CITY OF REYNOLDSBURG

City Council
Monday October 12, 2015

Regular Meeting: 7:30 PM

Place: Council Chambers
7232 E. Main St, Reynoldburg, OH 43068

President:	DOUG JOSEPH
Ward Members:	Ward I - Scott A. Barrett Ward II - Leslie Kelly Ward III - Cornelius McGrady III Ward IV - Mel Clemens
At Large Members:	Barth R. Cotner Chris Long Dan Skinner, Esq.

COMMITTEES:

Community Development:	Chmn Kelly, McGrady, Clemens, Cotner, Long, Barrett, Skinner
Safety:	Chmn Long, Skinner, Clemens, Kelly, Cotner, Barrett, McGrady
Service:	Chmn Clemens, Barrett, Kelly, Cotner, Long, McGrady, Skinner
Finance:	Chmn Cotner, Long, Clemens, Kelly, Barrett, McGrady, Skinner

* * * * * * * * * *

Agenda is subject to amendment by Committee/Council at the time of the meeting.

All meetings of the Council shall be held in accordance with the general laws of Ohio pertaining to requirements for open meetings of public bodies.

If you wish to speak before City Council concerning a specific topic on the agenda, or about a specific topic not on the agenda, please complete a "Speaker Form" and give to the Clerk of Council. Forms are located in the wooden box on one of the bench seats in the atrium. Copies of the Rules of Discussion are available next to the wooden box.

April Beggerow
Clerk of Council

REYNOLDSBURG City Council
Regular Meeting
Council Chambers, 7323 East Main Street
*October 12, 2015 *** 7:30 PM*

1. Call to Order

2. Roll Call

3. Invocation - Councilman Dan Skinner

4. Pledge of Allegiance

5. Approval of Minutes
   a. City Council – Regular Meeting – September 28, 2015

6. Approval of Agenda

7. Community Comments and Requests

8. Communications

9. Reports

10. Motions
    a. MOTION TO CONFIRM MAYOR'S APPOINTMENT TO THE LICKING COUNTY TAX INCENTIVE REVIEW COUNCIL - JAMES E. HOOD, CITY ATTORNEY. --- Cotner. Finance Committee.

    b. MOTION TO CONFIRM MAYOR'S APPOINTMENT TO THE LICKING COUNTY TAX INCENTIVE REVIEW COUNCIL - DAN HAVENER, DEVELOPMENT DIRECTOR. --- Cotner. Finance Committee.

11. LEGISLATION FOR FIRST READING

    a. ORDINANCE APPROVING SPECIAL EXCEPTION USE PERMIT - (6541-6543 E. Main Street; Proposed Use – Semi Public Use-Church); Applicant, Gary Smith.

    b. ORDINANCE APPROVING SPECIAL EXCEPTION USE PERMIT - (1729 Brice Road; Proposed Use – Semi Public Use-Church); Applicant, Gwendolyn Williams.

    c. ORDINANCE AUTHORIZING CITY AUDITOR TO REMOVE EQUIPMENT FROM THE CITY'S FIXED ASSET LIST. (Vehicles from PD) --- Cotner. Finance Committee.

d. ORDINANCE AUTHORIZING MAYOR TO ENTER INTO AN INTERGOVERNMENTAL WORKING AGREEMENT WITH THE CITY OF COLUMBUS TO PROVIDE FLEET MANAGEMENT SERVICES, AND DECLARING AN EMERGENCY. --- Cotner. Finance Committee.

e. ORDINANCE TO ENACT TITLE NINE, CHAPTER 190 OF THE CODIFIED ORDINANCES OF THE CITY OF REYNOLDSBURG REGARDING MUNICIPAL INCOME TAX AND DECLARING AN EMERGENCY. --- Cotner. Finance Committee.

f. ORDINANCE MAKING TRANSFER OF FUNDS FROM THE UNAPPROPRIATED SPECIAL ASSESSMENT FUND (320) TO THE UNAPPROPRIATED GENERAL FUND. --- Cotner. Finance Committee.

12. LEGISLATION FOR SECOND READING

a. ORDINANCE AUTHORIZING MAYOR TO ENTER INTO AN AGREEMENT WITH BERMEX INC., FOR METER READING SERVICES AND DECLARING AN EMERGENCY. (First Reading 9/28/2015 Requests Emergency Passage at Third Reading). --- Cotner. Finance Committee.

b. ORDINANCE AUTHORIZING MAYOR TO ENTER INTO AN AGREEMENT WITH CITY OF COLUMBUS, FOR THE 2016-2018 WATER SAMPLING SERVICES AND DECLARING AN EMERGENCY. (FIRST READING 9/28/2015 REQUESTS EMERGENCY PASSAGE AT SECOND READING). --- Cotner. Finance Committee.

c. ORDINANCE AUTHORIZING MAYOR TO ENTER INTO AN AGREEMENT WITH CT CONSULTANTS FOR PROFESSIONAL CONSULTING AND GENERAL ENGINEERING SERVICES. (First Reading 9/28/2015). --- Cotner. Finance Committee.

d. ORDINANCE AUTHORIZING CITY AUDITOR TO REMOVE EQUIPMENT FROM THE CITY'S FIXED ASSET LIST. (Speed Trailer - First Reading 9/28/2015.) --- Cotner. Finance Committee.

13. Legislation For Third Reading

   a. ORDINANCE APPROVING SPECIAL EXCEPTION USE PERMIT - (6366 E. Main Street; Proposed Use – Auto Sales); Applicant, Jason P. Goss. (Second Reading 9/28/2015) --- Clemens. Service Committee.

   b. ORDINANCE APPROVING SPECIAL EXCEPTION USE PERMIT - (6475 E. Main Street; Proposed Use – Professional Activites); Applicant, Sam Ugbo. (Second Reading 9/28/2015) --- Clemens. Service Committee.

   c. ORDINANCE APPROPRIATING FUNDS FROM UNAPPROPRIATED GENERAL FUND TO ACCOUNT 110.111.5362 (Equipment Maintenance) FOR DONATED MONIES RECEIVED. (Second Reading 9/28/2015) --- Cotner. Finance Committee.

   d. ORDINANCE AUTHORIZING MAYOR TO ENTER INTO AN AGREEMENT WITH EVANS, MECHWART, HAMBLETON & TILTON, INC., ("EMH&T") FOR PROFESSIONAL CONSULTING AND STRUCTURAL ENGINEERING SERVICES. (Second Reading 9/28/2015). --- Cotner. Finance Committee.

14. Executive Session to Discuss Pending Litigation

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ADJOURNMENT

MINUTES REGULAR MEETING
REYNOLDSBURG CITY COUNCIL
September 28, 2015

President Doug Joseph called the meeting to order at 7:30 PM

PRESENT: Joseph, Barrett, Kelly, McGrady III, Clemens, Cotner, Long, Skinner
ABSENT:

Invocation- Councilman Chris Long
Approval of Minutes

a. City Council – Regular Meeting – September 14, 2015

Minutes stand approved

Approval of Agenda

Agenda stands approved

Community Comments and Requests
Communications

CLERK OF COURT REPORT

AUGUST, 2015 FINANCIAL REPORTS

Reports

WEST LICKING JOINT FIRE DISTRICT

Council President Joseph: Councilman Skinner has now arrived. Would you like to give us an update as to what is going on over there?

Councilman Skinner: Yes, thank you. I apologize for the delay. We are in the process of searching for and negotiating a new station. It will probably be in the Pataskala area. I may have reported that the last time. There has not been movement since then, but I am anticipating movement in the next couple of meetings, or at least an update. As far as the litigation goes, there was a mediation last week, but that remains pending.

Council President Joseph: Everyone should have a couple of the minutes. Councilman Skinner, I did notice one reference that the Building and Lands Committee are looking at plans for a station. What is that status? I know sometime back, that was completed and they had plans, or are they starting from scratch on that?

Councilman Skinner: that was actually the first thing I was referencing a second ago. Still in the process of that, they are looking in the area between Pataskala and Reynoldsburg. They have not pinned that down yet, but that is the targeted area. Hopefully within the next couple of meetings we will have an update.

Council President Joseph: That is on the location. I am talking about the actual design.

Councilman Skinner: Well that is actually still in the works. A gentleman who is considering building a building for his business, his name escapes me, but the proposal was that he would build a warehouse type facility and he would use half and have us use the other half.

Council President Joseph: Any other questions for Councilman Skinner? Thank you very much.

REPORT FROM AUDITOR RICHARD HARRIS

Mr. Harris: Thank you President Joseph and Members of Council. I am bringing you good news tonight. Over the last few weeks I have worked with the Mayor, the City Attorney, and our Financial Advisors. We have an opportunity to refinance some debt, one from 1998 and one from 2000, which would be the Police Building. The 1998 debt is the TIF payments that the school gets. But we can refinance those. The savings on that over ten years will be about $600,000.00. About half will be ours, and about half will be the schools, but we have the obligation to be financially responsible in the TIF, as well. I will be coming back to Council later this Fall with the Bond Ordinance, which you have all seen in the past. And, I am sure you will enjoy reading twenty-five to thirty pages of that. We can't close this because it is not due until March of next year but we are trying to lock a rate in now so we can get a little better price on it. If there are any questions, I will be glad to answer. If not, I will bring you the specifics as we get closer down the road.

Council President Joseph: Any questions? Thank you very much.

Motions

1182 : APPOINTMENT OF ROBERT WELDAY TO PLANNING COMMISSION --- Cotner. Finance Committee.

Council President Joseph: Motions a. and b. have come out of the Finance Committee and moved forward so that a final determination could be made tonight. I believe everyone has had a chance to review the resumes. Councilman Cotner, do you have any position you would like to move forward with regarding the two applicants?

Councilman Cotner: I will make a motion on 10.a. that we appoint Robert Welday to serve on the Planning Commission.

Council President Joseph: Is there a second? Second by Councilman Skinner. Questions or comments on the nomination?

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Barth R. Cotner, At Large
SECONDER:	Dan Skinner, At Large
AYES:	Barrett, McGrady III, Clemens, Cotner, Long, Skinner
ABSENT:	Kelly

1183 : APPOINTMENT ELIOT BOWMAN DESIGN REVIEW BOARD --- Cotner. Finance Committee.

Council President Joseph: This is an item that came out of Finance Committee. Do you have a motion regarding that appointment?

Councilman Long: President Joseph, Mr. Bowman came to me a number of weeks ago, expressing the opportunity to serve the City of Reynoldsburg. I would like to make the motion that we accept Eli Bowman's application for the Design Review Board.

Council President Joseph: Councilman Long makes the motion that we appoint Eli Bowman to the Design review Board. Is there a second? Second by Councilman Clemens. Questions or comments?

Councilman McGrady: Give me a second. I think that is the one, unless I got it backwards, that Dr. Noble wanted to be on that committee. And that is where I had made recommendation before but you pushed it up here. So how do we go about that. Do we take a vote on that?

Council President Joseph: Councilman Long made a motion and it was seconded by Councilman Clemens, so that name is a nomination and that is what is on the floor to be voted on at this time. Should the nomination not be approved, then another name could be put in the nomination. Other questions on 10.b.? That is five affirmative votes, one negative vote, and one abstention, the appointment is approved.

RESULT:	**ADOPTED [5 TO 1]**
MOVER:	Chris Long, At Large
SECONDER:	Mel Clemens, Ward IV
AYES:	Barrett, Clemens, Cotner, Long, Skinner
NAYS:	McGrady III
ABSTAIN:	Kelly

LEGISLATION REQUIRING ONE READING

77-15

ORDINANCE AUTHORIZING MAYOR TO PURCHASE ONE VEHICLE FOR REYNOLDSBURG COURT LIASON AND DECLARING AN EMERGENCY --- Cotner. Finance Committee.

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Barth R. Cotner, At Large
SECONDER:	Dan Skinner, At Large
AYES:	Barrett, Kelly, McGrady III, Clemens, Cotner, Long, Skinner

78-15

RESOLUTION ACCEPTING THE AMOUNTS AND RATES AS DETERMINED BY THE BUDGET COMMISSION AND AUTHORIZING THE NECESSARY TAX LEVIES AND CERTIFYING THEM TO THE COUNTY AUDITOR. --- Cotner. Finance Committee.

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Barth R. Cotner, At Large
SECONDER:	Chris Long, At Large
AYES:	Barrett, Kelly, McGrady III, Clemens, Cotner, Long, Skinner

79-15

ORDINANCE REPEALING AND REPLACING ORDINANCE NO. 74-15 PASSED SEPTEMBER 14, 2015 WHICH READ, "ORDINANCE AWARDING DEPOSITS OF PUBLIC FUNDS AND DECLARING AN EMERGENCY" AND DECLARING AN EMERGENCY. --- Cotner. Finance Committee.

Council President Joseph: Questions or Comments?

Councilman McGrady: yes, I have a question. In going back and looking at this, I see where they took off PNC bank and left Heartland bank and then they include the others. But, my only question is, why a five year and not a two year? That is my only question.

Council President Joseph: Mr. Harris.

Mr. Harris: That is what the Ohio Revised Code requires.

Councilman McGrady: Thank you, Sir.

Council President Joseph: Any other questions?

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Barth R. Cotner, At Large
SECONDER:	Leslie Kelly, Ward II
AYES:	Barrett, Kelly, McGrady III, Clemens, Cotner, Long, Skinner

LEGISLATION FOR FIRST READING

ORDINANCE AUTHORIZING MAYOR TO ENTER INTO AN AGREEMENT WITH BERMEX INC., FOR METER READING SERVICES AND DECLARING AN EMERGENCY. --- Cotner. Finance Committee.

RESULT:	**REFERRED TO COMMITTEE**	**Next: 10/5/2015 7:30 PM**

OORDINANCE AUTHORIZING MAYOR TO ENTER INTO AN AGREEMENT WITH CITY OF COLUMBUS, FOR THE 2016-2018 WATER SAMPLING SERVICES AND DECLARING AN EMERGENCY. --- Cotner. Finance Committee.

RESULT:	**REFERRED TO COMMITTEE**	**Next: 10/5/2015 7:30 PM**

ORDINANCE AUTHORIZING MAYOR TO ENTER INTO AN AGREEMENT WITH CT CONSULTANTS FOR PROFESSIONAL CONSULTING AND GENERAL ENGINEERING SERVICES. --- Cotner. Finance Committee.

RESULT:	**REFERRED TO COMMITTEE**	**Next: 10/5/2015 7:30 PM**

ORDINANCE AUTHORIZING CITY AUDITOR TO REMOVE EQUIPMENT FROM THE CITY'S FIXED ASSET LIST. --- Cotner. Finance Committee.

RESULT:	**REFERRED TO COMMITTEE**	**Next: 10/5/2015 7:30 PM**

LEGISLATION FOR SECOND READING

ORDINANCE APPROVING SPECIAL EXCEPTION USE PERMIT - (6366 E. MAIN STREET; PROPOSED USE – AUTO SALES); APPLICANT, JASON P. GOSS. (FIRST READING 9/14/2015) --- Clemens. Service Committee.

RESULT:	**REFERRED TO COMMITTEE**	**Next: 10/5/2015 7:30 PM**

ORDINANCE APPROVING SPECIAL EXCEPTION USE PERMIT - (6475 E. MAIN STREET; PROPOSED USE – PROFESSIONAL ACTIVITES); APPLICANT, SAM UGBO. (FIRST READING 9/14/2015) --- Clemens. Service Committee.

RESULT:	REFERRED TO COMMITTEE	Next: 10/5/2015 7:30 PM

ORDINANCE APPROPRIATING FUNDS FROM UNAPPROPRIATED GENERAL FUND TO ACCOUNT 110.111.5362 (EQUIPMENT MAINTENANCE) FOR DONATED MONIES RECEIVED. (FIRST READING 9/14/2015) --- Cotner. Finance Committee.

RESULT:	REFERRED TO COMMITTEE	Next: 10/5/2015 7:30 PM

ORDINANCE AUTHORIZING MAYOR TO ENTER INTO AN AGREEMENT WITH EVANS, MECHWART, HAMBLETON & TILTON, INC., ("EMH&T") FOR PROFESSIONAL CONSULTING AND STRUCTURAL ENGINEERING SERVICES. (FIRST READING 9/14/2015) --- Cotner. Finance Committee.

RESULT:	REFERRED TO COMMITTEE	Next: 10/5/2015 7:30 PM

Adjournment

____
Doug Joseph, President of Council

____
April L. Beggerow, Clerk of Council

Mayor's Office
Brad McCloud
7232 E. Main Street
Reynoldsburg OHIO 43068
Phone

MOTION REQUEST

DATE:	**October 12, 2015**
TO:	**Finance Committee**
RE:	Confirmation of Mayor's Appointment to the Licking County Tax Incentive Review Council - James E. Hood, City Attorney.

That the Council of the City of Reynoldsburg does hereby confirm the Mayor's appointment of James E. Hood, Reynoldsburg City Attorney to the Licking County Tax Incentive Review Council; term to be for two years and will expire on December 31, 2017.

Michael L. Smith
Licking County Auditor
Administration Building • 20 South Second Street • Newark, Ohio 43055 • 740-670-5040 • www.lcounty.com

Brad Cottrell
Chief Deputy
740-670-5065

Martha J. Snavely
Chief Deputy
740-670-5039

Homestead
740-670-5035

CAUV
740-670-5050

Accounting
740-670-5053

Payroll
740-670-5039

Board of Revision
740-670-5057

Licenses
740-670-5059

Real Estate
740-670-5067

GIS/Mapping
740-670-5068

Weights & Measures
740-328-7735

Pataskala Office
740-964-6870

RECEIVED
SEP 22 2015
City of Reynoldsburg
Office of the Mayor

City of Reynoldsburg
7232 East Main Street
Reynoldsburg, OH 43068

To Whom It May Concern,

According to our records, the Tax Incentive Review Council (TIRC) appointments from the City of Reynoldsburg, Dan Havener and Jed Hood, will expire on December 31, 2015.

At your earliest convenience, please forward to the Licking County TIRC a copy of the resolution naming the appointees for 2016-17. Please note whether the appointee is a resident of Reynoldsburg. The resolution can be sent to Auditor Michael Smith, c/o Roy Van Atta, 20 S. 2nd Street, Newark, OH 43055. Or, you can email the document to rvanatta@lcounty.com

Sincerely,

Roy A. Van Atta
Deputy Auditor
740-670-5057

Attachment: 2015-09-22 TIRC request letter (1189 : Tax Incentive Review Council (TIRC) Appointments)

<u>Mayor's Office</u>
Brad McCloud
7232 E. Main Street
Reynoldsburg OHIO 43068
Phone

MOTION REQUEST

DATE:	**October 12, 2015**
TO:	**Finance Committee**
RE:	Confirmation of Mayor's Appointment to the Licking County Tax Incentive Review Council - Dan Havener, Development Director.

That the Council of the City of Reynoldsburg does hereby confirm the Mayor’s appointment of Dan Havener, Development Director, to the Licking County Tax Incentive Review Council; term to be for two years and will expire on December 31, 2017.

Michael L. Smith
Licking County Auditor
Administration Building • 20 South Second Street • Newark, Ohio 43055 • 740-670-5040 • www.lcounty.com

Brad Cottrell
Chief Deputy
740-670-5065

Martha J. Snavely
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740-670-5035

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740-670-5050

Accounting
740-670-5053

Payroll
740-670-5039

Board of Revision
740-670-5057

Licenses
740-670-5059

Real Estate
740-670-5067

GIS/Mapping
740-670-5068

Weights & Measures
740-328-7735

Pataskala Office
740-964-6870

RECEIVED
SEP 22 2015
City of Reynoldsburg
Office of the Mayor

City of Reynoldsburg
7232 East Main Street
Reynoldsburg, OH 43068

To Whom It May Concern,

According to our records, the Tax Incentive Review Council (TIRC) appointments from the City of Reynoldsburg, Dan Havener and Jed Hood, will expire on December 31, 2015.

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Sincerely,

Roy A. Van Atta
Deputy Auditor
740-670-5057

Attachment: 2015-09-22 TIRC request letter (1190 : Tax Incentive Review Council (TIRC) Appointments)

Board of Zoning and Building Appeals

Anthony Rettke
7232 E. Main Street
Reynoldsburg OHIO 43068
phone

Memo

DATE: **October 12, 2015**

TO: **Eric Snowden, Planning AdministratorBoard of Zoning and Building Appeals**

CC:

RE: ORDINANCE APPROVING SPECIAL EXCEPTION USE PERMIT - (6541-6543 E. Main Street; proposed use - Semi Public Use); applicant, Gary Smith.

6541-6543 E. Main St.; Application #171013; the Remnant Church; Applicant: Gary Smith; Special Exception Use

CITY OF REYNOLDSBURG

Planning and Zoning Office
City of Reynoldsburg
7232 East Main Street
Reynoldsburg, Ohio

Application #: 171013
Permit #:
Date Submitted: 8/10/15
Fee Amount: $350.00
☐ Paid:

Section 1139
BOARD OF ZONING & BUILDING APPEALS APPLICATION

I. PROPERTY INFORMATION

Property Address: 6541-6543 E. Main st. Reynoldsburg, oH. 43147

II. PROPERTY OWNER OF RECORD

Property Owner Name(s): Votem Ventures, Inc.

Contact Email: Andeag bala e gmail.com

Contact Phone Number:

III. BUSINESS INFORMATION (IF APPLICABLE)

Business Name: The Remnant church

Contact Name: 614.371.0942 Gary Smith

Contact Phone Number: 614.371.0942

Contact Email: remnant people e gmail.com

Description of Use: Church / Public Worship

IV. APPLICANT INFORMATION

Applicant Name: Gary Smith

Applicant Address: 8738 Birch Brook Lp Pickerington oH, 43147

Applicant Phone Number: 614.371.0942

Applicant Email: remnantpeople e gmail.com

☐ Property Owner ☑ Business Owner ☐ Contractor ☐ Architect

PROJECT INFORMATION

CHECK AND DESCRIBE IF APPLY:

Variance (☐ Non-Residential ($450) / ☐ Residential ($100)):

☐ **Major/Minor Site Plan Review ($500/$250):**

☑ **Special Exception Use ($350):** Semi -Public Use

☐ **Other:**

Applicant shall submit **nine (9) copies** of application and materials to the Planning Administrator. Please review the attached sections of the Zoning Code and note the items you are responsible for submitting with this application.

Applicant Signature: [signature] Date: 8-10-15.

****OFFICE USE ONLY****

Additional Notes:

Zoning Information
Zoning District: CC
☐ Historic District
☒ CC Overlay

Other Board Approval
☐ DRB

City Council Meeting Date:
☐ No Action Taken
☐ Approved (w/ Conditions)
☐ Introduced As Ordinance
☐ Denied

BZBA Meeting Date: 9/17/15
☐ Approved as Submitted
☐ Approved w/ Conditions
☐ Tabled
☐ Denied

Clerk of Council Initials: Date:
Planner Initials: Date:

The Reynoldsburg City
Board of Zoning and Building Appeal
7232 East Main Street

Monday, August 10, 2015

The Reynoldsburg Board of Zoning and Building Appeal:

The Remnant Church is requesting that you consider our application for Special Exception Use as per Table 1175.01 of The City of Reynoldsburg Code of Planning and Zoning. This request will permit the property a special use classification under Semi-Public uses. The Remnant Church is currently leasing this property from Votem Ventures Inc, the current owners of the building.

The Property in question is the former Cattle Club Restaurant facility located at 6541 & 6543 East Main Street, Reynoldsburg, Ohio 43068. Built in 1972, the building sat vacant and in a bad condition for a long time until 2004 when it was purchased by Votem Ventures Inc.

At the time of the purchase the property had housed a banquet facility and a big restaurant in this 12,516 square feet building on approximately 2 acres of land located about 400 feet away from the main street thoroughfare. It is boarded to the North, West and South properties zoned CC and to the immediate East is a zoned MHP-Mobile homes. This request will not be injurious to the area or otherwise detrimental to the public welfare.

Now therefore, with current use of lot and its adjacencies described above, the historic narrative that followed it is not anticipated that there will be compatibility issues with existing adjacent lots, nor issues with such elements as traffic circulation, noise, glare, odor, fumes, vibration and storm water.

There exist special circumstances applicable to the property for which the Special Use is sought. Recent history of the property, its original history, isolated location away from the main thoroughfare and the continuity created by properties adjacent to the main street will support our request. Special Exception use for Semi-Public use is necessary for the reasonable and beneficial use of the property.

There is practical difficulty evident in the strict application of the existing zoning, although CC-Community Commerce District is recent wide area change made by the City, the property's isolated location sets it apart. There is obvious deprivation of beneficial use of the land by current zoning.

The special exceptions being requested will not impair adequate supply of light and air to adjacent property; neither would it substantially increase congestion in public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values of the adjacent area neither would it confer on the property owner any special privilege unduly denied to the other properties in the same district.

Our application is independent of all other conditions with regard to nonconforming use of neighboring property or in other districts.

The proposed use of property shall be for semi-public use of offices, conference rooms, and a sanctuary gathering space which will be the primary use of the building. This and other code compliance issues will be addressed when the property comes in for building approval for renovation to meet the very specific needs of the program that will house for the activities of "The Remnant Church – No More Church As Usual" whose mission is to create an environment of hospitality where mature and focused believers proclaim the gospel of Jesus Christ with an apostolic and prophetic unction extending reconciliation of nonbelievers to God.

The Remnant Church is a non-profit organization founded by Dr. Gary L. Smith, Apostle and his wife Pastor Tosca Smith in 2007.The ministry started in their home in Pickerington, Ohio and as membership grew was moved into a space in the Marcus Theater. From the Marcus Theater the ministry moved across Hill Road North to a space adjacent to other retail space. The move to Reynoldsburg into the building at 6541 & 6543 E. Main Street is the most recent move for the ministry and the extra space will allow the ministry to grow and take part in community outreach in the City of Reynoldsburg.

There are currently ten active ministries within The Remnant Church, including, but not limited to; marriage ministry, youth ministries, outreach, as well as men and women's ministries. As a multi-cultural non-denominational church we strive to create an environment of support and growth for our members, visitors and the community. This building will allow our church to have space for these ministries to operate using the business offices as well as space to grow in membership.

Worship services will be held every Sunday morning in the 6541 section of the building at 10:00 am and usually last till about 1:00 pm. This space will also be used for any special services that we may have on a Saturday afternoon and Wednesday night service. The 6543 section of the building will be used during these times as well for administrative responsibilities. This building will allow for ample space for our current membership of 75 members as well as future growth.

The Remnant Church thanks the board for considering our application for Special Exception Use.

Sincerely

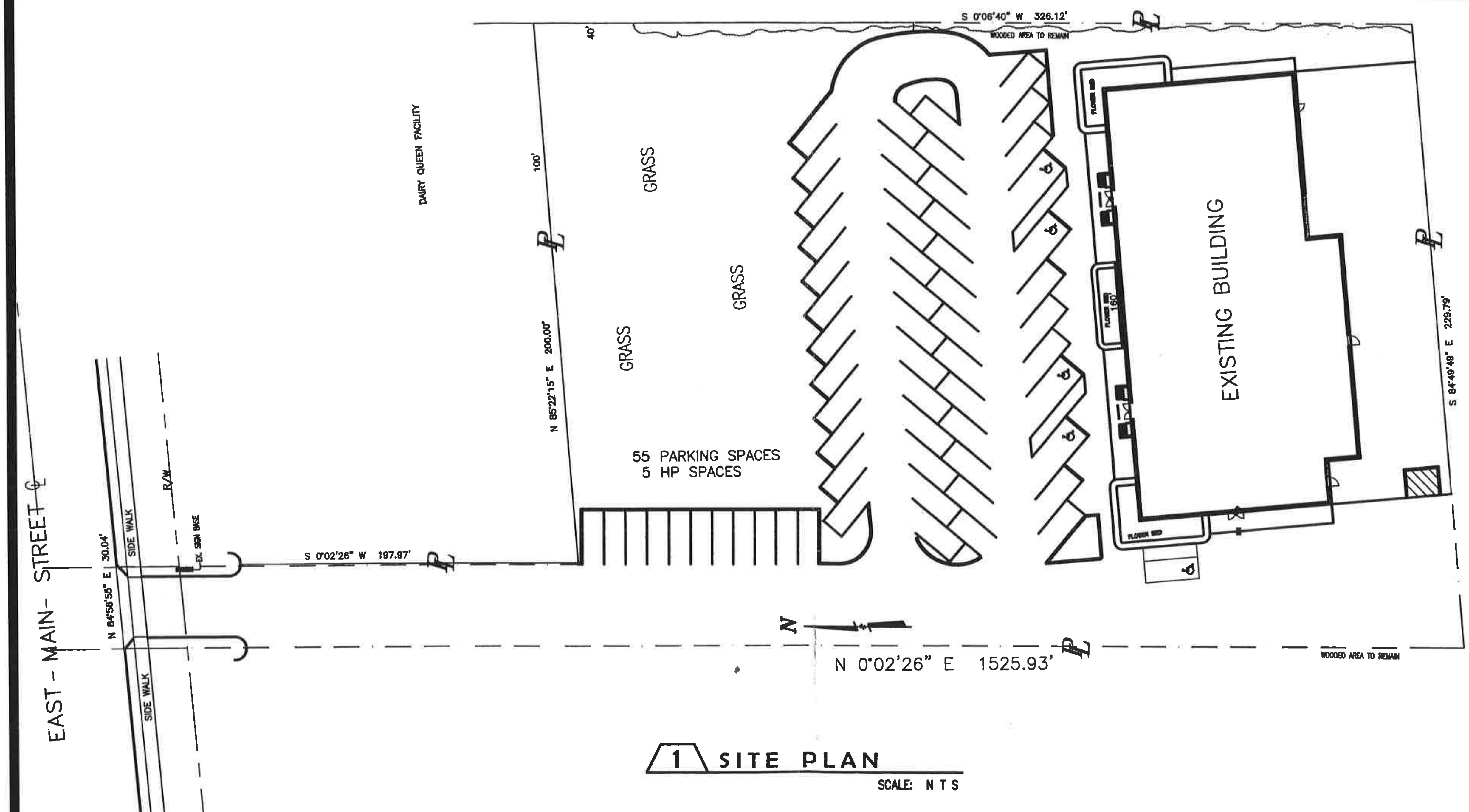
Gary L. Smith, Apostle

Pastor of The Remnant Church – No More Church as Usual

Tosca Smith

Pastor of The Remnant Church – No More Church as Usual

EXISTING CONDITION, NO CHANGE



1 SITE PLAN

SCALE: N T S

The Remnant Church

6543 E. MAIN ST. - REYNOLDSBURG, OH

EXISTING SITE PLAN -NO CHANGE-

drawing scale
AS NOTED

Attachment: BZBA App #171013 (1201 : 6541-6543 E. Main St.; Application #171013)

<u>Board of Zoning and Building Appeals</u>
Anthony Rettke
7232 E. Main Street
Reynoldsburg OHIO 43068
Phone

ORDINANCE REQUEST

DATE: **October 12, 2015**

TO: **Eric Snowden, Planning AdministratorBoard of Zoning and Building Appeals**

RE: ORDINANCE APPROVING SPECIAL EXCEPTION USE PERMIT - (1729 Brice Road; proposed use - Semi Public Use-Church); applicant, Gwendolyn Williams.

1727 Brice Rd.; Application #171119; Judah Redeemer Life Changing Ministries; Applicant: Gwendolyn Williams; Special Exception Use

CITY OF REYNOLDSBURG

Planning and Zoning Office
City of Reynoldsburg
7232 East Main Street
Reynoldsburg, Ohio

Application #: 171119
Permit #:
Date Submitted: 8/17/15
Fee Amount: $35.00
☒ Paid: 1342

Section 1139
BOARD OF ZONING & BUILDING APPEALS APPLICATION

I. PROPERTY INFORMATION

Property Address: 1727 Brice Rd

II. PROPERTY OWNER OF RECORD

Property Owner Name(s): Mason Equity

Contact Email:

Contact Phone Number: 614-781-1100

III. BUSINESS INFORMATION (IF APPLICABLE)

Business Name: Judah Redeemer Life Changing Ministries

Contact Name: Gwendolyn Williams

Contact Phone Number: 614-694-0988

Contact Email: PastorgwenWilliam@hotmail.com

Description of Use: Church - Worship Facility

IV. APPLICANT INFORMATION

Applicant Name: Gwendolyn Williams

Applicant Address: 3775 Petzinger Rd Col, OH 43232

Applicant Phone Number: 614-636-7248

Applicant Email:

☐ Property Owner ☒ Business Owner ☐ Contractor ☐ Architect

PROJECT INFORMATION

CHECK AND DESCRIBE IF APPLY:

Variance (☐ Non-Residential ($450) / ☐ Residential ($100)): ______

☐ **Major/Minor Site Plan Review ($500/$250):** ______

☒ **Special Exception Use ($350):** Semi-public use - Church

☐ **Other:** ______

Applicant shall submit **nine (9) copies** of application and materials to the Planning Administrator. Please review the attached sections of the Zoning Code and note the items you are responsible for submitting with this application.

Applicant Signature: [signature] Date: 8-17-15

****OFFICE USE ONLY****

Additional Notes:

Zoning Information
Zoning District: CC
☐ Historic District
☒ CC Overlay

Other Board Approval
☐ DRB

City Council Meeting Date: ______
☐ No Action Taken
☐ Approved (w/ Conditions)
☐ Introduced As Ordinance
☐ Denied

BZBA Meeting Date: 9/17/15
☐ Approved as Submitted
☐ Approved w/ Conditions
☐ Tabled
☐ Denied

Clerk of Council Initials: ______ Date: ______
Planner Initials: ______ Date: ______

Attachment: BZBA App #171119 (1200 : 1727 Brice Rd.; Application #171119)

City of Reynoldsburg Zoning

Judah Redeemer LCM
Church of God in Christ
1727 Brice Rd
Reynoldsburg, OH 43068

Re: Zoning

Overview:

Judah Redeemer LCM Church of God in Christ is a Pentecostal church which was established in 2010 with much prayer and fasting under the leadership of Pastor Gwendolyn Williams. We operate under the Church of God in Christ Inc. where our national headquarters is located in Memphis, TN. Our chief Apostle is Bishop Charles E. Blake and our Jurisdictional Prelate is the Honorable Bishop David L. Herron Sr. of the Ohio Central East Jurisdiction.

Our membership consists of Senior Pastor Gwendolyn Williams, Elder Emery Cannon, Elder Lawrence Witherspoon, Elder Amanda Clark, and Minister Jamal Gills along with thirty- two lay members. . Though small compared to many churches in the area, we operate in various outreach ministries. They are as follows: Missions, Evangelism, Women's Ministry, Men's Ministry and Youth Ministry. We serve as volunteers to the Toys for Tots program which distributes toys to individual families in the community. Our Youth Department also sponsors a Back to School Fair which involves providing free school supplies to families.

Our Belief:

We believe that the Bible is the Word of God and contains one harmonious and sufficiently complete system of doctrine. We believe in the full inspiration of the Word of God. We hold the Word of God to be the only authority in all matters and assert that no doctrine can be true or essential, if it does not find a place in this Word.

We believe that Jesus Christ is the Son of God, the Second person in the Godhead of the Trinity or Triune Godhead. We believe that Jesus was and is eternal in his person and nature as the Son of God who was with God in the beginning of creation (St. John 1:1). We believe that Jesus Christ was born of a virgin called Mary according to the scripture (St. Matthew 1:18), thus giving rise to our fundamental belief in the Virgin Birth and to all of the miraculous events surrounding the phenomenon (St. Matthew 1:18-25). We believe that Jesus Christ became the "suffering servant" to man; this suffering servant came seeking to redeem man from sin and to reconcile him back to God, his Father (Romans 5:10). We believe that Jesus Christ is standing now as mediator between God and man (I Timothy 2:5)

Summary

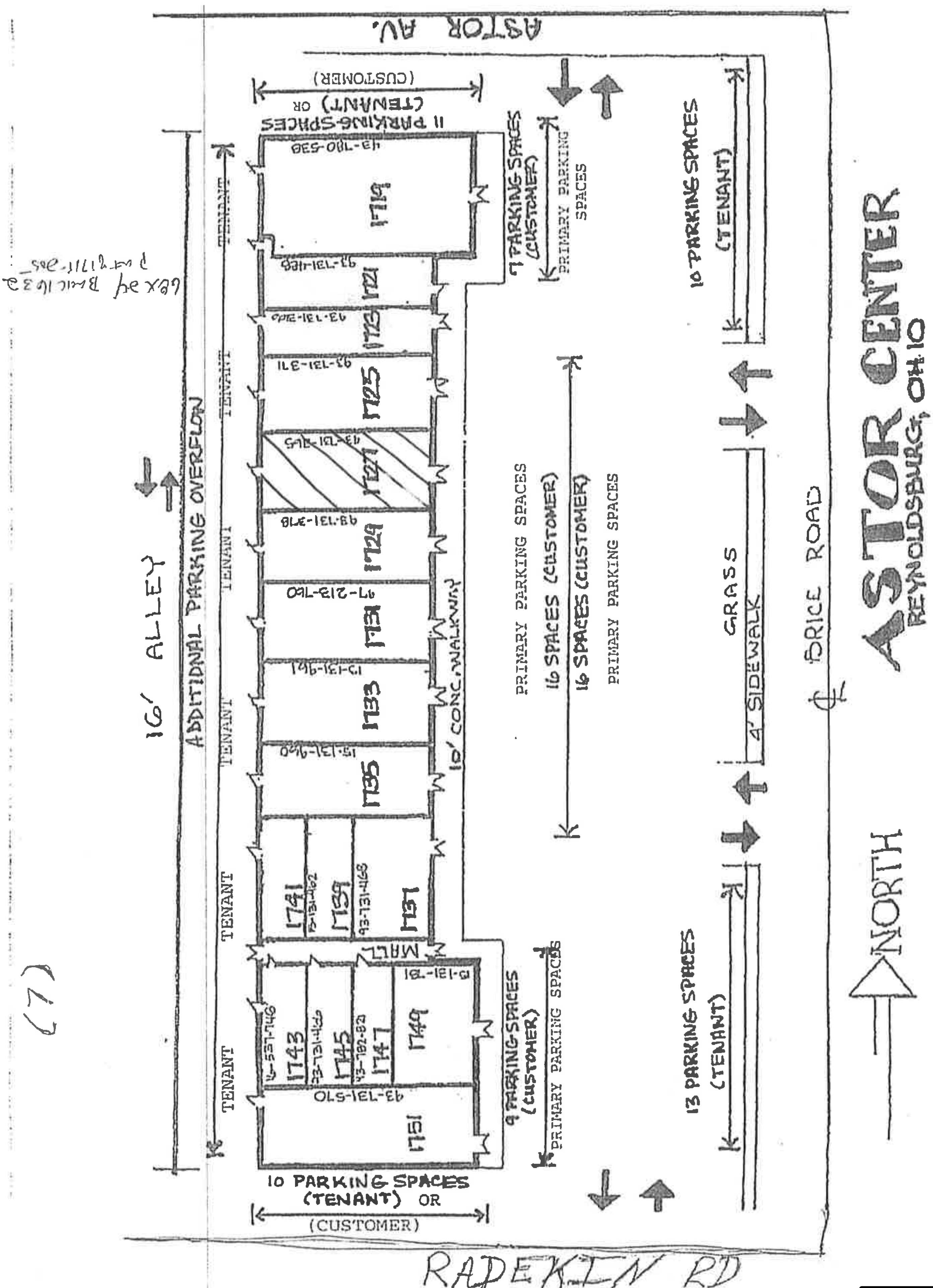
In presenting our beliefs, we as a body of spirit filled believers have been commissioned by our Lord and Savior Jesus Christ in the gospel of Matthew 28: 19, 20 to "Go ye therefore, and teach all nations, baptizing them in the name of the Father, and of the Son, and of the Holy Ghost: Teaching them to observe all things whatsoever I have commanded you: and, lo, I am with you always, even unto the end of the world"

We will complete this task by contributing to one's physical, intellectual, emotional and spiritual needs.

