

# NEWTON FALLS CITY COUNCIL

## REGULAR MEETING AGENDA

WEDNESDAY, FEBRUARY 16, 2022

6:00 P.M.

612 West Broad Street

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### CITY COUNCIL MEMBERS

Michael Serotko, Ward 1

John Baryak, Ward 2

Tesa Spletzer, Ward 3

Christopher Granchie, Ward 4

Julie Stimpert, At-Large

### FINANCE DIRECTOR

Sean Housley

### MAYOR

Kenneth A. Kline

### CITY MANAGER

Interim Pamela Priddy

### LAW DIRECTOR

Alfred Schrader

### CITY CLERK

Kathleen M. King

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## 1. Call to Order

## 2. Pledge of Allegiance/Prayer

## 3. Roll Call

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

Newton Falls Little Tigers Football - Resolution 07-2022

## 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

February 2, 2022 - Regular Meeting

## **8. Public Hearings:**

1. Ord. 2022-07: An Ordinance removing the Interim title from the Law Director.

## **9. Unfinished Business:**

1. Ord. 2022-01: An Ordinance Approving the Creation of a Designated Outdoor Refreshment Area for the Consumption of Alcohol in Specified Public Areas of Downtown Newton Falls and Enacting Regulation Therefore.

(TABLED until 2-16-22)

2. Ord. 2022-07: An Ordinance removing the Interim title from the Law Director.

## **10. New Business:**

1. Ord. 2022-08: An Ordinance making appropriations for the current expenses and other expenditures for the City of Newton Falls, Ohio, for the fiscal year ending December 31, 2022.
2. Ord. 2022-09: An Ordinance amending Ordinance 93-51 establishing zoning regulations on the City of Newton Falls.
3. Res. 06-2022: A Resolution authorizing all actions necessary to accept Northeast Ohio Public Energy Council (NOPEC) Energized Community Grant.
4. Res. 08-2022: A Resolution approving the expenditure of funds in the amount of \$88,483.25 for the months of November through December 2021 to Roderick Linton Belfance.
5. Motion whether or not to request a hearing from the Ohio Division of Liquor Control for Dolgen Midwest LLC, Dollar General Store #21468. (Baryak)
6. Motion to authorize the City Manager to advertise for the positions of City Manager, Law Director, Finance Director and Police Chief for a period of 45 days. (Baryak)
7. Motion to direct the City Manager to direct the City Clerk to advertise in multiple outlets for the positions of City Manager, Finance Director, and Law Director until May 18, 2022 (90) days. (Granchie/Stimpert)

**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.

  x   1. Personnel Matters: To consider one or more, as applicable, of the marked items:

       Appointment

       Employment

       Dismissal

  x   Discipline

  x   Promotion

  x   Demotion

       Compensation

       Investigation of charges/complaints (unless a public hearing is requested)

       2. Purchase or Sale of Property

  x   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

Council may or may not take action following the executive session.

**14. Adjourn:**



*A RESOLUTION ACKNOWLEDGING THE NEWTON FALLS LITTLE TIGERS FOOTBALL TEAM AND CONGRATULATING THEM ON THEIR SUCCESSFUL SEASON.*

*WHEREAS*, The Newton Falls Little Tigers Football Team consist of players ages 9 thru 12 in grades Fourth through Seventh from our community; and

*WHEREAS*, The Newton Falls Little Tigers had a wining season with a record of 9 – 2 overall and 7 – 1 in the Regular Season and the Team was undefeated in their division; and

*WHEREAS*, The Team played in the Superbowl Championship game at Youngstown State University; and

*WHEREAS*, The 2021 Team was coached by Head Coach, Jared Clonch, Assistant Coaches, Patrick Morgan, CJ Shelton, Travis Hagans, and Dan Smith; and

*WHEREAS*, The 2021 Players are Bently Allen, Benjamin Mitchell, Dru Dunlap, Chace Clonch, Luke Rapezak, Alaric Howard, Landon Smith, Spencer Sabo, Cruz Marquette, Kade Morgan, Dylan Wright, Jacob McGregor, Dallas Dillon, Brady Smith, Braden Prout, Gavin Perry, Zander Brooks, Zayne Shelton, Nick Vagner, Evan Jenkins, Tyler Davis, Kaiden Jenkins, Phaizon Davis, Zander Fitgibbon; and

*WHEREAS*, Supporting the team this were Cheerleaders Samantha Axiotis, Clara Cahalin, Mya Espersen, Macelyn Haidet, Taren Hillegas, Addison Irwin, Kinsley Kendall, Halle Morgan, Karlie Murphy, Kaelynn Nemet, Alexandria Pellin, Rileigh Roscoe; and

*WHEREAS*, The Cheerleaders Head Coach was Stephanie Irwin and Assistant Coaches were Belinda Hillegas and Racheal Murphy; and

*WHEREAS*, The Newton Falls City Council would also like to congratulate the 2021 Newton Falls Little Tigers Football team on their successful season and also acknowledge and commend the support and dedication the parents have given to this team.

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

*SECTION I:* The Newton Falls City Council and Mayor hereby acknowledges the dedication and commitment of the Newton Falls Little Tigers 2021 Football Team, the Coaches, Cheerleaders and Parents and commend them on their winning season and wish the team much success in the future.

*PASSED IN COUNCIL THIS 16<sup>TH</sup> DAY OF FEBRUARY 2022.*

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

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



Newton Falls City Council met in Regular session on Wednesday, February 2, 2022, at 6:00 p.m. in Council Chambers. Mayor Kline called the meeting to order followed by the Pledge of Allegiance and prayer.

**ALSO PRESENT:**

Interim City Manager, Pam Priddy; Interim Law Director, Alfred Schrader; Finance Director, Sean Housley; City Clerk, Kathleen King.

**ROLL CALL:**

Stimpert, Serotko, Baryak, Spletzer, Granchie

**ABSENT:** None

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

Commission and Board Reports to be read by the Chair or Committee Designee; Park and Recreation, Planning & Zoning, Civil Service, and Treasury Investment Board.

Laura Neiheisel gave an overview of the Park & Recreation annual report for 2021 and action taken or discussed. The board was not happy with not having any control on how items were allocated in the budget. They would like money that is allocated for Park & Recreation to be spent on parks.

All other reports were submitted in writing.

**PUBLIC COMMENTS:**

John Richards, 212 Albert Street, discussed Ordinance 2022-01 in reference to the proposed DORA. He suggested because this was a zoning issue that Ms. Stimpert should not vote on the DORA legislation.

Mr. Richards had the following concerns: Section 2, Boundary Map, he did not feel it was sufficient to depict the actual boundaries of the DORA; Exhibit A was not in compliance; Section 5 he questioned if the use of land was in accordance with the master zoning plan; and there were two Exhibit Bs which he felt were incorrect. He has looked at other communities' maps and he could clearly see the boundaries; our map is an overhead map. He questioned if it was an increased liability if we allow open consumption where there is already a history of drownings. He spoke to someone in Garrettsville, and they said the DORA helped a little bit but mainly on special events.

Julie Lemon, 609 Ridge Road, also said she was against the DORA legislation. She would rather find a niche the town could be proud of. This is a troubled community, and we did not need the liability.



Under unfinished business in reference to the City Manager position she stated the Ohio Supreme Court ruled in 2009 on the residency requirement and that law supersedes our Charter residency requirement. This should wait until the Charter Review Commission meets.

Ms. Lemon discussed items 1, 2, 3, 4, 8, & 9 under new business. She researched the Charter and ORC, and her conclusion was that there is no place in either where it says the City must advertise the positions. Is it the professional way, yes; is it the preferred way, yes; but there is no law she could find that it is required.

In reference to new business numbers eight and nine, she asked who authorized the illegal motions that were on the last Council meeting agenda. The Charter in section 121.02 Administrative Code names the City Manager as the Administrative Executive Officer and lists who puts the agenda together. You all work together to put the agenda together. She felt they were all illegal motions and violate the Charter and no one could direct the City Clerk to do anything. She questioned why they were passed.

Werner Lange, 510 Superior Street, discussed Ordinance 2022-02 which is really just recommendations in reference to the meters. He stated that there are at least two recommended rules that violate established laws. To disallow the opt out option is not legal to deny residents their choice in this matter. Nor do you have any legal authorization to force a meter on property once it is sold. He felt it was intimidation and coercion threatening shut-off service to customers. He felt it bordered on extortion. He stated you cannot legally shut off water service to non delinquent customers.

Mr. Lange said he has been a resident of the city for 34 years in this community and he has never witnessed a more abusive administration than this one. The residents need and deserve good public servants.

Adam Zimmermann, 515 LaMae, questioned the first four items under new business relating to removing the Interim title from all the positions. At the last meeting we heard that the goal was to not have a part-time Finance Director, so why do you need to remove the Interim title. Calling the part-time Finance Director interim has nothing to do with continuity as expressed in the ordinance. In the Police Chief legislation it states that he shall have his compensation amended to reflect the promotion. Mr. Zimmerman asked if we knew what that compensation was? At the last meeting we heard this should not be advertised due to the appeal from Chief Fixler. If we should not advertise because of that, how can we promote someone to the position full-time.

Zimmermann said the removal of Interim from the Law Director is completely justified once you look at how he has done whatever the City Manager and Mayor wanted. The witch hunt is almost complete, and he could not wait to see what the loyalty to them will cost.

On the way to executive session at the last meeting the Interim City Manager told him she still lived in the Township. Zimmermann stated it is easy to live in the township and still be City Manager. She does not need to pay for the mistakes that she is making like the rest of us do.

Baryak at the last meeting asked how do we advertise for the positions when we don't know what to advertise for. Zimmermann questioned how you appoint someone full-time without knowing that and without interviews. He urged Council not to pass these pieces of legislation. He stated the Mayor is attempting to take away their right as Council. Council is who hires and fires for these positions. Council also authorizes pay for the positions and this was bypassed for the Interim Finance Director and Interim Law Director by having them sign contracts and not be City employees.

Under new business were motions to repeal previous motions to advertise for the Law Director and Finance Director position. The motions came from the Mayor, not Council. The Law Director approves the agenda. If they were illegal motions, why didn't anyone say anything at the time.

Jim Luonuansuu, 10 East Liberty Street, On December 14<sup>th</sup> he filed a formal complaint with the Attorney General's Office over the Newton Falls utility billing practices. On January 3, 2022, Attorney Schrader responded that this was dealing with public utility and per the ORC this must be handled by the PUCO. He also asked Andrea Perkovich to submit a letter explaining the charges; there were no charges explained. Mr. Luonuansuu stated that Attorney Schrader should know we do not have public utilities. We own municipal utilities and PUCO will not intervene in matters concerning municipal utilities. Attorney Schrader's letter essentially put an end to the complaint. Mr. Luonuansuu stated we spent three million dollars on meters and he hoped we could give better detailed billing.

Mr. Luonuansuu commented on the threatening letters and said first it was Aclara's fault, then Mr. Housley and Andrea's fault, when in reality it was Council's fault. To give the authority to amend or a shut off policy falls in Council authority. Employees do not have that authority and if they took that on without Council approval, they should be disciplined. He asked where Ms. Priddy was during all this confusion. On a quote from Facebook she said, "Not my circus, not my monkeys."

Doug Hastings, 2384 West River Road, said his wife tried to ask the Finance Director today why we would install an unhealthy meter then have to pay you to uninstall it. He asked if that question could be answered now.

## **REPORTS:**

Serotko:

- Attended a Finance/Audit/Administration meeting.
- Treasury Investment Board meeting that Ms. Spletzer would be giving an update on.
- Attended the Special Council meeting.

Baryak:

- For economic development someone is moving into the old Pamida building.
- Shout out to John Barco and the current Chief for the community policing effort that was just instituted.
- He is committed to trying his best to bring a Dunkin Donuts to Newton Falls.



