



NEWTON FALLS CITY COUNCIL
REGULAR MEETING AGENDA
 Wednesday, September 7, 2022; 6:00 PM
 COUNCIL CHAMBERS
 612 WEST BROAD STREET

CITY COUNCIL MEMBERS	
Ward 1	Bud Fetterolf
Ward 2	John Baryak
Ward 3	Tesa Spletzer
Ward 4	Christopher Granchie
At- Large	Julie Stimpert
Mayor	Kenneth Kline

CITY ADMINISTRATION	
City Manager	Pamela Priddy
Law Director	Brad Bryan
Finance Director	Sean Housley
City Clerk	Michael Acomb

- I. Call to Order**
- II. Pledge of Allegiance / Silent Prayer**
- III. Roll Call**
- IV. Special Presentations by Staff Members or Invited Consultants**
- V. Public Comments**
- VI. Reports**
 - a. Mayor
 - b. Council Members
 - c. Finance Director
 - d. Law Director
 - e. City Manager

Changes To Tonight's Agenda

- VII. Approval of Previous Minutes**
 Regular Meeting Minutes, August 3, 2022
 Emergency Meeting Minutes, August 19, 2022

VIII. Public Hearings

ORDINANCE 2022-37 *Sponsor: Councilperson Baryak*
 AN ORDINANCE AUTHORIZING THE SALE OF A VILLAGE 2013 FORD TAURUS
 POLICE VEHICLE TO THE NEWTON FALLS JOINT FIRE DISTRICT

ORDINANCE 2022-38 *Sponsor: Councilperson Granchie*
 AN ORDINANCE ESTABLISHING SECTION 121.06 OF THE ADMINISTRATIVE CODE
 PERTAINING TO THE SALE OR DISPOSAL OF MUNICIPAL PERSONAL PROPERTY

IX. Unfinished Business

ORDINANCE 2022-37 *Sponsor: Councilperson Baryak*
AN ORDINANCE AUTHORIZING THE SALE OF A VILLAGE 2013 FORD TAURUS
POLICE VEHICLE TO THE NEWTON FALLS JOINT FIRE DISTRICT

ORDINANCE 2022-38 *Sponsor: Councilperson Granchie*
AN ORDINANCE ESTABLISHING SECTION 121.06 OF THE ADMINISTRATIVE CODE
PERTAINING TO THE SALE OR DISPOSAL OF MUNICIPAL PERSONAL PROPERTY

X. New Business

RESOLUTION 39-2022 *Co-Sponsors: Councilpersons Fetterolf, Baryak, Spletzer,
Granchie, Stimpert and Mayor Kline*
A RESOLUTION IN SUPPORT OF THE “SALUTE TO OUR VETERANS” EVENT,
CELEBRATING THE 80th ANNIVERSARY OF THE DEDICATION OF THE NEWTON
FALLS COMMUNITY CENTER, A HISTORIC U.S.O.

RESOLUTION 40-2022 *Sponsor: Councilperson Baryak*
A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A REAL
PROPERTY DONATION AGREEMENT WITH NEWTON FALLS DOHP, LLC

ORDINANCE 2022-42 *Sponsor: Councilperson Granchie*
AN ORDINANCE REPLACING CHAPTER 1151 OF THE ZONING CODE RELATING TO
SIGNS

ORDINANCE 2022-43 *Sponsor: Councilperson Baryak*
AN ORDINANCE AMENDING SECTIONS 1149.02 AND 1149.03 OF THE ZONING
CODE RELATING TO RESIDENTIAL ADDICTION SERVICES OR TREATMENT
FACILITIES AND HOUSES

ORDINANCE 2022-44 *Sponsor: Councilperson Granchie*
AN ORDINANCE DECLARING IN THE EVENT THE 2022 POLICE TAX LEVY IS
APPROVED BY THE ELECTORATE, COUNCIL’S INTENT TO AUTHORIZE
APPROPRIATIONS IN THE 2023 POLICE BUDGET BEYOND THE FUNDS
GENERATED BY THE POLICE LEVY THAT EQUATES TO NOT LESS THAN EIGHTY-
FIVE PERCENT OF THE FISCAL YEAR 2022 POLICE DEPARTMENT OPERATING
EXPENDITURES

XI. Public Comments

XII. Closing Remarks

Motion to Recess into Executive Session (if necessary)

Motion to Adjourn into Executive Session (as noted below) at 7:02 pm.

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

<input checked="" type="checkbox"/> Appointment	<input checked="" type="checkbox"/> Employment	<input checked="" type="checkbox"/> Dismissal	<input type="checkbox"/> Discipline
<input checked="" type="checkbox"/> Promotion	<input checked="" type="checkbox"/> Demotion	<input type="checkbox"/> Compensation	

- ☒ 2. Purchase or Sale of Property
- ☒ 3. Pending or Imminent Court Action
- ☐ 4. Collective Bargaining Matters

☐ 5. Matters Required to be Kept
Confidential – Contract Negotiations

- ☐ 6. Security Matters
- ☐ 7. Hospital Trade Secrets
- ☐ 8. Confidential Business Information of an
Applicant for Economic Development
Assistance
- ☐ 9. Veterans Service Commission
Applications

XIII. Adjournment



NEWTON FALLS CITY COUNCIL
REGULAR MEETING MINUTES
Wednesday, August 3, 2022; 6:00 PM
COUNCIL CHAMBERS
612 WEST BROAD STREET

CITY COUNCIL MEMBERS	
Ward 1	Bud Fetterolf
Ward 2	John Baryak
Ward 3	Tesa Spletzer
Ward 4	Christopher Granchie
At-Large	Julie Stimpert
Mayor	Kenneth Kline

CITY ADMINISTRATION	
City Manager	Pamela Priddy
Law Director	Brad Bryan
Interim Finance Director	Sean Housley
City Clerk	Michael Acomb

I. Call to Order

Mayor Kline called the meeting to order at 6:00 pm.

II. Pledge of Allegiance / Silent Prayer

III. Roll Call

Council Present: Councilperson Fetterolf, Councilperson Baryak, Councilperson Spletzer, Councilperson Granchie, Councilperson Stimpert; Mayor Kline

Council Absent: none

Staff Present: Law Director Bryan, Finance Director Housley, City Clerk Acomb; City Administrator Smeiles

Staff Absent: City Manager Priddy

IV. Special Presentations by Staff Members or Invited Consultants

V. Public Comments

Jim Luonuansuu – 10 E. Liberty Street

Mr. Luonuansuu spoke against Resolution 36-2022. He stated his concerns that this legislation is a resolution rather than an ordinance, limiting public comment. He addressed Mr. Fetterolf and expressed concern about Mr. Fetterolf's sponsorship of this resolution given his perceived record regarding taxation. He stated that residents of township can receive police services from the county sheriff and surrounding communities through mutual aid agreements with the sheriff. He stated that a fire levy will be placed on the residents' tax bill in January, 2023 and he summarized the impact of that levy on residents, further stating his concern about raising taxes. He expressed distrust for the possible use of any new tax money for the police department and stated examples of the negative impact of current inflation on residents. He reiterated his

support for the police department; but not a new tax levy. He also spoke in support of Ordinance 2022-39 citing concerns about the cost versus a perceived lack of return on investment.

Rick Kerlin – 1009 Woodglen

Mr. Kerlin expressed excitement regarding the naming of the covered bridge and provided an update regarding progress and thanked Council for their support. He spoke in support of Resolution 36-2022 citing the Village as having one of the lowest current millage rates in the area and his belief that the community needs support for emergency and non-emergency calls. He stated his belief that Ohio law requires the money earned from the levy to be spent for the police department. He expressed support for allowing voters to decide on the levy and stated his belief that a police levy is the only way to maintain the department, which he supports. He stated his support for the township to agree to a joint district and stated that other similar-sized communities pay more for their departments. He spoke against Ordinance 2022-39 stating his belief that there will be future development from which the Village can benefit.

Ana Eby – 50 W. 9th Street

Mrs. Eby spoke against Resolution 36-2022. She stated her belief that this new tax would be in effect for the lifetime of residents despite what the proposed law states. She spoke directly to Mr. Fetterolf and expressed her disappointment in his sponsorship of the resolution urging him to research the issue before supporting a new tax.

Adam Zimmermann – 515 Lemae Avenue

Mr. Zimmerman spoke against Ordinance 2022-36, specifically that it should not be an emergency legislation. He spoke against Ordinance 2022-37 stating his concerns that it is an improper action. He spoke in support of Ordinance 2022-38. He spoke against Ordinance 2022-39. He spoke against Ordinance 2022-40 and 2022-41 as emergencies. He spoke against the City Manager.

Richard Eby – 50 W. 9th Street

Mr. Eby spoke against Resolution 36-2022 stating his belief that it should be a renewal levy instead of an additional tax levy.

VI. Reports

- a. Mayor
- b. Council Members
 - i. Mr. Fetterolf
 - 1. The recent Planning and Zoning Committee meeting was cancelled due to the resignation of a member of the committee.
 - 2. He spent his time researching the levy and answering calls, email, etc....
 - ii. Mr. Baryak
 - 1. An issue with a truck happened in Ward 2 where there were no signs posted prohibiting large trucks. We stated that a weight limit will set and the law director will guide the process.
 - 2. He went to the Farmers Market and enjoyed a beautiful day.
 - 3. He stated his pleasure with the process to name the covered bridge.

4. He met with Bill George and the City Manager regarding the pole line design and stated he would shared relevant information during tonight's meeting.
 5. He stated that he would also share relevant information regarding the car that is proposed for sale and on tonight's agenda.
- iii. Ms. Spletzer
1. Ms. Spletzer clarified that it was a Parks and Recreation meeting scheduled for July 26 that was cancelled due to the resignation and Mr. Fetterolf acknowledge his error. She asked that the clerk post a public notice to accept applications for the open seat on the Parks and Recreation committee.
- iv. Mr. Granchie
1. Mr. Granchie stated that he answered calls, emails, etc... and had not other comments at this time.
- v. Ms. Stimpert
1. She took a few calls regarding tonight's agenda.
 2. Ms. Stimpert that two residents called regarding the truck and signage issue of which Mr. Baryak spoke. She stated her belief that the issue will need to be solved collaboratively with township as the solution is likely to involve township roads.
 3. She attended the Fire Board Meeting and summarized the work of the Fire District
- c. Finance Director
- i. Mr. Housley stated that the Utilities Appeal Board met and heard a couple of appeals.
 - ii. The Delinquent Tax Program is going well. He answered questions from several taxpayers. He reminded council that RITA took over as a third-party administrator on behalf of the city in January, 2018 and that was the last time a delinquent program was run, which only addressed delinquencies for the years 2014, 2015, and 2016.
 - iii. As of the end of June, \$391, 000 has been collected whereas \$800,000 was budgeted. Comparatively, last year at the same time \$407,000 noting a 4% reduction. He expressed hope that the RITA Delinquent Tax Program will be an effective tool in increasing the balance of the General Fund.
 - iv. Two refinances occurred in July...a \$1.8M loan and a \$4M loan were refinanced for a total savings of about 1% per year, or about \$60,000 each year for the next 25 years.
 - v. Mayor asked if there was any discussion on Mr. Housley's report. No discussion took place.
- d. Law Director
- i. No report was given.
 - ii. Mr. Baryak asked Mr. Bryan to confirm that sign ordinances will be on the next meeting. Mr. Bryan confirmed that a draft is complete and ready for the next meeting.
- e. City Manager
- i. No report was given due to absence.

Changes To Tonight's Agenda

VII. Approval of Previous Minutes

Special Meeting Minutes, July 18, 2022

Moved by: Mr. Granchie Seconded by: Ms. Spletzer
Mr. Baryak-yes; Ms. Spletzer-yes; Mr. Granchie-yes; Ms. Stimpert-yes; Mr.
Fetterolf-abstain
The Motion passed 4-0.

Regular Meeting Minutes, July 20, 2022

Moved by: Mr. Granchie Seconded by: Ms. Spletzer
Mr. Baryak-yes; Ms. Spletzer-yes; Mr. Granchie-yes; Ms. Stimpert-yes; Mr.
Fetterolf-yes
The Motion passed 5-0.

VIII. Public Hearings

ORDINANCE 2022-35 *Sponsor: Councilperson Spletzer*
AN ORDINANCE ADDING THE LOW HEAD DAM AND WEST BRANCH CHANNEL
DAM TO THE TERRITORIES OF THEIR ADJACENT VILLAGE PARKS

No public comments were heard.

IX. Unfinished Business

ORDINANCE 2022-35 *Sponsor: Councilperson Spletzer*
AN ORDINANCE ADDING THE LOW HEAD DAM AND WEST BRANCH CHANNEL
DAM TO THE TERRITORIES OF THEIR ADJACENT VILLAGE PARKS

Mr. Baryak stated that the water supply comes from the East River and expressed concern that the water supply could be at risk if the water level drops.

Ms. Stimpert stated that Parks and Recreation questioned the impact of this ordinance on the budget. Mr. Bryan stated the ordinance increases chances to receive grant money.

Mr. Fetterolf expressed support for the ordinance expressing concerns for water levels. He urged council act now to take advantage of grant monies that may be available.

Mr. Housley responded to Ms. Stimpert and stated that an increase in income taxes could be sent to Parks and Recreation, but it would have to come from another fund. Mrs. Stimpert restated that her concern is regarding future expenses. Mr. Housley stated that maintenance would be the responsibility of Parks and Recreation.

Mr. Baryak stated that the dam has been an ongoing issue that was ignored by the previous administration. He stated the concern that the dam is at risk and an emergency for the Village.

Ms. Spletzer stated the reason for her sponsorship was related to finding new ways to earn grant money to meet the needs of the Village.

Moved by: Ms. Spletzer Seconded by: Mr. Baryak
Mr. Granchie-yes; Ms. Stimpert-yes; Mr. Fetterolf-yes; Mr. Baryak-yes; Ms. Spletzer-yes
The Ordinance passed 5-0.

X. New Business

RESOLUTION 37-2022

*Co-Sponsors: Councilperson Fetterolf
Councilperson Baryak
Councilperson Spletzer
Councilperson Granchie
Councilperson Stimpert
Mayor Kline*

A RESOLUTION HONORING STREET DEPARTMENT EMPLOYEE MICHAEL HARNICHAR FOR 33 ¾ YEARS OF SERVICE TO NEWTON FALLS

Mayor Kline read the proclamation in its entirety.

All members of Council and Mayor Kline congratulated and thanked Mr. Harnichar for his years of service, dedication, and commitment to the Village. Mayor Kline told a story to demonstrate Mr. Harnichar's dedication and thanked him for his service to the Village.

Moved by: Mr. Granchie Seconded by: Ms. Stimpert
Mr. Baryak-yes; Ms. Spletzer-yes; Mr. Granchie-yes; Ms. Stimpert-yes; Mr. Fetterolf-yes
The Resolution passed 5-0.

