

AGENDA

DATE: October 7, 2002
PLACE: COUNCIL CHAMBERS
TIME: 7:30 P.M.

THERE ARE THREE PUBLIC HEARINGS TONIGHT

ORDINANCE NO. 155 - 2002 6:45 PM

ORDINANCE NO. 156 - 2002 7:00 PM

ORDINANCE NO. 157 - 2002 7:15 PM ← NO ONE PRESENT

1) ORD 187-2002 } MOTION TO
188-2002 } ADD TO
189-2002 } Agenda
190-2002 } 9-0

1. ROLL CALL

2. INVOCATION BY COUNCILMAN BILL AMAN

3. PLEDGE OF ALLEGIANCE

4. READING OF THE JOURNAL

5. REMARKS OF DELEGATIONS AND CITIZENS TO MATTERS ON THE AGENDA

6. INTRODUCTION OF ORDINANCES AND RESOLUTIONS

2) executive session - pending Law Suite.

ORDINANCE NO. 178 - 2002 BY: COMMUNITY DEVELOPMENT COMMITTEE

125 AN ORDINANCE authorizing the Mayor of the City of Massillon to execute an amendment to the agreement between the City of Massillon and Republic Engineered Steels, Inc. that was entered into under the Urban Jobs and Enterprise Zone Program, by accepting the assignment to Republic Engineered Products, LLC the of interest, rights and duties under the original Enterprise Zone Agreement, and declaring an emergency.

ORDINANCE NO. 179 - 2002 BY: COMMUNITY DEVELOPMENT COMMITTEE

125 AN ORDINANCE authorizing the Mayor and Director of Public Service and Safety to execute an addendum to the Ground Lease by and between the City of Massillon, The Massillon Community Improvement Corporation and the Massillon Arena, LLC, which was entered into on August 20, 2001, and declaring an emergency.

ORDINANCE NO. 180 - 2002 BY: ENVIRONMENTAL COMMITTEE

800

5050
9-0
P000
9-0
AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into a contract with Finkbeiner, Pettis & Strout for a Wetland Flood Plain analysis and preliminary study for the bike path relocation and declaring an emergency.

ORDINANCE NO. 181 - 2002 BY: ENVIRONMENTAL COMMITTEE

125 AN ORDINANCE amending CHAPTER 925 "SEWERS GENERALLY" of the Codified Ordinances of the City of Massillon, by enacting a new Section 925.63 "Private Extension of Public Sanitary Sewer Mains", and declaring an emergency.

ORDINANCE NO. 182 - 2002 BY: HEALTH, WELFARE & BUILDING REGULATIONS

SUSP
9-0
POD
9-0

AN ORDINANCE amending CHAPTER 509 "DISORDERLY CONDUCT AND PEACE DISTURBANCE" of the City Codified Ordinances of the City of Massillon, by repealing existing Section 509.11 "Loud Noises" and Section 509.12 "Excessive Vehicular Sound System Amplification Prohibited" and enacting new Sections 509.11 "Loud and Disturbing Noises Prohibited" Section 509.12 "Noise-Making and Noise-Amplifying Devices; Variances" and Section 509.13 "Excessive Vehicular Sound System Amplification Prohibited" of CHAPTER 509 "DISORDERLY CONDUCT AND PEACE DISTURBANCE", and declaring an emergency.

ORDINANCE NO. 183 - 2002 BY: POLICE AND FIRE COMMITTEE

BOC

SUSP
9-0
POD
9-0

AN ORDINANCE repealing Ordinance No. ¹³⁵235-2002 and enacting a new ordinance authorizing the Director of Public Service and Safety of the City of Massillon, to enter into a contract with Bill Castle and Castle K-9 of Mechanicsburg, Pennsylvania to purchase a trained drug detection dog to be handled by the Massillon Police Department, and declaring an emergency.

ORDINANCE NO. 184 - 2002 BY: STREETS, HIGHWAYS, TRAFFIC & SAFETY

SUSP
9-0
POD
9-0

AN ORDINANCE authorizing and directing the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into an agreement with the Ohio Department of Transportation to remove and replace the bridge deck and paint structure on SR-241 and SR-21, and declaring an emergency.

ORDINANCE NO. 185 - 2003 BY: FINANCE COMMITTEE

SUSP
9-0
POD
9-0

AN ORDINANCE making certain transfers in the 2002 appropriation from the Municipal Golf Fund to the Bond Retirement Golf Fund of the City of Massillon, Ohio, and declaring an emergency.

ORDINANCE NO. 186 - 2003 BY: FINANCE COMMITTEE

SUSP
9-0
POD
9-0

AN ORDINANCE making certain appropriations from the unappropriated balance of the Muni Court Capital Improvement Fund, Local Law Enforcement Block Grant Fund, Economic Development Fund and the Parks and Recreation Fund, for the year ending December 31, 20092, and declaring an emergency.

RESOLUTION NO. 18 - 2002 BY: COMMUNITY DEVELOPMENT COMMITTEE

SUSP
9-0
POD
9-0

A RESOLUTION reversing the decision of the Massillon Zoning Board of Appeals made on September 12th, 2002 wherein the Zoning Board of Appeals denied a variance to construct a fence out to the road connecting with the existing bushes on property located at 434 10th Street N.E., Massillon, Ohio and owned by Daniel Border, and declaring an emergency.

ORD 187-2002
SUSP 9-0
POD 9-0

ORD 188-2002
SUSP 9-0
POD 9-0

ORD 189-2002
SUSP 9-0
POD 9-0

ORD 190-2002
SUSP 9-0
POD 9-0

~~7. UNFINISHED BUSINESS~~

~~3. PETITIONS AND GENERAL COMMUNICATIONS~~

~~A). LETTER FROM OHIO DIVISION OF LIQUOR CONTROL REGARDING A TRANSFER OF LIQUOR LICENSE FROM WILLIAM M. LUDWIG JR., DBA WALES ROAD ONE STOP, 704 WALES ROAD N.E, MASSILLON, OHIO, 44646 TO WOOSCO INC. DBA WALES RD ONE STOP, 704 WALES ROAD N.E., MASSILLON, OHIO 44646~~

~~9. BILLS, ACCOUNTS AND CLAIMS~~ — *Indep \$1,201.30 - 12th Bill 9-0*

~~10. REPORTS FROM CITY OFFICIALS~~

~~A). MAYOR SUBMITS MONTHLY PERMIT REPORT FOR SEPTEMBER 2002~~

~~B). AUDITOR SUBMITS MONTHLY REPORT FOR SEPTEMBER 2002~~ — *Accept — 9-0*

~~11. REPORTS OF COMMITTEES~~ — *10-14- Next Comm.*

~~12. RESOLUTIONS AND REQUESTS OF COUNCIL MEMBERS~~ — *{ Paul Lambert Read DAN Ackerman's Letter into Record.*

~~13. CALL OF THE CALENDAR~~

~~14. THIRD READING ORDINANCES AND RESOLUTIONS~~

ORDINANCE NO. 155 - 2002 BY: COMMUNITY DEVELOPMENT COMMITTEE

Took Oct 21, 2002 upon Reg. of Mayor

AN ORDINANCE amending Section 1151.02 of the Massillon Code by rezoning a certain tract of land from R-1 Single Family Residential and B-3 General Business to I-1 Light Industrial and declaring an emergency.

ORDINANCE NO. 156 - 2002 BY: COMMUNITY DEVELOPMENT COMMITTEE

St. Luke's

Post 9-0 **AN ORDINANCE** amending Section 1151.02 of the Massillon Code by rezoning a certain tract of land from Tuscarawas Township to RM-1 Multiple Family Residential, and declaring an emergency.

ORDINANCE NO. 157 - 2002 BY: COMMUNITY DEVELOPMENT COMMITTEE

ODOT Property

Post 9-0 **AN ORDINANCE** amending Section 1151.02 of the Massillon Code by rezoning a certain tract of land from I-1 Light Industrial to R-3 One Family Residential, and declaring an emergency.

15. SECOND READING ORDINANCES AND RESOLUTIONS

16. NEW AND MISCELLANEOUS BUSINESS

17. REMARKS OF DELEGATIONS AND CITIZENS TO MATTERS NOT ON THE AGENDA

18. ADJOURNMENT

SHARON HOWELL - CLERK OF COUNCIL

DATE October 7, 2002

CLERK: SHARON HOWELL

125 - 10-7-02

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

1st Reading
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 178 - 2002

passed 10/21

BY: COMMUNITY DEVELOPMENT COMMITTEE

TITLE: AN ORDINANCE authorizing the Mayor of the City of Massillon to execute an amendment to the agreement between the City of Massillon and Republic Engineered Steels, Inc. that was entered into under the Urban Jobs and Enterprise Zone Program, by accepting the assignment to Republic Engineered Products, LLC of the interest, rights and duties under the original Enterprise Zone Agreement, and declaring an emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

The Council of the City of Massillon, Ohio, hereby determines it to be necessary in the public health, safety and welfare to authorize the Mayor of the City of Massillon to execute an amendment to the agreement between the City of Massillon and Republic Engineered Steels, Inc. that was entered into under the Urban Jobs and Enterprise Zone Program, by accepting the assignment to Republic Engineered Products, LLC of the interest, rights and duties under the original Enterprise Zone Agreement.

Section 2:

The agreement between the City of Massillon and Republic Engineered Steels, Inc., that was entered into under the Ohio Urban Jobs and Enterprise Zone Program is hereby amended by accepting the assignment to Republic Engineered Products, LLC the interest, rights and duties under the original Enterprise Zone Agreement.

Section 3:

This Ordinance is hereby declared to be an emergency measure, the reason for the emergency being that said enactment is necessary for the Enterprise Zone agreement to reflect the assignment of Republic Engineered Steels, Inc., to Republic Engineered Products, LLC of all the interests, rights and duties under said agreement. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS _____ DAY OF _____, 2002

APPROVED: _____
SHARON HOWELL, CLERK OF COUNCIL DENNIS D. HARWIG, PRESIDENT

ATTEST: _____
FRANCIS H. CICCHINELLI, JR. MAYOR

DATE: October 7, 2002

CLERK: SHARON HOWELL

10-7-12th

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

Addendum handed out by Glen @ beginning of meeting

1) proof of final Dec 31

2) 90 day status

3) Sept 15 - complete

4) Dec 31 status needed

ORDINANCE NO. 179 - 2002

1st reading
LEGISLATIVE DEPARTMENT

passed 10/21

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE authorizing the Mayor and Director of Public Service and Safety to execute an addendum to the Ground Lease by and between the City of Massillon, The Massillon Community Improvement Corporation and the Massillon Arena, LLC, which was entered into on August 20, 2001, and declaring an emergency.

WHEREAS, on August 20, 2001, the City of Massillon, The Massillon Community Improvement Corporation and the Massillon Arena, LLC entered into a Ground Lease for the purpose of the construction of an arena;

WHEREAS, due to problems with funding, the Massillon Arena, LLC has been unable to construct the arena within the time constraints contained in the lease;

WHEREAS, this Council desires to extend the time period for construction so that the Massillon Arena, LLC may continue its pursuit of financing for the project.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

This Council hereby determines that the time period contained in the Ground Lease dated August 20, 2001, should be extended to offer Massillon Arena, LLC the opportunity to continue its pursuit of financing for the project.

Section 2:

The Mayor and the Director of Public Service and Safety are hereby authorized to execute an addendum to the Ground Lease by and between the City of Massillon, The Massillon Community Improvement Corporation and the Massillon Arena, LLC which was entered into on August 20, 2001.

Section 3:

A copy of said addendum is attached to the Ordinance.

Section 4:

This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the health, safety, and welfare of the community, and for the reason that the City of Massillon desires to assist the Massillon Arena, LLC by extending the completion date so as to offer it the opportunity to complete the financing of the project. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS _____ DAY OF _____ 2002

APPROVED: _____
SHARON HOWELL, CLERK OF COUNCIL DENNIS D. HARWIG, PRESIDENT

APPROVED: _____
FRANCIS H. CICCHINELLI, JR., MAYOR

DATE: October 7, 2002

CLERK: SHARON HOWELL

SUP 9-0
PASS 9-0

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

Sharon Howell
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 180 - 2002

BY: ENVIRONMENTAL COMMITTEE

TITLE: AN ORDINANCE authorizing the Director of Service and Safety of the City of Massillon to enter into a contract with Finkbeiner, Pettis & Strout for a Wetland Flood Plain analysis and preliminary study for the bike path relocation, and declaring an emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

The Council of the City of Massillon, Ohio, hereby determines it to be necessary in the public health, safety and welfare to authorize the Director of Service and Safety of the City of Massillon to enter into a contract with Finkbeiner, Pettis & Strout for a Wetland Flood Plain analysis and preliminary study for the bike path relocation.

Section 2:

The Director of Public Service and Safety of the City of Massillon, Ohio, is hereby authorized to enter into a contract with Finkbeiner, Pettis & Strout for a Wetland Flood Plain analysis and preliminary study for the bike path relocation.

Section 3:

This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the health, safety, and welfare of the community, and for the additional reason the study is necessary in order to relocate the bike path. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS _____ DAY OF _____ 2002

ATTEST:

SHARON HOWELL, CLERK OF COUNCIL

DENNIS D. HARWIG, PRESIDENT

APPROVED _____

FRANCIS H. CICCHINELLI, JR., MAYOR

DATE: October 7, 2002

CLERK: SHARON HOWELL

1st
CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

1st reading
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 181 - 2002

2nd reading 10/21
Filed 11/4/02

BY: ENVIRONMENTAL COMMITTEE

TITLE: AN ORDINANCE amending CHAPTER 925 "SEWERS GENERALLY" of the Codified Ordinances of the City of Massillon, by enacting a new Section 925.63 "Private Extension of Public Sanitary Sewer Mains", and declaring an emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

There be and is hereby enacted a new Section 925.63 "Private Extension of Public Sanitary Sewer Mains". Said newly enacted section shall read as follows:

(See Attached Exhibit "A")

Section 2:

This ordinance is hereby declared to be an emergency measure, the reason for the emergency being that said enactments are necessary for the more efficient operation of the Engineering Department of the City of Massillon, Ohio, and for the additional reason for the preservation of the public health, safety and welfare of the community. And provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS _____ DAY OF _____, 2002

ATTEST: _____
SHARON HOWELL, CLERK OF COUNCIL DENNIS D. HARWIG, PRESIDENT

APPROVED: _____
FRANCIS H. CICCHINELLI, JR., MAYOR

925.63 Private Extension of Public Sanitary Sewer Mains

- (a) Private party (hereinafter called the "Applicant") shall file an application with the City Engineering Department for the construction of sanitary sewer mains (hereinafter called the "Projects") inside any incorporated area of the City.
- (b) Such application shall be made on the form supplied for that purpose by the City Engineering Department.
- (c) Applicant shall submit to the City Engineering Department construction plans, drawings, specifications, cost estimates, vehicular traffic plans, and such other documents as may be required for the department's review of the project.
- (d) Applicant shall supply to the satisfaction of the City all easements required for maintenance of the lines without charge.
- (e) Engineering, materials, construction and testing of the project shall conform to the City's and the State of Ohio's standards, specifications, rules and regulations.
- (f) When the City Engineering Department approves the documents submitted in the foregoing Sections (a) through (e) and is satisfied of such, he shall so certify his approval by letter to the Massillon City Council.
- (g) The Massillon City Council may then grant permission to the Applicant to construct such project by Resolution, contingent upon the Applicant entering into an acceptable contract with the City, and fulfilling the requirements of these Regulations.
- (h) The contract shall contain as a minimum the following requirements:
 - (1) Said construction will be performed by a licensed sanitary sewer contractor per Section 925.13.
 - (2) Comprehensive General Liability – The Comprehensive General Liability coverage shall include completed Operations-Products Coverage, Personal Injury Coverage, and Contractual Liability Coverage to satisfy the Indemnification Clause included in this contract. Explosion, Collapse and Underground Hazards Liability Coverages shall be included in the General Liability Coverage when occasioned by the contractor's sub-surface operations.

The Comprehensive Liability Coverage shall include Non-ownership and Subcontractor's Coverage. The minimum limits of liability for all coverages above shall be a minimum of \$1,000,000.00 for Bodily Injury and Property Damage each person and each occurrence respectively.

- (3) Worker's Compensation – The contractor shall comply with the Ohio Worker's Compensation Act for all of his employees engaged in work under this contract.
- (4) That the Applicant shall provide a surety bond of sufficient amount to compensate the City for completing the Project if necessary. The timetable for said project and bond shall be agreed to by the City Engineer.
- (5) That upon completion of construction, testing and final approval of the said Project by the City Engineering Department, said lines shall be conveyed to the City.
- (6) That, if requested by the Applicant on his original application and approved by the City, the City shall collect and return to the Applicant a prorated share of the cost of such improvement in any instance where connection is made by a non-participant (hereinafter called "Sub-Applicant") in the original cost within a ten year period if said Sub-Applicant wishes to connect to the Applicant sanitary sewer extension within a ten (10) year period after Sec 925.63(h)(5) is enacted.
- (7) That such prorated share shall be based on the front footage of improvement to the Sub-Applicant and shall not be in excess of the amount chargeable to such Sub-Applicant if he had participated in such improvement.
- (8) That, in the event a sanitary sewer lateral is not provided from the public right-of-way to the property line of the non-participating property an amount equal to the cost of constructing such lateral shall be deducted from the current prorated share to be returned to the Applicant.
- (9) That to determine the costs of such project, the Applicant shall provide the City Engineering Department with certified copies of all payrolls, material, supplies and services used on the Project.
- (10) At the time a Sub-Applicant has requested to connect to the Applicant's sanitary sewer extension, the City Engineer will notify the Sub-Applicant of the prorated share. The Sub-Applicant shall make said payment to the applicant prior to receiving a permit. Upon the Applicant receiving said permit, the Applicant will notify the City Engineer of such in writing at which time the Engineer may issue a permit to the Sub-Applicant.
- (k) When such Ordinance has been adopted and contract completely executed, and both filed with the City Auditor, the Applicant shall be given notice in writing by the City Engineering Department that he may proceed.
- (l) All construction shall conform with the approved plans.
- (m) All construction and testing shall be under the supervision and inspection of the City Engineering Department.

