

**MASSILLON CITY COUNCIL
CITY OF MASSILLON, OHIO
CLAUDETTE O. ISTNICK, PRESIDENT**

**DATE: MONDAY, MAY 3, 2021
VIA TELECONFERENCE CALL
COUNCIL MEMBERS IN CHAMBERS
TIME: 6:30 p.m.**

THERE ARE NO PUBLIC HEARINGS TONIGHT

- 1. ROLL CALL**
- 2. INVOCATION BY COUNCILWOMAN MEGAN STARRETT**
- 3. PLEDGE OF ALLEGIANCE**
- 4. READING OF THE JOURNAL**
- 5. REMARKS OF DELEGATIONS AND CITIZENS TO MATTERS ON THE AGENDA**
- 6. NEW AND MISCELLANEOUS BUSINESS**
- 7. INTRODUCTION OF ORDINANCES AND RESOLUTIONS**

ORDINANCE NO. 82 – 2021

BY: COMMUNITY DEVELOPMENT COMMITTEE

AN ORDINANCE amending Section 1151.02 of the Massillon Code of 1985 rezoning a certain tract of land from B-3 General Business to I-1 Light Industrial.

ORDINANCE NO. 83 – 2021

BY: PARK AND RECREATION COMMITTEE

AN ORDINANCE authorizing the Recreation Board of the City of Massillon, Ohio, to accept donations from Veterans of Foreign Wars (VFW) of Ohio Charities and from local private citizens, on behalf of the Massillon Park and Recreation Department, and declaring an emergency.

ORDINANCE NO. 84 – 2021

BY: POLICE AND FIRE COMMITTEE

AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into contract with Penn Care Inc., for the purchase of a 2022 MEDIX Type I ambulance using Ohio State Term Schedule Purchasing, and declaring an emergency.

ORDINANCE NO. 85 – 2021

BY: FINANCE COMMITTEE

AN ORDINANCE making certain appropriations from the unappropriated balance of the 1234 Park and Recreation Fund, for the year ending December 31, 2021, and declaring an emergency.

ORDINANCE NO. 86 – 2021

BY: FINANCE COMMITTEE

AN ORDINANCE making certain appropriations from the unappropriated balance of the 1401 Income Tax-Capital Improvement Fund, for the year ending December 31, 2021, and declaring an emergency.

ORDINANCE NO. 87 – 2021

BY: FINANCE COMMITTEE

AN ORDINANCE making certain appropriations from the unappropriated balance of the 1240 Veterans Memorial Park Fund, for the year ending December 31, 2021, and declaring an emergency.

ORDINANCE NO. 88 – 2021

BY: FINANCE COMMITTEE

AN ORDINANCE making certain appropriations from the unappropriated balance of the 1212 Summer Concert Fund, for the year ending December 31, 2021, and declaring an emergency.

8. UNFINISHED BUSINESS

9. PETITIONS AND GENERAL COMMUNICATIONS

10. BILLS, ACCOUNTS AND CLAIMS

The Music Shoppe - \$ 599.90 Council Upgrade for Streaming/Media Box

11. REPORTS FROM CITY OFFICIALS

12. REPORTS OF COMMITTEES

13. RESOLUTIONS AND REQUESTS OF COUNCIL MEMBER

14. CALL OF THE CALENDAR

15. THIRD READING ORDINANCES AND RESOLUTIONS

16. SECOND READING ORDINANCES AND RESOLUTIONS

ORDINANCE NO. 77 – 2021

BY: COMMUNITY DEVELOPMENT COMMITTEE

AN ORDINANCE authorizing the Mayor of the City of Massillon, Ohio, to enter into an agreement with Greatness Cafe to provide an economic development “inducement grant” to fund start-up costs including build-out, equipment, etc., at the property located at 121 Lincoln Way E., Massillon, Ohio.

ORDINANCE NO. 78 – 2021

BY: COMMUNITY DEVELOPMENT COMMITTEE

AN ORDINANCE approving an application for assistance under Title I of the Housing and Community Development Act of 1974, as amended, including the Consolidated Plan and Annual Action Plan; authorizing the execution and filing of the application and related assurances and certifications, and declaring an emergency.

ORDINANCE NO. 79 – 2021

BY: COMMUNITY DEVELOPMENT COMMITTEE

AN ORDINANCE amending the Zoning Map of the City of Massillon, Ohio, by rezoning certain property from B-3 General Business District to I-1 Light Industrial District.

