

JACKSON CITY COUNCIL

Regular Session

May 24, 2010

7:00 p.m.

Call to Order..... President Speakman

Pledge of Allegiance..... Mrs. Colby

Opening Prayer..... Mr. Powell

Roll Call

Approval of Minutes

May 10, 2010

VISITORS

COMMITTEE REPORTS:

- o Utility - Brown, Smith, Adams
- o Budget & Finance – Adams, Powell, Elliott
- o Police, Fire & Traffic - Smith, Colby, Elliott
- o Service – Elliott, Colby, Fain
- o Railroad – Fain, Smith, Powell
- o Building/Recreation – Colby, Fain, Brown
- o City Auditor
- o Law Director
- o Mayor
- o Service/Safety Director

ORDINANCES AND RESOLUTIONS

CORRESPONDENCE

OLD BUSINESS

NEW BUSINESS

ADJOURN

JACKSON CITY COUNCIL

Minutes from

May 10, 2010

7:00 p.m.

Regular Session

Jackson City Council met in regular session on Monday, May 10, 2010 at 7:00 p.m. at the Jackson City Council chambers. President Ron Speakman called the meeting to order. The Pledge of Allegiance was given, led by Mr. Fain. The Prayer was given, led by Mr. Powell.

A roll call was taken as follows:

- o Mr. Adams – present
- o Mr. Brown – present
- o Mr. Elliott – present
- o Mr. Smith – present
- o Mr. Fain – present
- o Mr. Powell - present
- o Mrs. Colby – present

Mr. Smith made a motion to approve the minutes of April 26, 2010 regular session, seconded by Mr. Fain. In a voice vote, all Council agreed.

Mr. Fain explained the hat that he was wearing, Ranna Hughes, made the hat from recycled material; it was one of the winners for a contest. The school also left books, Michael Recycle. Mrs. Biggs that Mr. Fain was wearing the best hat. Mrs. Jones thanked the City for allowing the students to be involved and the attention. Mrs. Biggs noted that all winners are on display at the Markay.

VISITORS

COMMITTEE REPORTS

UTILITY – No Report

BUDGET & FINANCE – No Report

Mr. Fain stated that Resolution No. 10-10 is not to be read tonight, please review this is for the buyout.

POLICE, FIRE & TRAFFIC

Mr. Smith asked about the streets off of Beaver Pike, did we get core samples, some one called Mr. Detty to follow up. Mr. Sheward stated he was unsure of the outcome. Mr. Brown understands, they were waiting on core samples. Mayor Heath stated the administration would follow up. Mr. Detty stated core samples are required to meet specs. Mrs. Colby asked Mr. Smith if the fire department issue had been resolved. Mr. Smith stated the administration would have to answer that. Mayor Heath stated hopefully by the next meeting. Mr. Smith stated the fire fighters and the chief had been meeting. Mayor Heath stated we would need core samples before we dedicate the streets. Mr. Detty stated he would have no objection after the samples were provided. Mrs. Colby asked if they found out who owned. Mr. Detty stated part of the plat; we need to determine if this is inside the city or outside. Mr. Smith asked will we accept the streets. Mrs. Colby stated year's earlier council rejected due to no base. Mr. Sheward questioned if that had changed. Mrs. Colby replied no, another person came with street and we required core samples. Mr. Brown stated the subdivision has excellent curbing, lights, drains, no top coat, developers stated this would do the following year. Mr. Sheward stated the city will have to pay for the samples or just reject and ask them to do. Mr. Smith requested that they ask them to do; we have an ordinance with guidelines. Past practice is a problem, there are now streets the city is going to have to pave or require a lot of patching. Mrs. Colby stated she doesn't remember like Mr. Brown, the base is the problem. Mr. Sheward asked what standards we are using; there are specs on the original plat. Mrs. Colby replied per ordinance. Mr. Speakman asked Mr. Detty to research.

SERVICE

Mr. Elliott stated the committee met tonight prior to regular session, discussed a new fee structure and a new ordinance to replace the former. Committee will be making a recommendation on the levy.

RAILROAD

Mr. Fain stated a brief meeting was held last Friday afternoon, Mr. Detty and Mr. Smith was present. Mr. Detty brought the committee up to speed. Mr. Detty replied we can file suit, and they will answer. Mr. Smith asked the spur, saw geo and gravel being put down. Mr. Sheward stated they were back to work today, the location with bad soil; it doesn't take much water to put them out of business. The representative from the company was there to today to install the geo grid, proper installation. We need good weather, they could be finished in about eight to ten days, there is still a month until there deadline. Mayor Heath stated they met with them on Friday, this needs done, and our largest employer needs this rail.

BUILDING/RECREATION -- No Report

CITY AUDITOR

Mrs. Sexton stated the monthly report will be emailed tomorrow.

LAW DIRECTOR

Mr. Detty gave his report, see attached. He suggested an executive session to discuss if council needs more detail on US Rail.

MAYOR

Mayor Heath stated the waste water reported 4.5 inches of rain last Sunday in a 24 hour period. The usual areas rose again, the debris is being cleaned up by community service workers at the ball fields, they are in good shape. The spring cleanup produced about 20 additional tons of garbage; we will still be accepting large items this week. Reminded the public that May 10th the first grass cutting is required. Letters were sent to vacant lot owners. Letters have also been sent to residents who property is cluttered. The speed trailer will be placed out again this week, South Street being the first area. Mayor Heath requested an executive session to discuss employee grievance and contract matters. Mr. Brown what affect the water had on the Diamond area? Mayor Heath stated the usual; water did not get in any houses. Mr. Sheward stated the water was even with the bridge on Main, it did rise about another foot before receding. We were very fortunate the ground was dry. The city was on the verge of major problems, there were five violations on the sewer permit, total \$5000 in fines.

SAFETY/SERVICE DIRECTOR

Mr. Sheward stated Ordinance 33-10 is for overtime for the sewer/water distribution, we had 16 major breaks over the winter and spring that occurred outside normal business hours. Ordinance 34 and 35 are for the Lick/Franklin fire contracts, the trustees requested, no rush, three readings will be fine.

ORINANCES AND RESOLUTIONS

ORDINANCE NO. 26-10

AN ORDINANCE AMENDING THE RULES OF ORDER GOVERNING COUNCIL OF THE CITY OF JACKSON, OHIO, AND DECLARING AN EMERGENCY.

Second Reading

Mr. Heath asked if Mr. Detty brought in line with ORC. Mr. Detty replied, changed a few things, see my report. Mr. Adams stated the ORC doesn't state three. Mr. Detty quoted the section. Mrs. Colby stated there is a difference between statutory and charter.

ORDINANCE NO. 32-10

AN ORDINANCE MOVING APPROPRIATIONS IN THE GENERAL FUND, AND DECLARING AN EMERGENCY.

First Reading

Mr. Brown made a motion to adopt the ordinance, seconded by Mr. Elliott. In a voice vote, all Council agreed.

Mr. Elliott made a motion to suspend the rules, seconded by Mr. Brown. In a roll call vote, Council voted as follows:

Mr. Adams – yes
Mr. Brown – yes
Mr. Elliott – yes
Mr. Smith – yes
Mr. Fain – yes
Mr. Powell - yes
Mrs. Colby – yes

In a roll call vote to adopt, Council voted as follows:

Mr. Adams – yes
Mr. Brown – yes
Mr. Elliott – yes
Mr. Smith – yes
Mr. Fain – yes
Mr. Powell - yes
Mrs. Colby – yes

ORDINANCE NO. 32-10 DULY ADOPTED

ORDINANCE NO. 33-10

AN ORDINANCE APPROVING ADDITIONAL APPROPRIATIONS IN THE WATER DISTRIBUTION FUND AND SEWER COLLECTION FUND, AND DECLARING AN EMERGENCY.