- (n) The costs provided in Section 925.63(h)(9) shall be paid in full before final approval is given to such Project and use of the facility is permitted.
- (o) Final approval of the Project and use of the facility shall be contingent upon the Applicant's satisfactory fulfillment of these Regulations and the terms of the contract.
- (p) After the date of final approval of the Project, and as provided in section 925.63(h)(5), the City Engineering Department shall collect a prorated share of the cost of such improvement whenever a Sub-Applicant connects as provided in this section and return such share of payment to the Applicant without a charge for such service.
- (q) A Sub-Applicant shall not be issued a connection permit until his share of the cost has been paid to the City Auditor.

DATE: October 7, 2002

CLERK: SHARON HOWELL

500P 9-0

POSD 9-0

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 182 - 2002

BY: HEALTH, WELFARE AND BUILDING REGULATIONS COMMITTEE

TITLE: AN ORDINANCE amending CHAPTER 509 "DISORDERLY CONDUCT AND PEACE DISTURBANCE" of the Codified Ordinances of the City of Massillon, by repealing existing Section 509.11 "Loud Noises" and Section 509.12 "Excessive Vehicular Sound System Amplification Prohibited" and enacting new Sections 509.11 "Loud And Disturbing Noises Prohibited", Section 509.12 "Noise-Making and Noise-Amplifying Devices; Variances" and Section 509.13 "Excessive Vehicular Sound System Amplification Prohibited" of CHAPTER 509 "DISORDERLY CONDUCT AND PEACE DISTURBANCE", and declaring an emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO: THAT

Section 1:

That existing Section 509.11 "Loud Noises" and Section 509.12 "Excessive Vehicular Sound System Amplification Prohibited" of CHAPTER 509 "DISORDERLY CONDUCT AND PEACE DISTURBANCE" of the Codified Ordinances of the City of Massillon are hereby repealed.

Section 2:

That there be and is hereby enacted new Sections 509.11 "Loud and Disturbing Noises Prohibited", Section 509.12 "Noise-Making and Noise-Amplifying Devices; Variances" and Section 509.13 "Excessive Vehicular Sound System Amplification Prohibited" of CHAPTER 509 "DISORDERLY CONDUCT AND PEACE DISTURBANCE" of the Codified Ordinances of the City of Massillon. Said sections shall read as follows:

(See attachment "A")

Section 3:

This Ordinance is hereby declared to be an emergency measure, the reason for the emergency being that said enactment is needed to amend the City's ordinances concerning the prohibition of loud noises during certain hours of a day within the City and for the additional reason for the preservation of the public health, safety and welfare of the community. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS _____ DAY OF _____ 2002

APPROVED: _____
SHARON HOWELL, CLERK OF COUNCIL DENNIS D. HARWIG, PRESIDENT

APPROVED: _____
FRANCIS H. CICCHINELLI, JR., MAYOR

"A"

509.11 LOUD AND DISTURBING NOISES PROHIBITED.

(a) No person shall make, permit or cause to be made, any unreasonably loud, disturbing or unnecessary noise of such character, intensity and/or duration as to disturb the peace and quiet of the City.

(b) The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this section, but such enumeration shall not be deemed to be exclusive.

(1) Horns, signaling devices, etc. The sounding of any horn, bell or other signal or warning device on any automobile, motorcycle, bus or other vehicle, except as a danger or warning signal, but any such sounding of horn, bell or other signal or warning device as a danger or warning signal shall not be unreasonably loud or harsh or continued for an unnecessary length of time.

(2) Animals and birds. The keeping of any animal or bird which by causing frequent or long continued noise shall disturb the comfort and repose of any person in the vicinity.

(3) Defects in vehicle or load. The use of any automobile, motorcycle or vehicle so out of repair, so loaded or in such manner as to create loud or unnecessary grating, grinding, rattling or other noise.

(4) Loading, unloading, etc. The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers.

(5) Motor vehicle exhaust. The discharge into the open air of the exhaust of any motor vehicle, or internal combustion engine, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom. (1964 Code §507.49)

(c) Whoever violates this section is guilty of a minor misdemeanor. If the offender has had one prior conviction of this offense, the second violation of this section is a misdemeanor of the fourth degree. If the offender has had two or more prior convictions of this offense, any subsequent violation of this section is a misdemeanor of the third degree.

509.12 NOISE-MAKING AND NOISE-AMPLIFYING DEVICES;
VARIANCES.

(a) The operation or maintenance of noise-making, noise-amplifying or noise-producing instruments or devices by which the peace or good order of a neighborhood is disturbed is hereby declared to be a nuisance. No person shall operate or maintain any radio, phonograph, tape player, compact disc player, loudspeaker or any noise-making device, or noise-amplifying device, in any public or private place by which the peace and good order of the neighborhood is disturbed or persons owning or occupying property in the neighborhood are disturbed or annoyed. "Neighborhood" includes the vicinity of any school, institution of learning, place of worship, court or hospital, while the same is in use.

(b) It shall be unlawful to use, operate or permit the operation of any loudspeaker, public address system, mobile sound vehicle or similar device amplifying sound therefrom on a public right-of-way or public space for any commercial purpose. It shall be unlawful to use, operate or permit for any noncommercial purposes any loudspeaker, public address system, mobile sound vehicle or similar device between the hours of 8:00 p.m. and 8:00 a.m. such that the sound therefrom creates a noise disturbance across a residential real property boundary.

(c) The Director of Public Safety or his designated representative shall have the authority, consistent with this section, to grant special variances.

(1) Any person seeking a special variance pursuant to this section shall file an application with the Director or his designated representative. The application shall contain information which demonstrates that bringing the source of sound or activity for which the special variance is sought into compliance with this section would constitute an unreasonable hardship on the applicant, community or other persons.

(2) In determining whether to grant or deny the application, the Director or his designated representative shall balance the hardship to the applicant, the community and other persons, of not granting the special variance against the adverse impact on the health, safety and welfare of persons affected, the adverse impact on property affected, and any other adverse impact of granting the special variance. Any regulations of time, place and manner shall be independent of the content of the speech. Applicants for special variances and persons contesting special variances may be required to submit any information the Director or his representative may reasonably require.

(3) A special variance shall be granted by notice to the applicant containing all necessary conditions, including a time limit on the permitted activity. The special variance shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any conditions of the special variance shall terminate it and subject the person holding it to those provisions of this section regulating the source of sound or activity for which the special variance was granted.

(d) The provisions of this section shall not apply to the following:

(1) The emission of sound for the purpose of alerting persons to the existence of an emergency or for the performance of emergency work; or

(2) Organized school-related programs, activities or events, or parades or other public programs, activities or events, authorized by the Director or his designated representative.

(e) Any violation of this section is declared to be a nuisance. In addition to any other relief provided by this section, the Law Director may apply to a court of competent jurisdiction for an injunction to prohibit the continuation of any violation of this section. Such application for relief may include seeking a temporary restraining order, preliminary injunction and permanent injunction.

(f) Whoever violates this section is guilty of a minor misdemeanor; if the offender has had one prior conviction of this offense, the second violation of this section is a misdemeanor of the fourth degree; if the offender has had two or more prior convictions of this offense, any subsequent violation of this section is a misdemeanor of the third degree. (Ord. 160-91. Passed 9-23-91.)

509.13 EXCESSIVE VEHICULAR SOUND SYSTEM AMPLIFICATION PROHIBITED

(a) No person operating or occupying a motor vehicle on a street, highway, alley, parking lot or driveway shall operate or permit the operation of any sound amplification system from within the vehicle so that the sound is plainly audible at a distance of fifty or more feet from the vehicle.

(b) "Sound amplification system" means any radio, tape player, compact disc player, loudspeaker or other electronic device used for the amplification of the human voice or musical instruments.

(c) "Plainly audible" means any sound produced by a sound amplification system from within the vehicle which can be heard at a distance of fifty feet or more. Measurement standards shall be by the auditory senses, based upon direct line of sight. Words or phrases need not be discernible and bass reverberations are included. The motor vehicle may be stopped, standing, parked or moving on a street, highway, alley, parking lot or driveway.

(d) It is an affirmative defense to a charge under this section that the operator was not otherwise prohibited by law from operating the sound amplification system and that any of the following apply:

- (1) The system was being operated to request medical or vehicular assistance or to warn of a hazardous road condition;
- (2) The vehicle was an emergency or public safety vehicle;
- (3) The vehicle was owned and operated by a governmental agency or a gas, electric, communications or refuse company;
- (4) The system was used for the purpose of giving instructions, directions, talks, addresses, lectures or transmitting music to any persons or assemblages of persons in compliance with proper authorization by the City; or
- (5) The vehicle was used in authorized public activities, such as parades, fireworks, sports events, musical productions and other activities which have the approval of the Department of the City authorized to grant such approval.

(e) Whoever violates this section is guilty of a minor misdemeanor; if the offender has had one prior conviction of this offense, the second violation of this section is a misdemeanor of the fourth degree; if the offender has had two or more prior convictions of this offense, any subsequent violation of this section is a misdemeanor of

the third degree. (Ord. 160-91. Passed 9-23-91.)

(f) Upon conviction of any person under this section, any sound amplification system which such person owns or possesses in violation of any of the provisions of this section shall be subject to confiscation in accordance with the provisions of Ohio R.C. 2933.41. (Ord. 136-92. Passed 7-27-92.)

DATE: October 7, 2002

CLERK: SHARON HOWELL

SUSP 9-0

7000 9-0

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 183 - 2002

BY: POLICE AND FIRE COMMITTEE

TITLE: AN ORDINANCE repealing Ordinance No. ¹³⁵235 - 2002 and enacting a new ordinance authorizing the Director of Public Service and Safety of the City of Massillon, to enter into a contract with Bill Castle and Castle K-9 of Mechanicsburg, Pennsylvania to purchase a trained drug detection dog to be handled by the Massillon Police Department, and declaring an emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

That Ordinance No. 135 - 2002 is hereby repealed.

Section 2:

The Council of the City of Massillon, Ohio, hereby finds that it is necessary to enter into a contract with Bill Castle and Castle K-9 of Mechanicsburg, Pennsylvania to purchase a trained drug detection dog to be handled by the Massillon Police Department.

Section 3:

The Director of Public Service and Safety of the City of Massillon is hereby authorized to enter into a contract with Bill Castle and Castle K-9 of Mechanicsburg, Pennsylvania to purchase a trained drug detection dog to be handled by the Massillon Police Department. The total cost of said drug detecting dog shall not exceed Five Thousand Five (\$5,000.00).

Section 4:

Upon delivery of the aforesaid agreement, the Director of Public Service and Safety is hereby authorized to issue vouchers to the Auditor of the City of Massillon, Ohio, directing prompt payment for said agreement and the City Auditor is authorized and directed to honor and pay said vouchers.

Section 4:

This Ordinance is declared to be an emergency measure immediately necessary for the preservation of the health, safety and welfare of the community and for the additional reason the City of Massillon enter into a contract with Bill Castle and Castle K-9 of Mechanicsburg, Pennsylvania to purchase a trained drug detection dog to be handled the Massillon Police Department. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS _____ DAY OF _____ 2002

APPROVED _____

SHARON HOWELL, CLERK OF COUNCIL

_____ DENNIS D. HARWIG, PRESIDENT

TEST _____

_____ FRANCIS H. CICCHINELLI, JR., MAYOR

DATE: October 7, 2002

CLERK: SHARON HOWELL

SUSP 9-0

pass 9-0

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 184 - 2002

BY: STREET, HIGHWAYS, TRAFFIC & SAFETY COMMITTEE

TITLE: AN ORDINANCE authorizing and directing the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into an agreement with the Ohio Department of Transportation to remove and replace the bridge deck and paint structure on SR-241 over SR-21, and declaring an emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

The Council of the City of Massillon, Ohio, hereby finds that it is necessary to enter into an agreement with the Ohio Department of Transportation to remove and replace the bridge deck and paint structure on SR-241 over SR-21

Section 2:

The Director of Public Service and Safety of the City of Massillon, Ohio, is hereby authorized and directed to enter into an agreement with the Ohio Department of Transportation to remove and replace the bridge deck and paint structure on SR-241 over SR-21,

Section 3:

This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the health, safety, and welfare of the community, and for the reason that it is necessary to enter into an agreement with Ohio Department of Transportation so as to provide necessary funding for the project. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS _____ DAY OF _____ 2002

APPROVED: _____
SHARON HOWELL, CLERK OF COUNCIL DENNIS D. HARWIG, PRESIDENT

APPROVED: _____
FRANCIS H. CICCHINELLI, JR., MAYOR

DATE: October 7, 2002

CLERK: SHARON HOWELL

Supp : 9-0

Prop 9-0

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

Passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 185 - 2002

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE making certain transfers in the 2002 appropriation from the Municipal Golf Fund to the Bond Retirement Golf Fund of the City of Massillon, Ohio, and declaring an emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

There be and hereby is transferred from the Municipal Golf Fund to the Bond Retirement Golf Fund of the City of Massillon, Ohio, the following:

\$24,945.06 FROM: "Transfer To" 1432.920.2710
TO: "Transfer In" 1302.920.1860

Section 2:

That this Ordinance is hereby declared to be an emergency measure, the reason for the emergency being that said funds are necessary for the operation of The Legends Golf Course for 2002, and for the preservation of the public health, safety and welfare of the community. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS _____ DAY OF _____ 2002

APPROVED: _____
SHARON HOWELL, CLERK OF COUNCIL DENNIS D. HARWIG, PRESIDENT

APPROVED: _____
FRANCIS H. CICCHINELLI, JR., MAYOR

DATE: October 7, 2002

CLERK: SHARON HOWELL

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

passed
LEGISLATIVE DEPARTMENT

SUSP 9-0
PRO 9-0

ORDINANCE NO. 186 - 2002

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE making certain appropriations from the unappropriated balance of the Muni Court Capital Improvement Fund, the Local Law Enforcement Block Grant Fund, Economic Development Fund and the Parks and Recreation Fund, for the year ending December 31, 2002, and declaring an emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

Secure Parking Lot Project

There be and hereby is appropriated from the unappropriated balance of the Muni Court Capital Improvement Fund for the year ending December 31, 2002, the following:

\$122,000.00 to an account entitled "Capital Projects-Parking Lot Project" 1204.125.2520

Section 2:

There be and hereby is appropriated from the unappropriated balance of the Local Law Enforcement Block Grant Fund 2002LBVX for the year ending December 31, 2002, the following:

\$ 25,110.00 to an account entitled "Supplies" 1231.305.2513

Section 4:

There be and hereby is appropriated from the unappropriated balance of the Economic Development Fund for the year ending December 31, 2002, the following:

\$ 7,000.00 to an account entitled "Income Tax-Computer System" 1237.845.2410

\$ 500.00 to an account entitled "Services/Contracts" 1237.845.2392

WORK STATION & Software upgrade

Section 5:

There be and hereby is appropriated from the unappropriated balance of the Parks and Recreation Fund for the year ending December 31, 2002, the following:

\$ 7,162.62 to an account entitled "Salary" 1234.515.2110
970.54 to an account entitled "P.E.R.S." 1234.515.2230
103.88 to an account entitled "Medicare" 1234.151.2231

Section 6:

This Ordinance is hereby declared to be an emergency measure, for the efficient operation of the various departments of the City of Massillon and for the preservation of the public health, safety and welfare of the community. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS _____ DAY OF _____ 2002

ATTEST: _____
SHARON HOWELL, CLERK OF COUNCIL DENNIS D. HARWIG, PRESIDENT

APPROVED: _____
FRANCIS H. CICCHINELLI, JR, MAYOR

Due to the fact that the refinancing ordinances for Lincoln Center III, Municipal Golf Course and WWT Upgrade were not sent from Columbus by 3:45 Friday afternoon, we will have to amend the agenda on Monday to include them. If you want to see the ordinances prior to the meeting I hope they are in my hands by noon Monday.

DATED: OCTOBER 7, 2002

CLERK: SHARON K. HOWELL

CITY OF MASSILLON, OHIO

SUSP
9-0

POSD
9-0

COUNCIL CHAMBERS

LEGISLATIVE DEPARTMENT

ORDINANCE NO. 187 - 2002

BY: THE FINANCE COMMITTEE

AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$3,767,000 OF BONDS FOR THE PURPOSE OF ACQUIRING AND IMPROVING LAND FOR THE MUNICIPAL GOLF COURSE; EXPANDING, RENOVATING AND IMPROVING THE GOLF COURSE, CLUBHOUSE AND PAVILION; FURNISHING AND EQUIPPING THE SAME; ACQUIRING NECESSARY APPURTENANCES IN CONNECTION THEREWITH; AND RETIRING NOTES PREVIOUSLY ISSUED FOR SUCH PURPOSE, AUTHORIZING A BOND PURCHASE AGREEMENT APPROPRIATE FOR THE SALE OF THE BONDS, AUTHORIZING THE PURCHASE OF A MUNICIPAL BOND INSURANCE POLICY IN CONNECTION THEREWITH, APPROVING THE FORM OF OFFICIAL STATEMENT RELATING TO THE BONDS, AND DECLARING AN EMERGENCY.

