



City of Napoleon, Ohio

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

Memorandum

To: Mayor and Members of City Council
From: Roxanne Dietrich, Executive Assistant to
Appointing Authority/Clerk of Council
cc: Joel L. Mazur-City Manager,
Billy D. Harmon-City Law Director,
Kelly O'Boyle-City Finance Director
Date: February 28, 2020
Subject: General Information

CALENDAR

CITY COUNCIL MEETING AGENDA

APPROVAL OF MINUTES

February 17, 2020 Regular Council Meeting Minutes

INTRODUCTION OF NEW ORDINANCES AND RESOLUTIONS

1. **Ordinance No. 007-20**, an Ordinance Amending Certain Sections of Chapter 925 of the Codified Ordinances of the City of Napoleon, specifically Section 925.13 "Waste Collection Rates," and Section 925.16 "Purchase of Tags and Utility Payments," and Repealing Ordinance No.(s) 067-12 and 028-95
2. **Ordinance No. 008-20**, an Ordinance Amending Section 145.01 of the City of Napoleon, Ohio Codified Ordinances, "Composition and Control of the Police Department," Increasing the Composition of the Police Department, and Repealing Ordinance No. 013-06

SECOND READINGS OF ORDINANCES AND RESOLUTIONS

1. **Ordinance No. 005-20**, an Ordinance Approving an ODOT Repair Project; and Declaring an Emergency.
2. **Ordinance No. 006-20** an Ordinance Approving Current December 2019 Replacement Pages to the City of Napoleon Codified Ordinances

THIRD READINGS OF ORDINANCES AND RESOLUTIONS

1. **Resolution No. 003-20**, a Resolution Authorizing the Expenditure of Funds over Twenty-Five Thousand Dollars (\$25,000) for the Purpose of Implementation of a GIS System, and to Sole Source said Implementation to Stantec Consulting Services, Inc.; and Declaring an Emergency
2. **Resolution No. 004-20**, a Resolution Authorizing the Participation in the Ohio Department of Transportation (ODOT) Cooperative Purchasing Program; and Declaring an Emergency

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

1. **Discussion/Action:** Award of the East and West Graceway Drive Improvements Project
Enclosed is a Memorandum from Chad with the bid results and his recommendation of award.
2. **Discussion/Action:** Approval of Specifications for a Mini-Excavator for the Electric Department
Included in your packet is a Memo from Dennie Clapp on this purchase.
3. **Discussion/Action:** Purchase of Vehicles for the Police Department
Chief Mack's Memorandum regarding the purchase of vehicles for his department is enclosed.
4. **Discussion/Action:** Zoning Administrator Position
5. **Discussion/Action:** to Set a Date and Time for a Special Council Meeting/Public Forum on Reciprocity Income Tax Credit
6. **Discussion/Action:** Appointments to the Local Board of Tax Review
7. **Discussion/Action:** Fire/EMS Contracts with Freedom, Harrison and Napoleon Townships, Henry County South Joint Ambulance District and the Village of Florida. *(Direct Law Director to Draft Legislation and Contracts)*

INFORMATIONAL ITEMS

- a. Cancellation of Technology and Communications Committee meeting
- b. Agenda – Parks and Rec Board Meeting, Wednesday, March 4, 2020 at 6:30 pm
- c. AMP Update/February 21, 2020

City of Napoleon, Ohio

CITY COUNCIL

AMENDED MEETING AGENDA

Monday, March 02, 2020 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. February 17, 2020 Council Meeting Minutes.

D. Citizen Communication

E. Reports from Council Committees

1. **Finance and Budget Committee** did not meet on February 24, 2020 due to lack of agenda items
2. **Safety and Human Resources Committee** met on February 24, 2020 with the Townships and HCSJAD; and
 - a. Reviewed the fire and EMS costs and revenues for the Townships, Henry County South Joint Ambulance District and Village of Florida.
3. **Technology and Communications Committee** did not meet tonight due to lack of agenda items

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

1. **Civil Service Commission** met on February 25, 2020
2. **Parks and Rec Board** regularly scheduled meeting for February 26, 2020 has been rescheduled to March 4, 2020 at 6:30 pm

G. Introduction of New Ordinances and Resolutions

1. **Ordinance No. 007-20**, an Ordinance Amending Certain Sections of Chapter 925 of the Codified Ordinances of the City of Napoleon, specifically Section 925.13 "Waste Collection Rates," and Section 925.16 "Purchase of Tags and Utility Payments," and Repealing Ordinance No.(s) 067-12 and 028-95
2. **Ordinance No. 008-20**, an Ordinance Amending Section 145.01 of the City of Napoleon, Ohio Codified Ordinances, "Composition and Control of the Police Department," Increasing the Composition of the Police Department, and Repealing Ordinance No. 013-06

H. Second Readings of Ordinances and Resolutions

1. **Ordinance No. 005-20**, an Ordinance Approving an ODOT Repair Project; and Declaring an Emergency.
2. **Ordinance No. 006-20** an Ordinance Approving Current December 2019 Replacement Pages to the City of Napoleon Codified Ordinances

I. Third Readings of Ordinances and Resolutions

1. **Resolution No. 003-20**, a Resolution Authorizing the Expenditure of Funds over Twenty-Five Thousand Dollars (\$25,000) for the Purpose of Implementation of a GIS System, and to Sole Source said Implementation to Stantec Consulting Services, Inc.; and Declaring an Emergency
2. **Resolution No. 004-20**, a Resolution Authorizing the Participation in the Ohio Department of Transportation (ODOT) Cooperative Purchasing Program; and Declaring an Emergency

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

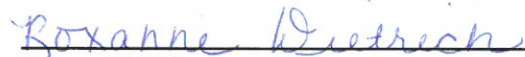
1. **Discussion/Action:** Award of the East and West Graceway Drive Improvements Project
2. **Discussion/Action:** Approval of Specifications for a Mini-Excavator for the Electric Department
3. **Discussion/Action:** Purchase of Vehicles for the Police Department

4. **Discussion/Action:** to Set a Date and Time for a Special Council Meeting/Public Forum on Reciprocity Income Tax Credit
5. **Discussion/Action:** Appointments to the Local Board of Tax Review
6. **Discussion/Action:** Fire/EMS Contracts with Freedom, Harrison and Napoleon Townships, Henry County South Joint Ambulance District and the Village of Florida. *(Direct Law Director to Draft Legislation and Contracts)*

K. Executive Session (as may be needed)

L. Approve Payment of Bills (In the absence of any objections or corrections, the payment of bills shall stand approved.)

M. Adjournment



Roxanne Dietrich
Executive Assistant to Appointing Authority/Clerk of Council

March 2020

| Sun | Mon | Tue | Wed | Thu | Fri | Sat |
|-----------|---|--|---|-----------|-----------|-----------|
| 1 | 2 7:00 pm City Council | 3 | 4 6:30 pm Park & Rec Board | 5 | 6 | 7 |
| 8 | 9 6:15 pm Electric Committee BOPA 7:00 pm Water/Sewer Committee 7:30 pm Muni Prop/ED Committee | 10 4:30 pm Board of Zoning 5:00 pm Planning Commission | 11 | 12 | 13 | 14 |
| 15 | 16 6:00 pm Tree Commission 6:00 pm Parks & Rec Comm. 7:00 pm City Council | 17 | 18 | 19 | 20 | 21 |
| 22 | 23 6:30 pm Finance & Budget 7:30 pm Safety & Human Resources Comm. Mtg. | 24 4:30 pm Civil Service | 25 6:30 pm Park & Rec Board | 26 | 27 | 28 |
| 29 | 30 | 31 | | | | |

A. ITEMS REFERRED OR PENDING IN COMMITTEES OF COUNCIL

1. **Technology & Communication Committee (1st Monday)**
(Next Regular Meeting: Monday, April 6, 2020 @6:15 pm)
2. **Electric Committee (2nd Monday)**
(Next Regular Meeting: Monday, March 09, 2020 @6:15 pm)
 - a. Review of Power Supply Cost Adjustment Factor for March 2020
 - b. Update on Substations
 - c. Electric Department Report
3. **Water, Sewer, Refuse, Recycling & Litter Committee (2nd Monday)**
(Next Regular Meeting: Monday, March 09, 2020 @7:00 pm)
 1. Update on Wastewater Treatment Plant Phase 1 Project (Tabled)
4. **Municipal Properties, Buildings, Land Use & Economic Development Committee (2nd Monday)**
(Next Regular Meeting: Monday, March 09, 2020 @7:30 pm)
5. **Parks & Recreation Committee (3rd Monday)**
(Next Regular Meeting: Monday, March 16, 2020 @6:00 pm)
6. **Finance & Budget Committee (4th Monday)**
(Next Regular Meeting: Monday, March 23, 2020 @6:30 pm)
7. **Safety & Human Resources Committee (4th Monday)**
(Next Regular Meeting: Monday, March 23, 2020 @7:30 pm)
8. **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, March 09, 2020 @6:15 pm)
 - a. Review of Power Supply Cost Adjustment Factor for March 2020
 - b. Update on Substations
 - c. Electric Department Report
 - d. Update on Wastewater Treatment Plant Phase 1 Project
2. **Board of Zoning Appeals (2nd Tuesday)**
(Next Regular Meeting: Tuesday, March 10, 2020 @4:30 pm)
3. **Planning Commission (2nd Tuesday)**
(Next Regular Meeting: Tuesday, March 10, 2020 @5:00 pm)
4. **Tree Commission (3rd Monday)**
(Next Regular Meeting: Monday, March 16, 2020 at 6:00 pm)
5. **Civil Service Commission (4th Tuesday)**
(Next Regular Meeting: Tuesday, March 24, 2020 @4:30 pm)
6. **Parks & Recreation Board (Last Wednesday)**
(Special Meeting on Wed., March 4, 2020 at 6:30 pm; Next Regular Meeting: Wednesday, March 25, 2020 @6:30 pm)
7. **Privacy Committee (2nd Tuesday in May & November)**
(Next Regular Meeting: Tuesday, May 12, 2020 @10:30 am)
8. **Records Commission (2nd Tuesday in June & December)**
(Next Regular Meeting: Tuesday, June 09, 2020 @4:00 pm)
9. **Housing Council - Meets First Monday in April (must be after TIRC meeting)**
(Next Meeting: Monday, April 6, 2020 at 6:30 pm)
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, February 17, 2020 at 7:00 pm

PRESENT

| | |
|--|--|
| Councilmembers | Joseph D. Bialorucki-Council President, Daniel L. Baer-Council President Pro-Tem, Jeff Mires, Lori Sicclair, Ken Haase, Jeff Comadoll, Ross Durham |
| Mayor | Jason P. Maassel |
| City Manager | Joel L. Mazur |
| City Law Director | Billy D. Harmon |
| City Finance Director | Kelly O'Boyle |
| City Staff | David Mack- Chief of Police; Dave Pike-WWTP Superintendent Joel Frey-Assistant Fire Chief; Dave Bowen-Fire Captain, Tonya Walker-Police Dispatcher; Fire and Police Department Personnel |
| Admin. to Appointing Authority/Clerk of Council | Roxanne Dietrich |
| Others | News Media, Ellie Cichochi |

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

In the absence of any objections or corrections, the minutes of the February 03, 2020 City Council meeting stand approved.

CITIZEN COMMUNICATION

Ellie Cichocki introduced herself and said I live in Napoleon right across the river actually from where we are right now. I became interested in what was happening in the Fire and Police Departments after reading the article in the paper regarding the increase or the income tax credit which is on the agenda I guess and a possible tax levy. I commend Council for stopping discussion on the removal of the tax credit for those residents working out of town. I think we can all agree that we want to minimize residents leaving Napoleon. But I think some questions are in order. Do we know why calls to the Fire Department have risen 60% while our population is either decreasing or remaining stagnant? I'm sure our population is older which makes sense for a small increase and I'm sure the opioid crisis is in there. Something so there's obviously some increases but 60%? And I wondered about like do we have frequent fliers? I learned about frequent flier folks while doing a job profile several years ago for the Defiance Fire Department. They described frequent fliers as residents that called when no real service was needed they were nervous, lonely, seeking some attention, you know lots of different reasons that they called and so I don't know if Napoleon has these folks but I thought well how about if we charge them or alert social services agencies in our area to investigate what's really going on with the goal of minimizing their dependence on our public safety services. It was also mentioned to possibly charge residents insurance company when a fire truck responds to a car crash and I'm wondering like who or what determines what vehicles respond to that situation? As I said I live across the river here and it seems like I've noticed more times than not, two emergency vehicles go out. The ambulance will go out and then I always called the chase vehicle it's like a pickup truck that responds to a call at a minimum. I don't know if that's necessary I mean I'm certainly not a fire professional and I don't mean to question

the professionals I'm just asking the question. The information on the troubles at the Police Department was interesting as well. It sounds like a great time to maybe revisit consolidation with the Sheriff's Department. I must say it seems ridiculous to me to duplicate services within ten blocks of a town our size. Beyond that why is our turnover up? Chief maximizes that this is due to job burnout. Has anyone done exit interviews to try to find out real reasons for the turnover and what's changed? I don't know Chief Mack and I don't know Chief O'Brien so this is not personal at all but I wonder if it could be a change in management. I mean have things changed that would contribute to the turnover. Again, I'm just asking the questions. I would ask from a resident standpoint to investigate these dramatic changes and to me they are absolutely dramatic. A 60% increase in calls for service and 80% decrease in experience because of higher turnover in dispatchers. These are serious problems to be solved and I think before there's any talk of adding staff or raising taxes to pay for additional staff. I thank you for your consideration of the facts.

Assistant Fire Chief Joel Frey responded, back in the day we used to chase with two vehicles no matter what. Currently it could be our local responder coming in to assist. If we go out, take for instance today, we had two go out on a call and they handled that with just the two of them. Now if that was a very serious call one of them could have called back and asked for additional support just to get the extra stuff started sooner if needed. A lot of times we go based on the call and what they say. The other reason we send out a chase truck is sometimes it's because we have a BLS unit so we run the two paramedics and if we have one member back at the station, with that basic chase out they can drive the paramedic and send them on back to the station for the next call. We try to keep one medic in service at the same time too. We do see an increase in the population here and that is what we contribute to Mazur interjected Ellie to your question, the Census Bureau has the City of Napoleon decreasing in population but with a lot of these questions that you asked, we actually did form a 15-page report that was presented to Council in a previous meeting. It doesn't answer all the questions that you asked. Except for a few, these questions have all been addressed for the most part. Our daytime population has increased too because of the amount of increased business activity. So that's a contributing factor and as you mentioned, the age of our population has increased by five years since the year 2000. The increase in 60% of calls is from 2008 to present. That's tracked as a metric for the Fire Department and also for the Police Department. It's not just run volume for the Fire Department, but it's also call volume for the dispatchers at the Dispatch Center too. I wanted to address the population thing. The Census Bureau has us listed as a decreasing population, but you know hopefully people sign up for the census because there's a lot of people that are not counted. That's in every community, there are a lot of people that are just not counted. Whether they are living with other people and they're not changing their address and things like that. If this wasn't a census year, I would be challenging that census number. They have it has decreased since 2000 but, I don't think it's as much as what the Census Bureau and their metrics that they use to measure a population like Napoleon. Assistant Chief Frey continued we also cover contractual areas of different townships so we cover more than just Napoleon. We have contracted areas with Napoleon Township, Harrison Township, Freedom Township little pieces of the pie everywhere. There was one more question. Mazur said it was about exit interviews if you do exit interviews. Assistant Chief Frey said we do give our employees an opportunity to do an exit interview. Cichocki asked about the consolidation again. Maassel informed her consolidation of the dispatch was talked about six years ago and was put to a vote and the community voted to keep our dispatch as it is so we are going to continue to abide by that. Cichocki said she has a different opinion. Maassel stated our goal is to keep dispatch it was voted on.

The **Water, Sewer, Refuse, Recycling and Litter Committee** met on February 10, 2020 with Chairman Comadoll reporting the committee recommended allowing our citizens to set out a second bag for their weekly refuse collection and we also heard an update on the progress of the Wastewater Treatment Plant project.

INTRODUCTION OF NEW ORDINANCES AND RESOLUTIONS

Council President Bialorucki read by title Ordinance No. 005-20, an Ordinance Approving an ODOT Repair Project; and Declaring an Emergency.

Mazur stated this ordinance is for ODOT to repair the underpass at Scott and US 24. ODOT requires legislation to work in our jurisdiction. Bialorucki asked if there is a timetable when that will start? Mazur answered we don't have one yet. We can get a schedule, but we don't usually get anything until it's a little bit closer to when they want to work.

Mazur added when we get a schedule, I'll either send it out in a weekly FYI or in a Council packet.

Council President Bialorucki read by title Ordinance No. 006-20, an Ordinance Approving Current December 2019 Replacement Pages to the City of Napoleon Codified Ordinances.

Mazur stated twice per year, Walter Drane Company reviews our ordinances and updates are Codified Ordinances to make sure that we are complying with any state regulation changes.

Roll call vote on the above motion:

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

Nay-

Yea-7, Nay-0; **Motion Passed**

SECOND READINGS OF ORDINANCES AND RESOLUTIONS

Resolution No. 003-20 – Implementation of GIS System

Council President Bialorucki read by title Resolution No. 003-20, a Resolution Authorizing the Expenditure of Funds over Twenty-Five Thousand Dollars (\$25,000) for the Purpose of Implementation of a GIS System, and to Sole Source said Implementation to Stantec Consulting Services, Inc.; and Declaring an Emergency.

Motion: Haase

Second: Siclair

to approve Second Read of Resolution No. 003-20

Mazur reported this is year three of four of the GIS upgrade and implementation. In this phase of the work we are expanding our data sets in each department and also will get some training so that we can get our staff to start inputting data into the system and to get away from relying on Stantec to house our GIS system. We can use online based versions now and trade data back and forth. It's been a lot easier. It's a lot of data, but I will say that when this project is done, we will be a gold standard for having GIS and implementing these programs for not just our utilities but all of our departments. Every single department has been involved in this and it has been a lot of work but it's going to pay off and be put to good use. I know it's been a lot of money but in the end it's definitely worth it. Chad has been heading this up and has a good vision for where we need to be heading in the future so, it's definitely worth it.

Roll call vote on the above motion:

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

Nay-

Yea-7, Nay-0; **Motion Passed**

Resolution No. 004-20 – ODOT COOP Program for Crack Sealing

Council President Bialorucki read by title Resolution No. 004-20, a Resolution Authorizing the Participation in the Ohio Department of Transportation Cooperative Purchasing Program and Declaring an Emergency.

Motion: Comadoll

Second: Mires

to approve Second Read of Resolution No. 004-20

Mazur stated this ordinance allows us to utilize the ODOT state purchasing contract for crack sealing.

Roll call vote on the above motion:

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

Nay-

Yea-7, Nay-0; **Motion Passed**

Ordinance No. 001-20 – City Investment Policy

with it. From what's happening area wide and from what we can tell, it is just too costly to recycle glass so we took glass out of the recycling stream to help cut costs on the recycling side. Right now it is cheaper to haul garbage to the landfill than recycle, it's just the economics of it. From my understanding on the history of this, the one bag rule was applied because people were encouraged to do more recycling. Recycling actually was a revenue generator and not an expense. Since recyclables are a commodity, they go up and down and right now they are very low and it's much more costly to recycle than it has been in years past. We took glass out of the recycling stream and at the time we discussed let's see where the numbers shake out and how this affects the fund. We hit the targets that we thought we were going to hit and the amount of disposal for refuse went up and the amount of recyclables in terms of tonnage went down. The landfill fees have stayed pretty flat. We take our garbage to the City of Defiance and maybe an occasional trip to Wood County if something happens. As a way to help the sanitation fund and other departments, we added the position on the back of the truck. We still use the CCNO workers, but CCNO has become very unreliable, it's hit and miss, you just never know how many people you are going to get. But, CCNO is still a valuable piece of the operation. It definitely saves on cost, however; the inconsistency was causing us to take workers from other departments and utilize them on the back of the garbage trucks more frequently. Everybody's time is accounted for so the people that work on the back of the truck for those days are accounted for the sanitation fund is still paying for them. The reason why we added the position was we always have to have somebody on the back of the truck, whether you get CCNO people or not. The fund balance was able to handle that added position so that was at the start of 2019. It was brought up that we need to take a look at our services and to that end we ran an analysis of where the fund is and where we are projecting it to go if we do add a bag or if we reduce a fee or whatever. It was decided coming out of the committee that the best value would be to add a bag rather than reduce the fee by a dollar. It's just about the same ratio, maybe a little bit more to reduce the fee by a dollar. That's just for the regular residential rate. That's not including any of the inside or special rates that are applied to some of the commercial businesses that pay for just garbage. That overall expense shift in terms of adding a bag, we factored in less revenue coming in and a little bit more on the expense side from the potential that there's more disposal for garbage. What we didn't factor in, because I just don't have a good way to measure this, was the factor if there's going to be less recyclables going into the recycle bins. There's roughly a \$40,000 overall cost difference. Those were the factors that everybody looked into. Mr. Chairman of the Committee do you have anything further to talk about? Comadoll suggested talking a little bit about the recycling contract that's coming up this year. It could be too cost prohibitive this year yet for us to even have to fool around. Then, where do you go from there? If we have the bag tag now or the extra bag, I think we're in a good position let's do it now and not down the road. Mazur said the recycling contract is up this year, it's a three year run. It could go up, it likely won't go down. The commodities market just isn't picking up at all, as of right now. We talked about this a little bit in the committee too about doing away with recycling and I'm going to recommend against that, because it is a commodity and it moves, it goes up and down. I think it sends a mixed message. I mean if the recycling contract comes back that it's just too cost-prohibitive, I would say let's cross that bridge when we get there. That would be an item for the committee to review when that comes up. Comadoll said I don't know if you actually look at that, but we are going to pay a bill tonight to Werlors for almost \$1,900. That's every couple of weeks that we have to do that. Bialorucki added in addition to that we are also paying two different crews. One is picking up trash and the other is picking up recycling. That's different vehicles and then obviously dropping them off in two different locations so that's obviously

some added costs there. Comadoll noted both are actually going to Defiance. One goes to the landfill in Defiance and the other is going right into the City of Defiance so we're traveling 17 miles each way. Durham stated my take away from the committee was this is a step in the right direction. We have this surplus why not give back to the community. I think that was the biggest takeaway for us in the committee. Adding a bag as an extra service. I'm with Mazur, I don't think getting rid of recycling is a good call, but I do like the extra bag. Baer said I think I read somewhere in reports from your committee a comparison to other cities wasn't that brought up also in committee? Mazur replied it was. You're right, we are the only one from what we've looked into, that allows one bag. Delta is the only one that allows two bags, that I know of. The rest of them are three or four bags. A lot of communities are going to 96-gallon totes and that is the equivalent of three really full bags. Right now our rules allow for a 30-gallon bag that can't be over a certain weight. Maassel said it seems to me everybody's paid in through the current services that they get and by reducing the bag tag for the second bag you're helping people that use a lot of trash and you're helping everybody. If you reduce the fee, then you help everybody instead of people that throw away the most. Then later down the road if you ever need to raise rates you're not going to put the tag back on. You can raise fees for everybody. I'm not going to get the benefit now and I'm going to pay you later down the road. It's what Councils are going to do. It's been twelve years I think 2008 was the last time this rate got changed. So, I think if you are going to raise the rates down the road why not just lower it for everybody now? Lower it a buck, I know it's not much but how many people are we going to help by doing the two dollars? Some people a lot, some people once a year when they have a family get-together but, if a dollar is everybody every month. Then it sets up future councils to go we have to raise this rate. Whether you call it the mosquito spray is more expensive and it takes more manpower to take care of the Yard Waste or whatever, there's built-in habits right now that I really don't want to change. There's a built-in habit we push recycling through the one bag those are habits that we established why are we trying to change those habits? Just put a dollar down for everybody and move on, everybody enjoys it. Sicclair said she agrees with Maassel's reasoning. I did have a suggestion from a citizen. What would it cost to have the city send an extra tag to every household quarterly or whatever number makes sense. Then you could save them up if you wanted to and use them on unlimited pickup day if you have something big to put out or if you have extra. Maybe that wouldn't produce as much extra garbage as the extra bag but not be as costly maybe. Mazur said I don't remember if we talked about that or not in the committee. Comadoll explained the citizens have talked about that to us. Sicclair said then everyone would benefit. Mazur said it's a reduction on the revenue side and probably has a minimal impact on the actual collection side especially for the ones that are using it, buying the tags. Comadoll asked now how would you do this? Mazur said mail it out in the bills. Comadoll asked quarterly? Sicclair said she said quarterly but whatever number wise. Mazur said we could do it once a month if it's in their bill. Cichocki commented, to me knowing that I can have an extra bag, I mean my trash habits are not going to change just because you did this but knowing that I can have an extra bag is like Eureka. A dollar a month, an extra bag to me is so much more valuable than a dollar a month. That's my opinion. Mazur said that's exactly what we talked about what's the most value that you are going to get out of it. Cichocki said knowing I can have an extra bag. Maassel said if we go to the second bag instead of seeing a lot of houses that have a bag and two recycling bins, you are going to see a lot of houses that have to two trash and maybe a recycling bin. The recycling numbers are going to go way down that's just the reality of it. If I don't have to sort, I just pick it and pitch it. That's exactly what people are going to think. Mazur said however you want to move forward there would be some ordinance changes. What the committee recommended was

Motion: Comadoll Second: Durham
to allow residents a second bag and direct the Law Director to draft the appropriate legislation

Yea-Baer, Bialorucki, Mires, Haase, Durham, Comadoll, Siclair
Nay-
Yea-7, Nay-0 – **Motion Passed**

2019 Year-End Review

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talked about, the revenues come in at different times than the expenses and we have to encumber money prior to the purchases. This year it's been as low as about \$400,000 and currently today it was about \$687,000 because of the encumbrances. You offset the difference between the budget and the estimated revenue that you pass for the 2020 budget. It's recommended not to rely too much on the fund balance to pass the budget. We have increased healthcare costs it was an 8% increase for 2020, we have staff cost increases in the bargaining unit contracts, the service contracts increase every year and then medical supplies increase. It also provides a safety net when the economy goes down as we saw in the recession of 2008 and 2009. It's going to happen again it's when is it going to happen again. So we want to make sure that we have enough operation. Next is the history of the income tax. Going back to 2004 it was about \$2.7 million and the current estimate for 2020 it is about \$4.2 million. The 2019 actuals ended about \$4.5 million and this is the total income tax before the split for the recreation and the general fund to capital. Mazur asked the reason for the jump around 2010 is that around the same time the parks levy passed? Fielder answered it passed in 2009. Mazur noted that is why you see that jump in 2010. O'Boyle continued the actual income tax from 2019 was five percent higher than 2018 or about \$216,000 and we collected 110% of the original estimate. We increased the revenue estimate during the budget to about \$4.4 million and it came in at \$4.5 million so it's a little over \$100,000 more. We like to be conservative on the revenue. We all know that the state has decreased our local government funds (LGF) and it's showing from the 2004 to 2020 estimate. The highest year was 2008 when we received about \$387,000 and the 2020 estimate is about \$172,000. So, we've lost \$215,000 between that time. I took a look from the highest point of 2008 to the current and we've lost about \$1.9 million dollars from the state. Next is investment income. For the same period of time from 2004 to 2020, we had about \$112,000 in 2004 and the estimate for 2020 is about \$92,700. We hope that's a conservative estimate because we know that we had a whole bunch of bonds that could be called and we've seen most of them that could be called. They could be called because of the economy and they can refinance. The highest year for our investments was \$349,000 and the estimate for 2020 is about \$93,000. So, again we've lost about \$257,000 in that time. If you look at the highest year of 2007 to 2020, we've lost about \$3 million dollars that we could have had if the economy would have stayed. That's the reason we want to make sure that we have a healthy fund balance. The difference between the general fund and the other funds is just a little description for a couple of you guys that are newer. The general fund primary source of revenue is the income tax and then we get internal reimbursements from the outside general funds. Police, fire and the courts are not reimbursed by the other funds. For electric, water and sewer those are the major funds, we have operation capital projects and they are funded by the rate that the citizens pay. The recreation levy fund is the levy proceeds that Mazur was mentioning and that's for the pool, the admin, the golf and the carts program. The Capital Improvement Fund is funded from the income tax split so currently 35% and then for 2021 it's back to the 32%. The Central Garage Rotary Fund everyone pays into if they get their vehicles fixed. The gas and that kind of stuff is paid by the other departments. Just a note that each one has a specific purpose and a revenue source. I know it was brought up during the budget time why this fund can buy different things than the other funds. Some of the funds as you'll see, are healthier than other funds. They can only be utilized for the purpose that they are established for. So, the Water Funds can't pay for an increase of police officers or for the law library. Some funds have a larger available balance than others. The Electric Department might be able to purchase a line truck like Mazur was talking about. But then, the Engineering Department because its part is in the General Fund gets an old used vehicle. So it's not a fair distribution. 2020 General Fund approved budget the estimated revenue was about \$6.4 million.

