to this Agreement agreed upon by the parties shall be in writing and made a part of this Agreement.

Effective this _____ day of _____, 2018.

BOARD OF HENRY COUNTY COMMISSIONERS

CITY OF NAPOLEON, OHIO

Thomas H. Von Deylen, Commissioner

Joel L. Mazur, City Manager

Glenn A. Miller, Commissioner

Robert E. Hastedt, Commissioner

APPROVED AS TO FORM AND CORRECTNESS:

Billy D. Harmon, City Law Director

APPROVED AS TO FORM AND CORRECTNESS:

Gwen K. Howe-Gebers, County Prosecutor

CERTIFICATION OF FUNDS

It is hereby certified that the amount required to meet the obligations of this contract in the fiscal year in which the contract has been made has been lawfully appropriated for the purposes of the contract and is in the treasury or in the process of collection to the credit of an appropriate fund free from any previous encumbrances, obligations or certificates no outstanding.

Gregory J. Heath, Finance Director

CERTIFICATION OF FUNDS

It is hereby certified that the amount required to meet the obligations of this contract in the fiscal year in which the contract has been made has been lawfully appropriated for the purposes of the contract and is in the treasury or in the process of collection to the credit of an appropriate fund free from any previous encumbrances, obligations or certificates no outstanding.

Kevin Garringer, County Auditor

**APPLICATION FOR PLACEMENT OF
FARMLAND IN AN AGRICULTURAL DISTRICT
(O.R.C. Section 929.02)**

(See page 4 for General Information regarding this Application)

New Application ☒
Renewal Application ☐

INSTRUCTIONS FOR COMPLETING APPLICATION

Print or type all entries.

- o List description of land as shown on the most recent tax statement or statements. Show total number of acres.
- o Describe location of property by roads, etc., and taxing district where located.
- o State whether any portion of land lies within a municipal corporation.
Note: See "Where to File" on page 4 to be sure that a copy of this Application is also filed with the Clerk of the municipal legislative body as well as the County Auditor.
- o A renewal application must be submitted after the first Monday in January and prior to the first Monday in March of the year in which the agricultural district terminates for the land to be continued in this program.
- o If the acreage totals 10 acres or more, do not complete Part D.
- o If the acreage totals less than 10 acres, complete either D (1) or (2).
- o Do not complete page 3. This space to be completed by the County Auditor and/or Clerk of the municipal legislative body.

A. **Owner's Name:** Brad & Laura Hibbard

Owner's Address:
2950 Enterprise Ave
Napoleon, Oh 43545

Description of Land as Shown on Property Tax Statement:
parcels 27-059662-0020 AND 27-050014-0000
re-plat Mahnke orchards LOT A + LOT B

Location of Property:
Street or Road- 2950 Enterprise Ave, Napoleon, Ohio
County- Henry

TAX DISTRICT(S)	PARCEL NUMBER(S)	# of Acres
Napoleon Corp &	27-050014-0000	27.95
Liberty Township	27-059662-0020	11.07
Total Number of Acres		39.02

B. Does any of the land lie within a municipal corporation limit or subject to pending annexation?
Yes X No

If YES, REMEMBER a copy of this application must be submitted to the Clerk of the municipal legislative body.

C. Is the land presently being taxed at its current agricultural use valuation under Section 5713.31 of the Ohio Revised Code? Yes X No

If NO, complete the following showing how the land was used the past three years:

	<u>ACRES</u>		
	LAST YEAR	TWO YEARS AGO	THREE YEARS AGO
Cropland			
Permanent Pasture used for animal husbandry			
Woodland devoted to commercial timber and nursery stock			
Land Retirement or Conservation Program pursuant to an agreement with a federal agency			
Building areas devoted to agricultural production			
Roads, building areas, and all other areas not used for agricultural production			
Total Acres			

D. Does the land for which the application is being made total 10 acres or more devoted exclusively to agricultural production or devoted to and qualified for payments or other compensation under a land retirement or conservation program under an agreement with an agency of the federal government?

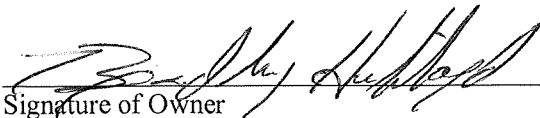
Yes X No

If NO, complete the following:

1. Attach evidence of the gross income for each of the past 3 years, if the average yearly income from agricultural production was at least twenty-five hundred (\$2,500.00) dollars or more, **or**
2. If the owner anticipates that the land will produce an annual gross income of twenty-five hundred (\$2,500.00) dollars or more, evidence must be attached showing the anticipated gross income.

Authorization and Declaration

By signing this application I authorize the county auditor or his duly appointed agent to inspect the property described above to verify the accuracy of this application. I declare this application (including accompanying exhibits) has been examined by me and to the best of my knowledge and belief is a true, accurate and correct application. I understand that land removed from this program before the 5-year enrollment period is subject to penalty, in accordance with Section 929.02(D) of the Ohio Revised Code.


