

City of North Canton

NOTICE OF PUBLIC MEETING

Notice is hereby given that:

The City Council of the City of North Canton shall hold a Regular Council Meeting on Monday, February 7, 2022 immediately following the Committee of the Whole Meeting at 7:00 PM at North Canton Civic Center 845 W Maple St. North Canton, OH.

See attached agenda for matters to be discussed.

Meetings are open to the public or may be livestreamed on the City of North Canton’s YouTube page.

BY THE ORDER OF THE CITY OF NORTH CANTON, COUNTY OF STARK, STATE OF OHIO:

02/04/2022

Date

Benjamin R. Young

Clerk

NORTH CANTON REGULAR COUNCIL MEETING

February 7, 2022, immediately following the Committee of the Whole Meeting at 7:00 PM

Agenda

1. **Call to Order**
2. **Opening Prayer**
3. **Pledge of Allegiance**
4. **Roll Call**
5. **Consideration**
 - 5.a Minutes from January 24, 2022 - Public Hearing
 - 5.b Minutes from January 24, 2022 - Committee of the Whole
 - 5.c Minutes from January 24, 2022 - City Council
6. **Recognition of the Public**
7. **Special Presentations**
 - 7.a Special Presentation by Brian Thunberg from RITA Ohio on the City's Income Tax.
8. **Old Business**
 - 8.a **Ordinance No. 70-2021, 2nd Reading, Water, Sewer, and Rubbish Committee** An ordinance amending various sections of the City of North Canton Zoning Code and adding thereto new definitions and establishing a new Chapter in order to establish a source water protection area and provide for the regulation of substances for the protection of groundwater resources within the source water protection area.
 - 8.b **Ordinance No. 72-2021, 2nd Reading, Community and Economic Development Committee**
An ordinance amending Chapter 1136, Main Street Districts Regulations, specifically Section 1136.05, Schedule of Permitted Uses, of the Codified Ordinances, of the City of North Canton to change Drive-Thru Facilities to a conditional use in the Main Street South Zoning District.
 - 8.c **Ordinance No. 01-2022, 3rd Reading, Ordinance and Rules Committee**
An ordinance amending Chapter 159, Records and Archives Commission, specifically Section 159.01, Commission Created; Member, of the Codified Ordinances of the City of North Canton to adjust the membership thereof.
 - 8.d **Ordinance No. 02-2022, 3rd Reading, Ordinance and Rules Committee**
An ordinance amending Chapter 741, Adult Cabaret Businesses, of the Codified Ordinances of the City of North Canton, to update the definition of Adult Cabaret.

8.e Ordinance No. 03-2022, 3rd Reading, Ordinance and Rules Committee

An ordinance amending Chapter 1739, Violations and Abatement, of the Codified Ordinances of the City of North Canton, specifically sections 1739.01 and 1739.03 to allow for the expedited abatement of noxious weeds and rank vegetation.

8.f Ordinance No. 04-2022, 3rd Reading, Street and Alley Committee

An ordinance authorizing the Mayor of the City of North Canton to release the Maintenance Bond Agreement between the City and McKinley-Applegrove Ltd. regarding improvements to be maintained in the Sanctuary Development Phase 4.

8.g Ordinance No. 05-2022, 3rd Reading, Street and Alley Committee

An ordinance amending Chapter 907, Street Excavations, of the Codified Ordinances of the City of North Canton in order to establish separate processes for minor and major street excavations.

9. New Business

9.a Ordinance No. 58-2021, 1st Reading, Community and Economic Development Committee

An ordinance amending Chapter 1133 Single-Family and Two-Family Residential District Regulations, specifically subsection 1133.08(d), Swimming Pools, and Chapter 1707, Swimming Pools, Spas, and Hot Tubs, specifically subsection 1707.01(b) of the Codified Ordinances of the City of North Canton to lower the minimum required height of fencing for swimming pools to four (4) feet.

10. Department Reports

Deputy Director of Administration	Director of Finance
Director of Administration	City Engineer
Mayor Wilder	Council Clerk

11. Council Reports

Ward 1 - Jamie McCleaster	At Large - Daryl Revoldt
Ward 2 - David Metheny	At Large - Christina Weyrick
Ward 3 - Stephanie Werren	At Large - Matthew Stroia
Ward 4 - John Orr	

12. Final Call for New Business

13. Meetings Calendar

February 14, 2022 - City Council
February 21, 2022 - No Meeting - President's Day
Holiday February 28, 2022 - City Council

14. Adjourn



Item Cover Page

CITY COUNCIL AGENDA ITEM REPORT

DATE: February 7, 2022

SUBMITTED BY: Benjamin Young, Administration

ITEM TYPE: Ordinance

AGENDA SECTION: Old Business

SUBJECT: **Ordinance No. 70-2021, 2nd Reading, Water, Sewer, and Rubbish Committee**

An ordinance amending various sections of the City of North Canton Zoning Code and adding thereto new definitions and establishing a new Chapter in order to establish a source water protection area and provide for the regulation of substances for the protection of groundwater resources within the source water protection area.

DESCRIPTION: Ord. 70-2021 seeks to adopt companion zoning regulations to the newly establish Chapter 940 of the City's code which creates a source water protection area. The proposed legislation would adapt that area into a zoning district. The City will need to adopt a map of the new zoning district for the regulations to become fully effective.

At their December 2021 meeting the Planning Commission recommended the adoption of the proposed legislation.

ATTACHMENTS:

[Ord. 70-2021 SWPA Overlay.docx](#)

North Canton City Council
Water, Sewer, and Rubbish Committee

ORDINANCE 70 - 2021

An ordinance amending various sections of the City of North Canton Zoning Code and adding thereto new definitions and establishing a new Chapter in order to establish a source water protection area and provide for the regulation of substances for the protection of groundwater resources within the source water protection area.

WHEREAS, the City of North Canton (the “City”) relies solely on groundwater for meeting one hundred percent (100%) of its residential, commercial, and industrial water needs; and

WHEREAS, specific land uses and activities may contribute to the degradation of groundwater quality; and

WHEREAS, the risk of contamination of groundwater utilized by the City of North Canton will be reduced by managing the development, land use, and commercial activity of property located within identified groundwater protection areas; and

WHEREAS, the Ohio Environmental Protection Agency requires a Source Water Protection Program for the protection of existing and future groundwater supplies; and

WHEREAS, protection of the groundwater resource benefits the residents of the City and present and future groundwater users who receive their water from aquifers within the Source Water Protection Area (as defined herein; and

WHEREAS, this Council desires to amend the Codified Ordinances of the City by adopting and implementing a Source Water Protection Program, as further defined herein.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NORTH CANTON, COUNTY OF STARK, AND STATE OF OHIO:

Section 1. That there be, and is hereby, established Chapter 1141, Source Water Protection Districts Regulations, of the Codified Ordinances of the City of North Canton which shall read as written in full in “Exhibit A” attached hereto and incorporated herein.