First Reading

Mr. Smith made a motion to adopt the ordinance, seconded by Mr. Fain. In a voice vote, all Council agreed.

Mr. Fain made a motion to suspend the rules, seconded by Mr. Brown. In a roll call vote, Council voted as follows:

Mr. Adams – yes
Mr. Brown – yes
Mr. Elliott – yes
Mr. Smith – yes
Mr. Fain – yes
Mr. Powell - yes
Mrs. Colby – yes

In a roll call vote to adopt, Council voted as follows:

Mr. Adams – yes
Mr. Brown – yes
Mr. Elliott – yes
Mr. Smith – yes
Mr. Fain – yes
Mr. Powell - yes
Mrs. Colby – yes

ORDINANCE NO. 33-10 DULY ADOPTED

ORDINANCE NO. 34-10

AN ORDINANCE AUTHORIZING THE CITY OF JACKSON, OHIO TO ENTER AN AGREEMENT WITH BOARD OF TRUSTEES OF LICK TOWNSHIP, JACKSON COUNTY, OHIO FOR FIRE PROTECTION, AND DECLARING AN EMERGENCY.

First Reading

Mr. Brown made a motion to adopt, seconded by Mr. Smith. In a voice vote, all members agreed.

ORDINANCE NO. 35-10

AN ORDINANCE AUTHORIZING THE CITY OF JACKSON, OHIO TO ENTER AN AGREEMENT WITH BOARD OF TRUSTEES OF FRANKLIN TOWNSHIP, JACKSON COUNTY, OHIO FOR FIRE PROTECTION, AND DECLARING AN EMERGENCY.

First Reading

Mr. Smith made a motion to adopt, seconded by Mr. Brown. In a voice vote, all members agreed.

ORDINANCE NO. 36-10

AN ORDINANCE SETTING WAGE RATES FOR UMPIRES, AND DECLARING AN EMERGENCY.

First Reading

Mr. Adams made a motion to adopt, seconded by Mr. Brown. In a voice vote, all members agreed.

Mayor Heath stated this lowers prices for softball, \$5 per game, puts us in line with other communities. Mr. Brown asked how the rates compared in baseball. Mayor Heath stated the same. Mr. Powell noted that all others increase and softball decreased.

Mrs. Sexton stated they added a third tier. Mayor Heath stated his intent was to only reduce, this can be amended. Mr. Fain asked what this would cost. Mayor Heath was unsure, but no additional funding should be needed, with player registration fees, United Fund money and interest from the tree harvest funds. Mr. Fain asked if there were two per game. Mayor Heath replied two for baseball, one unlicensed, and one for softball. Mr. Speakman asked when it started. Mayor Heath stated this Saturday. Mr. Smith suggested firming up, bring back to the next meeting, this needs a ceiling on it, and you were asked about this in January or February.

RESOLUTION 8-10

A RESOLUTION AUTHORIZING A THEN AND NOW CERTIFICATE, AND DECLARING AN EMERGENCY.

First Reading

Mr. Adams made a motion to adopt the ordinance, seconded by Mr. Brown. In a voice vote, all members agreed.

Mr. Powell asked for an explanation. Mrs. Sexton replied stated there was a requisition, never received the invoice, Fastenal just provided, was not comfortable signing. Mr. Brown stated that Fastenal send monthly statements. Mrs. Sexton stated we do not receive a statement. Mr. Powell asked if they were sent directly to auditor or to the department. Mrs. Sexton stated she was not sure. Mrs. Colby stated there should have been a receipt when picked up. Mrs. Sexton replied a ship ticket. Mrs. Colby stated the law says no purchase order, not purchase; she is not in support of this. Mr. Sheward stated there were po's at the time, just never received the invoices, this has been discussed with Ray Rasp, and if Fastenal cannot provide invoices we can't do business with them. Mrs. Sexton stated one does not have a po. Mr. Sheward stated that does not mean there was not one. Mr. Powell asked how this went on two years. Mayor Heath stated that is a question for Fastenal, the business provided a service in good faith. Mr. Adams asked if we had records from 2008 and 2009. Mr. Sheward explained this is an open account, several invoices, verify by employee. Mrs. Sexton stated that Jeff verified that we owe. Mr. Smith stated we need a receipt; it is there responsibility to provide. Mrs. Colby disagreed with the Mayor; it's a law and our duty. Mr. Powell asked if we had pack slip. Mrs. Sexton replied no, these were faxed to the office on April 16th. Mr. Fain asked if we requested from Fastenal, did they just find. Mrs. Sexton was unsure and would check, will send an email. Mr. Brown was concerned that we have not already paid. Mrs. Sexton stated they had gone back and could not find in the records.

RESOLUTION 9-10

A RESOLUTION AUTHORIZING A THEN AND NOW CERTIFICATE, AND DECLARING AN EMERGENCY.

First Reading

Mr. Brown made a motion to adopt the ordinance, seconded by Mr. Adams. In a voice vote, all members agreed.

Mrs. Colby asked the date of this. Mrs. Sexton replied April 13th. Mrs. Colby questioned the emergency. Mrs. Sexton replied appears this was during the permanent budget, it's possible we were not issuing po's at that time. Mr. Powell stated there was no backup on hand; maybe we need to look at keeping one in stock. Mrs. Colby asked if this were at the Holley/Green station. Mr. Sheward stated Veterans Drive, we own. Mr. Smith asked if it were actually down. Mr. Sheward replied, down, bad bearing, not sure if repairable. Mr. Smith stated most are repairable; it took a week to get, is the pump down or is this on a shelf. Mayor Heath stated Mr. Gambino ordered. Mr. Sheward stated the pump was going down.

Mr. Adams made a motion to suspend the rules, seconded by Mr. Elliott. In a roll call vote, Council voted as follows:

Mr. Adams – yes
Mr. Brown – yes
Mr. Elliott – yes
Mr. Smith – yes
Mr. Fain – yes
Mr. Powell - yes
Mrs. Colby – no

In a roll call vote to adopt, Council voted as follows:

Mr. Adams – yes
Mr. Brown – yes
Mr. Elliott – yes
Mr. Smith – yes
Mr. Fain – yes
Mr. Powell - yes
Mrs. Colby – no

RESOLUTION NO. 9-10 DULY ADOPTED

RESOLUTION NO. 11-10

A RESOLUTION COMMENDING AND THANKING THE LAW ENFORCEMENT OFFICERS OF THE CITY OF JACKSON, OHIO, THOSE CURRENT SERVING, PAST SERVING, AND FALLEN, FOR THEIR BRAVERY, DEDICATION, AND SERVICE TO THE CITIZENS OF THE CITY OF JACKSON, OHIO, AND DECLARING AN EMERGENCY.

First Street

Mr. Fain made a motion to adopt, seconded by Mr. Smith. In a voice vote, all members agreed.

Mr. Detty stated National Police Officer Week is May 9-13.

Mr. Adams made a motion to suspend the rules, seconded by Mr. Fain. In a roll call vote, Council voted as follows:

Mr. Adams – yes
Mr. Brown – yes
Mr. Elliott – yes
Mr. Smith – yes
Mr. Fain – yes
Mr. Powell - yes
Mrs. Colby – yes

In a roll call vote to adopt, Council voted as follows:

Mr. Adams – yes
Mr. Brown – yes
Mr. Elliott – yes
Mr. Smith – yes
Mr. Fain – yes

Mr. Powell - yes
Mrs. Colby - yes

RESOLUTION NO. 11-10 DULY ADOPTED

Mr. Smith made a motion to go into regular session to discuss personnel matter, seconded by Mr. Fain. Requesting that the administration attend. In a roll call vote, all members agreed. Council moved to executive session at 8:12 p.m.

