

NEWTON FALLS CITY COUNCIL

REGULAR MEETING AGENDA

MONDAY, JUNE 7, 2021

6:00 P.M.

612 West Broad Street

CITY COUNCIL MEMBERS

Adam Zimmermann, Ward 1

John Baryak, Ward 2

Tesa Spletzer, Ward 3

Sandra Breymaier, Ward 4

, At-Large

MAYOR

Kenneth A. Kline

CITY MANAGER

David M. Lynch

LAW DIRECTOR

A. Joseph Fritz

CITY CLERK

Kathleen M. King

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

May 17, 2021 - Regular Meeting

May 21, 2021 - Special Meeting

May 27, 2021 - Special Meeting

June 1, 2021 - Special Meeting

8. Public Hearings: None

9. Unfinished Business:

1. . Motion to schedule the summer Council meetings for July 6, 2021 and August 23, 2021. (TABLED until 6-7-2021)

10. New Business:

1. Ord. 2021-05: An Ordinance Repealing Ordinance 2018-16 Adopting the International Property Maintenance Code and adopting Ordinance 2021-04.

2. Res. 20-2021: A Resolution Authorizing the City to provide for Restoration and Maintenance of the Soccer Fields and Providing Funds to the NFJFD for Fire Uniforms.

3. Motion to appoint John Rusco to the Park & Recreation Commission to fill an unexpired term ending 12/31/2023 and Tonya Kline to fill an unexpired term ending 12/31/2021.

4. Motion to set Council meetings for July 6 & 19 and August 2 & 16.

5. Motion for the City to go out for bids for 2021 paving.

6. Motion to appoint Catie Karl to the vacant At-Large Council term expiring 12-31-2021.

7. Motion to review the legal fees related to The Supreme Court of Ohio Case No: 2021-0641

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 of the Finance Director

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 – Contract Negotiations

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

14. Adjourn:

Newton Falls City Council met in Regular session on Monday, May 17, 2021, at 6:00 p.m. in Council Chambers. Mayor Kline called the meeting to order following the Pledge of Allegiance and prayer.

ALSO PRESENT:

David M. Lynch, City Manager; Gene Fixler, Police Chief; A. Joseph Fritz, Law Director; Kathleen M. King, City Clerk.

ROLL CALL:

Breymaier, Baryak, Zimmermann, Spletzer (At-large vacant)

ABSENT: None

SPECIAL PRESENTATIONS BY STAFF MEMBERS OR INVITED CONSULTANTS:

None

PUBLIC COMMENTS:

Catie Karl, Quarry Street had concerns with some of the agenda items. She suggested they not fill the board and commission representative seats until they had a full Council. She stated it is not Council's job to direct the City Manager on administrative issue felt they were interfering with administrative duties. She also expressed concern over the Sergeant at Arms motion and if that had any possible effect on the Police Chief's contract.

Ms. Karl also questioned how the meetings were run and why there were constant threatening remarks and comments. She suggested bringing back the caucus session before the meetings to allow Council to ask their questions with no cameras and this would eliminate the grandstanding, and yelling. She thought that would help everybody.

Ms. Karl said that there has been a lot of criticism being done by people who are supposed to be examples to our community. This has been very sad for all of us and is heartbreaking. These should be run more like a business meeting.

Lastly, she asked how you could vote on the previous minutes when have of the minutes were legitimate and have were done with no quorum.

Julie Lemon, 2750 East River Road discussed the committee assignments on the agenda and said it was on video when the former Mayor overruled the votes in reference to committees. Originally the Law Director agreed then overruled what the number of votes that were needed.

William George, Electric Superintendent asked Council to approve Resolution 18-2021 on tonight's agenda. He noted that Council passes this legislation every year and this year we are down to the wire. If this is not passed tonight AMP could call us tomorrow and make us pay the loan. Currently we owe \$925,000. He hoped everyone would vote yes on this legislation.

REPORTS :

Zimmermann:

- Attended the Planning & Zoning meeting in May where they granted a variance for garage setbacks and discussed livestock in the City on certain size lots. They also received an update from the Zoning Inspector on zoning activity this year.
- Was asked to sit on the committee for the school to award scholarships.
- Attended the Joint Fire District meeting where they awarded promotions to several members.
- Attended the MS Walk and thanked Brenda Persino for putting this together.

Baryak:

- Attended the Commerce Association get together even though the weather was not great they had a good day.

Spletzer:

- Also attended the Commerce Association Spring Peddler.
- Have been dealing with Zoning issues for the past couple of weeks including the ditches on 534 and the community gardens in the East River Garden area.
- Attended the democratic party pancake breakfast this past Saturday.

LAW DIRECTOR: Nothing to report.

Mayor Kline asked about the request to go into executive session tonight and why it was not on the agenda. Both the Law Director and Clerk indicated that they did not see that request.

Mayor Kline asked about the hearing on Wednesday for Ms. Spletzer and who called the hearing. He as Mayor did not nor did two Council members. Attorney Fritz said he received notification from a member of Council that they acted upon. Mayor Kline said he believed it would need two members of Council to act. Attorney Fritz said if you look at the Charter he did not believe so.

Mayor Kline said that the hearing was not advertised or on the web it was a violation. Attorney Fritz said the hearing was properly notified in the Trumbull County Legal News.

Mayor Kline asked who would be running the meeting because he has very little information on the hearing and as Mayor, he runs the public meetings. Attorney Fritz stated that the City Manager through contract retained a retired Judge. Mayor Kline stated this was not administrative, obviously it was a Council issue, and the City Manger had no authority to get into his corner and the City Manager really did not need to be here Wednesday. Attorney Fritz said the Charter, Article 3, Section 4 has a hearing process. The Charter does not list who is responsible for running the hearing, it is not specifically laid out. If the parties, feel that something is improper they have remedies through Court.

Mayor Kline asked about past situations and that this is a different process than used in the past. Attorney Fritz stated primarily due to the recent presidential impeachments which laid out some procedures that we have to make sure due process is followed and since those past situations there has been new direction and procedures from the U. S. Senate adopted for this process.

Mayor Kline asked why Ms. Spletzer's Attorney was denied a continuance. Attorney Fritz said he was not denied, he has no authority to decide. The Charter does not have a process laid out.

Mayor Kline suggested someone under new business request a second opinion.

Baryak said when Ms. Spletzer won the election the Law Director said he might file an appeal he asked who asked the Law Director to get involved. He said he would be adding a motion that the Law Director not give any written or verbal opinions without contacting the majority of Council. Now the City Manager is in it making up rules. Baryak said we don't need his advice we can take care of our own business and the Law Director is to represent all of Council not just part of Council.

Attorney Fritz repeated if he has set this matter 50 days out the other half of Council would be telling him he was doing something wrong. Attorney Fritz said he did not believe Council could restrict him from giving legal opinions. Baryak said the Law Director work for them they don't for the Law Director. Attorney Fritz stated he would not let them do anything illegal.

Spletzer sent a public records request after the May 19th meeting asking what the contents of the note was that was passed prior to members walking out. The response was that the Law Director evaluated the request and has determined this is not a record. Spletzer wanted the Law Director to state why he felt this was not a public record. Attorney Fritz disagreed. He stated a note that he has not used is not a public record and there is case law on it.

Baryak said he has never heard back on a zoning issue on cars that he discussed with the Law Director. The issue went to the Planning and Zoning meeting. Attorney Fritz said he did not attend the Planning & Zoning meeting and they did not get back to him.

Baryak said he had a couple business owners contact him and he is for rehabilitation but asked why the City Manager or Law Director have not come to Council about all the rehabilitation centers opening up in Newton Falls and maybe limiting these centers. Attorney Fritz stated Mr. Baryak called him Thursday night and asked him to research the matter. Attorney Fritz indicated last Thursday that he would have the information by the end of next week.

Spletzer asked the Law Director to explain the purpose and intent of the letter he sent to the Board of Elections on Friday.

Attorney Fritz said that the purpose was to make sure all votes that come through this Council would be able to survive judicial and legal scrutiny. The opinion indicated that a vote of two yeas, one nay, one abstention vote is not a majority for purposes of passing resolutions.

Mayor Kline asked why that was not taken care of at the time. Attorney Fritz stated because he wasn't aware that it was an error. It is a fairly complicated matter with grey areas. Mayor Kline said he has studied up on this but has never seen where an abstention was counted as no, but maybe that is the case. Mayor Kline asked if Wednesday if we would be setting that same precedence. If someone is asked to abstain their vote will count as a no. Attorney Fritz said he has not researched it. That is a different procedure. There are many things that require a super majority. Mayor Kline stated since this trial is the day after tomorrow and the individual should know the rules. Attorney Fritz said he reached out to her attorney every time he called.

CITY MANAGER:

- Memorial Day parade and program will proceed as normal.
- Senior Service Day was a success. The 2021 seniors are a remarkable group and deserve recognition for all the work they did. Tomorrow we will post a video that Tom Gregory has put together.
- Congratulated Brenda Persino for coordinating the MS walk and her inspiration.

Mayor Kline received an email about the playground equipment. Mr. Lynch said he learned about the equipment when the post appeared on Facebook this past Friday or Saturday. He contacted Rich Coss in the Street Department who blocked off the equipment. He is working on figuring out the best way to fix the equipment. He encouraged citizens that if they saw a problem or had a concern to please call us.

Mayor Kline asked when the hoops would be put up at the basketball court. Mr. Lynch said he would try to get them up tomorrow.

Spletzer discussed the smart meter opt out and application. She stated the City Manger does not have the authority to set a rate for the citizens to opt out. That power is reserved to Council. She stated the application was never presented to Council and felt the City Manager needed to delay this until the proper channels were taken.

Baryak asked where the figure was from for the opt out. Mr. Lynch stated the figure was from the Public Utilities Council of Ohio. Baryak said we were not bound by that.

Baryak said that the City Manager said on Council floor if Council made the motion, he would be willing to give the stained-glass window back. Mr. Lynch said that is on the floor under new business tonight.

Spletzer again addressed the smart meter opt out and noted that if City residents choose to opt out there is one charge for water and electric. She was concerned that residents in the Township are opting out at that rate for two different utilities. They would be charged by Ohio Edison and the City if they had our water. She felt this needed to be put on hold until they had a chance for the City Manager and all of Council decide what needed to be done.

MAYOR:

- Attended the Commerce Association Spring event and appreciated all that they do.
- Was out of town for the MS Walk but congratulated them on the walk.
- Thanked everyone for the encouraging words and support over the past weeks. He promised he would take a look at the situations that were mentioned to him.

CHANGES TO TONIGHT'S AGENDA:

Baryak made a motion seconded by Spletzer to add legislation to amend the Ordinance in reference to street closings.

**ROLL CALL: Baryak aye, Zimmermann nay, Spletzer aye, Breymaier abstain.
MOTION FAILED: 2 ayes, 1 nay and 1 abstention**

Mayor Kline asked if the abstention was a no or nothing. Attorney Fritz stated based on his opinion from last week it would be a nothing. Mayor Kline asked if it passed 2-1 or did, he need to vote. Attorney Fritz said there is no tie, and it did not pass. Attorney Fritz clarified that for purposes of voting an abstention does not count as a no vote and it does not count as a yes. So there clearly is not a tie. Based on his opinion the vote is 2-1 and that is not enough, you need three to pass. A majority of 4 is 3.

Spletzer made a motion seconded by Baryak to add the appointment of Tonya Kline and Jamie Kline be considered to the Park & Recreation Commission open positions.

**ROLL CALL: Zimmermann nay, Spletzer aye, Breymaier abstain, Baryak aye.
MOTION FAILED: 2 ayes, 1 nay and 1 abstention**

Baryak made a motion seconded by Spletzer that we get a second opinion on the legality of who presides over the Council on the removal of an official.

ROLL CALL: Spletzer aye, Breymaier abstain, Baryak aye, Zimmerman nay.
MOTION FAILED: 2 ayes, 1 nay and 1 abstention

Mayor Kline declared this motion passed and to be added to the agenda,

APPROVAL OF PREVIOUS MINUTES:

Zimmermann made a motion approve the minutes from the April 19, 2021, Regular Meeting as submitted by the Clerk.

No second to the motion and no corrections to the minutes were made.

Spletzer made a motion seconded by Baryak to adopt the May 10, 2021, Special Meeting minutes as submitted by the Clerk.

ROLL CALL: Breymaier abstain, Baryak aye, Zimmermann aye, Spletzer aye.

MOTION PASSED 3-0-1 abstention

Mayor Kline stated we needed to have another meeting this month because we only had one. Clerk stated the meeting of May 3 counted because roll was called. Mayor Kline disagreed and said the meeting did not count because they were not able to conduct business.

PUBLIC HEARINGS: None

UNFINISHED BUSINESS:

Zimmermann made a motion seconded by Spletzer to acknowledge receipt of the Finance Department March monthly report, and attachments as presented.

Spletzer stated that this past week they were notified that Ms. Musson was on medical leave. She asked who would be answering the questions in relation to the finances during her medical absence.

Mr. Lynch stated Pam Wolford who is the next in command will be undertaking the duties during her absence. He gave a brief review of her experience and education.

Spletzer asked if there was any update on the forensic audit that they were told about on February 5th. Mr. Lynch stated no.

