

ORDINANCE NO. 030-17

AN ORDINANCE AMENDING SECTION 1145.01, TABLE OF PERMISSIBLE USES, IN CHAPTER 11 OF THE PLANNING & ZONING SECTION OF THE CITY OF NAPOLEON'S CODIFIED ORDINANCES; AND DECLARING AN EMERGENCY

WHEREAS, City Council reviewed the City's Planning and Zoning Code in an effort to keep up to date with the current trends of development; and,

WHEREAS, upon recommendation of the Municipal Properties, Buildings, Land Use & Economic Development Committee, this Council deems prudent to *amend the Planning and Zoning Code*, to wit: Section 1145.01 (Table of Permissible Uses); **Now Therefore**,

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

Section 1. That, in accordance with Section 1145.01 Table of Permissible Uses in the "Agricultural" table under the "Commercial" heading, the "C-4" column; changing the "Farm Markets & Stands", "Plant Cultivation", and "Specialized Animal Raising" rows to the letter "C," this change indicating that the use may be permissible with a conditional use permit in the indicated zone as may be issued by the Zoning Administrator upon approval by the Council after Planning Commission review; as listed in Exhibit A.

Section 2. That, the City of Napoleon Planning Commission considered the following criteria in making its decision:

- a. The present zoning classification of the general property of the area in question is currently zoned C-4 Planned Commercial; and,
- b. The existing use of the property within the general area in question; and,
- c. The suitability of the property in question to the uses permitted under the existing zoning classification; and,
- d. The trend of development, if any, in the general area of the property in question, including changes, if any, which have taken place in its present zoning classification; and,
- e. Changed or changing conditions in the applicable area, or in the City, generally that make the proposed zoning or amendment thereto reasonably necessary to the promotion of the public health, safety, or general welfare.

Section 3. That, the City of Napoleon Planning Commission recommended approval of rezoning and the adoption of the proposed amendment and/or rezoning of the property to reflect a zoning for the area as described in Section 1 of Planning Commission Resolution No. 17-02 to a classification of C-4 (Planned Commercial), such adoption being in the public interest and not solely for the interest of the petitioner.

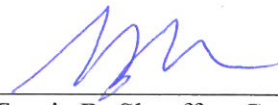
Section 4. That, it is recommended that the official zone map shall be amended to reflect the changes in zoning as recommended in Section 3 of the City of Napoleon Planning Commission Resolution No. 17-02.

Section 5. That, City of Napoleon Planning Commission Resolution No. 17-02 along with the minutes from the PC 17-02 meeting shall serve as a report from this Commission.


Section 6. That, it is found and determined that all formal actions of this Commission concerning and relating to the adoption of this Resolution were adopted in open meetings of this Commission, and that all deliberations of this Commission and any of its committees that resulted in such formal actions were in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code and the Codified Ordinances of Napoleon Ohio.

Section 7. That, this Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health or safety of the City and its inhabitants, and for the further reason that this legislation must be in effect at the earliest possible time to allow for effective legal services to be rendered to the City, including those legal services 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.

Passed: May 1, 2017



Travis B. Sheaffer, Council President

Approved: May 1, 2017

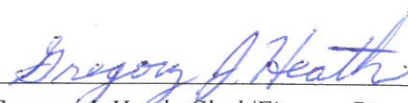

Jason P. Maassel, Mayor

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. 030-17 was duly published in the Northwest Signal, a newspaper of general circulation in said City, on the 8th day of May, 2017; & 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

PC 17-02

Exhibit A

CHAPTER 1145 Table of Permissible Uses

1145.01 Table of Permissible Uses.

CROSS REFERENCES
Uses defined- see P. & Z. Ch. 1101

1145.01 TABLE OF PERMISSIBLE USES.

The Table of Permissible Uses should be read in close conjunction with the definitions of terms set forth in Definitions of Basic Terms and the other interpretive provisions set forth in this Planning and Zoning Code.