Section 2. That Chapter 1191, Penalty, of the Codified Ordinances of the City of North Canton be, and is hereby, amended to include the addition of the following section:

SECTION 1191.10 VIOLATION AND PENALTY FOR SOURCE WATER PROTECTION.

(a) Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with, or who resists the enforcement of any of the provisions of Chapter 1141, and all amendments thereto, shall be fined as follows.

(1) Any person, firm, or corporation, violating any of the provisions of this Chapter or any amendment or supplement thereto, shall be in violation and fined not more than Five Hundred Dollars (\$500.00) per day, per offense. Each and every day such illegal location, erection, construction, reconstruction, enlargement, change, maintenance, or use continues, shall constitute a separate offense.

(2) Dumping of any Regulated Substance as referenced in the Chapter or prohibited materials associated with a prohibited land use, activity, or facility as referenced in this Chapter shall be remediated immediately and may be punishable by a fine of up to Ten Thousand Dollars (\$10,000.00). Each day of non-compliance shall be considered a separate offense.

(3) Any person or entity found to have introduced contamination of any form into the Source Water Protection Area shall be in violation of this Chapter and subject to a fine of up to Ten Thousand Dollars (\$10,000.00). Each day of violation shall be considered a separate offense.

Section 3. That the Clerk of Council and Mayor of the City of North Canton be, and are hereby, authorized to make such amendments as may be needed to the Codified

Ordinances of the City of North Canton to accurately reflect this ordinance upon approval of such amended pages by a voice vote of Council.

Section 4. That if a provision of this ordinance is or becomes illegal, invalid, or unenforceable, it shall not affect the validity or enforceability of any other provision of this ordinance.

Section 5. That this ordinance shall take effect and be in full force from and after the earliest period allowed by law.

Passed in Council this _____ day of _____, 2021.

Attest: _____
Benjamin R. Young, Clerk of Council

Stephan B. Wilder, Mayor

Signed on: _____

Passed in Council this _____ day of _____, 2021.

Attest: _____
Benjamin R. Young, Clerk of Council

Stephan B. Wilder, Mayor

Signed on: _____

CHAPTER 1141 – SOURCE WATER PROTECTION DISTRICTS REGULATIONS

SECTION 1141.01 INTENT

(a) Source Water Protection Area Overlay District (“SWPA”) are hereby delineated and its regulations and zones are established in order to regulate land uses within the Source Water Protection Area of the City of North Canton in order to safeguard the public health, safety, and welfare of persons and property by protecting designated groundwater supplies from degradation resulting from the improper storage, handling, or discharge of regulated substances in and around existing and future well fields and their recharge areas. Specifically the purposes of these regulations are:

- (1) To prevent the creation or establishment of non-compatible land uses which have the potential to degrade or otherwise negatively impact groundwater resources and thus, impair or destroy the utility of the aquifer, and the public investment therein,
- (2) To reduce the risk of contamination of groundwater by managing development, land use, and commercial activities within identified source water protection zones, and
- (3) To assist in the implementation of policies and recommendations to protect the residents of the City of North Canton and present and future groundwater users who receive their water from aquifers within the Source Water Protection Area.

SECTION 1141.02 APPLICATION OF THE DISTRICTS

The SWPA Districts shall be in addition to and shall overlay all other zoning districts where the SWPA District is established. Therefore, any parcel of land lying in the SWPA District shall also lie in one or more of the other zoning districts provided for in this Zoning Ordinance. The district designation of an SWPA District shall be superimposed over the existing zoning designations on the Zoning Map.

SECTION 1141.03 ESTABLISHMENT OF SOURCE WATER PROTECTION OVERLAY DISTRICTS

(a) Source Water Protection Area Overlay Districts boundaries shall be established in accordance with the required procedures for a Zoning Amendment set forth in this Code except that the Source Water Protection Committee shall make recommendations on adoption and amendments to the City Council.

(b) The SWPA shall be comprised of two (2) primary districts to be established within the Source Water Protection Area as defined and created by Chapter 940. The Primary Districts shall be as follows:

- (1) “One (1)-Year Time-of Travel Zone Source Water Protection Area Overlay District” (SWPA-1) which shall as close as is practicable reflect the One (1)-Year Time-of Travel Zone, designated pursuant to Chapter 940, as that area around the well or well field wherein a groundwater flow model has been used to scientifically derive the area where groundwater should take one year or less to reach the water supply wells.; and
- (2) Five (5) Five-Year Time-of Travel Zone Source Water Protection Overlay District (SWPA-5) which shall as close as is practicable reflect the Five (5)-Year Time-of Travel Zone, designated pursuant to Chapter 940, as that area around the well or well field located outside the one-year TOT zone but within the boundaries of the five-year TOT zone wherein a groundwater flow model has been used to scientifically derive the area where groundwater should take five years or less to reach the water supply wells.

SECTION 1141.04 DEFINITIONS

For the purpose of this Chapter all words and phrases defined in Section 940.02 shall be interpreted to have the same meaning as defined therein when used in this Chapter.

SECTION 1141.05 USE REGULATIONS

(a) One (1)-Year Time-of Travel Zone Source Water Protection Area Overlay District.

In addition to the use regulations established for any property by districts underlying an SWPA-1 zoning classification, the establishment of the following new activities/land uses is prohibited in the SWPA-1 district as of the effective date of this Chapter:

- (1) Commercial junk yards;
- (2) Commercial sanitary/solid waste/construction and demolition debris landfills;
- (3) The disposal of shingles, asphalt, and/or lead-based or lead-containing materials in an unlicensed landfill;
- (4) Trucking or bus terminals where storage, handling, or use of a Regulated Substance exceeds fifty-five (55) gallons aggregate for liquid materials or two hundred twenty (220) pounds aggregate for dry weights;
- (5) Primary metal product industries where storage, handling, or use of a Regulated Substance exceeds fifty-five (55) gallons aggregate for liquid materials or two hundred twenty (220) pounds aggregate for dry weights;
- (6) Lawn, garden, pesticide, and agricultural services with on-site bulk mixing or blending of fertilizers, pesticides, and other industry-related chemicals for commercial application when quantities of concentrated fertilizers, pesticides, and other industry-related chemicals stored onsite exceed exceeds fifty-five (55) gallons aggregate for liquid materials or two hundred twenty (220) pounds aggregate for dry weights;
- (7) Permanent storage of regulated substances in trucks, trailers, tankers, or rail cars where storage of Regulated Substances exceeds fifty-five (55) gallons aggregate for liquid materials or two hundred twenty (220) pounds aggregate for dry weights;
- (8) Use of oil, waste oil, or similar liquid petroleum-type products for dust suppression; and
- (9) Use of fly ash or other ash material for fill material. This prohibition does not apply where fly ash is used as a component in cement, concrete, or cinder block.