ROLL CALL: Baryak aye, Zimmermann aye, Spletzer nay, Breymaier aye.
MOTION PASSED 3-1

NEW BUSINESS:

RESOLUTION 18-2021: A RESOLUTION AUTHORIZING THE VILLAGE'S PARTICIPATION IN THE TREASURER OF OHIO'S MARKET ACCESS PROGRAM; AUTHORIZING THE PREPARATION AND FILING OF AN APPLICATION FOR THAT PROGRAM AND THE EXECUTION AND DELIVERY OF A STANDBY NOTE PURCHASE AGREEMENT WITH THE TREASURER, AND OTHER NECESSARY AND APPROPRIATE DOCUMENTS.

Zimmermann made a motion seconded by Spletzer to adopt this Resolution.

Spletzer commented that this was on the desk for the meeting we did not have a quorum she was taken back by it. Something does not sit well; it is ambiguous, and she did not like the wording. She would like to know what other necessary or appropriate documents specifically. Had it not been for the conversation she had with Mr. Bill George today she was prepared to vote no. Mr. George explained it to her, and she would vote for it.

Mr. Lynch stated that the wording she is concerned about is in the title but no where else in the document and he would be ok if they amended the title and removed the wording.

Spletzer made a motion seconded by Zimmermann to remove the wording “and other necessary and appropriate documents” from the title of the Resolution.

Vote on Motion to Amend:

**ROLL CALL: Zimmermann aye, Spletzer aye, Breymaier aye, Baryak aye.
MOTION PASSED 4-0**

THE CLERK READ THE TITLE NOW AS FOLLOWS: **RESOLUTION 18-2021: A RESOLUTION AUTHORIZING THE VILLAGE’S PARTICIPATION IN THE TREASURER OF OHIO’S MARKET ACCESS PROGRAM; AUTHORIZING THE PREPARATION AND FILING OF AN APPLICATION FOR THAT PROGRAM AND THE EXECUTION AND DELIVERY OF A STANDBY NOTE PURCHASE AGREEMENT WITH THE TREASURER.**

VOTE ON MOTON TO ADOPT AS AMENDED

**ROLL CALL: Spletzer aye, Breymaier aye, Baryak aye, Zimmermann aye.
MOTION PASSED 4-0**

RESOLUTION 19-2021: A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER AN AGREEMENT WITH SHELLY & SANDS, INC. FOR RESURFAING OF STREETS WITHIN THE CITY OF NEWTON FALLS.

Zimmermann made a motion seconded by Breymaier to adopt this Resolution.

Spletzer asked for a list of streets to be done. Mr. Lynch said he would provide that.

Baryak said not only did they not receive a list of streets to be done there was only \$40,000 in the budget. Baryak questioned why the City did not bid this out on their own. He would not vote for this tonight.

Mr. Lynch explained that for years the City has been using the County to bid out the paving. We could send out our own bid specifications. However, the County takes all the specifications from surrounding communities and bids them as a conglomerate. They can bid these in volume and get a lower price. The bid sheet is in the packet and have consistently saved money for us. Last year we added First Street to the bid and received a cost 20% lower than the engineers estimate.

**ROLL CALL: Breymaier aye, Baryak nay, Zimmermann aye, Spletzer abstained.
MOTION FAILED 2 ayes – 1 nay – 1 abstention**

Zimmermann made a motion seconded by Breymaier to schedule the summer Council meetings for July 6, 2021, and August 23, 2021.

Attorney Fritz explained that by Charter we only have to have one meeting in July and August to allow for summer vacations and things.

Mayor Kline said he thought we had so much craziness right now so to only have one meeting in July was insane and the same for August. He suggested we stay with the first and third Mondays.

Baryak agreed that there were a lot of things coming up and asked if Council could schedule another meeting. Attorney Fritz said technically it would be a Special Meeting. We schedule one in July and one in August, the charter does not specify what day we should have it that is what this motion is for. This Council with 72-hour proper notice to the public can schedule a special meeting if they feel the need to meet.

Spletzer said we were dealing with a time where we were anticipating change over and felt we needed two meetings in July and August. She said it was extremely important that we do meet on August 2nd knowing that the Clerk has to submit proper documentation and paperwork to the Board of Elections no later than August 4th.

Council had a brief discussion on possible dates for the meetings. Attorney Fritz suggested suspending the rules for this discussion. Mayor Kline said he would not suspend the rules.

Spletzer made a motion seconded by Zimmermann to table this motion until the next meeting on June 7, 2021

**ROLL CALL: Baryak nay, Zimmermann aye, Spletzer aye, Breymaier aye.
MOTION PASSED 3 ayes – 1 nay**

Baryak made a motion seconded by Spletzer to direct the City Manager to return the stained-glass window to the church representative.

Baryak said there was a big blow up over this window and Mr. Lynch said he could not return it until Council directed him to do so. Mr. Lynch said he had no objections to this motion and encouraged passage.

**ROLL CALL: Zimmermann aye, Spletzer aye, Breymaier abstained, Baryak aye.
MOTION PASSED 3 ayes – 0 nay – 1 abstention**

Baryak made a motion seconded by Spletzer that no cell phone texting allowed between council members, staff and/or the public during City meetings unless it's an emergency.

Baryak said he sponsored this because there have been cell phones ringing, people looking at their phones, This is a business meeting, and we don't need that going on.

Attorney Fritz said with regard to this matter we don't have the ability to stop people's communication rights if they are not disrupting the meeting. You can ask them to leave if they are disrupting the meeting but if you pass this we may be open to litigation.

Zimmermann said he has received a text message from the public before during a meeting and was able to ask the question when the discussion was taking place. It can be an invaluable tool for them to get a question and ask during the meeting.

Spletzer said specifying in the event of an emergency leaves it ambiguous as well.

Baryak said he was willing to withdraw this motion as long as we don't make a practice and is someone is being abusive; we can call them out in it.

**ROLL CALL: Spletzer nay, Breymaier nay, Baryak nay, Zimmermann nay.
MOTION FAILED 0 ayes – 4 nays**

Baryak made a motion seconded by Spletzer to appoint the Chief of Police as Sergeant at Arms.

Baryak said we needed someone to take responsibility to be the Sergeant at Arms. And we have someone we could ask to escort someone out. Someone needs the responsibility to keep the meeting in order.

Attorney Fritz said he has spoken to Mr. Baryak about this previously. Naming someone Sergeant at Arms does not give him any additional powers. His powers are restricted by his commission, the State Constitution and the U.S. Constitution. Secondly, he is a contract employee and now you are changing responsibilities under the contract. A further discussion on his contract should be held before going forward on this. We have law enforcement in the building, and they have the ability to keep the peace.

Spletzer stated under Article 3, Section 9 Council has the powers to appoint duties otherwise not specified in the Charter. She said that appointing the Chief, Sergeant at Arms was well within their rights.

Baryak said he put this on before now tonight someone could have explained to him so he could do more research. He said the Law Director didn't call and tell him.

**ROLL CALL: Breymaier abstained, Baryak aye, Zimmermann nay, Spletzer aye.
MOTION FAILED 2 ayes – 1 nay – 1 abstention**

Mayor Kline asked again why this does not pass. Attorney Fritz said it is the same as his written opinion. There is an insufficient amount of yes votes because there are four members of Council Mayor Kline said she abstained so effectively pulled herself out. Attorney Fritz said his opinion was based on case law. Mayor Kline said he better hope for his own good that this was correct. Attorney Fritz asked or? Mayor Kline said he might be looking for another job.

Spletzer made a motion seconded by Baryak to appoint the committee assignment previously assigned to Councilman Alberini.

Spletzer said the Mayor made a list of recommendations and she felt we should vote on it as a whole.

Baryak felt this should be filled as quickly as possible we could always change it later.

Zimmerman wanted to wait until the empty position was filled and do it at one time.

The Clerk read the proposed committees into the record as follows: Public Safety: Baryak, Treasury Investment Board: Spletzer, Local Board of Tax Review; Spletzer, Civil Service: Zimmermann, Economic Development: Baryak, Utility Appeals Board: Spletzer.

**ROLL CALL: Baryak aye, Zimmermann nay, Spletzer aye, Breymaier abstain.
MOTION FAILED 2 ayes – 1 nay – 1 abstention**

PUBLIC COMMENTS:

Catie Karl, 128 West Quarry questioned if Spletzer and Baryak read the contract from the smart meter company. She asked if the specs contained the opt out information and amount.

She said she suggested the caucuses to be held because of the back and forth and compete disregard that members of Council have is really bad. They have no respect for each other or each other's opinions. Or for the Law Director or City Manager. She suggested they watch the meetings; it is disgusting and disgraceful. She said she respected the Mayor, but he was the ringleader. She said she did not get along with a previous Mayor, but he held wonderful meetings. The yelling out and shouting out he is allowing. She said she even did it and he allowed it and she knew better. She apologized for disrupting the meeting. The Charter and Council Rules need to be followed. The way they are acting is very childish.

Rick Kerlin, 611 North Canal Street asked someone make a motion and declare Ms. Breymaier absent from the meeting 80% of her votes have been abstentions, therefore she is absent. No one knows why she is abstaining.

The Law Director changed his opinion on how the meetings were held in 2010 and 2012. The impeachments were held by the leader of the majority. We have had several impeachments and there has been no answer as to who will run the meeting on Wednesday. This is not administrative. He felt we were breaking precedent on what we have done before because the impeachment process has not changed. She is innocent until proven guilty so who will prove her guilty? Will Ms. Breymaier act as he complainant and a member of the jury. Is that a conflict of interest. Mr. Kerlin said you can't have a secrete meeting Spletzer said it has not been properly advertised as an open meeting. Mr. Kerlin said supposedly it was in the Legal News he has not seen it are we sure it was in the legal news. Mr. Kerlin had questions and concerns on the procedure.

Tracy Hurst 615 Ophelia Street she felt Ms. Karl had the part about the ringleader wrong. It was very obvious on who is the ringleaders here. As for people that may not be acting appropriately, she has seen that and agrees to a point. But there is a high amount of frustration in the

community because their voices are not being heard. She stated the Law Director rulings were consistently flip flopped and did not understand why. There has to be integrity, law abiding, and she did not feel he was ruling equally, and it was not right. She commented on the City Manage update and has not seen him address the issues going on in the community. He needed to step un and not allow the shenanigans going on. They wanted control. She felt they needed to try to get along better with Council and rule and govern consistently. To Ms. Breymaier it was obvious she has an issue with Tesa she did not understand why she was so bitter. Ms. Hurst said Tesa has been a great addition to Council. Ms. Hurst also felt that by not giving people time to prepare for the May 19 meeting it proves that he is not ruling consistently.

Julie Lemon 2750 East River Road attended the MS Walk and one thing not there was political conflict. She appreciated getting to meet Mr. Zimmermann and politics were not involved.

She asked Ms. Breymaier if she had a personal conflict with a stained-glass window, why abstain. She felt she was holding up the business by doing so.

Jamie Kline 312 Ridge Road said the whole meeting Mr. Lynch and Mr. Fritz were passing notes. They needed to be separated. She suggested if Ms. Breymaier was going to abstain from everything then step down. To Mr. Zimmermann she said if they did not want to come to a meeting then step down.

Stop meeting behind closed doors to make decisions before a meeting because that is what some are doing. Your have been seen out in public doing your meetings. You have been caught, there are pictures.

We need a law Director the Council and City of Newton Falls not for Ms. Breymaier and Mr. Lynch.

Marilyn Lee 515 North Canal Street said Mr. Lynch asked that if equipment was broken for there was an issue at the park to please call someone. She agreed but did like Facebook to communicate to avoid a problem. Ms. Lee said she could not wait to go to work tomorrow and abstain when her boss told her to do something. She is here to do her job and abstaining is causing more problems. We all rely on each other keep the negative out.

Brenda Persino commented on the MS Walk and thanked everybody who came out for the event. She was overwhelmed and happy with the turnout. Next year would be bigger. She thanked Mr. Zimmermann for all his help from the very beginning. She also thanked the Chief and other Officer who helped. Chief Fixler noted that the water tower was glowing orange in honor of Ms., Persino and the MS Society.

Tim Stintson 253 Arlington Road stated that the MS Walk was an example of what this body is supposed to try to work towards and represent our community and what we should be working forward towards.

Mr. Stintson asked about the abandoned and obsolete playground previously discussed in Park & Recreation Commission. He hoped the playground got boarded up.

He asked for the ordinance and Charter on abstaining votes and where the reference was. Mr. Stintson had a section from Roberts Rules of Order on abstention of votes. He asked where it was requiring for three yes votes.

CLOSING REMARKS; MAYOR, CITY MANAGER AND COUNCIL:

Zimmermann thanked everyone that spoke at the end they gave us a lot to think about.

Baryak said if only three people showed up and it was a quorum, we would never get anything passed. He felt an abstention was a no vote. He did not come here to talk down on anybody but when he did not get the information until he got here you can't work in the dark and expect to see the light. You have to be transparent. You can see what's going on. He appreciated the support and the community and would like to see us all work together.

Spletzer thanked everyone for coming out tonight. She has been dealing with the obstructions placed upon her by the administration since the time she beat Lyle in the primary. She is here for the good of the people and the good of our community. Regardless of what direction they come at her from she is here to stay and there is no taking her out.

Mayor Kline agreed with Ms. Karl. Anybody in Newton Falls would agree there is not an equal playing field. Individuals come to him, and they want to be listened to. Its like going to the slot machines when they open the agenda on Friday, that what he asked for to be on there is actually on. People are tied of when they vote for somebody, and they get on this side of the table and things are promised but do not deliver on any of it. He promised that he lives amongst you and wants what is good for the community. He has told each individual we were going to do things right. He cares for the community and cares for his neighbors. He did not run for Mayor for people to like him. Mayor Kline said he stands on the middle of the fence. Whatever is good for the community is what he wants.

