

## NEW LEGISLATION

March 28, 2011

The following legislation has been temporarily assigned to the below-stated committee by the Clerk of Council:

<b>Temp. No.</b>	<b>Introduced</b>	<b>Committee</b>	<b>Description</b>
B-34	3/28/11	PZ	An ordinance approving the site plan related to construction of a 22,000 square foot/48 unit assisted living facility at 1691 Queens Gate Circle (Parcel No. 02-20378) and declaring an emergency.
B-35	3/28/11	Fin	An ordinance authorizing the Director of Public Service to enter into an energy purchase agreement known as the "EDI Landfill Energy Schedule" with American Municipal Power, Inc., and declaring an emergency.
B-36	3/28/11	PI	A resolution declaring the necessity of and intention to appropriate certain interests in real property necessary to establish a pedestrian walkway between Dominic Drive and North Hidden Valley Drive, and declaring an emergency.
B-37	3/28/11	PI	An ordinance authorizing the Director of Public Service to enter into a contract or contracts, according to law, for construction of an electrical substation at 3535 State Road, including construction of an associated 23kV pole line, and declaring an emergency.
B-38	3/28/11	PA	An ordinance amending Sections 516.01, 516.02, 516.03 and 516.04 of Chapter 516, Part Five of the Codified Ordinances, enacting new Sections 516.05 and 516.06 thereof, relating to minors' curfew, and declaring an emergency.
B-39	3/28/11	PA	An ordinance enacting new Section 133.01 of Title 5, Part 1 of the Codified Ordinances, amending Sections 1306.01, 1306.02, 1306.03 and 1306.05 of Title 1, Part 13 thereof, relating to duties of the Chief Building Official, and declaring an emergency.
B-40	3/28/11	CD	An ordinance authorizing the Mayor to enter into a Modification of Contract No. 6519 with SRW Environmental Services, Inc., and declaring an emergency.

## CALENDAR

March 28, 2011

The following legislation will be up for passage at the Council Meeting on March 28, 2011.

<b>Temp. No.</b>	<b>Introduced</b>	<b>Committee</b>	<b>Description</b>
B-25	3/14/11	PZ	An ordinance approving the site plan for construction of 110 multi-family residential units at the Manchester Falls Subdivision on Howe Avenue and declaring an emergency.
B-26	3/14/11	PZ	An ordinance approving the Manchester Falls Final Subdivision-Phase 1 on Howe Avenue and declaring an emergency.
B-27	3/14/11	PZ	An ordinance approving the site plan related to construction of a 20,800 square foot addition to a building located at 318 Remington Road (35-02687) and declaring an emergency.
B-28	3/14/11	PZ	An ordinance amending Appendix C of Title 5, Part 11 of the Codified Ordinances of the City of Cuyahoga Falls (General Development Code), and declaring an emergency.
B-29	3/14/11	Fin	An ordinance authorizing the Director of Public Service to enter into an energy purchase agreement known as the "EcoSmart Choice Program," with American Municipal Power, Inc., and declaring an emergency.
B-30	3/14/11	PI	An ordinance authorizing the Director of Public Service to enter into a contract or contracts, according to law, for the construction of Chart Road from Northampton Road to a point approximately 600 feet west of Keyser Parkway, including roadside ditches, catch basins, waterlines and storm sewers where required, and roadway asphalt, together with necessary appurtenances, and declaring an emergency.
B-31	3/14/11	PI	An ordinance authorizing the Director of Public Service to enter into a contract or contracts, according to law, for the annual resurfacing and/or repair of various streets as described in exhibit 'A' attached hereto, in the City of Cuyahoga Falls and declaring an emergency.

B-32

3/14/11

CD

An ordinance authorizing the Mayor to enter into a contract with Testa Builders, Inc. for the professional services necessary to operate the development/construction management portion of the Neighborhood Stabilization Program, and declaring an emergency.

## PENDING LEGISLATION

March 28, 2011

<b>Temp. No.</b>	<b>Introduced</b>	<b>Committee</b>	<b>Description</b>
A-110	9/13/10	Fin	An ordinance authorizing the Director of Finance to increase appropriations in the Street Construction, Maintenance and Repair Fund and the General Fund.
B-25	3/14/11	PZ	An ordinance approving the site plan for construction of 110 multi-family residential units at the Manchester Falls Subdivision on Howe Avenue and declaring an emergency.
B-26	3/14/11	PZ	An ordinance approving the Manchester Falls Final Subdivision-Phase 1 on Howe Avenue and declaring an emergency.
B-27	3/14/11	PZ	An ordinance approving the site plan related to construction of a 20,800 square foot addition to a building located at 318 Remington Road (35-02687) and declaring an emergency.
B-28	3/14/11	PZ	An ordinance amending Appendix C of Title 5, Part 11 of the Codified Ordinances of the City of Cuyahoga Falls (General Development Code), and declaring an emergency.
B-29	3/14/11	Fin	An ordinance authorizing the Director of Public Service to enter into an energy purchase agreement known as the "EcoSmart Choice Program," with American Municipal Power, Inc., and declaring an emergency.
B-30	3/14/11	PI	An ordinance authorizing the Director of Public Service to enter into a contract or contracts, according to law, for the construction of Chart Road from Northampton Road to a point approximately 600 feet west of Keyser Parkway, including roadside ditches, catch basins, waterlines and storm sewers where required, and roadway asphalt, together with necessary appurtenances, and declaring an emergency.
B-31	3/14/11	PI	An ordinance authorizing the Director of Public Service to enter into a contract or contracts, according to law, for the annual resurfacing and/or repair of various streets as described in exhibit 'A' attached hereto, in the City of Cuyahoga Falls and declaring an emergency.

