



ORDINANCE O-15-2022

AN ORDINANCE TO AMEND CHAPTER 155 “PERSONNEL POLICIES” OF THE CITY OF NEW ALBANY, OHIO’S CODIFIED ORDINANCES AS REQUESTED BY THE CITY OF NEW ALBANY

WHEREAS, Chapter 155 the Codified Ordinances of the City of New Albany sets forth the city’s personnel policies including definitions, classified and unclassified service, probationary periods, leave accruals, discipline, and other personnel-related matters; and

WHEREAS, it has been found that the Codified Ordinances of the City of New Albany, chapter 155 needs to be amended to update the provisions to reflect and codify the city’s preferred policies and practices and maintain market competitiveness; and

WHEREAS, it has been found that the Codified Ordinances of the City of New Albany, Chapter 155 Personnel Policies, should be amended accordingly.

NOW, THEREFORE, BE IT ORDAINED by Council for the City of New Albany, Counties of Franklin and Licking, State of Ohio, that:

Section 1: That portions of Codified Ordinance Chapter 155 “PERSONNEL POLICIES” be amended as set forth in Exhibit A, which depicts these amendments in color type.

Section 2. The attached Personnel Policies changes shall become effective June 16, 2022.

Section 3. It is hereby found and determined that all formal actions of this council concerning and relating to the adoption of this legislation were adopted in an open meeting of council, and that all deliberations of the council and or any of its committees that resulted in such formal action were in meetings open to the public, in compliance with Section 121.22 of the Ohio Revised Code.

Section 4. Pursuant to Article 6.07(B) of the New Albany Charter, this ordinance shall become effective thirty (30) days after adoption.

CERTIFIED AS ADOPTED this _____ day of _____, 2022.

Attest:

Sloan T. Spalding
Mayor

Jennifer H. Mason
Clerk of Council

Approved as to form:

Benjamin S. Albrecht
Law Director

Legislation dates:

Prepared: 04/21/2022
Introduced: 05/03/2022
Revised: 05/09/2022 – exhibit A
Adopted:
Effective:

CHAPTER 155 Personnel Policies

155.01	Definitions.	155.17	Jury Service.
155.02	Administration.	155.18	Precinct Election Official Leave.
155.03	Compensation.	155.19	Insurance Benefits.
155.04	Probationary Period.	155.20	Merit Compensation.
155.05	Promotions, Transfers and Demotions	155.21	Miscellaneous Compensation
155.06	Overtime.	155.22	OPERS and OPFPF.
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155.08	Personal <u>DaysLeave</u> .	155.24	Personnel Records.
155.09	Vacation.	155.25	Individuals with Disabilities.
155.10	Sick Leave.	155.26	Disciplinary Actions.
155.11	Sick Leave Reciprocity	155.27	Procedure for Appeal of Disciplinary Action
155.12	Injury Leave.	155.28	Investigative Procedures.
155.13	Family Medical Leave.		
155.14	Bereavement Leave.		
155.15	Leaves of Absence.		
155.16	Military Leave.		

CROSS REFERENCES

Powers of Council - see CHTR. 4.02
Conflict of interest - see CHTR. 12.01
Personnel Appeals Board - see CHTR. 10.04
Personnel systems - see CHTR. 8.07

155.01 DEFINITIONS.

- (a) "Applicant" means a person requesting consideration for employment in the unclassified or classified service.
- (b) "Appointing Authority" means the City Manager or body having the power of appointment to, or removal from a position in the classified service and unclassified service.
- (c) "Class or (Classification)" means one or more positions sufficiently alike in duties, authority and responsibility to justify the same title, qualification and pay range a group of positions with the same descriptive title having equivalent duties and responsibilities and requiring equivalent qualifications, which can be distinguished from other groups of positions. There may only be more than one position in a classification (e.g. Deputy City Manager clerk in development, clerk in police department).
- (d) "Class Series" means two or more classes which are similar as to type of work but which differ as to degree of responsibility, difficulty, complexity, skill and/or technical knowledge and which have been arranged in a ladder of steps in a normal line of promotion.
- (e) "Classified Service" means all employees of the City of New Albany unless not included in the unclassified the positions which they occupy have been exempted from "classified service" service pursuant to Section 8.07, personnel systems, of the City Charter and Section 155.02 of these Codified Ordinances; and who, after completion of the original

probationary period, or the probationary period following a promotion, may only be disciplined, dismissed or reduced in pay or position for just cause in accordance with the procedures contained within these Codified Ordinances.

- (f) "Continuous Service" means the length of service as a full-time employee uninterrupted by resignation, retirement, discharge for cause or any other separation from municipal employment. ~~–Military leave, leave resulting from injury in the line of duty, leave for approved disability coverage, authorized leave without pay or administrative leave without pay for periods of six (6) weeks or less is not considered separation from municipal service.~~
- (g) "Demotion" means a change in employment status from a position of one classification to a position in another classification or a change in employment status from one position to a position with lesser duties, having a lower maximum salary limit than the original classification.
- (h) "Department head" means any an employee in charge of an established department and its subordinate divisions. Departments are created by Council, office, commission, board or other body as defined under the Charter or Codified Ordinances. Department heads may also be referred to as "Directors."
- (i) "Discipline" means positive corrective action taken by supervisory personnel to change or control the behavior of subordinate employees to conform with prescribed policy.
- (j) "Eligible" means a person who has satisfactorily met all qualifications and requirements for employment in the job class for which the person has made application and whose name should appear on an eligible list.
- (k) "Essential safety services" includes police officers, dispatchers, sergeants, and other employees within the police department for which twenty-four hour, seven days a week operations exist.
- (l) "Exempt" for purposes of classification status means a position that is unclassified according to Section 8.07, Personnel Systems, of the City Charter and Section 155.02 of these Codified Ordinances not subject to competitive testing.
- (m) "Flex time" means a work schedule that varies from the standard work hours by altering the workday start and/or finish times (including breaks) to complete a 40-hour workweek.
- (~~kn~~) "Full-time Employee" means an employee that is regularly scheduled to work not less than forty (40) hours within seven (7) consecutive calendar days.
- (~~ol~~) "Grievance" is any dispute, regarding the meaning, interpretation, application, or alleged violation in the administration of discipline.
- (p) "Holiday Pay" means the regular rate of pay an employee receives in observance of a holiday regardless of whether the employee works on the holiday or is excused from work in observance of the holiday.
- (~~mq~~) "Immediate Family" means parents, parents-in-law, step-parents, in loco parentis, legal guardian, brother-in-law, sister-in-law, spouse, children, daughters- and sons-in-law, step-children, brothers, sisters, grandchildren, grandparents, and grandparents-in-law unless otherwise specified.

- (r) "In loco parentis" refers to a relationship in which a person puts himself or herself in the situation of a parent by assuming and discharging the obligations of a parent to a child. The *in loco parentis* relationship exists when an individual intends to take on the role of a parent to a child who is under 18 or 18 years of age or older and incapable of self-care because of a mental or physical disability.
- (~~rs~~) "Intermittent" means an employee working an irregular schedule less than 1,000 hours per fiscal year.
- (~~ot~~) "Official" means a person appointed by City Council or the City Manager who directs the functions of government.
- (~~pu~~) "Part-time Employee" means any employee regularly working less than 40 hours per week and having been hired with the intention of working on an ongoing basis until an appropriate reason for termination of employment arises.
- (~~qv~~) "Human Resources Officer" means the position duly designated by the City Manager to coordinate the administration of this chapter.
- (~~fw~~) "Position" means any office, employment or job calling for the performance of certain duties and the exercise of certain responsibilities by one individual. A position may be vacant or occupied (part-time or full-time) and it may be designated regular, part-time, intermittent, temporary or seasonal.
- (~~sx~~) "Probationary Period" means a working test period during which an employee is required to demonstrate fitness for the duties to which appointed by actual performance of the duties of the position.
- (~~ty~~) "Promotion" means the change of an employee from a position in one classification to a position in another classification having a higher maximum salary.
- (z) "Regular employee" means an employee who has been appointed to a position in the classified service and who has satisfactorily completed their probationary period.
- (~~uaa~~) "Seasonal Employee" means any employee hired for a specified short term or interim period of time to perform work or activity limited to a season or period of year. Seasonal employees may not exceed 1,560 hours in a rolling 12 month period.
- (~~vbb~~) "Temporary Position" means a position of non-permanent character not to exceed 120 days, unless for sickness, illness or disability. Temporary positions cannot exceed 1,560 hours in a rolling 12 month period.
- (~~wcc~~) "Transfer" is a change of job assignment and/or classification created by an employment need as determined by the City Manager.
- (~~*dd~~) "Unclassified Service" means all employees of the City who occupy positions which have been exempted from all competitive examinations ~~the "classified service"~~ and who serve at the pleasure of the City and employees serving in a fiduciary capacity, do not serve a probationary period, and may be dismissed, disciplined or reduced in pay or position at any time without regard to the procedures contained within these Codified Ordinances and without a right of appeal.
- (~~yff~~) "Workday" means a regularly scheduled working time assigned by a supervisor or manager.

(zgg) "Workweek" means a regularly recurring period of seven (7), twenty-four (24) hour days.

155.02 ADMINISTRATION.

(a) The City Manager shall appoint a Human Resources Officer, to serve part-time or full-time, to administer the personnel system of the City. The Human Resources Officer shall:

(1) Prepare and recommend to the City Manager for approval rules to establish and maintain the merit system of the City. When approved by the City Manager, the rules shall be proposed to the City Council for adoption by ordinance, with or without amendment.

(2) Classify positions, establish job standards with adequate provisions for reclassification, and establish the probation period. Conduct recruitment, examinations, in-service training programs, and other such duties in relation to personnel as the City Manager may direct.

(3) Maintain a personnel file for each employee and official and keep all personnel information and necessary records.

(b) All classified positions shall be filled pursuant to a competitive selection process.

(c) City Council shall establish a classified and unclassified service for employees of the City. The classified and unclassified service is hereby established as follows:

(1) All employees of the City are presumed to be classified employees unless the positions which they occupy have been exempted from the classified service pursuant to Section 8.07, Personnel Systems, New Albany Charter. After completion of the original probationary period, or the probationary period following a promotion, classified employees may only be disciplined for just cause and in accordance with the procedures contained within these Codified Ordinances.

(2) Some employees of the City serve in the unclassified service, or occupy positions which have been exempted from the classified service. Such employees serve at the pleasure of the City, do not serve a probationary period, and may be dismissed, disciplined or reduced in pay or position at any time without regard to the procedures contained within these Codified Ordinances. The following positions/personnel are hereby designated as unclassified:

A. All seasonal, intermittent, temporary, interns and part-time personnel.

B. Other positions/personnel identified as follows:

1. City Manager
2. Deputy City Manager
3. Department Heads
4. Deputy Directors

5. Managers

56. Clerk of Council

7. Deputy Clerk of Council

68. Chief Communications & Marketing Officer

79. Engineer

- 10. Chief Building Official
- 11. Assistant Chief Building Official
- 812. Human Resources Officer~~Fiscal Manager~~
- 913. Operations Manager~~Police Lieutenant~~
- 1014. Development Services Manager~~Public Information Officer~~
- 1115. Dispatch Manager
- 16. Executive Assistant
- 17. Systems Analysts
- 1218. Any employee serving in a fiduciary capacity
- 19. Any newly created positions designated by the City Manager and approved by Council in advance of the position being filled.

(d) After June 1, 2019, applicants for police officer may be considered for employment regardless of the maximum age limitation provided in the Ohio Revised Code, Chapter 124:41 Police Department Qualifications.

155.03 COMPENSATION.

(a) A compensation plan consisting of pay grades and step schedules for all authorized positions shall establish minimum and maximum rates of pay defined on an hourly, biweekly and/or annual basis.

(b) The following are the categories of compensation: Administrative, Professional/Mid-management, Clerical, and Technical/Service.

(c) The entry level of pay for all positions shall be the minimum rate established for the classification, except that appointment rates above the minimum may be authorized if the Department Head and the Human Resources Officer submit adequate reasons in writing and the action is approved by the City Manager. Approval will be based upon the exceptional qualification of the appointee or the inability to employ adequately qualified personnel at the minimum rate.

(d) It shall be the responsibility of the City Manager to implement the performance appraisal process by conducting or having conducted an appraisal of the performance of officials and employees.

(e) The pay schedule of all employees, including City Council members, shall be on a biweekly basis.

(f) Full-time and part-time employees are eligible for merit-based performance adjustments in accordance with the procedures established by the City Manager. Employees shall be evaluated at or upon their anniversary date. The anniversary date shall be the effective date of appointment to the current classification or date of employment. An employee placed on probationary status as set forth in Codified Ordinance 155.04(e) shall be ineligible to move to the next succeeding step in the classification during ~~that the~~ probationary period or extension of probationary period. Upon successful completion of the probationary period extension, the anniversary of appointment to the new position will serve as the evaluation date for merit-based performance adjustments.

(g) Any employee assigned temporarily to a position of higher classification shall be compensated at the minimum of that class or seven percent (7%) above the

employee's present rate, whichever is higher, for all hours worked at the higher classification, provided a minimum of eight (8) hours are worked in the higher class.

(h) When an employee does not possess the necessary minimum training, experience and/or special requirements to independently perform the essential duties and responsibilities of a position, the City Manager shall have the discretion to establish a training wage. Such wage shall be agreed upon, in writing, by the affected employee and the City Manager.

155.04 PROBATIONARY PERIOD.

(a) An employee entering the service of the City on a full-time or part-time basis shall be considered a probationary employee for a period of one (1) year. Probationers may be removed or demoted any time during the probationary period by a written notice to the employee from the City Manager indicating that his/her services and performance are not satisfactory. Such removals and demotions are not subject to appeal. ~~At Before~~ the end of the one-year probationary period, the employee shall be evaluated. If the employee is adequately performing the duties and responsibilities required for the position and is complying with City policies, he/she shall be considered a permanent employee in the classification to which he/she is assigned. If the employee has failed to adequately perform the duties and responsibilities required for the position and/or has failed to comply with City policies, the employee shall:

(1) Be dismissed; or

(2) Have ~~his/her~~ the probationary period extended for an additional six months. A probationary period may only be extended for an additional six months ~~if the Department Head and City Manager agree after a conference meeting with the employee.~~ Any extension of probation must be approved by the City Manager or designee. Probation may be extended to provide an opportunity for the employee to demonstrate that the employee has the knowledge, skills, ability, work habits, and other job-related attributes necessary to obtain a permanent employment status. The employee must be notified in writing of the extension and acknowledge the extension of the probationary period.

(b) A probationary employee shall accrue vacation leave and sick leave. Vacation leave and sick leave may be used during the probationary period in accordance with Codified Ordinance 155.09 and Codified Ordinance 155.10.