Mayor Kline handed the Clerk a notice that he was sponsoring legislation on Friday the 21st at 6:00 p.m. regarding permits for closing off the streets. He stated Sunday morning is the Lord's day. He wanted some success for Newton Falls and that is where you start. Mayor Kline commented on past history of the parade and spoke to the past Chief on closing the road. Between 9:00 a.m. and 1:00 p.m. on Sunday that the streets never closed unless an emergency. He wanted to put God first.

MOTION TO RECESS INTO EXECUTIVE SESSION:

Baryak made a motion seconded by Spletzer to adjourn into executive session for personal matters to consider employment, discipline and compensation.

**ROLL CALL: Zimmermann nay, Spletzer aye, Breymaier abstain, Baryak aye.
MOTION FAILED 2 ayes – 1 nays – 1 abstention**

Mayor Kline said he was going and taking several members with him because they had several questions that needed to be answered.

Mr. Lynch stated the motion did not pass. Mayor Kline said they needed to know where she was at. Mr. Lynch said she was on medical leave. Mayor Kline asked for a medical slip.

ADJOURN:

After no further comments or questions Baryak made a motion seconded by Spletzer to adjourn at 8:18 p.m.

**ROLL CALL: Spletzer aye, Breymaier aye, Baryak aye, Zimmermann aye.
MOTION FAILED 4 ayes – 0 nays**

Mayor, Kenneth A. Kline

ATTEST: _____
City Clerk/Clerk of Council

Newton Falls City Council met in Special session on Friday, May 21, 2021, at 6:00 p.m. in Council Chambers. Mayor Kline called the meeting to order following the Pledge of Allegiance and opening prayer.

ALSO PRESENT:

David M. Lynch, City Manager; Kathleen King, City Clerk; A. Joseph Fritz, Law Director.

ROLL CALL:

Baryak, Zimmermann, Spletzer, Breymaier

ABSENT: None

PUBLIC COMMENTS:

Carole Kendall, 2692 East River Road, July 4th Festivities Committee discussed Ordinance 2021-04 on tonight's agenda. She commented that she was unsure how this was in the best regard for the community. If this passes you might as well do away with the Weekend Madness events. These events bring the community together and all profits from the events are allocated to the fireworks. The Committee relies on these events that have been held on Saturday and Sunday for over thirty years. She asked why now in 2021 do we want to restrict the community and nonprofit organizations.

The Weekend Madness and Fireworks draw thousands of people to our community. If this passes you would force all the vendors to tear down on July 3rd and then set back up on July 4th. That is unrealistic. The committee puts a lot of work to ensure one of the best and most well-known events in the area.

Ms. Kendall said she was contacted by Mr. Lynch to move the parade to July 3rd. She reached out to the ministerial association and other associated groups. The Ministerial Association decided to hold an evening service on July 3rd. Mayor Kline said that they should have spoken to everyone. Ms. Kendall said she reached out to Mayor Kline, and he did not return her call and he did not attend any of the meetings with the Ministerial Association.

To pass this legislation it would prohibit the July 4th parade and disregard the Ministerial Associations effort to unite the Community.

She asked Council not to amend the current legislation. If Council really believed that this change was needed for the community it could be done for future events. The July 4th Committee has also put out expenses, flyers, shirts and purchased awards for this year.

Stephany Simmons, 4047 Hallock Young Road Motorcycle Madness Committee. She said she grew up in this town and her parents were from here. She has never witnessed what she is witnessing now in town. The First Amendment of the Constitution and the Bill of rights allows

for the freedom to assemble. No law should prohibit people's rights to assemble. Mayor Kline is trying to take away that right by Ordinance.

Ms. Simmons noted that the parade permit does not get approved by Council, it is approved by the Chief of Police and City Manager. The proposed legislation would hinder the parade, Bike and Jeep shows, carnival and any other group/event who may need the street to be shut down.

This all stemmed out of the July 4th parade being on a Sunday and the parade being too loud in front of the Mayors church this year. The people who want to attend church can still do so. They can rope off the driveway and parishioners can enter through the side lot. God never meant for church to be a building. The Fourth of July being on a Sunday does not happen enough to create this legislation. This proposed legislation would also cost the City more money if events had to be held on separate weekends.

Ms. Simmons felt this proposed amendment was unconstitutional.

Catie Karl, 128 West Quarry Street said she has heard some very good points. She felt the separation of Church and State was the issue here with the Mayor. You can't deviate from Mayor to Pastor. You can have as much faith as you want but you can't use that to decide not to allow these types of permits.

Ms. Karl noted that to organize and have the fireworks and events leading up to them takes an enormous amount of hard work. In additions events like the duck race, benefits, walks and many other events benefit and bring funds into our community. So many people benefit from these events. We all have faith of one kind or another and it is wrong to cross the line.

Richard Kerlin, 611 North Canal Street a lot of what was said is the truth and there is absolutely a lot of hard work that goes into these events. However, he never remembered having a parade on Sunday morning in the past.

Mr. Kerlin certainly agreed that we have the right to assemble but people also have the right to go to church. The road being blocked off prohibits that right. He questioned how we got this far and could not come to an agreement. We should agree to disagree. Churches will be open.

Rodney Simmons 3526 Hallock Young Road noted that the roads have been closed at 8:00 a.m. for the past 35 years. This year instead of the motorcycle show they would be having the Jeep crawl on Sunday.

Mr. Simmons felt this legislation would create a financial burden on the City because the electric boxes would need set up on separate weekends, street cleaners would need to come out more often this legislation effects more than just the parade.

The events are already scheduled for this year and the committee is already working on next year's show. They have asked no church to shut down but have asked them to join in with the events. He encouraged churches to use the events to their advantage, open up for fellowship, serve food, bless the bikes...

Christopher Granchie, 14 East Broad Street said the legislation sounds incredibly restrictive and suggested rewording the proposal or maybe the parade should make a determination on routes.

Emily Spletzer, 3163 Newton Tomlinson Road said when the committee saw that the Fourth was on a Sunday, they knew there would be choices to make. At no point throughout the planning process did the Mayor come to the committee to voice his concerns and at no point was the committee approached to change the date. The Ministerial Association had their own meeting to discuss the parade and Mayor Kline was invited but did not attend.

Ms. Spletzer said she spoke to Mayor Kline personally and if he felt so strongly about this, he should have come to them before going to social media. She felt that he created this issue. The parade is not stopping anyone from having church services. This whole discussion is not just about this year or this Sunday it was about moving forward.

Cody Simmons, 4047 Hallock Young Road said he has known the Mayor and his family for many years, and they believe what they do. He said he works fourteen hours a day five days a week and devotes many hours to the community. He felt now more than anything we need this especially in this community, we need unity. There was no reason we should be here having this discussion.

UNFINISHED/NEW BUSINESS:

ORDINANCE 2021-04: An Ordinance Amending Ordinance 311.01 Establishing Rules and Regulations Regarding Parades and Assemblages for the City of Newton Falls, Ohio.

Baryak made a motion seconded by Spletzer to adopt this Ordinance.

Baryak said he has been here a lot of years and remembered when the carnival used to be behind Carlos and when the vendors were in a mud slop. He felt the amendment might need a tweak. He did not realize that this would affect the vendors at the park, and this involves more than the July 4th activities, it could include the cakewalk and chili cook off.

Mayor Kline said all he looked at were the main roads and in 30 years of history there has never been a parade on Sunday morning. Sunday morning activities start at 8:00 a.m. but that is not when they block the road and traffic can still get through.

Mayor Kline said we were not talking about constitutional rights and a violation of civil liberties he has talked to judges about that. He asked how much more difficult we can make it for people to go to church. It's not a constitutional right being broken if the road is not blocked off on Sunday morning. He spoke to Chief Carlson who also said that he never had a permit to close the road on Sunday morning. Mayor Kline said he would have come earlier if he thought that the road was going to be closed on Sunday, he never thought it would come to this.

Mayor Kline said he put this out on Facebook for a reason to put information out there.

Spletzer said the way this is written it is very restrictive and too broad. She had no idea that it would become such a controversy. However the Fourth of July will be on a Sunday again in 2027, 2032, 2038 and 2049. We have time to plan for these. She sympathized and understood where the committee was coming from, things are already in place, and it is too late to make changes. But we have six years to make plans for the next time it happens.

Zimmerman thanked all who spoke tonight. He felt a lot of misinformation was out there from the beginning, and it festered and blew up. He would not vote for anything that violated the rights of certain people so other people can have something on Sunday. He asked if there was a way to come to an agreement.

Baryak noted a lot of business owners were not happy that the street gets closed down.

Mayor Kline said when he sent this to the Law Director, he wanted this for main streets not side streets.

Attorney Fritz said the Mayor mentioned this last Friday. Saturday, he drafted this and asked that if there were any tweaks to the proposed legislation to let him know. He did not hear anything from the Mayor.

Mayor Kline felt this was an easy fix to amend.

Baryak made a motion seconded by Spletzer to suspend Council rules.

**ROLL CALL: Zimmermann aye, Spletzer aye, Breymaier abstained, Baryak Aye.
MOTION PASSED 3 ayes – 0 nays – 1 abstention**

Carole Kendall explained to Council what the Jeep crawl was and what would take place.

Catie Karl noted that historically the street was closed on Sunday between Canal and Center between 7:00 a.m. and 8:00 a.m.

Ms. Kendall said they tried to figure out a way to do the parade differently but because it is July doing the parade later in the day was not good for the elderly, animals and children. Also, in the afternoon was not ideal because that is when people start coming into town to get their space to watch the fireworks.

Given the past restrictions with Covid for the past fourteen months the committee felt it was a great time to have the events on the 4th. Ms. Kendall also stated the work is overwhelming and they have a limited number of people helping.

Mayor Kline stated nothing prevented them from having the parade on the 3rd.

Ms. Kendall said this was not the forum for this discussion. We all could have sat down and talked about this earlier when the committee reached out.

Mayor Kline said he has been asked if he could miss one Sunday. He said in 17 years he has never cancelled a service.

Carole Kendall stated that this conversation was inappropriate for this venue and asked that Council vote on the proposed legislation. Mayor Kline said she should not come to his meeting and tell him what is inappropriate.

Rodney Simmons said if the City didn't want the events here in town, they could take them somewhere else and give the business to another community.

Mayor Kline said the big picture is for 30 years we have never had the 4th of July parade on a Sunday morning. He did not look into it earlier because he didn't think people would be that low. He could not see any reason why the parade was not on the 3rd. This is not about why we were having the parade, but it was about not letting people go to church.

Spletzer suggested involving the Commerce Association down the road as well because it will affect businesses. She thought a town hall should be held to share ideas and offer solutions.

Spletzer made a motion seconded by Baryak to reconvene the regular meeting.

ROLL CALL: Breymaier aye, Baryak aye, Zimmermann aye, Spletzer aye.

MOTION PASSED 4 ayes – 0 nays

Vote on Motion to adopt:

ROLL CALL: Baryak abstain, Zimmermann nay, Spletzer nay, Breymaier abstain.

MOTION FAILED 0 ayes – 2 nays – 2 abstentions

MOTION TO RECESS INTO EXECUTIVE SESSION: None

PUBLIC COMMENTS:

Catie Karl, 128 West Quarry Street thanked Council. She said there are many things the community does together for the community, for each other, for benefits, fireworks and events. The July 4th Committee needs help. They do a lot of work, and it is thankless. Please thank them and be a part in helping the community.

Michael Primmer, 218 Ashlynn Court asked what time the parade starts and how long it usually takes. He suggested moving the start time of church to 9:00 a.m. since the parade starts at 10:00 a.m.

Rodney Simmons thanked Council for the vote especially since they have already promoted the events.

Emily Spletzer noted that all of this could have been discussed before it got to this.

Robert Horner said he has been a Veteran of 36 years. He felt if you screw with the 4th of July you screw with the Veterans. He said he could have this room filled with Veterans if need be. They fought for rights and gave their lives to celebrate the 4th of July. Veteran's stand for the country.

Dave Hanson, 4365 Warren Road stated Mr. Horner was absolutely right July 4th is like church for the Veterans. The 4th of July Committee works hard. There are a lot of vacant stores in town. This event brings money in and is important and makes our town look nice. One day is not going to kill us. We should respect the holiday; it is important to the Veteran's.

Mr. Lynch stated this was a wonderful civilly conducted meeting tonight and congratulated everyone. He also helped everyone who helped during the medical emergency tonight.

Baryak said he understood people's rights and is a firm believer between separation of church and state. The way this legislation was laid out it was very ambiguous and confusing. He also wished the Commerce Association would have been involved.

Mayor Kline said let by gones be by gones. He loved the 4th of July. He loved the Veteran's. We could have had the July 4th parade on the 3rd and that does not make him anti-military.

ADJOURN:

After no further comments or questions Spletzer made a motion seconded by Baryak adjourn at 7:18 p.m.

**ROLL CALL: Zimmermann aye, Spletzer aye, Breymaier aye, Baryak aye.
MOTION PASSED 4-0**

Mayor, Kenneth A. Kline

ATTEST: _____
City Clerk/Clerk of Council

ORDINANCE 2021- 05

AN ORDINANCE REPEALING ORDINANCE 2018-16 ADOPTING THE INTERNATIONAL PROPERTY MAINTENANCE CODE AND ADOPTING ORDINANCE 2021-04.