Signature of Owner

Date: 5/29/18

DO NOT COMPLETE FOR OFFICIAL USE ONLY

CAUV Application No. 1797

Action of County Auditor

Application Approved ✓ Rejected _____ *

Date Application Filed with County Auditor 5/29/18

Date Filed (if required) with Clerk of Municipal Corporation _____

County Auditor's Signature Kevin Garringer Date 5/29/18

Date Decision Mailed to Applicant _____ Certified Mail No. _____

Action of Legislative Body of Municipal Corporation

Application Approved _____ Approved with Modifications _____ * Rejected _____ *

Date Application Filed with Clerk _____

Date of Public Hearing _____

Date of Legislative Action _____

Clerk's Signature _____ Date _____

Date Decision Mailed to Applicant _____ Certified Mail No. _____

* IF MODIFIED OR REJECTED, ATTACH SPECIFIC REASONS FOR MODIFICATION OR REJECTION

INFORMATION FOR PLACEMENT OF FARMLAND IN AN AGRICULTURAL DISTRICT

A. WHO MAY FILE?

Any owner of land used for agricultural production may file an application to have the land placed in an agricultural district.

B. WHERE TO FILE

The completed application must be filed with the auditor of the county where the land is located. The applicant will be notified of action taken by the county auditor within 30 days of the filing of the application if the land is not within a municipal corporation or an annexation petition has not been filed. If the land for which an application has been made lies within a municipal corporation limit or if an annexation petition that includes the land has been filed with the Board of County Commissioners under Section 709.02 of the Ohio Revised Code, a copy of the application must also be filed with the Clerk of the legislative body of the municipal corporation. The legislative body is required to conduct a public hearing on the application within 30 days after the application has been filed with the Clerk. Within 30 days of the hearing, the legislative body may approve the application, modify and approve the application as modified, or reject the application.

C. WHEN TO FILE AND RENEWAL

The original application may be filed at any time for placement of land in an agricultural district for a five-year period. If at the end of five years, the owner decides to keep some or all of his or her land in a district, he or she shall submit a renewal application and must meet the same land requirements and use the same application process as the original application. The renewal application may be filed at any time after the first Monday in January and prior to the first Monday in March of the year during which an agricultural district terminates, for a period of time ending on the first Monday in April of the fifth year following the renewal application.

D. WHAT IS "LAND USED FOR AGRICULTURAL PRODUCTION?"

In accordance with Section 929.01(A) of the Revised Code, land is devoted to "agricultural production" when it is used for commercial aquaculture, apiculture, animal husbandry, poultry husbandry; the production for a commercial purpose of field crops, tobacco, fruits, vegetables, timber, nursery stock, ornamental shrubs, ornamental trees; flowers or sod; the growth of timber for a noncommercial purpose if the land on which the timber is grown is contiguous to or part of a parcel of land under common ownership that is otherwise devoted exclusively to agricultural use; or any combination of such husbandry, production, or growth; and includes the processing, drying, storage and marketing of agricultural products when those activities are conducted in conjunction with such husbandry, production, or growth.

"Agricultural production" includes conservation practices provided that the tracts, lots, or parcels of the land or portions thereof that are used for conservation practices comprise not more than twenty-five percent of tracts, lots, or parcels of land that are otherwise devoted exclusively to agricultural use and for which an application is filed.

"Conservation practices" are practices used to abate soil erosion as required in the management of the farming operation, and include, but are not limited to, the installation, construction, development, planting, or use of grass waterways, terraces, diversions, filter strips, field borders, windbreaks, riparian buffers, wetlands, ponds, and cover crops for that purpose.

E. WHAT DOES "TRACTS, LOTS, OR PARCELS OF LAND" MEAN?

Tracts, lots, or parcels mean distinct portions of pieces of land (not necessarily contiguous) where the title is held by one owner, as listed on the tax list and duplicate of the county, is in agricultural production and conforms with the requirements of either D1, D2, or D3 below.

F. ARE THERE ANY OTHER REQUIREMENTS?

1. The land for which the application is made must have been used exclusively for agricultural production or devoted to and qualified for payments or other compensation under a land retirement or conservation program under an agreement with a federal agency for the three consecutive calendar years prior to the year in which application is made. Evidence must be shown on the application. If the land contains timber which is not being grown for commercial purposes the land on which the timber is growing must be contiguous to or part of a parcel under common ownership that is otherwise devoted exclusively to agricultural use.
2. If the total amount of land for which application is made is less than 10 acres, there is an additional requirement that the applicant submit evidence with his application that the activities conducted on the land have produced an average yearly gross income of at least twenty-five hundred dollars over the three years immediately preceding the year in which application is made or that the land will produce an anticipated annual gross income of that amount.
3. Evidence of annual gross income may be satisfied by attaching to the application form a short statement stating the number of animals by species and anticipated market value, number of acres of crops to be grown, their expected yield and price per bushel or similar specific information.

G. IS THERE A PENALTY FOR EARLY WITHDRAWAL?

Land removed from this program before the 5-year enrollment period is subject to penalty, per Section 929.02(D) of the Ohio Revised Code. See County Auditor's Office for details on how the amount of the withdrawal penalty is determined.

H. APPEAL OF APPLICATION

The applicant may appeal the denial of the application to the court of common pleas of the county in which the application was filed within thirty days of the receipt of the notice denying the application. When the land lies within a municipality the applicant may also appeal a decision to modify or reject an application to the court of common pleas of the county in which the application was filed within thirty days of the receipt of the notice of modification or rejection. In addition, the applicant may withdraw an application modified by a legislative body if he or she disapproves of the modifications.