(b) Five (5)-Year Time-of Travel Zone Source Water Protection Area Overlay District.

In addition to the use regulations established for any property by districts underlying an SWPA-5 zoning classification, the establishment of the following new activities/land uses is prohibited in the SWPA-5 district as of the effective date of this Chapter:

- (1) Commercial junk yards;
- (2) Commercial sanitary/solid waste/construction and demolition debris landfills;
- (3) The disposal of shingles, asphalt, and/or lead-based or lead-containing materials in an unlicensed landfill;
- (4) Permanent storage of regulated substances in trucks, trailers, tankers, or rail cars where storage of Regulated Substances exceeds fifty-five (55) gallons aggregate for liquid materials or two hundred twenty (220) pounds aggregate for dry weights;
- (5) Use of oil, waste oil, or similar liquid petroleum-type products for dust suppression; and
- (6) Use of fly ash or other ash material for fill material. This prohibition does not apply where fly ash is used as a component in cement, concrete, or cinder block.

SECTION 1141.06 EFFECT OF DISTRICT REGULATIONS ON PRE-EXISTING NON-CONFORMING USES

(a) Where, at the effective date of the adoption of, or amendment to, the provisions set forth herein, lawful use of land exists that is no longer permissible under the provisions of This Chapter, such use may be continued, so long as it remains otherwise lawful, subject to provisions of this Chapter.

(b) Any non-conforming use of land, building, or regulated substance storage unit existing as of the effective date of adoption of, or amendment to, the provisions set forth herein

and which operates within a SWPA District is permitted to continue operation as a nonconforming existing land use, building, or regulated substance storage unit provided it remains otherwise lawful; complies with the provisions of Chapter 940 which apply to existing facilities; and is subject to provisions of this Chapter.

(c) An existing use made non-conforming solely by application of the provisions set forth herein, shall be treated as non-conforming only as to those uses prohibited by this Chapter. As to existing uses not prohibited or otherwise regulated by this Chapter, those uses remain conforming such that they may be expanded or otherwise altered without violation of this Chapter.

(d) No building, structure or premises where a nonconforming use has ceased for a period of one (1) year or more shall again be put into a nonconforming use.

SECTION 1141.07 SPECIAL PROVISIONS FOR AMENDMENTS OF SOURCE WATER PROTECTION AREA OVERLAY DISTRICTS

(a) Additional Notice Requirements. For any amendment which proposes a change in the boundary of a SWPA District public notice of the change shall be provided in accordance with requirements for the City of North Canton but shall include no less than posting of the proposed change on the City of North Canton website and on the bulletin board in City Hall for a minimum of seven (7) days, and notification via first class mail no less than thirty (30) days prior to the public hearing date to those regulated facility operators in the pre-existing SWPA District whose location in a district has changed as a result of the amendment, and any non-residential property owners in the newly-added portions of the updated district as may exist. Said notification shall be in the form of a letter stating the results of the amendment and any subsequent change in the facility's regulatory status.

(b) Where an existing facility required to comply with the provisions set forth herein is no longer located in a SWPA District as a result of an amendment, the facility is no longer subject to compliance with this Chapter.

(c) Any facility previously located outside the boundary of the SWPA Districts that is located inside the boundary of a SWPA District as a result of an amendment must be registered in accordance with Chapter 940 and must comply with those provisions required of existing facilities for the SWPA District in which the facility is located as applicable and in accordance with the time frames specified for those applicable provisions.

(d) Any registered facility whose classification within a SWPA District is changed to a different SWPA District as a result of an amendment must submit an amended facility registration to the Director of Administration or Designee in accordance with Chapter 940 and must comply with those provisions required of existing facilities as applicable for the new SWPA District in which that facility is now located in accordance with the time frames specified for those applicable provisions.

SECTION 1141.08 SPECIAL PROVISIONS FOR APPEALS ARISING FROM THIS CHAPTER

(a) All appeals regarding zoning regulations/requirements promulgated under this Chapter for the Source Water Protection Area shall remain under the jurisdiction the Zoning and Building Standards Board of Appeals as provided for in this Code except that, in addition to the appeals regulations set forth in Chapter 1179, the following shall apply:

(1) **Recommendation from the Source Water Protection Committee.** Before the Zoning and Building Standards Board of Appeals grants any variance or appeal relative to a Source Water Protection Area, the variance or appeal request shall first be reviewed by the Source Water Protection Committee to ensure that the request, if granted, will not present a contamination threat to groundwater.

(A) The Source Water Protection Committee, as established under Ordinance 36-2021, shall provide a recommendation on the variance or appeal request to the Zoning and Building Standards Board of Appeals.

- (B) In doing so, the Source Water Protection Committee may include with the recommendation any such alternatives or modifications to the request as necessary to minimize the potential for groundwater contamination.
- (C) The Source Water Protection Committee shall have thirty (30) days from receiving a variance or appeal request, inclusive within, and not in addition to, the allowed time frame for Zoning and Building Standards Board of Appeals review, to make a recommendation to the Zoning and Building Standards Board of Appeals.



Item Cover Page

CITY COUNCIL AGENDA ITEM REPORT

DATE: February 7, 2022

SUBMITTED BY: Benjamin Young, Administration

ITEM TYPE: Ordinance

AGENDA SECTION: Old Business

SUBJECT: **Ordinance No. 72-2021, 2nd Reading, Community and Economic Development Committee**

An ordinance amending Chapter 1136, Main Street Districts Regulations, specifically Section 1136.05, Schedule of Permitted Uses, of the Codified Ordinances, of the City of North Canton to change Drive-Thru Facilities to a conditional use in the Main Street South Zoning District.

DESCRIPTION: In response to a request from a business interested in relocating to the City of North Canton, the Mayor's office initiated a zoning amendment request to change Drive-Thru facilities to a conditional use in the Main Street South zoning district.

At their December 2021 meeting the Planning Commission recommended the adoption of the proposed legislation.

ATTACHMENTS:
[Ord. 72-2021 Amending Chapter 1136 to permit drive thrus in MS-SG.docx](#)

North Canton City Council
Community and Economic Development

ORDINANCE 72 - 2021

An ordinance amending Chapter 1136, Main Street Districts Regulations, specifically Section 1136.05, Schedule of Permitted Uses, of the Codified Ordinances, of the City of North Canton to change Drive-Thru Facilities to a conditional use in the Main Street South Zoning District.

