

AGENDA

DATE: TUESDAY, SEPTEMBER 5, 2006
PLACE: COUNCIL CHAMBERS
TIME: 7:30 P.M.

THERE ARE NO PUBLIC HEARINGS TONIGHT

1. ROLL CALL
2. INVOCATION BY COUNCILMAN RON MANG
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

CELL TOWER
RESIDENT
CONCERNS
T-MOBILE
REPRESENTATIVE

ORDINANCE NO. 131 – 2006 **BY: COMMUNITY DEVELOPMENT COMMITTEE**

PASS 9-0

AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to prepare plans and specifications and to advertise for and receive sealed bids, according to law, for the sale of certain tracts of land known as and being Lot Nos. 5216, 5217, 8305, 14807 and 14813 located at the northwest corner of Walnut Road SE and 15th Street SE, in the City of Massillon, Stark County, Ohio and owned by said City, which is not needed for any municipal purpose, and declaring an emergency.

ORDINANCE NO. 132 – 2006 **BY: COMMUNITY DEVELOPMENT COMMITTEE**

PASS 9-0

AN ORDINANCE authorizing the Mayor to enter into an agreement with EB Display Company, Inc., for an expansion project. EB Display Company, Inc., is planning to expand its existing operations located at 1369 and 1370 Sanders Avenue SW. EB Display Company, Inc., is planning to construct a new 50,000 square foot industrial building on Bostic Boulevard SW. The construction of this facility will result in the relocation of 14 Massillon employees within the City of Massillon Enterprise Zone, and declaring an emergency.

ORDINANCE NO. 133 – 2006 **BY: ENVIRONMENTAL COMMITTEE**

PASS 9-0

AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to accept the dedication of additional easement width due to field adjustments of the sanitary sewer on Parts of Out Lot 933, 855 and lots 17112 through 17116 for Concord Village, and declaring an emergency.

ORDINANCE NO. 134 – 2006 **BY: HEALTH, WELFARE AND BLDG REGULATIONS**

PASS 9-0

AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to advertise for and receive sealed bids and to enter into a contract, upon award and approval of the Board of Control, with the lowest and best bidder for sidewalk, stair and ramp improvements at the Massillon Municipal Government Annex Building, and declaring an emergency.

ORDINANCE NO. 135 – 2006

BY: RULES, COURTS AND CIVIL SERVICE

PASS 9-0
AN ORDINANCE amending CHAPTER 333 "OVI, WILLFUL MISCONDUCT, SPEED" of the "TRAFFIC CODE" of the Codified Ordinances of the City of Massillon, by repealing Section 333.01 "Driving or Physical Control While Under The Influence; Evidence" of CHAPTER 333 "OVI, WILLFUL MISCONDUCT, SPEED" of the TRAFFIC CODE" of the Codified Ordinances of the City of Massillon and enacting a new Section 333.01, and declaring an emergency.

ORDINANCE NO. 136 – 2006

BY: STREETS, HIGHWAYS, TRAFFIC & SAFETY

1ST READING
AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into contract, upon the award and approval of the Board of Control, with the ME Company Inc., for engineering services needed for a signalization design at the Lincoln Way West and Grosvenor intersection, in the City of Massillon, Ohio, and declaring an emergency.

ORDINANCE NO. 137 – 2006

BY: STREETS, HIGHWAYS, TRAFFIC & SAFETY

1ST READING
AN ORDINANCE accepting the replatting of Part of Out Lot 766, located on the southwest corner of Richville Drive SE and Ohio State Drive SE, and including the dedication of right-of-way for Richville Drive SE and the dedication of a sanitary sewer easement for Buckeye Crossing Condominiums, in the City of Massillon, County of Stark, State of Ohio, presently on file in the office of the City Engineer, and declaring an emergency.

ORDINANCE NO. 138 – 2006

BY: FINANCE COMMITTEE

PASS 9-0
AN ORDINANCE making certain appropriations from the unappropriated balance of the Massillon Municipal Court Capital Improvement Fund, Community Development Block Grant Program Fund, Massillon Municipal Court Probation Fund, Unclaimed Money Fund, General Fund and the Capital Improvement Fund, for the year ending December 31, 2006, and declaring an emergency.

ORDINANCE NO. 139 – 2006

BY: FINANCE COMMITTEE

PASS 9-0
AN ORDINANCE establishing a fund entitled "OPWC Loan Payments", and creating line items within said fund, and declaring an emergency.

RESOLUTION NO. 16 – 2006

BY: COMMUNITY DEVELOPMENT COMMITTEE

1ST READING
A RESOLUTION adopting the decision of the Tax Incentive Review Committee made on August 8, 2006 wherein they recommended that the Enterprise Zone Agreement with HydroThrift Corporation be terminated and the tax exemption rescinded in the City of Massillon, Ohio, and declaring an emergency.

RESOLUTION NO. 17 – 2006

BY: COMMUNITY DEVELOPMENT COMMITTEE

PASS 9-17
A RESOLUTION adopting the decision of the Tax Incentive Review Committee made on August 8, 2006 wherein they recommended that those certain Enterprise Zone Agreements listed on the attached exhibit "A" be continued, and declaring an emergency.

RESOLUTION NO. 18 – 2006

BY: COMMUNITY DEVELOPMENT COMMITTEE

WITHDRAWN BY T-MOBILE (STRIKE FROM THE RECORD)

A RESOLUTION reversing the decision of the Massillon Zoning Board of Appeals made on August 10, 2006 wherein the Zoning Board of Appeals denied a request for variance from the Massillon Zoning Code, Massillon Codified Ordinance Section 1187.01, concerning the erection of a cell phone tower, and declaring an emergency.

RESOLUTION NO. 19 – 2006

BY: FINANCE COMMITTEE

PASS 9-0

A RESOLUTION designating public depositories for the deposits of public monies, and declaring an emergency.

7. UNFINISHED BUSINESS

8. PETITIONS AND GENERAL COMMUNICATIONS

9. BILLS, ACCOUNTS AND CLAIMS

10. REPORTS FROM CITY OFFICIALS

A). MAYOR SUBMITS MONTHLY PERMIT REPORT FOR AUGUST 2006

B). AUDITOR SUBMITS MONTHLY REPORT FOR AUGUST 2006

C). MAYOR SUBMITS MONTHLY REPORT FOR JULY 2006

11. REPORTS OF COMMITTEES

12. RESOLUTIONS AND REQUESTS OF COUNCIL MEMBER

13. CALL OF THE CALENDAR

ORDINANCE NO. 91 – 2006

BY: COMMUNITY DEVELOPMENT COMMITTEE

PASS 9-0

AN ORDINANCE authorizing the Mayor and the Director of Public Service and Safety to enter into a lease agreement relating to certain lands that are presently owned by the City of Massillon to the Community Improvement Corporation in accordance with Section 1724.10 of the Ohio Revised Code, and declaring an emergency.

ORDINANCE NO. 105 – 2006

BY: PARKS AND RECREATION COMMITTEE

TABLED INDEFINITELY

AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into a contract with GE Capital to enter into a purchase agreement for the purchase of two (2) Toro Groundmaster 4000-D mowers, without competitive bidding, through pricing based on State Purchasing #777555C and approved by the Board of Control, and declaring an emergency.

14. THIRD READING ORDINANCES AND RESOLUTIONS

15. SECOND READING ORDINANCES AND RESOLUTIONS

ORDINANCE NO. 119 – 2006

BY: COMMUNITY DEVELOPMENT COMMITTEE

2ND READING

AN ORDINANCE amending Section 1151.02 of the Massillon Code of 1985 rezoning a certain tract of land from Perry Township Zoning to B-3 General Business.

ORDINANCE NO. 120 – 2006

BY: COMMUNITY DEVELOPMENT COMMITTEE

2ND READING 7:10 9/1/06

AN ORDINANCE amending Section 1151.02 of the Massillon Code of 1985 rezoning a certain tract of land from I-2 General Industrial to B-3 General Business.

ORDINANCE NO. 121 – 2006

BY: COMMUNITY DEVELOPMENT COMMITTEE

2ND READING 7:20 9/1/06

AN ORDINANCE amending CHAPTER 1179 "NONCONFORMING USES; LOTS; AND STRUCTURES" of the Codified Ordinances of the City of Massillon, by amending existing Sub-Section 1179.04(b) "Nonconforming Structures" of CHAPTER 1179 "NONCONFORMING USES; LOTS; AND STRUCTURES", and enacting a new Sub-Section 1179.04(b).

16. NEW AND MISCELLANEOUS BUSINESS

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

18. ADJOURNMENT

MARY BETH BAILEY - CLERK OF COUNCIL

DATE: SEPTEMBER 6, 2006

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

Passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 131 - 2006

BY: COMMUNITY DEVELOPMENT COMMITTEE

TITLE: AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to prepare plans and specifications and to advertise for and receive sealed bids, according to law, for the sale of certain tracts of land known as and being Lot Nos. 5216, 5217, 8305, 14807 and 14813 located at the northwest corner of Walnut Road S.E. and 15th Street S.E. in the City of Massillon, Stark County, Ohio and owned by said City, which is not needed for any municipal purpose, 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 prepare plans and specifications and to advertise for and receive sealed bids, according to law, for the sale of a certain tracts of land known as and being Lot Nos. 5216, 5217, 8305, 14807 and 14813 located at the northwest corner of Walnut Road S.E. and 15th Street S.S. in the City of Massillon, Stark County, Ohio and owned by said City, which is not needed for any municipal purpose.

Section 2:

The following described real estate belonging to the City of Massillon, Ohio, is not needed for any municipal purpose, to-wit:

Known as and being tracts of land known as Lot Nos. 5216, 5217, 8305, 14807 and 14813 located at the northwest corner of Walnut Road S.E. and 15th Street S.E. in the City of Massillon, Stark County, Ohio and owned by said City, which is not needed for any municipal purpose.

Section 3:

The Director of Public Safety and Service be and is hereby authorized to prepare plans and specifications and to advertise for and receive sealed bids, according to law, for the sale of a certain tracts of land known as and being Lot Nos. 5216, 5217, 8305, 14807 and 14813 located at the northwest corner of Walnut Road S.E. and 15th Street S.E. in the City of Massillon, Stark County, Ohio and owned by said City, which is not needed for any municipal purpose

Section 4:

The advertisement for the bidding of said real estate shall contain the following instructions:

- 1). Each bidder shall be prepared to review with the administration of the City of Massillon and City Council their intended use for the real estate.
- 2). The successful bidder shall be responsible to pay all fees and costs associated with the sale and transfer of said property.
- 3). The City reserves the right to reject any and all bids.

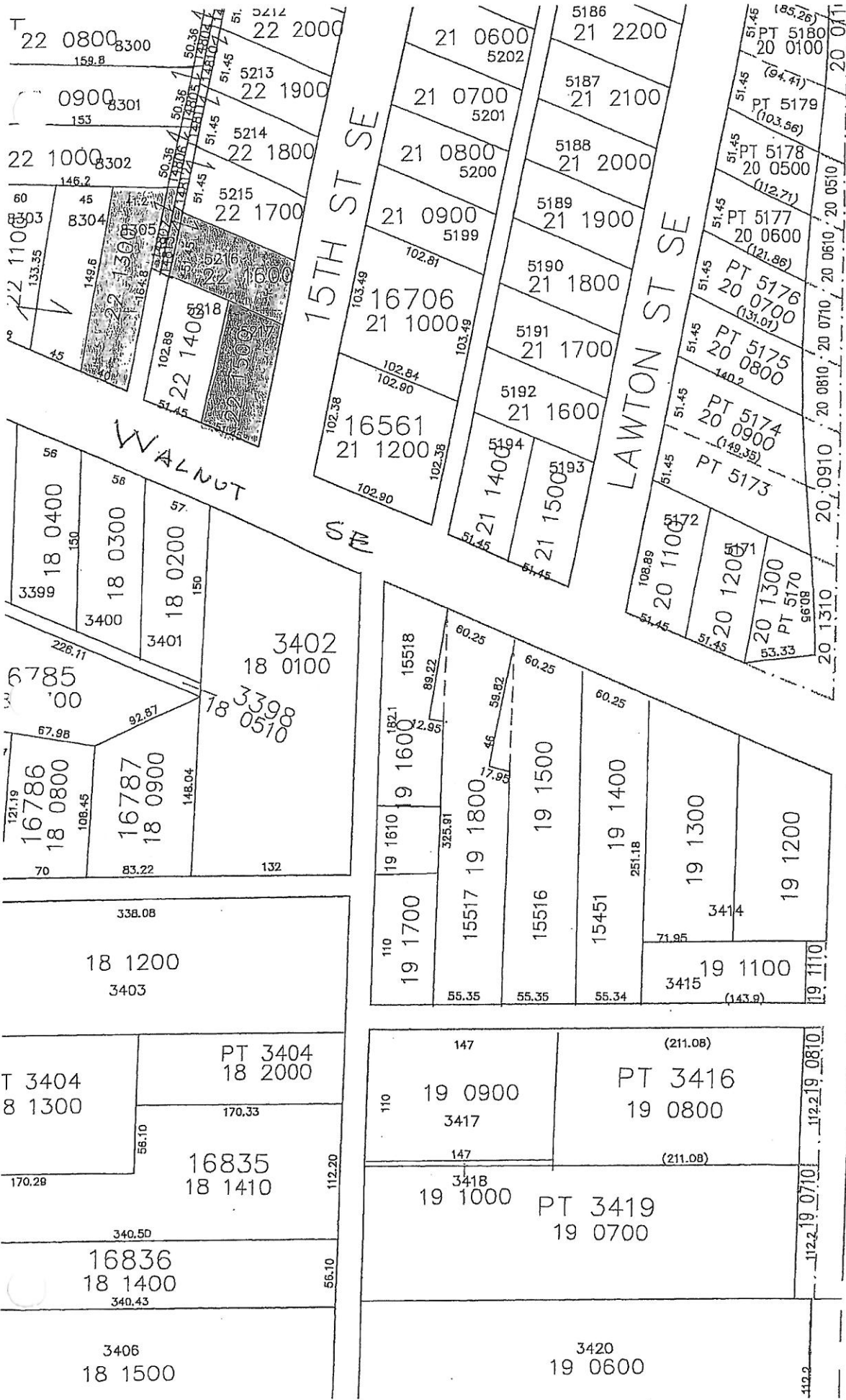
Section 5:

This Ordinance is declared to be an emergency measure immediately necessary for the preservation of the public health, safety and welfare of the community and for the further reason of such emergency arising out of the necessity to dispose of real estate no longer needed for any municipal purpose for the best price obtainable. 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 _____ 2006

APPROVED: _____
MARY BETH BAILEY, CLERK OF COUNCIL GLENN E. GAMBER, PRESIDENT

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



MASSILLON MAP 55



+

DATE: SEPTEMBER 5, 2006

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

Passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 132 - 20065

BY: COMMUNITY DEVELOPMENT COMMITTEE

TITLE: AN ORDINANCE authorizing the Mayor to enter into an agreement with EB Display Company, Inc., for an expansion project. EB Display Company, Inc., is planning to expand its existing operations located at 1369 and 1370 Sanders Avenue SW. EB Display Company Inc., is planning to construct a new 50,000 square foot industrial building on Bostic Boulevard SW. The construction of this facility will result in the relocation of 14 Massillon employees within the City of Massillon Enterprise Zone, and declaring an emergency.

WHEREAS, the City of Massillon has encouraged the development of real property and the acquisition of personal property located in the area designated as an Enterprise Zone; and

WHEREAS, EB Display Company, Inc., is proposing to expand its existing operations located at 1369 and 1370 Sanders Avenue SW and construct a new facility on Bostic Boulevard SW, within the Massillon Enterprise Zone, through the construction of this expansion and a new facility at a total investment of \$3,625,000.00 (hereinafter the "Project"), provided that the appropriate development incentives are available to support the economic viability of said Project; and

WHEREAS, the Council of the City of Massillon, Ohio, (hereinafter "Council") by Ordinance has designated an area of the City as an "Enterprise Zone" pursuant to Chapter 5709 of the Ohio Revised Code; and

WHEREAS, effective September 12, 1994, and as amended on March 13, 1998, and on March 9, 1999, the Director of Development of the State of Ohio has determined that the aforementioned area designated in said Ordinance No. 163 – 1994, Ordinance No. 57 – 1998, and Ordinance No. 43 – 1999 contains the characteristics set forth in 5709.61(A)(1) (a) and (e) of the Ohio Revised Code, and has certified said area as an Enterprise Zone under Chapter 5709; and

WHEREAS, the City of Massillon, having the appropriate authority for the stated type of project is desirous of providing EB Display Company, Inc., with the incentives available for development of the Project in said Enterprise Zone, under Chapter 5709 of the Ohio Revised Code; and

WHEREAS, EB Display Company, Inc., has submitted a proposed agreement application, herein attached as Exhibit "A", to the City of Massillon, Ohio, requesting that the incentives available for development within the Enterprise Zone be approved for the Project; and

WHEREAS, the Mayor of the City of Massillon, Ohio, has investigated the application submitted by EB Display Company, Inc., and has recommended approval of the same to the Council on the basis that the company is qualified by financial responsibility and business experience to create employment opportunities in said Enterprise Zone and to improve the economic climate of the City of Massillon; and

WHEREAS, the project site is located in the Tuslaw Local School District and the Tuslaw Board of Education has been notified in accordance with Section 5709.83 and have been given a copy of the application.

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 does hereby authorize and direct the Mayor to enter into an agreement, attached hereto as Exhibit "A" and incorporated herein by reference, with EB Display Company, Inc., providing for the adoption of a project which will improve their facility and preserve employment opportunities within the City of Massillon Enterprise Zone.

Section 2:

This Ordinance is declared to be an emergency measure immediately necessary for the preservation of the health, safety and welfare of the City of Massillon, Ohio and for the further reason that approval of said agreement is necessary so as to maximize the investment that will be made by EB Display Company, Inc., within the City of Massillon, Ohio. 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 _____ 2006

APPROVED: _____
MARY BETH BAILEY, CLERK OF COUNCIL GLENN E. GAMBER, PRESIDENT

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

OHIO ENTERPRISE ZONE AGREEMENT

This Agreement made and entered into by and between the **City of Massillon, Ohio**, a municipal corporation, with its main offices located at 151 Lincoln Way East, Massillon, Ohio 44646 (hereinafter referred to as "City of Massillon"), **EB Display Company, Inc.**, a Corporation with its main offices currently located at 1369 Sanders Avenue SW, Massillon, Ohio 44646 (hereinafter referred as the "Enterprise"), and **Rotolo Industries, Inc.**, the Lessor (hereinafter referred to as the "Lessor").

WITNESSETH:

Whereas, the City of Massillon has encouraged the development of real property and the acquisition of personal property located in the area designated as an Enterprise Zone; and

Whereas, the Enterprise, which manufactures metal, wire, plastic & wooden signs, advertising displays & racks, screen printing services, and point of purchase displays for retailers, is desirous of expanding its existing facility within the Enterprise Zone through the construction of a 50,000 square foot industrial building for assembly work and warehousing (hereinafter referred to as the "Project"), provided that the appropriate development incentives are available to support the economic viability of said Project; and

Whereas, the Council of the City of Massillon, Ohio (hereinafter "Council") by Ordinance No. 163-1994, adopted on July 18, 1994, and as amended by Ordinance No. 57-1998, adopted on March 2, 1998, and as amended by Ordinance No. 43-1999, adopted on March 1, 1999, has designated an area of the City as an "Enterprise Zone" pursuant to Chapter 5709 of the Ohio Revised Code; and

Whereas, effective September 12, 1994, and as amended on March 13, 1998 and on March 9, 1999, the Director of Development of the State of Ohio has determined that the aforementioned area designated in said Ordinance No. 163-1994, Ordinance No. 57-1998, and Ordinance No. 43-1999 contains the characteristics set forth in 5709.61 (A) (1) (a) and (e) of the Ohio Revised Code, and has certified said area as an Enterprise Zone under Chapter 5709; and

Whereas, the City of Massillon, having the appropriate authority for the stated type of project, is desirous of providing the Enterprise and the Lessor with the incentives available for development of the Project in the said Enterprise Zone, under Chapter 5709 of the Ohio Revised Code; and

Whereas, the- Enterprise and the Lessor have submitted a proposed agreement application, herein attached as Exhibit A, (hereinafter referred to as the "Application") to the City of Massillon, Ohio, requesting that the incentives available for development within the Enterprise Zone be approved for the Project; and

Whereas, the Enterprise has remitted the required state application fee of \$750.00 made payable to the Ohio Department of Development with the application to be forwarded with the final agreement; and

Whereas, the Mayor of the City of Massillon, Ohio, has investigated the Application submitted by the Enterprise and the Lessor, and has recommended approval of the same to the Council on the basis that the Enterprise is qualified by financial responsibility and business experience to create and preserve employment opportunities in said Enterprise Zone and to improve the economic climate of the City of Massillon; and

Whereas, the project site is located in the Tuslaw Local School District and the Board of Education of said district and any applicable Joint Vocational School District have been notified in accordance with Section 5709.83 and been given a copy of the Application; and

Whereas, pursuant to Section 5709.62(C) and in conformance with the format required under Section 5709.631 of the Ohio Revised Code, the parties hereto desire to set forth their agreement with respect to matters hereinafter contained.

Now, therefore, in consideration of the mutual covenants herein contained and the benefit to be derived by the parties from the execution hereof, the parties herein agree as follows:

Section I:

The Enterprise, whose main office are located at 1369 Sanders Avenue SW shall expand its operations at this location through the construction of a 50,000 square foot industrial building for assembly work and warehousing. This building will be located on Part of Out Lot 512, Tax Parcel No. 05-00293, in the City of Massillon, Stark County, Ohio (hereinafter, the "Project Site").

The Enterprise shall also purchase and install new machinery and equipment including, but not limited to: warehouse racking, two lift trucks, and computer networking.

The Project will involve a total investment by the Enterprise as detailed below:

| | Minimum | Maximum |
|---------------------------------------|---------------------|---------------------|
| A. Acquisition of Buildings: | \$ 0 | \$ 0 |
| B. Additions/New Construction: | \$ 1,400,000 | \$ 1,500,000 |
| C. Improvements to existing buildings | \$ 0 | \$ 0 |
| D. Machinery & Equipment | \$ 5,000 | \$ 100,000 |
| E. Furniture & Fixtures: | \$ 1,000 | \$ 25,000 |
| F. Inventory | \$ 1,000 | \$ 2,000,000 |
| Total New Project Investment: | \$ 1,407,000 | \$ 3,625,000 |

Furthermore, the Enterprise has reported that its existing base level of inventory as listed in the personal property tax return for the tax year (stated in average \$ value per most recent 12 month period) in which the agreement is entered into is \$2,241,925.

The Project will begin in September 2006, and all acquisition, construction, and installation under will be completed by June 30, 2007. Any changes to the beginning and completion dates must be agreed to by formal resolution and an amended agreement.

The total investment of this expansion project is greater than 10% of the market value of the facility assets already owned at the site prior to such expenditures as evidenced in Exhibit A, and as such, the City of Massillon hereby determines that the Project is eligible for the tax incentives and other benefits as described in this Agreement.

If, at any time, The Enterprise determines that it will not undertake all the improvements set forth in this Section 1, or otherwise desires to modify the Project, the Enterprise will notify the City of Massillon, stating the reasons for its determination. The parties will thereupon confer to discuss the effect of the Enterprise's determination on the tax exemptions provided herein and to amend or terminate this Agreement accordingly. In no event shall any such amendment operate to revoke retroactively the tax exemptions provided herein.

Section 2:

As a result of this Project, the Enterprise will be consolidating existing warehousing and assembly operations currently located within leased space at two separate locations within the City of Massillon: 240 6th Street NW and 815 Oberlin Road SW. The Enterprise employs a total of 14 employees at these two leased locations. The Project will result in the relocation and retention of these 14 full-time permanent employees, whose total annual payroll is \$300,000.

The Enterprise currently has 90 full-time permanent employees at its EB Display Inc. facility located at 1369 Sanders Avenue SW, and 75 full-time permanent employees at its EB Wireworks facility located across the street at 1350 Sanders Avenue SW. Including the 14 off-site employees who will be relocated and retained at the Project, the Enterprise has a total of 179 full-time permanent employees in the State of Ohio.

Section 3:

The Enterprise and the Lessor shall provide to the proper Tax Incentive Review Council any information reasonably required by the council to evaluate the Enterprise's compliance with the agreement, including returns filed pursuant to section 5711.02 of the Ohio Revised code if requested by the council.

Section 4:

The City of Massillon hereby grants the Enterprise a tax exemption pursuant to Section 5709.62 for eligible new tangible personal property acquired in conjunction with the Project. This tax exemption will only apply to the investment limits expressed in the project description as defined in Sections 1 of this agreement. This tax exemption shall be at the rate of 75% on all machinery and equipment, furniture and fixtures, and inventory acquired as part of the Project as defined in Section 1 and Exhibit A of this Agreement. Each identified project improvement will receive a ten year exemption period.