May Board meeting update

By Marc Gerken, P.E. - president/CEO

In response to member feedback, we are pleased to begin publishing an article to run after each AMP Board of Trustees meeting. The article will feature a high-level update of the meeting, including any significant action taken.

Transmission

Staff provided an update on a number of transmission and RTO related issues. This included updates on activities at FERC, PJM and MISO, and discussions of the impact of the recently announced plant closures by FirstEnergy and \$2.4 billion in new supplemental projects. AMP has previously raised concern about supplemental projects, which do not provide system-wide benefits and are not required for system resiliency. To follow recent developments on the issue and review my op-ed published by the Cleveland Plain Dealer, [visit the AMP website](#).

Participants meetings

The **AMP Fremont Energy Center Participants Committee** met during the Board meeting. Updates were provided on the Financial Transmission Rights (FTR) auction and a discussion was held on FTR strategies.

The **Hydro Phase I and Meldahl and Greenup Participants** met during the Board meeting. With the projects now complete and operational, a final construction update was provided. Participants of Hydro Phase I heard financing options and took action to adopt a new financing arrangement for a portion of the debt. Participants recently approved revising the rate structure to a demand and energy charge to better align with fixed and variable costs.

Presentations

Board and committee members heard two presentations. The first featured a vendor who has worked successfully with Cleveland Public Power to implement an online software program and mobile app to encourage engagement with customers. The second presentation featured an update on electric vehicle charging stations, including the latest trend lines and the work of the Focus Forward Advisory Committee on the issue. Five states in the AMP footprint are among the nation's leaders in EV penetration. Following the EV charging stations presentation, the Board held a brief discussion regarding various options for installation and operation and how the Volkswagen settlement with EPA might provide financing opportunities.

Other

Additional updates were provided by AMP staff to the standing Board committees. These included updates on AMP's strategic plan, the AMI program, legislative activities at the federal level and in AMP footprint states, a recap of the safety awards and RP3 designations from the APPA Engineering and Operations conference, power supply and renewable energy project updates, and generating asset performance updates.

We hope you find this information helpful. If you have any questions or need additional information about the Board meeting, please contact me at 614.540.1111 or mgerken@amppartners.org.

PJM 2021-2022 Installed Capacity Auction clears higher than expectations

By Mike Migliore - vice president of power supply planning

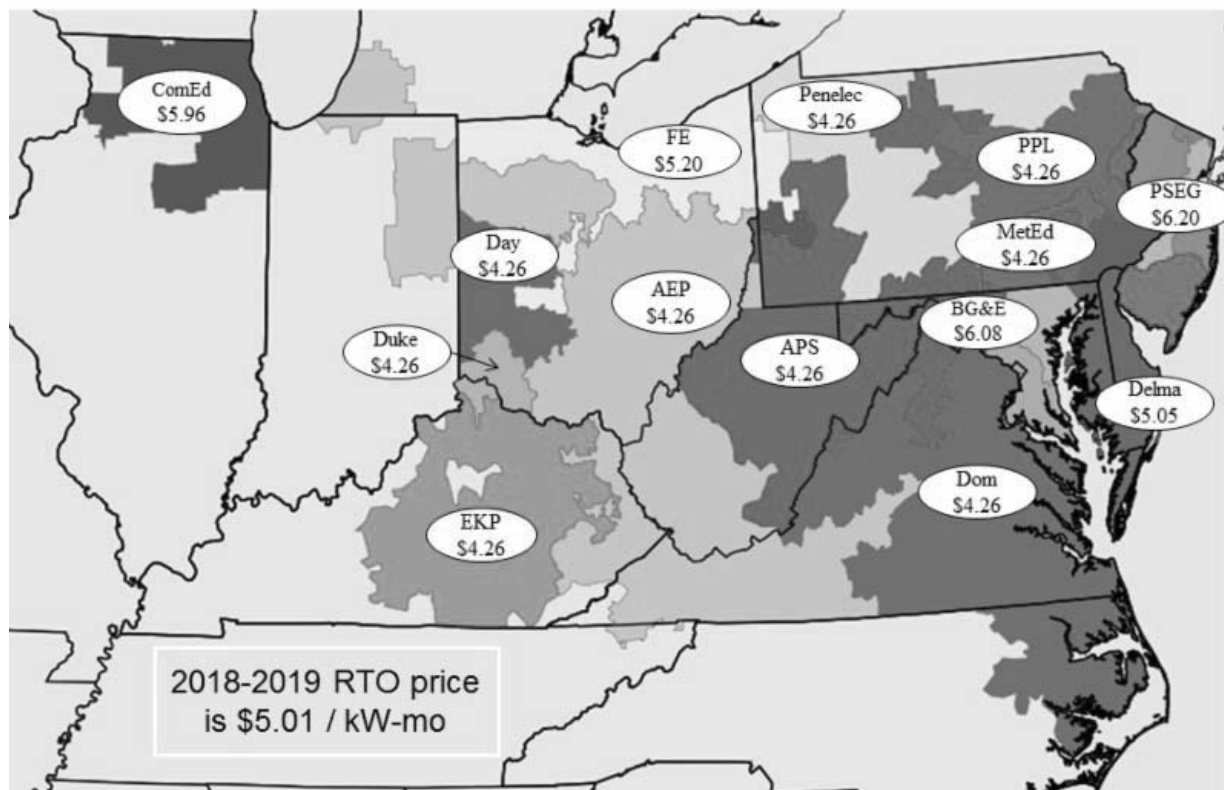
Each May, PJM runs an auction to contract with generators and curtailable loads to be on call to perform when PJM's load is in danger of exceeding the amount of available generation. PJM recently ran their annual auction to acquire Installed Capacity for the June 2021 through May 2022 planning year. For most of PJM, the auction cleared at its second highest price since 2011 and 83 percent higher than last year's low price. PJM attributed the rise in prices to a lower reserve margin and the fact that 7,473 MW of nuclear generation did not clear due to planned retirement or higher offer prices.