Mr. Brown made a motion to return to regular session, seconded by Mr. Smith. In a voice vote, all members agreed. Council returned to regular session at 8:30 p.m.

CORRESPONDENCE

OLD BUSINESS

NEW BUSINESS

Mrs. Colby made a motion to place the city on a hiring freeze, seconded by Mr. Powell. Mayor Heath questioned Mr. Detty. Mr. Smith asked if this was across the board. Mayor Heath asked what if someone quits at the water plant tomorrow are we just going to shut down the plant. He is not opposed, but may have to act illegally. Mr. Elliott asked for a replacement allowance, but no new hires. Mrs. Colby stated some employees won't need replaced. Mr. Adams stated we are not running the city. Mr. Smith replied we don't want to strap the city. There is no money in the budget for new hires and we have to run the city, we are council it is our job to counsel. Mrs. Colby stated you are wrong, we have the right to impose a freeze, and we are doing nothing to help the city. Mr. Smith stated we are doing things, just not your way. Mr. Sheward stated we could have replaced the mechanic and not told council. We have not hired one new person since the first month of office. Mrs. Colby stated there are five open positions. Mayor Heath stated we are not looking for people, we are not even accepting applications, and you are misleading the people. Mr. Sheward stated you don't trust the administration, we are not taking applications, and there is a sign in the lobby. Mr. Fain asked if there monies in the line items. Mr. Sheward stated no, there is not enough to add a person. Mrs. Colby stated council knows we are going into a crisis, still we have done nothing. Mr. Adams stated I have asked you ten times for answers. Mrs. Colby stated you have not had a meeting. In a roll call vote, Council voted as follows:

Mr. Adams - no
Mr. Brown - no
Mr. Elliott - no
Mr. Smith - no
Mr. Fain - no
Mr. Powell - no
Mrs. Colby - no

The motion made to place the city on a hiring freeze did not pass.

ADJOURN

Mr. Smith made a motion to adjourn, seconded by Mr. Brown. In a voice vote, all Council agreed. Council adjourned at 8:40 p.m.

Tera Brown
Tera Brown
Clerk
Date 5-25-10

Ron Speakman
Ron Speakman
Council President
Date 5/24/10

JOHN L. "JACK" DETTY

Jackson City Law Director

145 Broadway Street

Jackson, Ohio 45640

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Fax: 740-286-3492

jdetty@jacksonohio.gov

Jackson City Council

May 10, 2010

The following is the Report of the Law Director:

• **ORDINANCES AND RESOLUTIONS - NOTES**

- Ordinances No. 32-10- and 33-10 are ordinances pertaining to the budget – moving appropriations and additional appropriations. The Auditor’s Office can address these ordinances.
- Ordinances No. 34-10 and 35-10 are ordinances to renew the fire contracts with Lick Township and Franklin Township. The Service Director can provide additional information on these items.
- Resolutions 8-10 and 9-10 are dreaded Then and Now certificates. . The Auditor’s Office can address these ordinances.
- Resolution 10-10 was prepared at the request of Councilman Fain. This is an ordinance for consideration of implementing an early retirement buyout in the City. Councilman Fain can address this ordinance.
- Resolution No. 11-10 was prepared at the request of Councilman Fain. It is to honor and recognize our law enforcement officers during National Police Week, which is May 9 through May 15.

• **RAILROAD – LAWRENCE COUNTY RE TAXES**

- The Railroad Committee met and at this time we are playing a wait and see game. If and when the Lawrence County Treasurer’s Office files a suit on the delinquent taxes my office will prepare and file an answer. We will present the City’s case in this matter. All of this work will be handled in-house by me personally. No outside expenses will be incurred.

- RAILROAD – City v US Rail Suit

- The local common pleas court has issued an order that the local court has jurisdiction and will be hearing and deciding the City's suit against US Rail.
 - The matter will not be going to a Federal Agency or Board.
- I expect the discovery process to pick up speed and commence in earnest over the next 2 – 3 months.
- US Rail has been successful in getting their corporate charter reinstated, so their counterclaim will remain intact and will be decided by the Court as well.
- As more information becomes available I will update you.

- RAILROAD – Inspections

- This past week the City received documents from US Rail wherein the Federal Railroad Administration (FRA) is proposing the implementation of fines against the Railroad for failure to properly inspect numerous rail crossings on the rail line.
- The fines total approximately \$60,000.00. US Rail has asked for a hearing on the issues. One of the claims of US Rail is that since the rail line is actually owned by the City, then the City, not US Rail should be responsible for any fines.
- This is a specialized area of practice and may require expert legal counsel who specializes in this type of law and practice. I would like to obtain names and quotes to assist the City if need be.
- If anything else on this matter needs to be discussed I would recommend an executive session.

- COUNCIL RULES

- Copies of the rules of Council are attached.
- Notice to members of special meetings requires 12 hours notice, notice to the media for special meetings requires 24 hour notice.
- A copy of R.C. Section 731.46 pertaining to special meetings is also attached.

- MARKAY LEASE

- Per Council's request a copy of the current Markay Lease is attached.

- CAT LEASH LAW

- Per Council's request a copy of the current Cat Leash Law is attached.

*John L. "Jack" Detty
Mayor
City of Markay
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Markay, WA 98298
Phone: 360-438-1234
Fax: 360-438-1235
www.markaywa.gov*

John L. "Jack" Detty

SPONSOR: Edmon/ELLIOT

ORDINANCE NO. 36-09

AN ORDINANCE ESTABLISHING AND ADOPTING RULES OF ORDER GOVERNING COUNCIL OF THE CITY OF JACKSON, AND DECLARING AN EMERGENCY.

WHEREAS, pursuant to Ordinance No. 11-93 Jackson City Council has previously adopted rules for the governing of Jackson City Council; and

WHEREAS, Jackson City Council now desires to update the rules and to enact new rules for the governing of City Council.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF JACKSON, STATE OF OHIO, as follows:

Section One. The Council of the City of Jackson, Ohio, hereby establishes and adopts Rules of Order Governing the Council of the City of Jackson, Ohio. A copy of the Rules of Order Governing the Council of the City of Jackson, Ohio is attached hereto in Exhibit "A", which is attached hereto and made a part hereof. All previous rules of governance shall be null and void and of no effect.

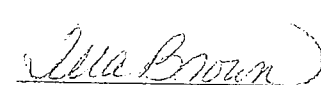
Section Two. This Ordinance is hereby is hereby declared to be an emergency Ordinance necessary for the immediate preservation of the public peace, health, or safety of the City of Jackson, and for the further reason that it is necessary to revise and enact the new Rules of Order Governing the Council of the City of Jackson, Ohio as soon as possible. Therefore, this Ordinance shall go into effect upon passage and approval by the Mayor, as provided in Ohio Revised Code Section 731.30.

Section Three. In the event this Ordinance receives a majority vote for passage but fails to receive the required number of votes to pass as an emergency, then this Ordinance shall be deemed to have passed but with no emergency clause and shall take effect at the earliest time permitted by law.

Section Four. This Council finds and determines that all formal actions of this Council concerning and relating to the passage of this ordinance were taken in an open meeting of this Council and that all deliberations of this Council that resulted in those formal actions were in meetings open to the public, all in compliance with the law.