The minimum investment for tangible personal property to qualify for the exemption is \$5,000 to purchase machinery and equipment first used in business at the facility as a result of the project, \$1,000 for furniture and fixtures and other noninventory personal property first used in business at the facility as a result of the project, and \$1,000 for new inventory. The maximum investment for tangible personal property to qualify for exemption is \$100,000 to purchase machinery and equipment first used in business at the facility as a result of the project, \$25,000 for furniture and fixtures and other noninventory personal property first used in business at the facility as a result of the project, and \$2,000,000 for new inventory. The exemption commences the first year for which the tangible personal property would first be taxable were that property not exempted from taxation. No exemption shall commence after tax return year 2007 nor extend beyond tax return year 2016. In no instance shall any tangible personal property be exempted from taxation for more than ten return years.

Section 5:

The City of Massillon hereby grants the Enterprise and the Lessor a tax exemption for real property improvements made to the Project Site pursuant to Section 5709.62 of the Ohio Revised Code. This tax exemption shall be at the rate of 75%. Each identified project improvement will receive a ten year exemption period. The exemption commences the first year for which the real property exemption would first be taxable were that property not exempted from taxation. after tax return year 2007 nor extend beyond tax return year 2016

The Enterprise must file the appropriate tax forms (DTE 23) with the County Auditor to effect and maintain the exemptions covered in the agreement.

Section 6:

Waivers under section 5709.633 of the revised code: not applicable.

Section 7:

The Enterprise shall pay to the City of Massillon an annual monitoring fee of (\$500) Five Hundred Dollars for each year the agreement is in effect. The fee shall be made payable to the City of Massillon and shall be paid by certified check and delivered to the Mayor by March 31 of each year that the fee is due and payable. This fee shall be deposited in a special fund created for such purpose and shall be used exclusively for the purpose of complying with section 5709.68 of the revised code and by the tax incentive review council created under section 5709.85 of the revised code exclusively for the purposes of performing the duties prescribed under that section.

Section 8:

The Enterprise and/or the Lessor shall pay such real and tangible personal property taxes as are not exempted under this agreement and are charged against such property and shall file all tax reports and returns as required by law. If the Enterprise and/or the Lessor fails to pay such taxes or file such returns and reports, all incentives granted under this agreement are rescinded beginning with the year for which such taxes are charged or such reports or returns are required to be filed and thereafter.

Section 9:

The City of Massillon shall perform such acts as are reasonably necessary or appropriate to effect, claim, reserve, and maintain exemptions from taxation granted under this Agreement including, without limitation, joining in the execution of all documentation and providing any necessary certificates required in connection with such exemptions.

Section 10:

If for any reason the Enterprise Zone designation expires, the Director of the Ohio Department of Development revokes certification of the zone, or the City of Massillon revokes the designation of the zone, entitlements granted under this agreement shall continue for the number of years specified under this agreement, unless the Enterprise and/or the Lessor materially fails to fulfill its obligations under this Agreement and the City of Massillon terminates or modifies the exemptions from taxation under this agreement.

Section 11:

If the Enterprise and/or the Lessor materially fails to fulfill its obligations under this Agreement, other than with respect to the number of employee positions estimated to be created or retained under this agreement, or if the City of Massillon determines that the certification as to delinquent taxes required by this agreement is fraudulent, the City of Massillon may terminate or modify the exemptions from taxation granted under this Agreement.

Section 12:

The Enterprise and the Lessor hereby certify that, at the time this agreement is executed, they do not owe any delinquent real or tangible personal property taxes to any taxing authority in the State of Ohio, and do not owe delinquent taxes for which the Enterprise and/or the Lessor is liable under Chapter 5733., 5735., 5739., 5741., 5743., 5747., or 5753. of the Revised Code, or, if such delinquent taxes are owed, the Enterprise and/or the Lessor are currently paying the delinquent taxes pursuant to an undertaking enforceable by the State of Ohio or an agent or instrumentality thereof, has filed a petition of bankruptcy under 11 U.S.C.A. 101, et seq., or such a petition has been filed against the Enterprise and/or the Lessor. For the purposes of the certification, delinquent taxes are taxes that remain unpaid on the latest day prescribed for payment without penalty under the chapter of the Revised code governing payment of those taxes.

Section 13:

The Enterprise and the Lessor affirmatively covenants that they do not owe: (1) any delinquent taxes to the State of Ohio or a political subdivision of the State; (2) any moneys to the State or a state agency for the administration or enforcement of any environmental laws of the State; and (3) any other moneys to the State, a state agency or a political subdivision of the State that are past due, whether the amounts owed are being contested in a court of law or not.

Section 14:

The Enterprise and the Lessor and the City of Massillon acknowledge that this Agreement must be approved by formal action of the legislative authority of the City of Massillon as a condition for the agreement to take effect. This Agreement takes effect upon such approval.

Section 15:

The City of Massillon has developed a policy to ensure recipients of Enterprise Zone tax benefits practice non-discriminating hiring in its operations. By executing this agreement, the Enterprise is committing to following non-discriminating hiring practices acknowledging that no individual may be denied employment solely on the basis of race, religion, sex, disability, color, national origin, or ancestry.

Section 16:

Exemptions from taxation granted under this agreement shall be revoked if it is determined that the Enterprise, any successor enterprise, or any related member (as those terms are defined in Section 5709.61 of the Ohio Revised Code) has violated the prohibition against entering into this agreement under Division (E) of Section 3735.671 or Section 5709.62 of the Ohio Revised Code prior to the time prescribed by that division or either of those sections.

Section 17:

In any three-year period during which this agreement is in effect, if the actual number of employee positions created or retained by the Enterprise is not equal to or greater than seventy-five percent of the number of employee positions estimated to be created or retained under this agreement during three-year period, the Enterprise shall repay the amount of taxes on property that would have been payable had the property not been exempted from taxation under this agreement during that three-year period. In addition, the City of Massillon may terminate or modify the exemptions from taxation granted under this agreement.

Section 18:

The Enterprise and the Lessor together affirmatively covenants that it has made no false statements to the State or local political subdivision in the process of obtaining approval for the Enterprise Zone incentives. If any representative of the Enterprise and/or the Lessor has knowingly made a false statement to the State or local political subdivision to obtain the Enterprise Zone incentives, the Enterprise and/or the Lessor shall be required to immediately return all benefits received under the Enterprise Zone Agreement pursuant to ORC Section 9.66(C)(2) and shall be ineligible for any future economic development assistance from the State, any state agency, or a political subdivision pursuant ORC 9.66(C)(1). Any persons who provides a false statement to secure economic development assistance may be guilty of falsification, a misdemeanor of the first degree, pursuant ORC 2931.13(D)(1), which is punishable by a fine of not more than \$1,000 and/or a term of imprisonment of not more than 6 months.

Section 19:

This Agreement is not transferable or assignable without the express, written approval of the City of Massillon.

In Witness Whereof, the City of Massillon, Ohio, by Francis H. Cicchinelli, Jr., its Mayor, and pursuant to Ordinance No. _____, has caused this instrument to be executed this ____ day of _____; EB Display Company, Inc., by Michael S. Rotolo, President/CEO has caused this instrument to be executed this day of _____; and Rotolo Industries, Inc., the Lessor, by Michael S. Rotolo, Owner, has caused this instrument to be executed this ____ day of day of _____.

WITNESSED BY:

THE CITY OF MASSILLON, OHIO

Francis H. Cicchinelli, Jr., Mayor

WITNESSED BY:

EB DISPLAY COMPANY, INC.

Michael S. Rotolo, President/CEO

WITNESSED BY:

ROTOLO INDUSTRIES, INC.

Michael S. Rotolo, Owner

Approved as to form and legal sufficiency:

Pericles G. Stergios, Director of Law
City of Massillon, Ohio

PROPOSED AGREEMENT for Enterprise Zone Tax Incentives between the City of
Massillon located in the County of Stark and EB Display Co., Inc

Both are corporations.

3. Name of principal owner(s) of the business (attach list if necessary).

Mike Rotolo

4. Is business seasonal in nature? Yes _____ No XX

5. a. State the enterprise's current employment level at the proposed project site:

EB Display Co Inc has 104 employees.

- b. Will the project involve the relocation of employment positions or assets from one Ohio location to another? Note that relocation projects are restricted in non-distress based Ohio Enterprise Zones. A waiver from the Director of the Ohio Department of Development is available for special limited circumstances. The business and local jurisdiction should contact ODOD early in the discussions.

Yes _____ No XX

- c. If yes, state the locations from which employment positions or assets will be relocated and the location to where the employment positions or assets will be located:

- d. State the enterprise's current employment level in Ohio (itemized for full and part-time and permanent and temporary employees):

EB Display 104 employees and EB Wire Works, Inc 75. Total of 179 employees.

- e. State the enterprise's current employment level for each facility to be affected by the relocation of employment positions or assets:

100% retention of employees.

- f. What is the projected impact of the relocation, detailing the number and type of employees and/or assets to be relocated?

\$2,000,000 of inventory, hand tools, lift trucks and 14 employees.

6. a. Has the Enterprise previously entered into an Enterprise Zone Agreement with the local legislative authorities at any site where the employment or assets will be relocated as a result of this proposal? Yes _____ No XX

- b. If yes, list the local legislative authorities, date, and term of the incentives for each Enterprise Zone Agreement: _____

7. Does the Enterprise owe:

- a. Any delinquent taxes to the State of Ohio or a political subdivision of the state?
Yes____ No XX
- b. Any moneys to the State or a state agency for the administration or enforcement of any environmental laws of the State? Yes____ No XX
- c. Any other moneys to the State, a state agency or a political subdivision of the State that are past due, whether the amounts are being contested in a court of law or not?
Yes____ No XX
- d. If yes to any of the above, please provide details of each instance including but not limited to the location, amount and/or case identification numbers (add additional sheets if necessary).

8. Project Description (attach additional pages if necessary): _____

New construction of a 50,000 square foot metal building for assembly and warehousing. EB Display currently leases 20,000 square feet of space at 240 6th St. Massillon and 40,000 square feet at 815 Oberlin Ave. Massillon. We would like to consolidate the 2 leased facilities into the new building.

9. Project will begin August, 2006 and be completed
January, 2007 provided a tax exemption is provided.

10. a. Estimate the number of new employees the business intends to hire at the facility that is the project site (job creation projection must be itemized by full and part-time and permanent and temporary): -0-

b. State the time frame for this projected hiring: _____ years.

c. State proposed schedule for hiring (itemize by full and part-time and permanent and temporary employees): _____

11. a. Estimate the amount of annual payroll such new employees will add \$ _____
(new annual payroll must be itemized by full and part-time and permanent and
temporary new employees). _____

- b. Indicate separately the amount of existing annual payroll relating to any job retention
claim resulting from the project: \$ \$300,000

12. Market value of the existing facility as determined for local property taxation.
\$ 321,030

13. a. Business's total current investment in the facility as of the proposal's submission.
Net Asset Value of \$ 2,039,069

- b. State the business's value of on-site inventory required to be listed in the personal
property tax return of the enterprise in the return for the tax year (stated in average
\$ value per most recent 12 month period) in which the agreement is entered into
(baseline inventory): \$ 2,241,925

14. An estimate of the amount to be invested by the enterprise to establish, expand, renovate
or occupy a facility:

| | Minimum | Maximum |
|---------------------------------------|---------------------|---------------------|
| A. Acquisition of Buildings: | \$ _____ | \$ _____ |
| B. Additions/New Construction: | \$ <u>1,400,000</u> | \$ <u>1,500,000</u> |
| C. Improvements to existing buildings | \$ _____ | \$ _____ |
| D. Machinery & Equipment | \$ <u>5,000</u> | \$ <u>100,000</u> |
| E. Furniture & Fixtures: | \$ <u>1,000</u> | \$ <u>25,000</u> |
| F. Inventory | \$ <u>1,000</u> | \$ <u>2,000,000</u> |

Total New Project Investment: \$ 1,407,000 \$ 3,625,000

15. a. Business requests the following tax exemption incentives: 75 % for 10
years covering real and/or personal property including inventory as described above.
Be specific as to type of assets, rate, and term.

- b. Business's reasons for requesting tax incentives (be quantitatively specific as
possible)

Purpose of the consolidation is to become more efficient which will reduce costs.

