



CITY OF KETTERING

DONALD E. PATTERSON, MAYOR • ROBERT SCOTT, VICE MAYOR
BRUCE E. DUKE • TONY KLEPACZ • BILL LAUTAR • AMY SCHRIMPF • JOSEPH D. WANAMAKER

KETTERING COUNCIL AGENDA

July 25, 2017

Kettering Government Center – South Building
3600 Shroyer Rd. Kettering, Ohio 45429

6:00 P.M. **WORKSHOP** Kettering Room
7:30 P.M. **REGULAR MEETING** Council Chambers

PLEDGE OF ALLEGIANCE

INVOCATION

APPROVAL OF MINUTES

July 11, 2017- Council Meeting & Workshop Minutes

PROCLAMATIONS, SPECIAL PRESENTATIONS, AWARDS, SPECIAL RESOLUTIONS, APPOINTMENTS TO BOARDS AND COMMISSION

Proclamation	National Night Out
Proclamation	50 th Anniversary of Kettering Sister Cities
Award Presentation	Kettering Sister Cities- Best Overall Program Award

PUBLIC HEARINGS

1. P.C. 17-020- Request for vacation of public right-of-way at the SW corner of Wilmington Pike and Cloverfield Avenue.

PUBLIC COMMENT ON LEGISLATION

(5 Minute Limit per Speaker)

ORDINANCES IN SECOND READING

2. To reclassify the Development Pattern District for 2400 East Dorothy Lane from NC-Neighborhood Center to N-Neighborhood (Planning Commission Case 17-013).

RESOLUTIONS

3. Authorizing the City Manager to purchase approximately 6,000 tons of road salt through an approved state or local cooperative purchasing program.
4. Authorizing the City Manager to enter into an agreement for software maintenance for the Police Department.
5. Authorizing the City Manager to purchase bunker gear through a state or local cooperative purchasing program.
6. Authorizing the City Manager to submit, along with the Montgomery County Environmental Services Department, a joint application to the Ohio Public Works Commission for funding of water main replacement projects.
7. Authorizing the City Manager to submit an application to the Ohio Public Works Commission for funding of the Flesher Avenue Bridge Replacement Project and to execute contracts as required to receive funding.
8. Authorizing the City Manager to use competitive bargaining and negotiated quotes to contract for replacement of the gymnasium bulkhead at the Kettering Recreation Complex.

9. To make supplemental appropriations for current expenses and other expenditures of the City of Kettering, State of Ohio, during the fiscal year ending December 31, 2017.

ORDINANCES IN FIRST READING

10. To amend sections 436.01 and 436.07 and enact section 436.011 of the Codified Ordinances of the City of Kettering.

CERTIFICATIONS AND PETITIONS

MANAGER'S REPORT/COMMUNITY UPDATE

OTHER BUSINESS NOT ON WRITTEN AGENDA

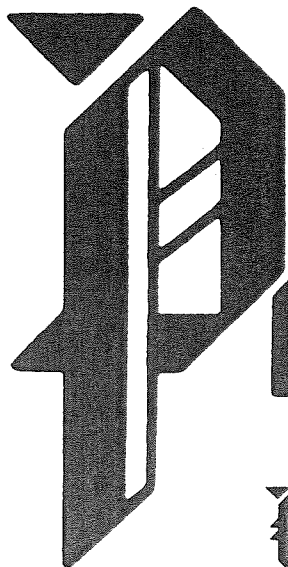
Audience Participation (5 Minute Limit per Speaker)

CITY COUNCIL REPORT/UPDATE

The City of Kettering wishes to make certain that all citizens have the opportunity to actively participate in their local government. If you have a disability and require accommodations to participate in a Council meeting, please contact the Clerk of Council at 296-2416 so that reasonable modifications can be made.