MOTION

Sponsor: Councilperson Granchie

A Motion to Require Groups that Utilize Village Hall to Allow Access to the Council Chambers for all Village Council Committee, Commission, and Board Meetings.

Mr. Granchie spoke in support of the Motion to ensure that all committees, commissions, and meetings are done in a professional manner.

Mr. Baryak expressed concern that police protection would not be provided and expressed concerns regarding theft and damage to the Council chambers. Mr. Bryan stated that the Motion might make sense if the intent is allow various groups to use the facility without interrupting or interfering with each other.

Ms. Spletzer expressed concern with conflict between various groups or situations where one meeting might interfere with other activities.

Ms. Stimpert validated Ms. Spletzer's concerns. She asked if a master scheduler exists or if master calendar is used to manage use of the building appropriately.

Mr. Fetterolf spoke against the Motion and expressed concerns about a lack of security.

Mrs. Smeiles was permitted to speak regarding her concerns about the Motion related to scheduling and security. She stated there has been damage to the hall. She stated that scheduling the use of the building is temporarily suspended pending decisions made about availability, proper fees, and custodial services after any event. She cited examples to support her concerns.

Mr. Granchie stated his belief that this Motion is for committees, commissions, and boards, who are extensions of Council and already scheduled to use the building, to have access to chambers as opposed to anyone from the public who might want to rent or use it otherwise.

Mayor Kline clarified that if a meeting that was going to already be here with a council member present, then this motion would allow for use of the chambers for those purposes only.

Mr. Baryak expressed concerns for having a proper scheduling process and spoke against the motion.

Ms. Stimpert stated her belief that the issue of police presence is irrelevant. She reminded Council to suspend council rules if someone who is not a member of council wishes to address Council. She stated that Council should trust those that they appoint to committees, commissions, and boards to use the council chambers responsibly.

Mr. Fetterolf disagreed with Ms. Stimpert and stated that scheduling is an administrative responsibility.

Ms. Spletzer reiterated her concerns with the motion.

Moved by: Mr. Granchie Seconded by: Ms. Stimpert
Ms. Stimpert-yes; Mr. Fetterolf-no; Mr. Baryak-no; Ms. Spletzer-no; Mr.
Granchie-yes
The Motion failed 2-3.

RESOLUTION 36-2022

*Co-Sponsors: Councilperson Baryak
Councilperson Fetterolf*

A RESOLUTION DECLARING IT NECESSARY TO LEVY A FOUR MILL, FIVE YEAR, POLICE TAX LEVY AND DIRECTING THE TRUMBULL COUNTY BOARD OF ELECTIONS TO PLACE THE WITHIN FOUR MILL, FIVE YEAR, ADDITIONAL TAX LEVY, FOR POLICE PURPOSES, ON THE NOVEMBER 8, 2022 GENERAL ELECTION BALLOT

Mr. Baryak stated his belief in freedom of speech. He stated his belief that voters want the chance to vote and stated his support for the resolution.

Mr. Fetterolf stated that he conducted extensive research. He stated that this issue is not about additional taxes, but rather about whether the citizens wish to have a village and a police department. He stated that this levy would fund a three-person department. He warned the voters that the State would cut essential services. He expressed concern that they sheriff department is unable to support the Village given their current staffing. He stated that all the money would go to the police department. He stated that his research leads him to support the resolution and allow the voters to choose.

Ms. Spletzer stated the tax rate and described how to calculate your own tax rate based on the assessed value of your homes. She stated her belief in the role of voters.

Ms. Stimpert stated that she asked on June 7 for essential information related to the police department and has not received that information. She expressed concern that the City Manager and the Police Chief are not present to answer questions. She stated her belief that zero grants have been attempted by the police department to date.

Mrs. Granchie relayed voter concern that the police department hasn't tried to apply for grants. He asked for assurances to protect the levy money from reallocation efforts and stated that he is working on legislation to accomplish that. He expressed his commitment to be a representative of his constituents and believes there is no support for levy in the Village.

Mr. Baryak stated his wishes for the Village to have a police department. He stated that this levy would fund the department. He expressed support for future grants that a new grant writing company will pursue. He expressed disappointment in the previous police chief and city manager who did not pursue grants.

Ms. Stimpert clarified that the new grant writing service, per the City Manager, will not write police grants. She expressed support for first responders, in general.

Ms. Spletzer asked Ms. Stimpert to correct her statement regarding grants. Stimpert reiterated that the fire department writes many grants for many things.

Mr. Fetterolf further expressed support for the resolution citing that this is an inherited problem.

Mr. Granchie stated that he has not heard anyone support a levy. He expressed his concern that a new chief hasn't attempted to write a grant since his hiring. Mayor Kline asked regarding the procedures for writing grants. Mr. Granchie stated that the police department should be held

accountable to help themselves through grant writing before asking the voters to support the department through taxation.

Moved by: Mr. Baryak Seconded by: Mr. Fetterolf
Ms. Spletzer-yes; Mr. Granchie-no; Ms. Stimpert-no; Mr. Fetterolf-yes; Mr. Baryak-yes
The Resolution passed 3-2.

ORDINANCE 2022-36 *Sponsor: Councilperson Spletzer*
AN EMERGENCY ORDINANCE ESTABLISHING VILLAGE FUND 234 TITLED THE
“ONEOHIO OPIOID SETTLEMENT FUND”

Mr. Housley stated that this legislation establishes the fund and attached support for the collections and usage of the money. He stated this is a best practice financially. He stated that three reads can be used; but he wanted to get the blessing to approve the fund so that the money could be used immediately.

Mr. Granchie stated his belief that the money is already received, and thus, not emergency. Mr. Housley concurred that it is not an emergency.

Mr. Baryak spoke in support of the emergency clause so the money can be used immediately.

Ms. Spletzer summarized how the state is allocating money across the state for this purpose. She stated that a little over \$3000 has been received and is awaiting use. She stated that this ordinance creates a revenue fund so that the money can be used. She summarized the allowable uses for the money as noted in Exhibit A.

Mr. Housley stated that past expenditures can be used to spend the money.

Mrs. Stimpert asked for clarification and was advised that this will be a yearly revenue. She asked if an emergency was necessary, and Mr. Housley stated that the money is available immediately regardless of the way this ordinance is passed.

Mrs. Spletzer summarized the requirement for tracking expenses and uses of the money for auditing purposes. She also stated that spending is recommended to be approved by legislation.

Granchie expressed his concern about using the emergency clause and spoke against the emergency clause; but not the ordinance itself.

Moved by: Ms. Spletzer Seconded by: Mr. Baryak
Mr. Fetterolf-yes; Mr. Baryak-yes; Ms. Spletzer-yes; Mr. Granchie-no; Ms. Stimpert-yes

The Ordinance passed 4-1. Passed first reading

Second Reading
Moved by: Mr. Baryak Seconded by: Mr. Fetterolf

Ms. Stimpert-yes; Mr. Granchie-no; Ms. Spletzer-yes; Mr. Baryak-yes; Mr. Fetterolf-yes

The Ordinance passed 4-1. Final passage.

ORDINANCE 2022-37

Sponsor: Councilperson Baryak

AN ORDINANCE AUTHORIZING THE SALE OF A VILLAGE 2013 FORD TAURUS POLICE VEHICLE TO THE NEWTON FALLS JOINT FIRE DISTRICT

Mr. Baryak stated his belief that he was permitted to speak to the Police Chief and discovered that it is a “flood car” that needs a lot of work. He stated he was unaware of the \$1000 benchmark for selling Village property. He spoke in support of the ordinance to keep the car within the Village resources. He asked Mr. Bryan to clarify the one-time exception to the benchmark. Mr. Bryan summarized the exception that this ordinance provides to state law and advised Council that it is a legal action by Council if passed.

Mrs. Stimpert stated her intent to abstain due to her membership on the Fire Board.

Mr. Granchie stated that his research, funded with his own money, does not show that this car is a “flood car” and that the value of the car is much more than \$1500. He produced a set of documents to support his belief that the car is valued at nearly \$8600.

Ms. Spletzer asked Mr. Granchie to clarify how the market value was determined in his report. Mr. Granchie stated that the methodology is in the documents.

Mr. Fetterolf spoke against placing the car on the market and his belief that \$8600 would not be realized for the car. He spoke in support of the transfer for the proposed amount.

Mr. Baryak spoke in support of the sale/transfer to another city department. He questioned the validity of car research tools.

Mrs. Spletzer restated that the Fire Department offered \$1500 and that the car has been driven 129,829 miles

Moved by: Mr. Baryak

Seconded by: Mr. Fetterolf

Ms. Spletzer-yes; Mr. Granchie-no; Ms. Stimpert-abstain; Mr. Fetterolf-yes; Mr. Baryak-yes

The Ordinance passed 3-1.

ORDINANCE 2022-38

Sponsor: Councilperson Granchie

AN ORDINANCE ESTABLISHING SECTION 121.06 OF THE ADMINISTRATIVE CODE PERTAINING TO THE SALE OR DISPOSAL OF MUNICIPAL PERSONAL PROPERTY

Mr. Granchie spoke in support of the Ordinance because it provides necessary clarity to Council for future action.

Ms. Spletzer asked if this is a redundant piece of legislation. Mr. Bryan stated that his research showed that no previous ordinance sets forth the procedures.

Mr. Baryak stated his belief that a similar ordinance was passed in September, 2021 and asked Mr. Bryan to clarify. Mr. Bryan stated that a previous ordinance authorized the disposal of a list of items valued over \$1000, but did not address the sale of property. Mr. Bryan described that this ordinance would give the Village flexibility in procedure and raise the threshold. Mr. Baryak asked if this corrects an oversight from the previous law director. Mr. Bryan assured council that the previous ordinance was legal.

Mr. Granchie clarified that a previous sale of transformers may have been what Council remembers. Mr. Bryan reiterated his previous statements.

Moved by: Mr. Granchie Seconded by: Ms. Stimpert
Ms. Stimpert-yes; Mr. Fetterolf-yes; Mr. Baryak-yes; Ms. Spletzer-yes; Mr. Granchie-yes

The Ordinance passed 5-0.

ORDINANCE 2022-39

Sponsor: Councilperson Granchie

AN ORDINANCE REPEALING ORDINANCE NO. 2022-23, WHICH AUTHORIZED THE CITY MANAGER TO ACCEPT A PROPOSAL FROM GPD GROUP FOR THE RIDGE ROAD DISTRIBUTION POLELINE DESIGN PROJECT

Mr. Granchie spoke in support of the ordinance citing the information that Mr. George provided in the previous caucus and his disbelief that economic development is pending which would justify the expense and effort. He stated his belief that this project is a “bet” that will not pay off for the Village; but rather will cost the Village a tremendous amount of money.

Mr. Baryak spoke against the ordinance. He cited the current expenses of the project and stated that his monitoring of the project has revealed some double billing that has been corrected. He assured Council that the Village is prepared to do the work and stated his belief that an \$80,000 expense is a good price for the project when the future is electric. He stated his belief that there will be many future customers and that the electric department has pledged their commitment to doing the job. He reiterated the need for JEDD with neighboring communities.

Mr. Fetterolf stated his belief that Dunkin Donuts can be an anchor for future development. Citing expenses that have already been made, he expressed support for seeing the project through to support the investment that has already been made.

Mrs. Stimpert referenced her June 7 email request for a Return on Investment (ROI) analysis. She stated that she received no response. She asked if the electric company is making a 50% profit on the electricity. She stated that she does not have enough data to support the project. She spoke in support of the ordinance.

Ms. Spletzer stated that the expense comes from the enterprise fund and the sale

of the annex building will be used to support this expense. She spoke against the ordinance and in support of the project for the future economic development of the Village.

Mr. Baryak further expressed his support for the project citing his belief that the ROI will be there in a shorter time frame than many expect.

Mrs. Stimpert expressed dismay that there is no written plan for the scope of the project.

Mr. Granchie stated his belief that placing a bet with constituent money is a poor decision given a perceived lack of profit margins in the project and his belief that stopping the project would not cost the Village money.

Ms. Spletzer asked Mr. Baryak to clarify some numbers. Mr. Baryak stated that the labor costs are already budgeted by the Village which reduces the overall cost of the project. This occurs because the Village would use its own workers, who are already on the payroll, to do the work.

Moved by: Mr. Granchie Seconded by: Ms. Stimpert
Mr. Baryak-no; Ms. Spletzer-no; Mr. Granchie-yes; Ms. Stimpert-yes;
Mr. Fetterolf-no

The Ordinance failed 2-3.

ORDINANCE 2022-40

Sponsor: Councilperson Baryak

AN EMERGENCY ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH ARCADIS U.S., INC. TO IDENTIFY AND MAP LEAD WATER SERVICE LINES NEEDING REPLACEMENT IN CONNECTION WITH A H2OHIO DIRECT ASSISTANCE PWS OHIO EPA GRANT

Mr. Baryak clarified that the project allows the Village to identify lead pipes that need to be replaced.

Mr. Granchie asked for timeline for the study. Mr. Bryan stated that there is a \$50,000 grant that needs to be used immediately.

Ms. Stimpert asked when notification of the need and or grant money was received. Mr. Bryan stated he was unsure when the grant money was received; but also stated that the Arcadis contract was received one month ago. Ms. Stimpert expressed concern and frustration about waiting a month to place this on the agenda as an emergency.

Moved by: Mr. Baryak Seconded by: Ms. Spletzer
Ms. Spletzer-yes; Mr. Granchie-yes; Ms. Stimpert-yes; Mr. Fetterolf-yes; Mr. Baryak-yes

The Ordinance passed 5-0. Passed first reading

Second Reading

Moved by: Mr. Granchie Seconded by: Ms. Spletzer
Mr. Baryak-yes; Ms. Spletzer-yes; Mr. Granchie-yes; Ms. Stimpert-yes; Mr.
Fetterolf-yes

The Ordinance passed 5-0. Final passage.

ORDINANCE 2022-41 *Sponsor: Councilperson Baryak*
AN EMERGENCY ORDINANCE ESTABLISHING THE RATE OF PAY FOR
DEPARTMENT CREW CHIEFS.

Mr. Granchie asked for the difference between a crew chief and a supervisor.

Mr. Baryak clarified the two positions.

Mr. Granchie asked for the rationale for an emergency clause. Mr. Housley stated that it needs to take effect immediately due to attrition in the department.

Mrs. Stimpert spoke against the ordinance. Mr. Housley clarified that a previous ordinance did not establish the rate of pay for this position. He assured Council that a lot of thought has been applied to the attrition issue and how the role should proceed.

Ms. Spletzer spoke in support of the ordinance citing flaws in the old payroll ordinance.

Mr. Baryak stated the intent of the ordinance is authorize the City Manager to pay a crew chief and it establishes the rate at which to pay that position.