It's a conservative estimate. We looked at the historical trends for 2017, 2018 and 2019 and about 99% of the revenue comes in. For the 2020 approved budget it's about \$7 million. Historically using those same actuals, it's about 91%; but remember, during the 2020 budget we reduced some of the departments so there's less savings if you will in there. The over-under for the revenue is about \$655,000. If you remember back to the unencumbered balance it was about \$1.4 million. If you take off the \$655,000 the projected ending balance at this time is about \$733,000. The revenue could come in more or the expenses could come in less but on paper that's how it is right now. Ideally you have the fund balance for those other reasons that I mentioned but also to offset the revenue difference for the operations. You always try to get closer to the revenue for the approved budget. Next we'll go over a couple of the major outside general funds. First is the Electric Fund. The beginning balance for 2019 was about \$7.7 million and the ending balance was about \$7.5 million, so there was a reduction of \$133,000. The fund 503 you borrowed \$500,000 for the pool project so that will come back. We just sold the notes so the money will come back at the end of the month to replace that. Next is the Water Fund. You can see the different funds that make up the total. The capital projects and bond retirement payments are in there. It was about \$2.2 million and it ended at about \$2.9 million. So, there was an increase of about \$700,000. 2019 was the last year they approved rate increases in anticipation of taking the Water Plant debt on. That was about \$453,000. There are two major projects in 2020, the Industrial Drive River Bridge of about \$400,000 and the Glenwood water line of \$290,000. The next category is the Sewer Fund. It was about \$3.9 million and it ended at about \$2.6 million. So, there's about a \$1.3 million decrease. If you see the note, we've borrowed money from the fund in anticipation of going to that for the wastewater renovations. There's about \$469,000 for the Jones and Henry contract and about \$714,000 for the Merrell Brothers contract. So that's almost \$1.1 almost \$1.2 million of that decrease. When we go and get the loan from the state, it will bring the money back. Then, we will just be paying the debt payments like we do on the water. As Mazur was talking about, in the Sanitation Fund there was \$1.6 million dollars at the beginning of the year and \$1.6 million at the end of the year. So, it decreased about \$5600. Again, it is healthy like Mazur spoke about. Bialorucki- first of all, this is an awesome presentation. There are us people that don't look at numbers and spreadsheets every day. This was very easy to read and very easy to follow pictures. Thank-you. Maassel commented you talked about the reduction in state funds to us. How much have we received in grant funds over that time? Does anybody have an idea? Mazur replied it depends on the year. You're talking about capital? Maassel said more than \$1.9 million. I know they cut the Local Government Funds but they seem to give a lot of stuff back in grants for projects and stuff. Mazur stated I know I've heard this stated in the past about the General Fund balance. It's an old saying that we really want to keep a reserve balance of around \$1 million dollars and we're doing okay. I think a lot of people have heard that but, I think the standard has changed. As time goes on and inflationary cost keep rising, I think that one million-dollar number really is closer to \$1.5 million. That's a best practice to keep three months of your operating in a reserve balance. That's just a general blanket statement of best practice that I think we need to target. That's what I was trying to target, we are not quite there. I know we had a refund a couple years back and then the going forward is less. So, that's impacted that. We do have a quarter million in the reserve balance now which is good. If we put another \$150,000 away in the reserve balance and the rainy day fund that's there. The operating balance as a best practice really should be around the \$1.5 million mark to today's standard. Keep that in mind in the future. Comadoll said you're going to show us how to get that, right? Mazur said we're working on it. We had a little setback a couple years ago. We're getting through it, we'll get there.

50% Reciprocity Income Tax Credit (Tabled)

Motion: Baer

Second: Siclair

to untable 50% reciprocity income tax credit for additional discussion to include a possible public forum

Roll call vote on the above motion:

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

Nay-

Yea-7, Nay-0 - **Motion Passed**

Baer expressed his concern is, we need a little more time to get some additional information from the public before Council makes any kind of decision on this issue. One reason I suggested a public forum is to allow something like we did a few years back with the downtown streets when we had something at one of the downtown restaurants where we allowed the public to come in and administration had the opportunity to share their information. Then the citizens and Councilmembers would have the opportunity to ask questions or state their opinions before any decision is made on implementing this reciprocity income tax. If we do a public forum I would suggest a Tuesday or Thursday evening with Lent coming up. I think the public forum might get the best input from the public. Bialorucki asked if there were any comments regarding a public forum. Siclair thought it's a great idea. Bialorucki asked the Law Director what are the rules? Harmon stated if you want to schedule a special session of Council you can have a session of Council wherever you like. You don't have to have it here. Mazur pointed out we did that with the master plan and for downtown roads. We convened, I believe it was a special meeting of Council at that time too because there was more than a quorum, to give everybody a chance to talk about things and you know minutes were kept and everything else. Baer suggested if we do a public forum to not have a meeting format like we did with the master plan. Have a several hour period where people can ask questions and administration can share information. Mazur said in my opinion, you'll get the best attendance if you have it in a public forum style, set a range where citizens can just show up, speak their opinion, get information and learn about what's happening. This would give them flexibility and it's not formal, I mean there's a formal piece to it but you know we can set it up where we'll have information to hand out and maybe even run a short presentation once every hour or something if somebody wants to see it, that's my suggestion. Baer said like Ellie suggested earlier, you said something about giving her a handout. Getting that kind of information to the public plus getting information from our dispatchers and firemen too is important. Bialorucki asked if a motion is needed to set a special meeting? Harmon replied, you will need a motion to set a special session. After much discussion on the best date to hold the public forum, it was decided to add this as a discussion/action item on the March 2, 2020 Council Agenda to set the date and time for a Special Council meeting. Mazur noted March 24th and 26th look clear now. Bialorucki asked if the discussion could be kept going? Harmon said no action is needed. Mazur noted people are signed up to speak and we can go through the questions that were asked at the last meeting.

The first question was, what is the number of residents that claimed zero wages in 2017?

263. We're basing this on 2017 numbers because you have to wait for the collections to come in and it takes some time.

What is the amount of income tax collected of people who work in Napoleon but do not live here?

What was in the packet for question number two, after review there was a change made. Back to the question, what was the income tax amount collected of people who work in Napoleon but do not live here? Going off of 2017 again, \$1.63 million.

Bialorucki asked do you know what percentage of the total income received that year was? Maassel said I think what proportion is this of the total. What did we collect on income tax that year? Mazur-I believe \$4.6 million I'm going off memory on that one. O'Boyle confirmed \$4.6 million.

What is the difference between the current overtime spent and the effect of adding a sixth dispatcher?

There is a spreadsheet. Basically it's an estimate, so there's overtime associated with the turnover and just having five on staff. In 2019 which we believed to be a high year, overtime was about \$21,000. For a conservative estimate we'd say \$12,000 could be saved off that because you're always going to have overtime and you are always going to have some type of turnover somewhere. Adding a sixth dispatcher isn't going to magically retain everybody. O'Boyle noted that was for the discretionary time where they have the sick time, vacation and comp time. There's always going to be a portion of that even if you add something. Mazur continued even if you do have the retention piece, you are still going to have people staying longer hitting their steps and their wages going up too. A conservative number to put on here would be \$12,000.

What is the maximum income for non-emergency runs if we had an additional full-time and a part-time equivalent?

What we did is actual receipts. In talking with Chief O'Brien and he couldn't be here tonight so, Asst. Chief Frey I don't know if you can fill in, but what we actually budgeted for 2020 is about \$80,000. Typically, in years past what has been budgeted is about \$100,000 to \$105,000. It's very difficult to put a number on that because the calls have to come in and it just depends on the calls if they're coming in and if it's available. It depends on the call volume that the department has. It's a little bit of a moving target, there's really no guarantee on how much that's going to yield. Asst. Chief Frey do you have anything to add to that? Asst. Chief Frey stated with that being said about the amount of calls, it is also the fact being able to get the squad. As you can see in 2019 staffing has been an issue. Mazur pointed out increasing the number of people on staff definitely helps in keeping the NET available for service but there's always going to be a time, the number of overlapping calls is increasing too based on the report. That's a tough one to put a number on it. But for the budget for this year for 2020 we budgeted \$80,000. If we get the NET in service more often the budget number would likely be back to \$100,000 to \$105,000 and that would be conservative. Cichocki asked what's an example of non-emergency? Asst. Chief Frey responded, a non-emergency transfer would be for people who are in need of a medical transfer from a hospital to another hospital. We aren't going out to someone's house picking them up and taking them to the ER. We are going to the hospital maybe taking someone from the ER to a hospital where they need that higher level of care. Cichocki said that person's insurance company pays for that. Asst. Chief Frey said yes. Bialorucki asked in 2019 would you say the lower amount is down so much because we didn't get the calls or was it because we didn't have the staffing to assist with the calls? Mazur replied I think 2019 was a staffing issue not that we didn't get the calls. Chief Mack explained the procedure. Every morning the Fire Department calls local hospitals and lets them know if the NET is in service. So, that's a hard question to answer from our standpoint because we're not necessarily turning away every call. We are not getting them because they know we are out of service. The reason for that is to try and avoid the frustration of every time the hospital calls us and the NET is

out of service so we are just letting them know up front if the NET is in or out of service. There are times we get calls and they're busy on an overlapping call and they cannot take the call and then there's an unknown amount of time we don't get called at all because they've already notified those agencies that the NET is unavailable. Bialorucki said I was trying to remember about this last week, when I first got on Council in the beginning of 2016 I thought that we had added additional full-time staff on the Fire Department to be able to be to do more runs and that it would be paid for by, like you can see in 2017 how much that we were getting would pay for that new position that we added. Asst. Chief Frey said that would have been the addition of the 12-hour part-time at that time. Bialorucki said and that was to try to drive more revenue for this program. Asst. Chief Frey replied *correct*. Bialorucki said but since then we've had people leave and less volunteers which then even though we had the additional person we couldn't keep up the sapping for it in order to drive this revenue up. Asst. Chief Frey said we attempted to make changes and updated the part time scale but essentially it's difficult to keep the part-timer looking for a full time job somewhere. Mazur added we made a couple policy changes to get more people to answer the calls and I think that's helped to some degree. There was a lot on the educational piece to this too where a lot of people just weren't comfortable coming in because even though they have the training you know when you don't use it you lose it kind of a situation. So, there are a lot of people that just needed to build up their confidence a little more too. I don't know if you have anything to say about the volunteer side the policy changes. Asst. Chief Frey said we are trying to recruit more from our members on how they see our department, to be easier to work with for the volunteering local responders. One thing that we've recently done was changed our prior training to where anytime we do a daily training, they come down and get their training done it doesn't have to be limited to three times a month that we used to do. We are doing online training with the EMS side of things to try to be able to allow them to do it at home and then come in and just do a skills day at the station to get a check off. We have to do a check off with our Fire Medical Director that we have to do each year. We are trying to make these changes to be able to be a more inviting department for these local responders that we do rely on so much on the second and third and even the first call sometime. We are making our best effort to try. Pike asked what are the training hours needed for EMS and fire now?

Captain Bowen answered for EMS in the State of Ohio, depending on what certification if it's at the state or national level, it varies from 30 to 60 hours per cycle. Pike said that's one reason you can't keep volunteers, that's a lot. Captain Bowen said and on the fire side you have to have 56 hours in that cycle as well. So with that, we set 75% mandated that you have to attend. That gives you just enough hours to recertify at the end of that cycle. Like Chief O'Brien alluded to at the last Council meeting, about bringing people in that get their training elsewhere and come in, there is a Napoleon way of how we do things. We are a down-and-dirty department, we get in there and we're aggressive and not taking anything away from any other department, but we're so used to working understaffed. I told the City Manager multiple times in labor-management meetings, you give me four guys I can handle anything for 15 minutes until the rest of the Calgary arrives. Whether that's Ridgeville, whether that's Liberty, whether that's Wauseon whoever it may be. Four people is a gold standard, that gives me two in and two out to keep within FDA. That gives me a chance, if it is life safety that we can go in and we can do that. It gives me a chance to work a cardiac arrest on a second call I don't have to wait. The other night we waited 14 minutes. We had a turn at the hospital for and I don't want to call it a frequent flyer because to me that's not a fair statement for these people. Just because we may not see it as an emergency or John Q Public may not see it as an emergency, it's an emergency for this person. We go

out there and it was 14 minutes from the time we turned from the hospital, we were dispatched, until we showed up on scene and this guy was sick. The second patient was, he had a heart rate of 30 and a blood pressure of 60/40, that's a sick person to wait 14 minutes for an ambulance. And Ellie what you said about a second bag of trash would be eureka I believe you said, right? Cichocki said *right*. Captain Bowen continued well what happens when you call 9-1-1 and that first squad is out and you can't get that second ambulance and you or your significant other is having a heart attack? I get frowned upon a lot because I play the scare tactic. It's not a matter of if, it's a matter of when. We talked at the last Council meeting somebody said something about somebody's going to move out of town. I've run those numbers a little and I'm just a public education guy but, on \$50,000 income we're talking roughly \$400 a year, give or take with this 50%. So, he is going to move out of town for a cup of coffee a day. The housing market is back but it's not back that good. We are asking the bare minimum out of our people. It takes two people to run an ambulance. Do you know what our minimum staffing level, per our union contract is? One. Show me another union in this country that would be up here advocating for part-time personnel because it's bigger than the union. It's bigger than this patch right here. It's about everybody out here and everybody up there. I would gladly take a part-time guy because you know what, he's been through my training program. He's been through his training program and at the end of the day that fire don't care. John Q. Public doesn't care where you come from. Whether you're full-time or part-time. They just want somebody to show up and right now, we can't provide that on a second or third call. That's the thing that doesn't sit very well with me. It affects me on another level too. Some of you may or may not know, I work another full-time job outside of the City of Napoleon. I work for Springfield Township Fire Department. So, it's not only going to affect me in paying the income tax here, the 1.5%. I'll pay an additional .75% working up there. Why do I do it? It's experience. I love my job but quite frankly it keeps my options open too. Because we're talking burnout factor here. We've had 150% turnover rate. You talk about the turnover rate. Everybody we've lost, with the exception of one and he went to his hometown, has went to a bigger department, more money, more staffing and that's the truth. You brought up the training thing. Training is just a piece of it because we teach the bare minimum to get them through and then on a daily basis we do more. You know it's a dollar a day, a cup of coffee is what we're talking here. This affects the least amount of people and has the biggest impact on the city. Not just the Fire Department but the Police Department and the roads everything. I entertain anybody that wants to come down come and ride with us. Mr. Koeller came down and rode with us, unfortunately we didn't have all call that day. That's what we talked about. A day that the Fire Department doesn't leave is a great day because that means your citizens are safe. I think there's a misconception of what the Fire Department does because when people drive to work the bay doors are down and all the trucks are in. When they drive home all the trucks are still there. They don't see what's going on, they don't see the fact that these guys are gone seven, eight calls today and had some pretty major calls. Because of our training program they were able to handle a very serious heart attack call with two guys because they were keeping a squad in service for the rest of the city as well for the second call. I think some stuff gets miscued with the non-emergency transport. I think we leaned on that too much, my personal opinion. That's an additional service that we provide it should not be constituted as revenue it helps, but at the end of the day we need that staffing numbers regardless if that non-emergency is there or not. Anybody that wishes to stop and see what goes on on a day-to-day basis at the Fire Department I applaud you, I invite you. I work tomorrow. I'll be there 7:00 a.m. to 7:00 a.m. Come see me.

Mazur continued with the rest of the questions.

There was a question about property tax

I put in here we'll talk a little further about it because it's a lot of information and as we stated in the previous meetings and in the report, everybody funds their departments differently and runs them a little bit differently. Like Captain Bowen said, there is the Napoleon way and then everybody else has their way of running their shops. There are a lot of different property taxes that come in. Various counties run countywide EMS systems so they're collecting property taxes countywide and they are doling them out to the different departments. We brought up Wauseon as an example, through a countywide EMS system they get the money to support having four full-time persons per shift so I believe that's what they have, correct me if I'm wrong. Captain Bowen said the EMS portion of that only pays for two. The City pays for a portion and they are supplemented through the county. Mazur said everybody's millage is different. Ours in total, if you count the 2 mills inside plus the .3 mills for fire pension and .6 mills for police pension funds, comes out to about 2.9 mills which is compared to other jurisdictions a little bit on the low side. Some have a lot higher I believe Delta for instance has a 5 mill property tax but that only goes to police and I believe Fulton County's countywide EMS system. Defiance is a little different they've got a 1.8% income tax and I think everybody has a 2 mill inside is how the normal county structures are. It's just really hard to compare and match everybody up side-by-side because it depends on their coverage areas, what populations they serve, what their millage is, whether each Township has different millage for what they cover, it just really varies. It's all over the board and it's really tough to find apples to apples comparison. As a general blanket statement, our millage is a little bit on the low side compared to these other communities. Comadoll asked if that is something that has to go to the voters? Mazur replied yes, millage goes to the voters.

What was what was the 50% reciprocity number from five to six years ago when times were not as good?

It ranged anywhere between \$267,000 to \$331,000 roughly. O'Boyle said *correct*. Mazur continued it isn't until just in the recent past, in fact it was just last year that it went above \$400,000. O'Boyle said in 2017 it was about \$133,000 then it was 358k, 355k, 277k, 318k so it varies based on people's wages and how much they're paying. In the property tax one I will say we're still gathering some information. It's just very difficult to get into a format that's user friendly and make sense.

Tonya Walker for those of you that don't know me, I'm a dispatcher with the City of Napoleon and I'm in my 20th year with the City. I used to also work fire and rescue for about 15 years so a total of about 25 years I've worked for the city. The only reason I don't work with fire now and I miss it tremendously, like they said, there's a lot of training that goes on with it and I didn't feel like I was getting involved like I should have been working at the Police Department. Twenty years ago when I started, it was a taxing job but not near as much as what it is now. With the increase in technology and all the different changes that we've made with how we work, our department has changed tremendously. We actually had a dispatcher that retired a little early she was a little older and things were just getting too hard for her. I think that's a big part of our issue now, finding the right fit for what we do. People see on TV the ladies sitting behind the desk with the headphones on and answering a phone call and send an ambulance and then they sit there and twiddle their thumbs until the next one comes along. We don't do that here. We are also responsible for the Operations Department, the Electric Department anything that happens within the city after-hours we are also responsible for. It's a big job and a lot of people don't understand that. I think sometimes that weighs on people and they realize after and as much as

we try to prepare them when we're doing interviews, once they realize what all is involved in our job, it's just too much for some people. So, it's not a departmental problem, it's a people problem. We do the best that we can to prepare these people and because we're having a hard time finding those people, it falls on the rest of us. It's a mentally taxing job most days and a lot of people can't handle that mental stress on top of when we have big calls. We worry about the Fire Department just as much as we do our Police Officers when they're out doing things. So, it's a pretty mentally taxing job for all of us and then add onto that the staffing levels, when you're adding another four hours and you're doing 12-hour shifts. All it takes is for one person to get sick and everybody knows nowadays that one person gets sick you got two people getting sick and now we're down to three people running a 24-hour business. There have been weeks, I went back two years ago, there was about six to seven weeks where just me personally, I was working four 12-hour shifts out of my five-day work week. It's rough, I did it and I'll do it again to keep our department running, but it's rough on us. That is why we are asking for that sixth person just to take a little bit of that pressure off of us and help keep the people. The girls we got there now are great. They're young. They've got a lot to learn and that's a big part of it too. We run the city when the city is closed. So, we have to know most of the inner workings of this whole City, we're not just Police Dispatchers we are City Dispatchers too. We have to know what goes on with every department, how to handle things when people call. It takes a lot of training and a lot of dedication on our part. I'm very proud of what I do as most of my girls are. We've got a couple that have only been there a year or two and they haven't quite figured it out yet but they're getting there. I'm very proud to say that I've worked for this city for as long I have and I'll do it for as long as I can. But like I said, it's just the technology keeps getting more and more and it's becoming more and more a part of our job and there's just so much that goes into it. I think when we do find the right fit, we find the people that stick around. The one under me is Corey. She's been here four years and I've been there twenty years. When we find that fit they stay so it's just trying to find that right person. I appreciate the fact that you guys see that there is an issue and that you're trying to find a solution for us. I just wanted to give you a little bit of a personal insight to what goes on when we're working 12-hour days three and four days a week. Home life becomes non-existent. I've missed a lot of family time. I've missed a lot of holidays, I work most holidays and then I'm working 12-hour shifts on holidays so I don't get family time a lot. Generally, I don't complain about it because I signed up for that; but, we need a little relief sometimes. It gets rough on us and like they've said a lot of people don't understand. I invite any of you to come in and check out our office. Over the last couple years Chief Mack has been doing everything he can to update our office and make it more welcoming and comfortable for us to be there. A lot of people don't understand what we do. Come in at 6:00, 7:00, 8:00 o'clock at night, come in during the day see how crazy it gets during the day. Come in and see what we do. Maybe it'll help you understand things a little bit better. I do appreciate that you want to keep us. Five or six years ago I stood up here and fought to keep my job. Thankfully I still have it and I'll do this again. I'm proud of this city. I grew up here. Bialorucki-thank-you very much for your 20 years of service plus.

Sicclair I would like to say that I did have an opportunity to spend a little time with Chief O'Brien last week and he really enlightened me on a lot of issues. I told you before that I support the fact that we need people, we just have to figure out how to fund it. It was really helpful for me to understand how the department works, the shifts, the positions that need to be in place in order to run efficiently and effectively. I thank Chief O'Brien for that and I thank all of you for everything that you do to continue to work under these conditions.

Mazur reported we are looking to award the contract for alum. Chemtrade submitted a bid of \$1.0908 per gallon, the price is slightly above last year's but it's a good price and is within our budget.

Roll call vote on the above motion:
Yea-Baer, Bialorucki, Mires, Haase, Durham, Comadoll, Siclair
Nay-
Yea-7, Nay-0 – **Motion Passed**

Mazur stated in our budget we had remounts for both medic units and since it's a state term contract we are looking to award based on that.

Roll call vote on the above motion:
Yea-Baer, Bialorucki, Mires, Haase, Durham, Comadoll, Siclair
Nay-
Yea-7, Nay-0 – **Motion Passed**

Mazur stated since the addition of the SRO position, this is a clean-up item, the ordinance needs to be adjusted to have the correct number of police officers in it. Harmon pointed 145.01 needs one number changed in total from eleven to twelve sworn officers.

Roll call vote on the above motion:
Yea-Baer, Bialorucki, Mires, Haase, Durham, Comadoll, Siclair
Nay-
Yea-7, Nay-0 – **Motion Passed**

Mazur reported there are five different grants that we are looking to apply for. One was from the BWC for a power cot power loader, one is with the county for I believe it's with the county for a tower grant to get better coverage on our radio system, one is for the Police Department from Walmart. Walmart runs these safety service operation grants every year. Chief what are you looking to apply for this year did you have anything? Chief Mack stated Walmart is usually for safety training it's not anything specific. The grant has not opened up yet, I'm waiting for the regulations to come out on that. Mazur said we

Motion: Comadoll Second: Siclair
to approve applying for various grants for safety services.

