

AGENDA

CANFIELD CITY COUNCIL

November 4, 2015– 5:30 P.M.

FRANCIS J. McLAUGHLIN MUNICIPAL BUILDING

1. Call to Order.
2. Pledge of Allegiance.
3. Roll Call: Quorum is Present - Meeting is in Session.
4. Approval of Minutes.
5. Reading of Communications.
6. Reports of Committees, Boards, City Manager, Finance Director, Chief of Police, Zoning Inspector and Public Works Foreman.
7. Public questions from residents (or representative) related to the above referenced reports. Questions may be limited to three (3) minutes.
8. Recognition of Persons Desiring to Appear Before Council.

9. OLD BUSINESS

Note: After each item is placed on the table for action, public comments from residents (or representative) as to that business item are received. May be limited to three (3) minutes per person and thirty (30) minutes total.

Public Comments

10. NEW BUSINESS

Note: After each item is placed on the table for action, public comments from residents (or representative) as to that business item are received. May be limited to three (3) minutes per person and thirty (30) minutes total.

A: An Ordinance Amending Ordinance 1973-44 Rezoning Lot 2969 on Herbert Road From "M-1" Manufacturing District to "S" Special District.

Public Comments

B. An Ordinance Revising Canfield Codified Ordinance Chapter 506 Regarding Dangerous and Vicious Dogs.

Public Comments

C. An Ordinance Authorizing The City Manager To Enter Into A Contract with R.T. Vernal, For The Milling and Resurfacing of Fairview Avenue (From Maple Street to US 224) Project and To Declare Said Ordinance an Emergency.

Public Comments

D. A Motion to Appoint Timothy J. Cuning As Special Counsel.

Public Comments

E. A Motion to Waive A Portion of Utility Charges.

Public Comments

11. Council Comments.

12. Adjournment.

RECORD OF ORDINANCES

Ordinance No. _____

Passed _____, _____

Introduced By: _____

First Reading: _____

ORDINANCE

AN ORDINANCE AMENDING ORDINANCE 1973-44
REZONING LOT 2969 ON HERBERT ROAD FROM "M-1"
MANUFACTURING DISTRICT TO "S" SPECIAL DISTRICT

WHEREAS, the Council of the City of Canfield, Ohio has received application for the rezoning of Lot 2969 on Herbert Road; and

WHEREAS, the Council of the City of Canfield, Ohio desires to grant said zone change request.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CANFIELD, OHIO:

Section 1: Situated in the City of Canfield, County of Mahoning and State of Ohio; Lot 2969 Located on Herbert Road (see attached legal description) is hereby rezoned from "M-1" Manufacturing District to "S" Special District.

Section 2: This Ordinance and all deliberations relating to the passage of this Ordinance were held in open meetings of the Council, all pursuant to Section 121.22 of the Ohio Revised Code and Section 3.11 of the Charter of the Municipality of Canfield.

PASSED IN COUNCIL THIS _____ DAY OF _____ A.D., 2015.

PRESIDENT OF COUNCIL

ATTEST:

CLERK OF COUNCIL

Certification of Publication

I, the undersigned Clerk of Council of the City of Canfield, Ohio, hereby certify that the foregoing Ordinance was posted in a prominent place at the Municipal Building, Canfield, Ohio for seven continuous days, to-wit: _____

CLERK OF COUNCIL

APPROVED AS TO FORM:

MUNICIPAL ATTORNEY

RECORD OF ORDINANCES

Ordinance No. _____

Passed _____, _____

Introduced By: _____
First Reading: _____

AN ORDINANCE REVISING CANFIELD CODIFIED ORDINANCE CHAPTER 506 REGARDING DANGEROUS AND VICIOUS DOGS

WHEREAS, the Council of the City of Canfield now desires to revise Chapter 506 "Dangerous and Vicious Dogs" of the Codified Ordinances of the City to remove provisions related to specific breeds of dogs, and

WHEREAS, the Ohio legislature pursuant to Sub.H.B.14 (2012) has previously revised the Ohio Revised Code to remove breed specific provisions,

NOW THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CANFIELD,

Section 1. That Chapter 506 "Dangerous and Vicious Dogs" of the Codified Ordinance of the City shall be revised to read as follows:

"506.001 DEFINITIONS.