ORDINANCE NO. 80 – 2021

BY: STREETS, HIGHWAYS, TRAFFIC AND SAFETY COMMITTEE

AN ORDINANCE granting a waterline utility easement on property that is owned by the City of Massillon, Ohio, and is used as part of The Legends of Massillon Golf Course, to Aqua Ohio, Inc., and declaring an emergency.

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

18. ADJOURNMENT

DIANE ROLLAND – CLERK OF COUNCIL

DATE: MAY 3, 2021

CLERK: DIANE ROLLAND

MASSILLON CITY COUNCIL
CITY OF MASSILLON, OHIO
CLAUDETTE O. ISTNICK, PRESIDENT

COUNCIL CHAMBERS

LEGISLATIVE BRANCH

ORDINANCE NO. 82 – 2021

BY: COMMUNITY DEVELOPMENT COMMITTEE

TITLE: AN ORDINANCE amending the Zoning Map of the City of Massillon, Ohio, by rezoning certain property from B-3 General Business District to I-1 Light Industrial District.

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

Section 1:

The public necessity, convenience, general welfare, and good zoning practices require that the Zoning Map of the City of Massillon, Ohio, established in Section 1151.02 of the Codified Ordinances of the City of Massillon, Ohio, and subsequently amended, be amended to rezone the property described below in Section 2 from B-3 General Business District to I-1 Light Industrial District; provided, however, that the conditions outlined below in Section 3 must be met before the rezoning may go into effect. If said conditions are not met, as required, the rezoning shall not go into effect and shall be considered denied and rejected by Council. The rezoning was recommended by the City of Massillon Planning Commission after a public hearing held on April 14, 2021. All required notices and public hearings have been given and held according to law.

Section 2:

The property to be rezoned from B-3 General Business District to I-1 Light Industrial District is 1.60 acres of Parcel No. 616772 (Lot 608). Said parcel is located at 1722 Erie Avenue NW, Massillon, Ohio 44646. A map and a legal description of the property to be rezoned are attached to this ordinance as Exhibit "A" and Exhibit "B" respectively.

Section 3:

A Declaration of Restrictive Covenant encumbering the property to be rezoned, a copy of which is attached to this ordinance as Exhibit "C," must be properly executed and recorded with the Stark County Recorder by the property owner named therein within seventy-five (75) days of the effective date of this ordinance.

Section 4:

The Clerk of Council is authorized to correct any typographical errors discovered herein during or after the pendency or passage of this ordinance. The Clerk of Council is further authorized, in conjunction with the Law Department and the Council President, to correct any ministerial or de minimis errors that do not substantially alter the intended results or numerical total sums of this ordinance, during or after the pendency or passage of this ordinance. Corrected copies are to be sent to all official recipients.

Section 5:

This ordinance shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS _____ DAY OF _____, 2021.