WHEREAS, the City has received from a potential business to amend the zoning in order to be more permissive of Drive-Thru facilities in the Main Street South Zoning District; and

WHEREAS, this request has been endorsed by the Administration and City Council; and

WHEREAS, the Office of City Council, on November 9, 2021, received a completed and approved Application for Zoning Amendment for the above described zoning change from the Office of the Mayor; and

WHEREAS, the Planning Commission held a public meeting for the purpose of gaining public input on the proposed zoning change on December 1, 2021, pursuant to Section 1181.04 of the North Canton Codified Ordinances, and recommended that City Council adopt the proposed changes after considering certain issues brought up by the commission; and

WHEREAS, City Council held a public meeting for the purpose of gaining public input on the proposed zoning change on January 24, 2022, pursuant to Section 1181.06 of the North Canton Codified Ordinances.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NORTH CANTON, COUNTY OF STARK, AND STATE OF OHIO:

Section 1. That Chapter 1136, Main Street Districts Regulations, specifically Section 1136.05, Schedule of Permitted Uses, more specifically the “Drive-Thru Facility” use, of the Codified Ordinances, of the City of North Canton be and is hereby amended to read as follows:

Land Use Category	MS-C	MS-NG	MS-N	MS-S	MS-SG
Drive-thru Facility	NP	C	NP	C	C

Section 2. That the Clerk of Council and Mayor of the City of North Canton be, and are hereby, authorized to make such amendments as may be needed to the Codified Ordinances of the City of North Canton to accurately reflect this ordinance upon approval of such amended pages by a voice vote of Council.

Section 3. That if a provision of this ordinance is or becomes illegal, invalid, or unenforceable, it shall not affect the validity or enforceability of any other provision of this ordinance.

Section 4. That this ordinance shall take effect and be in full force from and after the earliest period allowed by law.

Passed in Council this _____ day of _____, 2022.

Attest: _____
Benjamin R. Young, Clerk of Council

Stephan B. Wilder, Mayor

Signed on: _____



Item Cover Page

CITY COUNCIL AGENDA ITEM REPORT

DATE: February 7, 2022

SUBMITTED BY: Benjamin Young, Council's Office

ITEM TYPE: Ordinance

AGENDA SECTION: Old Business

SUBJECT: **Ordinance No. 01-2022, 3rd Reading, Ordinance and Rules Committee**

An ordinance amending Chapter 159, Records and Archives Commission, specifically Section 159.01, Commission Created; Member, of the Codified Ordinances of the City of North Canton to adjust the membership thereof.

DESCRIPTION: The Ohio Revised Code specifies the membership of Municipal Records Commissions. Our current local Ordinance is contradictory to ORC provisions by including the President of City Council. This legislation would amend our local ordinance to bring us in line with State law.

ATTACHMENTS:

[Ord. 01-2022 Removing President from Records Commission.docx](#)

North Canton City Council
Ordinance and Rules Committee

ORDINANCE 01 - 2022

An ordinance amending Chapter 159, Records and Archives Commission, specifically Section 159.01, Commission Created; Member, of the Codified Ordinances of the City of North Canton to adjust the membership thereof.

WHEREAS, Ohio Revised Code Section 149.39 specifies the compositions of municipal records commissions, and

WHEREAS, the President of City Council is not specified as a member under ORC 149.39.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NORTH CANTON, COUNTY OF STARK, AND STATE OF OHIO:

Section 1. That Chapter 159, Records and Archives Commission, specifically Section 159.01, Commission Created; Member, of the Codified Ordinances of the City of North Canton, be, and is hereby, amended to adjust the membership thereof to remove the words “the President of Council” therefrom and shall read as follows:

SECTION 159.01 COMMISSION CREATED; MEMBERS

(a) The North Canton Records and Archives Commission is hereby established to be composed of the Mayor, or the Mayor’s appointed representative, as chairperson, the Finance Director, the Law Director, and a citizen appointed by the Mayor, who shall be a member of the North Canton Heritage Society.

(b) The Commission shall appoint a secretary, who may or may not be a member of the Commission and who shall serve at the pleasure of the Commission.

(c) The Commission shall meet at least once every six months and upon the call of the chairperson.

Section 2. That the Clerk of Council and Mayor of the City of North Canton be, and are hereby, authorized to make such amendments as may be needed to the Codified Ordinances of the City of North Canton to accurately reflect this ordinance upon approval of such amended pages by a voice vote of Council.

Section 3. That if a provision of this ordinance is or becomes illegal, invalid, or unenforceable, it shall not affect the validity or enforceability of any other provision of this ordinance.

Section 4. That this ordinance shall take effect and be in full force from and after the earliest period allowed by law.

Passed in Council this _____ day of _____, 2022.

Attest: _____
Benjamin R. Young, Clerk of Council

Stephan B. Wilder, Mayor

Signed on: _____



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CITY COUNCIL AGENDA ITEM REPORT

DATE: February 7, 2022

SUBMITTED BY: Benjamin Young, Administration

ITEM TYPE: Non-Legislation Council Items

AGENDA SECTION: Old Business

SUBJECT: **Ordinance No. 02-2022, 3rd Reading, Ordinance and Rules Committee**
 An ordinance amending Chapter 741, Adult Cabaret Businesses, of the Codified Ordinances of the City of North Canton, to update the definition of Adult Cabaret.

DESCRIPTION: Department of Development Services staff, in reviewing business regulations ordinances noticed that the definition of adult cabaret businesses was outdated relative to modern standards and requested that an updated definition be adopted for the existing adult cabaret ordinance.

ATTACHMENTS:
[Ord. 02-2022 Updating Adult Cabaret Definition.docx](#)

North Canton City Council
Ordinance and Rules Committee

ORDINANCE 02 - 2022

An ordinance amending Chapter 741, Adult Cabaret Businesses, of the Codified Ordinances of the City of North Canton, to update the definition of Adult Cabaret.

WHEREAS, the City regulates adult cabaret businesses and therefore requires an accurate and updated definition of such businesses.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NORTH CANTON, COUNTY OF STARK, AND STATE OF OHIO:

Section 1. That Chapter 741, Adult Cabaret Businesses, specifically Section 741.02(a), of the Codified Ordinances of the City of North Canton, be, and is hereby, amended to read as follows:

(a) "Adult Cabaret" means a nightclub, bar, restaurant, café, internet café, supper club, lounge, or similar establishment in which person(s) or character(s) appear in a state of nudity.

Section 2. That the Clerk of Council and Mayor of the City of North Canton be, and are hereby, authorized to make such amendments as may be needed to the Codified Ordinances of the City of North Canton to accurately reflect this ordinance upon approval of such amended pages by a voice vote of Council.

Section 3. That if a provision of this ordinance is or becomes illegal, invalid, or unenforceable, it shall not affect the validity or enforceability of any other provision of this ordinance.

Section 4. That this ordinance shall take effect and be in full force from and after the earliest period allowed by law.

Passed in Council this _____ day of _____, 2022.

Attest: _____
Benjamin R. Young, Clerk of Council

Stephan B. Wilder, Mayor

Signed on: _____



Item Cover Page

CITY COUNCIL AGENDA ITEM REPORT

DATE: February 7, 2022

SUBMITTED BY: Benjamin Young, Administration

ITEM TYPE: Non-Legislation Council Items

AGENDA SECTION: Old Business

SUBJECT: **Ordinance No. 03-2022, 3rd Reading, Ordinance and Rules Committee**
 An ordinance amending Chapter 1739, Violations and Abatement, of the Codified Ordinances of the City of North Canton, specifically sections 1739.01 and 1739.03 to allow for the expedited abatement of noxious weeds and rank vegetation.