- (a) Use of the Designation "P" and "C" in Table of Permissible Uses. When used in connection with a particular use in the Table of Permissible Uses, the letter "P" means that the use is permissible in the indicated zone with a zoning permit issued by the Zoning Administrator. When the letter "P" is nonexistent in the Table, then it shall be deemed a non-permissible use unless a special use or conditional use permit is approved in accordance with this Zoning Code.
In the zone district. When used in connection with a particular use in the Table of Permissible Uses, the letter "C" means that the use may be permissible with a conditional use permit in the indicated zone as may be issued by the Zoning Administrator upon approval by the Council after Planning Commission review.
- (b) Jurisdiction Over Uses Otherwise Permissible with a Zoning Permit.
Notwithstanding any other provisions of this Planning and Zoning Code, whenever the Table of Permissible Uses (interpreted in light of subsection (a) hereof and the other provisions of this Planning and Zoning Code) provides that a use is permissible with a zoning permit, and/or a conditional use permit, as applicable, shall nevertheless be required if the Zoning Administrator finds that the proposed use would have an extraordinary impact on neighboring properties or the general public. In making this determination, the Zoning Administrator shall consider, among other factors, whether the use constitutes a change from one principal use classification to another, whether the use is proposed for a site that poses peculiar traffic or other hazards or difficulties, and whether the proposed use is substantially unique or is likely to have impacts that differ substantially from those presented by other uses that are permissible in the zoning district in question.
- (c) Permissible Uses and Specific Exclusions.
 - (1) The presumption established by this Planning and Zoning Code is that all legitimate uses of land, except those uses which, if allowed, would not serve to promote public health, safety, convenience, comfort, prosperity or general welfare, are permissible within at least one zoning district in the City's planning jurisdiction. Therefore, because the list of permissible uses set forth in (Table of Permissible Uses) cannot be all inclusive, those uses that are listed shall be interpreted liberally to include other uses that have similar impacts to the listed uses, subject to the issuance of a conditional use permit.
 - (2) The "Table of Permissible Uses" shall not be interpreted to allow a use in one zoning district when the use in question is more closely related to

- another specified use that is permissible in other zoning districts.
- (3) Without limiting the generality of the foregoing provisions, the following uses (a) through (d) are specifically prohibited in all districts:
- A. Any use that involves the manufacture, handling, sale, distribution, or storage of any highly combustible or explosive materials in violation of the City's Fire Prevention Code.
 - B. Stockyards, slaughterhouses, and rendering plants.
 - C. Use of a travel trailer as a temporary or permanent dwelling.
 - D. Use of a motor vehicle parked on a lot as a structure in which, out of which, or from which any goods are sold or stored, any services are performed, or other business is conducted.
- (d) Accessory Uses.
- (1)) The Table of Permissible Uses classifies different principal uses according to their different impacts.
 - (2) Accessory use, or accessory: an "accessory use" is a use that is clearly incidental to, customarily found in connection with, and (except in case of accessory off-street parking spaces or loading) located on the same zoning lot as the principal use to which it is related. When "accessory" is used in the text, it shall have the same meaning as "accessory use". An "accessory use" includes, but is not limited to, the following:
 - A. Swimming pools for use of occupants of a residence or their guests.
 - B. Domestic or agricultural storage in a barn, shed, tool room, or similar accessory building or other structure.
 - C. Home occupations when carried on by the owner-resident of the dwelling when no physical or visual affects are observed beyond the walls of the dwelling.
 - D. Storage of merchandise normally carried in stock in connection with a business or industrial use, unless such storage is excluded in the applicable district regulations.
 - E. Storage of goods used in or produced by industrial uses or related activities, unless such storage is excluded in the applicable district regulations.
 - F. Accessory off-street parking regulations for the district in which the zoning lot is located.
 - G. Accessory signs, subject to the sign regulations for the district in which the zoning lot is located.
 - H. Satellite antenna or microwave receiving antenna, following all regulations set forth in Section 1127.20.
 - (4) The following activities shall not be regarded as accessory to a residential principal use and are prohibited in residential districts.
 - A. Storage outside of a substantially enclosed structure of any motor vehicle that is unlicensed and not operational.
 - B. Parking outside a substantially enclosed structure of more than four motor vehicles between the front building line of the principal building and the street on any lot used for purposes that fall within the permitted use in a residential district.
- (e) Permissible Uses Not Requiring Zoning Permits. Notwithstanding any other provisions of this Planning and Zoning Code, no zoning, or conditional-use permit is necessary for the following uses:
- (1) Streets.
 - (2) Electric power, telephone, telegraph, fiber optic cable, cable television, gas, water, and sewer lines, wires or pipes, together with supporting poles or structures, located within a public right-of-way, except that a use of right-of-way permit may be required by the City.
 - (3) Neighborhood utility facilities located within a public right-of-way with the permission of the owner or controller (state or city) of the right-of-way.
- (f) Change in Use.