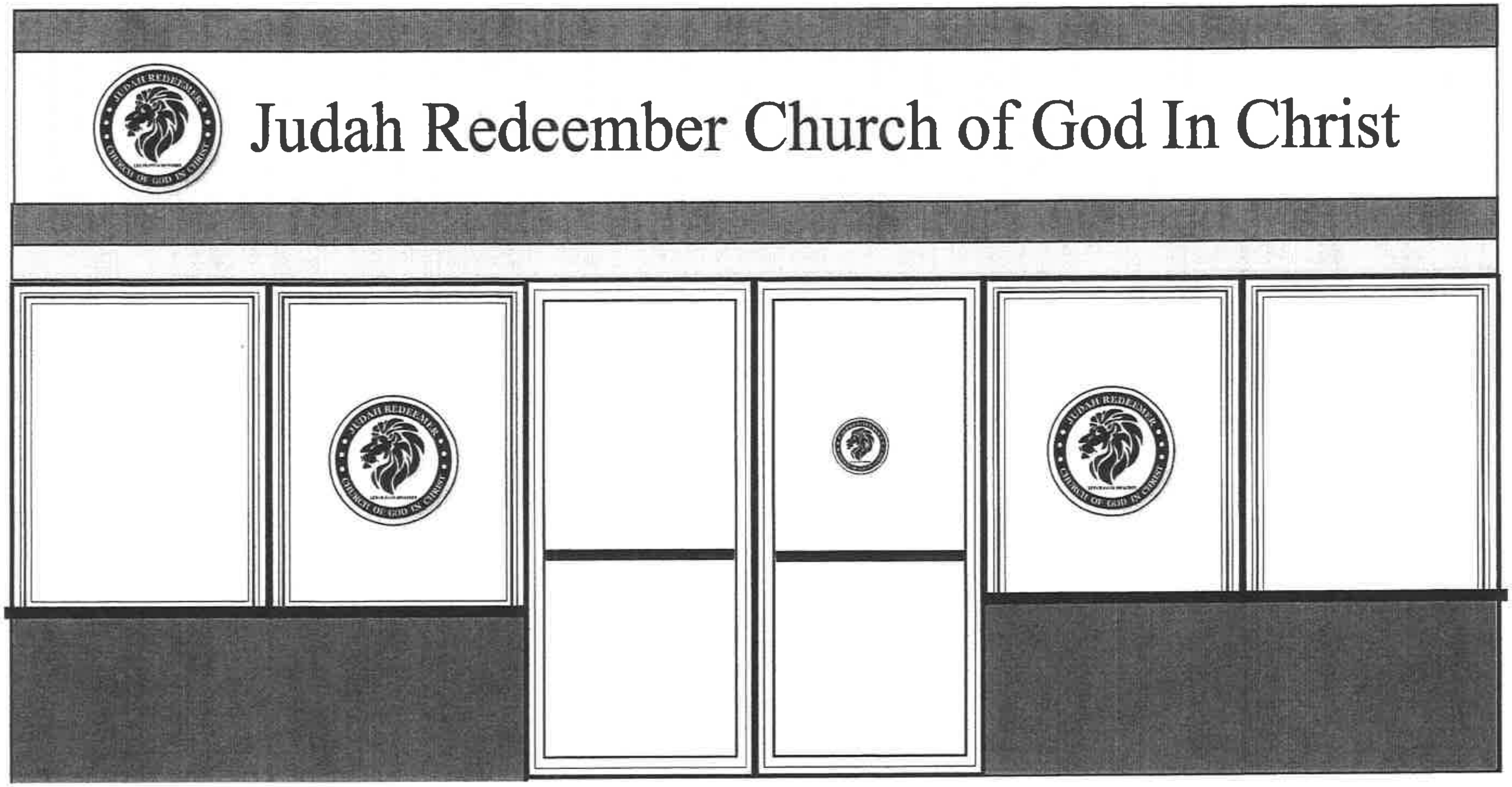
Sincerely,

Pastor Gwendolyn Williams

Pastor Gwendolyn Williams

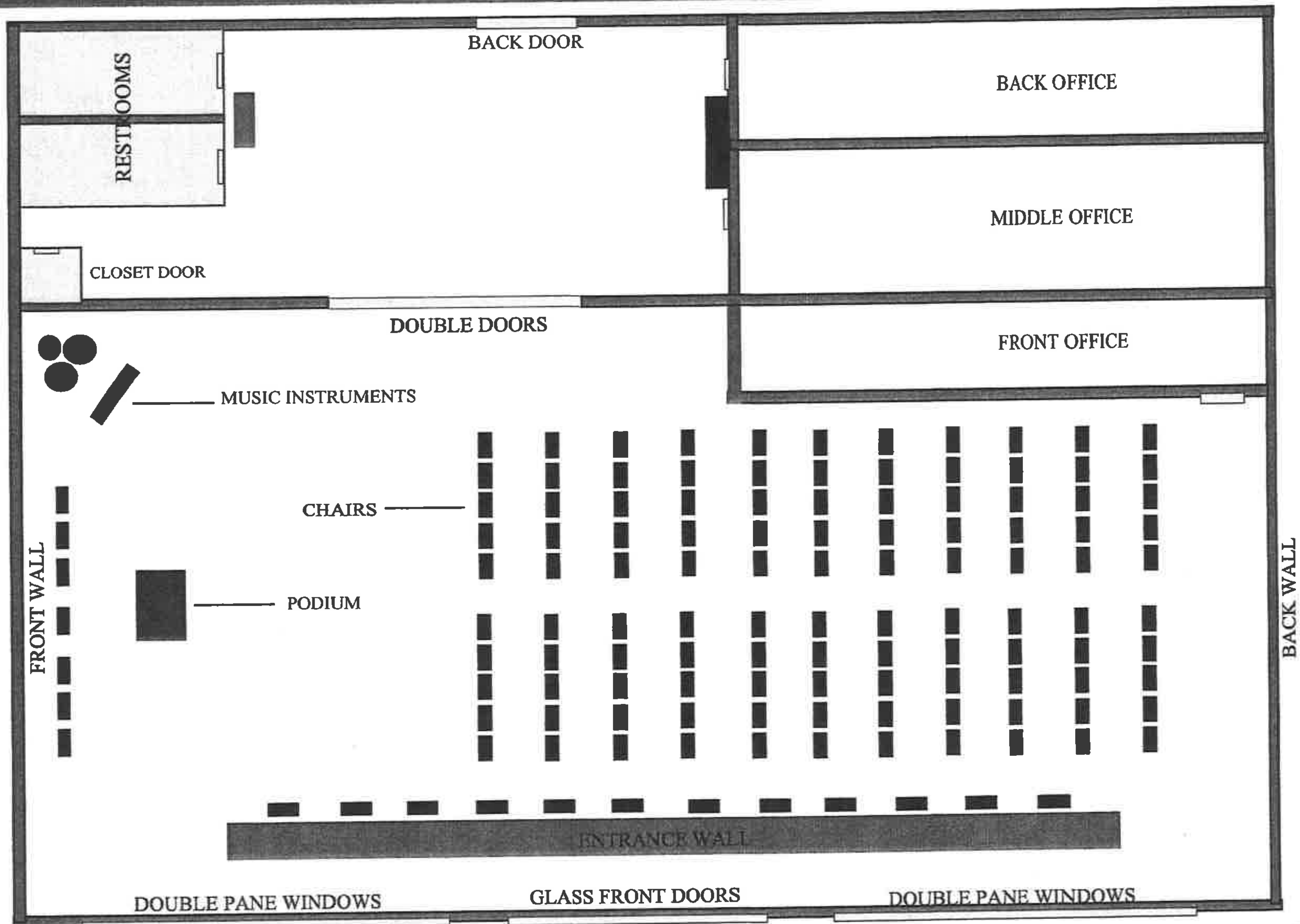


Attachment: BZBA App #171119 (1200 : 1727 Brice Rd.; Application #171119)



STORE FRONT LAYOUT

This drawing is for detail specification and is not to scale.



This drawing is for detail specification and is not to scale.

<u>Police Department</u>
James O'Neill
7240 E. Main Street
Reynoldsburg OHIO 43068
614-322-6947 Phone

ORDINANCE REQUEST

DATE: **October 12, 2015**

TO: **Finance Committee**

RE: ORDINANCE AUTHORIZING CITY AUDITOR TO REMOVE EQUIPMENT FROM THE CITY'S FIXED ASSET LIST.

The Reynoldsburg Division of Police request for Council to approve the removal of the below vehicles from the fixed asset list. Both of these vehicles are being stored at the street barn, it would not be cost effective to repair them.

2005	Chrysler 300	2C3JA63H05H170372
2001	Toyota Truck	5TBBT44101S129325

Service Department

Nathan Burd
7232 E. Main Street
Reynoldsburg OH 43068
614-322-6884 Phone

RESOLUTION REQUEST

DATE:	**October 12, 2015**
TO:	**Finance Committee**
RE:	ORDINANCE AUTHORIZING MAYOR TO ENTER INTO AN INTERGOVERNMENTAL WORKING AGREEMENT WITH THE CITY OF COLUMBUS TO PROVIDE FLEET MANAGEMENT SERVICES, AND DECLARING AN EMERGENCY.

Emergency/Suspension: Emergency

Reason For Emergency: Immediate preservation of the public peace, health, or safety

We request passage of this item as an emergency on the second reading in order to utilize these services as soon as possible.

This legislation would authorize an agreement with the City of Columbus for vehicle maintenance on the motorcycles in the Police Department Motor Unit. This will reduce costs and provide prompt, reliable service for these vehicles as the City of Columbus has Harley Davidson certified mechanics on staff. Please see the attached memo and agreement for more information.

Nathan Burd
Director of Public Service
City of Reynoldsburg
7232 East Main Street
Reynoldsburg, Ohio 43068
(614) 322-6884
nburd@ci.reynoldsburg.oh.us

MEMORANDUM

Date: September 28, 2015
To: Reynoldsburg City Council Members
Re: Vehicle/Equipment Maintenance Agreement with the City of Columbus

This legislation will authorize an agreement to allow the City of Columbus to provide vehicle maintenance and equipment repair services for the City of Reynoldsburg. This agreement will be beneficial for maintenance of the 5 motorcycles in the Police Department's Motor Unit. A mechanic needs specialized training to perform work on these motorcycles and Columbus has certified Harley Davidson mechanics on staff that can handle this work. Additionally, our cost to maintain these motorcycles will decrease by using Columbus instead of having the dealership provide these services.

The City of Columbus has prepared legislation (attached) to authorize this agreement with the City of Reynoldsburg. Their legislation will become effective toward the end of October. We request that this item go two readings and then pass as an emergency so that these services are available to us immediately if needed. No additional appropriation is needed as existing funds in the mechanic budget for fleet maintenance will be utilized.

Several other area cities have entered into similar agreements with Columbus and we view this as a sensible way for us to reduce costs and share services with another local municipality. I will speak to this item during the October 5 Finance Committee meeting. If you have any questions in the meantime, please feel free to contact me. Thank you.

AGREEMENT FOR VEHICLE/EQUIPMENT MAINTENANCE

This Agreement ("Agreement") is entered into by and between the following municipality of the State of Ohio: City of Columbus, City of Reynoldsburg (hereinafter, the "Parties" and the "Member Cities" and individually, a "Member City"). Additional parties may be added to this Agreement by addendum upon mutual acceptance of the terms and conditions contained herein.

WHEREAS, the Parties hereunder are in the process of reviewing operations, services and procedures within their respective organizations in an effort to identify areas where shared services may be appropriate; and

WHEREAS, the City of Columbus and the city of Reynoldsburg, in discussing their respective fleet operations, including maintenance and repairs, have agreed in principle that using the fleet maintenance and repair services ("Fleet Maintenance Services") of the city of Columbus may result in efficiencies and/or cost savings; and

WHEREAS, Section 9.482 of the Ohio Revised Code, permits political subdivision to enter into agreements with other political subdivisions under which a contracting political subdivision agrees to exercise any power, perform any function or render any service for another contracting recipient subdivision that the contracting recipient political subdivision is otherwise legally authorized to exercise, perform or render, subject to the approval of their respective legislative authorities; and

WHEREAS, the Parties desire to put forth in writing their mutual understanding of being the consumer of, and providing the use of, Fleet Maintenance Services of the City of Columbus.

NOW, THEREFORE, in consideration of the above, the Parties have agreed as follows:

1. The City of Columbus may provide Fleet Maintenance Services to the city of Reynoldsburg consistent with the Scope of Services, attached hereto as Exhibit "A" and incorporated herein.

2. Chapter 2744. of the Revised Code, insofar as it applies to the operation of a political subdivision, applies to each Member City that are parties to this Agreement and to their employees when they are rendering a service outside the boundaries of their respective Member City under the Agreement. Employees acting outside the boundaries of their employing Member City while providing a service under this Agreement may participate in any pension or indemnity fund established by that employee's Member City to the same extent as while they are acting within the boundaries of their respective Member City, and are entitled to all the rights and benefits of Chapter 4123 of the Revised Code to the same extent as while they are performing a service within the boundaries of their respective Member City.

3. This Agreement does not suspend the possession by a Member City receiving services hereunder, of any power or function that is exercised or performed on its behalf by another Member City under this Agreement.
4. Each Member City agrees that it will be responsible for its own acts and omissions and the results thereof; and shall not be responsible for the acts and omissions of the other Member Cities and the results thereof. Each Member City agrees that it will assume all risk and liability to itself, its agents, or its employees for any injury to persons or property resulting in any manner from conduct of its own operations and the operations of its agents or employees under this Agreement.

5. The Member Cities are political subdivisions and are entitled to all of the immunities and defenses provided by law.

6. Notwithstanding anything to the contrary, a Member City shall not be liable to another Member City for any special, consequential, incidental, punitive, or indirect damages or attorney fees arising from or relating to this Agreement.

7. No covenant, obligation, or promise of the Member Cities contained in this Agreement shall be deemed to be a covenant, obligation, or promise of any present or future council member, officer, or employee of the Member Cities in other than their official capacity and neither the officer, employee, or council members of the Member Cities approving or executing this Agreement shall be liable personally by reason of the covenants, obligations, or promises contained in this Agreement.

8. For employment relationship purposes, the provider Member City employee providing the Fleet Maintenance Services pursuant to this Agreement shall be considered an employee of the provider Member City and shall not be entitled to any additional compensation or employment benefits from the receiving Member City.

9. The Member Cities agree to maintain records pertaining to this Agreement in compliance with Section 149.43 of the Ohio Revised Code (the "Public Records Law"). The Member Cities understand and acknowledge that this Agreement, and any reports, data, or other information supplied to another Member City due to the work performed pursuant to this Agreement, may be subject to disclosure as a public record in accordance with the laws of the State of Ohio, including the Public Records Law. The Member Cities agree to cooperate with each other so that the Member Cities can comply with any public record request. To the extent required by the laws of the State of Ohio, the Member Cities shall permit any authorized representative of the Auditor of the State of Ohio to audit and inspect any and/or all agreement related records necessary to prepare financial reports or conduct audits.

10. Any party to this Agreement may withdraw at any time, provided, however, that a withdrawing Member City shall provide at least 30 days' written notice of withdrawal to

one or more member municipalities with which it has entered into one or more letters of agreement to either receive or provide Fleet Maintenance Services.

11. All Member Cities agree to attempt to resolve any differences or disputes arising from this Agreement or the provision of Fleet Maintenance Services, through a non-adversarial conflict resolution process prior to taking any formal legal action.

12. The effective date of this Agreement shall be the last date signed by a Member City and shall be for an initial 12-month period, subject to 4, 1-year renewal periods evidenced by a writing signed by the Member Cities authorizing a renewal.

13. This Agreement may be amended in writing signed by an authorized representative of each participating Member City, as authorized by their respective legislative authorities, if required.

14. The city of Reynoldsburg shall provide a Certificate of Funds or Purchase Order, signed by that City's fiscal officer, evidencing the appropriation of funds sufficient to cover the costs of the services to be provided.

15. Fleet Maintenance staff from the City of Columbus shall meet jointly each quarter for the exchange of information and refinement of services.

16. This Agreement may be executed in multiple counterparts, each of which shall be recognized as an original signature.

17. This Agreement may be executed with signatures delivered by either facsimile or scanned email and copies of such signatures so delivered shall be deemed as originals.

IN WITNESS WHEREOF, the City of Columbus and the city of Reynoldsburg, each by an authorized agent, have entered into this Agreement on the date last signed by a party below.

CITY OF COLUMBUS, OHIO	**CITY OF Reynoldsburg, OHIO**
By: ______________________	By: ______________________
Title: ______________________	Title: ______________________
Date: ______________________	Date: ______________________
City Attorney:______________	City Attorney:______________

Attachment: Vehicle Maintenance Agreement wColumbus (1193 : Vehicle Maintenance Agreement with the City of Columbus)

SCOPE OF SERVICES

City of Columbus shall be staffed, able and available to provide Fleet Maintenance Services and shall make all charges known, in advance of the work to be provided, to other the City of Reynoldsburg. "Charges" shall include all costs associated with providing the service, including hourly service charges, parts, administrative and/or diagnostic fees, after-hours or overtime fees, towing fees and specialty repair fees (if applicable).

Use of after-market parts, in addition to or instead of original equipment manufacturer parts, may be used contingent upon those after-market parts being covered under the same level and standard of warranty as original parts, and which parts perform in the same manner as original parts.

The use of the City of Columbus fleet maintenance services is subject to availability and a determination that it has the time, resources and qualified staff to accommodate the fleet maintenance requests.

After conducting an initial diagnostic inspection of the fleet vehicle, the City of Columbus shall provide an estimate of the charges, along with an estimated date for completion, to the City of Reynoldsburg. Upon written acceptance of the estimate by the city of Reynoldsburg, the City of Columbus shall provide the service and complete the work (by way of one or more documents, this is the "letter of agreement" referenced in the Agreement). Each City shall keep accurate records of all services requested and received, including identifying vehicles, dates, estimates, odometer readings, fuel levels, costs and payments of accounts.

The City of Columbus shall promptly invoice the city of Reynoldsburg for services provided hereunder, and Reynoldsburg shall pay those invoices within 30 days of receipt.

Any complaints regarding the level or quality of Services received shall promptly be made known to the City of Columbus.

ATTACHMENT A: RESPONSIBILITIES/SCOPE OF SERVICE/SERVICE LEVELS

All parties to this Agreement understand and consent to the following:

1) **Provision of Services:** Under the terms of this Agreement, any party is free to provide service to, or receive services from any party. There are no assumptions of exclusivity under this Agreement.

2) **Pricing Structure for Repairs and Routine Maintenance:** A set pricing list, including ranges of hourly rates by vehicle class, is provided in Attachment B. The City of Columbus agrees to charge no more and no less than the hourly rates agreed upon in this pricing list. Pricing is to be all-encompassing of administrative costs, diagnostics, and related services.

3) **Charges for Parts:** city of Columbus may use after-market parts in addition to, or instead of Original Equipment Manufacturer (OEM) parts, as long as the parts are covered under the same level of warranty and perform the in the same manner.

4) **Service Availability and Scheduling:** City of Columbus will provide the maintenance service and repairs to the extent of its available excess capacity and subject priorities, as required to maintain its own vehicles. Factors such as vehicle type (e.g. emergency or safety services vehicle vs. light duty), weather conditions (e.g. snowstorms requiring emergency snow plow repair), and number of backup vehicles available may be considered in prioritizing repairs.

5) **Determination of Hours to be Charged:** After conducting an initial diagnostic inspection of the vehicle, the City of Columbus shall provide an estimate of the total cost of repair, including service charges and parts to the city of Reynoldsburg designee. The City of Columbus shall also provide an estimate of the date and time of completion of the work. Upon acceptance of the terms of this estimate by the City of Reynoldsburg, the City of Columbus shall complete the work.

6) **Billing:** The City of Columbus shall bill the customer agency for time and materials used for the repair, consistent with the terms of this Agreement.

ATTACHMENT B: PRICING OF REPAIRS, ROUTINE MAINTENANCE AND RELATED SERVICES

All parties agree to the pricing structure for routine maintenance and repairs as specified in the table below. Parties to this Agreement will charge an hourly rate that is consistent with the range(s) provided below, and no more or no less. Administrative and diagnostic fees are built into the hourly rates below, and should not be charged in addition.

Vehicle/Equipment Type	Hourly Rates
Motorcycle Police Equipment	$75.00 per hour
Light Duty Vehicles and Equipment	$75.00 per hour
Markup on Parts	35%
Markup on Supplier Services	5%

City of Columbus

Legislation Report

Office of City Clerk
90 West Broad Street
Columbus OH 43215-9015
columbuscitycouncil.org

File Number: 2131-2015

Emergency

File ID: 2131-2015 **Type:** Ordinance **Status:** First Reading

Version: 1 ***Committee:** Finance Committee

File Name: Fleet Management - partnering with various political subdivisions **File Created:** 08/18/2015

Final Action:

Auditor Cert #:

Auditor: When assigned an Auditor Certificate Number I , the City Auditor, hereby certify that there is in the treasury, or anticipate to come into the treasury, and not appropriated for any other purpose, the amount of money specified hereon, to pay the within Ordinance.

Contact Name/No.: Kelly Reagan 5-6254

Floor Action (Clerk's Office Only)

Mayor's Action		**Council Action**	
Mayor	Date	Date Passed/ Adopted	President of Council
Veto	Date		City Clerk

Title: To authorize the Director of Finance and Management to enter into contracts with other political subdivisions to provide fleet management services.

Sponsors:

Attachments:

History of Legislative File

Ver.	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Columbus City Council	09/21/2015					

EBOCO: Following review and approval, when required, the Equal Business Opportunity Commission Office certifies compliance with Title 39 as of date listed.

City Attorney: Following review and approval, when required, this ordinance has been reviewed by the City Attorney's Office as to its form and legality only.

Explanation

BACKGROUND: The Department of Finance and Management, Fleet Management Division, desires to enter into an Intergovernmental Agreement, as permitted under Ohio Revised Code Section 9.482, with other political subdivisions for various fleet management services as part of the City's commitment to shared regional cooperation.

A number of political subdivisions provide fleet management services for their internal operations but would like to have authority to contract with the City of Columbus for fleet services that they may not have the capacity or operational size to perform internally. These fleet services can be contracted with Fleet Management in a cooperative effort between the political subdivisions and can create efficiencies within both fleet operations with the goal of overall improvements to service delivery.

Also, this ordinance authorizes the Director of Finance and Management to establish rates, procedures, and mechanisms to allow the repair, general maintenance and upkeep of general fleet services to other political subdivisions when deemed appropriate by the Director, and not detrimental to safe and efficient city operations.

Initially the City of Reynoldsburg wishes to contract with Fleet Management to repair and maintain its Police pursuit motorcycles. As other governmental entities choose to contract for fleet services under the authority of this ordinance then contracts will be executed.

Fiscal Impact: Any additional expenses incurred by Fleet Management for these services will be offset by revenues received for same. Billing rates shall be established on the basis of rates established by the Finance Director commensurate with internal billing rates to all city agencies. Rates shall be uniform and established to recover labor, materials, parts, and supplier services, including, but not limited to, all appropriate markups for the same. Revenue derived will be deposited in the Fleet Management Fund or such other fund as determined appropriate by the City.

Title

To authorize the Director of Finance and Management to enter into contracts with other political subdivisions to provide fleet management services.

Body

WHEREAS, the Fleet Management Division within the Department of Finance and Management has, among other duties, the procurement, delivery and coordination of fleet services for many city agencies; and

WHEREAS, under Ohio Revised Code Section 9.482, when legally authorized to do so, a political subdivision may enter into an agreement with another political subdivision or a state agency whereby the contracting political subdivision or state agency agrees to exercise any power, perform any function, or render any service for the contracting recipient political subdivision that the contracting recipient political subdivision is otherwise legally authorized to exercise, perform, or render; and

WHEREAS, the Department of Finance and Management desires to enter into contracts with the other political subdivisions to perform fleet services to those entities when deemed appropriate and not detrimental to safe and efficient City operations to further the City's efforts toward shared regional cooperation; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

SECTION 1. That the Director of the Finance and Management Department is hereby authorized to enter into contracts with other political subdivisions when deemed by the Finance and Management Director to be appropriate and not detrimental to safe and efficient City of Columbus operations, to allow for the repair, general maintenance and upkeep of vehicles/equipment, including specialized fleet services.

SECTION 2. That billing rates shall be established on the basis of rates already established by the Director of Finance and Management commensurate with internal City of Columbus billing rates. Rates shall be uniform and established to recover labor, materials, parts, and supplier services, including, but not limited to, all appropriate markups for the same.

SECTION 3. That this ordinance shall take effect and be in force from and after the earliest period provided by law.

City Auditors Office
Richard Harris
7232 E. Main Street
Reynoldsburg OHIO 43068
Phone

ORDINANCE REQUEST

DATE:	**October 12, 2015**
TO:	**Finance Committee**
RE:	ORDINANCE TO ENACT TITLE NINE, CHAPTER 190 OF THE CODIFIED ORDINANCES OF THE CITY OF REYNOLDSBURG REGARDING MUNICIPAL INCOME TAX AND DECLARING AN EMERGENCY.

Emergency/Suspension: Emergency

Reason For Emergency: Financial needs of the City's government

Request Council pass an Ordinance for Chapter 190 of The Reynoldsburg City Code to comply with HB 5 on Collection of City Income Tax.

MEMO

To: Reynoldsburg City Council

From: Brenda Browning, Tax Administrator

Date: September 28, 2015

Re: Substitute HB5

Substitute HB5 was passed with an effective date of January 1, 2016. This bill amended ORC 718 which governs city income tax. ORC 715.013 provides the restriction that a municipal income tax must be levied in accordance with Chapter 718 of the Revised Code. A municipal income tax that does not comply with the provisions of ORC 718 places the ability to administer the tax in possible jeopardy; therefore, we must pass a new income tax ordinance with an effective date of January 1, 2016. We must also still keep the old ordinance in effect at the same time as that will still govern how we administer our taxes for tax years ending December 31, 2015 and prior.

Here are the highlights of the changes to municipal tax:

For All Tax Types
- Uniform $10 threshold for refunds/payments
- Late filing penalty of $25 for each failure per month not to exceed $150
- Interest rate for late payment will be the federal short term rate rounded to the nearest whole number percentage plus 5%
- Changes to Income Tax Board of Review
- Must publish Taxpayer Rights & Responsibilities
- Administrative changes to audit procedures

For Business Net Profits and Individuals
- Estimated tax threshold of $200 and due dates changed
- Late payment penalty of 15%

Business Net Profits
- Allow net operating losses for 5 years beginning 1/1/2017; this will be phased in at 50% over 5 years
- Changes to consolidated filing
- Changes to pass-through (partnerships, SCorps) filing

Individual Taxes
- Changed definition of domicile
- Allow NOL of 5 years on Schedule C, E and F filers
- Uniform treatment of 2106 expenses

Withholding (Payroll) Tax
- Thresholds and due dates changed
- Qualifying wage definition changed
- Late payment penalty 50%
- Replaced 12-day occasional entrant rule with 20-day rule; employers not required to withhold until 21st day and do not have to go back to day one to make city whole

Miscellaneous
- Updated existing language pertaining to landlord listings for sake of uniformity
- Updated existing language pertaining to violations for sake of uniformity

Cc: Richard Harris, City Auditor
Mayor Brad McCloud
James Hood, City Attorney

ORDINANCE NO. ___-15 PASSED:

ORDINANCE TO ENACT TITLE NINE, CHAPTER 190 OF THE CODIFIED ORDINANCES OF THE CITY OF REYNOLDSBURG REGARDING MUNICIPAL INCOME TAX AND DECLARING AN EMERGENCY.

Whereas, the Home Rule Amendment of the Ohio Constitution, Article XVIII, Section 3, provides that "Municipalities shall have the authority to exercise all powers of local self-government", and the municipal taxing power is one of such powers of local self-government delegated by the people of the State to the people of municipalities; and

Whereas, Article XIII, Section 6 of the Ohio Constitution provides that the General Assembly may restrict a municipality's power of taxation to the extent necessary to prevent abuse of such power, and Article XVIII, Section 13 of the Ohio Constitution states that "laws may be passed to limit the powers of municipalities to levy taxes and incur debts for local purposes"; and

Whereas, the General Assembly has determined that it is necessary and appropriate to comprehensively review and amend Chapter 718 of the Ohio Revised Code, setting forth statutory requirements for municipal income tax codes in Ohio; and

Whereas, more specifically, the General Assembly enacted House Bill 5 in December 2014, and mandated that municipal income tax codes be amended by January 1, 2016 such that any income or withholding tax is levied in accordance with the provisions and limitations specified in Chapter 718 of the Ohio Revised Code; and

Whereas, upon a detailed review of House Bill 5 and the Codified Ordinances of the City, this Ordinance is found and determined by this Council to enact the amendments required prior to the January 1, 2016 deadline to be in accord with the provisions and limitations specified in Chapter 718 of the Ohio Revised Code.

NOW THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF REYNOLDSBURG, OHIO:

Section 1. That Title Nine, Chapter 190 of the Codified Ordinances be and is hereby enacted to read as set forth in Exhibit A attached hereto and incorporated herein, to take effect January 1, 2016 for tax years beginning on or after January 1, 2016.

Section 2. That Title Nine, Chapter 191 of the Codified Ordinances shall not be amended by the enactment of Chapter 190 and shall remain effective and in force for all tax years through December 31, 2015.

Section 3. That this ordinance is deemed to be an emergency measure necessary for the financial needs of the City, and further ensures our ability to administer and enforce the tax; wherefore upon adoption by Council, this ordinance shall be in effect immediately upon signature by the Mayor.

REYNOLDSBURG INCOME TAX ORDINANCE

TITLE NINE – Taxation
Chapter 190 – Income Tax

Effective January 1, 2016

Sections

CROSS REFERENCES

Power to levy income tax – see Ohio Constitution, Article XVIII, Section 3
Municipal income taxes – see Ohio Revised Code, Chapter 718
Payroll deductions – see Ohio Revised Code, General Provisions, Chapter 9, Section 9.42
Tax limitations – see Charter, Article VIII, Section 8.02

SECTION 190.01 AUTHORITY TO LEVY TAX; PURPOSE OF TAX.

(A) To provide funds for the purposes of general Municipal operations, maintenance, new equipment and capital improvements, the City of Reynoldsburg ("City") hereby levies an annual municipal income tax on income, qualifying wages, commissions and other compensation, and on net profits as hereinafter provided.

(B)(1) The annual tax is levied at a rate of one and one-half percent (1.5%). The tax is levied at a uniform rate on all persons residing in or earning or receiving income in the City. The tax is levied on income, qualifying wages, commissions and other compensation, and on net profits as hereinafter provided in Section 190.03 of this chapter and other sections as they may apply.

(2) The monies collected under the provisions of this chapter shall be deposited into the following Funds in the following order and such Funds shall be disbursed for the following purposes and in the following order:

(a) Such part thereof as shall be necessary to defray all costs of collecting and administering the taxes levied by this chapter, including any amounts to be paid to any person or governmental agency under any contract for the administration of such taxes, and the cost of administering the Department of Taxation and enforcing the provisions thereof shall be deposited into the Income Tax Revenue Fund. Zero percent (0%) of the monies collected shall remain in the Income Tax Revenue Fund of the City to be put into the City's Contingency Reserve.

After providing for the requirements in division (a) monies shall be deposited and disbursed for the following purposes and in the following order:

(b)(i) Eighty-four percent (84%) of the monies collected shall be deposited into the General Fund of the City to be reappropriated by Council for any lawful purpose.

(ii) Fourteen percent (14%) of the monies collected shall be deposited into the General Debt Retirement Fund to be used for general debt retirement.

(iii) Two percent (2%) of the monies collected shall be deposited into the Capital Improvement Fund which shall be used to defray all or part of the costs of legal improvements as determined by Council.

All monies already deposited into the City's Contingency Reserve residing in the Income Tax Fund shall be expended only upon a legislative transfer to the General Fund. Such transfers shall be solely for the purpose of making revenue available for expenditures necessary to continue basic City services due to a natural disaster or other catastrophic occurrence.

(C) The tax on income and the withholding tax established by Chapter 190 are authorized by Article XVIII, Section 3 of the Ohio Constitution. The tax is levied in accordance with, and is intended to be consistent with, the provisions and limitations of Ohio Revised Code 718 (ORC 718).

SECTION 190.02 DEFINITIONS.

(A) Any term used in this chapter that is not otherwise defined in this chapter has the same meaning as when used in a comparable context in laws of the United States relating to federal income taxation or in Title LVII of the ORC, unless a different meaning is clearly required. If a term used in this chapter that is not otherwise defined in this chapter is used in a comparable context in both the laws of the United States relating to federal income tax and in Title LVII of the ORC and the use is not consistent, then the use of the term in the laws of the United States relating to federal income tax shall control over the use of the term in Title LVII of the ORC.

(B) The singular shall include the plural, and the masculine shall include the feminine and the gender-neutral.

(C) As used in this chapter:

(1) **"Adjusted federal taxable income,"** for a person required to file as a C corporation, or for a person that has elected to be taxed as a C corporation under (C)(24)(d) of this division, means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:

(a) Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income.

(b) Add an amount equal to five percent (5%) of intangible income deducted under division (C)(1)(a) of this section, but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in Section 1221 of the Internal Revenue Code;

(c) Add any losses allowed as a deduction in the computation of federal taxable income if the losses directly relate to the sale, exchange, or other disposition of an asset described in Section 1221 or 1231 of the Internal Revenue Code;

(d)(i) Except as provided in (C)(1)(d)(ii) of this section, deduct income and gain included in federal taxable income to the extent the income and gain directly relate to the sale, exchange, or other disposition of an asset described in Section 1221 or 1231 of the Internal Revenue Code;

(ii) Division (C)(1)(d)(i) of this section does not apply to the extent the income or gain is income or gain described in Section 1245 or 1250 of the Internal Revenue Code.

(e) Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income;

(f) In the case of a real estate investment trust or regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income;

(g) Deduct, to the extent not otherwise deducted or excluded in computing federal taxable income, any income derived from a transfer agreement or from the enterprise transferred under that agreement under Section 4313.02 of the ORC;

(h)(i) Except as limited by divisions (C)(1)(h)(ii), (iii), and (iv) of this section, deduct any net operating loss incurred by the person in a taxable year beginning on or after January 1, 2017.

The amount of such net operating loss shall be deducted from net profit that is reduced by exempt income to the extent necessary to reduce municipal taxable income to zero, with any remaining unused portion of the net operating loss carried forward to not more than five consecutive taxable years following the taxable year in which the loss was incurred, but in no case for more years than necessary for the deduction to be fully utilized.

(ii) No person shall use the deduction allowed by division (C)(1)(h) of this section to offset qualifying wages.

(iii)(a) For taxable years beginning in 2018, 2019, 2020, 2021, or 2022, a person may not deduct, for purposes of an income tax levied by a municipal corporation that levies an income tax before January 1, 2016, more than fifty percent (50%) of the amount of the deduction otherwise allowed by division (C)(1)(h)(i) of this section.

(b) For taxable years beginning in 2023 or thereafter, a person may deduct, for purposes of an income tax levied by a municipal corporation that levies an income tax before January 1, 2016, the full amount allowed by (C)(1)(h)(i) of this section.

(iv) Any pre-2017 net operating loss carryforward deduction that is available must be utilized before a taxpayer may deduct any amount pursuant to (C)(1)(h) of this section.

(v) Nothing in division (C)(1)(h)(iii)(a) of this section precludes a person from carrying forward, use with respect to any return filed for a taxable year beginning after 2018, any amount of net operating loss that was not fully utilized by operation of division (C)(1)(h)(iii)(a) of this section. To the extent that an amount of net operating loss that was not fully utilized in one or more taxable years by operation of division (C)(1)(h)(iii)(a) of this section is carried forward for use with respect to a return filed for a taxable year beginning in 2019, 2020, 2021, or 2022, the limitation described in division (C)(1)(h)(iii)(a) of this section shall apply to the amount carried forward.

(i) Deduct any net profit of a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that net profit in the group's federal taxable income in accordance with division (V)(3)(b) of Section 190.05.

(j) Add any loss incurred by a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that loss in the group's federal taxable income in accordance with division (V)(3)(b) of Section 190.05.

If the taxpayer is not a C corporation, is not a disregarded entity that has made an election described in division (C)(48)(b) of this section, is not a publicly traded partnership that has made the election described in division (C)(24)(d) of this section, and is not an individual, the taxpayer shall compute adjusted federal taxable income under this section as if the taxpayer were a C corporation, except guaranteed payments and other similar amounts paid or accrued to a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deductible expense unless such payments are in consideration for the use of capital and treated as payment of interest under Section 469 of the Internal Revenue Code or United States treasury regulations. Amounts paid or accrued to a qualified self-employed retirement plan with respect to a partner, former partner, shareholder, former shareholder, member, or former member of the taxpayer, amounts paid or accrued to or for health insurance for a partner, former partner, shareholder, former shareholder, member, or former member, and amounts paid or accrued to or for life insurance for a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deduction.

Nothing in division (C)(1) of this section shall be construed as allowing the taxpayer to add or deduct any amount more than once or shall be construed as allowing any taxpayer to deduct any amount paid to or accrued for purposes of federal self-employment tax.

(2)(a) **"Assessment"** means a written finding by the Tax Administrator that a person has underpaid municipal income tax, or owes penalty and interest, or any combination of tax, penalty, or interest, to the municipal corporation that commences the person's time limitation for making an appeal to the Board of Tax Review pursuant to Section 190.21, and has "ASSESSMENT" written in all capital letters at the top of such finding.

(b) "Assessment" does not include a notice denying a request for refund issued under division (C)(3) of Section 190.09, a billing statement notifying a taxpayer of current or past-due balances owed to the municipal corporation, a Tax Administrator's request for additional information, a notification to the taxpayer of mathematical errors, or a Tax Administrator's other written correspondence to a person or taxpayer that does not meet the criteria prescribed by division (C)(2)(a) of this section.

(3) **"Audit"** means the examination of a person or the inspection of the books, records, memoranda, or accounts of a person, ordered to appear before the Tax Administrator, for the purpose of determining liability for a municipal income tax.

(4) **"Board of Tax Review"** or "Board of Review" or "Board of Tax Appeals", or other named local board constituted to hear appeals of municipal income tax matters, means the entity created under Section 190.21.

(5) **"Calendar quarter"** means the three-month period ending on the last day of March, June, September, or December.

(6) **"Casino operator" and "casino facility"** have the same meanings as in Section 3772.01 of the ORC.

(7) **"Certified mail," "express mail," "United States mail," "postal service,"** and similar terms include any delivery service authorized pursuant to Section 5703.056 of the ORC.

(8) **"Disregarded entity"** means a single member limited liability company, a qualifying subchapter S subsidiary, or another entity if the company, subsidiary, or entity is a disregarded entity for federal income tax purposes.

(9) **"Domicile"** means the true, fixed, and permanent home of a taxpayer and to which, whenever absent, the taxpayer intends to return. A taxpayer may have more than one residence but not more than one domicile.

(10) **"Employee"** means an individual who is an employee for federal income tax purposes.

(11) **"Employer"** means a person that is an employer for federal income tax purposes.

(12) **"Exempt income"** means all of the following:

(a) The military pay or allowances of members of the armed forces of the United States or members of their reserve components, including the national guard of any state.

(b) Intangible income. However, a municipal corporation that taxed any type of intangible income on March 29, 1988, pursuant to Section 3 of S.B. 238 of the 116th general assembly, may continue to tax that type of income if a majority of the electors of the municipal corporation voting on the question of whether to permit the taxation of that type of intangible income after 1988 voted in favor thereof at an election held on November 8, 1988.

(c) Social security benefits, railroad retirement benefits, unemployment compensation, pensions, retirement benefit payments, payments from annuities, and similar payments made to an employee or to the beneficiary of an employee under a retirement program or plan, disability payments received from private industry or local, state, or federal governments or from charitable, religious or educational organizations, and the proceeds of sickness, accident, or liability insurance policies. As used in division (C)(12)(c) of this section, "unemployment compensation" does not include supplemental unemployment compensation described in Section 3402(o)(2) of the Internal Revenue Code.

(d) The income of religious, fraternal, charitable, scientific, literary, or educational institutions to the extent such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities.

(e) Compensation paid under Section 3501.28 or 3501.36 of the ORC to a person serving as a precinct election official to the extent that such compensation does not exceed $1,000 for the taxable year. Such compensation in excess of $1,000 for the taxable year may be subject to taxation by a municipal corporation. A municipal corporation shall not require the payer of such compensation to withhold any tax from that compensation.

(f) Dues, contributions, and similar payments received by charitable, religious, educational, or literary organizations or labor unions, lodges, and similar organizations;

(g) Alimony and child support received.

(h) Compensation for personal injuries or for damages to property from insurance proceeds or otherwise, excluding compensation paid for lost salaries or wages or compensation from punitive damages.

(i) Income of a public utility when that public utility is subject to the tax levied under Section 5727.24 or 5727.30 of the ORC. Division (C)(12)(i) of this section does not apply for purposes of Chapter 5745. of the ORC.

(j) Gains from involuntary conversions, interest on federal obligations, items of income subject to a tax levied by the state and that a municipal corporation is specifically prohibited by law from taxing, and income of a decedent's estate during the period of administration except such income from the operation of a trade or business.

(k) Compensation or allowances excluded from federal gross income under Section 107 of the Internal Revenue Code.

(l) Employee compensation that is not qualifying wages as defined in division (C)(35) of this section.

