

**ORDINANCE NO. 026-14**

**AN ORDINANCE AMENDING RULES 6 AND 8 OF THE CITY OF  
NAPOLEON RULES FOR WATER AND SEWER SERVICE TO  
ADOPT A REVISED RULE REGARDING SEWER LATERAL  
RESPONSIBILITY**

**WHEREAS**, the Board of Public Affairs and the Water and Sewer Committee met in a regular meeting held on April 14, 2014, and reviewed proposed changes to the Water and Sewer Rules regarding the responsibility of sewer lateral repair and maintenance; and

**WHEREAS**, the Board of Public Affairs and the Water and Sewer Committee recommended that the maintenance of a sewer lateral, regardless of the location of the maintenance should be the responsibility of the customer and that any repair of a sewer lateral from the structure to the right of way is the responsibility of the customer, but any repair at or between the right of way and the main shall be the responsibility of the City;  
**Now Therefore,**

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

Rule 1 That, Rule 6 of the of the Codified Ordinances of the City of Napoleon, Ohio, shall be amended and enacted as follows:

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**"RULE 6 RESIDENTIAL SEWAGE SERVICE**

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***Rule 6.1 Availability Of Residential Sewage Service***

- (A) Residential service for sewage (also known as "residential sewer service") is available to persons having a premises that qualifies for "residential service". Such service shall be considered available to the premises when the premises is located within the corporate limits of the City and where public sanitary sewer lines are installed within two hundred (200') feet of a building or structure foundation wall that is to be served on the residential premises.
- (B) The sewer service line and tap shall be installed by property owner at property owner's expense and the complete installation shall conform to City's standards and inspection requirement. No sanitary sewer connections will be permitted until the tap charge, as prescribed by the City, has been paid in full to the City.

***Rule 6.2 Residential Rate***

- (A) The residential sewer rate is the charge as established by the City, and is amended from time to time, and is applicable for any sanitary sewage discharged to the City's wastewater treatment works by residential users as defined in these rules.
- (B) For rate classification purposes, sewage service will be classified the same as customer's water service; however, where sewage is discharged as provided for in provision (C) of this subsection, then

the rate shall be same as if the customer was utilizing the City's water service.

(C) Where sewage is discharged into the City's sewage system and water is obtained from a source other than from the City, property owner will be required to install, at property owner's own expense, suitable metering equipment, to be approved by the City that will accurately determine the amount of sewage being discharged into the City's system.

(D) ~~The total cost of maintenance for repair of existing or future sanitary service line shall be borne by the property owner. Property owner's responsibility shall be from the point in which the building is tapped from the City main to the terminus point.~~

***DETERMINATION OF RESPONSIBILITY OF SEWER LATERAL: IT IS THE OVERALL INTENT OF THIS RULE FOR THE CITY OF NAPOLEON TO ASSIST AND WORK WITH THE ~~customer~~ PROPERTY OWNER DURING THIS PROCESS IN A CUSTOMER FRIENDLY MANNER.***

1. ***ANY AND ALL MAINTENANCE OF THE CUSTOMER'S SEWER LATERAL IS THE RESPONSIBILITY OF THE ~~customer~~ PROPERTY OWNER, REGARDLESS OF THE LOCATION OF THE MAINTENANCE (FOR EXAMPLE, ANY MAINTENANCE SUCH AS CLEANING OUT ROOTS IS THE FULL RESPONSIBILITY OF THE ~~customer~~ PROPERTY OWNER, EVEN IF SAID ROOTS ARE IN THE SEWER LATERAL BETWEEN THE RIGHT OF WAY AND THE MAIN.)***
2. ***THE CITY WILL COMPENSATE THE ~~customer~~ PROPERTY OWNER IF THE UNDERTAKING IS A REPAIR, NOT MAINTENANCE, AND THE REPAIR IS LOCATED AT OR BETWEEN THE RIGHT OF WAY AND THE MAIN.***
3. ***IF A ~~customer~~ PROPERTY OWNER BELIEVES THERE IS AN ISSUE WITH THE OPERABILITY OF THE SEWER LATERAL, IT IS THE RESPONSIBILITY OF THE ~~customer~~ PROPERTY OWNER TO PROVE TO THE CITY THAT A REPAIR IS NECESSARY AND THAT SAID REPAIR IS AT OR BETWEEN THE RIGHT OF WAY AND THE MAIN.***
4. ***ONCE IT HAS BEEN ESTABLISHED, AND THE CITY ACKNOWLEDGES IN WRITING THAT A REPAIR IS NECESSARY AND THAT SAID REPAIR IS AT OR BETWEEN THE RIGHT OF WAY AND THE MAIN, THEN THE CUSTOMER HAS SEVERAL OF OPTIONS:***