Yea-7, Nay-0 – Motion Passed

Mazur stated you are all aware that we did receive a letter of resignation from Mark Spiess who took over the Zoning Administrator duties when Tom Zimmerman left. We divided Tom's job up into different areas. What I'm looking to do is add the Zoning Administrator title and job duties to the part-time Code Enforcement Officer. If you recall, Tom's job before he left was zoning, code enforcement and building inspection. That's a tall order for somebody to handle all of those job duties. There is not enough time for one person to handle all that especially with the code enforcement side and a lot of those issues weren't being addressed. What I'm looking to do is to combine those job duties and have Kevin be a full-time employee. Baer asked what else was Mr. Spiess doing besides this? Mazur said he was a GIS guy. Baer said so that position still needs to be replaced? Mazur said when we have positions like this it's a unique time to do some restructuring so when Chad gets back from his trip, we will sit down and go over the needs of his department. Right now he has two vacancies and we're just going to drill down what his needs are. If this is okay, we will need an ordinance for the change. Harmon pointed out there may need to be some legislation here based on pay. Chief Mack brought to me a couple of concerns. Currently Kevin is supervised by the Police Department and regarding his firearms access and his access to criminal databases how that would work out we haven't determined exactly what to do with that. I anticipate that some legislation will be necessary based on changing pay and if anything else is needed to be put in front of Council in the way of legislation we can bring that as well upon direction to bring back legislation for these changes.

Yea-7, Nay-0 – Motion Passed

AROUND THE TABLE

O'Boyle – We are preparing banking service a Request for Proposal to transition from two banks to one bank for efficiency so we'll be sending that out in the next week or so.

Comadoll - I was I was approached by a citizen that would like to start mowing in the City of Napoleon. I said I don't know what all this entails. Mazur asked what type of mowing? Comadoll-guardrail stuff. Mazur-street street side mowing. That's all handled through the Park and Rec Program, there's a budget for that. Cotter handles the contract they sort it out between Cotter and Rathge. Comadoll-I checked and they went over the \$25,000 mark last year. Mazur-did we Harmon-it was a budgeted item that was included in the master bid ordinance there and approved by Council at this point. Going forward if Council wants to review that I guess at the appropriate time. For now these contracts are set. Bialorucki-wasn't that reduced just a couple years ago? Mazur- I don't know if this really pertains to this but that item as it was presented in the budget, it was not put into the budget as it was presented so there was an adjustment that was made for that. We did have a wet season also so that was a contributing factor to the higher amount. We actually did have one extra mowing at the end of the year because it was such a wet season last year that grass grew a lot. Just send them my way. Comadoll-this gentleman told me he tried to get ahold of Mr. Cotter and he received no reply back. Mazur-I'll look into it.

Sicclair – nothing for me.

Baer – The Safety Human Resources Committee will meet a week from tonight at 7:30 pm. It is the annual yearly meeting with the townships and Assistant Chief Frey has assured me that he will have all the necessary paperwork ready.

Maassel-Good Luck to the Cats in the tournament trail.

Mires-two weeks ago I just want to say welcome back to Harriet I forgot to say it two weeks ago glad to see you back here. Thanks to the IT Department I think they updated a lot of the info on the City of Napoleon web page. Mazur-we are in the middle of, I just talked with the chairman of the IT Committee, we are in the process of doing the website overhaul so we'll bring something back to the committee within the next couple of months. Mires-Kudos to the Dustin twins on that. Congratulations to Don and Wendt Shoes on their 100th anniversary, nice article in the Signal on that. Good job last week on the snow removal, I got a lot of compliments and no complaints so that was a good week. I do have one complaint, that potholes in the Canal Basin. Mazur-oh really. Maassel-I thought those were filled recently. Mires-that's what I thought. Mazur-if it's the cold patch then Comadoll-cold patching is not going to stick. Mazur-what they'll do is they'll come back out put more cold patch in it and then when it warms up and they can get the kettle. Haase- I have nothing.

Durham-thank you everybody for being here again this week. We appreciate all your feedback, thank you.

Harmon- nothing for me.

I'm requesting an executive session for sale or acquisition of property.

Executive Session – Personnel

Yea-7, Nay-0 – Motion Passed

Yea-7, Nay-0 – Motion Passed

City of Napoleon City Council
February 17, 2020 Meeting Minutes
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Out of Executive Session - Personnel

Motion: Siclair
to come out of Executive Session for Personnel

Roll call vote on the above motion:

Yea-Baer, Bialorucki, Mires, Haase, Durham, Comadoll, Siclair
Nay-
Yea-7, Nay-0 – **Motion Passed**

Council President Bialorucki reported no action was taken.

City Council came out of Executive Session at 9:33 pm.

APPROVE PAYMENTS OF BILLS AND FINANCIAL REPORTS

In the absence of any objections or corrections the bills stand approved.

ADJOURN

Motion: Siclair Second: Haase
to adjourn the City Council meeting at 9:34 pm.

Approved:

March 02, 2020

Joseph D. Bialorucki, Council President

Jason P. Maassel, Mayor

Submitted by:

Roxanne Dietrich
Executive Assistant to Appointing Authority/Clerk of Council

ORDINANCE NO. 007-20

**AN ORDINANCE AMENDING CERTAIN SECTIONS OF
CHAPTER 925 OF THE CODIFIED ORDINANCES OF THE CITY
OF NAPOLEON, SPECIFICALLY SECTION 925.13 “WASTE
COLLECTION RATES,” AND SECTION 925.16 “PURCHASE OF
TAGS AND UTILITY PAYMENTS,” AND REPEALING
ORDINANCE NO.(S) 067-12 AND 028-95**

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

Section 1. That, Section 925.13 of the Codified Ordinances of the City of Napoleon, Ohio shall be hereby amended and enacted as follows:

“925.13 WASTE COLLECTION RATES.

(a) The following rates are established as a monthly base fee as it relates to City bag refuse service, and shall be charged to each subscriber utilizing or mandated to utilize the City’s bag refuse service. Commercial use of residential type recycling service is permitted in accordance with paragraph (c). Nothing in this provision shall be construed as mandating the City to provide refuse service outside its corporate limits.

| Inside Corporate Limits | Outside Corporate Limits |
|-------------------------|--------------------------|
| \$18.00 | \$24.30 |

(b) Each subscriber to the City’s bag refuse service will be permitted to have ~~one~~ **two** (2) bags of garbage or refuse, per week, at no additional cost (without necessity of a tag), as part of the established monthly fee paid by all City bag refuse subscribers; thereafter, there will be a charge of \$2.00 per tag that shall be affixed to the outside of each bag after the first ~~one~~ **two** (2) bags as provided for in Section 925.07. Tags may be purchased at the office of the City Utilities Department or at other locations as may be designated.

(c) Commercial recycling service when provided by the City, in or outside the corporation limits, shall be at the rate of \$18.00 per month for up to six residential type recycling bins with additional bins, up to ten in total, at the rate of \$1.00 per month for each additional bin over six. Levels of service shall be established on an annual basis.

(d) Low occupancy: The City will allow residential customers to request a partial credit on the monthly refuse charge provided the residential customer demonstrates and/or proves that no garbage was generated during the entire month and/or billing cycle. Proof will be in the form of a sworn affidavit signed and notarized by the residential customer stating the reason for non- generation of garbage and requesting a partial credit for the period of the billing cycle. Refuse charge will remain on the monthly bill and requests must be made after each billing cycle, and no later than sixty (60) days after the utility bill “billing due date” for which the request of is being made. Proof will be subject to verification by the Refuse Collection Department in operations. Additionally, the customer’s utility account will be checked for consumption history of electric, water, and sewer. If consumption history is minimal for electric and there is neither water nor sewer consumption during the time period of the billing the request will be approved. However, if there is average or normal consumption history for electricity or there is water or sewer usage the request will not be approved. Approved requests will

be credited to customer account on the next earliest possible billing. However, the customer will not receive any credit for special sanitation services as established in Section 925.17(b). The customer's affidavit is only valid for six (6) months and must be renewed thereafter. Affidavit forms will be provided upon request.
(Ord. 067-12. Passed 11-19-12.)”

Section 2. That, Section 925.13 of the Codified Ordinances of Napoleon, Ohio, as existed prior to the enactment of this Ordinance, is repealed upon the effective date of this Ordinance.

Section 3. That, Section 925.16 of the Codified Ordinances of the City of Napoleon, Ohio shall be hereby amended and enacted as follows:

“PURCHASE OF TAGS AND UTILITY PAYMENTS.

(a) Tags shall be purchased in advance from the Utilities Department of the City or their designated agent and, when required, shall be firmly affixed to the bag containing the garbage or refuse. If no tag is found affixed at time of scheduled collection (except for the ~~one~~ **two (2)** weekly bags of garbage or refuse that is allowed at no additional charge by the City), the garbage or refuse will not be collected.

(b) If a customer makes payment on or before the due date of a bill to an agent designated or authorized by the public utility to accept payment, the payment shall not be considered past due regardless of whether or not it is received in the company offices by the due date.

(ORC. 4905.775) (Ord. 28-95. Passed 4-3-95.)”

Section 4. That, Section 925.16 of the Codified Ordinances of Napoleon, Ohio, as existed prior to the enactment of this Ordinance, is repealed upon the effective date of this Ordinance.

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

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

Section 5. That, this Ordinance 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:

Roxanne Dietrich, Clerk of Council

I, Roxanne Dietrich, Clerk of Council for the City of Napoleon, do hereby certify that the foregoing Ordinance No. 007-20 was duly published in the Northwest Signal, a newspaper of general circulation in said City, on the _____ day of _____, 2020; & 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.

Roxanne Dietrich, Clerk of Council

ORDINANCE NO. 008-20

**AN ORDINANCE AMENDING SECTION 145.01 OF THE CITY OF
NAPOLEON, OHIO CODIFIED ORDINANCES, "COMPOSITION
AND CONTROL OF THE POLICE DEPARTMENT,"
INCREASING THE COMPOSITION OF THE POLICE
DEPARTMENT, AND REPEALING ORDINANCE NO. 013-06;
AND DECLARING AN EMERGENCY**

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

Section 1. That, Section 145.01 of the Codified Ordinances of Napoleon, Ohio shall be hereby amended and enacted as follows:

"145.01 COMPOSITION AND CONTROL OF POLICE DEPARTMENT.

(a) The Police Department of the City shall be composed of a department head known as the "Police Chief" and such other officers, dispatchers, clerks, secretaries and other employees as provided by legislation of the City, the Organizational Chart of the City, and/or the Administrative Code of the City.

(b) Notwithstanding any prior ordinance or resolution to the contrary, the Napoleon City Police Department shall be composed of the following:

- 1 Police Chief
- 4 Sworn officers of the supervisory grade
- ~~4~~ 12 Sworn officers of the patrol grade
- 6 Communication officers
- 1 (not to exceed 20) Auxiliary officers

(c) The making of an assignment by the Chief of one or more officers to an investigative division shall not be construed as disturbing the composition of the Police Department or violating subsection (b) hereof; moreover, temporary vacancies in the Police Department shall not be construed as a departure from this section.

(d) Nothing in this chapter shall be construed as limiting the number of additional officers that may be required in case of an emergency."

Section 2. That, Section 145.01 of the Codified Ordinances of Napoleon, Ohio, as existed prior to the enactment of this Ordinance is repealed upon the effective date of this Ordinance.

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, this Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health or safety of the City and its inhabitants, and for the further reason that this legislation must be in effect at the earliest possible time to allow the positions to be in place to effectively and efficiently train the City of Napoleon Police Department employees, all of which are related to public peace, health or safety; therefore, provided it receives the required number of votes for passage as emergency legislation, it shall be in full force and effect immediately upon its passage; otherwise, it shall be in full force and effect at the earliest time permitted by law. Further, the Emergency Clause is necessary to be in effect at the earliest possible time to allow for proper payment of wages to employees, proper payment being essential to the harmony of the necessary workforce, 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:

Roxanne Dietrich, Clerk of Council

I, Roxanne Dietrich, Clerk of Council for the City of Napoleon, do hereby certify that the foregoing Ordinance No. 008-20 was duly published in the Northwest Signal, a newspaper of general circulation in said City, on the _____ day of _____, 2020; & 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.

Roxanne Dietrich, Clerk of Council

PRELIMINARY LEGISLATION

Consent

Ordinance # 005-20

PID No. 111101

County/Route/Section HEN-6-12.47 Heat Straighten

The following is an ordinance enacted by the City of Napoleon, Henry COUNTY County, Ohio, hereinafter referred to as the Local Public Agency (LPA), in the matter of the stated described project.

SECTION I - Project Description

WHEREAS, the LPA/STATE has identified the need for the described project:

Heat straightening and painting for accident damaged structure

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

SECTION II - Consent Statement

Being in the public interest, the LPA gives consent to the Director of Transportation to complete the above described project.

SECTION III - Cooperation Statement

The LPA shall cooperate with the Director of Transportation in the above described project as follows:

- 1) The LPA will assume and bear one hundred percent (100%) of the total cost of any features requested by the LPA which are not necessary for the project as determined by the State and/or the Federal Highway Administration.
- 2) The LPA consents to having the State acquire all necessary rights of way for the subject project in the name of the LPA.
- 3) The LPA agrees, upon completion of the project, to own and maintain all those portions of the project under its jurisdiction.
- 4) The State agrees to be the lead agency and to administer all phases of the project.

SECTION IV - Utilities and Right-of-Way Statement

The LPA agrees that all existing street and public way right-of-way within the jurisdiction of the LPA which is necessary for the described project shall be made available therefor. The LPA further agrees that any right-of-way acquired by said LPA on behalf of the described project shall be acquired and/or made available in accordance with current State and Federal regulations.

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

SECTION V - Maintenance

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

SECTION VI - Authority to Sign

The _____ of said City is hereby empowered on behalf of the City
(Contractual Officer)

to enter into contracts with the Director of Transportation necessary to complete the above described project.

Passed: _____, 2_____.
(Date)

Attested: _____
(Clerk Signature)

(Contractual Officer Signature)

Attested: _____
(Clerk Signature)

(President of Council Signature)

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

CERTIFICATE OF COPY
STATE OF OHIO

City of Napoleon, Henry County, Ohio

I, Roxanne Dietrich, as Clerk of the City of Napoleon, Ohio, do hereby
certify that the foregoing is a true and correct copy of an ordinance adopted by the legislative
Authority of the said City, on the _____ day of _____, 2020, that the
publication of such ordinance has been made and certified of record according to law; that no
proceedings looking to a referendum upon such ordinance have been taken; and that such ordinance
and certificate of publication thereof are of record in

_____, Page _____ .
(Ordinance Record No.)

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official
seal, if applicable, this _____ day of _____, 2 020.

Clerk

(SEAL)
(If Applicable)

City of Napoleon, Ohio

The afore going is accepted as a basis for proceeding with the project herein described.

For the City of Napoleon, Ohio

Attest: _____, Date _____
Contractual Officer

For the State of Ohio

Attest: _____, Date _____
Director, Ohio Department of Transportation

ORDINANCE NO. 006-20

**AN ORDINANCE APPROVING CURRENT DECEMBER 2019
REPLACEMENT PAGES TO THE CITY OF 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 American Legal Publishing Corporation (formerly known as Walter H. Drane Company) to prepare and publish such revision which is before Council; **Now Therefore**,

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

Section 1. That, the Ordinances of the City of Napoleon, Ohio, of a general and permanent nature, as revised, recodified, rearranged and consolidated into component codes, titles, chapters and sections within the December 2019 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.

Administration Code

Fire/Rescue Department
Municipal Income Tax

Traffic Code

Definitions
Vehicles
Traffic Control

General Offenses Code

Animals and Fowl
Weapons and Explosives

Streets, Utilities and Public Services Code

Recreational Facilities

Section 3. That, the complete text of all current Codified changes is 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:

Roxanne Dietrich, Clerk of Council

I, Roxanne Dietrich, Clerk of Council for the City of Napoleon, do hereby certify that the foregoing Ordinance No. 006-20 was duly published in the Northwest Signal, a newspaper of general circulation in said City, on the _____ day of _____, 2020; & 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.

Roxanne Dietrich, Clerk of Council

INSTRUCTIONS FOR INSERTING
DECEMBER 2019 REPLACEMENT PAGES
FOR THE
CODIFIED ORDINANCES
OF NAPOLEON

All new replacement pages bear the footnote "December 2019 Replacement". Please discard old pages and insert these new replacement pages immediately as directed in the following table.

Discard Old Pages

Insert New Pages

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

Local legislation current through December 16, 2019

State legislation current through July 30, 2019

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 December 16, 2019.

/s/ Jason Maassel
Mayor

/s/ Gregory J. Heath
Council Clerk

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

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The Walter H. Drane Company

CITY OF NAPOLEON
ROSTER OF OFFICIALS
(2019)

CITY OFFICIALS

Mayor
City Manager
City Law Director
City Finance Director

Jason Maassel
Joel L. Mazur
Billy D. Harmon
Kelly O'Boyle

The Publisher expresses its appreciation
to

DAVID M. GRAHN
Director of Law

GREGORY J. HEATH
Director of Finance

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

| | | | | | |
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CHAPTER 143 Fire/Rescue Department

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| 143.01 | Composition and control of the City Fire/Rescue Department. | 143.04 | Additional fire personnel in emergency situation. |
| 143.02 | Administrative head of Fire/Rescue Department. | 143.05 | Auxiliary fire/rescue. |
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CROSS REFERENCES

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

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

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

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

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

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

- 1 Fire Chief (full-time)
- 3 Officer of the supervisory grade (full-time)
- 6 Fire Fighter/Paramedics or
Fire Fighter/Emergency Medical technicians, or
combination thereof (full-time)
- 5 Officers of supervisory grade (part-time)
- 1 (not to exceed 70) Staff of any combination of the following:
Fire Fighters, paramedics, emergency medical technicians (any level), fire
fighter/paramedics, fire fighter/emergency medical technicians, secretary,
communication officers, instructors (all of part-time status as approved by
the City Manager)
- 1 (not to exceed 20) Auxiliary officers.

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

(e) Nothing in this chapter shall be construed as limiting the number of additional officers that may be required in case of an emergency.
(Ord. 034-19. Passed 6-17-19.)

143.02 ADMINISTRATIVE HEAD OF FIRE/RESCUE DEPARTMENT.

The Fire Chief of the regular Fire/Rescue Department shall have direction and control over all personnel in the City's regular Fire/Rescue Department, including all auxiliary employees and other officers in the auxiliary unit. However, the City Manager maintains his or her power and authority over the Department as found in Article IV, of the City's Charter and Chapter 133 of the Administrative Code.
(Ord. 81-01. Passed 7-2-01.)

143.03 GENERAL DUTIES OF FIRE/RESCUE DEPARTMENT.

The Fire/Rescue Department shall protect the lives and property of the people in case of fire or other emergency. The Fire/Rescue Department shall perform such other duties as are provided by ordinance, resolution, and/or statute. In case of a conflict between an ordinance or resolution and a statute, the ordinance or resolution shall prevail where permitted.
(Ord. 81-01. Passed 7-2-01.)

143.04 ADDITIONAL FIRE PERSONNEL IN EMERGENCY SITUATION.

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

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

(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, 2020, the funds collected under the provisions of this chapter shall be deposited in the "General Fund equivalent" of the City for municipal income taxes and shall be disbursed in the following order:

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

(b) Effective January 1, 2021 and thereafter, the funds collected under the provisions of this chapter shall be deposited in the "General Fund equivalent" of the City for municipal income taxes and shall be disbursed in the following order:

- (1) Such part thereof as shall be necessary to defray all costs of collecting this tax and all costs of administering and enforcing the provisions of this chapter and the rules and regulations adopted by Council in connection therewith.
- (2) Not more than sixty-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." (Ord. 079-19. Passed 12-16-19.)

193.12 BOARD OF REVIEW.

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

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

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

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

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

193.13 APPLICABILITY.

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

193.14 EXEMPTIONS.

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

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

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

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

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

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

194.013 ALLOCATION OF FUNDS.

(A) Effective January 1, 2020, the funds collected under the provisions of this Chapter shall be deposited in the "General Fund equivalent" of the City for municipal income taxes and shall be disbursed in the following order:

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

(B) Effective January 1, 2021 and thereafter, the funds collected under the provisions of this chapter shall be deposited in the "General Fund equivalent" of the City for municipal income taxes and shall be disbursed in the following order:

- (1) Such part thereof as shall be necessary to defray all costs of collecting this tax and all costs of administering and enforcing the provisions of this chapter and the rules and regulations adopted by Council in connection therewith.
- (2) Not more than sixty-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. (Ord. 079-19. Passed 12-16-19.)

- (v) The publicly traded partnership shall not be required to file the election with any municipal corporation in which the partnership is not subject to taxation on its net profits, but division (D) of this section applies to all municipal corporations in which an individual owner of the partnership resides.
- (vi) The individual owners of the partnership not filing as a C Corporation shall be required to file with their municipal corporation of residence, and report partnership distribution of net profit.
- (24) **"NONRESIDENT"** means an individual that is not a resident of the Municipality.
- (25) **"OHIO BUSINESS GATEWAY"** means the online computer network system, created under section 125.30 of the Ohio Revised Code, that allows persons to electronically file business reply forms with state agencies and includes any successor electronic filing and payment system.
- (26) **"OTHER PAYER"** means any person, other than an individual's employer or the employer's agent, that pays an individual any amount included in the federal gross income of the individual. "Other payer" includes casino operators and video lottery terminal sales agents.
- (27) **"PASS-THROUGH ENTITY"** means a partnership not treated as an association taxable as a C corporation for federal income tax purposes, a limited liability company not treated as an association taxable as a C corporation for federal income tax purposes, an S corporation, or any other class of entity from which the income or profits of the entity are given pass-through treatment for federal income tax purposes. "Pass-through entity" does not include a trust, estate, grantor of a grantor trust, or disregarded entity.
- (28) A. **"PENSION,"** for all taxable years prior to 2020, means any amount paid to an employee or former employee that is reported to the recipient on an IRS form 1099-R, or successor form. Pension does not include deferred compensation, or amounts attributable to nonqualified deferred compensation plans, reported as FICA/Medicare wages on an IRS form W-2, Wage and Tax Statement, or successor form.
(Ord. 053-15. Passed 11-16-15.)
B. **"PENSION,"** for tax years starting on or after January 1, 2020, means a retirement benefit plan, regardless of whether the plan satisfies the qualifications described under section 401(a) of the Internal Revenue Code, including amounts that are taxable under the "Federal Insurance Contributions Act," Chapter 21 of the Internal Revenue Code, excluding employee contributions and elective deferrals, and regardless of whether such amounts are paid in the same taxable year in which the amounts are included in the employee's wages, as defined by section 3121(a) of the Internal Revenue Code.
"Retirement benefit plan" means an arrangement whereby an entity provides benefits to individuals either on or after their termination of service because of retirement or disability. "Retirement benefit plan" does not include wage continuation payments, severance payments, or payments made for accrued personal or vacation time.
(Ord. 072-19. Passed 11-18-19.)
- (29) **"PERSON"** includes individuals, firms, companies, joint stock companies, business trusts, estates, trusts, partnerships, limited liability partnerships, limited liability companies, associations, C corporations, S corporations, governmental entities, and any other entity.
- (30) **"POSTAL SERVICE"** means the United States postal service, or private delivery service delivering documents and packages within an agreed upon delivery schedule, or any other carrier service delivering the item.

- (31) **"POSTMARK DATE," "DATE OF POSTMARK,"** and similar terms include the date recorded and marked by a delivery service and recorded electronically to a database kept in the regular course of its business and marked on the cover in which the payment or document is enclosed, the date on which the payment or document was given to the delivery service for delivery.
- (32) (A) **"PRE-2017 NET OPERATING LOSS CARRYFORWARD"** means any net operating loss incurred in a taxable year beginning before January 1, 2017, to the extent such loss was permitted, by a resolution or ordinance of the Municipality that was adopted by the Municipality before January 1, 2016, to be carried forward and utilized to offset income or net profit generated in such Municipality in future taxable years.
- (B) For the purpose of calculating municipal taxable income, any pre-2017 net operating loss carryforward may be carried forward to any taxable year, including taxable years beginning in 2017 or thereafter, for the number of taxable years provided in the resolution or ordinance or until fully utilized, whichever is earlier.
- (33) **"QUALIFIED MUNICIPAL CORPORATION"** means a municipal corporation that, by resolution or ordinance adopted on or before December 31, 2011, adopted Ohio adjusted gross income, as defined by section 5747.01 of the Ohio Revised Code, as the income subject to tax for the purposes of imposing a municipal income tax.
- (34) **"QUALIFYING WAGES"** means wages, as defined in Section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted as follows:
- (A) Deduct the following amounts:
- (i) Any amount included in wages if the amount constitutes compensation attributable to a plan or program described in section 125 of the Internal Revenue Code.
 - (ii) Any amount included in wages if the amount constitutes payment on account of a disability related to sickness or an accident paid by a party unrelated to the employer, agent of an employer, or other payer.
 - (iii) INTENTIONALLY LEFT BLANK
 - (iv) INTENTIONALLY LEFT BLANK
 - (v) Any amount included in wages that is exempt income.
- (B) Add the following amounts:
- (i) Any amount not included in wages solely because the employee was employed by the employer before April 1, 1986.
 - (ii) Any amount not included in wages because the amount arises from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under a stock option. Division (34)(B)(ii) of this section applies only to those amounts constituting ordinary income.
 - (iii) Any amount not included in wages if the amount is an amount described in section 401(k), 403(b), or 457 of the Internal Revenue Code. Division (34)(B)(iii) of this section applies only to employee contributions and employee deferrals.
 - (iv) Any amount that is supplemental unemployment compensation benefits described in section 3402(o)(2) of the Internal Revenue Code and not included in wages.
 - (v) Any amount received that is treated as self-employment income for federal tax purposes in accordance with section 1402(a)(8) of the Internal Revenue Code.