Mr. Fetterolf clarified that the salary is set based on experience and current economic conditions and authorizes the City Manager to set the rate.

Mrs. Stimpert expressed concern and frustration that this ordinance wasn't in place sooner.

Moved by: Mr. Baryak Seconded by: Ms. Fetterolf
Mr. Granchie-yes; Ms. Stimpert-yes; Mr. Fetterolf-yes; Mr. Baryak-yes; Ms.
Spletzer-yes

The Ordinance passed 5-0. Passed first reading

Second Reading

Moved by: Mr. Granchie Seconded by: Ms. Spletzer
Mr. Fetterolf-yes; Mr. Baryak-yes; Ms. Spletzer-yes; Mr. Granchie-yes; Ms.
Stimpert-yes

The Ordinance passed 5-0. Final passage.

XI. Public Comments

Jamie Kline
Mrs. Kline addressed Mr. Fetterolf directly regarding her perception of his

changing stance on raising taxes. She expressed concerns with Council not representing the voters. She addressed Mr. Baryak directly regarding his stance on the pole line project.

Ana Eby - 50 W. 9th Street

Mrs. Eby asked Council for the status of the Lynch lawsuit. She urged Council to share Trumbull County gas aggregation program (844-809-6834) which provides a rate to residents of \$3.99 per thousand square feet (mcf) and she demanded to know why Council did not publicize it.

Adam Zimmermann – 515 Lemae Avenue

He congratulated Mr. Fetterolf on his appointment; but noted the perceived change in stance regarding emergency ordinance and new taxes. He spoke against the City Manager and blamed her for the use of emergency ordinances on tonight's agenda. He spoke in support of the police department despite the expiring grant that is being used to fund it. He stated that a sign ordinance is unconstitutional. He expressed dismay that 20 minutes was spent arguing about whether or not committees, commissions, and/or boards can be trusted use the council chambers. He pointed out that the Fire District is a separate entity from the Village and his belief that it is untrue to say that the sale/transfer of the vehicle to the Fire District is "keeping it in-house".

Jim Luonuansuu – 10 E. Liberty Street

Mr. Luonuansuu addressed Mr. Fetterolf directly regarding the police department and his belief that the Village has too many assets for the department, particularly recently purchased new cruisers. He addressed Ms. Spletzer directly regarding the police levy and how that levy works on tax rates. He thanked Ms. Stimpert for trying to get accurate information to inform her vote and expressed concern that she was unable to do that citing a perceived lack of cooperation from the City Manager. He urged Mr. Bryan to further research past ordinance regarding utility payments by residents and expressed concern that he did not stop Council from voting on the sale of a vehicle when the true value of that vehicle was discrepant among several councilmembers. He expressed support for Mr. Fetterolf and urged him to support councilmembers Granchie and Stimpert in their efforts to gather information and be fully included in the operations of Council. He urged Mr. Fetterolf to no longer support emergency ordinances and he pleaded with the Mayor to not support any member of Council who insults an audience member in open session.

Rick Kerlin – 611 N. Canal Street

Mr. Kerlin spoke in support of Council and the discussion and debate that took place tonight. He clarified that no grant was used to fund the police department; but rather opioid money from the State. He spoke in support of Council giving people the opportunity to vote on a police levy.

Connie Smith Talcott - 136 W. Church Street

Ms. Talcott provided an update regarding the status of the Newton Falls Community Center Project.

An unidentified member of Heritage Accord

She thanked Council for serving the community. She stated that Saturday,

November, 5 will be the 80th Anniversary of the dedication of the Community Center. She provided a history of the building and property to Council and urged them to be present for the Anniversary.

XII. Closing Remarks

Mr. Fetterolf stated his appreciation for past support. He apologized for not making it clear earlier that Council did not pass a tax this evening. He clarified that Council has now provided the opportunity for the voters to decide whether a new tax is desired or not, and ultimately, the people will decide to pass a tax levy or not.

Mr. Baryak stated that there is no intention to keep any person un-informed. He stated his belief that everyone is working together. He stated his belief that the Fire Board is a part of Newton Falls by virtue of the payments that are made by the Village each month to connect the two entities and partially fund the Fire District. He expressed his belief that Council did the right thing by giving the citizens the chance to vote on the police levy and expressed his belief in the value of a joint police district. He reiterated his belief in the poleline design project.

Ms. Spletzer addressed Mr. Luonuansuu and expressed her knowledge regarding millage and tax levy calculations. She urged everyone to make their own calculations and their own determinations as to whether or not a police department is worth, for example, an additional \$12 per month. She reminded everyone that there will be no regular meeting of Council on August 17.

Mr. Granchie stated his appreciation for the discussion and respectful discourse that occurred this evening.

Ms. Stimpert stated that the Fire-Board Meeting – August 23 – 6:00pm – Township building.

Mayor Kline thanked all of Council and the audience for their participation.

MOTION

A Motion to adjourn into Executive Session (as noted below)

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

☒ Appointment

☒ Employment

☒ Dismissal

☒ Discipline

☒ Promotion

☒ Demotion

☒ Compensation

☒ 2. Purchase or Sale of Property

☒ 3. Pending or Imminent Court Action

☐ 4. Collective Bargaining Matters

☐ 5. Matters Required to be Kept
Confidential – Contract Negotiations

☐ 6. Security Matters

☐ 7. Hospital Trade Secrets

☐ 8. Confidential Business Information of an
Applicant for Economic Development Assistance

☐ 9. Veterans Service Commission Applications

No Motion was made by Council.

XIII. Adjournment

MOTION

A Motion to adjourn the regular meeting at 8:50pm.

Moved by: Mr. Granchie

Seconded by: Ms. Spletzer

Mr. Granchie-yes; Ms. Stimpert-yes; Mr. Fetterolf-yes; Mr. Baryak-yes; Ms. Spletzer-yes

The Motion passed 5-0.

APPROVED:

Kenneth Kline, Mayor

ATTEST:

Michael Acomb, City Clerk



NEWTON FALLS CITY COUNCIL
EMERGENCY MEETING MINUTES
Friday, August 19, 2022; 4:00 PM
COUNCIL CHAMBERS
612 WEST BROAD STREET

CITY COUNCIL MEMBERS	
Ward 1	Bud Fetterolf
Ward 2	John Baryak
Ward 3	Tesa Spletzer
Ward 4	Christopher Granchie
At- Large	Julie Stimpert
Mayor	Kenneth Kline

CITY ADMINISTRATION	
City Manager	Pamela Priddy
Law Director	Brad Bryan
Interim Finance Director	Sean Housley
City Clerk	Michael Acomb

I. Call to Order

Mayor Kline called the meeting to order at approximately 4:00 pm.

II. Pledge of Allegiance / Silent Prayer

III. Roll Call

Council Present: Councilperson Fetterolf, Councilperson Baryak, Councilperson Spletzer, Councilperson Granchie, Councilperson Stimpert

Council Absent:

Staff Present: Mayor Kline, City Manager Priddy

Staff Absent: City Clerk Acomb, Law Director Bryan, Finance Director Housley

IV. Unfinished Business

MOTION

A Motion to suspend Council Rules to allow for open discussion between Council and Brian Gorog, Project Engineer for OHM Advisors regarding Resolution 36-2022.

Moved by: Mr. Baryak Seconded by: Mr. Granchie
Mr. Fetterolf-yes; Mr. Baryak-yes; Ms. Spletzer-yes; Mr. Granchie-yes; Ms. Stimpert-yes
The Motion passed 5-0.

The discussion between Council and Mr. Gorog revealed that the intent of the Resolution 36-2022 was to allow the Village apply for a grant. Ms. Spletzer asked and it was confirmed through discussion that once the grant is received, an ordinance will be required to fund the street program. It was also discussed that the city will need to

“match” the grant at an expense of 30% which will likely come from license plate fees and/or zero-interest loans.

MOTION

A Motion to resume Council Rules.

Moved by: Mr. Baryak Seconded by: Ms. Spletzer
Mr. Fetterolf-yes; Mr. Baryak-yes; Ms. Spletzer-yes; Mr. Granchie-yes; Ms.
Stimpert-yes
The Motion passed 5-0.

RESOLUTION 36-2022

Sponsor: Councilperson Baryak

RESOLUTION A RESOLUTION AUTHORIZING OHM ADVISORS TO PREPARE AND
SUBMIT AN APPLICATION ON BEHALF OF THE VILLAGE OF NEWTON FALLS TO
PARTICIPATE IN THE OHIO PUBLIC WORKS COMMISSION STATE CAPITAL
IMPROVEMENT AND/OR LOCAL TRANSPORTATION IMPROVEMENT
PROGRAM(S) AND AUTHORIZING THE CITY MANAGER TO EXECUTE ANY
AGREEMENTS THAT MAY BE NECESSARY AND APPROPRIATE FOR OBTAINING
THIS FINANCIAL ASSISTANCE

Moved by: Mr. Baryak Seconded by: Ms. Spletzer
Mr. Fetterolf-yes; Mr. Baryak-yes; Ms. Spletzer-yes; Mr. Granchie-yes; Ms.
Stimpert-yes
The Resolution passed 5-0.

MOTION

A Motion to adjourn into Executive Session (as noted below)

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

<input checked="" type="checkbox"/> Appointment	<input checked="" type="checkbox"/> Employment	<input checked="" type="checkbox"/> Dismissal	<input checked="" type="checkbox"/> Discipline
<input checked="" type="checkbox"/> Promotion	<input checked="" type="checkbox"/> Demotion	<input checked="" type="checkbox"/> Compensation	

☒ 2. Purchase or Sale of Property

☒ 3. Pending or Imminent Court Action

☐ 4. Collective Bargaining Matters

☐ 5. Matters Required to be Kept
Confidential – Contract Negotiations

☐ 6. Security Matters

☐ 7. Hospital Trade Secrets

☐ 8. Confidential Business Information of an
Applicant for Economic Development Assistance

☐ 9. Veterans Service Commission Applications

No Motion was made.

V. Adjournment

MOTION

A Motion to adjourn the emergency meeting.

Moved by: Mr. Baryak Seconded by: Ms. Spletzer
Mr. Fetterolf-yes; Mr. Baryak-yes; Ms. Spletzer-yes; Mr. Granchie-yes; Ms.
Stimpert-yes

The Motion passed 5-0.

APPROVED:

Kenneth Kline, Mayor

ATTEST:

Michael Acomb, City Clerk

DRAFT

VILLAGE OF NEWTON FALLS, OHIO
ORDINANCE NO.: 2022-37
SPONSOR: Councilperson Baryak

**AN ORDINANCE AUTHORIZING THE SALE OF A VILLAGE 2013 FORD TAURUS
POLICE VEHICLE TO THE NEWTON FALLS JOINT FIRE DISTRICT**

WHEREAS, due to the condition of the vehicle, the City Manager and Council have determined that it is not in the best interests of the Village to expend the funds necessary to maintain and repair a 2013 Ford Taurus Police Department vehicle; and

WHEREAS, as a result of the above, such vehicle is no longer needed for Village purposes; and

WHEREAS, the Newton Falls Joint Fire District ("Joint Fire District") serves Village residents, businesses, and visitors; and

WHEREAS, the Joint Fire District has demonstrated a need for the vehicle and offered the Village \$1,500 for this unwanted vehicle that is in need of repair; and

WHEREAS, Council hereby determines it is in the best interests of the Village to effectuate the sale of this vehicle to the Joint Fire District as specified herein; and

WHEREAS, pursuant to the Home Rule and Local Self-Government Powers vested to the Village by Article XVIII, Section 3 of the Ohio Constitution and Article I, Section 2 of the Village Charter, Council hereby authorizes, by the authority of the within Ordinance, the Village to deviate from the procedures for the sale of personal property with an estimated worth over \$1,000 provided in Section 721.15 of the Ohio Revised Code in favor of selling the property directly to the Joint Fire District.

NOW, THEREFORE, the Council of the Village of Newton Falls, State of Ohio, hereby ordains:

SECTION 1. That Council hereby and herein authorizes the sale of the Village 2013 Ford Taurus Police Department vehicle to the Newton Falls Joint Fire District for the amount of \$1,500. Council also hereby authorizes the City Manager to execute all documents necessary to effectuate this sale and transfer the vehicle as quickly as is practicable.

SECTION 2. That pursuant to the Home Rule and Local Self-Government Powers vested to the Village by Article XVIII, Section 3 of the Ohio Constitution and Article I, Section 2 of the Village Charter, Council hereby authorizes, by the authority of the within Ordinance, the Village to deviate from the procedures for the sale of personal property with an estimated worth in excess of \$1,000 provided in Section 721.15 of the Ohio Revised Code in favor of selling the property directly to the Joint Fire District.

ORDINANCE NO. 2022-37
PAGE TWO

SECTION 3. That all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in an open meeting of this Council, and all deliberations of this Council or any of its committees that resulted in such formal action were taken in meetings open to the public and/or in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 4. That this Ordinance shall be effective as of the earliest date permitted by law.

PASSED IN COUNCIL THIS 7th DAY OF September, 2022

Kenneth A. Kline, Mayor

Attest:

Michael Acomb, Clerk of Council

Approved as to Legal Form.

Bradric T. Bryan, Law Director

VILLAGE OF NEWTON FALLS, OHIO
ORDINANCE NO.: 2022-38
SPONSOR: Councilperson Granchie

**AN ORDINANCE ESTABLISHING SECTION 121.06 OF THE ADMINISTRATIVE
CODE PERTAINING TO THE SALE OR DISPOSAL OF
MUNICIPAL PERSONAL PROPERTY**

WHEREAS, in furtherance of its Home Rule authority and Local Self-Government powers vested in Article XVIII, Section 3 of the Ohio Constitution and Article I, Section 2 of the Newton Falls Charter, Council desires to expand the methods by which it may sell or dispose of personal property that is no longer needed for public use, or personal property for which the Municipality's cost of maintaining the property outweighs the benefits of owning the property; beyond the procedure set forth in Section 721.15 of the Ohio Revised Code; and

WHEREAS, based upon the above, Council desires to establish and enact Section 121.06 of the Administrative Code.

NOW, THEREFORE, the Council of the Village of Newton Falls, State of Ohio, hereby ordains:

SECTION 1. That Council hereby and herein establishes and enacts Section 121.06 of the Administrative Code pertaining to the sale or disposal of Municipal personal property as set forth in attachment hereto and incorporated herein by reference.

SECTION 2. That all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in an open meeting of this Council, and all deliberations of this Council or any of its committees that resulted in such formal action were taken in meetings open to the public and/or in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 3. That this Ordinance shall be effective as of the earliest date permitted by law.

PASSED IN COUNCIL THIS 7th DAY OF September, 2022

Kenneth A. Kline, Mayor

Attest:

Michael Acomb, Clerk of Council

Approved as to Legal Form.