PJM's reserve margin for 2021-2022 will still be a healthy 21.5 percent, but it is smaller than the 23.9 percent that the RTO will see in 2020-2021. The reduction in nuclear capacity was offset by an increase in 3,330 MW of demand response and 1,100 MW of energy efficiency. Only one new natural gas combined cycle plant (595 MW Hilltop plant in PA) cleared. 570 MW of new solar capacity and 529 MW of new wind capacity was purchased in the auction.

The clearing price for loads and generators in AEP, APS, Duke, PP&L, MetEd and Dayton Power & Light was \$4.26/kW-mo. The Duke zone returned to the same price as others in PJM after clearing 70 percent higher than these zones in 2020-2021. Due to the planned retirement of FirstEnergy's three nuclear plants, the clearing prices for loads and generators in FE ended at \$5.20/kW-mo. The Delmarva zone will see capacity prices of \$5.05/kW-mo. The majority of industry experts and investors had expected the auction to clear near the \$3.00/kW-mo level.

The extra \$1.26/kW-mo demand charge above expectations equates to approximately \$3.00/MWh. Members that are participants in generation projects or that reduce their loads through peak shaving will see less of an impact from the capacity price increase.

2021-2022 Installed Capacity Clearing Prices (\$/kW-mo)



U.S. EPA to issue final 2015 Ozone Standard Designations

By Adam Ward - vice president of environmental affairs, sustainability and energy policy

On April 30, the U.S. Environmental Protection Agency (U.S. EPA) Administrator Scott Pruitt signed the final Federal Register notice to finalize the 2015 National Ambient Air Quality Standard (NAAQS) for ozone. These designations will become final 60 days after publication in the Federal Register. Areas failing to meet the 2015 ozone NAAQS are designated as "nonattainment."



States are required to design and implement pollution control rules in these nonattainment areas. These designations could have an impact on existing companies looking to expand their operations or the suitability of sites for new companies. Depending on the amount and type of air emissions, new permits may be subject to more rigorous permit review requirements and necessitate additional air pollution controls.

Some AMP members are located in newly-designated nonattainment areas. While not yet published, the specific members expected to be in areas designated nonattainment are:

Ohio	Michigan	Pennsylvania
<ul style="list-style-type: none"> • Hamilton • Cleveland • Westerville • Columbus • Painesville • Amherst • Grafton • Oberlin • Wellington • Lodi • Seville • Wadsworth • Cuyahoga Falls • Hudson • Lebanon 	<ul style="list-style-type: none"> • Wyandotte 	<ul style="list-style-type: none"> • Perkasio • Quakertown • Hatfield • Lansdale

AMP staff will continue monitoring U.S. EPA actions and state responses in this regulatory space, and provide additional information to members as appropriate.

For more information, please contact me at 614.540.0946 or award@amppartners.org.

AMP holds pole top and bucket rescue training

By Robert Rumbaugh - manager of technical training

AMP held a pole top and bucket rescue training course on May 22 in Watsonstown, Lansdale and Kutztown. The course covers the OSHA-required technique of rescuing a person from a pole or out of an aerial bucket. Every person who climbs a pole or goes up in a bucket truck should be trained in this area annually. This also applies to ground workers.

There were 23 participants from four different communities, as well as six vendors in attendance.

Throughout the year, AMP offers high-quality training designed to improve employee performance and enhance safety. Members are encouraged to browse the 2018 training catalog and sign up for any courses that might benefit their community.



Matt Hamilton of Lansdale practices a pole top rescues

If you have questions about training, please contact me at rumbaugh@amppartners.org or 614.540.1111.

Monthly NERC update call on May 31

By Art Iler - director of reliability standards compliance

AMP, in coordination with Utility Services, Inc., will host its 60-minute, monthly North American Electric Reliability Corporation (NERC) update call and webinar for members on May 31, at 1:30 p.m. Topics to be discussed include:

- FERC's recent approval of NERC standard CIP-003-7
- Managing harmonics from variable energy resources, such as solar and wind farms
- ReliabilityFirst data requests

The presentation will be followed by a question and answer session.

Please contact me with questions, and for the dial-in number and webinar instructions, at ailer@ampppartners.org or 614.540.0857.

APPA to hold webinar on EIA data forms

By Michelle Palmer, P.E. - vice president of technical services

The American Public Power Association (APPA) will be holding a webinar on the Energy Information Administration (EIA) data forms on June 28 from 1 to 2:30 p.m. EST.