Spletzer:

- On 1-24 had a phone call from Mr. Carson the new owner of the Pamida building. The name of the business is Repurposed Materials, and they have several other locations in the United States. She will be meeting with the owner in the next few weeks.
- On 1-24 also attended an Administration/Audit/Finance meeting with Mr. Serotko and Ms. Priddy. They discussed working on instituting the vehicle logs and performance evaluations. She also requested an executive session tonight to discuss other items.
- On 1-25 met with Park & Recreation where they discussed the annual report and the need to update their bylaws.
- On 1-26 attended the Supervisor and Department Head meeting where the City Manager shared the evaluation form and vehicle log forms.
- Attended the Treasury Investment Board meeting and discussed the Federated Government Hermes Fund. This fund was discussed, and it does not necessarily meet the existing policy of the committee. It was also noted that the Fed will probably be changing interest rates in March. The Meeder Group recommended that we should not be invested in this fund. Also reviewed and approved the Treasury Investment Board Policy and new Guidelines. These will be sent to the State Auditor if Council approves the policy.
- Attended the Special Meeting of Council and discussed the backhoe and police cruisers.
- Yesterday received the Audit Report from Charles E. Harris and Associates. Felt it was extremely important to share this with her fellow Council members and the public. This is an independent auditor's report over internal control over financial reporting and on compliance. They were looking at the year 2020. In 2020 budgetary disbursements exceeded appropriation authority at the fund level as follows:
  - \*General Fund the appropriations where \$3.117 million disbursements were \$3.121 the variance of that is \$3,636.00. They recommend that the Village monitor its budget closely to ensure the budget disbursements do not exceed appropriations at the fund function and object levels.
  - \*Noted that the former City Manger authorized a 30% discount for residential electric bills in March 2020. The basis of which was to assist with Coronavirus related financial constraints of the residents. They noted nowhere in the Council minutes, Ordinances or Resolutions that Council had approved the discount. They also did not note in the Charter or other documentation that Council gave the authority to the City Manager to give this type of discount. They recommend any discounts in the future are council approved.
  - \* Noted that the Village used CARES Act grant money to provide discounts to residents for electric bills in March 2020. It was deemed an unallowable use of CARES Act money and was reclassified to CARES Act fund expenses for the Police wages per the office of budget management. They recommend that the Village use the grant revenue for proper purposes.
  - \* In 2020 the former City Manager granted without approval from Council Christmas Eve as a paid holiday for all Village employees and for employees that worked the holiday to receive a holiday pay. They noted nowhere in the Council minutes, ordinances or resolutions that Council had approved the holiday. They also did not note in the Charter or other documents that Council gave the authority to the City Manager to grant a holiday to employees. They recommend any holidays given to the Village employees in the future are Council approved.

\*Noted that the City Manager purchased and distributed 60 gift cards to a Village grocery store as a Christmas bonus to all Village employees in 2020. They noted nowhere in the Council minutes, ordinances or resolutions that Council had approved the bonus. They also did not note in the Charter or other documents that Council gave the authority to the City Manager to give this type of bonus. They recommend all fringe benefits and employee bonuses are Council approved in the future.

\* Noted that the former City Manager without approval of Council authorized a program where all municipal employees received coffee and beverages free of charge from a local convenient store. The Village maintained an account at the store which was reloaded with money on a regular basis. The cashier at the store would identify any employee who were purchasing the beverage either by ID or by identifying a Village uniform and charge the pre-loaded account. They noted nowhere in the Council minutes, ordinances or resolutions that Council had approved the benefit. They also did not note in the Charter or other documents that Council gave the authority to the City Manager to give this type of benefit. They recommend the Village discontinue this program or get Council approval to continue the program. Spletzer noted that November 15<sup>th</sup> council passed a motion to allow \$2,000 a year for the employees to have hot and cold drinks.

Granchie:

- Yesterday attended the Planning & Zoning meeting where they discussed the dog exercise park.
- Last two weeks was in quarantine.

Stimpert:

- Received calls and questions on the opt out for the meters.
- Attended the Council Special Meeting.
- Attended the Fire Board reorganizational meeting.

FINANCE DIRECTOR:

- They are in the process of closing January 2022.
- Hired a part-time employee and still looking for another.
- Working with the Utility Department to evaluate and update their policies and procedures.
- Also working on the billing format to be more transparent.
- Received email opposed to having a new meter put on their house.
- Attended the Treasury Investment Board meeting on January 26<sup>th</sup>. The Board reviewed the investment policy and discussed with the Meeder Group several funds that were not in compliance with the current policy. Several did not meet the City objectives of safety which he agreed. Meeder Group made some recommendations that the Board agreed with and took action on selling the bond mutual fund. In 2021 the bond mutual fund had a net realized gain of \$48,000, in 2022 we have a net realized loss of \$122,000. That amounted to a net realized loss of \$74,000.



Baryak asked the Finance Director if the \$122,000 loss of illegal investments that they were not allowed or supposed to know what was going on. Would that be the end of it or more coming out. Mr. Housley stated that was the end of it.

#### LAW DIRECTOR:

Gave a prosecutor's report on what they have been doing.

- \*They have approximately 50 new felony cases in 2022. Since they have taken over only two felony cases charged were not bound over to the grand jury.
- \*Approximately 175 new traffic cases already this year.
- \*Approximately 500 cases open at this time.
- \*Also attempting to clear a backlog and reports and warrants on different cases.
- \*Coordinating with Law Enforcement and the County Departments to ensure accountability and justice is being sought in all cases filed and the victims and the community are protected.
- \*Had to open files for cases in 2021 that there were no files open for that we could locate in order to review and properly prosecute the cases.
- \*Streamlined the filing of charges and file management.
- \*Working to separate the reliance on court files for prosecution work to maintain the integrity of an independence of the judiciary backed branch. The past practice was to use court files as the prosecutor files and for pre-trials and trials.
- \*All files have been moved to their office for security and at the courts direction they are working with the court to get a paperless filing system to do everything electronically.
- \*Decided they did not need a secretary that was paid \$16,000 a year plus OPERS contributions.
- \*Outside Counsel fees during the year 2021 was \$123,239. Expense on outside Counsel since they took over is zero.
- \*Working with the Assistant County Prosecutor to have an intergovernmental agreement so that when the County pays \$16,000 a year to assist with the prosecution of the township cases that are in the Newton Falls Municipal Court that money comes to you and not the Law Director, which has been the past practice.
- \*Working on getting out of the contract for the law books that cost the City \$1,000 a month purchased by the previous City Manager that nobody uses.
- \*Also terminated the contract with Westlaw for \$755.00 a month.
- \*The savings currently to the City will be \$21,673.99 a month. What they are doing is expensive because we have three lawsuits going on and all the efforts to clean up what happened in the past.
- \*Need to do research to figure out if the three lawsuits each are charged the deductible of 25,000 that applies to defense. In 2021 there were three different lawsuits that the insurance company was involved in. Assuming that you had a \$25,000 deductible for all three that is another \$75,000 you will not have to pay.

Asked for a short executive session tonight for the purpose of updating the three cases and personnel type issue, which does not involve disciplining or hurting anybody, just a personnel type thing he discovered while doing some research.



Baryak said tonight we heard from an independent auditor and he remembered when he asked the same question to the previous Law Director, he said if it was in the budget. He thinks there is more that will come out.

**CITY MANAGER:**

- Tonight Council will pick the seven members of the Special Charter Review Commission. You should have a sheet of all the individuals that applied.
- The office moves in this building are complete except for some work that needs done with the internet and phone lines.
- Had some issues with people receiving their utility bills. If customers did not change the billing address to 612 West Broad the payment was not coming to the City but was going back into the customer's account.
- Filed a claim against Baseline for the work they did when installing the fiber lines throughout town.
- Received word from BWC that we qualified for a 7% rebate due to our successful participation in the Drug Free Workplace Program.
- Street Department has been working on snow removal when they are not plowing. We also had some of the residents from New Day Recovery work on clearing sidewalks.
- Held a staff meeting and handed out the vehicle log forms and evaluation forms.
- We are accepting applications for anyone interested in taking Civil Service test for the following positions: Deputy Clerk in the Finance Department; Police Officer; and apprentice in the Water/Wastewater Departments.
- Met with the property and casualty insurance carriers. We were in a three-year contract, and this is the third year of that contract.
- Reviewed the Gardiner and Aclara contract and in the scheduling section 3.2.5.1 it states "Scheduling. Client shall work with Aclara SGS on appointment scheduling efforts, including providing enforcement language for communication materials that require residents to comply with appointment schedule efforts and shut-off notices." The wording was in the signed contract and the letters sent out complied with the contract.

**MAYOR:**

- Has been in contact with state and local offices to get help to clean up the site at the corner of St. Rt. 5 and 534 where a developer would like to build a Dunkin Donuts.
- Also discussed with local and state official the need for funding for the Community Center.
- Will have a Resolution on the next meeting to recognize the Little Tigers season.

**CHANGES TO TONIGHT'S AGENDA:**

**Baryak made a motion seconded by Spletzer to add an executive session to the agenda for pending or imminent court action and personnel.**

**ROLL CALL: Serotko aye, Baryak aye, Spletzer aye, Granchie aye, Stimpert aye.  
MOTION PASSED 5-0**

### **APPROVAL OF PREVIOUS MINUTES:**

Spletzer made a motion seconded by Granchie to adopt the January 19, 2022, regular meeting and January 26, 2022, Special meeting minutes as submitted by the Clerk.

**ROLL CALL:** Baryak aye, Spletzer aye, Granchie aye, Stimpert aye, Serotko aye.  
**MOTION PASSED 5-0 – Granchie abstained from voting on the January 26, 2022, minutes.**

### **PUBLIC HEARINGS:**

Ordinance 2022-01: An Ordinance approving the creation of a Designated Outdoor Refreshment Area for the consumption of alcohol in specified public areas of downtown Newton Falls and enacting regulations, therefore.

Mayor Kline opened the public hearing on this Ordinance.

John Richards reiterated some of the questions and concerns he expressed during public comments tonight. He stated some of the information does not meet the ORC requirements and this needs to be brought into compliance.

After no further comments Mayor Kline declared this public hearing closed.

Ordinance 2022-02: An Ordinance setting electric and water meter costs associated with the installation of the smart meters.

Mayor Kline opened the public hearing on this Ordinance.

Jim Luonuansuu acknowledged we were stuck with the contract but felt Council could have taken actions to make it better for the citizens. He stated Spletzer got signatures on the Referendum and told everyone not to do anything with the opt out until Council figured it out. Now there are no longer opt outs available except for two meetings ago when one person was allowed to opt out. He felt her word to the citizens was no good and a lot could not afford the opt out costs.

After no further comments Mayor Kline declared this public hearing closed.

Ordinance 2022-003: A now for then Ordinance amending Ordinance establishing sewer rates for the Newton Falls Utility customers.

Mayor Kline opened the public hearing on this Ordinance.

No one addressed Council on this Ordinance. Mayor Kline declared this public hearing closed.

### **UNFINISHED BUSINESS:**



**Ordinance 2022-01: An Ordinance approving the Creation of a Designated Outdoor Refreshment Area for the consumption of alcohol in specified public areas of downtown Newton Falls and enacting regulations, therefore.**

**Granchie made a motion seconded by Spletzer to adopt this Ordinance.**

Granchie asked if the concerns expressed by Mr. Richard were true or is the application good to go. Attorney Scharder said this was the first time he heard this criticism. He would like to do some additional research.

Spletzer felt Park & Recreation should be involved and it might be wise to table this legislation. Baryak said he would support this if it was fully accurate. Serotko said he could not support this the way it was currently written. Attorney Schrader noted that the city is not liable if someone falls off the bridge. There are Supreme Court cases that addressed this issue.

Council had a brief discussion on the concerns expressed and the timeframe to submit this to the State.

**Spletzer made a motion seconded by Granchie to table this Ordinance until February 16, 2022.**

**ROLL CALL: Spletzer aye, Granchie aye, Stimpert aye, Serotko aye, Baryak aye.  
MOTION PASSED 5-0**

**Ordinance 2022-02: An Ordinance setting electric and water meter costs associated with the installation of the smart meters.**

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

Spletzer explained that when they were working on the Referendum, she helped get signatures and they fought a good fight but lost. David Lynch created the opt out amount and she knew this was wrong. It took months to straighten out. She did not have a crystal ball and when the recommendations on the opt out fees were discussed she felt it was the best compromise.

Granchie asked if going forward could we make legislation authorizing refunds for those that paid for meters but opted out. Attorney Schrader said Council could consider that type legislation if the city had the money to do so.