Date: 4-13-09


PRESIDENT OF COUNCIL


CLERK OF COUNCIL

Approved:

Date: 4-13-09


MAYOR

Exhibit "A"

EXHIBIT A

RULES OF ORDER GOVERNING THE COUNCIL OF THE CITY OF JACKSON, OHIO

I. MEETING: PLACE, TIME OF CONVENING, QUORUM, ORDER OF BUSINESS.

Rule 1. Meetings—place. All meetings of the council shall be held in the council chambers, unless otherwise ordered by the council.

The council chambers will be smoke free.

Rules 2. Meetings—public. All meetings of the council or committees thereof shall be public.

Persons desiring to be heard by the council must notify the clerk no later than Tuesday of the week before the scheduled council meeting they wish to appear to be placed on the council agenda. The person desiring to be heard must state their reason. The time permitted individuals to be heard is at the discretion of the council president or motion by member of council and approved by majority vote.

All minutes and record of the council shall be open to the public at all reasonable times by contacting council clerk. Records shall be kept in council chambers.

The council meetings will be held the second and fourth Monday evening of each month starting at 7:00 p.m. Whenever a meeting falls on a regular holiday, or a day observed as a regular holiday, that meeting may be canceled or rescheduled.

Rule 4. Special Meetings. Special meetings may be called at any time by the mayor, the president of council or any five members upon at least twelve hours written notice to each member of the council, served personally on each member or left at his or her usual place of residence; provided, however, that no such notice need be served on councilperson present at a meeting of council at which the president of council may give oral notice of the time and purpose of a special meeting. Any such notice shall state the subjects to be considered at the meeting, and no other subject shall be considered.

Rule 5. Quorum. A majority of all the members elected to council shall be a quorum to do business.

Rule 6. Order of Business. The business of all regular meetings of council shall be transacted in an order established by Council President and approved by council each year, unless the council by a two-thirds vote shall suspend the rules and change the order.

“Roberts Rules of Order” will be complied with, at all times, unless superseded by the rules outlined in this document or other approved city ordinances.

II. OFFICERS AND EMPLOYEES OF COUNCIL

Rule 7. Presiding officer. The president of council and in his absence the president of council pro tempore, shall preside over the meetings of council.

Rule 8. Council Clerk. The council shall choose a clerk and such officers and employees as may be deemed necessary and legal and fix their compensation on an annual basis. The clerk shall keep record of the council and sub-committees, and he or she shall be the editor of the city record. The clerk shall keep a proper file of all papers and documents which are part of the transactions of the council, of meetings of committees and all orders of the council, and shall make such record available to the public. The clerk shall be secretary to all committees.

III. COMMITTEES OF THE COUNCIL

Rule 9. Standing Committees. Not later than the first meeting of each January, the council president shall appoint four standing committees of which the first named member shall serve as chairman and the second named member as vice chairman. The four committees are 1) Budget and Finance, 2) Utilities, 3) Police and Fire and 4) Service.

Special committees shall be appointed when considered necessary by the president of council or when recommended and approved by a majority of the elected council members.

Rule 10. Committee meetings. A majority of the members of a committee shall constitute a quorum for the transaction of business. Each committee shall meet as required at a time and place fixed by the committee chairman.

Rules 11. Rules of committees. Except in case of obvious inconsistency or inapplicability, committee hearings shall be governed by the rules applicable to council proceedings. Reports of committees will be given by the committee chairman to the full council at the council session following the committee meeting.

IV. DUTIES, PRIVILEGES, AND DECORUM OF MEMBERS

Rule 12. Roll Call of members. Each member shall be in his/her seat at the time of roll call. The clerk shall publish in the city record the names of the members present and absent. Unexcused absences will result in forfeiture of pay for that council session.

Rule 13. Duty to vote. Every member present shall vote on all questions upon the call of the yeas and nays. However no member shall vote on any question in which he/she is financially interested or which in any way involves personal or private rights. To abstain, member must state reason for abstention.

Rule 14. Change of vote. Before the announcement of the vote on any question, the clerk shall read the vote of each member so taken upon the demand of any member, at which time any councilperson on account of error or for any other reason may change his vote; but no councilman shall be permitted to change his vote as recorded after the roll call has been verified and the result declared.

Rule 15. Time limitation of speaking. No member shall be allowed to speak for a longer time than ten minutes at any one time without permission of the council. No member shall speak more than once on the same motion until every other member desiring to speak on that motion shall have had an opportunity to do so, nor shall the mayor nor any other director/department superintendent speak longer than fifteen minutes upon the same motion, ordinance, or question without the consent of the council.

V. MOTIONS

Rule 16. Purpose and form. Motions shall be used only to expedite the orderly transaction of business of the council and shall not be substituted for resolutions or ordinances. The form of all motion shall be "I move that" followed by the substance of the motion. Motions will require a second, and upon demand of any member any motion shall be reduced to writing. Any such motion may be withdrawn by the maker before it has been amended or voted upon. When a motion is made it shall be stated by the presiding officer before any debate shall be in order. All motions which have been entertained by the president of council shall be entered upon the minutes.

VI. ORDINANCES AND RESOLUTIONS

Rule 17. Introduction. Ordinances and resolutions shall be introduced in the council only in printed or written forms, with the name of the member introducing the same endorsed thereon.

Rule 18. Appropriation ordinances. Ordinances making appropriations shall be confined to the subject of appropriations. No money shall be appropriated except by ordinance.

Rule 19. Amendments. It shall be in order to amend an ordinance at any time when not in the hands of a committee. A majority vote of all members elected to council shall be necessary for the adoption of an amendment to any legislation pending before the council.

Rule 20. Adoption. All ordinances and resolutions shall require for passage or adoption a majority vote of all the members elected to council. The vote on their adoption shall be taken by yeas and nays and entered on the records of the meeting except as otherwise provided in the rules.

Rule 21. Signing ordinances and resolutions. All ordinances passed and resolutions adopted by council shall be signed by the president and presented forthwith to the mayor by the clerk.

Rule 22. Action on mayor's veto. When the mayor refuses to sign an ordinance or resolution or part thereof and returns such ordinance or resolution to the council with his objections, the council shall at the next meeting following the meeting at which such vetoed ordinance or resolution is returned, if such meeting shall occur no less than one week after receipt of such ordinance or resolution, proceed to reconsider the same. After adoption of the motion so to reconsider, the questions shall be stated as

follows: "Shall ordinance no. ____ (resolution no. ____) be passed (or adopted) notwithstanding the veto of the mayor. Those voting nay vote to sustain the mayor's veto." If two-thirds of all the members elected to council vote yea such ordinance or resolution vetoed by the mayor shall take effect without his signature.

VII. ADMINISTRATIVE OFFICERS

Rule 23. Attendance expected. The mayor and/or service director shall be expected to attend the regular and special council meetings and shall be provided with seats on the floor of the council chamber. They shall be expected, at any such meeting, to answer such questions relating to the affairs of the city or direct or refer questions by council members to their department superintendents.

VIII. COUNCIL CHAMBER

Rule 24. Use of council chambers. The primary use of the council chambers is for council and committee meeting. With the approval of council, the chambers can be utilized by other groups providing this meeting does not interfere with council activities.

IX. RULES: SUSPENSION AND AMENDMENT

Rule 25. Suspension of rules. Any provision of these rules may be suspended at any meeting of the council by a majority vote of all the members elected, except when a greater number is required by law or by the rules. The vote on any such suspensions shall be taken by yeas and nays and entered upon the records.

Rule 26. Amending rules. These rules may be amended or new rules adopted by a majority vote of all members elected to the council, on the report of committee for such purpose; provided the proposed amendments or new rules shall have been referred to such committee at a preceding meeting.