KETTERING CITY CALENDAR
2017

July 24	7:00 p.m.	Board of Zoning Appeals
July 25	6:00 p.m. 7:30 p.m. 8:00 p.m.	Council Workshop City Council Meeting Sister Cities
August 7	7:00 p.m.	Planning Commission
August 8	4:00 p.m. 6:00 p.m. 7:30 p.m.	Partners for Healthy Youth Council Workshop City Council Meeting
August 14	7:00 p.m.	Board of Zoning Appeals
August 15	5:00 p.m.	Kettering Arts Council
August 16	8:00 a.m.	Volunteer Advisory Council
August 21	7:00 p.m. 7:00 p.m.	Planning Commission Board of Community Relations
August 22	6:00 p.m. 7:30 p.m.	Council Workshop City Council Meeting
August 28	7:00 p.m. 7:30 p.m.	Board of Zoning Appeals Sister Cities



Office of the Mayor

Proclamation

Whereas:

The National Association of Town Watch (NATW) sponsors a national community-building campaign on August 1, 2017 entitled "National Night Out"; and

WHEREAS: *National Night Out provides an opportunity for neighbors in Kettering, Ohio to join over 38 million people in more than 16 thousand communities from all 50 states, U.S. territories, Canadian cities, and military bases worldwide; and*

WHEREAS: *National Night Out is an annual community-building campaign that promotes police-community partnerships and neighborhood camaraderie to make our neighborhoods safe and caring places to live; and*

WHEREAS: *Neighbors in Kettering, Ohio assist the Kettering Police Department throughout joint community-building efforts and support National Night Out 2017; and*

WHEREAS: *It is essential that all neighbors of Kettering, Ohio come together with police officers to work together to build a safe and caring community.*

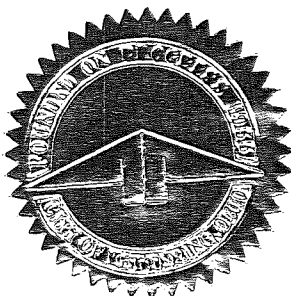
NOW, THEREFORE, I, Donald E. Patterson, Mayor of the City of Kettering, Ohio, do hereby proclaim

August 1, 2017

to be

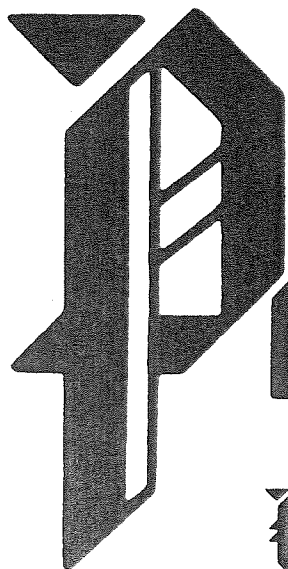
NATIONAL NIGHT OUT

in the City of Kettering, Ohio, and urge all citizens to join the City of Kettering, the Kettering Police Department and National Association of Town Watch in support for National Night Out on August 1, 2017.



IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Kettering, Ohio, to be affixed this 25th day of July in the Year of our Lord, Two Thousand and Seventeen.

DONALD E. PATTERSON
Mayor of the City of Kettering, Ohio



Office of the Mayor

Proclamation

Whereas:

The Kettering City Council established the Kettering Sister City Committee in 1967 with the mission of formulating and developing plans for an active cultural exchange between Kettering and a foreign city; and

WHEREAS: The Committee researched cities around the world and recommended the City of Steyr, Austria to be the first Sister City, and the success of this pairing invited Kettering, England to be the second Sister City; and

WHEREAS: The Kettering Sister Cities Committee held events and activities to promote cultural understanding of our Sister Cities, including English dinners and Spass Nacht, an Austrian festival, and also by participating in the Holiday at Home parade; and

WHEREAS: The Committee sponsored professional work and teacher exchanges as well as artistic exchanges when the Civic Band, Children's Choir and Youth Ballet performed in both Sister Cities and bands and artists from our Sister Cities performed in Kettering; and

WHEREAS: The Committee sponsored cultural exchanges between our citizens and the citizens of Kettering, England and Steyr, Austria which were hosted by local families to help build relationships; and

WHEREAS: The first student exchange between Kettering, Ohio and Steyr, Austria took place in 1976 and has continued since then, and this year marks the 41st student exchange as we welcome the youth from Steyr; and

WHEREAS: The Kettering Sister Cities Committee has won many awards over the years for outstanding programs, including "Best Overall Program Award" presented this year by Sister Cities International.