WHEREAS, the Council of the City has issued notes dated January 10, 2002, in the amount of Three Million Seven Hundred Sixty Seven Thousand Dollars (\$3,767,000) (the "Outstanding Notes") in anticipation of the issuance of the bonds herein described, which Outstanding Notes will mature January 10, 2003; and

WHEREAS, the City Auditor of the City (the "City Auditor") has certified to this Council that the estimated life of the improvements stated in the title of this ordinance (the "Project") which are to be financed from the proceeds of the bonds herein described exceeds five (5) years and the maximum maturity of said bonds is thirty (30) years; and

WHEREAS, it is now deemed necessary to issue and sell not to exceed \$3,767,000 of such bonds under authority of the general laws of the State of Ohio, including Chapter 133, Ohio Revised Code, and in particular Section 133.23 thereof, for the purpose stated in the title of this ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, COUNTY OF STARK, STATE OF OHIO, THAT:

Section 1. It is hereby declared necessary to issue bonds of the City in the principal sum of not to exceed Three Million Seven Hundred Sixty Seven Thousand Dollars (\$3,767,000), or such lesser amount as shall be determined by the City Auditor and certified to this Council, which bonds shall be designated as determined by the City Auditor (the "Bonds") for the purpose described in the title of this ordinance. The Bonds shall be issued in one lot.

Section 2. It is hereby determined, that for purposes of issuance and sale, it is in the best interest of the City to combine the Bonds with other limited tax bonds of the City, authorized by other ordinances of this Council adopted on the date hereof. The Bonds and such other bonds shall be jointly referred to herein as the "Combined Bonds." The Combined Bonds shall be designated City of Massillon, Stark County, Ohio Golf Course Refunding Bonds, Series 2002 A," or as otherwise determined by the City Auditor.

Section 3. The Combined Bonds shall be issued as fully registered bonds in book entry form only, in such denominations as shall be determined by the City Auditor, but not exceeding the principal amount of Combined Bonds maturing on any one date; shall be numbered consecutively from R-1 upward, as determined by the City Auditor; shall be dated the date determined by the City Auditor and set forth in the Certificate of Award provided for hereinbelow; and shall bear interest, payable semiannually on such dates as shall be determined by the City Auditor and set forth in the Certificate of Award, until the principal sum is paid or provision has been duly made therefor. Interest shall be calculated on the basis of a 360 day year of twelve 30-day months.

Section 4. The City Auditor is hereby authorized and directed to execute of behalf of the City a Certificate of Award (the "Certificate of Award") setting forth the aggregate principal amount and the final terms of the Combined Bonds, which aggregate principal amount and terms, subject to the limitations set forth in this ordinance, shall be as determined by the City Auditor. The Certificate of Award shall indicate the dated date for the Combined Bonds, the dates on which interest on the Combined Bonds is to be paid (the "Interest Payment Date"), the purchase price for the Combined Bonds (which shall be not less than 97% of the face value thereof), the maturity schedule for the Combined Bonds (provided that the maximum maturity date of the Combined Bonds shall not exceed the dates set forth hereinabove), the interest rates for the Combined Bonds (provided that the true interest cost for all Combined Bonds in the aggregate shall not exceed six per centum (6.00%) per annum), the optional and mandatory redemption provisions, if any, and such other terms not inconsistent with this ordinance as the City Auditor shall deem appropriate.

Section 5. The Combined Bonds shall be issued with interest payable semiannually on each Interest Payment Date until the principal sum is paid or provision has been duly made therefor (the "Current Interest Bonds") or with interest compounded on each Interest Payment Date but payable only at maturity (the "Capital Appreciation Bonds") in such proportions as shall be set forth in the Certificate of Award. The Current Interest Bonds shall be in the denominations of \$5,000 or any integral multiple thereof, and the Capital Appreciation Bonds shall be in the denominations on the date of their issuance and delivery equal to the principal amount which, when interest is accrued and compounded thereon, beginning on the

date of delivery to the Original Purchaser, and each Interest Payment Date thereafter, will equal \$5,000 or any integral multiple thereof at maturity. The Current Interest Bonds shall be dated such date as shall be determined by the City Auditor and set forth in the Certificate of Award and the Capital Appreciation Bonds shall be dated their date of delivery to the Original Purchaser (as defined hereinbelow).

Section 6. The Current Interest Bonds shall be subject to optional and mandatory redemption prior to stated maturity, as provided in the Certificate of Award. If optional redemption of the Current Interest Bonds at a redemption price exceeding 100% is to take place on any date on which a mandatory redemption of the Current Interest Bonds of the same maturity will take place, the Current Interest Bonds to be redeemed by optional redemption shall be selected by the Bond Registrar, identified hereinbelow, prior to the selection of the Current Interest Bonds to be redeemed at par on the same date.

When partial redemption is authorized, the Bond Registrar shall select Current Interest Bonds or portions thereof by lot within a maturity in such manner as the Bond Registrar may determine, provided, however, that the portion of any Current Interest Bond so selected will be in the amount of \$5,000 or any integral multiple thereof.

The notice of the call for redemption of Current Interest Bonds shall identify (i) by designation, letters, numbers or other distinguishing marks, the Current Interest Bonds or portions thereof to be redeemed, (ii) the redemption price to be paid, (iii) the date fixed for redemption, and (iv) the place or places where the amounts due upon redemption are payable. From and after the specified redemption date interest on the Current Interest Bonds (or portions thereof) called for redemption shall cease to accrue. Such notice shall be sent by first class mail at least 30 days prior to the redemption date to each registered holder of Current Interest Bonds to be redeemed at the address shown in the Bond Register (as defined hereof) on the 15th day preceding the date of mailing. Failure to receive such notice of any defect therein shall not affect the validity of the proceedings for the redemption of any Current Interest Bond.

Section 7. The Combined Bonds shall express upon their faces the purpose for which they are issued and that they are issued pursuant to this ordinance; and shall be executed by the City Auditor and the Mayor of the City, in their official capacities, provided that either or both of their signatures may be a facsimile. No Combined Bond shall be valid or become obligatory for any purpose or shall be entitled to any security or benefit under this ordinance unless and until a certificate of authentication, as printed on the Combined Bond, is signed by the Bond Registrar (as defined hereinbelow) as authenticating agent. Authentication by the Bond Registrar shall be conclusive evidence that the Combined Bond so authenticated has been duly issued and delivered under this ordinance and is entitled to the security and benefit of this ordinance. The certificate of authentication may be signed by any officer or officers of the Bond Registrar or by such other person acting as an agent of the Bond Registrar as shall be approved by the City Auditor on behalf of the City. It shall not be necessary that the same authorized person sign the certificate of authentication on all of the Combined Bonds.

Section 8. The principal of and interest on the Combined Bonds shall be payable in lawful money of the United States of America without deduction for the services of the Bond Registrar as paying agent. The principal of the Combined Bonds shall be payable upon presentation and surrender of the Combined Bonds at the principal office of the Bond Registrar. Each Combined Bond shall bear interest from the later of the date thereof, or the most recent Interest Payment Date to which interest has been paid or duly provided for, unless the date of authentication of any Combined Bond is less than 15 days prior to an Interest Payment Date, in which case interest shall accrue from such Interest Payment Date. Interest on any Combined Bond shall be paid on each Interest Payment Date by check or draft mailed to the person in whose name the Combined Bond is registered, at the close of business on the 15th day next preceding that Interest Payment Date (the "Record Date") (unless such date falls on a non-business day, in which case the

Record Date shall be the preceding business day), on the Bond Register (as defined hereinbelow) at the address appearing therein.

Any interest on any Combined Bond which is payable, but is not punctually paid or provided for, on any Interest Payment Date (herein called "Defaulted Interest") shall forthwith cease to be payable to the registered owner on the relevant Record Date by virtue of having been such owner and such Defaulted Interest shall be paid to the registered owner in whose name the Combined Bond is registered at the close of business on a date (the "Special Record Date") to be fixed by the Bond Registrar, such Special Record Date to be not more than 15 nor less than 10 days prior to the date of proposed payment. The Bond Registrar shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first class postage prepaid, to each Bondholder, at such Bondholder's address as it appears in the Bond Register, not less than 10 days prior to such Special Record Date, and may, in its discretion, cause a similar notice to be published once in a newspaper in each place where Combined Bonds are payable, but such publication shall not be a condition precedent to the establishment of such Special Record Date.

Subject to the foregoing provisions of this section, each Combined Bond delivered by the Bond Registrar upon transfer of or in exchange for or in lieu of any other Combined Bond shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Combined Bond.

Section 9. The City Auditor is hereby authorized and directed to serve as authenticating agent, bond registrar, transfer agent, and paying agent for the Combined Bonds (the "Bond Registrar") or to execute on behalf of the Council a Bond Registrar Agreement with such bank or other appropriate financial institution as shall be acceptable to the City Auditor and the Original Purchaser (as defined hereinbelow), pursuant to which such bank or financial institution shall agree to serve as the Bond Registrar for the Combined Bonds. If at any time the Bond Registrar shall be unable or unwilling to serve as such, or the City Auditor in such officer's discretion shall determine that it would be in the best interest of the City for such functions to be performed by another party, the City Auditor may, and is hereby authorized and directed to enter into an agreement with a national banking association or other appropriate institution experienced in providing such services, to perform the services required of the Bond Registrar hereunder. Each such successor Bond Registrar shall promptly advise all bondholders of the change in identity and new address of the Bond Registrar. So long as any of the Combined Bonds remain outstanding, the City shall cause to be maintained and kept by the Bond Registrar, at the office of the Bond Registrar, all books and records necessary for the registration, exchange and transfer of Combined Bonds as provided in this section (the "Bond Register"). Subject to the provisions of hereinabove, the person in whose name any Combined Bond shall be registered on the Bond Register shall be regarded as the absolute owner thereof for all purposes. Payment of or on account of the principal of and interest on any Combined Bond shall be made only to or upon the order of that person. Neither the City nor the Bond Registrar shall be affected by any notice to the contrary, but the registration may be changed as herein provided. All payments shall be valid and effectual to satisfy and discharge the liability upon the Combined Bonds, including the interest thereon, to the extent of the amount or amounts so paid.

Any Combined Bond, upon presentation and surrender at the office of the Bond Registrar, together with a request for exchange signed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Bond Registrar, may be exchanged for Combined Bonds of the same form and of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Combined Bonds surrendered, and bearing interest at the same rate and maturing on the same date.

A Combined Bond may be transferred only on the Bond Register upon presentation and surrender thereof at the office of the Bond Registrar, together with an assignment executed by the registered owner or

by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Bond Registrar. Upon that transfer, the Bond Registrar shall complete, authenticate and deliver a new Combined Bond or Combined Bonds of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Combined Bonds surrendered, and bearing interest at the same rate and maturing on the same date.

The City and the Bond Registrar shall not be required to transfer or exchange (i) any Combined Bond during a period beginning at the opening of business fifteen (15) days before the day of mailing of a notice of redemption of Combined Bonds, and ending at the close of business on the day of such mailing, or (ii) any Combined Bonds selected for redemption, in whole or in part, following the date of such mailing.

In all cases in which Combined Bonds are exchanged or transferred hereunder, the City shall cause to be executed and the Bond Registrar shall authenticate and deliver Combined Bonds in accordance with the provisions of this ordinance. The exchange or transfer shall be without charge to the owner; except that the City and Bond Registrar may make a charge sufficient to reimburse them for any tax or other governmental charge required to be paid with respect to the exchange or transfer. The City or the Bond Registrar may require that those charges, if any, be paid before it begins the procedure for the exchange or transfer of the Combined Bonds. All Combined Bonds issued upon any transfer or exchange shall be the valid obligations of the City, evidencing the same debt, and entitled to the same benefits under this ordinance, as the Combined Bonds surrendered upon that transfer or exchange.

Section 10. For purposes of this ordinance, the following terms shall have the following meanings:

"Book entry form" or "book entry system" means a form or system under which (i) the beneficial right to payment of principal of and interest on the Combined Bonds may be transferred only through a book entry and (ii) physical Combined Bonds in fully registered form are issued only to the Depository or its nominee as registered owner, with the Combined Bonds "immobilized" to the custody of the Depository, and the book entry is the record that identifies the owners of beneficial interests in those Combined Bonds.

"Depository" means any securities depository that is a clearing agency under federal law operating and maintaining, together with its participants, a book entry system to record beneficial ownership of Combined Bonds and to effect transfers of Combined Bonds, in book entry form, and includes The Depository Trust Company (a limited purpose trust company), New York, New York.

All or any portion of the Combined Bonds may be initially issued to a Depository for use in a book entry system, and the provisions of this section shall apply, notwithstanding any other provision of this ordinance; (i) there shall be a single Combined Bond of each maturity, (ii) those Combined Bonds shall be registered in the name of the Depository or its nominee, as registered owner, and immobilized in the custody of the Depository; (iii) the beneficial owners in book entry form shall have no right to receive Combined Bonds in the form of physical securities or certificates; (iv) ownership of beneficial interests in any Combined Bonds in book entry form shall be shown by book entry on the system maintained and operated by the Depository, and transfers of the ownership of beneficial interests shall be made only by the Depository and by book entry; and (v) the Combined Bonds as such shall not be transferable or exchangeable, except for transfer to another Depository or to another nominee of a Depository, without further action by the City. Combined Bond service charges on Combined Bonds in book entry form registered in the name of a Depository or its nominee shall be payable in next day funds delivered to the Depository or its authorized representative (i) in the case of interest, on each Interest Payment Date, and (ii) in all other cases, upon presentation and surrender of Combined Bonds as provided in this ordinance.

The Bond Registrar may, with the approval of the City, enter into an agreement with the beneficial owner or registered owner of any Combined Bond in the custody of a Depository providing for making all payments to that owner of principal and interest on that Combined Bond or any portion thereof (other than any payment of the entire unpaid principal amount thereof) at a place and in a manner (including wire transfer of federal funds) other than as provided above in this ordinance, without prior presentation or surrender of the Combined Bond, upon any conditions which shall be satisfactory to the Bond Registrar and to the City. That payment in any event shall be made to the person who is the registered owner of that Combined Bond on the date that principal is due, or, with respect to the payment of interest, as of the applicable date agreed upon as the case may be. The Bond Registrar shall furnish a copy of each of those agreements, certified to be correct by the Bond Registrar, to other paying agents for Combined Bonds and to the City. Any payment of principal or interest pursuant to such an agreement shall constitute payment thereof pursuant to, and for all purposes of, this ordinance.

The City Auditor and the Mayor of the City are authorized and directed to execute, acknowledge and deliver, in the name of and on behalf of the City, the letter agreement among the City, the Bond Registrar and The Depository Trust Company, as depository, to be delivered in connection with the issuance of the Combined Bonds to the Depository for use in a book entry system in substantially the form submitted to this Council.

If any Depository determines not to continue to act as a depository for the Combined Bonds for use in a book entry system, the City and the Bond Registrar may attempt to establish a securities depository/book entry relationship with another qualified Depository under this ordinance. If the City and the Bond Registrar do not or are unable to do so, the City and the Bond Registrar, after the Bond Registrar has made provision for notification of the beneficial owners by the then Depository, shall permit withdrawal of the Combined Bonds from the Depository and authenticate and deliver bond certificates in fully registered form to the assigns of the Depository or its nominee, all at the cost and expense (including costs of printing definitive Combined Bonds), if the event is not the result of action or inaction by the City or the Bond Registrar, of those persons requesting such issuance.

Section 11. There shall be and is hereby levied annually on all the taxable property in the City, in addition to all other taxes and within the ten mill limitation, a direct tax (the "Debt Service Levy") for each year during which any of the Combined Bonds are outstanding, for the purpose of providing, and in an amount which is sufficient to provide, funds to pay interest upon the Combined Bonds as and when the same falls due and to provide a fund for the repayment of the principal of the Combined Bonds at maturity or upon redemption. The Debt Service Levy shall not be less than the interest and sinking fund tax required by Article XII, Section 11 of the Ohio Constitution; provided, however, that in each year to the extent that funds are available from other sources and are lawfully appropriated for the payment of the Combined Bonds, the amount of the Debt Service Levy shall be reduced by the amount of such funds so available and appropriated.

Section 12. The Debt Service Levy shall be and is hereby ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers, in the same manner, and at the same time that taxes for general purposes for each of such years are certified, extended and collected. The Debt Service Levy shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from the Debt Service Levy shall be placed in a separate and distinct fund, which shall be irrevocably pledged for the payment of the interest and principal of the Combined Bonds when and as the same falls due.

Section 13. The Combined Bonds shall be sold at private sale to Fifth Third Securities, Columbus, Ohio (the "Original Purchaser") at the purchase price set forth in the Certificate of Award, plus

interest accrued to the date of delivery of the Combined Bonds to the Original Purchaser. The City Auditor and the Mayor of the City, or either of them individually, are authorized and directed to execute on behalf of the City a Bond Purchase Agreement with the Original Purchaser, setting forth the conditions under which the Combined Bonds are to be sold and delivered, which agreement shall not be substantially inconsistent with the form heretofore presented to the Council.

The proceeds from the sale of the Combined Bonds, except the premium and accrued interest thereon, shall be used for the purpose aforesaid and for no other purpose. The premium and accrued interest received from such sale shall be transferred to the Bond Retirement Fund to be applied to the payment of the principal of and interest on the Combined Bonds, or other outstanding obligations of the City, in the manner provided by law.