B-32

3/14/11

CD

An ordinance authorizing the Mayor to enter into a contract with Testa Builders, Inc. for the professional services necessary to operate the development/construction management portion of the Neighborhood Stabilization Program, and declaring an emergency.

2  
3  
4  
5 CITY OF CUYAHOGA FALLS, OHIO

6  
7 ORDINANCE NO. - 2011

8  
9 AN ORDINANCE APPROVING THE SITE PLAN RELATED TO  
10 CONSTRUCTION OF A 22,000 SQUARE FOOT/48 UNIT ASSISTED  
11 LIVING FACILITY AT 1691 QUEENS GATE CIRCLE (PARCEL NO. 02-  
12 20378) AND DECLARING AN EMERGENCY.  
13

14  
15 WHEREAS, Art. VIII, §1.7 of the Charter of the City of Cuyahoga Falls requires that all affirmative  
16 decisions made by the Planning Commission be submitted to Council, and  
17

18 WHEREAS, site plan review by the Planning Commission is required for the construction of all new  
19 buildings in excess of 8,000 SF in the City of Cuyahoga Falls, Ohio, and  
20

21 WHEREAS, on February 15, 2011, the Planning Commission approved the major site plan for the  
22 construction of a 22,000 square foot/48 unit Assisted Living facility, at 1691 Queens Gate Circle, within the  
23 City of Cuyahoga Falls, Ohio,  
24

25 NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Cuyahoga Falls, County of Summit,  
26 and State of Ohio, that:  
27

28 Section 1. The City Council approves the site plan for the construction of a 22,000 square foot/48  
29 unit Assisted Living facility, at 1691 Queens Gate Circle Cuyahoga Falls, Ohio, in accordance with Cuyahoga  
30 Falls General Development Code regulations as stipulated in the Codified Ordinances of the City of  
31 Cuyahoga Falls and as approved by the Planning Commission as per the plans and final stipulations  
32 contained in File P-04-11-SP.  
33

34 Section 2. Any other ordinances or resolutions or portions of ordinances and resolutions inconsistent  
35 herewith are hereby repealed, but any ordinances and resolutions not inconsistent herewith and which have  
36 not previously been repealed are hereby ratified and confirmed.  
37

38 Section 3. It is found and determined that all formal actions of this Council concerning and relating to  
39 the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of  
40 this Council and of any of its committees that resulted in such formal action, were in meetings open to the  
41 public, in compliance with all legal requirements, to the extent applicable, including Chapter 107 of the  
42 Codified Ordinances.  
43

44 Section 4. This ordinance is hereby declared to be an emergency measure necessary for the  
45 preservation of the public peace, health, safety, convenience and welfare of the City of Cuyahoga Falls and  
46 the inhabitants thereof, for the reason that it is immediately necessary to permit timely and appropriate  
47 development of this property, and provided it receives the affirmative vote of two thirds of the members  
48 elected or appointed to Council, it shall take effect and be in force immediately upon its passage and  
49 approval by the Mayor; otherwise it shall take effect and be in force at the earliest period allowed by law.  
50

51  
52 Passed: \_\_\_\_\_

\_\_\_\_\_  
President of Council

53  
54  
55  
56  
57 \_\_\_\_\_  
Clerk of Council

58  
59  
60 Approved: \_\_\_\_\_

\_\_\_\_\_  
Mayor



2  
3 CITY OF CUYAHOGA FALLS, OHIO

4  
5 ORDINANCE NO. - 2011

6  
7 AN ORDINANCE AUTHORIZING THE DIRECTOR OF  
8 PUBLIC SERVICE TO ENTER INTO AN ENERGY  
9 PURCHASE AGREEMENT KNOWN AS THE "EDI  
10 LANDFILL ENERGY SCHEDULE" WITH AMERICAN  
11 MUNICIPAL POWER, INC., AND DECLARING AN  
12 EMERGENCY.

13  
14  
15 WHEREAS, the City owns and operates an electric utility system for the sale of  
16 electric power and associated energy for the benefit of its citizens and taxpayers; and

17  
18 WHEREAS, in order to satisfy the electric energy requirements of its electric utility  
19 system, the City has heretofore purchased electric capacity and energy from American  
20 Municipal Power, Inc. ("AMP"), of which the City is a Member; and

21  
22 WHEREAS, AMP and the City have entered into a Master Services Agreement  
23 ("MSA"), which sets forth general terms and conditions under which, among other  
24 things, AMP may sell and the City may purchase electric capacity and energy and other  
25 services through Schedules to the MSA; and

26  
27 WHEREAS, in furtherance of this purpose, AMP and Bio Gas Ohio, LLC ("EDI"),  
28 have entered into an agreement (the "EDI Landfill Energy Agreement") under the terms  
29 of which AMP is to purchase and EDI is to supply and sell up to 56 MW of capacity and  
30 associated energy from landfill energy systems at Landfill Facilities in Oberlin, Port  
31 Clinton and Poland, Ohio for a period of ten (10) years; and

32  
33 WHEREAS, AMP Members now have the right, but not obligation by the enactment  
34 of this ordinance to authorize and request AMP to acquire capacity and energy from  
35 Landfill Facilities by approval and execution of the EDI Landfill Energy Schedule  
36 authorized below;

37  
38 NOW THEREFORE, BE IT ORDAINED by the Council of the City of Cuyahoga Falls,  
39 County of Summit, State of Ohio, that:

40  
41 Section 1. The Director of Public Service is authorized to enter into an energy  
42 purchase agreement known as the "EDI Landfill Energy Schedule" between the City and  
43 AMP, substantially in the form on file with the Clerk, including Exhibits thereto, and  
44 the Director of Public Service is hereby authorized to execute and deliver the EDI  
45 Landfill Energy Schedule with such changes as the Director of Public Service City may  
46 approve as neither inconsistent with this ordinance nor materially adverse to the City.