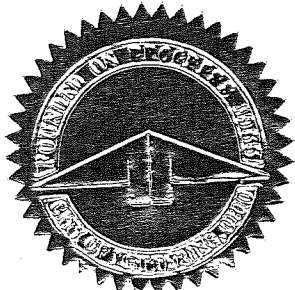
NOW, THEREFORE, I, Donald E. Patterson, Mayor of the City of Kettering, Ohio, do hereby proclaim

July 27, 2017

to be

SISTER CITIES DAY

in the City of Kettering, Ohio, and urge all citizens to join the Kettering City Council on congratulating Kettering Sister Cities on its 50th anniversary, and wishing them continued success in promoting peace throughout mutual respect, understanding, and cooperation—one individual, one community at a time.



IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Kettering, Ohio, to be affixed this 25th day of July in the Year of our Lord, Two Thousand and Seventeen.

DONALD E. PATTERSON
Mayor of the City of Kettering, Ohio

CITY OF KETTERING, OHIO

AN ORDINANCE

By:

No.

TO RECLASSIFY THE DEVELOPMENT PATTERN DISTRICT FOR
2400 EAST DOROTHY LANE FROM NC-NEIGHBORHOOD CENTER
TO N-NEIGHBORHOOD (PLANNING COMMISSION CASE 17-013)

WHEREAS, on June 5, 2017, after publication and issuance of notice as required by the zoning regulations of this City, a public hearing was conducted by the City of Kettering Planning Commission concerning an application to reclassify the Development Pattern District for 2400 East Dorothy Lane from NC-Neighborhood Center to N-Neighborhood; and

WHEREAS, a vote was taken by the Planning Commission on June 5, 2017 to recommend approval of the proposed reclassification; and

WHEREAS, on June 27, 2017, after publication and issuance of notice as required by the zoning regulations of this City, this City Council held a public hearing with evidence presented by the Planning and Development Department along with the recommendation of the Planning Commission to approve the application, and all parties were afforded the opportunity to be heard and present evidence in support of their positions;

NOW, THEREFORE, Be It Ordained by the Council of the City of Kettering, Ohio, that:

Section 1. This Council has considered the report and recommendation of the Planning Commission and the criteria set forth in Sections 1153.12.9, Consistency, through 1153.12.15, Other Factors, of Chapter 1153 of the Zoning Code along with the evidence presented at the public hearing and finds that the application for reclassification should be approved. Therefore 2400 East Dorothy Lane is reclassified from NC-Neighborhood Center to N-Neighborhood Development Pattern District.

Section 2. As appropriate and necessary, the Official Development Pattern District Map of the City of Kettering, Ohio is hereby revised and amended to reflect the Development Pattern District reclassification referred to in Section 1 above; and Section 1133.03 of the Kettering Codified Ordinances, which adopts the Official Development Pattern District Map by reference, is hereby reenacted effective as of the first effective date of this Ordinance so as to include the map revision in the Zoning Code. The Director of the Planning and Development Department is directed to make such appropriate revisions on the Official Development Pattern District Map of the City.

Section 3. This ordinance shall take full force and effect from and after the earliest period provided by law.

Passed by Council this _____ day of _____ 2017.

DONALD E. PATTERSON, Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. LAVENDER
Clerk of Council

THEODORE A. HAMER, III
Law Director

(Requested by: Planning and Development Department)

CITY OF KETTERING, OHIO

A RESOLUTION

By:

No.