- (vi) Any amount not included in wages if all of the following apply:
 - (a) For the taxable year the amount is employee compensation that is earned outside of the United States and that either is included in the taxpayer's gross income for federal income tax purposes or would have been included in the taxpayer's gross income for such purposes if the taxpayer did not elect to exclude the income under section 911 of the Internal Revenue Code;
 - (b) For no preceding taxable year did the amount constitute wages as defined in section 3121(a) of the Internal Revenue Code;
 - (c) For no succeeding taxable year will the amount constitute wages; and
 - (d) For any taxable year the amount has not otherwise been added to wages pursuant to either division (34)(B) of this section or section 718.03 of the Ohio Revised Code, as that section existed before the effective date of H.B. 5 of the 130th General Assembly, March 23, 2015.
- (35) **"RELATED ENTITY"** means any of the following:
 - (A) An individual stockholder, or a member of the stockholder's family enumerated in section 318 of the Internal Revenue Code, if the stockholder and the members of the stockholder's family own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty per cent (50%) of the value of the taxpayer's outstanding stock;
 - (B) A stockholder, or a stockholder's partnership, estate, trust, or corporation, if the stockholder and the stockholder's partnerships, estates, trusts, or corporations own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty per cent of the value of the taxpayer's outstanding stock;
 - (C) A corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under division (35)(D) of this section, provided the taxpayer owns directly, indirectly, beneficially, or constructively, at least fifty per cent of the value of the corporation's outstanding stock;
 - (D) The attribution rules described in section 318 of the Internal Revenue Code apply for the purpose of determining whether the ownership requirements in divisions (35)(A) to (C) of this section have been met.
- (36) **"RELATED MEMBER"** means a person that, with respect to the taxpayer during all or any portion of the taxable year, is either a related entity, a component member as defined in section 1563(b) of the Internal Revenue Code, or a person to or from whom there is attribution of stock ownership in accordance with section 1563(e) of the Internal Revenue Code except, for purposes of determining whether a person is a related member under this division, "twenty per cent" shall be substituted for "5 percent" wherever "5 percent" appears in section 1563(e) of the Internal Revenue Code.
- (37) **"RESIDENT"** means an individual who is domiciled in the Municipality as determined under Section 194.042 of this Chapter.
- (38) **"S CORPORATION"** means a person that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.
- (39) **"SCHEDULE C"** means internal revenue service schedule C (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.
- (40) **"SCHEDULE E"** means internal revenue service schedule E (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.

- (41) **"SCHEDULE F"** means internal revenue service schedule F (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.
- (42) **"SINGLE MEMBER LIMITED LIABILITY COMPANY"** means a limited liability company that has one direct member.
- (43) **"SMALL EMPLOYER"** means any employer that had total revenue of less than five hundred thousand dollars during the preceding taxable year. For purposes of this division, "total revenue" means receipts of any type or kind, including, but not limited to, sales receipts; payments; rents; profits; gains, dividends, and other investment income; commissions; premiums; money; property; grants; contributions; donations; gifts; program service revenue; patient service revenue; premiums; fees, including premium fees and service fees; tuition payments; unrelated business revenue; reimbursements; any type of payment from a governmental unit, including grants and other allocations; and any other similar receipts reported for federal income tax purposes or under generally accepted accounting principles. "Small employer" does not include the federal government; any state government, including any state agency or instrumentality; any political subdivision; or any entity treated as a government for financial accounting and reporting purposes.
- (44) **"TAX ADMINISTRATOR"** means the individual charged with direct responsibility for administration of an income tax levied by a municipal corporation in accordance with this chapter, and also includes the following:
 - (A) A municipal corporation acting as the agent of another municipal corporation;
 - (B) A person retained by a municipal corporation to administer a tax levied by the municipal corporation, but only if the municipal corporation does not compensate the person in whole or in part on a contingency basis;
 - (C) The Central Collection Agency (CCA) or the Regional Income Tax Agency (RITA) or their successors in interest, or another entity organized to perform functions similar to those performed by the Central Collection Agency and the Regional Income Tax Agency.
- (45) **"TAX RETURN PREPARER"** means any individual described in section 7701(a)(36) of the Internal Revenue CODE AND 26 C.F.R. 301.7701-15 .
- (46) **"TAXABLE YEAR"** means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.
- (47) (A) **"TAXPAYER"** means a person subject to a tax levied on income by a municipal corporation in accordance with this chapter. "Taxpayer" does not include a grantor trust or, except as provided in division (47)(B)(i) of this section, a disregarded entity.
 - (B) (i) A single member limited liability company that is a disregarded entity for federal tax purposes may be a separate taxpayer from its single member in all Ohio municipal corporations in which it either filed as a separate taxpayer or did not file for its taxable year ending in 2003, if all of the following conditions are met:
 - (a) The limited liability company's single member is also a limited liability company.
 - (b) The limited liability company and its single member were formed and doing business in one or more Ohio municipal corporations for at least five years before January 1, 2004.
 - (c) Not later than December 31, 2004, the limited liability company and its single member each made an election to be treated as a separate taxpayer under division (L) of section 718.01 of the Ohio Revised Code as this section existed on December 31, 2004.

- (d) The limited liability company was not formed for the purpose of evading or reducing Ohio municipal corporation income tax liability of the limited liability company or its single member.
 - (e) The Ohio municipal corporation that was the primary place of business of the sole member of the limited liability company consented to the election.
 - (ii) For purposes of division (47)(B)(i)(e) of this section, a municipal corporation was the primary place of business of a limited liability company if, for the limited liability company's taxable year ending in 2003, its income tax liability was greater in that municipal corporation than in any other municipal corporation in Ohio, and that tax liability to that municipal corporation for its taxable year ending in 2003 was at least four hundred thousand dollars.
- (48) **"TAXPAYERS' RIGHTS AND RESPONSIBILITIES"** means the rights provided to taxpayers in sections 718.11 , 718.12 , 718.19, 718.23, 718.36, 718.37, 718.38, 5717.011 , and 5717.03 of the Ohio Revised Code and any corresponding ordinances of the Municipality, and the responsibilities of taxpayers to file, report, withhold, remit, and pay municipal income tax and otherwise comply with Chapter 718. of the Ohio Revised Code and resolutions, ordinances, and rules adopted by a municipal corporation for the imposition and administration of a municipal income tax.
- (49) **"VIDEO LOTTERY TERMINAL"** has the same meaning as in section 3770.21 of the Ohio Revised Code.
- (50) **"VIDEO LOTTERY TERMINAL SALES AGENT"** means a lottery sales agent licensed under Chapter 3770 of the Ohio Revised Code to conduct video lottery terminals on behalf of the state pursuant to section 3770.21 of the Ohio Revised Code.
(Ord. 053-15. Passed 11-16-15.)

194.04 INCOME SUBJECT TO TAX FOR INDIVIDUALS.

194.041 DETERMINING MUNICIPAL TAXABLE INCOME FOR INDIVIDUALS; LOSSES.

(A) "Municipal Taxable Income" for a resident of the Municipality is calculated as follows:

- (1) "Income" reduced by "Exempt Income" to the extent such exempt income is otherwise included in income, reduced by allowable employee business expense deduction as found in division (20)(B) of Section 194.03 of this Chapter, further reduced by any "Pre-2017 Net Operating Loss Carryforward" equals "Municipal Taxable Income".
 - (a) "Income" is defined in Section 194.03 (14) of this Chapter.
 - (i) "Qualifying Wages" is defined in Section 194.03(34).
 - (ii) "Net profit" is included in "income", and is defined in Section 194.03 (23) of this Chapter. This section also provides that the net operating loss carryforward shall be calculated and deducted in the same manner as provided in division (1)(H) of Section 194.03. Treatment of net profits received by an individual taxpayer from rental real estate is provided in Section 194.062(E).

- (iii) Section 194.03(14) provides the following: offsetting and net operating loss carryforward treatment in (14)(A)(ii)(a); resident's distributive share of net profit from pass through entity treatment in (14)(A)(ii)(b); treatment of S Corporation distributive share of net profit in the hands of the shareholder in (14)(A)(iii); restriction of amount of loss permitted to be carried forward for use by taxpayer in a subsequent taxable year in (14)(A)(iv).
 - (iv) "Pass Through Entity" is defined in Section 194.03(27).
 - (b) "Exempt Income" is defined in Section 194.03 (11) of this Chapter.
 - (c) Allowable employee business expense deduction is described in (20)(B) of Section 194.03 of this Chapter, and is subject to the limitations provided in that section.
 - (d) "Pre-2017 Net Operating Loss Carryforward" is defined in Section 194.03 (32) of this Chapter
- (B) "Municipal Taxable Income" for a nonresident of the Municipality is calculated as follows:
 - (1) "Income" reduced by "Exempt Income" to the extent such exempt income is otherwise included in income, as applicable, apportioned or situated to the Municipality as provided in Section 194.062 of this Chapter, reduced by allowable employee business expense deduction as found in (20)(B) of Section 194.03 of this Chapter, further reduced by any "Pre-2017 Net Operating Loss Carryforward" equals "Municipal Taxable Income".
 - (a) "Income" is defined in Section 194.03(14) of this Chapter.
 - (i) "Qualifying Wages" is defined in Section 194.03(34).
 - (ii) "Net profit" is included in "income", and is defined in Section 194.03(23) of this Chapter. This section also provides that the net operating loss carryforward shall be calculated and deducted in the same manner as provided in division (1)(H) of Section 194.03. "Net profit" for a nonresident individual includes any net profit of the nonresident, but excludes the distributive share of net profit or loss of only pass through entity owned directly or indirectly by the nonresident.
 - (iii) "Pass Through Entity" is defined in Section 194.03(27).
 - (b) "Exempt Income" is defined in Section 194.03(11) of this Chapter.
 - (c) "Apportioned or situated to the Municipality as provided in Section 194.062 of this Chapter" includes the apportionment of net profit income attributable to work done or services performed in the Municipality. Treatment of net profits received by an individual taxpayer from rental real estate is provided in Section 194.062(E).
 - (d) "Allowable employee business expense deduction" as described in (20)(B) of Section 194.03 of this Chapter, is subject to the limitations provided in that section. For a nonresident of the Municipality, the deduction is limited to the extent the expenses are related to the performance of personal services by the nonresident in the Municipality.
- (C) (1) Losses. The portion of a net operating loss sustained in any taxable year, allocable to the City, may be applied against the portion of the profit of succeeding years allocable to the City until exhausted, but in no event for more than five (5) taxable years. No portion of a net operating loss shall be carried back against net profits of any prior year.

- (2) The net profits and losses sustained by a taxpayer from business activities subject to the City tax, other than from the taxpayer's principal source of income, shall be aggregated for each of the taxpayer's tax years. If the result of such aggregation is a net profit, tax will be imposed and paid on the net profit. If the result of such aggregation is a net loss, the net loss may be carried forward to any of the succeeding five (5) years and may be used against an aggregate net profit for any of these five (5) succeeding tax years.
- (3) In a taxable year beginning on or after January 1, 2017, the amount of such net operating loss shall be deducted from net profit that is reduced by exempt income to the extent necessary to reduce municipal taxable income to zero, with any remaining unused portion of the net operating loss carried forward to not more than five consecutive taxable years following the taxable year in which the loss was incurred, but in no case for more years than necessary for the deduction to be fully utilized.
 - (a) No person shall use the deduction allowed to offset qualifying wages.
 - (b) For taxable years beginning in 2018, 2019, 2020, 2021, or 2022, a person may not deduct, for purposes of an income tax levied by a municipal corporation that levies an income tax before January 1, 2016, more than fifty percent (50%) of the amount of the deduction.
 - (c) For taxable years beginning in 2023 or thereafter, a person may deduct, for purposes of an income tax levied by a municipal corporation that levies an income tax before January 1, 2016, the full amount allowed.
 - (d) Any pre-2017 net operating loss carryforward deduction that is available must be utilized before a taxpayer may deduct any amount. (Ord. 053-15. Passed 11-16-15.)

194.042 DOMICILE.

(A) As used in this section:

- (1) "Domicile" means the true, fixed and permanent home of the taxpayer to which whenever absent, the taxpayer intends to return.
- (2) An individual is presumed to be domiciled in the Municipality for all or part of a taxable year if the individual was domiciled in the Municipality on the last day of the immediately preceding taxable year or if the tax administrator reasonably concludes that the individual is domiciled in the Municipality for all or part of the taxable year.
- (3) An individual may rebut the presumption of domicile described in division (A)(1) of this section if the individual establishes by a preponderance of the evidence that the individual was not domiciled in the Municipality for all or part of the taxable year.

(B) For the purpose of determining whether an individual is domiciled in the Municipality for all or part of a taxable year, factors that may be considered include, but are not limited to, the following:

- (1) The individual's domicile in other taxable years;
- (2) The location at which the individual is registered to vote;
- (3) The address on the individual's driver's license;
- (4) The location of real estate for which the individual claimed a property tax exemption or reduction allowed on the basis of the individual's residence or domicile;
- (5) The location and value of abodes owned or leased by the individual;
- (6) Declarations, written or oral, made by the individual regarding the individual's residency;

- (7) The primary location at which the individual is employed.
- (8) The location of educational institutions attended by the individual's dependents as defined in section 152 of the Internal Revenue Code, to the extent that tuition paid to such educational institution is based on the residency of the individual or the individual's spouse in the municipal corporation or state where the educational institution is located;
- (9) The number of contact periods the individual has with the Municipality. For the purposes of this division, an individual has one "contact period" with the Municipality if the individual is away overnight from the individual's abode located outside of the Municipality and while away overnight from that abode spends at least some portion, however minimal, of each of two consecutive days in the Municipality. For purposes of this section, the State's contact period test or bright-line test and resulting determination have no bearing on municipal residency or domicile.

(C) All applicable factors are provided in Ohio Revised Code Section 718.012.
(Ord. 053-15. Passed 11-16-15.)

194.043 EXEMPTION FOR MEMBER OR EMPLOYEE OF GENERAL ASSEMBLY AND CERTAIN JUDGES.

(A) Only the municipal corporation of residence shall be permitted to levy a tax on the income of any member or employee of the Ohio General Assembly, including the Lieutenant Governor, whose income is received as a result of services rendered as such member or employee and is paid from appropriated funds of this state.

(B) Only the municipal corporation of residence and the city of Columbus shall levy a tax on the income of the Chief Justice or a Justice of the Supreme Court received as a result of services rendered as the Chief Justice or Justice. Only the municipal corporation of residence shall levy a tax on the income of a judge sitting by assignment of the Chief Justice or on the income of a district court of appeals judge sitting in multiple locations within the district, received as a result of services rendered as a judge. (Ord. 053-15. Passed 11-16-15.)

194.05 COLLECTION AT SOURCE.

194.051 COLLECTION AT SOURCE; WITHHOLDING FROM QUALIFYING WAGES.

- (A) (1) Each employer, agent of an employer, or other payer located or doing business in the Municipality shall withhold from each employee an amount equal to the qualifying wages of the employee earned by the employee in the Municipality multiplied by the applicable rate of the Municipality's income tax, except for qualifying wages for which withholding is not required under Section 194.052 of this Chapter or division (D) or (F) of this section. An employer, agent of an employer, or other payer shall deduct and withhold the tax from qualifying wages on the date that the employer, agent, or other payer directly, indirectly, or constructively pays the qualifying wages to, or credits the qualifying wages to the benefit of, the employee.
- (2) In addition to withholding the amounts required under division (A)(1) of this section, an employer, agent of an employer, or other payer may also deduct and withhold, on the request of an employee, taxes for the municipal corporation in which the employee is a resident.
- (3) All tax payments are first applied to the oldest year owing, and such payments are first applied to penalty and interest for that year, and then to tax owed. (Ord. 053-15. Passed 11-16-15.)

- (B) (1) An employer, agent of an employer, or other payer shall remit to the Tax Administrator of the Municipality the greater of the income taxes deducted and withheld or the income taxes required to be deducted and withheld by the employer, agent, or other payer, along with any report required by the Tax Administrator to accompany such payment, according to the following schedule:
- (a) Any employer, agent of an employer, or other payer not required to make payments under division (B)(1)(b) of this section of taxes required to be deducted and withheld shall make quarterly payments to the Tax Administrator not later than the last day of the month following the last day of each calendar quarter.
 - (b) Taxes required to be deducted and withheld shall be remitted monthly to the Tax Administrator if the total taxes deducted and withheld or required to be deducted and withheld by the employer, agent, or other payer on behalf of the municipal corporation in the preceding calendar year exceeded two thousand three hundred ninety-nine dollars, or if the total amount of taxes deducted and withheld or required to be deducted and withheld on behalf of the Municipality in any month of the preceding calendar quarter exceeded two hundred dollars. Payments under division (B)(1)(b) of this section shall be made to the Tax Administrator not later than fifteen (15) days after the last day of each month.
(Ord. 036-16. Passed 9-19-16.)

(C) An employer, agent of an employer, or other payer shall make and file a return showing the amount of tax withheld by the employer, agent, or other payer from the qualifying wages of each employee and remitted to the Tax Administrator. A return filed by an employer, agent, or other payer under this division shall be accepted by the Municipality as the return required of an employee whose sole income subject to the tax under this chapter is the qualifying wages reported by the employee's employer, agent of an employer, or other payer, unless the Municipality requires all resident individual taxpayers to file a tax return under Section 194.091 of this Chapter,

(D) An employer, agent of an employer, or other payer is not required to withhold municipal income tax with respect to an individual's disqualifying disposition of an incentive stock option if, at the time of the disqualifying disposition, the individual is not an employee of either the corporation with respect to whose stock the option has been issued or of such corporation's successor entity.

- (E) (1) An employee is not relieved from liability for a tax by the failure of the employer, agent of an employer, or other payer to withhold the tax as required under this chapter or by the employer's, agent's, or other payer's exemption from the requirement to withhold the tax.
- (2) The failure of an employer, agent of an employer, or other payer to remit to the Municipality the tax withheld relieves the employee from liability for that tax unless the employee colluded with the employer, agent, or other payer in connection with the failure to remit the tax withheld.

(F) Compensation deferred before June 26, 2003, is not subject to any municipal corporation income tax or municipal income tax withholding requirement to the extent the deferred compensation does not constitute qualifying wages at the time the deferred compensation is paid or distributed.

(G) Each employer, agent of an employer, or other payer required to withhold taxes is liable for the payment of that amount required to be withheld, whether or not such taxes have been withheld, and such amount shall be deemed to be held in trust for the Municipality until such time as the withheld amount is remitted to the Tax Administrator.

(H) On or before the last day of February of each year, an employer shall file a Withholding Reconciliation Return with the Tax Administrator listing the names, addresses, and social security numbers of all employees from whose qualifying wages tax was withheld or should have been withheld for the Municipality during the preceding calendar year, the amount of tax withheld, if any, from each such employee's qualifying wage, the total amount of qualifying wages paid to such employee during the preceding calendar year, the name of every other municipal corporation for which tax was withheld or should have been withheld from such employee during the preceding calendar year, any other information required for federal income tax reporting purposes on Internal Revenue Service form W-2 or its equivalent form with respect to such employee, and other information as may be required by the Tax Administrator.

(I) The officer or the employee of the employer, agent of an employer, or other payer with control or direct supervision of or charged with the responsibility for withholding the tax or filing the reports and making payments as required by this section, shall be personally liable for a failure to file a report or pay the tax due as required by this section. The dissolution of an employer, agent of an employer, or other payer does not discharge the officer's or employee's liability for a failure of the employer, agent of an employer, or other payer to file returns or pay any tax due.

(J) An employer is required to deduct and withhold municipal income tax on tips and gratuities received by the employer's employees and constituting qualifying wages only to the extent that the tips and gratuities are under the employer's control. For the purposes of this division, a tip or gratuity is under the employer's control if the tip or gratuity is paid by the customer to the employer for subsequent remittance to the employee, or if the customer pays the tip or gratuity by credit card, debit card, or other electronic means.

(K) A Tax Administrator shall consider any tax withheld by an employer at the request of an employee when such tax is not otherwise required to be withheld by this Chapter to be tax required to be withheld and remitted for the purposes of this section.
(Ord. 053-15. Passed 11-16-15.)

194.052 COLLECTION AT SOURCE; OCCASIONAL ENTRANT.

(A) The following terms as used in this section:

- (1) "Employer" includes a person that is a related member to or of an employer.
- (2) "Professional athlete" means an athlete who performs services in a professional athletic event for wages or other remuneration.
- (3) "Professional entertainer" means a person who performs services in the professional performing arts for wages or other remuneration on a per-event basis.
- (4) "Public figure" means a person of prominence who performs services at discrete events, such as speeches, public appearances, or similar events, for wages or other remuneration on a per-event basis.
- (5) "Fixed location" means a permanent place of doing business in this state, such as an office, warehouse, storefront, or similar location owned or controlled by an employer.
- (6) "Worksite location" means a construction site or other temporary worksite in this state at which the employer provides services for more than twenty (20) days during the calendar year. "Worksite location" does not include the home of an employee.

- (7) "Principal place of work" means the fixed location to which an employee is required to report for employment duties on a regular and ordinary basis. If the employee is not required to report for employment duties on a regular and ordinary basis to a fixed location, "principal place of work" means the worksite location in this state to which the employee is required to report for employment duties on a regular and ordinary basis. If the employee is not required to report for employment duties on a regular and ordinary basis to a fixed location or worksite location, "principal place of work" means the location in this state at which the employee spends the greatest number of days in a calendar year performing services for or on behalf of the employee's employer.

If there is not a single municipal corporation in which the employee spent the "greatest number of days in a calendar year" performing services for or on behalf of the employer, but instead there are two or more municipal corporations in which the employee spent an identical number of days that is greater than the number of days the employee spent in any other municipal corporation, the employer shall allocate any of the employee's qualifying wages subject to division (B)(1)(a) of this section among those two or more municipal corporations. The allocation shall be made using any fair and reasonable method, including, but not limited to, an equal allocation among such municipal corporations or an allocation based upon the time spent or sales made by the employee in each such municipal corporation. A municipal corporation to which qualifying wages are allocated under this division shall be the employee's "principal place of work" with respect to those qualifying wages for the purposes of this section.

For the purposes of this division, the location at which an employee spends a particular day shall be deemed in accordance with division (B)(2) of this section, except that "location" shall be substituted for "municipal corporation" wherever "municipal corporation" appears in that division.

- (B) (1) Subject to divisions (C), (E), (F), and (G) of this section, an employer is not required to withhold municipal income tax on qualifying wages paid to an employee for the performance of personal services in a municipal corporation that imposes such a tax if the employee performed such services in the municipal corporation on twenty or fewer days in a calendar year, unless one of the following conditions applies:
- (a) The employee's principal place of work is located in the Municipality.
 - (b) The employee performed services at one or more presumed worksite locations in the Municipality. For the purposes of this division, "presumed worksite location" means a construction site or other temporary worksite in this state at which the employer provides services that can reasonably be expected by the employer to last more than twenty days in a calendar year. Services can "reasonably be expected by the employer to last more than twenty (20) days" if either of the following applies at the time the services commence:
 - (i) The nature of the services are such that it will require more than twenty days of actual services to complete the services;
 - (ii) The agreement between the employer and its customer to perform services at a location requires the employer to perform actual services at the location for more than twenty (20) days.

- (c) The employee is a resident of the Municipality and has requested that the employer withhold tax from the employee's qualifying wages as provided in Section 194.051 of this Chapter.
 - (d) The employee is a professional athlete, professional entertainer, or public figure, and the qualifying wages are paid for the performance of services in the employee's capacity as a professional athlete, professional entertainer, or public figure within the Municipality.
- (2) For the purposes of division (B)(1) of this section, an employee shall be considered to have spent a day performing services in a municipal corporation only if the employee spent more time performing services for or on behalf of the employer in that municipal corporation than in any other municipal corporation on that day. For the purposes of determining the amount of time an employee spent in a particular location, the time spent performing one or more of the following activities shall be considered to have been spent at the employee's principal place of work:
- (a) Traveling to the location at which the employee will first perform services for the employer for the day;
 - (b) Traveling from a location at which the employee was performing services for the employer to any other location;
 - (c) Traveling from any location to another location in order to pick up or load, for the purpose of transportation or delivery, property that has been purchased, sold, assembled, fabricated, repaired, refurbished, processed, remanufactured, or improved by the employee's employer;
 - (d) Transporting or delivering property described in division (B)(2)(c) of this section, provided that, upon delivery of the property, the employee does not temporarily or permanently affix the property to real estate owned, used, or controlled by a person other than the employee's employer;
 - (e) Traveling from the location at which the employee makes the employee's final delivery or pick-up for the day to either the employee's principal place of work or a location at which the employee will not perform services for the employer.

(C) If the principal place of work of an employee is located in a municipal corporation that imposes an income tax in accordance with this chapter, the exception from withholding requirements described in division (B)(1) of this section shall apply only if, with respect to the employee's qualifying wages described in that division, the employer withholds and remits tax on such qualifying wages to the municipal corporation in which the employee's principal place of work is located.

- (D) (1) Except as provided in division (D)(2) of this section, if, during a calendar year, the number of days an employee spends performing personal services in a municipal corporation exceeds the twenty-day threshold described in division (B)(1) of this section, the employer shall withhold and remit tax to that municipal corporation for any subsequent days in that calendar year on which the employer pays qualifying wages to the employee for personal services performed in that municipal corporation.
- (2) An employer required to begin withholding tax for a municipal corporation under division (D)(1) of this section may elect to withhold tax for that municipal corporation for the first twenty days on which the employer paid qualifying wages to the employee for personal services performed in that municipal corporation.

- (3) If an employer makes the election described in division (D)(2) of this section, the taxes withheld and paid by such an employer during those first twenty days to the municipal corporation in which the employee's principal place of work is located are refundable to the employee.

(E) Without regard to the number of days in a calendar year on which an employee performs personal services in any municipal corporation, an employer shall withhold municipal income tax on all of the employee's qualifying wages for a taxable year and remit that tax only to the municipal corporation in which the employer's fixed location is located if the employer qualifies as a small employer as defined in Section 194.03 of this Chapter. To determine whether an employer qualifies as a small employer for a taxable year, a Tax Administrator may require the employer to provide the Tax Administrator with the employer's federal income tax return for the preceding taxable year.

