

ORDINANCE NO. 55-01

**AN ORDINANCE AMENDING CHAPTER 169 (TREE COMMISSION) OF THE CODIFIED ORDINANCES OF THE CITY OF NAPOLEON, OHIO TO CONFORM WITH THE NEWLY ADOPTED CITY CHARTER CONCERNING THE DUTIES OF THE COMMISSION, TO WIT: §169.02 (COMPOSITION; APPOINTMENT; REMOVAL); §167.04 (MEETINGS NOW "MEETINGS/HEARINGS AND RULES OF THE COMMISSION"); AND REPEALING §169.05 (QUORUM ;ORGANIZATION)**

**WHEREAS**, pursuant to the Charter adopted in the year 2000, Chapter 169 of the Codified Ordinances of the City of Napoleon are required to be amended in order to conform therewith;

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

**Section 1.** That, §169.02 (Composition; Appointment; Removal) of the Codified Ordinances of the City of Napoleon, Ohio is amended and enacted as follows:

"The Tree Commission shall be composed of ~~seven~~ *SIX* members, a majority *EACH* of whom shall be *A* residents *AND QUALIFIED ELECTOR* of the City. Five members shall be appointed by the Mayor, subject to the approval of Council. ~~The sixth member shall be a City employee whose area of work, expertise or interest is the same or similar to that for which the Commission is established. The sixth member shall be appointed by the President of Council and shall be an ex-officio VOTING member. The seventh member shall be a Council person who~~ *ALSO* serves as a member of Council's Municipal Properties, Buildings, Streets, Sidewalks and Cemeteries *LAND USE AND ECONOMIC DEVELOPMENT* Committee, and is appointed by the President of Council; such seventh member shall be an ex-officio member of the Commission. No member of the Commission shall receive, or be entitled to receive, any compensation therefor, *EXCEPT AS MAY OTHERWISE BE PROVIDED BY COUNCIL*. No ex-officio member of the Commission shall receive, or be entitled to receive, any additional compensation therefor. ~~except for the appointed City employee where the City employee is considered hourly.~~

The five members appointed by the Mayor shall be appointed as follows: one for two years, two for three years, and two for four years. Unless the member otherwise vacates the office, members shall serve until their successors are duly appointed and approved by Council. Successors to those members appointed by the Mayor thereafter shall be appointed for terms of four years. ~~The sixth member (City employee) shall serve so long as the person remains a City employee or until removed from said position by the Council President. The seventh~~ *SIXTH* member (Council person) shall serve so long as the person is on Council and appropriate Committee thereof, unless removed by the Council President. Vacancies caused by death, resignation or otherwise shall be filled for the unexpired term in the same manner as original appointments are made.

A term shall be defined as a full term in years as provided in this section. Any member of the City Tree Commission that is found to have three unexcused absences during the calendar year may be removed by the respective appointing authority without right to review. Authorized

absences are predicated upon the permission of the chairperson reflected in the minutes. Further, the respective appointing authority may at any time remove any member from the Commission for misconduct, neglect of duty or malfeasance in office, without right of review."

**Section 2.** That, §169.04 (Meetings/HEARINGS) of the Codified Ordinances of the City of Napoleon, Ohio is amended and enacted as follows:

~~"(a) The Commission of the City shall hold meetings not less often than bi-yearly. All meetings shall be open to the public, unless an executive session is entered into for a proper purpose. Notice of each meeting shall be given to all members of the Commission and to the general public at least 24 hours in advance. Regular meetings are authorized; if regular meetings are established by the Commission, then notice thereof need only be given as required by Chapter 103. Further, if regular meetings are established, then any special meetings of the Commission shall comply with Chapter 103. The secretary of the Commission shall cause any necessary notice, posting or publication to be given to the City Finance Director/designee, in a timely manner, so that such notice, posting or publication can be made.~~

~~"(b) The Commission may, but is not required to, hold its meetings at the City's facilities. The Commission shall have access to and may make use of City personnel, equipment, supplies and other resources to reasonably enable it to carry out its functions as provided in this chapter.~~

MEETINGS/HEARINGS AND RULES OF COMMISSION.

(A) THE COMMISSION IS HEREBY AUTHORIZED TO PROMULGATE RULES AND REGULATIONS GOVERNING ITS MEETINGS OR HEARINGS. THE COMMISSION SHALL SELECT A CHAIRMAN. ALL MEETINGS AND HEARINGS SHALL BE GOVERNED BY THE MINIMUM RULES CONTAINED IN THIS SECTION. ANY ADDITIONAL RULES THAT THE COMMISSION MAY ADOPT SHALL BE ADOPTED BY RESOLUTION OF THE COMMISSION. FOR PASSAGE OF THE COMMISSION RESOLUTIONS, SUCH RESOLUTIONS SHALL REQUIRE ONLY ONE (1) READING PRIOR TO PASSAGE AND AN AFFIRMATIVE VOTE BY A MAJORITY OF ALL CURRENT MEMBERS. AFTER PASSAGE, THE RESOLUTIONS SHALL BE SIGNED BY THE COMMISSION CHAIRMAN OR ACTING CHAIRMAN, WHO IS SELECTED BY THE COMMISSION, AND NEED NOT BE PUBLISHED, BUT SHALL BE FILED IN THE OFFICE OF THE FINANCE DIRECTOR, OR IN THE CASE WHEN A SPECIFIC COUNCIL CLERK EXISTS, THEN IN THE OFFICE OF THE COUNCIL CLERK.