AUTHORIZING THE CITY MANAGER TO PURCHASE APPROXIMATELY 6,000 TONS OF ROAD SALT THROUGH AN APPROVED STATE OR LOCAL COOPERATIVE PURCHASING PROGRAM

Be It Resolved by the Council of the City of Kettering, State of Ohio, that:

Section 1. The City Manager is hereby authorized to purchase approximately 6,000 tons of road salt through an approved state or local cooperative purchasing program.

Section 2. As provided in Section 4-8 of the City Charter, this resolution takes effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2017.

DONALD E. PATTERSON, Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER, III,
Law Director

Estimated Cost: \$289,920.00
Amount Budgeted: \$180,000.00
Acct. No: 2000-72224

(Requested by: Public Service Department)

CITY OF KETTERING, OHIO

A RESOLUTION

By:

No.

**AUTHORIZING THE CITY MANAGER TO ENTER INTO
AN AGREEMENT FOR SOFTWARE MAINTENANCE FOR
THE POLICE DEPARTMENT**

Be It Resolved by the Council of the City of Kettering, State of Ohio:

Section 1. Pursuant to Subsection "P" of Section 152.02 of the Codified Ordinances of the City of Kettering, this Council hereby authorizes the City Manager to enter into an agreement for Interact/Caliber Public Safety software maintenance for the Police Department. The City Manager is further authorized to enter into any amendments to the agreement that, in the City Manager's opinion, are beneficial to the interests of the City.

Section 2. As provided in Section 4-8 of the City Charter, this Resolution takes effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2017.

DONALD E. PATTERSON, Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER, III,
Law Director

Estimated Cost: \$42,958.35
Amount Budgeted: \$15,000.00
Acct.: 0600-72350

(Requested by: Police Department)

CITY OF KETTERING, OHIO

A RESOLUTION

By:

No.

**AUTHORIZING THE CITY MANAGER TO PURCHASE
BUNKER GEAR THROUGH A STATE OR LOCAL
COOPERATIVE PURCHASING PROGRAM**

Be It Resolved by the Council of the City of Kettering, State of Ohio, that:

Section 1. Pursuant to Section 152.04 of the Codified Ordinances of the City of Kettering, the City Manager is hereby authorized to purchase, through a state or local cooperative purchasing program, 18 sets (pants/coats) of bunker gear for the Fire Department.

Section 2. As provided in Section 4-8 of the City Charter, this Resolution takes effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2017.

DONALD E. PATTERSON, Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER, III,
Law Director

Estimated Cost: \$37,152.00
Amount Budgeted: \$37,152.00
Acct. No. 0700-72240

(Requested by: Fire Department)

CITY OF KETTERING, OHIO

A RESOLUTION

By:

No.

AUTHORIZING THE CITY MANAGER TO SUBMIT, ALONG WITH THE MONTGOMERY COUNTY ENVIRONMENTAL SERVICES DEPARTMENT, A JOINT APPLICATION TO THE OHIO PUBLIC WORKS COMMISSION FOR FUNDING OF WATER MAIN REPLACEMENT PROJECTS

WHEREAS, the Montgomery County Environmental Services Department has initiated the following projects:

1. Hilton/Glenbeck/Gaylord/West Water Main Replacement (08-124)
2. Wenzler Park Neighborhood Water Main Replacement (08-123)
3. Waving Willow Water Main Replacement (03-618)

WHEREAS, the City of Kettering wishes to also perform work on the roadways and storm sewers throughout the project areas; and

WHEREAS, funding may be available from the Ohio Public Works Commission for a portion of the work's cost; and

WHEREAS, the City of Kettering will provide the remaining portion of the work's cost; and

WHEREAS, the City of Kettering is willing to authorize The Montgomery County Environmental Services Department to be the lead applicant for these projects; and