(F) Divisions (B)(1) and (D) of this section shall not apply to the extent that a Tax Administrator and an employer enter into an agreement regarding the manner in which the employer shall comply with the requirements of Section 194.051 of this Chapter.

(G) In the case of a person performing personal services at a petroleum refinery located in a municipal corporation that imposes a tax on income, an employer is not required to withhold municipal income tax on the qualifying wages of such a person if the person performs those services on twelve or fewer days in a calendar year, unless the principal place of work of the employer is located in another municipal corporation in this state that imposes a tax applying to compensation paid to the person for services performed on those days and the person is not liable to that other municipal corporation for tax on the compensation paid for such services. For the purposes of this division, a petroleum refinery is a facility with a standard industrial classification code facility classification of 2911, petroleum refining. Notwithstanding division (D) of this section, if, during a calendar year, the number of days an individual performs personal services at a petroleum refinery exceeds twelve, the employer shall withhold tax for the municipal corporation for the first twelve days for which the employer paid qualifying wages to the individual and for all subsequent days in the calendar year on which the individual performed services at the refinery. (Ord. 053-15. Passed 11-16-15.)

194.053 COLLECTION AT SOURCE; CASINO AND VLT.

(A) The Municipality shall require a casino facility or a casino operator, as defined in Section 6(C)(9) of Article XV, Ohio Constitution, and section 3772.01 of the Ohio Revised Code, respectively, or a lottery sales agent conducting video lottery terminals sales on behalf of the state to withhold and remit municipal income tax with respect to amounts other than qualifying wages as provided in this section.

(B) If a person's winnings at a casino facility are an amount for which reporting to the internal revenue service of the amount is required by section 6041 of the Internal Revenue Code, as amended, the casino operator shall deduct and withhold municipal income tax from the person's winnings at the rate of the tax imposed by the municipal corporation in which the casino facility is located.

(C) Amounts deducted and withheld by a casino operator are held in trust for the benefit of the municipal corporation to which the tax is owed.

- (1) On or before the tenth day of each month, the casino operator shall file a return electronically with the Tax Administrator of the Municipality, providing the name, address, and social security number of the person from whose winnings amounts were deducted and withheld, the amount of each such deduction and withholding during the preceding calendar month, the

amount of the winnings from which each such amount was withheld, the type of casino gaming that resulted in such winnings, and any other information required by the Tax Administrator. With this return, the casino operator shall remit electronically to the Municipality all amounts deducted and withheld during the preceding month.

- (2) Annually, on or before the thirty-first day of January, a casino operator shall file an annual return electronically with the Tax Administrator of the municipal corporation in which the casino facility is located, indicating the total amount deducted and withheld during the preceding calendar year. The casino operator shall remit electronically with the annual return any amount that was deducted and withheld and that was not previously remitted. If the name, address, or social security number of a person or the amount deducted and withheld with respect to that person was omitted on a monthly return for that reporting period, that information shall be indicated on the annual return.
- (3) Annually, on or before the thirty-first day of January, a casino operator shall issue an information return to each person with respect to whom an amount has been deducted and withheld during the preceding calendar year. The information return shall show the total amount of municipal income tax deducted from the person's winnings during the preceding year. The casino operator shall provide to the Tax Administrator a copy of each information return issued under this division. The administrator may require that such copies be transmitted electronically.
- (4) A casino operator that fails to file a return and remit the amounts deducted and withheld shall be personally liable for the amount withheld and not remitted. Such personal liability extends to any penalty and interest imposed for the late filing of a return or the late payment of tax deducted and withheld.
- (5) If a casino operator sells the casino facility or otherwise quits the casino business, the amounts deducted and withheld along with any penalties and interest thereon are immediately due and payable. The successor shall withhold an amount of the purchase money that is sufficient to cover the amounts deducted and withheld along with any penalties and interest thereon until the predecessor casino operator produces either of the following:
 - (a) A receipt from the Tax Administrator showing that the amounts deducted and withheld and penalties and interest thereon have been paid;
 - (b) A certificate from the Tax Administrator indicating that no amounts are due.

If the successor fails to withhold purchase money, the successor is personally liable for the payment of the amounts deducted and withheld and penalties and interest thereon.
- (6) The failure of a casino operator to deduct and withhold the required amount from a person's winnings does not relieve that person from liability for the municipal income tax with respect to those winnings.

(D) If a person's prize award from a video lottery terminal is an amount for which reporting to the internal revenue service is required by section 6041 of the Internal Revenue Code, as amended, the video lottery sales agent shall deduct and withhold municipal income tax from the person's prize award at the rate of the tax imposed by the municipal corporation in which the video lottery terminal facility is located.

(E) Amounts deducted and withheld by a video lottery sales agent are held in trust for the benefit of the municipal corporation to which the tax is owed.

- (1) The video lottery sales agent shall issue to a person from whose prize award an amount has been deducted and withheld a receipt for the amount deducted and withheld, and shall obtain from the person receiving a prize award the person's name, address, and social security number in order to facilitate the preparation of returns required by this section.
- (2) On or before the tenth day of each month, the video lottery sales agent shall file a return electronically with the Tax Administrator of the Municipality providing the names, addresses, and social security numbers of the persons from whose prize awards amounts were deducted and withheld, the amount of each such deduction and withholding during the preceding calendar month, the amount of the prize award from which each such amount was withheld, and any other information required by the Tax Administrator. With the return, the video lottery sales agent shall remit electronically to the Tax Administrator all amounts deducted and withheld during the preceding month.
- (3) A video lottery sales agent shall maintain a record of all receipts issued under division (E) of this section and shall make those records available to the Tax Administrator upon request. Such records shall be maintained in accordance with section 5747.17 of the Ohio Revised Code and any rules adopted pursuant thereto.
- (4) Annually, on or before the thirty-first day of January, each video lottery terminal sales agent shall file an annual return electronically with the Tax Administrator of the municipal corporation in which the facility is located indicating the total amount deducted and withheld during the preceding calendar year. The video lottery sales agent shall remit electronically with the annual return any amount that was deducted and withheld and that was not previously remitted. If the name, address, or social security number of a person or the amount deducted and withheld with respect to that person was omitted on a monthly return for that reporting period, that information shall be indicated on the annual return.
- (5) Annually, on or before the thirty-first day of January, a video lottery sales agent shall issue an information return to each person with respect to whom an amount has been deducted and withheld during the preceding calendar year. The information return shall show the total amount of municipal income tax deducted and withheld from the person's prize award by the video lottery sales agent during the preceding year. A video lottery sales agent shall provide to the Tax Administrator of the municipal corporation a copy of each information return issued under this division. The Tax Administrator may require that such copies be transmitted electronically.
- (6) A video lottery sales agent who fails to file a return and remit the amounts deducted and withheld is personally liable for the amount deducted and withheld and not remitted. Such personal liability extends to any penalty and interest imposed for the late filing of a return or the late payment of tax deducted and withheld.

(F) If a video lottery sales agent ceases to operate video lottery terminals, the amounts deducted and withheld along with any penalties and interest thereon are immediately due and payable. The successor of the video lottery sales agent that purchases the video lottery terminals from the agent shall withhold an amount from the purchase money that is sufficient to cover the amounts deducted and withheld and any penalties and interest thereon until the predecessor video lottery sales agent operator produces either of the following:

- (1) A receipt from the Tax Administrator showing that the amounts deducted and withheld and penalties and interest thereon have been paid;
- (2) A certificate from the Tax Administrator indicating that no amounts are due.
If the successor fails to withhold purchase money, the successor is personally liable for the payment of the amounts deducted and withheld and penalties and interest thereon.

(G) The failure of a video lottery sales agent to deduct and withhold the required amount from a person's prize award does not relieve that person from liability for the municipal income tax with respect to that prize award.

(H) If a casino operator or lottery sales agent files a return late, fails to file a return, remits amounts deducted and withheld late, or fails to remit amounts deducted and withheld as required under this section, the Tax Administrator of a municipal corporation may impose the following applicable penalty:

- (1) For the late remittance of, or failure to remit, tax deducted and withheld under this section, a penalty equal to fifty per cent (50%) of the tax deducted and withheld;
- (2) For the failure to file, or the late filing of, a monthly or annual return, a penalty of five hundred dollars for each return not filed or filed late. Interest shall accrue on past due amounts deducted and withheld at the rate prescribed in section 5703.47 of the Ohio Revised Code.

(I) Amounts deducted and withheld on behalf of a municipal corporation shall be allowed as a credit against payment of the tax imposed by the municipal corporation and shall be treated as taxes paid for purposes of Section 194.07 of this Chapter. This division applies only to the person for whom the amount is deducted and withheld.

(J) The Tax Administrator shall prescribe the forms of the receipts and returns required under this section. (Ord. 053-15. Passed 11-16-15.)

194.06 INCOME SUBJECT TO NET PROFIT TAX.

194.061 DETERMINING MUNICIPAL TAXABLE INCOME FOR TAXPAYERS WHO ARE NOT INDIVIDUALS; LOSSES.

"Municipal Taxable Income" for a taxpayer who is not an individual for the Municipality is calculated as follows:

- (A) "Income" reduced by "Exempt Income" to the extent otherwise included in income, multiplied by apportionment, further reduced by any "Pre-2017 Net Operating Loss Carryforward" equals "Municipal Taxable Income".
 - (1) "Income" for a taxpayer that is not an individual means the "Net Profit" of the taxpayer.
 - (i) "Net Profit" for a person other than an individual is defined in Section 194.03(23).
 - (ii) "Adjusted Federal Taxable Income" is defined in Section 194.03(1) of this Chapter.
 - (2) "Exempt Income" is defined in Section 194.03(11) of this Chapter.
 - (3) "Apportionment" means the apportionment as determined by Section 194.062 of this Chapter.
 - (4) Losses.
 - (a) The portion of a net operating loss sustained in any taxable year, allocable to the City, may be applied against the portion of the profit of succeeding years allocable to the City until exhausted, but in no event for more than five taxable years. No portion of a net operating loss shall be carried back against net profits of any prior year.

CODIFIED ORDINANCES OF NAPOLEON

PART THREE - TRAFFIC CODE

TITLE ONE - Administration

- Chap. 301. Definitions.
- Chap. 303. Enforcement, Impounding and Penalty.
- Chap. 305. Traffic Control.

TITLE THREE - Streets and Traffic Control Devices

- Chap. 311. Street Obstructions and Special Uses.
- Chap. 312. Parades and Assemblages.
- Chap. 313. Traffic Control Devices.

TITLE FIVE - Vehicles

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

TITLE SEVEN - Parking

- Chap. 351. Parking Generally.
- Chap. 353. Parking Violations, Fines and Penalties.
- Chap. 355. Snow Emergency.

TITLE NINE - Pedestrians, Bicycles and Motorcycles

- Chap. 371. Pedestrians.
- Chap. 373. Bicycles and Motorcycles.
- Chap. 374. Bicycle Licensing.
- Chap. 375. Snowmobiles, Off-Highway Motorcycles and All Purpose Vehicles.

TRAFFIC SCHEDULES

CODIFIED ORDINANCES OF NAPOLEON

PART THREE - TRAFFIC CODE

TITLE ONE - Administration

Chap. 301. Definitions.

Chap. 303. Enforcement, Impounding and Penalty.

Chap. 305. Traffic Control.

CHAPTER 301

Definitions

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| 301.19 | Motorcycle. | 301.47 | Traffic control signal. |
| 301.20 | Motor vehicle. | 301.48 | Trailer. |
| 301.201 | Operate. | 301.49 | Truck. |
| 301.21 | Park or parking. | 301.495 | Under-speed vehicle. |
| 301.22 | Pedestrian. | 301.50 | Urban district. |
| 301.23 | Person. | 301.505 | Utility. |
| 301.24 | Pole trailer. | 301.51 | U-turn; J-turn. |
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301.52 Vehicle.

301.53 Waste collection vehicle.

301.54 Wheelchair, motorized.

CROSS REFERENCES

See sectional histories for similar State law

Funeral procession defined - see TRAF. 331.24

Street racing defined - see TRAF. 333.07

Studded tire defined - see TRAF. 339.11

Blind person defined - see TRAF. 371.02

Snowmobile, off-highway motorcycle and all purpose vehicle
defined - see TRAF. 375.01

School zones defined - see TRAF. 333.03(b)

301.01 MEANING OF WORDS AND PHRASES.

The following words and phrases when used in this Traffic Code, except as otherwise provided, shall have the meanings respectively ascribed to them in this chapter.

301.02 AGRICULTURAL TRACTOR.

"Agricultural tractor" means every self-propelling vehicle designed or used for drawing other vehicles or wheeled machinery but having no provision for carrying loads independently of such other vehicles, and used principally for agricultural purposes. (ORC 4511.01(J))

301.03 ALLEY.

"Alley" means a street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for the purpose of through vehicular traffic, and includes any street or highway that has been declared an "alley" by Council. (ORC 4511.01(XX))

301.031 BEACON; HYBRID BEACON.

(a) "Beacon" means a highway traffic signal with one or more signal sections that operate in a flashing mode. (ORC 4511.01(KKK))

(b) "Hybrid beacon" means a type of beacon that is intentionally placed in a dark mode between periods of operation where no indications are displayed and, when in operation, displays both steady and flashing traffic control signal indications. (ORC 4511.01(LL))

301.04 BICYCLE; MOTORIZED BICYCLE; MOPED; ELECTRIC BICYCLE.

(a) "Bicycle" means every device, other than a device that is designed solely for use as a play vehicle by a child, that is propelled solely by human power upon which a person may ride, and that has two or more wheels, any of which is more than fourteen inches in diameter. (ORC 4511.01(G))

(b) "Motorized bicycle" or "moped" means any vehicle having either two tandem wheels or one wheel in the front and two wheels in the rear, that may be pedaled, and that is equipped with a helper motor of not more than fifty cubic centimeters piston displacement that produces not more than one brake horsepower and is capable of propelling the vehicle at a speed of no greater than twenty miles per hour on a level surface.

"Motorized bicycle" or "moped" does not include an electric bicycle. (ORC 4511.01(H))

301.161 HIGHWAY MAINTENANCE VEHICLE.

"Highway maintenance vehicle" means a vehicle used in snow and ice removal or road surface maintenance, including a snow plow, traffic line striper, road sweeper, mowing machine, asphalt distributing vehicle, or other such vehicle designed for use in specific highway maintenance activities. (ORC 4511.01(QQQ))

301.162 HIGHWAY TRAFFIC SIGNAL.

"Highway traffic signal" means a power-operated traffic control device by which traffic is warned or directed to take some specific action. "Highway traffic signal" does not include a power-operated sign, steadily illuminated pavement markers, warning light, or steady burning electric lamp. (ORC 4511.01(MMM))

301.17 INTERSECTION.

"Intersection" means:

- (a) The area embraced within the prolongation or connection of the lateral curb lines, or, if none, the lateral boundary lines of the roadways of two highways that join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways that join at any other angle might come into conflict. The junction of an alley or driveway with a roadway or highway does not constitute an intersection unless the roadway or highway at the junction is controlled by a traffic control device.
- (b) If a highway includes two roadways that are thirty feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway constitutes a separate intersection. If both intersecting highways include two roadways thirty feet or more apart, then every crossing of any two roadways of such highways constitutes a separate intersection.
- (c) At a location controlled by a traffic control signal, regardless of the distance between the separate intersections as described in subsection (b) of this section:
 - (1) If a stop line, yield line, or crosswalk has not been designated on the roadway within the median between the separate intersections, the two intersections and the roadway and median constitute one intersection.
 - (2) Where a stop line, yield line, or crosswalk line is designated on the roadway on the intersection approach, the area within the crosswalk and any area beyond the designated stop line or yield line constitute part of the intersection.
 - (3) Where a crosswalk is designated on a roadway on the departure from the intersection, the intersection includes the area that extends to the far side of the crosswalk. (ORC 4511.01(KK))

301.18 LANED STREET OR HIGHWAY.

"Laned street or highway" means a street or highway the roadway of which is divided into two or more clearly marked lanes for vehicular traffic. (ORC 4511.01(GG))

301.183 LOW-SPEED VEHICLE.

"Low-speed vehicle" means a three- or four-wheeled motor vehicle with an attainable speed in one mile on a paved level surface of more than twenty miles per hour but not more than twenty-five miles per hour and with a gross vehicle weight rating less than three thousand pounds. (Ord. 061-19. Passed 10-21-19.)

301.185 MEDIAN.

"Median" means the area between two roadways of a divided highway, measured from edge of traveled way to edge of traveled way, but excluding turn lanes. The width of a median may be different between intersections, between interchanges, and at opposite approaches of the same intersection. (ORC 4511.01(NNN))

301.187 MINI-TRUCK.

"Mini-truck" means a vehicle that has four wheels, is propelled by an electric motor with a rated power of seven thousand five hundred watts or less or an internal combustion engine with a piston displacement capacity of six hundred sixty cubic centimeters or less, has a total dry weight of nine hundred to two thousand two hundred pounds, contains an enclosed cabin and a seat for the vehicle operator, resembles a pickup truck or van with a cargo area or bed located at the rear of the vehicle, and was not originally manufactured to meet federal motor vehicle safety standards. (Ord. 061-19. Passed 10-21-19.)

301.19 MOTORCYCLE.

"Motorcycle" means every motor vehicle, other than a tractor, having a seat or saddle for the use of the operator and designed to travel on not more than three wheels in contact with the ground, including but not limited to, motor vehicles known as "motor-driven cycle," "motor scooter," "autocycle," "cab-enclosed motorcycle" or "motorcycle" without regard to weight or brake horsepower. (ORC 4511.01(C))

301.20 MOTOR VEHICLE.

"Motor vehicle" means every vehicle propelled or drawn by power other than muscular power, except motorized bicycles, electric bicycles, road rollers, traction engines, power shovels, power cranes and other equipment used in construction work and not designed for or employed in general highway transportation, hole-digging machinery, well-drilling machinery, ditch-digging machinery, farm machinery, and trailers designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a street or highway for a distance of no more than ten miles and at a speed of twenty-five miles per hour or less. (ORC 4511.01(B))

301.201 OPERATE.

"Operate" means to cause or have caused movement of a vehicle. (ORC 4511.01(HHH))

301.21 PARK OR PARKING.

"Park or parking" means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

301.22 PEDESTRIAN.

"Pedestrian" means any natural person afoot. (ORC 4511.01(X))

301.23 PERSON.

"Person" means every natural person, firm, copartnership, association or corporation. (ORC 4511.01(W))

301.24 POLE TRAILER.

"Pole trailer" means every trailer or semitrailer attached to the towing vehicle by means of a reach, pole or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregular shaped loads such as poles, pipes or structural members capable, generally, of sustaining themselves as beams between the supporting connection. (ORC 4511.01(O))

301.25 POLICE OFFICER.

"Police officer" means every officer authorized to direct or regulate traffic, or to make arrests for violations of traffic regulations. (ORC 4511.01(Z))

301.251 PREDICATE MOTOR VEHICLE OR TRAFFIC OFFENSE.

"Predicate motor vehicle or traffic offense" means any of the following:

301.47 TRAFFIC CONTROL SIGNAL.

"Traffic control signal" means any highway traffic signal by which traffic is alternately directed to stop and permitted to proceed.
(ORC 4511.01(RR))

301.48 TRAILER.

"Trailer" means every vehicle designed or used for carrying persons or property wholly on its own structure and for being drawn by a motor vehicle, including any such vehicle when formed by or operated as a combination of a semitrailer and a vehicle of the dolly type, such as that commonly known as a trailer dolly, a vehicle used to transport agricultural produce or agricultural production materials between a local place of storage or supply and the farm when drawn or towed on a street or highway at a speed greater than twenty-five miles per hour and a vehicle designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a street or highway for a distance of more than ten miles or at a speed of more than twenty-five miles per hour.
(ORC 4511.01(M))

301.49 TRUCK.

"Truck" means every motor vehicle, except trailers and semitrailers, designed and used to carry property. (ORC 4511.01(K))

301.495 UNDER-SPEED VEHICLE.

"Under-speed vehicle" means a three- or four- wheeled vehicle, including a vehicle commonly known as a golf cart, with an attainable speed on a paved level surface of not more than twenty miles per hour and with a gross vehicle weight rating less than three thousand pounds.
(Ord. 061-19. Passed 10-21-19.)

301.50 URBAN DISTRICT.

"Urban district" means the territory contiguous to and including any street or highway which is built up with structures devoted to business, industry or dwelling houses situated at intervals of less than 100 feet for distance of a quarter of a mile or more, and the character of such territory is indicated by official traffic control devices. (ORC 4511.01(PP))

301.505 UTILITY.

"Utility vehicle" means a self-propelled vehicle designed with a bed, principally for the purpose of transporting material or cargo in connection with construction, agricultural, forestry, grounds maintenance, lawn and garden, materials handling, or similar activities.
(Ord. 061-19. Passed 10-21-19.)

301.51 U-TURN; J-TURN.

(a) "U-turn" means a turn that reverses the direction in which the vehicle making the turn is proceeding. (A.O.)

(b) "J" turn means a left turn, more than 90 degrees but less than 180 degrees in a frontward or backward direction. (Ord. 139-96. Passed 12-16-96.)

301.52 VEHICLE.

"Vehicle" means every device, including a motorized bicycle and an electric bicycle, in, upon or by which any person or property may be transported or drawn upon a street or highway, except that "vehicle" does not include any motorized wheelchair, any electric personal assistive mobility device, or any device, other than a bicycle, that is moved by human power.
(ORC 4511.01(A))

301.53 WASTE COLLECTION VEHICLE.

"Waste collection vehicle" means a vehicle used in the collection of garbage, refuse, trash or recyclable materials. (ORC 4511.01(RRR))

301.54 WHEELCHAIR, MOTORIZED.

"Motorized wheelchair" means any self-propelled vehicle designed for, and used by, a handicapped person and that is incapable of a speed in excess of eight miles per hour. (ORC 4511.01(EEE))

TITLE FIVE - Vehicles

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

CHAPTER 331 Operation Generally

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

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| <ul style="list-style-type: none"> 331.01 Driving upon right side of roadway; exceptions. 331.02 Passing to right when proceeding in opposite directions. 331.03 Overtaking, passing to left; driver's duties. 331.04 Overtaking and passing upon right. 331.05 Overtaking, passing to left of center. 331.06 Additional restrictions on driving upon left side of roadway. 331.07 Hazardous or no passing zones. 331.08 Driving in marked lanes or continuous lines of traffic. 331.09 Following too closely. 331.10 Turning at intersections. 331.11 Turning into private driveway, alley or building. 331.12 "U" turns restricted. 331.13 Starting and backing vehicles. 331.14 Signals before changing course, turning or stopping. 331.15 Hand and arm signals. 331.16 Right of way at intersections. 331.17 Right of way when turning left. 331.18 Operation of vehicle at yield signs. 331.19 Operation of vehicle at stop signs. 331.20 Emergency or public safety vehicles at stop signals or signs. 331.21 Right of way of public safety or coroner's vehicle. | <ul style="list-style-type: none"> 331.211 Report of vehicle failing to yield right of way to public safety vehicle. 331.22 Driving onto roadway from place other than roadway; duty to yield. 331.23 Driving onto roadway from place other than roadway; stopping at sidewalk. 331.24 Right of way of funeral procession. 331.25 Driver's view and control to be unobstructed by load or persons. 331.26 Driving upon street posted as closed for repair. 331.27 Following and parking near emergency or safety vehicles. 331.28 Driving over fire hose. 331.29 Driving through safety zone. 331.30 One-way streets and rotary traffic islands. 331.31 Driving upon divided roadways. 331.32 Entering and exiting controlled-access highway. 331.33 Obstructing intersection, crosswalk or grade crossing. 331.34 Failure to control; weaving; full time and attention. 331.35 Occupying a moving trailer or manufactured or mobile home. 331.36 Squealing tires, "peeling", cracking exhaust noises. 331.37 Driving upon sidewalks, street lawns or curbs. |
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| 331.38 | Stopping for school bus; discharging children. | 331.44 | Vehicle launching or retrieving boats. |
| 331.39 | Driving across grade crossing. | 331.45 | Center turning lane. |
| 331.40 | Stopping at grade crossing. | 331.46 | Prohibition against unintended use of alleys by use of a vehicle. |
| 331.41 | Shortcutting; avoiding traffic control devices. | 331.47 | Damage to streets, highways, alleys and public right-of-ways. |
| 331.42 | Littering from motor vehicle. | 331.48 | Vehicular operation on street closed due to rise in water level. |
| 331.43 | Wearing earplugs or earphones prohibited. | | |

CROSS REFERENCES

See sectional histories for similar State law

Obedience to traffic control devices - see TRAF. 313.01

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

School bus operation - see OAC Ch. 4501-3

331.01 DRIVING UPON RIGHT SIDE OF ROADWAY; EXCEPTIONS.

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

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

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

1. The distance encompassed by projecting the school building lines normal to the fronting highway and extending a distance of 300 feet on each approach direction;
2. The distance encompassed by projecting the school property lines intersecting the fronting highway and extending a distance of 300 feet on each approach direction;
3. The distance encompassed by the special marking of the pavement for a principal school pupil crosswalk plus a distance of 300 feet on each approach direction of highway;

Nothing in this section shall be construed to invalidate the Director's initial action on August 9, 1976, establishing all school zones at the traditional school zone boundaries defined by projecting school property lines, except when those boundaries are extended as provided in subsections (b)(1)A. and C. hereof.