Section 14. The City hereby covenants that it shall comply with the requirements of all existing and future laws which must be satisfied in order that interest on the Combined Bonds is and will continue to be excluded from gross income for federal income tax purposes, including without limitation restrictions on the use of the property financed with the proceeds of the Combined Bonds so that the Combined Bonds will not constitute "private activity bonds" within the meaning of Section 141 of the Internal Revenue Code of 1986, as amended (the "Code"). The City further covenants that it shall restrict the use of the proceeds of the Combined Bonds in such manner and to such extent, if any, as may be necessary, after taking into account reasonable expectations at the time the Combined Bonds are issued, so that they will not constitute arbitrage bonds under Section 148 of the Code and the regulations prescribed thereunder or under the Internal Revenue Code of 1954, as amended (the "Regulations").

The City Auditor, or any other officer, including the Mayor, is hereby authorized and directed (a) to make or effect any election, selection, designation, choice, consent, approval or waiver on behalf of the City with respect to the Combined Bonds as permitted or required to be made or given under the federal income tax laws, for the purpose of assuring, enhancing or protecting favorable tax treatment or the status of the Combined Bonds or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing any rebate amount or any payment of penalties, or making any payments of special amounts in lieu of making computations to determine, or paying, any excess earnings as rebate, or obviating those amounts or payments, as determined by the City Auditor, which action shall be in writing and signed by the City Auditor, or any other officer, including the Mayor, on behalf of the City; (b) to take any and all actions, make or obtain calculations, and make or give reports, covenants and certifications of and on behalf of the City, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the Combined Bonds; and (c) to give an appropriate certificate on behalf of the City, for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances, and reasonable expectations of the City pertaining to Section 148 and the Regulations, and the representations, warranties and covenants of the City regarding compliance by the City with Sections 141 through 150 of the Code and the Regulations.

The City Auditor shall keep and maintain adequate records pertaining to investment of all proceeds of the Combined Bonds sufficient to permit, to the maximum extent possible and presently foreseeable, the City to comply with any federal law or regulation now or hereafter having applicability to the Combined Bonds which limits the amount of bond proceeds which may be invested on an unrestricted yield or requires the City to rebate arbitrage profits to the United States Department of the Treasury. The City Auditor is hereby authorized and directed to file such reports with, and rebate arbitrage profits to, the United States Department of the Treasury, to the extent that any federal law or regulation having applicability to the Combined Bonds requires any such reports or rebates.

Section 15. The City Auditor, or any other officer, including the Mayor, is authorized to make appropriate arrangements, if such officer deems it in the best interest of the City, for the issuance of a municipal bond insurance policy with respect to all or any portion of the Combined Bonds, including executing and delivering a commitment therefor and certificates and other documents in connection therewith. All additional provisions required to be authorized by this Council for the issuance of a municipal bond insurance policy shall be contained in the Certificate of Award.

Section 16. The form of Preliminary Official Statement relating to the Combined Bonds as presented to this Council, and the distribution thereof by the Original Purchaser, are hereby authorized, approved, ratified and confirmed. The proposed form of final Official Statement relating to the Combined Bonds, as presented to this Council, and the distribution by the Original Purchaser of the final Official Statement, in substantially the form presented to this Council, are hereby authorized and approved. The City Auditor and the Mayor of the City are authorized to execute and deliver the final Official Statement on behalf of the City, which shall be substantially as per the form of Official Statement heretofore presented to this Council, with such changes as the City Auditor and the Mayor may approve; their execution thereof on behalf of the City to be conclusive evidence of such authorization and approval, and copies thereof are hereby authorized to be prepared and furnished to the Original Purchaser for distribution to prospective purchasers of the Combined Bonds and other interested persons.

Section 17. The officer having charge of the minutes of the Council and any other officers of the Council, or any of them individually, are hereby authorized and directed to prepare and certify a true transcript of proceedings pertaining to the Combined Bonds and to furnish a copy of such transcript to the Original Purchaser. Such transcript shall include certified copies of all proceedings and records of the Council relating to the power and authority of the City to issue the Combined Bonds and certificates as to matters within their knowledge or as shown by the books and records under their custody and control, including but not limited to a general certificate of the City Auditor and a no-litigation certificate of the Mayor and the City Auditor, and such certified copies and certificates shall be deemed representations of the City as to the facts stated therein.

Section 18. It is hereby found and determined that all acts, conditions and things necessary to be done precedent to and in the issuing of the Combined Bonds in order to make them legal, valid and binding obligations of the City have happened, been done and been performed in regular and due form as required by law; that the faith, credit and revenue of the City are hereby irrevocably pledged for the prompt payment of the principal and interest thereof at maturity; and that no limitation of indebtedness or taxation, either statutory or constitutional, has been exceeded in issuing the Combined Bonds.

Section 19. It is hereby 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 and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 20. The City Clerk is hereby directed to forward a certified copy of this ordinance to the County Auditor of Stark County, Ohio.

Section 21. This ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health and safety of the City and its inhabitants for the reason that this ordinance must be immediately effective so that the Combined Bonds can be sold as soon as possible to take advantage of favorable interest rates; wherefore this ordinance shall take effect and be in force from and immediately after its adoption.

Adopted in Council on this 7th day of October, 2002.

Attest:

Clerk

President of Council

Approved:

Mayor

CERTIFICATE

The undersigned Clerk hereby certifies that the foregoing is a true copy of Ordinance No. _____ duly adopted by the Council of the City of Massillon, Stark County, Ohio on October 7, 2002 and that a true copy thereof was certified to the County Auditor of Stark County, Ohio on _____, 2002.

Clerk
City of Massillon
Stark County, Ohio

RECEIPT OF COUNTY AUDITOR FOR
LEGISLATION PROVIDING
FOR THE ISSUANCE OF
GENERAL OBLIGATION BONDS

I, Janet Weir Creighton, the duly elected, qualified, and acting County Auditor in and for Stark County, Ohio hereby certify that a certified copy of Ordinance No. 187-2002 duly adopted by the City Council of the City of Massillon, Stark County, Ohio on October 7, 2002 providing for the issuance of general obligation bonds designated City of Massillon, Stark County, Ohio Golf Course Refunding Bonds, Series 2002 A, in the amount of not to exceed \$3,767,000 was filed in this office on _____, 2002.

WITNESS my hand and official seal at Canton, Ohio on _____, 2002.

[SEAL]

County Auditor
Stark County, Ohio

DATED: OCTOBER 7, 2002

CLERK: SHARON K. HOWELL

CITY OF MASSILLON, OHIO

505P 9-0
P500 9-0
COUNCIL CHAMBERS

LEGISLATIVE DEPARTMENT

ORDINANCE NO. 188 - 2002

BY: THE FINANCE COMMITTEE

AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$2,645,000 OF BONDS FOR THE PURPOSE OF ADVANCE REFUNDING A PORTION OF BONDS ISSUED IN 1995 FOR THE PURPOSE OF DESIGN, DEVELOPMENT, CONSTRUCTION AND ACQUISITION OF A MUNICIPAL GOLF COURSE AND RELATED FACILITIES, AUTHORIZING A BOND PURCHASE AGREEMENT APPROPRIATE FOR THE SALE OF THE BONDS, AUTHORIZING THE PURCHASE OF A MUNICIPAL BOND INSURANCE POLICY IN CONNECTION THEREWITH, APPROVING THE FORM OF OFFICIAL STATEMENT RELATING TO THE BONDS, AND DECLARING AN EMERGENCY.

WHEREAS, the Council of the City has issued bonds dated October 1, 1995, in the amount of Three Million Ninety-Five Thousand Dollars (\$3,095,000) (the "Outstanding Bonds"); and

WHEREAS, in view of currently prevailing lower interest rates the Council has determined that is advisable and in the best interest of the City to issue refunding bonds of the City to advance refund a portion of the Outstanding Bonds (the "Refunded Bonds"); and

WHEREAS, the City Auditor of the City (the "City Auditor") has certified to this Council that the maximum maturity and authorized principal amount of the bonds herein authorized cannot exceed the maximum maturity and principal amount of the Refunded Bonds; and

WHEREAS, it is now deemed necessary to issue and sell not to exceed \$2,645,000 of such bonds under authority of the general laws of the State of Ohio, including Chapter 133, Ohio Revised Code, and in particular Section 133.34 thereof, for the purpose stated in the title of this ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, COUNTY OF STARK, STATE OF OHIO, THAT:

Section 1. It is hereby declared necessary to issue bonds of the City in the principal sum of not to exceed Two Million Six Hundred Forty Five Thousand Dollars (\$2,645,000), or such lesser amount as shall be determined by the City Auditor and certified to this Council, which bonds shall be designated as determined by the City Auditor (the "Bonds") for the purpose described in the title of this ordinance. The Bonds shall be issued in one lot.

Section 2. It is hereby determined, that for purposes of issuance and sale, it is in the best interest of the City to combine the Bonds with other limited tax bonds of the City, authorized by other ordinances of this Council adopted on the date hereof. The Bonds and such other bonds shall be jointly referred to herein as the "Combined Bonds." The Combined Bonds shall be designated City of Massillon, Stark County, Ohio Golf Course Refunding Bonds, Series 2002 A," or as otherwise determined by the City Auditor.

Section 3. The Combined Bonds shall be issued as fully registered bonds in book entry form only, in such denominations as shall be determined by the City Auditor, but not exceeding the principal amount of Combined Bonds maturing on any one date; shall be numbered consecutively from R-1 upward, as determined by the City Auditor; shall be dated the date determined by the City Auditor and set forth in the Certificate of Award provided for hereinbelow; and shall bear interest, payable semiannually on such dates as shall be determined by the City Auditor and set forth in the Certificate of Award, until the principal sum is paid or provision has been duly made therefor. Interest shall be calculated on the basis of a 360 day year of twelve 30-day months.

Section 4. The City Auditor is hereby authorized and directed to execute of behalf of the City a Certificate of Award (the "Certificate of Award") setting forth the aggregate principal amount and the final terms of the Combined Bonds, which aggregate principal amount and terms, subject to the limitations set forth in this ordinance, shall be as determined by the City Auditor. The Certificate of Award shall indicate the dated date for the Combined Bonds, the dates on which interest on the Combined Bonds is to be paid (the "Interest Payment Date"), the purchase price for the Combined Bonds (which shall be not less than 97% of the face value thereof), the maturity schedule for the Combined Bonds (provided that the maximum maturity date of the Combined Bonds shall not exceed the dates set forth hereinabove), the interest rates for the Combined Bonds (provided that the true interest cost for all Combined Bonds in the aggregate shall not exceed six per centum (6.00%) per annum), the optional and mandatory redemption provisions, if any, and such other terms not inconsistent with this ordinance as the City Auditor shall deem appropriate.

Section 5. The Combined Bonds shall be issued with interest payable semiannually on each Interest Payment Date until the principal sum is paid or provision has been duly made therefor (the "Current Interest Bonds") or with interest compounded on each Interest Payment Date but payable only at maturity (the "Capital Appreciation Bonds") in such proportions as shall be set forth in the Certificate of Award. The Current Interest Bonds shall be in the denominations of \$5,000 or any integral multiple thereof, and the Capital Appreciation Bonds shall be in the denominations on the date of their issuance and delivery equal to the principal amount which, when interest is accrued and compounded thereon, beginning on the date of delivery to the Original Purchaser, and each Interest Payment Date thereafter, will equal \$5,000 or any integral multiple thereof at maturity. The Current Interest Bonds shall be dated such date as shall be determined by the City Auditor and set forth in the Certificate of Award and the Capital Appreciation Bonds shall be dated their date of delivery to the Original Purchaser (as defined hereinbelow).

Section 6. The Current Interest Bonds shall be subject to optional and mandatory redemption prior to stated maturity, as provided in the Certificate of Award. If optional redemption of the Current Interest Bonds at a redemption price exceeding 100% is to take place on any date on which a mandatory redemption of the Current Interest Bonds of the same maturity will take place, the Current Interest Bonds to be redeemed by optional redemption shall be selected by the Bond Registrar, identified hereinbelow, prior to the selection of the Current Interest Bonds to be redeemed at par on the same date.

When partial redemption is authorized, the Bond Registrar shall select Current Interest Bonds or portions thereof by lot within a maturity in such manner as the Bond Registrar may determine, provided, however, that the portion of any Current Interest Bond so selected will be in the amount of \$5,000 or any integral multiple thereof.

The notice of the call for redemption of Current Interest Bonds shall identify (i) by designation, letters, numbers or other distinguishing marks, the Current Interest Bonds or portions thereof to be redeemed, (ii) the redemption price to be paid, (iii) the date fixed for redemption, and (iv) the place or places where the amounts due upon redemption are payable. From and after the specified redemption date interest on the Current Interest Bonds (or portions thereof) called for redemption shall cease to accrue. Such notice shall be sent by first class mail at least 30 days prior to the redemption date to each registered holder of Current Interest Bonds to be redeemed at the address shown in the Bond Register (as defined hereof) on the 15th day preceding the date of mailing. Failure to receive such notice of any defect therein shall not affect the validity of the proceedings for the redemption of any Current Interest Bond.

Section 7. The Combined Bonds shall express upon their faces the purpose for which they are issued and that they are issued pursuant to this ordinance; and shall be executed by the City Auditor and the Mayor of the City, in their official capacities, provided that either or both of their signatures may be a facsimile. No Combined Bond shall be valid or become obligatory for any purpose or shall be entitled to any security or benefit under this ordinance unless and until a certificate of authentication, as printed on the Combined Bond, is signed by the Bond Registrar (as defined hereinbelow) as authenticating agent. Authentication by the Bond Registrar shall be conclusive evidence that the Combined Bond so authenticated has been duly issued and delivered under this ordinance and is entitled to the security and benefit of this ordinance. The certificate of authentication may be signed by any officer or officers of the Bond Registrar or by such other person acting as an agent of the Bond Registrar as shall be approved by the City Auditor on behalf of the City. It shall not be necessary that the same authorized person sign the certificate of authentication on all of the Combined Bonds.

Section 8. The principal of and interest on the Combined Bonds shall be payable in lawful money of the United States of America without deduction for the services of the Bond Registrar as paying agent. The principal of the Combined Bonds shall be payable upon presentation and surrender of the Combined Bonds at the principal office of the Bond Registrar. Each Combined Bond shall bear interest from the later of the date thereof, or the most recent Interest Payment Date to which interest has been paid or duly provided for, unless the date of authentication of any Combined Bond is less than 15 days prior to an Interest Payment Date, in which case interest shall accrue from such Interest Payment Date. Interest on any Combined Bond shall be paid on each Interest Payment Date by check or draft mailed to the person in whose name the Combined Bond is registered, at the close of business on the 15th day next preceding that Interest Payment Date (the "Record Date") (unless such date falls on a non-business day, in which case the Record Date shall be the preceding business day), on the Bond Register (as defined hereinbelow) at the address appearing therein.

Any interest on any Combined Bond which is payable, but is not punctually paid or provided for, on any Interest Payment Date (herein called "Defaulted Interest") shall forthwith cease to be payable to the

registered owner on the relevant Record Date by virtue of having been such owner and such Defaulted Interest shall be paid to the registered owner in whose name the Combined Bond is registered at the close of business on a date (the "Special Record Date") to be fixed by the Bond Registrar, such Special Record Date to be not more than 15 nor less than 10 days prior to the date of proposed payment. The Bond Registrar shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first class postage prepaid, to each Bondholder, at such Bondholder's address as it appears in the Bond Register, not less than 10 days prior to such Special Record Date, and may, in its discretion, cause a similar notice to be published once in a newspaper in each place where Combined Bonds are payable, but such publication shall not be a condition precedent to the establishment of such Special Record Date.

Subject to the foregoing provisions of this section, each Combined Bond delivered by the Bond Registrar upon transfer of or in exchange for or in lieu of any other Combined Bond shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Combined Bond.

Section 9. The City Auditor is hereby authorized and directed to serve as authenticating agent, bond registrar, transfer agent, and paying agent for the Combined Bonds (the "Bond Registrar") or to execute on behalf of the Council a Bond Registrar Agreement with such bank or other appropriate financial institution as shall be acceptable to the City Auditor and the Original Purchaser (as defined hereinbelow), pursuant to which such bank or financial institution shall agree to serve as the Bond Registrar for the Combined Bonds. If at any time the Bond Registrar shall be unable or unwilling to serve as such, or the City Auditor in such officer's discretion shall determine that it would be in the best interest of the City for such functions to be performed by another party, the City Auditor may, and is hereby authorized and directed to enter into an agreement with a national banking association or other appropriate institution experienced in providing such services, to perform the services required of the Bond Registrar hereunder. Each such successor Bond Registrar shall promptly advise all bondholders of the change in identity and new address of the Bond Registrar. So long as any of the Combined Bonds remain outstanding, the City shall cause to be maintained and kept by the Bond Registrar, at the office of the Bond Registrar, all books and records necessary for the registration, exchange and transfer of Combined Bonds as provided in this section (the "Bond Register"). Subject to the provisions of hereinabove, the person in whose name any Combined Bond shall be registered on the Bond Register shall be regarded as the absolute owner thereof for all purposes. Payment of or on account of the principal of and interest on any Combined Bond shall be made only to or upon the order of that person. Neither the City nor the Bond Registrar shall be affected by any notice to the contrary, but the registration may be changed as herein provided. All payments shall be valid and effectual to satisfy and discharge the liability upon the Combined Bonds, including the interest thereon, to the extent of the amount or amounts so paid.

Any Combined Bond, upon presentation and surrender at the office of the Bond Registrar, together with a request for exchange signed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Bond Registrar, may be exchanged for Combined Bonds of the same principal and of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Combined Bonds surrendered, and bearing interest at the same rate and maturing on the same date.

A Combined Bond may be transferred only on the Bond Register upon presentation and surrender thereof at the office of the Bond Registrar, together with an assignment executed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Bond Registrar. Upon that transfer, the Bond Registrar shall complete, authenticate and deliver a new Combined Bond or Combined Bonds of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Combined Bonds surrendered, and bearing interest at the same rate and maturing on the same date.

