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## **NEWTON FALLS CITY COUNCIL**

**REGULAR MEETING AGENDA**

**MONDAY, NOVEMBER 23, 2020**

**6:00 P.M.**

612 West Broad Street

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### **CITY COUNCIL MEMBERS**

Adam Zimmermann, Ward 1

John Baryak, Ward 2

Lyle Waddell, Ward 3

Sandra Breymaier, Ward 4

Tarry Alberini, At-Large

### **MAYOR**

Kenneth A. Kline

### **CITY MANAGER**

David M. Lynch

### **LAW DIRECTOR**

A. Joseph Fritz

### **CITY CLERK**

Kathleen M. King

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1. **Call to Order**

2. **Pledge of Allegiance/Prayer**

3. **Roll Call**

4. **Special presentations by staff members or invited consultants**

**5. Public Comments** (limited to those items as identified on the agenda)

**6. Reports**

Mayor  
Council Members  
Finance Director  
Law Director  
City Manager

Changes to tonight's agenda

**7. Approval of Previous Minutes**

November 16, 2020 - Regular Meeting  
November 18, 2020 - Special Meeting

**8. Public Hearings:**

1. Ord. 2020-33: An Ordinance Approving the Recodification, editing and Inclusion of Certain Ordinances as Parts of the Various Component Codes of the Codified Ordinances of Newton Falls, Ohio.
2. Ord. 2020-34: An Ordinance Authorizing a Contract with the Chief of Police.
3. Ord. 2020-35: An Ordinance Authorizing a Contract with the Finance Director.
4. Ord. 2020-36: An Ordinance Authorizing a Contract with the City Clerk.
5. Ord. 2020-37: An Ordinance Authorizing a Contract with the City Manager.

**9. Unfinished Business:**

1. Ord. 2020-33: An Ordinance Approving the Recodification, editing and Inclusion of Certain Ordinances as Parts of the Various Component Codes of the Codified Ordinances of Newton Falls, Ohio.
2. Ord. 2020-34: An Ordinance Authorizing a Contract with the Chief of Police.
3. Ord. 2020-35: An Ordinance Authorizing a Contract with the Finance Director.
4. Ord. 2020-36: An Ordinance Authorizing a Contract with the City Clerk.
5. Ord. 2020-37: An Ordinance Authorizing a Contract with the City Manager.

**10. New Business:**

1. Ord. 2020-38: An Ordinance Establishing A System of Regulation of Charities in Conformance with Ohio Revised Code Chapter 1716.01 through 1716.99.

2. Ord, 2020-39: An Ordinance Making Appropriations for the Current Expenses and Other Expenditures for the City of Newton falls, Ohio, for the Fiscal Year Ending December 31, 2021.

**11. Public Comments:**

**12. Closing Remarks: Mayor, City Manager and Council**

**13. Motion to Recess into Executive Session (if necessary)**

Move into executive session, by majority vote, for any of the following reasons with a motion and second.

- 1. Personnel Matters: To consider one or more, as applicable, of the marked items:
  - Appointment
  - Employment
  - Dismissal
  - Discipline
  - Promotion
  - Demotion
  - Compensation
  - Investigation of charges/complaints (unless a public hearing is requested)
- 2. Purchase or Sale of Property
- 3. Pending or Imminent Court Action
- 4. Collective Bargaining Matters
- 5. Matters Required to be Kept Confidential
- 6. Security Matters (National Security)
- 7. Hospital Trade Secrets
- 8. Confidential Business Information of an Applicant for Economic Development Assistance
- 9. Veterans Service Commission Applications

**13. Adjourn:**

Newton Falls City Council met in Regular session on Monday, November 16, 2020 at 6:00 p.m. in Council Chambers. Vice President, Sandra Breymaier, called the meeting to order following the Pledge of Allegiance. Councilman Tarry Alberini gave the opening prayer.

**ALSO, PRESENT:** (via Zoom)

David M. Lynch, City Manager; Kathleen M. King, City Clerk; A. Joseph Fritz, Law Director; Anna Musson, Finance Director; Eugene Fixler, Police Chief

**ROLL CALL:**

Alberini, Zimmermann, Waddell, Breymaier

**ABSENT:**

Baryak, Mayor Kline

Alberini made a motion seconded by Waddell to excuse Mayor Kline from tonight's meeting.

**ROLL CALL:** Zimmermann aye, Waddell aye, Breymaier aye, Alberini aye.

**MOTION PASSED 4 - 0**

**SPECIAL PRESENTATIONS BY STAFF MEMBERS OR INVITED CONSULTANTS:**

None at this time.

**PUBLIC COMMENTS:**

Tim Stintson expressed concerns about tonight's meeting after the Mayor cancelled the meeting and Councilman Baryak was in the parking lot not allowed in the building. He also questioned the contracts on the agenda tonight and did not feel now with the pandemic was the time to give out contracts and raises. He encouraged Council to vote no.

Donald Placer asked if the City had a social media policy. He expressed concern over Mr. Lynch's recent program and comments made that he felt were a defamation against a resident. He also thought the contracts were ridiculous, the employees all work hard, but now was not the time. Mr. Placer also asked why certain members were allowed in the building, but Mr. Baryak was not.

Alberini stated that Mr. Baryak had the same option to attend the meeting via zoom as the rest of Council.

Mr. Lynch stated that he indicated to Mr. Baryak that the only one in person in the building would be Sandra Braymaier. A technician was sent to Mr. Baryak's house and he has had every opportunity to participate.

## REPORTS :

Zimmermann:

- Worked with the Zoning Department to help settle a neighbor dispute by the river.
- Attended the Park & Recreation meeting where they discussed among other things a pickle ball court and batting cages.
- Spoke to the Chief about possibly posting no parking signs on a specific street.
- Continuing to walk in the evenings and encouraged residents to stop him and say "hi".

Waddell:

- Attended the OML board meeting where they are watching H.B. 197 which deals with income tax.
- Also the Governor announced a new zip code dashboard where you can see what is happening with the coronavirus.
- At a recent meeting he discussed an incentive to those who build new houses he is watching S.B. 212 which could authorize Townships and Municipalities to partially exempt taxation.

Breymaier:

- Also attended the Park & Recreation meeting. The dog park is still on hold partially due to the cost of liability.
- The Commission also had a nice presentation from the City Manager on batting cages.

Alberini:

- Reminded everyone to sign up for the Lattes and Legislature event to be held in Newton Falls in December. The Director from the Ohio Turnpike will be the guest speaker.

## FINANCE DIRECTOR:

A written report was submitted. Nothing additional to report at this time.

## LAW DIRECTOR:

Stated that the Governor has reissued rules that are in effect for meeting during this COVID-19 pandemic. The meeting tonight was properly noticed and published. At some point the Mayor indicated on Facebook that the meeting was cancelled. Facebook is not the proper way to put out this change. The Mayor is the chair of the meeting the legislative body is in attendance, we have a quorum, and the Charter requires two meeting a month. Our regular meetings are the first and third Monday of each month. This is a regular meeting, and we will go forward with a zoom meeting as planned. Attorney Fritz said he was accosted in the parking lot before the meeting and questions about the meeting. He said he can't assume why the paper published the meeting was cancelled. In addition, Attorney Fritz noted that this meeting is legal and that the Governor has made it clear that meetings can be held electronically.

Attorney Fritz emphasized that this is a proper, legal meeting. Council is in attendance; we have a quorum, and the meeting was never cancelled by council.

Attorney Fritz commented on recent public records requests we have received. He explained that a records request is a request to receive a record that the City has. Not someplace you would get an opinion or explanation. He also stated that if the City does not have a written record, we are not required to create one. However, just because we do not have the record in writing does not mean we do not have the information, it is just not in record form.

**CITY MANAGER:**

- Had a successful conversation related to the implementation of automated batting cages for the park.
- Our Scott Street Sewer project is the number one ranking project following the semi-final round of points.

Alberini said he has had requests from residents to get more information and education on the smart meters. Mr. Lynch said part of the protocol is getting information out to the residents and that will take place.

**CHANGES TO TONIGHT'S AGENDA:**

Alberini made a motion seconded by Waddell to add Resolution 35-2020 to tonight's agenda.

**ROLL CALL:** Waddell aye, Breymaier aye, Alberini aye, Zimmermann aye.  
**MOTION PASSED 4 - 0**

**APPROVAL OF PREVIOUS MINUTES:**

**Waddell made a motion seconded by Alberini to adopt the minutes from the October 19, 2020 Regular Meeting as submitted by the Clerk.**

**ROLL CALL:** Breymaier aye, Alberini abstain, Zimmermann aye, Waddell aye.  
**MOTION PASSED 4 - 0**

**PUBLIC HEARINGS:**

**ORDINANCE 2020-31: AN ORDINANCE CREATING THE POSITION OF SECURITY GUARD AND ESTABLISHING A RATE OF PAY.**

Breymaier opened the public hearing on this Ordinance.

Stintson commented that we have never had security in any building other than City Hall before. The current Finance/Annex building does not have a security guard now. He did not feel we needed to spend more money on this. He asked that council vote no.

After no further comments Breymaier declared the public hearing closed.

**UNFINISHED BUSINESS:**

**ORDINANCE 2020-31: AN ORDINANCE CREATING THE POSITION OF SECURITY GUARD AND ESTABLISHING A RATE OF PAY.**

**Alberini made a motion seconded by Breymaier to adopt this Ordinance.**

Alberini commented that Mr. Stintson had some good points but with everything happening today it is good practice to have security. For the safety of the employees he did not want to get caught up in a situation where something would happen, and we were not prepared. He did not want to put the staff in jeopardy.

Zimmermann agreed that security never hurt. Not only for the employees but because we collect money in the building.

Waddell echoed their statements. He also stated he has been in many government and county buildings and Mayors offices and he did not know of any where you can just walk in the door without being announced.

**ROLL CALL:** Alberini aye, Zimmermann aye, Waddell aye, Breymaier aye.  
**MOTION PASSED 4 - 0**

**NEW BUSINESS:**

**ORDINANCE 2020-33: AN ORDINANCE APPROVING THE RECODIFICATION, EDITING AND INCLUSION OF CERTAIN ORDINANCES AS PARTS OF THE VARIOUS COMPONENT CODES OF THE CODIFIED ORDINANCES OF NEWTON FALLS, OHIO.**

**Alberini made a motion seconded by Waddell to adopt this Ordinance.**

Attorney Fritz explained that we do this yearly to update our codified ordinances and website with all the passed legislation, traffic and state laws.

**ROLL CALL:** Zimmermann aye, Waddell aye, Breymaier aye, Alberini aye.  
**MOTION PASSED 4 - 0**

**ORDINANCE 2020-34: AN ORDINANCE AUTHORIZING A CONTRACT WITH THE CHIEF OF POLICE.**

**Alberini made a motion seconded by Waddell to adopt this Ordinance.**

**Alberini made a motion seconded by Waddell to amend the contract to four years.**

Alberini stated typically contracts are for two to four years. He felt staff has earned a four-year contract and this would not saddle the next council.

Vote on Motion to Amend

**ROLL CALL:** Waddell aye, Breymaier aye, Alberini aye, Zimmermann aye.

**MOTION PASSED 4 - 0**

Vote on Motion to Adopt as Amended

**ROLL CALL:** Breymaier aye, Alberini aye, Zimmermann aye, Waddell aye.

**MOTION PASSED 4 - 0**

**ORDINANCE 2020-35: AN ORDINANCE AUTHORIZING A CONTRACT WITH THE DIRECTOR OF FINANCE.**

**Alberini made a motion seconded by Waddell to adopt this Ordinance.**

**Alberini made a motion seconded by Waddell to amend the contract to four years.**

Vote on Motion to Amend

**ROLL CALL:** Alberini aye, Zimmermann aye, Waddell aye, Breymaier aye.

**MOTION PASSED 4 - 0**

Vote on Motion to Adopt as Amended

**ROLL CALL:** Zimmermann aye, Waddell aye, Breymaier aye, Alberini.

**MOTION PASSED 4 - 0**

**ORDINANCE 2020-36: AN ORDINANCE AUTHORIZING A CONTRACT WITH THE CITY CLERK.**

**Waddell made a motion seconded by Alberini to adopt this Ordinance.**

**Waddell made a motion seconded by Alberini to amend the contract to four and a half years (four years six months).**

Vote on Motion to Amend

**ROLL CALL:** Waddell aye, Breymaier aye, Alberini aye, Zimmermann aye.

**MOTION PASSED 4 - 0**

Vote on Motion to Adopt as Amended

**ROLL CALL:** Breymaier aye, Alberini, Zimmermann aye, Waddell aye

**MOTION PASSED 4 - 0**

**ORDINANCE 2020-37: AN ORDINANCE AUTHORIZING A CONTRACT WITH THE CITY MANAGER.**

**Alberini made a motion seconded by Waddell to adopt this Ordinance.**



**Alberini made a motion seconded by Waddell to amend this contract to four years.**

Vote on Motion to Amend

**ROLL CALL:** Alberini aye, Zimmermann aye, Waddell aye, Breymaier aye.

**MOTION PASSED 4 - 0**

Vote on Motion to Adopt as Amended

**ROLL CALL:** Zimmermann aye, Waddell aye, Breymaier aye, Alberini aye.

**MOTION PASSED 4 - 0**

**RESOLUTION 32-2020: A RESOLUTION AMENDING RESOLUTION 31-2020 AUTHORIZING THE FINANCE DIRECTOR TO CERTIFY THE COSTS OF REMOVAL OF WEEDS AND GRASS TO THE COUNTY FISCAL OFFICER FOR COLLECTION IN THE MANNER PROVIDED BY LAW.**

**Waddell made a motion seconded by Breymaier to adopt this Resolution.**

**ROLL CALL:** Waddell aye, Breymaier aye, Alberini aye, Zimmermann aye.

**MOTION PASSED 4 - 0**

**RESOLUTION 33-2020: A RESOLUTION SUPPORTING AND AUTHORIZING THE CITY MANAGER TO PREPARE AND SUBMIT APPLICATIONS TO PARTICIPATE IN THE OHIO PUBLIC WORKS COMMISSION (OPWC) ISSUE I STATE CAPITAL IMPROVEMENT PROGRAM(S) AND TO EXECUTE CONTRACTS AS REQUIRED.**

**Alberini made a motion seconded by Breymaier to adopt this Resolution.**

**ROLL CALL:** Breymaier aye, Alberini aye, Zimmermann aye, Waddell aye.

**MOTION PASSED 4 - 0**

**RESOLUTION 34-2020: A RESOLUTION AUTHORIZING THE TRANSFER OF CORONAVIRUS RELIEF FUNDS TO THE NEWTON FALLS EXEMPTED VILLAGE SCHOOLS.**

**Waddell made a motion seconded by Breymaier to adopt this Resolution.**

**ROLL CALL:** Alberini aye, Zimmermann aye, Waddell aye, Breymaier aye.

**MOTION PASSED 4 - 0**

**RESOLUTION 35-2020: A RESOLUTION OF CONGRATULATIONS TO MAYOR KENNETH KLINE UPON HIS ASCENDANCE TO THE POSITION OF PASTOR OF THE FIRST CHRISTIAN CHURCH OF NEWTON FALLS.**

**Alberini made a motion seconded by Waddell to adopt this Resolution.**

**ROLL CALL:** Zimmermann aye, Waddell aye, Breymaier aye, Alberini aye.  
**MOTION PASSED 4 – 0**

**Alberini made a motion seconded by Waddell to accept the Finance Department October monthly report, credit card report, bank reconciliation and attachments as presented.**

**ROLL CALL:** Waddell aye, Breymaier aye, Alberini aye, Zimmermann aye.  
**MOTION PASSED 4 – 0**

**Waddell made a motion seconded by Alberini to continue with Zoom meetings until the end of February or when the Governor changes the orders.**

Waddell said he felt this was the right way to do these meetings. There are a lot getting sick and many other communities are doing Zoom meetings.

Alberini said this is a moving target. He understands Mayor Kline's position. Some people want Zoom meetings some don't this is a darned if we do darn if we don't situation. He also felt this was the best way to go.

Zimmermann agreed that this meets our needs however, he hesitates to set it like this till February. He would feel better if we reviewed this monthly or biweekly going forward.

Mr. Lynch said we need to be careful and it is difficult to treat this as an exact science. He pledged to Council to conduct an assessment of the meetings on a regular basis.

Waddell as a responsible council this sets the groundwork. He understands Mr. Zimmermann's concern on the time. Waddell said as long as Mr. Lynch looks at and access the situation, he hoped this would go away and we continue to respect each other.

Zimmermann said he is the safety person at work and has to analyze COVID-19, make sure they maintain social distancing, wear masks, and send home those who are sick. As long as this tis reviewed on a regular basis he understood.

**ROLL CALL:** Breymaier aye, Alberini aye, Zimmermann aye, Waddell aye.  
**MOTION PASSED 4 – 0**

**PUBLIC COMMENTS:**

Tim Stintson thanked Council for amending the contract from six years to four years. He still disagreed and did not feel we should be giving raises and contracts now. He asked if any member of Council knew what fringe benefits meant.

Mr. Stintson did not agree with continuing with Zoom meetings and would hope they are reviewed on a weekly basis. Ironically, he suggested we do Zoom meeting when we were holding them at the school. However, he did feel that this Zoom meeting was working better than what we had been doing.

Tracy Hurst asked why Mr. Baryak was not permitted to join.

**CLOSING REMARKS; MAYOR, CITY MANAGER AND COUNCIL:**

Waddell said he would be leaving soon and was honored and privileged to have served as Mayor and he had a great run. He was duly appointed to the Third Ward Council representative by law. He thanked employees, administration and council he has worked with. They accomplished a lot and he felt that he was leaving thing better than when he started in 2010. He was also very proud of the annexation of 440 acres.

Alberini said he was proud to serve with Mr. Waddell. Even though a small minority don't respect the ground rules he was going to miss him.

In response to some of the comments it is good practice to secure long-term employees. This election the employees felt threatened with the change of Council. There are four very good employees that other communities would love to have.

City Manager Lynch responded to Ms. Hurst and stated several weeks ago all members of Council including Mr. Baryak received training on Zoom. In addition, someone was at his house tonight to make sure he could participate. Mr. Baryak informed us tonight he did not have wi-fi, however, he does have a smart phone that he could have participated with.

In response to the question about fringe benefits they are basically benefits primarily health insurance. We also have dental and eye benefits.

Our electric crew dealt with several outages all over town yesterday. Our Electric Department has the finest record in the state.

We will be holding a Zoom meeting on Wednesday, November 18<sup>th</sup> at 6:00 p.m. to present the budget to Council.

We will also be holding our Regular Council meeting on Monday, November 23<sup>rd</sup> at 6:00 p.m. via Zoom. As you know we are required to hold two meetings a month per Charter.

In reference to Mr. Waddell he has been the one member who would jump in when asked to help with something. We have also during Mr. Waddell's time received a CAFR for the City for the first time ever which is a Certified Financial Report and the highest award a municipality can get.

Mr. Waddell has been dedicated to the community and has never said no. He will be missed.

**MOTION TO RECESS INTO EXECUTIVE SESSION:** None at this time

**ADJOURN:**

**After no further comments or questions Alberini made a motion seconded by Breymaier to adjourn at 7:32 p.m.**

**ROLL CALL: Alberini aye, Zimmermann aye, Waddell aye, Breymaier aye.  
MOTION PASSED 4 – 0**

\_\_\_\_\_  
Mayor, Kenneth A. Kline

ATTEST: \_\_\_\_\_  
City Clerk/Clerk of Council

DRAFT

Newton Falls City Council met in Special session on Wednesday, November 18, 2020 at 6:00 p.m. in Council Chambers. Mayor Kline called the meeting to order.

**PLEDGE OF ALLEGIANCE**

**ROLL CALL:**

Zimmermann, Baryak, Waddell, Breymaier, Alberini

**ALSO PRESENT:**

City Manager, David Lynch; Police Chief, Gene Fixler; Finance Director, Anna Musson; Law Director, A. Joseph Fritz.

**Alberini made a motion seconded by Breymaier to suspend council rules.**

**ROLL CALL: Baryak aye, Waddell aye, Breymaier aye, Alberini aye, Zimmermann aye.  
MOTION PASSED**

Mr. Lynch explained that this meeting is for the 2021 budget presentation. The Finance Director would be making a presentation of the 2021 budget book and then he would be doing a brief presentation. Following the presentations the meeting would be open to public questions.

Finance Director, Anna Musson stated because we have new members on Council, she would be reviewing the budget and going over the basics of accounting the budget versus the appropriations. She explained how the tax budget was passed by council in July and in September the County Budget Commission provides us with an estimated certificate of resources.

Ms. Musson presented a review of the budget book explaining each section of the book, discussing the level of control by fund not category. She also reviewed each fund and the amount in each fund. Then presented a summary of each fund.

Mr. Lynch reviewed the information in the book in reference to the pump stations and operations of the Wastewater Treatment Plant. He also reviewed the Water and Water Distribution portions of the book.

Member thanked Ms. Musson and Mr. Lynch for the presentations and indicated they would like more time to digest and review the budget information.

Baryak asked about the Police Department budget and if there was a new car included. Ms. Musson said there were no new cars but there is the additional full-time officer included.

Ms. Musson stated we are stable and balanced. She would like to discuss a Capital Improvement fund for future items.

Her other concern was the permissive tax. This year we did more road paving than in the past but that has left us with a low balance.

Baryak asked if there was any money for a couple of part-time employees in the street department. Ms. Musson said she has included one part time person in fund 201 and one in the Park Department.

Baryak asked if we could guarantee no raise in the sewer or water rates. Mr. Lynch said we could never make that guarantee.

Baryak asked about debt retirement. Ms. Musson reviewed the debt the City is paying. Mr. Lynch also stated that our debt ration is extremely low and is one of the lowest in the state.