WHEREAS, Newton Falls City Council adopted the International Property Maintenance Code in Ordinance 2018-16 on October 1, 2018; and

WHEREAS, The Newton Falls Planning and Zoning Commission recommends Newton Falls City Council repeal the 2018-16 International Property Maintenance Code and adopt the updated 2021 International Property Maintenance Code, Chapters one, two and three, as amended; and

WHEREAS, The Newton Falls Planning Commission recommend Newton Falls City Council amend Section 108, appeals of the 2021 code to reflect the changes adopted in Ordinance 2001-02, passed by City Council on January 22, 2001.

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

SECTION I: The Newton Falls City Council hereby adopts the 2021 International Property Maintenance Code, Chapters 1, 2, and 3 as amended in marked attached Exhibit A, as if fully rewritten herein.

SECTION II: Sections 106, Approval, 106.5 & 106.6; Section 111, Unsafe Structures and Equipment, 111.2.1; Section 202, General Definitions, Historic Buildings; Section 303, Swimming Pools, Spas and Hot Tubs of the 2021 International Property Maintenance Code are hereby repealed.

SECTION III: Sections 108, Board of Appeal of the 2021 International Property Maintenance Code sets forth the process by which a decision of the code official may be appealed and establishes a separate board of appeals to hear said appeals.

City Council has reviewed this provision and is satisfied that the Planning and Zoning Commission, established by the Charter and embowered by the City's Zoning Ordinances, is qualified to handle appeals under the Property Maintenance Code, and therefore it is redundant and unnecessary to establish an appeals board.

Section 108 is hereby amended as follows: Section 108.1, Membership of the Board. The Board of Appeals shall be the Newton Falls Planning and Zoning Commission.

PASSED IN COUNCIL THIS _____ DAY OF _____ 2021.

Mayor, Kenneth A. Kline

ATTEST: _____
Clerk of Council

Newton Falls City Council met in Special session on Thursday, May 27, 2021, at 5:30 p.m. in Council Chambers. Mayor Kline called the meeting to order following the Pledge of Allegiance and opening prayer.

ALSO PRESENT:

David M. Lynch, City Manager

ROLL CALL:

Baryak, Zimmermann, Spletzer, Breymaier

ABSENT: None

PUBLIC COMMENTS:

UNFINISHED/NEW BUSINESS:

MOTION TO RECESS INTO EXECUTIVE SESSION:

Spletzer made a motion seconded by Zimmermann to adjourn into executive session for the purpose of interviewing candidates to fill a Council vacancy.

ROLL CALL: Zimmermann aye, Spletzer aye, Breymaier aye, Baryak aye.

MOTION PASSED 4-0

PUBLIC COMMENTS:

ADJOURN:

After no further comments or questions Spletzer made a motion seconded by Baryak adjourn at 7:08 p.m.

ROLL CALL: Spletzer aye, Breymaier aye, Baryak aye, Zimmermann aye.

MOTION PASSED 4-0

Mayor, Kenneth A. Kline

ATTEST: _____
City Clerk/Clerk of Council

Newton Falls City Council met in Special session on Tuesday, June 1, 2021, at 5:30 p.m. in Council Chambers. Mayor Kline called the meeting to order following the Pledge of Allegiance and opening prayer.

ALSO PRESENT:

David M. Lynch, City Manager; Kathleen M. King, City Clerk

ROLL CALL:

Baryak, Spletzer, Zimmermann, Breymaier

ABSENT: None

PUBLIC COMMENTS:

Pat Layshock 1015 Paige Court sent the mayor communication about tonight's interview and requested having his interview in public not executive session. Mayor Kline acknowledged communication with Mr. Layshock but after talking to the Law Director and others they would like to have the interviews all consistent. With multiple individuals being interviewed it would not be fair to use a different interview process.

Pat Layshock stated the court ruled that interviews did not belong in executive session. He did not feel that it would be an unfair advantage if his interview was in the public. He stated he did not wish to be in violation of Judge Kontos order and did not wish to be interviewed in executive session. Mr. Layshock asked if he would be allowed to interview in public. Mayor Kline said no, interviews would be in executive session. Mr. Layshock said thank you he would not be here for the interview.

Rick Kerlin, 611 North Canal read a section from the recent Supreme Court ruling on the date for the recall. He understood from an attorney that if Council did not set a date by July 7, 2021, Council would be in contempt of court for the Supreme Court ruling. Mr. Kerlin also read the recall section of the Newton Falls Charter.

He hoped Council could name someone to replace Tarry Alberini. He said Mr. Zimmerman stated this should be done as soon as possible in order to have committees. He applauded that. He hoped this would not end in a 2-1-1 vote again. Because the City cannot do business when someone abstains it delays City business. We need a Council at Large and you have the opportunity to do that,

Tracy Hurst 613 Ophelia hoped Council was ready to take the necessary steps. They need to put things in motion and not continue to delay. She stated she has really only heard two of the At-large candidates speak at Council meetings and felt they were the best options. She encouraged Council to act in the best interest of the Village.

UNFINISHED/NEW BUSINESS:

Baryak made a motion seconded by Spletzer to adjourn in to executive session at 5:42 p.m. for the purpose of interviewing candidates to fill a Council vacancy.

Spletzer read from the Ohio Sunshine Book and told the City Manager he was not invited into the executive session.

Zimmermann and Breymaier invited the City Manager to participate.

**ROLL CALL: Spletzer aye, Zimmermann aye, Breymaier aye, Baryak aye.
MOTION PASSED: 4-0**

Baryak made a motion seconded to adjourn the executive session and reconvene.

**ROLL CALL: Zimmermann aye, Breymaier aye, Baryak aye, Spletzer aye.
MOTION PASSED: 4-0**

Baryak made a motion seconded by Spletzer to nominate Tim Stintson to the Council at Large position.

Baryak said he has knowledge of the Charter and has been very active. He believes his involvement will have a settling effect on this Council.

Spletzer felt he was an asset that he has served on Park & Recreation for some time now.

Zimmermann said he would not vote tonight. They have held seven interviews and would like to take time to go through them before the vote.

Baryak said Mr. Stintson served extensively on Park & Recreation. We need somebody that will take the communities best interest at heart.

Spletzer stated Mr. Kropp was well qualified and she appreciated his enthusiasm and is looking forward to the election in November between him and Ms. Stimpert. She looks at this appointment of Mr. Stintson as a chair keeper for him for six months.

Kline asked Mr. Lynch where the Law Director was tonight. Mr. Lynch noted that when the date for the meeting was set, he was unavailable for this evening. Mayor Kline said we have a deadline on the recall election and there are things we need to do.

**ROLL CALL: Zimmermann nay, Breymaier abstain, Baryak aye, Spletzer aye.
MOTION FAILED: 2 ayes – 1 nay – 1 abstention**

Mayor Kline said that was why he wanted the Law Director here. Mayor said you can't just abstain to abstain you have to have clause. There is no conflict of interest. We get elected to vote. So much goes on like this you see why we don't get anything done. We keep playing

games. After all the games are played the Mayor after 60 days appoints and he would just appoint his daughter. Mayor Kline said he does not know if this passed or not passed,

Mr. Lynch said the Supreme Court said this Council cannot pass anything 2-1-1. That is the reason the Law Director clarified that through the Supreme Court.

Mayor Kline asked what her reason was for abstaining, this was not a conflict of interest. Mr. Lynch said his understanding was that she did not have to explain why she was abstaining, but she could abstain for a whole host of reasons. It does not have to be for conflict of interest.

Baryak made a motion seconded by Spletzer to set the recall election of Ms. Breymaier for July 6, 2021.

Baryak said the people in the ward followed everything that needed to be done. He felt the Law Director in what he has done cost us money and just postponed it for one month. He wanted to give the people the right to speak. The Board of Elections agreed with us and the Supreme Court even though they said the vote was not proper.

Spletzer read several sections from the Slip opinion from the Supreme Court ruling.

Mayor Kline stated Ms. Breymaier will probably abstain and anyone who votes no on this and asked are we going to file charges on them for contempt of court. Mr. Lynch said he could not speak for the Law Director. Mayor Kline said if anyone of them votes no they are in contempt of court he wanted them to know. Since Mr. Fritz does not mind filing charges on members of Council, he would think he would not have a problem with this. If anyone votes not and Mr. Fritz does not file contempt of court, he was sure individuals in the community would.

**ROLL CALL: Baryak aye, Breymaier abstain, Zimmermann abstain, Spletzer aye.
MOTION FAILED: 2 ayes – 0 nay – 2 abstentions**

Mayor Kline said we would be looking at this.

MOTION TO RECESS INTO EXECUTIVE SESSION:

PUBLIC COMMENTS:

Julie Lemon 2750 East River Road said she was not surprised. Mr. Zimmermann and Mr. Alberini felt that she has not done anything to be recalled, but that is not up to them. It is up to the people in the ward. She had someone reach out to her to see if they could raise the money for the broken equipment in the park. She spoke to Mr. Breymaier about the park. The responsibility falls on you when it is in your ward. She asked why she did not fight for the people in the community. The people in your ward want you gone because of your lack of action and your care less attitude.

Mr. Lynch reminded that Chair that all comments have to be directed to the chair.

Anna Ebby, 50 west 9th Street asked what Mr. Zimmerman's conflict was. Because he had to have a conflict to abstain.

Rick Kerlin asked Mr. Zimmermann what his conflict was for setting an election. Mr. Zimmermann called point of order and asked that the Chair be addressed. Mr. Kerlin said let people vote, why is this difficult. People have the right to vote. Mr. Kerlin suggested Mr. Zimmermann get out and knock-on doors to support Ms. Breymaier.

Laura Neiheisel 227 North Center was not surprised, but it will come around. We have 204 signatures turned in, so it is coming.

Jamie Kline, Ridge Road also not surprised, but as a Ward 1 resident she would be knocking on doors and telling everyone why Mr. Zimmermann should not be voted in as a Ward 1 councilman. Mr. Serotko will be voted in. She felt he was not doing anything for the Ward.

Tracy Hurst 613 Ophelia Street was not surprised she pretty much knew what the outcome of the meeting would be before they even get here. She asked Mr. Lynch as the Village Manager how much more money he was going to allow the community to pay for legal matters. She said to Mr. Zimmermann he had the opportunity to do what is right for the community, what is fair. If he could just turn the right way. Not only did he not but continues week after week puts the nail in his on coffin. She did not think Jamie had to go door to door the people already made their decision. If they can't get stuff resolved they would get people help them get it resolved. She asked Ms. Breymaier why she would want to sit there when her Ward does not want her.

Brian Kropp 247 Elizabeth commented on the abstention votes and felt it went beyond this issue. The made no sense and was classless and shameful. He felt they were holding the Village hostage. He also asked why and wondered if there was something else going on. He was concerned people were voting because they were concerned something was going to happen or there was something going on behind closed doors. That's what happens when there is fraud and truth always comes to light. The harder they fight to hold onto something they know they are going to lose they are guilty of something. He does not know what it is yet, but it seems pretty obvious something nefarious is going on. He asked for an explanation and tell him he was wrong. He asked if they were stealing money possibly, what are the reasons for not representing the Village for a job they volunteered for. The truth will come out.

Mayor Kline said it looks like no action will be taken and he will appoint his own daughter. He wanted to protect the community from charges. It does not look like this will be done. Will it be the Law Director or City Manager who gets contempt charges on July 7th.

ADJOURN:

After no further comments or questions Baryak made a motion seconded by Spletzer adjourn at 7:08 p.m.

**ROLL CALL: Breymaier aye, Baryak aye, Zimmermann aye, Spletzer aye.
MOTION PASSED 4-0**

Mayor, Kenneth A. Kline

ATTEST: _____
City Clerk/Clerk of Council

ORDINANCE 2021- 05

AN ORDINANCE REPEALING ORDINANCE 2018-16 ADOPTING THE INTERNATIONAL PROPERTY MAINTENANCE CODE AND ADOPTING ORDINANCE 2021-04.

WHEREAS, Newton Falls City Council adopted the International Property Maintenance Code in Ordinance 2018-16 on October 1, 2018; and

WHEREAS, The Newton Falls Planning and Zoning Commission recommends Newton Falls City Council repeal the 2018-16 International Property Maintenance Code and adopt the updated 2021 International Property Maintenance Code, Chapters one, two and three, as amended; and

WHEREAS, The Newton Falls Planning Commission recommend Newton Falls City Council amend Section 108, appeals of the 2021 code to reflect the changes adopted in Ordinance 2001-02, passed by City Council on January 22, 2001.

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

SECTION I: The Newton Falls City Council hereby adopts the 2021 International Property Maintenance Code, Chapters 1, 2, and 3 as amended in marked attached Exhibit A, as if fully rewritten herein.

SECTION II: Sections 106, Approval, 106.5 & 106.6; Section 111, Unsafe Structures and Equipment, 111.2.1; Section 202, General Definitions, Historic Buildings; Section 303, Swimming Pools, Spas and Hot Tubs of the 2021 International Property Maintenance Code are hereby repealed.

SECTION III: Sections 108, Board of Appeal of the 2021 International Property Maintenance Code sets forth the process by which a decision of the code official may be appealed and establishes a separate board of appeals to hear said appeals.

City Council has reviewed this provision and is satisfied that the Planning and Zoning Commission, established by the Charter and embowered by the City's Zoning Ordinances, is qualified to handle appeals under the Property Maintenance Code, and therefore it is redundant and unnecessary to establish an appeals board.

Section 108 is hereby amended as follows: Section 108.1, Membership of the Board. The Board of Appeals shall be the Newton Falls Planning and Zoning Commission.

PASSED IN COUNCIL THIS _____ DAY OF _____ 2021.