WHEREAS, Resolution Number 9820-16 authorized the City Manager to enter into cost participation agreements with the Board of Commissioners of Montgomery County, Ohio for the Hilton/Glenbeck/Gaylord/West Water Main Replacement project and the Wenzler Park Neighborhood Water Main Replacement project (collectively "Projects");

NOW, THEREFORE, Be It Resolved by the Council of the City of Kettering, State of Ohio, that:

Section 1. The City Manager is hereby authorized, on behalf of the City of Kettering, to submit, along with The Montgomery County Environmental Services Department, a joint funding application to the Ohio Public Works Commission for funding of the projects listed in the recital paragraphs above. This Council also hereby authorizes The Montgomery County Environmental Services Department to be the lead applicant for these projects.

Section 2. The City Manager is further authorized to enter into any amendments to the cost participation agreements for Projects that, in the City Manager's opinion, are beneficial to the interests of the City.

Section 3. This Resolution shall take full force and effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2017.

DONALD E. PATTERSON, Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER, III,
Law Director

(Requested by: Engineering Department)

CITY OF KETTERING, OHIO

A RESOLUTION

By:

No.

AUTHORIZING THE CITY MANAGER TO SUBMIT AN APPLICATION TO THE OHIO PUBLIC WORKS COMMISSION FOR FUNDING OF THE FLESHER AVENUE BRIDGE REPLACEMENT PROJECT AND TO EXECUTE CONTRACTS AS REQUIRED TO RECEIVE FUNDING

WHEREAS, the Ohio Public Works Commission's ("OPWC") State Capital Improvement Program and the Local Transportation Improvement Program both provide financial assistance to political subdivisions for capital improvements to public infrastructure; and

WHEREAS, the City of Kettering is currently planning to make capital improvements with the following project:

1. Flesher Avenue Bridge Replacement (Project No. 03-934C)

WHEREAS, the infrastructure improvements described above are considered to be a priority need for the community and are qualified projects under the OPWC programs;

NOW, THEREFORE, Be It Resolved by the Council of the City of Kettering, State of Ohio, that:

Section 1. The City Manager is hereby authorized to make application on behalf of the City of Kettering to the OPWC for funds for the capital improvement(s) described in the recital paragraphs above.

Section 2. If the application is approved, the City Manager is further authorized to take all necessary and proper action to accept the funds awarded and execute any related contracts and amendments thereto that are, in the opinion of the City Manager, in the interests of the City.

Section 3. This Resolution shall take full force and effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2017.

DONALD E. PATTERSON, Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER, III,
Law Director

(Requested by: Engineering Department)

CITY OF KETTERING, OHIO

A RESOLUTION

By:

No.

**AUTHORIZING THE CITY MANAGER TO USE COMPETITIVE
BARGAINING AND NEGOTIATED QUOTES TO CONTRACT
FOR REPLACEMENT OF THE GYMNASIUM BULKHEAD AT
THE KETTERING RECREATION COMPLEX**

Be It Resolved by the Council of the City of Kettering, State of Ohio, that:

Section 1. On the basis that the City can often obtain lower prices and more favorable purchasing conditions through use of competitive bargaining and negotiated quotations than through sealed bids, the City Manager is hereby authorized to use such bargaining and negotiation procedures and to enter into one or more agreements for replacement of the gymnasium bulkhead at the Kettering Recreation Complex. The City Manager is further authorized to enter into any amendments to the agreement(s) that, in the City Manager's opinion, are beneficial to the interests of the City.

Section 2. As provided in Section 4-8 of the City Charter, this Resolution takes effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2017.

DONALD E. PATTERSON, Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D.KACZYNSKI,
Clerk of Council

THEODORE A. HAMER, III,
Law Director

Estimated Cost: \$232,068.71
Amount Budgeted: \$0
Acct. No.: 6113-77750
(Requested by: Public Service Department)

CITY OF KETTERING, OHIO

A RESOLUTION

By:

No.