47  
48 Section 2. The Director of Public Service is hereby authorized to (i) acquire under  
49 the EDI Landfill Energy Schedule, authorized above, a Contract Amount as defined in  
50 that Schedule of up to 2430 kW without bid, and (ii) make any determinations and  
51 approvals required thereunder, if any, as the Director of Public Service shall deem  
52 necessary and advisable.

53  
54 Section 3. If any section, subsection, paragraph, clause or provision or any part  
55 thereof of this ordinance shall be finally adjudicated by a court of competent

56 jurisdiction to be invalid, the remainder of this ordinance shall be unaffected by such  
57 adjudication and all the remaining provisions of this ordinance shall remain in full force  
58 and effect as though such section, subsection, paragraph, clause or provision or any  
59 part thereof so adjudicated to be invalid had not, to the extent of such invalidity, been  
60 included herein.

61  
62 Section 4. Any other ordinances and resolutions or portions of ordinances and  
63 resolutions inconsistent herewith are hereby repealed, but any ordinances and  
64 resolutions or portions of ordinances and resolutions not inconsistent herewith and  
65 which have not previously been repealed are hereby ratified and confirmed.

66  
67 Section 5. It is found and determined that all formal actions of this Council  
68 concerning and relating to the passage of this ordinance were taken in an open meeting  
69 of this Council and that all deliberations of this Council and of any committees that  
70 resulted in those formal actions were in meetings open to the public, in compliance with  
71 all legal requirements including Chapter 107 of the Codified Ordinances.

72  
73 Section 6. This ordinance is hereby declared to be an emergency measure  
74 necessary for the preservation of the public peace, health, safety, convenience and  
75 welfare of the City of Cuyahoga Falls and the inhabitants thereof, and provided it  
76 receives the affirmative vote of two-thirds of the members elected or appointed to  
77 Council, it shall take effect and be in force immediately upon its passage and approval  
78 by the Mayor; otherwise it shall take effect and be in force at the earliest period allowed  
79 by law.

80  
81  
82 Passed: \_\_\_\_\_  
83 \_\_\_\_\_  
84 President of Council

85  
86 \_\_\_\_\_  
87 Clerk of Council

88  
89  
90 Approved: \_\_\_\_\_  
91 \_\_\_\_\_  
92 Mayor

2  
3  
4 CITY OF CUYAHOGA FALLS, OHIO

5  
6 RESOLUTION NO. - 2011

7  
8  
9 A RESOLUTION DECLARING THE NECESSITY OF AND  
10 INTENTION TO APPROPRIATE CERTAIN INTERESTS IN  
11 REAL PROPERTY NECESSARY TO ESTABLISH A  
12 PEDESTRIAN WALKWAY BETWEEN DOMINIC DRIVE AND  
13 NORTH HIDDEN VALLEY DRIVE, AND DECLARING AN  
14 EMERGENCY.  
15

16 WHEREAS, the City wishes to establish a pedestrian walkway, a road which shall be  
17 open to the public without charge, between Dominic Drive and North Hidden Valley Drive,  
18 beginning at the south right-of-way line of Dominic Drive opposite its intersection with  
19 Devan Vale Drive, to a point approximately 200 feet south, more or less, as necessary to  
20 connect to an existing unnamed pedestrian walkway intersecting with North Hidden Valley  
21 Drive, and  
22

23 WHEREAS, this Council finds and determines that the acquisition of the interests in  
24 real property as necessary to establish the mentioned pedestrian walkway is a proper  
25 public use as contemplated in Art. I, §19 of the Ohio Constitution,  
26

27 NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Cuyahoga Falls,  
28 County of Summit and State of Ohio, that:  
29

30 Section 1. This Council considers it necessary and hereby declares its intention to  
31 appropriate, for public purposes, certain permanent interests in real property necessary to  
32 establish a pedestrian walkway, a road which shall be open to the public without charge,  
33 between Dominic Drive and North Hidden Valley Drive, beginning at the south right-of-way  
34 line of Dominic Drive opposite its intersection with Devan Vale Drive, to a point  
35 approximately 200 feet south, more or less, as necessary to connect to an existing  
36 unnamed pedestrian walkway intersecting with North Hidden Valley Drive.  
37

38 Section 2. This Council finds and determines that the acquisition of the interests in  
39 real property as necessary to establish the mentioned pedestrian walkway is a proper  
40 public use as contemplated in Art. I, §19 of the Ohio Constitution.  
41

42 Section 3. The Mayor is hereby authorized to cause written notice of the adoption of  
43 this resolution to be given to the owners, persons in possession, or others having an  
44 interest of record in one or more of the properties affected hereby. The notice shall be  
45 served and returned according to law.  
46

47 Section 4. It is found and determined that all formal actions of this Council concerning  
48 and relating to the adoption of this resolution were adopted in an open meeting of this  
49 Council and that all deliberations of this Council and of any of its committees that resulted  
50 in such formal action were in meetings open to the public, in compliance with all legal  
51 requirements, to the extent applicable, including Chapter 107 of the Codified Ordinances.  
52

53 Section 5. This resolution is hereby declared to be an emergency measure necessary for  
54 the preservation of the public peace, health, safety, convenience and welfare of the City of  
55 Cuyahoga Falls and the inhabitants thereof, and provided it received the affirmative vote of

56 two-thirds of the members elected or appointed to Council, it shall take effect and be in  
57 force immediately upon its passage and approval by the Mayor; otherwise it shall take effect  
58 and be in force at the earliest period allowed by law.