Mayor, Kenneth A. Kline

ATTEST: _____
Clerk of Council

U 2021-05, EXN 001

IPMC[®]

INTERNATIONAL PROPERTY MAINTENANCE CODE[®]

A Member of the International Code Family

2021



CHAPTER 1

SCOPE AND ADMINISTRATION

User note:

About this chapter: Chapter 1 establishes the limits of applicability of the code and describes how the code is to be applied and enforced. Chapter 1 is in two parts: Part 1—Scope and Application (Sections 101 and 102) and Part 2—Administration and Enforcement (Sections 103 – 110). Section 101 identifies which buildings and structures come under its purview and references other I-Codes as applicable.

This code is intended to be adopted as a legally enforceable document and it cannot be effective without adequate provisions for its administration and enforcement. The provisions of Chapter 1 establish the authority and duties of the code official appointed by the authority having jurisdiction and also establish the rights and privileges of the property owner and building occupants.

This Chapter was extensively reorganized for the 2021 edition. For clarity, the relocation marginal markings have not been included. For complete information, see the relocations table in the Preface information of this code.

PART 1 — SCOPE AND APPLICATION

SECTION 101 SCOPE AND GENERAL REQUIREMENTS

[A] **101.1 Title.** These regulations shall be known as the *International Property Maintenance Code* of [NAME OF JURISDICTION], hereinafter referred to as “this code.”

[A] **101.2 Scope.** The provisions of this code shall apply to all existing residential and nonresidential structures and all existing *premises* and constitute minimum requirements and standards for *premises*, structures, equipment and facilities for light, *ventilation*, space, heating, sanitation, protection from the elements, a reasonable level of safety from fire and other hazards, and for a reasonable level of sanitary maintenance; the responsibility of *owners*, an *owner's* authorized agent, *operators* and *occupants*; the *occupancy* of existing structures and *premises*, and for administration, enforcement and penalties.

[A] **101.3 Purpose.** The purpose of this code is to establish minimum requirements to provide a reasonable level of health, safety, property protection and general welfare insofar as they are affected by the continued *occupancy* and maintenance of structures and *premises*. Existing structures and *premises* that do not comply with these provisions shall be altered or repaired to provide a reasonable minimum level of health, safety and general welfare as required herein.

[A] **101.4 Severability.** If a section, subsection, sentence, clause or phrase of this code is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

SECTION 102 APPLICABILITY

[A] **102.1 General.** Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall govern. Where differences occur between provisions of this code and the referenced standards, the provisions of this code shall apply. Where, in a specific case,

different sections of this code specify different requirements, the most restrictive shall govern.

102.2 Maintenance. Equipment, systems, devices and safeguards required by this code or a previous regulation or code under which the *structure* or *premises* was constructed, altered or repaired shall be maintained in good working order. An *owner*, *owner's* authorized agent, *operator* or *occupant* shall not cause any service, facility, equipment or utility that is required under this section to be removed from, shut off from or discontinued for any occupied dwelling, except for such temporary interruption as necessary while repairs or alterations are in progress. The requirements of this code are not intended to provide the basis for removal or abrogation of fire protection and safety systems and devices in existing structures. Except as otherwise specified herein, the *owner* or the *owner's* authorized agent shall be responsible for the maintenance of buildings, structures and *premises*.

[A] **102.3 Application of other codes.** Repairs, additions or alterations to a *structure*, or changes of *occupancy*, shall be done in accordance with the procedures and provisions of the *International Building Code*, *International Existing Building Code*, *International Energy Conservation Code*, *International Fire Code*, *International Fuel Gas Code*, *International Mechanical Code*, *International Residential Code*, *International Plumbing Code* and NFPA 70. Nothing in this code shall be construed to cancel, modify or set aside any provision of the *International Zoning Code*.

[A] **102.4 Existing remedies.** The provisions in this code shall not be construed to abolish or impair existing remedies of the jurisdiction or its officers or agencies relating to the removal or demolition of any *structure* that is dangerous, unsafe and insanitary.

[A] **102.5 Workmanship.** Repairs, maintenance work, alterations or installations that are caused directly or indirectly by the enforcement of this code shall be executed and installed in a *workmanlike* manner and installed in accordance with the manufacturer's instructions.

102.6 Structural analysis. Where structural analysis is used to determine if an unsafe structural condition exists, the analysis shall be permitted to use nominal strengths, nominal

loads, load effects, required strengths and limit states in accordance with the requirements under which the *structure* was constructed or in accordance with any subsequent requirement.

[A] **102.7 Historic buildings.** The provisions of this code shall not be mandatory for existing buildings or structures designated as historic buildings where such buildings or structures are judged by the *code official* to be safe and in the public interest of health, safety and welfare.

[A] **102.8 Referenced codes and standards.** The codes and standards referenced in this code shall be those that are listed in Chapter 8 and considered part of the requirements of this code to the prescribed extent of each such reference and as further regulated in Sections 102.8.1 and 102.8.2.

Exception: Where enforcement of a code provision would violate the conditions of the listing of the equipment or appliance, the conditions of the listing shall apply.

[A] **102.8.1 Conflicts.** Where conflicts occur between provisions of this code and the referenced standards, the provisions of this code shall apply.

[A] **102.8.2 Provisions in referenced codes and standards.** Where the extent of the reference to a referenced code or standard includes subject matter that is within the scope of this code, the provisions of this code, as applicable, shall take precedence over the provisions in the referenced code or standard.

[A] **102.9 Requirements not covered by code.** Requirements necessary for the strength, stability or proper operation of an existing fixture, *structure* or equipment, or for the public safety, health and general welfare, not specifically covered by this code, shall be determined by the *code official*.

[A] **102.10 Application of references.** References to chapter or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section or provision of this code.

[A] **102.11 Other laws.** The provisions of this code shall not be deemed to nullify any provisions of local, state or federal law.

PART 2 — ADMINISTRATION AND ENFORCEMENT

SECTION 103 CODE COMPLIANCE AGENCY

[A] **103.1 Creation of agency.** The [INSERT NAME OF DEPARTMENT] is hereby created and the official in charge thereof shall be known as the *code official*. The function of the agency shall be the implementation, administration and enforcement of the provisions of this code.

[A] **103.2 Appointment.** The *code official* shall be appointed by the chief appointing authority of the jurisdiction.

[A] **103.3 Deputies.** In accordance with the prescribed procedures of this jurisdiction and with the concurrence of

the appointing authority, the *code official* shall have the authority to appoint a deputy *code official*, other related technical officers, inspectors and other employees. Such employees shall have powers as delegated by the *code official*.

SECTION 104 FEES

[A] **104.1 Fees.** The fees for activities and services performed by the department in carrying out its responsibilities under this code shall be as established by the applicable governing authority.

104.2 Refunds. The *code official* is authorized to establish a refund policy.

SECTION 105 DUTIES AND POWERS OF THE CODE OFFICIAL

[A] **105.1 General.** The *code official* is hereby authorized and directed to enforce the provisions of this code. The *code official* shall have the authority to render interpretations of this code and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this code. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this code.

[A] **105.2 Inspections.** The *code official* shall make all of the required inspections, or shall accept reports of inspection by *approved* agencies or individuals. Reports of such inspections shall be in writing and be certified by a responsible officer of such *approved* agency or by the responsible individual. The *code official* is authorized to engage such expert opinion as deemed necessary to report on unusual technical issues that arise, subject to the approval of the appointing authority.

[A] **105.3 Right of entry.** Where it is necessary to make an inspection to enforce the provisions of this code, or whenever the *code official* has reasonable cause to believe that there exists in a *structure* or upon a *premises* a condition in violation of this code, the *code official* is authorized to enter the *structure* or *premises* at reasonable times to inspect or perform the duties imposed by this code, provided that if such *structure* or *premises* is occupied the *code official* shall present credentials to the *occupant* and request entry. If such *structure* or *premises* is unoccupied, the *code official* shall first make a reasonable effort to locate the *owner*, *owner's* authorized agent or other person having charge or control of the *structure* or *premises* and request entry. If entry is refused, the *code official* shall have recourse to the remedies provided by law to secure entry.

[A] **105.4 Identification.** The *code official* shall carry proper identification when inspecting *structures* or *premises* in the performance of duties under this code.

[A] **105.5 Notices and orders.** The *code official* shall issue all necessary notices or orders to ensure compliance with this code.

[A] 105.6 Department records. The *code official* shall keep official records of all business and activities of the department specified in the provisions of this code. Such records shall be retained in the official records for the period required for retention of public records.

[A] 105.7 Liability. The *code official*, member of the board of appeals or employee charged with the enforcement of this code, while acting for the jurisdiction, in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered civilly or criminally liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act or by reason of an act or omission in the discharge of official duties.

[A] 105.7.1 Legal defense. Any suit or criminal complaint instituted against any officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The *code official* or any subordinate shall not be liable for costs in an action, suit or proceeding that is instituted in pursuance of the provisions of this code.

SECTION 106 APPROVAL

[A] 106.1 Modifications. Whenever there are practical difficulties involved in carrying out the provisions of this code, the *code official* shall have the authority to grant modifications for individual cases upon application of the *owner* or *owner's* authorized agent, provided that the *code official* shall first find that special individual reason makes the strict letter of this code impractical, the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, life and fire safety requirements. The details of action granting modifications shall be recorded and entered in the department files.

[A] 106.2 Alternative materials, design and methods of construction and equipment. The provisions of this code are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this code, provided that any such alternative has been *approved*. An alternative material, design or method of construction shall be *approved* where the *code official* finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, not less than the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety. Where the alternative material, design or method of construction is not *approved*, the *code official* shall respond in writing, stating the reasons why the alternative was not *approved*.

[A] 106.3 Required testing. Whenever there is insufficient evidence of compliance with the provisions of this code or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims

for alternative materials or methods, the *code official* shall have the authority to require tests to be made as evidence of compliance without expense to the jurisdiction.

[A] 106.3.1 Test methods. Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the *code official* shall be permitted to approve appropriate testing procedures performed by an *approved* agency.

[A] 106.3.2 Test reports. Reports of tests shall be retained by the *code official* for the period required for retention of public records.

[A] 106.4 Used material and equipment. Materials that are reused shall comply with the requirements of this code for new materials. Materials, equipment and devices shall not be reused unless such elements are in good repair or have been reconditioned and tested where necessary, placed in good and proper working condition and *approved* by the *code official*.

~~[A] 106.5 Approved materials and equipment. Materials, equipment and devices approved by the *code official* shall be constructed and installed in accordance with such approval.~~

~~[A] 106.6 Research reports. Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in this code, shall consist of valid research reports from *approved* sources.~~

SECTION 107 MEANS OF APPEAL

107.1 General. In order to hear and decide appeals of orders, decisions or determinations made by the *code official* relative to the application and interpretation of this code, there shall be and is hereby created a board of appeals. The board of appeals shall be appointed by the applicable governing authority and shall hold office at its pleasure. The board shall adopt rules of procedure for conducting its business and shall render all decisions and findings in writing to the appellant with a duplicate copy to the *code official*.

[A] 107.2 Limitations of authority. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply or an equivalent or better form of construction is proposed. The board shall not have authority to waive requirements of this code or interpret the administration of this code.

107.3 Qualifications. The board of appeals shall consist of members who are qualified by experience and training and are not employees of the jurisdiction.

107.4 Administration. The *code official* shall take immediate action in accordance with the decision of the board.

SECTION 108 BOARD OF APPEALS

[A] 108.1 Membership of board. The board of appeals shall consist of not less than three members who are qualified by

experience and training to pass on matters pertaining to property maintenance and who are not employees of the jurisdiction. The *code official* shall be an ex-officio member but shall not vote on any matter before the board. The board shall be appointed by the chief appointing authority, and shall serve staggered and overlapping terms.

SECTION 109 VIOLATIONS

[A] 109.1 Unlawful acts. It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of this code.

[A] 109.2 Notice of violation. The *code official* shall serve a notice of violation or order in accordance with Section 111.4.

[A] 109.3 Prosecution of violation. Any person failing to comply with a notice of violation or order served in accordance with Section 111.4 shall be deemed guilty of a misdemeanor or civil infraction as determined by the local municipality, and the violation shall be deemed a *strict liability offense*. If the notice of violation is not complied with, the *code official* shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful *occupancy* of the *structure* in violation of the provisions of this code or of the order or direction made pursuant thereto. Any action taken by the authority having jurisdiction on such *premises* shall be charged against the real estate upon which the *structure* is located and shall be a lien upon such real estate.

[A] 109.4 Violation penalties. Any person who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, shall be prosecuted within the limits provided by state or local laws. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

[A] 109.5 Abatement of violation. The imposition of the penalties herein prescribed shall not preclude the legal officer of the jurisdiction from instituting appropriate action to restrain, correct or abate a violation, or to prevent illegal *occupancy* of a building, *structure* or *premises*, or to stop an illegal act, conduct, business or utilization of the building, *structure* or *premises*.

SECTION 110 STOP WORK ORDER

[A] 110.1 Authority. Where the *code official* finds any work regulated by this code being performed in a manner contrary to the provisions of this code or in a dangerous or unsafe manner, the *code official* is authorized to issue a stop work order.

[A] 110.2 Issuance. The stop work order shall be in writing and shall be given to the *owner* of the property, to the *owner's* authorized agent, or to the person performing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the

reason for the order and the conditions under which the cited work is authorized to resume.

[A] 110.3 Emergencies. Where an emergency exists, the *code official* shall not be required to give a written notice prior to stopping the work.

[A] 110.4 Failure to comply. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to fines established by the authority having jurisdiction.