DESCRIPTION: In administering the newly adopted property maintenance code City code officials have found that the 30 day grace period to enforce violations related to maintaining a lawn is unworkable as it simply provides too much time between the notice of violation and abatement. The proposed legislation would create and expedited abatement process for enforcing the lawn provisions of the property maintenance code.

ATTACHMENTS:
[Ord. 03-2022 Clarifying Weed Abatement Timeline.docx](#)

North Canton City Council
Ordinance and Rules Committee

ORDINANCE 03 - 2022

An ordinance amending Chapter 1739, Violations and Abatement, of the Codified Ordinances of the City of North Canton, specifically sections 1739.01 and 1739.03 to allow for the expedited abatement of noxious weeds and rank vegetation.

WHEREAS, Council believes thirty days is an overly generous time frame to allow for the correction of nuisance violations related to noxious weeds and rank vegetation; and

WHEREAS, the City wishes to create an expedited abatement process so that such violations may be addressed in a timely manner.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NORTH CANTON, COUNTY OF STARK, AND STATE OF OHIO:

Section 1. That Chapter 1739, Violations and Abatement, specifically sections 1739.01 of the Codified Ordinances of the City of North Canton, be, and is hereby, amended to read as follows:

SECTION 1739.01 NOTICE OF ADMINISTRATIVE WARNING

(a) Whenever the code official determines that there has been a violation of this Code or has grounds to believe that a violation has occurred, the code official may issue a Notice of Administrative Warning to the property owner, occupant, or agent having charge of the property. The code official is authorized to issue a single Notice of Administrative Warning for a particular property to the property owner, occupant, or agent having charge of the property in order to address multiple violations of this Code.

(b) Such notice shall be in writing and shall include all of the following:

- (1) The address or real property description reasonably sufficient to identify the property in question;
- (2) A brief statement of the violation or violations of this Code;
- (3) A brief statement of what must be corrected to bring the property into compliance with the provisions of this Code and a correction order allowing a reasonable time to take such action and/or make the repairs and improvements required to bring the property into compliance with the provisions of this Code;
- (4) Notification of the penalties which may result from non-compliance, including a statement of the City's right to file a lien against the property;
- (5) Notification of the opportunity to enter into a corrective action plan with the City to abate the violations; and
- (6) Notification of the right to appeal the determination that the property is not in compliance with this Code to the Property Maintenance Review Board.

(c) In addition to the Notice of Administrative Warning for violations of Section 1705.07, the Director of Administration shall publish in one newspaper of local circulation on or about the first day of April each year notice of the City's determination that noxious weeds and rank vegetation are public nuisances. The notice shall further demand that all owners of improved property within the City remove all noxious weeds and regularly cut rank vegetation to a height of less than eight inches on improved property and twelve inches on unimproved property.

Section 2. That Chapter 1739, Violations and Abatement, specifically sections 1739.03 of the Codified Ordinances of the City of North Canton, be, and is hereby, amended to read as follows:

SECTION 1739.03 METHODS OF ABATEMENT

(a) When a property is found to be non-compliant with this Code, the code official may take any or all of the following actions upon giving two (2) days prior written notice of abatement for violations of Section 1705.07 or for all other violations thirty (30) days prior written notice of abatement to the owner, occupant, or agent having control of the property, via notice of Administrative Warning, provided, however, no notice of abatement need be given by the code official if exigent circumstances necessitate the immediate or prompt abatement of a violation.

- (1) Cause the property to be brought into compliance with this Code, which shall include the right of the City to contract with third parties, through the completion of the necessary work and/or the supply the necessary materials to bring the property into compliance, including the demolition and removal of any structures located on the property.
 - (A) The property owner, occupant, or agent having charge of the property shall be invoiced by the City for all abatement costs incurred or to be incurred by the City, including all costs to third parties, in order to bring the property into compliance with this Code, and such invoice shall be paid by the owner, occupant, or agent having charge of the property within thirty (30) days of the date of the invoice.
 - (B) If after such thirty (30) day period the invoice has not been paid, the costs therein shall be assessed as a lien against the property and certified to the County Auditor.
- (2) Issue a written citation to the owner, occupant, or agent having control of a property. The code official is further authorized to assess a fine as provided in **Error! Reference source not found.**, in addition to any other fees, costs, or charges authorized by this Code or Ohio law.
- (3) Request the Law Director to institute appropriate action to restrain, correct, or abate a violation of this Code, or to prevent illegal occupancy of a building, structure, or premises, or to stop an illegal act, conduct, business, or utilization of the building, structure, or premises.
 - (A) The property owner, occupant, or agent having control of the property shall be invoiced by the City for the costs of any such action taken by the Law Director, and such invoice shall be paid by the owner, occupant, or agent having control of the property within thirty (30) days of the date of the invoice.
 - (B) If after such thirty (30) day period the invoice has not been paid, the costs therein shall be assessed as a lien against the property and certified to the County Auditor.

(b) The costs for taking any of the above actions may include, but are not limited to, any costs incurred due to the use of employees, materials, or equipment of the City of North Canton, any costs arising out of contracts for labor, materials, or equipment, costs of service of notice(s), filing of an affidavit(s), title searches, attorney's fees, or any other necessary costs in seeking remedies for violations of this Code.

(c) The City of North Canton may cause a civil action to be commenced to recover the total costs incurred pursuant to this Chapter from the owner, occupant or agent having control of the property. All attorney's fees and court costs incurred by the City shall be considered "costs" as provided for in Section 1739.03(b).

(d) Any contract entered into between the City and a third party to enforce this Code may contain a provision that some or all of the consideration to be paid by the City under said contract, may be deferred and shall only be payable upon the City's collection of same from the owner, occupant or agent having control of the property and/or other collection after being certified to the City treasurer and collected thereby. Any interest and/or penalties attributable to said deferred payments shall bear the same rates allowed by law for delinquent real property taxes and shall be added to said deferred payments, provided, however, that any such interest and/or penalties attributable to said deferred payments shall only be payable by the City to a third party upon the City's collection of same from the owner, occupant, or agent having control of the property.

(e) With respect to any action taken by the City relating to properties found to be in violation of this Code, the costs of which are assessed as a lien against the real estate, the City reserves the right to take such legal steps as may be necessary to subordinate all other mechanics liens, mortgages, or other liens assessed against the property.