- A. **THE CITY OR A CONTRACTOR ACTING ON THE CITY'S BEHALF MAY PERFORM THE REPAIRS.**
  - B. **THE ~~Customer~~ PROPERTY OWNER MAY HIRE A CONTRACTOR TO PERFORM THE REPAIR, SUBJECT TO THE PERMITS, INSPECTION, AND ADHERENCE TO THE CITY OF NAPOLEON'S RULES AND REGULATIONS, THE WATER AND SEWER RULES, AND ANY OTHER STATE OR FEDERAL RULES OR REGULATIONS.**
  - C. **(WITH THE CITY OF NAPOLEON'S ENGINEER'S EXPRESS WRITTEN APPROVAL) ~~Customer~~ PROPERTY OWNER MAY DO THE REPAIR THEMSELVES, IT IS THE RESPONSIBILITY OF THE ~~customer~~ PROPERTY OWNER TO MAKE SURE THAT THEY HAVE ALL OF THE PROPER PERMITS AND INSPECTIONS CONDUCTED FOR THE REPAIR. ALL REPAIRS MUST BE DONE ACCORDING TO THE CITY OF NAPOLEON'S RULES AND REGULATIONS, THE WATER AND SEWER RULES, AND ANY OTHER STATE OR FEDERAL RULES OR REGULATIONS.**
5. **THE CITY WILL ONLY COMPENSATE THE ~~customer~~ PROPERTY OWNER FOR ANY REPAIRS AT OR BETWEEN THE RIGHT OF WAY AND THE MAIN, IF IT IS LATER DISCOVERED THAT THE REPAIR WAS NOT AT OR BETWEEN THE RIGHT OF WAY AND THE MAIN THE CITY MAY BILL THE PROPERTY OWNER, AND THE ~~customer~~ PROPERTY OWNER WOULD BE LIABLE TO THE CITY, FOR ANY COMPENSATION OR WORK PERFORMED THAT WAS NOT IN THE PROPER AREA.**
6. **ONCE THE CITY ACKNOWLEDGES IN WRITING THAT THE REPAIR IS NECESSARY AND IS IN THE PROPER AREA FOR COMPENSATION, THE CITY HAS THE RIGHT TO PRIORITIZE PERFORMING SAID REPAIR, TAKING INTO CONSIDERATION SEVERAL FACTORS, INCLUDING BUT NOT LIMITED TO: TIME, AVAILABILITY OF RESOURCES, AVAILABILITY OF WORKERS, AVAILABILITY OF FUNDS, BUDGET CONSIDERATIONS, THE SEVERITY OF DAMAGE TO THE SEWER LATERAL IN COMPARISON TO OTHER DAMAGED SEWER**

**LATERALS, AND THE SEVERITY OF DAMAGE THAT COULD BE CAUSED BY THE DAMAGED SEWER LATER IN COMPARISON TO OTHER SEWER LATERALS IN NEED OF REPAIR. NOTHING IN THIS RULE CREATES A RIGHT OF THE ~~customer~~ PROPERTY OWNER TO DEMAND PERFORMANCE AND NOTHING IN THIS RULE OBLIGATES THE CITY TO UNDERTAKE THE REPAIR, OTHER THAN THE PRIORITIZING MENTIONED ABOVE.**

**7. FOR PURPOSES OF THIS RULE THE FOLLOWING DEFINITIONS APPLY:**

**A. MAINTENANCE: THE GENERAL MAINTENANCE AND UPKEEP OF A SEWER LATERAL IS MAINTENANCE AND SHALL INCLUDE, BUT NOT LIMITED TO, ITEMS SUCH AS AUGERING OR SNAKING OF THE LINE, CLEAN OUT OF ANY BLOCKAGES, AND ANY OTHER TREATMENT OF THE LINE THAT COULD BE DONE TO RESOLVE THE SITUATION SHORT OF REPLACEMENT OF ANY PIPE OR LINE.**