Bradric T. Bryan, Law Director

121.06 AUTHORITY TO SELL OR DISPOSE OF PERSONAL PROPERTY.

(a) Pursuant to its Home Rule authority and Local Self-Government Powers vested in Article XVIII, Section 3 of the Ohio Constitution and Article I, Section 2 of the Newton Falls Charter, Council hereby authorizes the sale or disposition of personal property that is no longer needed for public use, or personal property for which the Municipality's cost of maintaining the property outweighs the benefits of owning the property, by any of the following methods, after Council, by resolution or motion, authorizes such sale or disposition of such personal property:

(1) By requesting sealed bids after a period of at least 10 days after advertising the sale of such property at least one time;

(2) By public auction, whether in person by internet or otherwise, held at least 10 days after advertising the sale of such property at least one time;

(b) Notwithstanding the provisions of subsections (a)(1) and (A)(2) of this ordinance, personal property with a fair market value of less than \$1,500, may be sold, disposed of, or donated, at Council's discretion, without the necessity of a sealed bid or auction. Property that is deemed by Council by ordinance to be a burden on the Municipality and that cannot be sold pursuant to the provisions of this ordinance may be transferred or otherwise disposed of for no compensation, upon authorization from Council.

VILLAGE OF NEWTON FALLS, OHIO

RESOLUTION NO.: 39-2022

CO-SPONSORS: Councilpersons Fetterolf, Baryak, Spletzer, Granchie, Stimpert and Mayor Kline

**A RESOLUTION IN SUPPORT OF THE “SALUTE TO OUR VETERANS” EVENT,
CELEBRATING THE 80th ANNIVERSARY OF THE DEDICATION OF THE NEWTON
FALLS COMMUNITY CENTER, A HISTORIC U.S.O.**

WHEREAS, since prior to WWII, the United Service Organization, “U.S.O.”, has had the exclusive mission of serving the moral, spiritual, recreational, and entertainment needs of American service personnel and civil defense workers; and

WHEREAS, the U.S.O. constitutes an expression of America's continuing concern for its sons and daughters in uniform serving abroad and at home; and

WHEREAS, the Newton Falls Community Center, a historic U.S.O. located at 52 Quarry Street, was the first facility in the nation to be designated to support civil defense workers and served as a principal off duty destination offering entertainment, recreation, child care, and crafts, along with indoor picnics and dances; and

WHEREAS, the Newton Falls Community Center, a historic U.S.O., was the first U.S.O. in the nation to provide 24/7 service and is one of only four known original U.S.O. buildings remaining in the United States; and

WHEREAS, the Newton Falls Community Center, a historic U.S.O., became listed on the National Registry of Historical Places in 2018 and is the only surviving U.S.O. facility of its kind in the State of Ohio; and

WHEREAS, Heritage Accord is a qualified non-profit organization with the sole mission to preserve the Newton Falls Community Center in order to honor its historical use as a U.S.O. and sustain the structural and architectural integrity of this nationally recognized historic property and local community treasure; and

WHEREAS, the Newton Falls Community Center continued to serve the local community for decades after WWII with activities for families, children, adults, and seniors, including on stage musical and theater productions; and

WHEREAS, through the continuing fundraising efforts of Heritage Accord, and a phased restoration process, the Newton Falls Community Center, once reopened, will continue to provide area residents and visitors with a variety of events and services in line with the diverse interests of the community.

NOW, THEREFORE, BE IT ORDAINED, by the Council of the Village of Newton Falls, Ohio:

SECTION 1. That the Mayor and Council express their support for the “A Salute to our Veterans” event, celebrating the 80th Anniversary of the dedication of the Newton Falls Community Center, a Historic U.S.O.

RESOLUTION NO. 39-2022
PAGE TWO

SECTION 2. 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 all deliberations of this Council or any of its committees that resulted in such formal action were taken in meetings open to the public and/or in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 3. That this Resolution shall take effect immediately upon adoption in accordance with Article III, Section 22 of the Charter of Newton Falls.

PASSED BY COUNCIL THIS 7th DAY OF September, 2022.

Kenneth A. Kline, Mayor

Attest:

Michael Acomb, Clerk of Council

Approved as to Legal Form.

Bradric T. Bryan, Law Director

VILLAGE OF NEWTON FALLS, OHIO
RESOLUTION NO.: 40-2022
SPONSOR: Councilperson Baryak

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A REAL
PROPERTY DONATION AGREEMENT WITH NEWTON FALLS DOHP, LLC**

WHEREAS, Newton Falls DOHP, LLC, an Ohio limited liability company hereinafter referred to as "Donor", owns real property in the Village of Newton Falls identified as Parcel No. 53-265296 (the "Property"); and

WHEREAS, Donor desires to donate the Property to Newton Falls, and Newton Falls desires to accept the donation of the Property from Donor, as set forth in the attached Agreement.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of Newton Falls, Ohio:

SECTION 1. That the City Manager is authorized to enter into the attached Real Property Donation Agreement with Newton Falls DOHP, LLC, or an Agreement that is substantially similar thereto, and execute any necessary documents in connection with the within transaction.

SECTION 2. 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 all deliberations of this Council or any of its committees that resulted in such formal action were taken in meetings open to the public and/or in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 3. That this Resolution shall take effect immediately upon adoption in accordance with Article III, Section 22 of the Charter of Newton Falls.

PASSED BY COUNCIL THIS 7th DAY OF September, 2022

Kenneth A. Kline, Mayor

Attest:

Michael Acomb, Clerk of Council

Approved as to Legal Form.

Bradric T. Bryan, Law Director

<p style="text-align: center;">CERTIFICATE</p> <p>I do hereby certify that the foregoing is a true and correct copy of Resolution No. _____ duly passed by the Council of the Village of the City of Newton Falls, Ohio on _____, 20_____.</p>
--

REAL PROPERTY DONATION AGREEMENT

This Real Property Donation Agreement ("Agreement") is entered into as of the "Effective Date" (as defined below) between **NEWTON FALLS DOHP, LLC**, an Ohio limited liability company, whose address is 9010 Overlook Boulevard, Brentwood, TN 37027 ("Donor") and the **CITY OF NEWTON FALLS**, an Ohio municipal corporation, having a mailing address of 612 West Broad Street, Newton Falls, OH 44444 ("Newton Falls" and, together with Donor, collectively, the "Parties" and individually, a "Party").

RECITALS

- A. Donor owns that certain real property situated in the City of Newton Falls, Ohio, identified as Trumbull County, Ohio Auditor's Parcel No. 53-265296, and which is more particularly described in the attached Exhibit A (the "Property");
- B. Donor desires to donate the Property to Newton Falls and Newton Falls desires to accept the donation of the Property from Donor, subject to the terms and conditions of this Agreement; and
- C. Newton Falls acknowledges that the conveyance of the Property by Donor is subject to that certain *Declaration of Easements and Restrictions* recorded at Instrument No. 202004130006544, Trumbull County, Ohio Records and any other easements, covenants, conditions and restrictions of record.

NOW THEREFORE, for good and valuable consideration exchanged, the Parties agree as follows:

- 1. **Due Diligence Contingencies.** Newton Falls' acceptance of the Property shall be subject to the following contingencies ("Contingencies") and Newton Falls shall have sixty (60) days from the Effective Date (the "Contingency Period") by which to perform them at its expense:
 - (a) **Property Inspection/AS IS/WHERE IS Acquisition.**
 - (i) Newton Falls' satisfaction of all aspects of the Property including, without limitation obtaining and reviewing a title insurance commitment for the Property to determine whether Donor's title to the Property is marketable and free from encumbrances, except for permitted encumbrances agreed upon by Newton Falls, and performing such other inspections and tests as Newton Falls deems reasonably appropriate.
 - (ii) Newton Falls and its designees are entitled to access the Property at reasonable times and upon reasonable notice to undertake studies and inspections.
 - (iii) Notwithstanding the results of any Property inspections, Newton Falls acknowledges that the Donor shall convey the Property to Newton Falls in its current **AS IS/WHERE IS CONDITION WITH ALL FAULTS**.
 - (b) **Termination of Agreement.** If any Contingencies are not met to Newton Falls' satisfaction within the Contingency Period or if Newton Falls determines it does not wish to pursue acquisition of the Property for any reason whatsoever, then Newton Falls must deliver written notice to Donor at any time before the last day of the Contingency Period stating that it desires to terminate this Agreement (the "Termination Notice").

Notwithstanding anything to the contrary, if Newton Falls has not completed its due diligence by the end of the Contingency Period, Newton Falls may extend such date, upon written notice received by Donor at least three (3) days prior to the end of the Contingency Period, for an additional thirty (30) days in order to allow Newton Falls additional time to complete the due diligence.

- (c) **Council Approval.** The Newton Falls City Council shall take all necessary steps to authorize the City Manager or other authorized City official to execute this Agreement on behalf of Newton Falls, and, upon satisfaction of the Contingencies, to bind the City to accept the donation contemplated by this Agreement and direct the parties to move forward with the transaction as stated in this Agreement. Said Ordinance shall state the intended use of the Property.
2. **Donor's Obligations.** Within 10 business days after the expiration of the Contingency Period or at a date mutually agreed upon by the Parties, the Parties shall close on the donation (the "Closing"). Donor shall execute and deliver a Quit Claim Deed in the form attached hereto as **Exhibit B** and the additional Closing Documents (as defined in Section 3 below) to Newton Falls or Newton Falls' title company. If Newton Falls intends to use the Property for a public purpose, Donor shall have the right, but not the obligation, to obtain, at its sole cost, an appraisal of the Property. Upon request, Newton Falls shall cooperate with Donor in acknowledging the donation on IRS Form 8283.
3. **Newton Falls' Obligations.** Newton Falls, at its sole cost, will be responsible for preparing the: (i) FIRPTA, (ii) owner title affidavit; (iii) closing statement, and (iv) such other instruments reasonably necessary to close this transaction and to effectuate the conveyance of the Property to Newton Falls (collectively, the "Closing Documents").
4. **Expenses.** Newton Falls shall pay all Closing and title costs charged by the title company and any costs charged by other third parties it employed to complete its due diligence. Newton Falls shall pay all costs and expenses in connection with the transfer and recording of the Quit Claim Deed. Each Party shall pay the legal fees incurred by such Party in connection with the preparation of this Agreement and the Closing.
5. **Taxes.** Donor is responsible for payment of all real estate taxes and the installment(s) of assessments, general or specified, certified to the Trumbull County Auditor prior to and prorated to the date of Closing.
6. **Notices.** Any notice required to be given by either Party, or which either Party may wish to give, will be in writing and by a nationally-recognized overnight delivery service or by registered mail, postage prepaid, to the addresses set forth above, or to such other place as any Party may designate by written notice.
7. **Illegality.** If any term or provision of this Agreement operates or would prospectively operate to invalidate this Agreement in whole or in part, then such term or provision only will be void to the extent of such invalidity, and the remainder of this Agreement will remain in full force and effect.
8. **Waiver.** The waiver by a Party of any breach of this Agreement by the other Party in a particular instance will not operate as a waiver of subsequent breaches of the same or different kind. The failure of a Party to exercise any rights under this Agreement in a particular instance will not operate as a waiver of such Party's right to exercise the same or different rights in subsequent instances.

9. **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties, and supersedes any prior written or oral understandings, with respect to the subject matter hereof. The Parties agree that they have read this Agreement in its entirety, that they have thoroughly discussed all aspects of it with their respective attorneys, and that their agreement to all of its provisions is made freely, voluntarily, and with full knowledge and understanding of its contents.
10. **Effective Date/Time.** The Effective Date of this Agreement shall be the date on which the last of the Parties executes the Agreement. Time is of the essence with respect to each Party's performance of all obligations under this Agreement.
11. **Reliance; Amendments.** Each Party acknowledges and agrees that no representative of the other Party has the authority to make any representations, statements or promises in addition to or in any way different than those contained in this Agreement. However, the Parties acknowledge that Newton Falls is entering into this Agreement solely in reliance upon the performance by the Donor of its obligations hereunder. No changes, amendments or clarifications of any of the terms of this Agreement will be valid or effective unless in writing and signed by an authorized representative of the Party to be bound.
12. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which will be deemed an original and all of which together will constitute one and the same instrument.
13. **Governing Law; Limitations.** This Agreement, all rights and obligations hereunder, and any and all claims arising out of or relating to the subject matter of this Agreement, shall be governed by the laws of the State of Ohio, without regard to its conflict of laws principles. Any legal action between the Parties arising under this Agreement must be filed and thereafter maintained exclusively in a state or federal court located in Trumbull County, Ohio.

[Signature page follows]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

NEWTON FALLS DOHP, LLC,
an Ohio limited liability company

By: Dollar Merchant Fund I, LLC,
a Texas limited liability company,
its sole member

Date: _____

By: _____
Geren Moor, Vice President

CITY OF NEWTON FALLS,
an Ohio municipal corporation

Date: _____

By: _____

Name: _____

Title: _____

Approved as to Form:

Bradric T. Bryan, Law Director

EXHIBIT A

Legal Description of the Property

Situated in the City of Newton Falls, County of Trumbull, State of Ohio and being all of Lot 2 of the Newton Falls DOHP LLC Plat recorded as Plat No. 202002190003314, Trumbull County, Ohio Records.

Exhibit B

Form of Quit Claim Deed

QUIT CLAIM DEED

NEWTON FALLS DOHP, LLC, an Ohio limited liability company, for valuable consideration paid, grants and hereby quit claims to the **CITY OF NEWTON FALLS**, an Ohio municipal corporation, with a tax mailing address of 612 West Broad Street, Newton Falls, OH 44444, the real estate described on the attached Exhibit A (the "Property").

Subject to easements, covenants, conditions and restrictions of record, including, but not limited to, *Declaration of Easements and Restrictions* recorded at Instrument No. 202004130006544, Trumbull County, Ohio Records.

Parcel Number: 53-265296
Property Address: Ridge Road
Newton Falls, Ohio 44444

Prior Deed Reference: Instrument No. 202004130006543
Trumbull County, Ohio Records

Executed on the ____ day of _____, 2022.

[signature page follows]

GRANTOR:

NEWTON FALLS DOHP, LLC,
an Ohio limited liability company

By: Dollar Merchant Fund I, LLC,
a Texas limited liability company,
its sole member

By: _____
Geren Moor, Vice President

STATE OF TENNESSEE)
) SS:

COUNTY OF _____)

This instrument was acknowledged before me on the _____ day of _____, 2022, by Geren Moor, Vice President of Dollar Merchant Fund I, LLC, a Texas limited liability company and the sole member of Newton Falls DOHP, LLC, an Ohio limited liability company, on behalf of the company. This is an acknowledgment certificate. No oath or affirmation was administered to the signer with regard to the notarial act.