59

60

61 Passed: \_\_\_\_\_

\_\_\_\_\_  
President of Council

62

63

64

65

66

\_\_\_\_\_  
Clerk of Council

67

68

69 Approved: \_\_\_\_\_

\_\_\_\_\_  
Mayor

70

71

72 3/28/11

73 O:\2011ords\Property appropriation resolution-Dominic Drive.doc

2  
3 CITY OF CUYAHOGA FALLS, OHIO

4  
5 ORDINANCE NO. - 2011

6  
7 AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC  
8 SERVICE TO ENTER INTO A CONTRACT OR CONTRACTS,  
9 ACCORDING TO LAW, FOR CONSTRUCTION OF AN  
10 ELECTRICAL SUBSTATION AT 3535 STATE ROAD,  
11 INCLUDING CONSTRUCTION OF AN ASSOCIATED 23kV  
12 POLE LINE, AND DECLARING AN EMERGENCY.

13  
14 BE IT ORDAINED by the Council of the City of Cuyahoga Falls, County of Summit  
15 and State of Ohio, that:

16  
17 Section 1. The Director of Public Service is hereby authorized to enter into a contact or  
18 contracts, according to law, for the construction of an electrical substation at 3535 State  
19 Road (replacement for existing Substation #4), including construction of a 23kV pole line  
20 connecting such substation to existing 23kV facilities at the current location of Substation  
21 No. 4.

22  
23 Section 2. The Director of Finance is hereby authorized and directed to make payment  
24 for same from the Electric Fund, line item Capital Outlay.

25  
26 Section 3. Any other ordinances and resolutions or portions of ordinances and  
27 resolutions inconsistent herewith are hereby repealed, but any ordinances and resolutions  
28 or portions of ordinances and resolutions not inconsistent herewith and which have not  
29 previously been repealed are hereby ratified and confirmed.

30  
31 Section 4. It is hereby found and determined that all formal actions of this Council  
32 concerning and relating to the adoption of this ordinance were adopted in an open meeting  
33 of this Council and that all deliberations of this Council and of any of its committees that  
34 resulted in such formal action were in meetings open to the public, in compliance with all  
35 legal requirements including Chapter 107 of the Codified Ordinances.

36  
37 Section 5. This ordinance is hereby declared to be an emergency measure necessary for  
38 the preservation of the public peace, health, safety, convenience and welfare of the City of  
39 Cuyahoga Falls, and provided it receives the affirmative vote of two-thirds of the members  
40 elected or appointed to Council, it shall take effect and be in force immediately upon its  
41 passage and approval by the Mayor; otherwise it shall take effect and be in force at the  
42 earliest period allowed by law.

43  
44  
45 Passed: \_\_\_\_\_

\_\_\_\_\_  
President of Council

\_\_\_\_\_  
Clerk of Council

46  
47  
48  
49  
50  
51 Approved: \_\_\_\_\_

\_\_\_\_\_  
Mayor

52  
53  
54 3/28/11

2  
3 CITY OF CUYAHOGA FALLS, OHIO

4  
5 ORDINANCE NO. - 2011

6  
7 AN ORDINANCE AMENDING SECTIONS 516.01, 516.02,  
8 516.03 and 516.04 OF CHAPTER 516, PART FIVE OF THE  
9 CODIFIED ORDINANCES, ENACTING NEW SECTIONS  
10 516.05 AND 516.06 THEREOF, RELATING TO MINORS'  
11 CURFEW, AND DECLARING AN EMERGENCY  
12

13 WHEREAS, it is the intent of this Council to protect minors in this city from harm  
14 and victimization, to promote the safety and well-being of minors residing in and  
15 visiting this city, and to reduce the incidence of crime and violence committed by and  
16 against minors, and  
17

18 WHEREAS, the Council has received empirical evidence of the need to create a  
19 special curfew zone for the purpose of assisting law enforcement officers in reducing  
20 crimes of violence and victimization of juveniles in certain portions of the City, and  
21

22 WHEREAS, the Council has received empirical evidence of inadequate parental  
23 supervision giving rise to unsafe gatherings of juveniles under circumstances where  
24 they are susceptible to victimization, and  
25

26 WHEREAS, the evidence received by Council adequately demonstrates a compelling  
27 governmental interest in the establishment of appropriate civil penalties for curfew  
28 violations, the intent of which is 1) to provide an incentive to parents to undertake  
29 proper supervision and control of their minor children, 2) to compensate the City for  
30 increased police expenditures incurred in addressing unsafe gatherings and  
31 victimization of juvenile curfew violators, and 3) to compensate the City for providing  
32 necessary custody and supervision of detained minors, for their protection, until  
33 retrieval by their parents, and  
34

35 WHEREAS, the Ohio Supreme Court has affirmed the constitutional authority of  
36 municipalities to enact civil penalty systems for use in the enforcement of local police,  
37 sanitary and other similar regulations, as are not in conflict with general laws  
38 (*Mendenhall et al. v. City of Akron et al.* (2008), 117 Ohio St. 3d 33),  
39

40 NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Cuyahoga Falls,  
41 County of Summit, and State of Ohio, that:  
42

43 Section 1. Sections 516.01, 516.02, 516.03 and 516.04 of the Codified Ordinances  
44 of the City of Cuyahoga Falls are hereby amended to read in full as follows (new text  
45 underlined; deleted text in ~~strikethrough~~):  
46

47 516.01 DEFINITIONS.

48  
49 For the purposes of this chapter only, the following terms, phrases, words and their  
50 derivations have the meaning given herein.  
51

52 (a) "Minor" means any person under the age of eighteen years or any person  
53 seventeen or less years of age.  
54

55 (b) "Parent" means any person having legal and physical custody of a minor:

- 56 (1) As a natural or adoptive parent,  
57 (2) As a legal guardian,  
58 (3) As a person who stands in loco parentis, or  
59 (4) As a person to whom legal and physical custody has been given by order of  
60 court.