The EIA collects data from every utility in the country on its annual Form EIA-861 survey, as well as from other surveys, but has noted that there are often inconsistencies in utilities' reporting. In order to provide more accurate information, the EIA and APPA are aiming to increase consistency in reporting. This webinar will cover the forms most familiar to public power utilities, with a focus on the most confusing forms. Covered topics will include:



- Typical reporting errors
- What should be reported in revenue and sales categories
- How to report capacity and generation totals
- PILOT amounts in revenues
- How to distinguish between customer categories

The webinar will be followed by a question and answer session and will provide an opportunity for feedback. If you would like to register for this webinar, click [here](#).

Energy markets update

By Jerry Willman - assistant vice president of energy marketing

The June 2018 natural gas contract increased \$0.026/MMBtu to close at \$2.94 yesterday. The EIA reported an injection of 91 Bcf for the week ending May 18, which was in alignment with market expectations. Gas in storage now stands at 1,629 Bcf. This is 23 percent under the five-year average of 2,128 Bcf. Gas in storage for this week one year ago was 2,433 Bcf.

On-peak power prices for 2018 at AD Hub closed yesterday at \$35.60/MWh, which was \$.17/MWh higher for the week.

On Peak (16 hour) prices into AEP/Dayton hub

Week ending May 25

MON	TUE	WED	THU	FRI
\$40.40	\$40.87	\$43.91	\$45.50	\$48.24

Week ending May 18

MON	TUE	WED	THU	FRI
\$56.00	\$50.46	\$41.54	\$40.62	\$32.53

AEP/Dayton 2019 5x16 price as of May 24 — \$35.60

AEP/Dayton 2019 5x16 price as of May 17 — \$35.43

AFEC weekly update

By Jerry Willman

The AMP Fremont Energy Center operated in 1x1 configuration last weekend through Monday to finish repairs to the low pressure drum door gasket on CT2. The plant was offered into the PJM day-ahead market for Tuesday as 1x1, but repairs to CT2 were completed late Monday evening and the plant operated in 2x1 configuration Tuesday through Thursday. Duct firing operated for 139 hours this week. The plant generated at a 62 percent capacity factor (based on 675 MW rating).

AMP promotes Poddany to AMI program manager

By Brannndon Kelley - chief information officer

AMP is pleased to announce that Brandon Poddany has been promoted to AMI program manager. In his new role, Poddany will be responsible for the AMI Program including subscription, deployment and operations support. He will work closely with our members, marketing staff, Jared Price and I to ensure that deployments are successful and operations meet expectations. His experience across different departments and technologies will position him well for success in this new role.

Poddany has been with AMP since 2013, serving in roles across multiple departments in the organization. He started as a power supply planning engineer in the Power Supply and Marketing/Member Relations Department and becoming manager of marketing/member relations in 2015. He then moved to the IT Department as reporting systems business analyst in 2017. He holds a bachelor's degree from the University of Toledo and a master's degree in business administration from Capital University.



Please join me in congratulating Brandon on his new role!

Register now for Webinars

An internet connection and a computer are all you need to educate your staff. Individual webinars are \$99 or sign up for a series at a discounted rate. Register today at www.PublicPower.org under Education & Events. Non-members can enter coupon code **AMP** to receive the member rate.

- Electric Utility 101 Series: Keeping Pace with Utility Trends and Technologies **May 4**
- Rating Agency Webinar Series: Maintaining or Improving Your Utility's Bond Rating **May 22**
- Use Public Power Insurance Data to Improve Your Risk Profile **June 5**

Recorded webinars are also available for purchase. Visit www.PublicPower.org under Shop.



Classifieds

Members interested in posting classifieds in Update may send a job description with start and end advertisement dates to zhoffman@amppartners.org. There is no charge for this service.

City of Bowling Green seeks applicants for wastewater collection equipment operator

The City of Bowling Green is seeking applicants for the position of wastewater collection equipment operator in the City's Water Distribution and Wastewater Collection Division. This position is responsible for maintaining, repairing and installing municipal sanitary, combination, storm sewers and performing lift

station maintenance. This position requires the operation of vac-truck, dump truck, CCTV, excavator, backhoe, jack hammer, tapping machine, air monitor, concrete saw and flow meter; use of hand tools; repair and installation of manholes, catch basins, asphalt and concrete; set up of work zone traffic control; response to after hour calls; performance of other related duties as assigned. Work is performed outdoors and in confined spaces in proximity to sewage; requires night, weekend and holiday work.

Applicants must possess a high school diploma or equivalent; Class A CDL with Tanker Endorsement; OEPA Class I Wastewater Collection Certification or the ability to obtain within two years; one to three years of relevant experience; or any combination of experiences which provides the required skill sets to perform the essential functions of the job. A copy of the job description will be provided to applicants. Qualified persons **must** complete an application, which is available in the Personnel Department of the City of Bowling Green, 304 N. Church St., Bowling Green, OH 43402-2399. The application is also available [here](#). Resumes alone will not be considered. Telephone: 419.354.6200. Fax: 419.352.1262. Email: BGPersonnel@bgohio.org. **The deadline to apply is June 15, 2018, at 4:30 p.m. AA/EEO**

City of Columbus seeks applicants for lamp servicer exam

The City of Columbus Department of Public Utilities is seeking qualified candidates for the position of lamp servicer. To apply, one must first take the open-competitive examination. Applications may be submitted to the Civil Service Commission by applying online at www.csc.columbus.gov by June 1. Applicant tracking is now managed by NEOGOV. If you have submitted a profile in the past, you will have to submit a new one through NEOGOV.