(c) Leave without pay during the probationary period shall not be counted as part of the probationary period.

(d) An employee promoted to a higher position or transferred to another classification shall be classified as a probationary employee in that position for a period of six months. If the employee does not perform satisfactorily during the six-month probationary period, ~~he the employee~~ shall be returned to his ~~or her~~ previous position and ~~his his or her~~ seniority in that position shall be maintained. If the employee's previous position is occupied, the employee may be returned to a similar position the employee is otherwise qualified to occupy. An employee transferred to another classification within the same paygrade will retain the ability to achieve a merit bonus or step increase, whichever applies, at the end of the six month probationary period if the employee has not already received a merit bonus or step increase previously in the

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calendar year of the transfer. An employee who received a merit bonus or step increase in the calendar year before the transfer will be eligible for a merit bonus or step increase upon the anniversary date of the transfer.

(e) An employee who is changing his status from part-time or seasonal status to full-time status, even if he is performing the same tasks as performed in the part-time or seasonal status, shall be considered a probationary employee for a period of six months.

(f) An employee who fails to achieve a satisfactory level of performance as documented through the annual performance evaluation process may be placed on probationary status for a six (6) month period. After the six (6) month period a performance evaluation shall be made. The employee shall ~~either~~:

- (1) Be dismissed by reason of failing to adequately perform the duties and responsibilities required for the position;
- (2) Have his/her/the probationary period extended for an additional six (6) months; or
- (3) Be returned to regular status.

155.05 PROMOTIONS, TRANSFERS and DEMOTIONS.

(a) If an employee is transferred, promoted or demoted, the rate of pay for the new position shall be determined as follows:

- (1) If the rate of pay in the former classification is less than the minimum rate established for the classification of the new position, the rate of pay shall be advanced to the minimum for the classification.
- (2) If the rate of pay in the former classification is more than the maximum rate established for the new classification, the pay range shall be reduced to the maximum rate or an intermediate rate within the new range, as recommended by the Department Head and approved by the City Manager.
- (3) If the rate of pay of the former classification falls within the new range of pay, the rate shall remain the same in the case of a transfer; increase in the case of a promotion; or remain the same or be lowered in the case of demotion as determined by the City Manager.

(b) All promotions of employees shall be made according to merit and fitness, to be ascertained, as far as practicable, by competitive examinations, unless the promotion is to a position exempted from competitive examinations under Section 8.07 of the Charter. The City Manager in consultation with the Department Head shall determine the practicality of competitive examinations where the vacancy exists. An examination may include an evaluation of such factors as education, training, capacity, knowledge, manual dexterity, and physical or psychological fitness. An examination shall consist of one or more tests in any combination. Tests may be written, oral, physical, demonstration of skill, or an evaluation of training and experiences and shall be designed to fairly test the relative capacity of the persons examined to discharge the particular duties of the position for which appointment is sought. Tests may include structured

interviews, assessment centers, work simulations, examinations of knowledge, skills, and abilities, and any other acceptable testing methods.

155.06 OVERTIME.

(a) The use of overtime may be authorized by the Department Head in order to meet emergency service requirements or to maintain existing services.

(b) The City shall use a forty-hour workweek as the basis for making any Fair Labor Standards Act (FLSA) related overtime determinations.

(c) The calculation of an employee's 'paid status' shall include all hours permitted or suffered to be worked, as well as all hours in other paid status while on any approved leave, including holiday, vacation, personal, injury, paid military leave, sick, ~~call out~~, training or other paid leave accrued to an employee on an hour-for-hour basis. The use of compensatory time is specifically excluded from the calculation of paid status.

(1) When calculating "paid status" for a week which includes a holiday:

A. Employees who do not receive a holiday leave bank shall have holiday pay hours paid pursuant to 155.07(c) and hours actually worked above eight (8) hours on a holiday counted as "paid status." Hours actually worked on the holiday up to 8 hours are not counted toward paid status for calculating overtime because the eight (8) hours of holiday pay are already included in paid status.

~~(c)~~ B. Employees who receive a holiday leave bank shall have all hours worked on the holiday and any holiday leave hours when taken counted as "paid status."

(d) Employees who are not overtime-exempt based on FLSA regulations and who work a forty-hour workweek shall be compensated at a rate of one and one-half times their regular hourly rate for hours in paid status in excess of forty. Pursuant to C.O. 155.06, the use of previously earned compensatory time shall not be considered "hours worked" or "paid status" for the purpose of calculating any overtime hours worked in accordance with FLSA requirements. Except under the circumstances specifically provided for in this Codified Ordinance, any hours paid at a premium rate are not included in paid status for purposes of calculating overtime because separate compensation is already paid for those hours.

(e) ~~An~~ A full-time employee may elect to take compensatory time in lieu of the compensation provided herein. Part-time, seasonal, temporary employees will be compensated in pay only for hours worked over 40 (forty) hours in a workweek. An employee's election to take compensatory time is the sole decision of the employee and no one should coerce or pressure the employee to take compensatory time. Such compensatory time shall not exceed a total accumulation over eighty (80) hours. Public Service Department employees who engage in snow removal activities may accumulate in excess of eighty (80) hours, provided that any hours in excess of the eighty (80) hour limit shall be taken by the last pay period in the month of June. Any remaining compensatory time in excess of eighty (80) hours remaining at the last pay period in June shall be paid out. ~~In~~ no case shall the total hours accrued be in excess of one hundred twenty (120) hours. ~~Compensatory time may be taken at a time that is~~

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convenient to both the employee and employer. The balance remaining at the conclusion of the first pay period ending in December shall be paid out in full. Employees appointed from an FLSA non-exempt position to an FLSA exempt position will have any accrued compensatory leave paid out at the FLSA non-exempt rate of pay upon appointment to the FLSA exempt position.

(f) With the approval of the Department Head, employees may use “flex time” for the benefit of the employee or the City to accommodate scheduling needs.

155.07 HOLIDAYS.

(a) The following days are declared paid holidays from which the full-time employees and officials will be excused from work and shall receive eight (8) hours of compensation at their base rate.

New Year's Day	January 1
Martin Luther King Day	Third Monday in January
President's Day	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Veteran's Day	November 11
Thanksgiving Day	Fourth Thursday in November
Day after Thanksgiving	The day following Thanksgiving
Christmas Eve	second half of the last work day before Christmas
	Day observed, four (4) hours
Christmas Day	December 25

(b) For employees whose normal work week is Monday through Friday, when any holiday listed above falls on Saturday, the preceding workday shall be considered the holiday. When the holiday falls on a Sunday, the following workday shall be considered the holiday. For employees (essential safety services) whose normal work week includes the weekend, the holiday shall be observed on the actual holiday. For employees who receive a holiday bank, the holiday is observed on the actual holiday.

(c) Each full-time employee shall be paid eight (8) hours pay for a holiday. In order for an employee to be entitled to a holiday, he/she must have actually worked on the day before and the day after the holiday unless utilizing permissible leave time such as vacation, sick leave, bereavement leave, jury duty, personal day(s) or other paid leave approved by the City Manager.

(d) When any holiday listed above falls while an employee or official is on approved vacation time, such holiday shall not be charged against vacation leave.

(e) In the event the Federal and State governments shall designate a day of the week for any of the holidays specified above, then said day shall be observed in accordance with said designation.

(f) Each full-time FLSA non-exempt employee, except as provided in (g), below, who is required to work on a day designated as a holiday shall, in addition to receiving eight hours pay for the holiday, be compensated in ~~either~~ one of the following ways:

- (1) The employee ~~shall may elect to~~ be paid at the rate of one and one half times their hourly rate of pay for ~~all any~~ hours worked on the holiday.
- (2) The employee ~~shall may elect to~~ be credited with one and one half hours of ~~personal compensatory~~ leave ~~at their regular, hourly rate of pay,~~ for ~~all any~~ hours actually worked on the holiday. ~~Personal Compensatory~~ leave may be taken as time off, with the approval of their supervisor, at any time during the calendar year in which it is credited. -Any balance of unused time remaining at the end of the calendar year will be paid in cash at the employee's base rate of pay.
- ~~(2)(3)~~ Example: An FLSA non-exempt employee works eight (8) hours on July 4th. The employee may elect to be paid for four hours at time and one-half and credited with a total of six (6) hours of compensatory time to account for the other four (4) hours of time worked on the holiday.
- (g) Effective January 1, 2019, FLSA non-exempt essential safety services positions within the Police Department, such as dispatchers and sergeants, will be provided a holiday leave bank, ~~prorated for the holidays remaining in the calendar year. Thereafter, employees will receive a holiday leave bank~~ at the beginning of each calendar year. Employees may use holiday leave hours on the actual holiday or another day of the year with supervisor approval. In the event an employee with holiday leave does not use or submit to use all the leave remaining ~~as of the next to last pay period of the fiscal year by December 31,~~ such amount will be paid to the employee at the employee's base rate in the last pay period of the fiscal year.
 - (1) Upon initial appointment to a position described under (g), above, a pro-rated bank of hours for remaining holidays will be provided for the employee.
 - (2) An employee ~~who with accrued and unused holiday leave terminates who separates or transfers to a position that does not receive holiday bank, with unused holiday leave~~ will be paid out the ~~remaining accrued~~ leave at the employee's base rate of pay. ~~Employees~~ An employee who separates, or transfers to a position that does not receive a holiday bank, and ~~have has~~ used more holiday leave than has accrued will have the equivalent number of hours at the employee's base rate withheld from the employee's ~~final paycheck or may elect to forfeit the equivalent number of hours of other accrued leave.~~ -Holiday leave hours not accrued are considered forfeited upon separation.
 - ~~(2)(3)~~ An employee who works on the holiday shall be paid at a rate of one and one-half times their hourly rate of pay for hours actually worked on the holiday.
- (h) Employees who begin a shift on the day prior to the designated holiday, but work more than 50% of their hours on the holiday, shall be credited for the holiday on the date that their shift begins.

155.08 PERSONAL LEAVE.

(a) In addition to the observed holidays set forth in C.O. 155.07(a), all full-time employees shall be authorized to observe sixteen (16) hours designated as "personal leave". Such time shall be scheduled as far in advance as possible and approved by the supervisor, except that no reasonable request shall be denied. Wages shall be computed on the basis of the employee's existing rate of compensation at the time the leave is taken. Any unused personal leave remaining after the last pay period of the same year or when an employee terminates his/her employment shall be forfeited.

(b) New employees hired before June 30 will be authorized to observe sixteen (16) hours of personal leave. New employees hired between July 1 and November 30 will be authorized to observe eight (8) hours of personal leave. ~~New employees hired December 1 or after will not be eligible for any personal leave that year.~~

155.09 VACATION.

(a) Full-time, non-exempt employees shall accrue vacation on the following schedule:

- (1) At employment up to the completion of the 4th year of employment - 3.077 hours per pay period
- (2) Upon completion of the 4th year of employment up to the completion of the 9th year of employment - 4.615 hours per pay period
- (3) Upon completion of the 9th year of employment up to the completion of the 14th year of employment - 6.154 hours per pay period
- (4) Upon completion of the 14th year of employment and beyond - 7.70 hours per pay period

(b) The annual vacation schedule for full-time, exempt employees shall be as follows:

(1) At appointment - three weeks. Employees who move from a non-exempt position to an exempt position will be provided three weeks upon appointment to the exempt position and continue to accrue at the rate otherwise qualified for based on length of continuous service with the City.

(2) Upon completion of the 1st year of employment up to the completion of the 4th year of employment – 4.615 hours per pay period

(3) Upon completion of the 4th year of employment up to the completion of the 7th year of employment – 6.154 hours per pay period

(4) Upon completion of the 7th year of employment and beyond - 7.70 hours per pay period.

(c) Vacations shall be at full pay at the current salary rate.

(d) Each full-time employee and official shall be permitted an annual standard maximum carryover of three (3) times the annual vacation accrual rate. Any accrued vacation leave in excess of the ~~appropriate above~~ maximum carryover limits standing to the credit of the employee on December 1 shall become void on December 31. Leave in excess of 480 hours as of December 1 may be carried over or up to 80 hours may be paid out upon request to and approval by the City Manager by December 1. The leave elected to be paid out will be paid in January. ~~unless used by the employee, or carried over, to the subsequent calendar year following the submission to and approval of such~~

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~~request by the City Manager on December 1.~~ Approval of carryover ~~such~~ requests above the maximum carryover limit will be limited to instances where factors beyond the employee's control or directly related to the operational needs of the City prevented the employee from using the accrued vacation.

(e) No advance of vacation is permitted. Only requests for vacation less than or equal to the accrued balance will be approved.

(f) Leave is accrued on the basis of an 80 hour pay period such that any time not in a paid status, i.e. unpaid time off, during a pay period will result in a reduced, pro-rated accrual for that pay period.

(g) In order to recruit and retain qualified persons, employees shall accrue vacation leave as provided in (a) or (b), above, except that accrual rates above the minimum may be authorized if the Department Head and the Human Resources Officer submit adequate reasons in writing and the action is approved by the City Manager. Approval will be based upon the exceptional qualification of the applicant or the inability to employ adequately qualified personnel. In awarding a higher accrual rate, consideration shall be given to the applicant's qualifications, work experience, the level of responsibility required in the position and the availability of qualified applicants or other relevant market factors. Employees granted higher accrual rates shall move to the next accrual rate upon completion of four (4) years of employment with the City.

(h) Compensation for vacation leave in lieu of time off shall not be granted.

(i) Vacation leave shall be scheduled as far in advance as possible and at the discretion of the supervisor. In the event of conflicting requests, the Department Head shall resolve the conflict based on the operating needs of the department/division.

(j) Where an employee becomes deceased while in paid status in municipal employment, any accrued vacation leave to his/her credit shall be paid in a lump sum first to the surviving spouse, then to the deceased's estate.

(k) Upon retirement or termination, unused accrued vacation leave will be cashed out in the form of a lump sum monetary payment.

155.10 SICK LEAVE.

(a) All full-time employees and officials shall be credited sick leave at the rate of 4.615 hours for each pay period. Leave is accrued on the basis of an 80 hour pay period such that any hours not in a paid status, i.e. unpaid time off, during a pay period will result in a reduced pro-rated accrual for that pay period.

(b) Sick leave may be accumulated without limit.

(c) When used, sick leave shall be deducted from the cumulative total on a quarter-hour basis.

(d) Employees may use leave for absence due to personal illness, pregnancy, non-work related injury, exposure of contagious disease which could be communicated to other employees, quarantine of the employee, and to-for illness or injury of the employee's spouse, child, mother, father, or other relative residing in the employee's household. ~~Sick leave may also be used for medical, vision or dental related examination and care.~~

(e) Employees may be required to furnish proof of illness by furnishing a doctor's statement if the duration of the illness exceeds three (3) consecutive working days.