As used in this chapter unless otherwise specifically provided herein:

(a) (1) "Dangerous dog" means a dog that, without provocation, and subject to subsection (a)(2) hereof has done any of the following:

- A. Caused injury, other than killing or serious injury, to any person;
- B. Killed another dog;
- C. Been the subject of a third or subsequent violation of Section 506.01(c).

(2) "Dangerous dog" does not include a police dog that has caused injury, other than killing or serious injury, to any person or has killed another dog while the police dog is being used to assist one or more law enforcement officers in the performance of their official duties.

(b) "Menacing fashion" means that a dog would cause any person being chased or approached to reasonably believe that the dog will cause physical injury to that person.

(c) (1) Subject to subsection (c)(2) hereof, "nuisance dog" means a dog that without provocation and while off the premises of its owner, keeper or harbinger has chased or approached a person in either a menacing fashion or an apparent attitude of attack or has attempted to bite or otherwise endanger any person.

(2) "Nuisance dog" does not include a police dog that while being used to assist one or more law enforcement officers in the performance of official duties has chased or approached a person in either a menacing fashion or an apparent attitude of attack or has attempted to bite or otherwise endanger any person.

(d) "Police dog" means a dog that has been trained, and may be used, to assist one or more law enforcement officers in the performance of their official duties.

(e) "Serious injury" means any of the following:

- (1) Any physical harm that carries a substantial risk of death;
- (2) Any physical harm that involves a permanent incapacity, whether partial or total, or a temporary, substantial incapacity;
- (3) Any physical harm that involves a permanent disfigurement or a temporary, serious disfigurement;
- (4) Any physical harm that involves acute pain of a duration that results in substantial suffering or any degree of prolonged or intractable pain.

(f) (1) "Vicious dog" means a dog that, without provocation and subject to subsection (f)(2) hereof has killed or caused serious injury to any person.

(2) "Vicious dog" does not include either of the following:

RECORD OF ORDINANCES

Ordinance No. _____

Passed _____, _____

A. A police dog that has killed or caused serious injury to any person while the police dog is being used to assist one or more law enforcement officers in the performance of their official duties;

B. A dog that has killed or caused serious injury to any person while a person was committing or attempting to commit a trespass or other criminal offense on the property of the owner, keeper or harbinger of the dog.

(g) "Without provocation" means that a dog was not teased, tormented or abused by a person, or that the dog was not coming to the aid or the defense of a person who was not engaged in illegal or criminal activity and who was not using the dog as a means of carrying out such activity."

"506.01 DOGS AND OTHER ANIMALS RUNNING AT LARGE

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

(b) No owner, keeper or harbinger of any female dog shall permit it to go beyond the premises of the owner, keeper or harbinger at any time the dog is in heat, unless the dog is properly in leash.

(c) No owner, keeper or harbinger of any dog shall fail at any time to do either of the following:

(1) Keep the dog physically confined or restrained upon the premises of the owner, keeper, or harbinger by a leash, tether, adequate fence, supervision, or secure enclosure to prevent escape.

(2) Keep the dog under the reasonable control of some person.

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

(e) (1) Whoever violates subsection (a) hereof is guilty of a misdemeanor of the fourth degree.

(2) A. Whoever violates subsection (b) hereof is guilty of a minor misdemeanor for a first offense and a misdemeanor of the fourth degree for each subsequent offense.

B. In addition to the penalties prescribed in subsection (e)(2)A. hereof, if the offender is guilty of a violation of subsection (b) hereof, the court may order the offender to personally supervise the dog that the offender owns, keeps or harbors, to cause that dog to compete dog obedience training, or to do both.

(3) A. 1. Whoever violates subsection (c) hereof that involves a dog that is not a nuisance dog, dangerous dog, or vicious dog is guilty of a minor misdemeanor for a first offense and a misdemeanor of the fourth degree for each subsequent offense.