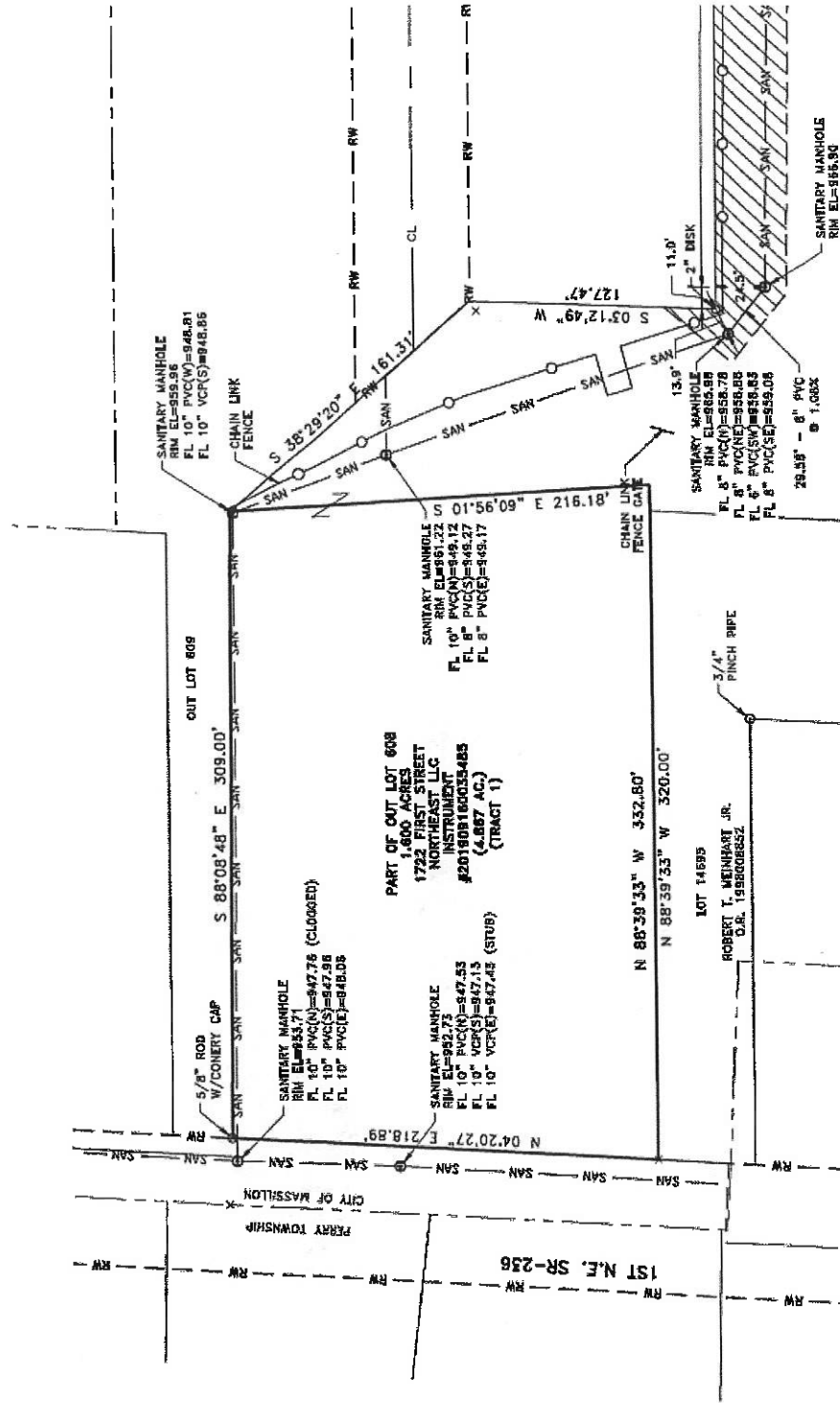
ATTEST: _____
DIANE ROLLAND, CLERK OF COUNCIL CLAUDETTE O. ISTNICK, PRESIDENT

APPROVED: _____
KATHY CATAZARO-PERRY, MAYOR

Proposed Acreage to Be Rezoned



Survey of Proposed Acreage to be Rezoned



April 21, 2021

DESCRIPTION OF A 1.600 ACRE PARCEL

Situated in the State of Ohio, County of Stark, City of Massillon and being part of Out Lot 608 as shown in the Valeside Annexation (Plat Book 57, Page 30) and being part of the lands now or formerly owned by 1722 First Street Northeast, LLC (Instrument #201909160035485), Tract 1 and being more particularly described as follows:

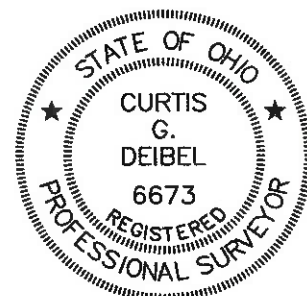
Beginning at a 5/8" steel rod with a Conery cap found at the Southwest corner of Out Lot 609 and the True Place of Beginning of the herein described parcel;

1. Thence S 88°08'48" E, along the south line of Out Lot 609, a distance of 309.00 feet to a point;
2. Thence S 01°59'09" E, along a new line, a distance of 216.28 feet to a point;
3. Thence N 88°39'33" W, along an easterly extension of the north line of Lot 14695 and the northerly line of said lot, a distance of 332.80 feet to a point;
4. Thence N 04°20'27" E, along the easterly right-of-way of First Street Northeast (State Route 236), (66 feet wide), a distance of 218.89 feet to a 5/8" steel rod with a Conery cap found and the True Place of Beginning of the herein described parcel.