**B. REPAIR: DAMAGE THAT IS SO CATASTROPHIC THAT THE ONLY OPTION IS REPLACEMENT OF ANY SECTION OF THE PIPE OR LINE.**

**Rule 6.3 Direct Connection To Sanitary Sewer Required**

- (A) Where sewage is being discharged, and where sewage service is available to property owners, a direct connection shall be made to the sanitary sewer within ninety (90) days of the effective date of these Rules; and any septic tanks, cesspools and similar private wastewater disposal facilities are prohibited where sewage service is available (see *VIOLATION* section).
- (B) The owners of all houses, buildings, structures or properties used for human occupancy or other purposes, or other buildings which qualifies for residential rates, situated within the City and abutting on any street, alley, or right-of-way in which there is not located a public sanitary or combined sewer of the City, is hereby required at the owner's expense to install suitable toilet facilities therein, and to connect such facilities therein directly with the proper public sewer in accordance with the provisions of these Rules and other applicable law, within ninety (90) days after date of official notice to do so, provided that said public sewer is within two hundred (200') feet of the building or structure foundation wall that is to be served on the premises (see *VIOLATION* section)."

Section 2. That, Rule 8 of the Codified Ordinances of the City of Napoleon, Ohio, shall be amended and enacted as follows:

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**"RULE 8 NONRESIDENTIAL SEWAGE SERVICE**

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***Rule 8.1 Availability Of Nonresidential Sewage Service***

- (A) Nonresidential sewage service (also known as "commercial or industrial sewer service") is available to persons having a premises that qualifies for "commercial or industrial service". Such service shall be considered available to the premises when the premises is located within the corporate limits of the City and where public sanitary sewer lines are installed within two hundred (200') feet of a building or structure foundation wall that is to be served on the commercial or industrial (nonresidential) premises.
- (B) The sewer service line and tap shall be installed by property owner at property owner's expense and the complete installation shall conform to City's standards and inspection requirements. No sanitary sewer connections will be permitted until the tap charge and if applicable, the connection charge, both as prescribed by the City, has been paid in full in advance to the City.

***Rule 8.2 Commercial Or Industrial Rate***

- (A) The commercial or industrial rate is the charge applicable for sanitary processing of commercial and industrial and other waste resulting from use of water from the City's water system by commercial, industrial and all other classes of service not provided for in the residential rate as established by the City and as may be amended from time to time.
- (B) For rate classification purposes, sewage service will be classified the same as customer's water service; however, where sewage is discharged as provided for in provision (C) of this subsection, then the rate shall be same as if the customer was utilizing the City's water service.
- (C) Where sewage is discharged into the City's sewage system and water is obtained from a source other than from the City, property owner will be required to install, at property owner's own expense, suitable metering equipment, to be approved by the City that will accurately determine the amount of sewage being discharged into the City's system.

- (D) ~~The total cost of maintenance for repair of existing or future sanitary service line shall be borne by the property owner.~~

**DETERMINATION OF RESPONSIBILITY OF SEWER LATERAL: IT IS THE OVERALL INTENT OF THIS RULE FOR THE CITY OF NAPOLEON TO ASSIST AND WORK WITH THE ~~customer~~ PROPERTY OWNER DURING THIS PROCESS IN A CUSTOMER FRIENDLY MANNER.**

1. **ANY AND ALL MAINTENANCE OF THE ~~customer's~~ PROPERTY OWNER'S SEWER LATERAL IS THE RESPONSIBILITY OF THE ~~customer~~ PROPERTY OWNER, REGARDLESS OF THE LOCATION OF THE MAINTENANCE (FOR EXAMPLE, ANY MAINTENANCE SUCH AS CLEANING OUT ROOTS IS THE FULL RESPONSIBILITY OF THE ~~customer~~ PROPERTY OWNER, EVEN IF SAID ROOTS ARE IN THE SEWER LATERAL BETWEEN THE RIGHT OF WAY AND THE MAIN.)**
2. **THE CITY WILL COMPENSATE THE ~~customer~~ PROPERTY OWNER IF THE UNDERTAKING IS A REPAIR, NOT MAINTENANCE, AND THE REPAIR IS LOCATED AT OR BETWEEN THE RIGHT OF WAY AND THE MAIN.**
3. **IF A ~~customer~~ PROPERTY OWNER BELIEVES THERE IS AN ISSUE WITH THE OPERABILITY OF THE SEWER LATERAL, IT IS THE RESPONSIBILITY OF THE ~~customer~~ PROPERTY OWNER TO PROVE TO THE CITY THAT A REPAIR IS NECESSARY AND THAT SAID REPAIR IS AT OR BETWEEN THE RIGHT OF WAY AND THE MAIN.**
4. **ONCE IT HAS BEEN ESTABLISHED AND THE CITY ACKNOWLEDGES IN WRITING THAT A REPAIR IS NECESSARY AND THAT SAID REPAIR IS AT OR BETWEEN THE RIGHT OF WAY AND THE MAIN, THEN THE CUSTOMER HAS SEVERAL OF OPTIONS:**
  - A. **THE CITY OR A CONTRACTOR ACTING ON THE CITY'S BEHALF MAY DO THE REPAIRS.**
  - B. **THE ~~Customer~~ PROPERTY OWNER MAY HIRE A CONTRACTOR TO PERFORM THE REPAIR, SUBJECT TO THE PERMITS, INSPECTION, AND ADHERENCE TO THE CITY OF NAPOLEON'S RULES AND REGULATIONS, THE WATER AND SEWER RULES, AND ANY**