2. In addition to the penalties prescribed above, if the offender is guilty of a violation of subsection (c) hereof, that involves a dog that is not a nuisance dog, dangerous dog or a vicious dog, the court may order the offender to personally supervise the dog that the offender owns, keeps or harbors, to cause that dog to complete dog obedience training, or to do both.

B. 1. Whoever commits a violation of subsection (c) hereof, that involves a nuisance dog is guilty of a minor misdemeanor on the first offense and of a misdemeanor of the fourth degree on each subsequent offense involving the same dog. Upon a person being convicted of or pleading guilty to a third violation of subsection (c) hereof, involving the same dog, the court shall require the offender to register the involved dog as a dangerous dog.

2. In addition to the penalties prescribed above, if a violation of subsection (c) hereof involves a nuisance dog, the court may order the offender to personally supervise the nuisance dog that the offender owns, keeps or harbors, to cause that dog to complete obedience training, or to do both.

C. Whoever commits a violation of subsection (c) hereof that involves a dangerous dog, is guilty of a misdemeanor of the fourth degree on a first offense and of a misdemeanor of the third degree on each subsequent

RECORD OF ORDINANCES

Ordinance No. _____

Passed _____, _____

any law enforcement officer, County Dog Warden, or public health official charged with enforcing this section;

(2) Obtain a dangerous dog registration certificate from the County Auditor pursuant to Ohio R.C. 955.21(I), affix a tag that identifies the dog as a dangerous dog to the dog's collar, and ensure that the dog wears the collar and tag at all times;

(3) Notify the local Dog Warden immediately if any of the following occurs"

A. The dog is loose or unconfined.

B. The dog bites a person, unless the dog is on the property of the owner of the dog, and the person who is bitten is unlawfully trespassing or committing a criminal act within the boundaries of that property.

C. The dog attacks another animal while the dog is off the property of the owner of the dog.

(4) If the dog is sold, given to another person, or dies, notify the County Auditor within ten days of the sale, transfer or death.

(c) Whoever violates subsection (a) hereof is guilty of a misdemeanor of the fourth degree on a first offense and of a misdemeanor of the third degree on each subsequent offense. Additionally the court may order the offender to personally supervise the dangerous dog that the offender owns, keeps or harbors, to cause that dog to complete dog obedience training, or to do both, and the court may order the offender to obtain liability insurance pursuant to subsection (b) hereof. The court, in the alternative, may order the dangerous dog to be humanely destroyed by a licensed veterinarian, the Dog Warden or the humane society at the owner's expense.

(d) (1) Whoever violates subsection (b)(2) hereof is guilty of a misdemeanor of the fourth degree.

(2) Whoever violates subsections (b)(1), (3) or (4) hereof is guilty of a minor misdemeanor."

Section 2. That this Motion and all deliberations relating to the passage of this Motion were held in open meetings of this Council all pursuant to Section 121.22 of the Ohio Revised Code and Section 3.11 of the Charter of the Municipality of Canfield.

WHEREFORE, this Ordinance shall be in full force and effect at the earliest possible date allowed by law.

PASSED IN COUNCIL THIS _____ DAY OF _____ A.D., 2015.

PRESIDENT OF COUNCIL

ATTEST:

CLERK OF COUNCIL

Certification of Publication

I, the undersigned Clerk of Council of the City of Canfield, Ohio, hereby certify that the foregoing Ordinance was posted in a prominent place at the Municipal Building, Canfield, Ohio for seven continuous days, to-wit: _____

CLERK OF COUNCIL

APPROVED AS TO FORM:

MUNICIPAL ATTORNEY

RECORD OF ORDINANCES

Ordinance No. _____

Passed _____, _____

offense. Additionally, the court may order the offender to personally supervise the dangerous dog that the offender owns, keeps or harbors, to cause that dog to complete dog obedience training, or to do both, and the court may order the offender to obtain liability insurance pursuant to division (E) of the Ohio R.C. 955.22. The court, in the alternative, may order the dangerous to be humanely destroyed by a licensed veterinarian, the County Dog Warden, or the County Humane Society at the owner's expense. With respect to a violation of subsection (c) hereof that involves a dangerous dog, until the court makes a final determination and during the pendency of any appeal of a violation of that division and at the discretion of the Dog Warden, the dog shall be confined or restrained in accordance with division (D) of Ohio R.C. 955.22 or at the County Dog Pound at the owner's expense.