The above described parcel contains 1.600 acres and is intended to describe a parcel for zoning consideration. The survey of the subsequent area was done under the supervision of Curtis G. Deibel, P.S. #6673, in July, 2020.

The bearings are based on Ohio State Plane Coordinates. North Zone NAD83 (1986 adjustment).

Curtis G. Deibel, P.S. #6673



DECLARATION OF RESTRICTIVE COVENANT

THIS DECLARATION OF RESTRICTIVE COVENANT ("Declaration") is made by **1722 First Street Northeast LLC**, an Ohio limited liability company ("Declarant"), with an address of PO Box 712, Massillon, Ohio 44648.

RECITALS:

1. Pursuant to the General Warranty Deed recorded on _____, 2021, as Instrument Number _____ of the Stark County Recorder's Office records, Declarant is the fee simple owner of the real property described in **Exhibit "A"** which is attached hereto and incorporated herein ("Property")

2. The Property is situated in the City of Massillon ("City"), Stark County, Ohio.

3. Declarant is willing to establish and declare a restrictive covenant pertaining to and encumbering the Property ("Restrictive Covenant").

4. The Restrictive Covenant shall benefit the City and the fee simple owners of any real property situated within three hundred (300) feet of the Property ("Neighboring Owners").

NOW, THEREFORE, for Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which Declarant acknowledges, Declarant establishes, declares and/or imposes the following on the Property:

1. Recitals: The foregoing Recitals are incorporated into this Declaration as if fully re-written herein.

2. Restrictive Covenant: Upon and subject to the terms and conditions of this Agreement, Declarant declares and/or establishes the following Restrictive Covenant:

- (a) Declarant covenants that the Property shall only be used for the personal and/or commercial storage of recreational vehicles, boats, and automobiles. Without limitation, all types and categories of recreational vehicles, boats, and automobiles may be stored on the Property.

3. Amendment/Modification and Perpetuity: Unless and until the City and Declarant agree pursuant to a written instrument recorded with the Stark County Recorder's Office, this Declaration and the Restrictive Covenant:

- (a) cannot be amended and/or modified; and

- (b) shall apply in perpetuity to and run with the land covering the Property providing a general plan of development for the Property.

4. Enforcement/Remedies: The City and/or any of the Neighboring Owners:

- (a) shall have standing to seek to enforce this Declaration and the Restrictive Covenant; and
- (b) shall have all remedies available under Ohio law, upon and relating to any violations by Declarant of the Restrictive Covenant.

5. Declaration Runs with the Land: The provisions of this Declaration shall run with the land and shall inure to the benefit of and be binding upon Declarant's, the City's, and the Neighboring Owners's respective heirs, successors, assigns, agents, representatives, lessees, and tenants. This Declaration shall be recorded.

6. Applicable Law: This Declaration shall be construed in accordance with the laws of the state of Ohio.

7. Headings: The section headings used herein are for reference and convenience only, and shall not affect the interpretation of this Declaration.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the notary dates below.

[SIGNATURE AND NOTARY ON THE FOLLOWING PAGE]

1722 FIRST STREET NORTHEAST LLC,
an Ohio limited liability company

Signature _____

Print Name _____

Title Member _____

STATE OF _____, _____ COUNTY, SS:

Before me, a Notary Public in and for said County and State, personally appeared the above-named **1722 FIRST STREET NORTHEAST LLC**, an Ohio limited liability company, by _____, Member, who acknowledged that he did sign the foregoing instrument, and that the same is his free act and deed and the free act and deed of said limited liability company, and that he is duly authorized herein.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at _____, _____, this ____ day of _____ 2021.

Notary Public Signature _____

THIS INSTRUMENT PREPARED BY:
Joseph J. Pasquarella, Esq.
Krugliak, Wilkins, Griffiths
& Dougherty Co., L.P.A.
4775 Munson Street, N.W.
P.O. Box 36963
Canton, OH 44735-6963
Phone: (330) 497-0700/Fax: (330) 497-4020

DATE: MAY 3, 2021

CLERK: DIANE ROLLAND

MASSILLON CITY COUNCIL
CITY OF MASSILLON, OHIO
CLAUDETTE O. ISTNICK, PRESIDENT

COUNCIL CHAMBERS

LEGISLATIVE BRANCH

ORDINANCE NO. 83 – 2021

BY: PARK AND RECREATION COMMITTEE

TITLE: AN ORDINANCE authorizing the Recreation Board of the City of Massillon, Ohio, to accept donations from Veterans of Foreign Wars (VFW) of Ohio Charities and from local private citizens, on behalf of the Massillon Park and Recreation Department, 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 authorizes the Recreation Board of the City of Massillon, Ohio, to accept donations from Veterans of Foreign Wars (VFW) of Ohio Charities and from local private citizens, on behalf of the Massillon Park and Recreation Department.