D. As used in this subsection, "crosswalk" has the meaning given that term in Section 301.09. The Director may, upon request by resolution of Council, and upon submission by the Municipality of such engineering, traffic and other information as the Director considers necessary, designate a school zone on any portion of a State route lying within the Municipality that includes a crosswalk customarily used by children going to or leaving a school during recess and opening and closing hours, whenever the distance, as measured in a straight line, from the school property line nearest the crosswalk to the nearest point of the crosswalk is no more than 1,320 feet. Such a school zone shall include the distance encompassed by the crosswalk and extending 300 feet on each approach direction of the State route;

- (2) Twenty-five miles per hour in all other portions of the Municipality, except on State routes outside business districts, through highways outside business districts and alleys;
- (3) Thirty-five miles per hour on all State routes or through highways within the Municipality outside business districts, except as provided in subsections (b)(4) and (5) hereof;
- (4) Fifty miles per hour on controlled-access highways and expressways within the Municipality, except as provided in subsections (b)(8) to (b)(12) of this section;
- (5) Fifty miles per hour on State routes within the Municipality outside urban districts unless a lower prima-facie speed is established as further provided in this section;
- (6) Fifteen miles per hour on all alleys within the Municipality;
- (7) Fifty-five miles per hour on freeways with paved shoulders inside the Municipality other than freeways as provided in subsection (b)(10) and (12);
- (8) Sixty miles per hour on rural expressways with traffic control signals and on all portions of rural divided highways, except as provided in subsections (b)(9) and (10) of this section;
- (9) Sixty-five miles per hour on all rural expressways without traffic control signals;

- (10) Seventy miles per hour on all rural freeways;
- (11) Fifty-five miles per hour on all portions of freeways or expressways in congested areas as determined by the Director and that are located within a municipal corporation or within an interstate freeway outerbelt, except as provided in subsection (b)(12) of this section;
- (12) Sixty-five miles per hour on all portions of freeways or expressways without traffic control signals in urbanized areas.

(c) It is prima-facie unlawful for any person to exceed any of the speed limitations in subsection (b)(1)A. to (b)(6) hereof, or any declared or established pursuant to this section by the Director or local authorities and it is unlawful for any person to exceed any of the speed limitations in subsection (d) hereof. No person shall be convicted of more than one violation of this section for the same conduct, although violations of more than one provision of this section may be charged in the alternative in a single affidavit.

(d) No person shall operate a motor vehicle upon a street or highway as follows:

- (1) At a speed exceeding fifty-five miles per hour, except upon a highway, expressway or freeway as provided in subsection (b)(8), (9), (10) and (12) hereof;
- (2) At a speed exceeding sixty miles per hour upon a highway as provided in subsection (b)(8) hereof;
- (3) At a speed exceeding sixty-five miles per hour upon an expressway as provided in subsection (b)(9) hereof, or upon a freeway as provided in subsection (b)(12) of this section, except upon a freeway as provided in subsection (b)(10) hereof;
- (4) At a speed exceeding seventy miles per hour upon a freeway as provided in subsection (b)(10) hereof;
- (5) At a speed exceeding the posted speed limit upon a highway, expressway or freeway for which the Director has determined and declared a speed limit pursuant to Ohio R.C. 4511.21(I)(2) or (L)(2).

(e) In every charge of violation of this section the affidavit and warrant shall specify the time, place and speed at which the defendant is alleged to have driven, and in charges made in reliance upon subsection (c) hereof also the speed which subsections (b)(1)A. to (b)(6) hereof, or a limit declared or established pursuant to this section declares is prima-facie lawful at the time and place of such alleged violation, except that in affidavits where a person is alleged to have driven at a greater speed than will permit the person to bring the vehicle to a stop within the assured clear distance ahead the affidavit and warrant need not specify the speed at which the defendant is alleged to have driven.

(f) When a speed in excess of both a prima-facie limitation and a limitation in subsection (d) hereof is alleged, the defendant shall be charged in a single affidavit, alleging a single act, with a violation indicated of both subsections (b)(1)A. to (b)(6) hereof, or of a limit declared or established pursuant to this section by the Director or local authorities, and of the limitation in subsection (d) hereof. If the court finds a violation of subsection (b)(1)A. to (b)(6) hereof, or a limit declared or established pursuant to this section has occurred, it shall enter a judgment of conviction under such subsection and dismiss the charge under subsection (d) hereof. If it finds no violation of subsections (b)(1)A. to (b)(6) hereof or a limit declared or established pursuant to this section, it shall then consider whether the evidence supports a conviction under subsection (d) hereof.

(g) Points shall be assessed for violation of a limitation under subsection (d) hereof in accordance with Ohio R.C. 4510.036.

(h) Whenever, in accordance with Ohio R.C. 4511.21 or this section, the speed limitations as established herein have been altered, either higher or lower, and the appropriate signs giving notice have been erected as required, operators of motor vehicles shall be governed by the speed limitations set forth on such signs. It is prima-facie unlawful for any person to exceed the speed limits posted upon such signs.

(i) As used in this section:

- (1) "Interstate system" has the same meaning as in 23 U.S.C.A. 101.
- (2) "Commercial bus" means a motor vehicle designed for carrying more than nine passengers and used for the transportation of persons for compensation.
- (3) "Noncommercial bus" includes but is not limited to a school bus, or a motor vehicle operated solely for the transportation of persons associated with a charitable or nonprofit organization.
- (4) "Outerbelt" means a portion of a freeway that is part of the interstate system and is located in the outer vicinity of a major municipal corporation or group of municipal corporations, as designated by the Director.
- (5) "Rural" means an area outside urbanized areas and outside of a business or urban district, and areas that extend within urbanized areas where the roadway characteristics remain mostly unchanged from those outside the urbanized areas.
- (6) "Urbanized area" has the same meaning as in 23 U.S.C. 101.
- (7) "Divided" means a roadway having two or more travel lanes for vehicles moving in opposite directions and that is separated by a median of more than four feet, excluding turn lanes.

(j) (1) A violation of any provision of this section is one of the following:

- A. Except as otherwise provided in subsections (j)(1)B., (1)C., (2) and (3) of this section, a minor misdemeanor;
- B. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to two violations of any provision of this section or of any provision of Ohio R.C. 4511.21 or a municipal ordinance that is substantially similar to any provision of this section, a misdemeanor of the fourth degree;
- C. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to three or more violations of any provision of this section or of any provision of Ohio R.C. 4511.21 or a municipal ordinance that is substantially similar to any provision of this section, a misdemeanor of the third degree.

- (2) If the offender has not previously been convicted of or pleaded guilty to a violation of any provision of Ohio R.C. 4511.21 or of any provision of a municipal ordinance that is substantially similar to Ohio R.C. 4511.21 and operated a motor vehicle faster than thirty-five miles an hour in a business district of a municipal corporation, faster than fifty miles an hour in other portions of a municipal corporation, or faster than thirty-five miles an hour in a school zone during recess or while children are going to or leaving school during the school's opening or closing hours, a misdemeanor of the fourth degree.
- (3) Notwithstanding subsection (j)(1) of this section, if the offender operated a motor vehicle in a construction zone where a sign was then posted in accordance with Ohio R.C. 4511.98, the court, in addition to all other penalties provided by law, shall impose upon the offender a fine of two times the usual amount imposed for the violation. No court shall impose a fine of two times the usual amount imposed for the violation upon an offender if the offender alleges, in an affidavit filed with the court prior to the offender's sentencing, that the offender is indigent and is unable to pay the fine imposed pursuant to this subsection and if the court determines that the offender is an indigent person and unable to pay the fine.
- (4) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.21)

333.031 APPROACHING A STATIONARY PUBLIC SAFETY, EMERGENCY OR ROAD SERVICE VEHICLE.

(a) The driver of a motor vehicle, upon approaching a stationary public safety vehicle, emergency vehicle, road service vehicle, waste collection vehicle, vehicle used by the Public Utilities Commission to conduct motor vehicle inspections in accordance with Ohio R.C. 4923.04 and 4923.06 or a highway maintenance vehicle that is displaying the appropriate visual signals by means of flashing, oscillating or rotating lights, as prescribed in Section 337.16, shall do either of the following:

- (1) If the driver of the motor vehicle is traveling on a street or highway that consists of at least two lanes that carry traffic in the same direction of travel as that of the driver's motor vehicle, the driver shall proceed with due caution and, if possible with due regard to the road, weather, and traffic conditions, shall change lanes into a lane that is not adjacent to that of the stationary public safety vehicle, emergency vehicle, road service vehicle, waste collection vehicle, vehicle used by the Public Utilities Commission to conduct motor vehicle inspections in accordance with Ohio R.C. 4923.04 and 4923.06 or a highway maintenance vehicle.
- (2) If the driver is not traveling on a street or highway of a type described in subsection (a)(1) of this section, or if the driver is traveling on a highway of that type but it is not possible to change lanes or if to do so would be unsafe, the driver shall proceed with due caution, reduce the speed of the motor vehicle, and maintain a safe speed for the road, weather and traffic conditions.

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

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

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

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

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

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

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

337.27 DRIVERS AND PASSENGERS REQUIRED TO WEAR SEAT BELTS.**(a) As used in this section:**

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

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

- (1) Operate an automobile on any street or highway unless that person is wearing all of the available elements of a properly adjusted occupant restraining device, or operate a school bus that has an occupant restraining device installed for use in its operator's seat unless that person is wearing all of the available elements of the device, as properly adjusted;
- (2) Operate an automobile on any street or highway unless each passenger in the automobile who is subject to the requirement set forth in subsection (b)(3) hereof is wearing all of the available elements of a properly adjusted occupant restraining device;
- (3) Occupy, as a passenger, a seating position on the front seat of an automobile being operated on any street or highway unless that person is wearing all of the available elements of a properly adjusted occupant restraining device;
- (4) Operate a taxicab on any street or highway unless all factory-equipped occupant restraining devices in the taxicab are maintained in usable form.

- (c) (1) Subsection (b)(3) hereof does not apply to a person who is required by Section 337.26 to be secured in a child restraint device or booster seat.
- (2) Subsection (b)(1) hereof does not apply to a person who is an employee of the United States Postal Service or of a newspaper home delivery service, during any period in which the person is engaged in the operation of an automobile to deliver mail or newspapers to addressees.

- (3) Subsections (b)(1) and (3) hereof do not apply to a person who has an affidavit signed by a physician licensed to practice in this State under Ohio R.C. Chapter 4731 or a chiropractor licensed to practice in this State under Ohio R.C. Chapter 4734 that states the following:
 - A. That the person has a physical impairment that makes use of an occupant restraining device impossible or impractical;
 - B. Whether the physical impairment is temporary, permanent or reasonably expected to be permanent;
 - C. If the physical impairment is temporary, how long the physical impairment is expected to make the use of an occupant restraining device impossible or impractical.
- (4) Subsections (b)(1) and (3) of this section do not apply to a person who has registered with the Registrar of Motor Vehicles in accordance with subsection (c)(5) of this section.
- (5) A person who has received an affidavit under subsection (c)(3) of this section stating that the person has a permanent or reasonably expected to be permanent physical impairment that makes use of an occupant restraining device impossible or impracticable may register with the Registrar attesting to that fact. Upon such registration, the Registrar shall make that information available in the law enforcement automated data system. A person included in the database under subsection (c)(5) of this section is not required to have the affidavit obtained in accordance with subsection (c)(3) of this section in their possession while operating or occupying an automobile.
- (6) A physician or chiropractor who issues an affidavit for the purposes of subsection (c)(3) or (4) of this section is immune from civil liability arising from any injury or death sustained by the person who was issued the affidavit due to the failure of the person to wear an occupant restraining device unless the physician or chiropractor, in issuing the affidavit, acted in a manner that constituted willful, wanton or reckless misconduct.
- (7) The Registrar shall adopt rules in accordance with Ohio R.C. Chapter 119, establishing a process for a person to be included in the database under subsection (c)(5) of this section. The information provided and included in the database under subsection (c)(5) of this section is not a public record subject to inspection or copying under Ohio R.C. 149.43.

(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 sunscreening 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 sunscreening 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 sunscreening 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 sunscreening material is applied to the rear window and the sunscreening 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 sunscreening 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)

- (m) "Fatality" means the death of a person as the result of a motor vehicle accident occurring not more than three hundred sixty-five days prior to the date of a death.
- (n) "Felony" means any offense under federal or state law that is punishable by death or specifically classified as a felony under the law of this State, regardless of the penalty that may be imposed.
- (o) "Foreign jurisdiction" means any jurisdiction other than a state.
- (p) "Gross vehicle weight rating" means the value specified by the manufacturer as the maximum loaded weight of a single or a combination vehicle. The gross vehicle weight rating of a combination vehicle is the gross vehicle weight rating of the power unit plus the gross vehicle weight rating of each towed unit.
- (q) "Hazardous materials" means any material that has been designated as hazardous under 49 U.S.C. 5103 and is required to be placarded under subpart F of 49 C.F.R. part 172 or any quantity of a material listed as a select agent or toxin in 42 C.F.R. part 73, as amended.
- (r) "Motor vehicle" means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power used on highways, except that such term does not include a vehicle, machine, tractor, trailer or semitrailer operated exclusively on a rail.
- (s) "Out-of-service order" means a declaration by an authorized enforcement officer of a federal, state, local, Canadian or Mexican jurisdiction declaring that a driver, commercial motor vehicle or commercial motor carrier operation is out of service as defined in 49 C.F.R. 390.5.
- (t) "Public safety vehicle" has the same meaning as in divisions (E)(1) and (3) of Ohio R.C. 4511.01.
- (u) "Recreational vehicle" includes every vehicle that is defined as a recreational vehicle in Ohio R.C. 4501.01 and is used exclusively for purposes other than engaging in business for profit.
- (v) "School bus" has the same meaning as in Ohio R.C. 4511.01.
- (w) "State" means a state of the United States and includes the District of Columbia.
- (x) "Tester" means a person or entity acting pursuant to a valid agreement entered into pursuant to Ohio R.C. 4506.09.
- (y) "United States" means the fifty states and the District of Columbia.
- (z) "Vehicle" has the same meaning as in Ohio R.C. 4511.01.
(ORC 4506.01)

341.02 EXEMPTIONS.

Section 341.02 has been deleted from the Codified Ordinances. Former Ohio R.C. 4506.02 from which Section 341.02 was derived was repealed by Am. Sub. H.B. No. 68, effective June 29, 2005. The exemptions are now contained in Section 341.03.

341.03 PREREQUISITES TO OPERATION OF A COMMERCIAL MOTOR VEHICLE.

- apply:
- (a) Except as provided in subsections (b) and (c) of this section, the following shall apply:
 - (1) No person shall drive a commercial motor vehicle on a highway in this Municipality unless the person holds, and has in the person's possession, any of the following:
 - A. A valid commercial driver's license with proper endorsements for the motor vehicle being driven, issued by the Registrar of Motor Vehicles, or by another jurisdiction recognized by this State;
 - B. A valid examiner's commercial driving permit issued under Ohio R.C. 4506.13;

- C. A valid restricted commercial driver's license and waiver for farm-related service industries issued under Ohio R.C. 4506.24;
 - D. A valid commercial driver's license temporary instruction permit issued by the Registrar, provided that the person is accompanied by an authorized state driver's license examiner or tester or a person who has been issued and has in the person's immediate possession a current, valid commercial driver's license and who meets the requirements of Ohio R.C. 4506.06(B).
- (2) No person who has been a resident of this State for thirty days or longer shall drive a commercial motor vehicle under the authority of a commercial driver's license issued by another jurisdiction.

(b) Nothing in subsection (a) of this section applies to any qualified person when engaged in the operation of any of the following:

- (1) A farm truck;
- (2) Fire equipment for a fire department, volunteer or nonvolunteer fire company, fire district, joint fire district or the Ohio Fire Marshal;
- (3) A public safety vehicle used to provide transportation or emergency medical service for ill or injured persons;
- (4) A recreational vehicle;
- (5) A commercial motor vehicle within the boundaries of an eligible unit of local government, if the person is employed by the eligible unit of local government and is operating the commercial motor vehicle for the purpose of removing snow or ice from a roadway by plowing, sanding, or salting, but only if either the employee who holds a commercial driver's license issued under Ohio R.C. Chapter 4506 and ordinarily operates a commercial motor vehicle for these purposes is unable to operate the vehicle, or the employing eligible unit of local government determines that a snow or ice emergency exists that requires additional assistance;
- (6) A vehicle operated for military purposes by any member or uniformed employee of the armed forces of the United States or their reserve components, including the Ohio national guard. This exception does not apply to United States reserved technicians.
- (7) A commercial motor vehicle that is operated for nonbusiness purposes. "Operated for nonbusiness purposes" means that the commercial motor vehicle is not used in commerce as "commerce" is defined in 49 C.F.R. 383.5, as amended, and is not regulated by the Public Utilities Commission pursuant to Ohio R.C. Chapter 4905, 4921, or 4923.
- (8) A motor vehicle that is designed primarily for the transportation of goods and not persons, while that motor vehicle is being used for the occasional transportation of personal property by individuals not for compensation and not in the furtherance of a commercial enterprise.
- (9) A police SWAT team vehicle.
- (10) A police vehicle used to transport prisoners.

(c) Nothing contained in subsection (b)(5) of this section shall be construed as preempting or superseding any law, rule, or regulation of this State concerning the safe operation of commercial motor vehicles.

(d) Whoever violates this section is guilty of a misdemeanor of the first degree.
(ORC 4506.03)

CHAPTER 343
Low-Speed Vehicles, Under-Speed Vehicles, Utility Vehicles,
or Mini-Trucks

343.01 Operation restricted for low-speed vehicles, under-speed vehicles, utility vehicles, and mini-trucks.

343.99 Penalty.

343.01 OPERATION RESTRICTED FOR LOW-SPEED VEHICLES, UNDER-SPEED VEHICLES, UTILITY VEHICLES, AND MINI-TRUCKS.

(a) No person shall operate a low-speed vehicle, under-speed vehicle, utility vehicle, or a mini-truck upon any street or highway within the City except upon a street or highway having an established speed limit of thirty-five (35) miles per hour or below. A low-speed vehicle, under-speed vehicle, utility vehicle, or a mini-truck will be permitted to cross intersections with higher speeds, so long as they remain on a street that has a posted speed limit of thirty-five (35) mph or below.

(b) Notwithstanding subsection (a) hereof, no person shall operate a low-speed vehicle, under-speed vehicle, utility vehicle, or a mini-truck within the City upon Scott Street north of Lagrange Street.

(c) The owner of a low-speed vehicle, under-speed vehicle, utility vehicle, or a mini-truck who wishes to operate on a public street or highway must first submit the vehicle to an inspection that complies with the requirements established by the Ohio Department of Public Safety under Section 4513.02 of the Revised Code.

(d) Every low-speed vehicle, under-speed vehicle, utility vehicle, and mini-truck operated upon any street or highway within the City must have a seat safety belt installed at each designated seating position.

(e) Low-speed vehicles, under-speed vehicles, utility vehicles, and mini-trucks operated on public streets or highways must successfully pass the required vehicle inspection, be registered in accordance with Chapter 4503 of the Revised Code, and be titled in accordance with Chapter 4505 of the Revised Code.

(f) Occupants of a low-speed vehicle, under-speed vehicle, utility vehicle, or a mini-truck shall be seated at all times on the seat of the vehicle and buckled by the seatbelt when the vehicle is on and in motion. Standing on any portion of the vehicle while it is in motion is prohibited.

(g) Any child who falls under the child restraint criteria set by Ohio R.C. 4511.81 is prohibited from being a passenger in a low-speed vehicle, under-speed vehicle, utility vehicle, or a mini-truck operated on any street, highway, right of way, public area, or private property used for vehicular travel within the City.

(h) No person shall operate a low-speed vehicle, under-speed vehicle, utility vehicle, or a mini-truck upon any sidewalks within the City.

(i) Except as otherwise provided, all sections of the Napoleon Traffic Code and State of Ohio Traffic Laws, or substantially similar offense, shall apply to low-speed vehicles, under-speed vehicles, utility vehicles, and mini-trucks operated upon any street, highway, right of way, public area, or private property used for vehicular travel within the City.
(Ord. 061-19. Passed 10-21-19.)

343.99 PENALTY.

Whoever violates any provision contained in Chapter 343 is guilty of a minor misdemeanor for a first offense and a misdemeanor of the fourth degree for each subsequent offense. Nothing in this section shall limit the City from filing other violations of law including but not limited to license violations. (Ord. 061-19. Passed 10-21-19.)

- (h) (1) Except as provided in subsection (h)(2) of this section, no person shall operate or be a passenger on a snowmobile or motorcycle without using safety glasses or other protective eye device. Except as provided in subsection (i)(3) of this section, no person who is under the age of eighteen years, or who holds a motorcycle operator's endorsement or license bearing "novice" designation that is currently in effect as provided in Ohio R.C. 4507.13, shall operate a motorcycle on a highway, or be a passenger on a motorcycle, unless wearing a United States Department of Transportation-approved protective helmet on the person's head, and no other person shall be a passenger on a motorcycle operated by such a person unless similarly wearing a protective helmet. The helmet, safety glasses or other protective eye device shall conform with rules adopted by the Ohio Director of Public Safety. The provisions of this subsection or a violation thereof shall not be used in the trial of any civil action.
- (2) Subsection (h)(1) of this section does not apply to a person operating an autocycle or cab-enclosed motorcycle when the occupant compartment top is in place enclosing the occupants.
- (i) (1) No person shall operate a motorcycle with a valid temporary permit and temporary instruction permit identification card issued by the Ohio Registrar of Motor Vehicles pursuant to Ohio R.C. 4507.05 unless the person, at the time of such operation, is wearing on the person's head a protective helmet that has been approved by the United States Department of Transportation that conforms with rules adopted by the Director.
- (2) No person shall operate a motorcycle with a valid temporary instruction permit and temporary instruction permit identification card issued by the Registrar pursuant to Ohio R.C. 4507.05 in any of the following circumstances:
 - A. At any time when lighted lights are required by Section 337.02(a)(1);
 - B. While carrying a passenger;
 - C. On any limited access highway or heavily congested roadway.

(j) Nothing in this section shall be construed as prohibiting the carrying of a child in a seat or trailer that is designed for carrying children and is firmly attached to the bicycle or electric bicycle.

(k) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.53)

373.03 ATTACHING BICYCLE OR SLED TO VEHICLE.

(a) No person riding upon any motorcycle, bicycle, electric bicycle, coaster, roller skates, sled, skateboard or toy vehicle shall attach the same or self to any vehicle upon a roadway.

No operator shall knowingly permit any person riding upon any motorcycle, bicycle, electric bicycle, coaster, roller skates, sled, skateboard or toy vehicle to attach the same or self to any vehicle while it is moving upon a roadway. This section does not apply to the towing of a disabled vehicle.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.54)

373.04 RIDING BICYCLES AND MOTORCYCLES ABREAST.

(a) Persons riding bicycles, electric bicycles, or motorcycles upon a roadway shall ride not more than two abreast in a single lane, except on paths or parts of roadways set aside for the exclusive use of bicycles, electric bicycles, or motorcycles.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.55)

373.05 SIGNAL DEVICE ON BICYCLE.

(a) A bicycle or electric bicycle may be equipped with a device capable of giving an audible signal, except that a bicycle or electric bicycle shall not be equipped with nor shall any person use upon a bicycle or electric bicycle any siren or whistle.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.56)

373.06 LIGHTS AND REFLECTOR ON BICYCLE; BRAKES.

(a) Every bicycle or electric bicycle when in use at the times specified in Section 337.02, shall be equipped with the following:

- (1) A lamp mounted on the front of either the bicycle or electric bicycle or the operator that shall emit a white light visible from a distance of at least five hundred feet to the front; and three hundred feet to the sides. A generator-powered lamp that emits light only when the bicycle or electric bicycle is moving may be used to meet this requirement.

- (3) The person, if under eighteen years of age, is wearing a protective helmet on the person's head with the chin strap properly fastened, and the motorized bicycle is equipped with a rear-view mirror;
- (4) The person operates the motorized bicycle when practicable within three feet of the right edge of the roadway obeying all traffic rules applicable to vehicles; and
- (5) The motorized bicycle displays on the rear of such bicycle the current license plate or validation sticker furnished by the Ohio Director of Public Safety under Ohio R.C. 4503.191.

(b) No person operating a motorized bicycle shall carry another person upon the motorized bicycle.

(c) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4511.521)

373.11 RIDING BICYCLES ON SIDEWALKS PROHIBITED.

(a) No person shall operate a bicycle upon a sidewalk within a business district, the Central Business District, or upon a sidewalk within a shopping center, or upon a sidewalk where signs are erected prohibiting such operation.

(b) Any person lawfully operating a bicycle upon a sidewalk shall use the right side of the sidewalk. Upon all heavily traveled thoroughfares, it shall be the duty of all persons operating bicycles to ride in single file. (1978 Code 75.10)

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

373.12 SKATEBOARDS; ROLLER SKATES.

(a) As used in this section "skateboard" means any vehicle or device consisting basically of a board or platform mounted on wheels or rollers, whether powered by gravity, muscle power or mechanical or motorized means, which is not equipped with a positive, mechanical means of steering such vehicle or device. However, "skateboard" shall not include motorized or other wheelchairs.

(b) No person shall ride on or operate a skateboard, rollerskates, toy vehicle, or similar device on any of the streets or highways listed in Traffic Schedule VII.

(c) No person shall ride on or operate a skateboard, rollerskates, toy vehicle, or similar device upon a sidewalk within a business district, upon any public or private property used by the public for purposes of vehicular travel or parking within a business district, upon a sidewalk within a shopping center, or upon a sidewalk where signs are erected prohibiting the same.

