

**ORDINANCE NO. 078-19**

**AN ORDINANCE AMENDING A CERTAIN SECTION OF CHAPTER 375 OF THE CITY OF NAPOLEON, OHIO CODIFIED ORDINANCES , SPECIFICALLY SECTION 375.03(E), AND REPEALING CERTAIN SECTIONS OF CHAPTER 505 AND CHAPTER 549 OF THE CITY OF NAPOLEON, OHIO CODIFIED ORDINANCES, SPECIFICALLY SECTIONS 505.11, 505.15, 549.08, AND 549.09, RELATING TO THE OWNERSHIP, POSSESSION, PURCHASE, OTHER ACQUISITION, TRANSPORT, STORAGE, CARRYING, SALE, OTHER TRANSFER, MANUFACTURE, TAXATION, KEEPING, AND REPORTING OF LOSS OR THEFT OF FIREARMS, THEIR COMPONENTS, AND THEIR AMMUNITION; AND DECLARING AN EMERGENCY**

**WHEREAS**, the Ohio General Assembly has enacted Ohio Revised Code (ORC) §9.68, which becomes effective on December 28, 2019, and which on its face removes from Ohio municipalities the right to enact and enforce laws relating to the ownership, possession, purchase, other acquisition, transport, storage, carrying, sale, other transfer, manufacture, taxation, keeping, and reporting of loss or theft of firearms, their components, and their ammunition, and,

**WHEREAS**, if ordinances currently a part of the City of Napoleon Codified Ordinances relating to the above are not removed by the referenced effective date, a private cause of action is created through which the City may be liable for damages, attorney fees, and other costs, and,

**WHEREAS**, City Council recognizes that the City of Napoleon has home rule authority under the Ohio Constitution, but also that no Court has yet ruled on the constitutionality of ORC §9.68 and the City needs to protect itself against liability, and,

**WHEREAS**, as a result, the City is in need of amending and repealing certain ordinances to place it in compliance with the above referenced law; **Now Therefore**,

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

Section 1. That, Section 375.03 of the City of Napoleon Codified Ordinances is hereby amended, expressly repealing section (e), and section (e) shall hereafter have no legal force and effect.

**“375.03 CODE APPLICATION; PROHIBITED OPERATION.**

The applicable provisions of this Traffic Code shall be applied to the operation of snowmobiles, off-highway motorcycles, and all purpose vehicles; except that no snowmobile, off-highway motorcycle, or all purpose vehicle shall be operated as follows:

- (a) On any street or highway except for emergency travel only during such time and in such manner as the City shall designate;
- (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) While transporting any firearm, bow or other implement for hunting, that is not unloaded and securely encased;~~

- (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.)”

Section 2. That, Section 505.11 of the City of Napoleon Codified Ordinances is hereby expressly repealed in its entirety and shall hereafter have no legal force and effect.

**~~“505.11 HUNTING PROHIBITED.~~**

~~—(a) Except as provided herein and in Section 505.15, no person shall hunt, kill, or attempt to kill any animal or fowl by use of firearms, bow and arrow, or crossbow within the corporate limits of the Municipality; however, it shall not be a violation of this section to trap animals which are a threat to person or property (nuisance animals) so long as such trap is a device that does not create a dangerous condition to the public. This section is not applicable to a law enforcement officer, game warden, dog warden, or other public official or officer while in the performance of their official duties. Also, this section is not applicable to persons holding a valid nuisance trapper’s permit issued by the State of Ohio when such person is registered with the Chief of Police and when taking or exterminating nuisance animals in a lawful manner.~~

~~—(b) Whoever violates this section shall be deemed guilty of a misdemeanor of the fourth degree punishable by up to thirty days of incarceration and fined not more than two hundred fifty dollars (\$250.00) or both. (Ord. 073-08. Passed 10-6-08.)”~~

Section 3. That, Section 505.15 of the City of Napoleon Codified Ordinances is hereby expressly repealed in its entirety and shall hereafter have no legal force and effect.

**~~“505.15 HUNTING OF CANADA GEESE.~~**

~~—(a) Notwithstanding the provisions of Sections 505.11, 531.03, 531.04, 549.08 and 549.09, Canada Geese may be hunted and removed within the Corporation Limits of the City in the year of 1999 and each year thereafter when properly licensed by the State, by any lawful means, subject to any and all restrictions imposed by the laws of Ohio, the U.S. Government, Rules and Regulations of the Ohio Department of Wildlife, and this section during the Canada Geese Hunting Season in September as established by the State, subject to approval by motion of Council each year.~~

~~—(b) The City Manager may engage the personnel required to accomplish the abatement of the nuisance fowl upon the public and private grounds, including but not limited to performing actions to force Canada Geese from non-hunted areas to the areas where hunting will be authorized beginning the week before the authorized hunt.~~