Notary Public

My Commission expires:_____

Approved as to Form:

Bradric T. Bryan, Law Director

This instrument was prepared without examination of title by:
Terese M. Wells, Esq.
Frost Brown Todd LLC
3300 Great American Tower
301 East Fourth Street
Cincinnati, Ohio 45202
(513) 651-6800

Exhibit A
[Legal Description of Property]

Situated in the City of Newton Falls, County of Trumbull, State of Ohio and being all of Lot 2 of the Newton Falls DOHP LLC Plat recorded as Plat No. 202002190003314, Trumbull County, Ohio Records.

Parcel No. 53-265296

VILLAGE OF NEWTON FALLS, OHIO
ORDINANCE NO.: 2022-42
SPONSOR: Councilperson Granchie

AN ORDINANCE REPLACING CHAPTER 1151 OF THE ZONING CODE RELATING TO SIGNS

WHEREAS, in light of the United States Supreme Court decisions in *Reed v. Town of Gilbert*, 576 U.S. 155 (2015) and *City of Austin, Texas v. Reagan National Advertising of Austin, LLC*, 596 U.S. ____ (2022), 20-1029; it is necessary to replace the Village Sign Ordinance to bring it into compliance with the current status of the law; and

WHEREAS, based upon the above, Council desires to replace Chapter 1151 of the Village Zoning Code relating to Signs with the attached revised version of Chapter 1151.

NOW, THEREFORE, the Council of the Village of Newton Falls, State of Ohio, hereby ordains:

SECTION 1. That Council hereby and herein repeals the existing version of Chapter 1151 of the Village Zoning Code relating to Signs, as of the effective date of this Ordinance, and replaces it with the attached revised version of Chapter 1151.

SECTION 2. That all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in an open meeting of this Council, and all deliberations of this Council or any of its committees that resulted in such formal action were taken in meetings open to the public and/or in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 3. That this Ordinance shall be effective as of the earliest date permitted by law.

PASSED IN COUNCIL THIS _____ DAY OF _____, 2022

Kenneth A. Kline, Mayor

Attest:

Michael Acomb, Clerk of Council

Approved as to Legal Form.

Bradric T. Bryan, Law Director

CHAPTER 1151 Signs

1151.01 PURPOSES.

- (a) The purposes of these sign regulations are:
 - (1) To encourage the effective use of signs as a means of communication;
 - (2) To maintain and enhance the pleasing look of the municipality;
 - (3) To maintain a community that is attractive to residents and businesses;
 - (4) To protect the municipality from sign clutter and visual blight resulting from excessive, out-of-scale, and redundant signs;
 - (5) To be architecturally compatible with the style, composition, and details of the building and its vicinity and contribute to the character of Newton Falls;
 - (6) To improve pedestrian and traffic safety; and
 - (7) To minimize the possible adverse effects of signs on nearby public and private properties.
- (b) These sign regulations recognize that careful attention to attractive and citizen friendly design is in the economic interest of a municipality, its citizens, and business owners. Attractive and integrated design features tend to improve a municipality's image, raise overall property values, attract new businesses and residents, and improve the quality of life.
- (c) A principal purpose of this chapter is to ensure that signs in the community are compatible with the small-town image sought by Newton Falls and in which the municipality continuously invests.

1151.02 COMPLIANCE; APPLICATION OF CHAPTER.

- (a) Signs shall be designed, erected, altered, reconstructed, moved, and maintained, in whole or in part, in accordance with the provisions of this chapter.
- (b) The construction, erection, safety, and maintenance of all signs shall be in accordance with this chapter, but the provisions of this chapter shall not amend or in any way interfere with the codes, rules, or regulations governing traffic signs.
- (c) The display of official public notices, or the flag, emblem, or insignia of an official governmental body, shall not be governed by the provisions of this chapter.
- (d) The effect of this chapter, as more specifically set forth herein, is:
 - (1) To establish a system to allow a variety of types of signs in residential, commercial, industrial, mixed use, and planned development zones, subject to the standards and the permit procedures of this chapter;
 - (2) To allow certain signs that are small, not obstructive, and incidental to the principal use of the respective properties on which they are located, subject to the substantive requirements of this chapter, but without a requirement for permits;
 - (3) To provide for temporary signs in limited circumstances;
 - (4) To prohibit all signs not expressly permitted by this chapter; and
 - (5) To provide for the enforcement of the provisions of this chapter.

1151.03 DEFINITIONS.

(a) “A-Frame or Sandwich Board Sign.” A sign made of wood, cardboard, plastic, or other lightweight and rigid material having the capability to stand on its own rigid supporting frame in the form of a triangle or an inverted V and being portable and movable. Also known as a Sandwich Board sign.



(b) “Awning Sign.” Any hood or awning made of cloth, metal, flexible plastic, or vinyl or with metal frames attached to a building without ground mounted support.



(c) “Bulletin Board.” An announcement sign which directs attention to and is located on the lot of a public or semipublic institution.

(d) “Canopy Sign.” A sign attached to the soffit or fascia of a canopy, covered entrance, or walkway.



(e) “Changeable Copy Sign.” A sign designed to display multiple or changing messages whether by manual, mechanical, or electronic means. Such signs are characterized by changeable letters, symbols, or numerals that are not permanently affixed to the structure, framing, or background, allowing the letters, characters, or graphics to be modified from time to time manually or by electronic or mechanical devices. Electronically changed signs may include either electronic message boards or digital displays and are defined separately.



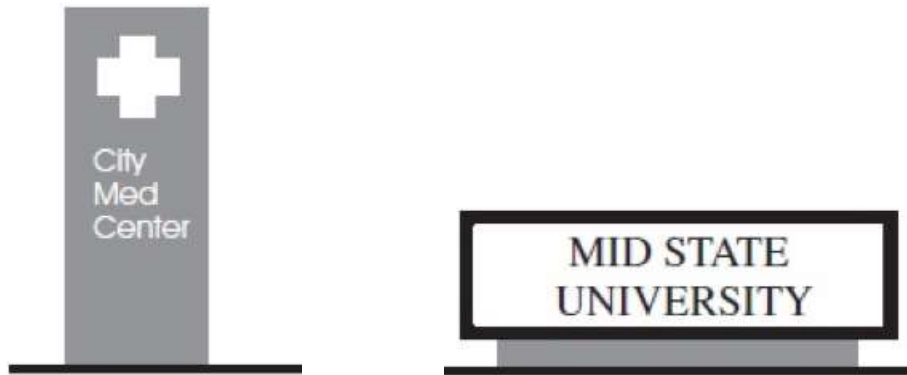
(f) “Dilapidation.” Dilapidation includes any sign where elements of the sign area or background have portions of the finished material missing, broken, peeling, or illegible; where the structural support is visibly bent, broken, dented, rusted, peeling, corroded, or loose; or where the sign or its elements are not in compliance with the adopted electrical code and/or the building code.

(g) “Directional.” A sign indicating a direction or a location to which traffic, whether pedestrian or vehicular, is requested to move within the parcel for the purpose of traffic control and public safety.

(h) “Electronic Sign.” A changeable copy sign for which the text, letters, numbers, pictures, or symbols forming the informational portion of the sign consists of flashing, intermittent, or moving lights, including any LED screen or any other type of video display. This definition does not include signs that have internal or indirect illumination that is kept stationary or constant in intensity and color at all times when such sign is in use or any government sign located within the right-of-way that functions as a traffic-control device and is described and identified in the Ohio Manual of Uniform Traffic-Control Devices.



(i) “Free-Standing Ground Sign.” A stationary sign which is not affixed to a building or supported by a pole or poles. It may be supported from the ground by means of a free-standing wall, monument, two or more support posts at the outside edge, or other structural support system.



(j) “Marquee Sign.” A sign attached to the soffit or fascia of a marquee, to a roof over an entrance, or to a permanent awning.

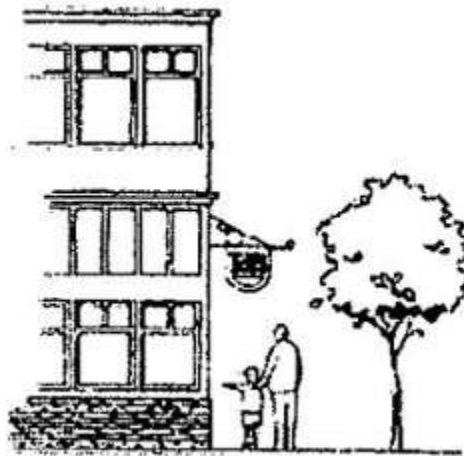


(k) “Permanent Sign.” A sign permanently affixed or attached to the ground or a structure and which cannot be removed without special handling, such as removing or dismantling the foundation or a portion thereof, fasteners, adhesives, or similar materials providing support or structural integrity for the sign.

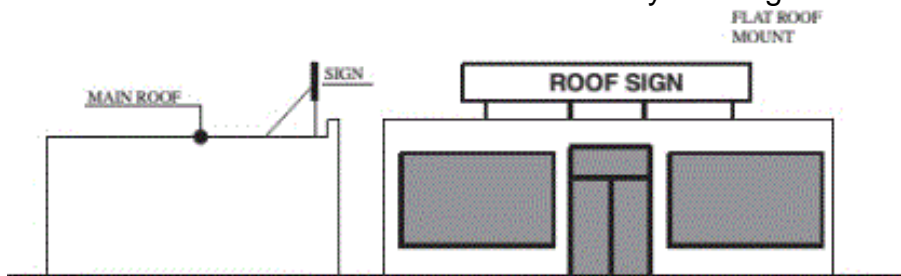
(l) “Pole Sign.” A stationary two-face sign erected on a pole or poles that is wholly independent of any building for support. The faces shall be back-to-back and shall not be more than a foot apart.



(m) “Projecting Sign.” A sign that is attached to the wall of a building and is perpendicular to the flow of either pedestrian or vehicular traffic and has a leading edge extending more than twelve inches beyond the surface of the building.



(n) “Roof Sign.” A sign placed, inscribed, or supported upon a roof or upon any structure which extends above the roof line of any building.



- (o) "Sign." Any display, figure, painting, drawing, placard, poster, or other device, visible from a public way or adjoining property, which is designed, intended, or used to convey a message, advertise, inform, or direct attention to a person, institution, organization, activity, place, object, or product. It may be a structure or a part thereof or it may be painted on or attached directly or indirectly to a structure, material, or object. It may be painted on stone or be formed out of shrubbery.
- (p) "Sign Area." Sign Area for a Freestanding Ground Sign is the space enclosed within the extreme edges of the sign for each sign face, not including the supporting structure. Sign Area for a Wall sign, where it is attached directly to a building wall or surface, is the space within the outline enclosing all the characters of the words, numbers, or design.
- (q) "Sign Face." The entire display surface area of a sign upon, against, or through which copy is placed.
- (r) "Suspended Sign." A sign that is suspended from a canopy or along a pedestrian arcade that would exist without the sign.
- (s) "Temporary." A banner, pennant, poster, or advertising display constructed of paper, cloth, canvas, plastic sheet, cardboard, wallboard, plywood, or other like materials that appears to be intended or is determined by the Zoning Administrator to be displayed for a limited period of time.
- (t) "Wall or Panel Sign." A sign integral with the exterior face of an exterior wall of a building, or attached to the wall or parallel with the wall.
- (u) "Window Sign." A sign painted, attached, or affixed to the interior or exterior surface of a window or door of a building.

1151.04 PROHIBITED SIGNS.

Signs shall be permitted in each use district and regulated as to type, size, and location as provided in this chapter. Unless otherwise specifically permitted herein, the following signs are prohibited in all districts:

- (a) Pennants, ribbons, streamers, strings of light bulbs, spinners, feathered flag banners or signs, or other similar devices;
- (b) Mobile, portable, or wheeled signs;
- (c) Signs placed on parked vehicles or trailers for the purpose of advertising a product or business located on the same or adjacent property, excepting an identification sign which is affixed to a vehicle regularly operated in the pursuance of day-to-day business or activity of an enterprise;
- (d) Inflatable Images;
- (e) Any sign that obstructs or substantially interferes with any window, door, fire escape, stairway, ladder, or opening intended to provide light, air, ingress, or egress to any building;
- (f) Signs containing flashing, moving, intermittent, or running lights or which imitate traffic control devices, provided however, that changeable copy signs shall be permitted as regulated by this ordinance;
- (g) Signs which employ any part or element which revolves, rotates, whirls, spins, flutters, or otherwise makes use of motion to attract attention;
- (h) Beacons or searchlights;
- (i) High intensity strobe lights;

- (j) Signs that hang less than eight and one-half feet above a pedestrian walkway or less than fourteen feet above a vehicular path;
- (k) Window Signs, except as specifically authorized herein;
- (l) Any illuminating tubing or strings of lights, including but not limited to, those outlining property lines, open sales areas, rooflines, doors, windows, landscaping, or the edges of walls, except for perimeter down-lighting that is shielded to illuminate open sales areas but no land outside those areas; and
- (m) Off-Premises signs, which include signs advertising a product or service, including entertainment, whose product or service is not available for sale or performance at the place where the sign is located.

1151.05 PERMIT REQUIRED.

- (a) A zoning permit is required prior to the display, erection, or alteration of any sign, except as otherwise provided in this chapter. Repairs or maintenance not involving structural or electrical changes may be permitted without obtaining a permit. Changes to the support or frame, modifications, or replacement of the sign shall require a permit.
- (b) Routine maintenance or changing parts of signs shall not be considered an alteration of a sign, provided that the maintenance or change of parts does not alter the type of installation, surface area, heights, or otherwise make the sign non-conforming.
- (c) Applications for sign permits shall be made upon forms provided by the Zoning Administrator.
- (d) Upon determining that a sign application is complete and accurate, the Zoning Administrator shall approve the application. Sign applications that are incomplete shall be returned to the applicant for revisions.
- (e) Any sign application that requires a variance shall first be submitted to the Planning and Zoning Commission for consideration.
- (f) The applicant shall obtain all required building permits for sign construction.
- (g) No signs, except highway safety signs, shall extend into any right-of-way.

1151.06 VALIDITY OF PERMIT.

If the work authorized under a sign permit has not been completed within one year after the date of issuance, the permit shall become null and void.

1151.07 FEES.

Fees for sign permits shall be charged in accordance with the schedule of fees adopted by Council.

1151.08 PERMIT REVOCABLE AT ANY TIME.

All rights and privileges acquired under the provisions of this chapter, or any amendment hereto, are mere licenses that are revocable at any time by the Zoning Administrator.

1151.09 REVOCATION.

The Zoning Administrator is hereby authorized to revoke any permit issued by him upon failure of the holder thereof to comply with any provisions of this chapter.

1151.10 FAILURE TO OBTAIN A PERMIT.

Any person who erects, alters, or moves a sign after the effective date of this Chapter without obtaining a permit as required by this section, shall be subject to the penalties and/or remedies provided by Section 1151.99.