(m) Compensation paid to a person employed within the boundaries of a United States air force base under the jurisdiction of the United States air force that is used for the housing of members of the

United States air force and is a center for air force operations, unless the person is subject to taxation because of residence or domicile. If the compensation is subject to taxation because of residence or domicile, tax on such income shall be payable only to the municipal corporation of residence or domicile.

(n) An S corporation shareholder's share of net profits of the S corporation, other than any part of the share of net profits that represents wages as defined in Section 3121(a) of the Internal Revenue Code or net earnings from self-employment as defined in Section 1402(a) of the Internal Revenue Code.

(o) All of the income of individuals under 18 years of age.

(p)(i) Except as provided in divisions (C)(12)(p)(ii), (iii), and (iv) of this section, qualifying wages described in division (C)(2) or (5) of Section 190.04 to the extent the qualifying wages are not subject to withholding for the City under either of those divisions.

(ii) The exemption provided in division (C)(12)(p)(i) of this section does not apply with respect to the municipal corporation in which the employee resided at the time the employee earned the qualifying wages.

(iii) The exemption provided in division (C)(12)(p)(i) of this section does not apply to qualifying wages that an employer elects to withhold under division (C)(4)(b) of Section 190.04.

(iv) The exemption provided in division (C)(12)(p)(i) of this section does not apply to qualifying wages if both of the following conditions apply:

(a) For qualifying wages described in division (C)(2) of Section 190.04, the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employee's principal place of work is situated, or, for qualifying wages described in division (C)(5) of Section 190.04, the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employer's fixed location is located;

(b) The employee receives a refund of the tax described in division (C)(12)(p)(iv)(a) of this section on the basis of the employee not performing services in that municipal corporation.

(q)(i) Except as provided in division (C)(12)(q)(ii) or (iii) of this section, compensation that is not qualifying wages paid to a nonresident individual for personal services performed in the City on not more than 20 days in a taxable year.

(ii) The exemption provided in division (C)(12)(q)(ii) of this section does not apply under either of the following circumstances:

(a) The individual's base of operation is located in the municipal corporation.

(b) The individual is a professional athlete, professional entertainer, or public figure, and the compensation is paid for the performance of services in the individual's capacity as a professional athlete, professional entertainer, or public figure. For purposes of division (C)(12)(q)(ii)(b) of this section, "professional athlete," "professional entertainer," and "public figure" have the same meanings as in Section 190.04(C).

(iii) Compensation to which division (C)(12)(q) of this section applies shall be treated as earned or received at the individual's base of operation. If the individual does not have a base of operation, the compensation shall be treated as earned or received where the individual is domiciled.

(iv) For purposes of division (C)(12)(q) of this section, "base of operation" means the location where an individual owns or rents an office, storefront, or similar facility to which the individual regularly reports and at which the individual regularly performs personal services for compensation.

(r) Compensation paid to a person for personal services performed for a political subdivision on property owned by the political subdivision, regardless of whether the compensation is received by an employee of the subdivision or another person performing services for the subdivision under a contract with the subdivision, if the property on which services are performed is annexed to a municipal corporation pursuant to Section 709.023 of the ORC on or after March 27, 2013, unless the person is subject to such taxation because of residence. If the compensation is subject to taxation because of residence, municipal income tax shall be payable only to the municipal corporation of residence.

(s) Income the taxation of which is prohibited by the constitution or laws of the United States.

Any item of income that is exempt income of a pass-through entity under division (C) of this section is exempt income of each owner of the pass-through entity to the extent of that owner's distributive or proportionate share of that item of the entity's income.

(13) **"Form 2106"** means internal revenue service form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.

(14) **"Generic form"** means an electronic or paper form that is not prescribed by a particular municipal corporation and that is designed for reporting taxes withheld by an employer, agent of an employer, or other payer, estimated municipal income taxes, or annual municipal income tax liability or for filing a refund claim.

(15) **"Gross receipts"** means the total revenue derived from sales, work done, or service rendered.

(16) **"Income"** means the following:

(a)(i) For residents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the resident, including the resident's distributive share of the net profit of pass-through entities owned directly or indirectly by the resident and any net profit of the resident~~,~~ except as provided in (C)(24)(d) of this division.

(ii) For the purposes of division (C)(16)(a)(i) of this section:

(a) Any net operating loss of the resident incurred in the taxable year and the resident's distributive share of any net operating loss generated in the same taxable year and attributable to the resident's ownership interest in a pass-through entity shall be allowed as a deduction, for that taxable year and the following five taxable years, against any other net profit of the resident or the resident's distributive share of any net profit attributable to the resident's ownership interest in a pass-through entity until fully utilized, subject to division (C)(16)(a)(iv) of this section;

(b) The resident's distributive share of the net profit of each pass-through entity owned directly or indirectly by the resident shall be calculated without regard to any net operating loss that is carried forward by that entity from a prior taxable year and applied to reduce the entity's net profit for the current taxable year.

(iii) Division (C)(16)(a)(ii) of this section does not apply with respect to any net profit or net operating loss attributable to an ownership interest in an S corporation unless shareholders' shares of net profits from S corporations are subject to tax in the municipal corporation as provided in division(C)(12)(n) or (C)(16)(e) of this section.

(iv) Any amount of a net operating loss used to reduce a taxpayer's net profit for a taxable year shall reduce the amount of net operating loss that may be carried forward to any subsequent year for use by that taxpayer. In no event shall the cumulative deductions for all taxable years with respect to a taxpayer's net operating loss exceed the original amount of that net operating loss available to that taxpayer.

(b) In the case of nonresidents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the nonresident for work done, services performed or rendered, or activities conducted in the municipal corporation, including any net profit of the nonresident, but excluding the nonresident's distributive share of the net profit or loss of only pass-through entities owned directly or indirectly by the nonresident.

(c) For taxpayers that are not individuals, net profit of the taxpayer;

(d) Lottery, sweepstakes, gambling and sports winnings, winnings from games of chance, and prizes and awards. If the taxpayer is a professional gambler for federal income tax purposes, the taxpayer may deduct related wagering losses and expenses to the extent authorized under the Internal Revenue Code and claimed against such winnings.

(e) Intentionally left blank.

(17) **"Intangible income"** means income of any of the following types: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701. of the ORC, and patents, copyrights, trademarks, tradenames, investments in real estate investment trusts, investments in regulated investment companies, and appreciation on deferred compensation. "Intangible income" does not include prizes, awards, or other income associated with any lottery winnings, gambling winnings, or other similar games of chance.

(18) **"Internal Revenue Code"** has the same meaning as in Section 5747.01 of the ORC.

(19) **"Limited liability company"** means a limited liability company formed under chapter 1705. of the ORC or under the laws of another state.

(20) **"Municipal corporation"** includes a joint economic development district or joint economic development zone that levies an income tax under Section 715.691 , 715.70 , 715.71 , or 715.74 of the ORC.

(21)(a) **"Municipal taxable income"** means the following:

(i) For a person other than an individual, income reduced by exempt income to the extent otherwise included in income and then, as applicable, apportioned or sitused to the City under Section 190.03, and further reduced by any pre-2017 net operating loss carryforward available to the person for the City.

(ii)(a) For an individual who is a resident of the City, income reduced by exempt income to the extent otherwise included in income, then reduced as provided in division (C)(21)(b) of this section, and further reduced by any pre-2017 net operating loss carryforward available to the individual for the municipal corporation.

(b) For an individual who is a nonresident of the City, income reduced by exempt income to the extent otherwise included in income and then, as applicable, apportioned or sitused to the municipal corporation under Section 190.03, then reduced as provided in division (C)(21)(b) of this section, and further reduced by any pre-2017 net operating loss carryforward available to the individual for the City.

(b) In computing the municipal taxable income of a taxpayer who is an individual, the taxpayer may subtract, as provided in division (C)(21)(a)(ii)(a) or (C)(21)(b) of this section, the amount of the individual's employee business expenses reported on the individual's form 2106 that the individual deducted for federal income tax purposes for the taxable year, subject to the limitation imposed by Section 67 of the Internal Revenue Code. For the municipal corporation in which the taxpayer is a resident, the taxpayer may deduct all such expenses allowed for federal income tax purposes, but to the extent the expenses do not relate to exempt income. For a municipal corporation in which the taxpayer is not a resident, the taxpayer may deduct such expenses only to the extent the expenses are related to the taxpayer's performance of personal services in that nonresident municipal corporation and are not related to exempt income.

(22) **"Municipality"** means the same as the City of Reynoldsburg. If the terms are capitalized in the ordinance they are referring to Reynoldsburg. If not capitalized they refer to a municipal corporation other than Reynoldsburg.

(23) **"Net operating loss"** means a loss incurred by a person in the operation of a trade or business. "Net operating loss" does not include unutilized losses resulting from basis limitations, at-risk limitations, or passive activity loss limitations.

(24)(a) **"Net profit"** for a person other than an individual means adjusted federal taxable income.

(b) "Net profit" for a person who is an individual means the individual's net profit required to be reported on schedule C, schedule E, or schedule F reduced by any net operating loss carried forward. For the purposes of division (C)(24)(b) of this section, the net operating loss carried forward shall be calculated and deducted in the same manner as provided in division (C)(1)(h) of this section.

(c) For the purposes of this chapter, and notwithstanding division (C)(24)(a) of this section, net profit of a disregarded entity shall not be taxable as against that disregarded entity, but shall instead be included in the net profit of the owner of the disregarded entity.

(d) A publicly traded partnership that is treated as a partnership for federal income tax purposes, and that is subject to tax on its net profits by the City, may elect to be treated as a C corporation for the City. The election shall be made on the annual return for the City. the City will treat the publicly traded partnership as a C corporation if the election is so made.

(25) **"Nonresident"** means an individual that is not a resident.

(26) **"Ohio Business Gateway"** means the online computer network system, created under Section 125.30 of the ORC, that allows persons to electronically file business reply forms with state agencies and includes any successor electronic filing and payment system.

(27) **"Other payer"** means any person, other than an individual's employer or the employer's agent, that pays an individual any amount included in the federal gross income of the individual. "Other payer" includes casino operators and video lottery terminal sales agents.

(28) **"Pass-through entity"** means a partnership not treated as an association taxable as a C corporation for federal income tax purposes, a limited liability company not treated as an association taxable as a C corporation for federal income tax purposes, an S corporation, or any other class of entity from which the income or profits of the entity are given pass-through treatment for federal income tax purposes. "Pass-through entity" does not include a trust, estate, grantor of a grantor trust, or disregarded entity.

(29) **"Pension"** means any amount paid to an employee or former employee that is reported to the recipient on an IRS form 1099-R, or successor form. Pension does not include deferred compensation, or amounts attributable to nonqualified deferred compensation plans, reported as FICA/Medicare wages on an IRS form W-2, Wage and Tax Statement, or successor form.

(30) **"Person"** includes individuals, firms, companies, joint stock companies, business trusts, estates, trusts, partnerships, limited liability partnerships, limited liability companies, associations, C corporations, S corporations, governmental entities, and any other entity.

(31) **"Postal service"** means the United States postal service.

(32) **"Postmark date," "date of postmark,"** and similar terms include the date recorded and marked in the manner described in division (B)(3) of Section 5703.056 of the ORC.

(33)(a) **"Pre-2017 net operating loss carryforward"** means any net operating loss incurred in a taxable year beginning before January 1, 2017, to the extent such loss was permitted, by a resolution or ordinance of the City that was adopted by the City before January 1, 2016, to be carried forward and utilized to offset income or net profit generated in the City in future taxable years.

(b) For the purpose of calculating municipal taxable income, any pre-2017 net operating loss carryforward may be carried forward to any taxable year, including taxable years beginning in 2017 or thereafter, for the number of taxable years provided in the resolution or ordinance or until fully utilized, whichever is earlier.

(34) **"Publicly traded partnership"** means any partnership, an interest in which is regularly traded on an established securities market. A "publicly traded partnership" may have any number of partners.

(35) **"Qualifying wages"** means wages, as defined in Section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted as follows:

(a) Deduct the following amounts:

(i) Any amount included in wages if the amount constitutes compensation attributable to a plan or program described in Section 125 of the Internal Revenue Code.

(ii) Any amount included in wages if the amount constitutes payment on account of a disability related to sickness or an accident paid by a party unrelated to the employer, agent of an employer, or other payer.

(iii) Intentionally left blank.

(iv) Intentionally left blank.

(v) Any amount included in wages that is exempt income.

(b) Add the following amounts:

(i) Any amount not included in wages solely because the employee was employed by the employer before April 1, 1986.

(ii) Any amount not included in wages because the amount arises from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under a stock option. Division (C)(35)(b)(ii) of this section applies only to those amounts constituting ordinary income.

(iii) Any amount not included in wages if the amount is an amount described in section 401(k), 403(b), or 457 of the Internal Revenue Code. Division (C)(35)(b)(ii) of this section applies only to employee contributions and employee deferrals.

(iv) Any amount that is supplemental unemployment compensation benefits described in Section 3402(o)(2) of the Internal Revenue Code and not included in wages.

(v) Any amount received that is treated as self-employment income for federal tax purposes in accordance with Section 1402(a)(8) of the Internal Revenue Code.

(vi) Any amount not included in wages if all of the following apply:

(a) For the taxable year the amount is employee compensation that is earned outside the United States and that either is included in the taxpayer's gross income for federal income tax purposes or would have been included in the taxpayer's gross income for such purposes if the taxpayer did not elect to exclude the income under Section 911 of the Internal Revenue Code;

(b) For no preceding taxable year did the amount constitute wages as defined in Section 3121(a) of the Internal Revenue Code;

(c) For no succeeding taxable year will the amount constitute wages; and

(d) For any taxable year the amount has not otherwise been added to wages pursuant to either division (C)(35)(b) of this section or Section 190.04, as that section existed before the effective date of H.B. 5 of the 130th General Assembly, March 23, 2015.

(36) **"Related entity"** means any of the following:

(a) An individual stockholder, or a member of the stockholder's family enumerated in Section 318 of the Internal Revenue Code, if the stockholder and the members of the stockholder's family own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty percent (50%) of the value of the taxpayer's outstanding stock;

(b) A stockholder, or a stockholder's partnership, estate, trust, or corporation, if the stockholder and the stockholder's partnerships, estates, trusts, or corporations own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty percent (50%) of the value of the taxpayer's outstanding stock;

(c) A corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under division (C)(36)(d) of this section, provided the taxpayer owns directly, indirectly, beneficially, or constructively, at least fifty percent of the value of the corporation's outstanding stock;

(d) The attribution rules described in Section 318 of the Internal Revenue Code apply for the purpose of determining whether the ownership requirements in divisions (C)(36)(a) to (c) of this section have been met.

(37) **"Related member"** means a person that, with respect to the taxpayer during all or any portion of the taxable year, is either a related entity, a component member as defined in Section 1563(b) of the Internal Revenue Code, or a person to or from whom there is attribution of stock ownership in accordance with Section 1563(e) of the Internal Revenue Code except, for purposes of determining whether a person is a related member under this division, " twenty percent (20%)" shall be substituted for "five percent (5%)" wherever "five percent (5%)" appears in Section 1563(e) of the Internal Revenue Code.

(38) **"Resident"** means an individual who is domiciled in the municipal corporation as determined under Section 190.03(E).

(39) **"S corporation"** means a person that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.

(40) **"Schedule C"** means internal revenue service schedule C (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.

(41) **"Schedule E"** means internal revenue service schedule E (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.

(42) **"Schedule F"** means internal revenue service schedule F (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.

(43) **"Single member limited liability company"** means a limited liability company that has one direct member.

(44) **"Small employer"** means any employer that had total revenue of less than $500,000 during the preceding taxable year. For purposes of this division, "total revenue" means receipts of any type or kind, including, but not limited to, sales receipts; payments; rents; profits; gains, dividends, and other

investment income; compensation; commissions; premiums; money; property; grants; contributions; donations; gifts; program service revenue; patient service revenue; premiums; fees, including premium fees and service fees; tuition payments; unrelated business revenue; reimbursements; any type of payment from a governmental unit, including grants and other allocations; and any other similar receipts reported for federal income tax purposes or under generally accepted accounting principles. "Small employer" does not include the federal government; any state government, including any state agency or instrumentality; any political subdivision; or any entity treated as a government for financial accounting and reporting purposes.

(45) **"Tax Administrator"** means the individual charged with direct responsibility for administration of an income tax levied by the City in accordance with this chapter.

(46) **"Tax return preparer"** means any individual described in Section 7701(a)(36) of the Internal Revenue Code and 26 C.F.R. 301.7701-15 .

(47) **"Taxable year"** means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.

(48)(a) **"Taxpayer"** means a person subject to a tax levied on income by a municipal corporation in accordance with this chapter. "Taxpayer" does not include a grantor trust or, except as provided in division (C)(48)(b)(i) of this section, a disregarded entity.

(b)(i) A single member limited liability company that is a disregarded entity for federal tax purposes may be a separate taxpayer from its single member in all Ohio municipal corporations in which it either filed as a separate taxpayer or did not file for its taxable year ending in 2003, if all of the following conditions are met:

(a) The limited liability company's single member is also a limited liability company.

(b) The limited liability company and its single member were formed and doing business in one or more Ohio municipal corporations for at least five years before January 1, 2004.

(c) Not later than December 31, 2004, the limited liability company and its single member each made an election to be treated as a separate taxpayer under division (L) of ORC 718.01 as that section existed on December 31, 2004.

(d) The limited liability company was not formed for the purpose of evading or reducing Ohio municipal corporation income tax liability of the limited liability company or its single member.

(e) The Ohio municipal corporation that was the primary place of business of the sole member of the limited liability company consented to the election.

(ii) For purposes of division (C)(48)(b)(ii) of this section, a municipal corporation was the primary place of business of a limited liability company if, for the limited liability company's taxable year ending in 2003, its income tax liability was greater in that municipal corporation than in any other municipal corporation in Ohio, and that tax liability to that municipal corporation for its taxable year ending in 2003 was at least $400,000.

(49) **"Taxpayers' rights and responsibilities"** means the rights provided to taxpayers in Sections 190.09, 190.12, 190.13, 190.19(B), 190.20, 190.21, and Sections 5717.011 and 5717.03 of the ORC, and the responsibilities of taxpayers to file, report, withhold, remit, and pay municipal income tax and otherwise comply with Chapter 718. of the ORC and resolutions, ordinances, and rules and regulations adopted by the City for the imposition and administration of a municipal income tax.

(50) **"Video lottery terminal"** has the same meaning as in Section 3770.21 of the ORC.

(51) **"Video lottery terminal sales agent"** means a lottery sales agent licensed under Chapter 3770. of the ORC to conduct video lottery terminals on behalf of the state pursuant to Section 3770.21 of the ORC.

SECTION 190.03 IMPOSITION OF TAX.

The income tax levied by the City at a rate of one and one-half percent (1.5%) is levied on the Municipal Taxable Income of every person residing in and/or earning and/or receiving income in the City,

Individuals.

(A) For residents of the City, the income tax levied herein shall be on all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the resident, including the resident's distributive share of the net profit of pass-through entities owned directly or indirectly by the resident and any net profit of the resident. This is further detailed in the definition of income (Section 190.02(C)(16)).

(B) For nonresidents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the nonresident for work done, services performed or rendered, or activities conducted in the municipal corporation, including any net profit of the nonresident, but excluding the nonresident's distributive share of the net profit or loss of only pass-through entities owned directly or indirectly by the nonresident.

(C) For residents and nonresidents, income can be reduced to "Municipal Taxable Income" as defined in Section 190.02(C)(21). Exemptions which may apply are specified in Section 190.02(C)(12).

Refundable credit for Nonqualified Deferred Compensation Plan.

(D)(1) As used in this division:

(a) "Nonqualified deferred compensation plan" means a compensation plan described in Section 3121(v)(2)(C) of the Internal Revenue Code.

(b) "Qualifying loss" means the amount of compensation attributable to a taxpayer's nonqualified deferred compensation plan, less the receipt of money and property attributable to distributions from the nonqualified deferred compensation plan. Full loss is sustained if no distribution of money and property is made by the nonqualified deferred compensation plan. The taxpayer sustains a qualifying loss only in the taxable year in which the taxpayer receives the final distribution of money and property pursuant to that nonqualified deferred compensation plan.

(c)(i) "Qualifying tax rate" means the applicable tax rate for the taxable year for the which the taxpayer paid income tax to the City with respect to any portion of the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan.

(ii) If different tax rates applied for different taxable years, then the "qualifying tax rate" is a weighted average of those different tax rates. The weighted average shall be based upon the tax paid to the City each year with respect to the nonqualified deferred compensation plan.

(d) “Refundable credit” means the amount of the City income tax that was paid on the non-distributed portion, if any, of a nonqualified deferred compensation plan.

(2) If, in addition to the City, a taxpayer has paid tax to other municipal corporations with respect to the nonqualified deferred compensation plan, the amount of the credit that a taxpayer may claim from each municipal corporation shall be calculated on the basis of each municipal corporation's proportionate share of the total municipal corporation income tax paid by the taxpayer to all municipal corporations with respect to the nonqualified deferred compensation plan.

(3) In no case shall the amount of the credit allowed under this section exceed the cumulative income tax that a taxpayer has paid to the City for all taxable years with respect to the nonqualified deferred compensation plan.

(4) The credit allowed under this division is allowed only to the extent the taxpayer's qualifying loss is attributable to:

(a) The insolvency or bankruptcy of the employer who had established the nonqualified deferred compensation plan; or

(b) The employee's failure or inability to satisfy all of the employer's terms and conditions necessary to receive the nonqualified deferred compensation.

Domicile.

(E)(1)(a) An individual is presumed to be domiciled in the City for all or part of a taxable year if the individual was domiciled in the City on the last day of the immediately preceding taxable year or if the Tax Administrator reasonably concludes that the individual is domiciled in the City for all or part of the taxable year.

(b) An individual may rebut the presumption of domicile described in division (E)(1)(a) of this section if the individual establishes by a preponderance of the evidence that the individual was not domiciled in the City for all or part of the taxable year.

(2) For the purpose of determining whether an individual is domiciled in the City for all or part of a taxable year, factors that may be considered include, but are not limited to, the following:

(a) The individual's domicile in other taxable years;

(b) The location at which the individual is registered to vote;

(c) The address on the individual's driver's license;

(d) The location of real estate for which the individual claimed a property tax exemption or reduction allowed on the basis of the individual's residence or domicile;

(e) The location and value of abodes owned or leased by the individual;

(f) Declarations, written or oral, made by the individual regarding the individual's residency;

(g) The primary location at which the individual is employed.

(h) The location of educational institutions attended by the individual's dependents as defined in Section 152 of the Internal Revenue Code, to the extent that tuition paid to such educational institution is based on the residency of the individual or the individual's spouse in the municipal corporation where the educational institution is located;

(i) The number of contact periods the individual has with the City. For the purposes of this division, an individual has one "contact period" with the City if the individual is away overnight from the individual's abode located outside of the City and while away overnight from that abode spends at least some portion, however minimal, of each of two consecutive days in the City.

(3) All additional applicable factors are provided in the Rules and Regulations.

Businesses.

(F) This division applies to any taxpayer engaged in a business or profession in the City, unless the taxpayer is an individual who resides in the City or the taxpayer is an electric company, combined company, or telephone company that is subject to and required to file reports under Chapter 5745. of the ORC.

(1) Except as otherwise provided in division (F)(2) of this section, net profit from a business or profession conducted both within and without the boundaries of the City shall be considered as having a taxable situs in the City for purposes of municipal income taxation in the same proportion as the average ratio of the following:

(a) The average original cost of the real property and tangible personal property owned or used by the taxpayer in the business or profession in the City during the taxable period to the average original cost of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.

As used in the preceding paragraph, tangible personal or real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight;

(b) Wages, salaries, and other compensation paid during the taxable period to individuals employed in the business or profession for services performed in the City to wages, salaries, and other compensation paid during the same period to individuals employed in the business or profession, wherever the individual's services are performed, excluding compensation from which taxes are not required to be withheld under Section 190.04(C);

(c) Total gross receipts of the business or profession from sales and rentals made and services performed during the taxable period in the City to total gross receipts of the business or profession during the same period from sales, rentals, and services, wherever made or performed.

(2)(a) If the apportionment factors described in division (F)(1) of this section do not fairly represent the extent of a taxpayer's business activity in the City, the taxpayer may request, or the Tax Administrator of the City may require, that the taxpayer use, with respect to all or any portion of the income of the taxpayer, an alternative apportionment method involving one or more of the following:

(i) Separate accounting;

(ii) The exclusion of one or more of the factors;

(iii) The inclusion of one or more additional factors that would provide for a more fair apportionment of the income of the taxpayer to the municipal corporation;

(iv) A modification of one or more of the factors.

(b) A taxpayer request to use an alternative apportionment method shall be in writing and shall accompany a tax return, timely filed appeal of an assessment, or timely filed amended tax return. The taxpayer may use the requested alternative method unless the Tax Administrator denies the request in an assessment issued within the period prescribed by Section 190.12(A).

(c) The Tax Administrator may require a taxpayer to use an alternative apportionment method as described in division (F)(2)(a) of this section, but only by issuing an assessment to the taxpayer within the period prescribed by Section 190.12(A).

(d) Nothing in division (F)(2) of this section nullifies or otherwise affects any alternative apportionment arrangement approved by ~~the~~ Tax Administrator or otherwise agreed upon by both the Tax Administrator and taxpayer before January 1, 2016.

(3) As used in division (F)(1)(b) of this section, "wages, salaries, and other compensation" includes only wages, salaries, or other compensation paid to an employee for services performed at any of the following locations:

(a) A location that is owned, controlled, or used by, rented to, or under the possession of one of the following:

(i) The employer;

(ii) A vendor, customer, client, or patient of the employer, or a related member of such a vendor, customer, client, or patient;

(iii) A vendor, customer, client, or patient of a person described in (F)(3)(a)(ii) of this section, or a related member of such a vendor, customer, client, or patient.

(b) Any location at which a trial, appeal, hearing, investigation, inquiry, review, court-martial, or similar administrative, judicial, or legislative matter or proceeding is being conducted, provided that the compensation is paid for services performed for, or on behalf of, the employer or that the employee's presence at the location directly or indirectly benefits the employer;

(c) Any other location, if the Tax Administrator determines that the employer directed the employee to perform the services at the other location in lieu of a location described in division (F) (3)(a) or (b) of this section solely in order to avoid or reduce the employer's municipal income tax liability. If the Tax Administrator makes such a determination, the employer may dispute the determination by establishing, by a preponderance of the evidence, that the Tax Administrator's determination was unreasonable.

(4) For the purposes of division (F)(1)(c) of this section, receipts from sales and rentals made and services performed shall be sitused to a municipal corporation as follows:

(a) Gross receipts from the sale of tangible personal property shall be sitused to the municipal corporation in which the sale originated. For the purposes of this division, a sale of property originates in the City if, regardless of where title passes, the property meets any of the following criteria:

(i) The property is shipped to or delivered within the City from a stock of goods located within the City.

(ii) The property is delivered within the City from a location outside the City, provided the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the City and the sales result from such solicitation or promotion.

(iii) The property is shipped from a place within the City to purchasers outside the municipal corporation, provided that the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

(b) Gross receipts from the sale of services shall be sitused to the City to the extent that such services are performed in the City.

(c) To the extent included in income, gross receipts from the sale of real property located in the City shall be sitused to the City.

(d) To the extent included in income, gross receipts from rents and royalties from real property located in the City shall be sitused to the City.

(e) Gross receipts from rents and royalties from tangible personal property shall be sitused to the City based upon the extent to which the tangible personal property is used in the City.

(5) The net profit received by an individual taxpayer from the rental of real estate owned directly by the individual, or by a disregarded entity owned by the individual, shall be subject to the City's tax only if the property generating the net profit is located in the City or if the individual taxpayer that receives the net profit is a resident of the City. the City shall allow such taxpayers to elect to use separate accounting for the purpose of calculating net profit sitused under this division to the municipal corporation in which the property is located.

(6)(a) Commissions received by a real estate agent or broker relating to the sale, purchase, or lease of real estate shall be sitused to the municipal corporation in which the real estate is located. Net profit reported by the real estate agent or broker shall be allocated to the City, if applicable, based upon the ratio of the commissions the agent or broker received from the sale, purchase, or lease of real estate located in the City to the commissions received from the sale, purchase, or lease of real estate everywhere in the taxable year.

(b) An individual who is a resident of the City shall report the individual's net profit from all real estate activity on the individual's annual tax return for the City. The individual may claim a credit for taxes the individual paid on such net profit to another municipal corporation to the extent that such a credit is allowed under the City's income tax ordinance. (7) When calculating the ratios described in division (F)(1) of this section for the purposes of that division or division (F)(2) of this section, the owner of a disregarded entity shall include in the owner's ratios the property, payroll, and gross receipts of such disregarded entity.

(7) Left intentionally blank.

(8) Left intentionally blank.

SECTION 190.04 COLLECTION AT SOURCE.

Withholding provisions.

(A) Each employer, agent of an employer, or other payer located or doing business in the City shall withhold an income tax from the qualifying wages earned and/or received by each employee in the City. Except for qualifying wages for which withholding is not required under Section 190.03 or division (B)(4) or (6) of this section, the tax shall be withheld at the rate, specified in Section 190.01 of this chapter, of 1.5%. An employer, agent of an employer, or other payer shall deduct and withhold the tax from qualifying wages on the date that the employer, agent, or other payer directly, indirectly, or constructively pays the qualifying wages to, or credits the qualifying wages to the benefit of, the employee.

(B)(1) Except as provided in division (B)(2) of this section, an employer, agent of an employer, or other payer shall remit to the Tax Administrator of the City the greater of the income taxes deducted and withheld or the income taxes required to be deducted and withheld by the employer, agent, or other payer according to the following schedule:

(a) Taxes required to be deducted and withheld shall be remitted monthly to the Tax Administrator if the total taxes deducted and withheld or required to be deducted and withheld by the employer, agent, or other payer on behalf of the City in the preceding calendar year exceeded $2,399, or if the total amount of taxes deducted and withheld or required to be deducted and withheld on behalf of the City in any month of the preceding calendar quarter exceeded $200.

Payment under division (B)(1)(a) of this section shall be made so that the payment is received by the Tax Administrator not later than 15 days after the last day of each month for which the tax was withheld.

(b) Any employer, agent of an employer, or other payer not required to make payments under division (B)(1)(a) of this section of taxes required to be deducted and withheld shall make quarterly payments to the Tax Administrator not later than the 15th day of the month following the end of each calendar quarter.

(c) Notwithstanding the provisions of division (B)(1)(a) and (b) of this section, taxes required to be deducted and withheld shall be remitted semi-monthly to the Tax Administrator if the total taxes deducted and withheld or required to be deducted and withheld on behalf of the City in the preceding calendar year exceeded $11,999, or if in any month of the preceding calendar year exceeded $1,000. Payment under division (B)(1)(c) of this section shall be made so that the payment is received by the Tax Administrator not later than one of the following: i) if the taxes were deducted and withheld or required to be deducted and withheld during the first fifteen days of a month, the third banking day after the fifteenth day of that month; (ii) if the taxes were deducted and withheld or required to be deducted and withheld after the fifteenth day of a month and before the first day of the immediately following month, the third banking day after the last day of the month.

(2) If the employer, agent of an employer, or other payer is required to make payments electronically for the purpose of paying federal taxes withheld on payments to employees under Section 6302 of the Internal Revenue Code, 26 C.F.R. 31.6302-1, or any other federal statute or regulation, the payment shall be made by electronic funds transfer to the Tax Administrator of all taxes deducted and withheld on behalf of the City. The payment of tax by electronic funds transfer under this division does not affect an employer's, agent's, or other payer's obligation to file any return as required under this section.

(3) An employer, agent of an employer, or other payer shall make and file a return showing the amount of tax withheld by the employer, agent, or other payer from the qualifying wages of each employee and remitted to the Tax Administrator. A return filed by an employer, agent, or other payer under this division shall be accepted by Tax Administrator and the City as the return required of an non-resident employee whose sole income subject to the tax under this chapter is the qualifying wages reported by the employee's employer, agent of an employer, or other payer.

(4) An employer, agent of an employer, or other payer is not required to withhold the City income tax with respect to an individual's disqualifying disposition of an incentive stock option if, at the time of the disqualifying disposition, the individual is not an employee of either the corporation with respect to whose stock the option has been issued or of such corporation's successor entity.

(5)(a) An employee is not relieved from liability for a tax by the failure of the employer, agent of an employer, or other payer to withhold the tax as required under this chapter or by the employer's, agent's, or other payer's exemption from the requirement to withhold the tax.

(b) The failure of an employer, agent of an employer, or other payer to remit to the City the tax withheld relieves the employee from liability for that tax unless the employee colluded with the employer, agent, or other payer in connection with the failure to remit the tax withheld.

(6) Compensation deferred before June 26, 2003, is not subject to ~~a~~ the City income tax or income tax withholding requirement to the extent the deferred compensation does not constitute qualifying wages at the time the deferred compensation is paid or distributed.

(7) Each employer, agent of an employer, or other payer required to withhold taxes is liable for the payment of that amount required to be withheld, whether or not such taxes have been withheld, and such amount shall be deemed to be held in trust for the City until such time as the withheld amount is remitted to the Tax Administrator.

(8) On or before the last day of February of each year, an employer shall file a withholding reconciliation return with the Tax Administrator listing:

(a) The names, addresses, and social security numbers of all employees from whose qualifying wages tax was withheld or should have been withheld for the City during the preceding calendar year;

(b) The amount of tax withheld, if any, from each such employee, the total amount of qualifying wages paid to such employee during the preceding calendar year~~,~~;

(c) The name of every other municipal corporation for which tax was withheld or should have been withheld from such employee during the preceding calendar yea;

(d) Any other information required for federal income tax reporting purposes on Internal Revenue Service form W-2 or its equivalent form with respect to such employee;

(e) Other information as may be required by the Tax Administrator.

(9) The officer or the employee of the employer, agent of an employer, or other payer with control or direct supervision of or charged with the responsibility for withholding the tax or filing the reports and making payments as required by this section, shall be personally liable for a failure to file a report or pay the tax due as required by this section. The dissolution of an employer, agent of an employer, or other payer does not discharge the officer's or employee's liability for a failure of the employer, agent of an employer, or other payer to file returns or pay any tax due.

(10) An employer is required to deduct and withhold the City income tax on tips and gratuities received by the employer's employees and constituting qualifying wages, but only to the extent that the tips and gratuities are under the employer's control. For the purposes of this division, a tip or gratuity is under the employer's control if the tip or gratuity is paid by the customer to the employer for subsequent remittance to the employee, or if the customer pays the tip or gratuity by credit card, debit card, or other electronic means.

(11) The Tax Administrator shall consider any tax withheld by an employer at the request of an employee, when such tax is not otherwise required to be withheld by this chapter, to be tax required to be withheld and remitted for the purposes of this section

Occasional Entrant - Withholding.

(C)(1) As used in this division:

(a) "Employer" includes a person that is a related member to or of an employer.

(b) "Fixed location" means a permanent place of doing business in this state, such as an office, warehouse, storefront, or similar location owned or controlled by an employer.

(c) "Principal place of work" means the fixed location to which an employee is required to report for employment duties on a regular and ordinary basis. If the employee is not required to report for employment duties on a regular and ordinary basis to a fixed location, "principal place of work" means the worksite location in this state to which the employee is required to report for employment duties on a regular and ordinary basis. If the employee is not required to report for employment duties on a regular and ordinary basis to a fixed location or worksite location, "principal place of work" means the location in this state at which the employee spends the greatest number of days in a calendar year performing services for or on behalf of the employee's employer.

If there is not a single municipal corporation in which the employee spent the "greatest number of days in a calendar year" performing services for or on behalf of the employer, but instead there are two or more municipal corporations in which the employee spent an identical number of days that is greater than the number of days the employee spent in any other municipal corporation, the employer shall allocate any of the employee's qualifying wages subject to division (C)(2)(a)(i) of this section among those two or more municipal corporations. The allocation shall be made using any fair and reasonable method, including, but not limited to, an equal allocation among such municipal corporations or an allocation based upon the time spent or sales made by the employee in each such municipal corporation. A municipal corporation to which qualifying wages are allocated under this division shall be the employee's "principal place of work" with respect to those qualifying wages for the purposes of this section.

For the purposes of this division, the location at which an employee spends a particular day shall be determined in accordance with division (C)(2)(b) of this section, except that "location" shall be substituted for "municipal corporation" wherever "municipal corporation" appears in that division.

(d) "Professional athlete" means an athlete who performs services in a professional athletic event for wages or other remuneration.

(e) "Professional entertainer" means a person who performs services in the professional performing arts for wages or other remuneration on a per-event basis.

(f) "Public figure" means a person of prominence who performs services at discrete events, such as speeches, public appearances, or similar events, for wages or other remuneration on a per-event basis.

(g) "Worksite location" means a construction site or other temporary worksite in this state at which the employer provides services for more than 20 days during the calendar year. "Worksite location" does not include the home of an employee.

(2)(a) Subject to divisions (C)(3), (5), (6), and (7) of this section, an employer is not required to withhold the City income tax on qualifying wages paid to an employee for the performance of personal services in the City if the employee performed such services in the City on 20 or fewer days in a calendar year, unless one of the following conditions applies:

(i) The employee's principal place of work is located in the City.

(ii) The employee performed services at one or more presumed worksite locations in the City. For the purposes of this division, "presumed worksite location" means a construction site or other temporary worksite in the City at which the employer provides or provided services that can reasonably be, or would have been, expected by the employer to last more than 20 days in a calendar year. Services can "reasonably be expected by the employer to last more than 20 days" if either of the following applies at the time the services commence:

(a) The nature of the services are such that it will require more than 20 days of the services to complete the services;

(b) The agreement between the employer and its customer to perform services at a location requires the employer to perform the services at the location for more than 20 days.

(iii) The employee is a resident of the City and has requested that the employer withhold tax from the employee's qualifying wages as provided in Section 190.04.

(iv) The employee is a professional athlete, professional entertainer, or public figure, and the qualifying wages are paid for the performance of services in the employee's capacity as a professional athlete, professional entertainer, or public figure.

(b) For the purposes of division (C)(2)(a) of this section, an employee shall be considered to have spent a day performing services in the City only if the employee spent more time performing services for or on behalf of the employer in the City than in any other municipal corporation on that day. For the purposes of determining the amount of time an employee spent in a particular location, the time spent performing one or more of the following activities shall be considered to have been spent at the employee's principal place of work:

(i) Traveling to the location at which the employee will first perform services for the employer for the day;

(ii) Traveling from a location at which the employee was performing services for the employer to any other location;

(iii) Traveling from any location to another location in order to pick up or load, for the purpose of transportation or delivery, property that has been purchased, sold, assembled, fabricated, repaired, refurbished, processed, remanufactured, or improved by the employee's employer;

(iv) Transporting or delivering property described in division (C)(2)(b)(iii) of this section, provided that, upon delivery of the property, the employee does not temporarily or permanently affix the property to real estate owned, used, or controlled by a person other than the employee's employer;

(v) Traveling from the location at which the employee makes the employee's final delivery or pick-up for the day to either the employee's principal place of work or a location at which the employee will not perform services for the employer.

(3) If the principal place of work of an employee is located in another Ohio municipal corporation that imposes an income tax, the exception from withholding requirements described in division (C)(2)(a) of this section shall apply only if, with respect to the employee's qualifying wages described in that division, the employer withholds and remits tax on such qualifying wages to that municipal corporation.

(4)(a) Except as provided in division (C)(4)(b) of this section, if, during a calendar year, the number of days an employee spends performing personal services in the City exceeds the 20-day threshold, the employer shall withhold and remit tax to the City for any subsequent days in that calendar year on which the employer pays qualifying wages to the employee for personal services performed in the City.

(b) An employer required to begin withholding tax for the City under division (C)(4)(a) of this section may elect to withhold tax for the City for the first 20 days on which the employer paid qualifying wages to the employee for personal services performed in the City.

(5) If an employer’s fixed location is the City and the employer qualifies as a small employer as defined in Section 190.02, the employer shall withhold municipal income tax on all of the employee's qualifying wages for a taxable year and remit that tax only to the City, regardless of the number of days which the employee worked outside the corporate boundaries of the City.

To determine whether an employer qualifies as a small employer for a taxable year, ~~a~~ the employer will be required to provide the Tax Administrator with the employer's federal income tax return for the preceding taxable year.

(6) Divisions (C)(2)(a) and (4) of this section shall not apply to the extent that a Tax Administrator and an employer enter into an agreement regarding the manner in which the employer shall comply with the requirements of Section 190.04.

SECTION 190.05 ANNUAL RETURN; FILING.

(A) An annual City income tax return shall be completed and filed by every individual taxpayer eighteen (18) years of age or older and any taxpayer that is not an individual for each taxable year for which the taxpayer is subject to the tax, whether or not a tax is due thereon.