The City and the Bond Registrar shall not be required to transfer or exchange (i) any Combined Bond during a period beginning at the opening of business fifteen (15) days before the day of mailing of a notice of redemption of Combined Bonds, and ending at the close of business on the day of such mailing, or (ii) any Combined Bonds selected for redemption, in whole or in part, following the date of such mailing.

In all cases in which Combined Bonds are exchanged or transferred hereunder, the City shall cause to be executed and the Bond Registrar shall authenticate and deliver Combined Bonds in accordance with the provisions of this ordinance. The exchange or transfer shall be without charge to the owner; except that the City and Bond Registrar may make a charge sufficient to reimburse them for any tax or other governmental charge required to be paid with respect to the exchange or transfer. The City or the Bond Registrar may require that those charges, if any, be paid before it begins the procedure for the exchange or transfer of the Combined Bonds. All Combined Bonds issued upon any transfer or exchange shall be the valid obligations of the City, evidencing the same debt, and entitled to the same benefits under this ordinance, as the Combined Bonds surrendered upon that transfer or exchange.

Section 10. For purposes of this ordinance, the following terms shall have the following meanings:

"Book entry form" or "book entry system" means a form or system under which (i) the beneficial right to payment of principal of and interest on the Combined Bonds may be transferred only through a book entry and (ii) physical Combined Bonds in fully registered form are issued only to the Depository or its nominee as registered owner, with the Combined Bonds "immobilized" to the custody of the Depository, and the book entry is the record that identifies the owners of beneficial interests in those Combined Bonds.

"Depository" means any securities depository that is a clearing agency under federal law operating and maintaining, together with its participants, a book entry system to record beneficial ownership of Combined Bonds and to effect transfers of Combined Bonds, in book entry form, and includes The Depository Trust Company (a limited purpose trust company), New York, New York.

All or any portion of the Combined Bonds may be initially issued to a Depository for use in a book entry system, and the provisions of this section shall apply, notwithstanding any other provision of this ordinance; (i) there shall be a single Combined Bond of each maturity, (ii) those Combined Bonds shall be registered in the name of the Depository or its nominee, as registered owner, and immobilized in the custody of the Depository; (iii) the beneficial owners in book entry form shall have no right to receive Combined Bonds in the form of physical securities or certificates; (iv) ownership of beneficial interests in any Combined Bonds in book entry form shall be shown by book entry on the system maintained and operated by the Depository, and transfers of the ownership of beneficial interests shall be made only by the Depository and by book entry; and (v) the Combined Bonds as such shall not be transferable or exchangeable, except for transfer to another Depository or to another nominee of a Depository, without further action by the City. Combined Bond service charges on Combined Bonds in book entry form registered in the name of a Depository or its nominee shall be payable in next day funds delivered to the Depository or its authorized representative (i) in the case of interest, on each Interest Payment Date, and (ii) in all other cases, upon presentation and surrender of Combined Bonds as provided in this ordinance.

The Bond Registrar may, with the approval of the City, enter into an agreement with the beneficial owner or registered owner of any Combined Bond in the custody of a Depository providing for making all payments to that owner of principal and interest on that Combined Bond or any portion thereof (other than any payment of the entire unpaid principal amount thereof) at a place and in a manner (including wire transfer of federal funds) other than as provided above in this ordinance, without prior presentation or

surrender of the Combined Bond, upon any conditions which shall be satisfactory to the Bond Registrar and to the City. That payment in any event shall be made to the person who is the registered owner of that Combined Bond on the date that principal is due, or, with respect to the payment of interest, as of the applicable date agreed upon as the case may be. The Bond Registrar shall furnish a copy of each of those agreements, certified to be correct by the Bond Registrar, to other paying agents for Combined Bonds and to the City. Any payment of principal or interest pursuant to such an agreement shall constitute payment thereof pursuant to, and for all purposes of, this ordinance.

The City Auditor and the Mayor of the City are authorized and directed to execute, acknowledge and deliver, in the name of and on behalf of the City, the letter agreement among the City, the Bond Registrar and The Depository Trust Company, as depository, to be delivered in connection with the issuance of the Combined Bonds to the Depository for use in a book entry system in substantially the form submitted to this Council.

If any Depository determines not to continue to act as a depository for the Combined Bonds for use in a book entry system, the City and the Bond Registrar may attempt to establish a securities depository/book entry relationship with another qualified Depository under this ordinance. If the City and the Bond Registrar do not or are unable to do so, the City and the Bond Registrar, after the Bond Registrar has made provision for notification of the beneficial owners by the then Depository, shall permit withdrawal of the Combined Bonds from the Depository and authenticate and deliver bond certificates in fully registered form to the assigns of the Depository or its nominee, all at the cost and expense (including costs of printing definitive Combined Bonds), if the event is not the result of action or inaction by the City or the Bond Registrar, of those persons requesting such issuance.

Section 11. There shall be and is hereby levied annually on all the taxable property in the City, in addition to all other taxes and within the ten mill limitation, a direct tax (the "Debt Service Levy") for each year during which any of the Combined Bonds are outstanding, for the purpose of providing, and in an amount which is sufficient to provide, funds to pay interest upon the Combined Bonds as and when the same falls due and to provide a fund for the repayment of the principal of the Combined Bonds at maturity or upon redemption. The Debt Service Levy shall not be less than the interest and sinking fund tax required by Article XII, Section 11 of the Ohio Constitution; provided, however, that in each year to the extent that funds are available from other sources and are lawfully appropriated for the payment of the Combined Bonds, the amount of the Debt Service Levy shall be reduced by the amount of such funds so available and appropriated.

Section 12. The Debt Service Levy shall be and is hereby ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers, in the same manner, and at the same time that taxes for general purposes for each of such years are certified, extended and collected. The Debt Service Levy shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from the Debt Service Levy shall be placed in a separate and distinct fund, which shall be irrevocably pledged for the payment of the interest and principal of the Combined Bonds when and as the same falls due.

Section 13. The Combined Bonds shall be sold at private sale to Fifth Third Securities, Columbus, Ohio (the "Original Purchaser") at the purchase price set forth in the Certificate of Award, plus interest accrued to the date of delivery of the Combined Bonds to the Original Purchaser. The City Auditor and the Mayor of the City, or either of them individually, are authorized and directed to execute on behalf of the City a Bond Purchase Agreement with the Original Purchaser, setting forth the conditions under which the Combined Bonds are to be sold and delivered, which agreement shall not be substantially inconsistent with the form heretofore presented to the Council.

The proceeds from the sale of the Combined Bonds, except the premium and accrued interest thereon, shall be used for the purpose aforesaid and for no other purpose. The premium and accrued interest received from such sale shall be transferred to the Bond Retirement Fund to be applied to the payment of the principal of and interest on the Combined Bonds, or other outstanding obligations of the City, in the manner provided by law.

Section 14. There is hereby created and established, as an account within the Bond Retirement Fund of the City, a trust fund to be designated "City of Massillon, Stark County, Ohio - Golf Course Refunding Bonds Escrow Fund" (the "Escrow Fund") which shall be in the custody of the Escrow Trustee, as hereinafter defined. The proceeds from the sale of the Bonds, except the accrued interest thereon, shall be deposited in the Escrow Fund. The accrued interest received from such sale shall be transferred to the Bond Retirement Fund to be applied to the payment of the principal and interest on the Combined Bonds in the manner provided by law.

The City Auditor is hereby authorized and directed to execute on behalf of the City an Escrow Agreement (the "Escrow Agreement") with a bank or trust company to be selected by the City Auditor (the "Escrow Trustee"), setting forth the terms by which the Escrow Fund shall be held and disbursed, which Escrow Agreement shall be in such form, not inconsistent with this ordinance, as the City Auditor shall determine. Pursuant to the Escrow Agreement, the Escrow Trustee shall apply the moneys deposited in the Escrow Fund to the purchase of direct obligations of the United States of America of such maturities and interest payment dates and bear paying interest as will, as certified by such independent public accounting firm as shall be acceptable to the City Auditor and the Original Purchaser without further investment or reinvestment of either the principal amount thereof or the interest earnings therefrom, be sufficient to (i) pay the interest on the Refunded Bonds which is due and payable on each June 1 and December 1, beginning December 1, 2002 and continuing through the earliest optional redemption date for the Refunded Bonds; and (ii) redeem the Refunded Bonds to be refunded by optional redemption on such earliest optional redemption date, and pay any redemption premium thereon.

Section 15. The City hereby covenants that it shall comply with the requirements of all existing and future laws which must be satisfied in order that interest on the Combined Bonds is and will continue to be excluded from gross income for federal income tax purposes, including without limitation restrictions on the use of the property financed with the proceeds of the Combined Bonds so that the Combined Bonds will not constitute "private activity bonds" within the meaning of Section 141 of the Internal Revenue Code of 1986, as amended (the "Code"). The City further covenants that it shall restrict the use of the proceeds of the Combined Bonds in such manner and to such extent, if any, as may be necessary, after taking into account reasonable expectations at the time the Combined Bonds are issued, so that they will not constitute arbitrage bonds under Section 148 of the Code and the regulations prescribed thereunder or under the Internal Revenue Code of 1954, as amended (the "Regulations").

The City Auditor, or any other officer, including the Mayor, is hereby authorized and directed (a) to make or effect any election, selection, designation, choice, consent, approval or waiver on behalf of the City with respect to the Combined Bonds as permitted or required to be made or given under the federal income tax laws, for the purpose of assuring, enhancing or protecting favorable tax treatment or the status of the Combined Bonds or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing any rebate amount or any payment of penalties, or making any payments of special amounts in lieu of making computations to determine, or paying, any excess earnings as rebate, or obviating those amounts or payments, as determined by the City Auditor, which action shall be in writing and signed by the City Auditor, or any other officer, including the Mayor, on behalf of the City; (b) to take any and all actions, make or obtain calculations, and make or give reports,

covenants and certifications of and on behalf of the City, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the Combined Bonds; and (c) to give an appropriate certificate on behalf of the City, for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances, and reasonable expectations of the City pertaining to Section 148 and the Regulations, and the representations, warranties and covenants of the City regarding compliance by the City with Sections 141 through 150 of the Code and the Regulations.

The City Auditor shall keep and maintain adequate records pertaining to investment of all proceeds of the Combined Bonds sufficient to permit, to the maximum extent possible and presently foreseeable, the City to comply with any federal law or regulation now or hereafter having applicability to the Combined Bonds which limits the amount of bond proceeds which may be invested on an unrestricted yield or requires the City to rebate arbitrage profits to the United States Department of the Treasury. The City Auditor is hereby authorized and directed to file such reports with, and rebate arbitrage profits to, the United States Department of the Treasury, to the extent that any federal law or regulation having applicability to the Combined Bonds requires any such reports or rebates.

Section 16. The City Auditor, or any other officer, including the Mayor, is authorized to make appropriate arrangements, if such officer deems it in the best interest of the City, for the issuance of a municipal bond insurance policy with respect to all or any portion of the Combined Bonds, including executing and delivering a commitment therefor and certificates and other documents in connection therewith. All additional provisions required to be authorized by this Council for the issuance of a municipal bond insurance policy shall be contained in the Certificate of Award.

Section 17. The form of Preliminary Official Statement relating to the Combined Bonds as presented to this Council, and the distribution thereof by the Original Purchaser, are hereby authorized, approved, ratified and confirmed. The proposed form of final Official Statement relating to the Combined Bonds, as presented to this Council, and the distribution by the Original Purchaser of the final Official Statement, in substantially the form presented to this Council, are hereby authorized and approved. The City Auditor and the Mayor of the City are authorized to execute and deliver the final Official Statement on behalf of the City, which shall be substantially as per the form of Official Statement heretofore presented to this Council, with such changes as the City Auditor and the Mayor may approve; their execution thereof on behalf of the City to be conclusive evidence of such authorization and approval, and copies thereof are hereby authorized to be prepared and furnished to the Original Purchaser for distribution to prospective purchasers of the Combined Bonds and other interested persons.

Section 18. The officer having charge of the minutes of the Council and any other officers of the Council, or any of them individually, are hereby authorized and directed to prepare and certify a true transcript of proceedings pertaining to the Combined Bonds and to furnish a copy of such transcript to the Original Purchaser. Such transcript shall include certified copies of all proceedings and records of the Council relating to the power and authority of the City to issue the Combined Bonds and certificates as to matters within their knowledge or as shown by the books and records under their custody and control, including but not limited to a general certificate of the City Auditor and a no-litigation certificate of the Mayor and the City Auditor, and such certified copies and certificates shall be deemed representations of the City as to the facts stated therein.

Section 19. It is hereby found and determined that all acts, conditions and things necessary to be done precedent to and in the issuing of the Combined Bonds in order to make them legal, valid and binding obligations of the City have happened, been done and been performed in regular and due form as required by law; that the faith, credit and revenue of the City are hereby irrevocably pledged for the prompt

payment of the principal and interest thereof at maturity; and that no limitation of indebtedness or taxation, either statutory or constitutional, has been exceeded in issuing the Combined Bonds.

Section 20. It is hereby 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 and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 21. The City Clerk is hereby directed to forward a certified copy of this ordinance to the County Auditor of Stark County, Ohio.

Section 22. This ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health and safety of the City and its inhabitants for the reason that this ordinance must be immediately effective so that the Combined Bonds can be sold as soon as possible to take advantage of favorable interest rates; wherefore this ordinance shall take effect and be in force from and immediately after its adoption.

Adopted in Council on this 7th day of October, 2002.

Attest:

Clerk

President of Council

Approved:

Mayor

CERTIFICATE

The undersigned Clerk hereby certifies that the foregoing is a true copy of Ordinance No. _____ duly adopted by the Council of the City of Massillon, Stark County, Ohio on October 7, 2002 and that a true copy thereof was certified to the County Auditor of Stark County, Ohio on _____, 2002.

Clerk
City of Massillon
Stark County, Ohio

RECEIPT OF COUNTY AUDITOR FOR
LEGISLATION PROVIDING
FOR THE ISSUANCE OF
GENERAL OBLIGATION BONDS

I, Janet Weir Creighton, the duly elected, qualified, and acting County Auditor in and for Stark County, Ohio hereby certify that a certified copy of Ordinance No. 188 - 2002 duly adopted by the City Council of the City of Massillon, Stark County, Ohio on October 7, 2002 providing for the issuance of general obligation bonds designated City of Massillon, Stark County, Ohio Golf Course Refunding Bonds, Series 2002 A, in the amount of not to exceed \$2,645,000 was filed in this office on _____, 2002.

WITNESS my hand and official seal at Canton, Ohio on _____, 2002.

[SEAL]

County Auditor
Stark County, Ohio

DATED: OCTOBER 7, 2002

CLERK: SHARON K. HOWELL

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

LEGISLATIVE DEPARTMENT

ORDINANCE NO. 189 - 2002

BY: THE FINANCE COMMITTEE

AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$2,805,000 OF BONDS FOR THE PURPOSE OF ADVANCE REFUNDING A PORTION OF BONDS ISSUED IN 1994 FOR THE PURPOSE OF ACQUIRING LAND AND INTERESTS IN LAND FOR URBAN REDEVELOPMENT, AUTHORIZING A BOND PURCHASE AGREEMENT APPROPRIATE FOR THE SALE OF THE BONDS, AUTHORIZING THE PURCHASE OF A MUNICIPAL BOND INSURANCE POLICY IN CONNECTION THEREWITH, APPROVING THE FORM OF OFFICIAL STATEMENT RELATING TO THE BONDS, AND DECLARING AN EMERGENCY.

WHEREAS, the Council of the City has issued bonds dated August 1, 1994, in the amount of Three Million Six Hundred Fifty Thousand Dollars (\$3,650,000) (the "Outstanding Bonds"); and

WHEREAS, in view of currently prevailing lower interest rates the Council has determined that is advisable and in the best interest of the City to issue refunding bonds of the City to advance refund a portion of the Outstanding Bonds (the "Refunded Bonds"); and

WHEREAS, the City Auditor of the City (the "City Auditor") has certified to this Council that the maximum maturity and authorized principal amount of the bonds herein authorized cannot exceed the maximum maturity and principal amount of the Refunded Bonds; and

WHEREAS, it is now deemed necessary to issue and sell not to exceed \$2,805,000 of such bonds under authority of the general laws of the State of Ohio, including Chapter 133, Ohio Revised Code, and in particular Section 133.34 thereof, for the purpose stated in the title of this ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, COUNTY OF STARK, STATE OF OHIO, THAT:

Section 1. It is hereby declared necessary to issue bonds of the City in the principal sum of not to exceed Two Million Eight Hundred Five Thousand Dollars (\$2,805,000), or such lesser amount as shall be determined by the City Auditor and certified to this Council, which bonds shall be designated as determined by the City Auditor (the "Bonds") for the purpose described in the title of this ordinance. The Bonds shall be issued in one lot.

Section 2. It is hereby determined, that for purposes of issuance and sale, it is in the best interest of the City to combine the Bonds with other limited tax bonds of the City, authorized by other ordinances of this Council adopted on the date hereof. The Bonds and such other bonds shall be jointly referred to herein as the "Combined Bonds." The Combined Bonds shall be designated City of Massillon, Stark County, Ohio Various Purpose Refunding Bonds, Series 2002 B," or as otherwise determined by the City Auditor.