**ROLL CALL: Granchie aye, Stimpert aye, Serotko aye, Baryak aye, Spletzer aye.  
MOTION PASSED 5-0**

**Ordinance 2022-003: A now for then Ordinance amending Ordinance establishing sewer rates for the Newton Falls Utility customers.**

**Granchie made a motion seconded by Spletzer to adopt this Ordinance.**



Baryak noted that the sewer rates and a water study were done. He asked why we did not raise the rates like we should have. Spletzer also noted that we have been paying the new rates since August/September. This was a now for then ordinance because the rates were hidden in the budget book and this action takes care of that.

**ROLL CALL: Stimpert aye, Serotko aye, Baryak aye, Spletzer aye, Granchie aye.  
MOTION PASSED 5-0**

**NEW BUSINESS:**

**Ordinance 2022-04: An Ordinance removing the Interim title from the Chief of Police.**

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

Serotko asked if by any means did this mean we were hiring these positions as permanent employees. Attorney Schrader said this is not hiring them permanent this is taking away the Interim title. The other option was to advertise, it was up to Council.

Mayor Kline felt this would help bring some needed stability until a proper application process can be done.

Serotko noted that in Section 1 it states that the compensation will be amended to reflect his promotion to Chief. That wording is not in any of the other proposed pieces of legislation.

Spletzer noted this was the only ordinance that specified some sort of compensation. When we appropriated the budget for 2022 there is money in the budget for a Chief.

Stimpert said she was not comfortable with this until they go through the process of taking applications, holding interviews and being transparent about the process. She noted that the Interim people were doing a good job, but the role right now was an in Interim employee.

Granchie said semantics and verbiage is important. If he just read Section 1, he would think it was a straight up promotion. If you remove the Interim title, you are still interim in the position. He stated he is an appointed Councilperson, and it is what it is. He did not understand the logic in any of these ordinances. He wanted to go through the hiring process and taking away the interim title takes away the transparency. It projects an image that is not true to life.

Baryak noted that it was already stated on the floor last week that there were lawsuits out there. The Law Director said this did not stop us from taking applications. His personal opinion is now not the time to go out for them. The word interim he wanted out last week until we go out, so they feel like they have a fair shot. He asked what the problem was. Somebody does not like somebody here and he thought they were doing a fantastic job.

Granchie reiterated what he said last week, if not now when? He wants to move forward and make sure we have permanent positions in place. It very well may be all of them could end up

being the permanents. We don't know who is interested in the position until we advertise for them. He did not understand what the issue with the Interim title was if you're an interim. He felt this was wasteful legislation.

**ROLL CALL: Serotko nay, Baryak aye, Spletzer aye, Granchie nay, Stimpert nay.  
MOTION FAILED 2-3**

**Ordinance 2022-05: An Ordinance removing the Interim title from the Finance Director.**

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

Housley pointed out that he does not have the Interim title anymore because at the last meeting he was appointed part-time Finance Director.

After a brief discussion Spletzer and Baryak withdrew the motion.

**Ordinance 2022-06: An Ordinance removing the Interim title from the City Manager.**

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

Granchie stated this was the same concept as the rest. They were Interim employees until being hired as full-time employees, and there was nothing wrong with that.

Serotko asked what difference it would make without the Interim title.

Attorney Schrader felt the title detracts from authority because people would just figure they could wait until a new person was put in the position.

Stimpert also felt these were interim employees until they went through the process of hiring. She stressed transparency and to avoid changes and mistrust they needed to go through the process.

Baryak suggested going out for application for 90 days. Attorney Schrader stated they could instruct the City Manager to accept application if they wished with whatever deadline they wanted.

Stimpert said she had a hard time how they were going to ask the Interim City Manager to look for someone who could potentially replace her or to be her competition. She found that not being transparent and kind of a conflict. Why would this not go through a person who did not have that potential. Attorney Schrader explained the issue is advertising. Interviews have to be done by City Council. Mayor Kline stated that is what our Charter says to do. Attorney Schrader said you can't order the City Clerk to do that according to the goofy Charter we have. Your Charter makes no sense, you have a City Clerk that you can't regulate. All you are saying is the City Manager is the executive branch and you are the legislative branch. Anything that is an executive function has to be done by the City Manager. She could delegate who she wanted to do the job.



Attorney Schrader stated one of the things he would like to discuss in executive session is the job description, which he recommended was what it says in the Charter. Because of the way the Charter works, it is counter intuitive. He would think a normal person would think a City Council Clerk you get to tell what to do, but under your Charter you don't. That is why he suggested we get moving on the Charter.

Baryak said there are some qualifications that really don't make sense. When we have somebody from town that is doing an excellent job for the Village and is transparent, do we need somebody. We have had titles before, and what did it get us, almost to the point of bankruptcy. Baryak said let's give them the title, then go through the process.

Granchie said there is nothing wrong with being an interim. If a person doesn't respect that then that says more about the person who is holding the interim title. He could not wrap his head around why we would want to remove the interim titles from the interims and not make them permanent, it makes no sense. They are interim until they are not.

**ROLL CALL: Baryak aye, Spletzer aye, Granchie nay, Stimpert nay, Serotko nay.  
MOTION FAILED 2-3**

**Ordinance 2022-07: An Ordinance removing the Interim title from the Law Director.**

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

Attorney Schrader reminded Council that the contract gives either party 30 days to get out of the contract. You can advertise for it at any time. It might save you some money if the defense attorney realizes my prosecutors might be here a while.

Stimpert noted the contract was Interim and we should go through the process for transparency.

Baryak said as Vice President of Council he would put on legislation to go out for applications and quit kicking this can down the road. You don't get what they want so you fight.

Serotko stated it really does not make a difference if they are Interim with a contract or Law Director with a contract. Attorney Schrader said it only makes a difference in the sense that this legislation also takes the interim out of the contract. Schrader thought it would make a difference to his prosecutors. Serotko asked if that would save the Village money. Attorney Schrader said yes, they charge by the hour.

Stimpert said she did not disagree and felt that it supported the need to move forward and advertise and get applications, interview and get someone in a permanent position.

**ROLL CALL: Spletzer aye, Granchie nay, Stimpert nay, Serotko aye, Baryak aye.  
MOTION PASSED 3-2**



**Resolution 03-2022:** A Resolution acknowledging an updated written Treasury Investment Board Policy.

Granchie made a motion seconded by Serotko to adopt this Resolution.

**ROLL CALL:** Granchie aye, Stimpert aye, Serotko aye, Baryak aye, Spletzer aye.  
**MOTION PASSED 5-0**

**Resolution 04-2022:** A Resolution in support and authorizing the City Manager to enter into the necessary lease/purchase agreement to purchase a backhoe for the City of Newton Falls Street Department.

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

Baryak made a motion seconded by Granchie to amend the amount by adding \$5,000 to the \$120,000 price.

Baryak explained that another backhoe was located but it had more options, and the price was \$5,000 over the price previously discussed.

Housley stated the City has the finances for this increase.

Vote on Motion to Amend:

**ROLL CALL:** Stimpert aye, Serotko aye, Baryak aye, Spletzer aye, Granchie aye.  
**MOTION PASSED 5-0**

Vote on Motion to Adopt as Amended:

**ROLL CALL:** Serotko aye, Baryak aye, Spletzer aye, Granchie aye, Stimpert aye.  
**MOTION PASSED 5-0**

**Resolution 05-2022:** A Resolution in support and authorizing the City Manager to enter into the necessary lease/purchase agreement to purchase two vehicles for the Newton Falls Police Department.

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

**ROLL CALL:** Baryak aye, Spletzer aye, Granchie aye, Stimpert aye, Serotko aye.  
**MOTION PASSED 5-0**

Baryak made a motion seconded by Stimpert to repeal motion passed January 19, 2022, authorizing the City Clerk to advertise for the position of Law Director.

Granchie stated the legal opinion sent indicated that there were no violations of Article 3, Section 12. Attorney Schrader said there were no violation of any importance. Anything done was dominium's it does not matter. To punish anyone for possibly misinterpreting it would be ridiculous. He said it was a bad Charter. His opinion was maybe we named the wrong person to

do this as it should have been the City Manager. Nobody necessarily would pick up on that for the simple reason one would think the City Council Clerk should be able to report to City Council. People make mistakes, no big deal. That letter was in response to a couple of citizens who made a complaint. Both of which withdrew.

Granchie said he has 88 pages of ordinances, resolutions and motions that have passed by Council since January 1, 2020, directing the City Clerk to do something. There is plenty of precedence with this and he did not see any reason to repeal the motions. Attorney Schrader said he was wrong. The problem was the fact that it was done in the past that way does not mean it was right. Our obligation is to do it right in the future. His recommendation is to repeal the motion and instead pass a motion to have the City Manager do those things. Granchie asked if it was legally sound as it stands. Attorney Schrader said no, not in the sense that it should have been the City Manager that was ordered to do those things. A lot of those ordinances that were passed before reiterated duties of a City Council Clerk that exist in general law.

Stimpert stated this request went into the City Manager's office on the 14<sup>th</sup> of January. We had a meeting on the 19<sup>th</sup> nothing was said until citizens complained. She asked if they sent them directly to his office, because as a Council member it is her understanding that there is a chain of command. If she has concerns or something, she is going to ask legal representation for that it is going to go through our Mayor or City Manager.

Attorney Schrader explained how a usual request is processed. There were some things she corrected so people didn't look bad and there were other things that people just didn't think about. He stated that really was not on the agenda he saw until it was the final agenda. He went back through emails where someone asked for an ordinance to be drafted and Kathy said you don't have to do that. His radar was not on to read closely the next sentence which would have tipped him off to this.

Stimpert asked if he was saying that any ordinance or resolution, are directed to the City Manager only. Attorney Schrader said no, anything that relates to the administrative part of the city you direct the City Manager to do. The Charter talks about what the City Manager can do. A lot of people assume that because the City Manager in general is generally in charge of department heads that the City Manager is necessarily in charge of Kathy. That is a reasonable assumption to make, but not correct according to the Charter because the charter lists specific department heads that the City Manager is in charge of, and Kathy is not one of them listed. It would be very easy to assume that Kathy works for the City Manager and over the years various city officials have given Kathy the role of basically an executive assistant to the City Manager. They have given her the role of enforcing the drug policy, which is an administrative role. Nobody ever went back to the Charter or the ordinances to figure out who ought to be administering Kathy. If anyone wants to draft an ordinance, he suggests they run it through Kathy, Kathy takes a look puts it in proper form, then runs it past the rest of us. Stimpert assumed that was what happened. Attorney Schrader said it did not happen that way.

Baryak said anytime he has proposed legislation he was told that it has to be run past the Law Director, or it does not get on the agenda. Did something slip by you that you were not aware of? Ms. Priddy said when she saw it, she immediately called Al.



Baryak said we don't bypass the Law Director or City Manager. Stimpert said it was not intentional.

Mayor Kline said the bottom line is the 19<sup>th</sup> agenda said to make a motion to have the City Clerk put out the advertisements and it was an improper motion because it should have gone through the City Manager.

Granchie said his biggest disappointment with this is that it was sent out on Friday, five days before the meeting to everyone and nobody said anything including the law department. When the law department was here, Mr. Immel came in. If Mr. Immel doesn't have the same skill set as Mr. Schrader, why was he here. Attorney Schrader said he does. The point was that as he said earlier, the Charter is so badly written they had to do a really deep dive into this to figure out what it said. They were surprised when they saw the ordinance that basically says that the City Manager is in charge of the agenda, and she is in charge of us. It is not the kind of thing you would intuitively catch. That is why he was saying nobody should blame a councilman and let's just do it right.

Stimpert asked if we could amend this instead of repealing. Attorney Schrader said the fact that you already passed it he thought you had to repeal it and pass another one. Mayor Kline agreed, they both needed to be repealed and go through the proper motions.

**ROLL CALL: Spletzer aye, Granchie aye, Stimpert aye, Serotko aye, Baryak aye.**  
**MOTION PASSED 5-0**

**Baryak made a motion seconded by Spletzer to repeal motion passed January 19, 2022, authorizing the City Clerk to advertise for the position of Finance Director.**

Granchie said he did not want anyone to think that Mrs. King did anything wrong this was sent to him as a draft. He did not catch it; it is not on her it is on him.