(1) The Tax Administrator may accept on behalf of all nonresident individual taxpayers a return filed by an employer, agent of an employer, or other payer under Section 190.05 of this Chapter when the nonresident individual taxpayer's sole income subject to the tax is the qualifying wages reported by the employer, agent of an employer, or other payer, and no additional tax is due the City.

(2) Retirees having no Municipal Taxable Income for the City income tax purposes may file with the Tax Administrator a written exemption from these filing requirements on a form prescribed by the Tax Administrator. The written exemption shall indicate the date of retirement and the entity from which retired. The exemption shall be in effect until such time as the retiree receives Municipal Taxable Income taxable to the City, at which time the retiree shall be required to comply with all applicable provisions of this chapter.

(B) If an individual is deceased, any return or notice required of that individual shall be completed and filed by that decedent's executor, administrator, or other person charged with the property of that decedent.

(C) If an individual is unable to complete and file a return or notice required by the City, the return or notice required of that individual shall be completed and filed by the individual's duly authorized agent, guardian, conservator, fiduciary, or other person charged with the care of the person or property of that individual.

(D) Returns or notices required of an estate or a trust shall be completed and filed by the fiduciary of the estate or trust.

(E) The City shall permit spouses to file a joint return.

(F)(1) Each return required to be filed under this division shall contain the signature of the taxpayer or the taxpayer's duly authorized agent and of the person who prepared the return for the taxpayer. The return shall include the taxpayer's social security number or taxpayer identification number. Each return shall be verified by a declaration under penalty of perjury.

(2) The Tax Administrator shall require a taxpayer who is an individual to include, with each annual return~~,~~ and amended return, copies of the following documents: all of the taxpayer's Internal Revenue

Service form W-2, "Wage and Tax Statements," including all information reported on the taxpayer's federal W-2, as well as taxable wages reported or withheld for any municipal corporation; the taxpayer's Internal Revenue Service form 1040; and, with respect to an amended tax return, any other documentation necessary to support the adjustments made in the amended return. An individual taxpayer who files the annual return required by this section electronically is not required to provide paper copies of any of the foregoing to the Tax Administrator unless the Tax Administrator requests such copies after the return has been filed.

(3) The Tax Administrator may require a taxpayer that is not an individual to include, with each annual net profit return, amended net profit return, or request for refund required under this section, copies of only the following documents: the taxpayer's Internal Revenue Service form 1041, form 1065, form 1120, form 1120-REIT, form 1120F, or form 1120S, and, with respect to an amended tax return or refund request, any other documentation necessary to support the refund request or the adjustments made in the amended return.

A taxpayer that is not an individual and that files an annual net profit return electronically through the Ohio Business Gateway or in some other manner shall either mail the documents required under this division to the Tax Administrator at the time of filing or, if electronic submission is available, submit the documents electronically through the Ohio Business Gateway.

(4) After a taxpayer files a tax return, the Tax Administrator may request, and the taxpayer shall provide, any information, statements, or documents required by the City to determine and verify the taxpayer's municipal income tax liability. The requirements imposed under division (F) of this section apply regardless of whether the taxpayer files on a generic form or on a form prescribed by the Tax Administrator.

(G)(1)(a) Except as otherwise provided in this chapter, each individual income return required to be filed under this section shall be completed and filed as required by the Tax Administrator on or before the date prescribed for the filing of state individual income tax returns under division (G) of Section 5747.08 of the ORC. The taxpayer shall complete and file the return or notice on forms prescribed by the Tax Administrator or on generic forms, together with remittance made payable to the City. No remittance is required if the net amount due is ten dollars or less.

(b) Except as otherwise provided in this chapter, each annual net profit return required to be filed under this section by a taxpayer that is not an individual shall be completed and filed as required by the Tax Administrator on or before the fifteenth day of the fourth month following the end of the taxpayer's taxable year. The taxpayer shall complete and file the return or notice on forms prescribed by the Tax Administrator or on generic forms, together with remittance made payable to the City. No remittance is required if the net amount due is ten dollars or less.

(2) Any taxpayer that has duly requested an automatic six-month extension for filing the taxpayer's federal income tax return shall automatically receive an extension for the filing of the City's income tax return. The extended due date of the City's income tax return shall be the 15th day of the tenth month after the last day of the taxable year to which the return relates. An extension of time to file under this division is not an extension of the time to pay any tax due unless the Tax Administrator grants an extension of that date.

(a) A copy of the federal extension request shall be included with the filing of the City's income tax return.

(b) A taxpayer that has not requested or received a six-month extension for filing the taxpayer's federal income tax return may request that the Tax Administrator grant the taxpayer a six-month extension of the date for filing the taxpayer's the City income tax return. If the request is received by the Tax Administrator on or before the date the City income tax return is due, the Tax Administrator shall grant the taxpayer's requested extension.

(3) If the tax commissioner extends for all taxpayers the date for filing state income tax returns under division (G) of Section 5747.08 of the ORC, a taxpayer shall automatically receive an extension for the filing of ~~a~~ the City's income tax return. The extended due date of the City's income tax return shall be the same as the extended due date of the state income tax return.

(4) If the Tax Administrator considers it necessary in order to ensure the payment of the tax imposed by the City, the Tax Administrator may require taxpayers to file returns and make payments otherwise than as provided in this division, including taxpayers not otherwise required to file annual returns.

(5) To the extent that any provision in this division (G) of this section conflicts with any provision in divisions (N), (O), (P), or (Q) of this section, the provisions in divisions (N), (O), (P), or (Q) prevail.

(H)(1) For taxable years beginning after 2015, the City shall not require a taxpayer to remit tax with respect to net profits if the net amount due is ten dollars or less.

(2) Any taxpayer not required to remit tax to the City for a taxable year pursuant to division (H)(1) of this section shall file with the City an annual net profit return under division (F)(3) of this section.

(I) If a payment is required to be made by electronic funds transfer, the payment is considered to be made when the payment is credited to an account designated by the Tax Administrator for the receipt of tax payments, except that, when a payment made by electronic funds transfer is delayed due to circumstances not under the control of the taxpayer, the payment is considered to be made when the taxpayer submitted the payment. This division shall not apply to payments required to be made under division (B)(1)(a) of Section 190.04 or provisions for semi-monthly withholding.

(J) Taxes withheld for the City by an employer, the agent of an employer, or other payer as described in Section 190.04 shall be allowed to the taxpayer as credits against payment of the tax imposed on the taxpayer by the City, unless the amounts withheld were not remitted to the City and the recipient colluded with the employer, agent, or other payer in connection with the failure to remit the amounts withheld.

(K) Each return required by the City to be filed in accordance with this division shall include a box that the taxpayer may check to authorize another person, including a tax return preparer who prepared the return, to communicate with the Tax Administrator about matters pertaining to the return.

(L) The Tax Administrator shall accept for filing a generic form of any income tax return, report, or document required by the City, provided that the generic form, once completed and filed, contains all of the information required by ordinance, resolution, or rules and regulations adopted by the City or the Tax Administrator, and provided that the taxpayer or tax return preparer filing the generic form otherwise complies with the provisions of this chapter and of the City's ordinance, resolution, or rules and regulations governing the filing of returns, reports, or documents.

Filing via Ohio Business Gateway.

(M)(1) Any taxpayer subject to municipal income taxation with respect to the taxpayer's net profit from a business or profession may file the City's income tax return, estimated municipal income tax return, or extension for filing a municipal income tax return, and may make payment of amounts shown to be due on such returns, by using the Ohio Business Gateway.

(2) Any employer, agent of an employer, or other payer may report the amount of municipal income tax withheld from qualifying wages, and may make remittance of such amounts, by using the Ohio Business Gateway.

(3) Nothing in this section affects the due dates for filing employer withholding tax returns.

Extension for service in or for the armed forces.

(N) Each member of the national guard of any state and each member of a reserve component of the armed forces of the United States called to active duty pursuant to an executive order issued by the president of the United States or an act of the congress of the United States, and each civilian serving as support personnel in a combat zone or contingency operation in support of the armed forces, may apply to the Tax Administrator of the City for both an extension of time for filing of the return and an extension of time for payment of taxes required by the City during the period of the member's or civilian's duty service, and for 180 days thereafter. The application shall be filed on or before the one hundred eightieth day after the member's or civilian's duty terminates. An applicant shall provide such evidence as the Tax Administrator considers necessary to demonstrate eligibility for the extension.

(O)(1) If the Tax Administrator ascertains that an applicant is qualified for an extension under this section, the Tax Administrator shall enter into a contract with the applicant for the payment of the tax in installments that begin on the 181st day after the applicant's active duty or service terminates. The Tax Administrator may prescribe such contract terms as the Tax Administrator considers appropriate. However, taxes pursuant to a contract entered into under this division are not delinquent, and the Tax Administrator shall not require any payments of penalties or interest in connection with those taxes for the extension period.

(2) If the Tax Administrator determines that an applicant is qualified for an extension under this section, the applicant shall neither be required to file any return, report, or other tax document nor be required to pay any tax otherwise due to the municipal corporation before the 181st day after the applicant's active duty or service terminates.

(3) Taxes paid pursuant to a contract entered into under (O)(1) of this division are not delinquent. The Tax Administrator shall not require any payments of penalties or interest in connection with those taxes for the extension period.

(P)(1) Nothing in this division denies to any person described in this division the application of divisions (N) and (O) of this section.

(2)(a) A qualifying taxpayer who is eligible for an extension under the Internal Revenue Code shall receive both an extension of time in which to file any return, report, or other tax document and an extension of time in which to make any payment of taxes required by a municipal corporation in accordance with this chapter. The length of any extension granted under division (P)(2)(a) of this section shall be equal to the length of the corresponding extension that the taxpayer receives under the Internal Revenue Code. As used in this division, "qualifying taxpayer" means a member of the national guard or a member of a reserve component of the armed forces of the United States called to active duty pursuant to either an executive order issued by the president of the United States or an act of the congress of the United States, or a civilian serving as support personnel in a combat zone or contingency operation in support of the armed forces.

(b) Taxes whose payment is extended in accordance with division (P)(2)(a) of this section are not delinquent during the extension period. Such taxes become delinquent on the first day after the expiration of the extension period if the taxes are not paid prior to that date. The Tax Administrator shall not require any payment of penalties or interest in connection with those taxes for the extension period. The Tax Administrator shall not include any period of extension granted under division (C)(2)(a) of this section in calculating the penalty or interest due on any unpaid tax.

(Q) For each taxable year to which division (N), (O), or (P) of this section applies to a taxpayer, the provisions of divisions (O)(2) and (3) of this section, as applicable, apply to the spouse of that taxpayer if the filing status of the spouse and the taxpayer is married filing jointly for that year.

Consolidated municipal income tax return.

(R) As used in this section:

(1) "Affiliated group of corporations" means an affiliated group as defined in Section 1504 of the Internal Revenue Code, except that, if such a group includes at least one incumbent local exchange carrier that is primarily engaged in the business of providing local exchange telephone service in this state, the affiliated group shall not include any incumbent local exchange carrier that would otherwise be included in the group.

(2) "Consolidated federal income tax return" means a consolidated return filed for federal income tax purposes pursuant to Section 1501 of the Internal Revenue Code.

(3) "Consolidated federal taxable income" means the consolidated taxable income of an affiliated group of corporations, as computed for the purposes of filing a consolidated federal income tax return, before consideration of net operating losses or special deductions. "Consolidated federal taxable income" does not include income or loss of an incumbent local exchange carrier that is excluded from the affiliated group under division (R)(1) of this section.

(4) "Incumbent local exchange carrier" has the same meaning as in Section 4927.01 of the ORC.

(5) "Local exchange telephone service" has the same meaning as in Section 5727.01 of the ORC.

(S)(1) For taxable years beginning on or after January 1, 2016, a taxpayer that is a member of an affiliated group of corporations may elect to file a consolidated municipal income tax return for a taxable year if at least one member of the affiliated group of corporations is subject to the City's income tax in that taxable year, and if the affiliated group of corporations filed a consolidated federal income tax return with respect to that taxable year. The election is binding for a five-year period beginning with the first taxable year of the initial election unless a change in the reporting method is required under federal law. The election continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing consolidated municipal income tax returns under division (S)(2) of this section or a taxpayer receives permission from the Tax Administrator. The Tax Administrator shall approve such a request for good cause shown.

(2) An election to discontinue filing consolidated municipal income tax returns under this section must be made in the first year following the last year of a five-year consolidated municipal income tax return election period in effect under division (S)(1) of this section. The election to discontinue filing a consolidated municipal income tax return is binding for a five-year period beginning with the first taxable year of the election.

(3) An election made under division (S)(1) or (2) of this section is binding on all members of the affiliated group of corporations subject to a municipal income tax.

(T) A taxpayer that is a member of an affiliated group of corporations that filed a consolidated federal income tax return for a taxable year shall file a consolidated City income tax return for that taxable year if the Tax Administrator determines, by a preponderance of the evidence, that intercompany transactions have not been conducted at arm's length and that there has been a distortive shifting of income or expenses with regard to allocation of net profits to the City. A taxpayer that is required to file a consolidated City income tax return for a taxable year shall file a consolidated City income tax return for all subsequent taxable years, unless the taxpayer requests and receives written permission from the Tax Administrator to file a separate return or a taxpayer has experienced a change in circumstances.

(U) A taxpayer shall prepare a consolidated City income tax return in the same manner as is required under the United States department of treasury regulations that prescribe procedures for the preparation of the consolidated federal income tax return required to be filed by the common parent of the affiliated group of which the taxpayer is a member.

(V)(1) Except as otherwise provided in divisions (V)(2), (3), and (4) of this section, corporations that file a consolidated municipal income tax return shall compute adjusted federal taxable income, as defined in Section 190.02, by substituting "consolidated federal taxable income" for "federal taxable income" wherever "federal taxable income" appears in that division and by substituting "an affiliated group of corporation's" for "a C corporation's" wherever "a C corporation's" appears in that division.

(2) No corporation filing a consolidated City income tax return shall make any adjustment otherwise required under Section 190.02(C)(1) to the extent that the item of income or deduction otherwise subject to the adjustment has been eliminated or consolidated in the computation of consolidated federal taxable income.

(3) If the net profit or loss of a pass-through entity having at least eighty percent (80%) of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated federal taxable income for a taxable year, the corporation filing a consolidated City income tax return shall do one of the following with respect to that pass-through entity's net profit or loss for that taxable year:

(a) Exclude the pass-through entity's net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purpose of making the computations required in divisions (R) through (Y) of Section 190.05, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit sitused to the City. If the entity's net profit or loss is so excluded, the entity shall be subject to taxation as a separate taxpayer on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.

(b) Include the pass-through entity's net profit or loss in the consolidated federal taxable income of the affiliated group and, for the purpose of making the computations required in divisions (R) through (Y) of Section 190.05, include the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit sitused to the City. If the entity's net profit or loss is so included, the entity shall not be subject to taxation as a separate taxpayer on the basis of the entity's net profits that are included in the consolidated federal taxable income of the affiliated group.

(4) If the net profit or loss of a pass-through entity having less than eighty percent of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated federal taxable income for a taxable year, all of the following shall apply:

(a) The corporation filing the consolidated municipal income tax return shall exclude the pass-through entity's net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purposes of making the computations required in divisions (R) through (Y) of Section 190.05, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit sitused to the City;

(b) The pass-through entity shall be subject to the City income taxation as a separate taxpayer in accordance with this chapter on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.

(W) Corporations filing a consolidated City income tax return shall make the computations required under divisions (R) through (Y) of Section 190.05 by substituting "consolidated federal taxable income attributable to" for "net profit from" wherever "net profit from" appears in that section and by substituting "affiliated group of corporations" for "taxpayer" wherever "taxpayer" appears in that section.

(X) Each corporation filing a consolidated City income tax return is jointly and severally liable for any tax, interest, penalties, fines, charges, or other amounts imposed by the City in accordance with this chapter on the corporation, an affiliated group of which the corporation is a member for any portion of the taxable year, or any one or more members of such an affiliated group.

(Y) Corporations and their affiliates that made an election or entered into an agreement with the City before January 1, 2016, to file a consolidated or combined tax return with the City may continue to file consolidated or combined tax returns in accordance with such election or agreement for taxable years beginning on and after January 1, 2016.

SECTION 190.06 CREDIT FOR TAX PAID TO OTHER MUNICIPALITIES.

(A) Every individual taxpayer domiciled in the City who is required to and does pay, or has acknowledged liability for, a municipal tax to another municipality on or measured by the same income, qualifying wages, commissions, net profits or other compensation taxable under this chapter may claim a nonrefundable credit upon satisfactory evidence of the tax paid to the other municipality. Subject to division (C) of this section, the credit shall not exceed the tax due the City under this chapter.

(B) The City shall grant a credit against its tax on income to a resident of the City who works in a joint economic development zone created under Section 715.691 or a joint economic development district created under Section 715.70, 715.71, or 715.72 of the ORC to the same extent that it grants a credit against its tax on income to its residents who are employed in another municipal corporation.

(C) If the amount of tax withheld or paid to the other municipality is less than the amount of tax required to be withheld or paid to the other municipality, then for purposes of division (A) of this section, "the income, qualifying wages, commissions, net profits or other compensation" subject to tax in the other municipality shall be limited to the amount computed by dividing the tax withheld or paid to the other municipality by the tax rate for that municipality.

(D) The City shall grant a credit against its tax on income to a resident of the City, who works in a county that imposes an income tax, to the same extent that it grants a credit against its tax on income to its residents who are employed in a municipal corporation.]

SECTION 190.07 ESTIMATED TAXES.

(A) As used in this section:

(1) "Estimated taxes" means the amount that the taxpayer reasonably estimates to be the taxpayer's tax liability for the City's income tax for the current taxable year.

(2) "Tax liability" means the total taxes due to the City for the taxable year, after allowing any credit to which the taxpayer is entitled, and after applying any estimated tax payment, withholding payment, or credit from another taxable year.

(B)(1) Every taxpayer shall make a declaration of estimated taxes for the current taxable year, on the form prescribed by the Tax Administrator, if the amount payable as estimated taxes is at least $200. For the purposes of this section:

(a) Taxes withheld for the City from qualifying wages shall be considered as paid to the City in equal amounts on each payment date unless the taxpayer establishes the dates on which all amounts were actually withheld, in which case they shall be considered as paid on the dates on which the amounts were actually withheld.

(b) An overpayment of tax applied as a credit to a subsequent taxable year is deemed to be paid on the date of the postmark stamped on the cover in which the payment is mailed or, if the payment is made by electronic funds transfer, the date the payment is submitted. As used in this division, "date of the postmark" means, in the event there is more than one date on the cover, the earliest date imprinted on the cover by the postal service.

(2) Taxpayers filing joint returns shall file joint declarations of estimated taxes. A taxpayer may amend a declaration under rules prescribed by the Tax Administrator. A taxpayer having a taxable year of less than twelve months shall make a declaration under rules prescribed by the Tax Administrator.

(3) The declaration of estimated taxes shall be filed on or before the date prescribed for the filing of municipal income tax returns under division (G) of Section 190.05 or on or before the fifteenth (15^{th}) day of the fourth month after the taxpayer becomes subject to tax for the first time.

(4) Taxpayers reporting on a fiscal year basis shall file a declaration on or before the fifteenth (15^{th}) day of the fourth month after the beginning of each fiscal year or period.

(5) The original declaration or any subsequent amendment may be increased or decreased on or before any subsequent quarterly payment day as provided in this section.

(C)(1) The required portion of the tax liability for the taxable year that shall be paid through estimated taxes made payable to the City, including the application of tax refunds to estimated taxes and withholding on or before the applicable payment date, shall be as follows:

(a) On or before the fifteenth (15^{th}) day of the fourth month after the beginning of the taxable year, twenty-two and one-half (22.5) percent of the tax liability for the taxable year;

(b) On or before the fifteenth (15^{th}) day of the sixth month after the beginning of the taxable year, forty-five (45) percent of the tax liability for the taxable year;

(c) On or before the fifteenth (15^{th}) day of the ninth month after the beginning of the taxable year, sixty-seven and one-half (67.5) percent of the tax liability for the taxable year;

(d) On or before the fifteenth (15^{th}) day of the twelfth month of the taxable year, ninety percent (90%) of the tax liability for the taxable year.

(2) When an amended declaration has been filed, the unpaid balance shown due on the amended declaration shall be paid in equal installments on or before the remaining payment dates.

(3) On or before the fifteenth (15^{th}) day of the fourth month of the year following that for which the declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due shall be paid with the return in accordance with Section 718.05.

(D)(1) In the case of any underpayment of any portion of a tax liability, penalty and interest may be imposed pursuant to Section 190.18 upon the amount of underpayment for the period of underpayment, unless the underpayment is due to reasonable cause as described in division (E) of this section. The amount of the underpayment shall be determined as follows:

(a) For the first payment of estimated taxes each year, twenty-two and one-half percent (22.5%) of the tax liability, less the amount of taxes paid by the date prescribed for that payment;

(b) For the second payment of estimated taxes each year, forty-five percent (45%) of the tax liability, less the amount of taxes paid by the date prescribed for that payment;

(c) For the third payment of estimated taxes each year, sixty-seven and one-half percent (67.5%) of the tax liability, less the amount of taxes paid by the date prescribed for that payment;

(d) For the fourth payment of estimated taxes each year, ninety percent (90%) of the tax liability, less the amount of taxes paid by the date prescribed for that payment.

(2) The period of the underpayment shall run from the day the estimated payment was required to be made to the date on which the payment is made. For purposes of this section, a payment of estimated taxes on or before any payment date shall be considered a payment of any previous underpayment only to the extent the payment of estimated taxes exceeds the amount of the payment presently required to be paid to avoid any penalty.

(E) An underpayment of any portion of tax liability determined under division (D) of this section shall be due to reasonable cause and the penalty imposed by this section shall not be added to the taxes for the taxable year if any of the following apply:

(1) The amount of estimated taxes that were paid equals at least ninety percent (90%) of the tax liability for the current taxable year, determined by annualizing the income received during the year up to the end of the month immediately preceding the month in which the payment is due.

(2) The amount of estimated taxes that were paid equals at least one hundred percent of the tax liability shown on the return of the taxpayer for the preceding taxable year, provided that the immediately preceding taxable year reflected a period of twelve months and the taxpayer filed a return with the City under Section 190.05 for that year.

(3) The taxpayer is an individual who resides in the City but was not domiciled there on the first day of January of the calendar year that includes the first day of the taxable year.

SECTION 190.08 ROUNDING OF AMOUNTS.

A person may round to the nearest whole dollar all amounts the person is required to enter on any return, report, voucher, or other document required under this chapter. Any fractional part of a dollar that equals or exceeds fifty cents shall be rounded to the next whole dollar, and any fractional part of a dollar that is less than fifty cents shall be dropped. If a person chooses to round amounts entered on a document, the person shall round all amounts entered on the document.

SECTION 190.09 REQUESTS FOR REFUNDS.

(A) As used in this section, "withholding tax" has the same meaning as in Section 190.18.

(B) Upon receipt of a request for a refund, the Tax Administrator, in accordance with this section, shall refund to employers, agents of employers, other payers, or taxpayers, with respect to any income or withholding tax levied by the municipal corporation:

(1) Overpayments of more than ten dollars or more;

(2) Amounts paid erroneously if the refund requested exceeds ten dollars or more.

(C)(1) Except as otherwise provided in this chapter, requests for refund shall be filed with the Tax Administrator, on the form prescribed by the Tax Administrator within three years after the tax was due or paid, whichever is later. The Tax Administrator may require the requestor to file with the request any documentation that substantiates the requestor's claim for a refund.

(2) On filing of the refund request, the Tax Administrator shall determine the amount of refund due and certify such amount to the appropriate municipal corporation official for payment. Except as provided in division (C)(3) of this section, the administrator shall issue an assessment to any taxpayer whose

request for refund is fully or partially denied. The assessment shall state the amount of the refund that was denied, the reasons for the denial, and instructions for appealing the assessment.

(3) If a Tax Administrator denies in whole or in part a refund request included within the taxpayer's originally filed annual income tax return, the Tax Administrator shall notify the taxpayer, in writing, of the amount of the refund that was denied, the reasons for the denial, and instructions for requesting an assessment that may be appealed under Section 190.21.

(D) A request for a refund that is received after the last day for filing specified in division (C) of this section shall be considered to have been filed in a timely manner if any of the following situations exist:

(1) The request is delivered by the postal service, and the earliest postal service postmark on the cover in which the request is enclosed is not later than the last day for filing the request.

(2) The request is delivered by the postal service, the only postmark on the cover in which the request is enclosed was affixed by a private postal meter, the date of that postmark is not later than the last day for filing the request, and the request is received within seven days of such last day.

(3) The request is delivered by the postal service, no postmark date was affixed to the cover in which the request is enclosed or the date of the postmark so affixed is not legible, and the request is received within seven days of the last day for making the request.

(E) Interest shall be allowed and paid on any overpayment by a taxpayer of any municipal income tax obligation from the date of the overpayment until the date of the refund of the overpayment, except that if any overpayment is refunded within 90 days after the final filing date of the annual return or 90 days after the completed return is filed, whichever is later, no interest shall be allowed on the refund. For the purpose of computing the payment of interest on amounts overpaid, no amount of tax for any taxable year shall be considered to have been paid before the date on which the return on which the tax is reported is due, without regard to any extension of time for filing that return. Interest shall be paid at the interest rate described in Section 190.18(A)(4).

SECTION 190.10 SECOND MUNICIPALITY IMPOSING TAX AFTER TIME PERIOD ALLOWED FOR REFUND.

(A) Income tax that has been deposited with the City, but should have been deposited with another municipality, is allowable by the City as a refund but is subject to the three-year limitation on refunds.

(B) Income tax that was deposited with another municipality but should have been deposited with the City is subject to recovery by the City. If the City's tax on that income is imposed after the time period allowed for a refund of the tax or withholding paid to the other municipality, the City shall allow a nonrefundable credit against the tax or withholding the City claims is due with respect to such income or wages, equal to the tax or withholding paid to the first municipality with respect to such income or wages.

(C) If the City's tax rate is less than the tax rate in the other municipality, then the nonrefundable credit shall be calculated using the City's tax rate. However, if-the City's tax rate is greater than the tax rate in the other municipality, the tax due in excess of the nonrefundable credit is to be paid to the City, along with any penalty and interest that accrued during the period of nonpayment.

(D) Nothing in this section permits any credit carryforward.

SECTION 190.11 AMENDED RETURNS.

(A)(1) If a taxpayer's tax liability shown on the annual tax return for the City changes as a result of an adjustment to the taxpayer's federal or state income tax return, the taxpayer shall file an amended return with the City. The amended return shall be filed on a form required by the Tax Administrator.

(2) If a taxpayer intends to file an amended consolidated municipal income tax return, or to amend its type of return from a separate return to a consolidated return, based on the taxpayer's consolidated federal income tax return, the taxpayer shall notify the Tax Administrator before filing the amended return.

(B)(1) In the case of an underpayment, the amended return shall be accompanied by payment of any combined additional tax due, together with any penalty and interest thereon. If the combined tax shown to be due is ten dollars or less, no payment need be made. The amended return shall reopen those facts, figures, computations, or attachments from a previously filed return that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return only:

(i) to determine the amount of tax that would be due if all facts, figures, computations, and attachments were reopened; or,

(ii) if the applicable statute of limitations for civil actions or prosecutions under Section 12 has not expired for a previously filed return.

(2) The additional tax to be paid shall not exceed the amount of tax that would be due if all facts, figures, computations, and attachments were reopened; i.e., the payment shall be the lesser of the two amounts.

(C)(1) In the case of an overpayment, a request for refund may be filed under this division within the period prescribed by division (E) of Section 12 for filing the amended return, even if it is filed beyond the period prescribed in that division if it otherwise conforms to the requirements of that division. If the amount of the refund is less than ten dollars, no refund need be paid by the City. A request filed under this division shall claim refund of overpayments resulting from alterations only to those facts, figures, computations, or attachments required in the taxpayer's annual return that are affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return, unless it is also filed within the time prescribed in Section 9.

(2) The amount to be refunded shall not exceed the amount of refund that would be due if all facts, figures, computations, and attachments were reopened. All facts, figures, computations, and attachments may be reopened to determine the refund amount due by inclusion of all facts, figures, computations, and attachments.

(D) Within 60 days after the final determination of any federal or state tax liability affecting the taxpayer's City's tax liability, that taxpayer shall make and file an amended City return showing income subject to City income tax based upon such final determination of federal or state tax liability. The taxpayer shall pay any additional City income tax shown due thereon or make a claim for refund of any overpayment, unless the tax or overpayment is less than ten dollars.

SECTION 190.12 LIMITATIONS.

(A)(1)(a) Civil actions to recover municipal income taxes and penalties and interest on municipal income taxes shall be brought within the later of:

(i) Three years after the tax was due or the return was filed, whichever is later; or

(ii) One year after the conclusion of the qualifying deferral period, if any.

(b) The time limit described in division (A)(1)(a) of this section may be extended at any time if both the Tax Administrator and the employer, agent of the employer, other payer, or taxpayer consent in writing to the extension. Any extension shall also extend for the same period of time the time limit described in division (C) of this section.

(2) As used in this section, "qualifying deferral period" means a period of time beginning and ending as follows:

(a) Beginning on the date a person who is aggrieved by an assessment files with the Board of Tax Review the request described in Section 190.21. That date shall not be affected by any subsequent decision, finding, or holding by any administrative body or court that the Board of Tax Review did not have jurisdiction to affirm, reverse, or modify the assessment or any part of that assessment.

(b) Ending the later of the sixtieth day after the date on which the final determination of the Board of Tax Review becomes final or, if any party appeals from the determination of the ~~local~~ board of Tax Review, the sixtieth day after the date on which the final determination of the Board of Tax Review is either ultimately affirmed in whole or in part or ultimately reversed and no further appeal of either that affirmation, in whole or in part, or that reversal is available or taken.

(B) Prosecutions for an offense made punishable under a resolution or ordinance imposing an income tax shall be commenced within three years after the commission of the offense, provided that in the case of fraud, failure to file a return, or the omission of twenty-five percent (25%) or more of income required to be reported, prosecutions may be commenced within six years after the commission of the offense.

(C) A claim for a refund of municipal income taxes shall be brought within the time limitation provided in Section 9.

(D)(1) Notwithstanding the fact that an appeal is pending, the petitioner may pay all or a portion of the assessment that is the subject of the appeal. The acceptance of a payment by the City does not prejudice any claim for refund upon final determination of the appeal.

(2) If upon final determination of the appeal an error in the assessment is corrected by the Tax Administrator, upon an appeal so filed or pursuant to a final determination of the Board of Tax Review, of the Ohio board of tax appeals, or any court to which the decision of the Ohio board of tax appeals has been appealed, so that the resultant amount due is less than the amount paid, a refund will be paid in the amount of the overpayment as provided by Section 9, with interest on that amount as provided by division (E) of Section 9.

(E) No civil action to recover the City income tax or related penalties or interest shall be brought during either of the following time periods:

(1) The period during which a taxpayer has a right to appeal the imposition of that tax or interest or those penalties;

(2) The period during which an appeal related to the imposition of that tax or interest or those penalties is pending.

SECTION 190.13 AUDITS.

(A) At or before the commencement of an audit, the Tax Administrator shall provide to the taxpayer a written description of the roles of the Tax Administrator and of the taxpayer during the audit and a statement of the taxpayer's rights, including any right to obtain a refund of an overpayment of a tax. At or before the commencement of an audit, the Tax Administrator shall inform the taxpayer when the audit is considered to have commenced.

(B) Except in cases involving suspected criminal activity, the Tax Administrator shall conduct an audit of a taxpayer during regular business hours and after providing reasonable notice to the taxpayer. A taxpayer who is unable to comply with a proposed time for an audit on the grounds that the proposed time would cause inconvenience or hardship must offer reasonable alternative dates for the audit.

(C) At all stages of an audit by the Tax Administrator, a taxpayer is entitled to be assisted or represented by an attorney, accountant, bookkeeper, or other tax practitioner. The Tax Administrator shall prescribe a form by which a taxpayer may designate such a person to assist or represent the taxpayer in the conduct of any proceedings resulting from actions by the Tax Administrator. If a taxpayer has not submitted such a form, the Tax Administrator may accept other evidence, as the Tax Administrator considers appropriate, that a person is the authorized representative of a taxpayer.

A taxpayer may refuse to answer any questions asked by the person conducting an audit until the taxpayer has an opportunity to consult with the taxpayer's attorney, accountant, bookkeeper, or other tax practitioner.

This division does not authorize the practice of law by a person who is not an attorney.

(D) A taxpayer may record, electronically or otherwise, the audit examination.

(E) The failure of the Tax Administrator to comply with a provision of this section shall neither excuse a taxpayer from payment of any taxes owed by the taxpayer nor cure any procedural defect in a taxpayer's case.

(F) If the Tax Administrator fails to substantially comply with the provisions of this section, the Tax Administrator, upon application by the taxpayer, shall excuse the taxpayer from penalties and interest

SECTION 190.14 SERVICE OF ASSESSMENT.

(A) As used in this section:

(1) "Last known address" means the address the Tax Administrator has at the time a document is originally sent by certified mail, or any address the Tax Administrator can ascertain using reasonable means such as the use of a change of address service offered by the postal service or an authorized delivery service under Section 5703.056 of the ORC.

(2) "Undeliverable address" means an address to which the postal service or an authorized delivery service under Section 5703.056 of the ORC is not able to deliver an assessment of the Tax Administrator, except when the reason for non-delivery is because the addressee fails to acknowledge or accept the assessment.

(B) Subject to division (C) of this section, a copy of each assessment shall be served upon the person affected thereby either by personal service, by certified mail, or by a delivery service authorized under Section 5703.056 of the ORC. With the permission of the person affected by an assessment, the Tax Administrator may deliver the assessment through alternative means as provided in this section, including, but not limited to, delivery by secure electronic mail.

(C)(1)(a) If certified mail is returned because of an undeliverable address, a Tax Administrator shall utilize reasonable means to ascertain a new last known address, including the use of a change of address service offered by the postal service or an authorized delivery service under Section 5703.056 of the ORC. If the Tax Administrator is unable to ascertain a new last known address, the assessment shall be sent by ordinary mail and considered served. If the ordinary mail is subsequently returned because of an undeliverable address, the assessment remains appealable within 60 days after the assessment's postmark.

(b) Once the Tax Administrator or other the City official, or the designee of either, serves an assessment on the person to whom the assessment is directed, the person may protest the ruling of that assessment by filing an appeal with the local board of tax review within 60 days after the receipt of service. The delivery of an assessment of the Tax Administrator under division (C)(1)(a) of this section is prima facie evidence that delivery is complete and that the assessment is served.

(2) If mailing of an assessment by a Tax Administrator by certified mail is returned for some cause other than an undeliverable address, the Tax Administrator shall resend the assessment by ordinary mail. The assessment shall show the date the Tax Administrator sends the assessment and include the following statement:

"This assessment is deemed to be served on the addressee under applicable law ten days from the date this assessment was mailed by the Tax Administrator as shown on the assessment, and all periods within which an appeal may be filed apply from and after that date."

Unless the mailing is returned because of an undeliverable address, the mailing of that information is prima facie evidence that delivery of the assessment was completed ten days after the Tax Administrator sent the assessment by ordinary mail and that the assessment was served.

If the ordinary mail is subsequently returned because of an undeliverable address, the Tax Administrator shall proceed under division (C)(1)(a) of this section. A person may challenge the presumption of delivery and service under this division in accordance with division (D) of this section.

(D)(1) A person disputing the presumption of delivery and service under division (C) of this section bears the burden of proving by a preponderance of the evidence that the address to which the assessment was sent by certified mail was not an address with which the person was associated at the time the Tax Administrator originally mailed the assessment. For the purposes of this section, a person is associated with an address at the time the Tax Administrator originally mailed the assessment if, at that time, the person was residing, receiving legal documents, or conducting business at the address; or if, before that time, the person had conducted business at the address and, when the assessment was mailed, the person's agent or the person's affiliate was conducting business at the address. For the purposes of this section, a person's affiliate is any other person that, at the time the assessment was mailed, owned or controlled at least 20 percent, as determined by voting rights, of the addressee's business.

(2) If a person elects to appeal an assessment on the basis described in division (D)(1) of this section, and if that assessment is subject to collection and is not otherwise appealable, the person must do so within 60 days after the initial contact by the Tax Administrator or other the City official, or the designee of either, with the person. Nothing in this division prevents the Tax Administrator or other official from entering into a compromise with the person if the person does not actually file such an appeal with the local board of tax review.

(E) Nothing in this section prohibits the Tax Administrator or the Tax Administrator's designee from delivering an assessment by a Tax Administrator by personal service.

(F) Collection actions taken upon any assessment being appealed under division (C)(1)(b) of this section, including those on which a claim has been delivered for collection, shall be stayed upon the pendency of an appeal under this section.

(G) Additional regulations as detailed in the Rules and Regulations shall apply.

SECTION 190.15 ADMINISTRATION OF CLAIMS.

(A) As used in this section, "claim" means a claim for an amount payable to the City that arises pursuant to the City's income tax imposed in accordance with this chapter.

(B) Nothing in this chapter prohibits a Tax Administrator from doing either of the following if such action is in the best interests of the municipal corporation:

(1) Compromise a claim;

(2) Extend for a reasonable period the time for payment of a claim by agreeing to accept monthly or other periodic payments.

(C) The Tax Administrator's rejection of a compromise or payment-over-time agreement proposed by a person with respect to a claim shall not be appealable.

(D) A compromise or payment-over-time agreement with respect to a claim shall be binding upon and shall be to the benefit of only the parties to the compromise or agreement, and shall not eliminate or otherwise affect the liability of any other person.

(E) A compromise or payment-over-time agreement with respect to a claim shall be void if the taxpayer defaults under the compromise or agreement or if the compromise or agreement was obtained by fraud or by misrepresentation of a material fact. Any amount that was due before the compromise or agreement and that is unpaid shall remain due, and any penalties or interest that would have accrued in the absence of the compromise or agreement shall continue to accrue and be due.

SECTION 190.16 TAX INFORMATION CONFIDENTIAL.

(A) Any information gained as a result of returns, investigations, hearings, or verifications required or authorized by this chapter is confidential, and no person shall access or disclose such information except in accordance with a proper judicial order or in connection with the performance of that person's official duties or the official business of the City as authorized by this chapter. The Tax Administrator or a designee thereof may furnish copies of returns filed or otherwise received under this chapter and other related tax information to the internal revenue service, the tax commissioner, and tax administrators of other municipal corporations.

(B) This section does not prohibit the City from publishing or disclosing statistics in a form that does not disclose information with respect to particular taxpayers.

SECTION 190.17 FRAUD.

No person shall knowingly make, present, aid, or assist in the preparation or presentation of a false or fraudulent report, return, schedule, statement, claim, or document authorized or required by the City ordinance or state law to be filed with ~~a~~ the Tax Administrator, or knowingly procure, counsel, or advise the preparation or presentation of such report, return, schedule, statement, claim, or document, or knowingly change, alter, or amend, or knowingly procure, counsel or advise such change, alteration, or amendment of the records upon which such report, return, schedule, statement, claim, or document is based with intent to defraud the City or the Tax Administrator.

SECTION 190.18 INTEREST AND PENALTIES.

(A) As used in this section:

(1) "Applicable law" means this chapter, the resolutions, ordinances, codes, directives, instructions, and rules adopted by the City provided they impose or directly or indirectly address the levy, payment, remittance, or filing requirements of the City.

(2) "Federal short-term rate" means the rate of the average market yield on outstanding marketable obligations of the United States with remaining periods to maturity of three years or less, as determined under Section 1274 of the Internal Revenue Code, for July of the current year.

(3) "Income tax," "estimated income tax," and "withholding tax" means any income tax, estimated income tax, and withholding tax imposed by the City pursuant to applicable law, including at any time before January 1, 2016.

(4) "Interest rate as described in division (A) of this section" means the federal short-term rate, rounded to the nearest whole number percent, plus five percent. The rate shall apply for the calendar year next following the July of the year in which the federal short-term rate is determined in accordance with division (A)(2) of this section.

(5) "Return" includes any tax return, report, reconciliation, schedule, and other document required to be filed with ~~a~~ the Tax Administrator or the City by a taxpayer, employer, any agent of the employer, or any other payer pursuant to applicable law, including at any time before January 1, 2016.

(6) "Unpaid estimated income tax" means estimated income tax due but not paid by the date the tax is required to be paid under applicable law.

(7) "Unpaid income tax" means income tax due but not paid by the date the income tax is required to be paid under applicable law.

(8) "Unpaid withholding tax" means withholding tax due but not paid by the date the withholding tax is required to be paid under applicable law.