SECTION 111 UNSAFE STRUCTURES AND EQUIPMENT

111.1 Unsafe conditions. When a *structure* or equipment is found by the *code official* to be unsafe, or when a *structure* is found unfit for human *occupancy*, or is found unlawful, such *structure* shall be *condemned* pursuant to the provisions of this code.

111.1.1 Unsafe structures. An unsafe *structure* is one that is found to be dangerous to the life, health, property or safety of the public or the *occupants* of the *structure* by not providing minimum safeguards to protect or warn *occupants* in the event of fire, or because such *structure* contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

111.1.2 Unsafe equipment. Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the *premises* or within the *structure* that is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or *occupants* of the *premises* or *structure*.

111.1.3 Structure unfit for human occupancy. A *structure* is unfit for human *occupancy* whenever the *code official* finds that such *structure* is unsafe, unlawful or, because of the degree to which the *structure* is in disrepair or lacks maintenance, is insanitary, vermin or rat infested, contains filth and contamination, or lacks *ventilation*, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the *structure* constitutes a hazard to the *occupants* of the *structure* or to the public.

111.1.4 Unlawful structure. An unlawful *structure* is one found in whole or in part to be occupied by more persons than permitted under this code, or was erected, altered or occupied contrary to law.

111.1.5 Dangerous structure or premises. For the purpose of this code, any *structure* or *premises* that has any or all of the conditions or defects described as follows shall be considered to be dangerous:

1. Any door, aisle, passageway, stairway, exit or other means of egress that does not conform to the *approved* building or fire code of the jurisdiction

- as related to the requirements for existing buildings.
2. The walking surface of any aisle, passageway, stairway, exit or other means of egress is so warped, worn loose, torn or otherwise unsafe as to not provide safe and adequate means of egress.
 3. Any portion of a building, *structure* or appurtenance that has been damaged by fire, earthquake, wind, flood, *deterioration*, *neglect*, abandonment, vandalism or by any other cause to such an extent that it is likely to partially or completely collapse, or to become *detached* or dislodged.
 4. Any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof that is not of sufficient strength or stability, or is not so *anchored*, attached or fastened in place so as to be capable of resisting natural or artificial loads of one and one-half the original designed value.
 5. The building or *structure*, or part of the building or *structure*, because of dilapidation, *deterioration*, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or *structure* is likely to fail or give way.
 6. The building or *structure*, or any portion thereof, is clearly unsafe for its use and *occupancy*.
 7. The building or *structure* is *neglected*, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children who might play in the building or *structure* to their danger, becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or *structure* for committing a nuisance or an unlawful act.
 8. Any building or *structure* has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or *structure* provided by the *approved* building or fire code of the jurisdiction, or of any law or ordinance to such an extent as to present either a substantial risk of fire, building collapse or any other threat to life and safety.
 9. A building or *structure*, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, *ventilation*, mechanical or plumbing system, or otherwise, is determined by the *code official* to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.
 10. Any building or *structure*, because of a lack of sufficient or proper fire-resistance-rated construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing

system or other cause, is determined by the *code official* to be a threat to life or health.

11. Any portion of a building remains on a site after the demolition or destruction of the building or *structure* or whenever any building or *structure* is abandoned so as to constitute such building or portion thereof as an attractive nuisance or hazard to the public.

111.2 Closing of vacant structures. If the *structure* is vacant and unfit for human habitation and *occupancy*, and is not in danger of structural collapse, the *code official* is authorized to post a placard of condemnation on the *premises* and order the *structure* closed up so as not to be an attractive nuisance. Upon failure of the *owner* or *owner's* authorized agent to close up the *premises* within the time specified in the order, the *code official* shall cause the *premises* to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the *structure* is located and shall be a lien upon such real estate and shall be collected by any other legal resource.

~~111.2.1 Authority to disconnect service utilities. The *code official* shall have the authority to authorize disconnection of utility service to the building, *structure* or system regulated by this code and the referenced codes and standards set forth in Section 102.8 in case of emergency where necessary to eliminate an immediate hazard to life or property or where such utility connection has been made without approval. The *code official* shall notify the serving utility and, whenever possible, the *owner* or *owner's* authorized agent and *occupant* of the building, *structure* or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnection the *owner*, *owner's* authorized agent or *occupant* of the building, *structure* or service system shall be notified in writing as soon as practical thereafter.~~

111.3 Record. The *code official* shall cause a report to be filed on an unsafe condition. The report shall state the *occupancy* of the *structure* and the nature of the unsafe condition.

111.4 Notice. Whenever the *code official* determines that there has been a violation of this code or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed in Sections 111.4.1 and 111.4.2 to the *owner* or the *owner's* authorized agent, for the violation as specified in this code. Notices for condemnation procedures shall comply with this section.

111.4.1 Form. Such notice shall be in accordance with all of the following:

1. Be in writing.
2. Include a description of the real estate sufficient for identification.
3. Include a statement of the violation or violations and why the notice is being issued.
4. Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the *dwelling unit* or *structure* into compliance with the provisions of this code.

5. Inform the property *owner* or *owner's* authorized agent of the right to appeal.
6. Include a statement of the right to file a lien in accordance with Section 109.3.

111.4.2 Method of service. Such notice shall be deemed to be properly served where a copy thereof is served in accordance with one of the following methods:

1. A copy is delivered personally.
2. A copy is sent by certified or registered mail addressed to the owner at the last known address with the return receipt requested.
3. A copy is delivered in any other manner as prescribed by local law.

If the certified or registered letter is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice. Service of such notice in the foregoing manner upon the owner's agent or upon the person responsible for the structure shall constitute service of notice upon the owner.

111.5 Unauthorized tampering. Signs, tags or seals posted or affixed by the *code official* shall not be mutilated, destroyed or tampered with, or removed without authorization from the *code official*.

111.6 Transfer of ownership. It shall be unlawful for the *owner* of any *dwelling unit* or *structure* who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of such *dwelling unit* or *structure* to another until the provisions of the compliance order or notice of violation have been complied with, or until such *owner* or the *owner's* authorized agent shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the *code official* and shall furnish to the *code official* a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

111.7 Placarding. Upon failure of the *owner*, *owner's* authorized agent or person responsible to comply with the notice provisions within the time given, the *code official* shall post on the *premises* or on defective equipment a placard bearing the word "Condemned" and a statement of the penalties provided for occupying the *premises*, operating the equipment or removing the placard. Such notice shall be posted in a conspicuous place in or about the structure affected by such notice. If the notice pertains to equipment, it shall be placed on the condemned equipment.

111.7.1 Placard removal. The *code official* shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the *code official* shall be subject to the penalties provided by this code.

111.8 Prohibited occupancy. Any occupied *structure* condemned and placarded by the *code official* shall be vacated as ordered by the *code official*. Any person who shall occupy a placarded *premises* or shall operate placarded equipment, and any *owner* or *owner's* authorized agent who shall let anyone occupy a placarded *premises* or operate placarded equipment shall be liable for the penalties provided by this code.

111.9 Restoration or abatement. The structure or equipment determined to be unsafe by the *code official* is permitted to be restored to a safe condition. The *owner*, *owner's* authorized agent, *operator* or *occupant* of a structure, *premises* or equipment deemed unsafe by the *code official* shall abate or cause to be abated or corrected such unsafe conditions either by repair, rehabilitation, demolition or other *approved* corrective action. To the extent that repairs, alterations, or additions are made or a change of occupancy occurs during the restoration of the structure, such repairs, alterations, additions, or change of occupancy shall comply with the requirements of the *International Existing Building Code*.

SECTION 112 EMERGENCY MEASURES

112.1 Imminent danger. When, in the opinion of the *code official*, there is *imminent danger* of failure or collapse of a building or *structure* that endangers life, or when any *structure* or part of a *structure* has fallen and life is endangered by the occupation of the *structure*, or when there is actual or potential danger to the building *occupants* or those in the proximity of any *structure* because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the *code official* is hereby authorized and empowered to order and require the *occupants* to vacate the *premises* forthwith. The *code official* shall cause to be posted at each entrance to such *structure* a notice reading as follows: "This Structure Is Unsafe and Its Occupancy Has Been Prohibited by the Code Official." It shall be unlawful for any person to enter such *structure* except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same.

112.2 Temporary safeguards. Notwithstanding other provisions of this code, whenever, in the opinion of the *code official*, there is *imminent danger* due to an unsafe condition, the *code official* shall order the necessary work to be done, including the boarding up of openings, to render such *structure* temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the *code official* deems necessary to meet such emergency.

112.3 Closing streets. When necessary for public safety, the *code official* shall temporarily close structures and close, or order the authority having jurisdiction to close, sidewalks, streets, *public ways* and places adjacent to unsafe structures, and prohibit the same from being utilized.

112.4 Emergency repairs. For the purposes of this section, the *code official* shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

112.5 Costs of emergency repairs. Costs incurred in the performance of emergency work shall be paid by the jurisdiction. The legal counsel of the jurisdiction shall institute appropriate action against the *owner* of the *premises* or *owner's* authorized agent where the unsafe *structure* is or was located for the recovery of such costs.

112.6 Hearing. Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon petition directed to the appeals board, be afforded a hearing as described in this code.

SECTION 113 DEMOLITION

113.1 General. The *code official* shall order the *owner* or *owner's* authorized agent of any *premises* upon which is located any *structure*, which in the *code official's* or *owner's* authorized agent judgment after review is so deteriorated or dilapidated or has become so out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human habitation or *occupancy*, and such that it is unreasonable to repair the *structure*, to demolish and remove such *structure*; or if such *structure* is capable of being made safe by repairs, to repair and make safe and sanitary, or to board up and hold for future repair or to demolish and remove at the *owner's* option; or where there has been a cessation of normal construction of any *structure* for a period of more than two years, the *code official* shall order the *owner* or *owner's* authorized agent to demolish and remove such *structure*, or board up until future repair. Boarding the building up for future repair shall not extend beyond one year, unless *approved* by the building official.

113.2 Notices and orders. Notices and orders shall comply with Section 111.4.

113.3 Failure to comply. If the *owner* of a *premises* or *owner's* authorized agent fails to comply with a demolition order within the time prescribed, the *code official* shall cause the *structure* to be demolished and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal shall be charged against the real estate upon which the *structure* is located and shall be a lien upon such real estate.

113.4 Salvage materials. Where any *structure* has been ordered demolished and removed, the governing body or other designated officer under said contract or arrangement aforesaid shall have the right to sell the salvage and valuable materials. The net proceeds of such sale, after deducting the expenses of such demolition and removal, shall be promptly remitted with a report of such sale or transaction, including the items of expense and the amounts deducted, for the person who is entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state.

CHAPTER 2

DEFINITIONS

User note:

About this chapter: Codes, by their very nature, are technical documents. Every word, term and punctuation mark can add to or change the meaning of a technical requirement. It is necessary to maintain a consensus on the specific meaning of each term contained in the code. Chapter 2 performs this function by stating clearly what specific terms mean for the purpose of the code.

SECTION 201 GENERAL

201.1 Scope. Unless otherwise expressly stated, the following terms shall, for the purposes of this code, have the meanings shown in this chapter.

201.2 Interchangeability. Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural, the singular.

201.3 Terms defined in other codes. Where terms are not defined in this code and are defined in the *International Building Code*, *International Existing Building Code*, *International Fire Code*, *International Fuel Gas Code*, *International Mechanical Code*, *International Plumbing Code*, *International Residential Code*, *International Zoning Code* or *NFPA 70*, such terms shall have the meanings ascribed to them as stated in those codes.

Exception: When used within this code, the terms unsafe and dangerous shall have only the meanings ascribed to them in this code and shall not have the meanings ascribed to them by the *International Existing Building Code*.

201.4 Terms not defined. Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.

201.5 Parts. Whenever the words "dwelling unit," "dwelling," "premises," "building," "rooming house," "rooming unit," "housekeeping unit" or "story" are stated in this code, they shall be construed as though they were followed by the words "or any part thereof."

SECTION 202 GENERAL DEFINITIONS

ANCHORED. Secured in a manner that provides positive connection.

[A] APPROVED. Acceptable to the *code official*.

BASEMENT. That portion of a building that is partly or completely below grade.

BATHROOM. A room containing plumbing fixtures including a bathtub or shower.

BEDROOM. Any room or space used or intended to be used for sleeping purposes in either a dwelling or *sleeping unit*.

[A] CODE OFFICIAL. The official who is charged with the administration and enforcement of this code, or any duly authorized representative.

CONDEMN. To adjudge unfit for *occupancy*.

COST OF SUCH DEMOLITION OR EMERGENCY REPAIRS. The costs shall include the actual costs of the demolition or repair of the *structure* less revenues obtained if salvage was conducted prior to demolition or repair. Costs shall include, but not be limited to, expenses incurred or necessitated related to demolition or emergency repairs, such as asbestos survey and abatement if necessary; costs of inspectors, testing agencies or experts retained relative to the demolition or emergency repairs; costs of testing; surveys for other materials that are controlled or regulated from being dumped in a landfill; title searches; mailing(s); postings; recording; and attorney fees expended for recovering of the cost of emergency repairs or to obtain or enforce an order of demolition made by a *code official*, the governing body or board of appeals.

DETACHED. When a structural element is physically disconnected from another and that connection is necessary to provide a positive connection.

DETERIORATION. To weaken, disintegrate, corrode, rust or decay and lose effectiveness.

[A] DWELLING UNIT. A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

[Z] EASEMENT. That portion of land or property reserved for present or future use by a person or agency other than the legal fee *owner(s)* of the property. The *easement* shall be permitted to be for use under, on or above said lot or lots.