D. 1. Whoever commits a violation of subsection (c) hereof that involves a vicious dog is guilty of one or the following:

a. A felony, if the dog kills a person, and shall be prosecuted under appropriate State law. Additionally, the court shall order that the vicious dog be humanely destroyed by a licensed veterinarian, the County Dog Warden or the County Humane Society at the owner's expense.

b. A misdemeanor of the first degree if the dog causes serious injury to a person. Additionally, the court may order the vicious dog to be humanely destroyed by a licensed veterinarian, the County Dog Warden, or the County Humane Society;

2. If the court does not order the vicious dog to be destroyed under subsection (e)(3)D.1.b. hereof, the court shall issue an order that specifies that division (D) of Ohio R.C. 955.11 and divisions (D) to (I) of Ohio R.C. 955.22 apply with respect to the dog and the owner, keeper or harbinger of the dog as if the dog were a dangerous dog and that Ohio R.C. 955.54 applies with respect to the dog as if it were a dangerous dog. As part of the order, the court shall order the offender to obtain the liability insurance required under Division (E)(1) of Ohio R.C. 955.22 in an amount, exclusive of interest and costs, that equals or exceeds one hundred thousand dollars. Until the court makes a final determination and during the pendency of any appeal of a violation of subsection (c) hereof and at the discretion of the Dog Warden, the dog shall be confined or restrained in accordance with the provisions."

"506.02 DANGEROUS DOGS

(a) Except when a dangerous dog is lawfully engaged in hunting or training for the purpose of hunting and is accompanied by the owner, keeper, harbinger, or handler of the dog, no owner, keeper, or harbinger of a dangerous dog shall fail to do either of the following:

(1) While that dog is on the premises of the owner, keeper or harbinger, securely confine it at all times in a building, in a locked pen that has a top, locked fenced yard or other locked enclosure that has a top;

(2) While that dog is off the premises of the owner, keeper or harbinger, keep that dog on a chain-link leash or tether that is not more than six feet in length and additionally do at least one of the following:

A. Keep that dog in a locked pen that has a top, locked fenced yard or ther locked enclosure that has a top;

B. Have the leash or tether controlled by a person who is of suitable age and discretion or securely attach, tie or affix the leash or tether to the ground or stationary object or fixture so that the dog is adequately restrained and station such a person in close enough proximity to that dog so as to prevent it from causing injury to any person;

C. Muzzle that dog.

(b) No owner, keeper or harbinger of a dangerous dog shall fail to do the following:

(1) Obtain liability insurance with an insurer authorized to write liability insurance in this State providing coverage in each occurrence because of damage or bodily injury to or death of a person caused by the dangerous dog if so ordered by a court and provide proof of that liability insurance upon request to

RECORD OF ORDINANCES

Ordinance No. _____

Passed _____, _____

Introduced By: _____
First Reading: _____

ORDINANCE

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH R. T. VERNAL, FOR THE MILLING AND RESURFACING OF FAIRVIEW AVENUE (FROM MAPLE STREET TO US224) PROJECT AND TO DECLARE SAID ORDINANCE AN EMERGENCY

WHEREAS, the Council of the City of Canfield desires to proceed with the Milling and Paving of Fairview Avenue Project; and

WHEREAS, an estimate has been prepared and provided for the Milling and Paving of Fairview Avenue improvement; and

WHEREAS, Council desires to authorize the City Manager to enter into a contract with R. T. Vernal Paving and Excavating Inc. for the Fairview Avenue Milling and Paving project.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CANFIELD, OHIO:

Section 1: The City Manager is hereby authorized to enter into a contract with R. T. Vernal Paving and Excavating Inc. for the Fairview Avenue Milling and Paving project.