(9) "Withholding tax" includes amounts an employer, any agent of an employer, or any other payer did not withhold in whole or in part from an employee's qualifying wages, but that, under applicable law, the employer, agent, or other payer is required to withhold from an employee's qualifying wages.

(B)(1) This section applies to the following:

(a) Any return required to be filed under applicable law for taxable years beginning on or after January 1, 2016;

(b) Income tax, estimated income tax, and withholding tax required to be paid or remitted to the City on or after January 1, 2016.

(2) This section does not apply to returns required to be filed or payments required to be made before January 1, 2016, regardless of the filing or payment date. Returns required to be filed or payments required to be made before January 1, 2016, but filed or paid after that date shall be subject to the ordinances or rules and regulations, as adopted before January 1, 2016, of the City to which the return is to be filed or the payment is to be made.

(C) Should any taxpayer, employer, agent of the employer, or other payer for any reason fail~~s~~, in whole or in part, to make timely and full payment or remittance of income tax, estimated income tax, or withholding tax or to file timely with the City any return required to be filed, the following penalties and interest shall apply:

(1) Interest shall be imposed at the rate described in division (A) of this section, per annum, on all unpaid income tax, unpaid estimated income tax, and unpaid withholding tax.

(2)(a) With respect to unpaid income tax and unpaid estimated income tax, the City may impose a penalty equal to fifteen percent (15%) of the amount not timely paid.

(b) With respect to any unpaid withholding tax, the City may impose a penalty equal to fifty percent (50%) of the amount not timely paid.

(3) With respect to returns other than estimated income tax returns, the City may impose a penalty of $25 for each failure to timely file each return, regardless of the liability shown thereon for each month, or any fraction thereof, during which the return remains unfiled regardless of the liability shown thereon. The penalty shall not exceed $150 for each failure.

(D) Nothing in this section requires the City to refund or credit any penalty, amount of interest, charges, or additional fees that the City has properly imposed or collected before January 1, 2016.

(E) Nothing in this section limits the authority of the City to abate or partially abate penalties or interest imposed under this section when the Tax Administrator determines, in the Tax Administrator's sole discretion, that such abatement is appropriate.

(F) By the 31st day of October of each year the City shall publish the rate described in division (A) of this section applicable to the next succeeding calendar year.

(G) The City may impose on the taxpayer, employer, any agent of the employer, or any other payer the City's post-judgment collection costs and fees, including attorney's fees.

SECTION 190.19 AUTHORITY OF TAX ADMINISTRATOR; VERIFICATION OF INFORMATION.

Authority.

(A) Nothing in this chapter shall limit the authority of the Tax Administrator to perform any of the following duties or functions, unless the performance of such duties or functions is expressly limited by a provision of the ORC:

(1)(a) Exercise all powers whatsoever of an inquisitorial nature as provided by law, including, the right to inspect books, accounts, records, memorandums, and federal and state income tax returns, to examine persons under oath, to issue orders or subpoenas for the production of books, accounts, papers, records, documents, and testimony, to take depositions, to apply to a court for attachment proceedings as for contempt, to approve vouchers for the fees of officers and witnesses, and to administer oaths.

(b) The powers referred to in this division of this section shall be exercised by the Tax Administrator only in connection with the performance of the duties respectively assigned to the Tax Administrator under the City's income tax ordinance;

(2) Appoint agents and prescribe their powers and duties;

(3) Confer and meet with officers of other municipal corporations and states and officers of the United States on any matters pertaining to their respective official duties as provided by law;

(4) Exercise the authority provided by law, including orders from bankruptcy courts, relative to remitting or refunding taxes, including penalties and interest thereon, for any reason overpaid. In addition, the Tax Administrator may investigate any claim of overpayment and, if the Tax Administrator finds that there has been an overpayment, make a written statement of the Tax Administrator's findings, and

approve and issue a refund payable to the taxpayer, the taxpayer's assigns, or legal representative as provided in this chapter;

(5) Exercise the authority provided by law relative to consenting to the compromise and settlement of tax claims;

(6) Exercise the authority provided by law relative to the use of alternative apportionment methods by taxpayers in accordance with Section 190.03;

(7)(a) Make all tax findings, determinations, computations, and orders the Tax Administrator is by law authorized and required to make and, pursuant to time limitations provided by law, on the Tax Administrator's own motion, review, re-determine, or correct any tax findings, determinations, computations, or orders the Tax Administrator has made.

(b) If an appeal has been filed with the Board of Tax Review or other appropriate tribunal, the Tax Administrator shall not review, re-determine, or correct any tax finding, determination, computation, or order which the Tax Administrator has made, unless such appeal or application is withdrawn by the appellant or applicant, is dismissed, or is otherwise final;

(8) Destroy any or all returns or other tax documents in the manner authorized by law;

(9) Enter into an agreement with a taxpayer to simplify the withholding obligations described in Section 190.04.

Verification of accuracy of returns and determination of liability.

(B)(1) A Tax Administrator, or any authorized agent or employee thereof may examine the books, papers, records, and federal and state income tax returns of any employer, taxpayer, or other person that is subject to, or that the Tax Administrator believes is subject to, the provisions of this chapter for the purpose of verifying the accuracy of any return made or, if no return was filed, to ascertain the tax due under this chapter. Upon written request by the Tax Administrator or a duly authorized agent or employee thereof, every employer, taxpayer, or other person subject to this section is required to furnish the opportunity for the Tax Administrator, authorized agent, or employee to investigate and examine such books, papers, records, and federal and state income tax returns at a reasonable time and place designated in the request.

(2) The records and other documents of any taxpayer, employer, or other person that is subject to, or that a Tax Administrator believes is subject to, the provisions of this chapter shall be open to the Tax Administrator's inspection during business hours and shall be preserved for a period of six years following the end of the taxable year to which the records or documents relate, unless the Tax Administrator, in writing, consents to their destruction within that period, or by order requires that they be kept longer. The Tax Administrator may require any person, by notice served on that person, to keep such records as the Tax Administrator determines necessary to show whether or not that person is liable, and the extent of such liability, for the income tax levied by the City or for the withholding of such tax.

(3) The Tax Administrator may examine under oath any person that the Tax Administrator reasonably believes has knowledge concerning any income that was or would have been returned for taxation or any transaction tending to affect such income. The Tax Administrator may, for this purpose, compel any such person to attend a hearing or examination and to produce any books, papers, records, and federal and state income tax returns in such person's possession or control. The person may be assisted or represented by

an attorney, accountant, bookkeeper, or other tax practitioner at any such hearing or examination. This division does not authorize the practice of law by a person who is not an attorney.

(4) No person issued written notice by the Tax Administrator compelling attendance at a hearing or examination or the production of books, papers, records, or federal or state income tax returns under this section shall fail to comply.

Identification information.

(C)(1) Nothing in this chapter prohibits the Tax Administrator from requiring any person filing a tax document with the Tax Administrator to provide identifying information, which may include the person's social security number, federal employer identification number, or other identification number requested by the Tax Administrator. A person required by the Tax Administrator to provide identifying information that has experienced any change with respect to that information shall notify the Tax Administrator of the change before, or upon, filing the next tax document requiring the identifying information.

(2)(a) If the Tax Administrator makes a request for identifying information and the Tax Administrator does not receive valid identifying information within 30 days of making the request, nothing in this chapter prohibits the Tax Administrator from imposing a penalty upon the person to whom the request was directed pursuant to Section 190.18, in addition to any applicable penalty described in Section 190.99.

(b) If a person required by the Tax Administrator to provide identifying information does not notify the Tax Administrator of a change with respect to that information as required under division (C) of Section 190.19 within 30 days after filing the next tax document requiring such identifying information, nothing in this chapter prohibits the Tax Administrator from imposing a penalty pursuant to Section 190.18.

(c) The penalties provided for under divisions (C)(2)(a) and (b) of this section may be billed and imposed in the same manner as the tax or fee with respect to which the identifying information is sought and are in addition to any applicable criminal penalties described in Section 190.99 for a violation of Section 190.17 and any other penalties that may be imposed by the Tax Administrator by law.

SECTION 190.20 REQUEST FOR OPINION OF THE TAX ADMINISTRATOR.

(A) An "opinion of the Tax Administrator" means an opinion issued under this section with respect to prospective municipal income tax liability. It does not include ordinary correspondence of the Tax Administrator.

(B) A taxpayer may submit a written request for an opinion of the Tax Administrator in accordance with the Rules and Regulations.

(C) A taxpayer is not relieved of tax liability for any activity or transaction related to a request for an opinion that contained any misrepresentation or omission of one or more material facts.

(D) A Tax Administrator may refuse to offer an opinion on any request received under this section. Such refusal is not subject to appeal.

(E) An opinion of the Tax Administrator binds the Tax Administrator only with respect to the taxpayer for whom the opinion was prepared and does not bind the Tax Administrator of any other municipal corporation.

(F) An opinion of the Tax Administrator issued under this section is not subject to appeal.

SECTION 190.21 BOARD OF TAX REVIEW.

(A)(1) The Board of Tax Review shall consist of three members. Two members shall be appointed by the legislative authority of the City, but such appointees may not be employees, elected officials, or contractors with the City at any time during their term or in the five years immediately preceding the date of appointment. One member shall be appointed by the Mayor of the City. This member may be an employee of the City, but may not be the director of finance or equivalent officer, or the Tax Administrator or other similar official or an employee directly involved in municipal tax matters, or any direct subordinate thereof.

(2) The term for members of the Board of Tax Review the City shall be two years. There is no limit on the number of terms that a member may serve if the member is reappointed by the legislative authority. The board member appointed by the Mayor of the City shall serve at the discretion of the administrative official.

(3) Members of the Board of Tax Review appointed by the legislative authority may be removed by the legislative authority by majority vote for malfeasance, misfeasance, or nonfeasance in office. To remove such a member, the legislative authority must give the member a copy of the charges against the member and afford the member an opportunity to be publicly heard in person or by counsel in the member's own defense upon not less than ten days' notice. The decision by the legislative authority on the charges is final and not appealable.

(4) A member of the Board of Tax Review who, for any reason, ceases to meet the qualifications for the position prescribed by this section shall resign immediately by operation of law.

(5) A vacancy in an unexpired term shall be filled in the same manner as the original appointment within 60 days of when the vacancy was created. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. No vacancy on the Board of Tax Review shall impair the power and authority of the remaining members to exercise all the powers of the Board of Tax Review.

(6) If a member is temporarily unable to serve on the Board of Tax Review due to a conflict of interest, illness, absence, or similar reason, the legislative authority or Mayor that appointed the member shall appoint another individual to temporarily serve on the Board of Tax Review in the member's place. The appointment of such an individual shall be subject to the same requirements and limitations as are applicable to the appointment of the member temporarily unable to serve.

(B) Whenever a Tax Administrator issues an assessment, the Tax Administrator shall notify the taxpayer in writing at the same time of the taxpayer's right to appeal the assessment, the manner in which the taxpayer may appeal the assessment, and the address to which the appeal should be directed.

(C) Any person who has been issued an assessment may appeal the assessment to the Board of Tax Review by filing a request with the Board of Tax Review. The request shall be in writing, shall specify the reason or reasons why the assessment should be deemed incorrect or unlawful, and shall be filed within 60 days after the taxpayer receives the assessment.

(D) The Board of Tax Review shall schedule a hearing to be held within 60 days after receiving an appeal of an assessment under division (C) of this section, unless the taxpayer requests additional time to prepare or waives a hearing. If the taxpayer does not waive the hearing, the taxpayer may appear before the Board of Tax Review and may be represented by an attorney at law, certified public accountant, or other representative. The Board of Tax Review may allow a hearing to be continued as jointly agreed to by the parties. In such a case, the hearing must be completed within 120 days after the first day of the hearing unless the parties agree otherwise.

(E) The Board of Tax Review may affirm, reverse, or modify the Tax Administrator's assessment or any part of that assessment. The Board of Tax Review shall issue a final determination on the appeal within 90 days after the Board of Tax Review's final hearing on the appeal, and send a copy of its final determination by ordinary mail to all of the parties to the appeal within 15 days after issuing the final determination. The taxpayer or the Tax Administrator may appeal the Board of Tax Review's final determination as provided in Section 5717.011 of the ORC.

(F) The Board of Tax Review created pursuant to this section shall adopt rules governing its procedures and shall keep a record of its transactions. Such records are not public records available for inspection under Section 149.43 of the ORC. Hearings requested by a taxpayer before a Board of Tax Review created pursuant to this section are not meetings of a public body subject to Section 121.22 of the ORC.

SECTION 190.22 AUTHORITY TO CREATE RULES AND REGULATIONS.

The Tax Administrator is hereby empowered to adopt and promulgate and to enforce rules and regulations relating to any matter or thing pertaining to the administration and enforcement of the provisions of this chapter. Such rules shall not conflict with or be inconsistent with any provision of this chapter. Taxpayers are hereby required to comply not only with the requirements of this chapter, but also to comply with the Rules and Regulations.

All rules adopted under this section shall be published and posted on the internet.

SECTION 190.23 RENTAL AND LEASED PROPERTY.

(A) All property owners, or their designated agents, of five or more units of real property located in the City, who rent or otherwise lease the same, or any part thereof, to any person for commercial, industrial or residential dwelling purposes, including apartments, rooms and other rental accommodations, during any calendar year, or part thereof, commencing with the effective date of this section, shall file with the Tax Administrator on or before the January 31 first following such calendar year a written report disclosing the name, address and also telephone number, if available, of each tenant known to have occupied such unit during the calendar year.

(B) The Tax Administrator may order the appearance before him, or his duly authorized agent, of any person whom he believes to have any knowledge of the name, address and telephone number of any tenant of residential rental real property in the City. The Tax Administrator, or his duly authorized agent, is authorized to examine any person, under oath, concerning the name, address and telephone number of any tenant of commercial, industrial or residential real property located in the City. The Tax Administrator, or his duly authorized agent, may compel the production of papers and records and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such person has knowledge of the name, address and telephone number of any tenant of commercial, industrial or residential real property in the City.

(C) Any property owner or person that violates one or more of the following shall be subject to Section 190.99 of this chapter:

(1) Fails, refuses or neglects to timely file a written report required by subsection (a) hereof; or

(2) Makes an incomplete or intentionally false written report required by subsection (a) hereof; or

(3) Fails to appear before the Tax Administrator or any duly authorized agent and to produce and disclose any tenant information pursuant to any order or subpoena of the Tax Administrator as authorized in this section; or

(4) Fails to comply with the provisions of this section or any order or subpoena of the Tax Administrator.

SECTION 190.24 SAVINGS CLAUSE.

This chapter shall not apply to any person, firm or corporation, or to any property as to whom or which it is beyond the power of Council to impose the tax herein provided for. Any sentence, clause, section or part of this chapter or any tax against or exception granted any individual or any of the several groups of persons, or forms of income specified herein if found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of Council that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, or part hereof, not been included therein.

SECTION 190.25 COLLECTION OF TAX AFTER TERMINATION OF ORDINANCE.

(A) This chapter shall continue effective insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions or proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue effective until all of said taxes levied hereunder in the aforesaid periods are fully paid and any and all suits and prosecutions for the collection of said taxes or for the punishment of violations of this chapter shall have been fully terminated, subject to the limitations contained in Section 190.12 and Section 190.99 hereof.

(B) Annual returns due for all or any part of the last effective year of this ordinance shall be due on the date provided in Sections 5 and Section 190.04 of this ordinance as though the same were continuing.

SECTION 190.26 ADOPTION OF RITA RULES AND REGULATIONS.

The City hereby adopts the Regional Income Tax Agency (RITA) Rules & Regulations, including amendments that may be made from time to time, for use as the City's Income Tax Rules and Regulations. In the event of a conflict with any provision(s) of the City Income Tax Ordinance and the RITA Rules & Regulations, the Ordinance will supersede. Until and if the contractual relationship between the City and RITA ceases, Section 190.26 will supersede Section 190.22 of this chapter regarding promulgation of rules and regulations by the Tax Administrator.

SECTION 190.27 CONTRACT PROVISIONS.

No contract on behalf of the City for works or improvements of the City shall be binding or valid unless the contract contains the following provisions:

"Such……..hereby further agrees to withhold all City income taxes due or payable under the provisions of Chapter 190 of the Codified Ordinances of the City of Reynoldsburg, for qualifying wages, salaries and commissions paid to its employees and further agrees that any of its subcontractors shall be required to agree to withhold any income taxes due under such chapter for services performed under this contract."

SECTION 190.99 VIOLATIONS; PENALTIES.

(A) Whoever violates Section 190.17, division (A) of Section 190.16, or Section 4 by failing to remit the City income taxes deducted and withheld from an employee, shall be guilty of a misdemeanor of the first degree and shall be subject to a fine of not more than $1,000 or imprisonment for a term of up to six months, or both. If the individual that commits the violation is an employee, or official, of the City, the individual is subject to discharge from employment or dismissal from office.

(B) Any person who discloses information received from the Internal Revenue Service in violation of division (A) of Section 190.16 shall be guilty of a felony of the fifth degree and shall be subject to a fine of not more than $5,000 plus the costs of prosecution, or imprisonment for a term not exceeding five years, or both. If the individual that commits the violation is an employee, or official, of the City, the individual is subject to discharge from employment or dismissal from office.

(C) Each instance of access or disclosure in violation of division (A) of Section 16 constitutes a separate offense.

(D) If not otherwise specified herein, no person shall:

(1) Fail, neglect or refuse to make any return or declaration required by this ordinance;

(2) File any incomplete or false return;

(3) Fail, neglect or refuse to pay the tax, penalties or interest imposed by this chapter;

(4) Refuse to permit the Tax Administrator or any duly authorized agent or employee to examine his books, records, papers and federal and state income tax returns relating to the income or net profits of a taxpayer;

(5) Fail to appear before the Tax Administrator and to produce his books, records, papers or federal and state income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Tax Administrator;

(6) Refuse to disclose to the Tax Administrator any information with respect to the income or net profits of a taxpayer;

(7) Fail to comply with the provisions of this ordinance or any order or subpoena of the Tax Administrator authorized hereby;

(8) Give to an employer false information as to his true name, correct social security number, and residence address, or fail to promptly notify an employer of any change in residence address and date thereof;

(9) Attempt to do anything whatsoever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this chapter.

(E) Any person who violates any of the provisions in Section 190.99(D) shall be subject to the penalties provided for in Section 190.99(A) of this chapter.

City Auditors Office

Richard Harris
7232 E. Main Street
Reynoldsburg OHIO 43068
Phone

ORDINANCE REQUEST

DATE:	**October 12, 2015**
TO:	**Richard Harris, City AuditorFinance Committee**
RE:	ORDINANCE MAKING TRANSFER OF FUNDS FROM THE UNAPPROPRIATED SPECIAL ASSESSMENT FUND (320) TO THE UNAPPROPRIATED GENERAL FUND.

Request Council transfer $28,734.66 from the unappropriated Special Assessment Fund (320) to the unappropriated General Fund. This fund collected monies to pay off bonds from an assessment project over 20 years ago the debt is now paid off and the money needs to be returned to the General Fund (110). This was requested by the State Auditors on our last audit

Water and Wastewater Department

Mike Root
614-322-4500 Phone

ORDINANCE REQUEST

DATE:	**October 12, 2015**
TO:	**Finance Committee**
RE:	ORDINANCE AUTHORIZING MAYOR TO ENTER INTO AN AGREEMENT WITH BERMEX INC., FOR METER READING SERVICES AND DECLARING AN EMERGENCY. (First Reading 9/28/2015 Requests Emergency Passage at Third Reading).

Emergency/Suspension: Emergency

Request for Emergency

Statement of necessity: Would like to pass after 3 readings to be able to get signed and into place before January 20, 2016.

Request legislation for the Mayor to enter into contract with Bermex, Inc. 37244 Groesbeck Highway, Suite A Clinton Township, MI 48036. Bermex will read a third of the City water meters monthly.

I'm asking to waive competitive bidding for this contract.

No new appropriation is needed for this contract.

Additional information is attached.

Mike Root
Water/Wastewater Superintendent
CITY OF REYNOLDSBURG
7232 EAST MAIN STREET
REYNOLDSBURG, OHIO 43068
(614) 322-4500 voice
(614) 575-4573 fax
mroot@ci.reynoldsburg.oh.us

MEMORANDUM

DATE: September 14, 2015

TO: Reynoldsburg City Council

CC: Mayor Brad McCloud, Auditor Richard Harris, Service Director, Nathan Burd

RE: Authorization to enter into a contract with Bermex Inc. for meter reading

The current contract will expire on January 20, 2016. The new contract will pick up on January 21, 2016 and run through December 31, 2017. I'm requesting to waive competitive bidding for this contract. Over the past year, we have had a great working relationship with them and we have been impressed with the quality of their work. There were no changes to the contract.

We will be billed per attempted read as follows.
Touch Pad and manual read is .55 cents a read
Radio Read unit will be .25 cents a read

If you have any questions, please contact me at (614)322-4500.

AGREEMENT

THIS AGREEMENT is entered this the _____ day of November, 2015 by and between the City of Reynoldsburg (hereinafter referred to as "Reynoldsburg") and Bermex, Inc. (hereinafter referred to as "Bermex").

Recitals

WHEREAS, Reynoldsburg is a Municipal Corporation organized under the laws of the State of Ohio and whose territory lies in Franklin, Licking, and Fairfield Counties. Reynoldsburg operates a water and sanitary sewer utility for the benefit of its residents; and

WHEREAS, Bermex is a Michigan for-profit corporation duly licensed to transact business in the State of Ohio; and

WHEREAS, Bermex is in the business of supplying labor and transportation for meter reading for various utilities; and

WHEREAS, Reynoldsburg is interested in contracting with Bermex for meter reading services; and

WHEREAS, the parties desire to set forth their agreement in writing.

Agreement

NOW THEREFORE, the parties agree as follows:

1) Bermex shall read water meters within Reynoldsburg's service area for the period of January 21, 2016 through December 31, 2017. Any extension of this period of service shall be mutually agreed upon in writing by both parties.
2) This Agreement and its terms may be terminated, with or without cause, by either party giving sixty (60) days written notice to the other party at the address provided elsewhere in this Agreement.
3) Reynoldsburg shall pay Bermex $0.55 per manual or touchpad read attempt, and $0.25 per radio read attempt. Bermex shall invoice Reynoldsburg once per month for the services provided, and Reynoldsburg shall remit payment within thirty (30) days after receipt of a correct invoice.
4) In addition to remuneration set forth in Paragraph 3, above, Bermex may charge Reynoldsburg a fuel surcharge of two and one-half percent (2.5%) of the total monthly charges when fuel for the vehicle being utilized exceeds $4.00 per gallon for twenty-one (21) days during a thirty day billing period.

5) Bermex' employees shall provide the meter reading services no earlier than 8:00 a.m. and not later than 5:00 p.m., Monday through Friday. The meter reader shall attempt to complete the reading of the entire route on its scheduled day. Reading of meters on a Saturday will be allowed if circumstances so require and prior approval has been obtained from Reynoldsburg. Readings on Sundays and holidays are prohibited. It is understood that certain weather conditions may interrupt the services to be provided under this contract, and all weather-related work stoppages shall be agreed upon by the parties. The Bermex employee(s) shall check-in at the start of their shift and check-out at the end of their shift. An employee of Reynoldsburg may periodically inspect the work being done by Bermex.

6) Bermex' meter reader(s) shall be responsible for obtaining complete and accurate meter readings and recording them in hand-held meter reading devices to be provided by Reynoldsburg in accordance with the schedule established. Reynoldsburg shall be responsible for providing electronic meter reading devices which are properly functioning and calibrated for Bermex' use. The electronic meter reading devices shall be programmed on a daily basis by Reynoldsburg and available to Bermex at the beginning of each day. The individual meter reader(s) shall be responsible, on a daily basis, to report damaged and/or broken meters, meter boxes and unreadable meters, etc., observed during the performance of their duties. In the event that such conditions exist, the meter reader will promptly advise Reynoldsburg of same. In no case shall Bermex be liable for not reading a meter due to unforeseen circumstances or circumstances beyond its control.

7) The individual(s) performing the service shall, at all times, be properly attired including the use of hard sole shoes. Uniforms which clearly identify Bermex' meter readers must be worn at work at all times. Bermex' vehicles will clearly identify that they are a Contract Meter Reader. Bermex will promptly return all hand held devices to Reynoldsburg upon termination or non-renewal of this Agreement.

8) It is expressly understood that the meter readers are employees of Bermex, and not employees of Reynoldsburg. Bermex shall furnish its employees with Workers' Compensation Insurance, Unemployment Insurance, Health Insurance, and the like. Liability Insurance for bodily injury and property damage in the amount of $500,000 per occurrence shall cover the employees, and documentation of the same shall be supplied to Reynoldsburg upon request. Bermex shall also provide Automobile Insurance in the same coverage amount for all vehicles being used by its employees in performing these services. Bermex shall be responsible for withholding all federal, state, and local taxes from its employees' pay.

9) Bermex shall furnish an Insurance Policy in the amount of $5,000 to cover the complete loss or damage to the handheld unit supplied by Reynoldsburg. Bermex understands that damage resulting from neglect or misuse will be paid by Bermex.

10) NOTICES. All notices to be delivered by one party to this Agreement to the other shall be addressed as follows:

Bermex, Inc.
37244 Groesbeck Hwy., Ste. A
Clinton Township, MI 48036
Attn.: Henry G. Mello, President

City of Reynoldsburg Water Dept.
7232 East Main St.
Reynoldsburg, OH 43068
Attn.: Mike Root, Superintendent

Both parties agree to notify the other in writing if the contact information stated herein changes.

11) Neither party may assign its terms or obligations under this contract without previous written consent of the other party.

12) If any legal dispute arises out of this Agreement, the parties hereby stipulate that the proper jurisdiction and venue for any legal action is in the Court of Common Pleas of Franklin County, Ohio.

13) BERMEX AGREES THAT REYNOLDSBURG WILL NOT BE LIABLE IN ANY WAY FOR ANY LOSS, DAMAGE, OR INJURY OF ANY KIND OR CHARACTER OR DEATH TO ANY PERSON, EMPLOYEE, AGENT, CONTRACTOR, GUEST, INVITEE, OR TO ANY OTHER INDIVIDUAL OR ENTITY FOR ANY PROPERTY LOSS. BERMEX AGREES TO DEFEND, INDEMNIFY, AND HOLD HARMLESS REYNOLDSBURG FROM AND AGAINST ANY AND ALL LIABILITIES, DAMAGES, CLAIMS, CAUSES OF ACTION, IN LAW AND EQUITY, LAWSUITS, CHARGES, COSTS (INCLUDING, BUT NOT LIMITED TO COURT COSTS, ATTORNEY'S FEES, AND COSTS OF INVESTIGATION), DAMAGES, EXPENSES, AWARDS, AND/OR JUDGMENTS BY REASON OF ANY LOSS, DAMAGE, INJURY, OR DEATH OR ANY PROPERTY LOSS CAUSED OR CONTRIBUTED (IN WHOLE OR IN PART) BY ANY NEGLIGENT ACT(S) OR OMISSION(S) OF BERMEX, AND ITS OFFICERS, EMPLOYEES, AGENTS, LICENSEES, INVITEES, OR GUESTS. IF ANY PROCEEDING SHALL BE BROUGHT BY OR AGAINST ANY ONE OR MORE PERSON OR ENTITY IN CONNECTION WITH SUCH LIABILITY OR CLAIM, BERMEX,UPON NOTICE FROM REYNOLDSBURG, SHALL DEFEND SUCH ACTION(S) OR PROCEEDING(S) OF ANY KIND AT BERMEX' EXPENSE, BY OR THROUGH ATTORNEYS REASONABLY SATISFACTORY TO REYNOLDSBURG. BERMEX' OBLIGATIONS HEREUNDER SHALL NOT BE LIMITED TO THE LIMITS OF COVERAGE OF INSURANCE MAINTAINED OR REQUIRED TO BE MAINTAINED

BY BERMEX UNDER THIS AGREEMENT. THIS PROVISION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

14) FORCE MAJEURE. Performance of this Agreement by each party shall pursued with due diligence in all requirements hereof; however, neither party shall be liable for any loss or damage for delay or for nonperformance due to the causes not reasonably within its control, such as acts of civil, or military authority (including courts or administrative agencies) acts of God, war, riot or insurrection, inability, to obtain required permits or licenses, blockades, embargoes, sabotage, epidemics, fires, unusually severe floods, strikes, lockouts or other labor disputes or difficulties; and provide the party affected shall promptly notify the other in writing of the nature, cause, date of commencement thereof, the anticipated extent of such delay. In the event of any delay resulting from such causes, the time of performance of each the parties hereunder shall be extended for a time period equal to the period of such delay.

15) This Agreement is intended as the complete and exclusive statement of the agreement between the parties. This Agreement shall not be amended or modified, and no waiver of any provision hereof shall be effective, unless set forth in a written instrument authorized and executed with the same formality as the Agreement and agreed to by both parties.

WHEREFORE, the parties hereto set their hands in furtherance of this Agreement.

CITY OF REYNOLDSBURG	BERMEX, INC.
Signature______________________	Signature__________________________
Printed________________________	Printed____________________________
Title__________________________	Title______________________________
Dated_________________________	Dated_____________________________

APPROVED AS TO FORM:

____

James E. Hood, City Attorney

FISCAL OFFICER'S CERTIFICATE

The undersigned Auditor for the City of Reynoldsburg hereby certifies that the funds necessary to pay this contract are either in the treasury or in the process of being collected.

____
Richard E. Harris, Auditor

Water and Wastewater Department

Mike Root
614-322-4500 Phone

ORDINANCE REQUEST

DATE:	**October 12, 2015**
TO:	**April Beggerow, Clerk of CouncilFinance Committee**
RE:	ORDINANCE AUTHORIZING MAYOR TO ENTER INTO AN AGREEMENT WITH CITY OF COLUMBUS, FOR THE 2016-2018 WATER SAMPLING SERVICES AND DECLARING AN EMERGENCY. (First Reading 9/28/2015 Requests Emergency Passage at Second Reading).

Emergency/Suspension: Emergency

Reason For Emergency: Immediate preservation of the public peace, health, or safety

Request for Emergency

Statement of necessity: Would like passage after 2 readings. Need time for City of Columbus to get signatures.

Request legislation for the Mayor to enter into contract with the City of Columbus, 910 Dublin Road, Columbus, Ohio 43215 for the 2016-2018 Total Coliform, TTHM's, HAA5's Sampling per OEPA for a contract amount of $24,000 a year.

Meter testing and water main break total coliform sampling will be done on an as needed basis.

I'm asking to waive competitive bidding for this contract.

No new appropriation is needed for this contract.

Additional information is attached.

Mike Root
Water/Wastewater Superintendent
CITY OF REYNOLDSBURG
7232 EAST MAIN STREET
REYNOLDSBURG, OHIO 43068
(614) 322-4500 voice
(614) 575-4573 fax
mroot@ci.reynoldsburg.oh.us

MEMORANDUM

DATE: **September 14, 2015**

TO: **Mayor Brad McCloud, Director of Public Service Nathan Burd, Finance Committee Chairman Barth Cotner, City Attorney Jed Hood**

RE: **2016-2018 Water Sampling Contract**

This contract is for our water sampling which includes Total Coliform, TTHM's, HAA5's and Lead and Copper. I'm requesting to waive competitive bidding for this contract. Over the past year, we have had a great working relationship with them and we have been impressed with the quality of their work. There is no change to the contract. This would be a 2 year contract with no price increase.

CONTRACT

BETWEEN THE CITY OF COLUMBUS
AND
THE CITY OF REYNOLDSBURG

FOR ANALYTICAL SERVICES

This Contract for sample collection and analytical services is entered into by and between the City of Reynoldsburg and the City of Columbus, Department of Public Utilities ("Columbus").

WITNESSETH

WHEREAS, the City of Reynoldsburg has a need for drinking water laboratory analytical services; and

WHEREAS, Columbus is willing to provide these services pursuant to the terms contained herein;

NOW, THEREFORE, in consideration of the mutual promises as hereinafter set forth, the parties agree as follows:

1. Contract Term
The term of this Contract shall be from 1/1/2016 to 12/31/2018. This Contact shall not auto-renew.

2. Scope of Services
Columbus agrees to provide drinking water laboratory analytical services for the City of Reynoldsburg pursuant to the conditions contained herein.

A. Monthly, Columbus will collect and analyze samples for total coliforms from a minimum of 40 locations, approved by OEPA pursuant to section 2.G, throughout Reynoldsburg's distribution system as required by the Total Coliform Rule. The City will utilize Ohio Environmental Protection Agency (OEPA) certified methods to conduct the testing.

B. Monthly, Columbus will also collect and analyze a minimum of 40 free and total chlorine samples at the coliform monitoring locations as identified in section 2.A. The City will utilize OEPA certified methods to conduct the testing.

C. Bimonthly, Heterotrophic plate count (HPC) analyses will also be performed on each monitoring location as identified in section 2.A at a minimum of 40 HPC samples every other month for a total of 240 per year. The City will utilize standard methods to conduct the testing.

D. Quarterly (March, June, September, and December), Columbus will collect and analyze total trihalomethanes (TTHM) and haloacetic acid 5 (HAA5) samples at 4 locations, approved by OEPA pursuant to section 2.G, within Reynoldsburg's distribution system as required by the Stage 2 Disinfectants/Disinfection Byproduct Rule. The City will utilize OEPA certified methods to conduct the testing.

E. Columbus will also analyze lead and/or copper samples, as needed, which have been collected by Reynoldsburg and delivered to the Water Quality Assurance Laboratory. Columbus will not arrange for the collection of the samples. Columbus will report the lead and copper sample results electronically to OEPA, but Reynoldsburg will be responsible for the paper submission of results and sample collection information to OEPA, per OEPA *Checklist for Completing Lead and Copper Sample Monitoring Requirements*.

F. The City of Columbus will report the monthly/quarterly results to the OEPA and Reynoldsburg by the 10^{th} of the following month as required by the OEPA.

G. The City of Columbus will analyze line repair samples for Reynoldsburg under the following conditions: Reynoldsburg will collect the sample, Reynoldsburg will conduct chlorine testing in the field, Reynoldsburg will deliver the samples to the Columbus Water Quality Assurance Laboratory Monday through Thursday between the hours of 8:00 am and 2:00 pm, samples will not be accepted the day before or the day of a holiday. The fee for the line repair sample will be per sample. The fee schedule and list of observed holidays is attached as Exhibit A. If the conditions are not met, Reynoldsburg will utilize a third party lab at their own expense.

H. The City of Reynoldsburg will select the monitoring locations, get them approved by OEPA, and provide the list to Columbus when sampling locations charge or need to be updated. Columbus will provide consultation for site selection if requested by Reynoldsburg.

I. Sampling and analytical services shall only be for the City of Reynoldsburg public water system OEPA compliance. Services will not be provided to customer owned residences for water quality complaints.

J. If total coliform sample results from section 2.A require repeat sample collection and analyses as specified by OEPA requirements, the WQAL will conduct the collection and analyses at no additional cost.

K. The City of Reynoldsburg shall supply a list of contacts and phone numbers Columbus personnel can utilize for questions. In addition, the City of Reynoldsburg shall also provide a 24-hour non-911 contact number. Reynoldsburg shall immediately notify Columbus of any changes or updates to contacts and phone numbers.

L. Samples will only be collected during normal business hours. Samples will not be collected on weekends or holidays.

M. Additional analyses may be performed with approval from both parties. The fee schedule for additional analyses is attached in Exhibit A.

3. Pricing and Payment

The charges for services provided under this Contract will be pursuant to the rates provided in Exhibit A, which is hereby incorporated into this Agreement and which will be amended by Columbus annually.

Columbus shall include a line item for analytical services on the current quarterly water and sewer invoice to the City of Reynoldsburg. The City of Reynoldsburg shall pay invoices within twenty-eight days of the date of the invoice.

Invoices will be submitted to: City of Reynoldsburg
7232 East Main Street
Reynoldsburg, Ohio 43068

4. Notice

Any notice or demand or other communication required or permitted to be given under this Contract or applicable law shall only be effective if it is in writing, properly addressed, and either delivered in person, or by a recognized courier service, or deposited with the United States Postal Services as first-class certified mail, postage prepaid and return receipt requested, to the parties at the following addresses:

For City of Reynoldsburg:	City of Reynoldsburg Attn: Mike Root 7232 East Main Street Reynoldsburg, Ohio 43068
For Columbus:	Water Quality Assurance Lab Manager 910 Dublin Rd. Columbus, OH 43215

5. Contract Termination

If either the City of Reynoldsburg or Columbus violates any material term or condition of this Contract or fails to fulfill in a timely and proper manner its obligations under this Contract, then the aggrieved party shall give the other party (the “responsible party”) written notice of such failure or violation. The responsible party will correct the violation or failure within thirty (30) calendar days or as otherwise mutually agreed. If the failure or violation is not corrected, this Agreement may be terminated immediately by written notice from the aggrieved party. The option to terminate shall be at the sole discretion of the aggrieved party.

When it is in the best interest of Columbus or the City of Reynoldsburg, either party, may terminate this Contract by providing thirty (30) calendar days written notice to the other party prior to the effective date of termination. If this Contract is so terminated, the City of Reynoldsburg shall be liable for payment according to the terms of this Contract for services provided by the City prior to the effective date of termination.

6. Applicable Law, Remedies

This Contract shall be governed in accordance with the laws of the State of Ohio. All claims, counterclaims, disputes and other matters in question between Columbus, its agents and employees, and the City of Reynoldsburg arising out of or relating to this Contract or its breach will be decided in a court of competent jurisdiction within the County of Franklin, State of Ohio.

7. Entire Agreement

This Contract sets forth the entire agreement between the parties with respect to the subject matter hereof. Understandings, agreements, representations, or warranties not contained in this Contract, or as written amendment hereto, shall not be binding on either party. Except as provided herein, no alteration of any terms or conditions of this Contract shall be binding on either party without the written consent of both parties. The terms and conditions specified in this Contract shall supersede any terms and conditions which may accompany the City of Reynoldsburg’s purchase order.

8. Modifications

No modification, amendment, alteration, addition or waiver of any section or condition of this Contract shall be effective or binding unless it is in writing and signed by an authorized representative of the Columbus and the City of Reynoldsburg and approved by the appropriate City authorities.

9. Nonexclusive Remedies

The remedies provided for in this Contract shall not be exclusive but are in addition to all other remedies available under the law.

10. Survivorship
All services executed pursuant to the authority of this Contract shall be bound by all of the terms, conditions, prices discounts and rates set forth herein, notwithstanding the expiration of the initial term of this Contract, or any extension thereof. Further, the terms, conditions, and warranties contained in this Contract that by their sense in context are intended to survive this completion of the performance, cancellation or termination of this Contract, shall so survive.

11. Save Harmless
To the extent permitted by law, the City of Reynoldsburg shall protect, indemnify and save Columbus harmless from and against any damage, cost, or liability, including reasonable attorneys' fees, resulting from claims for any or all injuries to persons or damage to property arising from intentional, willful or negligent acts or omissions of City of Reynoldsburg, its officers, employees, or agents.

12. Severability
If any term or condition of this Contract or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions, or applications which can be given effect without the invalid term, condition, or application; to this end the terms and conditions for the Contract are declared severable.

13. Assignment and Subcontract
Neither party may assign, subcontract, or otherwise transfer this Contract to others without the prior written consent of the other party. If this Contract is so assigned, it shall inure to the benefit of and be binding upon any respective successors and assigns (including successive, as well as immediate, successors and assignees) of the Contractor**.**

14. Authority to Bind
The signatories to this Contract represent that they have the authority to bind themselves and their respective municipalities to this Contract.

IN WITNESS WHEREOF, the parties have executed this Contract as of the day and year written below.