Baryak with the pandemic and this being projected income could we really be sure we can meet these numbers. Ms. Musson stated the budget is projected numbers every year and that she does a complete analysis for the past five years. Mr. Lynch said he has asked the Finance Director to be ultra conservative in her projections.

Baryak asked if there was any money for employee raises. Ms. Musson said there was. Baryak also asked for all non-salary pay last year and anticipated raises.

Baryak asked when the next meeting would be and when the deadline was to have this completed. Musson stated that the budget needs to be passed by December 1<sup>st</sup> so that it can meet the requirement of two readings and thirty days. That would make the budget effective January 1<sup>st</sup>. Baryak asked if we could go month to month on a budget during the pandemic he also asked if we could put more money in to do roads and water/sewer separations.

Mr. Lynch said we cannot pass a month to month budget, however; City Council can amend the budget at anytime and they often do throughout the year.

Baryak asked what fund the Coronavirus money was in. Ms. Musson state it is in a Special Revenue fund. Baryak asked how much was in that fund. Ms. Musson said none.

#### **PUBLIC COMMENTS:**

Christine Johnson asked when the City stopped doing a line item budget. Ms. Musson said the City never did a line item budget we do a budget by category.

Ms. Johnson asked what the total expenditures was projected and the end of the year projection. Ms. Musson stated resources are estimated at \$27.9 million, expenditures at \$22.1 million with an ending balance of approximately \$5.8 million.

Ms. Johnson also asked if the budget included all capital improvement and capital enterprises. Ms. Musson said absolutely that information is in the budget starting on page 24.

Brian Kropp asked if this was considered the public comment section of the meeting and that there was not first public comment section. Mr. Lynch stated that the rules have been suspended and they still were.

Mr. Kropp commented on when the budgets were delivered. He stated they are to be to Council on the 15<sup>th</sup> and they did not get delivered until the 16<sup>th</sup>. Attorney Fritz stated that the 15<sup>th</sup> was on Sunday and General Law is whenever the date is on a weekend or National holiday, the date would be the next working day.

Tim Stintson said he had a lot of concerns. He expressed concern about shutting off the chat box during the meeting. He also was concerned that he could message certain people but not everyone. Mr. Stintson also commented on the time discussing water and that no one would go against clean water.

Tesa Spletzer said she picked up the certification from the Board of Elections and Judge Vigorito swore her in today. According to the Ohio Revised Code she should be taking her seat. Attorney Fritz said that the Mayor has asked him for information and he would be doing so.

**Alberini made a motion seconded by Zimmermann to return to the regular meeting.**

**ROLL CALL: Waddell aye, Breymaier aye, Alberini aye, Zimmermann aye, Baryak aye.  
MOTION PASSED**

CLOSING COMMENTS OF COUNCIL:

Waddell said he felt the information presented on water, sewer and electric was extremely informational. This was a lot of good information and good to add.

Baryak asked when the money would be given to the businesses as promised. He said he was not against banners or flowers but maybe we should shift some money for the businesses and asked that Council take a closer look at this.

Alberini said tonight is a great example of why he voted for the contracts. The presentations of the budget by the Finance Director and City Manager were great.

Mayor Kline said the budget is eye opening looking at all the numbers and the time to put this together. His new year Resolution was to tighten up and do a little better and to do things right.

**ADJOURNMENT:**

After no further comments or questions Alberini made a motion seconded by Breymaier to adjourn at 8:27 p.m.

**ROLL CALL: Breymaier aye, Alberini aye, Zimmermann aye, Baryak aye, Waddell aye.  
MOTION PASSED**

\_\_\_\_\_  
Mayor, Kenneth A. Kline

ATTEST: \_\_\_\_\_  
Clerk of Council

**ORDINANCE NO. 2020-33**

**AN ORDINANCE APPROVING THE RECODIFICATION,  
EDITING AND INCLUSION OF CERTAIN ORDINANCES AS  
PARTS OF THE VARIOUS COMPONENT CODES OF THE  
CODIFIED ORDINANCES OF NEWTON FALLS, OHIO**

WHEREAS, various ordinances of a general and permanent nature have been passed which should be included in the Codified Ordinances of Newton Falls, Ohio;

THE COUNCIL OF THE CITY OF NEWTON FALLS, STATE OF OHIO, HEREBY ORDAINS:

SECTION 1: That the editing, arrangement and numbering of those ordinances and resolutions enacted by Council from November 1, 2019 to November 3, 2020, are hereby approved and adopted as printed in the November 2020 Replacement Pages to the Codified Ordinances so as to achieve uniformity of style and classification. A copy of such replacement pages are attached to this ordinance and incorporated as a part hereof.

SECTION 2: That the following sections of the Traffic, General Offenses, and Building Codes, as amended, are hereby approved and adopted as amended or enacted so as to conform to enactments of the Ohio General Assembly:

Traffic Code

- 331.43 Wearing Earplugs or Earphones Prohibited. (Amended)
- 335.09 Display of License Plates or Validation Stickers; Temporary License Placard.  
(Amended)
- 335.091 Operating Without Dealer or Manufacturer License Plates. (Added)

General Offenses Code

- 505.04 Abandoning Animals. (Amended)
- 537.17 Reserved. (Previously "Criminal Child Enticement")

SECTION 3: That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare of the residents of the City, the reason for the necessity being that there exists an imperative need for the earliest publication and distribution of the November 2020 Replacement Pages to the Codified Ordinances to the officials and residents of the City, so as to facilitate administration, daily operation and avoid practical and legal entanglements.

PASSED IN COUNCIL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2020.

\_\_\_\_\_  
Mayor, Kenneth A. Kline

ATTEST: \_\_\_\_\_  
City Clerk, Kathleen M. King



INSTRUCTIONS FOR INSERTING  
 NOVEMBER 2020 REPLACEMENT PAGES  
 FOR THE  
 CODIFIED ORDINANCES OF NEWTON FALLS

All new replacement pages bear the footnote "November 2020 Replacement". Please discard old pages and insert these new replacement pages immediately as directed in the following table.

Discard Old Pages

Insert New Pages

PRELIMINARY UNIT

Cover and Certification Page	Cover and Certification Page
3, 4	3, 4
9, 10	9, 10
15, 16	15, 16
23, 24	23, 24
40E	40E
47	47
51 through 53	51 through 53
57 through 60	57 through 60

PART ONE - ADMINISTRATIVE CODE

24A through 24D	24A through 24D
40A, 40B	40A, 40B

PART THREE - TRAFFIC CODE

62A through 62D	62A through 62D
85, 86	85, 86
102A, 102B	102A, 102B
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EDITOR'S NOTE: References are to individual code sections. As additional aids for locating material, users are directed to:

- (a) The Comparative Section Table, which indicates in the Codified Ordinances the disposition of the ordinances or resolutions integrated therein.
- (b) The Table of Contents preceding each component code, and the sectional analysis preceding each chapter.
- (c) The cross references to related material following the chapter analysis.

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2017-15	9-5-17	351.03			
2017-16	9-18-17	2017 Replacement Pages			
2017-18	12-4-17	351.03			
2017-19	12-4-17	1111.01 to 1111.14; repeals 1111.15, 1111.16			
2017-20	12-4-17	1153.09			
2017-21	12-4-17	1103.02, 1147.02			
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2017-27	1-22-18	352.01 to 352.12, 352.99			
2018-14	9-4-18	351.45			
2018-20	11-5-18	2018 Replacement Pages			
2019-03	2-19-19	140.03, 140.04, 140.06, 140.07			
2019-06	3-4-19	375.09			
2019-17	6-3-19	1115.03			
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2019-20	8-5-19	1537.01			
2019-22	7-1-19	141.06			
2020-17	7-6-20	521.06			
2020-18	7-6-20	557.01			
2020-27	10-5-20	140.04			
Res. 30-2020	10-19-20	121.03(g)(11)			



TABLE C - VACATING OF STREETS AND ALLEYS

<u>Ord. No.</u>	<u>Date</u>	<u>Description</u>
309	6-27-22	Fairport Road from First St. to the Main Line of the New York Central Railroad.
531	5-1-28	The extension of High from Main St. to Olive St.
645	7-1-30	The part of North St. between N. Canal St. to West River.
1272	10-2-45	Portion of Riverview Ave.
1412	4-6-48	Portion of Fairport Road.
1809	5-1-56	Newton Heights Court.
1911	10-1-57	The south 10 ft. of West Liberty St. between Ninth St. and west line of River Park Allotment.
2045	8-4-59	North side of Ophelia Ave. between Lots 238 and 239 to south line of Flower Co. property.
2464	9-6-66	Franklin St. between Vine St. and NYC RR right of way.
2825	4-2-73	Lincoln St. between west side of Warren Rd. and Mahoning River.
2924	9-16-74	Lemly Ave. between Morrision Ave. northerly to the right-of-way of the Baltimore and Ohio Railroad.
89-26	8-7-89	A portion of Jay Street.
90-39	9-10-90	The alley way between Bane and Maple.
93-31	8-9-93	Rose Street.
96-20	10-21-96	Hadley Street between Columbia and Ophelia.
05-03	2-22-05	Five feet of land behind the property known as 24 Bane St.
2019-32	11-18-19	A portion of West Liberty St.
2020-30	10-19-20	Amends Ord. 2019-32.

TABLE E - ACQUISITION AND DISPOSAL OF REAL PROPERTY

<u>Ord. No.</u>	<u>Date</u>	<u>Description</u>
511	12-6-27	Purchase of a triangular tract in the south part of the Village.
521	3-6-28	Purchase of lots 48 and 47 beginning on the southerly line of Broad St.
652	12-16-30	Purchase of 7 acres from Aline Neidhart for the Water Works Dept.
933	10-9-39	Purchase of Carlos R. Medley property.
1038	10-6-41	Sale of part of Lot 45.
1097	6-2-42	Purchase of lots 37, 70, 87 from F.E. Cory.
1114	9-1-42	Purchase of lots 10, 21, 22, 23, 31, 42, 43, 45, 62, 65, 66, 67, 71, 73, 82, 83, 84, 85, 92, 93, 94 from F.W. Cory.
1115	9-1-42	Purchase of lots 6, 11, 12, 15, 17, 18, 20, 24, 25, 27, 32, 35, 44, 46, 47, 48, 60, 64, 68, 69, 72, 75, 88, 90 from Flora P. Boylan.
1943	5-13-58	Purchase of north part of Sublot 3 and northeast part of 2 in Great Lot 59, part of Sec. 9 original survey.
2014	3-3-59	Appropriation of part of lots 6 and 7 in 4th Division.
2053	9-8-59	Appropriating part of Lot 40 from Newton Post 236, American Legion, Inc.
2155	8-31-66	Authorizes sale of 4702 sq. ft. Pumping Station No. 1 driveway.
2165	10-9-61	Authorizes purchase of Subdivisions 1, 2, and 3 in Great Lot Block 50 of Builders Supply land.
2219	8-31-61	Amends Ord. 2155.
2258	5-7-63	Purchase of Ridgeway Place.
2335	10-13-64	Authorizing sale of part of Lot 40.
Res.		
2544	2-19-68	Conveyance to State for widening S.R. 534.
2718	5-24-71	Authorizes disposal of 2 parcels, part of Sec. 13; Lot 181 East River Garden.
2831	5-7-73	Authorizes sale of old water tower property on Church St.
2879	12-3-73	Purchase of Lots 224, 230, 231, 232, 234, 235, 248, 249, 254, 259, 260, 261 from Murray F. Hallett.
2950	2-17-75	Authorizes sale of Lot 22, West Jay Street Allotment, no longer needed for any municipal purpose.
3173	7-11-77	Authorizes acceptance of certain lands from Ohio Edison Company in settlement of Case No. 73-CI-936.
3216	11-7-77	Authorizes sale of certain lands from Newton Falls Area Community Improvement, Inc. to Edward Spiko.
3225	11-21-77	Authorize acceptance of certain lands necessary for the construction of the Main Street Bridge from Republic Steel Corp.
3244	1-1-78	Authorizes purchases of Lot No. 39, N. Canal St. by Newton Falls Area Community Improvement, Inc. from Ruth C. Kyle.
3387	8-6-79	Authorizes acceptance of certain lands from Dennis D. Dunbar for park purposes.

TABLE E - ACQUISITION AND DISPOSAL OF REAL PROPERTY (Cont.)

<u>Ord. No.</u> <u>Res.</u>	<u>Date</u>	<u>Description</u>
3412	10-15-79	Authorizes sale of Lot No. 6 of the Fairgrounds Allotment.
3422	12-17-79	Authorizes sale of Lot 6 of the Fairgrounds Allotment to Alfred F. Mason.
3446	3-3-80	Authorizes purchase of 5040 feet of water line on Warren Rd. from Arnold Hanson.
3504	12-29-80	Accepts conveyance of part of Lot No. 39 from Newton Falls Area Community Improvement, Inc.
3783	4-2-84	Accepts donation of certain lands from Republic Steel Corporation.
Res. 3784	4-16-84	Authorizes purchase of Lot Nos. 80 and 81 on Eckman Avenue (Fairgrounds Allotment) from Veronica Smotrilla.
3829	9-17-84	Authorizes purchase of Lots 5, 6 and 7 Earlstown Plat Fourth Division from Elinor Beshara.
88-2	4-18-88	Authorizes sale of 1021 Warren Road to Herbert Harper for \$1,500.
92-8	4-20-92	Authorizes purchase of Lot #33 from Temple El Emeth.
97-11	6-16-97	Authorizes the purchase of .7247 acre from Donald and Betty Ann Miller for \$8,000.
98-06	3-16-98	Accepts donation of a parcel of land adjacent to the City Park from David Hanson.
98-19	10-5-98	Authorizes the sale of a portion of property located at 77 Bridge St. to Dennis Page.
99-9	6-7-99	Authorizes the City Manager to enter into a real estate agreement for the acquisition of a right of way in reference to the Warren Ravenna Road Underpass Walkway.
2009-38	2-1-10	Authorizing the City Manager to sign a quit claim deed for property on West Ninth Street.
2019-08	3-18-19	Authorizes purchase of Trumbull County Auditor Parcel Numbers: 56-013800, 56-013700 and 56-013600 from Michael J. and Christine A. Pasquale.
2019-24	8-5-19	Authorizes purchase of Trumbull County Auditor Parcel Numbers: 53-115430 also known as 116 Broad Street, and 53-078500 also known as 110 West Broad Street from William Ballentine.
2019-25	9-16-19	Authorizes sale of 0.0527 acres of Parcel 53-264960 to John and Melody Turner.
2020-06	2-3-20	Authorizes purchase of the church building located at 612 West Broad Street.
2020-09	3-16-20	Repeals Ordinance 2020-06 and authorizes a new contract with the Newton Falls First Congregational Church.
2020-16	6-1-20	Selling a portion of Parcel 53-003024 to Christopher King.

TABLE F - LEASE OF REAL PROPERTY

<u>Ord. No.</u> <u>Res.</u>	<u>Date</u>	<u>Description</u>
1231	10-26-44	Lease to the City the water facilities from the U.S. Government.
2124	2-23-61	Authorizes lease of City's 44.25 acres in Lot 13.
2854	8-13-73	Part of Sec. 13 to Kelco, Inc. for gas drilling.
2880	12-3-73	Part of Sec. 13, Newton Twp. to Atlas Resources, Inc. for gas drilling.
93-56	1-3-94	Authorizes agreement for a gas well to be located at the City Park at the Community Center.
98-09	6-22-98	Authorizes a lease agreement with the Newton Falls Youth Softball and Baseball League.
2019-18	7-1-19	Authorizes a lease agreement with Jeffrey Zabinski also known as Fat Papi's Concessions and Catering, LLC for property located at 4904 State Routes 5 (Parcel No. 56-013800, 56-013700 and 56-013600) to operate a food truck.
2020-05	2-19-20	Authorizes lease agreement with the Heritage Accord for the Newton Falls Community Center.
2020-25	7-6-20	Authorizes lease of property located at 36 West Broad Street to Fieldview Acres Mercantile LLC operated by Tom and Tracy Colosimo.

TABLE H - ANNEXATION AND DETACHMENT OF TERRITORY

<u>Ord. No.</u>	<u>Date</u>	<u>Description</u>
330	1-9-23	The intersection of the south corporation line with the east corporation line.
357	6-5-23	Amending Ord. 330 Sec. 1.
374	12-4-23	Completing annexation of the land beginning at the southeast corner of the corporation limit.
510	12-6-27	Repealing Ord. 499. Land beginning in the westerly part of the West River Park Allotment.
573	4-2-29	Completing annexation for Lots 1 and 10 of the original survey of Newton Township.
1045	11-4-41	Certain property in Newton Township of Trumbull County.
1406	3-23-48	Lot No. 2 of Newton Township, County of Trumbull.
1802	3-6-56	Annexation of 7.474 acres in Lot 10, original Newton Twp. survey.
1872	4-2-57	Annexation of 56.0708 acres in Lots 1 and 10, original Newton Twp. survey.
1890	7-2-57	Annexation of 8.928 acres, part of Lot 2.
2408	10-19-65	Annexation application for part of Sec. 8, Newton Twp.
2609	8-4-69	Annexation of part of Sec. 8, Newton Twp., Mrs. M.J. Neidhart prop.
Res.		
2769	4-17-72	Annexation of 72.53 acres belonging to Mary A. Johnson et al.
3054	4-19-76	Accepts 2.8978933 acres of land from Newton Township to be zoned R-1.
3099	12-4-76	Accepts 41.90 acres of land for annexation from Newton Township to be zoned A-1.
3286	5-22-78	Accepts approximately 10.25 acres of land from Newton Township for annexation to be zoned M-1.
3371	6-4-79	Accepts 33 lots on Tioga Street known as Lots 584-592, Lots 921-932 and Lots 933-944 from Newton Township to be zoned R-2.
3501	12-15-80	Accepts annexation application of William Smith and others for certain lands to be zoned R-1.
3873	3-4-85	Accepts annexation application of Thomas L. Old, agent for Jk & M Enterprises and Bliss Manufacturing Co., for 125.86 acres in Braceville Township and 23.80 acres in Newton Township.
88-16	8-15-88	Annexation of property outside the City limits but owned by the City.
89-23	7-6-89	Amends Ordinance 88-16.
90-26	6-18-90	Accepts annexation application of Transco for 8.560 acres.
95-08	5-1-95	Annexation of 9.28 acres known as Harding Ave., on application of Newton Township.
02-21	8-5-02	Annexation of 1.1659 acres known as Pennsylvania Ave.
2017-25	12-4-17	Accepting the annexation of 444.903± acres in Newtown Township and Braceville Township.
2020-22	7-6-20	Accepting the annexation of 27.952± acres in Newton Township and Braceville Township, and declaring an emergency.

TABLE I - ZONING MAP CHANGES

<u>Ord. No.</u>	<u>Date</u>	<u>Description</u>
1418	6-16-48	Revised Zoning Map established, May 1948.
1908	10-1-57	Rezoning all lots on Milton Ave. between Arlington Blvd. and Maple Drive to commercial.
1909	10-1-57	Rezoning Lingo and Mackay property, east side of Ridge Rd., from residential to commercial.
2011	2-17-59	Lots 22C and 22D on east side of Center St. from residential to commercial.
2697	3-1-71	Chesapeake & Ohio and Baltimore & Ohio property in Grant Lot 55, 0.84 acre, from C-2 to M-1.
2746	12-6-71	Lots 181, 182, 183, 188 East River Garden, 1.627 acres, Sec. 8, Newton Twp, from R-1 to C-2.
2775	6-5-72	33.48 acres belonging to Mary A. Johnson to R-2.
2786	7-10-72	Part of Sec. 8, Newton Twp. from R-1 to C-1; parts of Sec. 8 and 13, Newton Twp. from R-1 to R-2.
2857	9-4-73	Part of Trumbull Woods Allotment on Ridge Rd. to R-2.
2956	3-3-75	Property on Arlington Avenue and Marshall Avenue from R-1 to C-2.
2959	3-17-75	Property at the corner of Church and Canal Streets to Liberty Street and property located at the corner of Church Street southerly along Canal Street from R-2 to C-2.
2996	8-25-75	3.33 acres on Ridge Avenue from R-1 to R-2.
3009	10-20-75	0.83 acres of land on Main Street to C-2.
2010	11-3-75	7.884 acres of land on Ridge Avenue be zoned R-2.
3067		1.600 acres of land located on Ridge Road, and W. Jay St. to C-2.
3178	8-8-77	Property at Water St. on the north side of Main St. being Lots 1 to 7 in the Earlsville Allotment and Lots 1 to 4 in the Hyde Park Allotment, from R-2 to C-2.
Res. 3197	9-19-77	Lots 378 to 382 on Maple Drive and Lots 348 to 356 on Prospect St. from R-1 to C-1.
3321	10-16-78	Subdivision D. of Lot 13 situated on the northeast corner of the intersection of North Center Street with Bridge Street from R-1 to C-1.
3353	4-2-79	Lots 104 and 105 Maple Street from R-1 to R-2.
3354	4-2-79	Five and one-half acres of Parcel 1 on E. River Rd. from C-1 to R-2.
3423	12-17-79	All lots easterly off Warren Road on Washington Street to its ending terminus with the exception of lots facing Warren Road and allots easterly off Warren Road on Adams Street to its ed ending terminus with the exception of lots facing Warren Rd. from R-2 to R-1.
3600	4-5-82	Seven acres of land on West Broad Street to C-2.
3774	3-19-84	Five and one-half acres of Parcel 1 on East River Road from R-2 to C-2.
3909	7-8-85	208-210 Church Street rezoned from C-2 to M-1.
3974	8-19-85	208-210 Church Street rezoned from C-2 to M-1.

TABLE I - ZONING MAP CHANGES (Cont.)