(d) Every person lawfully riding on or operating a skateboard, roller skates, toy vehicle, or similar device within the City shall obey at all times all traffic-control devices, signals, and regulations of the City including, without limitation, the duty to operate the same on the right side of the street, highway, alley, or sidewalk. (1978 Code 75.11)

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

373.13 ELECTRIC BICYCLES.

- (a) (1) The operation of a class 1 electric bicycle and a class 2 electric bicycle is permitted on a path set aside for the exclusive use of bicycles or on a shared-use path, unless the Municipality by resolution, ordinance, or rule prohibits the use of a class 1 electric bicycle or class 2 electric bicycle on such a path.
- (2) No person shall operate a class 3 electric bicycle on a path set aside for the exclusive use of bicycles or a shared-use path unless that path is within or adjacent to a highway or the Municipality by resolution, ordinance, or rule authorizes the use of a class 3 electric bicycle on such a path.
- (3) No person shall operate a class 1 electric bicycle, a class 2 electric bicycle or a class 3 electric bicycle on a path that is intended to be used primarily for mountain biking, hiking, equestrian use, or other similar uses, or any other single track or natural surface trail that has historically been reserved for nonmotorized use, unless the Municipality by resolution, ordinance or rule authorizes the use of a class 1 electric bicycle, a class 2 electric bicycle, or a class 3 electric bicycle on such a path.
- (b) (1) No person under sixteen years of age shall operate a class 3 electric bicycle; however, a person under sixteen years of age may ride as a passenger on a class 3 electric bicycle that is designed to accommodate passengers.
- (2) No person shall operate or be a passenger on a class 3 electric bicycle unless the person is wearing a protective helmet that meets the standards established by the Consumer Product Safety Commission or the American Society for Testing and Materials.
- (c) (1) Except as otherwise provided in this subsection, whoever operates an electric bicycle in a manner that is prohibited under subsection (a) of this section and whoever violates subsection (b) of this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
- (2) The offenses established under subsection (c)(1) of this section are strict liability offenses and strict liability is a culpable mental state for purposes of Ohio R.C. 2901.20. The designation of these offenses as strict liability offenses shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense. (ORC 4511.522)

- (b) On any private property, or in any nursery or planting area, without the permission of the owner or other person having the right to possession of the property;
 - (c) On any land or waters controlled by the State or City, including but not limited to public rights of way, except at those locations where a sign has been posted permitting such operation;
 - (d) On tracks or right of way of any operating railroad;
 - (e) (EDITOR'S NOTE: Former subsection (e) was repealed by Ordinance 078-19, passed December 16, 2019).
 - (f) For the purpose of chasing, pursuing, capturing or killing any animal or wild fowl;
 - (g) During the time from sunset to sunrise, unless displaying lighted lights as required by Section 375.02.
- (Ord. 36-94. Passed 4-4-94.)

375.04 OPERATION ON PUBLIC THOROUGHFARES DURING SNOW EMERGENCIES.

This chapter, which prohibits the operation of a snowmobile on public thoroughfares within the City, shall be inapplicable to persons who hold a valid and current motor vehicle operator's or commercial driver's license, or motorcycle operator's endorsement, issued under Ohio R.C. Chapter 4507, and who operate a snowmobile for the purpose of emergency travel or assistance during the period that a snow emergency has been declared pursuant to the Codified Ordinances provided that the operator receive prior written permission from the Chief of Police and otherwise complies with all limitations and restrictions prescribed by the Chief of Police during such emergency. (Ord. 36-94. Passed 4-4-94.)

375.05 LICENSING REQUIREMENTS OF OPERATOR.

(a) No person who does not hold a valid, current motor vehicle driver's or commercial driver's license, motorcycle operator's endorsement or probationary license issued under Ohio R.C. Chapter 4506 or 4507, or a valid, current driver's license issued by another jurisdiction, shall operate a snowmobile, off-highway motorcycle, or all purpose vehicle on any street or highway, on any portion of the right of way thereof, or on any public land or waters. This subsection shall not be construed to permit the holder of such a license to operate a snowmobile, off-highway motorcycle, or all purpose vehicle in violation of Section 375.03.

(b) No person who is less than sixteen years of age shall operate a snowmobile, off-highway motorcycle, or all purpose vehicle on any land or waters other than private property or waters owned by or leased to such person's parent or guardian, unless accompanied by another person who is eighteen years of age, or older, and who holds a license as provided in subsection (a) hereof, except that the Ohio Department of Natural Resources may permit such operation on State controlled land under its jurisdiction when such person is less than sixteen years of age but is twelve years of age or older and is accompanied by a parent or guardian who is a licensed driver eighteen years of age or older. (ORC 4519.44)

375.06 REGISTRATION OF VEHICLES.

Except as provided in Ohio R.C 4519.02(B), (C) and (D), no person shall operate any snowmobile, off-highway motorcycle, or all purpose vehicle unless the snowmobile, off-highway motorcycle, or all purpose vehicle is registered and numbered in accordance with Ohio R.C. 4519.03 and 4519.04. (ORC 4519.02)

375.07 ACCIDENT REPORTS.

The operator of a snowmobile, off-highway motorcycle, or all purpose vehicle involved in any accident resulting in bodily injury to or death of any person or damage to the property of any person in excess of one hundred dollars (\$100.00) shall report the accident within forty-eight hours to the Chief of Police, and, within thirty days, shall forward a written report of the accident

to the Ohio Registrar of Motor Vehicles on a form prescribed by the Registrar. If the operator is physically incapable of making the reports and there is another participant in the accident not so incapacitated, the participant shall make the reports. In the event that there is no other participant, and the operator is other than the owner, the owner, within the prescribed periods of time, shall make the reports.

Any law enforcement officer or other person authorized by Ohio R.C. 4519.42 and 4519.43, who investigates or receives information of an accident involving a snowmobile, off-highway motorcycle, or all purpose vehicle shall forward to the Registrar a written report of the accident within forty-eight hours. (ORC 4519.46)

375.08 CERTIFICATE OF TITLE.

No person shall do any of the following:

- (a) Operate in this Municipality an off-highway motorcycle or all-purpose vehicle without having a certificate of title for the off-highway motorcycle or all-purpose vehicle, if such a certificate is required by Ohio R.C. Chapter 4519 to be issued for the off-highway motorcycle or all-purpose vehicle, or, if a physical certificate of title has not been issued for it, operate an off-highway motorcycle or all-purpose vehicle knowing that the ownership information relating to the motorcycle or vehicle has not been entered into the automated title processing system by a clerk of a court of common pleas;
 - (b) Operate in this Municipality an off-highway motorcycle or all-purpose vehicle if a certificate of title to the off-highway motorcycle or all-purpose vehicle has been issued and then has been canceled;
 - (c) Fail to surrender any certificate of title upon cancellation of it by the Registrar of Motor Vehicles and notice of the cancellation as prescribed in Ohio R.C. Chapter 4519;
 - (d) Fail to surrender the certificate of title to a clerk of the court of common pleas as provided in Ohio R.C. Chapter 4519, in case of the destruction or dismantling of, or change in, the off-highway motorcycle or all-purpose vehicle described in the certificate of title;
 - (e) Violate any provision of Ohio R.C. 4519.51 to 4519.70 or any lawful rules adopted pursuant to those sections;
 - (f) Operate in this Municipality an off-highway motorcycle or all-purpose vehicle knowing that the certificate of title to or ownership of the motorcycle or vehicle as otherwise reflected in the automated title processing system has been canceled.
- (ORC 4519.66)

375.09 GOVERNMENTAL EXCEPTION.

The provisions of this chapter shall not apply to governmental agencies in the performance of their official duties. (Ord. 36-94. Passed 4-4-94.)

375.99 PENALTY.

(EDITOR'S NOTE: See Section 303.99 for general Traffic Code penalty and penalties applicable to misdemeanor classifications.)

- (a) Whoever violates any portion of Section 375.02 shall be fined not more than fifty dollars (\$50.00) for a first offense; for each subsequent offense within one year of a first offense such person shall be fined not less than fifteen dollars (\$15.00) nor more than one hundred fifty dollars (\$150.00) or imprisoned not more than three days, or both; whoever violates any provision of Section 375.03 or 375.05 shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) or imprisoned not less than three nor more than thirty days, or both; whoever violates Section 375.07 shall be deemed guilty of a misdemeanor of the first degree, punishable by a fine not to exceed one thousand dollars (\$1,000.00) and a term of imprisonment not to exceed six months.

CHAPTER 505 Animals and Fowl

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| <p>505.01 Dogs and other animals running at large. (Repealed)</p> <p>505.02 Impounding and disposition; records. (Repealed)</p> <p>503.03 Annual registration of dogs; tags required. (Repealed)</p> <p>505.04 Abandoning animals. (Repealed)</p> <p>505.05 Killing or injuring animals. (Repealed)</p> <p>505.06 Poisoning animals. (Repealed)</p> <p>505.07 Cruelty to animals generally. (Repealed)</p> <p>505.071 Cruelty to companion animals. (Repealed)</p> <p>505.08 Nuisance conditions prohibited. (Repealed)</p> | <p>505.09 Barking or howling dogs. (Repealed)</p> <p>505.10 Animal bites; reports and quarantine. (Repealed)</p> <p>505.11 Hunting prohibited. (Repealed)</p> <p>505.12 Coloring rabbits or baby poultry; sale or display of poultry. (Repealed)</p> <p>505.13 Report of escape of exotic or dangerous animal. (Repealed)</p> <p>505.14 Dangerous and vicious dogs.</p> <p>505.15 Hunting of Canada Geese. (Repealed)</p> <p>505.16 Restraining dogs in a cruel manner.</p> <p>505.99 Penalty.</p> |
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CROSS REFERENCES

See sectional histories for similar State law
 Owner or keeper liable for damages - see Ohio R.C 951.10
 Dog registration - see Ohio R.C. 955.01

505.01 DOGS AND OTHER ANIMALS RUNNING AT LARGE. (REPEALED)

(EDITOR'S NOTE: Former Section 505.01 was repealed by Ordinance 070-08, passed October 6, 2008.)

505.02 IMPOUNDING AND DISPOSITION; RECORDS. (REPEALED)

(EDITOR'S NOTE: Former Section 505.02 was repealed by Ordinance 070-08, passed October 6, 2008.)

505.03 ANNUAL REGISTRATION OF DOGS; TAGS REQUIRED. (REPEALED)

(EDITOR'S NOTE: Former Section 505.03 was repealed by Ordinance 070-08, passed October 6, 2008.)

505.04 ABANDONING ANIMALS. (REPEALED)

(EDITOR'S NOTE: Former Section 505.04 was repealed by Ordinance 070-08, passed October 6, 2008.)

505.05 KILLING OR INJURING ANIMALS. (REPEALED)

(EDITOR'S NOTE: Former Section 505.05 was repealed by Ordinance 070-08, passed October 6, 2008.)

505.06 POISONING ANIMALS. (REPEALED)

(EDITOR'S NOTE: Former Section 505.06 was repealed by Ordinance 070-08, passed October 6, 2008.)

505.07 CRUELTY TO ANIMALS GENERALLY. (REPEALED)

(EDITOR'S NOTE: Former Section 505.07 was repealed by Ordinance 070-08, passed October 6, 2008.)

505.071 CRUELTY TO COMPANION ANIMALS. (REPEALED)

(EDITOR'S NOTE: Former Section 505.071 was repealed by Ordinance 070-08, passed October 6, 2008.)

505.08 NUISANCE CONDITIONS PROHIBITED. (REPEALED)

(EDITOR'S NOTE: Former Section 505.08 was repealed by Ordinance 070-08, passed October 6, 2008.)

505.09 BARKING OR HOWLING DOGS. (REPEALED)

(EDITOR'S NOTE: Former Section 505.09 was repealed by Ordinance 41-99, passed May 17, 1999.)

505.10 ANIMAL BITES; REPORTS AND QUARANTINE. (REPEALED)

(EDITOR'S NOTE: Former Section 505.10 was repealed by Ordinance 070-08, passed October 6, 2008.)

505.11 HUNTING PROHIBITED. (REPEALED)

(EDITOR'S NOTE: Former Section 505.11 was repealed by Ordinance 078-19, passed December 16, 2019.)

(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 subsection (b)(2) hereof.

(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) 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 harbinger 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 harbinger 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 harbinger 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.
(Ord. 029-18. Passed 7-2-18.)

505.15 HUNTING OF CANADA GEESE. (REPEALED)

(EDITOR'S NOTE: Former Section 505.15 was repealed by Ordinance 078-19, passed December 16, 2019.)

505.16 RESTRAINING DOGS IN A CRUEL MANNER.

(a) No person shall recklessly tether, fasten, chain, tie or otherwise restrain a dog, to a tree, fence, post, dog house, or other stationary object, or to a cable trolley system that allows movement of the restraining device, for more than nine hours in any 24-hour period.

(b) No person that is the owner or keeper of a dog shall recklessly allow the dog to be, or recklessly allow the dog to remain, tethered, fastened, chained, tied or restrained, to a tree, fence, post, dog house, or other stationary object, or to a cable trolley system that allows movement of the restraining device, for more than nine hours in any 24-hour period.

(c) No person shall recklessly place a tethering device on a dog unless the device is at least 15 feet in length and attached in such manner as to prevent strangulation or other injury to the dog and entanglement with objects other than the stationary objects to which the device is attached.

(d) No person that is the owner or keeper of a dog shall recklessly allow the dog to be tethered, or recklessly allow the dog to remain tethered, with a device that is less than 15 feet in length and attached in a manner as to prevent strangulation or other injury to the dog and entanglement with objects other than the stationary objects to which the device is attached.

(e) No person shall recklessly place a tethering device on a dog that is connected to a cable trolley system, unless the length of the cable along which the tethering device can move is at least 10 feet, and the tethering device is of such length that the dog is able to move 10 feet away from the cable perpendicularly.

(f) No person that is the owner or keeper of a dog shall recklessly allow the dog to have placed upon it, or recklessly allow to remain placed upon it, a tethering device that is connected to a cable trolley system, unless the length of the cable along which the tethering device can move is at least 10 feet, and the tethering device is of such length that the dog is able to move 10 feet away from the cable perpendicularly.

(g) No person shall recklessly use a tether on a dog that weighs more than one-eighth (1/8) of the dog's weight.

(h) No person that is the owner or keeper of a dog shall recklessly allow the use of a tether on the dog, or recklessly allow the use of a tether to remain on the dog, that weighs more than one-eighth (1/8) of the dog's weight.

(i) No person shall recklessly attach a chain or wire or other tethering device to a choke-type collar on a dog.

(j) No person that is the owner or keeper of a dog shall recklessly allow the attachment of a chain or wire or other tethering device to a choke-type collar on the dog, or recklessly allow to remain on the dog such attachment.

(k) No person shall recklessly attach a chain or wire or other tethering device to a pronged collar on a dog.

CHAPTER 549 Weapons and Explosives

- | | |
|--|---|
| <p>549.01 Definitions. (Repealed)</p> <p>549.02 Carrying concealed weapons. (Repealed)</p> <p>549.03 Using weapons while intoxicated. (Repealed)</p> <p>549.04 Improperly handling firearms in a motor vehicle. (Repealed)</p> <p>549.05 Failure to secure dangerous ordnance. (Repealed)</p> <p>549.06 Unlawful transactions in weapons. (Repealed)</p> | <p>549.07 Underage purchase of firearm. (Repealed)</p> <p>549.08 Discharging firearms. (Repealed)</p> <p>549.09 Throwing or shooting projectiles. (Repealed)</p> <p>549.10 Possessing replica firearm in school. (Repealed)</p> <p>549.11 Defacing identification marks of a firearm; possessing a defaced firearm. (Repealed)</p> <p>549.99 Penalty.</p> |
|--|---|

CROSS REFERENCES

See sectional histories for similar State law

License or permit to possess dangerous ordnance - see Ohio R.C. 2923.18

Hunting prohibited - see GEN. OFF. 505.11

Reporting gunshot and stab wounds - see GEN. OFF. 525.05(b)

Property destruction by tear gas device, etc. - see GEN. OFF. 541.04

549.01 DEFINITIONS.(REPEALED)

(EDITOR'S NOTE: Former Section 549.01 was repealed by Ordinance 070-08, passed October 6, 2008.)

549.02 CARRYING CONCEALED WEAPONS. (REPEALED)

(EDITOR'S NOTE: Former Section 549.02 was repealed by Ordinance 070-08, passed October 6, 2008.)

549.03 USING WEAPONS WHILE INTOXICATED. (REPEALED)

(EDITOR'S NOTE: Former Section 549.03 was repealed by Ordinance 070-08, passed October 6, 2008.)

**549.04 IMPROPERLY HANDLING FIREARMS IN A MOTOR VEHICLE.
(REPEALED)**

(EDITOR'S NOTE: Former Section 549.04 was repealed by Ordinance 070-08, passed October 6, 2008.)

549.05 FAILURE TO SECURE DANGEROUS ORDNANCE.(REPEALED)

(EDITOR'S NOTE: Former Section 549.05 was repealed by Ordinance 070-08, passed October 6, 2008.)

549.06 UNLAWFUL TRANSACTIONS IN WEAPONS. (REPEALED)

(EDITOR'S NOTE: Former Section 549.06 was repealed by Ordinance 070-08, passed October 6, 2008.)

549.07 UNDERAGE PURCHASE OF FIREARM. (REPEALED)

(EDITOR'S NOTE: Former Section 549.07 was repealed by Ordinance 070-08, passed October 6, 2008.)

549.08 DISCHARGING FIREARMS. (REPEALED)

(EDITOR'S NOTE: Former Section 549.08 was repealed by Ordinance 078-19, passed December 16, 2019.)

549.09 THROWING OR SHOOTING PROJECTILES. (REPEALED)

(EDITOR'S NOTE: Former Section 549.09 was repealed by Ordinance 078-19, passed December 16, 2019.)

- (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.)

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

| Number of Holes | Fee per Participant |
|-----------------|---------------------|
| 9 | \$15.00 |
| 18 | \$25.00 |

(Ord. 086-18. Passed 1-21-19.)

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. | \$40.00 | \$45.00 | \$35.00 | \$40.00 |
| 1:00 p.m.-5:00 p.m. | 40.00 | 45.00 | 35.00 | 40.00 |
| 9:00 a.m.-5:00 p.m. | 45.00 | 50.00 | 40.00 | 45.00 |
| 6:00 p.m. - 11:00 p.m. | 45.00 | 50.00 | 40.00 | 50.00 |
| 1:00 p.m. -11:00 p.m. | 50.00 | 55.00 | 45.00 | 50.00 |
| 9:00 a.m.-11:00 p.m. | 55.00 | 60.00 | 50.00 | 55.00 |

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 five dollar (\$5.00) application fee and a fifty dollar (\$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 seven (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 fifty dollars (\$50.00). Any monies to be returned to the tenant will be paid within thirty (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. | \$55.00 | \$65.00 |
| 1:00 p.m. - 5:00 p.m. | 65.00 | 75.00 |
| 9:00 a.m. - 5:00 p.m. | 90.00 | 100.00 |
| 6:00 p.m. - 11:00 p.m. | 90.00 | 100.00 |
| 1:00 p.m. - 11:00 p.m. | 100.00 | 110.00 |
| 9:00 a.m. - 11:00 p.m. | 120.00 | 130.00 |

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

Due at time of making reservation is a non-refundable five dollar (\$5.00) application fee and a fifty dollar (\$50.00) security deposit. The full remainder amount of the 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 seven (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 fifty dollars (\$50.00). Any monies to be returned to the tenant will be paid within thirty (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. 076-19. Passed 12-2-19.)

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

RESOLUTION NO. 003-20

A RESOLUTION AUTHORIZING THE EXPENDITURE OF FUNDS OVER TWENTY-FIVE THOUSAND DOLLARS (\$25,000) FOR THE PURPOSE OF IMPLEMENTATION OF A GIS SYSTEM, AND TO SOLE SOURCE SAID IMPLEMENTATION TO STANTEC CONSULTING SERVICES, INC.; AND DECLARING AN EMERGENCY

WHEREAS, the City of Napoleon Engineering Department has been working toward full implementation of its GIS system; and,

WHEREAS, the City of Napoleon Engineering Department has been working with Stantec Consulting Services, Inc. since 2013 to implement the GIS system; and,

WHEREAS, Stantec Consulting Services, Inc. was included in the 2020 Master Bid Resolution (Resolution No. 080-19) for Engineering Services (GIS Software); and,

WHEREAS, the cost to implement the GIS system exceeds twenty-five thousand dollars (\$25,000.00); and,

WHEREAS, the City of Napoleon desires to sole source this project to Stantec Consulting Services, Inc. due to Stantec's intimate knowledge of the City's GIS system (Stantec has been involved in the City's GIS implementation plan since 2013, including a detailed report outlining how to proceed), which may expedite the project; therefore, it is the opinion of this Council that it is in the best interest of the City of Napoleon to eliminate the necessity for competitive bidding; **Now Therefore**,

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

Section 1. That, the City of Napoleon authorizes the expenditure of funds in excess of twenty-five thousand dollars (\$25,000) to continue the GIS implementation process, which was included in the Master Bid Resolution.

Section 2. That, Council finds it to be in the best interest of the City to eliminate the necessity for competitive bidding.

Section 3. That, the City Manager is authorized to enter into a Contract with Stantec Consulting Services, Inc. to conduct said GIS implementation.

Section 4. That, it is found and determined that all formal actions of this City Council concerning and relating to the adoption of this Resolution were adopted in open meetings of this City Council, and that all deliberations of this City Council and any of its committees that resulted in such formal actions were in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code and the Codified Ordinances of Napoleon Ohio.

Section 5. That, if any other prior Ordinance or Resolution is found to be in conflict with this Resolution, then the provisions of this Resolution shall prevail. Further, if any portion of this Resolution is found to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Resolution or any part thereof.

Section 6. That, this Resolution is declared to be an emergency measure necessary for the immediate preservation of the public peace, health or safety of the City and its inhabitants, and for the further reason that this legislation must be in effect at the earliest possible time to allow for the timely implementation of the system; 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 process in a timely manner which affects the public peace, health, and safety accessible to our citizens, 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:

Roxanne Dietrich, Clerk of Council

I, Roxanne Dietrich, interim Clerk of Council for the City of Napoleon, do hereby certify that the foregoing Resolution No. 003-20 was duly published in the Northwest Signal, a newspaper of general circulation in said City, on the _____ day of _____, 2020; & 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.

Roxanne Dietrich, Clerk of Council

RESOLUTION NO. 004-20

**A RESOLUTION AUTHORIZING THE PARTICIPATION IN THE
OHIO DEPARTMENT OF TRANSPORTATION (ODOT)
COOPERATIVE PURCHASING PROGRAM; AND DECLARING
AN EMERGENCY**

WHEREAS, Section 5513.01(B) provides the opportunity for counties, townships, municipal corporations, conservancy districts, township park districts, park districts created under Chapter 1545 of the Revised Code, port authorities, regional transit authorities, regional airport authorities, regional water and sewer districts, county transit boards, state universities or colleges to participate in contracts of the Ohio Department of Transportation (ODOT) for the purchase of machinery, material, or other articles; and,

WHEREAS, the City of Napoleon Department of Public Works desires to purchase the necessary materials for its 2020 crack sealing program; and,

WHEREAS, the materials can be purchased utilizing the State Cooperative Purchasing Program; and,

WHEREAS, the Council believes it is in the best interest of the City of Napoleon to eliminate the necessity for competitive bidding; **Now Therefore**,

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

Section 1. That, the City of Napoleon authorizes the City Manager on behalf of the City of Napoleon to participate in the Ohio Department of Transportation (ODOT) contracts for the purchase of machinery, materials, supplies or other articles which the Department has entered into pursuant to Ohio Revised Code Section 5513.01(B).

Section 2. That, the City Manager is hereby authorized to agree on behalf of the City of Napoleon to be bound by all terms and conditions as the Director of Transportation prescribes.

Section 3. That, the City Manager is hereby authorized on behalf of the City of Napoleon to directly pay vendors, under each such contract of the Ohio Department of Transportation in which the City of Napoleon participates, for items it receives pursuant to the contract.

Section 4. That, the City of Napoleon agrees to be responsible for resolving all claims or disputes arising out of its participation in the cooperative purchasing program under Section 5513.01(B) of the Ohio Revised Code. The City of Napoleon agrees to waive any claims, actions, expenses, or other damages arising out of its participation in the cooperative purchasing program which the City of Napoleon may have or claim to have against ODOT or its employees, unless such liability is the result of negligence on the part of ODOT or its employees.

Section 5. That, the City of Napoleon authorizes the expenditure of funds in excess of \$25,000.00 for the purchase of the necessary materials for its crack sealing program, utilizing the State Cooperative Purchasing Program. Also, Council finds it to be in the best interest of the City to eliminate the necessity for competitive bidding.

Section 6. That, the City Manager is authorized to enter into a contract for said purchase.

Section 7. 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 8. 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 9. That, this Resolution is declared to be an emergency measure necessary for the immediate preservation of the public peace, health or safety of the City and its inhabitants; therefore, provided it receives the required number of votes for passage as emergency legislation, it shall be in full force and effect immediately upon its passage; otherwise, it shall be in full force and effect at the earliest time permitted by law. Further, the Emergency Clause is necessary to begin the purchase 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:

Roxanne Dietrich, Clerk of Council

I, Roxanne Dietrich, Clerk of Council for the City of Napoleon, do hereby certify that the foregoing Resolution No. 004 -20 was duly published in the Northwest Signal, a newspaper of general circulation in said City, on the _____ day of _____, 2020; & 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.

Roxanne Dietrich, Clerk of Council



City of Napoleon, Ohio

Department of Public Works

255 West Riverview Avenue, P.O. Box 151

Napoleon, OH 43545

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

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

www.napoleonohio.com

Memorandum

To: Joel L. Mazur, City Manager
From: Chad E. Lulfs, P.E., P.S., Director of Public Works
cc: City Council & Mayor
Kelly O'Boyle, City Finance Director
Jeff Rathge, Operations Superintendent
Roxanne Dietrich, Clerk of Council
Date: February 26, 2020
Subject: East & West Graceway Drive Street Improvements ~
Recommendation of Award

On Wednesday, February 26, 2020, bids were opened and read aloud for the above referenced project. Four bids were submitted and read as follows:

| | |
|----------------------------------|--------------|
| Helms & Sons Excavating, Inc. | \$429,999.10 |
| Geddis Paving & Excavating, Inc. | \$462,008.00 |
| Vernon Nagel, Inc. | \$510,162.80 |
| Gerken Asphalt Paving, Inc. | \$511,472.80 |

The Engineer's Estimate for this project is \$465,000.00. This project consists of replacing the concrete curb and a portion of the drive approaches, replacing storm water inlet structures, installing chimney seals in sanitary manholes, milling the asphalt street, and resurfacing the street. The completion date for this project is July 25, 2020.

Having reviewed the submitted bids, it is my recommendation that Council award Helms & Sons Excavating, Inc. the contract for the East & West Graceway Drive Street Improvements in the amount of \$429,999.10. If you have any questions or require additional information, please contact me at your convenience.