1151.11 PERMITS NOT REQUIRED.

Permits are not required for the following signs:

- (a) Signs that are an integral part of the original construction of vending or similar machines, fuel pumps, or similar devices;
- (b) Any official or public notice or warning required by a valid and applicable federal, state, or local law, regulation, or chapter, by a public utility company, or by order of a court of competent jurisdiction;
- (c) Traffic signs such as Stop, Yield, and similar signs that meet Ohio Department of Transportation standards and contain no commercial message;
- (d) Any sign inside a building, not attached to a window or door, that is not visible from off the site on which it is located;
- (e) Any sign inside an athletic field or other enclosed outdoor space, where the sign is not legible from off the site on which it is located;
- (f) Works of art with no commercial message;
- (g) Holiday decorations with no commercial message;
- (h) Signs that are constructed of paper, cloth, or similar expendable material, attached to the inside of a window, do not exceed 8 square feet in sign face area, and do not cover more than 25% of the area of the window pane; and
- (i) Temporary Ground Signs in Residential districts.

1151.12 MEASUREMENT DETERMINATIONS.

The following directives shall be the basis for determining sign area, sign height, and building or tenant frontage.

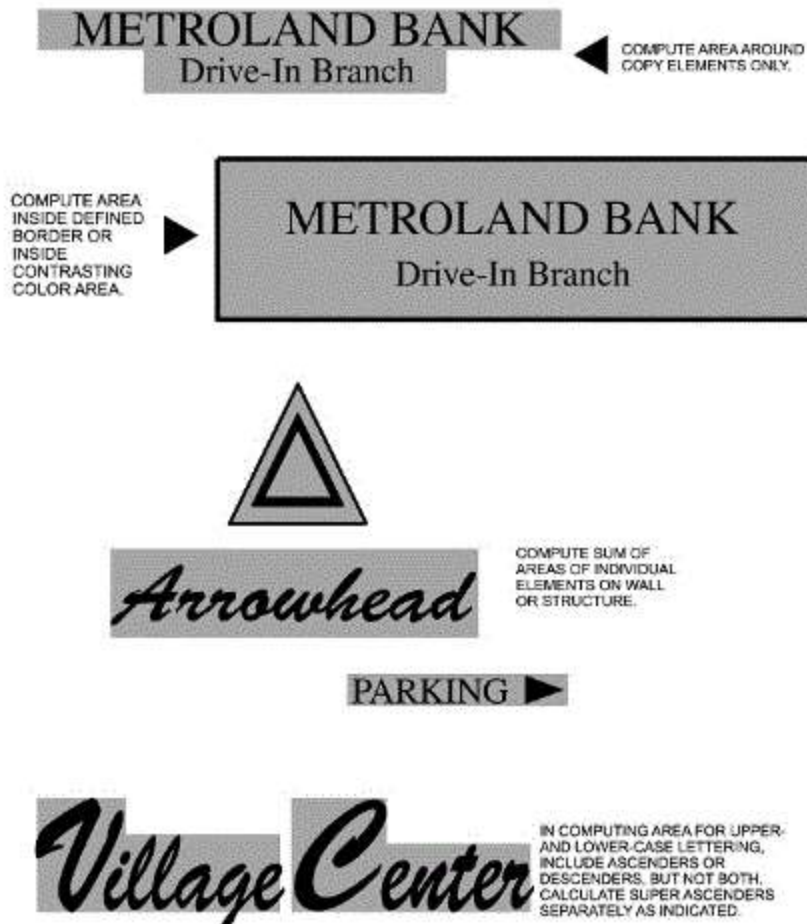
(a) The sign area and dimensions shall include the entire face of the sign from edge to edge, including any frame or structure around the perimeter of the sign.

(1) For a sign comprised of individual letters, figures, or elements on a wall or similar surface of a building or structure, or an irregular shaped free-standing sign, the area of the sign shall be the area of not more than three adjacent regular geometric shapes that encompasses the perimeter of all the elements in the display. Regular geometric shapes are squares, rectangles, circles, ovals, triangles, and trapezoids.

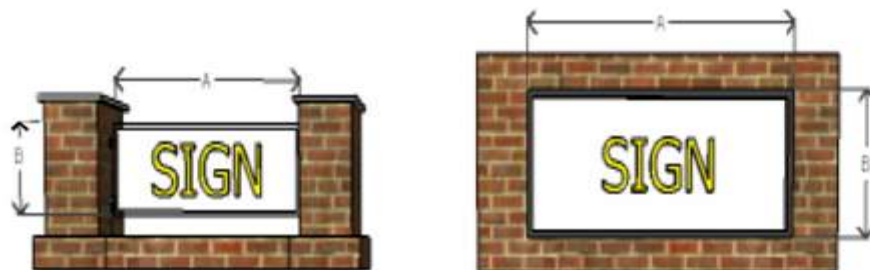
(2) When separate elements are organized to form a single sign but the elements are separated by open space, the area of the sign shall include the space between the elements.

(3) The sign area for a multi-faced sign is calculated based on the principle that all sign elements can be seen at one time or from one vantage point should be considered in measuring that side of the sign.

SIGN AREA—COMPUTATION METHODOLOGY

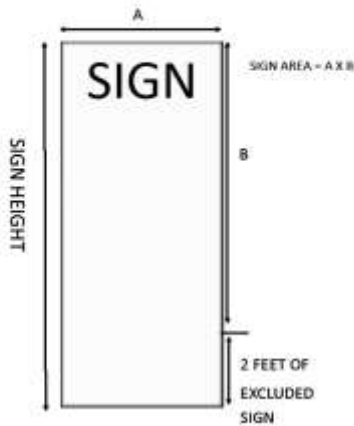


(b) Free-Standing Ground Signs.



(1) The sign area shall be computed by the measurement of one of the faces when two identical display faces are joined, are parallel, or are within 60 degrees of being parallel to each other and are at no point separated by a distance that exceeds two feet.

(2) The portion of a solid sign base, up to a maximum height of two feet, may be excluded from the calculated sign area, provided such base is adequately screened by landscaping.



(c) Projecting Signs. Air between a projecting sign and the wall to which it is attached and detached lighting fixtures and associated brackets shall not be included in the calculation of sign area.

(d) Wall Signs. The area of a wall sign or other sign with only one face shall be computed by the means of the smallest rectangle that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the backdrop or structure against which it is placed, but not including any supportive framework, base, bracing, or decorative fence or wall when such a fence or wall meets the regulations of this chapter and is clearly incidental to the display itself. For a single wall sign on a single-occupant building, all pieces of information or other graphic representations on that wall shall be measured as though part of one sign, encompassed within one rectangle that may not exceed ten percent of the total wall area to which the sign is affixed. For a single wall of a multi-occupant building, the area of signs shall be computed using these principles and the total of all signs shall not exceed ten percent of the total wall area to which the signs are affixed.

(1) A single wall shall mean the entire wall that shares the same architectural elevation as shown on the approved site plan. Architectural elevations are typically defined as the front, sides, and rear of a building.

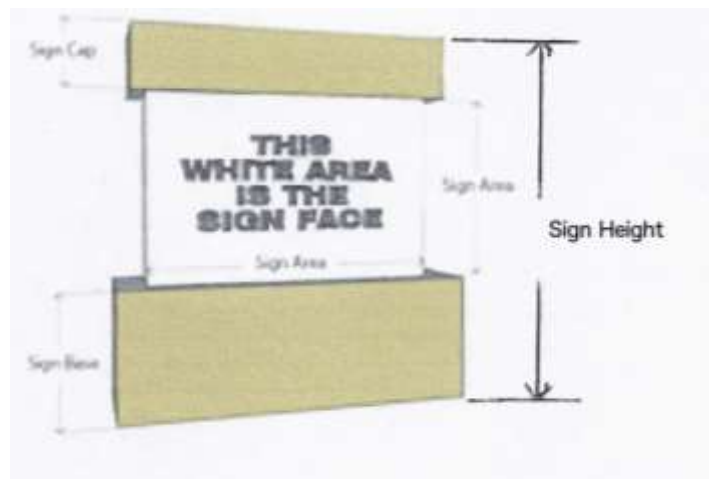
(2) Regardless of whether a single wall has wall sections that project, recess, or otherwise vary from the predominate wall plane, the rectangle shall include all signs that appear on the same architectural elevation.

(3) For multi-occupant buildings with in-line tenants, all signs associated with a given occupant shall be enclosed with a single rectangle for purposes of calculating allowable sign area.

(4) For multi-occupant buildings, where occupants are not aligned in a row (with each occupant having a separate outside entrance), all pieces of information or other graphic representations on that wall which relate to an individual occupant or business within the building shall be measured as though part of one sign. The total area of all

individual signs will be allowed to occupy no more space than ten percent of the total wall area to which the signs are affixed.

(e) Sign Height. The height of a free-standing ground sign shall be measured from the average natural grade at the base of the sign or support structure to the tallest element of the sign or its support structure. A free-standing ground sign on a man-made base, including a graded earth mound, shall be measured from the average site grade prior to any grade change in the area of a sign. In cases where the normal grade is below grade at street level, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public or private street.



(f) Building Frontage and Building Unit. Building frontage shall mean the horizontal length of a building on the side with its principle entrance. If that side has a straight wall, then the building frontage shall be the length of the wall. If the side is not a straight wall, the building frontage shall be the horizontal distance to the corner at one end of the side of the building with the principal entrance to the other corner of the same side of the building; where that side of the building is concave, then the measurement shall be made in a straight line from corner to corner; and where the side of the building is convex or has one or more sections that project in front of the front corners, then the measurement shall be made as the shortest distance between the two lines projected from the two front corners of the building, with such lines parallel to each other and as close as practicable to perpendicular to the front of the building.

1151.13 GENERAL PROVISIONS.

(a) All signs shall be of substantial construction so as to withstand weather conditions such as rain, snow, wind, and freezing and thawing, without deterioration of the sign or its structure. Cloth, paper, or any other temporary materials shall not be permitted on permanent signs.

(b) All signs shall be constructed, erected, and maintained in accordance with the State of Ohio Building Code.

(c) All signs, including temporary signs, shall at all times be maintained in good condition and repair at all times.

(d) Illuminated signs are permitted pursuant to the following regulations:

(1) Signs may be internally illuminated with LED's or similar technology, provided that the sign shall be factory set so that the luminance of the sign shall not exceed a maximum of three foot candles measured ten feet from the sign's face at maximum brightness. Internally illuminated signs shall be equipped with a reduced intensity nighttime setting device activated by photocell or timer.

(2) External illumination of signs shall not be of excessive brightness and shall be designed and shielded so as to prevent glare and minimize light trespass onto adjacent properties and prevent view of the light source from any adjoining residential property and/or vehicles traveling on public rights-of-way. In no instance shall the intensity of the light exceed twenty foot candles at any point on the sign face.

(3) No sign shall be illuminated between the hours of 2:30 a.m. and 5:00 a.m., unless the activity displaying the sign is open for business during those hours. The Zoning Administrator is authorized to grant an exception from the provisions of this section to any activity in which illumination of signs during the hours otherwise proscribed is necessary or desirable for the security and safety of the activity or property.

(e) Electronic message, multiple message, and variable message signs that are changed electronically shall conform to the following standards:

(1) Electronic Message signs shall only be permitted in the C Commercial or Mixed Use Districts;

(2) Each message or copy shall remain fixed for at least eight seconds;

(3) Messages shall not flash, include animation, or emit intermittent light.

(4) Changes to messages, copy, or images shall be accomplished in not more than three seconds;

(5) Changes in the message or display are not permitted between the hours of 12:00 a.m. and 6:00 a.m.;

(6) Each such sign must be capable of regulating the digital display intensity, and the light intensity level of the display must automatically adjust to natural ambient light conditions;

(7) No such sign shall be of such intensity as to create a distraction or nuisance for motorists;

(8) Displays shall not emulate traffic control devices;

(9) Such signs shall contain a default design that will freeze the sign in one position or cause it to go dark if a malfunction occurs;

(10) The entire message shall change at once, without scrolling, animation, flashing, blinking or other movement or noise.

(f) The changeable copy portion of any free-standing ground sign or wall sign shall not exceed seventy-five percent of the total area of the sign.

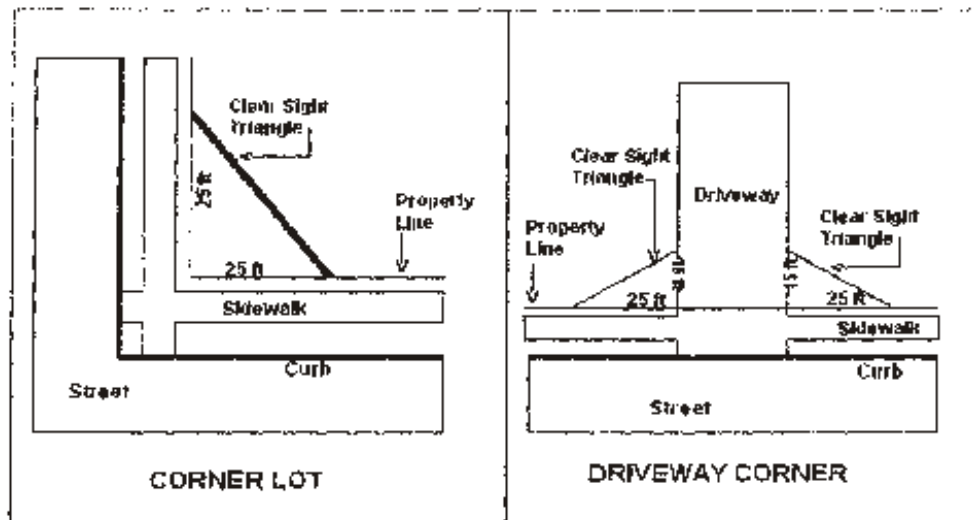
(g) Temporary signs shall not be illuminated.

(h) Signs not visible or intended to be read from off the premises are exempt from these regulations.

(i) All signs shall be erected entirely on private property with no part of said sign extending over the public street or right of way.