We need to reduce costs to stay competitive in world market. In the short term,

consolidation will be costly but a benefit long term.

Submission of this application expressly authorizes the City of Massillon, Ohio to contact the Ohio Environmental Protection Agency to confirm statements contained within this application including item #7 and to review applicable confidential records. As part of this application, the business may also be required to directly request from the Ohio Department of Taxation or complete a waiver form allowing the Ohio Department of Taxation to release specific tax records to the local jurisdictions considering the incentive request.

Applicant agrees to supply additional information upon request.

The applicant affirmatively covenants that the information contained in and submitted with this application is complete and correct and is aware of the ORC Sections 9.66(C)(1) and 2921.13(D)(1) penalties for falsification which could result in the forfeiture of all current and future economic development assistance benefit as well as a fine of not more than \$1,000 and/or a term of imprisonment of not more than six months.

EB Display Co Inc
Name of Enterprise

8/3/06
Date

[Signature]
Signature

Mike Rotolo - Owner
Typed Name and Title

* A copy of this proposal must be forwarded by the local government to the affected Board of Education along with notice of the meeting date on which the local government will review the proposal. Notice must be given a minimum of fourteen (14) days prior to the scheduled meeting to permit the Board of Education to appear and/or comment before the legislative authorities considering the request.

** Attach to Final Enterprise Zone Agreement as Exhibit A

*** An Application Fee of Seven Hundred Fifty Dollars (\$750.00) must be submitted along with the Proposed Agreement for Enterprise Zone Tax Exemption (Application). This fee is payable by check or money order made payable to the **Ohio Department of Development**.

Please note that copies of this proposal must be included in the finalized Enterprise Zone Agreement and be forwarded to the Ohio Department of Taxation and the Ohio Department of Development within fifteen (15) days of final approval.

APPLICATION TO THE CITY OF MASSILLON
FOR A PROJECT AGREEMENT UNDER THE
OHIO URBAN JOBS AND ENTERPRISE ZONE ACT

NARRATIVE STATEMENT

I. PROJECT DESCRIPTION: EB Display Co, Inc - New Construction Project

Briefly summarize the project proposed to be undertaken, including a description of the investments to be made by the applicant enterprises. Describe the project site, including the lot number, address, and area (in square feet or acres).

Note: If the project involves the relocation of all or part of the enterprise's operations from another county or municipal corporation in the State of Ohio, the Enterprise shall attach a statement detailing the reasons for the proposed relocation.

The new construction project includes a 50,000 square foot metal building used for assembly and warehousing. The address of the building site is 2420 Bostic Blvd. SW, Massillon. The parcel number is 05-00293. The building site is located on the existing property of EB Display whose address is 1369 Sanders Ave, Massillon.

EB Display currently leases 20,000 square feet of space at 240 6th St., Massillon and 40,000 square feet at 815 Oberlin Ave, Massillon. We would like to consolidate the operations of these 2 facilities into the new building.

II. PROJECT BUDGET

A. NEW BUILDINGS (Provide a brief description of size, type, etc.)

Proposed Cost

New Construction 50,000 sq feet

\$1,400,000

B. ADDITIONS (Provide a brief description of size, type, etc.)

Proposed Cost

C. IMPROVEMENTS TO EXISTING BUILDINGS (Provide an itemized description)

Proposed Cost

D. MACHINERY AND EQUIPMENT

Proposed Cost

1. Provide an itemized list of machinery, equipment, furniture, and fixtures to be purchased and installed at the project site and that will be subject to tax exemption under this Agreement.

| | |
|-------------------|----------|
| Warehouse Racking | \$20,000 |
| 2 Lift trucks | \$20,000 |
| Computer Network | \$10,000 |

2. Provide an itemized list of machinery, equipment, furniture, and fixtures used by the enterprise at another location in the State that will be relocated to the project site and that will not be exempted from taxation under this Agreement.

N/A

E. INVENTORY

Proposed Cost

List the value of inventory at the project site, including an itemization of the value of inventory held at another location in this state prior to the Agreement and to be relocated from that location to the project site; and the value of inventory held at the project site prior to the execution of the Agreement that will be not be exempted from taxation.

Baseline \$2,241,925

The inventory which is eligible for exemption is that amount or value of inventory in excess of the amount or value of inventory required to be listed in the personal property tax return for the tax year in which the Agreement is entered into.

III. EMPLOYMENT

Describe the current workforce of the company, including annual payroll. Describe the impact that the project will have on the company's workforce, specifically, at the project site. List the total number of jobs to be created/and or retained as a result of the project, itemized as to the number of full-time, part-time, and temporary positions, and including a schedule of hiring, itemized by each type of position listed above (the suggested maximum job creation is 36 months). Provide estimates of the dollar amount of additional payroll attributable to each type of position to be created (i.e., full-time, part-time, and temporary).

EB Display Co currently employees 104 people all of which are full-time positions. 14 people work at the facilities which will be consolidated into the new building and all 14 of them will be retained. The annual payroll at EB Display is \$4,000,000.

EB Wire Works currently employees 75 people all of which are full-time positions. The annual salary is about \$1,900,000.

IV. REQUEST FOR TAX EXEMPTION

Describe the type, amount, and term of tax exemption being requested for this project as follows:

- (1) An exemption for a specified number of years, not to exceed ten, of a specified portion, up to seventy-five per cent, of tangible personal property first used in business at the project site as a result of this Agreement. ("First used in business" means that the property referred to has not been used in business in this State by the enterprise that owns it, or by an enterprise that is an affiliate or subsidiary of such an enterprise, other than as inventory, prior to being used in business at the project site as a result of an Agreement.)

75% for 10 years.

- (2) An exemption for a specified number of years, not to exceed ten, of a specified portion, up to seventy-five per cent, of real property constituting the project site.

75% for 10 years.

In addition, provide a detailed explanation of the reasons why the proposed tax exemptions are necessary for the project. Provide any supporting financial information that would document the need for such tax exemptions. Using the attached forms, provide an analysis of the total taxes that would result from the project, both with and without the proposed tax exemptions. Summarize the benefits to the community as a result of the project.

| | |
|-----------------------|------------------|
| Relocation labor cost | \$ 50,000 |
| Truck Rental | \$ 5,000 |
| Warehouse Racking | \$ 20,000 |
| 2 Lift trucks | \$ 20,000 |
| Computer Network | <u>\$ 10,000</u> |
| Total relocation cost | \$105,000 |

The short-term cost of the relocation is \$105,000. The relocation costs will be a burden to the company in the short-term. The tax abatement will help to offset the relocation costs. In the long-term, the new building will make us more efficient because the transportation cost of moving goods to offsite locations will be eliminated.

DATE: SEPTEMBER 5, 2006

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 133 - 2006

BY: ENVIRONMENTAL COMMITTEE

TITLE: AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to accept the dedication of additional easement width due to field adjustments of the sanitary sewer on Parts of Out Lot 933, 855 and lots 17112 through 17116 for Concord Village, 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 accept the dedication of additional easement width due to field adjustments of the sanitary sewer on Parts of Out Lot 933, 855 and lots 17112 through 17116 for Concord Village.

Section 2:

The Director of Public Service and Safety of the City of Massillon, Ohio, is hereby authorized to accept the dedication of additional easement width due to field adjustments of the sanitary sewer on Parts of Out Lot 933, 855 and lots 17112 through 17116 for Concord village further described on exhibit "A" attached hereto and as set forth below:

Being known as Parts of Out Lot 933, 855 and lots 17112 through 17116; located on the north side of Hankins Road NE; west of Valerie Avenue. The proposal is to dedicate additional easement width due to field adjustments of the sanitary sewer. The parcel is zoned R-3 single family residential. The request has been submitted by Robin Warstler, Providence Development Co./Gino and Louisa Perciballi.

Section 3:

That this Ordinance is hereby declared to be an emergency measure for the reason that this additional sanitary sewer easement must be dedicated to enable timely completion of the development. 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.

2nd page is signature page

Property Description: Parts of Out Lot 933, 855, and lots 17112 through 17116; located on the North side of Hankins Road NE, west of Valerie Ave. The proposal is to dedicate additional easement width due to field adjustments of the sanitary sewer. The parcel is zoned R-3 single family residential.

[illegible]

14-00000
SUBJECT: CITY PLANNING COMMISSION 11/1/78
11/1/78

447123835

DATE: _____ BY: _____

2234234

_____ 20____

CLERK OF COUNCIL

[illegible]

THE UNIVERSITY OF CHICAGO PRESS

DATE: SEPTEMBER 5, 2006

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 134 - 2006

BY: HEALTH, WELFARE AND BUILDING REGULATIONS COMMITTEE

TITLE: AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to advertise for and receive sealed bids and to enter into a contract, upon award and approval of the Board of Control, with the lowest and best bidder for sidewalk, stair and ramp improvements at the Massillon Municipal Government Annex Building, 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 advertise for and receive sealed bids and to enter into a contract, upon award and approval of the Board of Control, with the lowest and best bidder for sidewalk, stair and ramp improvements at the Massillon Municipal Government Annex Building located at 151 Lincoln Way East.

Section 2:

The Director of Public Service and Safety of the City of Massillon, Ohio, is hereby authorized and directed to prepare plans and specifications and to advertise for and receive sealed bids according to law, and to enter into contract upon award and approval by the Board of Control, with the lowest and best bidder for sidewalk, stair and ramp improvements at the Massillon Municipal Government Annex Building located at 151 Lincoln Way East. The estimated cost of the project is Forty Thousands Dollars (\$40,000.00) these dollars will come from the Capital Improvement Fund.

Section 3:

This Ordinance is hereby declared to be an emergency measure necessary for the preservation of the health, safety and welfare of the community and for the additional reason that it is necessary that the repairs be done to the Massillon Municipal Government Annex Building before further damage occurs. 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.

2nd page is signature page

DATE: SEPTEMBER 5, 2006 CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 135 - 2006

BY: RULES, COURTS AND CIVIL SERVICE COMMITTEE

TITLE: AN ORDINANCE amending CHAPTER 333 "OVI, WILLFUL MISCONDUCT, SPEED" of the "TRAFFIC CODE" of the Codified Ordinances of the City of Massillon, by repealing Section 333.01 "Driving or Physical Control While Under The Influence; Evidence" of CHAPTER 333 "OVI, WILLFUL MISCONDUCT, SPEED" of the TRAFFIC CODE " of the Codified Ordinances of the City of Massillon and enacting a new Section 333.01, and declaring an emergency.

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

Section 1:

The existing Section 333.01 "Driving or Physical Control While Under The Influence; Evidence" of CHAPTER 333 "OVI, WILLFUL MISCONDUCT; SPEED" of the "TRAFFIC CODE" of the Codified Ordinances of the City of Massillon, is hereby repealed.

Section 2:

That there is enacted new Section 333.01 "Driving or Physical Control While Under The Influence; Evidence" of CHAPTER 333 "OVI, WILLFUL MISCONDUCT, SPEED" of the "TRAFFIC CODE" of the Codified Ordinances of the City of Massillon. Said newly enacted Sections shall read as follows:

(SEE ATTACHED)

Section 3:

This ordinance is hereby declared to be an emergency measure, the reason for the emergency being that said enactments are necessary in that Ohio's DUI Laws were amended effective August 17, 2006 and it is necessary to amend the Massillon Codified Ordinances 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 _____, 2006

ATTEST: _____
MARY BETH BAILEY, CLERK OF COUNCIL GLENN E. GAMBER, PRESIDENT

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

New OVI Section 333.01 to comply with Senate Bill 8
Effective August 17, 2006

333.01 DRIVING OR PHYSICAL CONTROL WHILE UNDER THE INFLUENCE.

(a) (1) Operation Generally. No person shall operate any vehicle within this Municipality, if, at the time of the operation, any of the following apply:

- A. The person is under the influence of alcohol, a drug of abuse, or a combination of them.
- B. The person has a concentration of eight-hundredths of one per cent or more but less than seventeen-hundredths of one per cent by weight per unit volume of alcohol in the person's whole blood.
- C. The person has a concentration of ninety-six-thousandths of one per cent or more but less than two hundred four-thousandths of one per cent by weight per unit volume of alcohol in the person's blood serum or plasma.
- D. The person has a concentration of eight-hundredths of one gram or more but less than seventeen-hundredths of one gram by weight of alcohol per two hundred ten liters of the person's breath.
- E. The person has a concentration of eleven-hundredths of one gram or more but less than two hundred thirty-eight-thousandths of one gram by weight of alcohol per one hundred milliliters of the person's urine.
- F. The person has a concentration of seventeen-hundredths of one per cent or more by weight per unit volume of alcohol in the person's whole blood.
- G. The person has a concentration of two hundred four-thousandths of one per cent or more by weight per unit volume of alcohol in the person's blood serum or plasma.
- H. The person has a concentration of seventeen-hundredths of one gram or more by weight of alcohol per two hundred ten liters of the person's breath.
- I. The person has a concentration of two hundred thirty-eight-thousandths of one gram or more by weight of alcohol per one hundred milliliters of the person's urine.
- J. Except as provided in subsection (m) of this section, the person has a concentration of any of the following controlled substances or metabolites of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds any of the following:
 1. The person has a concentration of amphetamine in the person's urine of at least five hundred nanograms of amphetamine per milliliter of the person's urine or has a concentration of amphetamine in the person's whole blood or blood serum or plasma of at least one hundred nanograms of amphetamine per milliliter of the person's whole blood or blood serum or plasma.
 2. The person has a concentration of cocaine in the person's urine of at least one hundred fifty nanograms of cocaine per milliliter of the person's urine or has a concentration of cocaine in the person's whole blood or blood serum or plasma of at least fifty nanograms of cocaine per milliliter of the person's whole blood or blood serum or plasma.
 3. The person has a concentration of cocaine metabolite in the person's urine of at least one hundred fifty nanograms of cocaine metabolite per milliliter of the person's urine or has a concentration of cocaine metabolite in the person's whole blood or blood serum or plasma of at least fifty nanograms of cocaine metabolite per milliliter of the person's whole blood or blood serum or plasma.