This position will be responsible for maintaining street lighting systems for the Columbus Division of Power. To qualify you must have one year of experience working with energized electrical lines or equipment. Substitution(s): Successful completion of a formal training program in the general principles of electricity or power distribution may substitute for the required experience. Possession of a valid driver's license is required; by the end of probationary period, must possess a valid Class A CDL with air brake endorsement. Salary: \$42,640-\$63,065.60. Please contact the Civil Service Commission at 614.645.8300 with questions. EOE.

Village of Elmore seeks applicants for utility billing clerk

The Village of Elmore is seeking applicants for the position of utility billing clerk. This position will perform routine clerical, accounting, bookkeeping and record retention for the preparation of financial records, reports and documents for the administrator. The position will also include the coordination of office assignments as well as scheduling coordination for the village administrator and other officers of the village.

Applications may be picked up at 340 Clinton St. or resumes dropped off in a sealed envelope at the same address between 7:30 a.m. and 4 p.m., or mailed to P.O. Box 1, Elmore, OH 43416. The deadline to apply for this position is June 7.

AMP has surplus materials available from hydro and gas turbine projects

Combined hydro project surplus materials

AMP has an inventory of leftover construction related items from the hydro plant buildout including backup diesel generators, cable and wiring, conduit, conduit fittings, copper piping and various other electrical and mechanical items. The majority of materials are located at the Smithland Hydro Plant. We are currently making plans to liquidate this surplus material. If any members are interested in potentially purchasing some of the items, the full list of materials can be obtained by emailing Phil Meier at pmeier@amppartners.org. We respectfully request that all inquiries be submitted no later than June 1.

AMP gas turbine project surplus materials

AMP has surplus materials associated with the AMP CT project including a Frame 5 combustion turbine, generator (associated with the Frame 5), associated inlet and exhaust parts, as well as various other items. The majority of materials are located at the Bowling Green AMP CT plant. We are currently making

plans to liquidate this surplus material. If any members are interested in potentially purchasing some of the items, the full list of materials can be obtained by emailing Willey Sandell at wsandell@amppartners.org. We respectfully request that all inquiries be submitted no later than June 1.

Montpelier seeks bids for sale of garbage truck, dumpsters

The Village of Montpelier is seeking sealed bids for the sale of the following items:

- 2012 McNeilus 17-yard rear loader/packer garbage truck with an international truck chassis in very good condition, inside and out. It also has most of the equipment set-up for rear garbage collection in the Tidy Totes containers.
- Six - six-yard, rear-load dumpsters
- Five - four-yard, rear-load dumpsters
- One - three-yard, rear-load dumpster with wheels

The bid should include all items listed above, as the village is not entertaining bids on separate items. **There is a \$30,000 minimum reserve, and the Village of Montpelier reserves the right to refuse any and all bids.**

For questions, additional specifications or if you would like to look at the items, contact Street Superintendent Dennis Bishop at 419.485.1526. Sealed bids must be received by 4:30 p.m. on May 30 and will be publicly opened on May 31 at 9 a.m at the Montpelier Town Hall. Please drop off or mail sealed bids to the Clerk of Council, c/o Kevin Brooks, Garbage Truck/Dumpsters, 211 N. Jonesville St., P.O. Box 148, Montpelier, OH 43543.

Village of Pemberville seeks electric distribution lineworker

The Village of Pemberville is seeking applicants for the position of electric distribution lineworker. The lineman will be responsible for delivering reliable electric service to customers by performing inspections, maintenance, operations and construction work on substations, transmission, distribution and streetlight systems within the village to the level that their training dictates. Having or obtaining a CDL is required, as is mechanical knowledge and knowing how to operate equipment including but not limited to: bucket truck, digger derrick, backhoe, wood chipper, chain saws and dump truck; with a willingness to follow all current and future safety practices and maintain equipment. Wage is negotiable. Applications are available on the [village website](#). Please submit a resume and application to the Village of Pemberville, 155 Main St., P.O. Box 109, Pemberville, OH 43450.

Village of Minster seeks applicants for three positions

Wastewater superintendent

The Village of Minster is seeking a qualified candidate for the position of wastewater superintendent. The potential candidate will be responsible for the continuous operation and maintenance of a Class III wastewater treatment facility. Successful candidate should have a minimum of a high school degree supplemented by specialized academic training in the areas of chemistry and biology and specialized training in the operation of a wastewater treatment facility. A degree in science or engineering preferred; experience in a superintendent position preferred; with a minimum of five years of experience operating a biological treatment process facility; a valid Ohio Class III Wastewater Treatment certificate; knowledge of the Ohio EPA's rules and regulations regarding wastewater treatment; a valid driver's license.

For information about the position and to download an application, visit, www.minsteroh.com. To apply, send resume, application with at least three references to: Village Administrator, Village of Minster, P.O. Box 1, Minster, OH 45865. Applications will be accepted until the position is filled.

Water superintendent

The Village of Minster is seeking a qualified candidate for the position of water treatment superintendent. The potential candidate is responsible for the continuous operation and maintenance of a Class I water supply works and the delivery of safe, clear and sufficient water to the community. Successful candidate should have a minimum of a high school degree supplemented by specialized academic training in the areas of chemistry and biology and specialized training in the operation of a water treatment facility. A degree in science or engineering preferred; experience in a superintendent position preferred; a valid

Ohio Class I Water Supply certificate. A minimum of five years of experience in a Class I facility; a valid driver's license; knowledge of the Ohio EPA's rules and regulations regarding water treatment.