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(f) Absence due to sickness in the immediate family not residing in the employee's household, and requiring the continuing presence of the employee to make arrangements for hospitalization or other care shall not exceed three consecutive workdays. ~~The City Manager may approve additional absences for this purpose without approval from the Department Head.~~

(g) Excessive use, abuse of, or misuse of sick leave may be cause for disciplinary action or dismissal.

(h) Employees for whom a replacement must be found and who are unable to report to work for any reason listed herein must report their anticipated absence to their supervisor at least one hour prior to the start of their shift on the first day of their absence. Other employees must report their anticipated absence before the expiration of the first half-hour of the start of their shift. All employees shall report accordingly on each succeeding day of their absence unless other arrangements are authorized.

(i) Sick leave may be transferable between employees due to exigent circumstances, with the approval of the City Manager.

(j) ~~Use of sick leave is limited to employee absence due to illness or non-work related injury and quarantine of the employee by health authorities.~~ For family medical incidents, an employee may use up to four (4) days for each discrete incident.

(k) Following the fourth (4th) occurrence of sick leave absence of one day or more in a twelve month period of time, the employee may be required to secure and present a certificate from a doctor giving information as to the circumstances involved or nature of the illness to receive pay for each subsequent absence involving sick leave in the remainder of that twelve month period. The documentation shall be sent to the Human Resources Officer to be placed in the individual's personnel file.

(l) Sick leave accumulated during former employment with the City or with another public agency may be credited to the employee upon his/her re-employment or hire with the City provided such re-employment/employment takes place within ten (10) years of the former termination date.

a. Up to 1,920 hours of previously accumulated sick leave from another public agency may be transferred to the employee's credit at a rate of two (2) to one (1) for each hour accrued as an employee of the City of New Albany.

b. Rate of accrual shall be in conformance with C.O. 155.10(a).

(m) Upon retirement or separation in good standing, full-time employees may convert unused accrued sick leave to a lump sum monetary payment on the following conditions:

(1) For the first 120 hours (15 days) of sick leave accrued, payment shall be hour for hour. Accumulated sick leave above 120 hours shall be paid at the rate of eight (8) hours pay for every 24 hours accumulated.

(2) Payment will be at the hourly rate in effect at the time of retirement or termination.

(3) Employees terminated for cause or who fail to give two weeks' written notice of intent to terminate are not eligible for the sick leave conversion benefit.

155.11 SICK LEAVE RECIPROCITY

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(a) During January, each permanent full-time non-union employee may receive payment in cash for a portion of unused accrued sick leave hours at the end of the preceding fiscal year, provided such employee was entitled to sick leave benefits during all of the twenty-six (26) pay periods of the previous year ~~and did not use more than 40 hours of paid sick leave or injury leave during the calendar year~~. Additionally, in order to participate, an employee must have at least 480 hours of sick leave after cash benefit hours are taken. Those who are eligible may cash in up to eighty 48-(80) hours of sick leave. ~~Eligible employees must elect, no later than September 1 of each year, to convert up to forty-eighty (4880) hours of sick leave for payment in the first full pay period in January of the next calendar year (payable at the employees base rate of pay as of December 31 of the year of the election).~~

(b) The number of reciprocity hours paid each employee will be subtracted from the total accrued unused sick leave. ~~The balance of unused sick leave will be carried forward each year as the current sick leave account.~~

155.12 INJURY LEAVE.

When a full-time non-union employee's absence from work is necessitated because of an illness or injury incurred while on the job with the City and the illness or injury is compensable under Ohio Workers' Compensation Law, injury leave may be granted at the discretion of the City Manager for a period of time not to exceed 180 calendar days. ~~Such leave may be granted by the City Manager based upon the recommendation of the employee's Department Head and upon submittal by the employee~~ or which includes a statement from a licensed physician justifying that the employee is unable to return to full work status due to the illness/injury. Such leave shall not be charged against the employee's sick leave balance unless it is determined that the illness or injury is a non-work related illness or injury and is not compensable under Ohio Workers' Compensation Law. In order to be eligible for injury leave, the employee must report the illness/injury to his supervisor ~~within three workdays of the incident giving rise to the illness/injury in compliance with the city's injury reporting policy~~. Simultaneously with the request for injury leave, the employee shall make application and actively prosecute a claim for lost wage benefits under Ohio Workers' Compensation Law. If the application is favorably considered, the City's obligation under the continued use of injury leave shall be the monetary difference between the employee's regular rate of pay and the benefits received under Workers' Compensation.

155.13 FAMILY MEDICAL LEAVE

The City offers family medical leave in compliance with all federal provisions of the Family and Medical Leave Act (FMLA).

155.14 BEREAVEMENT LEAVE.

(a) A full-time employee may be granted up to five (5) regularly scheduled workdays without loss of pay in case of a death in the immediate family.

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(b) Sick leave, vacation leave, personal day(s) or compensatory time may be used for bereavement leave for additional days for immediate family, with the approval of the City Manager.

(c) Up to three (3) days of leave is permissible for deaths other than the immediate family, but such leave shall be charged to vacation leave, compensatory time or personal day(s).

155.15 LEAVES OF ABSENCE.

(a) In an effort to be flexible and provide latitude to employees in unique or special circumstances, leaves of absence may be granted to employees under special circumstances. Eligibility for a leave of absence will be reviewed on a case-by-case basis and will be limited to full-time, regular employees with at least two (2) consecutive years of service.

(b) Leaves of absence for the following situations or emergencies will be considered:

(1) To allow employees to attend courses at recognized colleges or universities, if the courses are deemed to be of benefit to the City.

(2) Family leave of absence. Female employees (not disabled by childbirth or pregnancy) and male employees may be granted a leave for the purpose of caring for a newborn child, adopted child, or a seriously ill child or other member of the family.

(3) Personal leave of absence may be granted to an employee to attend to personal matters in cases in which the City Manager determines that an extended period of time off would be in the best interest of the employee and the City, including but not limited to inpatient substance abuse treatment.

(4) For other purposes deemed beneficial to the City and the employee.

(c) Leaves of absence are granted without pay except in special and unusual circumstances. Insurance benefits may be continued during leaves of absence, based on a determination by the City Manager.

(d) A request for a leave of absence must be made in writing by the employee. All leaves must be approved by the City Manager and Department Head. Permitted leaves are limited to six weeks at which time any request for additional leave must be made.

(e) An employee returning to work from leave shall be reinstated to the employee's former position or a comparable position.

(f) If an employee fails to return to work at the conclusion of a permitted leave, the employee will be terminated from employment, unless the City Manager, in consultation with the Department Head, grants an extension.

155.16 MILITARY LEAVE.

The City will adhere to all applicable state and federal provisions for military leave.

155.17 JURY SERVICE.

The City of New Albany encourages employees to fulfill their civic responsibilities by serving jury duty when required.

(a) Full-time employees may request jury duty leave. Jury duty pay will be calculated on the employee's regular pay rate times the number of hours the employee would otherwise have worked on the day of the absence.

(b) The employee, upon notice of jury service, shall present such notice to ~~his~~ his or her immediate supervisor. A copy of such notice shall be filed in the employee's personnel file.

(c) Jury service requiring less than four (4) hours of the employee's regular work day as verified by the time report, shall require the employee to report to ~~his~~ his or her supervisor for completion of his/her regular work day with the City.

(d) Either the City or the employee may request that an employee be excused from jury duty if, in the City's judgment, the employee's absence would create serious operational difficulties.

155.18 PRECINCT ELECTION OFFICE LEAVE.

The City of New Albany encourages employees to fulfill their civic responsibility by working on Election Day at the polls.

(a) Any employee who is a registered voter and meets the other requirements established by law and the Board of Elections may request Precinct Election Official Leave with pay for the purposes of being a judge of an election engaged by the Board of Elections. ~~–~~Precinct Election Official Leave will be calculated on the employee's regular pay times the number of hours the employee would otherwise have worked on the day of the absence.

(b) If the employee must attend the Precinct Election Official training courses, as mandated by Ohio Law and conducted by the Board of Elections, the employee must request leave with vacation, personal day(s) or compensatory time if the training is during regular work hours. ~~–~~Leave without pay will not be permitted to attend the training session(s).

(c) This leave with pay is not considered "hours worked" for the purpose of computing overtime.

(d) The employee must provide the City with a copy of the employee's poll worker pay stub provided by the Board of Elections.

155.19 INSURANCE BENEFITS.

(a) The City shall make available group medical, prescription drug, dental, and vision benefits to all full-time non-union employees and their dependents as well as to all currently serving, elected members of City Council and Mayor. The benefits shall be based on the benefits of the carrier or carriers.

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(b) All full-time non-union employees shall be entitled to group term life and accidental death and dismemberment insurance coverage.— The City shall provide coverage in the amount equal to the employee's annual salary, rounded up to the nearest thousand dollars. The maximum coverage shall be one and one half times their annual base wages, up to a maximum of one hundred and fifty thousand dollars (\$150,000).

(c) The City may offer an incentive for opting out of City provided insurance benefits on an annual basis.

155.20 MERIT COMPENSATION.

~~Non-Exempt and Exempt Employees.~~ In recognition of exceptional City service, each non-union employee shall be eligible for additional compensation in the form of cash payment and/or additional personal leave as prescribed in the City's merit bonus program. —An employee becomes eligible for merit bonus program compensation in the year following their attainment of the maximum rate of compensation on the City's merit based compensation program.

155.21 MISCELLANEOUS COMPENSATION PROVISIONS.

(a) Call Out Pay. A full-time FLSA non-exempt employee who is called to return to duty after leaving work for at least thirty (30) minutes or another time when the employee is not scheduled to work will be guaranteed a minimum of three (3) hours at time and one-half times the regular rate of pay in pay or compensatory time, so long as the hours do not abut the employee's regularly scheduled hours. Such pay does not apply to pre-scheduled meetings or other events that an employee attends even though the hours do not abut the employee's scheduled hours, e.g., boards and commission meetings, pre-scheduled inspections, scheduled special events, etc.

(b) A full-time FLSA non-exempt, non-union employee who is required to attend a court session due to professional obligations while not on regular duty shall be entitled to a minimum of three (3) hours pay at time and one-half for the actual hours spent in court.

(c) Municipal employees who use a personal automobile for municipal use shall be reimbursed for such at the rate set annually by the Internal Revenue Service as tax-deductible mileage rate.

(d) The City shall have the right to require a physical examination of all new employees, and to require periodic physical examinations, including drug testing, of all employees. All required physical examinations shall be at the expense of the City.

(e) The City shall provide uniforms and/or a uniform allowance for non-union staff prescribed or permitted to wear a uniform. —Such benefits shall be processed in compliance with any and all applicable Internal Revenue Service regulations.

(f) Tuition Reimbursement Program.

(1) All full-time employees and officials with twelve or more months of satisfactory service shall be eligible to participate in a tuition reimbursement or professional certification program.

(2) An employee or official shall provide a written request to the Department Head indicating the course of instruction that is to be followed and how the course of instruction will benefit both the employee and the City. The Department Head shall make a recommendation and ~~shall forward the request to the City Manager for approval or denial. If approved, the written approval will be forwarded to Finance for future reimbursement. Human Resources Officer. The Human Resources Officer shall evaluate the course work or degree program for job-relatedness and shall notify the employee in writing regarding approval or disapproval. The approval may be for the entire course of study for an entire degree program, and the employee or official need not reapply for each course within the overall program. If the request is disapproved, a request may be made to the City Manager for reconsideration. The City Manager's decision shall be final.~~

(3) Courses are to be taken on other than scheduled working hours, unless approval is obtained from the Department Head, Human Resources Officer and City Manager.

(4) Reimbursement shall be made upon successful completion of the course with a grade of B (3.0) or better. The employee/official shall submit an official transcript or certificate demonstrating successful completion of the course and a receipt from the institution confirming the amount paid for tuition and textbooks.

(5) In the event that the employee/official receiving reimbursement separates from the City following any reimbursement, he/she shall pay back to the City 100% of the reimbursement amount made during the thirty-six (36) previous months preceding the separation from City.

A. Newly hired police officers who are required to attend a basic police academy and have the expense for attendance at the academy paid by the city will be subject to reimbursing the city for the cost of the academy if the officer voluntarily separates employment within thirty-six (36) months from the academy graduation.

(6) Employees shall be eligible for up to a maximum of three thousand dollars (\$ 3,000) per calendar year for tuition and textbooks. The total amount for tuition and textbooks paid to any individual without special consideration from City Council shall be twelve thousand dollars (\$ 12,000).

(7) Courses of instruction eligible for reimbursement under this program shall be provided by a recognized institution (e.g., college, university, community college, post-secondary technical school, etc.). No reimbursement shall be provided for correspondence courses.

(g) Police Officers shall be eligible to receive Special Duty Pay directly from the contractor of special duty services in accordance with such rules, regulations and procedures in effect with the New Albany Police Department. The rates for Special Duty shall be established by the City Manager.

(h) A shift differential of one dollar (\$1.00) per hour shall be provided to non-union police sergeants and non-union dispatch personnel (excluding hours in paid status while on approved leaves, restricted duty, and off-duty court time hours) for those who are regularly assigned to work second shift, third shift, or any shift that commences after the starting time of second shift and ends prior to the ending time of third shift. Shift differential will be paid for actual hours worked. ~~–Shift differential shall not be paid in addition to regular pay for any hours spent on approved paid leave. –Time spent in~~

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optional training programs shall not qualify for shift differential pay. –If shift differential pay is applicable, and overtime occurs, the shift differential pay shall be added to the base hourly rate prior to computing the overtime rate.

(i) The City Manager shall have the authority to establish monetary and non-monetary compensation programs that recognize the special efforts of employees that benefit the community and/or the organization.

(j) The City Manager shall have the authority to establish an employee recognition program and may, at his/her discretion, provide awards in recognition of service such as plaques, trophies, service pins, etc.; and any other type of non-monetary remuneration. The City Manager may expend City funds for such items including recognition luncheons, dinners, or other such expenditure in keeping with the objective of an employee recognition program. The City Manager may establish a monetary, performance-based merit program in addition to the merit compensation under the provisions of C.O. 155.20.

155.22 OPERS and OPFPF.

(a) The full amount of the statutorily required employee contributions to the Ohio Public Employees Retirement System of Ohio (OPERS) and to the Ohio Police and Fire Pension Fund (OPFPF) shall be withheld from the gross pay of each employee and shall be paid to OPERS and to OPFPF by the City on the employee's behalf. This withholding shall be in lieu of direct contributions to OPERS and OPFPF by each employee. No person subject to this withholding shall have the option of choosing to receive the statutorily required contribution to OPERS or to OPFPF directly. The City shall, in reporting and making remittance to OPERS and OPFPF, report that the public employee's contribution for each person subject to this payment has been made as provided by the statute.