4. The person has a concentration of heroin in the person's urine of at least two thousand nanograms of heroin per milliliter of the person's urine or has a concentration of heroin in the person's whole blood or blood serum or plasma of at least fifty nanograms of heroin per milliliter of the person's whole blood or blood serum or plasma.
5. The person has a concentration of heroin metabolite (6-monoacetyl morphine) in the person's urine of at least ten nanograms of heroin metabolite (6-monoacetyl morphine) per milliliter of the person's urine or has a concentration of heroin metabolite (6-monoacetyl morphine) in the person's whole blood or blood serum or plasma of at least ten nanograms of heroin metabolite (6-monoacetyl morphine) per milliliter of the person's whole blood or blood serum or plasma.
6. The person has a concentration of L.S.D. in the person's urine of at least twenty-five nanograms of L.S.D. per milliliter of the person's urine or a concentration of L.S.D. in the person's whole blood or blood serum or plasma of at least ten nanograms of L.S.D. per milliliter of the person's whole blood or blood serum or plasma.
7. The person has a concentration of marihuana in the person's urine of at least ten nanograms of marihuana per milliliter of the person's urine or has a concentration of marihuana in the person's whole blood or blood serum or plasma of at least two nanograms of marihuana per milliliter of the person's whole blood or blood serum or plasma.
8. Either of the following applies:
 - a. The person is under the influence of alcohol, a drug of abuse or a combination of them, and, as measured by gas chromatography mass spectrometry, the person has a concentration of marihuana metabolite in the person's urine of at least fifteen nanograms of marihuana metabolite per milliliter of the person's urine or has a concentration of marihuana metabolite in the person's whole blood or blood serum or plasma of at least five nanograms of marihuana metabolite per milliliter of the person's whole blood or blood serum or plasma.
 - b. As measured by gas chromatography mass spectrometry, the person has a concentration of marihuana metabolite in the person's urine of at least thirty-five nanograms of marihuana metabolite per milliliter of the person's urine or has a concentration of marihuana metabolite in the person's whole blood or blood serum or plasma of at least fifty nanograms of marihuana metabolite per milliliter of the person's whole blood or blood serum or plasma.
9. The person has a concentration of methamphetamine in the person's urine of at least five hundred nanograms of methamphetamine per milliliter of the person's urine or has a concentration of methamphetamine in the person's whole blood or blood serum or plasma of at least one hundred nanograms of methamphetamine per milliliter of the person's whole blood or blood serum or plasma.
10. The person has a concentration of phencyclidine in the person's urine of at least twenty-five nanograms of phencyclidine per milliliter of the person's urine or has a concentration of phencyclidine in the person's whole blood or blood serum or plasma of at least ten nanograms of phencyclidine per milliliter of the person's whole blood or blood serum or plasma.

- (2) No person who, within twenty years of the conduct described in subsection (a)(2)A. of this section, previously has been convicted of or pleaded guilty to a violation of Ohio R.C. 4511.19(A) or (B), or a municipal OVI offense shall do both of the following:

- A. Operate any vehicle within this Municipality while under the influence of alcohol, a drug of abuse or a combination of them;
- B. Subsequent to being arrested for operating the vehicle as described in subsection (a)(2)A. of this section, being asked by a law enforcement officer to submit to a chemical test or tests under Ohio R.C. 4511.191, and being advised by the officer in accordance with Ohio R.C. 4511.192 of the consequences of the person's refusal or submission to the test or tests, refuse to submit to the test or tests.

(b) Operation After Under-Age Consumption. No person under twenty-one years of age shall operate any vehicle within this Municipality, if, at the time of the operation, any of the following apply:

- (1) The person has a concentration of at least two-hundredths of one per cent but less than eight-hundredths of one per cent by weight per unit volume of alcohol in the person's whole blood.
- (2) The person has a concentration of at least three-hundredths of one per cent but less than ninety-six-thousandths of one per cent by weight per unit volume of alcohol in the person's blood serum or plasma.
- (3) The person has a concentration of at least two-hundredths of one gram but less than eight-hundredths of one gram by weight of alcohol per two hundred ten liters of the person's breath.
- (4) The person has a concentration of at least twenty-eight one-thousandths of one gram but less than eleven-hundredths of one gram by weight of alcohol per one hundred milliliters of the person's urine.

(c) One Conviction Limitation. In any proceeding arising out of one incident, a person may be charged with a violation of subsection (a)(1)A. or (a)(2) and a violation of subsection (b)(1), (2) or (3) of this section, but the person may not be convicted of more than one violation of these subsections. (ORC 4511.99)

(d) Physical Control.

- (1) As used in this subsection, "physical control" means being in the driver's position of the front seat of a vehicle and having possession of the vehicle's ignition key or other ignition device.
- (2) A. No person shall be in physical control of a vehicle if, at the time of the physical control, any of the following apply:
 - 1. The person is under the influence of alcohol, a drug of abuse, or a combination of them.
 - 2. The person's whole blood, blood serum or plasma, breath, or urine contains at least the concentration of alcohol specified in subsection (a)(1)B., C., D. or E. hereof.
 - 3. Except as provided in subsection (d)(3) of this section, the person has a concentration of a listed controlled substance or a listed metabolite of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds the concentration specified in subsection (a)(1)J. hereof.
- B. No person under twenty-one years of age shall be in physical control of a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them or while the person's whole blood, blood serum or plasma, breath, or urine contains at least the concentration of alcohol specified in subsection (b)(1) to (4) hereof.
- (3) Subsection (d)(2)A.3. of this section does not apply to a person who is in physical control of a vehicle while the person has a concentration of a listed controlled substance or a listed metabolite of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds the amount specified in subsection (a)(1)J. hereof, if both of the following apply:

- A. The person obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs.
- B. The person injected, ingested, or inhaled the controlled substance in accordance with the health professional's directions.

(e) Evidence: Tests.

- (1) In any criminal prosecution or juvenile court proceeding for a violation of subsection (a) or (b) of this section or for an equivalent offense, the court may admit evidence on the concentration of alcohol, drugs of abuse, controlled substances, metabolites of a controlled substance, or a combination of them in the defendant's whole blood, blood serum or plasma, breath, urine or other bodily substance at the time of the alleged violation as shown by chemical analysis of the substance withdrawn within three hours of the time of the alleged violation. The three-hour time limit specified in this subsection regarding the admission of evidence does not extend or affect the two-hour time limit specified in Ohio R.C. 4511.192(A) as the maximum period of time during which a person may consent to a chemical test or tests as described in that section.

When a person submits to a blood test at the request of a law enforcement officer under Ohio R.C. 4511.191, only a physician, a registered nurse, or a qualified technician, chemist, or phlebotomist shall withdraw blood for the purpose of determining the alcohol, drug, controlled substance, metabolite of a controlled substance, or combination content of the whole blood, blood serum, or blood plasma. This limitation does not apply to the taking of breath or urine specimens. A person authorized to withdraw blood under this subsection may refuse to withdraw blood under this subsection, if in that person's opinion, the physical welfare of the person would be endangered by the withdrawing of blood.

The bodily substance withdrawn shall be analyzed in accordance with methods approved by the Director of Health by an individual possessing a valid permit issued by the Director pursuant to Ohio R.C. 3701.143.

- (2) In a criminal prosecution or juvenile court proceeding for violation of subsection (a) of this section or for an equivalent offense, if there was at the time the bodily substance was withdrawn a concentration of less than the applicable concentration of alcohol specified in subsections (a)(1)B., C., D. and E. of this section, or less than the applicable concentration of a listed controlled substance or a listed metabolite of a controlled substance specified for a violation of subsection (a)(1)J. of this section, that fact may be considered with other competent evidence in determining the guilt or innocence of the defendant. This subsection does not limit or affect a criminal prosecution or juvenile court proceeding for a violation of subsection (b) of this section or for an equivalent offense that is substantially equivalent to that subsection.

- (3) Upon the request of the person who was tested, the results of the chemical test shall be made available to the person or the person's attorney, immediately upon the completion of the chemical test analysis.

The person tested may have a physician, a registered nurse, or a qualified technician, chemist or phlebotomist of the person's own choosing administer a chemical test or tests, at the person's expense, in addition to any administered at the request of a law enforcement officer. The form to be read to the person to be tested, as required under Ohio R.C. 4511.192, shall state that the person may have an independent test performed at the person's expense. The failure or inability to obtain an additional chemical test by a person shall not preclude the admission of evidence relating to the chemical test or tests taken at the request of a law enforcement officer.

- (4) A. As used in subsections (e)(4)B. and C. of this section, "national highway traffic safety administration" means the National Traffic Highway Safety Administration established as an administration of the United States Department of Transportation under 96 Stat. 2415 (1983), 49 U.S.C.A. 105.

- B. In any criminal prosecution or juvenile court proceeding for a violation of subsection (a), (b) or (d) of this section, of a municipal ordinance relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, or of a municipal ordinance relating to operating a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the blood, breath or urine, if a law enforcement officer has administered a field sobriety test to the operator or person in physical control of the vehicle involved in the violation and if it is shown by clear and convincing evidence that the officer administered the test in substantial compliance with the testing standards for any reliable, credible, and generally accepted field sobriety tests that were in effect at the time the tests were administered, including, but not limited to, any testing standards then in effect that were set by the National Highway Traffic Safety Administration, all of the following apply:
1. The officer may testify concerning the results of the field sobriety test so administered.
 2. The prosecution may introduce the results of the field sobriety test so administered as evidence in any proceedings in the criminal prosecution or juvenile court proceeding.
 3. If testimony is presented or evidence is introduced under subsection (e)(4)B.1. or 2. of this section and if the testimony or evidence is admissible under the Rules of Evidence, the court shall admit the testimony or evidence and the trier of fact shall give it whatever weight the trier of fact considers to be appropriate.
- C. Subsection (e)(4)B. of this section does not limit or preclude a court, in its determination of whether the arrest of a person was supported by probable cause or its determination of any other matter in a criminal prosecution or juvenile court proceeding of a type described in that subsection, from considering evidence or testimony that is not otherwise disallowed by subsection (e)(4)B. of this section. (ORC 4511.19; 4511.194)

(f) Forensic Laboratory Reports.