Stimpert stated that authorize or direct are all synonym your authorizing, advising, informing it is a play on words. Nothing was intentional.

Baryak said they all need to be on the same page, not have some council person doing something that the rest of us are not aware of. Just being transparent.

Mayor Kline stated either way they were improper motions. It does not mean someone always has ill will to do something.

**ROLL CALL: Granchie aye, Stimpert aye, Serotko aye, Baryak aye, Spletzer aye.**  
**MOTION PASSED 5-0**

**Granchie made a motion seconded by Spletzer to appoint a Special Charter Review Commission as read by the Mayor.**

Mayor Kline called for a five-minute break.

Mayor Kline read the outcome of the votes for the Charter Review Commission: Richard Kerlin, Werner Lange, Tracy Hurst, Bruce Moore, Julie Lemon, John Richards, Sandra Armbruster Brockway.

**ROLL CALL: Stimpert aye, Serotko aye, Baryak aye, Spletzer aye, Granchie aye.  
MOTION PASSED 5-0**

**PUBLIC COMMENTS:**

John Richards, 212 Albert Street spoke on the DORA and his concerns. He also noted that the AmVets took a vote to not participate.

He thanked Ms. Stimpert for the question on conflict of interest if she voted on the DORA legislation.

He stated he is a retired factory worker and found the requirements that differed from the ORC. He reiterated his objections.

Adam Zimmermann, 515 LaMae Street, said he was appalled when he attended the Park & Recreation meeting. Council Representative Spletzer's role is to witness the meetings and report going on to Council. He witnessed Ms. Spletzer propose new business and she said she typed minutes for Ms. Kline when she was on the board.

Spletzer called Point of Order – that was incorrect, she said in the past she typed minutes for the previous secretary.

Zimmermann also noted that Ms. Spletzer handed out Employee Handbooks to the members and said they were considered employees because they received \$10.00 a meeting. She in particular pointed out the policy on social media.

Zimmermann said in the past meeting the Finance Director said the City has outstanding credit. He asked how if our finances were so bad, how do we have outstanding credit.

He questioned why there had to be additional research on the DORA, what has been done to get to this point. This process started October 4<sup>th</sup> so why did we not know the answers by now. He did not believe they could amend the DORA and felt they would have to do a new submission.

Zimmermann thanked those that attempted to vote down removing the Interim title. He wanted everyone to see that we were still trying to fill these positions and that in the name of transparency the people know that they are going to be advertised for and to find the best people for the positions.



Julie Lemon, 609 Ridge Road, said we need our leaders to follow the procedures and rules. She felt they accomplished something tonight that previous Council has not been able to and that was vote unanimously on things. Bitterness needs to end, and we need to follow the rules.

Jim Luonuansuu, 10 East Liberty Street, thanked Granchie for the offer to help him when his car broke down.

Also, stated that he was disappointed on the vote for the meters. He said a lot could have been done by Council and Pam Priddy could have done a better job. He stated to Spletzer that people would judge her by her actions, not her intentions.

Chelsea Harper, 128 West Quarry Street, asked if there was a legality issue if they removed the word interim then going out for applications. The person could say that Council removed the Interim title, and they are hired. She also pointed out that they spent 30 minutes discussing this issue. It should not be that big of a deal.

You got mad about directing Kathy King to do something when she has been doing her job for a long time. She knows what she is doing. She slightly agreed that it may be a conflict of interest to have the person who may be applying for the position put out the requirements for it. A couple of extra legal steps for different cases might not be such a bad idea. If past events in the past six months means anything, then maybe taking a second look at a lot of things makes a lot of sense.

Brian Foor, Interim Police Chief, said he coordinated efforts with the Fire Department in the event of an extended power outage to provide heat for residents if they need it as a result of the expected ice and snow storm.

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

Baryak did not believe AmVets has anything to do with the DORA because it was a private club. He stated the Law Director before would wait two or three months to give an opinion. It seems like always what can I do to tear this town apart, contacting you elected official, let's talk it out before you come up here and start throwing arrows and smiling. He agreed Mrs. King has been doing this for a lot of years.

Spletzer thanked the road crews and staff for their efforts to keep the roads clear.

Granchie reminded everyone that contractor registration started next week. Preemptively thanked the Street Department for their work during the upcoming storm.

Mayor Kline thanked everyone here tonight and stated they were trying to do what was right for the community. He also agreed that no matter what they do someone will not agree. In reference to the Interim positions, he said it was never intended to not open them up to individuals. They will do things the right way.

Someone will sponsor legislation to direct the City Manager and she will advertise. We will look for letters of interest and will follow the Charter.

**MOTION TO RECESS INTO EXECUTIVE SESSION:**

Granchie made a motion seconded by Spletzer to adjourn into executive session at 9:16 p.m. for the purpose of personnel and pending or imminent court action.

ROLL CALL: Serotko aye, Baryak nay, Spletzer aye, Granchie aye, Stimpert aye.  
MOTION PASSED 5-0

Granchie made a motion seconded by Spletzer to adjourn the executive session and reconvene the meeting at 10:37 p.m.

ROLL CALL: Baryak aye, Spletzer aye, Granchie aye, Stimpert aye, Serotko aye.  
MOTION PASSED 5-0

**ADJOURN:**

After no further comments or questions Granchie made a motion seconded by Spletzer to adjourn at 10:37 p.m.

ROLL CALL: Spletzer aye, Granchie aye, Stimpert aye, Serotko aye, Baryak.  
MOTION PASSED 5-0

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

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



**SPONSOR: GRANCHIE**

**ORDINANCE 2022-01**

**AN ORDINANCE APPROVING THE CREATION OF A DESIGNATED OUTDOOR  
REFRESHMENT AREA FOR THE CONSUMPTION OF ALCOHOL IN SPECIFIED PUBLIC  
AREAS OF DOWNTOWN NEWTON FALLS AND ENACTING REGULATIONS THEREFORE.**

**WHEREAS**, Ohio law, through Revised Code Section 4301.82, permits a municipal corporation with a population of thirty-five thousand or less to create one Designated Outdoor Refreshment Area ("DORA") if the proposed DORA will include at least four qualified State of Ohio liquor permit holders and be composed of one hundred and fifty or fewer contiguous acres; and

**WHEREAS**, Ohio law requires that the legislative authority of a municipal corporation must adopt an Ordinance that establishes requirements for the proposed DORA to ensure public health and safety within the DORA and Ohio law further specifies certain information that is to be included in said authorizing Ordinance; and

**WHEREAS**, on October 4, 2021, this Council received an application pursuant to Ohio law from the City Manager's Office asking this Council to approve the creation of a DORA in the Downtown NEWTON FALLS area (the "Application"), and said Application is attached to this Ordinance and incorporated herein as "Exhibit A"; and

**WHEREAS**, the attached application includes the specific boundaries of the DORA, including street addresses; the number, spacing, and type of signage designating the DORA; the hours of operation of the DORA; the number of personnel needed to ensure public safety in the DORA; a sanitation plan that will help maintain the appearance and public health of the DORA; the number of personnel needed to execute the sanitation plan; and a requirement that beer and intoxicating liquor be served solely in plastic containers in the DORA; and

**WHEREAS**, the public notice required by Revised Code Section 4301.82 has been provided, and a public hearing was held on December 6, 2021 after a two week advertisement; and

**WHEREAS**, approval of the proposed DORA will serve to enhance the experience for both residents and visitors to the Downtown NEWTON FALLS area.

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

**SECTION 1.** This Council hereby approves the City Manager's DORA application as having met the requirements of Ohio Revised Code Section 4301.82 and approves the establishment of a Downtown NEWTON FALLS Designated Outdoor Refreshment comprised of the area depicted in the Application attached to this Ordinance as "Exhibit A".

**SECTION 2.** The DORA approved herein shall be operated as set forth in the Application attached to this Ordinance as "Exhibit A", or as it may be amended from time to time, with the approval of this Council.

**Village of NEWTON FALLS, Ohio ORDINANCE 2022-01**

**SECTION 3.** This Council finds and determines that all public notice requirements of Revised Code Section 4301.82 have been met prior to the passage of this Ordinance.

**SECTION 4.** Five years after the date of creation of the DORA, this Council shall review the operation of the area and shall, by ordinance or resolution, either approve the continued operation of the area or dissolve the area. Prior to adopting the ordinance or resolution, notice of the proposed action shall be given by publication in one newspaper of general circulation in the Village.

**SECTION 5.** The City Clerk is hereby authorized to forward a copy of this Ordinance to both the Ohio Division of Liquor Control and to the Investigative Unit of the Ohio Department of Public Safety, all in accordance with Revised Code Section 4301.82.

**SECTION 6.** This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council or its committees, and that all deliberations of this Council and any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law.

**SECTION 7.** This Ordinance shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS \_\_\_\_ DAY OF \_\_\_\_\_ 2022.

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

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

APPROVED AS TO FORM:

\_\_\_\_\_  
Alfred E. Schrader - Interim Law Director

Newton Falls, Ohio \_\_\_\_\_  
I, hereby certify that Resolution or Ordinance  
No. \_\_\_\_\_ was published by title or  
in full in the local newspaper, or designated  
by Council resolution on the date or dates of  
\_\_\_\_\_.

\_\_\_\_\_  
Kathy King, Clerk of Council

1<sup>st</sup> Reading: \_\_\_\_\_

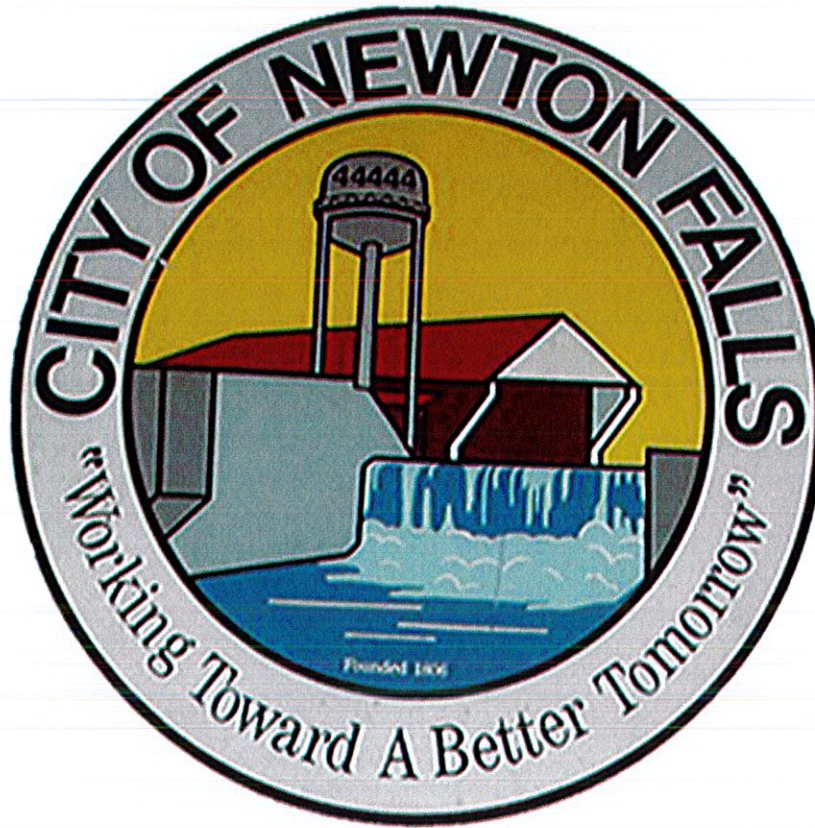
Public Hearing: \_\_\_\_\_

2<sup>nd</sup> Reading: \_\_\_\_\_

Effective: \_\_\_\_\_



**APPLICATION TO THE CITY OF NEWTON  
FALLS COUNCIL  
DOWNTOWN NEWTON FALLS  
DESIGNATED OUTDOOR REFRESHMENT AREA  
ORC 4301.82**



The City Manager and the Chief of Police of the City of Newton Falls, Ohio respectfully submit the following application to City Council of Newton Falls to approve and enact a Designated Outdoor Refreshment Area in Downtown City of Newton Falls in accordance with Ohio Revised Code section 4301.82.

