

ORDINANCE RECORD**VILLAGE OF NEWBURGH HEIGHTS, OHIO****ORDINANCE NO. 2022-44**

INTRODUCED BY: Mayor Traore

AN ORDINANCE ENACTING CODIFIED ORDINANCE SECTION 149.03 ENTITLED "RETURN OF VILLAGE PROPERTY," AND DECLARING AN EMERGENCY.

WHEREAS, Council wishes to mandate and create standards for the prompt return of all Village property to the Village upon any event of termination of employment or termination or removal from elected or appointed office;

WHEREAS, Council wishes to provide standards of criminal punishment for individuals who fail to abide by the obligation to return all Village Property;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF NEWBURGH HEIGHTS, CUYAHOGA COUNTY, OHIO, at least two-thirds of all the members elected thereto concurring, that:

Section 1. Council hereby enacts Codified Ordinance Section 149.03, which shall read in its entirety as follows:

149.03 RETURN OF VILLAGE PROPERTY

(a) For purposes of this Section 149.03, the following terms shall have the meanings ascribed herein.

"Department Head" shall mean any of the following: Police Chief, Fire Chief, Building Commissioner, Service Director, Recreation Director, Economic Development Director, Fiscal Officer, Clerk-Treasurer, Solicitor, and any other director or head of a municipal department.

"Employee" shall mean any full-time employee, part-time employee, independent contractor, appointed official, Department Head, clerk of court, magistrate, prosecutor, or elected official, including the Mayor and any member of Council.

"Promptly" shall mean with relative speed, but in no case more than seven (7) days.

"Village Property" shall mean: Any physical, tangible, electronic or digital property of the Village, including, but not limited to, equipment, gear, machinery, any badge or identification, vehicle, keys, key-fob, access cards,

body cameras, turnout gear, tools, computer hardware and software, public records as defined in Ohio Revised Code Section 149.43, Village confidential information, documents and files in any format, including any physical form or any electronic, digital, audio, or other medium, online account information, passwords, social media accounts, bank accounts and/or other banking information, subscriptions, email accounts and addresses, Village cell phones including information and/or data stored thereon, and the like, or any other tangible or electronic or digital property identified by the Village.

(b) Upon termination of employment or separation, termination or removal from elected office, an Employee shall be obligated to promptly return Village Property to the Village.

(c) Compliance with subsection (b) hereof shall be accomplished as follows. An Employee shall return Village Property to the Employee's Department Head or direct report, except as otherwise set forth in this subsection (c). Any Department Head shall return Village Property to the Mayor. The Mayor and/or any member of Council shall return Village Property to the Fiscal Officer.

(d) Violation of the obligation set forth in subsection (b) hereof shall be a fourth degree misdemeanor, unless, in the judgment of the Village prosecutor, such offense rises to the level of a violation of Codified Ordinance Section 545.05 entitled "Petty Theft" or Codified Ordinance Section 545.08 entitled "Unauthorized Use of Property," in which case, in the Village prosecutor's discretion, the violator may be charged under one or both of those sections.

Section 2. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council that resulted in such formal action occurred in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 3. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the Village, so that the Village has the immediate ability to enforce its law mandating the return of Village Property upon separation from employment or elected office; wherefore, this ordinance shall be in full force and effect from and immediately after its adoption and approval by the Mayor.

PASSED: June 7, 2022

Approved as to Form

Robert J. McElrath

Solicitor

Gigi Traore

Gigi Traore, Mayor
Village of Newburgh Heights, Ohio

Cathleen Nagorski

Cathleen Nagorski, Fiscal Officer
Village of Newburgh Heights, Ohio

1ST Reading: 6-7-2022
2ND Reading: 6-7-2022
3RD Reading: 6-7-2022