

ORDINANCE RECORD

VILLAGE OF NEWBURGH HEIGHTS, OHIO

ORDINANCE NO. 2012-49

INTRODUCED BY: Mayor Elkins

AN ORDINANCE FOR THE PURPOSE OF PLACING ON THE BALLOT AT THE NEXT GENERAL ELECTION FOR A VOTE OF THE ELECTORATE OF THE VILLAGE OF NEWBURGH HEIGHTS, OHIO THE PROPOSED CODIFIED ORDINANCE CHAPTER 757 ENTITLED "POLITICAL CONTRIBUTIONS" INCLUDING CODIFIED ORDINANCE SECTION 757.01 ENTITLED "PUBLIC HEARINGS REGARDING IMPACT OF POLITICAL CONTRIBUTIONS; ACTIONS BY MAYOR", WHICH PROPOSED CODIFIED ORDINANCE WOULD REQUIRE THE MAYOR AND VILLAGE COUNCIL TO HOLD AN ANNUAL PUBLIC HEARING FOR THE PURPOSE OF STUDYING THE IMPACT ON LOCAL ELECTIONS OF POLITICAL SPENDING BY CORPORATIONS, AND WOULD REQUIRE THE MAYOR TO NOTIFY THE LEADERS OF THE UNITED STATES CONGRESS THAT THE VOTERS OF THE VILLAGE OF NEWBURGH HEIGHTS HAVE CALLED FOR A CONSTITUTIONAL AMENDMENT INDICATING THAT CORPORATIONS DO NOT HAVE CONSTITUTIONAL RIGHTS AND THAT MONEY IS NOT THE EQUIVALENT OF SPEECH; AND DECLARING AN EMERGENCY.

WHEREAS, the First Amendment to the United States Constitution was designed to protect the free speech rights of individual human beings ("natural persons"), not corporations;

WHEREAS, Corporations are not people but instead are artificial entities created by the law of states and nations;

WHEREAS, the ruling of the United States Supreme Court in Citizens United v. Federal Elections Commission, 558 U.S. 50, 130 S.Ct. 876, 175 L.Ed.2d 753 (2010), overturned longstanding precedent prohibiting corporations from spending their general treasury funds in our elections;

WHEREAS, Citizens United v. Federal Elections Commission overturned the Court's earlier decision in Austin v. Michigan Chamber of Commerce, 494 U.S. 652 (1990), which correctly recognized the threat to a republican form of government posed by "the corrosive and distorting effects of immense aggregations of wealth that are accumulated with the help of the corporate form and that have little or no correlation to the public's support for the corporation's political ideas";

WHEREAS, Citizens United v. Federal Elections Commission erroneously equated the desire of large corporations to influence political decision-making through

massive electoral expenditures with the speech of disadvantaged individuals seeking to make their voices heard;

WHEREAS, Justice John Paul Stevens's opinion for the four dissenting justices in *Citizens United v. Federal Elections Commission* noted that corporations have special advantages not enjoyed by natural persons, such as limited liability, perpetual life, and favorable treatment of the accumulation and distribution of assets, that allow them to spend prodigious sums on campaign messages that have little or no correlation with the beliefs held by natural persons;

WHEREAS, as a result of the decision in *Citizens United v. Federal Elections Commission*, the political spending of corporations and wealthy individuals receives a constitutional presumption of protected status, whereas the restrictions on the rights of individual citizens to protest the auctioning of our democracy are subject to a more deferential form of review;

WHEREAS, *Citizens United v. Federal Elections Commission* has in fact unleashed a torrent of corporate money in our political process unmatched by any campaign expenditure totals in United States history;

WHEREAS, *Citizens United v. Federal Elections Commission* purports to invalidate state laws and even state constitutional provisions separating corporate money from elections, many of which are over 100 years old;

WHEREAS, the general public and political leaders in the United States have recognized, since the founding of our country, that the interests of corporations do not always correspond with the public interest and that, therefore, the political influence of corporations should be limited;

WHEREAS, in his dissenting opinion in *Citizens United v. Federal Elections Commission*, Justice John Paul Stevens observed that "At bottom, the Court's opinion is ... a rejection of the common sense of the American people, who have recognized a need to prevent corporations from undermining self government since the founding, and who have fought against the distinctive corrupting potential of corporate electioneering since the days of Theodore Roosevelt. ... While American democracy is imperfect, few outside the majority of this Court would have thought its flaws included a dearth of corporate money in politics";

WHEREAS, the Village wishes to regulate corporations that make political contributions that influence or may influence elections or ballot measures that impact or may impact the citizens of the Village of Newburgh Heights;

WHEREAS, Article V of the United States Constitution empowers and obligates the people and states of the United States of America to use the constitutional amendment process to correct those egregiously wrong decisions of the United States Supreme Court that go to the heart of our democracy and republican self-government;

WHEREAS, notwithstanding the decision in *Citizens United v. Federal Elections Commission*, Council members have a duty to protect democracy and guard against the potentially detrimental effects of corporate spending in local, state, and federal elections; and