Submitted this \_\_\_\_ day of \_\_\_\_\_, 2021

## I. INTRODUCTION AND SUBMITTAL OF APPLICATION

The City Manager and the Chief of Police of the City of Newton Falls, Ohio respectfully submit the following application to Village Council of Newton Falls, Ohio to approve and establish a Designated Outdoor Refreshment Area (hereinafter "DORA"), pursuant to Ohio Revised Code ("ORC") 4301.82. The proposed application meets all the state requirements.

Effective \_\_\_\_\_ Section 4301.82 of the Ohio Revised Code authorizes municipalities under 35,000 in population to create Designated Outdoor Refreshment Areas or "DORA". A DORA is an area, hereto the open carry restrictions do not apply at particular hours, and adults are permitted to possess and consume alcohol in public, with certain restrictions. In order to consider the creation of a DORA, the Executive Officer of the municipality must file an application with Village Council which meets certain statutory requirements outlined below. Within forty-five days after the date the application is filed with the legislative authority of the City, the legislative authority shall publish public notice of the application in one newspaper of general circulation in the municipal corporation. The legislative authority shall ensure that the notice states that the application is on file in the office of the Clerk of the municipal corporation and is available for inspection by the public during regular business hours. The legislative authority also shall indicate in the notice the date and time of any public hearing to be held regarding the application by the legislative authority. Not earlier than thirty but not later than sixty days after the initial publication of notice, the legislative authority shall approve or disapprove the application by either ordinance or resolution, as applicable.

Background: The City of Newton Falls, Ohio Chamber of Commerce Tom Colosimo addressed the City of Newton Falls Council, and the Planning and Zoning Committee on October 4, 2021, proposing the creation of a DORA in Downtown City of Newton Falls, Ohio. The creation of a DORA will provide additional economic enhancement for attracting patrons to Downtown City of Newton Falls, Ohio and highlight the area as a destination for dining and entertainment. The City of Newton Falls, Ohio surveyed other DORA communities across the State of Ohio to obtain feedback on their experiences with a DORA. The survey results and community engagement expressed general support for the concept to pursue the creation of DORA.

The purpose of this application is to request that the Village Council create and approve a Designated Outdoor Refreshment Area (DORA) in the City of Newton Falls, Ohio. The application includes the following sections:

SECTION II.	BOUNDARY MAP OF THE PROPOSED DORA
SECTION III.	NATURE AND TYPES OF ESTABLISHMENTS
SECTION IV.	QUALIFIED PERMIT HOLDERS
SECTION V.	LAND USE AND ZONING
SECTION VI.	SAFETY PLAN
SECTION VII.	PUBLIC HEALTH & SANITATION PLAN
SECTION VIII.	SIGNAGE PLAN
SECTION IX.	DORA RULES OF OPERATION



## II. BOUNDARY MAP OF THE PROPOSED DORA

In accordance with ORC 4301.82(B)(I)(b), the boundaries of the DORA are depicted in the map provided in Exhibit A. The map includes a list of the establishments that have the required Class A and D liquor permits within the area. Currently, four (4) establishments have been identified that qualify to be included in the DORA. The proposed DORA boundary encompasses 3.50 acres which is below the requirements of the area being 150 acres or less. The following is the list of the street addresses of the real property included within the specific boundaries of the DORA.

Street Name	Address Range	Odd/Even
West Broad St	8 – 44	Even
West Broad St	7 – 115	Odd
North Canal St	20	Even
South Canal St	25	Odd

## III. NATURE AND TYPES OF ESTABLISHMENTS

In accordance with ORC 4301.82(B)(2), the nature and types of establishments that will be within or adjacent to the DORA are primarily businesses in the retail, restaurant, entertainment, and service sectors. Within the DORA, the majority of the buildings have businesses consisting of retail, restaurants and commercial services on their first floor. The upper-level floors have a mix of office space and residential units.

Examples of the retail, restaurant, service, and institutional establishments located in the DORA:

### BUSINESS

### RETAIL, FOOD and DRINK LOCATION

Brian Jewelers	14 W Broad St
Domino's Pizza	8 W Broad St
Church Mouse Thrift Shop	26 ½ W Broad St
Mi Amigos Mexican Restaurant	11 W Broad St
Joseph's Discount Gifts	29 W Broad St
Faces Lounge	13 W Broad St
Broad Street Vintage	32 W Broad St
The Covered Bridge Inn	22 W Broad St
Benson's BS & Collectibles	34 W Broad St
B Squared Coffee	31 W Broad St
Fieldview Acres Mercantile	36 W Broad St
AMVETS 112	37 W Broad St
Healthy Treasures	40 W Broad St
Pizza Hut	115 W Broad St
Handel Vision Center	115 W Broad St
McDonald's	20 W Canal St
Rite Aid	325 W Broad St



**BUSINESS****SERVICES/FINANCIAL LOCATION**

Mayflower Wollam Insurance Group	7 W Broad St
Platinum Dance Company	10 W Broad St
University Hospital	41 W Broad St
Masonic Lodge #462	12 W Broad St
University Hospital	43 W Broad St
Chic	23 ½ W Broad St
ASECU	25 S Canal St
Ed's Barber Shop	28 W Broad St
Pins & Needles	44 W Broad St

Residential housing within the DORA is limited and consists primarily of apartments over commercial establishments within the Central Business District. There are a limited number of single - family residential units along the periphery or adjacent to the DORA.

**IV QUALIFIED PERMIT HOLDERS**

In accordance with ORC 4301.82(8)(3), the DORA will encompass not fewer than four qualified permit holders as defined by ORC § 43 01. 82 (A). The City of Newton Falls has identified 4 qualified permit holders that will likely be included in the DORA, which are identified as follows:

Permit No.	Permit Holder	DBA	Address	Permit Class
7036355	Maricela Posadas	Mi Amigo Mexican Restaurant	11 W. Broad	D1, D2, D3, D6
276785	NHOA INC	Covered Bridge Inn	22 W. Broad	D1, D2
018025301122	AMVETS POST0122	AMVETS	35-37 W. Broad	D4, D6
2610938-0005	FACES LOUNGE INC	FACES	11-13 W. Broad	D5, D6

**V. LAND USE AND ZONING**

In accordance with ORC 4301.82(B)(4), the land uses within the DORA are zoned Central Business District (CBD) is in accordance with The City of Newton Falls Comprehensive Plan as provided for in **Exhibit B**.

The City of Newton Falls, Ohio Comprehensive Plan designates the CBD as the Downtown District with the primary focus to preserve and enrich Downtown City of Newton Falls, Ohio. This designation's objective is to maintain, enhance, and grow the Downtown District as a vibrant, mixed-use gathering place and cultural center with an emphasis on retail, arts, and entertainment uses. The Downtown District maintains an urban, pedestrian focused environment through building and streetscape.

The 2014 City of Newton Falls, Ohio plan identifies key initiatives to maintain and enhance the special character of City of Newton Falls, Ohio downtown and riverfront corridor, protect its sense of place, encourage investments, and create a dynamic commercial and recreational district by attracting residents and visitors to enjoy downtown by creating additional programs to enhance local businesses and existing events. The properties within the proposed DORA are located within the Central Business District which exemplifies the mixed-use development pattern within Downtown City of Newton Falls, Ohio.

The creation of a DORA in downtown City of Newton Falls, Ohio aligns with the City's Comprehensive Plan and objective to define this area as a popular destination for dining and entertainment within the City of Newton Falls. The DORA is focused on or around the Central Business District, wherein restaurants, bars, taverns, brew, pubs, and microbreweries are permitted uses and may operate under the current regulations.

## **VI. SAFETY PLAN**

In accordance with ORC § 430 I. 82(B)(5) and (F)(I)(d), a Safety Plan has been developed to ensure public safety in the DORA, a copy of which is attached hereto as Exhibit C. The Safety Plan, and enforcement of downtown parking regulations, can be executed with existing staff per Exhibit C.

## **VII. PUBLIC HEALTH & SANITATION PLAN**

In accordance with ORC § 4301.8 2 (8)(5), (F)(I)(e), and (F)(I)(f), a Sanitation Plan has been developed that will help maintain the appearance and public health of the area within the DORA. A copy is attached hereto as **Exhibit E**. The Sanitation Plan can be executed with existing staff.

## **VI. SIGNAGE PLAN**

In accordance with the ORC § 4301.82 (F)(I)(b), a minimum of twenty-two (22) (eleven (11) entering and eleven (11) exiting the DORA) signs will be displayed throughout the boundary of the DORA as depicted on attached **Exhibit D**. Boundary signs will be located at street intersections along the boundary of the DORA. The location and spacing of the signs are shown on attached **Exhibit E**.

Each establishment that is not a qualified permit holder will display a green or red sign that either accepts or prohibits DORA drinks. The signs are depicted on attached **Exhibit D**.



## **VII. RULES OF OPERATION**

### **a. Hours of Operation**

In accordance with ORC § 4301.82(F)(l)(c), the hours of operation for the DORA will be Friday and Saturday from 12:00 p.m. (noon) to 2:00 a.m. and Sunday through Thursday from 12:00 p.m. (noon) to 11:00 p.m.

The applicant requests that City Council reserve the right to temporarily suspend DORA operations in order to accommodate the permitting of special events that may occur within the boundaries of the DORA. ie. Fourth of July.

### **b. Official DORA Cup**

In accordance with ORC § 4301.82(F)(l)(g), beer, wine, and intoxicating liquor shall only be consumed within the DORA as follows:

Beer, wine, and intoxicating liquor shall only be served and consumed within the DORA in the specifically designated plastic cup approved by the City (the "Official Cup"). The Official Cup will be clear plastic and distinctly marked, as on attached **Exhibit D**. No other container will be permitted. Used cups must be disposed of before entering any establishment of a qualified permit holder.

### **C. Additional Requirements**

In accordance with ORC § 4301.82(B)(5), and in conjunction with other rules, standards and requirements set forth in this application, as well as additional rules and requirements for the purposes of ensuring public safety and health within the DORA are as follows:



## DORA Boundary Map



## EXHIBIT B: OFFICIAL ZONING MAP OF DORA

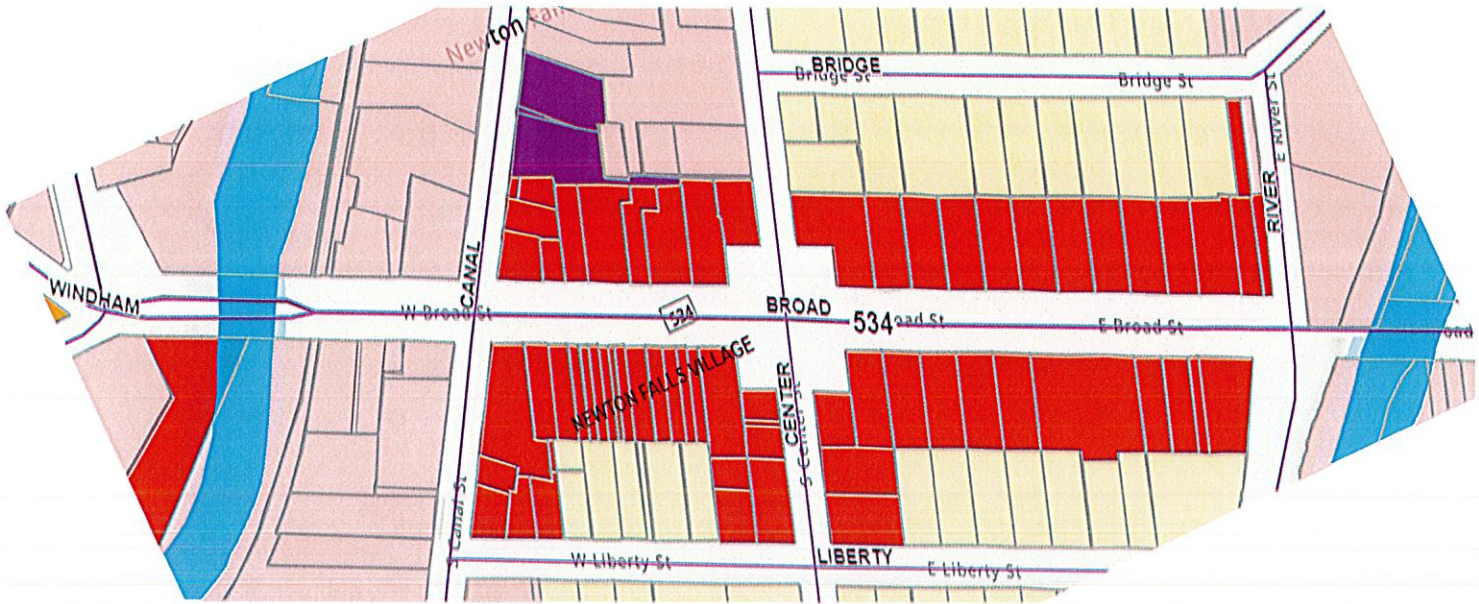


### Zoning Ordinance 2019-23

-  RESIDENTIAL R-1
-  RESIDENTIAL R-2
-  RESIDENTIAL MULTI-FAMILY RMF
-  COMMERCIAL C
-  CENTRAL BUSINESS DISTRICT CBD
-  INDUSTRIAL 1
-  INSTITUTIONAL
-  MIXED USE



EXHIBIT B  
NEWTON FALLS PLAN DOWNTOWN LAND USE



Zoning Ordinance 2019-23

-  RESIDENTIAL R-1
-  RESIDENTIAL R-2
-  RESIDENTIAL MULTI-FAMILY RMF
-  COMMERCIAL C
-  CENTRAL BUSINESS DISTRICT CBD
-  INDUSTRIAL 1
-  INSTITUTIONAL
-  MIXED USE



I. A person may have in the person's possession an open container of beer, wine, or intoxicating liquor at an outdoor location within the DORA if the open container of beer, wine, or intoxicating liquor was purchased from a qualified permit holder to which following applies:

The permit holder's premise is located within the DORA; and

The permit held by the permit holder has an outdoor refreshment area designation; and

The open container consists of an official DORA cup.