Section 2:

The Recreation Board of the City of Massillon, Ohio, is hereby authorized and directed to accept donations from Veterans of Foreign Wars (VFW) of Ohio Charities and from local private citizens, on behalf of the Massillon Park and Recreation Department.

Section 3:

The donations are in the amount of Two Thousand Dollars (\$2,000.00) from Veterans of Foreign Wars (VFW) of Ohio Charities and Six Hundred Dollars (\$600.00) from local private citizens and are to be placed into the 1234.505.4.1890 account for the Robert Wornstaff flagpole memorial. The acceptance of these donations were approved by the Recreation Board at its April 21, 2021, meeting by a 5 – 0 vote.

Section 4:

The Clerk of Council is authorized to correct any typographical errors discovered herein during or after the pendency or passage of this ordinance. The Clerk of Council is further authorized, in conjunction with the Law Department and the Council President to correct any ministerial or de minimis errors that do not substantially alter the intended results or numerical total sums of this ordinance, during or after the pendency or passage of this ordinance. Corrected copies are to be sent to all official recipients.

DATE: MAY 3, 2021

CLERK: DIANE ROLLAND

MASSILLON CITY COUNCIL
CITY OF MASSILLON, OH
CLAUDETTE O. ISTNICK, PRESIDENT

COUNCIL CHAMBERS

LEGISLATIVE DEPARTMENT

ORDINANCE NO. 84 – 2021

BY: POLICE AND FIRE COMMITTEE

TITLE: AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into contract with Penn Care Inc., for the purchase of a 2022 MEDIX Type I ambulance using Ohio State Term Schedule Purchasing, and declaring an emergency.

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

Section 1:

The Director of Public Service and Safety of the City of Massillon, Ohio, is hereby authorized and directed to enter into contract with Penn Care Inc., for the purchase of a 2022 MEDIX Type I ambulance using Ohio State Purchasing Term Schedule. The purchase price is not to exceed One Hundred Seventy-Four Thousand, One Hundred Ninety-Three Dollars (\$174,193.00).

Section 2:

The Clerk of Council is authorized to correct any typographical errors discovered herein during or after the pendency or passage of this ordinance. The Clerk of Council is further authorized, in conjunction with the Law Department and the Council President to correct any ministerial or de minimis errors that do not substantially alter the intended results or numerical total sums of this ordinance, during or after the pendency or passage of this ordinance. Corrected copies are to be sent to all official recipients.

Section 3:

This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health or safety of the citizens of the City of Massillon; the emergency being that this ambulance is required for the essential and ongoing operations of the Massillon Fire Department and the build time often exceeds three months from the time the order is placed. Provided this Ordinance receives the affirmative vote of two-thirds of the elected and/or appointed members of 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.

DATE: MAY 3, 2021

CLERK: DIANE ROLLAND

MASSILLON CITY COUNCIL
CITY OF MASSILLON, OHIO
CLAUDETTE O. ISTNICK, PRESIDENT

COUNCIL CHAMBERS

LEGISLATIVE BRANCH

ORDINANCE NO. 85 – 2021

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE making certain appropriations from the unappropriated balance of the 1234 Park and Recreation Fund, for the year ending December 31, 2021, 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 1234 Park and Recreation Fund, for the year ending December 31, 2021, the following:

\$ 25,000.00 to an account entitled "Capital Improvement" – 1234.505.5.2510

Section 2:

This measure was approved by the Recreation Board on April 21, 2021 by a 5 – 0 vote.

Section 3:

The Clerk of Council is authorized to correct any typographical errors discovered herein during or after the pendency or passage of this ordinance. The Clerk of Council is further authorized, in conjunction with the Law Department and the Council President to correct any ministerial or de minimis errors that do not substantially alter the intended results or numerical total sums of this ordinance, during or after the pendency or passage of this ordinance. Corrected copies are to be sent to all official recipients.