EMERGENCY ESCAPE AND RESCUE OPENING. An operable exterior window, door or other similar device that provides for a means of escape and access for rescue in the event of an emergency.

EQUIPMENT SUPPORT. Those structural members or assemblies of members or manufactured elements, including braces, frames, lugs, snuggers, hangers or saddles, that transmit gravity load, lateral load and operating load between the equipment and the *structure*.

EXTERIOR PROPERTY. The open space on the *premises* and on adjoining property under the control of *owners* or *operators* of such *premises*.

GARBAGE. The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.

[BE] GUARD. A building component or a system of building components located at or near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to a lower level.

[BG] HABITABLE SPACE. Space in a *structure* for living, sleeping, eating or cooking. *Bathrooms, toilet rooms, closets, halls, storage or utility spaces, and similar areas* are not considered *habitable spaces*.

~~**[A] HISTORIC BUILDING.** Any building or *structure* that is one or more of the following:~~

- ~~1. Listed or certified as eligible for listing, by the State Historic Preservation Officer or the Keeper of the National Register of Historic Places, in the National Register of Historic Places.~~
- ~~2. Designated as historic under an applicable state or local law.~~
- ~~3. Certified as a contributing resource within a National Register or state or locally designated historic district.~~

HOUSEKEEPING UNIT. A room or group of rooms forming a single *habitable space* equipped and intended to be used for living, sleeping, cooking and eating that does not contain, within such a unit, a toilet, lavatory and bathtub or shower.

IMMINENT DANGER. A condition that could cause serious or life-threatening injury or death at any time.

INFESTATION. The presence, within or contiguous to, a *structure or premises* of insects, rodents, vermin or other pests.

INOPERABLE MOTOR VEHICLE. A vehicle that cannot be driven upon the public streets for reason including but not limited to being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.

[A] LABELED. Equipment, materials or products to which have been affixed a label, seal, symbol or other identifying mark of a nationally recognized testing laboratory, *approved* agency or other organization concerned with product evaluation that maintains periodic inspection of the production of the above-labeled items and whose labeling indicates either that the equipment, material or product meets identified standards or has been tested and found suitable for a specified purpose.

LET FOR OCCUPANCY or LET. To permit, provide or offer possession or *occupancy* of a dwelling, *dwelling unit, rooming unit, building, premise or structure* by a person who is or is not the legal *owner* of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of land.

NEGLECT. The lack of proper maintenance for a building or *structure*.

[A] OCCUPANCY. The purpose for which a building or portion thereof is utilized or occupied.

OCCUPANT. Any individual living or sleeping in a building, or having possession of a space within a building.

OPENABLE AREA. That part of a window, skylight or door which is available for unobstructed *ventilation* and which opens directly to the outdoors.

OPERATOR. Any person who has charge, care or control of a *structure or premises* that is let or offered for *occupancy*.

[A] OWNER. Any person, agent, *operator, firm or corporation* having legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

[A] PERSON. An individual, corporation, partnership or any other group acting as a unit.

PEST ELIMINATION. The control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food or water; by other *approved pest elimination* methods.

[A] PREMISES. A lot, plot or parcel of land, *easement or public way*, including any structures thereon.

[A] PUBLIC WAY. Any street, alley or other parcel of land that: is open to the outside air; leads to a street; has been deeded, dedicated or otherwise permanently appropriated to the public for public use; and has a clear width and height of not less than 10 feet (3048 mm).

ROOMING HOUSE. A building arranged or occupied for lodging, with or without meals, for compensation and not occupied as a one- or two-family dwelling.

ROOMING UNIT. Any room or group of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.

RUBBISH. Combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, *yard* trimmings, tin cans, metals, mineral matter, glass, crockery and dust and other similar materials.

[A] SLEEPING UNIT. A room or space in which people sleep, which can also include permanent provisions for living, eating and either sanitation or kitchen facilities, but not both. Such rooms and spaces that are also part of a *dwelling unit* are not *sleeping units*.

STRICT LIABILITY OFFENSE. An offense in which the prosecution in a legal proceeding is not required to prove criminal intent as a part of its case. It is enough to prove that the defendant either did an act which was prohibited, or failed to do an act which the defendant was legally required to do.

[A] STRUCTURE. That which is built or constructed.

TENANT. A person, corporation, partnership or group, whether or not the legal *owner* of record, occupying a building or portion thereof as a unit.

TOILET ROOM. A room containing a water closet or urinal but not a bathtub or shower.

ULTIMATE DEFORMATION. The deformation at which failure occurs and that shall be deemed to occur if the sustainable load reduces to 80 percent or less of the maximum strength.

[M] VENTILATION. The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

WORKMANLIKE. Executed in a skilled manner; e.g., generally plumb, level, square, in line, undamaged and without marring adjacent work.

[Z] YARD. An open space on the same lot with a *structure*.

CHAPTER 3

GENERAL REQUIREMENTS

User note:

About this chapter: Chapter 3 is broad in scope and includes a variety of requirements for the maintenance of exterior property areas, as well as the interior and exterior elements of the structure, that are intended to maintain a minimum level of safety and sanitation for both the general public and the occupants of a structure, and to maintain a building's structural and weather-resistance performance. Specifically, Chapter 3 contains criteria for the maintenance of building components; vacant structures and land; the safety, sanitation and appearance of the interior and exterior of structures and all exterior property areas; accessory structures; extermination of insects and rodents; access barriers to swimming pools, spas and hot tubs; vehicle storage and owner/occupant responsibilities.

SECTION 301 GENERAL

301.1 Scope. The provisions of this chapter shall govern the minimum conditions and the responsibilities of persons for maintenance of structures, equipment and *exterior property*.

301.2 Responsibility. The *owner* of the *premises* shall maintain the structures and *exterior property* in compliance with these requirements, except as otherwise provided for in this code. A person shall not occupy as *owner-occupant* or permit another person to occupy *premises* that are not in a sanitary and safe condition and that do not comply with the requirements of this chapter. *Occupants* of a *dwelling unit*, *rooming unit* or *housekeeping unit* are responsible for keeping in a clean, sanitary and safe condition that part of the *dwelling unit*, *rooming unit*, *housekeeping unit* or *premises* they occupy and control.

301.3 Vacant structures and land. Vacant structures and *premises* thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

SECTION 302 EXTERIOR PROPERTY AREAS

302.1 Sanitation. *Exterior property* and *premises* shall be maintained in a clean, safe and sanitary condition. The *occupant* shall keep that part of the *exterior property* that such *occupant* occupies or controls in a clean and sanitary condition.

302.2 Grading and drainage. *Premises* shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any *structure* located thereon.

Exception: *Approved* retention areas and reservoirs.

302.3 Sidewalks and driveways. Sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions.

302.4 Weeds. *Premises* and *exterior property* shall be maintained free from weeds or plant growth in excess of ~~JURISDICTION TO INSERT HEIGHT IN INCHES~~. Noxious

6"

weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens.

Upon failure of the *owner* or agent having charge of a property to cut and destroy weeds after service of a notice of violation, they shall be subject to prosecution in accordance with Section 108.3 and as prescribed by the authority having jurisdiction. Upon failure to comply with the notice of violation, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon, and the costs of such removal shall be paid by the *owner* or agent responsible for the property.

302.5 Rodent harborage. Structures and *exterior property* shall be kept free from rodent harborage and *infestation*. Where rodents are found, they shall be promptly exterminated by *approved* processes that will not be injurious to human health. After *pest elimination*, proper precautions shall be taken to eliminate rodent harborage and prevent reinfestation.

302.6 Exhaust vents. Pipes, ducts, conductors, fans or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes directly on abutting or adjacent public or private property or that of another *tenant*.

302.7 Accessory structures. Accessory structures, including detached garages, fences and walls, shall be maintained structurally sound and in good repair.

302.8 Motor vehicles. Except as provided for in other regulations, inoperative or unlicensed motor vehicles shall not be parked, kept or stored on any *premises*, and vehicles shall not at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an *approved* spray booth.

Exception: A vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a *structure* or similarly enclosed area designed and *approved* for such purposes.

302.9 Defacement of property. A person shall not willfully or wantonly damage, mutilate or deface any exterior surface

of any *structure* or building on any private or public property by placing thereon any marking, carving or graffiti.

It shall be the responsibility of the *owner* to restore said surface to an *approved* state of maintenance and repair.

SECTION 303

~~SWIMMING POOLS, SPAS AND HOT TUBS~~

~~303.1 Swimming pools. Swimming pools shall be maintained in a clean and sanitary condition, and in good repair.~~

~~303.2 Enclosures. Private swimming pools, hot tubs and spas, containing water more than 24 inches (610 mm) in depth shall be completely surrounded by a fence or barrier not less than 48 inches (1219 mm) in height above the finished ground level measured on the side of the barrier away from the pool. Gates and doors in such barriers shall be self-closing and self-latching. Where the self-latching device is less than 54 inches (1372 mm) above the bottom of the gate, the release mechanism shall be located on the pool side of the gate. Self-closing and self-latching gates shall be maintained such that the gate will positively close and latch when released from an open position of 6 inches (152 mm) from the gatepost. An existing pool enclosure shall not be removed, replaced or changed in a manner that reduces its effectiveness as a safety barrier.~~

~~Exception: Spas or hot tubs with a safety cover that complies with ASTM F1346 shall be exempt from the provisions of this section.~~

SECTION 304

EXTERIOR STRUCTURE

304.1 **General.** The exterior of a *structure* shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

304.1.1 **Unsafe conditions.** The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the *International Building Code* or the *International Existing Building Code* as required for existing buildings:

1. The nominal strength of any structural member is exceeded by nominal loads, the load effects or the required strength.
2. The *anchorage* of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads or load effects.
3. Structures or components thereof that have reached their limit state.
4. Siding and masonry joints including joints between the building envelope and the perimeter of windows, doors and skylights are not maintained, weather resistant or water tight.
5. Structural members that have evidence of *deterioration* or that are not capable of safely supporting all nominal loads and load effects.

6. Foundation systems that are not firmly supported by footings, are not plumb and free from open cracks and breaks, are not properly *anchored* or are not capable of supporting all nominal loads and resisting all load effects.
7. Exterior walls that are not *anchored* to supporting and supported elements or are not plumb and free of holes, cracks or breaks and loose or rotting materials, are not properly *anchored* or are not capable of supporting all nominal loads and resisting all load effects.
8. Roofing or roofing components that have defects that admit rain, roof surfaces with inadequate drainage, or any portion of the roof framing that is not in good repair with signs of *deterioration*, fatigue or without proper anchorage and incapable of supporting all nominal loads and resisting all load effects.
9. Flooring and flooring components with defects that affect serviceability or flooring components that show signs of *deterioration* or fatigue, are not properly *anchored* or are incapable of supporting all nominal loads and resisting all load effects.
10. Veneer, cornices, belt courses, corbels, trim, wall facings and similar decorative features not properly *anchored* or that are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects.
11. Overhang extensions or projections including, but not limited to, trash chutes, canopies, marquees, signs, awnings, fire escapes, standpipes and exhaust ducts not properly *anchored* or that are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects.
12. Exterior stairs, decks, porches, balconies and all similar appurtenances attached thereto, including *guards* and handrails, are not structurally sound, not properly *anchored* or that are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects.
13. Chimneys, cooling towers, smokestacks and similar appurtenances not structurally sound or not properly *anchored*, or that are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects.

Exceptions:

1. Where substantiated otherwise by an *approved* method.
2. Demolition of unsafe conditions shall be permitted where *approved* by the *code official*.

304.2 **Protective treatment.** Exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences, shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treat-

ment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. Siding and masonry joints, as well as those between the building envelope and the perimeter of windows, doors and skylights, shall be maintained weather resistant and water tight. Metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

[F] 304.3 Premises identification. Buildings shall have *approved* address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be not less than 4 inches (102 mm) in height with a minimum stroke width of 0.5 inch (12.7 mm).

304.4 Structural members. Structural members shall be maintained free from *deterioration*, and shall be capable of safely supporting the imposed dead and live loads.

304.5 Foundation walls. Foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests.

304.6 Exterior walls. Exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent *deterioration*.

304.7 Roofs and drainage. The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or *deterioration* in the walls or interior portion of the *structure*. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

304.8 Decorative features. Cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper *anchorage* and in a safe condition.

304.9 Overhang extensions. Overhang extensions including, but not limited to, canopies, marquees, signs, metal awnings, fire escapes, standpipes and exhaust ducts shall be maintained in good repair and be properly *anchored* so as to be kept in a sound condition. Where required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

304.10 Stairways, decks, porches and balconies. Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper *anchorage* and capable of supporting the imposed loads.

304.11 Chimneys and towers. Chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. Exposed

surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

304.12 Handrails and guards. Every handrail and *guard* shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

304.13 Window, skylight and door frames. Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight.

304.13.1 Glazing. Glazing materials shall be maintained free from cracks and holes.

304.13.2 Openable windows. Every window, other than a fixed window, shall be easily openable and capable of being held in position by window hardware.

304.14 Insect screens. During the period from [DATE] to [DATE], every door, window and other outside opening required for *ventilation* of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with *approved* tightly fitting screens of minimum 16 mesh per inch (16 mesh per 25 mm), and every screen door used for insect control shall have a self-closing device in good working condition.

Exception: Screens shall not be required where other *approved* means, such as air curtains or insect repellent fans, are employed.

304.15 Doors. Exterior doors, door assemblies, operator systems if provided, and hardware shall be maintained in good condition. Locks at all entrances to *dwelling units* and sleeping units shall tightly secure the door. Locks on means of egress doors shall be in accordance with Section 702.3.