WHEREAS, this Council has the power and authority to place a proposed ordinance on the ballot for consideration by the electorate of the Village of Newburgh Heights pursuant to Ohio Revised Code Sections 3501.02, 715.01 and 705.15;

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

Section 1. The Village hereby places the following Ordinance on the ballot for the November, 2012 general election for a vote of the electorate of the Village of Newburgh Heights, for the purpose of determining whether the electorate of the Village of Newburgh Heights wishes to adopt the proposed codified ordinance hereinafter set forth:

PROPOSED ORDINANCE

Village of Newburgh Heights, Ohio

A majority affirmative vote is necessary for passage

CODIFIED ORDINANCE SECTION 757.01

**“PUBLIC HEARINGS REGARDING IMPACT OF POLITICAL CONTRIBUTIONS;
ACTIONS BY MAYOR”**

**757.01 PUBLIC HEARINGS REGARDING IMPACT OF POLITICAL CONTRIBUTIONS;
ACTIONS BY MAYOR**

(a) Beginning in 2013, the Mayor and Village Council shall hold a public hearing in February of each year for the purpose of studying the impact on the Village of Newburgh Heights of political contributions by corporations, unions, Political Action Committees (“PACs”) and Independent Expenditure-Only Committees (“Super PACs”) in connection with the most recent election. The public hearing shall be advertised in accordance with Village ordinances and shall be open to the public. Members of the general public in attendance shall be afforded the opportunity to speak for a period of not less than five minutes per person. The Village shall issue a report of its findings to the Village Fiscal Officer no later than July 15th of each year.

(b) On or before the 21st of January of each year until the United States Congress has proposed an amendment to the United States Constitution as provided for in Article V of the United States Constitution, the Mayor shall provide written notice to the President of the United States Senate, the

Speaker of United States House of Representatives, and the United States congressional delegation representing the Village of Newburgh Heights, including, but not limited to, the two United States Senators representing the State of Ohio, indicating that the citizens of the Village of Newburgh Heights in November of 2012 voted in support of this codified ordinance calling for a constitutional amendment declaring:

- (A) Only human beings, not corporations, are legal persons with constitutional rights; and
- (B) Money is not equivalent to speech, and therefore regulating political contributions and spending is not equivalent to limiting political speech.

(c) The public hearing required hereunder shall cease if and when a constitutional amendment reflecting the principles set forth in subsection (b) above is ratified by three-fourths (3/4) of state legislatures in the United States of America.

(d) This ordinance shall take effect and be included in the Village ordinances at the earliest date permitted by law.

	YES	SHALL THE PROPOSED CODIFIED ORDINANCE SECTION 757.01 REQUIRING THE MAYOR AND VILLAGE COUNCIL TO HOLD ANNUAL PUBLIC HEARINGS TO ANALYZE THE IMPACT OF POLITICAL CONTRIBUTIONS ON LOCAL ELECTIONS AND DIRECTING THE MAYOR TO NOTIFY THE UNITED STATES CONGRESS THAT THE ELECTORS OF NEWBURGH HEIGHTS PASSED THIS ORDINANCE BE ADOPTED?
	NO	

Section 2. It is found that pursuant to Ohio Revised Code Sections 3501.02, 715.01 and 705.15, this Council has the power and authority to place the proposed Codified Ordinance Section 757.01 on the ballot for consideration and vote by the electorate of the Village of Newburgh Heights.

Section 3. In the event that any provision, term or Section of this Ordinance is held to be invalid or unenforceable in whole or in part, all other provisions, terms and Sections of this Ordinance will nevertheless continue to be valid and enforceable, with the invalid and/or unenforceable parts severed from the remainder of the provisions, terms and/or Sections of this Ordinance.

Section 4. 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

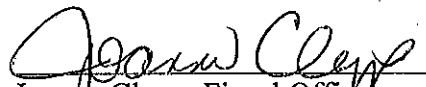
formal action occurred in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 5. This Ordinance is hereby determined to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare of the Village and its residents, the emergency being the need to pass this ordinance in a time frame that will allow for the proposed Codified Ordinance Section 757.01 to be placed on the ballot for the general election in November of 2012. Therefore, provided it receives two-thirds (2/3) of the vote of all members of Council elected thereto, said Ordinance shall be in full force and effect immediately upon its adoption by the Council and approval by the Mayor, otherwise from and after the earliest period allowed by law.

PASSED: August 6, 2012

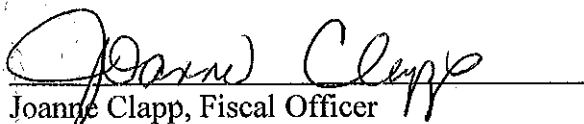


Trevor Elkins, Mayor
Village of Newburgh Heights, Ohio



Joanne Clapp, Fiscal Officer
Village of Newburgh Heights, Ohio

I, Joanne Clapp, the Fiscal Officer of the Village of Newburgh Heights, do hereby certify that the foregoing is a true and actual copy of Ordinance 2012-49 as passed with a unanimous vote of 6 yes and 0 no votes by the Council of the Village of Newburgh Heights at the Special Meeting of Council held on 6th day of August, 2012.



Joanne Clapp, Fiscal Officer