61  
62 (c) "Public place" means any street, highway, alley or right of way, to include  
63 sidewalks, any park, playground, ground, place or building open to the public; any  
64 privately or publicly owned place of amusement, entertainment or public  
65 accommodation, to including parking lots and any other areas adjacent thereto; and  
66 any vacant lot or land or, without the consent of the owner, any private property.  
67

68 (d) "Responsible Parent" means a person who, as a Parent, is subject to the duty  
69 imposed by Subsection 516.04(a) on the date and time that the Parent's minor child is  
70 found in violation of the curfew hours established in this Section.  
71

72 (e) "Special Curfew Area" shall mean the area bounded by the following known  
73 landmarks: Beginning at the Cuyahoga River at the easterly extension of Oakwood  
74 Avenue, then west to 4<sup>th</sup> Street, south to Stow Avenue, east to 2<sup>nd</sup> Street, south to  
75 Broad Blvd., east along Broad Blvd. to its intersection with the Cuyahoga River, then  
76 north along said river to the place of beginning, inclusive of all mentioned public rights-  
77 of-way.  
78

79 (d) (f) "Time of night", is based upon the prevailing standard of time, generally  
80 observed at that hour by the public in the City, prima facie the time then observed in  
81 the City Administrative Offices and Police Station.  
82

83 (e) (g) "Year of age" continues from one birthday, such as the seventeenth, to but  
84 not including the day of the next, such as the eighteenth birthday.  
85

86 516.02 CURFEW HOURS.  
87

88 (a) Subject to the provisions of subsection (b) below, No person under eighteen  
89 years of age shall be in or upon any public place during the period ending at 5:00 a.m.  
90 and beginning at 11:00 p.m. daily except Friday and Saturday when such curfew hour  
91 shall begin at 12:00 midnight, and ending at 5:00 a.m. the following morning.  
92

93 (b) No person under eighteen years of age shall be in or upon the Special Curfew  
94 Area during the period beginning at 8:00 p.m. daily and ending at 5:00 a.m. the  
95 following morning.  
96

97 (c)(b) Any minor violating the provisions of this chapter shall be guilty of an act  
98 of unruliness.  
99

100 516.03 EXCEPTIONS.  
101

102 In the following exceptional cases, proof of which shall be an affirmative defense,  
103 a minor in or upon a public place during the nocturnal hours for which Section 516.02  
104 is intended to provide the maximum limits of regulation shall not be considered in  
105 violation of this chapter:

106 (a) When accompanied by a parent of such minor.

107 (b) When accompanied by an adult authorized by a parent of such minor to take  
108 the parent's place in accompanying the minor for a designated period of time and  
109 purpose within a specified area.

110 (c) When exercising First Amendment rights protected by the United States  
111 Constitution, such as the free exercise of religion, freedom of speech and the right of  
112 assembly.

113 (d) ~~In case of reasonable necessity.~~ When involved in an emergency other than  
114 one occurring in the Special Curfew Area or when engaged, with his or her parent's  
115 permission, in an emergency errand.

116 (e) When the minor is on the a public sidewalk within line of sight of the place  
117 where such minor resides, with the knowledge and consent of a parent who is present  
118 at such place, ~~or on the sidewalk of either next door neighbor not communicating an~~  
119 ~~objection to the police officer.~~

120 (f) When returning home by a direct route from, and within thirty minutes of,  
121 the termination of a school activity, or an activity of a religious, or other voluntary  
122 association.

123 (g) When returning home by a direct route from, and within thirty minutes of,  
124 the termination of a period of employment and the minor carries a certified card of  
125 employment, briefly identifying the minor, the address of his home and the place of  
126 employment and his hours of employment.

127 (h) When attending, and while going directly to or from a controlled-admission  
128 recreation venue within the Special Curfew Area, ~~any lawful entertainment with the~~  
129 ~~knowledge and consent of the parent.~~

130  
131 516.04 PARENTAL RESPONSIBILITY; CIVIL PENALTY  
132

133 (a) ~~No parent having custody of a minor shall knowingly permit or by insufficient~~  
134 ~~control allow such minor to be in or upon any public place under circumstances not~~  
135 ~~constituting an exception to, or otherwise beyond the scope of this chapter.~~  
136 ~~"Knowingly" includes knowledge which a parent should reasonably be expected to have~~  
137 ~~concerning the whereabouts of a minor in that parent's custody. It is intended to~~  
138 ~~continue to keep neglectful or careless parents up to a reasonable community standard~~  
139 ~~of parental responsibility through an objective test. It shall be no defense that a parent~~  
140 ~~was completely indifferent to the activities or conduct or whereabouts of such minor. It~~  
141 ~~shall be the duty and responsibility of each parent of a minor to ensure that the minor~~  
142 ~~does not violate Section 516.02 of this Chapter, either by personal supervision of the~~  
143 ~~minor, or by arranging for a responsible adult to supervise the minor so that the minor~~  
144 ~~does not violate Section 516.02.~~

145  
146 (b) ~~It shall be an affirmative defense to this section that such parent has within~~  
147 ~~thirty days preceding the alleged violation filed or cause to be filed a complaint against~~  
148 ~~such minor under Ohio R.C. 2151.27. When a minor is taken into custody as a result~~  
149 ~~of a violation of Section 516.02, a violation of subsection (a) will be deemed to have~~  
150 ~~occurred, and it shall be presumed that either or both of the minor's parents are~~  
151 ~~responsible for failure to comply with subsection (a) of this Section. This presumption~~  
152 ~~may be rebutted as to either or both parents at a proceeding held pursuant Section~~  
153 ~~516.06.~~