~~—(c) The City Manager may authorize the hunting or taking of Canada Geese upon public grounds within the City’s control during this special hunting season.~~

~~—(d) The hunting of Canada Geese will be allowed subject to the following restrictions:~~

~~—(1) Hunting is permitted only on land upon which the hunter has received the landowner’s permission to hunt and with consent of the City Manager.~~

~~—(2) The discharge of the hunting weapon shall not occur in the direction of an occupied structure within 400 yards of such discharge.~~

~~—(3) The hunters of Canada Geese within City limits must have liability insurance in the amount of not less than one hundred thousand dollars (\$100,000).~~

~~—(4) The maximum number of hunters shall not be more than fifteen.~~

~~—(5) Only authorized hunters, as selected by the City Manager or designee from a pool of qualified hunters after review of the minimum qualifications as submitted by each person desiring to participate, shall be permitted to hunt.~~

~~—(6) The minimum age to hunt Canada Geese within the City limits shall not be less than twenty-one.~~



- ~~—(7) The hunters shall have a state hunting license and possess all required state and/or federal permits for the hunting of Canada Geese.~~
- ~~—(8) The hunters shall follow the minimum restrictions of the Ohio Division of Wildlife.~~
- ~~—(9) The hunters shall use a shotgun with shot size legally authorized by state and federal guidelines.~~
- ~~—(10) The City Manager, or designee, shall be notified in advance of the time, location and method of hunting in permissible areas within the City limits.~~
- ~~—(11) The City Manager or designee shall cause twenty four hour advance notice of areas to be hunted to be furnished to the media.~~
- ~~—(e) No person shall negligently violate any restriction found in paragraphs (1) through (10), both inclusive, of subsection (d) of this section.~~
- ~~—(f) Whoever violates subsection (e) of this section shall be deemed guilty of a misdemeanor of the fourth degree. (Ord. 073-08. Passed 10-6-08.)”~~

Section 4. That, Section 549.08 of the City of Napoleon Codified Ordinances is hereby expressly repealed in its entirety and shall hereafter have no legal force and effect.

**~~“549.08 DISCHARGING FIREARMS.~~**

- ~~—(a) No person, except when protecting the life of themselves or another, shall discharge a firearm within the corporation limits of the Municipality. Further, except when protecting the life of themselves or another, no person shall negligently cause or allow a bullet to be discharged into the corporation limits of the Municipality. This section does not prevent or prohibit a law enforcement officer, game warden, dog warden, or other public official or officer who is authorized to carry or use a firearm in their official capacity to discharge the same while in the performance of their official duties. Also, this section is not applicable to persons holding a valid nuisance trapper’s permit issued by the State of Ohio when such person is registered with the Chief of Police and when taking or exterminating nuisance animals in a lawful manner. In the case of a nuisance trapper permitted holder, no larger than a 22-caliber firearm shall be discharged. Moreover, this section does not prohibit the operation of a bonafide indoor shooting range which has been certified by an architect or engineer as structurally safe for indoor shooting purposes and approved, in writing, as to location by the Zoning/Building Administrator of the City. (Ord. 133-02. Passed 12-2-02.)”~~

Section 5. That, Section 549.09 of the City of Napoleon Codified Ordinances is hereby expressly repealed in its entirety and shall hereafter have no legal force and effect.

**~~“549.09 THROWING OR SHOOTING PROJECTILES.~~**

- ~~—(a) No person shall throw, shoot or propel an arrow, missile, pellet, stone, metal or other similar substance capable of causing physical harm to persons or property, in or on any public place, in or on the property of another, or from any private property into or onto any public place or the property of another, without consent. Consent must be received from the land owner or such land owner’s agent, trustee or tenant from which the object is being thrown, shot or propelled and from the land owner or such land owner’s agent, trustee or tenant of the land on which the object is being received. This section does not prevent or prohibit a law enforcement officer, game warden, dog warden, or other public official or officer who is authorized to carry or use a firearm in their official capacity to discharge the same while in the performance of their official duties.~~
- ~~—(b) Whoever violates this section is guilty of a misdemeanor of the fourth degree. (Ord. 133-02. Passed 12-2-02.)”~~



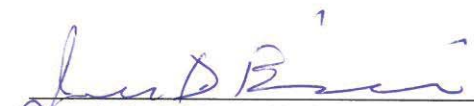
Section 6. That, this Ordinance shall be published in accordance with applicable Ohio Law.

Section 7. 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.

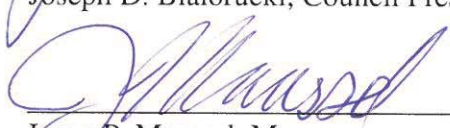
Section 8. That, if any other prior Ordinance or Resolution is found to be in conflict with this Ordinance, then the provisions of this Ordinance shall prevail. Further, if any portion of this Ordinance is found to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance or any part thereof.