- (1) A substantial change in use of property occurs whenever the essential character or nature of the activity conducted on a lot changes. This occurs whenever:
 - A. The change involves a change from one principal use category to another; or
 - B. If the original use is a Combination Use or Planned Development, the relative proportion of space devoted to the individual principal use that comprises the Combination Use or Planned Development Use changes to such an extent that the parking requirements for the overall use are altered; or
 - C. If the original use is a Combination Use or Planned Development Use, the mixture of types of individual principal uses that comprise the Combination Use or Planned Development Use changes; or
 - D. If the original use is a Planned Residential Development, the relative proportions of different types of dwelling units change; or
 - E. If there is only one business or enterprise conducted on the lot (regardless of whether that business or enterprise consists of one individual principal use or a Combination Use), that business or enterprise moves out and a different type of enterprise moves in (even though the new business or enterprise may be classified under the same principal use or Combination Use category as the previous type of business). For illustration purposes only, if there is only one building on a lot and a florist shop that is the sole tenant of the building moves out and is replaced by a clothing store, which constitutes a change in use even though both tenants fall within a permitted principal Use. However, if the florist shop were replaced by another florist shop, that would not constitute a change in use since the type of business or enterprise would not have changed. Moreover, if the florist shop moved out of a rented space in a shopping center and was replaced by a clothing store, that would not constitute a change in use since there is more than one business on the lot and the essential character of the activity conducted on that lot (shopping center, Combination Use) has not changed.
 - (2) A mere change in the status of property from unoccupied to occupied or vice versa does not constitute a change in use. Whether a change in use occurs shall be determined by comparing the two active uses of the property without regard to any intervening period during which the property may have been unoccupied, unless the property has remained unoccupied for more than 181 consecutive days or has been abandoned.
- (g) Combination Uses.
- (1) When a Combination Use comprises two or more principal uses that require different types of permits, then the permit authorizing the Combination Use shall be a conditional use permit along with a zoning permit.
 - (2) When a Combination Use consists of a single-family detached residential subdivision that is not architecturally integrated and two-family or multi-family uses, the total density permissible on the entire tract shall be determined by having the developer indicate on the plans the portion of the total lot that will be developed for each purpose and calculating the density for each portion as if it were a separate lot.
 - (3) When a Combination Use consists of a single-family detached, architecturally integrated subdivision two-family or multi-family uses, then the total density permissible on the entire tract shall be determined by dividing the area of the tract by the minimum square footage per dwelling unit specified therein.
- (h) More Specific Use Controls. Whenever a development could fall within more than one use classification in the Table of Permissible Uses, the use classification that most closely and most specifically describes the development controls.

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

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

	RESIDENTIAL				COMMERCIAL					INDUSTRIAL	
COMMERCIAL:	R-1	R-2	R-3	R-4	C-1	C-2	C-3	C-4	C-5	I-1	I-2
AGRICULTURE, CONSTRUCTION , SEMI- TRUCK SALES/SERVICE									p	p	p
ANIMAL HOSPITAL/VETERINARY CLINIC							p	p			
AUTOMOTIVE OIL & LUBE SERVICE FACILITIES								p	p	C	
AUTOMOTIVE SALES OR LEASE FOR NEW & USED VEHICLES- OUTDOORS								p	p		C
AUTO REPAIR									p	C	
AUTO WASH							C	C	p		
COMMERCIAL RECREATIONAL FACILITIES								p	p		
COMMERCIAL SCHOOL							p	p	p		
BANKS					p		p	p	p		
COMMERCIAL SEMI- TRUCK SALES/SERVICE									C	p	p

	RESIDENTIAL				COMMERCIAL					INDUSTRIAL	
COMMERCIAL:	R-1	R-2	R-3	R-4	C-1	C-2	C-3	C-4	C-5	I-1	J-2
ENTERTAINMENT AND SPECTATOR SPORT FACILITIES								P	P	C	C
GROCERY STORES								P	P		
MESSAGE/RELAXATION ESTABLISHMENT									C	P	
MOTEL & HOTEL								P	P	C	
NEIGHBORHOOD BUSINESS LESS THAN 10,000 SQ. FT.					P		P	P	P		
PERSONAL SERVICES					P		P	P	P		
OFFICE					P		P	P	P		
PRINTING					P		P	P	P		
RECREATIONAL VEHICLE/EQUIPMENT OUTDOOR SALES								C	P	C	P
RESTAURANT CARRY-OUT ONLY					P		C	P	P		
RESTAURANT DRIVE-IN								P	P	C	
RESTAURANT FAST FOOD					P		C	P	P	C	