(f) Notice of abatement as provided for in Section 1739.03 shall include:

- (1) The address or real property description reasonably sufficient to identify the property in question;

- (2) A brief statement of the violation or violations of this Code;
- (3) A brief statement of what must be corrected to bring the property into compliance with the provisions of this Code and a correction order allowing thirty (30) days to take such action and/or make the repairs and improvements required to bring the property into compliance with the provisions of this Code;
- (4) Notification of the penalties which will result from failure of compliance with the correction order, including a statement of the City's right to file a lien against the property;
- (5) Notification of the right to appeal the determination that the property is not in compliance with this Code to the Property maintenance Review Board.

(g) For purposes of this Section, a Notice of Administrative Warning as described in Section 1739.01 will qualify as notice of abatement.

Section 3. That the Clerk of Council and Mayor of the City of North Canton be, and are hereby, authorized to make such amendments as may be needed to the Codified Ordinances of the City of North Canton to accurately reflect this ordinance upon approval of such amended pages by a voice vote of Council.

Section 4. That if a provision of this ordinance is or becomes illegal, invalid, or unenforceable, it shall not affect the validity or enforceability of any other provision of this ordinance.

Section 5. That this ordinance shall take effect and be in full force from and after the earliest period allowed by law.

Passed in Council this _____ day of _____, 2022.

Attest: _____
Benjamin R. Young, Clerk of Council

Stephan B. Wilder, Mayor

Signed on: _____



Item Cover Page

CITY COUNCIL AGENDA ITEM REPORT

DATE: February 7, 2022

SUBMITTED BY: Benjamin Young, Administration

ITEM TYPE: Ordinance

AGENDA SECTION: Old Business

SUBJECT: **Ordinance No. 04-2022, 3rd Reading, Street and Alley Committee**
 An ordinance authorizing the Mayor of the City of North Canton to release the Maintenance Bond Agreement between the City and McKinley-Applegrove Ltd. regarding improvements to be maintained in the Sanctuary Development Phase 4.

DESCRIPTION: McKinley-Applegrove Ltd. has requested the City release the Maintenance Bond authorized by Ord. 44-2020 for the Sanctuary Development Phase 4. The City Engineer has affirmed that all obligations of the bond have been met.

ATTACHMENTS:
[Ord. 04-2022 Releasing Sanctuary Phase 4 Maintenance Bond.docx](#)

North Canton City Council
Street and Alley Committee

ORDINANCE 04 - 2022

An ordinance authorizing the Mayor of the City of North Canton to release the Maintenance Bond Agreement between the City and McKinley-Applegrove Ltd. regarding improvements to be maintained in the Sanctuary Development Phase 4.

WHEREAS, City ordinance 44-2020 authorized the Mayor to enter into an agreement with McKinley-Applegrove Ltd. for a maintenance bond in the amount of \$61,113.00 for improvements in the Sanctuary Development Phase 4; and

WHEREAS, the City engineer has accepted all improvements as complete and certifies that McKinley-Applegrove Ltd. has fully complied with all provision of the maintenance bond.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NORTH CANTON, COUNTY OF STARK, AND STATE OF OHIO:

Section 1. That the Mayor of the City of North Canton be, and is hereby, authorized to release McKinley-Applegrove Ltd. from the maintenance bond agreement as authorized by City Ordinance 44-2020 in consideration of improvements completed and accepted by the City.

Section 2. That if a provision of this ordinance is or becomes illegal, invalid, or unenforceable, it shall not affect the validity or enforceability of any other provision of this ordinance.

Section 3. That this ordinance shall take effect and be in full force from and after the earliest period allowed by law.

Passed in Council this _____ day of _____, 2022.

Attest: _____
Benjamin R. Young, Clerk of Council

Stephan B. Wilder, Mayor

Signed on: _____



Item Cover Page

CITY COUNCIL AGENDA ITEM REPORT

DATE: February 7, 2022

SUBMITTED BY: Benjamin Young, Council's Office

ITEM TYPE: Ordinance

AGENDA SECTION: Old Business

SUBJECT: **Ordinance No. 05-2022, 3rd Reading, Street and Alley Committee**
An ordinance amending Chapter 907, Street Excavations, of the Codified Ordinances of the City of North Canton in order to establish separate processes for minor and major street excavations.

DESCRIPTION: The previous Council had requested legislation to amend the street opening permits process in response to resident concerns. The attached ordinance is in response to that request and seeks to separate minor and major street excavation projects into separate permit classifications. Minor projects/permits, like the one brought up in the resident complaint, would not longer require such a large deposit as was the concern of the complaint.

ATTACHMENTS:
[Ord. 05-2022 Amend Chapter 907 Right of Way Permits Edits.docx](#)

North Canton City Council
Street and Alley Committee

ORDINANCE 05 - 2022

An ordinance amending Chapter 907, Street Excavations, of the Codified Ordinances of the City of North Canton in order to establish separate processes for minor and major street excavations.

WHEREAS, in response to concerns of City residents, the Council of the City of North Canton asked that the street excavation permit process be reviewed for possible amendment to reduce the financial burden on private homeowners performing minor work; and

WHEREAS, the Administration has prepared amendments that would separate minor street excavations into a separate and less burdensome permit classification.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NORTH CANTON, COUNTY OF STARK, AND STATE OF OHIO:

Section 1. That Chapter 907, Street Excavations, of the Codified Ordinances of the City of North Canton, be, and is hereby, amended to read, in its entirety, as set forth in "Exhibit A" attached hereto and incorporated herein.

Section 2. That the Clerk of Council and Mayor of the City of North Canton be, and are hereby, authorized to make such amendments as may be needed to the Codified Ordinances of the City of North Canton to accurately reflect this ordinance upon approval of such amended pages by a voice vote of Council.

Section 3. That if a provision of this ordinance is or becomes illegal, invalid, or unenforceable, it shall not affect the validity or enforceability of any other provision of this ordinance.

Section 4. That this ordinance shall take effect and be in full force from and after the earliest period allowed by law.

Passed in Council this _____ day of _____, 2022.

Attest: _____
Benjamin R. Young, Clerk of Council

Stephan B. Wilder, Mayor

Signed on: _____

CHAPTER 907 – STREET EXCAVATIONS

SECTION 907.01 SCOPE OF REGULATIONS

The conditions contained in this chapter apply to any individual, firm, corporation, utility, or governmental subdivision, which finds it necessary to excavate within any dedicated street, alley, or right of way within the corporate limits of the City. The specifications contained in this chapter apply to any and all modifications made within the street lines or right of way lines of any dedicated street or alley within the corporate limits of the City.

SECTION 907.02 RIGHT OF WAY PERMITS; FEES; EXCEPTIONS

(a) Before any work or modification(s) performed in the rights-of-way, a right of way permit must be obtained from the Director of Permits. Utilities operating under franchise and performing work with their own employees within the City shall pay no permit fee for right of way permits, but must obtain a permit prior to commencing work and follow the specifications and procedures of this chapter.