<u>Ord. No.</u>	<u>Date</u>	<u>Description</u>
4022	12-16-85	Property adjacent to the Laurie Ann Nursing Home between State Route 534 and East River Rd. (Old Route 534) and extending to the southeastern City limits from R-1 and R-2 to C-2.
4027	1-6-86	68 Jay St. from M-1 to C-2.
4049	3-17-86	67 and 69 1/2 Bridge St. from M-1 to R-2.
4245	11-9-87	Lots 5, 500, 499 and 498 in the Arlington Heights Allotment on Charles Court from R-2 to C-2.
88-10	6-6-88	Lots 4 and 5, Liberty Allotment from R-1 to C-2.
88-14	6-20-88	Lots 493 to 497, Arlington Heights Allotment Number 2, from R-2 to C-2.
90-42	8-27-90	Lots 18 and 19, Arlington Heights Allotment Number 1, from R-1 to R-2.
93-8	2-15-93	Lots 501 through 511 on Charles Court, Arlington Heights Allotment No. 2, from R-2 to C-2.
94-7	4-4-94	6.93 acres on Milton Blvd. between the Bradbury Allotment and the Victoria Square Apartments from R-15 to R-8.
94-24	11-11-94	Specific lots within the City from R-8 to C-2.
94-25	11-11-94	Specific lots within the City from C-1-N to C-2.
94-26	11-11-94	Specific lots within the City from RM to C-2.
94-27	11-11-94	Specific lots within the City from R-8 to S-1.
94-31	12-5-94	Specific lots within the City from R-M to C-2.
94-35	1-2-95	Specific lots within the City from R-M to C-2.
94-36	1-2-95	Specific lots within the City from R-8 to S-1.
94-37	1-2-95	Specific lots within the City from RM to O-D.
96-23	11-18-96	Specific lots within the City from R-15 to R-12.
97-1	1-28-97	Specific lots within the City from C-2 to C-1.
98-20	10-5-98	Specific lots within the City from C-2 to I-1.
99-3	3-8-99	Lots 39, 40 and 41 in the West Homeland Allotment on Warren Road from R-8 to C-2.
02-1	2-4-02	13.78 acres owned by Land V Associate located south of the American Legion Hall on Damascus-Newton Falls Road from C-2 to R-M.
03-14	4-7-03	Specific Lots on Maple Drive from R-M to C-2.
03-37	9-22-03	All lots currently zoned R-M from Broad St. south to Maple Drive on the west side of Milton Blvd. zoned C-2.
2017-03	2-21-17	0.0944 acres of land (Parcel No. 51-193100), (Parcel No. 51-588010) and (Parcel No. 51-587200) to Commercial C.
2020-28	10-5-20	Rezoning specific lots in recently annexed territory from R-1 Residential District to I-Industrial.
2020-29	10-19-20	All lots between McKinley and Kendall on Arlington Road currently Residential - R-1 to Commercial - C.

- (3) Council may determine how many "standing committees" are to be established, each committee's area(s) of responsibility, and which members of Council shall be appointed to serve on each committee.
- (4) In addition, Council may, from time to time, also establish "ad hoc" (special purpose or limited term) committee(s) on an "as needed" basis.
- (5) Any "standing" or "ad hoc" committee of Council shall be comprised of two (2) voting members of Council, unless otherwise specified by the City Charter.
- (6) Any committee of Council shall be limited in its powers and authority to acting as an arm of Council by overseeing or studying a particular issue, area of responsibility, or topic and by then reporting its findings and/or recommendations back to Council.
- (7) No committee report may be forwarded to Council unless the committee has first met and authorized said report.
- (8) Council committees shall have no administrative authority:

(g) Rules of Conduct.

- (1) No more than one member of Council may speak at any one time at any meeting of Council.
- (2) In order to speak, a member of Council must first be recognized by the presiding officer.
- (3) No member of Council may solicit or accept any gift, gratuity, favor, or other form of payment from a person or firm who is under contract with the City, who is proposing to be put under contract with the City, or who otherwise provides any service or commodity to the City at the taxpayers' expense. (Article I, Section 4. CONFLICT OF INTEREST).
- (4) See Charter - Article III, Section 12, INTERFERENCE WITH APPOINTMENTS.
- (5) Foul, abusive, profane or obscene language is prohibited at all meetings of Council, regardless of the source of this language. The presiding officer shall dismiss any person from the meeting who uses such language.
- (6) Side bar discussions between members of Council during the course of a meeting are distracting and potentially disruptive and are therefore discouraged.
- (7) Accusations or suggestions of impropriety or illegal conduct and/or comments or attacks of a personal nature by members of Council and/or against members of Council are prohibited.
- (8) Council shall follow the Ohio Ethics Commission ethics policy.  
(Amended 5-5-2008)
- (9) The disclosure, to any person or party not a member of Council, of any confidential information discussed by or presented to Council in executive session, unless authorized by a majority vote of Council, is prohibited.  
(Amended 10-6-2009)
- (10) Council members shall be considered a City employee and comply with the City Drug Free Workplace Policy, excluding the Discipline Section. Discipline issues that arise concerning Council members drug test shall be controlled by Section 121.03(h) Penalties and Violations of the Rules.  
(Amended 5-15-17)
- (11) Council does hereby resolve that the same standards of conduct found in subsections 121.03(g)(5)(7) shall apply to postings on the City's Facebook Page and will be administered by the City Clerk. Said guidelines are as follows:



- A. Foul, abusive, profane or obscene language is prohibited at all meetings of Council and on Facebook, regardless of the source of this language. Off topic Facebook comments may be deleted as well. The presiding officer or Facebook administrator shall dismiss any person from the meeting or the Facebook page who uses such language.
  - B. Accusations or suggestions of impropriety or illegal conduct and/or comments or attacks of a personal nature by members of the Facebook posts and/or against members of Council or other persons are prohibited.  
(Res. 30-2020. Passed 10-19-20.)
- (h) Penalties for Violations of the Rules.
- (1) Any member of Council who is guilty of violating any rule contained herein as a first-time offense shall be judged guilty of contempt of Council and may, for such contempt, be orally sanctioned by a majority vote of Council during any public meeting of Council.
  - (2) Any Council member who is guilty of a second (2) offense of contempt of Council may be verbally sanctioned by a majority vote of Council during any public meeting of Council. If a Council member is sanctioned in writing, said sanction shall be read into the record of the next regular Council meeting.
  - (3) Any Council member who is guilty of three or more offenses of contempt of Council may be removed from office as allowed under Article III Section 4 REMOVAL.
- (i) Sponsoring Legislation.
- (1) Normally, the Council member sponsoring a particular piece of legislation will be afforded the first opportunities to discuss it after the required motion bringing it to the floor has been made and seconded. All proposed legislation must be presented to the City Clerk by not later than 3:00 p.m. on the Wednesday immediately preceding the Council meeting at which the legislation is to be presented. For additions to the prepared agenda see Codified Ordinance Section 121.02.
  - (2) Any addition to the prepared agenda governing the meeting shall be approved by a majority vote of Council members present, before it can be added to the agenda.  
(Amended 5-5-2008)
- (j) Rules of Debate.
- (1) Each member of Council may be recognized not more than twice on any issue at any regular, special, or emergency meeting by the presiding officer and invited to comment on an issue before Council. Each time that a voting member is recognized, he/she shall be afforded not more than three (3) uninterrupted minutes during which to make his/her comments. After each voting member of Council has been afforded an opportunity to speak at least once on an issue, the Mayor may speak with the same limitations as those imposed upon the voting members of Council. The City Manager may also ask to be recognized by the presiding officer and, when recognized, participate in the discussion of an item before Council with the same limitations as those imposed upon the voting members of Council. Each member may ask for additional input with approval of presiding officer.

- (2) This section does not apply to the caucus sessions.  
(Amended 8-1-2005)

(k) Order of Business. Council may hold a caucus session prior to each Regular meeting. Caucus sessions shall last no longer than one hour unless approved by a majority vote of members. The agenda for each Regular Council meetings shall include:  
(Amended 7-5-2005, 5-5-2008, 1-24-2011)

- (1) Call to Order
- (2) Pledge of Allegiance/Silent Prayer
- (3) Roll Call
- (4) Special Presentations by staff members or invited consultants
- (5) Public Comments (limited to those items as identified on the agenda)
- (6) Reports:
  - A. Mayor
  - B. Council Members
  - C. City Manager
  - D. Law Director
  - E. Changes to tonight's agenda
- (7) Approval of Minutes
- (8) Public Hearings
- (9) Unfinished Business
- (10) New Business
- (11) Public Comments
- (12) Closing remarks from the Mayor, City Manager, and Council Members
- (13) Motion to recess to Executive Session (if necessary)
- (14) Motion to adjourn

(l) Order of Business for Special Meetings. The agenda for each Special Council meeting shall include:

- (1) Call to Order
- (2) Pledge of Allegiance
- (3) Invocation or Moment of Silence
- (4) Roll Call
- (5) Public Comments (limited to those items as identified on the agenda)
- (6) Unfinished/New Business (As identified in Special Meeting Agenda)
- (7) Motion to recess to Executive Session (if necessary)
- (8) Public Comments (limited to those items as identified on the agenda)
- (9) Motion to adjourn

(m) Order of Business for Emergency Meetings. The agenda for each Emergency Council meeting shall include:

- (1) Call to Order
- (2) Pledge of Allegiance
- (3) Invocation or Moment of Silence
- (4) Roll Call
- (5) Unfinished/New Business (As identified in Emergency Meeting Agenda)
- (6) Motion to recess to Executive Session (if necessary)
- (7) Motion to adjourn

## NOTES:

- \* Accusations or suggestions of impropriety or illegal conduct and/or comments or attacks of a personal nature are prohibited. The presiding officer may issue a warning the first time that a speaker fails to abide by this rule but shall declare the balance of a speaker's speaking time to have been forfeited if a subsequent offense should occur.
  - \* Debates or exchanges between a speaker and a public official(s) shall be avoided.
  - \* The Chair shall monitor each speaker's time and shall notify the individual that his/her speaking time has expired.
- (n) Amendments, Modifications or Suspensions.
- (1) Council may at any time, by 2/3 majority vote, review, amend, modify, or suspend these rules or establish such other rule(s) as it may deem necessary to conduct its business.
  - (2) A decision of the Chair may be overturned by a majority vote of Council. (Amended 5-5-2008)

**121.04 EXECUTIVE SESSIONS.**

(a) Council is hereby authorized to adjourn and speak at Executive Session only in the issues of:

- (1) To consider the appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a public employee or official, or to consider the investigation of charges or complaints against a public employee, official, licensee, or "regulated individual" (a student in a public educational institution or a person in a public institution for custodial care). However, the person being investigated of charges or complaint has the right to request a public hearing;
- (2) To consider the purchase or sale of public property if the public interest would be hurt by the premature disclosure of the information;
- (3) To confer with the public body's attorney for the purpose of considering disputes if a court action concerning the dispute is either pending or imminent;
- (4) To prepare for, conduct, or review negotiations or bargaining sessions with public employees;
- (5) To consider matters required by federal laws or rules or state statutes to be kept confidential; and
- (6) To consider specialized details of security arrangements if the information could be used for criminal purposes.

(b) The procedure for calling an Executive Session will be that the City of Newton Falls City Council shall, during an open meeting and by the majority of the members present, must vote to hold the Executive Session. The specific topic to be discussed shall be announced. Further, any decisions based upon the Executive Session discussed, must be made in the open meeting.

(Ord. 90-18. Passed 5-7-90.)

**CHAPTER 140**  
**Utility Billing Appeals Review Board**

<b>140.01</b>	<b>Established; members.</b>	<b>140.05</b>	<b>Appeal of Board's ruling.</b>
<b>140.02</b>	<b>Authority.</b>	<b>140.06</b>	<b>Hearing procedures.</b>
<b>140.03</b>	<b>Appeal process.</b>	<b>140.07</b>	<b>Records.</b>
<b>140.04</b>	<b>Decisions.</b>		

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**140.01 ESTABLISHED; MEMBERS.**

A Utility Appeals Review Board is hereby established. The Board shall be comprised of the Finance Director (with the City Manager as a back up), one Council representative and one citizen. All members shall serve without compensation. A majority of this committee shall constitute a quorum. The Board shall adopt its own procedural rules and keep records of its transactions. (Ord. 01-19. Passed 8-6-01.)

**140.02 AUTHORITY.**

The Utility Appeals Review Board shall have the authority to hear and resolve all disputes arising out of decisions rendered by the Utility Department or any duly authorized members of that department. (Ord. 01-19. Passed 8-6-01.)

**140.03 APPEAL PROCESS.**

(a) Any person aggrieved by a decision of the Utility Department or other duly authorized employees of that department may appeal decisions by filing said appeal with the Utility Department. This request shall be in writing and shall state the situation, the decision by the Utility Department, and why the decision should be deemed incorrect or unlawful. This shall be filed within thirty (30) days after the decision by the Utility Department has been conveyed. These forms shall be available in the Utility Office and shall be adopted by the Board (see attached forms). The Utility Department shall then convey the appeal to the Utility Appeals Billing Review Board within fourteen (14) business days.

(b) The Utility Appeals Billing Review Board shall schedule a hearing within forty-five (45) days after receiving the request. Notification of the hearing will be sent to the aggrieved party by ordinary mail. If the aggrieved party decides to waive their right to attend the hearing, they may forward to the Utility Appeals Billing Review Board any additional information they wish the Board to consider. If additional information is forwarded to the Utility Appeals Billing Review Board, the information must be received in the Utility Department Office seventy-two (72) hours prior to the scheduled hearing. If the aggrieved party does not waive their right to attend the hearing, they may appear before the Utility Appeals Billing Review Board and may be represented by an attorney at law, certified public accountant or other representative. (Ord. 2019-03. Passed 2-19-19.)

**140.04 DECISIONS.**

(a) The Utility Billing Appeals Board of Review may affirm, reverse, or modify the Utility Department or duly authorized employee's decision on any part of that decision. The Utility Billing Appeals Review Board shall issue a decision on the appeal within sixty (60) days of the hearing. The Utility Billing Appeals Review Board shall notify the aggrieved party by ordinary mail within fifteen (15) days after issuing the decision.

(b) Once the Utility Billing Appeals Board of Review hears an appeal the aggrieved party cannot appeal the Board on the same factual issue in a twelve (12) month period. (Ord. 2020-27. Passed 10-5-20.)

**140.05 APPEAL OF BOARD'S RULING.**

Any person dissatisfied with any ruling or decision of the Board of Review may appeal therefrom to a court of competent jurisdiction within thirty days from the announcement of such ruling or decision. (Ord. 01-19. Passed 8-6-01.)

**140.06 HEARING PROCEDURES.**

The hearing shall be conducted according to the following procedure:

- (a) Hearing called to order.
  - (b) Roll call.
  - (c) Announcement of the Appeal(s) to be heard.
  - (d) Presentation by aggrieved party(ies).
  - (e) Clarification questions by the Board.
  - (f) Dismissal of the public.
  - (g) Utility Appeals Billing Review Board reviews the basis for original administrative decision.
  - (h) Any discussion, decision, etc. as necessary.
  - (i) Adjournment of Hearing.
- (Ord. 2019-03. Passed 2-19-19.)

**140.07 RECORDS.**

The Utility Appeals Billing Review Board shall maintain a file of all appeals, their decisions, etc. in the Utility Department for future reference. (Ord. 2019-03. Passed 2-19-19.)

- (3) As used in this section:
- A. "School vehicle" means any vehicle used for the transportation of pupils to and from a school or school-related function if the vehicle is owned or operated by, or operated under contract with, a public or nonpublic school.
  - B. "Bus" means any vehicle originally designed by its manufacturer to transport sixteen or more passengers, including the driver, or carries sixteen or more passengers, including the driver.
  - C. "Exempt crossing" means a highway rail grade crossing authorized and approved by the Public Utilities Commission under subsection (a)(2) hereof at which vehicles may cross without making the stop otherwise required by this section.
- (4) Except as otherwise provided in this subsection (a)(4), whoever violates subsection (a) hereof is guilty of a minor misdemeanor. If the offender previously has been convicted of or pleaded guilty to one or more violations of subsection (a) hereof or Ohio R.C. 4511.76, 4511.761, 4511.762, 4511.764, 4511.77 or 4511.79, or a municipal ordinance that is substantially similar to any of those sections, whoever violates subsection (a) hereof is guilty of a misdemeanor of the fourth degree. (ORC 4511.63)
- (b) (1) When authorized stop signs are erected at railroad grade crossings, the operator of any vehicle shall stop within fifty but not less than fifteen feet from the nearest rail of the railroad tracks and shall exercise due care before proceeding across such grade crossing.
- (2) Except as otherwise provided in this subsection, whoever violates this subsection (b)(1) hereof 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 4511.61)

### **331.41 SHORTCUTTING; AVOIDING TRAFFIC CONTROL DEVICES.**

(a) No person shall operate a vehicle across public or private property marked with signs "No Through Traffic" or words of similar import for the purpose of passing from one roadway to another.

(b) No person shall operate a vehicle across public or private property for the purpose of avoiding compliance with a traffic control device.

(c) It shall be prima-facie evidence of a violation of this section for the operator of a vehicle to cross public or private property as provided herein without using the service of such property, stopping the engine or both.

(d) 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.

**331.42 LITTERING FROM MOTOR VEHICLE.**

(a) No operator or occupant of a motor vehicle shall, regardless of intent, throw, drop, discard or deposit litter from any motor vehicle in operation upon any street, road or highway, except into a litter receptacle in a manner that prevents its being carried away or deposited by the elements.

(b) No operator of a motor vehicle in operation upon any street, road or highway shall allow litter to be thrown, dropped, discarded or deposited from the motor vehicle, except into a litter receptacle in a manner that prevents its being carried away or deposited by the elements.

(c) As used in this section, "litter" means garbage, trash, waste, rubbish, ashes, cans, bottles, wire, paper, cartons, boxes, automobile parts, furniture, glass or anything else of an unsightly or unsanitary nature.

(d) Whoever violates this section is guilty of a minor misdemeanor.  
(ORC 4511.82)

**331.43 WEARING EARPLUGS OR EARPHONES PROHIBITED.**

(a) As used in this section:

- (1) "Earphones" means any device that covers all or a portion of both ears and that does either of the following:
  - A. Through either a physical connection to another device or a wireless connection, provides the listener with radio programs, music, or other information;
  - B. Provides hearing protection."Earphones" does not include speakers or other listening devices that are built into protective headgear.
- (2) "Earplugs" means any device that can be inserted into one or both ears and that does either of the following:
  - A. Through either a physical connection to another device or a wireless connection, provides the listener with radio programs, music, or other information;
  - B. Provides hearing protection.

(b) No person shall operate a motor vehicle while wearing earphones over, or earplugs in, both ears.

(c) This section does not apply to:

- (1) Any person wearing a hearing aid;
- (2) Law enforcement personnel while on duty;
- (3) Fire Department personnel and emergency medical service personnel while on duty;
- (4) Any person engaged in the operation of equipment for use in the maintenance or repair of any highway;
- (5) Any person engaged in the operation of refuse collection equipment;
- (6) Any person wearing earphones or earplugs for hearing protection while operating a motorcycle.

(d) Except as otherwise provided in this division, 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 4511.84)

**331.44 VEHICULAR OPERATION ON STREET CLOSED DUE TO RISE  
IN WATER LEVEL.**

(a) No person shall operate a vehicle on or onto a public street or highway that is temporarily covered by a rise in water level, including groundwater or an overflow of water, and that is clearly marked by a sign that specifies that the road is closed due to the rise in water level and that any person who uses the closed portion of the road may be fined up to two thousand dollars (\$2,000).

(b) A person who is issued a citation for a violation of subsection (a) hereof is not permitted to enter a written plea of guilty and waive the person's right to contest the citation in court, but instead must appear in person in the proper court to answer the charge.

(c) (1) Whoever violates subsection (a) hereof is guilty of a minor misdemeanor.  
(2) In addition to the financial sanctions authorized or required under Section 501.99 and to any costs otherwise authorized or required under any provision of law, the court imposing the sentence upon an offender who is convicted of or pleads guilty to a violation of subsection (a) hereof shall order the offender to reimburse one or more rescuers for the cost any such rescuer incurred in rescuing the person, excluding any cost of transporting the rescued person to a hospital or other facility for treatment of injuries, up to a cumulative maximum of two thousand dollars (\$2,000). If more than one rescuer was involved in the emergency response, the court shall allocate the reimbursement proportionately, according to the cost each rescuer incurred. A financial sanction imposed under this section is a judgment in favor of the rescuer and, subject to a determination of indigency under division (B) of Ohio R.C. 2929.28, a rescuer may collect the financial sanction in the same manner as provided in Ohio R.C. 2929.28.

(d) As used in this section:

- (1) "Emergency medical service organization", "firefighting agency" and "private fire company" have the same meanings as in Ohio R.C. 9.60.
- (2) "Rescuer" means a state agency, political subdivision, firefighting service, private fire company, or emergency medical service organization.  
(ORC 4511.714.)

**331.45 OPERATION OF GOLF CARTS ON CERTAIN STREETS.**

(a) Council does hereby authorize the operation of golf carts on certain City streets in limited circumstances and subject to the rules, regulations and restrictions contained herein.

(b) Council does hereby adopt the rules set forth herein to regulate the operation of golf carts within the City limits and in no circumstances other than simply for crossing purposes shall such a vehicle be operated on any street which has a speed limit greater than 25 miles per hour.



(c) Definitions.

- (1) "Vehicle" has the same meaning as set forth in Ohio R.C. 4501.01(A).
- (2) "Motor Vehicle" has the same meaning as set forth in Ohio R.C. 4501.01(B).
- (3) "Operator" has the same meaning as set forth in Ohio R.C. 4501.01(X).
- (4) "Golf cart" is a motor vehicle as that term is defined under Ohio R.C. 4501.01(B).

(d) Inspection of Golf Carts.