No person shall do any of the following:

- a. Enter the premises of an establishment of a qualified permit holder within the DORA while possessing an open container of beer, wine, or intoxicating liquor acquired elsewhere, or
- b. Possess an open container of beer, wine, or intoxicating liquor while being in or on a motor vehicle within the DORA, unless the possession is otherwise authorized under division (D) or (E) of ORC § 4301.62.

## **EXHIBIT C**

In accordance with ORC 4301.8 2(B)(5), the proposed requirements for the purpose of ensuring public safety within the Designated Outdoor Refreshment Area (DORA) are as follows:

### **PUBLIC SAFETY PLAN**

The Newton Falls Police Department, Newton Falls Joint Fire District and EMS District will be responsible for providing public safety within the DORA through law enforcement and Fire/EMS services.

#### **Law Enforcement Responsibilities**

The Newton Falls Police Department will be responsible for providing law enforcement services within the DORA. The Police Department Headquarters is located just outside the DORA boundary on Canal Street. Patrol officers will monitor the DORA area during routine patrols. The safety plan will be analyzed and adjusted as needed.

In the event that an above-average number of people are in the DORA, the Police Chief may assign additional officers and/or assign an officer to specifically patrol the DORA. The use of foot patrol, patrol will be considered as an alternate method of patrolling in the DORA.

For planned events in the DORA that may draw a larger than normal attendance, the Chief of Police may have additional officers and/or other agency personnel assigned specifically to the DORA.

#### **Fire/EMS Responsibilities**

The Newton Falls Joint Fire/EMS District will be responsible for providing Fire, Rescue, and EMS within the DORA. The Fire and EMS facilities are currently located within the DORA boundary. Estimated response time would be at max between two and three minutes to any area within the DORA.

For planned events in the DORA that may draw larger than normal attendance, the Fire/EMS Chief may stage personnel and/or equipment in a location within or near the DORA to allow for an immediate response.

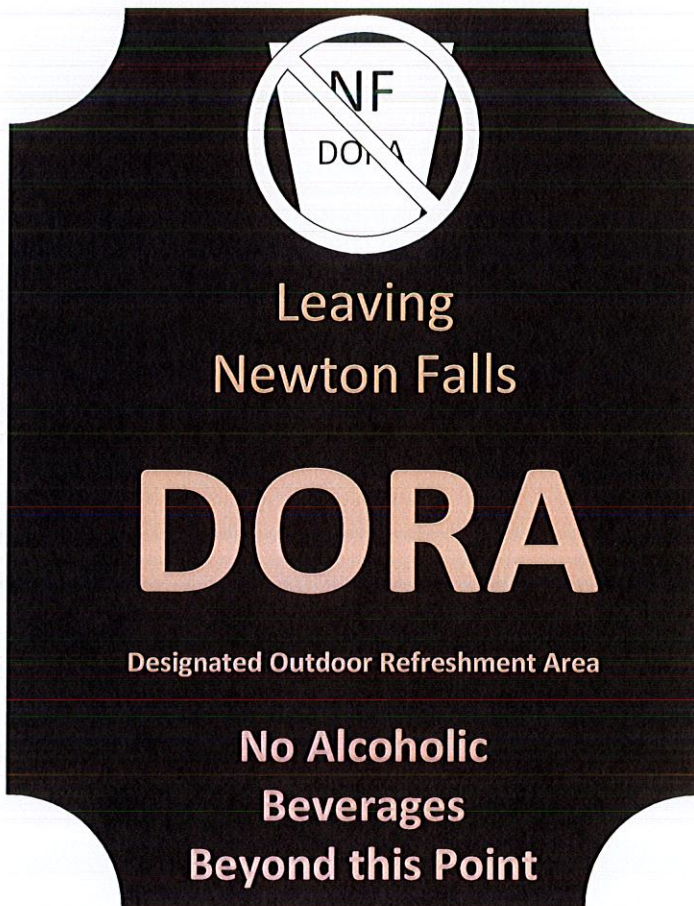


EXHIBIT D

Downtown Merchant Door Signs



Proposed Boundary Signage





## Downtown Public Parking Map





## EXHIBIT E

In accordance with ORC 4301.82(8)(5), the proposed requirements for the purpose of ensuring public health within the Designated Outdoor Refreshment Area (DORA) are as follows:

### **SIGNAGE & SANITATION PLAN**

Village of Newton Falls Street Department personnel will be responsible for maintaining the appearance and public health within the DORA through street sweeping, routine maintenance and signage placement.

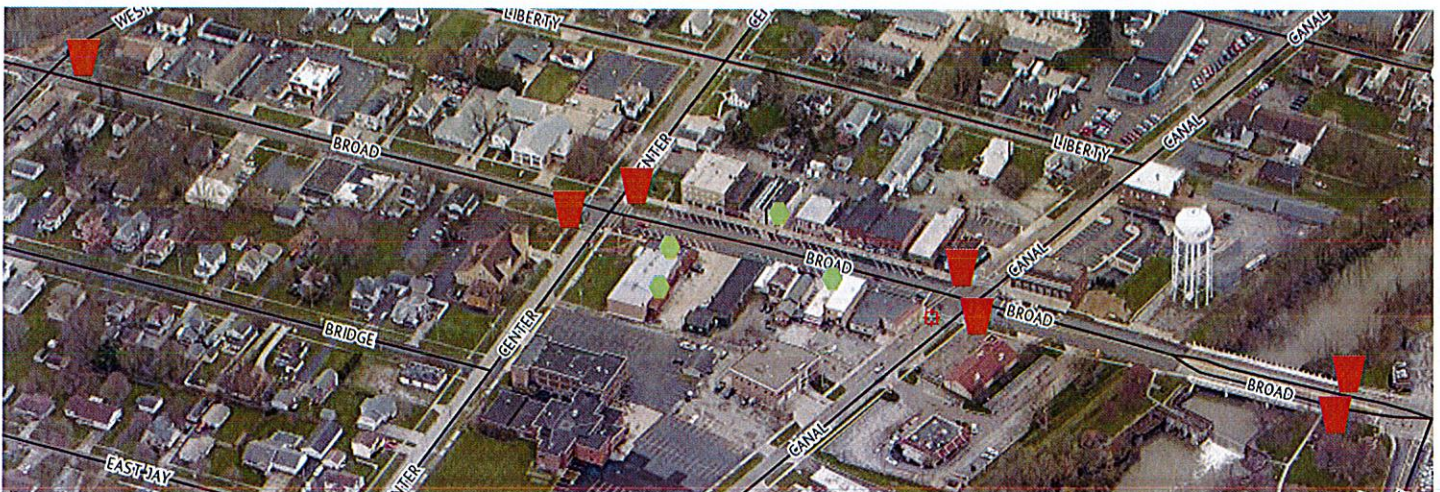
**Exhibit E** shows that there are currently seven (7) permanent trash receptacles DORA signage in the locations (shown in brown) placed throughout and along the DORA boundary serviced once per week. The City is proposing the installation of an additional six (6) trash receptacles with DORA signage in the locations indicated in Newton Falls and increasing servicing of the receptacles to twice per week (Mondays and Fridays). There will not be an increased service, trash receptacles will be provided by Ohio Valley Services.

The city is proposing the installation of eighteen signs on the eleven proposed trash receptacles (shown in green) along the perimeter of the DORA to mark the boundaries (shown in red). The Street Department, coordinate the installation of additional signage if needed.

#### **Existing and Proposed Trash Receptacles and Relation to DORA Boundary**

-  Trash cans with proposed signage (11)
-  Trash cans without Signage (7)

#### **DORA Boundaries (4.80 Acres)**





**SPONSOR; MAYOR KLINE**

**ORDINANCE NO. 2022-07**

**AN ORDINANCE REMOVING THE INTERIM TITLE FROM THE LAW DIRECTOR.**

**WHEREAS**, the City of the Village of Newton Falls terminated its prior Law Director on October 19, 2021; and

**WHEREAS**, the City of the Village of Newton Falls hired Alfred Schrader and the law firm of Roderick Linton Belfance LLP to be their Interim Law Director pursuant to Ordinance 2021-32; and

**WHEREAS**, City Council is pleased with services and representation of the Interim Law Director and believe that the City of the Village of Newton Falls needs to show stability to the community and no longer wishes to have an Interim Law Director.

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

SECTION I: That Alfred Schrader and the law firm of Roderick Linton Belfance shall have the interim title removed from them as Law Director.

SECTION II. City Council hereby ratifies and approves the prior authorized agreement entered into between Alfred Schrader and the law firm of Roderick Linton Belfance, LLP as Interim Law Director as the agreement for the position of Law Director. Said agreement sets forth the terms and conditions of the independent contractor agreement between the City of the Village of Newton Falls and Law Director. Attached hereto is a copy of said agreement, marked as Exhibit "A" and incorporated herein by reference, this agreement is the same as attached as Exhibit "A" to Ordinance No. 2021-32, and shall now be read without the word "Interim" anywhere in.

SECTION III. That the Retention Agreement shall be deemed effective October 18, 2021.

PASSED IN COUNCIL THIS \_\_\_\_ DAY OF \_\_\_\_\_ 2022.

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

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

APPROVED AS TO FORM:

\_\_\_\_\_  
Alfred E. Schrader - Interim Law Director

ATTEST: \_\_\_\_\_  
Newton Falls, Ohio \_\_\_\_\_  
I, hereby certify that Resolution or Ordinance  
No. \_\_\_\_\_ was published by title or  
in full in the local newspaper, or designated  
by Council resolution on the date or dates of  
\_\_\_\_\_.

1<sup>st</sup> Reading: \_\_\_\_\_

Public Hearing: \_\_\_\_\_

2<sup>nd</sup> Reading: \_\_\_\_\_

Effective: \_\_\_\_\_



**Exhibit A - Ordinance 2022-07**

**INDEPENDENT CONTRACTOR AGREEMENT**

**Interim Law Director**

**CITY OF THE VILLAGE OF NEWTON FALLS, OHIO**

This Independent Contractor Agreement is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2021 by and between the City of the Village of Newton Falls, State of Ohio, a Municipal Corporation organized and existing under the laws of the State of Ohio, hereinafter referred to as "City" and Attorney Alfred E. Schrader and the law firm of Roderick Linton Belfance, LLP, 50 South Main Street, 10<sup>th</sup> Floor, Akron, Ohio 44308-1849, hereinafter referred to as "Interim Law Director".