For information about the position and to download an application, visit, www.minsteroh.com. To apply, send resume, application with at least three references to: Village Administrator, Village of Minster, P.O. Box 1, Minster, OH 45865. Applications will be accepted until the position is filled.

Wastewater/water superintendent

The Village of Minster is seeking a qualified candidate for the position of wastewater superintendent/water superintendent. The potential candidate will be responsible for the continuous operation and maintenance of a Class III wastewater treatment facility and a Class I water treatment facility. Successful candidate should have a minimum of a high school degree supplemented by specialized academic training in the areas of chemistry, science and biology and specialized training in the operation of a water treatment facility and a wastewater treatment facility. A degree in science or engineering preferred; experience in a superintendent position preferred; with a minimum of five years of experience in a Class I water facility and a Class III wastewater facility; valid Ohio Class I Water Supply certificate and an Ohio Class III Wastewater Treatment certificate; a valid driver's license; knowledge of the Ohio EPA's rules and regulations regarding water and wastewater treatment.

For information about the position and to download an application, visit, www.minsteroh.com. To apply, send resume, application with at least three references to: Village Administrator, Village of Minster, P.O. Box 1, Minster, OH 45865. Applications will be accepted until the position is filled.

Opportunities available at AMP

AMP is seeking applicants for the following positions:

Reporting systems business analyst

Plant operator I or II - Cannelton Hydro Plant

Administrative assistant - finance

Generation optimization specialist

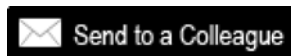
For complete job descriptions, please visit the [AMP careers page](#).

American Municipal Power, Inc.

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Legislative Bulletin

June 1, 2018

The League is releasing an abridged bulletin this week. The Legislature did not hold session this week and only a couple of committees met. Only one bill of municipal interest was discussed. You can expect a full-fledged legislative bulletin next week as the House and Senate resume their full legislative schedules. At this time, the House has not elected a speaker but is expected to elect one next week and resume legislative business.

OML UPDATE AT-AT-GLANCE

Here are the top three things you need to know from this past week:

- An article in the Toledo Blade in April cited the *Nutrient Mass Balance Study for Ohio's Major Rivers*, which confirmed that only 7% of total phosphorus comes from point sources, which are mainly treatment plants located in municipalities. You can access the article [HERE](#).
- Governor John Kasich is reportedly considering an executive order which would address phosphorus runoff into Lake Erie. The League will monitor and report on whatever details from the proposed executive action emerge later.
- In the latest NLC State of the Cities report, economic development, infrastructure, budgets, housing and public safety are consistently the top policy issue discussed by mayors when presenting their own communities' State of the city speeches, for the fifth year in a row. Economic development was the most prominent topic with 58% of mayors discussing the issue extensively in their speeches. You can access the full National League of Cities State of the Cities 2018 report [HERE](#).

REMEMBERING OML BOARD PRESIDENT AND LOCKLAND MAYOR JIM BROWN

The League is sad to announce the passing of Lockland Mayor Jim Brown on Saturday, May 26, 2018. Mayor Brown was on the League's Board for over 25 years and served as the OML Board President, as well as serving on the Board of Directors for the League's Mayors Association of Ohio.

Jim Brown was Lockland's mayor for 36 years, making him the village's longest-serving mayor. He made invaluable contributions to the League and was a strong supporter of municipalities. Our thoughts and prayers are with his loved ones, and he will be greatly missed.

SECOND REGIONAL CONFERENCE TO BE HELD NEXT WEEK IN MASON

Next week, the Ohio Municipal League will be holding the second Regional Conference in Mason and we are looking forward to a productive and educational day with the municipal leaders in Southwestern Ohio. The conference will take place on Friday, June 8th at the Manor House Banquet Center. Please take the time to register if you have not already done so, as this is an opportunity you will not want to miss.

The goal of these Regional Conferences is to provide an opportunity for League members prevented from attending our three-day Annual Conference held in downtown Columbus, either because of distance constraints or other issues to have access to the timely information our members receive at our Annual Conference and to experience some of the opportunities that the conference provides. We have put together a single day program of general session topics with presentations by featured speakers who are experts in their municipal sectors.

The Regional Conferences are an invaluable opportunity for municipal officials statewide to have the ability to be presented with critical information directly related to the success of their own communities, as well as connect and network with other local leaders in their area. This opportunity is not limited to League members but is a great opportunity for all municipal and local government officials to refresh their skill sets and get the most recent information on critical topics.

Registration information for next week and the forthcoming conferences, including the conference agenda, can be accessed [HERE](#)

The dates and locations for the remaining Regional Conferences are as follows:

- Northeast: Friday, June 29th at the Pro Football Hall of Fame in Canton.
- Northwest: Friday, August 17th at the Hancock Hotel in Findlay.

We encourage you to sign up for these remaining conferences as soon as possible, as space will be limited, and we look forward to seeing you there!

COMMITTEE RECAP: BILLS OF MUNICIPAL INTEREST

- HB 594 - LOCAL GOVERNMENT PAYMENTS. Sponsored by Rep. Ramos (D - Lorain), would provide for payments to municipalities or school districts for their lost income tax revenue after a business lays off 50 or more employees within their jurisdiction.