(b) The payment by the City provided by this section shall apply to all persons that are employees of the City who are or become contributing members of OPERS or OPFPF.

(c) The total salary for each employee shall be the salary otherwise payable under the City's Policies. Such total salary of each employee shall be payable by the City in two parts:

- (1) Deferred salary and
- (2) Cash salary.

An employee's deferred salary shall be equal to that percentage of that employee's total salary which is required from time to time by OPERS and OPFPF to be paid as an employee contribution by that employee, and shall be paid by the City to OPERS and OPFPF on behalf of that employee as a pickup and in lieu of the OPERS and OPFPF employee contribution otherwise payable by that employee.

An employee's cash salary shall be equal to that employee's total salary less the amount of the pickup for that employee, and shall be payable, subject to applicable payroll deductions, to that employee. The City shall compute and remit its employer contributions to OPERS and OPFPF based upon an employee's total salary. The total combined expenditures of the City for such employees' total salaries payable under applicable municipal policies and the pickup provisions of this chapter shall not be greater than the amounts it would have paid for those items had this provision not been in effect.

155.23 LICENSING; CERTIFICATION.

(a) Certain job classifications within the City require the employee to maintain current licenses and/or certifications pursuant to the performance of the job. It is the responsibility of the employee who holds a position that mandates special licensing or certification to keep same in full force and effect while in the employ of the City. A complete and updated training record shall be forwarded to the Human Resources Officer to be kept in the employee's personnel file.

(b) The City may pay for training required to maintain certification and/or special licenses of employees. However, failure of the employee to notify the City of needed training in such a manner so as to avoid loss of certification and/or license shall result in disciplinary action, including, but not limited to, requiring the employee, at his/her own expense and on his/her own time, to take the necessary training or tests to regain his/her license and/or certification.

155.24 PERSONNEL RECORDS.

(a) Personnel File. One, and only one, personnel file shall be maintained for each employee and shall be in the custody of the Human Resources Officer. The personnel file shall contain all the official records of the City regarding an individual employee. An employee may review his personnel file at reasonable times in the presence of the Human Resources Officer upon written request to the Human Resources Officer. Copies of documents shall be made available to the employee at a cost as established in the City's Schedule of Fees and Service Charges. All such copies shall be marked "copy". The confidentiality of matters contained in the personnel files shall be the responsibility of the Human Resources Officer who shall release only such information permitted by law.

(b) Retention of Records. All actions of records, including appointment, evaluations, promotions, transfers, demotions, ~~written~~ reprimands, dismissals, suspensions, will be maintained in each employee's personnel file throughout his/her period of employment with the following exceptions: Records of documented oral reprimand ~~appeals~~ will be removed from the file upon the written request of the employee twelve months after such reprimand was issued, provided no further disciplinary action has occurred within that twelve month period of time. Records of written reprimands will be removed from the file upon the written request of the employee two years after such was given, provided no further disciplinary action has occurred within that two year period of time. ~~Records of suspensions of three days or less will be removed from the file upon the written request of the employee five years after such was given, provided no further disciplinary action has occurred within that five year period of time. In any case in which a written suspension, demotion or dismissal is disaffirmed through the appeal procedure, the personnel record shall clearly indicate such disaffirmance. Copies of commendations, letters of appreciation, and training certificates or records, shall also be maintained in the personnel file.~~

(c) Inaccurate Documents. ~~If an employee has reason to believe that there are inaccuracies in documents contained in their personnel file, the employee may write a memorandum to the Human Resources Officer explaining the alleged inaccuracy. If~~

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the Human Resources Officer concurs with the employee's contentions, the Human Resources Officer shall either correct or remove the faulty document or attach the employee's memorandum to the document and note thereon concurrence with the memorandum. The Human Resources Officer may also attach the memorandum to the document and note disagreement with memorandum's contents. ~~The decision of the Human Resources Officer with regard to inaccurate documents shall be final.~~

155.25 INDIVIDUALS WITH DISABILITIES

The City will adhere to all applicable state and federal provisions including the American with Disabilities Act.

155.26 DISCIPLINARY ACTIONS.

It shall be the responsibility of each Department Head to maintain control and discipline in his/her Department. ~~This responsibility involves dealing promptly with violations of this chapter, municipal ordinances, the Charter, administrative orders of the City Manager, and federal and state laws by employees in their Department.~~

(a) Just Cause. No employee shall be reduced in pay or position, suspended (paid or unpaid), removed or reprimanded except for just cause, including incompetency, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, violation of any policy, work rule, or codified ordinance of New Albany, any other failure of good behavior, unbecoming conduct, any act of misfeasance, malfeasance or nonfeasance or the conviction of a felony. ~~The denial of a one-time pay supplement or bonus is not a reduction in pay.~~

(b) Progressive Discipline.

(1) The principles of progressive disciplinary action will be followed with respect to minor offenses. For minor offenses, an oral reprimand, a written reprimand and a suspension shall be given prior to demotion or dismissal. However, more serious discipline may be imposed for more serious offenses consistent with "just cause".

(2) Disciplinary action may consist of any action which is appropriate to the offense, including:

- A. ~~Informal (oral)~~ Documented oral reprimand;
- B. ~~Formal, written~~ Written reprimand ~~which becomes part of the employee's personnel file;~~
- C. Suspension from duty with or without pay;
- D. Demotion in rank or reduction in salary; or
- E. Dismissal;
- F. Or other agreed upon penalty.

(3) Disciplinary action noted in A through F, above, taken against an employee, which is other than in the nature of a minor first offense warning, shall be in writing and made a part of the employee's ~~permanent~~ personnel file.

(4) A suspension from duty without pay ~~for a period exceeding three days~~ must be reviewed and approved by the City Manager prior to becoming effective. ~~Informal reprimands, formal reprimands~~ Reprimands ~~and suspensions from duty without pay for three days or less~~ shall not require prior approval by the City Manager. However, it is suggested that the Department Head notify the City Manager whenever an employee is going to receive disciplinary action. ~~suspended for three days or less~~. All demotions in rank, suspensions without pay, reductions in salary and dismissals must be reviewed and approved by the City Manager prior to becoming effective. Nothing in this section shall be deemed to preclude an employee from being relieved of duty by the Department Head and placed on paid administrative leave if in the judgment of ~~his~~ the supervisor such action is necessary. ~~In all cases of discipline, the grievance procedure set forth in Section 155.27 shall control. Disciplinary actions shall in all cases be dealt with in a confidential-private manner. Specifically, employees who are or who may be the subject of any disciplinary action and supervisors/superiors who take or are considering taking any disciplinary action shall refrain from discussing or otherwise disclosing such action to any persons except those who by this chapter or other law are entitled to such information. Whenever a written communication is transmitted to a higher supervisory authority in which matters are discussed which, if true, could become the basis of disciplinary action against an employee, whether or not such disciplinary action is subsequently taken, the employee who is the subject of such communication shall be given a copy of it at the time of its transmittal. This subsection does not apply to communications regarding a criminal investigation into activities of any employee.~~

(c) Responsibility for Discipline. ~~The duty of maintaining discipline among employees shall rest initially with the immediate supervisor and finally with the City Manager. The City Manager has the power and duty, when he/she deems it necessary for the good of the service, to suspend, remove, or otherwise discipline all municipal employees and appointive administrative officers.~~

(d) Pre-disciplinary meeting. In cases of suspension, demotion, reduction in salary or dismissal, a regular, classified employee is entitled to a pre-disciplinary hearing prior to any suspension without pay being issued. The pre-disciplinary hearing requires written notice of the date, time and location of the hearing, behavior and work rules at issue, and opportunity for the employee to present information on the employee's behalf.

~~(d)(e)~~ Copy of Discipline Record. ~~Whenever a disciplinary action is taken which results in a disciplinary action of record, the employee shall be given a written copy of such record at the time it is placed in the employee's personnel file. No public statement regarding the final decision shall be made until the written decision has been distributed to the employee.~~

155.27 PROCEDURE FOR APPEAL OF DISCIPLINARY ACTION.

(a) An employee of the City who feels aggrieved by the action of his/her supervisor in the administration of discipline may appeal such disciplinary action according to the step(s) set forth in Table I herein. For a particular disciplinary action, the employee shall follow the procedural steps in the order established, and the last step listed is the final point of appeal. The City Manager shall discipline employees and the Personnel Appeals Board has the power to hear appeals from administrative determinations made pursuant to this chapter and as may be authorized by this chapter.

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(b) In accordance with the provisions of C.O. 155.02, employees serving in the unclassified service, or occupying positions which have been exempted from the classified service, serve at the pleasure of the City and may be dismissed, disciplined or reduced in pay or position at any time without regard to the procedures contained within these Codified Ordinances.

(c) Disciplinary actions and the associated appeal steps are as follows:

**TABLE I
DISCIPLINE APPEAL PROCEDURE**

<i>Disciplinary Action</i>	<i>Appeal Steps</i>
Formal (written) Written reprimand	(1), (2)
Suspension from duty without pay for 5 or less working days	(1), (2), (3)
Suspension from duty without pay for 6 or more working days	(1), (2), (3), (4)
Demotion in rank or reduction in salary	(1), (2), (3), (4)
Dismissal	(1), (2), (3), (4)

(b) Appeal Steps.

(1) Department/Division Head review. The aggrieved employee may present a written statement of his/her appeal to the Department/Division Head within fourteen (14) calendar days of the effective date of the disciplinary action being appealed and shall ask for a review and modification or reversal of the action and grounds for modification or reversal. The Department/Division Head shall issue a written response within fourteen (14) calendar days of receipt of the written appeal.

(2) Appeal to Human Resources Officer ~~hearing~~. If an appeal is not resolved to the satisfaction of the employee under step (1) and the action being appealed is allowed to proceed to step (2), the employee may request in writing a review by the Human Resources Officer. The written appeal must be presented to the Human Resources Officer within seven (7) calendar days of receipt of the Department/Division Head response. ~~The Human Resources Officer shall hold a hearing-meeting~~ within fourteen (14) calendar days of the receipt of such written statement. At such hearing meeting the Department/Division Head shall present the facts and circumstances upon which the disciplinary action was taken. Prior to such hearing-meeting the Human Resources Officer shall notify the employee, in writing as soon as is practicable, of the time and place of the hearing-meeting and the specific matters or charges which will be considered. At the hearingmeeting, the employee may be represented by an individual of his/her choosing, and will be permitted to present witnesses. The employee's personnel file shall be made available for him/her to review prior to the hearing upon written request to the Human Resources Officer. The Human Resources Officer, after the close of the hearingmeeting, shall issue a written decision within fourteen (14) calendar days from the close of the hearing-meeting that shall be forwarded to the employee. A copy of the written decision shall be provided to the employee and his/her representative at the time it is placed in the employee's personnel file. No public statements shall be made by the employee or employer regarding the final decision, until the written decision

has been given to the employee. The written decision of the Human Resources Officer shall be a prerequisite to a request for a hearing before the City Manager.

(3) City Manager hearingmeeting. If an appeal is not resolved to the satisfaction of the employee by the Human Resources Officer under step (2) and the action being appealed is allowed to proceed to step (3), the employee may request in writing within seven (7) calendar days of the issuance of the Human Resources Officer's written decision, a hearing-meeting before-with the City Manager. If such request is not made within seven (7) calendar days, the matter shall be closed. At such hearingmeeting, which shall occur within fourteen (14) calendar days, the department/division shall present the facts and circumstances upon which the disciplinary action was taken. Prior to the hearing meeting, the City Manager shall notify the employee in writing, as soon as is practicable, of the time and place of the hearing meeting and the specific matters or charges which will be considered. At the hearingmeeting, the employee may be represented by an individual of his/her choosing; he/she will be permitted to present witnesses. The employee's personnel file shall be made available to him/her for review prior to the hearing-meeting upon written request to the Human Resources Officer. The City Manager shall issue a written decision, after the close of the hearingmeeting, which shall be forwarded to the employee within twenty-one (21) calendar days. A copy of the written decision shall be provided to the employee and his/her representative at the time it is placed in the employee's personnel file. No public statements shall be made by the employee or employer regarding the final decision, until the written decision has been given to the employee. The written decision of the City Manager shall be a prerequisite to a request for a hearing before the Personnel Appeals Board.

(4) Personnel Appeals Board Hearing. The Charter provides for a three member Personnel Appeals Board. An aggrieved non-exempt classified employee may request in writing a hearing before the Personnel Appeals Board. The Personnel Appeals Board may also hear appeals of union employees in accordance with the grievance procedure in the applicable collective bargaining agreement. Such request must be submitted within fourteen (14) calendar days of receipt by the employee of the City Manager's decision under step (3). Such request shall be submitted to the Human Resources Officer, who will notify the Personnel Appeals Board. The Board shall set a time, date and location to hear such appeal and notify the Human Resources Officer as well as the employee, or designated representative, if any/known. The notice of the hearing will be either hand-delivered upon the employee or known representative or mailed to the employee's last known post office address. Alternate methods of notice may also be provided, such as pursuant to electronic means, upon the request of the employee, or the employee's designated representative, if any. Such notice of the hearing will be provided as outlined above at least fourteen (14) calendar days prior to the date of the hearing, unless an extension of time is requested or waived by the employee.

During the hearing, all witnesses must testify under oath or affirmation. Any Board member shall have power to administer oaths and affirmations to witnesses and to take testimony concerning any matter which the Board has the authority to hear.

The Board shall have the power to issue a subpoena and require the attendance of witnesses and the production of documents pertinent to any hearing. Either party may

request that a subpoena be issued by the Board. Such requests for a subpoena or a request for production of documents shall be submitted no later than seven (7) days prior to the hearing. It is the responsibility of the requesting party to ensure proper service of the subpoena.

Amendments or modifications to the orders of dismissal, discipline or reduction in pay or position may be made by the appointing authority at any time prior to the start of the hearing, provided the employee and his/her attorney, if any, receive copies of the amended order prior to the time set for the hearing as provided herein.

Hearings before the Board shall be conducted in an orderly manner. The Board is not required to strictly follow the rules of evidence as applied by the courts in civil cases. The parties may be represented by counsel or other representative. The Board may also be represented by independent legal counsel when, in the Board's opinion, such independent legal counsel is needed and the cost of such representation shall be paid by the City.