**WITNESSETH:**

WHEREAS, Attorney Alfred E. Schrader has practiced law in the State of Ohio in excess of 42 years, and 5 years as required by the Charter of the City of the Village of Newton Falls, Ohio; and

WHEREAS, the City desires to engage the services of Attorney Alfred E. Schrader and Roderick Linton Belfance, LLP to perform legal services as its Interim Law Director and to carry out those duties as may be required under Article V, Section 1 of the City's Charter.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the Parties agree as follows:

**Section 1: Duties:**

(a) Interim Law Director Alfred E. Schrader and Roderick Linton Belfance, LLP shall perform those services outlined in Article V, Section 1 of the Newton Falls City Charter.

**1. Interim City Prosecutors**

The Interim Law Director shall at his discretion may retain the services of Interim Assistant Law Directors, specifically Attorney Kristopher B. Immel and Attorney David A. Randolph to act as Interim City Law Directors/Interim Assistant City Prosecutors. Attorney Immel and Attorney Randolph shall perform the duties of Interim Prosecutors for the Newton Falls Municipal Court.

Duties of the Interim City Law Directors/ Interim Assistant City Prosecutors for the Newton Falls Municipal Court, within the scope of this Contract for the compensation designated in Section 3 herein, shall be for working two (2) days per week at the court. Duties will include consulting with law enforcement officers, assisting in the preparation and filing of search warrants, charges and criminal complaints, prosecuting, adjudicating and disposing of criminal complaints through Rule 11 agreements or trial to the court or jury. For prosecution by jury trial scheduled by the Court in excess of the two (2) days per week described above, said Interim City Law Directors/ Interim Assistant City Prosecutors shall be paid an additional sum at the same hourly rate as provided in Section 3, herein.

**2. Interim Law Director**

In the capacity of Interim Law Director, the Attorney shall perform the following duties:

- A. The Attorney shall attend all regular meetings of Council and the Treasury Investment Board, unless excused.
- B. The Attorney shall attend special meetings when requested to do so by the Council.
- C. Assist the Council Clerk in preparing and reviewing ordinances and resolutions, review contracts and other legal documents necessary to the functioning of the City government.
- D. Provide legal advice to officials as requested, relating to City business and provide written legal opinions, as may from time to time be requested by the Mayor, City Council or the Interim City Manager.
- E. Be reasonably available by telephone for consultation with the Interim City Manager, Mayor or Council members, during normal business hours, Monday through Friday.
- F. To supervise all City litigation and to cooperate and assist in the defense of all litigation with the Attorney(s) for the City's Liability Insurance Carrier.
- G. Attend all hearings for appeals before the Newton Falls City Board of Zoning Appeals, to advise said Board in their proceedings, as requested from time to time by the Board of Zoning Appeals.

H. Be available to consult with the Interim City Manager seven days per week, within reason.

(b) During the term of this Contract the Interim City Law Director and Interim City Law Directors/ Interim Assistant City Prosecutors shall comply with all Rules and Regulations of Superintendency for Governance of the Bar, including all continuing legal education requirements and certifications, and shall be a member in good standing of the Bar of the State of Ohio.

### **Section 2: Term:**

The term of this agreement shall be for that time period that an Interim Law Director is necessary as determined by the Interim City Manager.

Either party may terminate this Contract upon 30-days written notice. The Interim Law Director and Interim City Manager agree that no severance payments shall be made, so that both the Interim Law Director and the Interim City Manager have the ability to terminate this Contract upon 30-days written notice without penalty.

### **Section 3: Compensation:**

The Interim Law Director shall be compensated as follows: The Interim Law Director shall be paid \$165.00 per hour. The Interim City Law Directors/Interim Assistant City Prosecutors shall be paid \$145.00 per hour. The Parties agree that there will be no fringe benefits nor salary as this position is that of Independent Contractor.

#### **(A) Secretarial/Clerical Assistance**

The Interim Law Director and Interim City Manager agree that the law firm of Roderick Linton Belfance, LLP has sufficient administrative assistants, therefore, the City does not need to provide secretarial/clerical assistance.

#### **(B) Payment of Compensation**

The Interim Law Director and Interim City Law Directors/Interim Assistant City Prosecutors shall bill monthly for their services.

### **Section 4: Expenses:**



- (A) The City shall reimburse the Interim Law Director and the Interim City Law Directors/ Interim Assistant City Prosecutors for any and all out-of-pocket extraordinary expenses incurred in providing services to the City as prescribed above, such as extraordinary postage, copies, court filing fees and costs, court reporter and transcript services.
- (B) For the remainder of calendar year 2021 the City need not pay the Interim Law Director or the Interim City Law Directors'/ Interim Assistant City Prosecutors' membership dues to the Ohio Municipal League for the Association for Municipal Lawyers or similar professional organizations for Municipal Lawyers. If this Contract is extended into calendar year 2022, then the City shall pay those membership dues.
- (C) Should this Contract extend into calendar year 2022, then upon advanced request and approval by the Interim City Manager when deemed beneficial to the City, the City will reimburse the Interim Law Director and/or Interim City Law Directors/ Interim Assistant City Prosecutors for the costs of attending educational seminars in Municipal Law and Criminal Law, including registration fees, travel, food, and lodging. Given the extensive experience of both the Interim Law Director and Interim City Law Directors/ Interim Assistant City Prosecutors, no such reimbursements will be due in calendar year 2021.

**Section 5: Modification:**

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

**Section 6: Indemnification:**

The City shall provide professional liability insurance for the Interim Law Director and the Interim City Law Directors/ Interim Assistant City Prosecutors in their capacity of Interim Law Director and Interim City Law Directors/Interim Assistant City Prosecutors for the City, and shall be designated as a named-insured thereon all City liability insurance policies obtained and maintained therefore. City shall indemnify and hold the Interim Law Director and Interim City Law Directors/Interim Assistant City Prosecutors harmless as to any claims, damages and liability arising out of the exercise of their authority within the scope of their duties and services provided herein.

The City is fully aware of past matters handled by the Interim Law Director and the Interim City Law Directors/Interim Assistant City Prosecutors and have voluntarily and knowingly executed a waiver of potential conflicts.

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

\_\_\_\_\_  
Pamela S. Priddy – Interim City Manager (date)

\_\_\_\_\_  
Alfred E. Schrader – Partner (date)  
Roderick Linton Belfance, LLP  
Interim City Law Director

ATTEST:

\_\_\_\_\_  
Kathleen M. King – City Council Clerk (date)

**SPONSOR: MAYOR KLINE**

**ORDINANCE 2022-08**

**AN ORDINANCE MAKING APPROPRIATIONS FOR THE CURRENT EXPENSES AND OTHER EXPENDITURES FOR THE CITY OF NEWTON FALLS, OHIO, FOR THE FISCAL YEAR ENDING DECEMBER 31, 2022.**

WHEREAS, It is necessary to make appropriations for the current expenses and other expenditures for the City of Newton Falls, Ohio, for the fiscal year ending December 31, 2022;

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

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

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

**Section 1:** "Exhibit A" as rewritten herein amends "Exhibit A" of ordinance 2021-37 and shall be the appropriations for the funds designated for the fiscal year ending December 31, 2022 for the City of Newton Falls. Any funds not listed in this exhibit shall remain intact as listed in Ordinance 2021-37.

**Section 2:** The City Director of Finance is hereby authorized to draw warrants on the City Treasury for payment of the foregoing appropriations, upon receiving proper certification and vouchers thereof, and no salaries or wages shall be paid except to persons employed by authority of and in accordance with law or ordinance.

**Section 3.** That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

PASSED IN COUNCIL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2022.

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

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



APPROVED AS TO FORM:

\_\_\_\_\_  
Alfred E. Schrader - Interim Law Director

ATTEST:

Newton Falls, Ohio \_\_\_\_\_  
I, hereby certify that Resolution or Ordinance  
No. \_\_\_\_\_ was published by title or  
in full in the local newspaper, or designated  
by Council resolution on the date or dates of  
\_\_\_\_\_.

\_\_\_\_\_  
Kathy King, Clerk of Council

CITY OF NEWTON FALLS		2022 Current Appropriations	2022 Proposed Appropriations	Difference
100	General Fund			
LAW				
Personal Services	Legal Level	53,458.73	53,458.73	-
Other Operations	Legal Level	5,455.33	32,590.73	27,135.40
	Total:	58,914.06	86,049.46	27,135.40
100	Total:	2,265,885.52	2,293,020.92	27,135.40
Grand Total:		18,225,986.75	18,253,122.15	27,135.40

**ORDINANCE 2022-09**

**THE CITY OF THE VILLAGE OF NEWTON FALLS**

**AN ORDINANCE AUTHORIZING THE AMENDMENT OF THE ZONING ORDINANCE TO  
INSERT 11.4702 AS TO DIFINITIONS, SECTION 6 AS TO ANIMAL SERVICES, AND TO  
INSERT SECTION 6A AS TO A DOG EXERCISE AREA.**

**WHEREAS**, the Planning and Zoning Commission has recommended that City Council insert into the Zoning Ordinance the authorization for a private dog exercise area in all commercial districts and I 1 Districts as set forth in Exhibit "A" attached hereto, the recommendation of the Planning and Commission; and

**WHEREAS**, this amendment will authorize animal shelters or kennels having a dog run or exercise area and set forth requirements for that, and the amendment addresses noise, waste, and odor and securing of outside facilities as well as parking.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF THE VILLAGE OF NEWTON FALLS, TRUMBULL COUNTY, STATE OF OHIO, that:**

SECTION I: Exhibit "A" is hereby adopted and is to be added as amendment to the planning and zoning ordinance.

SECTION II: This Ordinance shall take effect at the earliest time permitted by law.

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

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

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

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

\_\_\_\_\_  
Alfred E. Schrader (date)  
Interim Law Director



**Exhibit A**  
**Ordinance 2022-09**

**Use permitted upon review**

- 1147 Definitions
  - 1147.02 Definitions
- INSERT 6. ANIMAL SERVICES
- INSERT 6a. DOG EXERCISE AREA – An exercise area that is fully enclosed area of space, in which dogs are exercised either on or off a leash, with supervision.

*Examples of Animal Services: Kennels, Boarding, Grooming, Exercise Areas, Recreation/Training facility, Clubs, Shelter/Humane Society etc..*

**ADD/INSERT to Zoning Ordinance**

**Part Eleven – Planning & Zoning**

- 1155 Uses permitted on Review
  - INSERT (1155.08 DOG EXERCISE AREA) Refer to [nfcity.maps.arcgis.com](http://nfcity.maps.arcgis.com) for zoning areas.
  - INSERT A private dog exercise area may be permitted in all Commercial Districts and I-1 districts subject to the requirements of the district in which it is located and the following requirements:

(a) Lot Area. A private recreations area shall be located on a site not less than .5 acres in area

(b) Setback Requirements. In the event an animal shelter or kennel has a dog run or exercise area, said run or exercise area shall be set back no less than 200 feet from any residential district.

(c) Noise. A dog exercise area shall prevent the animals in its care from disturbing the comfort of any person in the vicinity by frequent or long continued barking, howling or other noise which creates unreasonably loud and disturbing noises of such a character, intensity and duration as to disturb the peace, quiet and good order of the Municipality. Dogs may only be exercised outdoors during the hours of operation. In determining whether a particular sequence of noises is excessive, other relevant factors, in addition to frequency and duration shall be considered, including but not limited to time of day, general noise level of the area and proximity to residential units. At the edge of the fencing the maximum decibel of noise shall be no more than 90db.

(d) Waste and Odor. In addition to Codified Ordinance Section 505.18 Defecation Removal Required a dog exercise area shall remove animal waste from outdoor areas on a regular basis. All animal waste shall be bagged, tied securely and deposited in a fully enclosed dumpster, trashcan or other sealed containment system. All dumpsters, trashcans or other containment systems shall be emptied on a regular basis, but not less than weekly. All trash receptacles must be securely sealed at all times.

- EPA Regulations must be met as applicable.

(e) Security of Outdoor Facilities. An animal shelter or kennel shall install and maintain a privacy fence, no less than six (6) feet surrounding all dog exercise areas. An animal shelter or kennel shall install and maintain appropriate fencing per Section 1153.14 Fences around any exercise areas, which is adequate and appropriate to securely contain any animal placed within the area. All outdoor facilities shall be adequately screened from residentially zoned properties through the use of landscaping and/or solid opaque fencing or walls.