154  
155 (c) ~~A parent who violates this section is guilty of a minor misdemeanor for the first~~  
156 ~~offense and a misdemeanor of the fourth degree for each subsequent offense. Each~~  
157 ~~violation of subsection (a) of this section shall be deemed a noncriminal infraction for~~  
158 ~~which a civil penalty of fifty dollars (\$50) shall be assessed against the responsible~~  
159 ~~parent or parents, jointly. Each parent shall be jointly and severally liable for the civil~~  
160 ~~penalty, unless responsibility is determined otherwise at a proceeding held pursuant~~  
161 ~~Section 516.06.~~

162  
163 Section 2. New sections 516.05 and 516.06 of the Codified Ordinances of the City of  
164 Cuyahoga Falls are hereby enacted to read in full as follows:

165  
166  
167  
168  
169  
170  
171  
172  
173  
174  
175  
176  
177  
178  
179  
180  
181  
182  
183  
184  
185  
186  
187  
188  
189  
190  
191  
192  
193  
194  
195  
196  
197  
198  
199  
200  
201  
202  
203  
204  
205  
206  
207  
208  
209  
210  
211  
212  
213  
214  
215  
216  
217

516.05 ENFORCEMENT

(a) A minor found in violation of Section 516.02 shall be detained pursuant to Ohio Revised Code §§2151.31 and 2151.311 and released only as provided for in those laws and/or Section 501.13 of these Ordinances. If a responsible parent cannot be located or, having been located, does not retrieve the minor within three (3) hours, the minor shall be transported to an authorized place of juvenile detention.

(b) A parent who responds to retrieve his or her minor child shall be served at that time with a "Notice of Liability" informing the responsible parent or parents of their responsibility to pay the civil penalty assessed by Section 516.04(c). If the minor is never retrieved by a parent, the "Notice of Liability" may be served by first-class mail or personal service at the residence or business address of either or both parents. A Return of Service and a copy of the "Notice of Liability" shall be filed with the Director of Finance for each "Notice of Liability" served under this Section. The "Notice of Liability" shall clearly state the manner in which the infraction may be appealed.

(c) A civil penalty assessed under this Chapter shall be paid within thirty (30) days, unless it is appealed pursuant to Section 516.06. If the appeal is denied or modified, the civil penalty, or the penalty as modified, shall be paid within twenty-one (21) days after the appeal is decided. Civil penalties that have not been timely paid will accrue interest at the rate of 1.5% per month from the due date to the date of payment in full. Unpaid civil penalties and interest shall be deemed debts owed to the City, and may be collected by initiation of a civil action or any other lawful debt collection procedure.

516.06 APPEAL OF CIVIL PENALTIES; CURFEW PENALTY REVIEW BOARD

(a) Any parent assessed a civil penalty pursuant to this Chapter may, within seven days after receipt of a "Notice of Liability," make a written demand to the Director of Public Safety for a hearing on the question of whether the civil penalty should have been assessed.

(b) When a hearing is timely requested, a hearing shall be held no later than twenty-one (21) days following receipt of the request, and at least three days' notice of the hearing shall be provided to the person requesting the hearing. All hearings held pursuant to this Section shall be conducted during regular business hours at the Municipal Building before the Curfew Penalty Review Board ("Board"), which is hereby created. The Board shall be composed of the Law Director or designee, the Police Department Juvenile Diversion Officer/School Resource Officer, and a member of City Council appointed annually as of January 1st by the President of Council.

(c) The Board shall permit the person requesting the hearing to make a presentation to the Board, which may include the submission of documents or the testimony of witnesses. The Board may allow the appeal, deny the appeal, or modify the amount of the civil penalty, by a majority vote. The Board's decision shall be final and binding on all parties. The Board may establish further rules for the conduct of its proceedings, and shall record its decisions in writing.

(d) The Board's decision in each case shall be served by first-class mail upon the person who requested the hearing, and shall be deemed served when mailed. A copy of each decision will be forwarded to the Director of Finance.

218 Section 3. Existing Sections 516.01, 516.02, 516.03 and 516.04 of the Codified  
219 Ordinances, as enacted by Ord. No. 161-1991, passed November 11, 1991, are hereby  
220 repealed.  
221

222 Section 4. If any section, subsection, paragraph, clause or provision or any part  
223 thereof of this ordinance shall be finally adjudicated by a court of competent  
224 jurisdiction to be invalid, the remainder of this ordinance shall be unaffected by such  
225 adjudication and all the remaining provisions of this ordinance shall remain in full force  
226 and effect as though such section, subsection, paragraph, clause or provision or any  
227 part thereof so adjudicated to be invalid had not, to the extent of such invalidity, been  
228 included herein.  
229

230 Section 5. Any ordinances or resolutions or portions of ordinances and resolutions  
231 inconsistent herewith are hereby repealed, but any ordinances and resolutions not  
232 inconsistent herewith and which have not previously been repealed are hereby ratified  
233 and confirmed.  
234

235 Section 6. It is found and determined that all formal actions of this Council  
236 concerning and relating to the passage of this ordinance were taken in an open meeting  
237 of this Council and that all deliberations of this Council and of any committees that  
238 resulted in those formal actions were in meetings open to the public, in compliance with  
239 all requirements including Chapter 107 of the Codified Ordinances.  
240

241 Section 7. This ordinance is hereby declared to be an emergency measure necessary  
242 for the preservation of the public peace, health, safety, convenience and welfare of the  
243 City of Cuyahoga Falls and the inhabitants thereof, and provided it receives the  
244 affirmative vote of two-thirds of the members elected or appointed to Council, it shall  
245 take effect and be in force immediately upon its passage and approval by the Mayor;  
246 otherwise it shall take effect and be in force at the earliest period allowed by law.  
247