CEL



CITY OF NAPOLEON, OHIO

ELECTRIC DEPARTMENT

PO Box 151, 1775 INDUSTRIAL DR.

NAPOLEON, OH 43545

PHONE: (419) 599-1891 FAX: (419) 592-4379

INTEROFFICE MEMORANDUM

TO: Joel Mazur, City Manager
FROM: Dennis P. Clapp, Superintendent
SUBJECT: Purchase of Mini Excavator
DATE: February 27, 2020
CC: Mayor, City Council, Finance Director

Please find in this packet to be presented to Council, the required documentation for the bid of a new Mini Excavator.

- Approved under 2020 Budget
- Account # 503-6110-57000 – Machinery & Equipment
- Budgeted Amount: \$50,000

Note: This purchase will enable the Electric crews to access back yards and tight digging areas not accessible by the wider trenchers. This mini excavator will also cause less damage in wet and dry conditions to cut down on return landscaping issues and expense.

Electric Superintendent
Dennis P. Clapp
DCLAPP@NAPOLEONOHIO.COM



City of **NAPOLEON**, Ohio

Police Department

310 Glenwood Ave • P.O. Box 151
Napoleon, Ohio 43545-0151
Phone: (419) 599-2810 • Fax: (419) 599-7969
Web Page: www.napoleonohio.com

Mayor
Jason Maassel

February 24, 2020

Members of Council

PRESIDENT:
Joseph Bialorucki

PRESIDENT PRO-TEM:
Daniel Baer

Jeff Comadoll
Kenneth Haase
Jeff Mires
Lori Siclair
J. Ross Durham

City Manager
Joel L. Mazur

Finance Director
Kelly O'Boyle

Law Director
Billy D. Harmon

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

Police Chief
David J. Mack

Fire Chief
Clayton O'Brien

Joel,

I would like to request that my 2020 vehicle purchases be placed on the next council agenda. While doing research on these purchases and receiving bids, I have learned that the order deadline for Ford is 4/3/20 and it is not uncommon that they move the deadline up, if production limits are met sooner. I have also been informed that the price is going up yet again in the 2021 models. Furthermore, the order bank and pricing will be available for 2021 models on 4/13/20 and first scheduled production is set for 4/27/20.

In the approved 2020 budget, I have budgeted \$96,800.00 for this project. As stated during the budget process due to newer dimensions and vehicle changes, much of the equipment needs to be replaced. The purchase of these replacement vehicles was included in the 2020 master bid resolution 080-19 passed by Council on December 16, 2019.

The cost to purchase these vehicles and install the required systems exceeds \$25,000; and, the current quoted cost from Mathews Ford Oregon for the State Bid Vehicle, is valid for the purchase of the replacement vehicles with the required equipment as this vehicle bid is lower than the state bid. The state bid was issued to Lebanon Ford for \$33,540.34. Mathews Ford Oregon quoted the same vehicle for \$33,465.00 each.

Under City Ordinance 106.02, I am requesting to purchase the vehicles and the upfit of those vehicles, through Matthews Ford Oregon; based on the fact that Matthews Ford Oregon was able to offer the vehicle at a lower cost than the State of Ohio Bid (attached). Matthews Ford Oregon is also less than an hour away and thus more local than Lebanon Ford which is about 2.75 hours away and Statewide Ford, which we have used for several years, is slightly over an hour away. Lebanon Ford has not been used and they have not done our upfits in recent times.

Matthews Ford Oregon works with P&R Communications Inc. for their upfits. This is important, as P&R Communications is responsible for the installation of our new radio system and thus this continuity in the known business which we have a relationship with. This also allows us to have a local contact should there be in any issues. P&R Communications upfits the vehicles at their Toledo, Ohio location.

The total cost of the project is quoted to be \$92,958.16 and I have \$96,800 and thus this is projected to be under budget.

| 2020 Vehicle Purchase Price | State Contract | Mathews Ford Oregon |
|---|-------------------------------------|---|
| 2020 Ford SUV with Options , 45 day tags, Rear-Door controls inoperable (locks, handles and windows), Heated Side View Mirrors, Red/White Dome Light in Cargo Area, Ultimate Wiring Package, Police Wire Harness Connector Kit-Front/Rear, License Plate Bracket – Front, Dar Car Feature – Courtesy lamp disable when any door is open, Spot Lamp LED bulb, Driver Only (Unity), Global Lock/Unlock Feature, Keyed Alike, Daytime Running Lamps, Police Engine Idle Feature, Reverse Sensing System *Delivered* | \$33, 540.34 each (Vehicle Only) | \$33,465.00 each (Vehicle Only) |
| P&R Upfit Charges Labor, equipment, freight | | \$13,014.08 |

I respectfully submit this to you for consideration to be placed on the next council meeting.

Sincerely,



David Mack
City of Napoleon, Chief of Police



City of Napoleon, Ohio

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

Memorandum

To: City Council, Mayor, City Manager, City Law Director, Department Supervisors, News media
From: Roxanne Dietrich, Executive Assistant to Appointing Authority/Clerk of Council
Date: February 27, 2020
Subject: Technology and Communications Committee – Cancellation

The regularly scheduled meeting of the **Technology and Communications Committee** for Monday, March 02, 2020 at 6:15 pm has been CANCELED due to lack of agenda items.

City of Napoleon, Ohio

PARKS AND RECREATION BOARD
Special Meeting Agenda

WEDNESDAY, MARCH 04, 2020 at 6:30 PM

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

1. Approval of Minutes: January 8, 2020 (in the absence of any objections or corrections, the Minutes shall stand approved)
2. Discussion on the Napoleon Aquatic Center
3. Miscellaneous



Roxanne Dietrich

Executive Assistant to Appointing Authority/Clerk of Council



AMP Board selects Jolene Thompson as new President and CEO

By Jeff Brediger - City of Orrville Director of Utilities, AMP Chair of the Board

The AMP Board of Trustees announced this week that Jolene Thompson has been named as AMP's new President and CEO. Thompson will take the reins from longtime President and CEO Marc Gerken, who has led the organization for nearly two decades and announced his retirement in April of 2019.



In anticipation of Marc's retirement, the AMP board enacted a CEO succession planning process, including the creation of a Board search committee, which was established to conduct a nationwide search considering a diverse slate of internal and external candidates. Thompson's ongoing commitment to our members, her decades of experience and the respect she has earned among her peers across the industry made it clear to us that she is the right choice to take AMP into the future.

The CEO search was planned and executed over the past several months. An external executive search firm was hired in July of 2019 to work with the Board of Trustees and ensure a smooth hiring process. The committee set forth rigorous qualifications, including sector experience, operational efficiency, collaboration and influence, business and strategic acumen and a drive for results.

Thompson will assume her new role on April 1, 2020. See the full news release [here](#).

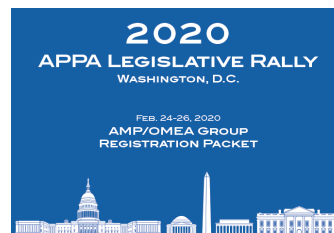
APPA Legislative Rally begins next week

By Charles Willoughby - director of government affairs

Final preparations are underway for the 2020 American Public Power Association (APPA) Legislative Rally, taking place Feb. 24-26 at the Mayflower Hotel in Washington, D.C.

AMP/OMEA, BRPA and Pennsylvania officials have scheduled meetings with the following lawmakers:

- Rep. Joyce Beatty, Ohio's 3rd District
- Rep. Jim Jordan, Ohio's 4th District
- Rep. Bob Latta, Ohio's 5th District
- Rep. Bob Gibbs, Ohio's 7th District
- Rep. Warren Davidson, Ohio's 8th District
- Rep. Troy Balderson, Ohio's 12th District
- Rep. David Joyce, Ohio's 14th District
- Rep. Steve Stivers, Ohio's 15th District
- Rep. Anthony Gonzales, Ohio's 16th District
- Rep. Tim Ryan, Ohio's 17th District
- Rep. Brian Fitzpatrick, Pennsylvania's 1st District
- Rep. Morgan Griffith, Pennsylvania's 9th District
- Rep. Lloyd Smucker, Pennsylvania's 11th District



- Rep. Denver Riggleman, Virginia's 5th District
- Rep. David McKinley, West Virginia's 1st District
- Sen. Sherrod Brown, Ohio
- Sen. Rob Portman, Ohio
- Sen. Pat Toomey, Pennsylvania
- Sen. Bob Casey, Pennsylvania
- Sen. Tim Kaine, Virginia
- Sen. Mark Warner, Virginia
- Sen. Shelley Moore Capito, West Virginia

Among the key policy issues we will focus on this year are rising transmission costs, the continued effects of sequestration, the recent FERC PJM MOPR Order, climate change legislation and FCC regulation of pole attachments.

If you have questions or need additional information regarding the 2020 APPA Legislative Rally, please visit the [APPA website](#) or contact Michael Beirne at mbeirne@ampppartners.org or 614.309.5732, or me at cwilloughby@ampppartners.org or 330.904.2001.

We look forward to seeing you in Washington!

AMP holds Economic Development Best Practices webinar

By Alexis Fitzsimmons - director of economic and business development

On Feb. 18, AMP held the *Economic Development Best Practices: Site Selection and Megatrends webinar*. The webinar, held through the APPA's Academy, explored how companies make location decisions, what are some of the trends and key drivers, and what communities can do to attract and retain business and jobs.

**THE
ACADEMY**

AMERICAN PUBLIC
POWER ASSOCIATION

Twenty-seven individuals from Arcanum, Berea, Bradner, Cuyahoga Falls, Danville, DEMEC, Elmore, Ephrata, Hatfield, Hillsdale, Marshall, Minster, Napoleon, New Bremen, Newton Falls, Oberlin, Orrville, Painesville, Wadsworth and Wyandotte tuned in. A recording of the webinar can be viewed on the [member extranet](#) (login required).

If you have questions or would like to register for this webinar, please contact me at afitzsimmons@ampppartners.org.

Registration open: Disaster Workshop March 31, Technical Services Conference April 1

By Jennifer Flockert - manager of technical services logistics

Electric utility managers, superintendents and technical staff are invited and encouraged to attend AMP's Disaster Workshop (members only) and annual AMP Technical Services Conference on March 31 and April 1, respectively at the Quest Conference Center in Columbus.



During the Disaster Workshop, which will be held prior to the AMP Technical Services Conference, a mock disaster drill facilitated by APPA will be conducted. The exercise is designed to test your community's storm readiness should a wide-scale event impact multiple AMP member utilities. This event is for member community officials only.

The AMP Technical Services Conference provides an opportunity to increase technical understanding and capabilities, learn about new products, strengthen relationships with other members and AMP staff, and exchange ideas with other utilities facing similar challenges.

Vendors are invited to participate in the Vendor's Expo at the AMP Technical Services Conference. The Vendor Expo provides attendees the opportunity to network with the vendors during lunch. Conference attendees will also have an opportunity to attend the Vendor Expo during breaks and throughout the day. Vendors will not be permitted to participate in the Disaster Workshop.

Register for both events [here](#). If you have questions, please contact me at jflockerzie@amppartners.org or 614.540.0853.

Sustainability Performance at a Glance, Q4 report now available

By Erin Miller - director of energy policy and sustainability

The *Sustainability Performance at a Glance*, fourth quarter 2019 report is now available [here](#). The quarterly update is intended to measure and compare the progress of sustainability metrics while also highlighting accomplishments of the quarter.

This report features Solar Phase II dedications, community and stakeholder engagement and updates on Focus Forward, EcoSmart Choice and Efficiency Smart programs. Sustainability metrics for the quarter are also included in the report. If you have any questions or would like additional information, please contact me at emiller@amppartners.org or 614.540.1019.



Energy market update

By Jerry Willman - assistant vice president of energy marketing

The March 2020 natural gas contract decreased \$0.035/MMBtu to close at \$1.92 yesterday. The EIA reported a withdrawal of 151 Bcf for the week ending Feb. 14, which was above market expectations of -147 Bcf. The year-ago withdrawal was 163 Bcf and the five-year average was -136. Storage is now 2,343 Bcf, 35 percent above a year ago and 9 percent above the five-year average. The winter withdrawal running total of -1,389 Bcf compares to the five-year average of -1,587.

On-peak power prices for 2021 at AD Hub closed yesterday at \$30.45/MWh, which increased \$0.05/MWh for the week.

| On Peak (16 hour) prices into AEP/Dayton hub | | | | |
|--|---------|---------|---------|---------|
| Week ending Feb. 21 | | | | |
| MON | TUE | WED | THU | FRI |
| \$19.51 | \$20.04 | \$22.50 | \$23.21 | \$22.61 |
| Week ending Feb. 14 | | | | |
| MON | TUE | WED | THU | FRI |
| \$22.59 | \$21.56 | \$22.16 | \$22.83 | \$26.90 |
| AEP/Dayton 2021 5x16 price as of Feb. 20 — \$30.45 | | | | |
| AEP/Dayton 2021 5x16 price as of Feb. 13 — \$30.40 | | | | |

AFEC weekly update

By Jerry Willman

The AMP Fremont Energy Center (AFEC) operated in 1x1 configuration for the week, CT1 remained offline for repairs. AFEC was online all week due to higher PJM off peak prices that were supported by the colder overnight temperatures. For the week, the plant generated at a 48 percent capacity factor (based on 675 MW rating).

Efficiency Smart recognizes St. Marys Business Complex with the Ambassador of Energy Efficiency Award

By Steven Nyeste - senior marketing project manager, Efficiency Smart

St. Marys Square Business Complex was presented with the Ambassador of Energy Efficiency Award on Feb. 18. The Grieshop family purchased St. Marys Business Complex in 2018. Soon after, Janice Grieshop worked with Efficiency Smart to upgrade parking lot lights, exterior wall pack lights and interior lightbulbs to LEDs. The company is expected to save 105,100 kilowatt-hours (kWh) of energy annually, \$9,700 annually, and \$142,700 over the lifetime of the installed lights.

Multiple tenants at St. Marys Business Complex have since worked with Efficiency Smart on energy efficiency upgrades of their own, including a large LED project at Celina Tent.



Pictured from left to right: Greg Foxhoven, director of public service safety, City of St. Marys; Janice Grieshop, vice president, St. Marys Business Complex, LLC; Mike Burkholder, manager of industrial and community development, City of St. Marys.

Security tip - Watch out for this clever new credit card phishing scam

By Jared Price - vice president of information technology and CTO

Look out! The bad guys are sending a new, attention-grabbing phishing email and they're targeting the customers of major credit card companies.

Here's how it works: The email appears to come from one of two well-known credit card companies, either American Express or Chase. The email includes a list of credit card transactions, and you're asked to confirm or deny whether the transactions are valid. If you click the "No, I do not recognize the transactions" link, you're brought to a fake login page that looks very similar to the credit card company's actual login page. Don't fall for this trick! If you submit your login details, your information is immediately sent to the scammers and your account and your identity will be at risk.



Remember the following to help protect yourself from these types of scams:

- Do not trust the links in an email that you weren't expecting.
- When you receive an email asking you to log in to an account or online service that you use, log in to your account through your browser - not through links in the email. This way, you can ensure you're logging into the real website and not a phony look-alike.
- Do not reuse passwords. If you use the same password for multiple accounts and one gets hacked, they're all at risk of being hacked.

FOCUS FORWARD 2020 WEBINAR SERIES

Register by clicking this schedule or contact Erin Miller, director of energy policy and sustainability at 614.540.1019 or by email at emiller@amppartners.org.



March 9, 2-3 p.m.

Communicating with Customers — social media and more

May 14, 2-3 p.m.

EVs for Your Fleet

July 21, 2-3 p.m.

Beyond Electrons — social engineering services for customers

September (during AMP/OMEA Annual Conference)

Rate Design — what do customers want and need

November 10, 2-3 p.m.

EV Rate Design and Managing Demand

The Focus Forward Advisory Council has identified these topics to help educate and inform AMP's members about emerging industry trends and to prepare for further integration of distributed energy resources.



THE ACADEMY
Webinars

AMERICAN PUBLIC
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2020

Register Now for Webinars

Register today at
www.PublicPower.org
under Education & Events.

Non-members can enter
coupon code **AMP** to
receive the member rate.



AMP TRAINING SERIES:

Register for these upcoming courses

Disaster Workshop

Prerequisite: None

Date: March 31

Class length: One day

Location: Quest Conference Center, 8405 Pulsar Place, Columbus

AMP Technical Services Conference

Date: April 1

Class length: One day

Location: Quest Conference Center, 8405 Pulsar Place, Columbus

Cost: \$120

Journeyman Refresher - Transformers

Prerequisite: Must be a lineworker for three years

Date: May 27-28

Class length: Two full days

Location: AMP Headquarters – Columbus

Size: Limited to 20

Cost: \$500

Lineworker Training Basic 1

Prerequisite: Completion of Groundworker training preferred

Date: June 1-5

Class length: Weeklong

Location: AMP Headquarters – Columbus

Size: Limited to 16

Cost: \$1,700

For a complete schedule and full details of the 2020 training courses, see the 2020 AMP Training Catalog at: www.amppartners.org/services/technical-services.

To register contact Jennifer Flockerzie, manager of technical services logistics, at 614.540.0853 or jflockerzie@amppartners.org



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 two positions

Water distribution equipment operator

Hourly position responsible for maintaining and repairing waterlines, valves, hydrants and service lines. Makes pressurized taps on mains; bores lines; installs, repairs and flushes hydrants; locates/lays waterlines; installs meters; repairs breaks; operates backhoes, dump trucks and other equipment; repairs black top and concrete; maintains vehicles/equipment; exercises valves; locates leaks. Work performed outdoors in wet environment and prevailing weather conditions. Job description provided. High school diploma or equivalent; Commercial Driver's License (Class A with Tanker Endorsement) required; forklift certification; Class I OEPA Water Certification required within two years of hire; one to three years of relevant experience. A copy of the job description will be provided to applicants. Interested persons must complete an application packet that is available either [online](#) or in the City of Bowling Green Personnel Department, 304 N. Church St, Bowling Green, OH 43402-2399. Resumes may be included but will not substitute for a completed application. Pay grade: \$21.43-@27.38 per hour. For more information, call the Personnel Department at 419.354.6200. Email address: BGPersonnel@bgohio.org. Fax: 419.352.1262. Deadline for making application is 4:30 p.m. Feb. 28, 2020. AA/EEO

Laborer

This position is responsible for minor maintenance of city buildings and surrounding properties. Cleans and sanitizes restrooms; empties trash receptacles; replenishes supplies; washes windows; mops floors; buffs floors; replaces burnt out light bulbs; rakes leaves; removes snow and ice from sidewalks; shoveling (working in trenches), mowing, weed eating, trimming, painting, utilities locates; performs various work tasks to provide assistance to other staff; and performs other related duties as assigned. Ability to operate electric floor buffer; knowledge of cleaning chemicals and proper dilutions for mixing them. Must maintain a valid Ohio Driver's License and have the ability to drive. High school diploma or equivalent; six months related experience. A copy of the job description will be provided to applicants. Interested persons must complete an application packet that is available either [online](#) or in the City of Bowling Green Personnel Department, 304 N. Church St, Bowling Green, OH 43402-2399. Resumes may be included but will not substitute for a completed application. Pay grade: \$17.46-\$22.28 per hour. For more information, call the Personnel Department at 419.354.6200. Email address: BGPersonnel@bgohio.org. Fax: 419.352.1262. Deadline for making application is 4:30 p.m. Feb. 25, 2020. AA/EEO

City of Orrville seeks applicants for water treatment plant assistant superintendent

The City of Orrville is seeking applicants for the position of water treatment plant assistant superintendent as part of succession planning. The current water superintendent will work with the successful candidate to transfer of knowledge of the city's Water Department with the intent of promoting the candidate to superintendent upon the incumbent's retirement.

Work involves planning, scheduling and directing the work of water plant operators in the efficient and economical operation of the water plant. Work includes preparation and/or review of reports and initiating or directing treatment process adjustments. Work involves planning, scheduling and directing the work of maintenance employees engaged in the construction and maintenance of the water plant's equipment, buildings and systems, distribution systems, facilities and all related property.

Must possess State of Ohio Class III Water Plant Operator License. Bachelor's degree from a college, university or technical school preferred, plus thorough experience in the operation of a municipal water plant or equivalent combination of education and experience required, including five to eight years of supervisory experience in a water treatment plant environment.

Find details at www.orrville.com or call 330.684.5047. Please forward resume and a copy of your Ohio Class III Water Plant Operator License to the City of Orrville's Human Resources Office, 207 N. Main, Orrville, Ohio 44667 or pmcfarren@orrville.com by March 2, 5 p.m. Pay is \$35.99-\$48.61, plus benefits. The City of Orrville will not consider for employment nor hire any individual who smokes or uses any form of tobacco products. EOE

City of Amherst seeks applicants for electric lineworker

The City of Amherst is seeking applicants for the position of electric lineworker. Duties include the operation, maintenance and routine construction of the electric distribution system.

Minimum qualifications include a high school diploma or equivalent, successful completion of journey lineworker apprenticeship program and four years of experience as apprentice lineworker, or an equivalent combination of education and experience which provides the skills and abilities necessary to perform the job. Valid State of Ohio Driver's License, valid Ohio Class A Commercial Driver's License and Journeyman Lineworker Certification required. Annual pay range is \$82,000-\$95,000 depending on qualifications.

For more information regarding an application and job description call Amherst City Hall at 440.988.4380 or request by email at mayor@amherstohio.org.

Village of Wellington seeks applicants for journeyman lineworker

The Village of Wellington is seeking applicants for the position of journeyman lineworker. Duties include the operation, maintenance and routine construction of the electric distribution system.

Minimum qualifications include a high school diploma or equivalent, successful completion of journey line worker apprenticeship program and four years of experience as apprentice lineworker, or an equivalent combination of education and experience which provides the skills and abilities necessary to perform the job. Valid State of Ohio Driver's License, valid Ohio Class A Commercial Driver's License and Journeyman Lineworker Certification required. Journeyman lineworker position pay range is \$21.24 to \$30.80.

Application and job description may be obtained online at www.villageofwellington.com or at the Village Town Hall, 115 Willard Memorial Square, third floor. Applications must be returned to Village of Wellington, Attn: Steve Dupee, Village Manager, 115 Willard Memorial Square, Wellington, OH 44090. Applications will be accepted for position until filled.

The Village of Wellington is an EEO/AA employer.

City of Oberlin seeks applicants for journeyman lineworker

The City of Oberlin is accepting applications for a journeyman lineman position in the Distribution Division of the Oberlin Municipal Light & Power System (OMLPS)/Electric Department. Duties include the operation, maintenance and routine construction of the electric distribution system.

Minimum Qualifications include a high school diploma or equivalent, successful completion of journey line worker apprenticeship program, and four years of experience as apprentice lineman, or an equivalent combination of education and experience which provides the skills and abilities necessary to perform the job. Valid State of Ohio Driver's License, valid Ohio Class A Commercial Driver's License and Journeyman Line Worker Certification required. Starting Hourly Rate is \$27.35-\$34.19/Hour, depending on qualifications.

Applications and full job description are available at www.cityofoberlin.com and at Oberlin City Hall (85 S. Main St., Oberlin, Ohio 44074). Applications may be returned via email to: hr@cityofoberlin.com Or mailed to: City of Oberlin Human Resources Department, 85 S. Main St., Oberlin, OH 44074.

City of Cleveland seeks applicants for electric transmission SCADA engineer

The City of Cleveland is seeking applicants for the position of electric transmission SCADA engineer. Under the direction of the superintendent of purchase power, maintains Cleveland Public Power's (CPP) supervisory control and data acquisition (SCADA) system and associated systems. Interfaces with CPP's SCADA maintenance contractor, maintains current system licenses, troubleshoots, as well as installs and integrates hardware and software updates and enhancements. Develops, designs, programs and troubleshoots applications specific to the CPP SCADA system and associated systems. Prepares and delivers related training materials for transmission operators. Troubleshoots and maintains local desktops and other peripheral equipment as well as remote SCADA equipment including remote terminal units and associated communications systems. Troubleshoots and maintains functionality relating to recording power flows in and out of the CPP system. Schedules wholesale power deliveries and communicates with PJM Interconnection, the regional transmission authority. Troubleshoots and maintains SCADA functions relating to trouble operations such as opening and closing circuits and

starting generators and other equipment. Performs other related duties as required. Salary: \$31,200-\$101,920 annually.

A high school diploma or GED is required. A bachelor's degree in engineering, information technology or computer science is required. Three years of full time paid experience designing, implementing, documenting and maintaining SCADA and control systems and components for electric power and distribution networks is required (Substitution: Two years of full time paid experience may substitute for each year of college education lacking). Must be knowledgeable and experienced in working with computer networks and their configurations, communications systems technology, data management and infrastructure security. Must have demonstrated experience troubleshooting and resolving issues on critical equipment. Must be able to be on call to assist in system emergency operations at all hours. A valid State of Ohio driver's license is required.

Town of Bedford seeks applicants for assistant right-of-way supervisor

The Town of Bedford is seeking applicants for the position of assistant right-of-way supervisor. Applicants must be experienced in trimming, climbing and working around electric hazards. Class A CDL required and the ability to operate a bucket truck, chain saws and other right-of-way clearing equipment. Ability to supervise right-of-way crew and promote on the job safety. Compensation based on experience and skill level. Salary up to \$45,760 annually with benefits package to include health insurance, retirement, life insurance and annual leave.

Applications are available online at www.bedfordva.gov. Submit a completed town application online or mail to: Human Resources, 215 E. Main St., Bedford, VA 24523. Applications will be accepted until the position is filled. Resumes alone are not accepted and must be sent in with application. EOE

Qualifications

Must have a Class A CDL (or obtain a CDL in first year of employment) and be experienced right-of-way trimmer.

Opportunities available at AMP

AMP is seeking applicants for the following positions:

Director of risk and internal controls

Hydro projects coordinator - Smithland, Ky.

Environmental services intern

American Municipal Power, Inc.

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