(f) Parking

- There shall be one (1) parking space for every 5,000 SF of ground area.

**SPONSOR: MAYOR KLINE**

**RESOLUTION 06-2022**

**A RESOLUTION AUTHORIZING ALL ACTIONS NECESSARY  
TO ACCEPT NORTHEAST OHIO PUBLIC ENERGY  
COUNCIL (NOPEC) ENERGIZED COMMUNITY GRANT.**

**WHEREAS**, the City of Newton Falls, Ohio is a member of the Northeast Ohio Public Energy Council ("NOPEC") and is eligible for one or more NOPEC Energized Community Grant for 2022 ("NEC Grant(s)") as provided for in the NEC Grant Program guidelines; and

**WHEREAS**, the City of Newton Falls wishes to enter into a Grant Agreement with NOPEC, Inc. in substantially the form presented to Council to receive one or more NEC Grant(s); and

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

**SECTION 1.** This Council of the City of Newton Falls finds and determines that it is in the best interest of the City of Newton Falls to enter into the Grant Agreement to accept the NEC Grant(s) for 2022 and authorizes the City Manager to execute the grant Agreement to accept the NEC Grant(s) funds.

**SECTION 2.** This Council finds and determines that all formal actions of this Council concerning and relating to the adoption of this Resolution were taken in an open meeting of this Council and that all deliberations of this Council and of any committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

PASSED IN COUNCIL THIS 16<sup>th</sup> DAY OF FEBRUARY 2022.

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

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

APPROVED AS TO FORM:

\_\_\_\_\_  
Alfred E. Schrader - Interim Law Director



**SPONSOR: BARYAK**

**RESOLUTION 08-2022**

**THE CITY OF THE VILLAGE OF NEWTON FALLS**

**A 'NUNC PRO TUNC' OR 'NOW FOR THEN' RESOLUTION APPROVING CERTAIN PURCHASE ORDERS ATTACHED AS EXHIBIT "A" TOTALING \$88,483.25 FOR LEGAL SERVICES AUTHORIZED BY ORDINANCE NO. 2021-32 FOR THE MONTHS OF OCTOBER THROUGH DECEMBER OF 2021 FOR LEGAL SERVICES PROVIDED BY RODERICK LINTON BELFANCE, LLP AS LAW DIRECTOR UNDER THEIR CONTRACT WITH THE CITY.**

**WHEREAS**, the finance director has requested a 'Nunc Pro Tunc' or 'Now for Then' approval of purchase orders 2022000180 and 2022000237, attached as Exhibit "A", which is to pay calendar year 2021 attorneys' fees totaling \$88,483.25; and

**WHEREAS**, ORC 5705.41(D) states that the taxing authority may authorize the drawing of a warrant in payment of amounts due upon such contract; provided in such a situation council must approve the expenditure within 30 days of the officer's certification; and

**WHEREAS**, the 30 days is drawing close to expiring.

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

**Section 1.** That the expenditures required by the attached Exhibit "A", be, and the same are hereby, approved for payment by authority of O.R.C. 5705.41(D).

**Section 2.** That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

PASSED IN COUNCIL ON THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2022.

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

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

APPROVED AS TO FORM:

\_\_\_\_\_  
Alfred E. Schrader (date)  
Interim Law Director

**VILLAGE OF NEWTON FALLS**

419 NORTH CENTER STREET  
NEWTON FALLS, OHIO 44444  
PHONE OR FAX (330) 872-1010

Exhibit "A"  
08-2022

Page 1 of 2  
**PURCHASE ORDER**

2022000180

SHIP TO **LAW DEPT**  
**19 N CANAL ST**  
**NEWTON FALLS OH 44444**

VENDOR **RODERICK**  
**RODERICK LINTON & BELFANCE**  
**50 S. MAIN STREET, 10TH FLOOR**  
**AKRON OH 44308**

PURCHASE ORDER DATE

CONTRACT NO

01/22/22

**PLEASE SEND ALL BILLING INVOICES TO: VILLAGE OF NEWTON FALLS • 419 N. CENTER ST. • NEWTON FALLS, OHIO 44444**

**TERMS:****MAIL INVOICE IN DUPLICATE**

By shipping the goods below or by acknowledging receipt of this order or by performing the work below you agree to the terms and conditions of sale which appear on the face. Any different or additional terms your acceptance of this offer are hereby objected to.

LINE NO.	DESCRIPTION	REQ. NO.	ACCOUNT CODE	QUANTITY	UNIT	UNIT PRICE	AMOUNT
001	LAW SERVICES		100-7090-52316			.00	50533.75

**PLEASE NOTE:**

THE PURCHASE ORDER NUMBER MUST APPEAR ON ALL INVOICES, PACKAGES, PACKING SLIPS, SHIPPING PAPERS AND ALL CORRESPONDENCE. ALL PURCHASES EXEMPT FROM STATE AND FEDERAL EXCISE TAXES.

**TOTAL AMOUNT NOT TO EXCEED**

50533.75

I hereby certify that the amount required to meet the obligation created by this instrument has been lawfully appropriated for such purpose in the treasury or in the process of collection to the credit of the fund, free from any previous encumbrances.

DIRECTOR OF FINANCE



**VILLAGE OF NEWTON FALLS**

419 NORTH CENTER STREET  
NEWTON FALLS, OHIO 44444  
PHONE OR FAX (330) 872-1010

Page 2 of 2  
**PURCHASE ORDER**

2022000237

Exhibit "A"  
08-2022

SHIP TO  
**LAW DEPT**  
**19 N CANAL ST**  
**NEWTON FALLS OH 44444**

VENDOR  
**RODERICK**  
**RODERICK LINTON & BELFANCE**  
**50 S. MAIN STREET, 10TH FLOOR**  
**AKRON OH 44308**

PURCHASE ORDER DATE  
**02/01/22 PDW**  
~~01/01/22~~

CONTRACT NO

**PLEASE SEND ALL BILLING INVOICES TO: VILLAGE OF NEWTON FALLS • 419 N. CENTER ST. • NEWTON FALLS, OHIO 44444**

**TERMS:****MAIL INVOICE IN DUPLICATE**

By shipping the goods below or by acknowledging receipt of this order or by performing the work below you agree to the terms and conditions of sale which appear on the face. Any different or additional terms your acceptance of this offer are hereby objected to.

LINE NO.	DESCRIPTION	REQ. NO.	ACCOUNT CODE	QUANTITY	UNIT	UNIT PRICE	AMOUNT
001	LAW DIRECTOR SERVICES		100-7090-52316			.00	37949.50

**PLEASE NOTE:** THE PURCHASE ORDER NUMBER MUST APPEAR ON ALL INVOICES, PACKAGES, PACKING SLIPS, SHIPPING PAPERS AND ALL CORRESPONDENCE. ALL PURCHASES EXEMPT FROM STATE AND FEDERAL EXCISE TAXES.

**TOTAL AMOUNT NOT TO EXCEED**

**37949.50**

I hereby certify that the amount required to meet the obligation created by this instrument has been lawfully appropriated for such purposes in the treasury or in the process of collection to the credit of the principal fund, free from any previous encumbrances.

*Sean Housley* PDW  
DIRECTOR OF FINANCE



NOTICE TO LEGISLATIVE  
AUTHORITY

OHIO DIVISION OF LIQUOR CONTROL  
6606 TUSSING ROAD, P.O. BOX 4005  
REYNOLDSBURG, OHIO 43068-9005  
(614)644-2360 FAX(614)644-3166

TO

22348157015		NEW		DOLGEN MIDWEST LLC DOLLAR GENERAL STORE #21468 133 RIDGE RD NEWTON FALLS OH 44444	
PERMIT NUMBER		TYPE			
ISSUE DATE					
08 03 2020					
FILING DATE					
C1 C2		PERMIT CLASSES			
78	066	C	C85108		
TAX DISTRICT		RECEIPT NO.			

FROM 01/28/2022

PERMIT NUMBER		TYPE			
ISSUE DATE					
FILING DATE					
PERMIT CLASSES					
TAX DISTRICT		RECEIPT NO.			



MAILED 01/28/2022

RESPONSES MUST BE POSTMARKED NO LATER THAN.

02/28/2022

**IMPORTANT NOTICE**

PLEASE COMPLETE AND RETURN THIS FORM TO THE DIVISION OF LIQUOR CONTROL  
WHETHER OR NOT THERE IS A REQUEST FOR A HEARING.  
REFER TO THIS NUMBER IN ALL INQUIRIES

C NEW 2234815-7015

(TRANSACTION & NUMBER)

(MUST MARK ONE OF THE FOLLOWING)

WE REQUEST A HEARING ON THE ADVISABILITY OF ISSUING THE PERMIT AND REQUEST THAT  
THE HEARING BE HELD ☐ IN OUR COUNTY SEAT. ☐ IN COLUMBUS.

WE DO NOT REQUEST A HEARING. ☐

DID YOU MARK A BOX? IF NOT, THIS WILL BE CONSIDERED A LATE RESPONSE.

PLEASE SIGN BELOW AND MARK THE APPROPRIATE BOX INDICATING YOUR TITLE:

(Signature)

(Title)- ☐ Clerk of County Commissioner

(Date)

☐ Clerk of City Council

☐ Township Fiscal Officer

CLERK OF NEWTON FALLS CITY COUNCIL  
19 N CANAL ST  
NEWTON FALLS OHIO 44444



**Department  
of Commerce**

Rev 2/10/2021

Mike DeWine, Governor  
Jon Husted, Lt. Governor

Division of Liquor Control  
Sheryl Maxfield, Director

Dear Local Legislative Authority Official:

Please find enclosed the legislative notice that is being sent to you regarding the applied for liquor permit as captioned on the notice. You must, within 30 days from the "mailed" date listed on the notice under the bar code:

- Notify the Division whether you object and want a hearing or not; or
- Ask for your one-time only, 30-day extension.
  - Any requests for a one-time, 30-day extension will be reviewed by the Division upon timely receipt. If granted, your additional 30-days runs from the expiration of the original 30-day period.

To be considered timely, your above response must be:

**FAXED** to the Division no later than 30 days after the "mailed" date (this is the date listed after the "responses must be postmarked no later than." You can fax your response to: (614) 844 - 3188

**EMAILED** to the Division no later than 30 days after the "mailed" date (this is the date listed after the "responses must be postmarked no later than." You can email your response to: [LiquorLicensingMailUnit@com.state.oh.us](mailto:LiquorLicensingMailUnit@com.state.oh.us)

**POSTMARKED**, if mailed, no later than the date listed on the notice after "responses must be postmarked no later than." You can mail your response to

Ohio Division of Liquor Control  
Attn: Licensing Unit  
8606 Tussing Road  
PO Box 4008  
Reynoldsburg, Ohio 43068-9008

In an effort to speed up processing times and reduce paper, the Division respectfully asks that you either fax or email the above notice. In a similar effort, please note that the Division is no longer sending ownership information with this legislative notice. If you want to know who owns the applied for permit you can find that information in two ways:

- Go to [https://www.comapps.ohio.gov/lqr/lqr\\_apps/PermitLookup/PermitHolderOwnership.aspx](https://www.comapps.ohio.gov/lqr/lqr_apps/PermitLookup/PermitHolderOwnership.aspx) and enter the permit number listed on the legislative notice; or
- Contact your police department or county sheriff, if you are a township fiscal officer or county clerk, as the Division sends the applicable law enforcement agency the pertinent ownership disclosure information when it notifies them of the permit application.

Permit Class	Permit Fee	Description
<b>C-1</b>	\$252	<a href="#"><u>ORC 4303.11</u></a> Beer only in original sealed container for carry out only.
<b>C-2</b>	\$376	<a href="#"><u>ORC 4303.12</u></a> Wine and mixed beverages in sealed containers for carry out.
<b>C-2X</b>	\$252	<a href="#"><u>ORC 4303.121</u></a> Beer in original sealed containers for carry out. (Grandfathered permit, no longer issued new).
<b>D-8</b>	\$500	<a href="#"><u>ORC 4303.184</u></a> Sale of tasting samples of beer, wine, and mixed beverages, but not spirituous liquor, at retail, for consumption on premises.