304.16 Basement hatchways. Every *basement* hatchway shall be maintained to prevent the entrance of rodents, rain and surface drainage water.

304.17 Guards for basement windows. Every *basement* window that is openable shall be supplied with rodent shields, storm windows or other *approved* protection against the entry of rodents.

304.18 Building security. Doors, windows or hatchways for *dwelling units*, room units or *housekeeping units* shall be provided with devices designed to provide security for the *occupants* and property within.

304.18.1 Doors. Doors providing access to a *dwelling unit*, *rooming unit* or *housekeeping unit* that is rented, leased or let shall be equipped with a deadbolt lock designed to be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort and shall have a minimum lock throw of 1 inch (25 mm). Such deadbolt locks shall be installed according to the manufacturer's specifications and maintained in good working order. For the purpose of this section, a sliding bolt shall not be considered an acceptable deadbolt lock.

304.18.2 Windows. Operable windows located in whole or in part within 6 feet (1828 mm) above ground level or a walking surface below that provide access to a *dwelling unit, rooming unit or housekeeping unit* that is rented, leased or let shall be equipped with a window sash locking device.

304.18.3 Basement hatchways. *Basement* hatchways that provide access to a *dwelling unit, rooming unit or housekeeping unit* that is rented, leased or let shall be equipped with devices that secure the units from unauthorized entry.

304.19 Gates. Exterior gates, gate assemblies, operator systems if provided, and hardware shall be maintained in good condition. Latches at all entrances shall tightly secure the gates.

SECTION 305 INTERIOR STRUCTURE

305.1 General. The interior of a *structure* and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. *Occupants* shall keep that part of the *structure* that they occupy or control in a clean and sanitary condition. Every *owner* of a *structure* containing a *rooming house, housekeeping units, a hotel, a dormitory, two or more dwelling units or two or more nonresidential occupancies*, shall maintain, in a clean and sanitary condition, the shared or public areas of the *structure* and *exterior property*.

305.1.1 Unsafe conditions. The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the *International Building Code* or the *International Existing Building Code* as required for existing buildings:

1. The nominal strength of any structural member is exceeded by nominal loads, the load effects or the required strength.
2. The anchorage of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads or load effects.
3. Structures or components thereof that have reached their limit state.
4. Structural members are incapable of supporting nominal loads and load effects.
5. Stairs, landings, balconies and all similar walking surfaces, including *guards* and handrails, are not structurally sound, not properly *anchored* or are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects.
6. Foundation systems that are not firmly supported by footings are not plumb and free from open cracks and breaks, are not properly *anchored* or are not capable of supporting all nominal loads and resisting all load effects.

Exceptions:

1. Where substantiated otherwise by an *approved* method.
2. Demolition of unsafe conditions shall be permitted where *approved* by the *code official*.

305.2 Structural members. Structural members shall be maintained structurally sound, and be capable of supporting the imposed loads.

305.3 Interior surfaces. Interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling, chipping, flaking or abraded paint shall be repaired, removed or covered. Cracked or loose plaster, decayed wood and other defective surface conditions shall be corrected.

305.4 Stairs and walking surfaces. Every stair, ramp, landing, balcony, porch, deck or other walking surface shall be maintained in sound condition and good repair.

305.5 Handrails and guards. Every handrail and *guard* shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

305.6 Interior doors. Every interior door shall fit reasonably well within its frame and shall be capable of being opened and closed by being properly and securely attached to jambs, headers or tracks as intended by the manufacturer of the attachment hardware.

SECTION 306 COMPONENT SERVICEABILITY

306.1 General. The components of a *structure* and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition.

306.1.1 Unsafe conditions. Where any of the following conditions cause the component or system to be beyond its limit state, the component or system shall be determined as unsafe and shall be repaired or replaced to comply with the *International Building Code* or the *International Existing Building Code* as required for existing buildings:

1. Soils that have been subjected to any of the following conditions:
 - 1.1. Collapse of footing or foundation system.
 - 1.2. Damage to footing, foundation, concrete or other structural element due to soil expansion.
 - 1.3. Adverse effects to the design strength of footing, foundation, concrete or other structural element due to a chemical reaction from the soil.
 - 1.4. Inadequate soil as determined by a geotechnical investigation.
 - 1.5. Where the allowable bearing capacity of the soil is in doubt.

- 1.6. Adverse effects to the footing, foundation, concrete or other structural element due to the ground water table.
2. Concrete that has been subjected to any of the following conditions:
 - 2.1. *Deterioration.*
 - 2.2. *Ultimate deformation.*
 - 2.3. Fractures.
 - 2.4. Fissures.
 - 2.5. Spalling.
 - 2.6. Exposed reinforcement.
 - 2.7. *Detached, dislodged or failing connections.*
3. Aluminum that has been subjected to any of the following conditions:
 - 3.1. *Deterioration.*
 - 3.2. Corrosion.
 - 3.3. Elastic deformation.
 - 3.4. *Ultimate deformation.*
 - 3.5. Stress or strain cracks.
 - 3.6. Joint fatigue.
 - 3.7. *Detached, dislodged or failing connections.*
4. Masonry that has been subjected to any of the following conditions:
 - 4.1. *Deterioration.*
 - 4.2. *Ultimate deformation.*
 - 4.3. Fractures in masonry or mortar joints.
 - 4.4. Fissures in masonry or mortar joints.
 - 4.5. Spalling.
 - 4.6. Exposed reinforcement.
 - 4.7. *Detached, dislodged or failing connections.*
5. Steel that has been subjected to any of the following conditions:
 - 5.1. *Deterioration.*
 - 5.2. Elastic deformation.
 - 5.3. *Ultimate deformation.*
 - 5.4. Metal fatigue.
 - 5.5. *Detached, dislodged or failing connections.*
6. Wood that has been subjected to any of the following conditions:
 - 6.1. Ultimate deformation.
 - 6.2. Deterioration.
 - 6.3. Damage from insects, rodents and other vermin.
 - 6.4. Fire damage beyond charring.
 - 6.5. Significant splits and checks.
 - 6.6. Horizontal shear cracks.
 - 6.7. Vertical shear cracks.
 - 6.8. Inadequate support.
 - 6.9. *Detached, dislodged or failing connections.*

- 6.10. Excessive cutting and notching.

Exceptions:

1. Where substantiated otherwise by an *approved* method.
2. Demolition of unsafe conditions shall be permitted where *approved* by the *code official*.

**SECTION 307
HANDRAILS AND GUARDRAILS**

307.1 General. Every exterior and interior flight of stairs having more than four risers shall have a handrail on one side of the stair and every open portion of a stair, landing, balcony, porch, deck, ramp or other walking surface that is more than 30 inches (762 mm) above the floor or grade below shall have *guards*. Handrails shall be not less than 30 inches (762 mm) in height or more than 42 inches (1067 mm) in height measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces. *Guards* shall be not less than 30 inches (762 mm) in height above the floor of the landing, balcony, porch, deck, or ramp or other walking surface.

Exception: *Guards* shall not be required where exempted by the adopted building code.

**SECTION 308
RUBBISH AND GARBAGE**

308.1 Accumulation of rubbish or garbage. *Exterior property* and *premises*, and the interior of every *structure*, shall be free from any accumulation of *rubbish* or garbage.

308.2 Disposal of rubbish. Every *occupant* of a *structure* shall dispose of all *rubbish* in a clean and sanitary manner by placing such *rubbish* in *approved* containers.

308.2.1 Rubbish storage facilities. The *owner* of every occupied *premises* shall supply *approved* covered containers for *rubbish*, and the *owner* of the *premises* shall be responsible for the removal of *rubbish*.

308.2.2 Refrigerators. Refrigerators and similar equipment not in operation shall not be discarded, abandoned or stored on *premises* without first removing the doors.

308.3 Disposal of garbage. Every *occupant* of a *structure* shall dispose of garbage in a clean and sanitary manner by placing such garbage in an *approved* garbage disposal facility or *approved* garbage containers.

308.3.1 Garbage facilities. The *owner* of every dwelling shall supply one of the following: an *approved* mechanical food waste grinder in each *dwelling unit*; an *approved* incinerator unit in the *structure* available to the *occupants* in each *dwelling unit*; or an *approved* leakproof, covered, outside garbage container.

308.3.2 Containers. The *operator* of every establishment producing garbage shall provide, and at all times cause to be utilized, *approved* leakproof containers provided with close-fitting covers for the storage of such materials until removed from the *premises* for disposal.

**SECTION 309
PEST ELIMINATION**

309.1 Infestation. Structures shall be kept free from insect and rodent *infestation*. Structures in which insects or rodents are found shall be promptly exterminated by *approved* processes that will not be injurious to human health. After *pest elimination*, proper precautions shall be taken to prevent reinfestation.

309.2 Owner. The *owner* of any *structure* shall be responsible for *pest elimination* within the *structure* prior to renting or leasing the *structure*.

309.3 Single occupant. The *occupant* of a one-family dwelling or of a single-tenant nonresidential *structure* shall be responsible for *pest elimination* on the *premises*.

309.4 Multiple occupancy. The *owner* of a *structure* containing two or more *dwelling units*, a multiple *occupancy*, a *rooming house* or a nonresidential *structure* shall be responsible for *pest elimination* in the public or shared areas of the *structure* and *exterior property*. If *infestation* is caused by failure of an *occupant* to prevent such *infestation* in the area occupied, the *occupant* and *owner* shall be responsible for *pest elimination*.

309.5 Occupant. The *occupant* of any *structure* shall be responsible for the continued rodent and pest-free condition of the *structure*.

Exception: Where the *infestations* are caused by defects in the *structure*, the *owner* shall be responsible for *pest elimination*.

RESOLUTION 20-2021

A RESOLUTION AUTHORIZING THE CITY TO PROVIDE FOR RESTORATION AND MAINTENANCE OF THE SOCCER FIELDS AND PROVIDING FUND TO THE NFJFD FOR FIRE UNIFORMS.

WHEREAS, The Newton Falls Soccer fields have not been properly maintained for the past several years; and

WHEREAS The Newton Falls Soccer league does not have funding to restore the fields and maintain them for the season; and

WHEREAS, The Newton Falls Soccer league has asked the City to provide funds so that they could keep youth soccer in the City of Newton Falls; and

WHEREAS, The NFJFD (Newton Falls Joint Fire District) has asked for funds to purchase fire uniforms for their department; and

WHEREAS, The City of Newton Falls City Council agrees that youth soccer and our fire personnel are important parts of our community and funds should be provided.

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

SECTION I: The Newton Falls City Council hereby authorizes the expenditure for restoration and maintenance of the soccer fields in an amount not to exceed \$20,000.

SECTION II: The Newton Falls City Council hereby authorizes the City to provide funds to the Newton Falls Joint Fire District (NFJFD) in the amount of \$15,000 for fire uniforms.

PASSED IN COUNCIL THIS _____ DAY OF _____ 2021.

Mayor, Kenneth A. Kline

ATTEST: _____
City Clerk/Clerk of Council Kathleen M. King

CITY OF NEWTON FALLS
COMMISSION/BOARD APPLICATION

DATE: 4-21-21

Application for membership on Parks & Rec
(Name of Commission or Board)

Name: Jon Ruscoe

Address: 21 Eagle Point Dr
Newton Falls, Ohio

Phone Number: _____ Home

330-442-5504 Cell

_____ Work

Email Address: jruscoe@yahoo.com

Are you a qualified elector of the City of Newton Falls yes _____ no.

* **Civil Service, Planning & Zoning applicants.** Per the Newton Falls City Charter no member shall hold any other office, employment or position with the City.

Do you hold any other office, employment or position with the City of Newton Falls.

_____ yes (if so please explain) _____

no

****Civil Service applicants only:** Article VI, Commissions and Boards, Section I. Civil Service Commission, Paragraph 2; "No member of the Civil Service Commission shall hold any other office or employment with the City and not more than two such members shall be members of the same political party".

Please indicate political party Republican

**CITY OF NEWTON FALLS
COMMISSION/BOARD APPLICATION**

DATE: _____

Application for membership on Parks and Recreation
(Name of Commission or Board)

Name: Jaime Kline

Address: 312 Bridge Road
Newton Falls Ohio 44444

Phone Number: _____ Home

330-646-2163 Cell

_____ Work

Email Address: jaimekline40@yahoo.com

Are you a qualified elector of the City of Newton Falls yes _____ no.

*** Civil Service, Planning & Zoning applicants.** Per the Newton Falls City Charter no member shall hold any other office, employment or position with the City.

Do you hold any other office, employment or position with the City of Newton Falls.

_____ yes (if so please explain) _____

no

****Civil Service applicants only:** Article VI, Commissions and Boards, Section I. Civil Service Commission, Paragraph 2; "No member of the Civil Service Commission shall hold any other office or employment with the City and not more than two such members shall be members of the same political party".

Please indicate political party _____

4-28-21
10:55 AM

Kathleen King

From: Tonya Kline <klinetonya@gmail.com>
Sent: Sunday, April 11, 2021 6:35 PM
To: Kathleen King
Subject: Re: Application

Hello again Kathy! I just spoke to Tim Stinson and he made me aware that there is no need for an application, as I was previously told, but to simply send you an email and let you know I am interested in Parks and Rec committee opening. Thank you
Tonya Kline

On Tue, Apr 6, 2021 at 7:03 AM Tonya Kline <klinetonya@gmail.com> wrote:

Hello Kathy! I am interested in applying for the Park and Rec committee open position needed for Ward 4. Can you forward me the application for this?
Thank you,
Tonya Kline