- (1) Subject to subsection (f)(3) of this section, in any criminal prosecution or juvenile court proceeding for a violation of subsection (a)(1)B., C., D., E., F., G., H., I., or J. or (b)(1), (2), (3) or (4) of this section or for an equivalent offense that is substantially equivalent to any of those subsections, a laboratory report from any laboratory personnel issued a permit by the Department of Health authorizing an analysis as described in this subsection that contains an analysis of the whole blood, blood serum or plasma, breath, urine, or other bodily substance tested and that contains all of the information specified in this subsection shall be admitted as prima-facie evidence of the information and statements that the report contains. The laboratory report shall contain all of the following:
- A. The signature, under oath, of any person who performed the analysis;
 - B. Any findings as to the identity and quantity of alcohol, a drug of abuse, a controlled substance, a metabolite of a controlled substance, or a combination of them that was found;
 - C. A copy of a notarized statement by the laboratory director or a designee of the director that contains the name of each certified analyst or test performer involved with the report, the analyst's or test performer's employment relationship with the laboratory that issued the report, and a notation that performing an analysis of the type involved is part of the analyst's or test performer's regular duties;

- D. An outline of the analyst's or test performer's education, training, and experience in performing the type of analysis involved and a certification that the laboratory satisfies appropriate quality control standards in general and, in this particular analysis, under rules of the Department of Health.
- (2) Notwithstanding any other provision of law regarding the admission of evidence, a report of the type described in subsection (f)(1) of this section is not admissible against the defendant to whom it pertains in any proceeding, other than a preliminary hearing or a grand jury proceeding, unless the prosecutor has served a copy of the report on the defendant's attorney or, if the defendant has no attorney, on the defendant.
- (3) A report of the type described in subsection (f)(1) of this section shall not be prima-facie evidence of the contents, identity, or amount of any substance if, within seven days after the defendant to whom the report pertains or the defendant's attorney receives a copy of the report, the defendant or the defendant's attorney demands the testimony of the person who signed the report. The judge in the case may extend the seven-day time limit in the interest of justice.

(g) Immunity From Liability For Withdrawing Blood. Except as otherwise provided in this subsection, any physician, registered nurse or qualified technician, chemist, or phlebotomist who withdraws blood from a person pursuant to this section, and any hospital, first-aid station, or clinic at which blood is withdrawn from a person pursuant to this section, is immune from criminal liability and civil liability based upon a claim of assault and battery or any other claim that is not a claim of malpractice, for any act performed in withdrawing blood from the person. The immunity provided in this subsection is not available to a person who withdraws blood if the person engaged in willful or wanton misconduct.

(h) General OVI Penalty.

- (1) Whoever violates any provision of subsections (a)(1)A. to I. or (a)(2) of this section is guilty of operating a vehicle under the influence of alcohol, a drug of abuse, or a combination of them. Whoever violates subsection (a)(1)J. of this section is guilty of operating a vehicle while under the influence of a listed controlled substance or a listed metabolite of a controlled substance. The court shall sentence the offender for either offense under Ohio R.C. Chapter 2929, and this Traffic Code, except as otherwise authorized or required by subsections (h)(1)A. to E. of this section:

A. Except as otherwise provided in subsections (h)(1)B., C., D. or E. of this section, the offender is guilty of a misdemeanor of the first degree, and the court shall sentence the offender to all of the following:

1. If the sentence is being imposed for a violation of subsections (a)(1)A., B., C., D., E., or J. of this section, a mandatory jail term of three consecutive days. As used in this subsection, three consecutive days means seventy-two consecutive hours. The court may sentence an offender to both an intervention program and a jail term. The court may impose a jail term in addition to the three-day mandatory jail term or intervention program. However, in no case shall the cumulative jail term imposed for the offense exceed six months.

The court may suspend the execution of the three-day jail term under this subsection if the court, in lieu of that suspended term, places the offender under a community control sanction pursuant to Ohio R.C. 2929.25 and requires the offender to attend, for three consecutive days, a drivers' intervention program certified under Ohio R.C. 3793.10. The court also may suspend the execution of any part of the three-day jail term under this subsection if it places the offender under a community control sanction pursuant to Ohio R.C. 2929.25 for part of the three days, requires the

offender to attend for the suspended part of the term a drivers' intervention program so certified, and sentences the offender to a jail term equal to the remainder of the three consecutive days that the offender does not spend attending the program. The court may require the offender, as a condition of community control and in addition to the required attendance at a drivers' intervention program, to attend and satisfactorily complete any treatment or education programs that comply with the minimum standards adopted pursuant to Ohio R.C. Chapter 3793 by the Director of Alcohol and Drug Addiction Services that the operators of the drivers' intervention program determine that the offender should attend and to report periodically to the court on the offender's progress in the programs. The court also may impose on the offender any other conditions of community control that it considers necessary.

2. If the sentence is being imposed for a violation of subsection (a)(1)F., G., H. or I. or (a)(2) of this section, except as otherwise provided in this subsection, a mandatory jail term of at least three consecutive days and a requirement that the offender attend, for three consecutive days, a drivers' intervention program that is certified pursuant to Ohio R.C. 3793.10. As used in this subsection, three consecutive days means seventy-two consecutive hours. If the court determines that the offender is not conducive to treatment in a drivers' intervention program, if the offender refuses to attend a drivers' intervention program, or if the jail at which the offender is to serve the jail term imposed can provide a drivers' intervention program, the court shall sentence the offender to a mandatory jail term of at least six consecutive days.

The court may require the offender, under a community control sanction imposed under Ohio R.C. 2929.25, to attend and satisfactorily complete any treatment or education programs that comply with the minimum standards adopted pursuant to Ohio R.C. Chapter 3793 by the Director of Alcohol and Drug Addiction Services, in addition to the required attendance at drivers' intervention program, that the operators of the drivers' intervention program determine that the offender should attend and to report periodically to the court on the offender's progress in the programs. The court also may impose any other conditions of community control on the offender that it considers necessary.

3. In all cases, a fine of not less than two hundred fifty dollars (\$250.00) and not more than one thousand dollars (\$1,000).
4. In all cases, a class five license suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege from the range specified in division (A)(5) of Ohio R.C. 4510.02. The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.13.

B. Except as otherwise provided in subsection (h)(1)E. of this section, an offender who, within six years of the offense, previously has been convicted of or pleaded guilty to one violation of subsection (a) or (b) of this section or one other equivalent offense is guilty of a misdemeanor of the first degree. The court shall sentence the offender to all of the following:

1. If the sentence is being imposed for a violation of subsection (a)(1)A., B., C., D., E., or J. of this section, a mandatory jail term of ten consecutive days. The court shall impose the ten-day mandatory jail term under this subsection unless, subject to subsection (h)(3) of this section, it instead imposes

a sentence under that subsection consisting of both a jail term and a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition to the ten-day mandatory jail term. The cumulative jail term imposed for the offense shall not exceed six months.

In addition to the jail term or the term of house arrest with electronic monitoring or continuous alcohol monitoring or both types of monitoring and jail term, the court may require the offender to attend a drivers' intervention program that is certified pursuant to Ohio R.C. 3793.10. If the operator of the program determines that the offender is alcohol dependent, the program shall notify the court and, subject to subsection (k) of this section, the court shall order the offender to obtain treatment through an alcohol and drug addiction program authorized by Ohio R.C. 3793.02.

2. If the sentence is being imposed for a violation of subsection (a)(1)F., G., H. or I. or (a)(2) of this section, except as otherwise provided in this subsection, a mandatory jail term of twenty consecutive days. The court shall impose the twenty-day mandatory jail term under this subsection unless, subject to subsection (h)(3) of this section, it instead imposes a sentence under that subsection consisting of both a jail term and a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition to the twenty-day mandatory jail term. The cumulative jail term imposed for the offense shall not exceed six months.

In addition to the jail term or the term of house arrest with electronic monitoring or continuous alcohol monitoring or both types of monitoring and jail term, the court may require the offender to attend a drivers' intervention program that is certified pursuant to Ohio R.C. 3793.10. If the operator of the program determines that the offender is alcohol dependent, the program shall notify the court, and, subject to subsection (k) of this section, the court shall order the offender to obtain treatment through an alcohol and drug addiction program authorized by Ohio R.C. 3793.02.

3. In all cases, notwithstanding the fines set forth in Section 303.99, a fine of not less than three hundred fifty dollars (\$350.00) and not more than one thousand five hundred dollars (\$1,500).
4. In all cases, a class four license suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(4) of Ohio R.C. 4510.02. The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.13. (ORC 4511.19)
5. In all cases, if the vehicle is registered in the offender's name, immobilization of the vehicle involved in the offense for ninety days in accordance with Ohio R.C. 4503.233 and impoundment of the license plates of that vehicle for ninety days. (ORC 4511.193)

- C. Except as otherwise provided in subsection (h)(1)E. of this section, an offender who, within six years of the offense, previously has been convicted of or pleaded guilty to two violations of subsection (a) or (b) of this section or other equivalent offenses is guilty of a misdemeanor. The court shall sentence the offender to all of the following:

1. If the sentence is being imposed for a violation of subsection (a)(1)A., B., C., D., E., or J. of this section, a mandatory jail term of thirty consecutive days. The court shall impose the thirty-day mandatory jail term under this subsection unless, subject to subsection (h)(3) of this section, it instead imposes a sentence under that subsection consisting of both a jail term and a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition to the thirty-day mandatory jail term. Notwithstanding the jail terms set forth in Section 303.99, the additional jail term shall not exceed one year, and the cumulative jail term imposed for the offense shall not exceed one year.
 2. If the sentence is being imposed for a violation of subsection (a)(1)F., G., H. or I. or (a)(2) of this section, a mandatory jail term of sixty consecutive days. The court shall impose the sixty-day mandatory jail term under this subsection unless, subject to subsection (h)(3) of this section, it instead imposes a sentence under that subsection consisting of both a jail term and a term of electronically monitored house arrest with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition to the sixty-day mandatory jail term. Notwithstanding the terms of imprisonment set forth in Section 303.99, the additional jail term shall not exceed one year, and the cumulative jail term imposed for the offense shall not exceed one year.
 3. In all cases, notwithstanding the fines set forth in Section 303.99, a fine of not less than five hundred fifty dollars (\$550.00) and not more than two thousand five hundred dollars (\$2,500).
 4. In all cases, a class three license suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(3) of Ohio R.C. 4510.02. The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.13. (ORC 4511.19)
 5. In all cases, if the vehicle is registered in the offender's name, criminal forfeiture of the vehicle involved in the offense in accordance with Ohio R.C. 4503.234. Subsection (h)(5) of this section applies regarding any vehicle that is subject to an order of criminal forfeiture under this subsection. (ORC 4511.193)
 6. In all cases, participation in an alcohol and drug addiction program authorized by Ohio R.C. 3793.02, subject to subsection (k) of this section.
- D. Except as otherwise provided in subsection (h)(1)E. of this section, an offender who, within six years of the offense, previously has been convicted of or pleaded guilty to three or four violations of subsection (a) or (b) of this section or other equivalent offenses or an offender who, within twenty years of the offense, previously has been convicted of or pleaded guilty to five or more violations of that nature is guilty of a felony of the fourth degree and shall be prosecuted under appropriate state law.
- E. An offender who previously has been convicted of or pleaded guilty to a violation of Ohio R.C. 4511.19(A) that was a felony, regardless of when the violation and the conviction or guilty plea occurred, is guilty of a felony of the third degree and shall be prosecuted under appropriate state law.

- (2) An offender who is convicted of or pleads guilty to a violation of subsection (a) of this section and who subsequently seeks reinstatement of the driver's or occupational driver's license or permit or nonresident operating privilege suspended under this section as a result of the conviction or guilty plea shall pay a reinstatement fee as provided in division (F)(2) of Ohio R.C. 4511.191.
- (3) If an offender is sentenced to a jail term under subsection (h)(1)B.1. or 2. or (h)(1)C.1. or 2. of this section and if, within sixty days of sentencing of the offender, the court issues a written finding on the record that, due to the unavailability of space at the jail where the offender is required to serve the term, the offender will not be able to begin serving that term within the sixty-day period following the date of sentencing, the court may impose an alternative sentence under this subsection that includes a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring.
- As an alternative to a mandatory jail term of ten consecutive days required by subsection (h)(1)B.1. of this section, the court, under this subsection, may sentence the offender to five consecutive days in jail and not less than eighteen consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of the five consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring, or both types of monitoring shall not exceed six months. The five consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.
- As an alternative to the mandatory jail term of twenty consecutive days required by subsection (h)(1)B.2. of this section, the court, under this subsection, may sentence the offender to ten consecutive days in jail and not less than thirty-six consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of the ten consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring or both types of monitoring shall not exceed six months. The ten consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.
- As an alternative to a mandatory jail term of thirty consecutive days required by subsection (h)(1)C.1. of this section, the court, under this subsection, may sentence the offender to fifteen consecutive days in jail and not less than fifty-five consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of the fifteen consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring or both types of monitoring shall not exceed one year. The fifteen consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.
- As an alternative to the mandatory jail term of sixty consecutive days required by subsection (h)(1)C.2. of this section, the court, under this subsection, may sentence the offender to thirty consecutive days in jail and not less than one hundred ten consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of the thirty consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring, or both types of monitoring shall not exceed one year. The thirty consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.
- (4) If an offender's driver's or occupational driver's license or permit or nonresident operating privilege is suspended under subsection (h) of this section and if Ohio R.C. 4510.13 permits the court to grant limited driving privileges, the court may grant the limited driving privileges in accordance with that section. If division (A)(7) of that section requires that the court impose as a condition of the privileges that the offender must display on the

vehicle that is driven subject to the privileges restricted license plates that are issued under Ohio R.C. 4503.231, except as provided in division (B) of that section, the court shall impose that condition as one of the conditions of the limited driving privileges granted to the offender, except as provided in division (B) of Ohio R.C. 4503.231.