(j) Clear Sight Triangle. No sign shall be erected in the clear sight triangle as defined by the Zoning Ordinance. The sight triangle is a triangular-shaped portion of land

established at street intersections and driveways in which nothing is erected, placed, planted, or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection. Dimensions for the clear sight triangle are shown in the following diagram:



(k) All signs shall be maintained in good structural condition, in compliance with all building and electrical codes, and in conformance with this chapter. Specifically:

(1) Any permanent sign, supports, and lighting which advertises a business no longer conducted on the premises, fails to serve the purposes for which it was intended, or evidences a lack of maintenance, shall be removed by the owner, agent, or person having the beneficial use of the building, structure, or land upon which such sign is located. If not removed by the owners or occupants of the property within thirty days of the notice of same, the Zoning Administrator shall cause the signs to be otherwise removed, and the cost of the removal shall be billed to the property owner;

(2) A sign shall have no more than twenty percent of its surface area covered with disfigured, cracked, ripped, or peeling paint, poster paper, or other material for a period of more than thirty days;

(3) A sign shall not stand with bent or broken sign facing, with broken supports, with loose appendages or struts, or more than fifteen degrees from vertical for a period of more than thirty days;

(4) A sign shall not have weeds, trees, vines, or other vegetation growing upon it, or obscuring the view of the sign from the public right-of-way from which it is viewed, for a period of more than thirty days;

(5) An internally illuminated sign shall be allowed to stand with only partial illumination for a period of no more than thirty days;

(6) Flags shall not be faded, tattered, or torn;

(7) Upon determination that a sign is not being maintained, is in poor condition or repair, or is unsafe, the Zoning Administrator may order such sign to be brought into compliance or removed within a specified time period. Should the property owner fail to bring the sign into compliance as directed, the Zoning Administrator may remove (or cause to be removed) or maintain such sign at the expense of the person, firm or corporation who erected the sign or on whose premises it was erected, affixed, or

attached. Each such person, firm, or corporation shall be individually and separately liable for the expense incurred in the removal of the sign. In the event of nonpayment of the removal expenses, the Zoning Administrator may request Council to certify any unpaid removal expenses to the County Auditor for placement on the tax duplicate for the subject property. The Zoning Administrator may also institute an injunction, mandamus, abatement, or other appropriate action or proceeding to prevent, enjoin, abate, or remove such violation.

1151.14 SIGNS PERMITTED IN R-1 and R-2 RESIDENTIAL DISTRICTS.

(a) The following sign regulations are established for residential uses in R-1 and R-2 Residential Districts. No permit shall be required for the following signs unless specifically listed:

(1) Permanent Signs.

- A. One permanent free-standing ground sign not more than eight square feet in area nor four feet in height.
- B. Two permanent free-standing ground signs, neither of which shall be more than four square feet in area nor four feet in height.
- C. One non-illuminated wall sign not to exceed eight square feet.
- D. A permit is required for permanent signs described in this subsection (1).

(2) Temporary Signs.

- A. A total of twelve square feet of temporary signs not more than eight feet in height. No single sign shall be larger than six square feet. The total number of signs is not limited provided the signs are in compliance with the maximum amount of area permitted.
- B. One temporary free-standing sign not exceeding twenty-four square feet in area nor eight feet in height may be erected during active construction of a residence or a residential subdivision development, provided that no such sign shall be displayed after the certificate of occupancy is issued to the residence or 75% of single-family residences associated with the development plan have received a certificate of occupancy.
- C. No permit shall be required for the temporary signs described in this subsection (2).

(3) No sign permitted by this section shall be illuminated.

(4) No sign shall be erected closer than fifteen feet from the pavement of a street, within three feet of any property line, or within the clear sight triangle as defined by Section 1151.13 (j).

(B) The following sign regulations are established for non-residential uses in the R-1 and R-2 Residential Districts. Permits shall be required for the following signs:

(1) Permanent Signs.

A. Freestanding Ground Signs.

- 1. One permanent free-standing sign not more than thirty-six square feet in area nor six feet in height. Such signs are permitted to have up to seventy-five percent of the sign face comprised of changeable copy.
- 2. Two permanent free-standing signs, neither of which shall be more than twelve square feet in area nor four feet in height.
- 3. Two directional signs not more than four square feet in area nor four feet

in height each.

4. Permanent signs permitted by this section may be externally illuminated provided the external illumination of the sign shall not be of excessive brightness and shall be designed and shielded so as to prevent glare and minimize light trespass onto adjacent properties and to prevent view of the light source from any adjoining residential property and/or vehicles traveling on public rights-of-way.

B. Wall Signs.

1. One wall sign per public entrance not to exceed six square feet in area; and
2. Such sign shall may be illuminated only by direct, external illumination.

(2) Temporary Signs. Non-Residential uses shall be allowed a temporary sign, regardless of whether a temporary use permit is required and whether the use is specifically permitted, provided that:

- A. Only one such sign shall be allowed per property at a time;
- B. Such sign shall be located on private property;
- C. Such sign, if a ground sign, shall be limited to eight feet in height and twenty-four square feet in area per side;
- D. Such sign, if attached to a wall, shall be limited to thirty-six square feet in area; and
- E. Such sign shall not be illuminated.

(3) No sign shall be erected closer than fifteen feet from the street right of way line, within three feet of any property line, or within the clear sight triangle defined by section 1151.13(j).

1151.15 SIGNS PERMITTED IN R-M RESIDENTIAL MULTI-FAMILY AND R-MHP RESIDENTIAL MOBILE HOME PARK DISTRICTS.

(a) The following sign regulations are established for residential uses in the R-M Residential Multi Family and R-MHP Residential Mobile Home Park Districts. Permits shall be required for the following signs:

(1) Permanent Signs.

A. Freestanding Ground Signs.

1. One permanent free-standing sign not greater than thirty-six square feet in area nor six feet in height shall be permitted at each entrance to a Multiple Family development.
2. Two permanent free-standing signs, neither of which shall be more than twelve square feet in area nor four feet in height.
3. Two Directional signs not more than four square feet in area nor four feet in height each.
4. Permanent signs permitted by this section may be externally illuminated provided the external illumination of the sign shall not be of excessive brightness and shall be designed and shielded so as to prevent glare and minimize light trespass onto adjacent properties and to prevent view of the light source from any adjoining residential property and/or vehicles traveling on public rights-of-way.

B. Wall Signs.

1. One wall sign per public entrance not to exceed six square feet in area; and
2. Such sign shall may be illuminated only by direct, external illumination.

(2) Temporary Signs.

1. A total of thirty-six square feet of temporary signs not more than six feet in height. No single sign shall be larger than twenty-four square feet. The total number of signs is not limited provided the signs are in compliance with the maximum amount of area permitted.
2. One temporary free-standing sign not exceeding twenty-four square feet in area nor six feet in height may be erected during active construction of a residential development, provided that no such sign shall be displayed for longer than two years.

(3) No sign shall be erected within six feet of any property line or within the clear sight triangle as defined by section 1151.13(j).

(b) The following sign regulations are established for non-residential uses in the R-M Residential Multi-family and R-MHP Residential Mobile Home Park Districts. Permits shall be required for the following signs.

(1) Permanent Signs.

A. Freestanding Ground Signs.

1. One permanent free-standing ground sign not more than thirty-six square feet in area nor six feet in height.
2. Two permanent free-standing signs, neither of which shall be more than twelve square feet in area nor four feet in height.
3. Two Directional signs not more than four square feet in area nor four feet in height each.
4. Permanent Signs permitted by this section may be externally illuminated provided the external illumination of the sign shall not be of excessive brightness and shall be designed and shielded so as to prevent glare and minimize light trespass onto adjacent properties and to prevent view of the light source from any adjoining residential property and/or vehicles traveling on public rights-of-way.

B. Wall Signs.

1. One wall sign per public entrance not to exceed six square feet in area; and
2. Such sign shall may be illuminated only by direct, external illumination.

(2) Temporary Signs.

Non-Residential uses shall be allowed a temporary sign, regardless of whether a temporary use permit is required and whether the use is specifically permitted, provided that:

- A. Only one such sign shall be allowed per property at a time;
- B. Such sign shall be located on private property;
- C. Such sign, if a ground sign, shall be limited to eight feet in height and twenty-four square feet in area per side;
- D. Such sign, if attached to a wall, shall be limited to thirty-six square feet in area; and

- E. Such sign shall not be illuminated.
- (2) No sign shall be erected within six feet of any property line or within the clear sight triangle defined by section 1151.01(j).

1151.16 SIGNS PERMITTED IN THE C-1 CENTRAL BUSINESS DISTRICT, C COMMERCIAL DISTRICT, MIXED USE DISTRICT AND I-1 INDUSTRIAL DISTRICT.

The following sign regulations are established for uses in the C-1 Central Business District, C Commercial District, Mixed Use District, and I-1 Industrial District. Permits are required for all signs.

(a) Permanent Signs.

(1) Freestanding Ground Signs. Freestanding ground signs shall be allowed, provided that:

- A. Ground signs shall not exceed eight feet in height. The maximum size of ground signs shall not exceed forty (40) square feet per side or eighty square feet total;
- B. Such signs shall not be placed in the public right-of-way or within the clear sight triangle as defined in Section 1151.13(j);
- C. Such signs are permitted to have up to seventy-five percent of the sign face comprised of changeable copy;
- D. Both sides of a two-sided ground sign shall be identical; and
- E. There shall be only one ground sign plus one additional ground sign for street frontage on a second public street. An additional third ground sign may be permitted if a multi-occupant project has street frontage on a third public street. These additional signs may be permitted provided that no two ground signs shall be within three hundred feet of each other and actual entrances to the site have been constructed from such streets.

(2) Wall Signs.

- A. The total area of an individual wall sign on a building shall be limited to one and one-half square feet in area for each linear foot of building frontage, and the fact that signs may be permitted on more than one wall of the building shall not increase this maximum; but in no case shall the total area of an individual wall sign be permitted to exceed ten percent of the total wall area to which the sign is affixed;
- B. Such signs are permitted to have up to seventy-five percent of the sign face comprised of changeable copy;
- C. The total number of wall signs shall be limited to two for single tenant and multi-tenant buildings that share a common principal entrance;
- D. No wall sign shall project above the highest point of the building wall on the same side of the building as the sign; this shall include any other signs not affixed directly to such wall;
- E. On a single occupancy building, all signage or message elements on a single elevation shall be considered parts of the same sign and shall be measured by a rectangle surrounding all of them;
- F. On a multi-occupancy building, each occupant with a separate individual outside entrance serving the general public may have a separate wall sign.

- G. Corner tenants with a door or window on their side walls and tenants with a separate outside entrance serving the general public where such entrance is in a different exterior wall from any other entrance shall be allowed one additional wall sign;
- H. Wall signs shall be affixed flat to the wall of the building and not project more than one foot; and
- I. Signs may be illuminated only in conformance with Section 1151.13(d).

(3) Marquee Signs.

- A. Marquee signs shall not exceed an area equal to twenty-five percent of the face of the marquee on which the sign is affixed;
- B. Marquee signs are subject to the same size regulations for wall signs;
- C. Where a marquee and wall sign are used in conjunction with each other, the total square footage of both signs must be added together to determine the total square footage permitted.

(4) Pole Signs. One pole sign per building shall be allowed, provided that such sign shall not exceed sixteen feet in height, and the lowest horizontal projecting feature of the sign shall not be less than eight and one-half feet above grade. The pole sign shall not exceed forty square feet in area. Signs shall not be located closer than five feet to a property line.

(5) Projecting Signs. Projecting signs shall be allowed, provided that:

- A. The number of such signs shall not exceed one per tenant;
- B. The sign area of the signboard shall not exceed six square feet per side and twelve square feet in total;
- C. The height of the top edge of the signboard or bracket shall not exceed the height of the wall from which the sign projects;
- D. No element of the sign shall hang lower than seven feet above the ground or pedestrian walkway;
- E. Since projecting signs may extend over the public right-of-way, they shall be mounted and attached to buildings in a secure manner;
- F. The sign, brackets, and mounting devices shall be maintained in good repair for both safety and appearance;
- G. Such signs shall be mounted so that the method of installation is concealed to the extent practical;
- H. The signboard or bracket shall not project more than three feet from the wall;
- I. Projecting signs may be illuminated indirectly;
- J. Internal illumination is prohibited;
- K. All indirect lighting or spot lighting shall require complete shielding of all light sources so as to illuminate only the face of the sign and prevent glare from off-site;
- L. All lettering and graphics shall be permanent; and
- M. Changeable copy is prohibited.

(6) Awning Signs.

- A. Awning signs shall be allowed, provided that:
- B. On a single-occupant property, one awning sign may be allowed only in lieu of all other signage otherwise permitted on the wall to which the awning is attached;

- C. On a multi-occupant property, one awning sign may be allowed over each occupant entrance, in lieu of other wall signs;
- D. The maximum area of an awning sign shall not exceed twenty percent of the total awning face front and side area; and
- E. Awning signs may be illuminated only with direct surface lighting and not with any form of backlighting when located in a C-1 Commercial District.

(7) Canopy Signs.

Canopy signs are subject to the same size regulations for wall signs and shall not exceed an area equal to ten percent of the canopy.

(8) Suspended Signs. Suspended signs shall be permitted provided that the following requirements are met:

- A. Such signs shall not exceed one per tenant in a multi-tenant building;
- B. Such signs shall not exceed three square feet in area; and
- C. There is a minimum of eight and one-half foot clearance from the bottom of the sign to the ground.

(9) Directional Signs. Free-standing directional signs not exceeding two square feet in area and located not more than four feet above grade shall be permitted at each access drive to the site.

(b) Temporary Signs. Temporary Signs shall be allowed, provided that:

(1) Such signs shall be located only on private property;

(2) Sign permits shall be limited to a duration of thirty days or for a reasonable period of time stated on the temporary use permit. Businesses undergoing a façade change or exterior renovation may have a temporary wall sign for a maximum of ninety days. The Zoning Administrator shall have the authority to extend the duration of the temporary sign permit for new businesses or businesses undergoing exterior renovation for up to a maximum of sixty days;

(3) No more than one temporary sign permit shall be issued within any twelve month period for the same business in the same location;

(4) Such permits for new businesses shall be issued only upon the initial opening of a business for a period that shall end not later than sixty days after issuance of the first business license for that business in that location or from the issuance of a Certificate of Occupancy for that location;

(5) Except as permitted by a temporary use permit, temporary signs shall be attached to and parallel with a wall of the building on which wall signs are permitted and shall not exceed forty square feet in surface area;

(6) Such signs may be made of cloth or canvas and are not subject to the construction and installation requirements otherwise applicable;

(7) Where a temporary use permit specifically authorizes the use of a temporary ground sign, such sign shall not exceed six feet in height and twenty-four square feet in area per side;

(8) There shall be only one temporary ground sign, plus one additional temporary ground sign for street frontage on a second public street. This additional sign may be permitted provided that no two temporary ground signs shall be within three hundred feet of each other and actual entrances to the site have been constructed from such streets; and

(9) Such signs shall not be placed in the public right-of-way or within the clear sight triangle as defined in Section 1151.13(j).

(b) Window Signs.

(1) The total area of all window signs, inclusive of both permanent and temporary, shall not exceed twenty percent of the gross glass area on any one side of the building,

(2) A maximum of two illuminated window signs shall be permitted for each business. Illuminated signs shall meet safety requirements by having a backing and self-contained transformer. All components shall be UL approved.

(c) Sandwich Board Signs. Sandwich board signs shall be allowed as follows:

(1) Only one sandwich board sign per street frontage per business is permitted.

(2) Such signs shall not exceed ten square feet in sign area per side.