(b) A major right of way permit is required with any modification(s) occur in the roadway area or extend beyond a single adjoining property when located outside the roadway area. The cost for such permit shall be determined by the actual costs incurred by the City. A cash deposit established by the City engineer shall be placed and maintained with the City prior to permit issuance. In the event the deposit exceeds the City's actual costs the remaining balance will be refunded in accordance with Section 907.3.

(c) A minor right of way permit is required where the modification(s) performed is located entirely outside the roadway and limited to the area within a single adjoining property. The cost for such permit shall be one hundred dollars (\$100.00) and shall be paid at the time of application. The City Engineer may determine a project ineligible for a minor right of way permit based on the scope of work and therefor require a major right of way permit.

(d) The work to be done under a right of way permit, and the restoration of the rights of way as required herein, must be completed within the dates specified in the permit. In addition to its own work, the permittee must restore the general area of the work, and the surrounding areas, including trench backfill, paving, and its foundations in accordance with any applicable laws and the standards established by the City Engineer, and must inspect the area of the work and use reasonable care to maintain the same condition for 180 days thereafter.

(e) The Director of Permits shall not issue any right of way permit until all requirements of this chapter have been satisfied as determined by the City Engineer and no work shall be commence until a right of way permit is obtained from the Director of Permits.

(f) A right of way permit is not required for the replacement of existing sidewalks located in the public right-of-way.

SECTION 907.03 PERFORMANCE REQUIRED

(a) All persons, firms, corporations, partnerships, or other entities, except franchised utility companies performing work with their own employees and the City of North Canton, upon obtaining a major right of way permit, shall make a deposit in the form of a performance bond or certified check in an amount determined by the City to be sufficient to cover the cost of restoring the rights-of-way in accordance with any applicable laws and the standards established by the City Engineer. If within one hundred eighty (180) days after completion of the restoration of the rights-of-way and final inspection by the City, the City determines that the rights-of-way have been properly restored, the surety on the performance bond shall be released.

(b) The City shall have the authority to prescribe the manner and extent of the restoration and may do so in written procedures of general application or on a case-by-case basis. Any deficiency in the restoration of the rights-of-way shall be corrected in accordance with the standards and materials specified by the City. If within three (3) days of being notified by the City any deficiency in such work, the permittee has not corrected such deficient work, all deposits shall

be forfeited and the City may, but shall not be obligated, to complete the work. The forfeiture of a deposit shall not prejudice the City from pursuing any additional cost incurred by the City.

(c) Deposits shall be held for one hundred eighty (180) days after final inspection to ensure the quality of work.

(d) All persons, firms, corporations, partnerships or other entities that have been issued a right of way permit shall be responsible for reimbursing the City for all actual costs of all engineering, surveying, inspections, and/or other costs incurred by the City in the review, checking, and/or inspection of the work being performed. Any such costs not paid after the period specified in subsection (c) hereof shall be claimed against the deposit provided by the permittee pursuant to subsection (a) hereof.

SECTION 907.04 EQUIPMENT; BARRICADES; LIGHTS

(a) Equipment. Any equipment used for making excavations covered by this chapter shall be mounted on pneumatic tires, rubber covered tracks, or street pads. Equipment having steel lugs or steel tracks shall not be loaded, unloaded, or operated in any fashion on the improved portion of the street, alley, or right of way.

(b) Barricades and Lights. Barricades strong enough to support a pedestrian shall be placed completely around all excavations. Lights or lanterns shall be placed at all corners of the barricades and at intervals not to exceed ten feet on centers. Lights or lanterns shall be lit thirty minutes before sundown and operate continuously until thirty minutes after sunup. Should the excavation be made on an uninhabited or unimproved street, barricades and lights shall be placed at all entrances and exits and need not be placed along with the excavation.

SECTION 907.05 EXCAVATIONS, SIZE, AND BACKFILLING

(a) Excavations. All excavations shall be made as small as practical for the prosecution of the work.

(b) Backfill.

- (1) Under pavements or traveled alleys. After installation or repair of the structure, which necessitated the excavation, select earth shall be tamped in six-inch layers around the structure and to a depth of six inches above it. The remainder of the backfill shall be a granular material known as crusher run stone, grits, bank-run gravel, or another granular material approved by the Excavation Inspector. The granular material shall be tamped in six-inch layers. The granular backfill shall terminate eight inches from the top of the existing pavement. The final eight inches shall consist of six inches of concrete base and two inches of asphalt concrete.
- (2) Under sidewalks and driveway approach slabs. Excavations under sidewalks and drives shall be backfilled exactly as for that under pavements except that the granular backfill shall be terminated one inch below the subgrade of the sidewalk and two inches of No. 67 stone shall be evenly spread over the sidewalk area and shall be checked and maintained for a period of thirty days.
- (3) Under areas between the pavement and the sidewalk. Excavations between the sidewalk and the pavement shall be backfilled with select earth, tamped in six-inch layers, and terminated in a neat mound six inches above the surrounding surface. Should the excavation impair the strength of the adjacent pavement or sidewalk, granular backfill shall be placed in the six-inch compacted layers, to a depth of eighteen inches below the existing surface. The remainder of the backfill shall then be select earth placed as described above. The agency making the excavation shall be responsible for replacing all pavement or sidewalk, existing or new, damaged by careless excavation or improper backfilling.

SECTION 907.06 REPLACEMENT OF PERMANENT PAVEMENT

(a) Brick Pavements and Blacktop Streets. If after thirty days, the Excavation Inspector is convinced that further settlement of the backfill will not occur, the temporary surface shall be removed and the granular backfill excavated to a depth of eight inches. The remaining granular backfill surface shall be leveled, tamped, and moistened. Six inches of the concrete base shall be placed on the prepared granular backfill. After the concrete has set, two inches of the asphaltic concrete surface shall then be compacted on the concrete base. All blacktop joints shall be sealed. Based on the existing pavement thickness and the average daily traffic, the City Engineer may specify a different pavement replacement section.

(b) Concrete Pavements. If after thirty days, the Excavation Inspector is convinced that further settlement of the backfill will not occur, the temporary surface shall be removed and the granular backfill excavated to such a depth that a minimum of eight inches of Portland cement concrete pavement can be placed.

SECTION 907.07 TRAFFIC CONTROL

(a) Individuals who receive permits shall notify the City of North Canton Police Department with no less than 24 hours prior notice of any planned disruption in traffic patterns.

(b) All traffic safety and control shall be in accordance with the latest version of the Ohio Manual of Uniform Traffic Control Devices as adopted by the Ohio Department of Transportation.

SECTION 907.08 SAFETY MEASURES; MANHOLES; EXCAVATIONS

(a) Barriers, barricades, or standard guard railings shall be provided for guarding open manholes, handholds, gratings, or excavations. Visual warning devices shall be provided for such barricades, barriers, and guard railings.

(b) Testing equipment shall be provided and a standard procedure established by the employer to determine the presence of air contaminants or a deficiency of oxygen.