During its first hearing before the House State and Local Government Committee, the bill's sponsor spoke to how the bill, which he calls the "Umbrella Act", is intended to

assist local governments and schools in the event that they experience a large-scale layoff of 50 or more people within their jurisdictions by using dollars from the Budget Stabilization Fund (or "Rainy-Day Fund") to make up for the lost revenue due to those income taxes no longer being collected. The League is supportive of this legislation and will alert our members when future hearings are held on the proposal.

MAYORS CONFERENCE COMING SOON: REGISTER NOW!

From Wednesday, June 13th through Friday, June 15th, the Ohio Municipal League will be hosting the Mayors Association of Ohio's Annual Conference in Akron. After the annual golf outing Wednesday, the conference schedule will include workshops on topics ranging from gun safety and guns in schools to medical marijuana, in addition to many other important and timely topics Ohio's mayors should be aware of. We are happy to share with our members that gubernatorial candidate Richard Cordray will be speaking at the conference along with a representative of the DeWine Campaign, to talk about their visions for Ohio's future and the role municipalities play in the success of our state.

The Mayors Conference is a unique opportunity to hear from expert speakers on a number of important topics, but it is also a chance to meet and trade best practices with leaders of cities and villages, rural and urban, all across Ohio. If you have yet to register, click [HERE](#) and be sure to save your spot. We look forward to seeing you there!

COMMITTEE SCHEDULE FOR THE WEEK OF JUNE 3, 2018

Tuesday, June 5, 2018

SENATE JUDICIARY

Tue., Jun. 5, 2018, 10:15 AM, North Hearing Room

Sen. Bacon: 614-466-8064

SB250**

CRITICAL INFRASTRUCTURE FACILITY TRESPASS (HOAGLAND F) To prohibit criminal mischief, criminal trespass, and aggravated trespass on a critical infrastructure facility, to impose fines for organizations that are complicit in those offenses, and to impose civil liability for damage caused by trespass on a critical infrastructure facility.

Second Hearing, Proponent Testimony, AMENDMENTS

HOUSE WAYS AND MEANS

Tue., Jun. 5, 2018, 10:00 AM, Room 121

Rep. Tim Schaffer 614-466-8100

HB571**

LODGING TAX-PRICING (Greenspan, D) - To specify that, for the purposes of the sales and use tax and local lodging taxes, the "price" on the basis of which a hotel intermediary must collect and remit the tax is the total amount paid by the customer for the hotel lodging, as advertised by the hotel intermediary.

First Hearing, Sponsor Testimony

HB575**

TAX CREDIT-VOLUNTEER FIREFIGHTER/EMS (Keller, Rezabek) - To grant income tax credits to persons who serve as volunteer firefighters or emergency medical service technicians.

Third Hearing, Opponent/Interested Party Testimony, Possible AMENDMENTS

Wednesday, June 6, 2018

SENATE WAYS AND MEANS

Wed., Jun. 6, 2018, 9:00 AM, South Hearing Room

Sen. Eklund: 614-644-7718

SB181**

UNPAID MUNICIPAL GARBAGE FEES (O'BRIEN S, YUKO K) To authorize all municipal corporations that charge a garbage collection fee to certify unpaid amounts to the county auditor, who must enter the fees on the property tax list to be collected in the same manner as real property taxes.

Fourth Hearing, All Testimony, POSSIBLE VOTE**HB351****

NOAA AND PHS TAX EXEMPTION (PERALES R, BUTLER, JR. J) To require municipal corporations to exempt from taxation the military pay of members of the commissioned corps of the National Oceanic and Atmospheric Administration and Public Health Service.

Third Hearing, All Testimony, POSSIBLE VOTE**SENATE ENERGY AND NATURAL RESOURCES**

Wed., Jun. 6, 2018, 2:30 PM, Senate Finance Hearing Room

Sen. Balderson: 614-466-8076

SB75**

WATER SERVICE PROPERTY LIENS (BROWN E) Regarding property liens for unpaid county or municipal water service charges.

First Hearing, Sponsor Testimony**Thursday, June 7, 2018****SENATE PUBLIC UTILITIES**

Thu., Jun. 7, 2018, 9:00 AM, Senate Finance Hearing Room

Sen. Beagle: 614-466-6247

HB422**

MUNICIPAL WATER-WORKS ACQUISITIONS (GINTER T, ROGERS J) To govern acquisitions of municipal water-works and sewage disposal system companies by certain larger nonmunicipal water-works or sewage disposal system companies.

Third Hearing, All Testimony

**PLEASE CHECK OUR WEBSITE MONDAY FOR ANY CHANGES TO THE
COMMITTEE SCHEDULE**

Up Coming Meetings & Events

Regional Summer Conference Series	June 8, June 29, August 17	<u>Registration Information</u>
<u>OML/OMAA Webinar</u> Small Cell Wireless Service & Placement of Facilities in the Public Way	June 21, 2018 10:00 am ~ 11:00 am	<u>Registration Information</u>
Mayors Association Annual Conference	June 13 ~ 15, 2018 Akron, Ohio	<u>Registration Information</u>
Annual Municipal Income Tax Seminar	July 11 ~ 13, 2018 Renaissance Hotel	<u>Registration Information</u>

Ohio Municipal League

Legislative Inquires:

Kent Scarrett, Executive Director