TO MAKE SUPPLEMENTAL APPROPRIATIONS FOR
CURRENT EXPENSES AND OTHER EXPENDITURES OF
THE CITY OF KETTERING, STATE OF OHIO, DURING
THE FISCAL YEAR ENDING DECEMBER 31, 2017

Be It Resolved by the Council of the City of Kettering, State of Ohio, that:

Section 1. To provide for the current expenses and other expenditures of the City of Kettering during the fiscal year ending December 31, 2017, the following supplemental sums are set aside and appropriated:

A. From the General Fund:

TRANSFERS TO OTHER FUNDS

Capital Improvement Fund \$ 162,000.00

B. From the Capital Improvement Fund:

PARKS & RECREATION \$ 162,000.00

Section 2. The Director of Finance is authorized to adjust appropriations within any fund or department as long as the adjustments made do not exceed the total appropriation authorized within that fund or department.

Section 3. The Clerk of Council is authorized and directed to forward a copy of this Resolution to the Montgomery County Auditor.

Section 4. This Resolution shall take full force and effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2017.

DONALD E. PATTERSON, Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER, III
Law Director

(Requested by: Finance Department)

CITY OF KETTERING, OHIO

AN ORDINANCE

By:

No.

**TO AMEND SECTIONS 436.01 AND 436.07 AND
ENACT SECTION 436.011 OF THE CODIFIED
ORDINANCES OF THE CITY OF KETTERING**

Be It Ordained by the Council of the City of Kettering, State of Ohio, that:

Section 1. Section 436.01 of the Codified Ordinances is amended to read as follows:

436.01 DRIVER'S LICENSE REQUIRED

- (a)(1) No person, except a person expressly exempted under Ohio R.C. Sections 4507.03, 4507.04, or 4507.05, shall operate any motor vehicle upon a public road or highway or any public or private property used by the public for purposes of vehicular travel or parking in this Municipality unless the person has a valid driver's license issued under Ohio R.C. Chapter 4507 or a valid commercial driver's license issued under Ohio R.C. Chapter 4506.
- (2) No person, except a person expressly exempted under Ohio R.C. Sections 4507.03, 4507.04, or 4507.05, shall operate any motorcycle upon a public road or highway or any public or private property used by the public for purposes of vehicular travel or parking in this Municipality unless the person has a valid license as a motorcycle operator that was issued upon application by the registrar of motor vehicles under Ohio R.C. Chapter 4507. The license shall be in the form of an endorsement, as determined by the registrar, upon a driver's license or commercial driver's license, if the person has a valid license to operate a motor vehicle or commercial motor vehicle, or in the form of a restricted license as provided in Ohio R.C. Section 4507.14, if the person does not have a valid license to operate a motor vehicle or commercial motor vehicle.
- (b) Upon the request or motion of the prosecuting authority, a noncertified copy of the law enforcement automated data system report or a noncertified copy of a record of the registrar of motor vehicles that shows the name, date of birth, and social security number of a person charged with a violation of division (a)(1) or (a)(2) of this section may be admitted into evidence as prima facie evidence that the person did not have either a valid driver's license or commercial driver's license at the time of the alleged violation of division (a)(1) of this section or a valid license as a motorcycle operator either in the form of an endorsement upon a driver's license or commercial driver's license or a restricted license at the time of the alleged violation of division (a)(2) of this section. The person charged with a violation of division (a)(1) or (a)(2) of this section may offer evidence to rebut this prima facie evidence.
- (c) Whoever violates this section is guilty of operating a motor vehicle or motorcycle without a valid license and shall be punished as follows:
- (1) If the offender has never held a valid driver's license or commercial driver's license issued by this state or any other jurisdiction, or, in a case involving the operation of a motorcycle by the offender, if the offender has never held a valid license as a motorcycle operator, either in the form of an endorsement upon a driver's license or commercial driver's license