- (1) No person shall operate a golf cart on the streets within the City of Newton Falls unless the golf cart has been inspected by the Chief of Police or his designee for compliance with the State of Ohio's statutory requirements that are applicable to motor vehicles.
- (2) If the Chief of Police or his designee determines that the golf cart complies with the State's statutory requirements, the Chief of Police or his designee shall issue a Certificate of Inspection which the owner may present to the Clerk of Courts together with other required ownership/title evidence in order to obtain a motor vehicle certificate of title. The owner may then present the certificate of title to the deputy Registrar to purchase registration and license plates.
- (3) Proof of liability insurance comparable to that required for automobiles is required to operate a golf cart on the streets within the City of Newton Falls.

(e) Usage and Restriction.

- (1) No golf carts shall be permitted to travel on any streets in the City of Newton Falls where the speed limit is greater than 25 miles per hour. Golf carts will be permitted to cross intersections with higher speeds, so long as they continue upon a street having a speed limit of 25 miles per hour or less.
- (2) No person shall operate a golf cart on a public sidewalk or other leisure path.
- (3) The operator of a golf cart on the streets in the City of Newton Falls shall be required to follow all traffic regulations.

(f) Penalty. Whoever violates this chapter is guilty of a minor misdemeanor on the first offense and for each subsequent offense the person is guilty of a misdemeanor of the fourth degree. (Ord. 2018-14. Passed 9-4-18.)

**CHAPTER 335**  
**Licensing; Accidents**

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|---------|---|---------|--|
| 335.01  | Driver's license or commercial driver's license required.   | 335.073 | Driving without complying with license reinstatement requirements.       |
| 335.02  | Permitting operation without valid license; one license permitted.  | 335.074 | Driving under license forfeiture or child support suspension.            |
| 335.021 | Ohio driver's license required for in state residents.  | 335.08  | Operation or sale without certificate of title.                          |
| 335.03  | Driving with temporary instruction permit; curfew.  | 335.09  | Display of license plates or validation stickers; registration.          |
| 335.031 | Driving with probationary license; curfew.  | 335.091 | Operating without dealer or manufacturer license plates.                 |
| 335.032 | Use of electronic wireless communication device prohibited while driving.   | 335.10  | Expired or unlawful license plates.                                      |
| 335.04  | Certain acts prohibited.  | 335.11  | Use of illegal license plates; transfer of registration.                 |
| 335.05  | Wrongful entrustment of a motor vehicle.  | 335.111 | Registration within thirty days of residency.                            |
| 335.06  | Display of license.   | 335.12  | Stopping after accident upon streets; collision with unattended vehicle. |
| 335.07  | Driving under suspension or license restriction.  | 335.13  | Stopping after accident upon property other than street.                 |
| 335.071 | Driving under OVI suspension.   | 335.14  | Vehicle accident resulting in damage to realty.                          |
| 335.072 | Driving under financial responsibility law suspension or cancellation; driving under a nonpayment of judgment suspension. |         |  |

**CROSS REFERENCES**

See sectional histories for similar State law  
 Deposit of driver's license as bond - see Ohio R.C. 2937.221  
 Motor vehicle licensing law - see Ohio R.C. Ch. 4503  
 Driver's license law - see Ohio R.C. Ch. 4507  
 Power of trial court of record to suspend or revoke license for certain violations - see Ohio R.C. Ch. 4510  
 State point system suspension - see Ohio R.C. 4510.03.6  
 State accident reports - see Ohio R.C. 4509.01(J), 4509.06, 4509.74, 5502.11  
 Motorized bicycle operator's license - see Ohio R.C. 4511.521  
 Glass removal from street after accident - see TRAF. 311.01

**335.01 DRIVER'S LICENSE OR COMMERCIAL DRIVER'S LICENSE  
REQUIRED.**

- (a) (1) No person, except those expressly exempted under Ohio R.C. 4507.03, 4507.04, and 4507.05, shall operate any motor vehicle upon a public road or highway or any public or private property used by the public for purposes of vehicular travel or parking in this Municipality unless the person has a valid driver's license issued under Ohio R.C. Chapter 4507 or a commercial driver's license issued under Ohio R.C. Chapter 4506.
- (2) No person, except a person expressly exempted under Ohio R.C. 4507.03, 4507.04, and 4507.05, shall operate any motorcycle upon a public road or highway or any public or private property used by the public for purposes of vehicular travel or parking in this Municipality unless the person has a valid license as a motorcycle operator that was issued upon application by the Registrar of Motor Vehicles under Ohio R.C. Chapter 4507. The license shall be in the form of an endorsement, as determined by the Registrar, upon a driver's or commercial driver's license, if the person has a valid license to operate a motor vehicle or commercial motor vehicle, or in the form of a restricted license as provided in Ohio R.C. 4507.14, if the person does not have a valid license to operate a motor vehicle or commercial motor vehicle.
- (b) Upon the request or motion of the prosecuting authority, a noncertified copy of the law enforcement automated data system report or a noncertified copy of a record of the Registrar of Motor Vehicles that shows the name, date of birth, and social security number of a person charged with a violation of subsection (a)(1) or (2) of this section may be admitted into evidence as prima-facie evidence that the person did not have either a valid driver's or commercial driver's license at the time of the alleged violation of subsection (a)(1) of this section or a valid license as a motorcycle operator either in the form of an endorsement upon a driver's or commercial driver's license or a restricted license at the time of the alleged violation of subsection (a)(2) of this section. The person charged with a violation of subsection (a)(1) or (2) of this section may offer evidence to rebut this prima-facie evidence.
- (c) Whoever violates this section is guilty of operating a motor vehicle or motorcycle without a valid license and shall be punished as follows:
- (1) If the trier of fact finds that the offender never has held a valid driver's or commercial driver's license issued by this state or any other jurisdiction, or, in a case involving the operation of a motorcycle by the offender, if the offender has never held a valid license as a motorcycle operator, either in the form of an endorsement upon a driver's or commercial driver's license or in the form of a restricted license, except as otherwise provided in this subsection, the offense is an unclassified misdemeanor. When the offense is an unclassified misdemeanor, the offender shall be sentenced pursuant to Ohio R.C. 2929.21 to 2929.28, except that the offender shall not be sentenced to a jail term; the offender shall not be sentenced to a community residential sanction pursuant to Ohio R.C. 2929.26; notwithstanding division (A)(2)(a) of Ohio R.C. 2929.28, the offender may be fined up to one thousand dollars (\$1,000); and, notwithstanding division (A)(3) of Ohio R.C. 2929.27, the offender may be ordered pursuant to division (C) of that section to serve a term of community service of up to five hundred hours.

other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.28 in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during or after committing the offense for which the offender is sentenced under this section. (ORC 4510.111)

**335.08 OPERATION OR SALE WITHOUT CERTIFICATE OF TITLE.**

(a) No person shall do any of the following:

- (1) Operate in this Municipality a motor vehicle for which a certificate of title is required without having that certificate in accordance with Ohio R.C. Chapter 4505 or, if a physical certificate of title has not been issued for a motor vehicle, operate the motor vehicle in this Municipality knowing that the ownership information relating to the vehicle has not been entered into the automated title processing system by a clerk of a court of common pleas;
- (2) Display or display for sale or sell as a dealer or acting on behalf of a dealer, a motor vehicle without having obtained a manufacturer's or importer's certificate, a certificate of title, or an assignment of a certificate of title for it as provided in Ohio R.C. Chapter 4505;
- (3) Fail to surrender any certificate of title or any certificate of registration or license plates upon cancellation of the same by the Registrar of Motor Vehicles and notice of the cancellation as prescribed in Ohio R.C. Chapter 4505;
- (4) Fail to surrender the certificate of title to a clerk of a court of common pleas as provided in Ohio R.C. Chapter 4505 in case of the destruction or dismantling or change of a motor vehicle in such respect that it is not the motor vehicle described in the certificate of title;
- (5) Violate any rules adopted pursuant to Ohio R.C. Chapter 4505;
- (6) Except as otherwise provided in Ohio R.C. Chapter 4505 and Chapter 4517, sell at wholesale a motor vehicle the ownership of which is not evidenced by an Ohio certificate of title, or the current certificate of title issued for the motor vehicle, or the manufacturer's certificate of origin, and all title assignments that evidence the seller's ownership of the motor vehicle, and an odometer disclosure statement that complies with Ohio R.C. 4505.06 and subchapter IV of the "Motor Vehicle Information and Cost Savings Act", 86 Stat. 961 (1972), 15 U.S.C. 1981;
- (7) Operate in this Municipality a motor vehicle knowing that the certificate of title to the vehicle or ownership of the vehicle as otherwise reflected in the automated title processing system has been canceled.

(b) This section does not apply to persons engaged in the business of warehousing or transporting motor vehicles for the purpose of salvage disposition.

(c) Whoever violates this section shall be fined not more than two hundred dollars (\$200.00) or imprisoned not more than ninety days, or both.  
(ORC 4505.18)

**335.09 DISPLAY OF LICENSE PLATES OR VALIDATION STICKERS;  
REGISTRATION.**

- (a) (1) No person who is the owner or operator of a motor vehicle shall fail to display in plain view on the rear of the motor vehicle a license plate that displays the distinctive number and registration mark assigned to the motor vehicle by the Ohio Director of Public Safety, including any county identification sticker and any validation sticker issued under Ohio R.C. 4503.19 and 4503.191.
- (2) The license plate shall be securely fastened so as not to swing, and shall not be covered by any material that obstructs its visibility.
- (3) No person to whom a temporary license placard or windshield sticker has been issued for the use of a motor vehicle under Ohio R.C. 4503.182, and no operator of that motor vehicle, shall fail to display the temporary license placard in plain view from the rear of the vehicle either in the rear window or on an external rear surface of the motor vehicle, or fail to display the windshield sticker in plain view on the rear window of the motor vehicle. No temporary license placard or windshield sticker shall be covered by any material that obstructs its visibility.  
(ORC 4503.21(A))
- (b) (1) Whoever violates subsection (a) of this section is guilty of a minor misdemeanor.
- (2) The offense established under subsection (a) of this section is a strict liability offense and Ohio R.C. 2901.20 does not apply. The designation of this offense as a strict liability offense 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 4503.21(B), (C))

**335.091 OPERATING WITHOUT DEALER OR MANUFACTURER  
LICENSE PLATES.**

(a) No person shall operate or cause to be operated upon a public road or highway a motor vehicle of a manufacturer or dealer unless the vehicle carries and displays a placard, except as provided in Ohio R.C. 4503.21, issued by the Director of Public Safety that displays the registration number of its manufacturer or dealer.

(b) Whoever violates subsection (a) of this section is guilty of illegal operation of a manufacturer's or dealer's motor vehicle, a minor misdemeanor.  
(ORC 4549.10)

**CHAPTER 375**  
**Snowmobiles, Off-Highway Motorcycles and All Purpose Vehicles**

<p><b>375.01</b> Definitions.</p> <p><b>375.02</b> Equipment.</p> <p><b>375.03</b> Code application; prohibited operation.</p> <p><b>375.04</b> Permitted operation.</p>	<p><b>375.05</b> Licensing requirements of operator.</p> <p><b>375.06</b> Registration of vehicles.</p> <p><b>375.07</b> Accident reports.</p> <p><b>375.08</b> Certificate of title.</p> <p><b>375.09</b> All purpose vehicles, trail bikes and dirt bikes prohibited.</p>
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**CROSS REFERENCES**

See sectional histories for similar State law  
 Lights, brakes and muffler - see OAC Ch. 4501.29  
 Power of trial court of record to impound registration certificate for certain violations - see Ohio R.C 4519.47  
 Power to regulate; municipal licensing prohibited - see Ohio R.C. 4519.48  
 Street or highway defined - see TRAF. 301.42  
 Required usage of helmets and safety glasses - see TRAF. 373.02(f)

**375.01 DEFINITIONS.**

As used in this chapter:

- (a) "Snowmobile" means any self-propelled vehicle designed primarily for use on snow or ice, and steered by skis, runners or caterpillar treads. (ORC 4519.01(A))
- (b) "All purpose vehicle" means any self-propelled vehicle designed primarily for cross-country travel on land and water, or on more than one type of terrain, and steered by wheels or caterpillar treads, or any combination thereof, including vehicles that operate on a cushion of air, vehicles commonly known as all-terrain vehicles, all season vehicles, mini-bikes and trail bikes. "All-purpose vehicle" does not include a utility vehicle as defined in Ohio R.C. 4501.01 or any vehicle principally used in playing golf, any motor vehicle or aircraft required to be registered under Ohio R.C. Chapter 4503 or Chapter 4561, and any vehicle excepted from definition as a motor vehicle by Section 301.20 of this Traffic Code. (ORC 4519.01(B))
- (c) "Owner" means any person, firm or corporation, other than a lienholder or dealer, having title to a snowmobile, off-highway motorcycle, or all purpose vehicle, or other right to the possession thereof. (ORC 4519.01(C))

- (d) "Operator" means any person who operates or is in actual physical control of a snowmobile, off-highway motorcycle or all purpose vehicle.
- (e) "Limited access highway" or "freeway" means a highway especially designed for through traffic and over which abutting property owners have no easement or right of access by reason of the fact that their property abuts upon such highway, and access to which may be allowed only at highway intersections designated by the Ohio Director of Transportation. (ORC 5511.02)
- (f) "Interstate highway" means any part of the interstate system of highways as defined in subsection (e), 90 Stat. 431 (1976), 23 U.S.C.A. 103, and amendments thereof.
- (g) "Off-highway motorcycle" means every motorcycle, as defined in Ohio R.C. 4511.01, that is designed to be operated primarily on lands other than a street or highway. (ORC 4519.01)

### 375.02 EQUIPMENT.

(a) Equipment of snowmobiles, off-highway motorcycles, and all purpose vehicles shall include, but not necessarily be limited to requirements for the following items:

- (1) At least one headlight having a minimum candlepower of sufficient intensity to reveal persons and objects at a distance of at least 100 feet ahead under normal atmospheric conditions during hours of darkness;
- (2) At least one red taillight having a minimum candlepower of sufficient intensity to be plainly visible from a distance of 500 feet to the rear under normal atmospheric conditions during hours of darkness;
- (3) Adequate brakes. Every snowmobile, while traveling on packed snow, shall be capable of carrying a driver who weighs 175 pounds or more, and, while carrying such driver, be capable of stopping in not more than forty feet from an initial steady speed of twenty miles per hour, or locking its traction belt.
- (4) A muffler system capable of precluding the emission of excessive smoke or exhaust fumes, and of limiting the engine noise of vehicles. On snowmobiles manufactured after January 1, 1973, such requirement shall include sound dampening equipment such that noise does not exceed eighty-two decibels on the "A" scale at fifty feet as measured according to SAE J192 (September 1970).

(b) No person shall operate any snowmobile, off-highway motorcycle, or all purpose vehicle in violation of this section, except that equipment specified in subsections (a)(1) and (2) hereof shall not be required on snowmobiles, off-highway motorcycles, or all purpose vehicles operated during the daylight hours.

(c) Except as otherwise provided in this subsection, whoever violates subsection (b) of this section shall be fined not more than fifty dollars (\$50.00). If the offender within the preceding year previously has committed a violation of subsection (b) of this section, whoever violates subsection (b) of this section shall be fined not less than fifteen dollars (\$15.00) nor more than one hundred dollars (\$100.00), imprisoned not more than three days, or both. (ORC 4519.20)

(b) Whoever violates 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.

**375.08 CERTIFICATE OF TITLE.**

(a) No person shall do any of the following:

- (1) 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;
- (2) 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;
- (3) 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;
- (4) 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;
- (5) Violate any provision of Ohio R.C. 4519.51 to 4519.70 or any lawful rules adopted pursuant to those sections;
- (6) 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.

(b) Whoever violates this section shall be fined not more than two hundred dollars (\$200.00) or imprisoned not more than ninety days, or both.  
(ORC 4519.66)

**375.09 ALL PURPOSE VEHICLES, TRAIL BIKES AND DIRT BIKES PROHIBITED.**

(a) Definition of All-Purpose Vehicle. "All-purpose vehicle." Any self-propelled vehicle designed primarily for cross-country travel on land and water, or no more than one type of terrain, and steered by wheels or caterpillar treads, or any combination thereof, including vehicles that operate on a cushion of air, vehicles commonly known as all-terrain vehicles, all season vehicles, mini-bikes and trail bikes. The term does not include a utility vehicle as defined in Ohio R.C. 4501.01 or any vehicle principally used in playing golf, any motor vehicle or aircraft required to be registered under Ohio R.C. Chapter 4503 or Ohio R.C. Chapter 4561, and any vehicle excepted from definition as a motor vehicle by Ohio R.C. 4501.01(B).



- (b) Operation of All-Purpose Vehicles Prohibited.
- (1) The operation and use of all purpose vehicles, trail bikes, dirt bikes are hereby prohibited within the corporate limits of the Municipality, both on private and public lands, except in locations where the operation is more than 500 feet from the nearest residence.
  - (2) Nothing contained in this section shall prevent the Municipality from regulating the operation of the vehicles mentioned in division (a) of this section in case of an emergency.
  - (3) Any parent or guardian who authorizes or knowingly permits a child or ward to violate any provision of this section shall be punished as a principal offender and sentenced pursuant to division (d) of this section.
  - (4) Whoever violates this section is guilty of a minor misdemeanor for a first offense and a misdemeanor of the fourth degree for a second offense.  
(Ord. 2019-06. Passed 3-4-19.)

**505.04 ABANDONING ANIMALS.**

(a) No owner or keeper of a dog, cat or other domestic animal shall abandon such animal. (ORC 959.01)

(b) Whoever violates subsection (a) hereof is guilty of a misdemeanor of the second degree on a first offense and a misdemeanor of the first degree on each subsequent offense. (ORC 959.99 (E)(3))

**505.05 KILLING OR INJURING ANIMALS.**

(a) No person shall maliciously, or willfully, and without the consent of the owner, kill or injure a farm animal, dog, cat or other domestic animal that is the property of another. This section does not apply to a licensed veterinarian acting in an official capacity, or to trespassing animals as set forth in Ohio R.C. 959.04. (ORC 959.02)

(b) Whoever violates this section, if the value of the animal killed or the injury done amounts to less than three hundred dollars (\$300.00), is guilty of a misdemeanor of the second degree; if the value of the animal killed or the injury done amounts to three hundred dollars (\$300.00) or more, such person is guilty of a misdemeanor of the first degree. (ORC 959.99(B))

**505.06 POISONING ANIMALS.**

(a) No person shall maliciously, or willfully and without the consent of the owner, administer poison, except a licensed veterinarian acting in such capacity, to a farm animal, dog, cat, poultry or other domestic animal that is the property of another; and no person shall, willfully and without the consent of the owner, place any poisoned food where it may be easily found and eaten by any of such animals, either upon his own lands or the lands of another. This section does not apply to trespassing animals as set forth in Ohio R.C. 959.04. (ORC 959.03)

(b) Whoever violates this section is guilty of a misdemeanor of the fourth degree. (ORC 959.99(C))

**505.07 CRUELTY TO ANIMALS GENERALLY.**

(a) No person shall:

- (1) Torture an animal, deprive one of necessary sustenance, unnecessarily or cruelly beat, needlessly mutilate or kill, or impound or confine an animal without supplying it during such confinement with a sufficient quantity of good wholesome food and water;
- (2) Impound or confine an animal without affording it, during such confinement, access to shelter from wind, rain, snow or excessive direct sunlight if it can reasonably be expected that the animal would otherwise become sick or in some other way suffer. This subsection (a)(2) does not apply to animals impounded or confined prior to slaughter. For the purpose of this section, "shelter" means a man-made enclosure, windbreak, sunshade or natural windbreak or sunshade that is developed from the earth's contour, tree development or vegetation;
- (3) Carry or convey an animal in a cruel or inhuman manner;

- (4) Keep animals other than cattle, poultry or fowl, swine, sheep or goats in an enclosure without wholesome exercise and change of air, nor feed cows on food that produces impure or unwholesome milk;
- (5) Detain livestock in railroad cars or compartments longer than twenty-eight hours after they are so placed without supplying them with necessary food, water and attention, nor permit such livestock to be so crowded as to overlie, crush, wound or kill each other.

(b) Upon the written request of the owner or person in custody of any particular shipment of livestock, which written request shall be separate and apart from any printed bill of lading or other railroad form, the length of time in which such livestock may be detained in any cars or compartments without food, water and attention, may be extended to thirty-six hours without penalty therefor. This section does not prevent the dehorning of cattle. (ORC 959.13)

(c) Whoever violates this section is guilty of a misdemeanor of the second degree. In addition, the court may order the offender to forfeit the animal or livestock and may provide for its disposition including, but not limited to, the sale of the animal or livestock. If an animal or livestock is forfeited and sold pursuant to this subsection, the proceeds from the sale first shall be applied to pay the expenses incurred with regard to the care of the animal from the time it was taken from the custody of the former owner. The balance of the proceeds from the sale, if any, shall be paid to the former owner of the animal. (ORC 959.99(D))

#### **505.071 CRUELTY TO COMPANION ANIMALS.**

(a) As used in this section:

- (1) "Companion animal" means any animal that is kept inside a residential dwelling and any dog or cat regardless of where it is kept, including a pet store as defined in Ohio R.C. 956.01. "Companion animal" does not include livestock or any wild animal.
- (2) "Cruelty", "torment" and "torture" have the same meanings as in Ohio R.C. 1717.01.
- (3) "Residential dwelling" means a structure or shelter or the portion of a structure or shelter that is used by one or more humans for the purpose of a habitation.
- (4) "Practice of veterinary medicine" has the same meaning as in Ohio R.C. 4741.01.
- (5) "Wild animal" has the same meaning as in Ohio R.C. 1531.01.
- (6) "Federal animal welfare act" means the "Laboratory Animal Act of 1966", Pub. L. No. 89-544, 80 Stat. 350 (1966), 7 U.S.C.A. 2131 et seq., as amended by the "Animal Welfare Act of 1970", Pub. L. No. 91-579, 84 Stat. 1560 (1970), the "Animal Welfare Act Amendments of 1976", Pub. L. No. 94-279, 90 Stat. 417 (1976), and the "Food Security Act of 1985", Pub. L. No. 99-198, 99 Stat. 1354 (1985), and as it may be subsequently amended.