248  
249 Passed: \_\_\_\_\_  
250 \_\_\_\_\_  
251 President of Council  
252

253 \_\_\_\_\_  
254 Clerk of Council  
255

256  
257 Approved \_\_\_\_\_  
258 \_\_\_\_\_  
259 Mayor  
260

261 3/28/11  
O:\2011ords\amend-516.01 et. seq.doc v.2

2  
3 CITY OF CUYAHOGA FALLS, OHIO

4  
5 ORDINANCE NO. - 2011

6  
7 AN ORDINANCE ENACTING NEW SECTION 133.01 OF  
8 TITLE 5, PART 1 OF THE CODIFIED ORDINANCES,  
9 AMENDING SECTIONS 1306.01, 1306.02, 1306.03 AND  
10 1306.05 OF TITLE 1, PART 13 THEREOF, RELATING TO  
11 DUTIES OF THE CHIEF BUILDING OFFICIAL, AND  
12 DECLARING AN EMERGENCY  
13

14 WHEREAS, the City has entered into contract with Summit County to, among other  
15 things, perform the duties and functions of the Chief Building Official when  
16 administering the Residential Code of Ohio and the Ohio Building Code within the  
17 geographic limits of the City of Cuyahoga Falls, and  
18

19 WHEREAS, the Codified Ordinances of the City of Cuyahoga Falls establish  
20 numerous functions of the Chief Building Official that are unrelated to the duties and  
21 functions specified under the Residential Code of Ohio and the Ohio Building Code,  
22

23 NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Cuyahoga Falls,  
24 County of Summit, and State of Ohio, that:  
25

26 Section 1. New Section 133.01 of the Codified Ordinances of the City of Cuyahoga  
27 Falls is hereby enacted to read in full as follows:  
28

29 133.01 CITY ENGINEER AS CHIEF BUILDING OFFICIAL

30 Wherever in the Codified Ordinances it is specified that any duties, functions or  
31 responsibilities are to be carried out or performed by the "Building Official" or the "Chief  
32 Building Official," these references shall be deemed to refer to the Chief Building Official  
33 of Summit County for all such functions arising out of or coming with the purview of  
34 the Residential Code of Ohio and the Ohio Building Code. With respect to duties,  
35 functions or responsibilities not arising out of or coming with the purview of the  
36 Residential Code of Ohio or the Ohio Building Code, these references shall be deemed to  
37 refer the City Engineer.  
38

39 Section 2. Sections 1306.01, 1306.02, 1306.03 and 1306.05 of the Codified  
40 Ordinances of the City of Cuyahoga Falls are hereby amended to read in full as follows  
41 (new text underlined; deleted text in ~~strikethrough~~):  
42

43 1306.01 POINT OF SALE INSPECTION PROVIDED.

44 (a) The owner of any real property, or a person entering into a contract for the  
45 purchase of such real property, may request that the City inspect the structure or land  
46 to determine the condition of the sewer laterals, connections for sanitary and storm  
47 sewers, gutters, downspouts and footer drains located on the subject real property. The  
48 inspection shall occur during the working hours of the Department of ~~Building and~~  
49 ~~Zoning Inspection Public Service~~, or at some other time mutually agreed upon by the  
50 ~~Building Official~~ City Engineer and the owner of the real property.  
51

52 (b) The inspection shall be conducted by the City or its agents at the City's cost  
53 and may include the use of a video camera in the sanitary and storm sewers and or  
54 smoke or dye testing or such other tests as determined by the ~~Building Official~~ City  
55 Engineer.

56 1306.02 CERTIFICATE OF INSPECTION.

57 (a) Upon completion of the inspection, the ~~Building Official~~ City Engineer shall  
58 issue a Certificate of Inspection, which certificate shall contain the following  
59 information:

- 60 (1) The street address, permanent parcel number or other identifying  
61 characteristics of the property;  
62 (2) The name and address of the owner;  
63 (3) The authorized use and occupancy of the building or structure; and  
64 (4) An inspection report concerning the condition of the sewer laterals,  
65 connections for sanitary and storm sewers, gutters, downspouts and  
66 footer drains;  
67 (5) A copy of any City ordinance or other building code section that may be  
68 violated by the condition of the sewer laterals, connections for sanitary  
69 and storm sewers, gutters, downspouts and footer drains.

70  
71 (b) The ~~Building Official~~ City Engineer shall serve a copy of the Certificate of  
72 Inspection upon the owner of the property and, if the inspection was requested by a  
73 prospective purchaser of the property, upon said prospective purchaser within ten days  
74 following the inspection.

75  
76 (c) In the event the inspection is requested by a prospective purchaser of the  
77 real property and the owner of said real property refuses to permit the inspection of said  
78 real property, the ~~Building Official~~ City Engineer shall notify the prospective purchaser  
79 of the owner's refusal.

80  
81 (d) No owner of real property, having obtained a Certificate of Inspection shall  
82 transfer or convey any interest the real property without first providing the purchaser  
83 with a copy of the Certificate of Inspection.

84  
85 1306.03 CORRECTIVE REPAIRS; CERTIFICATE OF COMPLETION; LETTER OF  
86 PARTIAL COMPLIANCE.

87 (a) In the event potential violations are noted on the Certificate of Inspection,  
88 and the owner makes repairs to address such violations, then at the owner's request,  
89 the City shall issue a Certificate of Completion, signed and dated by the ~~Building~~  
90 ~~Official~~ City Engineer, stating that any potential violations listed on the Certificate of  
91 Inspection have been corrected to the City's satisfaction when all such violations have  
92 been corrected.

93  
94 (b) At the request of the owner of property, the City may issue a letter or other  
95 written document signed and dated by the ~~Building Official~~ City Engineer stating that  
96 some, but not all, of the violations listed on the Certificate of Inspection have been  
97 corrected to the City's satisfaction.