(B) ALL MEETINGS OR HEARINGS OF THE COMMISSION SHALL BE HELD AT THE CALL OF THE CHAIRMAN OF THE COMMISSION AND AT SUCH OTHER TIMES AS THE COMMISSION MAY DETERMINE. THE CHAIRMAN OR FINANCE DIRECTOR, OR IN THE CASE WHEN A SPECIFIC COUNCIL CLERK EXISTS, THEN SUCH CLERK, SHALL NOTIFY ALL MEMBERS OF THE COMMISSION IN ADVANCE OF ALL MEETINGS AND HEARINGS, OF ITS TIME AND PLACE. NO MEETING, HEARING OR ACTION MAY BE TAKEN UNLESS A QUORUM IS PRESENT: A MAJORITY OF ALL CURRENT MEMBERS OF THE COMMISSION CONSTITUTES A QUORUM.

(C) DECISIONS AND RECOMMENDATIONS OF THE COMMISSION SHALL BE REACHED ONLY AFTER A MEETING OR WHEN REQUIRED, A HEARING, AND AFTER

*DUE NOTICE OF ALL MEETINGS AND HEARINGS HAVE BEEN GIVEN TO ALL PARTIES AND INTERESTS; SUCH NOTICE MAY BE SATISFIED BY PUBLICATION WHEN NOT OTHERWISE REQUIRED BY OTHER MEANS.*

*(D) ALL MEETINGS OR HEARINGS SHALL BE OPEN TO THE PUBLIC, EXCEPT AS MAY OTHERWISE BE PERMITTED BY LAW.*

*(E) ALL EVIDENCE AND TESTIMONY SUBMITTED TO THE COMMISSION SHALL BE PUBLICLY PRESENTED, EXCEPT AS MAY OTHERWISE BE PERMITTED BY LAW.*

*(F) THE CHAIRMAN, OR IN THE CHAIRMAN'S ABSENCE, THE ACTING CHAIRMAN, MAY ADMINISTER OATHS AND COMPEL ATTENDANCE OF WITNESSES. IN THE ABSENCE OF THE CHAIRMAN, THE ACTING CHAIRMAN MAY DO ALL OTHER THINGS ASSOCIATED WITH THE DUTIES OF THE CHAIRMAN.*

*(G) THE FINANCE DIRECTOR, OR IN THE CASE WHEN A SPECIFIC COUNCIL CLERK EXISTS, THEN SUCH CLERK, SHALL KEEP A RECORD OF THE PROCEEDINGS OF THE COMMISSION, SHOWING THE VOTE OF EACH MEMBER ON EVERY QUESTION."*

**Section 3.** That, §§ 169.02 and 169.04 of the Codified Ordinances of the City of Napoleon, Ohio as existed prior to the enactment of this Ordinance are repealed; moreover, §169.05 is repealed in its entirety; all other provisions shall remain in effect.

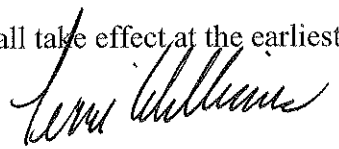
**Section 4.** That, nothing in this Ordinance shall be construed as to limiting the authority of Council to change or eliminate any code numbers for the purpose of codifying or rearranging the code.

**Section 5.** That, membership to said Tree Commission shall continue under the authority of Article XI of the Charter of the City of Napoleon, Ohio.

**Section 6.** That, it is found and determined that all formal actions of this City Council concerning and relating to the adoption of this Ordinance were adopted in open meetings of this City Council, and that all deliberations of this City Council and any of its committees that resulted in such formal actions were in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code and the Codified Ordinances of Napoleon Ohio.

**Section 7.** That, if any other prior Ordinance or Resolution is found to be in conflict with this Ordinance, then the provisions of this Ordinance shall prevail. Further, if any portion of this Ordinance is found to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance or any part thereof.


**Section 8.** That, upon passage, this Ordinance shall take effect at the earliest time permitted by law.



**Terri A Williams, President Pro-Tem**  
Michael J. DeWit, Council President

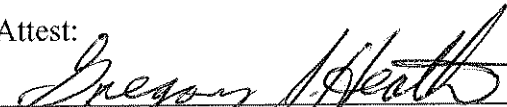
Passed: 6-4-01

Approved: 04 JUNE 2001

  
J. Andrew Small, Mayor

VOTE ON PASSAGE 6 Yea 0 Nay 0 Abstain

Attest:

  
Gregory J. Heath, Clerk/Finance Director

I, Gregory J. Heath, Clerk/Finance Director of the City of Napoleon, do hereby certify that the foregoing Ordinance No. 55-01 was duly published in the Northwest Signal, a newspaper of general circulation in said City, on the 25 day of June, 2001; & I further certify the compliance with rules established in Chapter 103 of the Codified Ordinances Of Napoleon Ohio and the laws of the State of Ohio pertaining to Public Meetings.

  
Gregory J. Heath, Clerk/Finance Director

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