Section 3. The Combined Bonds shall be issued as fully registered bonds in book entry form only, in such denominations as shall be determined by the City Auditor, but not exceeding the principal amount of Combined Bonds maturing on any one date; shall be numbered consecutively from R-1 upward, as determined by the City Auditor; shall be dated the date determined by the City Auditor and set forth in the Certificate of Award provided for hereinbelow; and shall bear interest, payable semiannually on such dates as shall be determined by the City Auditor and set forth in the Certificate of Award, until the principal sum is paid or provision has been duly made therefor. Interest shall be calculated on the basis of a 360 day year of twelve 30-day months.

Section 4. The City Auditor is hereby authorized and directed to execute of behalf of the City a Certificate of Award (the "Certificate of Award") setting forth the aggregate principal amount and the final terms of the Combined Bonds, which aggregate principal amount and terms, subject to the limitations set forth in this ordinance, shall be as determined by the City Auditor. The Certificate of Award shall indicate the dated date for the Combined Bonds, the dates on which interest on the Combined Bonds is to be paid (the "Interest Payment Date"), the purchase price for the Combined Bonds (which shall be not less than 97% of the face value thereof), the maturity schedule for the Combined Bonds (provided that the maximum maturity date of the Combined Bonds shall not exceed the dates set forth hereinabove), the interest rates for the Combined Bonds (provided that the true interest cost for all Combined Bonds in the aggregate shall not exceed six per centum (6.00%) per annum), the optional and mandatory redemption provisions, if any, and such other terms not inconsistent with this ordinance as the City Auditor shall deem appropriate.

Section 5. The Combined Bonds shall be issued with interest payable semiannually on each Interest Payment Date until the principal sum is paid or provision has been duly made therefor (the "Current Interest Bonds") or with interest compounded on each Interest Payment Date but payable only at maturity (the "Capital Appreciation Bonds") in such proportions as shall be set forth in the Certificate of Award. The Current Interest Bonds shall be in the denominations of \$5,000 or any integral multiple thereof, and the Capital Appreciation Bonds shall be in the denominations on the date of their issuance and delivery equal to the principal amount which, when interest is accrued and compounded thereon, beginning on the date of delivery to the Original Purchaser, and each Interest Payment Date thereafter, will equal \$5,000 or any integral multiple thereof at maturity. The Current Interest Bonds shall be dated such date as shall be determined by the City Auditor and set forth in the Certificate of Award and the Capital Appreciation Bonds shall be dated their date of delivery to the Original Purchaser (as defined hereinbelow).

Section 6. The Current Interest Bonds shall be subject to optional and mandatory redemption prior to stated maturity, as provided in the Certificate of Award. If optional redemption of the Current Interest Bonds at a redemption price exceeding 100% is to take place on any date on which a mandatory redemption of the Current Interest Bonds of the same maturity will take place, the Current Interest Bonds to be redeemed by optional redemption shall be selected by the Bond Registrar, identified hereinbelow, prior to the selection of the Current Interest Bonds to be redeemed at par on the same date.

When partial redemption is authorized, the Bond Registrar shall select Current Interest Bonds or portions thereof by lot within a maturity in such manner as the Bond Registrar may determine, provided, however, that the portion of any Current Interest Bond so selected will be in the amount of \$5,000 or any integral multiple thereof.

The notice of the call for redemption of Current Interest Bonds shall identify (i) by designation, letters, numbers or other distinguishing marks, the Current Interest Bonds or portions thereof to be redeemed, (ii) the redemption price to be paid, (iii) the date fixed for redemption, and (iv) the place or places where the amounts due upon redemption are payable. From and after the specified redemption date interest on the Current Interest Bonds (or portions thereof) called for redemption shall cease to accrue. Such notice shall be sent by first class mail at least 30 days prior to the redemption date to each registered holder of Current Interest Bonds to be redeemed at the address shown in the Bond Register (as defined hereof) on the 15th day preceding the date of mailing. Failure to receive such notice of any defect therein shall not affect the validity of the proceedings for the redemption of any Current Interest Bond.

Section 7. The Combined Bonds shall express upon their faces the purpose for which they are issued and that they are issued pursuant to this ordinance; and shall be executed by the City Auditor and the Mayor of the City, in their official capacities, provided that either or both of their signatures may be a facsimile. No Combined Bond shall be valid or become obligatory for any purpose or shall be entitled to any security or benefit under this ordinance unless and until a certificate of authentication, as printed on the Combined Bond, is signed by the Bond Registrar (as defined hereinbelow) as authenticating agent. Authentication by the Bond Registrar shall be conclusive evidence that the Combined Bond so authenticated has been duly issued and delivered under this ordinance and is entitled to the security and benefit of this ordinance. The certificate of authentication may be signed by any officer or officers of the Bond Registrar or by such other person acting as an agent of the Bond Registrar as shall be approved by the City Auditor on behalf of the City. It shall not be necessary that the same authorized person sign the certificate of authentication on all of the Combined Bonds.

Section 8. The principal of and interest on the Combined Bonds shall be payable in lawful money of the United States of America without deduction for the services of the Bond Registrar as paying agent. The principal of the Combined Bonds shall be payable upon presentation and surrender of the Combined Bonds at the principal office of the Bond Registrar. Each Combined Bond shall bear interest from the later of the date thereof, or the most recent Interest Payment Date to which interest has been paid or duly provided for, unless the date of authentication of any Combined Bond is less than 15 days prior to an Interest Payment Date, in which case interest shall accrue from such Interest Payment Date. Interest on any Combined Bond shall be paid on each Interest Payment Date by check or draft mailed to the person in whose name the Combined Bond is registered, at the close of business on the 15th day next preceding that Interest Payment Date (the "Record Date") (unless such date falls on a non-business day, in which case the Record Date shall be the preceding business day), on the Bond Register (as defined hereinbelow) at the address appearing therein.

Any interest on any Combined Bond which is payable, but is not punctually paid or provided for, on any Interest Payment Date (herein called "Defaulted Interest") shall forthwith cease to be payable to the

registered owner on the relevant Record Date by virtue of having been such owner and such Defaulted Interest shall be paid to the registered owner in whose name the Combined Bond is registered at the close of business on a date (the "Special Record Date") to be fixed by the Bond Registrar, such Special Record Date to be not more than 15 nor less than 10 days prior to the date of proposed payment. The Bond Registrar shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first class postage prepaid, to each Bondholder, at such Bondholder's address as it appears in the Bond Register, not less than 10 days prior to such Special Record Date, and may, in its discretion, cause a similar notice to be published once in a newspaper in each place where Combined Bonds are payable, but such publication shall not be a condition precedent to the establishment of such Special Record Date.

Subject to the foregoing provisions of this section, each Combined Bond delivered by the Bond Registrar upon transfer of or in exchange for or in lieu of any other Combined Bond shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Combined Bond.

Section 9. The City Auditor is hereby authorized and directed to serve as authenticating agent, bond registrar, transfer agent, and paying agent for the Combined Bonds (the "Bond Registrar") or to execute on behalf of the Council a Bond Registrar Agreement with such bank or other appropriate financial institution as shall be acceptable to the City Auditor and the Original Purchaser (as defined hereinbelow), pursuant to which such bank or financial institution shall agree to serve as the Bond Registrar for the Combined Bonds. If at any time the Bond Registrar shall be unable or unwilling to serve as such, or the City Auditor in such officer's discretion shall determine that it would be in the best interest of the City for such functions to be performed by another party, the City Auditor may, and is hereby authorized and directed to enter into an agreement with a national banking association or other appropriate institution experienced in providing such services, to perform the services required of the Bond Registrar hereunder. Each such successor Bond Registrar shall promptly advise all bondholders of the change in identity and new address of the Bond Registrar. So long as any of the Combined Bonds remain outstanding, the City shall cause to be maintained and kept by the Bond Registrar, at the office of the Bond Registrar, all books and records necessary for the registration, exchange and transfer of Combined Bonds as provided in this section (the "Bond Register"). Subject to the provisions of hereinabove, the person in whose name any Combined Bond shall be registered on the Bond Register shall be regarded as the absolute owner thereof for all purposes. Payment of or on account of the principal of and interest on any Combined Bond shall be made only to or upon the order of that person. Neither the City nor the Bond Registrar shall be affected by any notice to the contrary, but the registration may be changed as herein provided. All payments shall be valid and effectual to satisfy and discharge the liability upon the Combined Bonds, including the interest thereon, to the extent of the amount or amounts so paid.

Any Combined Bond, upon presentation and surrender at the office of the Bond Registrar, together with a request for exchange signed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Bond Registrar, may be exchanged for Combined Bonds of the same form and of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Combined Bonds surrendered, and bearing interest at the same rate and maturing on the same date.

A Combined Bond may be transferred only on the Bond Register upon presentation and surrender thereof at the office of the Bond Registrar, together with an assignment executed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Bond Registrar. Upon that transfer, the Bond Registrar shall complete, authenticate and deliver a new Combined Bond or Combined Bonds of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Combined Bonds surrendered, and bearing interest at the same rate and maturing on the same date.

The City and the Bond Registrar shall not be required to transfer or exchange (i) any Combined Bond during a period beginning at the opening of business fifteen (15) days before the day of mailing of a notice of redemption of Combined Bonds, and ending at the close of business on the day of such mailing, or (ii) any Combined Bonds selected for redemption, in whole or in part, following the date of such mailing.

In all cases in which Combined Bonds are exchanged or transferred hereunder, the City shall cause to be executed and the Bond Registrar shall authenticate and deliver Combined Bonds in accordance with the provisions of this ordinance. The exchange or transfer shall be without charge to the owner; except that the City and Bond Registrar may make a charge sufficient to reimburse them for any tax or other governmental charge required to be paid with respect to the exchange or transfer. The City or the Bond Registrar may require that those charges, if any, be paid before it begins the procedure for the exchange or transfer of the Combined Bonds. All Combined Bonds issued upon any transfer or exchange shall be the valid obligations of the City, evidencing the same debt, and entitled to the same benefits under this ordinance, as the Combined Bonds surrendered upon that transfer or exchange.

Section 10. For purposes of this ordinance, the following terms shall have the following meanings:

"Book entry form" or "book entry system" means a form or system under which (i) the beneficial right to payment of principal of and interest on the Combined Bonds may be transferred only through a book entry and (ii) physical Combined Bonds in fully registered form are issued only to the Depository or its nominee as registered owner, with the Combined Bonds "immobilized" to the custody of the Depository, and the book entry is the record that identifies the owners of beneficial interests in those Combined Bonds.

"Depository" means any securities depository that is a clearing agency under federal law operating and maintaining, together with its participants, a book entry system to record beneficial ownership of Combined Bonds and to effect transfers of Combined Bonds, in book entry form, and includes The Depository Trust Company (a limited purpose trust company), New York, New York.

All or any portion of the Combined Bonds may be initially issued to a Depository for use in a book entry system, and the provisions of this section shall apply, notwithstanding any other provision of this ordinance; (i) there shall be a single Combined Bond of each maturity, (ii) those Combined Bonds shall be registered in the name of the Depository or its nominee, as registered owner, and immobilized in the custody of the Depository; (iii) the beneficial owners in book entry form shall have no right to receive Combined Bonds in the form of physical securities or certificates; (iv) ownership of beneficial interests in any Combined Bonds in book entry form shall be shown by book entry on the system maintained and operated by the Depository, and transfers of the ownership of beneficial interests shall be made only by the Depository and by book entry; and (v) the Combined Bonds as such shall not be transferable or exchangeable, except for transfer to another Depository or to another nominee of a Depository, without further action by the City. Combined Bond service charges on Combined Bonds in book entry form registered in the name of a Depository or its nominee shall be payable in next day funds delivered to the Depository or its authorized representative (i) in the case of interest, on each Interest Payment Date, and (ii) in all other cases, upon presentation and surrender of Combined Bonds as provided in this ordinance.

The Bond Registrar may, with the approval of the City, enter into an agreement with the beneficial owner or registered owner of any Combined Bond in the custody of a Depository providing for making all payments to that owner of principal and interest on that Combined Bond or any portion thereof (other than any payment of the entire unpaid principal amount thereof) at a place and in a manner (including wire transfer of federal funds) other than as provided above in this ordinance, without prior presentation or

surrender of the Combined Bond, upon any conditions which shall be satisfactory to the Bond Registrar and to the City. That payment in any event shall be made to the person who is the registered owner of that Combined Bond on the date that principal is due, or, with respect to the payment of interest, as of the applicable date agreed upon as the case may be. The Bond Registrar shall furnish a copy of each of those agreements, certified to be correct by the Bond Registrar, to other paying agents for Combined Bonds and to the City. Any payment of principal or interest pursuant to such an agreement shall constitute payment thereof pursuant to, and for all purposes of, this ordinance.

The City Auditor and the Mayor of the City are authorized and directed to execute, acknowledge and deliver, in the name of and on behalf of the City, the letter agreement among the City, the Bond Registrar and The Depository Trust Company, as depository, to be delivered in connection with the issuance of the Combined Bonds to the Depository for use in a book entry system in substantially the form submitted to this Council.

If any Depository determines not to continue to act as a depository for the Combined Bonds for use in a book entry system, the City and the Bond Registrar may attempt to establish a securities depository/book entry relationship with another qualified Depository under this ordinance. If the City and the Bond Registrar do not or are unable to do so, the City and the Bond Registrar, after the Bond Registrar has made provision for notification of the beneficial owners by the then Depository, shall permit withdrawal of the Combined Bonds from the Depository and authenticate and deliver bond certificates in fully registered form to the assigns of the Depository or its nominee, all at the cost and expense (including costs of printing definitive Combined Bonds), if the event is not the result of action or inaction by the City or the Bond Registrar, of those persons requesting such issuance.

Section 11. There shall be and is hereby levied annually on all the taxable property in the City, in addition to all other taxes and within the ten mill limitation, a direct tax (the "Debt Service Levy") for each year during which any of the Combined Bonds are outstanding, for the purpose of providing, and in an amount which is sufficient to provide, funds to pay interest upon the Combined Bonds as and when the same falls due and to provide a fund for the repayment of the principal of the Combined Bonds at maturity or upon redemption. The Debt Service Levy shall not be less than the interest and sinking fund tax required by Article XII, Section 11 of the Ohio Constitution; provided, however, that in each year to the extent that funds are available from other sources and are lawfully appropriated for the payment of the Combined Bonds, the amount of the Debt Service Levy shall be reduced by the amount of such funds so available and appropriated.

Section 12. The Debt Service Levy shall be and is hereby ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers, in the same manner, and at the same time that taxes for general purposes for each of such years are certified, extended and collected. The Debt Service Levy shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from the Debt Service Levy shall be placed in a separate and distinct fund, which shall be irrevocably pledged for the payment of the interest and principal of the Combined Bonds when and as the same falls due.

Section 13. The City hereby covenants, pursuant to Section 133.05(B)(7), Ohio Revised Code, to appropriate annually from lawfully available municipal income taxes, and to continue to levy and collect municipal income taxes adequate to produce, amounts necessary to meet the debt charges on the Lincoln Center Phase II Portion (\$2,805,000) of the Combined Bonds in each year until full payment is made.

Section 14. The Combined Bonds shall be sold at private sale to Fifth Third Securities, Columbus, Ohio (the "Original Purchaser") at the purchase price set forth in the Certificate of Award, plus

interest accrued to the date of delivery of the Combined Bonds to the Original Purchaser. The City Auditor and the Mayor of the City, or either of them individually, are authorized and directed to execute on behalf of the City a Bond Purchase Agreement with the Original Purchaser, setting forth the conditions under which the Combined Bonds are to be sold and delivered, which agreement shall not be substantially inconsistent with the form heretofore presented to the Council.

The proceeds from the sale of the Combined Bonds, except the premium and accrued interest thereon, shall be used for the purpose aforesaid and for no other purpose. The premium and accrued interest received from such sale shall be transferred to the Bond Retirement Fund to be applied to the payment of the principal of and interest on the Combined Bonds, or other outstanding obligations of the City, in the manner provided by law.

Section 15. There is hereby created and established, as an account within the Bond Retirement Fund of the City, a trust fund to be designated "City of Massillon, Stark County, Ohio - Various Purpose Refunding Bonds Escrow Fund" (the "Escrow Fund") which shall be in the custody of the Escrow Trustee, as hereinafter defined. The proceeds from the sale of the Bonds, except the accrued interest thereon, shall be deposited in the Escrow Fund. The accrued interest received from such sale shall be transferred to the Bond Retirement Fund to be applied to the payment of the principal and interest on the Combined Bonds in the manner provided by law.

The City Auditor is hereby authorized and directed to execute on behalf of the City an Escrow Agreement (the "Escrow Agreement") with a bank or trust company to be selected by the City Auditor (the "Escrow Trustee"), setting forth the terms by which the Escrow Fund shall be held and disbursed, which Escrow Agreement shall be in such form, not inconsistent with this ordinance, as the City Auditor shall determine. Pursuant to the Escrow Agreement, the Escrow Trustee shall apply the moneys deposited in the Escrow Fund to the purchase of direct obligations of the United States of America of such maturities and interest payment dates and bear paying interest as will, as certified by such independent public accounting firm as shall be acceptable to the City Auditor and the Original Purchaser without further investment or reinvestment of either the principal amount thereof or the interest earnings therefrom, be sufficient to (i) pay the interest on the Refunded Bonds which is due and payable on each June 1 and December 1, beginning December 1, 2002 and continuing through the earliest optional redemption date for the Refunded Bonds; and (ii) redeem the Refunded Bonds to be refunded by optional redemption on such earliest optional redemption date, and pay any redemption premium thereon.