**OTHER STATE OR FEDERAL RULES OR REGULATIONS.**

- C. (WITH THE CITY OF NAPOLEON'S ENGINEER'S EXPRESS WRITTEN APPROVAL) ~~Customer~~ PROPERTY OWNER MAY PERFORM THE REPAIR THEMSELVES. IT IS THE RESPONSIBILITY OF THE ~~customer~~ PROPERTY OWNER TO MAKE SURE THAT THEY HAVE ALL OF THE PROPER PERMITS AND INSPECTIONS CONDUCTED FOR THE REPAIR. ALL REPAIRS MUST BE DONE ACCORDING TO THE CITY OF NAPOLEON RULES AND REGULATIONS, THE WATER AND SEWER RULES, AND ANY OTHER STATE OR FEDERAL RULES OR REGULATIONS.**
- 5. THE CITY WILL ONLY COMPENSATE THE ~~customer~~ PROPERTY OWNER FOR ANY REPAIRS AT OR BETWEEN THE RIGHT OF WAY AND THE MAIN, IF IT IS LATER DISCOVERED THAT THE REPAIR WAS NOT AT OR BETWEEN THE RIGHT OF WAY AND THE MAIN THE CITY MAY BILL, AND THE ~~customer~~ PROPERTY OWNER WOULD BE LIABLE TO THE CITY, FOR ANY COMPENSATION OR WORK PERFORMED THAT WAS NOT IN THE PROPER AREA.**
- 6. ONCE THE CITY ACKNOWLEDGES IN WRITING THAT THE REPAIR IS NECESSARY AND IS IN THE PROPER AREA FOR COMPENSATION, THE CITY HAS THE RIGHT TO PRIORITIZE PERFORMING SAID REPAIR TAKING INTO CONSIDERATION SEVERAL FACTORS, INCLUDING BUT NOT LIMITED TO: TIME, AVAILABILITY OF RESOURCES, AVAILABILITY OF WORKERS, AVAILABILITY OF FUNDS, BUDGET CONSIDERATIONS, THE SEVERITY OF DAMAGE TO THE SEWER LATERAL IN COMPARISON TO OTHER DAMAGED SEWER LATERALS, AND THE SEVERITY OF DAMAGE THAT COULD BE CAUSED BY THE DAMAGED SEWER LATER IN COMPARISON TO OTHER SEWER LATERALS IN NEED OF REPAIR. NOTHING IN THIS RULE CREATES A RIGHT OF THE ~~customer~~ PROPERTY OWNER TO DEMAND PERFORMANCE AND NOTHING IN THIS RULE OBLIGATES THE CITY TO UNDERTAKE THE REPAIR, OTHER THAN THE PRIORITIZING MENTIONED ABOVE.**

**7. FOR PURPOSES OF THIS RULE THE FOLLOWING DEFINITIONS APPLY:**

- A. MAINTENANCE: THE GENERAL MAINTENANCE AND UPKEEP OF A SEWER LATERAL IS MAINTENANCE AND SHALL INCLUDE, BUT NOT LIMITED TO, ITEMS SUCH AS AUGERING OR SNAKING OF THE LINE, CLEAN OUT OF ANY BLOCKAGES, AND ANY OTHER TREATMENT OF THE LINE THAT COULD BE DONE TO RESOLVE THE SITUATION SHORT OF REPLACEMENT OF ANY PIPE OR LINE.**
- B. REPAIR: DAMAGE THAT IS SO CATASTROPHIC THAT THE ONLY OPTION IS REPLACEMENT OF ANY SECTION OF THE PIPE OR LINE.**