In a hearing on an appeal before the Board, the following procedure shall be followed:

- a) Hearings may be public as required by Ohio law; however, upon the request of either party, witnesses may be separated during the hearing.
- b) The appointing authority taking the action affecting the employee shall proceed first with the burden of supporting the charges and specifications.
- c) The affected employee shall then produce such evidence as they wish to rebut the charges and specifications brought against the employee.
- d) The appointing authority will have the opportunity to offer rebuttal evidence.
- e) The burden of proof to be utilized by the Board shall be by a preponderance of the evidence.
- f) Each party may call witnesses to testify on their behalf. The Board on its own initiative may call witnesses other than those called by either party if in its judgment the merits of the case so require. In no instance shall more than five (5) witnesses be called by each party without the consent of the Board.
- g) The Board may, in its discretion, hear final arguments or allow post-hearing briefs.
- h) Hearings may be recorded by the Board in a manner it deems appropriate. Copies of any transcript may be provided to any parties upon written request.
- i) The Board will render its decision within a reasonable time from the date of the hearing. Upon the completion of all evidence introduced, the Board may render its final order immediately, or may take the matter under advisement and render its final order within a reasonable time thereafter.

- j) A written copy of the final order shall be transmitted to the appointing authority and the employee or their designated representative, if any.
- k) If the employee fails to appear at the hearing, the Board may hear the evidence offered by the appointing authority and render judgment thereon. If the appointing authority, or its designated representative fails to appear at the time fixed for the hearing, and if no evidence is offered in support of the charges against the employee, the Board may render judgment as by default or may hear evidence offered by the employee and render judgment thereon.

The acceptance by an appointing authority of the resignation of a person discharged, before the final action by the Board, will terminate the appeal process. Notice of the employee's resignation shall be submitted immediately to the Board and shall be entered into the Board's records.

The decision of the Personnel Appeals Board is final.

155.28 INVESTIGATIVE PROCEDURES.

With the approval of the City Manager, investigative procedures shall be undertaken any time an employee is suspected of or charged with an act which could result in criminal and/or administrative charges being filed against such employee. The investigative procedure for an administrative investigation shall be determined by the City Manager. The investigative procedure for a criminal investigation shall be as set forth hereinafter.

(a) When any anonymous complaint is made against an employee and there is no corroborative evidence of any kind, then the complaint shall be classified as unfounded and the accused employee shall not be required to submit a written report.

(b) An employee shall be informed of the nature of an investigation prior to any questioning.

(c) An employee who is to be questioned as a suspect in an investigation that may lead to criminal charges shall be advised of his constitutional rights in accordance with law and shall then and continually thereafter have a right to counsel or other representative of his choosing.

(d) The use of administrative pressures, threats, coercion or promises shall not be employed for any purpose during the course of an investigation regarding any employee.

(e) An employee who declines or refuses to answer questions or to otherwise participate in an investigation may be charged with insubordination or a like offense except where such refusal is based on an exercise of his constitutional rights as referenced in subsection (c) hereof.

(f) The interrogation of an employee in connection with an investigation shall be conducted at reasonable times and for reasonable periods of time that shall include rest periods and time to attend to physical necessities.

(g) Commencing at the time during an investigation when an employee is advised of his constitutional rights as provided in subsection (c) hereof, an interrogation shall be recorded at the request of either party.

(h) In the course of an investigation, an employee may be given a polygraph examination, in compliance with applicable laws.

(i) During the course of an investigation, interviews of employees not the subject of such investigation may be conducted. Where appropriate, the procedures set forth herein shall be followed with respect to such other employees.

(j) Upon request, an employee shall be afforded reasonable access to written documents and to taped interviews made in accordance with subsection (g) hereof during which time he/she may listen to and make personal notes. If a written transcript of a recorded interview is made, the employee will be provided a copy of such transcript upon written request to the City Manager.

(k) If in lieu of the filing of criminal charges an investigation results in the necessity of disciplinary action in accordance with Section 155.26, disciplinary actions shall be taken. An employee whose conduct is the subject of such disciplinary action shall be afforded access to evidentiary matters expected to be presented in the course of any appeal process hearing associated with the disciplinary action.

(l) If any of these procedures are alleged to have been violated, such allegations shall be subject to the appeal procedure provided in Section 155.27 beginning at the level of the Human Resources Officer.



ORDINANCE O-17-2022

**AN ORDINANCE TO ACCEPT A RIGHT OF WAY DEDICATION OF
1.168 ACRES AT 5321 HARLEM ROAD AS REQUESTED BY THE NEW
ALBANY PRESBYTERIAN CHURCH**

WHEREAS, the land parcel currently extends to the centerline of Harlem Road and Dublin Granville Road which have historically been served by highway easements. The property owner requests to dedicate the highway easement area to the city as public right-of-way; and

WHEREAS, the city will be the recipient (grantee) of the right of way dedication of 1.168 acres; and

WHEREAS, the city engineer has reviewed the right of way dedication and has commented this dedication is appropriate; and

WHEREAS, the city will benefit from this dedication of right of way.

NOW, THEREFORE, BE IT RESOLVED by Council for the City of New Albany, Counties of Franklin and Licking, State of Ohio, that:

Section 1. The city manager is hereby authorized to accept a right of way dedication of 1.168 as depicted on Exhibit A.

Section 2. It is hereby found and determined that all formal actions of this council concerning and relating to the adoption of this legislation were adopted in an open meeting of council, and that all deliberations of the council and or any of its committees that resulted in such formal action were in meetings open to the public, in compliance with Section 121.22 of the Ohio Revised Code.

Section 3. Pursuant to Article 6.07(B) of the New Albany Charter, this ordinance shall become effective thirty (30) days after adoption.

CERTIFIED AS ADOPTED this _____ day of _____, 2022.

Attest:

Sloan T. Spalding
Mayor

Jennifer H. Mason
Clerk of Council

Approved as to form:

Benjamin S. Albrecht
Law Director

Legislation dates:

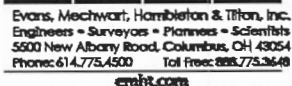
Prepared: 05/06/2022

Introduced: 05/17/2022

Revised:

Adopted:

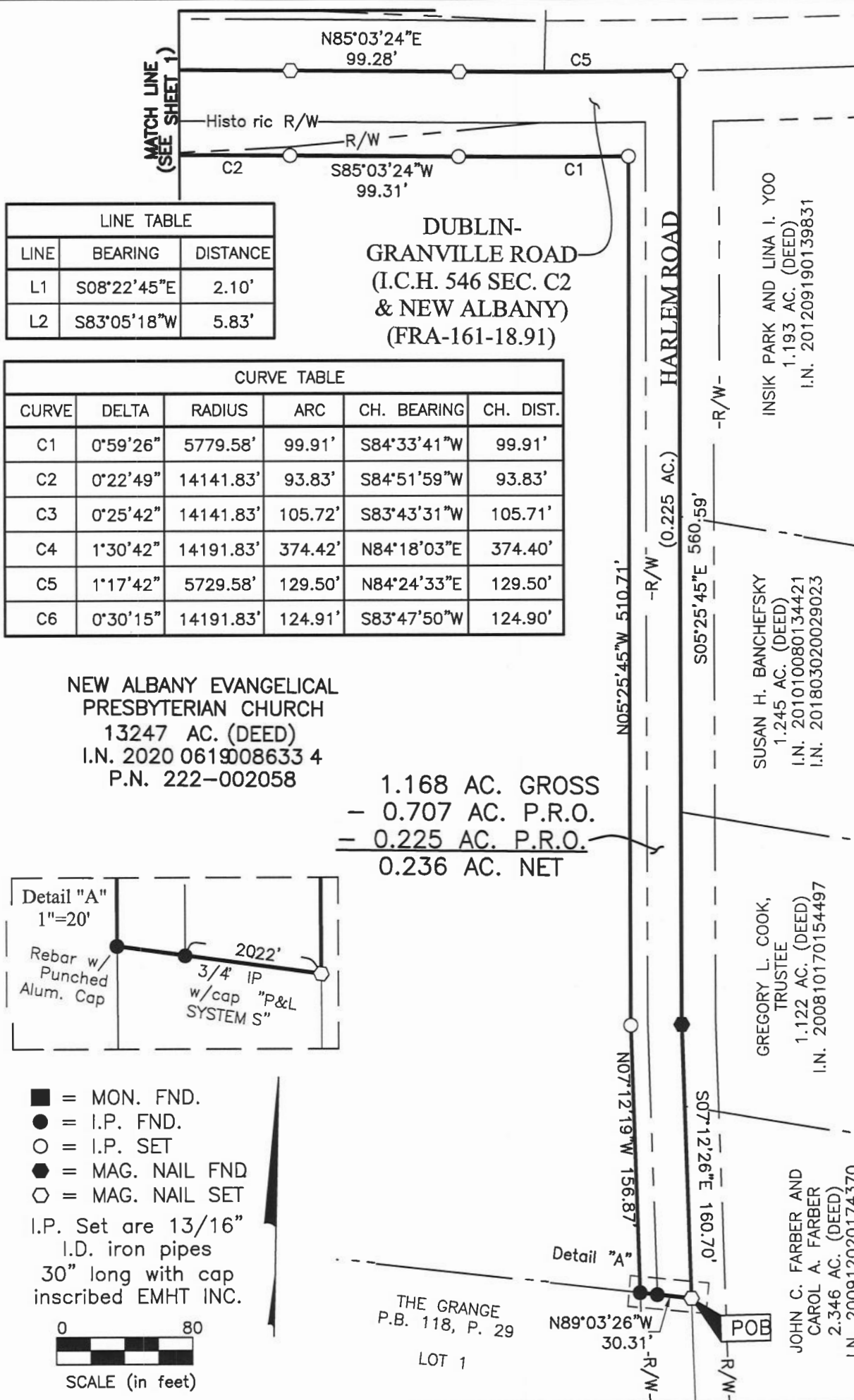
Effective:



SURVEY OF ACREAGE PARCEL

**FARM LOT 8, QUARTER TOWNSHIP 3, TOWNSHIP 2, RANGE 16
UNITED STATES MILITARY DISTRICT
CITY OF NEW ALBANY, COUNTY OF FRANKLIN, STATE OF OHIO**

Date:	February 28, 2022	Scale:	1" = 80'	Job No:	2018-1258	Sheet No:	1 of 2
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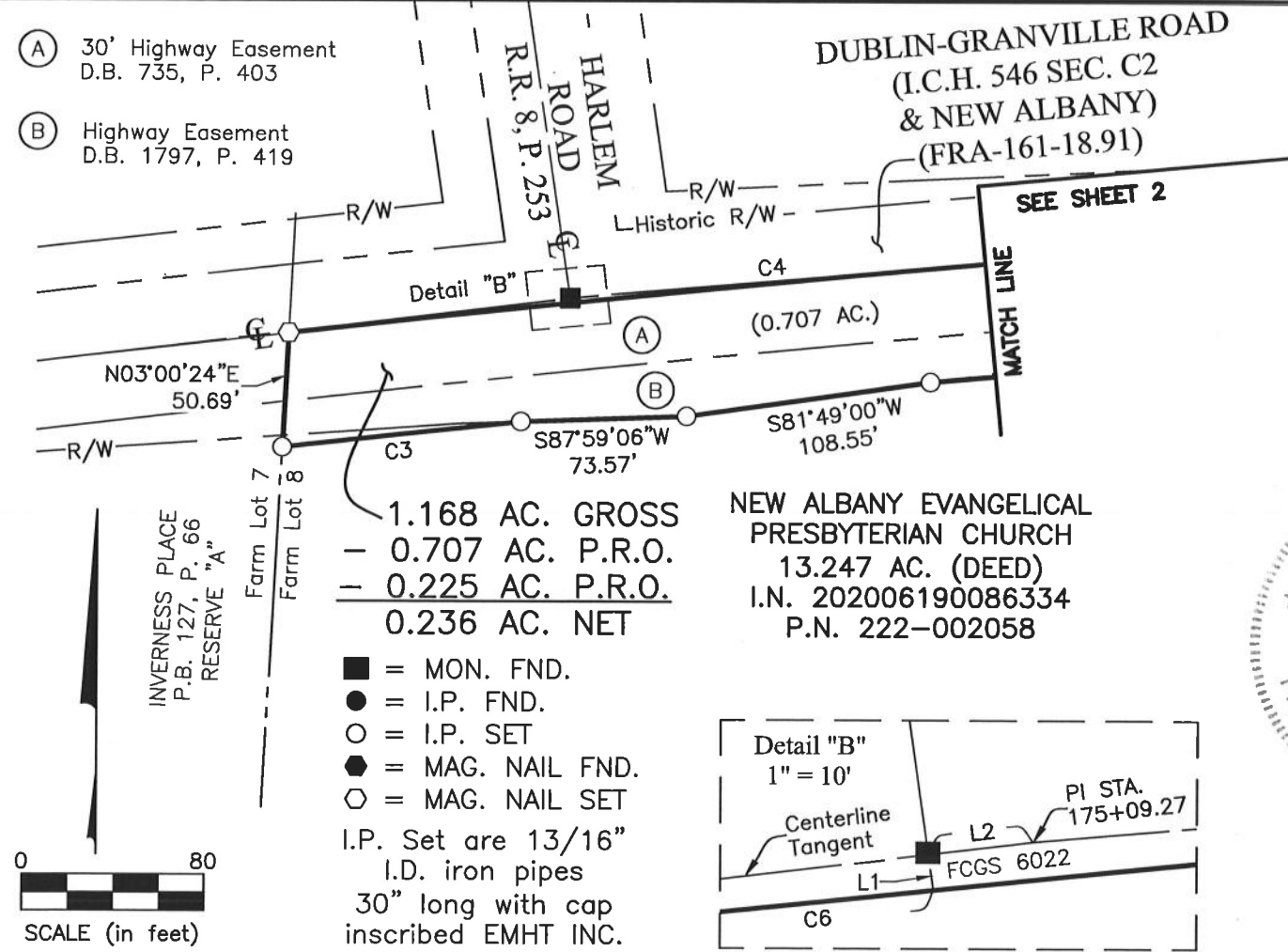


Evans, Mechwart, Hambleton & Tilton, Inc.
Engineers - Surveyors - Planners - Scientists
5500 New Albany Road, Columbus, OH 43054
Phone: 614.775.4500 Toll Free: 888.775.3648
emht.com

SURVEY OF ACREAGE PARCEL

FARM LOT 8, QUARTER TOWNSHIP 3, TOWNSHIP 2, RANGE 16
UNITED STATES MILITARY DISTRICT
CITY OF NEW ALBANY, COUNTY OF FRANKLIN, STATE OF OHIO

Date:	February 28, 2022
Scale:	1" = 80'
Job No:	2018-1258
Sheet No:	2 of 2



BASIS OF BEARINGS:
The bearings shown hereon are based on the Ohio State Plane Coordinate System, South Zone, NAD83 (2007). Said bearings originated from a field traverse which was tied (referenced) to said coordinate system by GPS observations of Franklin County Engineering Department monuments FRANK 78, FCGS 8815, FCGS 8814, FCGS 8813, FCGS 6624 RESET and FCGS 6675. The portion of the centerline of Dublin-Granville Road, having a bearing of South 83° 05' 18" West and monumented as shown hereon, is designated as the "basis of bearings" for this survey.