X. O.R.C.

Rule 27. O.R.C. The Ohio Revised Code supersedes any and all rules.

Ohio Statutes

Title 7. MUNICIPAL CORPORATIONS

Chapter 731. ORGANIZATION

§ 731.46. Meetings of legislative authority

The legislative authority of a municipal corporation shall not be required to hold more than one regular meeting in each week. The meetings may be held at such time and place as is prescribed by ordinance and shall, at all times, be open to the public. The mayor, or any three members of the legislative authority may call special meetings upon at least twelve hours' notice to each member, served personally or left at his usual place of residence.

History. Effective Date: 10-17-1955

Archive

SPONSOR: _____

ORDINANCE NO. 89-05

AN ORDINANCE AUTHORIZING A FIFTEEN YEAR EXTENSION OF THE AGREEMENT BETWEEN THE CITY OF JACKSON, OHIO, AND THE SOUTHERN HILLS ARTS COUNCIL, AND DECLARING AN EMERGENCY.

WHEREAS, on June 11, 1996, the City of Jackson, Ohio and the Southern Hills Arts Council entered into an Agreement whereby the City leased the premises known as the Markay Theatre, Main Street, Jackson, Ohio 45640, to the Southern Hills Arts Council; and

WHEREAS, a term of the original Agreement was for a fifteen (15) year term, with an option to extend for an additional fifteen (15) year term; and

WHEREAS, the parties to the Agreement no desire to amend the Agreement so as to make the original Agreement effective for a period of twenty (20) years from July 14, 2005, and the Agreement may be extended for an fifteen (15) year term.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF JACKSON, STATE OF OHIO, as follows:

Section One. The Mayor and/or City Council President is authorized to enter into an Amendment to the original Agreement between the City of Jackson, Ohio, and the Southern Hills Arts Council, so as to amend items 3 and 4 of the original Agreement to read as follows:

3. This Agreement shall be for a term of twenty (20) years, effective on July 14, 2005. ARTS COUNCIL shall pay CITY an annual rental fee of One Dollar (\$1.00) per year.

4. At the end of the twenty (20) year term in this Agreement, the Agreement may be extended by the ARTS COUNCIL for an additional fifteen (15) year term.

Section Two. This Ordinance is hereby declared to be an emergency Ordinance necessary for the immediate preservation of the public peace, health, or safety of the City of Jackson, in that it is necessary to amend the original agreement as soon as possible to begin the Environmental Review Record for the two projects. Therefore, this Ordinance shall go into effect upon passage and approval by the Mayor, as provided in Ohio Revised Code Section 731.30.

Section Three. In the event this Ordinance receives a majority vote for passage but fails to receive the required number of votes to pass as an emergency, then this Ordinance shall be deemed to have passed but with no emergency clause and shall take effect at the earliest time permitted by law.

Section Four. It is hereby found and determined that all formal actions of this Council relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that the deliberations of this Council that resulted in such formal actions, were in a meeting open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Date: July 27, 2005

James L. Hopkins
PRESIDENT OF COUNCIL

John A. [Signature]
CLERK OF COUNCIL
Acting Clerk

Approved:

Date: 7/27/05

[Signature]
MAYOR

SOUTHERN HILLS ARTS COUNCIL

Box 149, Jackson, Ohio 45640 740-286-6355 shac@zoomnet.net

Shane Goodman
Mayor of Jackson

Dear Shane,

Continuing renovation of the 1930 Markay Theatre, owned by the City of Jackson, and leased by Southern Hills Arts Council has been deemed worthy of continuing fiscal support by the Ohio Legislature. \$200,000 has been granted. The mechanism for release of these funds is through the Ohio Cultural Facilities Commission (OCFC).

Funding is being generated through sale of bonds, anticipated to take place this July 14.

OCFC has assigned Todd O'Donnell as our Project Manager. He has met with Southern Hills and explained in great detail the scope of information and legal documentation required of the Council before the project can be presented to the full Commission Board. The Board meets quarterly. Their next meeting is slated for late August. To qualify we must seek a spot on the agenda no later than mid-July.

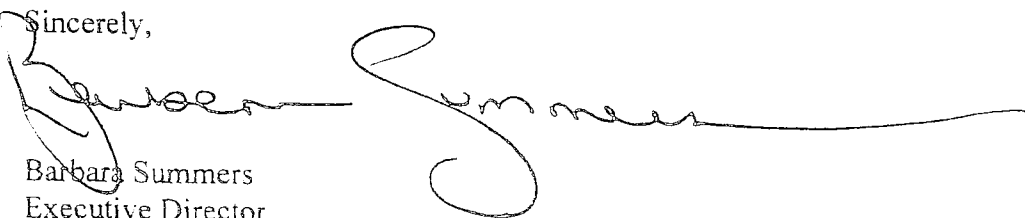
One of the pieces of information that must be submitted to OCFC is assurance that the building remain under the control of Southern Hills, known to OCFC as the Sponsor, for the full term of the bond, a period of 15 years.

Our lease, executed June 11, 1996, is for a fifteen (15) year term which "may be extended by the Arts Council for an additional fifteen (15) year term."

Please clarify the situation and allow Southern Hills to receive the funding for which Senator John Carey and Representative Clyde Evans fought long and hard. OCFC needs to see action by the City of Jackson to either extend for the additional fifteen (15) years or create a lease of greater duration.

Thank You for your prompt attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Barbara Summers", written in a cursive style. The signature is positioned to the right of the word "Sincerely," and above the typed name and title.

Barbara Summers
Executive Director

RECORDED IN 178317

This Agreement is entered into this 11th day of June, 1996.
by and between SOUTHERN HILLS ARTS COUNCIL (hereinafter called
ARTS COUNCIL), and the CITY OF JACKSON, OHIO (hereinafter called
CITY).

WHEREAS, the CITY anticipates to obtain ownership of certain real estate
described in Exhibit "A" (hereinafter sometimes referred to as the "Premises"), attached
hereto and made a part hereof, said property being commonly known as the MARKAY
THEATER; and

WHEREAS, the ARTS COUNCIL is desirous of establishing and operating
a cultural arts center in the Premises; and

WHEREAS, the CITY desires to lease the premises to the ARTS
COUNCIL for the purpose of establishing a cultural arts center.

NOW, THEREFORE, the CITY and the ARTS COUNCIL hereby agree as
follows:

1. CITY hereby leases to the ARTS COUNCIL, and the ARTS
COUNCIL hereby leases from the CITY, the Premises, located on Main Street,
Jackson, Ohio, and commonly known and referred to as the MARKAY THEATRE.

2. The ARTS COUNCIL shall be permitted to use the Premises for the establishment and operation of a cultural arts center. In the event the ARTS COUNCIL fails to open and operate a cultural arts center in the Premises within 12 months after signing this Agreement, then this Agreement shall terminate.

3. This Agreement shall be for a term of fifteen (15) years, effective upon the date CITY obtains actual ownership to the premises. ARTS COUNCIL shall pay CITY an annual rental fee of One Dollar (\$1.00) per year.

4. At the end of the fifteen (15) year term in this Agreement, the Agreement may be extended by the ARTS COUNCIL for an additional fifteen (15) year term.

5. The ARTS COUNCIL shall be responsible for obtaining and paying for adequate insurance on the Premises.

6. The ARTS COUNCIL shall be responsible for the payment of all delinquent real estate taxes, utility expenses, all future real estate taxes, and other related expenses effective from the date of the signing of this Agreement. The CITY shall be responsible for any delinquent city utility bills.

7. In the event the ARTS COUNCIL, after opening a cultural arts center, fails to operate for a period of 120 consecutive days, then this Agreement shall terminate.