or in the form of a restricted license, the offense is an unclassified misdemeanor. When the offense is an unclassified misdemeanor, the offender shall be sentenced pursuant to C.O. Section 698.02, Section 698.03, or Ohio R.C. Sections 2929.21 to 2929.28, except that the offender shall not be sentenced to a jail term; the offender shall not be sentenced to a community residential sanction pursuant to Ohio R.C. Section 2929.26; the offender may be fined up to \$1,000; and, notwithstanding Ohio R.C. Section 2929.27(A)(3), the offender may be ordered pursuant to Ohio R.C. Section 2929.27(C) to serve a term of community service of up to 500 hours. The failure of an offender to complete a term of community service imposed by the court may be punished as indirect criminal contempt under Ohio R.C. Section 2705.02(A) that may be filed in the underlying case.

- (2) If the offender's driver's license or commercial driver's license or permit or, in a case involving the operation of a motorcycle by the offender, the offender's driver's license or commercial driver's license bearing the motorcycle endorsement or the offender's restricted license was expired at the time of the offense, the offense is a minor misdemeanor.

Section 2. Section 436.011 of the Codified Ordinances is enacted to read as follow:

436.011 NONRESIDENT LICENSE AND LICENSE RESTRICTION

- (a) No nonresident of Ohio shall drive any motor vehicle upon a public road or highway or any public or private property used by the public for purposes of vehicular travel or parking in this Municipality unless the nonresident has in the nonresident's possession a valid and current driver's license or commercial driver's license issued to the nonresident by another jurisdiction recognized by the State of Ohio. No nonresident of Ohio, upon demand of any police officer at any time or place, shall fail to prove lawful possession or the nonresident's right to operate such motor vehicle, or fail to establish proper identity.
- (b) No person shall operate any motor vehicle in violation of any restriction imposed on the person's driver's license or commercial driver's license by the registrar of motor vehicles pursuant to Ohio R.C. Sections 4506.12 or 4507.14.
- (c) Whoever violates this section is guilty of an unclassified misdemeanor. When the offense is an unclassified misdemeanor, the offender shall be sentenced pursuant to C.O. Section 698.02, Section 698.03, or Ohio R.C. Sections 2929.21 to 2929.28, except that the offender shall not be sentenced to a jail term; the offender shall not be sentenced to a community residential sanction pursuant to Ohio R.C. Section 2929.26; the offender may be fined up to \$1,000; and, notwithstanding Ohio R.C. Section 2929.27(A)(3), the offender may be ordered pursuant to Ohio R.C. Section 2929.27(C) to serve a term of community service of up to 500 hours. The failure of an offender to complete a term of community service imposed by the court may be punished as indirect criminal contempt under Ohio R.C. Section 2705.02(A) that may be filed in the underlying case.

Section 3. Section 436.07 of the Codified Ordinances is amended to read as follows:

436.07 DRIVING UNDER SUSPENSION OR REVOCATION

- (a) No person, whose driver's license or commercial driver's license or permit or nonresident operating privilege has been suspended under any provision of the Ohio Revised Code or under any applicable law in any other jurisdiction in which the person's license or permit was issued, shall operate any motor vehicle upon the public roads and highways or upon any public or private property used by the public for purposes of vehicular travel or parking within this Municipality during the period of suspension, unless the person is granted limited driving privileges by a court and is operating the vehicle in accordance with the terms of the limited driving privileges.

(b) No person shall operate any motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking in this Municipality in violation of any restriction of the person's driver's license or commercial driver's license or permit imposed under Ohio R.C. Sections 4506.10(D) or 4507.14.

(c) No person who is granted occupational driving privileges, limited driving privileges, or unlimited driving privileges by any court shall operate any motor vehicle upon any public or private property used by the public for purposes of vehicular travel or parking within this Municipality except in accordance with the terms of such privileges.

(d) It is an affirmative defense to any prosecution brought pursuant to this section that the alleged offender drove under suspension because of a substantial emergency, provided that no other person was reasonably available to drive in response to the emergency.