- (5) If title to a motor vehicle that is subject to an order of criminal forfeiture under this section is assigned or transferred and division (B)(2) or (3) of Ohio R.C. 4503.234 applies, in addition to or independent of any other penalty established by law, the court may fine the offender the value of the vehicle as determined by publications of the national auto dealers association. The proceeds of any fine so imposed shall be distributed in accordance with division (C)(2) of that section.
- (6) As used in subsection (h) of this section, "electronic monitoring", "mandatory prison term" and "mandatory term of local incarceration" have the same meanings as in Ohio R.C. 2929.01.

(i) Vehicle Operation After Underage Alcohol Consumption Penalty. Whoever violates subsection (b) of this section is guilty of operating a vehicle after underage alcohol consumption and shall be punished as follows:

- (1) Except as otherwise provided in subsection (i)(2) of this section, the offender is guilty of a misdemeanor of the fourth degree. In addition to any other sanction imposed for the offense, the court shall impose a class six suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(6) of Ohio R.C. 4510.02.
- (2) If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one or more violations of subsection (a) or (b) of this section or other equivalent offenses, the offender is guilty of a misdemeanor of the third degree. In addition to any other sanction imposed for the offense, the court shall impose a class four suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(4) of Ohio R.C. 4510.02.
- (3) If the offender also is convicted of or also pleads guilty to a specification of the type described in Ohio R.C. 2941.1414 and if the court imposes a jail term for the violation of subsection (b) of this section, the court shall impose upon the offender an additional definite jail term pursuant to division (E) of Ohio R.C. 2929.24. (ORC 4511.19)

(j) Physical Control Penalty. Whoever violates subsection (d) hereof is guilty of having physical control of a vehicle while under the influence, a misdemeanor of the first degree. In addition to other sanctions imposed, the court may impose on the offender a class seven suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(7) of Ohio R.C. 4510.02. (ORC 4511.194)

(k) Compliance With Ohio R.C. Chapter 3793 Standards.

- (1) No court shall sentence an offender to an alcohol treatment program under this section unless the treatment program complies with the minimum standards for alcohol treatment programs adopted under Ohio R.C. Chapter 3793 by the Director of Alcohol and Drug Addiction Services.
- (2) An offender who stays in a driver's intervention program or in an alcohol treatment program under an order issued under this section shall pay the cost of the stay in the program. However, if the court determines that an offender who stays in an alcohol treatment program under an order issued under this section is unable to pay the cost of the stay in the program, the court may order that the cost be paid from the court's indigent drivers' alcohol treatment fund.

(l) Appeal Does Not Stay Operation of License Suspension. If a person whose driver's or commercial driver's license or permit or nonresident operating privilege is suspended under this section files an appeal regarding any aspect of the person's trial or sentence, the appeal itself does not stay the operation of the suspension.

(m) Subsection (a)(1)J. of this section does not apply to a person who operates a vehicle while the person has a concentration of a listed controlled substance or a listed metabolite of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds the amount specified in that subsection, if both of the following apply:

- (1) The person obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs.
- (2) The person injected, ingested, or inhaled the controlled substance in accordance with the health professional's directions.

(n) The prohibited concentrations of a controlled substance or a metabolite of a controlled substance listed in subsection (a)(1)J. of this section also apply in a prosecution of a violation of Ohio R.C. 2923.16(D) in the same manner as if the offender is being prosecuted for a prohibited concentration of alcohol.

(o) Conflict of Terms. All terms defined in Ohio R.C. 4510.01 apply to this section. If the meaning of a term defined in Ohio R.C. 4510.01 conflicts with the meaning of the same term as defined in Ohio R.C. 4501.01 or this Traffic Code, the term as defined in Ohio R.C. 4510.01 applies to this section. (ORC 4511.19)

(p) Indigent Drivers Alcohol Treatment Fund. Twenty-five dollars (\$25.00) of any fine imposed for a violation of subsection (a) hereof shall be deposited into the municipal or county indigent drivers alcohol treatment fund pursuant to Ohio R.C. 4511.193. (ORC 4511.193)

(q) Definitions. As used in this section:

- (1) "Equivalent offense" means any of the following:
 - A. A violation of division (A) or (B) of Ohio R.C. 4511.19;
 - B. A violation of a municipal OVI ordinance;
 - C. A violation of Ohio R.C. 2903.04 in a case in which the offender was subject to the sanctions described in division (D) of that section;
 - D. A violation of division (A)(1) of Ohio R.C. 2903.06 or 2903.08 or a municipal ordinance that is substantially equivalent to either of those divisions;
 - E. A violation of division (A)(2), (3) or (4) of Ohio R.C. 2903.06, division (A)(2) of Ohio R.C. 2903.08, or former Ohio R.C. 2903.07, or a municipal ordinance that is substantially equivalent to any of those divisions or that former section, in a case in which a judge or jury as the trier of fact found that the offender was under the influence of alcohol, a drug of abuse, or a combination of them;
 - F. A violation of an existing or former municipal ordinance, law of another state, or law of the United States that is substantially equivalent to division (A) or (B) of Ohio R.C. 4511.19;
 - G. A violation of a former law of this State that was substantially equivalent to division (A) or (B) of Ohio R.C. 4511.19;
- (2) "Mandatory jail term" means the mandatory term in jail of three, six, ten, twenty, thirty, or sixty days that must be imposed under subsection (h)(1)A., B. or C. upon an offender convicted of a violation of subsection (a) hereof and in relation to which all of the following apply:
 - A. Except as specifically authorized under this section, the term must be served in a jail.
 - B. Except as specifically authorized under this section, the term cannot be suspended, reduced or otherwise modified pursuant to Ohio R.C. 2929.21 to 2929.28, or any other provision of the Ohio Revised Code.
- (3) "Municipal OVI ordinance" and "municipal OVI offense" mean any municipal ordinance prohibiting a person from operating a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them

or prohibiting a person from operating a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum, or plasma, breath or urine.

- (4) "Community residential sanction", "jail", "mandatory prison term", "mandatory term of local incarceration", "sanction" and "prison term" have the same meanings as in Ohio R.C. 2929.01.
- (5) "Drug of abuse" has the same meaning as in Ohio R.C. 4506.01.
(ORC 4511.181)

DATE: SEPTEMBER 5, 2006

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

1st reading
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 136 - 2006

BY: STREETS, HIGHWAYS, TRAFFIC & SAFETY COMMITTEE

2nd reading 9/18
passed 10/2

TITLE: AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into contract, upon the award and approval of the Board of Control, with ME Company Inc., for engineering services needed for a signalization design at the Lincoln Way West and Grosvenor intersection, in 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:

The Council of the City of Massillon, Ohio, hereby determines it to be necessary in the public health, safety and welfare to enter into contract, upon the award and approval of the Board of Control, with ME Company Inc., for engineering services needed for a signalization design at the Lincoln Way West and Grosvenor intersection.

Section 2:

The Director of Public Service and Safety of the City of Massillon, Ohio, is hereby authorized and directed to enter into contract, upon the award and approval of the Board of Control, with ME Company Inc., for engineering services needed for a signalization design at the Lincoln Way West and Grosvenor intersection. The cost is not to exceed Ten Thousand Dollars (\$10,000.00).

Section 3:

This Ordinance is hereby declared to be an emergency measure necessary for the preservation of the health, safety and welfare of the community and for the additional reason that it is necessary that the signalization design be completed for the Lincoln Way West and Grosvenor intersection by ME Company, Inc. 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.

2nd page is signature page

DATE: SEPTEMBER 5, 2006

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

ORDINANCE NO. 137- 2006

1st reading
LEGISLATIVE DEPARTMENT

2nd reading 9/18
passed 10/2

BY: STREETS, HIGHWAYS, TRAFFIC AND SAFETY COMMITTEE

TITLE: AN ORDINANCE accepting the replatting of Part of Out Lot 766, located on the southwest corner of Richville Drive SE and Ohio State Drive SE, and including the dedication of right-of-way for Richville Drive SE and the dedication of a sanitary sewer easement for Buckeye Crossing Condominiums, in the City of Massillon, County of Stark, State of Ohio, presently on file in the office of the City Engineer, and declaring an emergency.

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

Section 1:

The replatting of Part of Out Lot 766, located on the southwest corner of Richville Drive SE and Ohio State Drive SE, and including the dedication of right-of-way for Richville Drive SE and the dedication of a sanitary sewer easement for Buckeye Crossing Condominiums, in the City of Massillon, County of Stark, State of Ohio, presently on file in the office of the City Engineer, is hereby accepted and confirmed. This replatting and dedication was approved by the Planning Commission at the meeting held July 12, 2006. The property being replatted is described as follows:

Being known as Part of Out Lot 766, located on the southwest corner of Richville Drive SE and Ohio State Drive SE,. The proposal is to dedicate right-of-way for Richville Drive SE and dedicate a sanitary sewer easement for Buckeye Crossing Condominiums in the University Village Allotment. The parcel is zoned RM-1 multi family residential. The applicant is PRMDC/Fred Tobin.

Section 2:

This Ordinance is declared to be an emergency measure for the reason that said replatting is needed for the development of Buckeye Crossing Condominiums. The replatting must be approved for proper community growth and hence immediately necessary for the preservation of the 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.

2nd page is signature page

Property Description: Part of Out Lot 766, located on the southwest corner of Richville Drive SE and Ohio State Drive SE. The proposal is to dedicate R/W for Richville Drive and dedicate a sanitary sewer easement for the proposed condominiums. This plat should also include a replat and renumbering of the existing acreage. The parcel is zoned RM-1 multi-family residential.

DATE: SEPTEMBER 5, 2006

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 138 - 2006

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE making certain appropriations from the unappropriated balance of the Massillon Municipal Court Capital Improvement Fund, Community Development Block Grant Program Fund, Massillon Municipal Court Probation Fund, Unclaimed Money Fund, General Fund and the Capital Improvement Fund, for the year ending December 31, 2006, 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 appropriated from the unappropriated balance of the Massillon Municipal Court Capital Improvement Fund, for the year ending December 31, 2006, the following:

\$125,000.00 to an account entitled "Parking Lot Improvements" 1204.125.2530

Section 2:

There be and hereby is appropriated from the unappropriated balance of the Community Development Block Grant Program Fund, for the year ending December 31, 2006, the following:

\$100,000.00 to an account entitled "Target Area Street Improvements" 1203.845.2812

Section 3:

There be and hereby is appropriated from the unappropriated balance of the Massillon Municipal Court Probation Fund, for the year ending December 31, 2006, the following:

\$23,920.98 to an account entitled "Salary – Probation Services" 1238.125.2110

\$15,000.00 to an account entitled "Services/Contracts" 1238.125.2392

Section 4:

There be and hereby is appropriated from the unappropriated balance of the Unclaimed Money Fund, for the year ending December 31, 2006, the following:

\$21,813.00 to an account entitled "Transfer to General Fund" 3108.905.2710

Section 5:

There be and hereby is appropriated from the unappropriated balance of the General Fund, for the year ending December 31, 2006, the following:

\$10,000.00 to an account entitled "Travel/Seminar/Schooling" 1100.305.2389

Section 6:

There be and hereby is appropriated from the unappropriated balance of the Capital Improvement Fund, for the year ending December 31, 2006, the following:

\$10,000.00 to an account entitled "Lincoln Way West/Grosvenor Signal Design" 1401.435.2392

Section 7:

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 _____ 2006

ATTEST: _____

MARY BETH BAILEY, CLERK OF COUNCIL

GLENN E. GAMBER, PRESIDENT

APPROVED: _____

FRANCIS H. CICCHINELLI, JR, MAYOR

DATE: SEPTEMBER 5, 2006

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

passed

COUNCIL CHAMBERS

LEGISLATIVE DEPARTMENT

ORDINANCE NO. 139 - 2006

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE establishing a fund entitled "OPWC Loan Payments", and creating line items within said fund, 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 established within the City of Massillon, Ohio, a fund entitled "OPWC Loan Payments", and creating line items within said fund.