SURVEY NOTE:
This survey was prepared using documents of record, prior plats of survey, and observed evidence located by an actual field survey.



By Heather L. King Date 3/2/22
Heather L. King
Professional Surveyor No. 8307
hking@emht.com

1.168 ACRES

Situated in the State of Ohio, County of Franklin, City of New Albany, lying in Farm Lot 8, Quarter Township 3, Township 2, Range 16, United States Military District, being part of that 13.247 acre tract conveyed to New Albany Evangelical Presbyterian Church by deed of record in Instrument Number 202006190086334, (all references are to the records of the Recorder's Office, Franklin County, Ohio) being more particularly described as follows:

BEGINNING at a magnetic nail set in the centerline of Harlem Road, at the northeasterly corner of that subdivision entitled "The Grange", of record in Plat Book 118, Page 29;

Thence North $89^{\circ} 03' 26''$ West, with a line common to said 13.247 acre tract and said "The Grange", partially across said Harlem Road, (passing a $\frac{3}{4}$ inch iron pipe capped "P&L Systems" found at 20.22 feet) a total distance of 30.31 feet to an iron rebar with punched aluminum cap found at the northwesterly corner of Lot 1 of said "The Grange";

Thence across said 13.247 acres tract, the following courses and distances:

North $07^{\circ} 12' 19''$ West, a distance of 156.87 feet to an iron pin set;

North $05^{\circ} 25' 45''$ West, a distance of 510.71 feet to an iron pin set on the arc of a curve;

with the arc of a curve to the right, having a central angle of $00^{\circ} 59' 26''$, a radius of 5779.58 feet, an arc length of 99.91 feet, a chord bearing of South $84^{\circ} 33' 41''$ West and chord distance of 99.91 feet to an iron pin set at a point of tangency;

South $85^{\circ} 03' 24''$ West, a distance of 99.31 feet to an iron pin set at a point of curvature;

with the arc of a curve to the left, having a central angle of $00^{\circ} 22' 49''$, a radius of 14141.83 feet, an arc length of 93.83 feet, a chord bearing of South $84^{\circ} 51' 59''$ West and chord distance of 93.83 feet to an iron pin set on the existing southerly right-of-way line of Dublin-Granville Road, as defined by a highway easement of record in Deed Book 1797, Page 419;

South $81^{\circ} 49' 00''$ West, with said southerly right-of-way line, a distance of 108.55 feet to an iron pin set;

South $87^{\circ} 59' 06''$ West, with said southerly right-of-way line, a distance of 73.57 feet to an iron pin set on the arc of a curve; and

with the arc of a curve to the left, having a central angle of $00^{\circ} 25' 42''$, a radius of 14141.83 feet, an arc length of 105.72 feet, a chord bearing of South $83^{\circ} 43' 31''$ West and chord distance of 105.71 feet to an iron pin set in the westerly line of said 13.247 acre tract, the easterly line of Reserve "A" of "Inverness Place", of record in Plat Book 127, Page 66, being the line common to said Lot 8 and Lot 7 of said Quarter Township 3;

Thence North $03^{\circ} 00' 24''$ East, with the common line to said 13.247 acre tract and Reserve "A", with said Farm Lot line, and partially across the right-of-way of said Dublin-Granville Road (I.C.H. 546 Section C2 & New Albany) (FRA-161-18.91), a distance of 50.69 feet to a magnetic nail set on the arc of a curve in the centerline of said Dublin-Granville Road;

Thence with the centerline of said Dublin-Granville Road, the northerly line of said 13.247 acre tract, following courses and distances:

with the arc of a curve to the right, (passing at a central angle of $00^{\circ} 30' 15''$, a radius of 14191.83 feet, an arc length of 124.91 feet, a chord bearing of North $83^{\circ} 47' 50''$ East and chord distance of 124.90 feet the intersection of the centerline of said Dublin-Granville Road with Harlem Road, of record in Road Record 8, Page 253, said centerline intersection being South $08^{\circ} 22' 45''$ East, a distance of 2.10 feet from Franklin County Geodetic Survey monument number 6022, said monument also being South $83^{\circ} 05' 18''$ West, a distance of 5.83 feet from P.I. Sta. 175+09.27 of said FRA-161-18.91) having a central angle of $01^{\circ} 30' 42''$, a radius of 14191.83

1.168 ACRES

-2-

feet, an arc length of 374.40 feet, a chord bearing of North 84° 18' 03" East and chord distance of 374.39 feet to a magnetic nail set at a point of tangency;

North 85° 03' 24" East, a distance of 99.28 feet to a magnetic nail set at a point of curvature; and

with the arc of a curve to the left, having a central angle of 01° 17' 42", a radius of 5729.58 feet, an arc length of 129.50 feet, a chord bearing of North 84° 24' 33" East and chord distance of 129.50 feet to a magnetic nail set at the centerline intersection of said Dublin-Granville Road and Harlem Road, being the northeasterly corner of said 13.247 acre tract;

Thence South 05° 25' 45" East, with the centerline of said Harlem Road, the easterly line of said 13.247 acre tract, a distance of 560.59 feet to a magnetic nail found;

Thence South 07° 12' 26" East, continuing with said centerline, said easterly line, a distance of 160.70 feet to the POINT OF BEGINNING, containing 1.168 acres, more or less, of which 0.707 acre is within the present right-of-way occupied of said Dublin-Granville Road and 0.225 acre is within the present right-of-way occupied of said Harlem Road.

Subject, however, to all legal rights-of-way and/or easements, if any, of previous record.

Iron pins set, where indicated, are iron pipes, thirteen sixteenths (13/16) inch inside diameter, thirty (30) inches long with a plastic plug placed in the top bearing the initials EMHT INC.

The bearings herein are based on the Ohio State Plane Coordinate System, South Zone, NAD83 (2007). Said bearings originated from a field traverse which was tied (referenced) to said coordinate system by GPS observations of Franklin County Engineering Department monuments FRANK 78, FCGS 8815, FCGS 8814, FCGS 8813, FCGS 6624 RESET and FCGS 6675. The portion of the centerline of Dublin-Granville Road, having a bearing of South 83° 05' 18" West and monumented as shown hereon, is designated as the "basis of bearings" for this survey.

This description is based on documents of record, prior plats of survey and observed evidence located by an actual field survey.



EVANS, MECHWART, HAMBLETON & TILTON, INC.

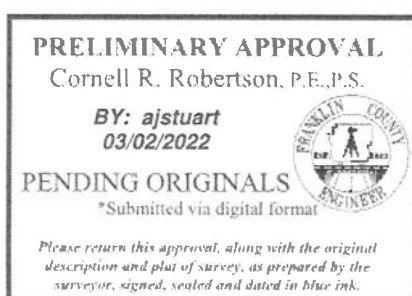
A handwritten signature in black ink, appearing to read "Heather L. King".

Heather L. King
Professional Surveyor No. 8307

3/2/22

Date

HLK: td
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ORDINANCE O-18-2022

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF NEW ALBANY BY AMENDING THE ZONING MAP TO REZONE 141.8+/- ACRES OF LAND GENERALLY LOCATED SOUTH OF JUG STREET, WEST OF MINK STREET AND NORTH OF INNOVATION CAMPUS WAY, FROM AGRICULTURAL (AG) TO LIMITED GENERAL EMPLOYMENT (L-GE) FOR AN AREA TO BE KNOWN AS "THE MINK STREET WEST ZONING DISTRICT" AS REQUESTED BY MBJ HOLDINGS LLC, C/O AARON UNDERHILL

WHEREAS, council of the City of New Albany has determined that it is necessary to rezone certain property located in the city to promote orderly growth and development of lands; and

WHEREAS, the New Albany Planning Commission and council on separate occasions have held public hearings and received public input into the amendment of the zoning ordinance; and

WHEREAS, pursuant to the application by MBJ Holdings LLC, c/o Aaron Underhill, Esq., the Planning Commission has reviewed the proposed ordinance amendment and recommended its approval unanimously.

NOW, THEREFORE, BE IT ORDAINED by Council for the City of New Albany, Counties of Franklin and Licking, State of Ohio, that:

Section 1. Council hereby amends the Zoning Ordinance Map of the City of New Albany to change the zoning classification of the following described site:

- A. A 141.8+/- acre site within Licking County, generally located south of Jug Street, west of Mink Street and north of Innovation Campus Way, from its current zoning of Agricultural (AG) to Limited General Employment (L-GE).
- B. The zoning district's limitation text and boundary map are hereby attached and marked Exhibit A.

Section 2. It is hereby found and determined that all formal actions of this council concerning and relating to the adoption of this legislation were adopted in an open meeting of council, and that all deliberations of the council and or any of its committees that resulted in such formal action were in meetings open to the public, in compliance with Section 121.22 of the Ohio Revised Code.

Section 3. Pursuant to Article 6.07(B) of the New Albany Charter, this ordinance shall become effective thirty (30) days after adoption.

CERTIFIED AS ADOPTED this _____ day of _____, 2022.

Attest:

Sloan T. Spalding
Mayor

Jennifer H. Mason
Clerk of Council

Approved as to form:

Benjamin S. Albrecht
Interim Law Director

Legislation dates:

Prepared: 05/06/2022

Introduced: 05/17/2022

Revised:

Adopted:

Effective:

MINK STREET WEST ZONING DISTRICT

LIMITATION (L-GE) TEXT

April 6, 2022

The Mink Street West Zoning District (hereinafter, the “Zoning District”) consists of 141.8+/- acres located to the west of and adjacent to Mink Street, to the south of and adjacent to Jug Street, and generally to the north of Innovation Campus Way. This rezoning serves to extend the same or similar zoning and development standards to this site as currently apply to much of the developed and undeveloped land in its general vicinity.

I. Zoning Designation: L-GE, Limited General Employment District

II. Permitted Uses: The permitted and conditional uses contained and described in the Codified Ordinances of the City of New Albany, GE, General Employment District, Sections 1153.02 and 1153.03, provided that conditional uses are approved in accordance with Chapter 1115, Conditional Uses. The following uses from these code sections shall be prohibited:

- A. Industrial product sales (See Section 1153.03(a)(1));
- B. Industrial service (See Section 1153.03(a)(2));
- C. Mini-warehouses (See Section 1153.03(a)(4)(c)). For purposes of clarification, this prohibition only applies to such facilities that are made available for rental to the general public;
- D. Personal service (See Section 1153.03(b)(2)) and retail product sales and service (See Section 1153.03(b)(3)), except that such uses shall be allowed as accessory uses to a permitted use in this Zoning District;
- E. Vehicle services (See Section 1153.03(b)(4));
- F. Radio/television broadcast facilities (See Section 1153.03(c)(1));
- G. Sexually-oriented businesses (See Section 1153.03(c)(3)); and
- H. Off-premises signs (See Section 1153.03(c)(2)).

III. Lot and Setback Commitments:

A. Lot Coverage: There shall be a maximum lot coverage in this Zoning District of 75%.

B. Setbacks:

- 1. Mink Street: There shall be a minimum pavement setback of 50 feet and a minimum building setback of 100 feet from Mink Street right-of-way.
- 2. Jug Street: There shall be a minimum There shall be a minimum pavement setback of 50 feet and a minimum building setback of 100 feet from Mink Street right-of-way.
- 3. New Public Street. There shall be a minimum pavement setback of 25 feet and a minimum building setback of 50 feet from the new public street that is referenced in this text and recommended by the Engage New Albany strategic plan.

4. Perimeter Boundaries: There shall be a minimum pavement and building setback of 25 feet from all perimeter boundaries for which another setback requirement is not provided in this text, except that the minimum pavement and building setback shall be 50 feet from any such perimeter boundary that is adjacent to property where residential uses are permitted.

5. Elimination of Setbacks: In the event that a parcel located within this Zoning District and an adjacent parcel located within or outside of this Zoning District (i) come under common ownership or control, (ii) are zoned to allow compatible non-residential uses, and (iii) are combined into a single parcel, then any minimum building, pavement, or landscaping setbacks set forth in this text as they apply to common property lines shall no longer apply with respect to these parcels.

IV. Architectural Standards:

A. Building Height: The maximum building height for structures in this Zoning District shall be 65 feet, subject to Section 1165.03 of the Codified Ordinances.

B. Service and Loading Areas: Service areas and loading areas shall be screened in accordance with the Codified Ordinances.

C. Building Design:

1. Building designs shall not mix architectural elements or ornamentation from different styles.

2. Buildings shall be required to employ a comparable use of materials on all elevations.

3. The number, location, spacing, and shapes of windows and door openings shall be carefully considered. Primary entrances to buildings shall be made sufficiently prominent that they can be easily identified from a distance.

6. For office buildings and complexes, achieving a human or pedestrian scale is of less concern. When achieving such a scale is desired, it may be achieved by careful attention to width of facades, size and spacing of window and door openings, and floor to floor heights on exterior walls.

7. All elevations of a building that are visible from a public right-of-way shall receive similar treatment in terms of style, materials, and design so that such elevations are not of a lesser visual character than any other.

6. Use of elements such as shutters, cupolas, dormers, and roof balustrades shall be avoided in building designs that are not based on traditional American architectural styles. Such elements may be employed only when they are common elements of a specific style, and this style shall be replicated in its entirety. When shutters are employed, even if they are non-operable, they must be sized and mounted in a way that gives the appearance of operability.

7. Elements such as meter boxes, utility conduits, roof and wall projections such as vent and exhaust pipes, basement window enclosures, and trash containers shall be designed, located, or screened so as to minimize their visibility and visual impact from off-site. Solar energy systems shall be excluded from the requirements of this section.

8. Accessory or ancillary buildings, whether attached or detached, shall be of similar design, materials and construction as the nearest primary structure. Fenestration themes that employ windows, panels and piers that are consistent with the architectural vocabulary of the building are encouraged. Accessory structures, generators, storage tanks, trash receptacles or any other similar improvement must be located behind a building façade that does not front on a public right-of-way.

D. Building Form:

1. All building elevations shall be designed to be compatible with each other and to reflect a consistent design approach.

2. Gable or hip roofs shall be avoided unless a building design replicates a traditional American architectural style that employs such roof forms. In non-stylistic contemporary designs, low or flat roofs may be employed. Roof visibility shall be minimized.

E. Materials:

1. Exterior building materials shall be appropriate for contemporary suburban designs and shall avoid overly reflective surfaces. Traditional materials such as, but not limited to, wood, stone, brick, and concrete shall be permitted, and contemporary materials such as, but not limited to, aluminum, metal, glass, stucco, or cementitious fiberboard (e.g., hardiplank or equivalent) shall be permitted on buildings not employing traditional styles. Architectural precast concrete panels and/or poured-in-place concrete tilt-up panels shall be permitted. The use of reflective or mirrored glass shall be prohibited.