(e) Upon the request or motion of the prosecuting authority, a noncertified copy of the law enforcement automated data system report or a noncertified copy of a record of the registrar of motor vehicles that shows the name, date of birth, and social security number of a person charged with a violation of division (a), (b), or (c) of this section may be admitted into evidence as prima facie evidence that the license of the person was under suspension at the time of the alleged violation of division (a) of this section, the person operated a motor vehicle in violation of a restriction at the time of the alleged violation of division (b) of this section or an alleged violation of the driving privileges of division (c). The person charged with a violation of division (a), (b), or (c) of this section may offer evidence to rebut this prima facie evidence.

(f) Whoever violates this section is guilty of an unclassified misdemeanor. When the offense is an unclassified misdemeanor, the offender shall be sentenced pursuant to C.O. Section 698.02, Section 698.03, or Ohio R.C. Sections 2929.21 to 2929.28, except that the offender shall not be sentenced to a jail term; the offender shall not be sentenced to a community residential sanction pursuant to Ohio R.C. Section 2929.26; the offender may be fined up to \$1,000; and, notwithstanding Ohio R.C. Section 2929.27(A)(3), the offender may be ordered pursuant to Ohio R.C. Section 2929.27(C) to serve a term of community service of up to 500 hours. The failure of an offender to complete a term of community service imposed by the court may be punished as indirect criminal contempt under Ohio R.C. Section 2705.02(A) that may be filed in the underlying case.

(g) If the vehicle is registered in the offender's name and if, within three years of the offense, the offender previously has been convicted of or pleaded guilty to two violations of this section, or any combination of two violations of this section or Ohio R.C. Sections 4510.11, 4510.111, 4510.14, 4510.16, 4510.21, or 4510.037, or of a substantially similar municipal ordinance, the court, in addition to any other sentence that it imposes on the offender, may order the immobilization of the vehicle involved in the offense for 60 days and the impoundment of that vehicle's license plates for 60 days in accordance with Ohio R.C. Sections 4503.233 and 4507.02.

(h) If the vehicle is registered in the offender's name and if, within three years of the offense, the offender previously has been convicted of or pleaded guilty to three or more violations of this section, or any combination of three or more violations of this section or Ohio R.C. Sections 4510.11, 4510.111 or 4510.14, 4510.16, 4510.21, or 4510.037, or of a substantially similar municipal ordinance, the court, in addition to any other sentence that it imposes on the offender, may order the criminal forfeiture of the vehicle involved in the offense to the state.

(i) Any order for immobilization and impoundment under this section shall be issued and enforced under Ohio R.C. Sections 4503.233 and 4507.02, as

applicable. The court shall not release a vehicle from immobilization ordered under this section unless the court is presented with current proof of financial responsibility with respect to that vehicle.

(j) Any order of criminal forfeiture under this section shall be issued and enforced under Ohio R.C. Section 4503.234. Upon receipt of the copy of the order from the court, neither the registrar of motor vehicles nor a deputy registrar shall accept any application for the registration or transfer of registration of any motor vehicle owned or leased by the person named in the declaration of forfeiture. The period of registration denial shall be five years after the date of the order, unless, during that period, the court having jurisdiction of the offense that led to the order terminates the forfeiture and notifies the registrar of the termination. The registrar then shall take necessary measures to permit the person to register a vehicle owned or leased by the person or to transfer registration of the vehicle.

(k) The offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. Section 4509.01. If the offender fails to provide that proof of financial responsibility, then, in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. Section 2929.28 in an amount not exceeding \$5,000 for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during, or after committing the offense for which the offender is sentenced under this section.

Section 4. This Ordinance shall take full force and effect from and after the earliest date allowed by law.

Passed by Council this _____ day of _____ 2017.

DONALD E. PATTERSON, Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER III,
Law Director

(Requested by: Law Department)