	RESIDENTIAL				COMMERCIAL					INDUSTRIAL	
COMMERCIAL:	R-1	R-2	R-3	R-4	C-1	C-2	C-3	C-4	C-5	I-1	J-2
RESTAURANT OUTDOOR CAFE					P			P	P		
RESTAURANT FULL SERVICE					P			P	P	C	
RETAIL BUSINESS: LESS THAN 60,000 GSF					P		P	P	P		
RETAIL BUSINESS MORE THAN 60,000 GSF								P	P		
SALE & STORAGE OF BUILDING MATERIALS										P	P
SELF-SERVICE STORAGE									P	P	P
SERVICE STATION					P			P	P		
SEXUALLY ORIENTED BUSINESS						C					
SHOPPING CENTER					C			P	P		
HOSPITALITY FACILITIES								P	P		
ROOMING HOUSE	C	C	C	C	C						

	RESIDENTIAL				COMMERCIAL					INDUSTRIAL	
COMMERCIAL:	R-1	R-2	R-3	R-4	C-1	C-2	C-3	C-4	C-5	I-1	I-2
CEMETERY			C	C			C				
REPAIR SERVICES, CONSUMER					P		P	P	P		
NURSERY/GREENHOUSE									P	C	C

	RESIDENTIAL				COMMERCIAL					INDUSTRIAL	
INDUSTRIAL:	R-1	R-2	R-3	R-4	C-1	C-2	C-3	C-4	C-5	I-1	I-2
ARTIFICIAL LAKE, POND, OR RESERVOIR	C	C	C	C	C	C	C	C	C	C	C
AUTO & METAL SALVAGE, JUNK YARDS										p	C
BORROW PITS	C	C	C	C	C	C	C	C	C	C	C
FOOD PROCESSING									C	p	p
EXCAVATION, SAND, GRAVEL, CLAY, STONE & TOPSOIL FACILITIES										C	C
LABORATORIES										p	p
MANUFACTURING, SALE/STORAGE BUILDING MATERIALS									C	p	p
MANUFACTURING- GENERAL										C	p
MANUFACTURING: LIGHT										p	p
OIL & GAS WELLS										C	p
OUTSIDE STORAGE											p

	RESIDENTIAL				COMMERCIAL					INDUSTRIAL	
INDUSTRIAL:	R-1	R-2	R-3	R-4	C-1	C-2	C-3	C-4	C-5	I-1	I-2
PUBLISHING										p	p
TRANSPORT & TRUCKING										C	p
WAREHOUSING										p	p
WHOLESALE BUSINESS									C	p	p
WIND GENERATOR (TURBINE)	C	C	C	C						C	p
PLANNED APARTMENT DEVELOPMENT			C	C				C			
PLANNED COMMERCIAL DEVELOPMENT							C	C	C		
PLANNED CLUSTER DEVELOPMENT			C	C				C			
PLANNED RESIDENTIAL DEVELOPMENT			C	C							

	RESIDENTIAL				COMMERCIAL					INDUSTRIAL	
INSTITUTIONAL:	R-1	R-2	R-3	R-4	C-1	C-2	C-3	C-4	C-5	I-1	I-2
Cemetery	C	C	C	C	C		C	C	C	C	C
Child Day Care Centers				C	P		P	P	P		
Clubs, Lodges, Fraternal and Civic Assembly				C	P		P	P	P		
Convalescent and Nursing Homes				C	P		P	P	P		
Essential Service	P	P	P	P	P		P	P	P	P	P
Hospital					P		P	P	P		
Institutional Use			C	C	P		P	P	P	P	
Mortuaries and Funeral Homes			C	C	P		P	P	P		
Public and Private Schools			C	C	P		P	P	P		
Public Service Facilities	P	P	P	P	P		P	P	P	P	P
Wireless Telecommunication Facilities										C	C

STATE OF OHIO
COUNTY OF HENRY

Kimberly Imm, being first duly sworn, states that she is the Assistant Publisher of The Bryan Publishing Company, owner of The Northwest Signal, a daily newspaper, published and of general circulation in the county of Henry aforesaid, and that the annexed notice was published in one issue in said paper, on the 8th day of May 2017.