(3) Any sandwich board sign shall not exceed two linear feet in width, with a maximum height of five feet. Within these specified maximum dimensions, creative shapes that reflect the theme of the business are encouraged;

(4) The sign must be constructed of materials that present a finished appearance. Rough-cut plywood is not acceptable

(5) The sign lettering should be professionally painted or applied; hand painted or paint stenciled letters are not acceptable, however, chalkboard signs shall be permitted;

(6) The sign shall be located on the same parcel and within six feet of the building exterior of the business installing the sign, and its location shall not interfere with pedestrian or vehicular circulation;

(7) The sign shall be removed at the end of the business day;

(8) Such signs shall only be permitted within a C-1 Commercial or Mixed Use District;

(9) Any person erecting a sandwich board sign shall indemnify and hold harmless the municipality and its officers, agents, and employees, from any claim arising out of the presence of the sign on municipal property or within a public right-of-way.

(10) Signs located on sidewalks or pedestrian paths must provide a minimum of five feet clear area for passage of pedestrians.

(11) No attachments, illumination, banners, balloons, ribbons, flags or moving parts are permitted with the sign.

1151.17 NONCONFORMING SIGNS.

(a) Permanent Signs that were legally in existence prior to the effective date of this chapter, but do not conform to the provisions hereof, may be maintained as a matter of right, provided such signs comply with all provisions relating to safety, maintenance, and repair.

(b) A nonconforming sign shall not be structurally altered, relocated, or replaced unless it is brought into compliance with the provisions of this chapter.

(c) If a sign is damaged to the extent where the repair cost exceeds fifty percent of the replacement cost of the sign, the sign shall be removed and brought into compliance with this Chapter. If the repair costs do not exceed fifty percent of the replacement cost of the sign, the sign may be repaired consistent with the existing design, provided all repair work is completed within sixty days of the date the damage was incurred.

(d) A legal nonconforming sign shall immediately lose its legal nonconforming status, and therefore, shall be brought into conformance with this chapter or removed, when any of the following occur:

- (1) The size or shape of the sign is changed;
- (2) The sign structure is modified; or
- (3) The sign is modified in any way that would increase the degree of nonconformity of such sign.

(e) Notification of all violations shall be made by the Zoning Administrator.

1151.99 PENALTY.

A person convicted of violating this section is guilty of a misdemeanor of the fourth degree and is subject to a fine of not more than \$250 and/or up to 30 days in jail per offense. A company or organization convicted of violating this chapter in accordance with Section 501.11 of the Newton Falls Codified Ordinances shall be guilty of a fourth degree misdemeanor and be subject to the organizational fourth degree misdemeanor financial penalty threshold set forth in Section 501.99(c) of the Newton Falls Codified Ordinances of not more than \$2,000 per offense.

VILLAGE OF NEWTON FALLS, OHIO
ORDINANCE NO.: 2022-43
SPONSOR: Councilperson Baryak

**AN ORDINANCE AMENDING SECTIONS 1149.02 AND 1149.03 OF THE ZONING
CODE RELATING TO RESIDENTIAL ADDICTION SERVICES OR TREATMENT
FACILITIES AND HOUSES**

WHEREAS, in order to provide opportunities for the location of residential addiction services or treatment facilities in the Village, avoid the over-concentration of such facilities, establish the suitability of the requested use at the proposed location, ensure that such facilities are properly certified and licensed, and make sure the residents of such facilities are screened pursuant to Federal and State Law; Council desires to amend Sections 1149.02 and 1149.03 of the Zoning Code.

NOW, THEREFORE, the Council of the Village of Newton Falls, State of Ohio, hereby ordains:

SECTION 1. That Council hereby and herein amends Sections 1149.02 and 1149.03 of the Village Zoning Code relating to residential addiction services and treatment facilities and houses, as set forth in the attachment hereto that is incorporated herein by reference.

SECTION 2. That all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in an open meeting of this Council, and all deliberations of this Council or any of its committees that resulted in such formal action were taken in meetings open to the public and/or in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 3. That this Ordinance shall be effective as of the earliest date permitted by law.

PASSED IN COUNCIL THIS _____ DAY OF _____, 2022

Kenneth A. Kline, Mayor

Attest:

Michael Acomb, Clerk of Council

Approved as to Legal Form.

Bradric T. Bryan, Law Director

1149.02 R-1 and R-2 RESIDENTIAL DISTRICTS.

These residential districts are established as areas in which the principal use of land is for single-family dwellings and for related recreational, religious, and educational facilities normally required to provide an orderly and attractive residential area. The regulations for these districts are intended to discourage any use which, because of its characteristics, would interfere with the development of or be detrimental to the residential nature of the area included in the districts.

(a) Uses Permitted in R-1 & R-2 Residential Districts:

Single-family dwelling with garage

Home occupation (subject to requirements in Section 1153.11)

Temporary building, incidental to the construction of buildings permitted in these districts, and which shall be moved when the work is completed.

Uses and structures customarily accessory to the permitted uses.

(b) Uses Permitted on Review: The following uses may be permitted on review by the Planning and Zoning Commission in accordance with the provisions of Chapter 1159.

Child Care Home

Church

Golf Course, including clubhouse and other improvements

Library

Private recreation area

School, public, parochial, and private

Portable, temporary school classroom

Professional Services

Public/Government buildings and structures

(c) Accessory Building Setback: Accessory buildings may be located in the rear yard provided they are set back not less than five (5) feet from any lot line and occupy not more than 20 percent of the rear yard.

(d) Off-Street Parking: Off-Street parking shall be provided in accordance with the provisions set forth in Section 1153.09.

(e) Minimum Requirements: Residential Lots: See Section 1149.12.

(f) Minimum Requirements: Nonresidential Lots: See Section 1149.12.

(g) Height Limitation: See Section 1149.12.

(h) Single Lots or Adjacent Lots: ~~(i)~~ No fences, garages, or storage sheds will be permitted on a lot that does not already have a primary structure on it (commercial building or residential structure).

(i) Uses Permitted Upon Obtaining a Special Occupancy Permit from the Zoning Administrator:

(1) Residential Withdrawal Management or Addiction Services or Treatment Facility or House: No person may operate a residential withdrawal management or addiction services or treatment facility or house providing accommodations for more than five unrelated persons in a R-1 or R-2 District. Persons operating facilities providing accommodations for one to five unrelated persons must, prior to opening, obtain a Special Occupancy Permit from the Zoning Administrator.

The criteria for receiving and remaining in compliance with the terms of the Special Occupancy Permit are as follows:

- A. Such facility complies with the area, height, yard, and other requirements set forth in the Zoning Code for R-1 and R-2 Districts.
- B. The operator is certified to provide such services by the State of Ohio in accordance with the requirements set forth in Section 5119.35(A) of the Ohio Revised Code or the individual or organization possesses the necessary license, certificate, registration, and/or accreditation set forth in Sections 5119.35(B) or 5119.361 of the Ohio Revised Code and provides proof of same to the Zoning Administrator prior to the issuance of the Special Occupancy Permit and on a yearly basis after the issuance of the Special Occupancy Permit.
- C. The operator and facility are certified and licensed pursuant to Sections 5119.36 and 5119.37 of the Ohio Revised Code, and the facility is not located on a parcel of real estate that is within a radius of five hundred linear feet of the boundaries of a parcel of real estate having situated on it another similar facility, a public or private school, or a child day care center licensed under Chapter 5104 of the Ohio Revised Code. The operator shall be required to provide proof of such aforementioned necessary certifications and licenses to the Zoning Administrator prior to the issuance of the Special Occupancy Permit and on a yearly basis after the issuance of the Special Occupancy Permit.
- D. The facility requires screening of potential residents in accordance with Federal and State Law.

1149.03 R-M RESIDENTIAL, MULTI-FAMILY DISTRICT.

This residential district is established to provide for medium and high population density. The principal use of land is for two-family and multiple-family dwellings, and the recreational, religious, and educational facilities normally required to provide an orderly and attractive residential area are included. The regulations for this district are intended to discourage any use which, because of its character, would interfere with the development of or be detrimental to the residential nature of the area included in the district.

(a) Uses Permitted:

Child care home

Home occupation (subject to requirements of Chapter 1153)

Portable temporary, public, parochial, or private school classroom

Temporary building, incidental to the construction of buildings permitted in this district, and which shall be removed when work is completed

Uses and structures customarily accessory to permitted uses

(b) Uses Permitted on Review: The following uses may be permitted on review in accordance with the provisions contained in Chapter 1159.

Child care center

Church

Golf course, including a clubhouse and other improvements

~~Halfway house~~

Library

Private park and/or playground

School, public, parochial, and private
Portable, temporary school classroom
Professional Services
Public/Government buildings and structures

- (c) Height Limitation: See Section 1149.12.
- (d) Lot Area: See Section 1149.12.
- (e) Dimensional Requirements: See Section 1149.12.
- (f) Accessory Building Setback: Accessory buildings may be located in the rear yard; provided that they are set back not less than 5 feet from any lot line and occupy not more than 20 percent of the rear yard.
- (g) Off-Street Parking: Off-street parking shall be provided in accordance with the provisions set forth in Section 1153.09.
- (h) Residential Withdrawal Management or Addiction Services or Treatment Facility or House: No person may operate a residential withdrawal management or addiction services or treatment facility or house providing accommodations or personal care services for more than thirty persons, exclusive of staff, in a R-M Residential, Multi-Family, Commercial, or Industrial District, as limited by the size of the existing or proposed building and its allocation of space for sleeping quarters. Notwithstanding the forgoing, the Planning Commission may approve a larger maximum number of residents solely for the reason that the proposed facility's economic feasibility is tied to such larger number of residents. Persons operating such facilities must, prior to opening, obtain a Special Occupancy Permit from the Zoning Administrator. The criteria for receiving and remaining in compliance with the terms of the Special Occupancy Permit are as follows:
 - E. Such facility complies with the area, height, yard, and other requirements set forth in the Zoning Code for R-M Residential, Multi-Family, Commercial, or Industrial Districts.
 - F. The operator is certified to provide such services by the State of Ohio in accordance with the requirements set forth in Section 5119.35(A) of the Ohio Revised Code or the individual or organization possesses the necessary license, certificate, registration, and/or accreditation set forth in Sections 5119.35(B) or 5119.361 of the Ohio Revised Code and provides proof of same to the Zoning Administrator prior to the issuance of the Special Occupancy Permit and on a yearly basis after the issuance of the Special Occupancy Permit.
 - G. The operator and facility are certified and licensed pursuant to Sections 5119.36 and 5119.37 of the Ohio Revised Code and is not located on a parcel of real estate that is within a radius of five hundred linear feet of the boundaries of a parcel of real estate having situated on it another similar facility, a public or private school, or a child day care center licensed under Chapter 5104 of the Ohio Revised Code. The operator shall be required to provide proof of such certification and license from the State of Ohio to the Zoning Administrator prior to the issuance of the Special Occupancy Permit and on a yearly basis after the issuance of the Special Occupancy Permit.
 - H. The facility requires screening of potential residents in accordance with Federal and State Law.

~~(i) Halfway House or Community Residential Treatment Center:~~

~~(1) In order to provide opportunity for location of Halfway Houses or Community Residential Treatment Centers, to avoid over concentration of such facilities and to establish the suitability of the requested use at the proposed location, Halfway Houses or Community Residential Treatment Centers require a Special Permit. No application for a Special Permit shall be accepted for review unless accompanied by sufficient documentation from the appropriate licensing or certifying agency determining the need for such a facility at the proposed location. The applicant is responsible for demonstrating compliance with this section.~~

~~(2) The Planning and Zoning Commission shall consider the following criteria in determining whether a location is appropriate for a Halfway House or Community Residential Treatment Center and may attach conditions which it deems to be appropriate to such Special Permit and consistent with the purposes of this ordinance.~~

~~A. The Halfway House or Community Residential Treatment Center shall:~~

- ~~1. Be occupied by not more than thirty (30) residents, exclusive of staff, limited by the size of the existing or proposed building and its allocation of space for sleeping quarters, except that the Commission may approve a larger number solely for the reason that the proposal's economic feasibility is tied to such larger number of residents; and~~
- ~~2. Be located no closer to another similar facility, but occupied by no more than thirty (30) residents, or to a school, nursing home, rest home, home for the aged, than 1,000 feet measured on a straight line radius from the building so used to the building proposed to be used.~~

~~B. Prior to occupancy and continually thereafter the applicant Halfway House or Community Residential Treatment Center shall:~~

- ~~1. Be licensed by a Federal and/or State and/or Local Agency which requires screening potential residents;~~
- ~~2. Be licensed as a rooming house by the appropriate governmental authority;~~
- ~~3. Comply with all federal, state, and local building codes;~~
- ~~4. The applicant is responsible for submitting to the City Manager Zoning Administrator certified copies of all such licensing documents prior to occupancy and thereafter subsequent to renewal.~~

~~C. A Halfway House or Community Residential Treatment Center shall be located only in a R-M, Residential Multi-Family zoning district or in other commercial or industrial zoning districts as defined in these zoning ordinances.~~

VILLAGE OF NEWTON FALLS, OHIO
ORDINANCE NO.: 2022-44
SPONSOR: Councilperson Granchie

**AN ORDINANCE DECLARING IN THE EVENT THE 2022 POLICE TAX LEVY IS
APPROVED BY THE ELECTORATE, COUNCIL'S INTENT TO AUTHORIZE
APPROPRIATIONS IN THE 2023 POLICE BUDGET BEYOND THE FUNDS
GENERATED BY THE POLICE LEVY THAT EQUATES TO NOT LESS THAN
EIGHTY-FIVE PERCENT OF THE FISCAL YEAR 2022 POLICE DEPARTMENT
OPERATING EXPENDITURES**

WHEREAS, a 4 mill Police Levy will be on the November 8, 2022 General Election Ballot for consideration by the electors of the Village; and

WHEREAS, Council desires to express its intent to authorize appropriations in the 2023 Police Budget beyond the funds generated by the Police Levy as set forth in this Ordinance.

NOW, THEREFORE, the Council of the Village of Newton Falls, State of Ohio, hereby ordains:

SECTION 1. That Council hereby and herein declares its intent, in the event the 2022 Police Tax Levy is approved by the electorate, to authorize appropriations in the 2023 Police Budget beyond the funds generated by the Police Levy that equates to not less than eighty-five percent of the fiscal year 2022 Police Department operating expenditures.

SECTION 2. That all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in an open meeting of this Council, and all deliberations of this Council or any of its committees that resulted in such formal action were taken in meetings open to the public and/or in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 3. That this Ordinance shall be effective as of the earliest date permitted by law.

PASSED BY COUNCIL THIS _____ DAY OF _____, 2022

Kenneth A. Kline, Mayor

Attest:

Michael Acomb, Clerk of Council

Approved as to Legal Form.

Bradric T. Bryan, Law Director