AGREED:

FOR CITY OF REYNOLDSBURG:	FOR COLUMBUS:
Brad McCloud Date Mayor	Greg Davies Date Director of Public Utilities
Approved as to Form	Approved as to Form:
James E. Hood City Attorney	City Attorney

EXHIBIT "A"

PRICING- 2016-18

The following table will be used to calculate charges for services included in this contract:

EVENT	PER MONTH CHARGE
Collection and analytical services to include: minimum of 40 total coliforms per month; minimum of 40 free and total chlorine per month; minimum of 40 heterotrophic plate count samples bimonthly; 4 total trihalomethanes per quarter; 4 haloacetic acid 5 per quarter; monthly reporting of electronic results to OEPA	$2,000.00
ADDITIONAL SERVICES:	**PER SAMPLE CHARGE**
Total coliform sample collection, analysis, and on-site free and total chlorine analysis	$40
Total coliform for line repair, collected by Reynoldsburg	$20
Total trihalomethane	$40
Haloacetic acid 5	$60
Heterotrophic plate count	$15
Chlorine meter calibration	$20
Lead analysis, sample collected by Reynoldsburg	$15
Copper analysis, sample collected by Reynoldsburg	$15

Normal Working Hours are 7:30 AM – 4:00 PM, Monday – Friday
Line repair samples will be accepted 8:00 AM – 2:00 PM, Monday – Thursday
Line repair samples will not be accepted the day before or the day of a holiday

Holidays Observed	2016	2017	2018
New Year's Day	January 1	January 2	January 1
Martin Luther King Jr. Day	January 18	January 16	January 15
President's Day	February 15	February 20	February 19
Memorial Day	May 30	May 29	May 28
Independence Day	July 4	July 4	July 4
Labor Day	September 5	September 4	September 3
Columbus Day	October 10	October 9	October 8
Thanksgiving Day	November 24	November 23	November 22
Christmas Day	December 26	December 25	December 25

Service Department

Nathan Burd
7232 E. Main Street
Reynoldsburg OH 43068
614-322-6884 Phone

RESOLUTION REQUEST

DATE:	**October 12, 2015**
TO:	**Finance Committee**
RE:	ORDINANCE AUTHORIZING MAYOR TO ENTER INTO AN AGREEMENT WITH CT CONSULTANTS FOR PROFESSIONAL CONSULTING AND GENERAL ENGINEERING SERVICES. (First Reading 9/28/2015).

This item will authorize the Mayor to enter into agreement with CT Consultants to serve as our secondary engineering firm for 2016 and 2017. Please see the attached memo and agreement for more information.

Nathan Burd
Director of Public Service
City of Reynoldsburg
7232 East Main Street
Reynoldsburg, Ohio 43068
(614) 322-6884
nburd@ci.reynoldsburg.oh.us

MEMORANDUM

Date: September 16, 2015
To: Reynoldsburg City Council Members
Re: Contract with CT Consultants for 2016 and 2017

We are required to request qualifications from engineering firms every two years prior to authorizing a two year contract for a primary and secondary engineering firm. Our committee received and evaluated submissions in June. EMH&T was the highest scoring firm and will serve as our primary engineering firm for the next two years. CT Consultants was the second highest scoring firm and this legislation will authorize a new two year contract with them for 2016 and 2017.

This agreement is largely the same as our current agreement with CT Consultants and the annual not-to-exceed amount for general engineering services remains $50,000. Hourly staff fees are outlined on the last page of the agreement (Exhibit B).

Our code requires that this item be introduced to Council by October, but there is no need for it to be marked as an emergency. It can go through the normal legislative process as it will not become effective until January 1, 2016. If you have any questions, please feel free to contact me. Thank you.

AGREEMENT
BETWEEN THE CITY OF REYNOLDSBURG, OHIO
AND THE FIRM OF CT CONSULTANTS, INC.

I. **THIS AGREEMENT**, made at the City of Reynoldsburg, Ohio this ____ day of ________________ in the year 2015 by and between the City of Reynoldsburg, 7232 East Main St., Reynoldsburg, OH 43068; hereinafter called the "CITY", and the firm of CT Consultants, Inc., whose office is located at 7965 North High Street, Suite 340, Columbus, Ohio 43235, hereinafter called the "ENGINEER", witnesseth;

WHEREAS, the CITY intends to employ a Municipal Engineering Consultant who is a qualified Engineering and Architectural Consulting Firm authorized in the State of Ohio to perform engineering, architectural and surveying services necessary to meet the challenges and needs of the community through the coming years for and on behalf of the CITY as hereinafter set forth; and

WHEREAS, said ENGINEER is authorized to practice engineering, architectural and surveying services in the State of Ohio as required by law, holds valid and current certificates of authorization, and currently maintains engineer's professional liability insurance; and

WHEREAS, the CITY and the ENGINEER desire that a designated representative of the ENGINEER be appointed to serve as the Municipal Engineering Consultant and provide the services as hereinafter described.

NOW THEREFORE, in consideration of these promises, and of the mutual covenants herein set forth, the CITY and the ENGINEER agree as follows:

II. **CONSULTING SERVICES**

A. The following professional services shall be performed by the ENGINEER for the CITY, either as a matter of routine or upon request of an appropriate CITY official as requested.

1. The attendance by the ENGINEER at Council and Planning Commission meetings, staff meetings, and other public, legislative or administrative meetings as requested.

2. Provide periodic progress reports of projects under the ENGINEER'S charge stating the condition of the same, together with any other matters of interest concerning same as required by the Mayor, Director of Public Service, or City Council.

3. Provide consultation as requested with the CITY Administration in the areas of capital planning and to develop strategies for infrastructure improvements and upgrades that would benefit the CITY.

4. Provide consultation, management and coordination with the City regarding ongoing compliance with Ohio and U.S. EPA regulatory matters.

5. Minor consultation and site inspection(s) with such authorized representatives of the CITY, including consultations with City Council, and coordination with CITY engineering staff; providing such consultation requires no preparation of detailed plans, detailed estimates, or field investigations.

6. Prepare preliminary opinions of probable construction costs for capital improvements along with estimated budgets of engineering and/or technical services in sufficient detail for review and approval.

7. Provide consultation and assistance for Financial Assistance. Services will include the preparation of preliminary opinions of probable construction cost and minor engineering details. Provide the research and investigation necessary to determine what resources are available to fund capital improvement projects.

8. Provide consultation services for construction projects being proposed by private developers in the CITY. Reviews and consultation shall be performed with respect to construction standards and methods; and such review shall verify compliance with CITY standards and codes.

III. PUBLIC IMPROVEMENTS

A. The CITY reserves the right to retain and pay for the services of other Consulting Engineer/Architectural Firm(s) for professional engineering/architectural services. It shall be the obligation of the ENGINEER to inform the CITY that a contemplated project is of such nature, scope or complexity that another engineering/architectural firm should be retained to perform the engineering services for the proposed project, in which event, the ENGINEER shall not be liable for the work performed or fees paid to any Consulting Engineer/Architectural Firm(s).

B. The following professional services shall be performed by the ENGINEER on specific public improvements for the CITY only after such services have been authorized by the CITY and evidence by an addendum to this agreement approved by the City Attorney:

1. The ENGINEER shall prepare detailed construction plans, specifications, cost estimates and construction proposals for public improvements.

2. The ENGINEER shall place copies of plans and specifications on view at the City's municipal office and in the ENGINEER'S office for information of equipment and material suppliers; and being available for interviews with prospective bidders during the period of advertisement for construction bids.

3. The ENGINEER shall assist the CITY in securing, tabulating and evaluating construction bids and furnishing an engineering assessment of the Contractor's capability to perform such public improvement. The ENGINEER will provide the CITY with a recommendation for the lowest and best bid.

4. The ENGINEER shall review and check all detailed construction drawings and all shop and erection drawings and other information submitted by contractors for compliance with design concept and requirements of the contract documents. This performance includes similar checking of laboratory, shop and mill reports of materials and equipment.

5. The ENGINEER shall visit from time to time the site of the work by a duly qualified representative of the ENGINEER throughout the active construction periods for review of the progress and quality of the construction work to assure compliance with the specifications and to provide consultation with CITY representatives. The ENGINEER shall not be responsible for, nor have control of, construction means, methods, techniques, sequences; or for safety programs in connection with the work by the Contractor(s). Consult with the CITY and act as City's representative as provided in the General Conditions of the construction contract.

6. The extent and limitations of the duties, responsibilities, and authority of the ENGINEER as assigned in the General Conditions shall not be modified, except as ENGINEER may otherwise agree in writing. All of the CITY's instructions to the Contractor will be issued through the ENGINEER, which shall have authority to act on behalf of the CITY in dealings with the Contractor to the extent provided in this Agreement and the General Conditions except as otherwise provided in writing. ENGINEER shall supervise and direct all Construction Project Representatives and such Construction Project Representatives shall report to and receive their instructions from the ENGINEER relative to the improvements authorized.

7. The ENGINEER shall provide a full-time, resident project representative and assistant; if necessary, who will act as directed by the ENGINEER in order to provide more extensive representation at construction project sites during the construction phase of any project. The duties and responsibilities of the resident project representative and assistant shall be set forth in Exhibit "A", a copy of which is attached hereto and incorporated herein by reference. The furnishing of such resident project representation shall not make the ENGINEER responsible for construction means, methods, techniques, sequences, or procedures, or for safety precautions or programs, or for the Contractor's failure to perform the construction work in accordance with the contract documents.

8. The ENGINEER shall provide on-site inspection of private development improvements according to the regulations of the Planning and Zoning Code and other Standards of the City of Reynoldsburg.

9. The ENGINEER shall furnish supplementary detailed working drawings, specifications and written instructions as may be necessary from time to time throughout the construction period to interpret the contract plans and documents and to resolve actual field conditions encountered.

10. The ENGINEER shall check interim and final estimates for payment to contractors.

11. The ENGINEER shall review all operation and performance tests required by the contract specifications.

12. The ENGINEER shall provide recommendations concerning completion and final acceptance of the construction work.

13. If and to the extent that the contract time initially established in a construction contract is exceeded or extended through no fault of the ENGINEER, compensation for services required for administration of the construction contract shall be payable as set forth in Article V.

14. In the event that the CITY employs Architects and/or Engineers other than the ENGINEER to perform design services for a public improvement, but elects to employ the ENGINEER for services during construction as outlined herein, the CITY agrees to pay the ENGINEER as outlined in Article V. Under such conditions, during the construction phase, the ENGINEER shall refer all questions regarding the design of the improvement to the Architect or Engineer, who shall respond to the ENGINEER acting in the place of the CITY. Any modifications or changes to improvement designs necessary to meet construction need shall be the responsibility of the Architect or Engineer. The Architect or Engineer shall prepare such revised drawings and/or specifications pursuant to the design contract with the CITY. If the ENGINEER is requested to prepare design modifications and/or changes or to revise construction drawings, such work shall be specifically authorized by the CITY and payment made as outlined in Article V.

15. When and if the CITY authorizes the ENGINEER to employ others to perform services in accordance with terms of this Agreement, the fee paid to the ENGINEER by the CITY for such services by other shall be actual costs invoiced to the ENGINEER plus 10%.

IV. SPECIFICALLY AUTHORIZED SERVICES

The ENGINEER may be required from time to time to provide these services to the CITY at the CITY's request:

A. Preparation, maintenance and reproduction of specifications and standards for public utilities.

B. Preparation, maintenance and reproduction of a comprehensive master plan for development of any public utilities.

C. Furnishing of field investigations, the preparation of studies and reports, and preliminary general plans.

D. Furnishing land surveys, establishment of boundaries and monuments, line, grade, topographic, easement and right-of-way field surveys and related office plotting of notes, computations, descriptions and drafting.

E. Furnishing of line and grade surveys for the construction of public improvements.

F. Computation and certification of the amount of special assessments for public improvements as may be required.

G. Prepare "Record" drawings in digital or hard copy format deemed acceptable by the CITY that reflect actual construction and make documents available upon the request of the CITY.

V. COMPENSATION

A. Compensation for services provided by the ENGINEER shall be paid on an hourly basis, except for plan reviews, which shall be lump sum. Exhibit "B" provides an hourly rate schedule for most personnel classifications and is considered a part of this Agreement.

B. Payments for the aforesaid professional services are to be paid monthly by the CITY upon receipt of a detailed statement of time and expenses from the ENGINEER.

C. Compensation for services rendered under Article II shall not exceed $50,000 annually without separate approval by the City Council.

VI. PERFORMANCE BY CITY

A. This proposal is based upon the understanding that the CITY, without expense to the ENGINEER, will:

1. Make available to ENGINEER all information, reports and other data in its files that are pertinent to the work herein proposed.

2. Provide all test borings or other soils investigations which are required for the proper design of the improvements, unless otherwise agreed upon.

3. Furnish testing laboratory services for inspection and testing materials and/or equipment as may be necessary to assure compliance with contract specifications, unless otherwise agreed upon.

4. Furnish all legal and/or land appraisal services which may be required.

VII. TERMINATION

In the event the CITY or the ENGINEER desires to terminate the Agreement, it will be effective thirty (30) days after notification by the party desiring to terminate. All other services shall cease at the end of thirty (30) days. The ENGINEER shall return to the CITY all maps, drawings and other CITY records.

VIII. TERM

The term of this Agreement shall begin on the date of this Agreement as set forth in Article I, above, and shall terminate on December 31, 2017, unless otherwise extended in writing upon mutual agreement of both Parties.

IX. INSURANCE

A. COVERAGE AND LIMITS OF LIABILITY:

CT shall provide coverage with limits of liability not less than those stated below:

1. **Commercial General Liability – Occurrence Form**

Policy shall include bodily injury, property damage, personal injury and broad form contractual liability coverage.

General Aggregate	$2,000,000
Products – Completed Operations Aggregate	$1,000,000
Personal and Advertising Injury	$1,000,000
Blanket Contractual Liability – Written and Oral	$1,000,000
Fire Legal Liability	$50,000
Each Occurrence	$1,000,000

a. The policy shall be endorsed to include the following additional insured language: "The City of Reynoldsburg, its departments, agencies, boards, commissions, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor".

b. Policy shall contain a waiver of subrogation against the City of Reynoldsburg, its departments, agencies, boards, commissions, officials, agents, and employees for losses arising from work performed by or on behalf of CT.

2. **Automobile Liability**

Bodily Injury and Property Damage for any owned, hired, and/or non-owned vehicles used in the performance of this Contract:

Combined Single Limit (CSL)	$1,000,000

The policy shall be endorsed to include the following additional insured language: "The City of Reynoldsburg, its departments, agencies, boards, commissions, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the involving automobiles owned, leased, hired or borrowed by the Contractor".

3. **Worker's Compensation and Employers' Liability**

   CT shall at all times during the term of this contract subscribe to and comply with the Worker's Compensation Laws of the State of Ohio, shall pay such premiums as may be required thereunder, and shall save the City harmless from any and all liability arising from or under said Act. It shall furnish at the time of delivery of this contract and at such other times as may be requests, a copy of the official certificate of receipt showing the payment hereinbefore referred.

B. ADDITIONAL INSURANCE REQUIREMENTS:

The policies shall include, or be endorsed to include, the following provisions:

1. The City of Reynoldsburg, its departments, agencies, boards, commissions, officials, agents, and employees wherever additional insured status is required such additional insured shall be covered to the full limits of liability purchased by CT, even if those limits of liability are in excess of those required by this Contract.

2. CT's insurance coverage shall be primary insurance with respect to all other available sources.

3. Coverage provided by the CT shall not be limited to the liability assumed under the indemnification provisions of this Contract.

C. NOTICE OF CANCELLATION:

Each insurance policy required by the insurance provisions of this Contract shall provide the required coverage and shall not be suspended, voided, canceled, or reduced in coverage or in limits except after thirty (30) days prior written notice has been given to the City of Reynoldsburg. Such notice shall be sent directly to Nathan Burd, Director of Public Service, City of Reynoldsburg, 7232 E. Main St., Reynoldsburg, OH 43068 and shall be sent by certified mail, return receipt requested.

D. ACCEPTABILITY OF INSURERS:

Insurance is to be placed with duly licensed or approved non-admitted insurers in the City of Reynoldsburg with an "A.M. Best" rating of not less than A-VII. The City of Reynoldsburg in no way warrants that the above-required minimum insurer rating is sufficient to protect CT from potential insurer insolvency.

E. VERIFICATION OF COVERAGE:

CT shall furnish the City of Reynoldsburg with certificates of insurance (ACORD form or equivalent approved by the City of Reynoldsburg) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and endorsements are to be received and approved by the City of Reynoldsburg before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.

All certificates required by this Contract shall be sent directly to Nathan Burd, Director of Public Service, City of Reynoldsburg, 7232 East Main St., Reynoldsburg, OH 43068. The City of Reynoldsburg project/contract number and project description shall be noted on the certificate of insurance. The City of Reynoldsburg reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time.

F. **SUBCONTRACTORS:**

CTs' certificate(s) shall include all subcontractors as insureds under its policies or CT shall furnish to the City of Reynoldsburg separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above.

G. **APPROVAL:**

Any modification or variation from the insurance requirements in this Contract shall be subject to approval by the City, whose decision shall be final.

H. **EXCEPTIONS:**

In the event CT or sub-contractor(s) is/are a public entity and is/are self insured, then the Insurance Requirements shall not apply. Such public entity shall provide a Certificate of Self-insurance.

X. **INDEMNIFICATION:**

CT shall indemnify, defend, save and hold harmless the City of Reynoldsburg, its departments, agencies, boards, commissions, officials, agents, and employees (hereinafter referred to as "Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property proximately caused, or alleged to be caused solely by the negligent acts or omissions or intentional misconduct of CT or any of its owners, officers, directors, agents, employees or subcontractors. This indemnity includes any claim or amount arising out of or recovered against the City of Reynoldsburg under the Workers' Compensation Law, Public Records Act, or proximately caused by CT's violation of applicable federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising from the sole or partially negligent acts or intentional misconduct or omissions of the Indemnitee, be indemnified by CT from and against any and all claims that are proximately caused by the negligent acts or omissions or intentional misconduct of CT. Under no circumstance shall CT be liable to indemnitee or any other person firm or entity, for any greater share of damages costs or expense than is directly attributable to its judicially determined percentage of fault. Furthermore, CT does not by this indemnification clause waive or forego its rights of contribution or indemnity against any person firm or entity. It is agreed that CT will be responsible for primary loss investigation, defense and judgment costs only if it has been legally established that CT is liable under this indemnification. In consideration of the award of this contract, CT agrees to waive all rights of subrogation against the City of Reynoldsburg, its officers, officials, agents and employees for damages solely and proximately resulting from its negligent acts or omissions or intentional misconduct in the performance of the work for the City of Reynoldsburg.

XI. **OHIO ELECTIONS LAW:**

ENGINEER affirms that, as applicable, no party listed in Division (I), (J), (Y), or (Z) of section 3517.13 of the Ohio Revised Code or spouse of such party has made, as an individual, within the two previous calendar years, one or more contributions totaling in excess of $500.00 to any elected official of the CITY OF REYNOLDSBURG.

XII. **CONTROLLING LAW:**

This agreement and the rights of the parties hereunder shall be governed by the laws of the State of Ohio, and any action with respect to this engagement shall be filed in the Franklin County, Ohio in a court of competent jurisdiction. The ENGINEER further shall obey or satisfy all lawful rules, regulations and requirements issued or promulgated under said respective laws by any duly authorized City, State or Federal officials.

XIII. **TAXES:**

The City is a tax exempt entity and shall provide a tax exempt certificate to the ENGINEER. The ENGINEER agrees to withhold all City Income Taxes due or payable under the provisions of Chapter 191 of the Codified Ordinance of the City of Reynoldsburg for wages, salaries, and commissions paid to employees and further agrees that any subcontractors shall be required to agree to withhold any such City Income Taxes due under said Chapter 191 of the Codified Ordinances of the City of Reynoldsburg for services performed under this contract.

XIV. **SPECIFIC TO SUBCONTRACTORS:**

A. No assignment of the contract or any portion thereof shall be made without prior written approval of the CITY.

B. ENGINEER shall be and remain solely responsible to the CITY for the acts ENGINEER performs or faults of and sub-CONTRACTOR and of any sub-CONTRACTOR'S officers, agents or employees.

C. ENGINEER shall indicate the percentage of contract to be subcontracted in contemplation of contract performance. Following the award of the contract, no additional subcontracting will be allowed without the express prior written consent of the City.

CITY OF REYNOLDSBURG, OHIO

By: ____________________________
Brad McCloud
Mayor

CT CONSULTANTS, INC.

By: ____________________________
J. Wesley Hall, P.E.
Vice President

APPROVED AS TO FORM

____
James E. Hood, Esq.
City Attorney

EXHIBIT A

Duties, Responsibilities, and Limitations of Authority of Resident Project Representative

Section III.B.7 of the Agreement is herein amended and supplemented to include the following agreement of the Parties:

A1.01 Resident Project Representative

A. Engineer shall furnish a Resident Project Representative ("RPR"), assistants, and other field staff to assist Engineer in observing progress and quality of the Work. The RPR, assistants, and other field staff under this Exhibit A may provide full time representation or may provide representation to a lesser degree.

B. Through such additional observations of Contractor's work in progress and field checks of materials and equipment by the RPR and assistants, Engineer shall endeavor to provide further protection for Owner against defects and deficiencies in the Work. However, Engineer shall not, during such visits or as a result of such observations of Contractor's work in progress, supervise, direct, or have control over the Contractor's Work nor shall Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures selected or used by Contractor, for security or safety at the Site, for safety precautions and programs incident to the Contractor's work in progress, for any failure of Contractor to comply with Laws and Regulations applicable to Contractor's performing and furnishing the Work, or responsibility of construction for Contractor's failure to furnish and perform the Work in accordance with the Contract Documents.

C. The duties and responsibilities of the RPR are as follows:

1. *General:* RPR is Engineer's agent at the Site, will act as directed by and under the supervision of Engineer, and will confer with Engineer regarding RPR's actions. RPR's dealings in matters pertaining to the Contractor's work in progress shall in general be with Engineer and Contractor, keeping Owner advised as necessary. RPR's dealings with subcontractors shall only be through or with the full knowledge and approval of Contractor. RPR shall generally communicate with City with the knowledge of and under the direction of Engineer.

2. *Schedules:* Review the progress schedule, schedule of Shop Drawing and Sample submittals, and schedule of values prepared by Contractor and consult with Engineer concerning acceptability.

3. *Conferences and Meetings:* Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences and other project-related meetings, and prepare and circulate copies of minutes thereof.

4. *Liaison:*

   a. Serve as Engineer's liaison with Contractor, working principally through Contractor's superintendent, assist in providing information regarding the intent of the Contract Documents.

   b. Assist Engineer in serving as the City's liaison with Contractor when Contractor's operations affect Owner's on-Site operations.

c. Assist in obtaining from City additional details or information, when required for proper execution of the Work.

5. *Interpretation of Contract Documents:* Report to Engineer when clarifications and interpretations of the Contract Documents are needed and transmit to Contractor clarifications and interpretations as issued by Engineer.

6. *Shop Drawings and Samples:*

a. Record date of receipt of Samples and approved Shop Drawings.

b. Receive Samples which are furnished at the Site by Contractor, and notify Engineer of availability of Samples for examination.

c. Advise Engineer and Contractor of the commencement of any portion of the Work requiring a Shop Drawing or Sample submittal for which RPR believes that the submittal has not been approved by Engineer.

7. *Modifications:* Consider and evaluate Contractor's suggestions for modifications in Drawings or Specifications and report such suggestions, together with RPR's recommendations, to Engineer. Transmit to Contractor in writing decisions as issued by Engineer.

8. *Review of Work and Rejection of Defective Work:*

a. Conduct on-Site observations of Contractor's work in progress to assist Engineer in determining if the Work is in general proceeding in accordance with the Contract Documents.

b. Report to Engineer whenever RPR believes that any part of Contractor's work in progress will not produce a completed Project that conforms generally to the Contract Documents or will imperil the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made; and advise Engineer of that part of work in progress that RPR believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection or approval.

9. *Inspections, Tests, and System Startups:*

a. Consult with Engineer in advance of scheduled major inspections, tests, and systems startups of important phases of the Work.

b. Verify that tests, equipment, and systems start-ups and operating and maintenance training are conducted in the presence of appropriate City personnel, and that Contractor maintains adequate records thereof.

c. Observe, record, and report to Engineer appropriate details relative to the test procedures and systems start-ups.

d. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Project, record the results of these inspections, and report to Engineer.

10. *Records:*

a. Maintain at the Site orderly files for correspondence, reports of job conferences, reproductions of original Contract Documents including all Change Orders, Field Orders, Work Change Directives, Addenda, additional Drawings issued subsequent to the execution of the Contract, Engineer's clarifications and interpretations of the Contract Documents, progress reports, Shop Drawing and Sample submittals received from and delivered to Contractor, and other Project-related documents.

b. Prepare a daily report or keep a diary or log book, recording Contractor's hours on the Site, weather conditions, data relative to questions of Change Orders, Field Orders, Work Change Directives, or changed conditions, Site visitors, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to Engineer.

c. Record names, addresses, fax numbers, e-mail addresses, web site locations, and telephone numbers of all Contractors, subcontractors, and major suppliers of materials and equipment.

d. Maintain records for use in preparing Project documentation.

e. Upon completion of the Work, furnish original set of all RPR Project documentation to Engineer.

11. *Reports:*

a. Furnish to Engineer periodic reports as required of progress of the Work and of Contractor's compliance with the progress schedule and schedule of Shop Drawing and Sample submittals.

b. Draft and recommend to the Engineer proposed Change Orders, Work Change Directives, and Field Orders. Obtain backup material from Contractor.

c. Furnish to Engineer and Owner copies of all inspection, test, and system start-up reports.

d. Immediately notify Engineer of the occurrence of any Site accidents, emergencies, acts of God endangering the Work, damage to property by fire or other causes, or the discovery of any Constituent of Concern.

12. *Payment Requests:* Review Applications for Payment with Contractor for compliance with the established procedure for their submission and forward with recommendations to Engineer, noting particularly the relationship of the payment requested to the schedule of values, Work completed, and materials and equipment delivered at the Site but not incorporated in the Work.

13. *Certificates, Operation and Maintenance Manuals:* During the course of the Work, verify that materials and equipment certificates, operation and maintenance manuals and other data required by the Specifications to be assembled and furnished by Contractor are applicable to the items actually installed and in accordance with the Contract Documents, and have these documents delivered to Engineer for review and forwarding to Owner prior to payment for that part of the Work.

14. *Completion:*

    a. Participate in a Substantial Completion inspection, assist in the determination of Substantial Completion and the preparation of lists of items to be completed or corrected.

    b. Participate in a final inspection in the company of Engineer, City, and Contractor and prepare a final list of items to be completed and deficiencies to be remedied.

    c. Observe whether all items on the final list have been completed or corrected and make recommendations to Engineer concerning acceptance and issuance of the Notice of Acceptability of the Work.

D. Resident Project Representative shall not:

1. Authorize any deviation from the Contract Documents or substitution of materials or equipment (including "or-equal" items).

2. Exceed limitations of Engineer's authority as set forth in the Agreement or the Contract Documents.

3. Undertake any of the responsibilities of Contractor, subcontractors, suppliers, or Contractor's superintendent.

4. Advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences or procedures of Contractor's work unless such advice or directions are specifically required by the Contract Documents.

5. Advise on, issue directions regarding, or assume control over safety practices, precautions, and programs in connection with the activities or operations of Owner or Contractor.

6. Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by Engineer.

7. Accept Shop Drawing or Sample submittals from anyone other than Contractor.

8. Authorize City to occupy the Project in whole or in part.

EXHIBIT B

City of Reynoldsburg
Hourly Billing Rate Schedule
Contract Term 1/1/16 through 12/31/17

A schedule of hourly billing rates by personnel classification is provided as reference. The complexity of a task and/or project may or may not require special expertise; however, our schedule includes those employees with specialized skills available to assist with projects and tasks requested by the City of Reynoldsburg. CT Consultants offers these skills in-house over a wide range of staff so it is not possible to provide a single hourly rate for each classification that is appropriate and representative of all within the specific classification.

Employee Classification	Ranges of Hourly Rates[1]		
	2016	2017	2018[2]
Engineer 1	$69 - $75	$71 - $77	$73 - $79
Engineer 2	$74 - $90	$76 - $93	$79 - $96
Engineer 3	$85 - $101	$87 - $104	$90 - $107
Engineer 4	$95 - $133	$98 - $137	$101 - $141
Engineer 5	$127 - $186	$131 - $192	$135 - $197
Engineer Co-op	$37 - $43	$38 - $44	$40 - $45
Designer	$85 - $117	$87 - $120	$90 - $124
Professional Surveyor/Coordinator	$106 - $117	$109 - $120	$112 - $124
Surveying Assistant	$69 - $85	$71 - $88	$73 - $90
1-Man Survey Crew	$80 - $106	$82 - $109	$84 - $113
2-Man Survey Crew	$132 - $165	$136 - $169	$140 - $175
CAD Technician	$69 - $82	$71 - $84	$73 - $87
GIS Specialist	$74 - $85	$76 - $88	$79 - $90
Landscape Architect	$90 - $101	$93 - $104	$96 - $107
Chief Architect/CBO/Plans Examiner	$170	$174	$180
Architect 3/Plans Examiner	$90 - $101	$93 - $104	$96 - $107
Architect 2	$74 - $90	$76 - $93	$79 - $96
Construction Project Manager	$85 - $117	$87 - $120	$90 - $124
Construction Representative 1	$55 - $69	$57 - $71	$59 - $73
Construction Representative 2	$69 - $85	$71 - $88	$73 - $90
Construction Representative 3	$85 - $106	$87 - $109	$90 - $113
Contract Document Coordinator	$69 - $85	$71 - $88	$73 - $90
Public Finance Analyst	$90 - $101	$93 - $104	$96 - $107
Officer	$143	$147	$152

(1): *The classifications include a variety of disciplines including structural, highway, bridge, traffic, electrical, and mechanical disciplines. Therefore, a range must be provided. Billing rates include direct labor rates, overhead, and profit. The City will be invoiced based on the actual hourly rate of the individuals assigned to the various tasks. Reimbursable expenses (milage, reproduction, etc.) will be billed separately.*

(2): *2018 rates are provided to cover any assignment(s) in progress at the end of 2017 that may extend into 2018 for completion.*

Police Department
James O'Neill
7240 E. Main Street
Reynoldsburg OHIO 43068
614-322-6947 Phone

ORDINANCE REQUEST

DATE:	**October 12, 2015**
TO:	**Finance Committee**
RE:	ORDINANCE AUTHORIZING CITY AUDITOR TO REMOVE EQUIPMENT FROM THE CITY'S FIXED ASSET LIST.(First Reading 9/28/2015.)

The Reynoldsburg Division of Police request for Council to approve the removal of Item FA 1811 Speed Trailer from the fixed asset list. This item is broken and cannot be repaired.

Board of Zoning and Building Appeals

Anthony Rettke
7232 E. Main Street
Reynoldsburg OHIO 43068
Phone

ORDINANCE REQUEST

DATE:	**October 12, 2015**
TO:	**Eric Snowden, Planning AdministratorService Committee**
RE:	ORDINANCE APPROVING SPECIAL EXCEPTION USE PERMIT - (6366 E. Main Street; proposed use - Auto Sales); applicant, Jason P. Goss. (Second Reading 9/28/2015)

6366 E. Main St.; Application #170493; Auto Direct Reynoldsburg, LLC; Auto Direct Columbus Ohio Inc.

CITY OF REYNOLDSBURG

Planning and Zoning Office
City of Reynoldsburg
7232 East Main Street
Reynoldsburg, Ohio

Application #: 170493
Permit #:
Date Submitted: 7/8/15
Fee Amount: $350.00
☒ Paid: 3931

Section 1139
BOARD OF ZONING & BUILDING APPEALS APPLICATION

I. PROPERTY INFORMATION

Property Address: 6366 E. Main St

II. PROPERTY OWNER OF RECORD

Property Owner Name(s): Auto Direct Reynoldsburg LLC

Contact Email: AutoDirect73@Yahoo.com

Contact Phone Number: 614 565 7763

III. BUSINESS INFORMATION (IF APPLICABLE)

Business Name: Auto Direct Columbus OH Inc

Contact Name: Jason Goss

Contact Phone Number: 614 565 7763

Contact Email: AutoDirect73@Yahoo.com

Description of Use: Auto Sales

IV. APPLICANT INFORMATION

Applicant Name: Jason P. Goss

Applicant Address: 6675 Clark State Rd Blacklick OH 43004

Applicant Phone Number: 614 565 7763

Applicant Email: AutoDirect73@Yahoo.com

☒ Property Owner ☒ Business Owner ☐ Contractor ☐ Architect

PROJECT INFORMATION

CHECK AND DESCRIBE IF APPLY:

Variance (☐ Non-Residential ($450) / ☐ Residential ($100)):

☐ **Major/Minor Site Plan Review ($500/$250):**

☒ **Special Exception Use ($350):** Auto Sales

☐ **Other:**

Applicant shall submit **nine (9) copies** of application and materials to the Planning Administrator. Please review the attached sections of the Zoning Code and note the items you are responsible for submitting with this application.

Applicant Signature: [signature] Date: 7-1-15

****OFFICE USE ONLY****

Additional Notes:

Zoning Information
Zoning District: CC
☐ Historic District
☐ CC Overlay

Other Board Approval
☐ DRB

City Council Meeting Date:
☐ No Action Taken
☐ Approved (w/ Conditions)
☐ Introduced As Ordinance
☐ Denied

BZBA Meeting Date: 7/30/15
☐ Approved as Submitted
☐ Approved w/ Conditions
☐ Tabled
☐ Denied

Clerk of Council Initials: Date:
Planner Initials: Date:

Attachment: BZBA App 170493 (1170 : 6366 E. Main St.)

Map1

Boundary

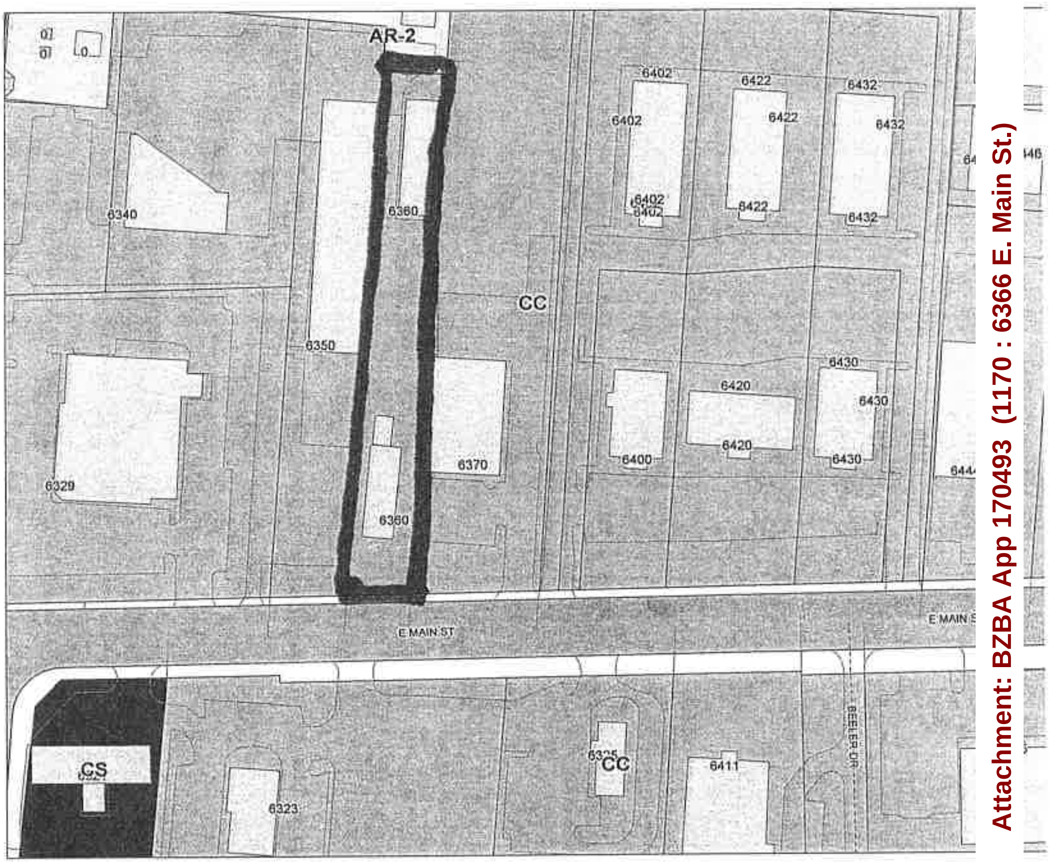
- County Lines
- Corporate Boundary
- Historic District

Cadastral

- Abc House Number
- Street Names
- Private Streets
- Right of Way
- Lot Line
- Parcels

Planimetric

- Buildings
- Driveways
- Railroad
- Drainage
- Pavement
- Waterway_line



SCALE 1 : 2,216

100 0 100 200 300

FEET

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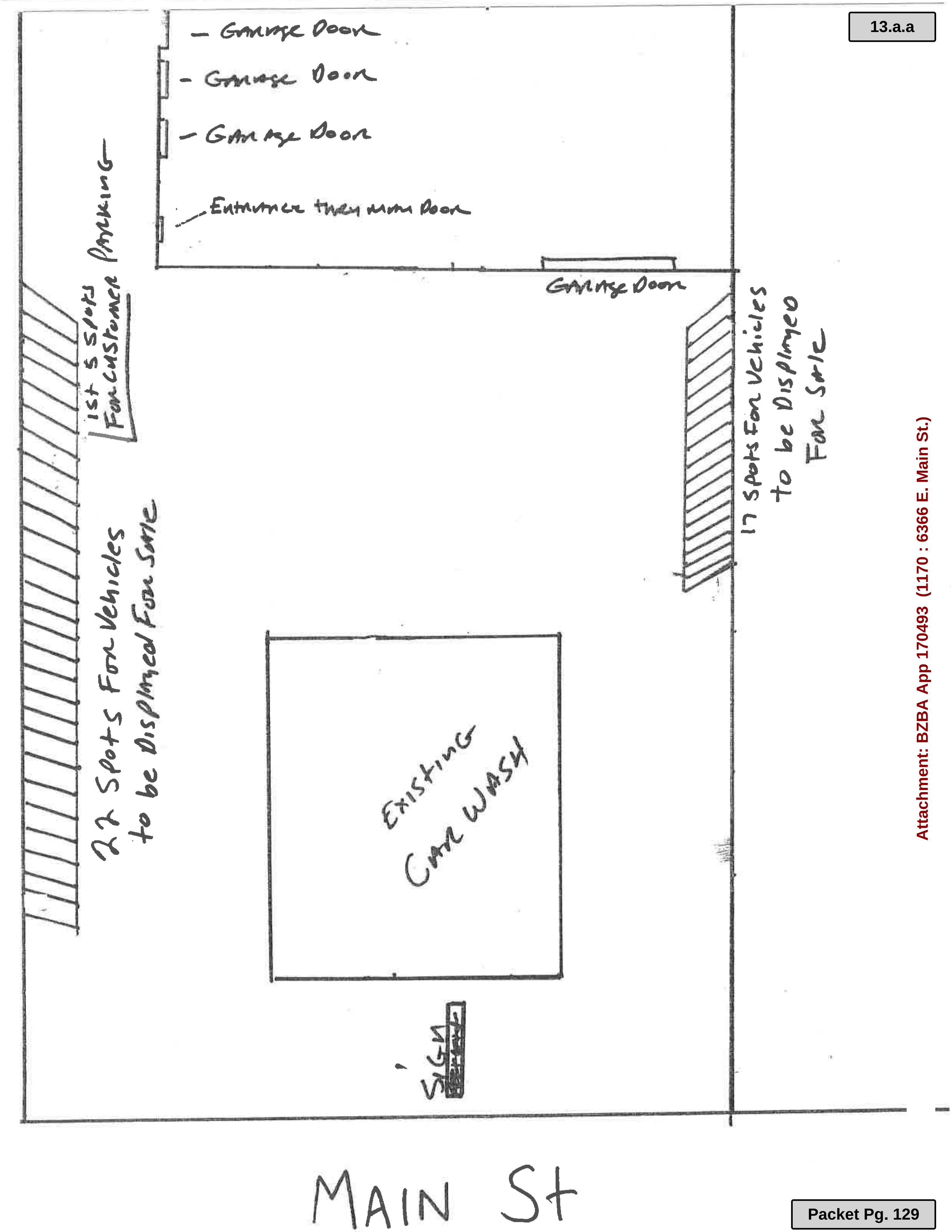

Garage Door
Garage Door
Garage Door
Entrance thru main door
Garage Door
1st 5 spots For Customer Parking
22 Spots For Vehicles to be Displayed For Sale
17 Spots For Vehicles to be Displayed For Sale
Existing Car Wash
Sign
MAIN St

Description of proposed activity's at 6366 E Main St Reynoldsburg Oh 43068

1) Used Auto Sales

2) Auto Detailing

3) Minor auto repair on Auto Directs vehicles only.

4) Approximate employees will be 5

5) Approximate sales 40 autos per month

6) Hours of operation 10-7 MON-FRI 10-4 SAT CLOSED SUN

Proposed Site improvements

1) Seal and repair black top

2) There is no grass or landscaping to maintain on property

3) Long term goal is to demolish front building 6360 E Main St. It will not be operating as a business.

4) A 4 yard dumpster will be in fenced area once front building is demolished. It will be at the rear of the front building until demo.

5) Used car sales will not have any negative effects on adjoining lots than the existing business that's here. It will have a positive effect on adjoin lots by eliminating the traffic jams that occur daily when the car wash is busy due to the car wash being closed.

