

**VILLAGE OF NEW LEBANON
MONTGOMERY COUNTY, OHIO**

**RESOLUTION NO: 2025-02
BY
MAYOR DAVID NICKERSON**

A RESOLUTION: RECOGNIZING THE SELF-EXECUTING FORFEITURE OF COUNCIL MEMBER PERKINS' POSITION ON VILLAGE COUNCIL AND SETTING FORTH THE PROCEDURE TO FILL SAID VACANCY.

WHEREAS, it has come to this Council's attention that Council Member Perkins was present for 17 of 24 (said differently, 70.8% of meetings); and

WHEREAS, Village Charter Section 2.09 sets forth in its relevant part:

Each council member and the Mayor shall be required to attend at least seventy-five percent (75%) of all regularly scheduled council meetings annually, and, failing to do so, shall be deemed to have resigned the position.

WHEREAS, Village Charter Section 2.09 is self-executing and the Charter is devoid of any savings clause or available remedy; and

WHEREAS, Council Member Perkins has forfeited his position on this Council pursuant to Village Charter Section 2.09; and

WHEREAS, there is presently a vacancy on this Council as a result of Council Member Perkins' failure to attend 75% of the meetings during the calendar year 2024; and

WHEREAS, Village Charter Section 2.08 provides for the process by which a Council Member vacancy is filled, namely:

If the office of Mayor becomes vacant, the Vice Mayor shall serve as Mayor. A vacancy in the office of the Vice Mayor shall be filled by the appointment of a Council member made by majority vote of the remaining Council members.

Vacancies in Council shall be filled by appointment of a qualified person, by majority vote of remaining Council members within thirty (30) days of the occurrence of the vacancy. The appointee shall serve until a successor is nominated and elected, subject to the provisions of Section 7.07 herein; and

WHEREAS, Section 7.07 sets forth:

If a vacancy occurs within the Council at any time prior to the ninetieth (90) day before any general election to occur when the unexpired term of such office is more than one (1) year, an election to fill such vacancy shall be held at such

general election. Candidates to fill such vacancy shall be nominated by petition in the manner provided by general law, except that such petition shall be filed not later than the sixtieth (60) day before the election. The candidate receiving the largest number of votes at such election shall assume the office on the first day of January next following the election, and shall serve for the balance of the unexpired term. Within thirty (30) days after any such vacancy occurs, Council shall by majority vote of the remaining members appoint a qualified person to fill the vacancy on a temporary basis until a successor is elected and qualified.

If a vacancy occurs within the Council at any time after the date specified in the preceding paragraph, the vacancy shall be filled until the general election of the following year.

In the event the Council fails to fill any vacancy within thirty (30) days as provided in this section, the Mayor shall make such appointment; and

WHEREAS, Council Member Perkins' term was not set to expire until November 2025; and

WHEREAS, Council Member Perkins' vacancy began tolling on December 17, 2024—the meeting in which he missed 7th and final meeting of the 2024 calendar year resulting in an attendance rate lower than 75%; and

WHEREAS, therefore the thirty (30) days has tolled and the Mayor shall be responsible for appointing someone to the Council Member Perkins' vacancy.

NOW, THEREFORE, BE IT RESOLVED by the Village Council of New Lebanon, Ohio, that:

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE VILLAGE OF NEW LEBANON, MONTGOMERY COUNTY, OHIO, AS FOLLOWS:

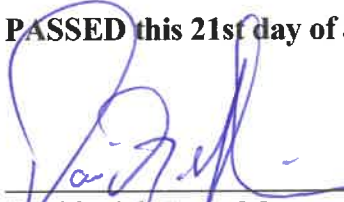
SECTION I The Village Council hereby recognizes pursuant to the Village Charter that Council Member Perkins has forfeited his position as Village Council Member.

SECTION II The Mayor is hereby directed to appoint a qualified candidate to fill Council Member Perkins' vacancy.

SECTION III It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that any and all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including, but not limited to Section 121.22 of the Ohio Revised Code.

SECTION IV That this Resolution shall take effect immediately upon adoption.

PASSED this 21st day of January, 2025.



David Nickerson, Mayor

2/18/25

**NEW LEBANON, OHIO
RECORD COPY
DO NOT REMOVE FROM FILE**

Attest:



Rob Anderson
Acting Clerk of Council

1/21/25
Date