Section 16. The City hereby covenants that it shall comply with the requirements of all existing and future laws which must be satisfied in order that interest on the Combined Bonds is and will continue to be excluded from gross income for federal income tax purposes, including without limitation restrictions on the use of the property financed with the proceeds of the Combined Bonds so that the Combined Bonds will not constitute "private activity bonds" within the meaning of Section 141 of the Internal Revenue Code of 1986, as amended (the "Code"). The City further covenants that it shall restrict the use of the proceeds of the Combined Bonds in such manner and to such extent, if any, as may be necessary, after taking into account reasonable expectations at the time the Combined Bonds are issued, so that they will not constitute arbitrage bonds under Section 148 of the Code and the regulations prescribed thereunder or under the Internal Revenue Code of 1954, as amended (the "Regulations").

The City Auditor, or any other officer, including the Mayor, is hereby authorized and directed (a) to make or effect any election, selection, designation, choice, consent, approval or waiver on behalf of the City with respect to the Combined Bonds as permitted or required to be made or given under the federal income tax laws, for the purpose of assuring, enhancing or protecting favorable tax treatment or the status of the Combined Bonds or interest thereon or assisting compliance with requirements for that purpose, reducing

the burden or expense of such compliance, reducing any rebate amount or any payment of penalties, or making any payments of special amounts in lieu of making computations to determine, or paying, any excess earnings as rebate, or obviating those amounts or payments, as determined by the City Auditor, which action shall be in writing and signed by the City Auditor, or any other officer, including the Mayor, on behalf of the City; (b) to take any and all actions, make or obtain calculations, and make or give reports, covenants and certifications of and on behalf of the City, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the Combined Bonds; and (c) to give an appropriate certificate on behalf of the City, for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances, and reasonable expectations of the City pertaining to Section 148 and the Regulations, and the representations, warranties and covenants of the City regarding compliance by the City with Sections 141 through 150 of the Code and the Regulations.

The City Auditor shall keep and maintain adequate records pertaining to investment of all proceeds of the Combined Bonds sufficient to permit, to the maximum extent possible and presently foreseeable, the City to comply with any federal law or regulation now or hereafter having applicability to the Combined Bonds which limits the amount of bond proceeds which may be invested on an unrestricted yield or requires the City to rebate arbitrage profits to the United States Department of the Treasury. The City Auditor is hereby authorized and directed to file such reports with, and rebate arbitrage profits to, the United States Department of the Treasury, to the extent that any federal law or regulation having applicability to the Combined Bonds requires any such reports or rebates.

Section 17. The City Auditor, or any other officer, including the Mayor, is authorized to make appropriate arrangements, if such officer deems it in the best interest of the City, for the issuance of a municipal bond insurance policy with respect to all or any portion of the Combined Bonds, including executing and delivering a commitment therefor and certificates and other documents in connection therewith. All additional provisions required to be authorized by this Council for the issuance of a municipal bond insurance policy shall be contained in the Certificate of Award.

Section 18. The form of Preliminary Official Statement relating to the Combined Bonds as presented to this Council, and the distribution thereof by the Original Purchaser, are hereby authorized, approved, ratified and confirmed. The proposed form of final Official Statement relating to the Combined Bonds, as presented to this Council, and the distribution by the Original Purchaser of the final Official Statement, in substantially the form presented to this Council, are hereby authorized and approved. The City Auditor and the Mayor of the City are authorized to execute and deliver the final Official Statement on behalf of the City, which shall be substantially as per the form of Official Statement heretofore presented to this Council, with such changes as the City Auditor and the Mayor may approve; their execution thereof on behalf of the City to be conclusive evidence of such authorization and approval, and copies thereof are hereby authorized to be prepared and furnished to the Original Purchaser for distribution to prospective purchasers of the Combined Bonds and other interested persons.

Section 19. The officer having charge of the minutes of the Council and any other officers of the Council, or any of them individually, are hereby authorized and directed to prepare and certify a true transcript of proceedings pertaining to the Combined Bonds and to furnish a copy of such transcript to the Original Purchaser. Such transcript shall include certified copies of all proceedings and records of the Council relating to the power and authority of the City to issue the Combined Bonds and certificates as to matters within their knowledge or as shown by the books and records under their custody and control, including but not limited to a general certificate of the City Auditor and a no-litigation certificate of the Mayor and the City Auditor, and such certified copies and certificates shall be deemed representations of the City as to the facts stated therein.

Section 20. It is hereby found and determined that all acts, conditions and things necessary to be done precedent to and in the issuing of the Combined Bonds in order to make them legal, valid and binding obligations of the City have happened, been done and been performed in regular and due form as required by law; that the faith, credit and revenue of the City are hereby irrevocably pledged for the prompt payment of the principal and interest thereof at maturity; and that no limitation of indebtedness or taxation, either statutory or constitutional, has been exceeded in issuing the Combined Bonds.

Section 21. It is hereby 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 and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 22. The City Clerk is hereby directed to forward a certified copy of this ordinance to the County Auditor of Stark County, Ohio.

Section 23. This ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health and safety of the City and its inhabitants for the reason that this ordinance must be immediately effective so that the Combined Bonds can be sold as soon as possible to take advantage of favorable interest rates; wherefore this ordinance shall take effect and be in force from and immediately after its adoption.

Adopted in Council on this 7th day of October, 2002.

Attest:

Clerk

President of Council

Approved:

Mayor

CERTIFICATE

The undersigned Clerk hereby certifies that the foregoing is a true copy of Ordinance No. _____ duly adopted by the Council of the City of Massillon, Stark County, Ohio on October 7, 2002 and that a true copy thereof was certified to the County Auditor of Stark County, Ohio on _____, 2002.

Clerk
City of Massillon
Stark County, Ohio

RECEIPT OF COUNTY AUDITOR FOR
LEGISLATION PROVIDING
FOR THE ISSUANCE OF
GENERAL OBLIGATION BONDS

I, Janet Weir Creighton, the duly elected, qualified, and acting County Auditor in and for Stark County, Ohio hereby certify that a certified copy of Ordinance No. 189 - 2002 duly adopted by the City Council of the City of Massillon, Stark County, Ohio on October 7, 2002 providing for the issuance of general obligation bonds designated City of Massillon, Stark County, Ohio Various Purpose Refunding Bonds, Series 2002 B, in the amount of not to exceed \$2,805,000 was filed in this office on _____, 2002.

WITNESS my hand and official seal at Canton, Ohio on _____, 2002.

[SEAL]

County Auditor
Stark County, Ohio

DATED: OCTOBER 7, 2002

CLERK: SHARON K. HOWELL

*Sorry \$150,000 - (25,000 for for
penalty up to*

SUSP 9-0

CITY OF MASSILLON, OHIO

PASS 9-0

COUNCIL CHAMBERS

LEGISLATIVE DEPARTMENT

ORDINANCE NO. 190 - 2002

BY: THE FINANCE COMMITTEE

AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$1,340,000 OF BONDS FOR THE PURPOSE OF CURRENTLY REFUNDING A PORTION OF BONDS ISSUED IN 1988 FOR THE PURPOSE OF (I) CONSTRUCTING THE SEWER BRANCH KNOWN AS THE LEWIS-FASNACHT-COLONIAL HILLS SANITARY TRUNK SEWER, TOGETHER WITH THE NECESSARY APPURTENANCES THERETO, (II) PROVIDING FUNDS FOR THE CONSTRUCTION OF IMPROVEMENTS TO THE MUNICIPAL WASTEWATER TREATMENT PLANT, (III) PROVIDING FUNDS TO PAY ALL NECESSARY AND INCIDENTAL COSTS TO THE CITY OF MASSILLON OF IMPROVING ITS WASTEWATER TREATMENT PLANT, AND (IV) CONSTRUCTING AND INSTALLING A SEWER LINE AND RELATED APPURTENANCES FROM THE WASTEWATER TREATMENT PLANT IN MASSILLON, AUTHORIZING A BOND PURCHASE AGREEMENT APPROPRIATE FOR THE SALE OF THE BONDS, AUTHORIZING THE PURCHASE OF A MUNICIPAL BOND INSURANCE POLICY IN CONNECTION THEREWITH, APPROVING THE FORM OF OFFICIAL STATEMENT RELATING TO THE BONDS, AND DECLARING AN EMERGENCY.

WHEREAS, the Council of the City has issued bonds dated December 1, 1988, in the amount of Two Million Dollars (\$2,000,000) (the "Outstanding Bonds"); and

WHEREAS, in view of currently prevailing lower interest rates the Council has determined that is advisable and in the best interest of the City to issue refunding bonds of the City to currently refund a portion of the Outstanding Bonds (the "Refunded Bonds"); and

WHEREAS, the City Auditor of the City (the "City Auditor") has certified to this Council that the maximum maturity and authorized principal amount of the bonds herein authorized cannot exceed the maximum maturity and principal amount of the Refunded Bonds; and

WHEREAS, it is now deemed necessary to issue and sell not to exceed \$1,340,000 of such bonds under authority of the general laws of the State of Ohio, including Chapter 133, Ohio Revised Code, and in particular Section 133.34 thereof, for the purpose stated in the title of this ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, COUNTY OF STARK, STATE OF OHIO, THAT:

Section 1. It is hereby declared necessary to issue bonds of the City in the principal sum of not to exceed One Million Three Hundred Forty Thousand Dollars (\$1,340,000), or such lesser amount as shall be determined by the City Auditor and certified to this Council, which bonds shall be designated as determined by the City Auditor (the "Bonds") for the purpose described in the title of this ordinance. The Bonds shall be issued in one lot.

Section 2. It is hereby determined, that for purposes of issuance and sale, it is in the best interest of the City to combine the Bonds with other limited tax bonds of the City, authorized by other ordinances of this Council adopted on the date hereof. The Bonds and such other bonds shall be jointly referred to herein as the "Combined Bonds." The Combined Bonds shall be designated City of Massillon, Stark County, Ohio Various Purpose Refunding Bonds, Series 2002 B," or as otherwise determined by the City Auditor.

Section 3. The Combined Bonds shall be issued as fully registered bonds in book entry form only, in such denominations as shall be determined by the City Auditor, but not exceeding the principal amount of Combined Bonds maturing on any one date; shall be numbered consecutively from R-1 upward, as determined by the City Auditor; shall be dated the date determined by the City Auditor and set forth in the Certificate of Award provided for hereinbelow; and shall bear interest, payable semiannually on such dates as shall be determined by the City Auditor and set forth in the Certificate of Award, until the principal sum is paid or provision has been duly made therefor. Interest shall be calculated on the basis of a 360 day year of twelve 30-day months.

Section 4. The City Auditor is hereby authorized and directed to execute of behalf of the City a Certificate of Award (the "Certificate of Award") setting forth the aggregate principal amount and the final terms of the Combined Bonds, which aggregate principal amount and terms, subject to the limitations set forth in this ordinance, shall be as determined by the City Auditor. The Certificate of Award shall indicate the dated date for the Combined Bonds, the dates on which interest on the Combined Bonds is to be paid (the "Interest Payment Date"), the purchase price for the Combined Bonds (which shall be not less than 97% of the face value thereof), the maturity schedule for the Combined Bonds (provided that the maximum maturity date of the Combined Bonds shall not exceed the dates set forth hereinabove), the interest rates for the Combined Bonds (provided that the true interest cost for all Combined Bonds in the aggregate shall not exceed six per centum (6.00%) per annum), the optional and mandatory redemption provisions, if any, and such other terms not inconsistent with this ordinance as the City Auditor shall deem appropriate.

Section 5. The Combined Bonds shall be issued with interest payable semiannually on each Interest Payment Date until the principal sum is paid or provision has been duly made therefor (the "Current Interest Bonds") or with interest compounded on each Interest Payment Date but payable only at maturity (the "Capital Appreciation Bonds") in such proportions as shall be set forth in the Certificate of Award. The Current Interest Bonds shall be in the denominations of \$5,000 or any integral multiple thereof, and the Capital Appreciation Bonds shall be in the denominations on the date of their issuance and delivery equal to the principal amount which, when interest is accrued and compounded thereon, beginning on the date of delivery to the Original Purchaser, and each Interest Payment Date thereafter, will equal \$5,000 or any integral multiple thereof at maturity. The Current Interest Bonds shall be dated such date as shall be determined by the City Auditor and set forth in the Certificate of Award and the Capital Appreciation Bonds shall be dated their date of delivery to the Original Purchaser (as defined hereinbelow).

Section 6. The Current Interest Bonds shall be subject to optional and mandatory redemption prior to stated maturity, as provided in the Certificate of Award. If optional redemption of the Current Interest Bonds at a redemption price exceeding 100% is to take place on any date on which a mandatory redemption of the Current Interest Bonds of the same maturity will take place, the Current Interest Bonds to be redeemed by optional redemption shall be selected by the Bond Registrar, identified hereinbelow, prior to the selection of the Current Interest Bonds to be redeemed at par on the same date.

When partial redemption is authorized, the Bond Registrar shall select Current Interest Bonds or portions thereof by lot within a maturity in such manner as the Bond Registrar may determine, provided, however, that the portion of any Current Interest Bond so selected will be in the amount of \$5,000 or any integral multiple thereof.

The notice of the call for redemption of Current Interest Bonds shall identify (i) by designation, letters, numbers or other distinguishing marks, the Current Interest Bonds or portions thereof to be redeemed, (ii) the redemption price to be paid, (iii) the date fixed for redemption, and (iv) the place or places where the amounts due upon redemption are payable. From and after the specified redemption date interest on the Current Interest Bonds (or portions thereof) called for redemption shall cease to accrue. Such notice shall be sent by first class mail at least 30 days prior to the redemption date to each registered holder of Current Interest Bonds to be redeemed at the address shown in the Bond Register (as defined hereof) on the 15th day preceding the date of mailing. Failure to receive such notice of any defect therein shall not affect the validity of the proceedings for the redemption of any Current Interest Bond.

Section 7. The Combined Bonds shall express upon their faces the purpose for which they are issued and that they are issued pursuant to this ordinance; and shall be executed by the City Auditor and the Mayor of the City, in their official capacities, provided that either or both of their signatures may be a facsimile. No Combined Bond shall be valid or become obligatory for any purpose or shall be entitled to any security or benefit under this ordinance unless and until a certificate of authentication, as printed on the Combined Bond, is signed by the Bond Registrar (as defined hereinbelow) as authenticating agent. Authentication by the Bond Registrar shall be conclusive evidence that the Combined Bond so authenticated has been duly issued and delivered under this ordinance and is entitled to the security and benefit of this ordinance. The certificate of authentication may be signed by any officer or officers of the Bond Registrar or by such other person acting as an agent of the Bond Registrar as shall be approved by the City Auditor on behalf of the City. It shall not be necessary that the same authorized person sign the certificate of authentication on all of the Combined Bonds.

Section 8. The principal of and interest on the Combined Bonds shall be payable in lawful money of the United States of America without deduction for the services of the Bond Registrar as paying agent. The principal of the Combined Bonds shall be payable upon presentation and surrender of the

Combined Bonds at the principal office of the Bond Registrar. Each Combined Bond shall bear interest from the later of the date thereof, or the most recent Interest Payment Date to which interest has been paid or duly provided for, unless the date of authentication of any Combined Bond is less than 15 days prior to an Interest Payment Date, in which case interest shall accrue from such Interest Payment Date. Interest on any Combined Bond shall be paid on each Interest Payment Date by check or draft mailed to the person in whose name the Combined Bond is registered, at the close of business on the 15th day next preceding that Interest Payment Date (the "Record Date") (unless such date falls on a non-business day, in which case the Record Date shall be the preceding business day), on the Bond Register (as defined hereinbelow) at the address appearing therein.

Any interest on any Combined Bond which is payable, but is not punctually paid or provided for, on any Interest Payment Date (herein called "Defaulted Interest") shall forthwith cease to be payable to the registered owner on the relevant Record Date by virtue of having been such owner and such Defaulted Interest shall be paid to the registered owner in whose name the Combined Bond is registered at the close of business on a date (the "Special Record Date") to be fixed by the Bond Registrar, such Special Record Date to be not more than 15 nor less than 10 days prior to the date of proposed payment. The Bond Registrar shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first class postage prepaid, to each Bondholder, at such Bondholder's address as it appears in the Bond Register, not less than 10 days prior to such Special Record Date, and may, in its discretion, cause a similar notice to be published once in a newspaper in each place where Combined Bonds are payable, but such publication shall not be a condition precedent to the establishment of such Special Record Date.

Subject to the foregoing provisions of this section, each Combined Bond delivered by the Bond Registrar upon transfer of or in exchange for or in lieu of any other Combined Bond shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Combined Bond.

Section 9. The City Auditor is hereby authorized and directed to serve as authenticating agent, bond registrar, transfer agent, and paying agent for the Combined Bonds (the "Bond Registrar") or to execute on behalf of the Council a Bond Registrar Agreement with such bank or other appropriate financial institution as shall be acceptable to the City Auditor and the Original Purchaser (as defined hereinbelow), pursuant to which such bank or financial institution shall agree to serve as the Bond Registrar for the Combined Bonds. If at any time the Bond Registrar shall be unable or unwilling to serve as such, or the City Auditor in such officer's discretion shall determine that it would be in the best interest of the City for such functions to be performed by another party, the City Auditor may, and is hereby authorized and directed to enter into an agreement with a national banking association or other appropriate institution experienced in providing such services, to perform the services required of the Bond Registrar hereunder. Each such successor Bond Registrar shall promptly advise all bondholders of the change in identity and new address of the Bond Registrar. So long as any of the Combined Bonds remain outstanding, the City shall cause to be maintained and kept by the Bond Registrar, at the office of the Bond Registrar, all books and records necessary for the registration, exchange and transfer of Combined Bonds as provided in this section (the "Bond Register"). Subject to the provisions of hereinabove, the person in whose name any Combined Bond shall be registered on the Bond Register shall be regarded as the absolute owner thereof for all purposes. Payment of or on account of the principal of and interest on any Combined Bond shall be made only to or upon the order of that person. Neither the City nor the Bond Registrar shall be affected by any notice to the contrary, but the registration may be changed as herein provided. All payments shall be valid and effectual to satisfy and discharge the liability upon the Combined Bonds, including the interest thereon, to the extent of the amount or amounts so paid.