If there are any question's that you have please feel free to call me anytime at 614-565-7763

Regards,

Jason P. Goss

CITY OF REYNOLDSBURG

MINUTES

BOARD OF ZONING AND BUILDING APPEALS
THURSDAY, AUGUST 20, 2015 6:30 PM

PLACE: COUNCIL CHAMBERS
7232 E. MAIN ST, REYNOLDBURG, OH 43068

A. CALL TO ORDER

PRESENT: Linder, Donovan, Enfinger, Wallace
ABSENT: Rettke

2. APPROVAL OF MINUTES

Minutes of May 21, 2015 and July 16, 2015 Stand Approved

3. APPROVAL OF AGENDA

Agenda Stands Approved

4. SWEARING IN OF SPEAKERS

Chairman Enfinger: Please stand and raise your right hand if you will be speaking this evening. Do you swear and affirm that the information you give tonight before the Reynoldsburg Board of Zoning and Building Appeals is true and honest to the best of your knowledge? (All affirmed.) Please sign in and list your address, as well. And, when you come to the microphone, state your name and address so we have that on the record as well. Thank you.

B. PUBLIC COMMENT

Chairman Enfinger: Is there any public comment this evening? Since none is apparent, we will move on.

C. UNFINISHED BUSINESS

Chairman Enfinger: There is no unfinished business.

D. NEW BUSINESS

1. **6366 E. Main St.; Application #170493; Auto Direct Reynoldsburg, LLC; Auto Direct Columbus Ohio Inc.**

Mr. Enfinger: Staff, may we have the presentation please?

Mr. Snowden: Application #170493, for a Special Exception use Permit; 6360/6366 E. Main St.. The applicant is Auto Direct Inc. For the property located on the north side of East Main St. Between Brice Rd. And Rosehill Rd. Existing zoning is CC- Community Commerce District, and the property is in the CCL- Community Commercial Overlay. The request is for the Board to review and approve a Special Exception Use Permit for auto sales use in the CC district; current use is Auto Services, and the applicants representative is Mr. Jason P. Goss.

The location was an existing car wash and auto detailing shop. Adjacent uses include commercial businesses, also in the CC District. To the west the property is adjacent to an auto repair business. It is marked on the map as Dodd's Bodyworks. To the north, the property is abutting some single and multi family dwellings in the AR-2 district of the city of Reynoldsburg, and of the city of Columbus. To the immediate east is an auto parts retailer. There are several auto uses clustered in this area. Staff's Review: Background information - the applicant has changed the use of the parcel without a Zoning Certificate, or a Certificate of Occupancy from the Building Division. This issue was referred to the Planning and Zoning staff from the Code Compliance Division. Use Classification - the property as it exists is Auto Services. The change to an Auto Sales Use requires a new Special Exception Permit. The applicant stated in their narrative that minor repairs to vehicles will take place on the site. Staff's view on this is, as long as the service is not a service that is being provided to the general public, it could still be classified as an accessory use and the entire parcel could still be classified as Auto Sales, rather than Auto Repair. Staff is comfortable with the assessment of Auto Sales. Addressing - when Mr. Goss came in to turn in his application, Staff found that the property was addressed by the County Auditor's Geographic Information System as 6360 East Main St. Staff consulted the City Engineer and found that no address had formally been assigned to the rear building. Staff's suggestion is that, although this permit is going to be for the entire parcel to be used in this auto sales business, Staff would suggest that the applicant contact our Service Department and request a certified address for the rear building. There is no fee for that, and the Service Department can have our consulting Engineer assign one. Demolition of the front structure - the applicant has proposed to demolish the front car wash structure at some future date. This does require zoning approval and a demolition permit from the Building Division. The applicant has made some comments about the dumpsters, which are currently stored in a screened area, directly behind this front building. Any new dumpster which is installed here, or any relocation of dumpsters, is going to need to comply with the screening requirements of the Zoning Code. There are certain actions, in this case, that may require Design Review Board approval. Staff would like the applicant, in their presentation to clarify exactly what they are thinking and proposing, so Staff can assist with that process. The current condition of the awning on the front structure is not in compliance with the City's Property Maintenance Code. The Code states that any signage, or any detailing such as this, needs to be maintained. You can see from the photo, that the awning material is separating from the structure. Parking - you can see from the series of photographs that this is an extremely narrow site. The property is only about 60 feet wide. Staff measured it using our Geographic information System. The applicant, in their provided plan, provided for forty-four parking spots. Staff has some concerns about the narrowness of the lot. Generally, with car dealership uses or auto sales uses, property owners and operators like to have as much public street frontage as practical. In addition to that, you should be able to see that when this was a car wash, the lane pictured on the left was the entering/manuevering lane, and the exit lane on the right, which is now being used for car storage. That was not indicated on the plan, so the staff would like some more clarification. You can see cars displayed in front of the building which is different from what is indicated. Staff has some concerns regarding the entry/exit. The Board may want to suggest some enrty/exit signage so that people know how to enter and exit the property. Rear yard - the applicant did not mention the rear yard in their plan. The rear of the property has a fenced in/storage yard of some type. I stated generically that some of the brush is several feet in height. Staff would like clarification about what is back there. I was unable to determine what material is on the ground... gravel, pavement, yard. Staff would like to know what the applicant proposes to do in that area. Signage - any reface signage in our Community Commercial Overlay, will require Design Review Board approval. Staff gave three recommendations in the event that the Board is comfortable with the application and is willing to approve it. Staff would suggest that the applicant be required to apply for a Certificate of Appropriateness for the ground side, remove the damaged awnings on both buildings, and remove the high grass in the rear yard and maintain that as it was originally installed. The authority items are the sections of the Special Exception Use Permit Chapter of the Code which have to do with the maintenance of the property. I am happy to answer any questions.

Mr. Enfinger: Very thorough. I appreciate that Mr. Snowden. Would the applicant please step to the mic?

Mr. Goss: 6366 E. Main St., Reynoldsburg, Ohio 43068. In regards to the back, I am planning on getting a bulldozer back there. I want to level and gravel that area. Most likely, when the front building comes down, and everything is approved, I will pave the entire lot. I own the building. I am going to be improving the building. I am going to be improving the property. It is a narrow lot. My plan was to have parking on one side of the property, at the rear, which would give room to turn around. We will be keeping about forty to fifty vehicles.

Mr. Donovan: The sign says ninety.

Mr. Goss: It says, "Seventy vehicles available." I always have twenty to thirty cars in the pipeline. We have cars at auto auctions. It does not necessarily mean they are sitting on the property. It means they are available to us.

Mr. Snowden: Mr. Chairman, may I ask Mr. Goss a question please? Mr. Goss, what is the material that is in the rear yard? Is it suppose to be a yard.

Mr. Goss: No, it's gravel and weeds.

Mr. Snowden: So it was originally gravel and has become overrun?

Mr. Goss: It had gravel but is not level, so I am not real sure what it was because it has been like that since I have had it. It has had gravel down but the grade is not at all level.

Mr. Enfinger: So, you have owned the facility for some time now?

Mr. Goss: I bought it in either April or May of last year.

Mr. Snowden: Mr. Chairman, gravel may be added if there is existing gravel there. Any paved surfaces in the City have to be permanent paved surfaces. But, if there is gravel there now, you can maintain gravel.

Mr. Goss: There is definitely gravel.

Mr. Enfinger: So my first question was going to be, "When did you take ownership without going through the proper channels?"

Mr. Goss: We have been out there about sixty days. When I first got out there, we ran a repair facility for our own vehicles out there. I have owned Auto Direct for eight years, we have sold seven thousand cars. I had twenty employees. I am downsizing. I own this property, I was leasing the other building. When I opened my other car lot, I did not do any of that. I had no idea. I did not know that I had to get zoning or anything like that. When Reynoldsburg came, it was a complete surprise to me and I came directly down here and spoke with Josh.

Mr. Enfinger: As far as the number of vehicles on the property, how many do you currently have?

Mr. Goss: I'm going to guess fifty. The number of vehicles I control. I had a car lot that had two hundred cars on it. I can get two hundred cars now but we obviously don't have the space. Whatever number you are comfortable with, that works for me, will be the number. The old Target building on Scarborough, there is a Capitol City Auto Auction there, I could put fifty cars inside there tomorrow, and store them. That is not an issue. When we get everything set up, if it's approved, it will be a very nice looking building. We will take care of it. We are going to pave, paint, change the awnings or tear them down. Whatever we have to do.

Mr. Enfinger: So the condition you have kept the buildings in up to this point, will not be indicative of how you are going to treat them?

Mr. Goss: There have been a lot of improvements in the building already. They have just been interior improvements.

Mr. Enfinger: You have had the property for a while and the back has grown up with weeds. So you can understand our concern, we just want to make sure that it is perfectly clear that everything needs to be kept to code. What is the plan and time frame for the demolition of the front structure?

Mr. Goss: Obviously I have to get an approval from you before I tear the building down, since it is an existing car wash and it is going to be an auto sales place. Once that is done, I have quotes, I have to apply for demo permits, I will get it done. The front building is not only a hindrance to me, it is a hindrance to Reynoldsburg. It is an eyesore. It is also a hindrance to traffic. The traffic backs up on Main St., and the place has lost money as a car wash for the last eight years, I have their financial statements. It's not a business that can make it in today's world. I ran it as a car wash for a year. It lost money month in and month out. Whatever that property becomes, it can not be a profitable car wash. I bought the property from a friend of mine who owns a title company. He is very successful. He ran it himself for a year to try to get it to make money. It can't make money. The building is an eyesore. I lived in Reynoldsburg twenty-five years ago. I am shocked at how nice Reynoldsburg is today. That building is not doing any good for Reynoldsburg. I opened up eight years ago, I've sold seven thousand cars. I have an "A+" rating with the Better Business Bureau. We have always gotten compliments on our buildings. In the event that you approve this, I can guarantee that whatever we do will benefit Reynoldsburg.

Mr. Enfinger: Once that is gone, what is the configuration of the parking? What do you envision going forward?

Mr. Goss: No matter what, the vehicles are going to have to line up on both sides of the property. They are going to have to be on the east and west sides of the property. I don't envision having cars across the front of the property. I heard somebody say something about car lots liking to have frontage. In today's market, frontage means nothing. People run car lots out of warehouses. It's the internet. So, is the drive by traffic customer good? Yeah, it's a plus, but that's not where the customers are coming from anymore. They are price shopping on the internet.

Mr. Enfinger: How many cars would you be able to stack on one side and not have to have them on both? When I went in there, it was next to impossible to turn around.

Mr. Goss: My thoughts were to have the cars on both sides, but towards the rear, and have the cars stop. That way there is an opening so someone could pull in and park and have plenty of room to back out. It's going to be tight no matter what. It is tight with no cars. It was tight as a car wash. The only thing I can think of is, one side has cars all the way, the other side has cars halfway, and that opens up a lot to be able to pull in and back up. And, on Dodd's Body Shop, what I would do is put signs that say "Customer Parking" on that brick wall. That way they know to pull in over there and they could back right out.

Mr. Enfinger: Will they park parallel to the wall there?

Mr. Goss: They could pull right into the wall. Or it could be on either side. If they are parking there, that gives them room to back up. It would have to be three or four spots towards Main St. We are not going to have fifty customers there at a time. If we have three customers there at one time, that is going to be the most.

Mr. Enfinger: Mr. Snowden, is there anything stated in the Code regarding number of vehicles per square foot of property. It is a very narrow piece of property so you are going to have to make it work, but in doing so, that may mean limiting the number of vehicles you have there.

Mr. Snowden: Mr. Chairman, and other members of the Board, I don't think the Code is going to provide us with any guidance on this particular detail. Staff's position would be that this is going to be a narrow property for anyone. There are not going to be a whole lot of other uses that are not going to have the same issues, except maybe in and out retail at a particular spot, and they would be upset with how far back the building is located. There are not a lot of other uses that are going to work.

Mr. Enfinger: It has the potential to work, with what you are wanting to do.

Mr. Snowden: Assuming that Mr. Goss's application was approved this evening, and he carried through the process, and went through to remove the structure at the front, Staff at that point would want to see a minor site plan, to show how the whole thing is going to look. It is a Zoning/Administrative approval, which means, I would approve it before the demolition approval could be issued through building. Mr. Goss could show Staff at that time. It is going to be something that someone with the experience of laying this out would have to do. That would be a good time for him to show Staff a more defined parking area. The impression that I am getting is that Mr. Goss had to move his business in, and that he is on the right path. We just need a system in place to make sure all of these details are taken care of. He stated in his application that he wants to repair the asphalt and repave. I would like more detail to see how it will all come together.

Mr. Enfinger: In that minor site plan, there would be a clear understanding of how many vehicles would be allowed on the property?

Mr. Snowden: Parking would have to be delineated based on the number of spaces per the Code. Right now this is open tar. This was travel lanes. The spaces are not detailed out. It's not as if I could look at a site plan of a shopping center and say they have a certain number of spaces. We can't really do that here. If he did that, Staff could review it based on the Code, how many parking spaces would need to be left for customers, and so forth. It is really murky now because the lot is not laid out in a normal manner for parking fields. And there is additional land there. It would seem to me that it would be unfortunate to deny the permit based on a lack of parking when Mr. Goss said he is willing to remove the building as soon as the Board approves the use.

Mr. Enfinger: My only concern is the amount of vehicles that will be on the property. It is a small property so it could really feel crammed, it's going to feel jammed up and we are going to be trading one eyesore for another. That is a concern I have. Again, with the minor site plan, I think it is reasonable to expect that we could know the number of vehicles. And, at that point it is laid out, you could make a decision as to what would be an appropriate number of vehicles to have on the property at any one time.

Mr. Snowden: Mr. Chairman, give me just one moment.

Mr. Enfinger: Any other questions from other Board members?

Mr. Donovan: I would like to know if you will be doing warranty or repair work on this property?

Mr. Goss: The only work we will be doing is minor repair work to our own vehicles. We will not be doing any work for the public. We have a four car shop behind there and we are going to use it. But, we will not be doing any major repairs. We will be doing brakes, oil changes, and things like that.

Mr. Donovan: This is for the vehicles you have on your lot?

Mr. Goss: For our own vehicles. We will not be trying to make a profit off of servicing cars. It will be strictly to service the vehicles that we are selling.

Mr. Snowden: Mr. Goss, do you know the approximate square footage of the back building?

Mr. Goss: 50 feet by 120, seems like that is about right.

Mr. Snowden: There is no specific requirement in the code for parking for this specific type of use. One for every two hundred square feet is the standard for retail and one for every one hundred square feet is the standard for in and out restaurant use. Even if we held them to a very high standard for parking, it is still going to be essentially ten spaces.

Mr. Enfinger: That would be for the customers and not for display of the merchandise.

Mr. Snowden: Correct. My point is, if that is a finite number, I will calculate the amount. And, if Mr. Goss does a minor site plan to remove the front building, he will only be allowed to have as many cars as what remains after that number. Even if I calculate off the retail, which is the lower number.

Mr. Enfinger: I follow.

Mr. Snowden: That is going to leave him with a finite number. Hypothetically, let's say he has fifty spaces, he will need ten for customers and will have forty spaces in which to display vehicles. However you want to space this out. And the spaces must be a certain size per the code, and I get that to whoever is going to do your site drawing.

Mr. Enfinger: That is the kind of clarity, kind or specificity, I think is necessary. At this point, when you drive through there, it is a hodgepodge. I understand you have the building to get down, so it is in the process. So to approve this, we want to make sure we know exactly what we are approving and not just a hypothetical situation where we leave it to you. That is the point of the concern.

Ms.Wallace: In this picture, even if you had cars down both sides and double deep on the one side, you could still have room if he only went back half way. Plus, when coming down Main Street, you are not going to be seeing this big line of cars because there is no frontage. It is all going front to back, so I don't have a problem with seeing the cars lined up, especially if the lot looks better than it looks now. I do not thin the front to back will be any kind of eyesore at all. You will see one or two cars and the rest will be hidden behind those.

Mr. Enfinger: My comment on trading an eyesore for an eyesore, was not meant to indicate that I feel running down both sides would be an eyesore. I think that is perfectly reasonable and would look very nice. My point is, if you take the cars all the way back, there is no way to turn around and there is too much going on. But, if you have it stop at a point, you could turn around.

Ms. Wallace: It seems like, with the building gone, and with cars in rows, and with the paving and lines, it will be much more appeasing when driving down the road.

Mr. Snowden: Mr. Chairman and Members of the Board, it seems the Board is comfortable with the use, but wants to make sure these details are addressed. One of two things may need to happen. Either Mr. Goss will need to get a minor site plan where he can address that specific portion of it, in addition to the other items I listed as suggestions for requirements. The other thing that could happen, depending on how much Mr. Goss wants to change the building, as far as color changes, material changes, etc...DRB could review and assist with these changes. In addition to the comments that I made in my report, as part of the review at three months, Mr. Goss will have either submitted a site plan, or submitted a package to Design Review, for Design Review Board's approval. Essentially it will amount to the same thing. I don't know if that is something the Board is open to, but that is the only other guidance I can give the Board.

Mr. Donovan: I thought there was a set-back requirement for selling vehicles from the street.

Mr. Snowden: I have had that told to me by several individuals since I have been here. I have searched the code for literally hours, attempting to find that. Including electronic searches. I can not find anything stating that. The only thing I could find related to that was regarding setbacks for the parking lots for new construction. I have not seen anything else. If anyone knows the code and wants to help me out, I would welcome that. But, I have looked at the code ad nauseam and I have not found any detail about that.

Ms. Wallace: I am comfortable with Mr. Snowden's suggestion of going with the recommendations and letting the Board decide if there needs to be a site plan and letting that go before the Design Review Board.

Mr. Enfinger: I think so as well. So, I make a recommendation that we move to approve Application #170493 with the following conditions: The applicant seeks the appropriate permits for the sign from DRB. The applicant brings the existing structures to code regarding the awnings. And, that the area in the back section be addressed. Seeing that those are agreed to, and pending approval of this Special Exception Use and a Minor Site Plan, that can be reviewed by staff.

Ms. Wallace: I will second.

Mr. Snowden: This application will be forwarded to City Council. The Clerk of Council will contact you if Council elects to hold any additional hearings, or take any additional action. You have already submitted for your zoning certificate. Once staff receives a notice of approval from the Clerk of Council, Staff will contact you when the certificate is ready for pick up. Once that certificate is secured and ready for pick up, you will need to contact the Building Division and submit plans for building occupancy. Those plans will be interior drawings of the rear building that you want to occupy for your business. After that, have all required inspections. Board members, to clarify a procedure that has not been consistently followed, per Section 1145 of the Zoning Code, Staff will review this permit approval in six months. And to confirm compliance with the conditions and report those findings to the Board. If the applicant has not complied with all conditions of their approval, and completed all the required steps to open the business or use, the Special Exception Use can be revoked by the Board. With that, I will turn it back over to the Chairman.

RESULT:	**REFERRED TO COUNCIL [UNANIMOUS]**	**Next: 9/14/2015 7:30 PM**
MOVER:	Aaron Enfinger	
SECONDER:	Libby Wallace	
AYES:	Linder, Donovan, Enfinger, Wallace	

2. **7524 E. Main St.; Application #170630; Unnamed Eatery Serving Ice Cream, Sandwiches, and Festival Foods; John and Heather Fry**

Mr. Enfinger: Application #170630 for 7524 E. Main St. May we please have the presentation?

Mr. Snowden: For Special Exception Use Permit, for an eating and drinking establishment, with a drive thru service, for the property located on the north side of E. Main St., between Jackson St. And Waggoner Rd. It is in the CC - Community Commerce District, as well as the HCO - Historic Commercial Overlay. The request is for the Board to review and approve a Special Exception Use Permit for drive thru service in a multi-tenant building, in the CC - Community Commerce District of the City. Current Use: the structure is vacant. It has previously been retail sales and an eating and drinking establishment. The applicants representatives are John and Heather Fry. Adjacent uses include commercial businesses in the CC - Community Commerce District. All adjacent properties are within the Historic Commercial Overlay. To the north, the property is abutting multifamily dwellings in the AR-2C District of the City. In front of you is a site plan of the lot as well as an indication of the specific tenant space. Use clarification: the property is in the CC District, as stated. In this district, eating and drinking establishments are normally a Special Exception Use and the Board reviews permits for those. However, Section 1194 of the Zoning Code provides a modified use table for commercially zoned properties that are within the Historic Commercial Overlay District, and assigns eating and drinking establishments as a permitted use. It did not modify the drive thru service use requirements, so Special Exception Use is still required. What the Board is considering is whether the drive thru use, and location of the window and its details, are acceptable. There is a separate use table for the Commercial Overlay that removes that from being a Special Exception. The applicant is proposing to repurpose an existing drive thru window for their service window, which was originally constructed for a bank and contains two bays. Under 1194 of the Code, regarding drive thru services, and mostly referencing new construction, it states that the architectural detailing and materials need to be carried throughout. Looking at the canopy, although it would be nice if there were brick elements on the pylons, to tie that in consistently, if it were a new building. The idea is that the drive thru should not look like an afterthought and should be integrated into the structure. Staff is comfortable that has been met. The only concern, that staff had specifically, is the entry into that drive thru. If you look on this site plan, you can see it better indicated, this is an entry point and this is an exit, to access this window, you will be crossing the opposite window and then have to turn around. It is going to be a problem for the Fry's, it was probably a problem for the bank. Although, the bank may have had folks coming a different direction. Obviously the ice cream and sandwiches can not go through a pneumatic tube to get to the customers. That is really what the issue is there. The opposite argument is that there really is not any traffic back there right now, although there are some other tenant spaces. I would encourage the Board to listen to how the Fry's are presenting, and how much business they anticipate and so forth. There may need to be some additional signage or striping for the drive thru in order to get to that window.

Mr. Enfinger: Would the applicant step up to the podium please.

Mr. Fry: We do have a name now. I noticed that it was listed as "Unnamed." It is Carnival Ice Cream. We want to do a lot of hard dipped ice cream, subs, carnival foods, corn dogs, cotton candy, popcorn, etc... Items you can only get at a fair and not all year long. We have teamed up with Johnson's Ice Cream. We have met with them, and we have Matt and team and they are going to be our supplier. Technically, we are bringing Johnson's Ice Cream back to Reynoldsburg. As far as the drive thru, our thought was, there are a couple of ways to exit. You can do a reverse u-turn out, or you can take the other exit that takes you into the other shopping center, or back out to Waggoner Rd.

Mr. Donovan: Have you spoken to the property owners regarding being able to do that?

Mr. Fry: Yes. We have talked to them about being able to operate as a drive thru, and they know exactly what kind of business we are doing. We are in the process of putting the lease together. We are finalizing a couple of things. We have agreed to what each party is responsible for, especially from a cosmetic standpoint, because is has been vacant for twelve years. So, we have a lot of work to do. It is the largest retail space in that complex. We would like to get it going and bring more retail back into that area. There are a lot of vacant spots in there.

Mr. Donovan: Are you going to have sit down service at all?

Mr. Fry: Yes. One of the things we were concerned about was the stacking, so if you look behind there, there is parking. There is a back door, so the staff can run it out to them, and they can then leave. So, it keeps the process and the flow going.

Mr. Snowden: Mr. Chairman, and Members of the Board, I was wondering if it would be possible for the Board to require specific signage, or if the Board feels it is necessary. In staff's view, that could be helpful. A lot of fast food restaurants are utilizing the waiting areas and because of the unique configuration, maybe it is something the Board should require instead of just recommending.

Ms. Wallace: I know most drive thrus have the pull over and wait for your food thing. And I'm sure it wouldn't be an issue to paint an arrow and have a corner sign that directs you to pull around the building to the left and into a numbered space. This is common in drive thrus that have a longer cook time. I have lived here fifty years and that complex does not have a ton of constant traffic thru it. In a shopping center, my personal thought is that you don't have continuous constant traffic flow like you would have on Main St. So I don't think it would be an issue to come in up against the building.

Mr. Fry: Right now, there are no businesses behind there. It is all vacant.

Mr. Snowden: Mr. Fry, let me interject, there is one catering business at the very back of the property. But the tenant spaces that face that are actually currently empty.

Mr. Enfinger: So, around the corner where we are talking staging the stacking of the drive thru, there are actual parking spaces?

Mr. Fry: And that is on an as needed basis.

Mr. Snowden: You should be able to see that on your site plan.

Mr. Enfinger: Is there a way that you could have an agreement with the landlord and be able to designate that these two to three spaces are yours? I don't know how far away it would be before another tenant would desire to have that area.

Mr. Snowden: Mr. Enfinger, if you look on this site plan, there are two tenant spaces here, this is an access pathway between the two buildings approximately six feet wide, so there is a little bit of room there. I don't think we are going to be overwhelming the rear tenants and taking away their parking. In addition, the catering use utilizes this area for vehicle storage and parking.

Mr. Enfinger: Are you going to have a board you drive up to before moving forward? Or will you place the order face to face?

Mr. Fry: There will be a prior menu.

Pastor Linder: Where will that be. Will that be toward the entry?

Mr. Fry: If you can see the very far part of the building, there is going to be a menu there. At the very beginning.

Pastor Linder: The only thing I'm curious about is, if they are going to drive into this holding space, and then back out, will there be any anticipation that if someone just got their order and is backing out...

Mr. Fry: No need to back out. When they pull in, they are in a lane.

Pastor Linder: Almost off and into a space?

Mr. Fry: So if someone wanted to go past them, you have that other lane that we are not going to use. I have no use for that second lane.

Mr. Enfinger: That does bring up the concern of where the menu board is, so if you have two or three people staged in line, where are they going to be? Maybe the best thing is to have the board next to the window. These are things you are going to have to work through with striping...

Mr. Snowden: Mr. Chairman, and Members of the Board, unfortunately the Code offers us absolutely no guidance on stacking space requirements. Some cities require up to eight, and that is usually the communities that have the lane wrapping around the building. In my experience, I have only seen a handful of locations that utilize that.

Mr. Enfinger: So the concern is, it is going to be a wildly successful business, and on any kind of warm evening you can drive by the Dairy Queen and see that the traffic is very problematic. So you can see our concern in wanting to make sure that these kinds of things are thought thru.

Mr. Fry: We put a lot of thought into the drive thru. It is one of the first things we talked about and addressed. The first question I had was, where is the stacking?

Mr. Snowden: What about stacking in front of the building and then turning left into the lane?

Mr. Enfinger: That goes against the flow of traffic.

Mr. Snowden: You are right.

Mr. Enfinger: Theoretically, how many vehicles could you put if you had one at the window? Are you talking three at most once you get past the corner of the building?

Mr. Fry: Actually, we can get four before we get into the intersection where people are going to come in and turn left to go in front of...

Mr. Enfinger: If we have six vehicles?

Mr. Fry: You pull two around to the holding spots.

Mr. Enfinger: maybe you have two in the holding spots, and there are six vehicles with four stacked up, and two more trying to get in. There obviously will be a lot of issues with people trying to leave and everyone trying to stack in. That is where clear definition on striping would be, like a little stop sign or some pavement markings like "Stop Here to Wait for Clearance." Otherwise, they will just back up and stack up, into that exit lane. Who has the purview for deciding and requiring that? Is that us?

Mr. Snowden: The Board has that power. If the Board thinks that it can work, the Board can approve. If the Board thinks it will not work, the Board can deny it. If the Board would like to see more information, the Board could table it and give Staff parameters to view such a plan. It is really up to you. You have pretty much unlimited discretion.

Mr. Enfinger: So what time are you looking at to try to open?

Mr. Fry: What we have worked out with the landlord, because of the cosmetic work which needs to be done inside, we have a four month build out, which means going inside with new flooring, painting, dry wall, bringing in of equipment. So we have a four month window before we actually open, once everything is done through the City.

Mr. Enfinger: So, the restaurant can open irrespectively. Our concern here is strictly the drive thru.

Mr. Snowden: Given the persnickety Use Table of the Code, Staff was not totally clear with Mr. Fry that that was the case. So, now that he knows that, he can move forward with securing a zoning certificate for the main part of the business and start going through that process while the details are worked out with this drive thru.

Mr. Enfinger: I certainly think it is doable, I just think we need some specifics and exactly what it is that we want to do. And maybe the officer might be able to help out there.

Mr. Fry: I know there was a coffee shop prior. Is there any documentation for this business as to what they had and what they did?

Mr. Snowden: That is a great question. Do we know what year they were approved?

Mr. Fry: It was empty in 2003.

Mr. Snowden: Staff probably does not have those records accessible. They are beyond the retention schedule. Did they utilize the window?

Mr. Donovan: In the frontage of that building there was a pastry place.

Mr. Enfinger: It use to be Five Cups or Three Cups, something along those lines.

Ms. Wallace: I don't have an issue with the drive thru if we would give Staff the authority to have guidelines for arrows on the pavement, if allowed by code to have hash marks so drivers don't block the side that goes down to Tyler's. Just something for a visual to tell people to wait here. I don't think it is going to be an issue.

Mr. Enfinger: If you have ever sat at Moo Moo's waiting, there is a place where you cross a couple of times. I think people could get use to it. And even if they are stacking up in the traffic lane, not right in front of the building, but farther away, if everyone learns that this is where they stack before they come in, we are all smart.

Mr. Fry: Like above the drive thru have "Drive Thru Entry"?

Ms. Wallace: Or arrows on the pavement that show the traffic pattern. Most people are courteous drivers. You do have people that are not. Most people would allow someone to turn that was waiting for the drive thru.

Mr. Donovan: I will give you an example, go out on the street corner out here and watch all the people run through the red light. People do not care. My thing is, he has already covered the property thing about being able to use the other property's driveways to get in and out. That will alleviate a lot of their problems.

Ms. Wallace: I don't think it is going to be an issue going in and out.

Mr. Snowden: As I stated before, all of our Special Exceptions are suppose to be reviewed at six months. The Board could put on some sort of condition that would address this. Staff could also attempt to pull accident data to see if there have been any issues. I do not know what else the Board could require. It's one of those things where it looks like it could work. Staff is not overly panicked about it. But, obviously the Board wants to make sure that it is done properly.

Mr. Enfinger: I think specificity on the issue again, like before. I think it is completely doable. Let's just have a plan. I make a motion that we move to adopt and approve Application #170630 with the following condition, that the applicant works with Staff in coming up with a traffic flow plan that is suitable to safety concerns for the community as well as other tenants in the building.

Mr. Donovan: I will second it.

Mr. Snowden: Mr. Fry, that stands approved. I always provide a written notice, mailed out, stating the information I am about to read to you, but I want to read it into the record. The application will be forwarded to City Council, and the Clerk of Council, if Council wants to have any additional hearings or take any other action. I will check my files. I think I have a Zoning Certificate application for you already. Once I receive notice from the Clerk of Council, I will contact you that it is ready to pick up. At that point I would really like to see a more detailed plan for the drive thru configuration. Once the Zoning Certificate is obtained, you need to contact the Building Division to submit your plans for building occupancy, as we have discussed. Per Section 1145 of the Code, Staff will review this in six months and report the status back to the Board. Have a great night.

RESULT:	**REFERRED TO COUNCIL [UNANIMOUS]**	**Next: 9/14/2015 7:30 PM**
MOVER:	Aaron Enfinger	
SECONDER:	Richard Donovan	
AYES:	Linder, Donovan, Enfinger, Wallace	

3. **<u>1914 Brice Rd.; Application #170778; Childcare Center; LaTarsha Pritchard</u>**

Mr. Enfinger: Application #170778 at 1914 Brice Rd., a childcare center. Mr. Snowden, may we have the presentation please?

Mr. Snowden: Thank you Mr. Chairman. It's Application #170778, Special Exception Use Permit for a Childcare Center for the property located on the east side of Brice Rd., just south of Livingston Ave. It is located in the CC - Community Commerce District of the City, as well as the CCO - Community Commercial Overlay. The request is for the Board to review and approve a Special Exception Use Permit for a child care center in the CC District of the City. Current use: vacant space. The most recent user was a charitable Bingo game. Applicant is LaTarsha Pritchard and the applicant's representative that is here with us this evening is Mr. David Hodge. Adjacent uses include commercial businesses in the CC district. The property abuts out lots which front Brice Rd. These contain a gasoline station and fast food type business in the CC and CS Districts. To the south, the property is adjacent to another commercial building in the CC District, one of which contains a childcare center. Along the east side, the property abuts the Truro Township Fire Station #162 and the City's Community Garden. And I believe, to the southeast, on a related parcel is the COTA park and ride. The applicant was previously denied for the same use at the same location at the March 2014 meeting of this Board. Staff reviewed the materials and minutes from that application extensively, and encouraged the applicant and their representative to address the concerns that were raised by the Board at that meeting. Since that time, the Big Lots retailer that was in this location on the map in front of you, has left the center and that space is now vacant. The entire center is now vacant except for a carry-out grocery store in the southern most tenant space, which I am indicating. Parking: we do not have a specific parking requirement. You can see some parking ratios taken from other zoning codes. In this case, Staff has calculated that there are over 330 parking spaces on site and the most this applicant could be required would be 20 spaces, and there are 210 spaces required if all of the property was filled with retail. Staff has met several times with the applicant and their representative to discuss the issues that were raised by the Board. Staff would like the Board to determine if there is a parking/loading/drop-off configuration that they would find more acceptable. Obviously, there is the potential to have additional tenants here. There is basically a conflict here between families and loading into the center, and other traffic. Even if you have a stand alone child care center, there is still some conflict between children, family, and other folks, because those centers have a parking facility as well. The applicant stated as part of their proposal that they are planning to load from the front, but staff questions if there is any merit to those details and whether the Board would like to see one or the other. The applicant is proposing to utilize the existing fenced in play area at the rear of the building. Obviously there is a potential conflict between loading and unloading and vehicles idling near the play area. If the Board were comfortable with the use in general, Staff's recommendation would be that the Board prohibit loading and unloading, and require the property owner to establish a specific no loading or unloading, or idling time for vehicles near this particular spot. Staff also suggests that the fence, which the applicant has proposed to detail, would have some sort of high visibility, so it is not just a service structure, but that it is blocking a specific thing. Character: the biggest thing that Staff took from review of the previous material is that the Board felt that moving a child care center into this type of location fundamentally changed the character of the center away from retail to institutional or educational type of use. Staff's main concern with these types of childcare centers is that when the play area is specifically placed in the front, which you do see in commercial buildings from time to time, that is a very dramatic change from a retail in and out type of use, to an institutional type of use. In this location, they are proposing a place in the back. Staff is a bit more open to that location of the play area, and does not feel as strongly that this is a character change. Again, this is Staff's opinion. All that saye, in a complicated way, is that Staff is open to it, and with that I will turn it back to the Board and Mr. Hodge.

Mr. Enfinger: If you could just state your name and address for the record please.

Mr. Hodge: My name is David Hodge and I am a Zoning and Land Use Attorney with the Law Firm, Smith and Hale, 37 W. Broad St., Suite 460, Columbus 43215. I am here this evening on behalf of the owner of the property. It is an LLC, called WK Brice, that consists essentially of two individuals, Jim Wiggins and Dimo Kuzmanovski. I think preliminarily, because this is relevant, all of us are able to speak on issues about which we have personal experience. I have an eight year old, a six year old, both of whom are now in elementary school. And, a three year old who is in preschool. I took the eight year old everyday to the same preschool, as well as the six year old, and as of yesterday, the three year old. So, I have some considerable experience with pick up and drop off at preschools or day cares. The preschool that my kids have gone to, and currently go to, is at the Bexley United Methodist Church, on Broad Street in Bexley, and the parking lot for that church is next to it. It has very narrow aisle widths. It has angled parking. Non of which are the required width, which is about nine feet. And, it has no snow removal in the winter. It is tricky and not always easy. I can say without reservation, I have been to tonight's subject site many times. And, with reference to my experience and what is being proposed here, the parking situation, the pick up and drop off situation, is vastly better that my own personal experience. And truly, in my humble opinion, not an issue. There are sixteen spaces along the front. Within the "U" shape of the building, we would like to designate those spaces to exclusive use for the daycare. The way this daycare operates, is there is no hard and fast drop off time. A preschool starts at nine. This is a daycare so there are drop offs throughout the day. They are open from 5:30 a.m. and close at 7:30 p.m. And the potential operator says there are no more than five dropping off or picking up at the same time. Now there certainly could be multiple children in the same car. There have been in mine. But, in reference to the sixteen spaces across the front, we don't think there is going to be any conflict. Employees would park in the parking field to the west, so that employees are not in that front location. For the off chance, that folks/parents/grandparents may be dropping off in that parking field, we would propose painting a cross hatched cross walk, from that parking field, over to the front of the facility. As you are surely aware, and as Eric indicated, this shopping center is vacant. There is a Mexican grocery store at the far south space. Those same operators are in the process of finishing a restaurant, I'm not sure they have picked up their occupancy permit.

Mr. Snowden: They have not and their plan reviews may have expired.

Mr. Hodge: It really is a beautiful Mexican restaurant. They have done a fantastic job with the improvement of the interior. The remainder of the center is vacant. There was a Big Lots/Odd Lots at the northern most big box space, but they have since moved across Livingston Ave. From my clients perspective, they have no income. They have a lot of obligation, they have a lot of maintenance, they have a lot of tax, and they have no income. And so, I am aware that historically, maybe today, there are folks in the city that take exception to having day cares in retail centers. I understand that perspective, but this center is drying on the vine and it needs some vibrancy, it needs some activity. And the hope is that when and if the restaurant opens, and when and if the day care opens, that there is some activity. And, any retailer will tell you that one of the first things they look at is the MORPC map that shows the number of cars up and down the street everyday to tell you whether or not it is a good retail location. Our clients, Mr. Wiggins and Mr. Kuzmanovski, they need some income, they need some life breathed into the center. With reference to the measures that are in that statement, that is part of he packet, I have mentioned the parking, which I think is adequate, and the commitment to painting the crosswalk on the pavement. We also would put some signage along the sidewalk in front, just to let folks know that the sixteen spaces, or some number of them, are reserved and designated for parent pick up and drop off, so there is no conflict. People pull in, see the sign, and they go back out into the parking field. With reference to the playground at the back, you know it's tired. The fence is in bad condition. It's not flush to the ground. So, we would propose moving the fence and installing a new board on board fence that's on the ground. There's also a mechanical in that area. That mechanical would be enclosed with the same fence, mulch would go down, play equipment would go out. There is already a door leaving the building and I think the idea to put some neon yellow bollards around the perimeter of the fence, to make certain that there are not issues with delivery trucks or other cars back there, is a fantastic idea and is something that we are willing to do. I think it is interesting that, as Mr. Snowden mentioned in one or both of the previous cases, that there is a check and balance in place in the code, which if an applicant or property owner doesn't comply with conditions, that the Special Exception can be revoked. That is a great checks and balance, and it holds folks' feet to the fire and really obligates them if they want to continue to keep their work. Even though I have a license to practice law, and even though I am here tonight on behalf of people, I'm not really a lawyer. This is what we do. We go to BZA's, and we go to Planning Commissions, and City Council, and I'm personally on the Bexley Planning Commission. So, I sit on that side of the table, sometimes. It has been good for what I do on this side, but I'm over there sometimes. I don't really like to talk about the law when I do this because it turns people off. It doesn't do what one thinks that it does. But briefly, a Special Exception, or a Conditional Use, or a Special Use, they're all legally synonymous terms, and what those are, are uses that are permitted in the zoning classification that may have a greater impact than just the family of permitted uses. And so, it obligates an applicant, or a property owner to appear before a Board, and there are criteria in the Code that we review to make sure, to make absolutely certain that the use is not going to have a negative impact on surrounding owners, traffic impacts, things like that. We have addressed those standards in our statement. We stand by what we wrote in the statement. And, to the extent that anybody would want me to speak about any of those five or six criteria in particular, I'm happy to do that. But, I am comfortable that we meet them, and exceed them, and certainly child care is a listed Exceptional Use in our zoning classification.

Mr. Donovan: Did you just say you are going to feed them there?

Mr. Hodge: Did I say that? I did not say that.

Mr. Donovan: I was looking for a kitchen and I do not see one. My question is, hopefully you are going to have a hundred and ten kids in there, so how much staff are you planning to have?

Mr. Hodge: Thank you for the question. It is a good one and it is something that I left out of my remarks. Any operator of a daycare/childcare is required to have a license issued by the State of Ohio, the Ohio Department of Jobs and Family Services Childcare Division, which this user has. She currently has another daycare center, one underway at the south end of Columbus, and potentially this one. She has that licensure. And there is a certain ratio, depending on the age of the children, that you have to meet. It's up to twenty employees. They would not all be there at the same time, but it is up to twenty employees/teachers.

Mr. Donovan: My next question is, how are you going to handle that with just two restrooms? And, with little kids who are being potty trained?

Mr. Hodge: Sure, that's a great question, and not one I anticipated. She believes it is an adequate number of restrooms. If additional restrooms are required by the licensing entity, the State of Ohio, or by any requirement in the City of Reynoldsburg, then additional restrooms would go in.