2. Prefabricated metal buildings and untreated masonry block structures are prohibited. Notwithstanding the foregoing, ancillary structures built and operated for the purpose of enclosing equipment and which are not occupied by tenants or persons on a regular basis may be constructed using pre-engineered metal.

3. Generally, the quantity of materials selected for a building shall be minimized.

4. Loading docks are not required to have the same degree of finish as a main entry unless they are visible from a public right-of-way.

5. Additional Standards for Uses Not Governed by DGRs: Buildings that are constructed to accommodate certain uses are not governed by the City's Design Guidelines and Requirements (DGRs). For example, buildings that are constructed for the operation of warehousing and/or distribution uses are not subject to the DGRs and can present challenges in meeting the community

standard for architectural design. Such buildings are necessarily large and typically include long walls that together form a square or rectangular box. The goal for the development of buildings that are not subject to the DGRs is to balance the practical needs of these buildings with the desire to provide exterior designs that are attractive and complimentary to the architecture that will be found elsewhere in this Zoning District.

Architecture by its nature is a subjective medium, meaning that the adoption of strict objective standards in all instances may not provide the best means for achieving appropriate design. In recognition of this fact, the standards set forth herein provide guidelines and suggestions for designing buildings that are not subject to the DGRs in an effort to set expectations for the quality of architecture that will be expected for these structures. On the other hand, these standards are meant to allow for some flexibility to encourage innovative design provided that the spirit and intent of these provisions are met.

In conjunction with an application for a certificate of appropriateness for each building or structure in this Zoning District that is not subject to or governed by the DGRs, the applicant shall be required to submit to the City illustrations of the proposed exterior design of the building or structure for review and approval by the Design Review Committee contemplated in Section 1157.08(a)(1)(D) of the City Code. In designing such buildings, the user or applicant shall take into account the following, which are intended to set a level of expectation for the quality of design:

- a. Architectural design for all portions of a building or structure that are visible from a public right-of-way (excluding public rights-of-way whose primary purpose is to accommodate truck traffic or service loading areas) shall meet the community standard in terms of quality while taking into account the unique nature of the use(s) that will be found therein.
- b. Uninterrupted blank wall facades shall be prohibited to the extent that they are visible from a public right-of-way. Design variations on long exterior walls shall be employed in order to create visual interest. Examples of such design variations include, but are not limited to, the use of offsets, recesses and/or projections, banding, windows, and/or reveals; scoring of building facades; color changes; texture or material changes; and variety in building height.
- c. The use of one or more architectural or design elements may be used to soften the aesthetics of the building, such as but not limited to canopies, porticos, overhangs, arches, outdoor patios, community spaces, or similar devices.
- d. Contemporary exterior designs, while not required, shall be encouraged in order to create architecture that does not look aged or dated even many years after the facility is built.
- e. Landscaping and/or the use of existing vegetation shall be utilized where appropriate to enhance the aesthetics of the building and to lessen its visual impact when viewed from public rights-of-way.

6. Roof-Mounted Equipment: Complete screening of all roof-mounted equipment shall be required on all four sides of buildings with materials that are consistent and harmonious with the building's façade and character. Such screening shall be provided in order to screen the equipment from off-site view and to buffer sound generated by such equipment.

V. Access, Parking, Site Circulation, and Traffic Commitments:

A. Street Improvements: The developer shall work with the City Manager or their designee to determine the appropriate timing and phasing of street improvements at entrances from Mink Street and Jug Street.

B. Access Points: Subject to other provisions in this text, on public rights-of-way which exist on the date of this text the number, locations, and spacing of curbcuts shall be determined and approved by the City Manager or their designee in consultation with the developer at the time that a certificate of appropriateness is issued for a project in this Zoning District. Primary vehicular access to and from this Zoning District shall occur from Mink Street, Jug Street, and/or the new public street contemplated in the New Albany strategic plan and/or may occur on Innovation Campus Way if property within this Zoning District is combined into a single parcel with adjacent property that has frontage on Innovation Campus Way. Along Mink Street, no more than one vehicular access point shall be permitted to serve this Zoning District.

C. A public street shall be provided within this Zoning District to connect to Mink Street and/or Jug Street in accordance with the recommendations of the Engage New Albany strategic plan recommendations. Such a street shall be located and shall have specifications as detailed in an approved final plat.

D. Parking and Loading: Parking and loading spaces shall be provided for each use per Chapter 1167 of the Codified Ordinances of the City of New Albany.

E. Right-of-Way:

1. Mink Street: The developer shall dedicate right-of-way to the city for a distance of generally 70 feet as measured from the centerline of Mink Street. The distance shall be sufficient to accommodate future street improvements that are being planned by the City to facilitate development projects to the north of this zoning district.

2. Jug Street: The developer shall dedicate right-of-way to the city for a distance of generally 40 feet as measured from the centerline of Jug Street. The distance shall be sufficient to accommodate future street improvements that are being planned by the City to facilitate development projects to the north of this zoning district.

3. Future Street: The developer shall dedicate to the city a maximum 80 feet of right-of-way for the street that will extend in a curvilinear manner from Jug Street to Mink Street as envisioned in the city strategic plan.

F. Easements: The developer and/or property owner shall grant easements to the City which are adjacent to the aforementioned rights-of-way to the minimum extent necessary to provide for the installation and maintenance of streetscape improvements and/or utilities.

VI. Buffering, Landscaping, Open Space, and Screening: A landscaping plan shall be approved as part of the City's review of a certificate of appropriateness application for each portion of this Zoning District that is proposed for development. The following landscaping requirements shall apply to this Zoning District:

A. Tree Preservation: Standard tree preservation practices will be in place to preserve and protect trees during all phases of construction, including the installation of snow fencing at the drip line.

B. Fencing: A standard New Albany white four-board horse fence may (but shall not be required to) be provided within the public right-of-way.

C. Stormwater Management: Wet and dry stormwater basins shall conform to the standards set forth in Section 1171.08 of the Codified Ordinances of the City of New Albany.

D. Street Trees: A street tree row shall be established along Mink Street and Jug Street and shall contain one (1) tree for every thirty (30) feet of road frontage. Trees may be grouped or regularly spaced. Street trees shall be located within the right-of-way. Minimum street tree size at installation shall be three (3) caliper inches. This requirement may be waived in areas where existing vegetation occurs or in areas subject to overhead electric transmission lines, subject to approval of the City Landscape Architect.

E. Parking Areas: Within this Zoning District, there shall be no less than one (1) tree planted for every ten (10) parking spaces located therein. At least five percent (5%) of the vehicular use area shall be landscaped or green space (or treed areas). Parking lots shall be designed to accommodate parking lot islands with tree(s) at the end of parking aisles.

F. Pedestrian Circulation: An 8-foot-wide asphalt leisure trail is required to be installed along the all public street frontages of the Zoning District.

H. Minimum On-Site Tree Sizes: Unless otherwise set forth herein, minimum tree size at installation shall be no less than two and one half (2 ½) inches in caliper for shade trees, six (6) feet in height for evergreen trees, two (2) inches in caliper for ornamental trees, and thirty (30) inches in height for shrubs. Caliper shall be measured six (6) inches above grade.

I. All street trees that are not installed prior to infrastructure acceptance shall be bonded to guarantee installation.

K. Landscaping Along Mink Street: Landscaping within the pavement setbacks along Jug Street shall be coordinated and consistent throughout this zoning district and adjacent zoning districts. Landscaping, when installed within these setbacks, shall be provided in accordance with the following standards:

1. Within the required minimum pavement setbacks along Mink Street a minimum of ten (10) deciduous trees shall be installed for every 100 feet of frontage on the public right-of-way. Such trees shall be planted in random locations (i.e., not in rows). No more than 30% of such trees shall be of a single species.

2. Where existing healthy and mature trees are found within these pavement setbacks, such trees may be preserved in lieu of installing the trees described in this

paragraph, provided that a similar amount of vegetation is being preserved when compared to that which would otherwise be required to be installed.

3. Mounding shall be permitted but not required. When utilized, mounding shall have a minimum height of 3 feet and a maximum height of 12 feet. The slope of mounds shall not exceed 3:1 from the crest of the mound extending toward the private site, and shall not exceed a 6:1 slope from the crest of the mound extending toward the public right-of-way.

4. A standard New Albany white four-board horse fence may (but shall not be required to) be provided within the public right-of-way.

5. Notwithstanding the foregoing and if proposed by the developer, the City's Landscape Architect shall be permitted to approve deviations from the planting requirements that are detailed in the immediately preceding paragraph. Such deviations shall be permitted to provide variations in the landscape treatment of long street frontages, when it is desirable to create or preserve viewsheds into any portion of the site where architectural or natural features within the site add visual character or aesthetic appeal when viewed from the street, and/or to protect the health of vegetation or the safety of people or property.

B. Landscaping Along Jug Street: Landscaping within the pavement setbacks along Jug Street shall be coordinated and consistent throughout this zoning district and adjacent zoning districts. Landscaping, when installed within these setbacks, shall be provided in accordance with the following standards:

1. A minimum of ten (10) deciduous trees shall be installed for every 100 feet of frontage on the public right-of-way. Such trees shall be planted in random locations (i.e., not in rows). No more than 30% of such trees shall be of a single species.

2. Where existing healthy and mature trees are found within these pavement setbacks, such trees may be preserved in lieu of installing the trees described in this paragraph, provided that a similar amount of vegetation is being preserved when compared to that which would otherwise be required to be installed.

3. Mounding shall be permitted but not required. When utilized, mounding shall have a minimum height of 3 feet and a maximum height of 12 feet. The slope of mounds shall not exceed 3:1 from the crest of the mound extending toward the private site, and shall not exceed a 6:1 slope from the crest of the mound extending toward the public right-of-way.

4. A standard New Albany white four-board horse fence may (but shall not be required to) be provided within the public right-of-way.

C. Landscaping Required Adjacent to Residential Uses: For those perimeter boundaries which abut residentially zoned and used properties (if two contiguous properties have an intervening public street right-of-way between them, they shall still be considered to be abutting) that are not owned by the developer, then the required landscaping and/or mounding (or some combination thereof) within minimum required pavement setback areas shall be enhanced to provide an opacity of 75% on the date that is five (5) years after planting to a total height of 10 feet above ground level when viewed from off-site. Existing trees may be utilized to meet this

opacity requirement.

VII. Lighting:

A. All parking lot and private driveway lighting shall be cut-off type fixtures and down cast. Parking lot lighting shall be from a controlled source in order to minimize light spilling beyond the boundaries of the site.

B. All parking lot lighting shall be of the same light source type and style. Building, pedestrian, and landscape lighting may be incandescent or metal halide, or may be LED if the LED lighting temperature is at least 4,000 Kelvin and no more than 6,000 Kelvin to ensure that the lighting color is white.

C. All parking lot light poles shall be black or New Albany green and constructed of metal. Light poles shall not exceed 30 feet in height.

D. Lighting details shall be included in the landscape plan which is subject to review and approval by the City Landscape Architect.

E. No permanent colored lights or neon lights shall be used on the exterior of any building.

F. All other lighting on the site shall be in accordance with City Code.

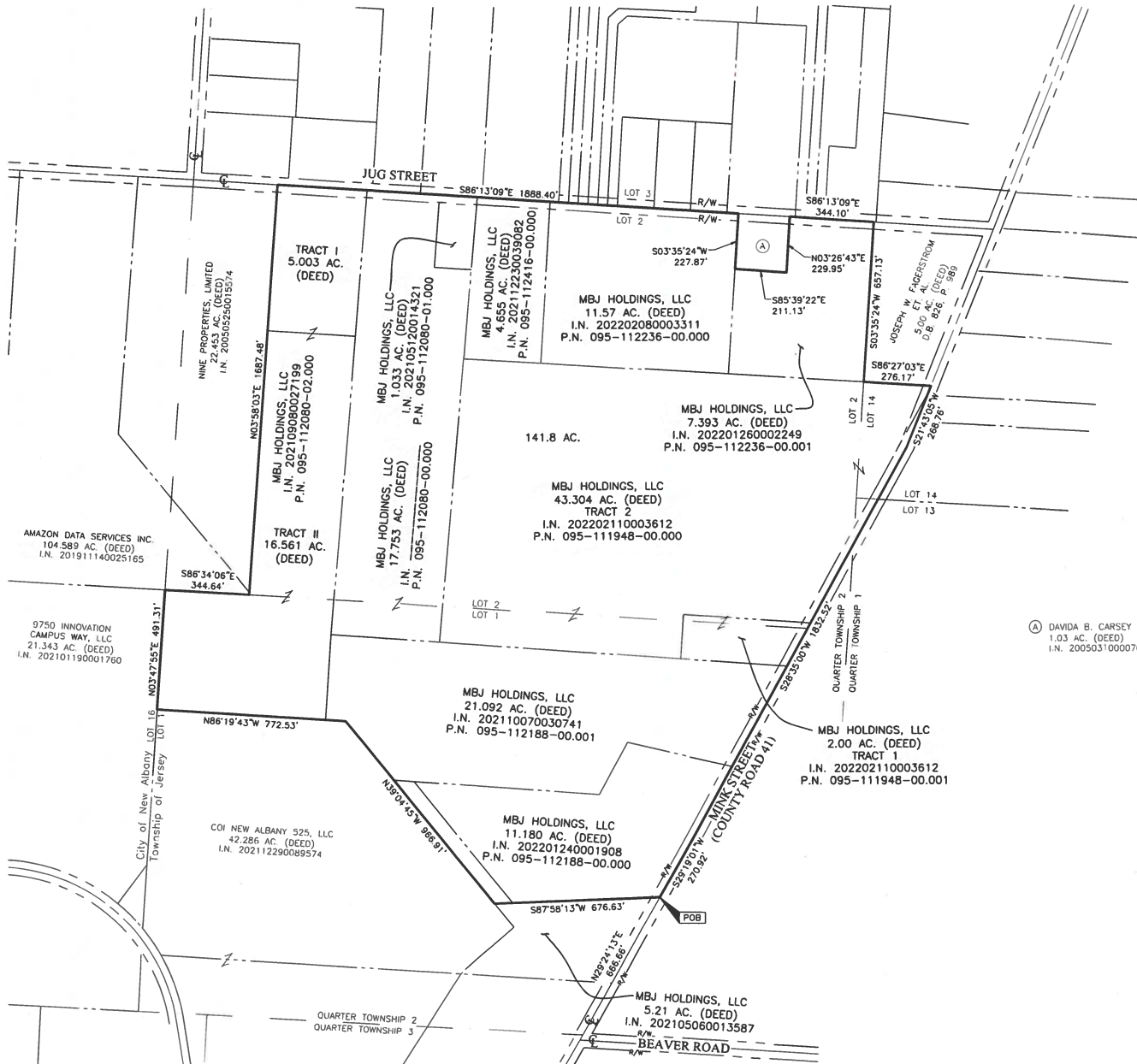
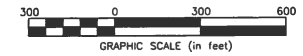
G. Street lighting must meet the City standards and specifications.