8. The Premises shall not be used for commercial purposes as a theater for the viewing of movies. The ARTS COUNCIL may permit movies to be shown as a part of the organization's functions so long as the showing of said movies is noncommercial.

9. In the event the CITY fails to obtain ownership of the Premises then this

Agreement shall terminate.

IN WITNESS WHEREOF, the parties have hereunto set their hands to
duplicates hereof the day and year first above written.

Signed in the Presence of:

CITY OF JACKSON, OHIO

Robin R. Paetker

By:

John T. Evans
JOHN T. EVANS, MAYOR

SOUTHERN HILLS ARTS
COUNCIL

Felicia R. Walls

By:

Margie S. Plummer, President
Southern Hills Arts Council
Approved by all State
Members.

GENERAL WARRANTY DEED - OHIO CORPORATION

KNOW ALL MEN BY THESE PRESENTS

That PLUM RUN DEVELOPMENT, INC., an Ohio corporation organized and existing under the laws of the State of Ohio, and licensed to do business in the State of Ohio, by WILLIAM JOHNSON, its President, having been duly authorized to execute the same, for valuable consideration paid, grants with general warranty covenants to THE CITY OF JACKSON, OHIO, an Ohio Municipal Corporation whose address is 145 Broadway Street, Memorial Building, Jackson, Ohio 45640, the following real property:

See Exhibit "A"

As a part of the consideration for this conveyance the GRANTEE, for the benefit of the GRANTOR, the Grantor's successors and assigns, and every other person who becomes the owner of the land, agrees as follows:

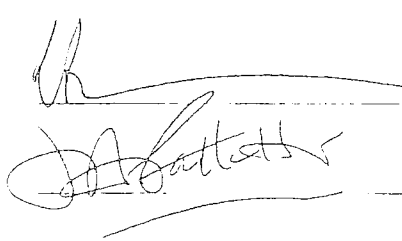
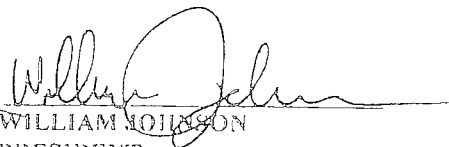
1. The property shall be used as a cultural arts center. If within twelve (12) months from the date of this Deed a cultural arts center fails to open up in the premises, then the property shall revert to and invest in the GRANTOR.
2. If after a cultural arts center opens in and on the property, and the center subsequently fails to operate for a period of 120 consecutive days, then the property shall revert to and invest in the GRANTOR.
3. GRANTEE agrees that the property shall not be used by the GRANTEE, or any of the Grantees lessees, successors, or assigns, for commercial purposes for the viewing of movies. In the event the property should at any time be used for this purpose then the property shall revert to and invest in the GRANTOR. In the event a cultural arts center is established on the property, movies may be shown as a part of that organizations functions so long as the showing of said movies is non-commercial

Prior Instrument Reference: Deed Volume _____, Page _____

IN WITNESS WHEREOF, I, WILLIAM JOHNSON, the said President
of PLUM RUN DEVELOPMENT, INC., duly authorized, hereunto have set my
hand, this 9th day of July in the year of our Lord one
thousand nine hundred and ninety-six (1996).

Signed and acknowledged
in the presence of

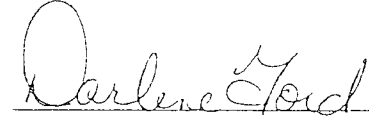
PLUM RUN DEVELOPMENT,
INC.,


By: 
WILLIAM JOHNSON
PRESIDENT

STATE OF OHIO, JACKSON COUNTY, SS.

On this 9th day of July, 1996, before me a Notary Public in
and for said County and State, personally came WILLIAM JOHNSON, to me known to
be the person who executed the foregoing instrument, being first duly sworn. President
of PLUM RUN DEVELOPMENT, INC., the corporation described in and which
executed the foregoing instrument, who states this action is taken with full corporate
authority by resolution of the Board of Directors of that corporation and that this
instrument was executed pursuant to that resolution.

WITNESS my official signature and seal on the day last above mentioned.


DARLENE FORD
NOTARY PUBLIC, STATE OF OHIO
MY COMMISSION EXPIRES MAY 11, 1999
NOTARY PUBLIC

This instrument prepared by:
John L. Detty, Attorney at Law
287 E. Main Street, P. O. Box 642
Jackson, Ohio, 45640.

BRIEF RECAP OF MARKAY RENOVATION

Fall, 1996:

- *Markay property transferred to City of Jackson
- *Southern Hills signs lease with City to renovate, maintain and operate facility, at \$1.00 per year.
- *Joint use agreement signed with University of Rio Grande.

June 1, 1997:

- *Markay Cultural Arts Center opens to the public, after building is stabilized, including extensive roof repair, new wiring & plumbing, interior remodeling, The lobby and foyer are now a Gallery and the commercial space is transformed to multi-purpose room with arts library, handicapped accessible rest room, office, kitchen.

Summer, 1997:

- *As part of Downtown Revitalization, extensive exterior work done, including rewiring marquee, strengthening parapet, tuck pointing, new lintel, replacing facade stone & trim.

Spring, 2000:

- *Space under poured concrete stage cleared of old boiler, etc. New floor poured, dressing rooms for men & women, small common room and bathroom with shower installed.

Fall, 2002:

- *Master Plan for renovation wins Board approval. Since restoration not feasible, interior will retain as much of the Art Deco look from its construction in 1930 as possible. The Deco motif from the front of the building will be replicated on auditorium walls.
- *Midwest Conservation Services, of Cleveland, sends team to stabilize and remove for restoration the six 1940s bas-relief figures from the auditorium walls.

2003:

- *Remaining debris removed from auditorium

Spring, 2004:

- *Bas-Reliefs restored. Warehouse in climate control storage in Cleveland until they are rehung, just prior to opening the auditorium
- *Next phase of construction complete: new ceiling with blown in insulation, preliminary duct work, preliminary electric service, new floor poured, metal stud walls set with double layer of insulation and drywall, box office & technical booth area as well as storage roughed in, base coat of paint applied.

MARKAY CULTURAL ARTS CENTER

Financial Overview: Project is Debt Free

Prepared July, 2004; Next Phase: \$300,000 due to get underway 2005

Revenues Raised Locally

An Evening With The Arts	86,268
Donations: Private, Organizations	55,139
Memorial Contributions	6,031
Raffles, sales, benefits	8,420
Stocks, value at donation	25,909
Total	181,767

Grants

Ohio Arts Council	4,225
Appalachian Public Facilities Task Force	123,000
Governor's Office Of Appalachia	43,000
CDBG (Downtown Revitalization)	74,000
CAP 818-HB850	125,000
CAP 818-HB640	100,000
Total	469,225

TOTAL 650,992

Expenditures

Back Taxes	3,627
Contracted Construction	557,505
Architectural Fees	56,317
Bas-Reliefs	17,580
Insurance	6,268
Miscellaneous	8,286

TOTAL 649,583

CHAPTER 505
Animals and Fowl

<p>505.01 Dogs and other animals running at large.</p> <p>505.02 Impounding and disposition; records.</p> <p>505.03 Annual registration of dogs; tags required.</p> <p>505.04 Abandoning animals.</p> <p>505.05 Killing or injuring animals.</p> <p>505.06 Poisoning animals.</p> <p>505.07 Cruelty to animals generally.</p> <p>505.071 Cruelty to companion animals.</p> <p>505.08 Nuisance conditions prohibited.</p> <p>505.09 Barking or howling dogs.</p>	<p>505.10 Animals bites; reports and quarantines.</p> <p>505.11 Hunting prohibited.</p> <p>505.12 Coloring rabbits or baby poultry; sale or display of poultry.</p> <p>505.13 Bird sanctuary; protection afforded nongame birds.</p> <p>505.14 Rabies control.</p> <p>505.15 Dogs or cats in City Parks.</p> <p>505.16 Report of escape of exotic or dangerous animal.</p> <p>505.99 Penalty.</p>
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CROSS REFERENCES

Owner or keeper liable for damages - see Ohio R.C. 951.10
Dog registration - see Ohio R.C. 955.01

505.01 DOGS AND OTHER ANIMALS RUNNING AT LARGE.

(a) No person being the owner or having charge of cattle, sheep, geese, ducks, turkeys, chickens or other fowl or animals shall permit them to run at large upon any public place, or upon any unenclosed lands, or upon the premises of another.