(c) Air contaminants or oxygen deficiency shall be controlled, minimized, or purged by one or more of the following methods:

- (1) Removed at source by local exhaust ventilation;
- (2) Removed by general ventilation;
- (3) Removed by dilution ventilation; or
- (4) By respiratory equipment furnished by the employer which provides protection equal to or greater than that approved by the U.S. Bureau of Mines, where there are air contaminants or where there is a deficiency of oxygen in the air.

The air or oxygen supplied to a supplied air helmet shall be of the positive pressure type. The air supplied to a supplied air helmet or to other supplied air breathing apparatus shall be filtered.

(d) Ladders shall be provided for entering or leaving a manhole, vault, or other similar underground area.

(e) The fixtures to which lamp sockets and plugs are attached shall, in all cases, be explosion proof, vapor proof, moisture proof, and dust proof. All extension cords shall be made of heavy duty cord. All lamps shall be guarded.

(f) No person shall enter a manhole, in a public right-of-way, or remain inside thereof, and no person, firm, or corporation shall direct, permit or allow another in his employ or under his supervision, to enter a manhole or remain inside thereof without having another employee on the surface at or near the entrance to the manhole.

(g) Where the safety equipment is provided as outlined in subsection (a) hereof it shall be the responsibility of the employee or employees working at or in the manhole to use that equipment.

SECTION 907.99 PENALTY

(a) Whoever violates any provision of this chapter is guilty of a minor misdemeanor, a separate offense shall be deemed committed each day during or on which a violation occurs or continues.

(b) The City is authorized to issue a stop work order when any work is in violation of this code and may cause the remedy for any hazardous situations created by the violations present at the sole expense of the responsible parties.



Item Cover Page

CITY COUNCIL AGENDA ITEM REPORT

DATE: February 7, 2022

SUBMITTED BY: Benjamin Young, Administration

ITEM TYPE: Ordinance

AGENDA SECTION: New Business

SUBJECT: **Ordinance No. 58-2021, 1st Reading, Community and Economic Development Committee**

An ordinance amending Chapter 1133 Single-Family and Two-Family Residential District Regulations, specifically subsection 1133.08(d), Swimming Pools, and Chapter 1707, Swimming Pools, Spas, and Hot Tubs, specifically subsection 1707.01(b) of the Codified Ordinances of the City of North Canton to lower the minimum required height of fencing for swimming pools to four (4) feet.

DESCRIPTION: In response to several citizen complaints and the reality of standard fencing material sizes the Administration is requesting amending the minimum outdoor pool fence requirements from five feet to four feet.

At their October 2021 meeting Planning Commission recommended that the proposed changes be adopted with the additional modification that Divisions 2 and 4 be removed from 1133.08(d).

ATTACHMENTS:

[Ord. 58-2021 Lowering Pool Fence Requirements.docx](#)

North Canton City Council
Community and Economic Development Committee

ORDINANCE 58 - 2021

An ordinance amending Chapter 1133 Single-Family and Two-Family Residential District Regulations, specifically subsection 1133.08(d), Swimming Pools, and Chapter 1707, Swimming Pools, Spas, and Hot Tubs, specifically subsection 1707.01(b) of the Codified Ordinances of the City of North Canton to lower the minimum required height of fencing for swimming pools to four (4) feet.

WHEREAS, the International Swimming Pool and Spa Code published by the International Code Council is frequently used as the standard throughout the United States and recommends a minimum pool fencing height of four (4) feet; and

WHEREAS, fencing that is 5 feet tall is a non-standard fence height placing an undue burden on North Canton residents seeking to comply with pool fencing regulations

WHEREAS, the Planning Commission held a public meeting for the purpose of gaining public input on the proposed zoning change on October 6, 2021, pursuant to Section 1181.04 of the North Canton Codified Ordinances, and recommended that City Council adopt the amendments with modifications; and

WHEREAS, City Council held a public meeting for the purpose of gaining public input on the proposed zoning change on January 24, 2022, pursuant to Section 1181.06 of the North Canton Codified Ordinances.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NORTH CANTON, COUNTY OF STARK, AND STATE OF OHIO:

Section 1. That Chapter 1133 Single-Family and Two-Family Residential District Regulations, specifically subsection 1133.08(d), Swimming Pools, of the Codified Ordinances of the City of North Canton be and is hereby, amended to read as follows:

(d) Swimming Pools. Private swimming pools for the exclusive use of residents of the premise may be located in any R Residential District provided they comply with the locational and coverage requirements of Schedules 1133.08(a) and 1133.08(b) and the supplemental regulations set forth below.

- (1) All swimming pools, together with adjacent walkways, shall be enclosed by a wall or fence having a minimum height of four (4) feet.
- (2) For aboveground pools, the height of the pool, from the surrounding grade to the top of the pool wall, may be used as credit to meet the minimum 4-foot height requirement.
- (3) All fences and other pool enclosures shall be constructed so as to have no openings, holes, or gaps larger than three inches in width, except for doors, gates, or windows which shall be equipped with suitable locking devices to prevent unauthorized access. Access secured accessory buildings and walls of principal buildings may be used in place of, or as part of, the enclosure.
- (4) A living fence shall meet the requirements for enclosure when the plants are closely spaced so as to prevent unauthorized access to the pool area.
- (5) The construction and operation of a pool shall meet all other applicable City regulations.

Section 2. That Chapter 1707, Swimming Pools, Spas, and Hot Tubs, specifically subsection 1707.01(b), of the Codified Ordinances of the City of North Canton be and is hereby, amended to read as follows:

(b) Private swimming pools, hot tubs and spas, containing water more than twenty-four (24) inches in depth shall be completely surrounded by a fence or barrier not less than forty-eight (48) inches in height above the finished ground level measured on the side of the barrier away from the pool. Gates and doors in such barriers shall be self-closing and self-latching. Where the self-latching device is less than forty (40) inches above the bottom of the gate, the release mechanism shall be located on the pool side of the gate. Self-closing and self-latching gates shall be maintained such that the gate will positively close and latch when released from an open

position of six (6) inches from the gatepost. An existing pool enclosure shall not be removed, replaced or changed in a manner that reduces its effectiveness as a safety barrier.

Section 3. That the Clerk of Council and Mayor of the City of North Canton be, and are hereby, authorized to make such amendments as may be needed to the Codified Ordinances of the City of North Canton to accurately reflect this ordinance upon approval of such amended pages by a voice vote of Council.

Section 4. That if a provision of this ordinance is or becomes illegal, invalid, or unenforceable, it shall not affect the validity or enforceability of any other provision of this ordinance.

Section 5. That this ordinance shall take effect and be in full force from and after the earliest period allowed by law.

Passed in Council this _____ day of _____, 2021.

Attest: _____
Benjamin R. Young, Clerk of Council

Stephan B. Wilder, Mayor

Signed on: _____