98  
99 1306.05 NOTIFICATION OF AVAILABILITY OF INSPECTION.

100 No person shall enter into an agreement or sell real property which is served by  
101 a sanitary sewer without disclosing to the buyer the availability of the inspection  
102 provided for herein. Said disclosure shall be made on a form provided by the ~~Building~~  
103 ~~Official~~ City Engineer.

104  
105 Section 3. Existing Sections 1306.01, 1306.02, and 1306.03 of the Codified  
106 Ordinances, as enacted by Ordinance No. 142-2004, passed October 25, 2004, are  
107 hereby repealed. Existing Section 1306.05 of the Codified Ordinances, as amended by  
108 Ordinance No. 32-2005, passed February 28, 2005, is hereby repealed.

109

110        Section 4. Any ordinances or resolutions or portions of ordinances and resolutions  
111 inconsistent herewith are hereby repealed, but any ordinances and resolutions not  
112 inconsistent herewith and which have not previously been repealed are hereby ratified  
113 and confirmed.  
114

115        Section 5. It is found and determined that all formal actions of this Council  
116 concerning and relating to the passage of this ordinance were taken in an open meeting  
117 of this Council and that all deliberations of this Council and of any committees that  
118 resulted in those formal actions were in meetings open to the public, in compliance with  
119 all legal requirements including Chapter 107 of the Codified Ordinances.  
120

121        Section 6. That this ordinance is hereby declared to be an emergency measure  
122 necessary for the preservation of the public peace, health, safety, convenience and  
123 welfare of the City of Cuyahoga Falls and the inhabitants thereof, and provided it  
124 receives the affirmative vote of two-thirds of the members elected or appointed to  
125 Council, it shall take effect and be in force immediately upon its passage and approval  
126 by the Mayor; otherwise it shall take effect and be in force at the earliest period allowed  
127 by law.  
128

129  
130

131 Passed: \_\_\_\_\_

\_\_\_\_\_  
President of Council

133  
134

135  
136

\_\_\_\_\_  
Clerk of Council

137  
138

139 Approved \_\_\_\_\_

\_\_\_\_\_  
Mayor

141  
142

3/28/11

143 O:\2011ords\enact C.O. 133.01 Engineer as CBO.doc

2  
3 CITY OF CUYAHOGA FALLS, OHIO

4  
5 ORDINANCE NO. - 2011

6  
7 AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER  
8 INTO A MODIFICATION OF CONTRACT NO. 6519 WITH SRW  
9 ENVIRONMENTAL SERVICES, INC., AND DECLARING AN  
10 EMERGENCY.

11  
12  
13 WHEREAS, under the authority of Ordinance 96-2009, the City entered into  
14 Contract No. 6519 with SRW Environmental Services, Inc., for the purpose of obtaining  
15 the professional services necessary to conduct environmental remediation of certain real  
16 property known as 4610 State Road (Parcel No. 37-00002), pursuant to a grant from  
17 the State of Ohio; and

18  
19 WHEREAS, it is necessary to adjust the professional service fees beyond what was  
20 originally estimated, and to authorize performance of additional professional work made  
21 necessary by unforeseen site conditions, in order to complete the remediation work,

22  
23 NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Cuyahoga Falls,  
24 County of Summit and State of Ohio, that:

25  
26 Section 1. The Mayor is hereby authorized to enter into a modification of Contract  
27 No. 6519 with SRW Environmental Services, Inc., authorizing additional professional  
28 services made necessary by unforeseen site conditions, in order to complete  
29 environmental remediation of the site at 4610 State Road (Parcel No. 37-00002). The  
30 fees to be paid for the additional professional services shall be as necessary in the  
31 opinion of the Mayor but not to exceed an amount \$51,000 over the original estimated  
32 fees for professional services set forth in the contract. Said modification shall be  
33 prepared in writing and signed by the Mayor, on behalf of the City, and the Contractor.

34  
35 Section 2. The Director of Finance is hereby authorized and directed to pay invoices  
36 for work based upon the Contract as modified, in an amount not to exceed \$51,000 over  
37 the original estimated fees for professional services set forth in the contract, from the  
38 Capital Projects Fund.

39  
40 Section 3. Any other ordinances and resolutions or portions of ordinances and  
41 resolutions inconsistent herewith are hereby repealed, but any ordinances and  
42 resolutions or portions of ordinances and resolutions not inconsistent herewith and  
43 which have not previously been repealed are hereby ratified and confirmed.

44  
45 Section 4. It is found and determined that all formal actions of this Council  
46 concerning and relating to the adoption of this ordinance were adopted in an open  
47 meeting of this Council and that all deliberations of this Council and of any of its  
48 committees that resulted in such formal action were in meetings open to the public, in  
49 compliance with all legal requirements including Chapter 107 of the Codified  
50 Ordinances.

51  
52 Section 5. This ordinance is hereby declared to be an emergency measure necessary  
53 for the preservation of the public peace, health, safety, convenience and welfare of the  
54 City of Cuyahoga Falls and the inhabitants thereof and provided, it receives the  
55 affirmative vote of two-thirds of the members elected or appointed to Council, it shall

1 take effect and be in force immediately upon its passage and approval by the Mayor;  
2 otherwise it shall take effect and be in force at the earliest period allowed by law.

3  
4  
5 Passed: \_\_\_\_\_

\_\_\_\_\_ President of Council

6  
7  
8  
9  
10 \_\_\_\_\_ Clerk of Council

11  
12  
13 Approved: \_\_\_\_\_

\_\_\_\_\_ Mayor

14  
15  
16 3/28/11

17 O:\2011ords\SRW Contract Modification.doc