(h) No device that prohibits any safety feature on a kerosene, natural gas or liquid petroleum gas space heater from operating shall be sold, offered for sale or used in connection with any kerosene, natural gas or liquid petroleum gas space heater.

(i) No person shall sell or offer for sale any kerosene-fired, natural gas or liquid petroleum gas-fired heater that is not exempt from subsection (a) hereof unless it is marked conspicuously by the manufacturer on the container with the phrase "Not Approved For Home Use."

(j) No person shall use a cabinet-type, liquid petroleum gas-fired heater having a fuel source within the heater, inside any building, except as permitted by the State Fire Marshal in the State Fire Code adopted by him under Ohio R.C. 3737.82. (ORC 3701.82)

(k) Whoever violates this section is guilty of a misdemeanor of the first degree. (ORC 3701.99(C))

#### **521.03 BARRICADES AND WARNING LIGHTS; ABANDONED EXCAVATIONS.**

(a) No person shall abandon or knowingly permit to remain on public or private property, any excavation, well, cesspool or structure which is in the process of construction, reconstruction, repair or alteration unless the same is adequately protected by suitable barricades and guarded by warning devices or lights at night so that the condition will not reasonably prove dangerous to life or limb.

(b) No person shall destroy, remove, damage or extinguish any barricade or warning light that is placed for the protection of the public so as to prevent injury to life or limb.

(c) Any owner or agent in control of a premises upon which a basement, cellar, well or cistern has been abandoned due to demolition, failure to build or any other reason shall cause the same to be filled to the ground surface with rock, gravel, earth or other suitable material.

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

#### **521.04 SIDEWALK OBSTRUCTIONS; DAMAGE OR INJURY.**

(a) No person shall place or knowingly drop upon any part of a sidewalk, playground or other public place any tacks, bottles, wire, glass, nails or other articles which may damage property of another or injure any person or animal traveling along or upon such sidewalk or playground.

(b) No person shall walk on, or allow any animal upon, or injure or deface in any way, any soft or newly laid sidewalk pavement.

(c) No person shall place, deposit or maintain any merchandise, goods, material or equipment upon any sidewalk so as to obstruct pedestrian traffic thereon except for such reasonable time as may be actually necessary for the delivery or pickup of such articles. In no such case shall the obstruction remain on such sidewalk for more than one hour.

(d) No person shall unload upon, or transport any heavy merchandise, goods, material or equipment over or across any sidewalk or curb without first placing some sufficient protection over the pavement to protect against damage or injury. The affected area shall be rendered safe and free from danger.

(e) No person shall allow any cellar or trap door, coal chute or elevator or lift opening in any sidewalk to remain open without providing suitable safeguards to protect and warn pedestrian traffic of the dangerous condition.

(f) Whoever violates this section is guilty of a minor misdemeanor.

**521.05 NOTICE TO FILL LOTS, REMOVE PUTRID SUBSTANCES.**

(a) No person shall fail to comply with the following requirements within the lawful time after service or publication of the notice or resolution is made as required by law:

To fill or drain any lot or land or remove all putrid substances therefrom, or remove all obstructions from culverts, covered drains or natural watercourses as provided in Ohio R.C. 715.47.

(b) Whoever violates this section is guilty of a minor misdemeanor.

**521.06 DUTY TO KEEP SIDEWALKS IN REPAIR AND CLEAN.**

(a) No owner or occupant of abutting lands shall fail to keep the sidewalks, curbs or gutters in repair and free from snow, ice or any nuisance. (ORC 723.011)

(b) No owner of any lot or land abutting upon any street shall refuse, fail or neglect to repair or keep in repair and free from nuisance and obstruction, the sidewalk in front of such lot or land after due notice thereof.

(c) If the owner or person having charge of such land fails to comply with the notice in subsection (a) hereof, Council or the City Manager shall cause the sidewalks to be repaired, all expenses and labor costs incurred shall, when approved by Council or the City Manager, be paid out of City funds not otherwise appropriated. Council shall make a written return to the County Auditor of its action, with a statement of the charges for its services, the amount paid for labor, the fees of the officers serving the notices and a proper description of the premises. The amounts, when allowed, shall be entered upon the tax duplicate and be a lien upon the lands from and after the date of the entry and collected as other taxes and returns to the City with the General Fund.

(d) Whoever violates this section or fails to comply with any notice thereof is guilty of a minor misdemeanor. (Ord. 2020-17. Passed 7-6-20.)

**521.07 FENCES.**

(a) No person shall erect or maintain any fence charged with electrical current.

(b) No person shall erect or maintain a barbed wire fence which abuts or is adjacent to any public street or sidewalk. This subsection (b) does not prevent the placement and use of not more than three strands of barbed wire on top of a fence other than a barbed wire fence, provided such strands are not less than seventy-two inches from the ground.

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

**521.08 LITTERING.**

(a) As used in this section "Litter" means garbage, trash, waste, rubbish, ashes, cans, bottles, wire, paper, cartons, boxes, automobile parts, furniture, glass or any other item or substance of an unsightly, unsanitary, hazardous or potentially hazardous nature thrown, dropped, discarded, placed or deposited by any person along, near or on any public road, street, parkway, park drive, highway, ditch or any public property or on private property not owned, rented or otherwise legally controlled by such person; or in, or on, any lake, pond, stream, river or other natural or man made watercourse, impoundment area or device unless the person has:

**CHAPTER 537**  
**Offenses Against Persons**

<p><b>537.01</b> Negligent homicide.</p> <p><b>537.02</b> Vehicular homicide and manslaughter.</p> <p><b>537.021</b> Vehicular assault in a construction zone.</p> <p><b>537.03</b> Assault.</p> <p><b>537.04</b> Negligent assault.</p> <p><b>537.05</b> Aggravated menacing.</p> <p><b>537.051</b> Menacing by stalking.</p> <p><b>537.06</b> Menacing.</p> <p><b>537.07</b> Endangering children.</p> <p><b>537.08</b> Unlawful restraint.</p> <p><b>537.09</b> Coercion.</p> <p><b>537.10</b> Telecommunication harassment.</p> <p><b>537.11</b> Threatening or harassing telephone calls.</p>	<p><b>537.12</b> Misuse of 9-1-1 system.</p> <p><b>537.13</b> Adulterating of or furnishing adulterated food or confection.</p> <p><b>537.14</b> Domestic violence.</p> <p><b>537.15</b> Temporary protection order.</p> <p><b>537.16</b> Illegal distribution of cigarettes, other tobacco products, or alternate nicotine products; transaction scans.</p> <p><b>537.17</b> Reserved.</p> <p><b>537.18</b> Contributing to unruliness or delinquency of a child.</p> <p><b>537.99</b> Penalty.</p>
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**CROSS REFERENCES**

See sectional histories for similar State law  
Physical harm to persons defined - see GEN. OFF.  
501.01 (c), (e)  
Fighting; provoking violent response - see GEN. OFF. 509.03

**537.01 NEGLIGENT HOMICIDE.**

(a) No person shall negligently cause the death of another or the unlawful termination of another's pregnancy by means of a deadly weapon or dangerous ordnance as defined in Section 549.01.

(b) Whoever violates this section is guilty of negligent homicide, a misdemeanor of the first degree. (ORC 2903.05)

**537.02 VEHICULAR HOMICIDE AND MANSLAUGHTER.**

(a) No person, while operating or participating in the operation of a motor vehicle, motorcycle, snowmobile, locomotive, watercraft, or aircraft, shall cause the death of another or the unlawful termination of another's pregnancy in any of the following ways:

(1) A. Negligently;

- B. As the proximate result of committing, while operating or participating in the operation of a motor vehicle or motorcycle in a construction zone, a speeding offense, provided that this subsection applies only if the person whose death is caused or whose pregnancy is unlawfully terminated is in the construction zone at the time of the offender's commission of the speeding offense in the construction zone and does not apply as described in subsection (d) of this section.
- (2) As the proximate result of committing a violation of any provision of any section contained in Title XLV of the Ohio Revised Code that is a minor misdemeanor or of a municipal ordinance that, regardless of the penalty set by ordinance for the violation, is substantially equivalent to any provision of any section contained in Title XLV of the Ohio Revised Code that is a minor misdemeanor.
- (b) (1) Whoever violates subsection (a)(1) of this section is guilty of vehicular homicide. Except as otherwise provided in this subsection, vehicular homicide is a misdemeanor of the first degree. Vehicular homicide is a felony and shall be prosecuted under appropriate State law if, at the time of the offense, the offender was driving under a suspension or cancellation imposed under Ohio R.C. Chapter 4510 or any other provision of the Ohio Revised Code or was operating a motor vehicle or motorcycle, did not have a valid driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege, and was not eligible for renewal of the offender's driver's license or commercial driver's license without examination under Ohio R.C. 4507.10 or if the offender previously has been convicted of or pleaded guilty to a violation of this section or any traffic-related homicide, manslaughter or assault offense. The court shall impose a mandatory jail term on the offender when required by Ohio R.C. 2903.06(E).
- (2) Whoever violates subsection (a)(2) of this section is guilty of vehicular manslaughter. Except as otherwise provided in this subsection, vehicular manslaughter is a misdemeanor of the second degree. Vehicular manslaughter is a misdemeanor of the first degree if, at the time of the offense, the offender was driving under a suspension or cancellation imposed under Ohio R.C. Chapter 4510 or any other provision of the Ohio Revised Code or was operating a motor vehicle or motorcycle, did not have a valid driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege, and was not eligible for renewal of the offender's driver's license or commercial driver's license without examination under Ohio R.C. 4507.10 or if the offender previously has been convicted of or pleaded guilty to a violation of this section or any traffic-related homicide, manslaughter, or assault offense.
- (c) The court shall impose a mandatory jail term of at least fifteen days on an offender who is convicted of or pleads guilty to a violation of subsection (a)(1)B. of this section and may impose upon the offender a longer jail term as authorized pursuant to Section 501.99. The court shall impose a mandatory prison term on an offender who is convicted of or pleads guilty to a violation of subsection (a)(1)A. hereof if either of the following applies:
- (1) The offender previously has been convicted of or pleaded guilty to a violation of this section or Ohio R.C. 2903.06 or 2903.08.

- (4) No person engaged in the business of selling cigarettes who ships or causes to be shipped cigarettes to any person in this municipality in any container or wrapping other than the original container or wrapping of the cigarettes shall fail to plainly and visibly mark the exterior of the container or wrapping in which the cigarettes are shipped with the words "cigarettes."
  - (5) A court shall impose a fine of up to one thousand dollars (\$1,000) for each violation of subsection (d)(3)A., (d)(3)B. or (d)(4) of this section.  
(ORC 2927.023)
- (e) Furnishing False Information to Obtain Tobacco Products.
- (1) No person who is eighteen years of age or older but younger than twenty-one years of age shall knowingly furnish false information concerning that person's name, age, or other identification for the purpose of obtaining tobacco products.
  - (2) Whoever violates subsection (e)(1) of this section is guilty of furnishing false information to obtain tobacco products. Except as otherwise provided in this division, furnishing false information to obtain tobacco products is a misdemeanor of the fourth degree. If the offender previously has been convicted of or pleaded guilty to a violation of subsection (e)(1) of this section or a substantially equivalent state law or municipal ordinance, furnishing false information to obtain tobacco products is a misdemeanor of the third degree.  
(ORC 2927.024)

**537.17 RESERVED.**

(Editor's note: This section was formerly 537.17 Criminal Child Enticement, based on Ohio R.C. 2905.05, Criminal Child Enticement. The Ohio Supreme Court held that Ohio R.C. 2905.05(A) was unconstitutionally overbroad in violation of the First Amendment. See *State v. Romage*, 138 Ohio St. 3d. 390 (2014).)

**537.18 CONTRIBUTING TO UNRULINESS OR DELINQUENCY OF A CHILD.**

- (a) As used in this section:
  - (1) "Delinquent child" has the same meaning as in Ohio R.C. 2152.02.
  - (2) "Unruly child" has the same meaning as in Ohio R.C. 2151.022.
- (b) No person, including a parent, guardian or other custodian of a child, shall do any of the following:
  - (1) Aid, abet, induce, cause, encourage, or contribute to a child or a ward of the juvenile court becoming an unruly child or a delinquent child;
  - (2) Act in a way tending to cause a child or a ward of the juvenile court to become an unruly child or a delinquent child;
  - (3) Act in a way that contributes to an adjudication of the child as a delinquent child based on the child's violation of a court order adjudicating the child an unruly child for being an habitual truant;



- (4) If the person is the parent, guardian, or custodian of a child who has the duties under Ohio R.C. Chapters 2152 and 2950 to register, register a new residence address, and periodically verify a residence address and, if applicable, to send a notice of intent to reside, and if the child is not emancipated, as defined in Ohio R.C. 2919.121, fail to ensure that the child complies with those duties under Ohio R.C. Chapters 2152 and 2950.

(c) Whoever violates this section is guilty of contributing to the unruliness or delinquency of a child, a misdemeanor of the first degree. Each day of violation of this section is a separate offense. (ORC 2919.24)

**537.99 PENALTY.**

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)

**CHAPTER 557**  
**Weeds and Trees**

<b>557.01</b> Trimming of trees, shrubbery required.	<b>557.03</b> Planting certain trees prohibited.
<b>557.02</b> Weed removal.	<b>557.99</b> Penalty.

**CROSS REFERENCES**

Assessments for tree planting or maintenance - see Ohio R.C. 727.011

Power to regulate shade trees and shrubbery - see Ohio R.C. 715.20

Destruction of shrubs, trees, crops - see GEN. OFF. 541.06

Trees - see S.U. & P.S. Ch. 985

**557.01 TRIMMING OF TREES, SHRUBBERY REQUIRED.**

(a) The owner, including commercial and railroad owners, of every lot or parcel of land within the City upon which a tree, plant or shrubbery stands with any part thereof upon or overhanging a public street or sidewalk, or creating a sloppy or unkept appearance, shall conform to the regulations herein provided; otherwise, the City shall cause the trees to be trimmed or cut down and removed in accordance with regulations and access the cost thereof against the owner of the lot or parcel of land pursuant to Section 557.03.

(Ord. 2020-18. Passed 7-6-20.)

- (1) The owner shall trim or cause to be trimmed the tree, plant or shrubbery so that a clear height of eight feet between the lowest branches of the same and the street or sidewalk is maintained.
- (2) The owner shall trim or remove, as the case may require, every dead, decayed or broken tree, plant or shrubbery, or part thereof, so the same does not fall to the street or sidewalk.
- (3) The owner shall cut down and remove any tree, plant or shrubbery, or any part thereof, as may be necessary to provide a clear and unobstructed view of traffic from all directions at any street intersection, or to abate any nuisance necessary to protect life, limb or property of persons, drivers of any vehicles or pedestrians using the street or sidewalk.

(Ord. 1863. Passed 1-24-57.)

- (b) (1) Whoever violates this section is guilty of a minor misdemeanor.
- (2) If the offender has previously been convicted of a violation of this section within one year, violation of this section is a misdemeanor of the first degree.

(Ord. 3638. Passed 9-7-82.)

**557.02 WEED REMOVAL.**

(a) As used in this chapter, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

- (1) "Person" includes and shall be applicable to firms, partnerships, corporations and associations, as well as to individuals.
- (2) "Weeds" includes all grasses, hay, weeds of any variety and any other foliage, of whatever kind and nature, however, this term shall not include cultivated flowers, gardens, agricultural crops, trees or shrubs.
- (3) "Premises" includes all real property within the City of Newton Falls.
- (4) "Person in charge" includes, lessee, agent in charge of or other person responsible for the premises.

(b) All weeds and noxious weeds six or more inches in height and within ten feet of abutting public or private streets are declared a public nuisance.  
(Ord. 2003-21. Passed 7-14-03.)

(c) It shall be the duty of the person in charge of any premises within the City, with the exception of those described in subsections (f) and (g) hereof, to cut or remove all weeds and noxious weeds in excess of six inches or more in height on the premises.

(d) The City Manager shall cause a notice to appear in a newspaper of general circulation to be published on or about April 15 of each calendar year informing the property owners within the City of Newton Falls of the requirements contained in Section 557.02. This notice shall contain the following information:

- (1) All properties within the City of Newton Falls must be maintained in accordance with Section 557.02 of the Newton Falls Code of Ordinances, which prohibits grass or weed growth in excess of six inches (6").
  - (2) All properties within the City of Newton Falls must be maintained in accordance with Section 557.02, the City will cause the weeds or grass to be cut at the owner's expense. The City will place a lien on the property for the amount owed in accordance with Ohio R.C. Section 731.54.
  - (3) Contact information for the appropriate City department.
- (e)
- (1) Those properties found to be in violation of Section 557.02 shall have a placard conspicuously placed in the front yard of the property. The placard shall remain in the yard until compliance with this ordinance for up to five days. If the property is not in compliance within five days of the posting of the placard, the City shall cause the weeds or grass to be cut or removed at the owner's expense and the City will place a lien on the property for the amount owed in accordance with Ohio R.C. 731.54;
  - (2) The removal of the placard prior to bringing the property into compliance shall be a violation of this section.
  - (3) Said placard shall be of a size, shape and color to be clearly visible and shall contain the following information:
    - A. The nature of the Code violation;
    - B. An order to cut or remove the weeds or grass within five days;
    - C. Statement indicating that should the property owner fail to comply with the order, the City will cause the weeds or grass to be cut or removed at the owner's expense, and the City will place a lien on the property for the amount owed in accordance with Ohio R.C. 731.54;

**ORDINANCE 2020-34**

**AN ORDINANCE AUTHORIZING A CONTRACT WITH THE CHIEF OF  
POLICE.**

*(Sponsored by Ward 4 Councilwoman Sandra Breymaier, Ward 1 Councilman Adam Zimmermann, Ward 3 Councilman Lyle Waddell, At-large Councilman Tarry Alberini and City Manager David Lynch)*

**WHEREAS**, Article V, Section 3 of the Newton Falls City Charter provides that there shall be a Police Department the head of which shall be the Chief of Police; and

**WHEREAS**, The Chief has been a fixture in law enforcement for over 30 years, establishing a reputation as a leader in police work, establishing a remarkable record for proficiency and efficiency in government for the City of Newton Falls, Ohio; and

**WHEREAS**, the City desires to engage the services of the Chief to perform services by contract to carry out those duties as may be required under the provisions of the City's Charter.

COUNCIL FOR THE CITY OF NEWTON FALLS, STATE OF OHIO, HEREBY ORDAINS:

SECTION I: The City Manager is hereby authorized to enter into "Exhibit A" attached hereto as if fully rewritten herein, an agreement with Eugene Fixler, Chief of Police, setting the terms and conditions of employment.

SECTION II: Any ordinance or parts of ordinance in conflict with the context of this ordinance are hereby repealed.

PASSED IN COUNCIL THIS \_\_\_\_\_ OF \_\_\_\_\_ 2020.

\_\_\_\_\_  
Mayor, Kenneth A. Kline

ATTEST: \_\_\_\_\_  
City Clerk/Clerk of Council

**EMPLOYMENT AGREEMENT**  
*"Police Chief"*  
**City of Newton Falls**

This **AGREEMENT** is made and entered into this 23rd day of November, 2020 by and between the City of Newton Falls, State of Ohio, a Municipal Corporation organized and existing under the laws of the State of Ohio, hereinafter referred to as "City" and Eugene Fixler, hereinafter referred to as the "Chief"

**WITNESSETH:**

**WHEREAS**, the Chief has been a fixture in law enforcement for over 30 years, establishing a reputation as a leader in police work, establishing a remarkable record for proficiency and efficiency in government for the City of Newton Falls, Ohio; and

**WHEREAS**, the City desires to engage the services of the Chief to perform services by contract to carry out those duties as may be required under the provisions of the City's Charter.

**NOW THEREFORE**, in consideration of the mutual covenants herein contained, the parties hereto agree as follows:

**Section 1: Duties:**

The Chief shall perform those services outlined in the Newton Falls City Charter as City Police Chief.

**Section 2: Term:**

The term of this agreement shall be for a period of 48 months, commencing December 1, 2020 through November 30, 2024.

Either party may terminate this agreement upon thirty days written notice. If the City terminates this agreement the Chief shall be entitled to a minimum severance payment, equal to an amount equal to the total due for the remaining months left in this contract, unless termination is due to conviction for a felony. Severance shall be paid in a lump sum unless otherwise agreed to by the Chief and the City

**Section 3: Compensation:**

A. The Chief shall be compensated the sum of \$72,500 annually with no overtime to be paid whatsoever.

B. Except as otherwise modified, employee shall be eligible to receive the same fringe benefits and across the board raises to which other non-union employees are entitled, and shall be entitled to a vehicle to be used for any purpose including personal use.

**Section 5: Modification:**

This Agreement may be modified by mutual agreement of the parties hereto, provided, however, that any such modification shall be reduced in writing.

**Section 6: Indemnification:**

The City shall provide professional liability insurance for the Chief and The City shall indemnify and hold the Chief harmless as to any claims, damages and liability arising out of the exercise of their authority within the scope of her duties and services provided herein.

**Section 7: General Provisions:**

A. Integration. This Agreement sets forth and establishes the entire understanding between the Employer and the Employee relating to the employment of the Employee by the Employer. Any prior discussions or representations by or between the parties are merged into and rendered null and void by this Agreement. The parties by mutual written agreement may amend any provision of this agreement during the life of the agreement. Such amendments shall be incorporated and made a part of this agreement.

B. Binding Effect. This Agreement shall be binding on the Employer and the Employee as well as their heirs, assigns, executors, personal representatives and successors in interest.

C. Effective Date. This Agreement shall become effective on December 1, 2020.

D. Severability. The invalidity or partial invalidity of any portion of this Agreement will not affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the remaining provisions shall be deemed to be in full force and effect as if they have been executed by both parties subsequent to the expungement or judicial modification of the invalid provision.