(b) No person being the owner of or having charge of any dog or cat, whether wearing a registration tag or not, shall permit it to run at large upon any public place or upon the premises of another. No owner, keeper or harbinger of any female dog or cat shall permit such dog or cat to go beyond the premises of such owner or keeper at any time such dog or cat is in heat, unless such dog or cat is properly in leash. The owner or keeper of every dog or cat shall at all times keep such dog or cat either confined upon the premises of the owner or keeper, or under reasonable control of some person.

(c) Any animal which defecates in any public way or land or private property without permission of the owner of such private property is hereby declared a nuisance and prima facie evidence that such owners and keepers are in violation of this section. When the owner or keeper of any animal immediately removes all feces deposited by any animal, and disposes of the same in a sanitary manner, such nuisance shall be considered abated.

(d) The running at large of any such animal in or upon any of the places mentioned in this section is prima-facie evidence that it is running at large in violation of this section.

(e) Whoever violates this section is guilty of a minor misdemeanor.
(Ord. 76-93. Passed 9-13-93.)

505.02 IMPOUNDING AND DISPOSITION; RECORDS.

(a) A police officer or animal warden may impound every animal or dog or cat found in violation of Section 505.01. If the dog or cat is not wearing a valid registration tag and the owner is not otherwise reasonable determined, notice shall be posted in the pound or animal shelter both describing the dog or cat and place where seized and advising the unknown owner that unless the dog or cat is redeemed within three days, it may thereafter be sold or destroyed according to law.

If the dog or cat is wearing a valid registration tag or the identity of the owner, keeper or harbinger is otherwise reasonable determined, notice shall be given by certified mail to such owner, keeper or harbinger that the dog or cat has been impounded and unless redeemed within fourteen days of the date of notice, it may thereafter be sold or destroyed according to law. Any dog or cat seized and impounded may be redeemed by its owner, keeper or harbinger at any time prior to the applicable redemption period upon payment of all lawful costs assessed against the animal and upon providing the dog or cat with a valid registration tag if it has none.

(b) A record of all dogs and cats impounded, the disposition of the same, the owner's name and address where known, and a statement of any costs assessed against the dogs or cats shall be kept by any poundkeeper.
(Ord. 76-93. Passed 9-13-93.)

505.03 ANNUAL REGISTRATION OF DOGS; TAGS REQUIRED.

(a) Except for guide dogs registered under Ohio R.C. 955.011 and dogs kept by an institution or organization for teaching and research purposes under Ohio R.C. 955.16, no person shall own, keep or harbor a dog more than three months of age without annually registering such dog with the County Auditor. Failure of any dog at any time to wear a valid registration tag shall be prima-facie evidence of lack of registration and subject such dog to impounding and disposition as provided by Ohio R.C. 955.16.

(b) Whoever violates this section is guilty of a minor misdemeanor.
(Ord. 76-93. Passed 9-13-93.)

505.04 ABANDONING ANIMALS.

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

(b) Whoever violates this section is guilty of a misdemeanor of the second degree on a first offense and a misdemeanor of the first degree on each subsequent offense.
(ORC 959.99)

505.05 KILLING OR INJURING ANIMALS.

(a) No person shall maliciously, or willfully, and without the consent of the owner, kill or injure a farm animal, dog, cat or other domestic animal that is the property of another. This section does not apply to a licensed veterinarian acting in an official capacity.

(b) Whoever violates this section, if the value of the animal killed or the injury done amounts to less than three hundred dollars (\$300.00), is guilty of a misdemeanor of the second degree; if the value of the animal killed or the injury done amounts to three hundred dollars (\$300.00) or more, such person is guilty of a misdemeanor of the first degree. (Ord. 76-93. Passed 9-13-93.)

505.06 POISONING ANIMALS.

(a) No person shall maliciously, or willfully and without the consent of the owner, administer poison, except a licensed veterinarian acting in such capacity, to a farm animal, dog, cat, poultry or other domestic animal that is the property of another; and no person shall, willfully and without the consent of the owner, place any, poisoned food where it may be easily found and eaten by any of such animals, either upon his own lands or the lands of another.

(b) Whoever violates this section is guilty of a misdemeanor of the fourth degree. (Ord. 76-93. Passed 9-13-93.)

505.07 CRUELTY TO ANIMALS GENERALLY.

(a) No person shall overwork, overdrive, overload or torture an animal, deprive one of necessary sustenance, unnecessarily or cruelly beat, needlessly mutilate or kill, or impound or confine an animal without supplying it during such confinement with a sufficient quantity of good wholesome food and water. No person shall carry or convey an animal in a cruel or inhuman manner, or keep animals in an enclosure without wholesome exercise and change of air, or feed animals food that is adulterated or unwholesome, or work or abandon to die an old, maimed, sick, infirm or diseased animal.

(b) Whoever violates this section is guilty of a misdemeanor of the second degree. (Ord. 76-93. Passed 9-13-93.)

505.071 CRUELTY TO COMPANION ANIMALS.

(a) As used in this section:

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

(b) No person shall knowingly torture, torment, needlessly mutilate or maim, cruelly beat, poison, needlessly kill, or commit an act of cruelty against a companion animal.

(c) No person who confines or who is the custodian or caretaker of a companion animal shall negligently do any of the following:

- (1) Torture, torment, needlessly mutilate or maim, cruelly beat, poison, needlessly kill, or commit an act of cruelty against the companion animal;
- (2) Deprive the companion animal of necessary sustenance, confine the companion animal without supplying it during the confinement with sufficient quantities of good, wholesome food and water, or impound or confine the companion animal without affording it, during the impoundment or confinement, with access to shelter from heat, cold, wind, rain, snow, or excessive direct sunlight, if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the deprivation, confinement, or impoundment in any of those specified manners.

(d) Subsections (b) and (c) of this section do not apply to any of the following:

- (1) A companion animal used in scientific research conducted by an institution in accordance with the federal animal welfare act and related regulations;
- (2) The lawful practice of veterinary medicine by a person who has been issued a license, temporary permit, or registration certificate to do so under Ohio R.C. Chapter 4741;
- (3) Dogs being used or intended for use for hunting or field trial purposes, provided that the dogs are being treated in accordance with usual and commonly accepted practices for the care of hunting dogs;
- (4) The use of common training devices, if the companion animal is being treated in accordance with usual and commonly accepted practices for the training of animals;
- (5) The administering of medicine to a companion animal that was properly prescribed by a person who has been issued a license, temporary permit, or registration certificate under Ohio R.C. Chapter 4741.
(ORC 959.131)

- (e)
- (1) Whoever violates subsection (b) hereof is guilty of a misdemeanor of the first degree on a first offense. On each subsequent offense such person is guilty of a felony and shall be prosecuted under appropriate State law.
 - (2) Whoever violates subsection (c) hereof is guilty of a misdemeanor of the second degree on a first offense and a misdemeanor of the first degree on each subsequent offense.
 - (3) A.
A court may order a person who is convicted of or pleads guilty to a violation of this section to forfeit to an impounding agency, as defined in Ohio R.C. 959.132, any or all of the companion animals in that person's ownership or care. The court also may prohibit or place limitations on the person's ability to own or care for any companion animals for a specified or indefinite period of time.
B.
A court may order a person who is convicted of or pleads guilty to a violation of this section to reimburse an impounding agency for the reasonably necessary costs incurred by the agency for the care of a companion animal that the agency impounded as a result of the investigation or prosecution of the violation, provided that the costs were not otherwise paid under Ohio R.C. 959.132.