Section 4:

This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health or safety of the citizens of the City of Massillon; the emergency being to proceed with the basketball resurfacing project without unnecessary delay and as scheduled in the City of Massillon Park and Recreation Department's 2021 construction schedule. Provided this Ordinance receives the affirmative vote of two-thirds of the elected and/or appointed 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.

DATE: MAY 3, 2021

CLERK: DIANE ROLLAND

MASSILLON CITY COUNCIL
CITY OF MASSILLON, OHIO
CLAUDETTE O. ISTNICK, PRESIDENT

COUNCIL CHAMBERS

LEGISLATIVE BRANCH

ORDINANCE NO. 86 – 2021

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE making certain appropriations from the unappropriated balance of the 1401 Income Tax-Capital Improvement Fund, for the year ending December 31, 2021, 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 1401 Income Tax-Capital Improvement Fund, for the year ending December 31, 2021, the following:

\$ 174,193.00 to an account entitled "Ambulance Purchase" – 1401.325.5.2529

Section 2:

The Clerk of Council is authorized to correct any typographical errors discovered herein during or after the pendency or passage of this ordinance. The Clerk of Council is further authorized, in conjunction with the Law Department and the Council President to correct any ministerial or de minimis errors that do not substantially alter the intended results or numerical total sums of this ordinance, during or after the pendency or passage of this ordinance. Corrected copies are to be sent to all official recipients.

Section 3:

This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health or safety of the citizens of the City of Massillon; the emergency being that these funds will be used to purchase an ambulance that is required for the essential and ongoing operations of the Massillon Fire Department and the build time often exceeds three months from the time the order is placed. Provided this Ordinance receives the affirmative vote of two-thirds of the elected and/or appointed 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.

DATE: MAY 3, 2021

CLERK: DIANE ROLLAND

MASSILLON CITY COUNCIL
CITY OF MASSILLON, OHIO
CLAUDETTE O. ISTNICK, PRESIDENT

COUNCIL CHAMBERS

LEGISLATIVE BRANCH

ORDINANCE NO. 87 – 2021

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE making certain appropriations from the unappropriated balance of the 1240 Veterans Memorial Park Fund, for the year ending December 31, 2021, 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 1240 Income Veterans Memorial Park Fund, for the year ending December 31, 2021, the following:

\$ 10,000.00 to an account entitled "Services/Contracts" – 1240.125.5.2392

Section 2:

The Clerk of Council is authorized to correct any typographical errors discovered herein during or after the pendency or passage of this ordinance. The Clerk of Council is further authorized, in conjunction with the Law Department and the Council President to correct any ministerial or de minimis errors that do not substantially alter the intended results or numerical total sums of this ordinance, during or after the pendency or passage of this ordinance. Corrected copies are to be sent to all official recipients.

Section 3:

This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health or safety of the citizens of the City of Massillon; the emergency being to allow for the timely payment of invoices for repair and maintenance of Veterans Memorial Park. Provided this Ordinance receives the affirmative vote of two-thirds of the elected and/or appointed 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.

DATE: MAY 3, 2021

CLERK: DIANE ROLLAND

MASSILLON CITY COUNCIL
CITY OF MASSILLON, OHIO
CLAUDETTE O. ISTNICK, PRESIDENT

COUNCIL CHAMBERS

LEGISLATIVE BRANCH

ORDINANCE NO. 88 – 2021

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE making certain appropriations from the unappropriated balance of the 1212 Summer Concert Fund, for the year ending December 31, 2021, 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 1212 Summer Concert Fund, for the year ending December 31, 2021, the following:

\$ 17,000.00 to an account entitled "Services/Contracts" – 1212.505.5.2392

Section 2:

The Clerk of Council is authorized to correct any typographical errors discovered herein during or after the pendency or passage of this ordinance. The Clerk of Council is further authorized, in conjunction with the Law Department and the Council President to correct any ministerial or de minimis errors that do not substantially alter the intended results or numerical total sums of this ordinance, during or after the pendency or passage of this ordinance. Corrected copies are to be sent to all official recipients.

Section 3:

This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health or safety of the citizens of the City of Massillon; the emergency being to allow for timely payments to be made for bands and related expenses. Provided this Ordinance receives the affirmative vote of two-thirds of the elected and/or appointed 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.