Kimberly Imm
Kimberly Imm

Subscribed and sworn to before me this
8th day of May, 2017

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

Printer's Fee: \$255.30
Notary Fee: \$1.50

LEGAL NOTICE

Summary of Ordinance No. (a) 024-17, 025-17, 026-17, 027-17, 028-17, 029-17, 030-17

(PURSUANT TO ARTICLE II, SECTION 2.15 OF THE CITY CHARTER, CHAPTER 121 OF THE CODE OF ORDINANCES AND COUNCIL RULE 2.2, AS WELL AS APPLICABLE PROVISIONS OF ORC CHAPTER 731)

NOTICE

A copy of the complete text of the above named Ordinance(s) and Resolution(s) are on file in the office of the City Finance Director and may be viewed or obtained during business hours of 7:30 AM to 4:00 PM, Monday through Friday, at the office of the Finance Director, the location being 255 West Riverview Avenue, Napoleon, Ohio. A copy of all or part of the above named Ordinances and Resolutions, or any item mentioned in this notice, may be obtained from the City Finance Director upon the payment of a reasonable fee therefore.

Ordinance 024-17

AN ORDINANCE APPROVING THE RENEWAL OF AGRICULTURAL DISTRICT(S) LOCATED IN THE CITY OF NAPOLEON, OHIO AS APPLIED FOR BY LANKENAU PROPERTIES II, LTD.; AND DECLARING AN EMERGENCY

In this legislation, the City of Napoleon authorized the renewal of an Agricultural District as applied for by Lankenau Properties II, LTD.

Ordinance 025-17

AN ORDINANCE APPROVING THE RENEWAL OF AGRICULTURAL DISTRICT(S) LOCATED IN THE CITY OF NAPOLEON, OHIO AS APPLIED FOR BY KENNETH W. VORWERK, ET AL.; AND DECLARING AN EMERGENCY

In this legislation, the City of Napoleon authorized the renewal of an Agricultural District as applied for by Kenneth W. Vorwerk, et al.

Ordinance 026-17

AN ORDINANCE APPROVING THE RENEWAL OF AGRICULTURAL DISTRICT(S) LOCATED IN THE CITY OF NAPOLEON, OHIO AS APPLIED FOR BY ROCKY, LLC.; AND DECLARING AN EMERGENCY

In this legislation, the City of Napoleon authorized the renewal of an Agricultural District as applied for by Rocky, LLC.

Ordinance 027-17

AN ORDINANCE APPROVING THE RENEWAL OF AGRICULTURAL DISTRICT(S) LOCATED IN THE CITY OF NAPOLEON, OHIO AS APPLIED FOR BY KEVIN M. HOMAN, ET AL.; AND DECLARING AN EMERGENCY

In this legislation, the City of Napoleon authorized the renewal of an Agricultural District as applied for by Kevin M. Homan, et al.

Ordinance 028-17

AN ORDINANCE APPROVING THE RENEWAL OF AGRICULTURAL DISTRICT(S) LOCATED IN THE CITY OF NAPOLEON, OHIO AS APPLIED FOR BY JAMES F. HOMAN, ET AL.; AND DECLARING AN EMERGENCY

In this legislation, the City of Napoleon authorized the renewal of an Agricultural District as applied for by James F. Homan, et al.

Ordinance 029-17

AN ORDINANCE APPROVING THE RENEWAL OF AGRICULTURAL DISTRICT(S) LOCATED IN THE CITY OF NAPOLEON, OHIO AS APPLIED FOR BY ED HOFFEL, ET AL.; AND DECLARING AN EMERGENCY

In this legislation, the City of Napoleon authorized the renewal of an Agricultural District as applied for by Ed Hoefel, et al.

Ordinance 030-17

AN ORDINANCE AMENDING SECTION 1145.01, TABLE OF PERMISSIBLE USES, IN CHAPTER 11 OF THE PLANNING AND ZONING SECTION OF THE CITY OF NAPOLEON'S CODIFIED ORDINANCES; AND DECLARING AN EMERGENCY