**IN WITNESS WHEREOF**, the City has caused this Agreement to be executed by its Manager and duly attested by its Chief, and the Chief has also executed this Agreement on this date.

\_\_\_\_\_  
David M. Lynch, City Manager

\_\_\_\_\_  
Eugene Fixler, Police Chief

Attest: \_\_\_\_\_

A. Joseph Fritz, Law Director

**ORDINANCE 2020-35**

**AN ORDINANCE AUTHORIZING A CONTRACT WITH THE DIRECTOR OF FINANCE.**

*(Sponsored by Ward 3 Councilman Lyle Waddell, Ward 1 Councilman Adam Zimmermann, Ward 4 Councilman Sandra Breymaier, at-large Councilman Tarry Alberini and City Manager David Lynch)*

**WHEREAS**, Article V, Section 2 of the Newton Falls City Charter provides that there shall be a Department of Finance, the head of which shall be the Director of Finance; and

**WHEREAS**, the Finance Director has practiced in the State of Ohio for a period in excess of twenty (20) years, establishing a remarkable record for proficiency and efficiency in government for the City of Newton Falls, Ohio; and

**WHEREAS**, the City desires to engage the services of the Finance Director to perform services by contract to carry out those duties as may be required under the provisions of the City's Charter.

COUNCIL FOR THE CITY OF NEWTON FALLS, STATE OF OHIO, HEREBY ORDAINS:

SECTION I: The City Manager is hereby authorized to enter into "Exhibit A" attached hereto as if fully rewritten herein, an agreement with Anna Musson, Director of Finance, setting the terms and conditions of employment.

SECTION II: Any ordinance or parts of ordinance in conflict with the context of this ordinance are hereby repealed.

PASSED IN COUNCIL THIS \_\_\_\_\_ OF \_\_\_\_\_ 2020.

\_\_\_\_\_  
Mayor, Kenneth A. Kline

ATTEST: \_\_\_\_\_  
City Clerk/Clerk of Council

**EMPLOYMENT AGREEMENT**  
*"Finance Director"*  
**City of Newton Falls**

This **AGREEMENT** is made and entered into this 23rd day of November, 2020 by and between the City of Newton Falls, State of Ohio, a Municipal Corporation organized and existing under the laws of the State of Ohio, hereinafter referred to as "City" and Anna Musson, hereinafter referred to as the "Finance Director"

**WITNESSETH:**

**WHEREAS**, the Finance Director has practiced in the State of Ohio for a period in excess of twenty (20) years, establishing a remarkable record for proficiency and efficiency in government for the City of Newton Falls, Ohio; and

**WHEREAS**, the City desires to engage the services of the Finance Director to perform services by contract to carry out those duties as may be required under the provisions of the City's Charter.

**NOW THEREFORE**, in consideration of the mutual covenants herein contained, the parties hereto agree as follows:

**Section 1: Duties:**

The Finance Director shall perform those services outlined in the Newton Falls City Charter as City Finance Director.

**Section 2: Term:**

The term of this agreement shall be for a period of 48 months, commencing December 1, 2020 through November 30, 2024.

Either party may terminate this agreement upon thirty days written notice. If the City terminates this agreement the Finance Director shall be entitled to a minimum severance payment, equal to an amount equal to the total due for the remaining months left in this contract, unless termination is due to conviction for a felony. Severance shall be paid in a lump sum unless otherwise agreed to by the Finance Director and the City

**Section 3: Compensation:**

A. The Finance Director shall be compensated the sum of \$72,500 annually with no overtime to be paid whatsoever.

B. Except as otherwise modified, employee shall be eligible to receive the same fringe benefits and across the board raises to which other non-union employees are entitled.



**Section 5: Modification:**

This Agreement may be modified by mutual agreement of the parties hereto, provided, however, that any such modification shall be reduced in writing.

**Section 6: Indemnification:**

The City shall provide professional liability insurance for the Finance Director and The City shall indemnify and hold the Finance Director harmless as to any claims, damages and liability arising out of the exercise of their authority within the scope of her duties and services provided herein.

**Section 7: General Provisions:**

A. Integration. This Agreement sets forth and establishes the entire understanding between the Employer and the Employee relating to the employment of the Employee by the Employer. Any prior discussions or representations by or between the parties are merged into and rendered null and void by this Agreement. The parties by mutual written agreement may amend any provision of this agreement during the life of the agreement. Such amendments shall be incorporated and made a part of this agreement.

B. Binding Effect. This Agreement shall be binding on the Employer and the Employee as well as their heirs, assigns, executors, personal representatives and successors in interest.

C. Effective Date. This Agreement shall become effective on December 1, 2020.

D. Severability. The invalidity or partial invalidity of any portion of this Agreement will not affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the remaining provisions shall be deemed to be in full force and effect as if they have been executed by both parties subsequent to the expungement or judicial modification of the invalid provision.

IN WITNESS WHEREOF, the City has caused this Agreement to be executed by its Manager and duly attested by its Finance Director, and the Finance Director has also executed this Agreement on this date.

\_\_\_\_\_  
David M. Lynch, City Manager

\_\_\_\_\_  
Anna Musson, Finance Director

Attest:

\_\_\_\_\_  
A. Joseph Fritz, Law Director

**ORDINANCE 2020-36**

**AN ORDINANCE AUTHORIZING A CONTRACT WITH THE CITY CLERK.**

*(Sponsored by Ward 3 Councilman Lyle Waddell, Ward 1 Councilman Adam Zimmermann, Ward 4 Councilman Sandra Breymaier, at-large Councilman Tarry Alberini and City Manager David Lynch)*

**WHEREAS**, Article III, Section 14 of the Newton Falls City Charter provides that there shall be a City Clerk; and

**WHEREAS**, the Clerk has practiced in the State of Ohio for a period in excess of twenty (20) years, establishing a remarkable record for proficiency and efficiency in government for the City of Newton Falls, Ohio; and

**WHEREAS**, the City desires to engage the services of the Clerk to perform services by contract to carry out those duties as may be required under the provisions of the City's Charter.

COUNCIL FOR THE CITY OF NEWTON FALLS, STATE OF OHIO, HEREBY ORDAINS:

SECTION I: The City Manager is hereby authorized to enter into "Exhibit A" attached hereto as if fully rewritten herein, an agreement with Kathleen King, City Clerk, setting the terms and conditions of employment.

SECTION II: Any ordinance or parts of ordinance in conflict with the context of this ordinance are hereby repealed.

PASSED IN COUNCIL THIS \_\_\_\_\_ OF \_\_\_\_\_ 2020.

\_\_\_\_\_  
Mayor, Kenneth A. Kline

ATTEST: \_\_\_\_\_  
City Clerk/Clerk of Council

**EMPLOYMENT AGREEMENT**  
**"City Clerk"**  
**City of Newton Falls**

This **AGREEMENT** is made and entered into this 23rd day of November, 2020 by and between the City of Newton Falls, State of Ohio, a Municipal Corporation organized and existing under the laws of the State of Ohio, hereinafter referred to as "City" and Kathleen King, hereinafter referred to as the "Clerk"

**WITNESSETH:**

**WHEREAS**, the Clerk has practiced in the State of Ohio for a period in excess of twenty (20) years, establishing a remarkable record for proficiency and efficiency in government for the City of Newton Falls, Ohio; and

**WHEREAS**, the City desires to engage the services of the Clerk to perform services by contract to carry out those duties as may be required under the provisions of the City's Charter.

**NOW THEREFORE**, in consideration of the mutual covenants herein contained, the parties hereto agree as follows:

**Section 1: Duties:**

- (a) The Clerk shall perform those services outlined in the Newton Falls City Charter as City Clerk and serve as assistant to the City Manager;

**Section 2: Term:**

The term of this agreement shall be for a period of 54 months, commencing December 1, 2020 through May 30, 2025.

Either party may terminate this agreement upon thirty days written notice. If the City terminates this agreement the Clerk shall be entitled to a minimum severance payment, equal to an amount equal to the total due for the remaining months left in this contract, unless termination is due to conviction for a felony. Severance shall be paid in a lump sum unless otherwise agreed to by the Clerk and the City

**Section 3: Compensation:**

A. The Clerk shall be compensated the sum of \$72,500 annually with no overtime to be paid whatsoever.

B. Except as otherwise modified, employee shall be eligible to receive the same fringe benefits and across the board raises to which other non-union employees are entitled.

**Section 5: Modification:**

This Agreement may be modified by mutual agreement of the parties hereto, provided, however, that any such modification shall be reduced in writing.

**Section 6: Indemnification:**

The City shall provide professional liability insurance for the Clerk and The City shall indemnify and hold the Clerk harmless as to any claims, damages and liability arising out of the exercise of their authority within the scope of her duties and services provided herein.

**Section 7: General Provisions:**

A. Integration. This Agreement sets forth and establishes the entire understanding between the Employer and the Employee relating to the employment of the Employee by the Employer. Any prior discussions or representations by or between the parties are merged into and rendered null and void by this Agreement. The parties by mutual written agreement may amend any provision of this agreement during the life of the agreement. Such amendments shall be incorporated and made a part of this agreement.

B. Binding Effect. This Agreement shall be binding on the Employer and the Employee as well as their heirs, assigns, executors, personal representatives and successors in interest.

C. Effective Date. This Agreement shall become effective on December 1, 2020.

D. Severability. The invalidity or partial invalidity of any portion of this Agreement will not affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the remaining provisions shall be deemed to be in full force and effect as if they have been executed by both parties subsequent to the expungement or judicial modification of the invalid provision.

**IN WITNESS WHEREOF**, the City has caused this Agreement to be executed by its Manager and duly attested by its Clerk, and the Clerk has also executed this Agreement on this date.

\_\_\_\_\_  
David M. Lynch, City Manager

\_\_\_\_\_  
Kathleen King, City Clerk

Attest:

\_\_\_\_\_  
A. Joseph Fritz, Law Director

**ORDINANCE 2020-37**

*(Sponsored by Ward 4 Councilwoman Sandra Breymaier, Ward 1 Councilman Adam Zimmermann, Ward 3 Councilman Lyle Waddell, At-large Councilman Tarry Alberini)*

**AN ORDINANCE AUTHORIZING A CONTRACT WITH THE CITY MANAGER.**

WHEREAS, Article IV of the Newton Falls City Charter requires the position of City Manager for the City of Newton Falls; and

WHEREAS, Newton Falls City Council would like to enter into a contract with David M. Lynch, City Manager.

THE COUNCIL FOR THE CITY OF NEWTON FALLS, STATE OF OHIO, HEREBY ORDAINS:

SECTION I: Newton Falls City Council hereby authorizes the Mayor to enter into "Exhibit A" attached hereto as if fully rewritten herein, an agreement with David M. Lynch, City Manager setting the terms and conditions of employment.

SECTION II: Any ordinance or parts of ordinance in conflict with the context of this ordinance are hereby repealed.

PASSED IN COUNCIL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2020.

\_\_\_\_\_  
MAYOR, Kenneth A. Kline

ATTEST: \_\_\_\_\_  
City Clerk/Clerk of Council

**Exhibit A**  
**Ordinance 2020-37**  
**Employment Agreement**  
**(CITY MANAGER)**

**Introduction**

This Agreement entered into this 23rd day of November 2020, by and between the Village of Newton Falls Ohio, Trumbull County a municipal corporation, (hereinafter called; “Employer;”) and David M. Lynch, (hereinafter called “Employee;”) an individual who has the education, training and experience in local government management and who may be a member of ICMA, both of whom agree as follows:

**Section 1: Term**

The term of this agreement shall be for an initial period of 48 months, commencing December 1, 2020 through November 30, 2024. This agreement replaces any previously existing agreement.

**Section 2: Duties and Authority**

The City hereby agrees to employ David M. Lynch as “City Manager” meeting the qualifications as specified in the Charter, Article IV, Section 1. The Employee shall perform those duties as designated by Council pursuant to Article IV, Section 2, which includes, but is not limited to, the following:

- A. Maintains an “open door” policy, whereby persons wishing to speak with the Manager are afforded an opportunity to do so.
- B. To the extent practical, or as assigned by Council, attends all City functions, meetings and activities, and County meetings directly relating to the City.
- C. Acts as a mediator in resolving disputes with City employees and/or with citizens who have complaints with the City, its policies and/or its employees.
- D. Submits a written report to Council in its package prior to each regular meeting, keeping Council well informed and up-to-date with detail reporting on the City’s day-to-day activities.

**Section 3: Compensation**

- A. Base Salary: Employer agrees to pay Employee an annual base salary of \$89,258.75 payable in installments at the same time that the other management employees of the Employer are paid.

B. Except as otherwise modified, employee shall be eligible to receive the same fringe benefits and annual across the board increases to which other non-union employees are entitled.

#### **Section 4: Health, Disability and Life Insurance Benefits**

A. The Employer agrees to provide and to pay all the premiums for health, hospitalization, surgical, vision, dental and comprehensive medical insurance for the Employee and his dependents equal to that which is provided to all other employees of Newton Falls per applicable Ordinance.

B. The Employer shall pay the amount of premium due for term life insurance in the amount of two hundred fifty thousand dollars (\$250,000). The Employee shall name the beneficiary of the life insurance policy.

#### **Section 5: Vacation**

The employee shall be entitled to five (5) weeks' vacation (25 working days). No days of accrued and unused vacation time off may be carried over from anniversary date from one calendar year into the next. Balance of unused leave time shall be paid at rate current at time of pay.

#### **Section 6: Automobile**

The City will provide the Employee with a suitable automobile for his use relating to City business. The Employee may drive this automobile back and forth between his place of residence and workplace and he may park it at his residence overnight. The Employee may use this vehicle for personal business. Employee will maintain records of such personnel use and declare such benefit for tax purposes.

#### **Section 7: Retirement**

The Employee shall be responsible for paying his portion of the Ohio Public Employees Retirement System (OPERS) and to make all the appropriate contributions on the Employee's behalf per all applicable ORC Sections. The City shall be responsible for paying their portion of the OPERS contribution for the duration of the term of this contract.

#### **Section 8: General Business Expenses**

The Employer shall provide Employee with a computer, software, Internet access, fax/modem, and cell phone required for the Employee to perform the job and to maintain communication.

### **Section 9: Dues and Subscriptions**

Employee may become a member of ICMA (International City/County Management Association) and OCMA (Ohio City/County Management Association) within six months of appointment.

The City agrees to budget and pay for the Employee's professional dues and subscriptions relating to his full membership and/or participation in the ICMA (International City/County Management Association) and OCMA (Ohio City/County Management Association). City Council shall approve reasonable participation in additional national, regional, state and local associations and organizations necessary and desirable for his continued professional growth and advancement and for the good of the City subject to the availability of funds.

### **Section 10: Professional Development**

The City agrees to budget and pay for the Employee's registration, travel, (food, lodging and reasonable expenses per city travel policy) relating to his participation in the OCMA and ICMA Conferences each year. In addition, the City also agrees to budget and pay for the Employee's travel and expenses as limited above relating to his participation in any number of state, regional, and/or local functions and/or organizations, subject to the availability of funds.

### **Section 11: Termination**

**For the purpose of this agreement, termination shall occur when:**

- A. The majority of Council votes to terminate the Employee at a duly authorized public meeting.
- B. If the Employer, citizens or legislature acts to amend any provisions of the charter, code, enabling legislation pertaining to the role, powers, duties, authority, responsibilities of the Employee's position that changes the form of government, such amendments constitute termination.
- C. If the Employer reduces the base salary, compensation or any other financial benefit of the Employee, such action shall constitute a breach of this agreement and will be regarded as a termination.
- D. If the Employer, prior to termination pursuant to Section 11, requests that Employee resign and Employee agrees to resign, Employee shall be entitled to the compensation as outlined in Section 12. Benefits to date back to the date of the request by the Employer.



E. If the Employee should become permanently disabled or unable to perform his duties due to illness or injury for an unpaid period of 24 successive weeks beyond all accumulated sick leave, the Employer shall have the option to terminate this contract.

F. Employer must inform employee in writing six (6) months prior to end of this agreement, should the employer not intend to renegotiate or extend current employment agreement with employee. Should such notification be provided to employee at a date later than stated above the current agreement shall be extended for six (6) months from the date of notification. (During which the time the employee shall continue administering his duties or at the discretion of the employer be compensated as if such duties were performed.)

### **Section 12: Severance**

Severance shall be paid to the Employee when employment is terminated as defined in Section 11, according to the terms below.

If the Employee is terminated, the Employer shall provide a minimum severance payment equal to the amount owed for the total remaining months left in this contract, unless the employee has been convicted of a felony. This severance shall be paid in a lump sum unless otherwise agreed to by the Employer and the Employee.

The Employee shall also be compensated for all accrued sick leave, vacation time, and all paid holiday leave accrued while employed by the City of Newton Falls.

For a minimum period of six months (6) following termination, the Employer shall pay the cost to continue the following benefits:

- a. Health insurance for the employee and all dependents as provided in Section 4A
- b. Life insurance as provided in Section 4B

### **Section 13: Resignation**

In the event that the Employee resigns for any other reason except for that outlined in Section 11 Paragraph D, the Employee shall provide a minimum of 30 days notice unless the parties agree otherwise. Employee shall be compensated for sick leave, vacation, and holiday pay accumulated and be provided existing health insurance benefits for 12 months following the end of the month such resignation is tendered.

#### **Section 14: Hours of Work**

Council recognizes that the performance of duties expected of this position will require flexibility in the work schedule on occasion. Employee shall as necessary devote his time outside normal working hours to the City's business, and the Employee understands that the work will be performed as required by Council. There will, therefore, be no extra compensation/pay for the extra time that the Employee may be required to spend on City business outside of his normal office hours.

#### **Section 15: Outside Activities**

The employment provided for by this Agreement shall be the Employee's sole employment, except that the Employee may elect to accept limited teaching, consulting, writing, or other business opportunities with the understanding that such arrangements shall not constitute interference with nor a conflict of interest with his or her responsibilities under this Agreement.

#### **Section 16: Indemnification**

The City shall defend, save harmless, and indemnify the Employee against any tort, professional liability claim, demand, or other legal action, whether groundless or otherwise, arising out of an alleged act or omission in the performance of his duties as "City Manager". The City will compromise and settle any such claim or suit and pay the entire amount of any settlement or judgment rendered thereon.

#### **Section 17: Bonding**

Employer shall bear the full cost of any fidelity or other bonds required of the Employee under any law or ordinance.

#### **Section 18: Other Terms and Conditions of Employment**

The Employer, only upon agreement with Employee, shall fix any such other terms and conditions of employment, as it may determine from time to time, relating to the performance of the Employee, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, the Newton Falls Charter or any other law.

#### **Section 19: Non-Disclosure and Confidential Information**

The Employee agrees that he will not, at any time during or after the term of this contract, use for his own benefit, either directly or indirectly, or disclose or communicate in any manner to any individual, corporation or other entity any *confidential* information acquired by him during his employment regarding any actual or intended business activity, service, plan or strategy of the City.

**Section 20: Annual Reviews**

The Employee will participate with the Employer in a review of Employee performance and direction, activity, and progress towards improved performance on a semi-annual basis as close as practicable on June 1 and December 1.

**Section 21: General Provisions**

A. Integration. This Agreement sets forth and establishes the entire understanding between the Employer and the Employee relating to the employment of the Employee by the Employer. Any prior discussions or representations by or between the parties are merged into and rendered null and void by this Agreement. The parties by mutual written agreement may amend any provision of this agreement during the life of the agreement. Such amendments shall be incorporated and made a part of this agreement.

B. Binding Effect. This Agreement shall be binding on the Employer and the Employee as well as their heirs, assigns, executors, personal representatives and successors in interest.

C. Effective Date. This Agreement shall become effective on December 1, 2020, replacing any prior agreements.

D. Severability. The invalidity or partial invalidity of any portion of this Agreement will not affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the remaining provisions shall be deemed to be in full force and effect as if they have been executed by both parties subsequent to the expungement or judicial modification of the invalid provision.

\_\_\_\_\_  
Mayor: Ken Kline

\_\_\_\_\_  
Employee: David M. Lynch

ATTEST: \_\_\_\_\_  
City Clerk: Kathleen M. King

Approved as to form: \_\_\_\_\_  
Law Director: A. Joseph Fritz

**ORDINANCE 2020-38**

**AN ORDINANCE ESTABLISHING A SYSTEM OF REGULATION OF CHARITIES IN CONFORMANCE WITH OHIO REVISED CODE CHAPTER 1716.01 THROUGH 1716.99.**

WHEREAS, The State of Ohio has created a comprehensive regulation of charities in the State of Ohio; and

WHEREAS, The State plan often proves inadequate to regulate charitable activities on the local level do to the volume and expanse of statewide activities; and

WHEREAS, to protect the public from local charity scams that attack senior citizens and the vulnerable on a local level; and

WHEREAS, The Newton Falls City Council deems it necessary to regulate local charitable activities to protect the safety, and welfare of the Community.

COUNCIL FOR THE CITY OF NEWTON FALLS, STATE OF OHIO, HEREBY ORDAINS:

SECTION I: The City Council hereby adopts "Exhibit A" attached hereto as if fully rewritten herein regulating local charitable activity to protect the welfare of the community.

SECTION II: Any ordinance or parts of ordinances in conflict with the context of this ordinance are hereby repealed.

PASSED IN COUNCIL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2020.

\_\_\_\_\_  
Mayor, Kenneth A. Kline

ATTEST: \_\_\_\_\_  
City Clerk, Kathleen M. King

# **EXHIBIT A**

## **Ordinance 2020-38**

### **CHAPTER 739 OF THE NEWTON FALLS MUNICIPAL CODE “CHARITABLE ORGANIZATIONS”**

#### **§ 739.01 Definitions.**

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As used in this chapter:

**(A)**

**(1)** “Charitable organization” means either of the following:

**(a)** Any person that is determined by the internal revenue service to be a tax exempt organization pursuant to section 501(c)(3) of the Internal Revenue Code;

**(b)** Any person that is or holds itself out to be established for any benevolent, philanthropic, patriotic, educational, humane, scientific, public health, environmental conservation, civic, or other eleemosynary purpose or for the benefit of law enforcement personnel, firefighters, or other persons who protect the public safety, or any person who in any manner employs a charitable appeal as the basis of any solicitation or an appeal that suggests that there is a charitable purpose to any solicitation.