VIII. Signage: All signage shall conform to the standards set forth in Chapter 1169 of the Codified Ordinances of the City of New Albany.

IX. Utilities: All new utilities installed solely to serve this Zoning District shall be installed underground.

ZONING EXHIBIT

LOTS 1 & 2, QUARTER TOWNSHIP 2, AND LOTS 13 & 14, QUARTER TOWNSHIP 1, TOWNSHIP 2, RANGE 15 UNITED STATES MILITARY DISTRICT CITY OF NEW ALBANY, COUNTY OF LICKING, STATE OF OHIO



EMHT <small>Evans, Mechwart, Hamilton & Tilton, Inc. Engineers - Surveyors - Planners - Scientists 600 New Albany Road, Columbus, OH 43054 Phone: 614.775.4500 Fax: 614.775.4500 emht.com </small>		Date: March 17, 2022
		Scale: 1" = 300'
		Job No: 2022-0007
		Sheet: 1 of 1
REVISIONS		
MARK	DATE	DESCRIPTION



Aaron L. Underhill
8000 Walton Parkway, Suite 260
New Albany, Ohio 43054

P: 614.335.9321
F: 614.335.9329
aaron@uhlfirm.com

March 18, 2022

Chris Christian
Development Service Manager
City of New Albany
99 West Main Street
New Albany, Ohio 43054

RE: School Impact of Zoning of 141.8 +/- acres located generally to the north of Innovation Campus Way, to the south of Jug Street Road NW, to the east of Harrison Road NW and to the west of Mink Street NW in New Albany, Ohio, by MBJ Holdings, LLC

Dear Chris:

MBJ Holdings, LLC owns certain real property (the "Property") located as described above. This letter accompanies an application to rezone the Property from the AG, Agricultural District to the L-GE, Limited General Employment District. The purpose of this letter is to analyze the impact of this zoning on the Johnstown-Monroe Local School District.

This rezoning will allow commercial development on the Property as opposed to residential development. Once developed, nine homes will be removed from the site. The obvious positive financial impact of developing the Property alleviates the need to undertake a detailed analysis of the impact the development would have on the local school district. In general terms, the rezoning will permit the development of the Property with non-residential uses, which will provide the schools with a substantial financial benefit. This zoning will add significant value to the land and will provide the means to provide additional value by way of improvements.

The applicant is pleased to bring forth this application and looks forward to working with the City. Please let me know if you have any questions.

Sincerely,

Aaron L. Underhill
Attorney for the Applicant



RESOLUTION R-19-2022

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A PROFESSIONAL SERVICES CONTRACT ON BEHALF OF THE CITY OF NEW ALBANY WITH THE LAW FIRM OF FISHEL DOWNEY ALBRECHT & RIEPENHOFF LLP TO PROVIDE LEGAL SERVICES TO THE CITY

WHEREAS, the City of New Albany is in need of a director of law (a.k.a. law director) to be the prosecuting attorney and legal counsel for the city, to represent the city in all proceedings in court or before the administrative board or body, and to perform other duties as required in accordance with New Albany Charter Section 8.04(b), by city legislation, by council, or by the city manager; and

WHEREAS, in the winter of 2021 council authorized the city manager to solicit proposals and resumes from qualified law firms and individual attorneys to serve the city in the capacity of Director of Law; and

WHEREAS, this Request for Proposal process was completed in March 2022, and following a review and evaluation of the proposals and interviews with four (4) law firms, the city manager has chosen to recommend Fishel Downey Albrecht & Riepenhoff LLP to provide legal services to the city; and

WHEREAS, Benjamin Albrecht, and other attorneys as may be necessary, of Fishel Downey Albrecht & Riepenhoff LLP are qualified and willing to perform these services; and

WHEREAS, the city wishes to retain the firm of Fishel Downey Albrecht & Riepenhoff LLP and wishes to continue a professional services agreement to be in effect for a nineteen (19) month period June 1, 2022 through December 31, 2023.

NOW, THEREFORE, BE IT RESOLVED by Council for the City of New Albany, Counties of Franklin and Licking, State of Ohio, that:

Section 1. Pursuant to Section 8.04 of the New Albany Charter, the city manager is hereby authorized to enter into a professional services contract with Benjamin Albrecht and Fishel Downey Albrecht & Riepenhoff LLP, as set forth in Exhibit A, to serve as Director of Law and to provide legal services to the City of New Albany. Such contract shall be in effect through December 31, 2023.

Section 2. It is hereby found and determined that all formal actions of this council concerning and relating to the adoption of this legislation were adopted in an open meeting of the council, and that all deliberations of the council and or any of its committees that resulted in such formal action were in meetings open to the public, in compliance with Section 121.22 of the Ohio Revised Code.

Section 3. Pursuant to Article 6.07(A) of the New Albany Charter, this resolution shall take effect upon adoption.

CERTIFIED AS ADOPTED this _____ day of _____, 2022.

Attest:

Sloan T. Spalding
Mayor

Jennifer H. Mason
Clerk of Council

Approved as to form:

Benjamin S. Albrecht
Law Director

Legislation dates:

Prepared: 04/25/2022

Introduced: 05/17/2022

Revised:

Adopted:

Effective:



7775 Walton Parkway
Suite 200
New Albany, Ohio 43054
(614) 221-1216 PH
(614) 221-8769 FX
www.fisheldowney.com

**AGREEMENT BETWEEN THE CITY OF NEW ALBANY
AND FISHEL DOWNEY ALBRECHT & RIEPENHOFF LLP
FOR LAW DIRECTOR SERVICES**

Contract for Services between the City of New Albany, an Ohio Municipal Corporation, (New Albany) and Fishel Downey Albrecht & Riepenhoff LLP (FDAR) effective the 1st day of June 2022.

WITNESSETH:

WHEREAS, New Albany wishes to engage FDAR to perform routine legal services and serve as the New Albany Law Director; and

WHEREAS, Benjamin Albrecht, and other attorneys as may be necessary, of FDAR are qualified and willing to perform these services;

WHEREAS, it is anticipated the Law Director services will require approximately sixty (60) hours per month;

NOW, THEREFORE, intending to be bound by this Agreement, the parties agree as follows:

- 1. Routine Services.** Except as otherwise provided herein, beginning June 1, 2022, New Albany agrees to pay Twelve Thousand Dollars (\$12,000.00) per month for routine legal services, and FDAR agrees to provide the following routine legal services:
 - a. Attend all regular and special Council meetings.
 - b. Attend other board and commission meetings upon the request of the City Manager.
 - c. Draft and/or revise ordinances and resolutions upon request of the Clerk of Council or City Manager.
 - d. Draft routine legal memoranda as requested by the City Manager, staff and/or Council.
 - e. Provide legal advice to City officials as necessary.
 - f. Respond to City Manager and staff inquiries.
 - g. Attend meetings and discussions with City, County, State and Federal officials and other governmental officials.
 - h. Attend meetings with the development community and staff.



- i. Review and approve all contracts, ordinances, resolutions and any other written documents.
- j. Coordinate with special legal counsel.
- k. Attend Mayor's Court on behalf of New Albany.

New Albany hereby designates Benjamin S. Albrecht, an attorney with FDAR, the Law Director, who shall be the primarily responsible attorney and contact person for New Albany.

New Albany shall reimburse FDAR for any and all reasonable costs and expenses incurred by FDAR on behalf of New Albany.

2. **Term.** This Agreement shall take effect and be in force from June 1, 2022 through December 31, 2023. Either Party may terminate this Agreement upon providing thirty (30) days prior written notice of its intent to terminate to the other Party.

3. **Miscellaneous Provisions.**

- a. **Additional Projects.** Subject to agreement of both Parties, FDAR may undertake Additional Projects on a flat fee or hourly basis, which are outside of the scope of Routine Services, as agreed to by the City Manager and Law Director. FDAR shall undertake such Additional Projects at an hourly rate of two hundred dollars (\$200) per hour, unless otherwise mutually agreed.
- b. **Applicable Laws.** FDAR shall comply with all applicable foreign, federal, state, and local laws, rules, regulations, orders, ordinances and government requirements in the performance of this Agreement.
- c. **Waiver.** No delay or failure on the part of any Party hereto in exercising any right, power, or privilege under this Agreement or under any other instruments given in connection with or pursuant to this Agreement shall impair any such right, power, or privilege or be construed as a waiver of any default or any acquiescence therein. No single or partial exercise of any such right, power, or privilege shall preclude the further exercise of such right, power, or privilege, or the exercise of any other right, power or privilege.
- d. **Severability.** If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable to any extent, such provision shall be enforced to the greatest extent permitted by law and the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law.



- e. **Parties in Interest.** This Agreement is enforceable only by FDAR and New Albany. The terms of this Agreement are not a contract or assurance regarding compensation, continued employment, or benefit of any kind to any of FDAR's personnel assigned to New Albany's work, or any beneficiary of any such personnel, and no such personnel, or any beneficiary thereof, shall be a third-party beneficiary under or pursuant to the terms of this Agreement.
- f. **Governing Law.** This Agreement will be governed by and construed in accordance with the laws of the State of Ohio without regard to its conflict of law principles.
- g. **Entire Agreement.** This Agreement constitutes the entire understanding of the Parties hereto with respect to the subject matter hereof and supersedes all prior negotiations, discussions, undertakings and agreements between the Parties. This Agreement may be amended or modified only by a writing executed by the duly authorized officers of the Parties hereto.
- h. **Assignment.** This Agreement may not be assigned or transferred in whole or in part by either Party without the written consent of the other. Any purported assignment without the express written consent of the other is void.
- i. **Independent Contractor Status.** The Parties agree that services hereunder are provided by an independent contractor, and that no contributions will be made to the public employees retirement system for the services, as addressed in Section 145.038, Ohio Revised Code. This Agreement is, and is intended to be, a formal bilateral written contract between the parties as required by Section 145-1-42 (B).

IN WITNESS WHEREOF, the Parties have executed this Agreement.

**FISHEL DOWNEY ALBRECHT
& RIEPENHOFF LLP:**

CITY OF NEW ALBANY:

Benjamin Albrecht, Partner

Joseph Stefanov, City Manager



RESOLUTION R-20-2022

A RESOLUTION TO AUTHORIZE THE CITY MANAGER TO ENTER INTO APPROPRIATE AGREEMENTS TO FACILITATE THE DESIGN, CONSTRUCTION AND MANAGEMENT OF THE PUBLIC INFRASTRUCTURE IMPROVEMENTS WITHING AND/OR SERVING THE 1,689+/- ACRE TECHNOLOGY MANUFACTURING DISTRICT ESTABLISHED AND APPROVED BY THE CITY IN ORDINANCE O-12-22 ON MAY 3, 2022

WHEREAS, Article VII, Section 7.02(B)(10) empowers the city manager to execute contracts, leases, deeds, easements, conveyances and agreements on behalf of the City of New Albany (“the city”); and

WHEREAS, Article VII, Section 7.02(B)(11) further empowers the city manager to perform such other powers, duties and functions as are conferred by Council of the city or the Charter; and

WHEREAS, the city accepted the Expedited Type 1 annexation of 1,689.59+/- acres from Jersey Township, Licking County to the city in Ordinance O-11-2022; and

WHEREAS, the city amended its zoning ordinances to rezone the 1,689+/- acres generally located south of Green Chapel Road, west of Mink Street and north of Jug Street, to a Technology Manufacturing District (“TMD”) in ordinance O-12-2022; and

WHEREAS, the 1,689+/- acres generally located south of Green Chapel Road, west of Mink Street, and north of Jug Street constitutes the only TMD currently in the city; and

WHEREAS, the city has taken actions necessary to facilitate the development of the TMD; and

WHEREAS; the city anticipates extensive, ongoing, future development of the TMD requiring the creation of multiple, simultaneous public infrastructure projects requiring it to act expeditiously; and

WHEREAS, the city previously received and appropriated funding from the State of Ohio, including eighty-five million dollars (\$85,000,000) in grant funds, to complete various infrastructure improvement projects anticipated within and/or serving the development of the TMD; and

WHEREAS, in order to facilitate the extensive amount and scope of these necessary infrastructure improvement projects within and/or serving the TMD, and to further promote efficiency and support of the ongoing economic development within the TMD, council desires to expressly confer authority to the city manager to enter into certain contracts related to infrastructure improvements within and/or serving the TMD for which appropriations have been made and/or funding has been provided.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of New Albany, Counties Franklin and Licking, State of Ohio that:

Section 1: The city manager is hereby authorized and directed to enter into the necessary contracts, leases, deeds, easements, conveyances and agreements on behalf of the city as may be necessary to facilitate the design, construction and management of the public infrastructure projects and improvements within and/or serving the May 3, 2022 TMD that have been appropriated and/or funded through other funding sources as expressly set forth in "Exhibit A," which is hereby incorporated by reference.

Section 2: The city manager is hereby authorized and directed to enter into necessary contracts and agreements received following the receipt and review of Requests for Proposals administered in accordance with applicable laws, regulations and ordinances necessary to facilitate the design, construction, and management of the public infrastructure projects and improvements that serve the TMD.

Section 3: It is hereby found and determined that all formal actions of this council concerning and relating to the adoption of this ordinance were adopted in an open meeting of the council, and that all deliberations of the council and or any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 4: Pursuant to Article 6.07(A) of the New Albany Charter, this resolution shall take effect upon adoption.

CERTIFIED AS ADOPTED this _____ day of _____, 2022.

Attest:

Sloan T. Spalding
Mayor

Jennifer H. Mason
Clerk of Council

Approved as to form:

Benjamin S. Albrecht
Law Director

Legislation dates:

Prepared: 05/04/2022
Introduced: 05/17/2022
Revised:
Adopted:
Effective:

Exhibit A – R-20-2022

As referenced in Section 1, above, the following is a listing of projects for which the City Manager is authorized to enter into contracts, leases, deeds, easements, conveyances and agreements in order to facilitate the design, construction and management of the public infrastructure projects and improvements within and serving the TMD:

- Road Projects including but not limited to:
 - Mink Road
 - Green Chapel Road
 - Jug Street
 - Clover Valley Road
 - Miller Road
 - Dragonfly Way
 - Beech Road
 - Construction Access Roads
- Water/Wastewater Projects
- Municipal Fiber Optic Design and Installation Projects
- Right-of-Way Acquisition
- Easements
- Design and Construction Phase Services of Infrastructure Projects and Improvements
- Permitting and Fees
- Private Utility Relocation
- Materials Testing
- Inspections
- Geotechnical and Hydrogeological Assessment
- Materials Testing for Infrastructure Projects and Improvements
- Third Party Contract Administration