**Rule 8.3 Direct Connection To Sanitary Sewer Required**

- (A) Where sewage is being discharged and where sewage service is available to property owners, a direct connection shall be made to the sanitary sewer within ninety (90) days of the effective date of these Rules; and any septic tanks, cesspools and similar private wastewater disposal facilities are prohibited where sewage service is available (see *VIOLATION* section).
- (B) The owners of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, or other buildings which qualify for commercial or industrial rates, situated within the City and abutting on any street, alley, or right-of-way in which there is not located a public sanitary or combined sewer of the City, is hereby required at the owner's expense to install suitable toilet facilities therein, and to connect such facilities therein directly with the proper public sewer in accordance with the provisions of these Rules and other applicable law, within ninety (90) days after date of official notice to do so, provided that said public sewer is within two hundred (200') feet of a building or structure foundation wall that is to be served on the premises (see *VIOLATION* section).

**Rule 8.4 Multiple Establishments**

Shall be applied in the same manner stated in Rule 3.3 (nonresidential water service/multiple establishments).

**Rule 8.5 City Measures**

- (A) If at any time within a twenty-four (24) hour period sewage flow from a premises is greater than 2% of the total twenty-four (24) hour sewage flow to City's treatment plant, the City may require the owner of the premises involved to install such storage, pumping facilities and other appurtenances as are required to control the



quantity and rate of discharge of the sewage flow involved so as to not interfere with the normal operation of the City's treatment plant.

- (B) All measurements, tests, and analysis of the characteristics of waters and wastes to which reference is herein made shall be determined in accordance with "standard methods for the examination of waters and wastes" and shall be determined at the control manhole previously specified. In the event that no special manhole has been required, then the control manhole shall be considered to be the nearest down stream manhole in the City's sewage system to the point at which the building sewer is connected.
- (C) If necessary, in the opinion of the City, the individual, firm or others discharging any waste of the prohibitive character into the City's sewage system shall provide, at their own expense (individual, firm, or others discharging the waste), such preliminary treatment as may be necessary to stop or reduce within the acceptable limits, the objectionable characteristics or constituents. The plans, specifications and other pertinent information pertaining to such proposed preliminary treatment shall be submitted to the City for written approval in advance of any construction work.
- (D) When commercial or industrial waste exceed 250 mg/l of suspended solids and/or 200 mg/l of CBOD5 by weight, excess strength surcharges will be levied as outlined in the City rules or legislation."

Section 3. That, Rule 6 and Rule 8 of the City of Napoleon Rules for Water and Sewer Service as they existed prior to the enactment of this Ordinance are hereby repealed.


Section 4. That any changes needed to pages, page numbers, or appendixes are hereby approved to accommodate for the above amendment.

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

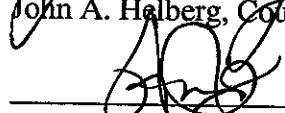
Section 6. That, if any other prior Ordinance or Resolution is found to be in conflict with this Ordinance, then the provisions of this Ordinance shall prevail. Further, if any portion of this Ordinance is found to be invalid for any reason, such decision shall not affect the validity of the remaining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

Section 7. That, this Ordinance shall be in full force and effect at the earliest time permitted by law.

Passed: May 19, 2014

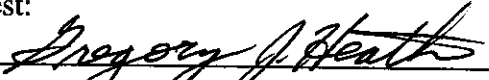
  
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John A. Halberg, Council President

Approved: May 19, 2014

  
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Ronald R. Behm, Mayor

VOTE ON PASSAGE 6 Yea 0 Nay 0 Abstain

Attest:



Gregory J. Heath, Clerk/Finance Director

I, Gregory J. Heath, Clerk/Finance Director of the City of Napoleon, do hereby certify that the foregoing Ordinance No. 026-14 was duly published in the Northwest Signal, a newspaper of general circulation in said City, on the 4<sup>th</sup> day of July, 2014; & I further certify the compliance with rules established in Chapter 103 of the Codified Ordinances Of Napoleon Ohio and the laws of the State of Ohio pertaining to Public Meetings.

  
Gregory J. Heath, Clerk/Finance Director