**(2)** “Charitable organization” is not limited to only those organizations to which contributions are tax deductible under section 170 of the Internal Revenue Code.

**(B)**

**(1)** “Charitable purpose” means either of the following:

**(a)** Any purpose described in section 501(c)(3) of the Internal Revenue Code;

**(b)** Any benevolent, philanthropic, patriotic, educational, humane, scientific, public health, environmental conservation, civic, or other eleemosynary objective or any objective that benefits law enforcement personnel, firefighters, or other persons who protect the public safety.

**(2)** “Charitable purpose” is not limited to only those purposes for which contributions are tax deductible under section 170 of the Internal Revenue Code.

**(C)** “Charitable sales promotion” means any advertising or sale conducted by a person who represents that the purchase or use of goods or services offered by the person will benefit, in whole or in part, any charitable organization or charitable purpose. The provision of advertising services to a charitable organization, either for compensation or as a donation, does not of itself constitute a charitable sales promotion.

**(D)** “Commercial co-venturer” means any person who for profit regularly and primarily is engaged in trade or commerce other than in connection with soliciting for charitable organizations or charitable purposes and who conducts a charitable sales promotion.

**(E)** “Contribution” means the promise, pledge, or grant of any money or property, financial assistance, or any other thing of value in response to a solicitation. “Contribution” does not include any bona fide fees, or any dues or assessments paid by members, provided that membership is not conferred solely as a consideration for making a contribution in response to a solicitation.

## ORC Ann. 1716.02

**(F)** “Deceptive act or practice” means knowingly misrepresenting any material fact related to the planning, conducting, or executing of any solicitation of contributions for a charitable organization or charitable purpose or to the planning, conducting, or executing of a charitable sales promotion, when the misrepresentation induces any person to make a contribution to a charitable organization, for a charitable purpose, or in response to a charitable sales promotion.

**(G)** “Fund-raising counsel” means any person who, for compensation, plans, manages, advises, consults, or prepares material for or with respect to the solicitation in this village of contributions for any charitable organization or at any time has custody of contributions from a solicitation, but does not solicit contributions and does not employ, procure, or otherwise engage any compensated person to solicit contributions. “Fund-raising counsel” does not include the following:

- (1)** An attorney, investment counselor, or banker who in the conduct of the attorney’s, investment counselor’s, or banker’s profession advises a client;
- (2)** A charitable organization or a bona fide officer, employee, or volunteer of a charitable organization, when the charitable organization has full knowledge of the services being performed on its behalf and either of the following applies:
  - (a)** The services performed by the charitable organization, bona fide officer, employee, or volunteer are performed on behalf of the charitable organization that employs the bona fide officer or employee;
  - (b)** The charitable organization on whose behalf the services are performed shares some element of common control or an historic or continuing relationship with the charitable organization that performs the services or employs the bona fide officer or employee or engages the services of the bona fide volunteer;
- (3)** An employer who is not engaged in the business of soliciting contributions or conducting charitable sales promotions;
- (4)** A compensated employee of an employer who is not engaged in the business of soliciting contributions or conducting charitable sales promotions, when the employee solicits contributions or conducts charitable sales promotions at the direction of the employee’s employer.

**(H)** “Internal Revenue Code” means the “Internal Revenue Code of 1986,” 100 Stat. 2085, 26 U.S.C.A. 1, as amended.

**(I)** “Person” has the same meaning as in section 1.59 of the Revised Code and includes a group, foundation, or any other entity however styled.

**(J)** “Professional solicitor” means any person who, for compensation, performs on behalf of or for the benefit of a charitable organization any service in connection with which contributions are or will be solicited in this village by the compensated person or by any person it employs, procures, or otherwise engages directly or indirectly to solicit contributions. “Professional solicitor” does not include the following:

- (1)** An attorney, investment counselor, or banker who in the conduct of the attorney’s, investment counselor’s, or banker’s profession advises a client;
- (2)** A charitable organization or a bona fide officer, employee, or volunteer of a charitable organization, when the charitable organization has full knowledge of the services being performed on its behalf and either of the following applies:
  - (a)** The services performed by the charitable organization, bona fide officer, employee, or volunteer are performed on behalf of the charitable organization that employs the bona fide officer or employee or engages the services of the bona fide volunteer;
  - (b)** The charitable organization on whose behalf the services are performed shares some element of common control or an historic or continuing relationship with the charitable organization that performs the services or employs the bona fide officer or employee or engages the services of the bona fide volunteer;

- (3) An employer who is not engaged in the business of soliciting contributions or conducting charitable sales promotions but who incidentally solicits contributions for a charitable organization or purpose without compensation;
- (4) A compensated employee of an employer who is not engaged in the business of soliciting contributions or conducting charitable sales promotions, when the employee solicits contributions or conducts charitable sales promotions at the direction of the employee's employer.

**(K)**

(1) "Solicit" or "solicitation" means to request or a request directly or indirectly for money, property, financial assistance, or any other thing of value on the plea or representation that such money, property, financial assistance, or other thing of value or a portion of it will be used for a charitable purpose or will benefit a charitable organization. "Solicit" or "solicitation" includes but is not limited to the following methods of requesting or securing the promise, pledge, or grant of money, property, financial assistance, or any other thing of value:

(a) Any oral or written request;

(b) Making any announcement to the press, on radio or television, by telephone or telegraph, facebook, other social media platforms, or by any other communication device concerning an appeal or campaign by or for any charitable organization or for any charitable purpose;

(c) Distributing, circulating, posting, or publishing any handbill, written advertisement, or other publication that directly or by implication seeks to obtain any contribution;

(d) Selling or offering or attempting to sell any advertisement, advertising space, book, card, tag, coupon, chance, device, magazine, membership, merchandise, subscription, sponsorship, flower, ticket, admission, candy, cookies, or other tangible item, or any right of any description in connection with which an appeal is made for any charitable organization or charitable purpose, or when the name of any charitable organization is used or referred to in any such appeal as an inducement or reason for making the sale, or when in connection with the sale or offer or attempt to sell, any statement is made that all or part of the proceeds from the sale will be used for any charitable purpose or will benefit any charitable organization.

(2) A solicitation is considered as having taken place for purposes of division (K)(1) of this section whether or not the person making the solicitation receives any contribution. A solicitation does not occur when a person applies for a grant or an award to the government or to an organization that is exempt from federal income taxation under section 501(a) and described in section 501(c)(3) of the Internal Revenue Code.

(L) "Theft offense" has the same meaning as in section 2913.01 of the Revised Code.

(M) "Elderly person" and "disabled adult" have the same meanings as in section 2913.01 of the Revised Code.

## **§ 739.02 Charitable organizations to file annual registration statement; fees.**

(A) Every charitable organization, except those exempted under section 1716.03 of the Revised Code, that intends to solicit contributions in this village by any means or have contributions solicited in this village on its behalf by any other person, charitable organization, commercial co-venturer, or professional solicitor, or that participates in a charitable sales promotion, prior to engaging in any of these activities and annually thereafter, shall file a registration

statement with the city law director upon a form prescribed by the city law director. Each chapter, branch, or affiliate of a charitable organization that is required to file a registration statement under this section either shall file a separate registration statement or report the necessary information to its parent charitable organization that then shall file a consolidated registration statement. The annual registration statement shall be refiled on or before the fifteenth day of the first calendar month after the close of each calendar year in which the charitable organization solicited in this village. No charitable organization that is required to register under this chapter prior to registration, shall solicit contributions in this village by any means, have contributions solicited in this village on its behalf by any other person, charitable organization, commercial co-venturer, or professional solicitor, or participate in a charitable sales promotion.

**(B)** The registration statement shall be signed and sworn to under penalties of perjury by the treasurer or chief fiscal officer of the charitable organization and shall contain the following information:

- (1)** The name of the charitable organization, the purpose for which it is organized, and the name or names under which it intends to solicit contributions;
- (2)** The address and telephone number of the principal place of business of the charitable organization and the address and telephone number of every office, chapter, branch, or affiliate of the charitable organization located in this village or, if the charitable organization does not maintain an office in this village, the name, address, and telephone number of the person that has custody of its financial records;
- (3)** The names and addresses of the officers, directors, trustees, and executive personnel of the charitable organization;
- (4)** The annual financial report of the charitable organization for the immediately preceding calendar year as required under chapter 739 of the Newton Falls Municipal Code.
- (5)** The last day of the fiscal year for the charitable organization;
- (6)** A statement of whether the charitable organization is registered with or otherwise authorized by any other governmental authority in this village or another state to solicit contributions;
- (7)** A statement of whether the charitable organization has had its registration or authority denied, suspended, revoked, or enjoined by any court or other governmental authority in this village or another state;
- (8)** A statement of whether the charitable organization intends to solicit contributions from the public directly by using its own resources or to have solicitations made on its behalf through the use of another charitable organization, fund-raising counsel, professional solicitors, or commercial co-venturers;
- (9)** The names, addresses, and the telephone numbers of any other charitable organization, fund-raising counsel, professional solicitors, and commercial co-venturers who act or will act on behalf of the charitable organization, together with a statement setting forth the specific terms of the arrangements for salaries, bonuses, commissions, expenses, or other remunerations to be paid the other charitable organization, fund-raising counsel, professional solicitors, and commercial co-venturers. If any of the information required by division (B)(9) of this section is not available at the time of registration, that information shall be submitted to the city law director at a later date but before any solicitation occurs.
- (10)** The charitable purpose or purposes for which the contributions to be solicited will be used;
- (11)** The names, addresses, and telephone numbers of the persons within the charitable organization that will have final responsibility for the custody of the contributions;
- (12)** The names of the persons within the charitable organization that will be responsible for the final distribution of the contributions;
- (13)** The period of time during which, and the counties in which, the solicitation is planned to be conducted;
- (14)** A schedule of the activities carried on by the charitable organization in the performance of its purposes;
- (15)** Any other information that the city law director may, by rule, require.

**(C)**



(1) With the initial registration only, every charitable organization that is required to register under this chapter also shall file with the city law director the following:

- (a) A copy of the current charter, articles of incorporation, agreement of association, instrument of trust, constitution, or other organizational instrument, and a copy of the bylaws of the charitable organization;
- (b) A statement setting forth the place where and the date when the charitable organization was legally established, the form of its organization, and its tax exempt status, with a copy of its federal tax exemption determination letter.

(2)

- (a) With the next annual registration statement filed after its adoption, the charitable organization shall file with the city law director a copy of any amendment to its organizational instrument as specified in division (C)(1)(a) of this section and a copy of any amendment to its bylaws.
- (b) Within thirty days after its receipt, the charitable organization shall file with the city law director a copy of any federal tax exemption determination letter or any correspondence rescinding its tax exempt status that is received after the initial registration. Not later than thirty days after being notified by the internal revenue service of any challenge to or investigation of its continued entitlement to federal tax exemption, the charitable organization shall notify the city law director of this fact.

(D)

(1) Except as otherwise provided in division (D)(2) of this section, every charitable organization that is required to register under this chapter shall pay the following fees with each registration:

- (a) Fifty dollars, if the contributions received for the last or current calendar or fiscal year were one hundred dollars or more but less than twenty-five thousand dollars;
- (b) One hundred dollars, if the contributions received for the last or current calendar or fiscal year were twenty-five thousand dollars or more but less than fifty thousand dollars;
- (c) Two hundred dollars, if the contributions received for the last or current calendar or fiscal year were fifty thousand dollars or more.

(2) A charitable organization that is required to register under this chapter and whose contributions received for the last calendar or fiscal year were less than one hundred dollars shall not pay any registration fee.

(3) The amount of registration fees that a charitable organization is required to pay under division (D)(1) of this section shall be based on the amount of contributions that it receives from persons in this state. If, for any reporting year, a charitable organization cannot determine from its records the exact amount of contributions it received from persons in this state, it shall compute the amount of the registration fee upon the estimated amount of contributions it received from persons in this state, with the estimated amount to be explained in writing at the time the registration fee is paid. At the request of the city law director, the charitable organization shall substantiate the estimated amount of contributions it received from persons in this state.

(4) All registration fees shall be paid into the village treasury to the credit of the charitable law fund established by the village finance director.

(5) Any charitable organization that fails to pay the fee required by this section at the time required shall pay an additional fee of two hundred dollars, except that the city law director may waive the two-hundred-dollar fee upon a showing that the charitable organization failed to pay the fee for filing the annual registration statement at the time required by this section for reasons that were beyond the control of the charitable organization

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## § 739.03 Annual financial report of registrants.

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(A) Every charitable organization that is required to register pursuant to this chapter shall file an annual financial report with the city law director upon a form prescribed by him. The report shall include all of the following:

- (1) A balance sheet;
- (2) A statement of support, revenue, and expenses, and any changes in the fund balance;
- (3) The names and addresses of the charitable organizations, fund-raising counsel, professional solicitors, and commercial co-venturers used, if any, and the amounts of money received from each of them, if any.
- (4) A statement of functional expenses that shall include, but not be limited to, expenses of the following categories:
  - (a) Program;
  - (b) Management and general;
  - (c) Fund-raising.
- (5) Any other information that the city law director, by rule, may require.

(B) The city law director shall accept a copy or duplicate original of a financial statement, report, or return filed by the charitable organization with the internal revenue service. The city law director, by rule, may require additional information as part of the annual financial report, including all bank account information including deposits and checks and bank statements.. Any consolidated financial report filed with the city law director shall include information about the parent charitable organization as such and the financial information arising out of the activities of each chapter, branch, or affiliate of the charitable organization in this village that is covered by the financial statement, report, or return filed by the charitable organization with the internal revenue service.

## **§ 739.04 Exempt organizations.**

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The following shall not be required to file a registration statement as provided in this chapter 739:

- (A) Any religious agencies and organizations, and charities, agencies, and organizations operated, supervised, or controlled by a religious organization;
- (B) Any educational institution, when solicitation of contributions is confined to alumni, faculty, trustees, or the student membership and their families;
- (C) Any public primary or secondary school, when solicitation of contributions is confined to alumni, faculty, or the general population of the local school district;
- (D) Any booster club that is organized and operated in conjunction with and for the benefit of students of public primary or secondary schools;
- (G) Any charitable organization that does not receive gross revenue, excluding grants or awards from the government or an organization that is exempt from federal income taxation under section 501(a) and described in section 501(c)(3) of the Internal Revenue Code, in excess of one hundred dollars during its immediately preceding calendar year, if the organization does not compensate any person primarily to solicit contributions.

If the gross revenue, excluding grants or awards from the government or an organization that is exempt from federal income taxation under section 501(a) and described in section 501(c)(3) of the Internal Revenue Code, of any charitable organization received during any calendar year exceeds one hundred dollars, the charitable organization, within thirty days after the receipt of the revenue, shall file a registration statement with the city law director pursuant to this chapter 739.

## **§ 739.05 Registration, deposit of contributions, duties of fund-raising counsel; prohibited persons.**

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(A) No person shall act as a fund-raising counsel unless the person first has complied with the requirements of this chapter and any rules adopted under this chapter.

(B) Any fund-raising counsel that at any time has custody of contributions from a solicitation shall do all of the following:

(1) Register with the city law director. Applications for registration or renewal of registration shall be in writing, under oath, and in the form prescribed by the city law director, and shall be accompanied by a fee in the amount of two hundred dollars. Any corporation, partnership, association, or other entity that intends to act as a fund-raising counsel may register for and pay a single fee of two hundred dollars on behalf of all its members, officers, employees, and agents. In that case, the names and addresses of all the officers, employees, and agents of the fund-raising counsel and all other persons with whom the fund-raising counsel has contracted to work under its direction shall be listed in the application. The application shall contain any other information that the city law director may require. The registration or renewal of registration shall be for a period of one year or part of one year and shall expire on the thirty-first day of March of each year. All fees prescribed in this division shall be paid into the village treasury to the credit of the charitable law fund established by the village finance director.

(2) At the time of making an application for registration or renewal of registration, file with and have approved by the city law director a bond in which the fund-raising counsel shall be the principal obligor, in the sum of twenty-five thousand dollars, with one or more sureties authorized to do business in this state. The fund-raising counsel shall maintain the bond in effect as long as the registration is in effect; however, the liability of the surety under the bond shall not exceed an all-time aggregate liability of twenty-five thousand dollars. The bond, which may be in the form of a rider to a larger blanket liability bond, shall run to the village and to any person who may have a cause of action against the principal obligor of the bond for any liability arising out of a violation by the obligor of any provision of this chapter or any rule adopted pursuant to this chapter.

(3) Not later than ninety days after a solicitation campaign has been completed and on the anniversary of the commencement of a solicitation campaign lasting more than one year, furnish an accounting of all contributions collected and expenses paid, to the charitable organization with which the fund-raising counsel has contracted. The accounting shall be in writing and shall be retained by the charitable organization for three years. The fund-raising counsel shall file a copy of the accounting with the city law director not later than seven days after it is furnished to the charitable organization.

(4) Not later than two days after receipt of each contribution, all persons shall deposit the entire amount of a contribution in an account at a bank or other federally insured financial institution which shall be in the name of the charitable organization. Each contribution collected shall be solely in the name of that charitable organization. The charitable organization shall have sole control of all withdrawals from the account and the fund-raising counsel shall not be given the authority to withdraw any deposited funds from the account.

(5) During each solicitation campaign and for not less than three years after its completion, maintain the following records that shall be made available to the city law director upon the city law director's request:

(a) A record of each contribution that at any time is in the custody of the fund-raising counsel, including the name and address of each contributor and the date and amount of the contribution, provided that the city law director shall not disclose that information except to the extent necessary for investigative or law enforcement purposes;

- (b) The location of each bank or financial institution in which the fund-raising counsel has deposited revenue from the solicitation campaign and the account number of each account in which the deposits were made.
- (C) Unless otherwise provided in this section, any change in any information filed with the city law director pursuant to this section shall be reported in writing to the city law director within seven days after the change occurs.
- (D) No person shall serve as a fund-raising counsel, or be a member, officer, employee, or agent of any fund-raising counsel or of any charitable organization, who has been convicted of either of the following:
- (1) Any violation of this chapter or any rule adopted under this chapter, or of any charitable solicitation legislation or regulation of a political subdivision of this village or charitable solicitation law of any other jurisdiction that is similar to this chapter;
  - (2) A felony or any theft or theft related offense or what is considered to be felony or theft related offense in this or another state.
- (E) The information provided under this section to the city law director by a fund-raising counsel shall be included in the reports and files required to be compiled and maintained by the city law director.
- (F) If a fund-raising counsel or any other person fails to comply in a timely or complete manner with any of the requirements under this section, the fund-raising counsel or other person is liable for and, in addition to any fee required in this section, shall pay two hundred dollars for each late filing. Each registration, renewal of registration, bond, or accounting shall be considered a separate filing for the purposes of this section. Any fees required by this section are in addition to, and not in place of, penalties prescribed in this chapter.

## **§ 739.06 Professional solicitors.**

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- (A) No professional solicitor shall engage in any solicitation unless it has complied with the requirements of this chapter and any rules adopted under this chapter.
- (B) Every professional solicitor, before engaging in any solicitation, shall register with the city law director. Applications for registration or renewal of registration shall be in writing, under oath, and in the form prescribed by the city law director, and shall be accompanied by a fee in the amount of two hundred dollars. Any corporation, partnership, association, or other entity that intends to act as a professional solicitor may register for and pay a single fee of two hundred dollars on behalf of all its members, officers, employees, agents, and solicitors. In that case, the names and addresses of all the officers, employees, and agents of the professional solicitor and all other persons with whom the professional solicitor has contracted to work under its direction, including solicitors, shall be listed in the application or furnished to the city law director within five days of the date of employment or contractual arrangement. The application shall contain any other information that the city law director may require. The registration shall be for a period of one year or part of one year and shall expire on the thirty-first day of March of each year. Upon application and payment of the fee specified in this division and filing of the bond prescribed in division (C) of this section, the registration may be renewed for additional one-year periods. All fees prescribed in this division shall be paid into the village treasury to the credit of the charitable law fund created by the village finance director.
- (C) At the time of making an application for registration or renewal of registration, the professional solicitor shall file with and have approved by the city law director a bond in which the professional solicitor shall be the principal obligor, in the sum of twenty-five thousand dollars, with one or more sureties authorized to do business in this state. The professional solicitor shall maintain the bond in effect as long as the registration is in effect; however, the liability of the surety under the bond shall not exceed an all-time aggregate liability of twenty-five thousand dollars. The bond, which may be in the form of a rider to a larger blanket liability bond, shall run to the village and to any person who

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may have a cause of action against the principal obligor of the bond for any liability arising out of a violation by the obligor of any provision of this chapter or any rule adopted pursuant to this chapter.

**(D)**

**(1)** Prior to the commencement of any solicitation, the professional solicitor shall file all of the following with the city law director:

**(a)** A completed document called "Solicitation Notice" upon a form prescribed by the city law director and containing all of the information specified in division (D)(2) of this section;

**(b)** A copy of the contract to solicit;

**(c)** A sworn statement by the charitable organization on whose behalf the professional solicitor is acting certifying that the solicitation notice and any accompanying material are true and correct to the best of its knowledge.

**(2)** The solicitation notice shall include all of the following:

**(a)** The fund-raising methods to be used;

**(b)** The projected dates when the solicitation will commence and terminate;

**(c)** The location and telephone number from where the solicitation will be conducted if it will be conducted by telephone;

**(d)** The name and residence address of each person responsible for directing and supervising the conduct of the solicitation campaign;

**(e)** A statement of whether the professional solicitor will at any time have custody of any contributions;

**(f)** A full and fair description of the charitable program for which the solicitation campaign is being carried out;

**(g)** The written and signed consent of every charitable organization on whose behalf the professional solicitor will be soliciting contributions or whose name will be mentioned during the solicitation.

