



655 Fox Run Road, Suite M • Findlay, OH 45840

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Findlay City Council  
318 Dorney Plaza Room 114  
Findlay, OH 45840

To: Council President – Jim Slough  
First Ward – Holly Frische  
Second Ward – Randy Van Dyne  
Third Ward – Ron Monday  
Fourth Ward – Tom Klein  
Fifth Ward – John Harrington  
Sixth Ward – Jim Neimeyer  
Seventh Ward – Bob Nichols  
Council At Large – Anne Spence  
Council At Large – Grant Russel  
Council At Large – Tom Shindledecker

Re: THE HEARTLAND BOARD OF REALTORS® (HBOR) POSITION REGARDING “FAILURE TO COMPLY WITH ANOTHER CITY DEPARTMENT” A.K.A - PROPOSED WATER TURN OFF POLICY

*The Heartland Board of Realtors respectfully requests that this letter to Council be submitted as part of the record for this meeting.*

The Heartland Board of Realtors® fully supports the City of Findlay in its efforts to promote a cleaner, safer community. Addressing health and safety issues in our community is a critical step in maintaining property values. Along with this, our Board, as well as all member Boards of the National Association of Realtors®, also have a responsibility to support and protect the rights of private property owners. In doing so, we would like to respectfully voice the following concerns regarding the “Water Turn off Policy Rule”.

First, the HBOR feels that the Turn off Policy Rule raises fundamental due process concerns for property owners affected by the Rule. A lack of clarity as to who may apply the Rule to a particular property, as well as the lack of guidance governing how the Rule should be applied, is likely to result in arbitrary and inconsistent application of the penalty. This raises the question of how property owners’ rights are affected by the termination of water service and whether the City satisfies procedural due process by providing a meaningful opportunity for an alleged violator to contest the application of the water shut-off penalty. The HBOR would like to ask the City if the Law Director has provided a written opinion as to whether the Rule adequately satisfies affected property owners’ substantive and procedural due process rights under the Federal and Ohio constitutions. If not, we request that one be provided to the HBOR.



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Secondly, the Rule attempts to regulate matters that may be outside the scope of authority given to the Service- Safety Director. The Rules and Regulations under the City Water and Wastewater Departments state that they are created under authority through Ohio Revised Code (sections 743.01 thru .02). Based on the statute it appears that the Service-Safety Director would have sufficient authority to adopt and enforce rules regarding termination of service due to *non-payment* because this rule is necessary for the “safe, economical and efficient management of the water works system”. By contrast, it is unclear how the termination of water services for non-compliance with the city ordinances referenced under the Water Shut-off Policy could reasonably be considered necessary for the safe, economical and efficient management of the water works. Instead the rule attempts to compel compliance with city ordinances by threatening the imposition of a penalty for violations. If anything, the turn-off policy interferes with the efficient management of the water works by using threats and actual termination of water service as an enforcement mechanism for addressing code matters wholly unrelated to the operation of the water system. The HBOR would like to ask the City if the Law Director has provided a written opinion regarding the Service-Safety Director’s authority to adopt and apply the Turn Off Policy to terminate water service for non-compliance with other city ordinances that concern matters unrelated to the operation of the water system. If not, we request that one be provided to the HBOR.

The HBOR requests that the City remove this rule from enforcement and allow for sufficient dialogue with home owners, property owners and other private sector representatives to develop a collective rule that satisfies the concerns of all parties. Clarity and certainty regarding how and to whom this rule is applied is required with emphasis on health and safety concessions regarding the City’s most vulnerable populations such as the elderly, disabled and/or young children.

In closing, the Heartland Board of Realtors® and the City of Findlay share the same desire to promote a cleaner, safer community. However, as written, it appears this Rule is subject to unfair application by terminating water service to parties who are not responsible for the violation such as tenants. Furthermore, the Heartland Board of Realtors® would like to emphasize that it is poor public policy to fight zoning and other ordinance violations with relatively minor health and safety implications by intentionally depriving residents of a service that is essential to their health and well being.

Respectfully submitted,

Heartland Board of Realtors®

Cc: The Honorable Mayor Mihalik – Findlay Mayor  
Donald J. Rasmussen - Findlay Law Director  
Paul Schmelzer- Findlay Service-Safety Director