- (4) If a court has reason to believe that a person who is convicted of or pleads guilty to a violation of this section suffers from a mental or emotional disorder that contributed to the violation, the court may impose as a community control sanction or as a condition of probation a requirement that the offender undergo psychological evaluation or counseling. The court shall order the offender to pay the costs of the evaluation or counseling. (ORC 959.99)

505.08 NUISANCE CONDITIONS PROHIBITED.

(a) No person shall keep or harbor any animal or fowl in the Municipality so as to create noxious, or offensive odors or unsanitary conditions which are a menace to the health, comfort or safety of the public.

(b) Whoever violates this section is guilty of a minor misdemeanor.
(Ord. 76-93. Passed 9-13-93.)

505.09 BARKING OR HOWLING DOGS.

(a) No person shall keep or harbor any dog within the Municipality which, by frequent and habitual barking, howling or yelping, creates unreasonably loud and disturbing noises of such a character, intensity and duration as to disturb the peace, quiet and good order of the Municipality. Any person who shall allow any dog habitually to remain, be lodged or fed within any dwelling, building, yard or enclosure, which he occupies or owns, shall be considered as harboring such dog.

(b) Whoever violates this section is guilty of a minor misdemeanor.
(Ord. 76-93. Passed 9-13-93.)

505.10 ANIMAL BITES, REPORTS AND QUARANTINE.

(a) Whenever any person is bitten by a dog or other animal, report of such bite shall be made to the District Health Commissioner within twenty-four hours. The dog or other animal inflicting a bite shall immediately be examined by a qualified veterinarian and results of such examination shall be reported to the District Health Commissioner within twenty-four hours. The dog or other animal shall either be confined by its owner or harborer to his premises away from the public at large, or be placed under supervision of a veterinarian at the owner's or harborer's expense. The isolation or observation period shall not be less than ten days from the date the person was bitten, at which time report of the condition of the animal shall be made to the District Health Commissioner.

No person shall fail to comply with the requirement of this section or with any order of the District Health Commissioner made pursuant thereto, nor fail to immediately report to the District Health Commissioner any symptom or behavior suggestive of rabies.

(b) Whoever violates this section is guilty of a minor misdemeanor.
(Ord. 76-93. Passed 9-13-93.)

505.11 HUNTING PROHIBITED.

(a) The hunting of animals or fowl within the Municipality is prohibited. No person shall hunt, kill or attempt to kill any animal or fowl by the use of firearms or any other means.

(b) The Hammertown Lake Region of the City, as that region is designated by the City, shall be excepted from the provisions of subsection (a) hereof.

(c) Whoever violates this section is guilty of a minor misdemeanor.
(Ord. 132-93. Passed 12-30-93.)

505.12 COLORING RABBITS OR BABY POULTRY; SALE OR DISPLAY OF POULTRY.

(a) No person shall dye or otherwise color any rabbit or baby poultry, including, but not limited, to chicks and ducklings. No person shall sell offer for sale, expose for sale, raffle or give away any rabbit or baby poultry which has been dyed or otherwise colored. No poultry younger than four weeks or age may be sold, given away or otherwise distributed to any person in lots of less than six. Stores, shops, vendors and others offering young poultry for sale or other distribution shall provide and operate brooders or other heating devices that may be necessary to maintain poultry in good health, and shall keep adequate food and water available to the poultry at all times.

(b) Whoever violates this section is guilty of a minor misdemeanor.
(Ord. 76-93. Passed 9-13-93.)

505.13 BIRD SANCTUARY; PROTECTION AFFORDED NONGAME BIRDS.

(a) The entire area within the City limits is hereby declared and designated as a bird sanctuary, with the exception of the common pigeon.

(b) No person shall catch, kill, injure, pursue, or have in the person's possession, either dead or alive, or purchase, expose for sale, transport, or ship to a point within or without this Municipality, or receive or deliver for transportation any bird other than a game bird, or have in the person's possession any part of the plumage, skin or body of any bird other than a game bird, except as permitted in Ohio R.C. Chapter 1531, or disturb or destroy the eggs, nest, or young of such a bird.

(c) Common pigeons, other than homing pigeons, may be killed at any time, except as provided in Ohio R.C. 1531.021, and their nests or eggs may be destroyed at any time.

(d) Willfully setting out, scattering or exposing poison or poisoned food for the purpose of killing birds is hereby prohibited.

(e) Each bird or any part thereof taken or had in possession contrary to the provisions of this section constitutes a separate offense.

(f) Whoever violates this section is guilty of a minor misdemeanor.
(Ord. 94-05. Passed 7-27-05.)

505.14 RABIES CONTROL.

(a) Whenever the Mayor deems it necessary for the protection of the public, he shall issue an order prohibiting for a certain time any dog from being at large in any public street or place, unless muzzled and on leash, so as effectually to prevent it from biting any person or animal. Such order shall be posted in three conspicuous places in the City, for such time as the Mayor deems necessary, and any dog found at large during the existence of such quarantine order shall be impounded and may be destroyed by the City authority without notice to the owner.

(b) Whoever violates this section is guilty of a minor misdemeanor.
(Ord. 76-93. Passed 9-13-93.)

505.15 DOGS OR CATS IN CITY PARKS.

(a) No person who is the owner of a dog or cat shall permit the dog to run at large within any municipal park in the City, including Hillcrest Park, the Edwin A. Jones Park and the Edwin A. Jones Field. The running at large of any such dog or cat in or upon any municipal park in the City shall be prima-facie evidence that it is running at large in violation of this subsection.

(b) No person who is the owner of a dog or cat shall walk the dog, whether under restraint by leash or not, within any part of a municipal park in the City used primarily for athletic activities or for children's playgrounds.

(c) No person who is the owner of a dog or cat shall permit the animal to defecate in any municipal park in the City.

(d) Whoever violates any provision of this section is guilty of a minor misdemeanor, and shall be fined not less than twenty-five dollars (\$25.00).
(Ord. 76-93. Passed 9-13-93.)

505.16 REPORT OF ESCAPE OF EXOTIC OR DANGEROUS ANIMAL.

(a) The owner or keeper of any member of a species of the animal kingdom that escapes from his custody or control and that is not indigenous to this State or presents a risk of serious physical harm to persons or property, or both, shall, within one hour after he discovers or reasonably should have discovered the escape, report it to:

- (1) A law enforcement officer of the Municipality and the sheriff of the county where the escape occurred; and
- (2) The Clerk of the Municipal Legislative Authority.

(b) If the office of the Clerk of the Legislative Authority is closed to the public at the time a report is required by subsection (a) hereof, then it is sufficient compliance with subsection (a) hereof if the owner or keeper makes the report within one hour after the office is next open to the public.

(c) Whoever violates this section is guilty of a misdemeanor of the first degree.
(Ord. 76-93. Passed 9-13-93.)

505.99 PENALTY.

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