Section 2:

The City Auditor is hereby authorized and directed to draw his warrants and make payments on vouchers duly approved by the proper departmental authority.

Section 3:

That this Ordinance is declared to be an emergency measure immediately necessary in order to keep federal grant dollars in one specific fund as recommended by the State Auditor for accounting procedures within the Auditor's 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.

2nd page is signature page

DATE: SEPTEMBER 5, 2006

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

1st reading
LEGISLATIVE DEPARTMENT

RESOLUTION NO. 16 - 2006

Passed 9/18

BY: COMMUNITY DEVELOPMENT COMMITTEE

TITLE: A RESOLUTION adopting the decision of the Tax Incentive Review Committee made on August 8, 2006 wherein they recommended that the Enterprise Zone Agreement with HydroThrift Corporation be terminated and the tax exemption rescinded in the City of Massillon, Ohio, and declaring an emergency.

WHEREAS, the Tax Incentive Review Committee recommended on August 8, 2006 that the Enterprise Zone Agreement with HydroThrift Corporation be terminated and the tax exemption rescinded

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 adopt the decision of the Tax Incentive Review Committee made on August 8, 2006 terminating the Enterprise Zone Agreement with HydroThrift Corporation and rescinding the tax exemption previously granted.

Section 2:

This Resolution is declared to be an emergency measure in that the adoption of the decision of the Tax Incentive Review Committee is essential for the proper community growth and hence immediately necessary for the preservation of the health, safety and welfare of the community. Wherefore, this Resolution shall be in full force and effect immediately from and after passage and approval by the Mayor.

2nd page is signature page

DATE: SEPTEMBER 5, 2006

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

passed

COUNCIL CHAMBERS

LEGISLATIVE DEPARTMENT

RESOLUTION NO. 17 - 2006

BY: COMMUNITY DEVELOPMENT COMMITTEE

TITLE: A RESOLUTION adopting the decision of the Tax Incentive Review Committee made on August 8, 2006 wherein they recommended that those certain Enterprise Zone Agreements listed on the attached exhibit "A" be continued, and declaring an emergency.

WHEREAS, the Tax Incentive Review Committee recommended on August 8, 2006 that those certain Enterprise Zone Agreements listed on the attached exhibit "A" be continued.

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 proper to adopt the decision of the Tax Incentive Review Committee made on August 8, 2006 continuing the Enterprise Zone Agreements listed on exhibit "A" which the Committee has recommended to be continued.

Section 2:

This Resolution is declared to be an emergency measure in that the adoption of the decision of the Tax Incentive Review Committee is essential for the proper community growth and hence immediately necessary for the preservation of the health, safety and welfare of the community. Wherefore, this Resolution shall be in full force and effect immediately from and after passage and approval by the Mayor.

2nd page is signature page

| MASSILLON ENTERPRISE ZONE PROGRAM - TAX INCENTIVE REVIEW COMMITTEE MEETING | | | | | | |
|--|-----------------|-------------------|-------------------|-------------------|---|--|
| COMPANY | SCHOOL DISTRICT | DATE OF AGREEMENT | INVESTMENT LEVELS | EMPLOYMENT LEVELS | COMMITTEE RECOMMENDATION | |
| E-B ADVERTISING DISPLAY COMPANY, INC. | Tuslaw | 5/1/1996 | 105% | 100% | Expiring 2006 | |
| CANTON FABRICATORS, INC. DBA R.J. BREINING | Tuslaw | 2/7/1997 | 137% | 38% | Company currently receiving no enterprise zone tax benefits. TIRC requesting that City meet with Company to consider rescinding this Agreement. | |
| OHIO DRILLING COMPANY | Tuslaw | 9/11/2002 | 101% | 80% | Continue | |
| HARWICK CHEMICAL MFG. CORP. (POLYONE CORP.) | Perry | 5/15/1998 | 89% | 60% | Continue - Currently on Probation due to reduced employment levels. TIRC requesting that City meet with Company to consider modifying this Agreement. | |
| STERILITE CORPORATION | Perry | 9/30/1998 | 91% | 200% | Continue | |
| ZIEGLER TIRE AND SUPPLY CO. | Perry | 5/10/1999 | 132% | 138% | Continue | |
| M.A. HANNA RESIN DISTRIBUTION (POLYONE) | Perry | 11/4/1999 | 100% | 84% | Continue | |
| STERILITE CORPORATION | Perry | 4/10/2000 | 105% | 153% | Continue | |
| INTERNATIONAL ENTERPRISES, INC. | Perry | 5/9/2000 | 104% | 95% | Continue | |
| RAYCO MANUFACTURING, INC. | Perry | 9/25/2000 | 88% | 208% | Continue, Company placed on Probation due to lower than projected investment levels re: Phase II Expansion. | |
| ROBERT J. MATTHEWS CO. | Perry | 2/21/2001 | 107% | 100% | Continue | |
| CROWN CORK & SEAL COMPANY | Perry | 7/20/2001 | 115% | 100% | Continue | |
| CLOVERLEAF COLD STORAGE COMPANY | Perry | 8/9/2001 | 72% | 107% | Continue | |

| MASSILLON ENTERPRISE ZONE PROGRAM - TAX INCENTIVE REVIEW COMMITTEE MEETING | | | | | |
|--|-----------------|-------------------|-------------------|-------------------|---|
| COMPANY | SCHOOL DISTRICT | DATE OF AGREEMENT | INVESTMENT LEVELS | EMPLOYMENT LEVELS | COMMITTEE RECOMMENDATION |
| INTERNATIONAL ENTERPRISES, INC. | Perry | 8/20/2001 | 74% | 108% | Continue |
| VASCO ASPHALT COMPANY | Perry | 5/15/2002 | 109% | 108% | Continue |
| KENDEL WELDING & FABRICATION | Perry | 4/29/2003 | 92% | 60% | Continue; however, Enterprise Zone Agreement should be amended to reflect actual project completion date. |
| CLOVERLEAF COLD STORAGE COMPANY | Perry | 5/29/2003 | 138% | 130% | Continue |
| USDA FIELD SERVICE OFFICE | Perry | 8/29/2003 | 100% | 100% | Continue |
| E-TANK LTD | Perry | 9/15/2004 | 102% | 73% | Continue |
| GENCO | Perry | 12/9/2005 | 10% | 0% | Continue |
| CLOVERLEAF COLD STORAGE COMPANY | Perry | 9/1/2005 | 195% | 150% | Continue |
| BRINKS INCORPORATED | Massillon | 10/25/1995 | 126% | 175% | Expiring 2006 |
| ALFRED NICKLES BAKERY, INC. | Massillon | 2/7/1997 | 98% | 82% | Continue |
| MIDWEST FLOORING & LINING, INC. | Massillon | 4/18/1997 | 123% | 206% | Continue |
| ALFRED NICKLES BAKERY & RYDER TRUCK RENTAL | Massillon | 8/11/1998 | 118% | 71% | Continue |

MASSILLON ENTERPRISE ZONE PROGRAM - TAX INCENTIVE REVIEW COMMITTEE MEETING

| COMPANY | SCHOOL DISTRICT | DATE OF AGREEMENT | INVESTMENT LEVELS | EMPLOYMENT LEVELS | COMMITTEE RECOMMENDATION |
|--------------------------------------|-----------------|-------------------|-------------------|-------------------|--|
| NEMWELDING ENGINEERS, INC. | Massillon | 8/17/1998 | 103% | 73% | Continue |
| HEINZ FROZEN FOOD CO. | Massillon | 5/19/1999 | 109% | 239% | Continue |
| R AND D INCORPORATED | Massillon | 8/17/1999 | 104% | 72% | Continue |
| HERCULES ENGINE COMPONENTS LLC | Massillon | 2/11/2000 | 180% | 115% | Continue |
| CONTROLLED POWER CORPORATION OF OHIO | Massillon | 8/9/2000 | 92% | 38% | Continue - Company placed on Probation due to reduced employment levels. |
| FAME BEVERAGE COMPANY | Massillon | 5/9/2002 | 104% | 128% | Continue |
| RING MASTERS | Massillon | 10/20/2003 | 139% | 112% | Continue |
| OHIO PACKAGING CORPORATION | Massillon | 4/22/2004 | 91% | 100% | Continue |

DATE: SEPTEMBER 5, 2006

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

w/d - T-Mobile

COUNCIL CHAMBERS

LEGISLATIVE DEPARTMENT

RESOLUTION NO. 18 - 2006

BY COMMUNITY DEVELOPMENT COMMITTEE

TITLE: A RESOLUTION reversing the decision of the Massillon Zoning Board of Appeals made on August 10, 2006 wherein the Zoning Board of Appeals denied a request for variance from the Massillon Zoning Code, Massillon Codified Ordinance Section 1187.01, concerning the erection of a cell phone tower, and declaring an emergency.

WHEREAS, the Massillon Zoning Board of Appeals on August 10, 2006 denied a request for variance from the Massillon Zoning Code; and

WHEREAS, on August 15, 2006, a Notice of Appeal pursuant to Section 1129.09 of the Massillon Zoning Code was filed with the Clerk of Council by Ronald Gainar appealing the decision in Case No. 1210 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 of proper community growth to reverse the decision of the Massillon Zoning Board of Appeals made on August 10, 2006 and hereby determines that the request for a variance should be approved, and the erection of the cell phone tower as proposed by Ronald Gainar is permitted.

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. Wherefore, this Resolution shall be in full force and effect immediately from and after passage and approval by the Mayor.

2nd page is signature page

DATE: SEPTEMBER 5, 2006

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

passed

COUNCIL CHAMBERS

LEGISLATIVE DEPARTMENT

RESOLUTION NO. 19 - 2006

BY: FINANCE COMMITTEE

TITLE: A RESOLUTION designating public depositories for the deposits of public monies, and declaring an emergency.

WHEREAS, the Council of the City of Massillon, Ohio, finds that the notice for applications for deposit of City monies was duly published as required by law and the hour heretofore named having arrived the Council proceeded, in open session, to consider said written application: and

WHEREAS, it is estimated the probable amount of active deposits to be deposited during the period of designation shall be an average of Two Million Dollars per month, and the probable maximum amount to be so deposited at any time, during such period shall be an average of Two Hundred Thousand Dollars per month, and

WHEREAS, written applications have been received as follows:

FOR ACTIVE DEPOSITS

| <u>Name of Bank</u> | <u>AMOUNT</u> |
|---------------------|---------------|
| First Merit | ALL |
| Key Bank | ALL |
| Huntington Bank | ALL |
| Charter Bank | ALL |
| Chase Bank | ALL |
| Fifth Third Bank | ALL |
| National City Bank | |

FOR INTERIM/INACTIVE DEPOSITS

| <u>Name of Bank</u> | <u>AMOUNT</u> |
|---------------------|---------------|
| First Merit | ALL |
| Key Bank | ALL |
| Huntington Bank | ALL |
| Charter Bank | ALL |
| Chase Bank | ALL |
| Fifth Third | ALL |
| National City Bank | ALL |

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 finds that seven banking institutions have applied for ACTIVE DEPOSITS and seven for INTERIM/INACTIVE deposits, and that the securities tendered are proper. Now, therefore, be it resolved that the deposit of monies for the City of Massillon, Ohio, be awarded to the said banks in accordance with the provisions of the Ohio Revised Code No. 135.08 and No. 135.09

ACTIVE DEPOSITS:

First Merit-Citizens National has been designated as the public depository for ACTIVE deposits for said monies for the City for a period of five (5) years. Said Institution must have a Depository Agreement that is satisfactory to the City of Massillon, along with a signed copy of Massillon's Investment Policy.

INTERIM/INACTIVE DEPOSITS:

All bids were accepted as INTERIM/INACTIVE depositories, including Star Ohio. Monies may be distributed for deposit in the institutions as deemed favorable to the City of Massillon with compliance to Massillon's Investment Policy. These shall also become depositories for said monies for the City for a period of five (5) years. All institutions must have a Depository Agreement that is satisfactory to the City of Massillon, along with a signed copy of Massillon's Investment Policy.

Section 2:

This Resolution is hereby declared to be an emergency measure, immediately necessary for the preservation of the health, safety and welfare of the community, and for the further reason that pursuant to Ohio Law it is necessary to enter into a depository contract in the manners hereinbefore provided in order to safeguard the deposit of public funds.

PASSED IN COUNCIL THIS _____ DAY OF _____ 2006

APPROVED: _____
MARY BETH BAILEY, CLERK OF COUNCIL GLENN E. GAMBER, PRESIDENT

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