Any Combined Bond, upon presentation and surrender at the office of the Bond Registrar, together with a request for exchange signed by the registered owner or by a person authorized by the owner to do so

by a power of attorney in a form satisfactory to the Bond Registrar, may be exchanged for Combined Bonds of the same form and of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Combined Bonds surrendered, and bearing interest at the same rate and maturing on the same date.

A Combined Bond may be transferred only on the Bond Register upon presentation and surrender thereof at the office of the Bond Registrar, together with an assignment executed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Bond Registrar. Upon that transfer, the Bond Registrar shall complete, authenticate and deliver a new Combined Bond or Combined Bonds of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Combined Bonds surrendered, and bearing interest at the same rate and maturing on the same date.

The City and the Bond Registrar shall not be required to transfer or exchange (i) any Combined Bond during a period beginning at the opening of business fifteen (15) days before the day of mailing of a notice of redemption of Combined Bonds, and ending at the close of business on the day of such mailing, or (ii) any Combined Bonds selected for redemption, in whole or in part, following the date of such mailing.

In all cases in which Combined Bonds are exchanged or transferred hereunder, the City shall cause to be executed and the Bond Registrar shall authenticate and deliver Combined Bonds in accordance with the provisions of this ordinance. The exchange or transfer shall be without charge to the owner; except that the City and Bond Registrar may make a charge sufficient to reimburse them for any tax or other governmental charge required to be paid with respect to the exchange or transfer. The City or the Bond Registrar may require that those charges, if any, be paid before it begins the procedure for the exchange or transfer of the Combined Bonds. All Combined Bonds issued upon any transfer or exchange shall be the valid obligations of the City, evidencing the same debt, and entitled to the same benefits under this ordinance, as the Combined Bonds surrendered upon that transfer or exchange.

Section 10. For purposes of this ordinance, the following terms shall have the following meanings:

"Book entry form" or "book entry system" means a form or system under which (i) the beneficial right to payment of principal of and interest on the Combined Bonds may be transferred only through a book entry and (ii) physical Combined Bonds in fully registered form are issued only to the Depository or its nominee as registered owner, with the Combined Bonds "immobilized" to the custody of the Depository, and the book entry is the record that identifies the owners of beneficial interests in those Combined Bonds.

"Depository" means any securities depository that is a clearing agency under federal law operating and maintaining, together with its participants, a book entry system to record beneficial ownership of Combined Bonds and to effect transfers of Combined Bonds, in book entry form, and includes The Depository Trust Company (a limited purpose trust company), New York, New York.

All or any portion of the Combined Bonds may be initially issued to a Depository for use in a book entry system, and the provisions of this section shall apply, notwithstanding any other provision of this ordinance; (i) there shall be a single Combined Bond of each maturity, (ii) those Combined Bonds shall be registered in the name of the Depository or its nominee, as registered owner, and immobilized in the custody of the Depository; (iii) the beneficial owners in book entry form shall have no right to receive Combined Bonds in the form of physical securities or certificates; (iv) ownership of beneficial interests in any Combined Bonds in book entry form shall be shown by book entry on the system maintained and operated by the Depository, and transfers of the ownership of beneficial interests shall be made only by the

Depository and by book entry; and (v) the Combined Bonds as such shall not be transferable or exchangeable, except for transfer to another Depository or to another nominee of a Depository, without further action by the City. Combined Bond service charges on Combined Bonds in book entry form registered in the name of a Depository or its nominee shall be payable in next day funds delivered to the Depository or its authorized representative (i) in the case of interest, on each Interest Payment Date, and (ii) in all other cases, upon presentation and surrender of Combined Bonds as provided in this ordinance.

The Bond Registrar may, with the approval of the City, enter into an agreement with the beneficial owner or registered owner of any Combined Bond in the custody of a Depository providing for making all payments to that owner of principal and interest on that Combined Bond or any portion thereof (other than any payment of the entire unpaid principal amount thereof) at a place and in a manner (including wire transfer of federal funds) other than as provided above in this ordinance, without prior presentation or surrender of the Combined Bond, upon any conditions which shall be satisfactory to the Bond Registrar and to the City. That payment in any event shall be made to the person who is the registered owner of that Combined Bond on the date that principal is due, or, with respect to the payment of interest, as of the applicable date agreed upon as the case may be. The Bond Registrar shall furnish a copy of each of those agreements, certified to be correct by the Bond Registrar, to other paying agents for Combined Bonds and to the City. Any payment of principal or interest pursuant to such an agreement shall constitute payment thereof pursuant to, and for all purposes of, this ordinance.

The City Auditor and the Mayor of the City are authorized and directed to execute, acknowledge and deliver, in the name of and on behalf of the City, the letter agreement among the City, the Bond Registrar and The Depository Trust Company, as depository, to be delivered in connection with the issuance of the Combined Bonds to the Depository for use in a book entry system in substantially the form submitted to this Council.

If any Depository determines not to continue to act as a depository for the Combined Bonds for use in a book entry system, the City and the Bond Registrar may attempt to establish a securities depository/book entry relationship with another qualified Depository under this ordinance. If the City and the Bond Registrar do not or are unable to do so, the City and the Bond Registrar, after the Bond Registrar has made provision for notification of the beneficial owners by the then Depository, shall permit withdrawal of the Combined Bonds from the Depository and authenticate and deliver bond certificates in fully registered form to the assigns of the Depository or its nominee, all at the cost and expense (including costs of printing definitive Combined Bonds), if the event is not the result of action or inaction by the City or the Bond Registrar, of those persons requesting such issuance.

Section 11. There shall be and is hereby levied annually on all the taxable property in the City, in addition to all other taxes and within the ten mill limitation, a direct tax (the "Debt Service Levy") for each year during which any of the Combined Bonds are outstanding, for the purpose of providing, and in an amount which is sufficient to provide, funds to pay interest upon the Combined Bonds as and when the same falls due and to provide a fund for the repayment of the principal of the Combined Bonds at maturity or upon redemption. The Debt Service Levy shall not be less than the interest and sinking fund tax required by Article XII, Section 11 of the Ohio Constitution; provided, however, that in each year to the extent that funds are available from other sources and are lawfully appropriated for the payment of the Combined Bonds, the amount of the Debt Service Levy shall be reduced by the amount of such funds so available and appropriated.

Section 12. The Debt Service Levy shall be and is hereby ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers, in the same manner, and at the same time that taxes for general purposes for each of such years are certified, extended and collected. The Debt

Service Levy shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from the Debt Service Levy shall be placed in a separate and distinct fund, which shall be irrevocably pledged for the payment of the interest and principal of the Combined Bonds when and as the same falls due.

Section 13. The Combined Bonds shall be sold at private sale to Fifth Third Securities, Columbus, Ohio (the "Original Purchaser") at the purchase price set forth in the Certificate of Award, plus interest accrued to the date of delivery of the Combined Bonds to the Original Purchaser. The City Auditor and the Mayor of the City, or either of them individually, are authorized and directed to execute on behalf of the City a Bond Purchase Agreement with the Original Purchaser, setting forth the conditions under which the Combined Bonds are to be sold and delivered, which agreement shall not be substantially inconsistent with the form heretofore presented to the Council.

The proceeds from the sale of the Combined Bonds, except the premium and accrued interest thereon, shall be used for the purpose aforesaid and for no other purpose. The premium and accrued interest received from such sale shall be transferred to the Bond Retirement Fund to be applied to the payment of the principal of and interest on the Combined Bonds, or other outstanding obligations of the City, in the manner provided by law.

Section 14. There is hereby created and established, as an account within the Bond Retirement Fund of the City, a trust fund to be designated "City of Massillon, Stark County, Ohio - Various Purpose Refunding Bonds Escrow Fund" (the "Escrow Fund") which shall be in the custody of the Escrow Trustee, as hereinafter defined. The proceeds from the sale of the Bonds, except the accrued interest thereon, shall be deposited in the Escrow Fund. The accrued interest received from such sale shall be transferred to the Bond Retirement Fund to be applied to the payment of the principal and interest on the Combined Bonds in the manner provided by law.

The City Auditor is hereby authorized and directed to execute on behalf of the City an Escrow Agreement (the "Escrow Agreement") with a bank or trust company to be selected by the City Auditor (the "Escrow Trustee"), setting forth the terms by which the Escrow Fund shall be held and disbursed, which Escrow Agreement shall be in such form, not inconsistent with this ordinance, as the City Auditor shall determine. Pursuant to the Escrow Agreement, the Escrow Trustee shall apply the moneys deposited in the Escrow Fund to the purchase of direct obligations of the United States of America of such maturities and interest payment dates and bear paying interest as will, as certified by such independent public accounting firm as shall be acceptable to the City Auditor and the Original Purchaser without further investment or reinvestment of either the principal amount thereof or the interest earnings therefrom, be sufficient to (i) pay the interest on the Refunded Bonds which is due and payable on each June 1 and December 1, beginning December 1, 2002 and continuing through the earliest optional redemption date for the Refunded Bonds; and (ii) redeem the Refunded Bonds to be refunded by optional redemption on such earliest optional redemption date, and pay any redemption premium thereon.

Section 15. The City hereby covenants that it shall comply with the requirements of all existing and future laws which must be satisfied in order that interest on the Combined Bonds is and will continue to be excluded from gross income for federal income tax purposes, including without limitation restrictions on the use of the property financed with the proceeds of the Combined Bonds so that the Combined Bonds will not constitute "private activity bonds" within the meaning of Section 141 of the Internal Revenue Code of 1986, as amended (the "Code"). The City further covenants that it shall restrict the use of the proceeds of the Combined Bonds in such manner and to such extent, if any, as may be necessary, after taking into account reasonable expectations at the time the Combined Bonds are issued, so that they will not constitute

arbitrage bonds under Section 148 of the Code and the regulations prescribed thereunder or under the Internal Revenue Code of 1954, as amended (the "Regulations").

The City Auditor, or any other officer, including the Mayor, is hereby authorized and directed (a) to make or effect any election, selection, designation, choice, consent, approval or waiver on behalf of the City with respect to the Combined Bonds as permitted or required to be made or given under the federal income tax laws, for the purpose of assuring, enhancing or protecting favorable tax treatment or the status of the Combined Bonds or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing any rebate amount or any payment of penalties, or making any payments of special amounts in lieu of making computations to determine, or paying, any excess earnings as rebate, or obviating those amounts or payments, as determined by the City Auditor, which action shall be in writing and signed by the City Auditor, or any other officer, including the Mayor, on behalf of the City; (b) to take any and all actions, make or obtain calculations, and make or give reports, covenants and certifications of and on behalf of the City, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the Combined Bonds; and (c) to give an appropriate certificate on behalf of the City, for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances, and reasonable expectations of the City pertaining to Section 148 and the Regulations, and the representations, warranties and covenants of the City regarding compliance by the City with Sections 141 through 150 of the Code and the Regulations.

The City Auditor shall keep and maintain adequate records pertaining to investment of all proceeds of the Combined Bonds sufficient to permit, to the maximum extent possible and presently foreseeable, the City to comply with any federal law or regulation now or hereafter having applicability to the Combined Bonds which limits the amount of bond proceeds which may be invested on an unrestricted yield or requires the City to rebate arbitrage profits to the United States Department of the Treasury. The City Auditor is hereby authorized and directed to file such reports with, and rebate arbitrage profits to, the United States Department of the Treasury, to the extent that any federal law or regulation having applicability to the Combined Bonds requires any such reports or rebates.

Section 16. The City Auditor, or any other officer, including the Mayor, is authorized to make appropriate arrangements, if such officer deems it in the best interest of the City, for the issuance of a municipal bond insurance policy with respect to all or any portion of the Combined Bonds, including executing and delivering a commitment therefor and certificates and other documents in connection therewith. All additional provisions required to be authorized by this Council for the issuance of a municipal bond insurance policy shall be contained in the Certificate of Award.

Section 17. The form of Preliminary Official Statement relating to the Combined Bonds as presented to this Council, and the distribution thereof by the Original Purchaser, are hereby authorized, approved, ratified and confirmed. The proposed form of final Official Statement relating to the Combined Bonds, as presented to this Council, and the distribution by the Original Purchaser of the final Official Statement, in substantially the form presented to this Council, are hereby authorized and approved. The City Auditor and the Mayor of the City are authorized to execute and deliver the final Official Statement on behalf of the City, which shall be substantially as per the form of Official Statement heretofore presented to this Council, with such changes as the City Auditor and the Mayor may approve; their execution thereof on behalf of the City to be conclusive evidence of such authorization and approval, and copies thereof are hereby authorized to be prepared and furnished to the Original Purchaser for distribution to prospective purchasers of the Combined Bonds and other interested persons.

Section 18. The officer having charge of the minutes of the Council and any other officers of the Council, or any of them individually, are hereby authorized and directed to prepare and certify a true

transcript of proceedings pertaining to the Combined Bonds and to furnish a copy of such transcript to the Original Purchaser. Such transcript shall include certified copies of all proceedings and records of the Council relating to the power and authority of the City to issue the Combined Bonds and certificates as to matters within their knowledge or as shown by the books and records under their custody and control, including but not limited to a general certificate of the City Auditor and a no-litigation certificate of the Mayor and the City Auditor, and such certified copies and certificates shall be deemed representations of the City as to the facts stated therein.

Section 19. It is hereby found and determined that all acts, conditions and things necessary to be done precedent to and in the issuing of the Combined Bonds in order to make them legal, valid and binding obligations of the City have happened, been done and been performed in regular and due form as required by law; that the faith, credit and revenue of the City are hereby irrevocably pledged for the prompt payment of the principal and interest thereof at maturity; and that no limitation of indebtedness or taxation, either statutory or constitutional, has been exceeded in issuing the Combined Bonds.

Section 20. It is hereby 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 and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 21. The City Clerk is hereby directed to forward a certified copy of this ordinance to the County Auditor of Stark County, Ohio.

Section 22. This ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health and safety of the City and its inhabitants for the reason that this ordinance must be immediately effective so that the Combined Bonds can be sold as soon as possible to take advantage of favorable interest rates; wherefore this ordinance shall take effect and be in force from and immediately after its adoption.

Adopted in Council on this 7th day of October, 2002.

Attest:

Clerk

President of Council

Approved:

Mayor

CERTIFICATE

The undersigned Clerk hereby certifies that the foregoing is a true copy of Ordinance No. _____ duly adopted by the Council of the City of Massillon, Stark County, Ohio on October 7, 2002 and that a true copy thereof was certified to the County Auditor of Stark County, Ohio on _____, 2002.

Clerk
City of Massillon
Stark County, Ohio

RECEIPT OF COUNTY AUDITOR FOR
LEGISLATION PROVIDING
FOR THE ISSUANCE OF
GENERAL OBLIGATION BONDS

I, Janet Weir Creighton, the duly elected, qualified, and acting County Auditor in and for Stark County, Ohio hereby certify that a certified copy of Ordinance No. 190 - 2002 duly adopted by the City Council of the City of Massillon, Stark County, Ohio on October 7, 2002 providing for the issuance of general obligation bonds designated City of Massillon, Stark County, Ohio Various Purpose Refunding Bonds, Series 2002 B, in the amount of not to exceed \$1,340,000 was filed in this office on _____, 2002.

WITNESS my hand and official seal at Canton, Ohio on _____, 2002.

[SEAL]

County Auditor
Stark County, Ohio

DATE: OCT 7, 2002
August 19, 2002

CLERK: SHARON HOWELL

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

LEGISLATIVE DEPARTMENT

500P 9-0

PMS 9-0

RESOLUTION NO. 18 - 2002

BY: COMMUNITY DEVELOPMENT COMMITTEE

TITLE: A RESOLUTION reversing the decision of the Massillon Zoning Board of Appeals made on September 12th, 2002 wherein the Zoning Board of Appeals denied a variance to construct a fence out to the road connecting with the existing bushes on property located at 434 10th Street N.E., Massillon, Ohio and owned by Daniel Border, and declaring an emergency.

WHEREAS, the Massillon Zoning Board of Appeals on September 12th, 2002 denied a variance to construct a fence out to the road connecting with the existing bushes on property located at 434 10th Street N.E., Massillon, Ohio and owned by Daniel Border, and

WHEREAS, on September 13th, 2002 a Notice of Appeal pursuant to Section 1129.09 of the Massillon Zoning Code was filed with the Clerk of Council by Daniel Border, appealing the decision in Case No. 1063 of the Massillon Zoning Board of Appeals.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

The Council of the City of Massillon, Ohio, deems it is in the best interest for proper community growth to reverse the decision of the Massillon Zoning Board of Appeals made on September 12th, 2002 in Case No. 1063, in regards to a variance to construct a fence out to the road connecting with the existing bushes on property located at 434 10th Street N.E., Massillon, Ohio and owned by Mr. Daniel Border.

Section 2:

This Resolution is declared to be an emergency measure in that the reversal of the decision of the Massillon Zoning Board of Appeals is essential for the proper community growth and hence immediately necessary for the preservation of the health, safety and welfare of the community. Therefore, this Resolution shall be in full force and effect immediately from and after passage and approval by the Mayor.

PASSED IN COUNCIL THIS _____ DAY OF _____ 2002

APPROVED: _____
SHARON HOWELL, CLERK OF COUNCIL DENNIS D. HARWIG, PRESIDENT

APPROVED: _____
FRANCIS H. CICCHINELLI, JR., MAYOR