Section 2: Cost of said services shall not exceed twenty-eight thousand seven hundred and thirty-six dollars and xx/100 Dollars (\$ 28,736.00). Based on the estimate provided.

Section 3: That this Ordinance is hereby declared to be an emergency necessary for the preservation of the public peace, health, safety, and welfare of the citizens of the City of Canfield. Said emergency exists by reason of the fact that it is necessary to authorize said work immediately so that it may be completed prior to the onset of winter weather.

Section 4: That this Ordinance and all deliberations relating to the passage of this Ordinance were held in open meetings of this Council, all pursuant to Section 121.22 of the Ohio Revised Code and Section 3.11 of the Charter of the Municipality of Canfield.

PASSED IN COUNCIL THIS _____ DAY OF _____ A.D., 2015.

PRESIDENT OF COUNCIL

ATTEST:

CLERK OF COUNCIL

Introduced By: _____

Motion No. _____

**A MOTION TO APPOINT TIMOTHY J. CUNNING
AS SPECIAL COUNSEL.**

WHEREAS, Canfield City Council through its insurer Trident Public Risk Solutions, desires to have Timothy J. Cunning assist in a pending matter of litigation brought against the City of Canfield, by Kim and Joan Smith.

WHEREAS, Attorney Cunning desires to accept such appointment.

NOW, THEREFORE, BE IT KNOWN BY THE COUNCIL OF THE CITY OF CANFIELD, MAHONING COUNTY OHIO:

Section 1: Attorney Timothy J. Cunning is hereby appointed as special counsel to the City of Canfield to serve and assist the Law Director as directed by the Law Director of the City regarding the pending action brought by Kim and Joan Smith against the City of Canfield in accordance with the insurance provided to the City by Trident Public Risk Solutions.

Section 2: That this Motion and all deliberations relating to the passage of this Motion were held in open meetings of this Council, all pursuant to Section 121.22 of the Ohio Revised Code and Section 3.11 of the Charter of the Municipality of Canfield.

PASSED IN COUNCIL THIS _____ DAY OF _____ A.D., 2015

CLERK OF COUNCIL

Certification of Publication

I, the undersigned Clerk of Council of the City of Canfield, Ohio, hereby certify that the foregoing Motion was posted in a prominent place at the Municipal Building, Canfield, Ohio for seven continuous days, to-wit:

_____.

Introduced By: _____

Motion No. _____

MOTION

A MOTION TO WAIVE A PORTION
OF UTILITY CHARGES

WHEREAS, a resident of the City of Canfield has asked City Council to waive a Portion of the sewer charges; and

WHEREAS, the City of Canfield will waive the amount agreeable by Mahoning County Sanitary Engineer, not to exceed \$1,525.14; and

WHEREAS, City Council has the exclusive authority to waive utility service charges.

NOW, THEREFORE, BE IT MOVED BY THE COUNCIL OF THE CITY OF CANFIELD, OHIO:

Section 1: That the resident at 170 Oak Tree will not be responsible, for an amount not to exceed \$1,525.14, on their utility bill for the billing periods of 4-27-15 thru 8-10-15 and 8-10-15 thru 10-27-15.

Section 2: That this Motion and all deliberations relating to the passage of this Motion were held in open meeting of this Council, all pursuant to Section 121.22 of the Ohio Revised Code and Section 3.11 of the Charter of the Municipality of Canfield.

PASSED IN COUNCIL THIS _____ DAY OF _____, 2015.

CLERK OF COUNCIL

CERTIFICATION OF PUBLICATION

I, the undersigned Clerk of Council of the City of Canfield, Ohio, hereby certify that the foregoing Motion was posted in a prominent place at the Municipal Building, Canfield, Ohio for seven continuous days, to wit: _____

CLERK OF COUNCIL

APPROVED TO FORM:

MUNICIPAL ATTORNEY