Section 9. 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 passage before the deadline; moreover, this must timely take effect to meet the intent of the law; 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 timely amendment to the City of Napoleon Codified Ordinances, and for further reasons as stated in the Preamble hereof.

Passed: December 16, 2019

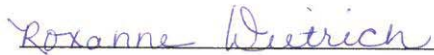
  
Joseph D. Bialorucki, Council President

Approved: December 16, 2019


  
Jason P. Maassel, Mayor

VOTE ON PASSAGE 7 Yea 0 Nay 0 Abstain

Attest:

  
Roxanne M. Dietrich, Clerk of Council

*I, Roxanne M. Dietrich, Clerk of Council of the City of Napoleon, do hereby certify that the foregoing Ordinance No. 078-19 was duly published in the Northwest Signal, a newspaper of general circulation in said City, on the 14th day of December, 2019; & 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 M. Dietrich, Clerk of Council

STATE OF OHIO  
COUNTY OF HENRY

Sally Heaston, being first duly sworn, states that she is the General Manager of The Bryan Publishing Company, owner of The Northwest Signal, a daily newspaper, published and of general circulation in the county of Henry aforesaid, and that the annexed notice was published in one issue in said paper, on the 21st day of December, 2019.



Sally Heaston

Subscribed and sworn to before me this  
26<sup>th</sup> day of December, 2019



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

Printer's Fee: \$400.95

Notary Fee: \$2.50

Summary of Ordinance No.(s) 078-19, 079-19, 082-19, 087-19, and Resolution No.(s) 080-19, 081-19, 083-19, 086-19, 090-19

(PURSUANT TO ARTICLE II, SECTION 2.15 OF THE CITY CHARTER, CHAPTER 121 OF THE CODE OF ORDINANCES AND COUNCIL RULE 6.2.4.1, AS WELL AS APPLICABLE PROVISIONS OF ORC CHAPTER 731)

**NOTICE**

A copy of the complete text of the above named Ordinance 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 therefor.

**Ordinance No. 078-19**

AN ORDINANCE AMENDING A CERTAIN SECTION OF CHAPTER 375 OF THE CITY OF NAPOLEON, OHIO, AS CODIFIED ORDINANCES, SPECIFICALLY SECTIONS 375.03(E), AND REPEALING CERTAIN SECTIONS OF CHAPTER 505 AND CHAPTER 549 OF THE CITY OF NAPOLEON, OHIO CODIFIED ORDINANCES, SPECIFICALLY SECTIONS 505.11, 505.15, 549.08, AND 549.09, RELATIVE TO THE OWNERSHIP, POSSESSION, PURCHASE, OTHER ACQUISITION, TRANSPORT, STORAGE, CARRYING, SALES, OTHER TRANSFER, MANUFACTURE, TAXATION, KEEPING AND REPORTING OF LOSS OR THEFT OF FIREARMS, THEIR COMPONENTS, AND THEIR AMMUNITION; AND DECLARING AN EMERGENCY

In this legislation, the City amended a certain section of Chapter 375, and repealed certain sections of Chapters 505 and 549 of the City Codified Ordinances.

**Ordinance No. 079-19**

AN ORDINANCE AMENDING THE ALLOCATION OF FUNDS AS FOUND IN SECTIONS 193.11 AND 194.013 OF THE CITY OF NAPOLEON, OHIO; AND DECLARING AN EMERGENCY

In this legislation, the City amended the allocation of funds as found in sections 193.11 and 194.013 of the City Codified Ordinances.

**Ordinance No. 082-19**

AN ORDINANCE ESTABLISHING THE APPROPRIATE MEASURE (BUDGET) OF THE CITY OF NAPOLEON, OHIO, FOR THE FISCAL YEAR ENDING DECEMBER 31, 2020, LISTED IN EXHIBIT "A"; AND DECLARING AN EMERGENCY

In this legislation, the City established the City budget for the fiscal year ending December 31, 2020.

**Ordinance No. 087-19**

AN ORDINANCE APPORTIONING THE EXPENSES INCURRED INCLUDING WAGES, SALARIES AND FRINGE BENEFITS OF THE MAYOR, COUNCIL, AND VARIOUS OTHER DEPARTMENTS OF THE CITY OF NAPOLEON WHICH ARE NOT OTHERWISE DIRECTLY CHARGED TO SPECIAL ACCOUNTS OR CAPITAL PROJECTS AMONG VARIOUS ACCOUNTS EFFECTIVE JANUARY 1, 2020; AMENDING ORDINANCE NO. 104-09; AND DECLARING AN EMERGENCY

In this legislation, the City apportioned certain expenses incurred of various City departments, which are not directly charged to special and/or capital projects, among various City accounts effective January 1, 2020, amending Ordinance No. 104-09.