**(E)** Not later than ninety days after a solicitation campaign has been completed and on the anniversary of the commencement of a solicitation campaign lasting more than one year, the professional solicitor shall provide to the charitable organization and file with the city law director a financial report of the campaign, including the gross revenue received and an itemization of all expenses incurred. The report shall be completed on a form prescribed by the city law director and signed by an authorized official of the professional solicitor who shall certify under oath that the report is true and correct.

**(F)** Each contribution collected by or in the custody of the professional solicitor shall be solely in the name of the charitable organization on whose behalf the contribution was solicited. Not later than two days after receipt of each contribution, the professional solicitor shall deposit the entire amount of the contribution in an account at a bank or other federally insured financial institution, which shall be in the name of that charitable organization. The charitable organization shall have sole control of all withdrawals from the account and the professional solicitor shall not be given the authority to withdraw any deposited funds from the account.

**(G)**

**(1)** During each solicitation campaign and for not less than three years after its completion, the professional solicitor shall maintain the following records:

**(a)** The name and, if known to the professional solicitor, the address and telephone number of each contributor and the date and amount of the contribution, provided that the city law director shall not disclose that information except to the extent necessary for investigative or law enforcement purposes;

**(b)** The name and residence address of each employee, agent, and any other person, however designated, who is involved in the solicitation, the amount of compensation paid to each, and the dates on which the payments were made;

- (c) A record of all contributions that at any time are in the custody of the professional solicitor;
  - (d) A record of all expenses incurred by the professional solicitor for the payment of which the professional solicitor is liable;
  - (e) A record of all expenses incurred by the professional solicitor for the payment of which the charitable organization is liable;
  - (f) The location of each bank or financial institution in which the professional solicitor has deposited revenue from the solicitation campaign and the account number of each account in which the deposits were made;
  - (g) A copy of each pitch sheet or solicitation script used during the solicitation campaign;
  - (h) If a refund of a contribution has been requested, the name and address of each person requesting the refund, and if a refund was made, its amount and the date it was made.
  - (i) Any other record of such information as the city law director may require.
- (2) If the professional solicitor sells tickets to any event and represents that the tickets will be donated for use by another person, the professional solicitor also shall maintain for the same period as specified in division (G)(1) of this section the following records:
- (a) The name and address of each contributor that purchases or donates tickets and the number of tickets purchased or donated by the contributor;
  - (b) The name and address of each organization that receives the donated tickets for the use of others, and the number of tickets received by the organization.
- (3) Any of the records described in divisions (G)(1) and (2) of this section shall be made available to the city law director upon the city law director's request and shall be furnished to the city law director within ten days of the request.
- (H) Unless otherwise provided in this section or section 1716.08 of the Revised Code, any change in any information filed with the city law director pursuant to this section and section 1716.08 of the Revised Code shall be reported in writing to the city law director within seven days after the change occurs.
- (I) No person shall serve as a professional solicitor, or be a member, officer, employee, or agent of any professional solicitor, who has been convicted in of either of the following:
- (1) Any violation of this chapter or any rule adopted under this chapter, or of any charitable solicitation legislation or regulation of a political subdivision of this village or charitable solicitation law of any other jurisdiction that is similar to this chapter;
  - (2) A felony in this or another state.
- (J) If a professional solicitor fails to comply in a timely or complete manner with any of the requirements under this section, the professional solicitor is liable for and, in addition to any fee required in this section, shall pay two hundred dollars for each late filing. Each registration, renewal of registration, bond, solicitation notice, contract, sworn statement, or financial report shall be considered a separate filing for the purposes of this section. Any fees required by this section are in addition to, and not in place of, penalties prescribed in this chapter.

**§ 739.07 Contracts with professional solicitors; disclosure at point of solicitation; representations as to donations to other charities; donated tickets; annual report and file of city law director.**

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**(A)** Every contract entered into by any professional solicitor with any charitable organization shall be in writing, shall clearly state the respective obligations of the professional solicitor and the charitable organization, and shall contain the percentage of the gross revenue from the solicitation campaign that the charitable organization will receive. That percentage shall be either a fixed percentage of the gross revenue or a reasonable estimate of the percentage of the gross revenue, subject to and in accordance with divisions (A)(1), (2), and (3) of this section.

**(1)** If the compensation of the professional solicitor is contingent upon the number of contributions or the amount of revenue received from the solicitation campaign, the stated percentage of the gross revenue that the charitable organization will receive shall be a fixed percentage of the gross revenue.

**(2)** If the compensation of the professional solicitor is not contingent upon the number of contributions or the amount of revenue received from the solicitation campaign, the stated percentage of the gross revenue that the charitable organization will receive shall be a reasonable estimate of the percentage of the gross revenue, and the contract shall include the following:

**(a)** The assumptions upon which the estimate is based, which assumptions shall be based upon all of the relevant facts known to the professional solicitor regarding the solicitation to be conducted and the past performance of the solicitation campaigns conducted by the professional solicitor;

**(b)** A provision that the charitable organization is guaranteed a percentage of the gross revenue that is not less than ninety per cent of the amount of the reasonable estimate of that percentage.

**(3)** The stated percentages prescribed in divisions (A)(1) and (2) of this section shall exclude any amount that the charitable organization, pursuant to the contract entered into with the professional solicitor, will pay as expenses of the solicitation campaign, including the costs of merchandise or services sold or events staged.

**(B)** A professional solicitor shall comply with, and shall be responsible for complying or causing compliance with each of the following requirements:

**(1)** Prior to verbally requesting a contribution, or contemporaneously with and accompanying a written request for a contribution, the following shall be clearly and conspicuously disclosed at the point of solicitation:

**(a)** The name of the professional solicitor as it is on file with the city law director and a statement that the solicitation is being conducted by the person as a professional solicitor;

**(b)** The name and address of each charitable organization on behalf of which all or any part of the contribution collected will be used. If the charitable organization has not received from the internal revenue service a determination letter that is currently in effect, stating that the organization is exempt from federal income taxation under section 501(a) and described in section 501(c)(3) of the Internal Revenue Code, the particular charitable purpose or purposes to be advanced with the funds raised shall be disclosed.

**(2)** If requested by the person being solicited, the professional solicitor shall inform that person of the fixed percentage of the gross revenue or the reasonable estimate of the percentage of the gross revenue, as prescribed in division (A) of this section, that the charitable organization will receive as a benefit from the solicitation campaign.

**(C)** A professional solicitor shall not represent that any part of the contributions received will be given or donated to any other charitable organization unless that charitable organization has given its written and signed consent.

**(D)**

**(1)** A professional solicitor shall not represent that tickets to any event will be donated for use by another person, unless the following requirements are complied with:

**(a)** The professional solicitor shall have the written commitments from persons stating that they will accept donated tickets and specifying the number of tickets they are willing to accept.

**(b)** The written commitments are filed with the city law director prior to any solicitation.

(2) The contributions solicited for donated tickets shall not be more than the amount representing the number of ticket commitments received from persons and filed with the city law director pursuant to division (D)(1) of this section.

(3) Not later than seven calendar days prior to the date of the event, the professional solicitor shall give all donated tickets to each person that made the written commitment to accept them.

(E) The city law director shall prepare an annual report setting forth the activities of all professional solicitors and all fund-raising counsel that at any time have custody of contributions from a solicitation who are required to comply with the provisions of this chapter and any rules adopted under the provisions of this chapter. The report is a public record open to public inspection under section 149.43 of the Revised Code.

(F) The city law director shall maintain a file for each registered professional solicitor and fund-raising counsel that at any time has custody of contributions from a solicitation. In that file, he shall place all information received by him from those registered professional solicitors or fund-raising counsel and any letters received from citizens and charitable organizations regarding the work of the professional fund raiser or fund-raising counsel. The files are public records open to public inspection under section 149.43 of the Revised Code.

### **§ 739.08 Charitable sales promotions by commercial co-venturer.**

(A) Prior to the commencement of any charitable sales promotion in this village conducted by a commercial co-venturer on behalf of a charitable organization, the commercial co-venturer shall obtain the written consent of the charitable organization whose name will be used during the charitable sales promotion.

(B) In conducting a charitable sales promotion, if the actual dollar amount or percentage per unit of goods or services purchased or used that will benefit the charitable organization or charitable purpose has been determined, the commercial co-venturer shall disclose that amount or percentage in each advertisement for the charitable sales promotion. If the actual dollar amount or percentage per unit of goods or services purchased or used that will benefit the charitable organization or charitable purpose cannot reasonably be determined prior to the beginning of the charitable sales promotion, the commercial co-venturer shall disclose an estimated amount or percentage in each advertisement for the charitable sales promotion. The estimate shall be reasonable and shall be based on all the relevant facts known to the commercial co-venturer and the charitable organization.

(C) A commercial co-venturer shall keep a final accounting for each charitable sales promotion that it conducts for a period of three years following the completion of the charitable sales promotion. A commercial co-venturer shall provide a final accounting for each charitable sales promotion that it conducts to the charitable organization on whose behalf the charitable sales promotion was conducted not later than ten days after the charitable organization requests it. A commercial co-venturer shall provide to the city law director a copy of the final accounting for each charitable sales promotion that it conducts not later than ten days after the city law director requests it.

### **§ 739.09 Disclosures by organization at point of solicitation.**

Every charitable organization, whether or not required to register pursuant to this chapter, that directly solicits contributions in this village by any means shall make the following disclosures at the point of solicitation:



(A) The name of the charitable organization and the municipality of the principal place of business of the charitable organization;

(B) If the charitable organization has not received a determination letter from the internal revenue service that is currently in effect, stating that the organization is exempt from federal income taxation under section 501(a) and described in section 501(c)(3) of the Internal Revenue Code, the particular charitable purpose or purposes to be advanced with the funds raised.

### **§ 739.10 Records of solicitation activities.**

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Every charitable organization, fund-raising counsel, professional solicitor, and commercial co-venturer, whether or not required to register pursuant to this chapter, shall keep true records of solicitation activities that are covered by this chapter or any rule adopted under this chapter. The records shall be made available to the city law director for inspection and shall be furnished to him not later than ten days after his request. The records shall be retained for a period of at least three years.

### **§ 739.11 Exchange of information with other states or with United States.**

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The city law director may exchange any information with respect to charitable organizations, fund-raising counsel, professional solicitors, or commercial co-venturers with the appropriate authority of any other municipality or state of the United States. The city law director may accept any information filed by a charitable organization with the appropriate authority of another government in the United States in lieu of the information that the charitable organization is required to file pursuant to this chapter if the information substantially meets all the requirements of this chapter.

### **§ 739.12 Rules.**

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The city law director from time to time may adopt such reasonable rules as may be necessary to interpret or implement this chapter.

## **§ 739.13 Prohibited acts and practices; noncomplying solicitation is a nuisance.**

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(A) The following acts and practices are hereby prohibited and declared unlawful as applied to the planning, conducting, or executing of any solicitation of contributions for a charitable organization or charitable purpose or to the planning, conducting, or executing of a charitable sales promotion:

- (1) Committing any deceptive act or practice;
- (2) Misleading any person as to any material fact concerning the solicitation of contributions for a charitable organization or charitable purpose or concerning a charitable sales promotion;
- (3) Using any representation that implies that the contribution is for or on behalf of a charitable organization, or using any emblem, device, or printed matter belonging to or associated with a charitable organization, without first having been authorized in writing to do so by the charitable organization;
- (4) Using a name, symbol, or statement that is so closely related or similar to that used by another charitable organization, public official, or public agency in such a manner that the use of the name, symbol, or statement tends to confuse or mislead a person being solicited for contributions, except that the name, symbol, or statement may be used if written permission is obtained from the other charitable organization, public official, or public agency and filed with the city law director prior to any solicitation for a charitable purpose or prior to engaging in any charitable sales promotion;
- (5) Misleading any person in any manner in the belief, or making or using any representation to any person that implies, that the organization on whose behalf a solicitation or charitable sales promotion is being conducted is a charitable organization or that the proceeds of the solicitation or charitable sales promotion will be used for a charitable purpose if either of those is not the fact;
- (6) Misleading any person in any manner in the belief, or making or using any representation to any person that implies, that any other person sponsors, endorses, or approves of the solicitation or charitable sales promotion when that other person has not given its consent in writing to that representation or to the use of its name for any of those purposes;
- (7) Using or exploiting the fact of registration in such a manner as to lead any person to believe that the registration in any manner constitutes an endorsement or approval by the village or state;
- (8) Representing directly or by implication that a charitable organization will receive a fixed or estimated percentage of the gross revenue from a solicitation campaign that is greater than that set forth in the contract filed with the city law director pursuant to this chapter, or that a charitable organization will receive an actual or estimated dollar amount or percentage per unit of goods or services purchased or used in a charitable sales promotion, that is greater than that agreed to by the commercial co-venturer and the charitable organization;
- (9) Filing false or misleading information in any document required to be filed with the city law director under this chapter;
- (10) Filing false or misleading information in response to a request from the city law director pursuant to this chapter;
- (11) Failing to provide complete and timely payment to a charitable organization of the proceeds from a solicitation campaign or a charitable sales promotion;
- (12) Operating in violation of, or failing to comply with, any of the requirements of this chapter or any rule adopted under this chapter.

(B) The act of soliciting contributions for any charitable organization or charitable purpose or engaging in a charitable sales promotion without complying with the requirements of this chapter or any rule adopted pursuant to this chapter, is a nuisance.

## **§ 739.14 Investigations by city law director.**

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(A) In order to carry out his responsibilities under this chapter, upon reasonable cause to believe that any person has violated or is violating any provision of this chapter or any rule adopted under it, or has filed any document as required under this chapter that contains false or misleading information, the city law director may conduct an investigation to determine whether there has been a violation or filing of false or misleading information. In the conduct of the investigation, the city law director may do the following:

- (1) Examine or cause to be examined any person or any documentary material that is relevant to the alleged violation or false or misleading information;
- (2) Require the attendance during the examination of any person or require the production of any documentary material and the attendance of any person who has knowledge of the material, and take their testimony under oath. The testimony and examination shall take place in the county in which the person resides or has a place of business, or in Trumbull, is a nonresident of this state, or has no place of business in this state.
- (3) Require any professional solicitor, fund-raising counsel that at any time has custody of contributions from a solicitation, or charitable organization to produce an audited financial report prepared in accordance with generally accepted accounting principles pursuant to this chapter and that has been examined by an independent certified public accountant for the purpose of expressing an opinion on the report.

(B) The city law director shall give notice of the time, date, place, and cause of the examination or the taking of testimony not less than ten days prior to its date. Service of the notice may be made by any of the following means:

- (1) Personal delivery of a duly executed copy of the notice to the person to be served or to a partner, officer, or agent authorized by appointment or by law to receive service of process on behalf of that person;
- (2) Delivery by leaving a duly executed copy of the notice at the principal place of business in this village of the person to be served;
- (3) Certified mail, return receipt requested, of a duly executed copy of the notice to the person to be served at his principal place of business in this village or, if the person has no principal place of business in this state, to the last address of that person known to the city law director.

(C) The notice specified in division (B) of this section shall contain all of the following:

- (1) The time, date, and place of the examination or the taking of testimony and, if known, the name and address of each person to be examined or to testify, or if that is not known, a general description sufficient to identify the person or the particular class or group to which he belongs;
- (2) The section of this chapter if any, or the rule adopted by the city law director, if any, that is allegedly violated and the general subject matter of the investigation;
- (3) A description with reasonable specificity of the class or classes of documentary material that is required to be produced, if any, and the return date within which the documentary material is to be produced, which date shall be not less than ten days after the mailing of the notice.

(D) Every person upon whom the city law director made service of the notice pursuant to this section shall comply with the terms of the notice unless otherwise provided by order of any court in this state.

(E) No person shall do any of the following:

- (1) Fail to appear at any investigation under this section if he is required to do so;
- (2) With the purpose to avoid, evade, or prevent compliance in whole or in part with any investigation under this section, remove, conceal, withhold, destroy, mutilate, alter, or by any means falsify any documentary material in

the possession, custody, or control of any person who is subject to the notice prescribed in division (B) of this section;

(3) With the purpose to avoid, evade, or prevent compliance in whole or in part with any investigation under this section, knowingly conceal any information.

(F) The city law director may file a petition in the court of common pleas of the county in which the person who is subject to the notice resides or has its principal place of business or in the court of common pleas of Trumbull county if that person is not a resident of this village or has no principal place of business in this state, asking the court to issue an order for the enforcement of this section. The court may assess a civil penalty of not more than ten thousand dollars for each violation against any person who violates division (E) of this section, and may award the city law director the costs of investigation and litigation and reasonable attorney's fees.

(G) Any disobedience of any final order issued by the court under this section may be punished as for contempt of court or by imposing an additional civil penalty of not more than ten thousand dollars.

### **§ 739.15 Civil actions to enforce provisions; acceptance of assurance of discontinuance of violation; penalties.**

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(A) In addition to other remedies authorized by law, the city law director may bring a civil action to enforce this chapter or any rule adopted under this chapter. The city law director is not required to use any procedure prescribed in ORC Chapter 119. of the Revised Code prior to exercising any remedy set forth in this section.

(B) Upon a finding that any person has engaged or is engaging in any act or practice in violation of this chapter or any rule adopted under this chapter, a court may make any necessary order or enter a judgment including, but not limited to, an injunction, restitution, or an award of reasonable attorney's fees and costs of investigation and litigation, and may award to the village a civil penalty of not more than ten thousand dollars for each violation of this chapter or rule. In seeking injunctive relief, the city law director shall not be required to establish irreparable harm but only shall establish a violation of a provision of this chapter or a rule adopted under this chapter or that the requested order promotes the public interest.

(C) In any case in which the city law director has authority to institute an action or proceeding under this chapter, the city law director may accept an assurance of discontinuance of any method, act, or practice that is in violation of this chapter or any rule adopted under it, from any person alleged to be engaged in or to have engaged in the unlawful method, act, or practice. The assurance may include a stipulation for the voluntary payment by the person of the costs of investigation, or of an amount to be held in escrow pending the outcome of any action or as restitution to any aggrieved person or both. The assurance of discontinuance shall be in writing and shall be filed with the court of common pleas of Franklin county. Any evidence of a violation of the assurance of discontinuance shall be prima-facie evidence of a violation of this chapter or any rule adopted under it in any subsequent action or proceeding brought by the city law director. Any matter that has been closed by the acceptance of an assurance of discontinuance may at any time be reopened by the city law director for further proceedings in the public interest.

(D) In addition to any other sanction imposed by law, any charitable organization, fund-raising counsel, professional solicitor, commercial co-venturer, or any of their agents, or any other person that violates the terms of an assurance of discontinuance, an injunction, or any other order or judgment entered by a court under this section, shall forfeit and pay to the village a civil penalty of not more than ten thousand dollars for each violation that may be recovered in a civil action brought by the city law director. Each violation shall be a separate offense, except that in the case of a

violation through continuing failure to obey, or neglect in obeying, the order, each day of continuance of the failure or neglect shall be considered a separate offense.

(E) The civil penalties assessed under division (B) or (D) of this section or division (F) or (G) of section 1716.15 of the Revised Code shall be paid into the village treasury to the credit of the fund created by the village finance director.

### **§ 739.16 Fiduciary duties as to solicitations and expenditures.**

Every person who solicits, collects, or expends contributions on behalf of a charitable organization or for a charitable purpose, or who conducts a charitable sales promotion, and every officer, director, trustee, or employee of that person who is concerned with the solicitation, collection, or expenditure of those contributions shall be considered a fiduciary and as acting in a fiduciary capacity.

### **§ 739.99 Penalties.**

Whoever violates any provision of any requirement or prohibition in this chapter is guilty of a misdemeanor of the first degree.

Each occurrence of a solicitation of a contribution from any person in violation of any provision of this chapter is considered a separate offense.

**ORDINANCE 2020-39**

**AN ORDINANCE MAKING APPROPRIATIONS FOR THE CURRENT EXPENSES  
AND OTHER EXPENDITURES FOR THE CITY OF NEWTON FALLS, OHIO, FOR  
THE FISCAL YEAR ENDING DECEMBER 31, 2021**

*(Sponsored by Councilman Alberini, Councilwoman Breymaier, Councilman Zimmermann,  
Councilman Waddell and the City Manager)*

WHEREAS, It is necessary to make appropriations for the current expenses and other expenditures for the City of Newton Falls, Ohio, for the fiscal year ending December 31, 2021.

WHEREAS, This Ordinance has funding sources that originated after the original Certificate of Resources was issued; and

WHEREAS, the re-appropriations will require an update of the Certificate of Resources to be filed with the Trumbull County Auditor, and

THE COUNCIL OF THE CITY OF NEWTON FALLS, STATE OF OHIO, HEREBY  
ORDAINS:

SECTION I: "Exhibit A" attached hereto as if fully rewritten herein shall be the appropriations for the funds designated for the fiscal year ending December 31, 2021, for the City of Newton Falls.

SECTION II: The City Director of Finance is hereby authorized to draw her warrants on the City Treasury for payment of the foregoing appropriations, upon receiving proper certification and vouchers thereof, and no salaries or wages shall be paid except to persons employed by authority of and in accordance with law or ordinance.

SECTION III: The Finance Director is hereby directed and authorized to amend file and request a Certificate of Resources accordingly.

SECTION IV: Any ordinance or parts of ordinances in conflict with the context of this ordinance are hereby repealed.

PASSED IN COUNCIL THIS \_\_\_\_\_ DAY OF a \_\_\_\_\_ 2020.

\_\_\_\_\_  
Mayor, Kenneth Kline

ATTEST: \_\_\_\_\_  
Clerk of Council, Kathleen M. King