Ms. Wallace: I think with my history with daycare and preschool, that is a pretty average number. In regards to the restroom thing, that seems adequate to me.

Mr. Donovan: They are hoping for 130 people?

Ms. Wallace: Thirty or fifty are in diapers. Where my kids went, there was one bathroom for that same number of kids.

Mr. Hodge: My daughter has a bathroom in her classroom, she is not going to use it, but it is there.

Ms. Wallace: I really know she has a good successful business. I would like for her to bring her business to Reynoldsburg, being a successful business woman. The parking thing out front, and the traffic thing, most people would not send a two year old by themselves. I come down to, and not with just this application, but with every application for childcare, especially ones within strip malls, it is the back where the play area is, and the fact that is a drive through. Hopefully, eventually we will have all the strip malls in Reynoldsburg full again. But, knowing there are going to be semis and delivery trucks out back where the kids are playing, has always been pretty much my only concern. Knowing that is a drive through and cut through, and there is a traffic light there, it's just a traffic area out back with a play area out back is my concern every time someone wants to put a day care in a strip area. With parking out front, you are not going to get dropped off at the door anywhere. You are going to have to get out and walk. So I don't have an issue with the parking and walking across the street to take your kid in, but it's the back thing and I don't know how that can be remedied in this situation.

Mr. Snowden: May I bring you up to speed on the practical details here. I think Mr. Hodge has done an excellent job addressing the individual issues with the use, but there are some issues with the site that we are having, which is one reason I have asked Officer Kessler to be here this evening. He is our Community Liaison to the Brice/Livingston area. And although they are not specific to this application, there are some issues that are effecting the entire property that may need to be worked through. Let me just touch on them briefly. On the screen is the proposed area for the play area. We have found there are transients that may be trying to live on this property. It is something officer Kessler has been investigating. You can see behind the mechanical, one of the items I suggested in my longer Staff Report. Under Staff Recommendation, was suggested that the Board perhaps require some of these additional mechanical devices to be screened for this very reason here. If this was going to be built today, that mechanical structure would had to have been screened or integrated into the structure. It wasn't when the structure was originally built but it would have to be today. Obviously there is a safety issue with having folks attempting to live in the immediate area of where the children will be. That being said, I think Mr. Hodge's point is well taken in that having more activity at the site in general, may discourage that type of negative behavior. If you look to the north, this is another area where folks have been staying, and this is all at the rear of the property. One additional item, I understand that Mr. Kuzmanovski and the property owner have been attempting to prohibit semi tractor trailers from idling and being at the back of the property. The last thing I will state which is slightly separate, there is some issue with the signage. The Code says that anytime a business is closed for more than ninety days, the sign face needs to be replaced with a blank. The Livingston Ave. Entry sign has an open electrical hazard. Staff did an extensive review and was unable to find the permit required to erect the temporary development sign there that appears to have been erected in 2013, based on street view. Although these are things that don't necessarily apply to the specific use, these are some additional issues that are happening at the property, that Staff would like to see resolved as well. If the Board will allow me for one second, I want to see if Tim has anything else he would like to add as far as operations at the facility.

Officer Kessler: I would like to reiterate what Mr. Snowden is saying. We have had a lot of activity to the back of that, and Mr. Kuzmanovski has made contact with us about the semi traffic. He has tried to enlist our help in getting those out of there. But, on any given day, there are three or four semis parked at the back of that property. They use it for transient parking. Semis come and go constantly. As a matter of fact, the one that Mr. Snowden showed has moved on, but I had another one towed out today. They are back there constantly. The other problem we have is the transient population is starting to move into the Brice Road area. We are working with Truro Township to try to alleviate some of the problem. But there is evidence of people living to the rear of the property and the tree line behind the property. These all lead to safety concerns for the children. Obviously, it is a daycare. Back to the semis, I have found that some of the drivers live in adjacent apartment complexes, so they bring their trucks and they will let them set there for two to three hours at a time while they go home and eat dinner, or go do whatever. And the semis are idling and producing harmful side effects for the children. What can they do to alleviate this? Obviously, I have no idea, but it could be a major problem for the safety of the children that are going to be placed in this facility if it is approved.

Mr. Snowden: Mr. Hodge and Mr. Kuzmanovski did the right thing by getting in contact with Officer Kessler and starting to make him aware of the problems so he could assist in his role as Community Liaison. I don't generally like to drag every possible thing into a zoning review with the Board, but when we deal with child care, we deal with the rear of the property as well. So, these are things that our Board should consider addressing with our applicant.

Pastor Linder: I have not been out behind the property, and this may be a very naive suggestion, but is there any possibility of some sort of gated access on either side of those two openings. It would be a little bit of an expense for the owner, but would that create security for him moving forward? When I see the lane behind, it looks like it is fairly narrow?

Mr. Hodge: It is essentially wide open.

Pastor Linder: So, it is very wide. If the owner makes provisions, you are still concerned about a major security dynamic because it is so open. Would that be accurate?

Officer Kessler: That is an accurate statement. Mr. Kuzmanovski has taken steps to try to reduce the amount of traffic flow back there, but, unless you have a marked cruiser sitting out there twenty-four hours a day... One of the semi drivers was kind enough to leave his number on a post-it note on his window so he could be contacted if there were any issues. So, I contacted him over the phone that parking is not allowed. There are signs clearly posted across the back of the building, all the way down through there. And, he assured me that he would have the vehicle moved. I went back the very next day and it was still sitting there so it had to be sited. After he was issued a citation, he finally moved. The problem is, even with my presence there issuing warnings and citations, and ultimately towing vehicles out of there, it has been used for this purpose for so long that a lot of the semi drivers are not aware of it, or just don't care. Like I said, the signs are clearly posted all the way across the back of the building and they still park there. To alleviate that problem immediately, the only way I could see, would be to completely gate off that whole thing and I know that is a massive expense that I am sure they don't even want to consider. The only other option is to continue doing what we are doing, and that is going to take some time. So you are still going to have issues with semi trucks for the foreseeable future.

Pastor Linder: Just one more question. In your experience, does private security end up becoming more of a challenge all the way around, or can they be successful in providing their own type of security, if it is qualified?

Officer Kessler: Private security may help as far as the transient population, and as far as somebody climbing the fence and utilizing the playground for a sleeping area or something like that. Private security, as far as the semis and traffic, would have the same issues that I have; unless they are standing out there 24/7 directing cars and semis as they pull onto the lot, it is not really feasible.

Pastor Linder: Mr. Hodge, I come into this situation, new to the Board. I reviewed the minutes from the last time the applicant came, and I have a predisposition to be a little bit suspect of having a day care in this environment. But, I am very sympathetic to this owner because, what they made in terms of a case, seems to be a constant issue if we do not find a correction. So, just so you know, there is an empathy here, for an owner that says I can not find a way to get ahead here if we don't find some flexibility. I wish I could find a solution for you right now, as far as how to create safety there.

Mr. Hodge: Pastor Linder, I appreciate the comment and I truly think you hit the nail on the head. When we met with Mr. Snowden and Mr. Havener on the property and walked it and went onto the proposed play area, there were some discussion as to this being a chicken and egg scenario. The center has problems. Problems I was made aware of for the first time tonight.

Mr. Snowden: This is a new thing in this immediate area. Officer Kessler, that is correct?

Officer Kessler: That is correct.

Mr. Snowden: Even within the last couple of weeks. If the information came...

Mr. Hodge: No. No. It's not a criticism in the least.

Mr. Snowden: I had never seen that before. Having driven behind it many times when I visited the site earlier this week to take those photographs for the presentation, that was the first time I noticed it, and that was the reason I invited Officer Kessler. And again, the idea is not to abuse our applicants, but to have everyone involved so that we can come to a solution that hopefully addresses these ongoing issues.

Mr. Hodge: I've got very thick skin. I don't feel attacked in the least. I truly don't. I think it's incumbent upon me to do the best that I can to help my client to solve a problem. It's a problem for my client. It's a problem for the City. Hopefully there will come a day when there is somebody other than a day care that is willing to rent space from him, and pay him more rent, but there's not, there's just not. And, I am not here making the claim. The proof is in the pudding. Big Lots is gone. This space is vacant. It has been vacant. It's going to be vacant. And vagrants and the other issues that come along with it, that's not going to go anywhere with inactivity at the site. We have heard of the broken windows theory. I was a Sociology major in college, so I had no choice but to go to Law School. And the broken windows theory is, if you are in a place where there are a lot of broken windows, there are going to be a bunch of broken windows. So, I know it's a hard case. I talked to Miss Pritchard many times on the telephone. I spoke with her at length today. She seems like an earnest lady. She seems like a lady who knows what she is doing. She is an entrepreneur. She has got the appropriate licensure from Jobs and Family Services. I think the parking issue with reference to the pick up and drop off is a non issue. I understand that the play space in back is not a park, but we are trying to soften the space and put in new fencing. If we can put in fencing that can exceed six feet in height, we are certainly willing to do that. There is going to be play equipment back there. There is going to be mulch on the ground. It is going to be screened from the parking field. So, with reference to the standards of the code, again it is a permitted use subject to the review of certain standards, A-H, I think we meet them all, I think arguably we meet them all, starting from the bottom, "H". It is a special exception use in the code. The use complies with the provisions/development standards of the code. We have had a lot of discussion here about the use being in accord with general and specific objectives. And the purpose and intent of the Zoning Code and Land Use Plan, which incidentally I understand is from 1992, the year I graduated from High School and the year Mr. Snowden was in Kindergarten, and other plans and ordinances of the City. Now, I am a zoning attorney so I have this stuff pounded into me. There is a case law that says zoning is a derogation of the common law and restricts otherwise permitted uses of property. So we have to tread lightly on restricting people's private property rights. And the purpose of any zoning code is to allow people to make a fair and reasonable use of their property. In this instance, we have a viable tenant. They have been sticking in there for the long term. And we really are doing our very best to mitigate the issues that have arisen in the past, and to mitigate issues that are here tonight. So, I think we certainly meet the objectives of Land Use Regulation, purpose and intent of Zoning Code, and the outdated Land Use Plan. Traffic impact, there is no traffic impact here. The proposed use is served adequately by public facilities, police, fire, storm water, water, sanitary sewer, schools. I think that anybody would say there is a significant impact there. The proposed use shall not adversely effect the health, safety, morals, or welfare of persons residing or working in the neighborhood. I don't think it will effect the neighborhood one iota. I think it is going to be just fine. The proposed use shall not adversely effect the use of adjacent property. If anything, this is going to improve the adjacent property because we are sitting here with a vacant center, and vagrants sleeping in the back, and trucks idling on private property where they should not. I am going to suggest to my client that he engage with a private tower, because those private towers are probably paying if they tow cars off there. That's one way to generate some income. He is not interested in having people idle there. When I was there today, I think I did see a truck in the back. I also saw some Rumpke trucks in the front of the lot. Maybe they were at the grocery store, I don't know.

Ms. Wallace: I appreciate your argument, and I agree with a lot of it. And, I want more than anything for that strip mall to have tenants in it, and for your client to be able to open another business and be able to expand her business. But, for me, the whole setting is just not going to change. If you did everything you said, it still does not change the fact that the back of the building is still on a thoroughfare to get from one main street to another main street. I appreciate and agree with your points about trying to make everything work out. Physically, it just cant be changed. The giant parking lot, if you could fence in the whole area and prevent any traffic at all, that would be a different idea, but that is not feasible. That would me millions of dollars to make it so you are not having traffic go through there. The ability of semis to go two doors down to make a delivery. That part for me is not changeable or fixable, even though everything else seems to be.

Mr. Hodge: Ms. Wallace, I don't know precisely what the ODJFS requirements are as to whether a operator has an obligation to have an outdoor play area. If the play area could be incorporated into the building...

Ms. Wallace: I am pretty sure there has to be an outside play area.

Pastor Linder: When the church had a day care years ago, we did have interior because of foul weather, so I do not remember now if you have to have both. We did have an outside and inside. I don't know if that is something worth looking into.

Mr. Hodge: Ours does too.

Pastor Linder: That had been a suggestion that I would have made, that if we could find more space for them to have an interior play area, that may have given the owner more room.

Mr. Snowden: Our zoning code is not going to require them. As far as what ODJFS requires, I don't know. I cant answer that question.

Mr. Hodge: I would on that issue, if it is important enough to one or more Board members, I would propose that this application be tabled until a later meeting so that we can get that answered. If you feel it is that important and makes a difference to your position.

Pastor Linder: Was the owner open to restricted hours in terms of delivery? Is that even practical for him and other tenants that would come in?

Mr. Hodge: At this point it is practical because there is nobody else there.

Pastor Linder: But could he work that with future lease agreements? Would he be comfortable trying it?

Mr. Hodge: At this point the answer is yes. One of the things he is looking at and has eluded to in my statement and I think it is a fantastic idea, again I drove it today, this building has a pretty significant face on Livingston Ave., and it's the site of old Big Lots, that could be broken into smaller spaces and have more of a presence on Livingston Ave. I think that is a direction he should go to breathe more life into the center and to draw traffic in off of Livingston. Currently it just looks like a long vacant front.

Mr. Snowden: So, to clarify what he means is taking the former Big Lots space and subdividing it into small tenant spaces that would face Livingston, that could be rented easier. For example, instead of renting the several thousand foot space, you could divide it and rent one to a barber shop, and one to a nail salon and so forth. So, it would be smaller and easier to rent.

Mr. Hodge: So, it is box truck delivery at that point?

Mr. Snowden: Correct, instead of the semi truck level delivery that Big Lots had.

Mr. Hodge: So, Pastor Linder, the answer to the question is yes.

Mr. Enfinger: Do we have any other questions, commentary, from members of the Board? My concerns still remain from the initial time. The proposed use is not going to be in character with the area, and I feel in my opinion that in the long term the proposed use will have an adverse effect on the use of adjacent properties, even though those might be empty right now. One of the questions that I think is obvious is, does it create the environment for other positive permitted businesses to move into the area. Once you start changing the actual character of that specific facility, all of the issues and things we discussed to this point seem to echo the fact that this place is not the proper place for a day care. It is my opinion, and we have voted consistently since I have been on the board, that day cares are long term, and as a zoning board, that's our perspective. Our perspective has to look beyond what Mr. Wiggins and Mr. Kuzmanovskis' short term objectives are, and we have to look at the long term thing. I have a couple of questions. Has WK Brice as an organization confronted the City administration and asked what is being done to turn this area around? What is the plan? Where is the vision? Have they put adequate pressure on the City to say, "This is not our fault. We are doing everything we can, but the neglect of the city, the neglect of a plan, of a vision, for that whole entire area..." And this center is not the only one that is struggling, and in my opinion, I think this is a larger issue. The one thing we have to be careful of here, in zoning, is to make sure we are preserving and protecting the long term financial interests of the district, of the city, and of the citizens. Maybe I am taking too broad of a view of it but I think that this is where the rubber meets the road. These are the types of decisions that have impact on those things subsequent years form now. Because, in all reality, if she is able to move in there, and she is successful through the years, it may be 10,15, or even 20 years she is there. Is that the right long term answer for us. It may be in their best interest to fill it, but long term I'm just not sure that it is. It all circles back around to the fact that it is beginning to change the essence and the character of this district, and this facility. When you begin to allow that type of a business, it fundamentally changes it. It has implications that reverberate through time. We have to be careful of that. And that is the position that the Board has taken since I have been on the Board for a little over a year now. And we have consistently upheld that as the position in the Community Commerce District. The day care centers do not fit the character, and it will have, as in Item "B", a negative impact on the neighboring and other businesses in that area. As a result, that is where I stand.

Mr. Hodge: I appreciate the comments Chairman Enfinger, and I think it is fair to say that reasonable people can reach alternative conclusions and I differ with your opinion. I am not just here as a mouthpiece for folks that have a goal, but I am here, and I believe what I say. I understand the position. I disagree with it. And, I think that in answer to your question, has this applicant reached out to the City? Yes, repeatedly, over and over. Mr. Havener is very active with this owner and his representatives, and very active with the City. And, the City to it's credit, has sent out many people to the site. They don't rent it. It's a challenged site. It is set back away from Brice Rd. The Brice Road frontage is all carved up into out lots. You cannot see it The Livingston Ave. redo of the frontage is a great idea, but it hasn't happened yet. People will not rent it. And so, it is a chicken or egg and the client is here spending money on me and other things, and willing to engage with the City to improve the site and to make all effort to do what is necessary to improve the site. But, until they get some income, until they get some activity on the site, my opinion is it is going to continue to languish.

Mr. Snowden: I would have to characterize them as very engaged at the moment, not just with this application, but looking at any potential changes to the site.

Mr. Hodge: I guess I would reiterate if there are folks to whom it would make a difference, regarding the play area, I would ask your thoughts and propose tabling to allow me to check with ODJFS.

Pastor Linder: I started reading the minutes thinking along the lines of Mr. Chairman, but I would be open to hearing if that answer would make a difference. I don't know if we should make a motion to table it, but I do yield to the veteran members here because I do not know if that just gets us back to spinning our wheels. That would be a motion I would make to table it at this time because that would give the applicant the opportunity to answer another way for this day care to fit that we might find to be safer, with respect to the Chairman's objection to the idea.

Ms. Wallace: I think a big point that has been made by some of the Board members is that it being a day care in not just this strip mall, but any, is just something they are not comfortable with because it does not fit the character of the building. And, if somebody would want to put a sales business in there, it would not fit he character of what the strip mall was originally deemed for.

Mr. Enfinger: I concur, the issue of the play area, while it is germane, is not my only concern. So, was there a motion?

Pastor Linder: There was.

Mr. Enfinger: Do we have a second for that motion. No second, so the motion is declined. I make a motion that we move to approve Application #170778.

Ms. Wallace: I second.

Mr. Enfinger: As a result, the applicant has failed, in my opinion, to reach the standards and requirements for all Special Exceptions, delineated in Item 1145.09 of the Code, specifically Line A and Line B.

Mr. Snowden: Very well Mr. Chairman and members of the Board, it stands as denied. At this time, if I could interject, Mr. Hodge, you can appeal that to City Council within thirty days and I will discuss with you as soon as the meeting is adjourned what you need to do in order to do that.

Mr. Hodge: Well thank you all for the opportunity, and for listening to me ramble on. And, Mr. Enfinger, I made a pretty strident point, but it is all in the nature of doing my best to make my clients case.

Mr. Enfinger: I absolutely understand. Thank you for coming out this evening.

RESULT:	**FAILED [2 TO 2]**
MOVER:	Aaron Enfinger
SECONDER:	Libby Wallace
AYES:	Enfinger, Wallace
NAYS:	Linder, Donovan

E. OTHER BUSINESS

Mr. Enfinger: Mr. Snowden, is there any other business on the Agenda.

Mr. Snowden: No other business or announcements at this time.

Pastor Linder: I would like to talk to you about the lights on the Dollar General store. They still have the lights on the top of the store.

Mr. Snowden: With regards to that, staff has been to the site several times since we last talked. The property went to pull electrical permits but were unable to because they did not heed my advice, which was that they needed to submit electrical plans to the building division, for review, before they could pull their permits. So, the property owner had to go back and have those plans drawn, and I belief they have yet to be submitted again.

Mr. Enfinger: Is there a specific time horizon in which there can be punitive action taken by the City, to encourage them to comply in a more timely manner?

Mr. Snowden: There is. When we made the initial statement, when the Board said thirty days to present a plan to Staff, they did present a plan to staff, although they are not in compliance at this time. So, they did meet that initial statement, but they have not met any subsequent timelines. The Board does not need to take any formal action. If it is the will of the Board that Staff and the Code Compliance Division move forward, there is nothing to prevent Staff from enforcing the Code.

Mr. Enfinger: I think we were, to say the very least, very generous in allowing them to move in there. Now they are dragging their feet and hoping that the whole thing goes away. I am just not comfortable with that. I don't think other members of the Board are as well. They have thumbed their nose at our requests. I think we need to move forward in those proceedings.

Mr. Snowden: Let Staff confer with Dan. One of the issues is that our Code Compliance Division is actually under Building so I am going to need to discuss with our Building Official exactly how he would want to operationally handle that. Let me try to get the Board a follow up from that either tomorrow or Monday. I will let you know whether they have submitted the plans, or whether citations are forthcoming.

Mr. Enfinger: Sounds good. Any other business? I would like for the record to reflect a point of clarity. Whenever I was speaking to Mr. Hodge about his client interacting with the City, and putting adequate pressure on the City, I wasn't speaking specifically of Mr. Havener. I know he is doing everything he can. I am speaking more broadly in terms of City Council, the Mayor's Office, and other entities in the City that seem to not be putting enough effort into making things happen, and not backing it with resources, and not doing what needs to be done, and just standing by with hands folded. As a point of clarity for that, I did not want it to come across as though I was throwing Staff, or the Development Director under the bus, specifically. I'm talking about the City leadership in general. That is where my comments are directed. Any other comments.

F. ADJOURNMENT

________________________ ________________________

Chairman Planning Administrator

Board of Zoning and Building Appeals

Anthony Rettke
7232 E. Main Street
Reynoldsburg OHIO 43068
Phone

ORDINANCE REQUEST

DATE: **October 12, 2015**

TO: **Service Committee**

RE: ORDINANCE APPROVING SPECIAL EXCEPTION USE PERMIT - (6475 E. Main Street; proposed use - Professional Activites); applicant, Sam Ugbo. (Second Reading 9/28/2015)

See attached materials.

CITY OF REYNOLDSBURG

Planning and Zoning Office
City of Reynoldsburg
7232 East Main Street
Reynoldsburg, Ohio

Received
JUN 0 2 2015

Reynoldsburg Building Division
Section 1139
BOARD OF ZONING & BUILDING APPEALS APPLICATION

Application #: 169919
Permit #:
Date Submitted: 6/2/15
Fee Amount: $
☐ Paid:

I. PROPERTY INFORMATION

Property Address:
6475 E. MAIN ST., Suite 137

II. PROPERTY OWNER OF RECORD

Property Owner Name(s): GBS Main, LLC

Contact Email: Jgunsorek@eco-gv.com

Contact Phone Number: 614-419-0425

III. BUSINESS INFORMATION (IF APPLICABLE)

Business Name: Stepping Stone Health Services

Contact Name: Sam Ugbo

Contact Phone Number: 614-556-2167

Contact Email: SSrs.org@gmail.com

Description of Use: Business / adult Services - Professional activities - Ed

IV. APPLICANT INFORMATION

Applicant Name: Sam Ugbo

Applicant Address: 6475 E MAIN ST STE 137

Applicant Phone Number: 614 556 2167

Applicant Email: SSrS.org@gmail.com

☐ Property Owner ☒ Business Owner ☐ Contractor ☐ Architect

PROJECT INFORMATION

CHECK AND DESCRIBE IF APPLY:

Variance (☐ Non-Residential ($450) / ☐ Residential ($100)):

☐ **Major/Minor Site Plan Review ($500/$250):**

☒ **Special Exception Use ($350):** professional activities -Ed

☐ **Other:**

Applicant shall submit **nine (9) copies** of application and materials to the Planning Administrator. Please review the attached sections of the Zoning Code and note the items you are responsible for submitting with this application.

Applicant Signature: [signature] Date:

Additional Notes:

****OFFICE USE ONLY****

Zoning Information
Zoning District: RI
☐ Historic District
☐ CC Overlay

Other Board Approval
☐ DRB

City Council Meeting
Date:
☐ No Action Taken
☐ Approved (w/ Conditions)
☐ Introduced As Ordinance
☐ Denied

BZBA Meeting
Date: 7/16/15
☐ Approved as Submitted
☐ Approved w/ Conditions
☐ Tabled
☐ Denied

Clerk of Council
Initials: Date:

Planner Initials: Date:

Attachment: BZBA App #169919 and lg plans memo (1176 : 6475 E. Main St., Suite 137)

REAL ESTATE DEVELOPMENT CONSULTING
ARCHITECTURE + ENVIRONMENTAL + CIVIL ENGINEERING
DEVELOPMENT SERVICES

DATE: May 27, 2015

TO: Planning and Zoning Department
City of Reynoldsburg
7232 East Main Street
Reynoldsburg, Ohio 43068

Re: **Special Exception Use Permit Application**
Narrative for items 6, 8, 9 and 10 (traffic only)
This narrative accompanies the submitted plans with this application

Project: **Stepping Stones Health Services**
East Main Commerce Center - Suites 136 thru 137
6475 East Main Street
Reynoldsburg, Ohio

Below are the written narratives as required per the Special Exception Application. Each item numbered in this letter corresponds with the listed item on the application checklist.

Item 6: Description of proposed activities, services, hours of operation, number of employers, and delivery schedule.

The office space occupied by Stepping Stone Health Services shall be used for daily business operations of the company and for various in-house instruction, recreation and health services for clients. There shall not be any sale of goods. The anticipated hours of operation shall be from 8am to 6pm Monday thru Friday. It is anticipated there shall be 2-4 employees and 4-6 clients on site during these hours. Typically, clients arrive using transportation services and do not utilize on-site parking. There shall not be any related delivery of goods to the facility besides typical postal service and Fedex/UPS deliveries.

Item 8: Compatibility with the proposed use with existing uses in the center.

The tenant is moving into an existing building space and many of the activities associated with this tenant are business related so, no new impact on site is expected. Finally, since this is a service tenant there shall not be any elements affected such as noise, glare, fumes, vibration, etc.

| 33 N. Grant Street | Suite 150 | Columbus, Ohio | 43215 |

Item 9: Applicable criteria in section 1145.09.

a. The proposed use shall work well within the existing commerce center. This space does not have warehouse use like the other spaces in the center and this tenant has not need for the warehouse. All activities happen within the facility and do not provide any adverse affects to the character of the district and nearby districts.
b. The proposed use shall not adversely affect the adjacent property. This tenant is not making any changes to the existing structure or exterior elements of the property. This tenant also does not have any unusual deliveries or activities that occur outside of the facility.
c. The proposed use does not adversely affect the health, safety, morals or welfare of persons residing or working in the neighborhood. We would expect this tenant actually provides a service that can improve the lives of local disabled adults in the area.
d. The existing public facilities, such as roads, police/fire protection, storm water, water and sanitary sewer are adequate to serve this proposed use. The average client stay here shall be about a few hours to attend classes and typical there are only 4-6 participants at a time.
e. The proposed use shall not impose a traffic impact on the right of way significantly different from the other anticipated uses in the district.
f. The proposed use shall be in accord with specific objectives, purpose and intent of the Zoning Code and Land Use Plan, as well as with any other city ordinances.
g. The proposed use complies with the specific provisions of the Code. All pertinent building codes shall be adhered in the tenant build out for this city and shall be reviewed by the City of Reynoldsburg.
h. The proposed use is found to meet the specifically listed special exception, Business Services as allowed as a special exception in this district.

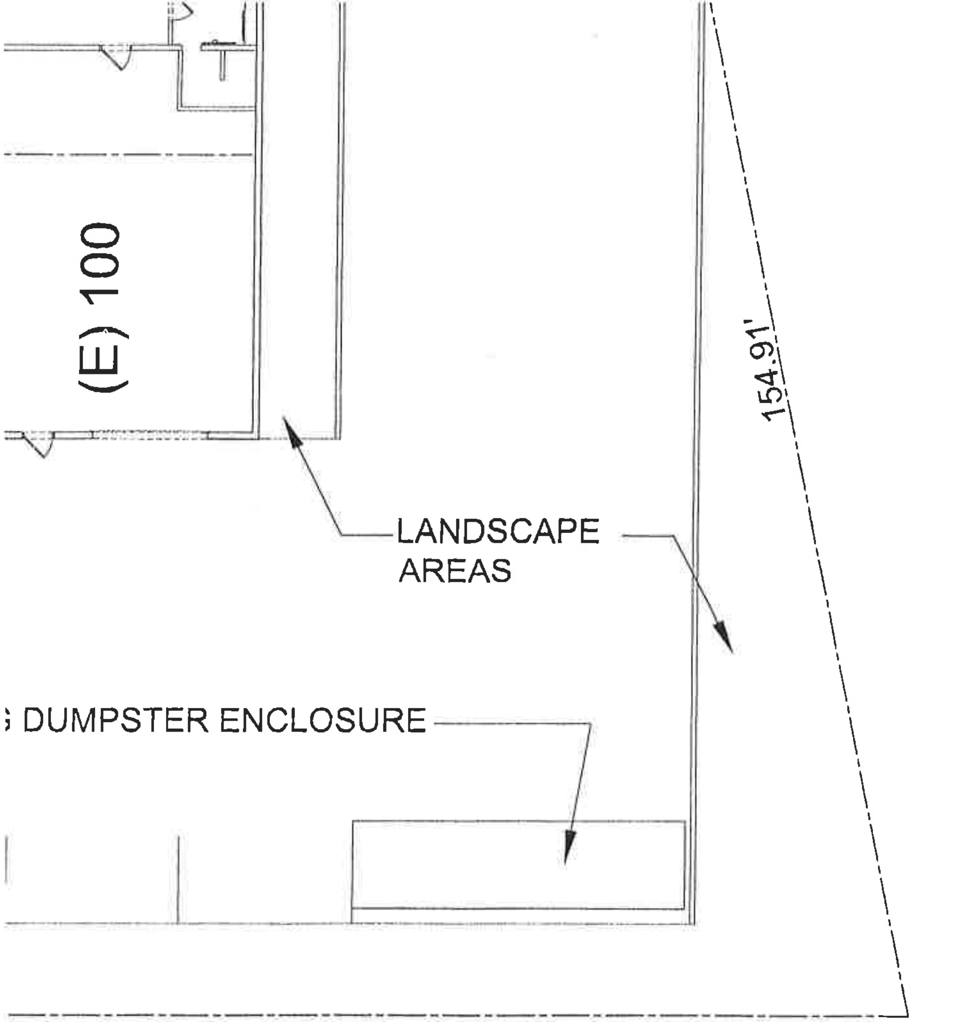
Item 10: Additional information required pertaining to traffic impact, storm water impact or utility impact.

This tenant shall not have any new impact on the existing storm water or utilities on the site. The impact on current traffic and parking needs on the site shall be minimal due to the small occupant load and use of public transportation services.

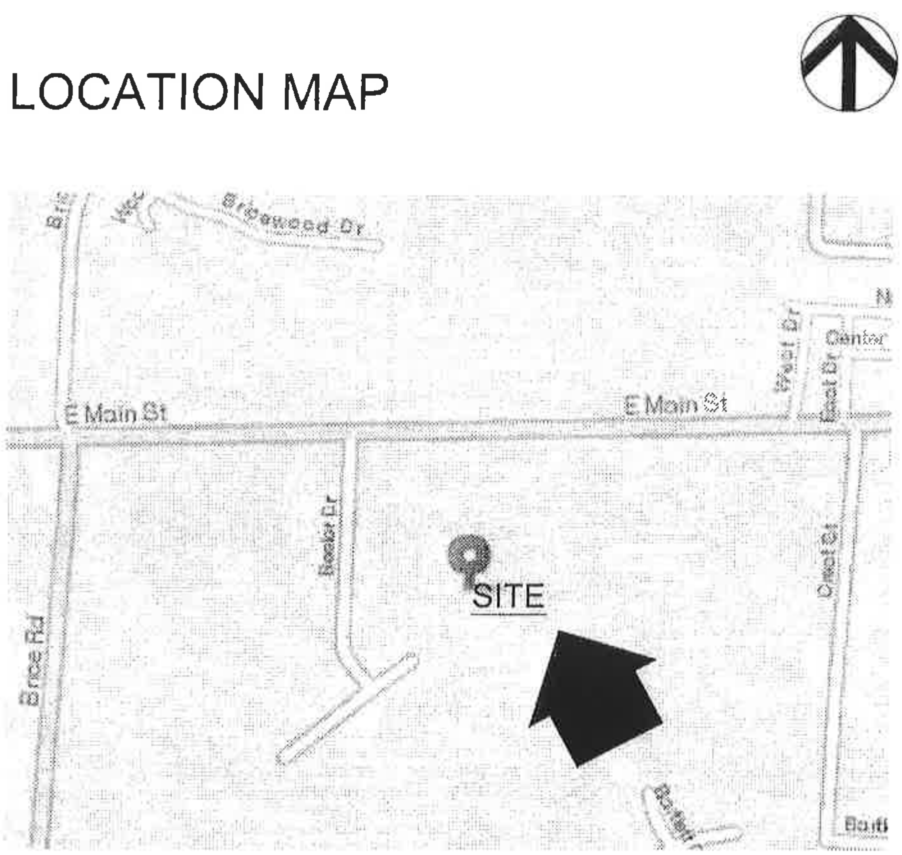
If you have any additional comments or questions please contact me at the number or email address listed below. Thank you.

Sincerely,

Kimberly Mikanik
Architect, NCARB
614.562.4395
kim.mikanik@r-e-d-consulting.com



LOCATION MAP



SEAL

STATE OF OHIO
KIMBERLY R. MIKANIK
12489
REGISTERED ARCHITECT

Kimberly R. Mikanik
License Number 12489
Expiration Date 12/31/201

REVISION RECORD

NO:	DATE:

SEU APPROVAL: 2015.05.

JOB NUMBER
15MC01

SHEET TITLE:
ZONING CLEARANCE PLAN

SHEET NUMBER:
C1.1

CITY OF REYNOLDSBURG

Board of Zoning and Building Appeals

July 16, 2015 Meeting

Due to the size of the plans, plans pertaining to this packet may be viewed at the City of Reynoldsburg Building Department

CITY OF REYNOLDSBURG

MINUTES

BOARD OF ZONING AND BUILDING APPEALS
THURSDAY, JULY 16, 2015 6:30 PM

PLACE: COUNCIL CHAMBERS
7232 E. MAIN ST, REYNOLDBURG, OH 43068

A. CALL TO ORDER

PRESENT: Linder, Donovan, Enfinger, Wallace
ABSENT: Rettke

2. APPROVAL OF MINUTES

Minutes not reviewed by Board of Zoning and Building Appeals. Approval of minutes postponed until the August meeting.

3. APPROVAL OF AGENDA

Agenda stands approved.

4. SWEARING IN OF SPEAKERS

Vice Chairman Enfinger: If you intend to speak at this evening's meeting, please stand and raise your right hand. Do you promise that what you say and present this evening will be truthful? "I do."

B. PUBLIC COMMENT

Vice Chairman Enfinger: Is there any unfinished business. No, then we will move on.

C. UNFINISHED BUSINESS

Vice Chairman Enfinger: Mr. Snowden, is there any unfinished?

Mr. Snowden: I have one announcement. Staff has worked with Dollar General and has been to the site regarding the lighting that was discussed in the May meeting. We will send out a copy of what we have approved, and will inform the board when they have installed what we have requested.

Vice Chairman Enfinger: Thank you very much.

D. NEW BUSINESS

1. **<u>6475 E. Main St., Suite 137; Application #169919; Special Exception Use</u>**

Vice Chairman Enfinger: May we have the presentation please?

Mr. Snowden: Thank you Mr. Chairman. Staff would direct that this is item number 2. In the Staff Report: 6475 E. Main St, Stepping Stone Health Services, for Special Exception Use Permit, Application #169919. The property is located on the south side of E. Main St., between Brice Rd. And Crest St. Existing zoning is RI, Restrictive Industry District. The request is for the Board to review and approve a Special Exception Use Permit for professional activities in the R-1, Restrictive Industry District. The location is an existing multi-tenant, flex-space style, industrial building. I will go to the location now on our mapping system. This is the subject parcel. RI is the more restrictive of our two Industrial Districts. The other would be General Industry. The types of uses that are permitted there per code are light manufacturing, warehousing, and similar uses. This special exception is for Professional Activities. In this case it is a Health Care Organization. This came to the attention of staff by the Fire Prevention Officer, Joe Posey, who made contact with the tenant at the space. In the course of his normal inspections, he found there was a tenant occupying this space. When he contacted me, we determined that this tenant did not have a zoning certificate, or building occupancy, to be in the space. They got in touch with staff. Staff began to make some determinations about the use. The primary purpose of the use, according to information provided by the applicant, is professional services to adults with disabilities. Staff classified this as Professional Activities, and the rationale being that the staff, at this location, are professional caretakers and provide services to these adults. There are no residents at the site. The applicant is not proposing any residential component at this location. The applicant is not proposing outside public access or retail style customer service at the location. Parking per code: this location would require fourteen parking spaces. This is true of previous administrative offices and light manufacturing that were located at this tenant space. Staff did a review of the entire complex. This led to an interesting observation. The entire complex has approximately eighty, I think I listed one hundred, parking spaces. There is parking around the peripheral. As you can see, the anterior of the site has parking. There are delivery locations on the outside and additional parking and loading spaces. Per code, if this entire complex were to be used for manufacturing, light manufacturing, or warehousing, the required parking for that would be over three hundred spaces. This leads staff to believe that either a parking variance was granted previously for this site, or the site was simply constructed before our current parking regulations were put in place. Unfortunately, for a variety of reasons, I do not have a way to verify that information. I also do not have a way to know if a variance was granted for parking. The issue here is that any user at this existing site, is going to be subject to this parking requirement. For example, manufacturing and warehousing are also at one space per two hundred per the code. It is my view that the board not specifically deny the use because the entire overall site seems to have a weird situation for parking, given that the parking requirements are the same. So, for example, if you had a restaurant user that goes to one hundred sq. ft., that is going to require more parking at this space, perhaps addressing or denying that Special Exception permit, may be more acceptable. It is definitely a bizarre situation. My normal experience when I review retail complexes, is that everyone has more parking, by fifty spaces or more. To see something at one third below what is required by our current code, is bizarre to me. Staff recommends that the Board determine if the applicant has meant all the criteria for Special Exception Use, and that the proposed use is not going to have a negative impact on the health, safety, morals, comfort, of general welfare of community. Staff would ask that the applicant representative provide as much information as possible, to the board. It appears that the applicant is having transportation for their clients to the site. Staff would like clarification as to the size of vehicle that is being used, simply because accessing the site for buses is difficult because there would only be back in and back out maneuverability at a site with this configuration. With that, I will be happy to take any questions from our Board members.

Vice Chairman Enfinger: Thank you Mr. Snowden. Is there a representative from the organization here tonight? Before you begin, please state your name and address for the record.

Ms. Malley: My name is Rachel Malley, and the address is 6475 E. Main St., Suite 136 and 137.

Vice Chairman Enfinger: Thank you Rachel. The question I have, it does say that you have been occupying this space, how long have you been there?

Ms. Malley: It was a year in February, so a year and a half.

Vice Chairman Enfinger: At any point in time, were you advised that you needed occupancy permits?

Ms. Malley: No, we were under the impression that everything was fine. When we went to meet with the landlords, who rent the space, we asked them if zoning for the office was going to be ok for the particular need of our agency. We were told that everything should be fine. We were unaware that we needed to get an occupancy permit, change zoning, get a certificate, or anything like that.

Mr. Snowden: Mr. Chairman, Dan and I are finding that this is very common throughout the city. Given that they have been there since February of 2014, it is normal given Lt. Posey's schedule of fire inspections for commercial properties. He tries to visit every site about once a year, so he probably visited last winter and returned this Winter/Spring. That is how the situation arose.

Ms. Malley: If I may, what ended up happening, every three years the state does a review of places that provide Medicaid services, which is what we do. And, we wanted to make sure, because we are running a day program for developmentally disabled adults, that we were meeting all of the requirements necessary. We actually asked Lt. Posey to come and do an inspection of the office to make sure that we are in compliance. That is when it came to our attention that we had all of these things that we needed to do.

Mr. Snowden: We have a cooperative relationship with Lt. Posey. We share information. Although we are not members of the same government entity, I try to ensure I am not making approvals for things that will cause him problems, and vice versa. It is normal communication.

Mr. Donovan: You mentioned earlier that vans are used to transport. How many vans do you use, and are they parked on the property?

Ms. Malley: Yes. We currently have two vans. One is wheel chair accessible, but it is not a commercial or large sized van. It is standard, such as what you or I might own for personal use. The other is the same, it is a Kia. There is nothing larger than a seven passenger van being used.

Mr. Donovan: So there will not be any maneuverability problems on that property?

Ms. Malley: No.

Vice Chairman Enfinger: How many people do you have on an average, at any given time?

Ms. Malley: Client peak is seven, and staffing is four.

Vice Chairman Enfinger: So a potential total of eleven?

Ms. Malley: Correct.

Vice Chairman Enfinger: Most, if not all come with transportation services? Are those primarily provided by you?

Ms. Malley: We have one individual that receives transportation from another agency. We provide transportation for the other individuals.

Ms. Wallace: There has never been any issues or complaints regarding the business?

Mr. Snowden: When staff visited the site, staff found that the parking lot looked a lot like what you are seeing in the aerial image in front of you, which is a few delivery vehicles for existing tenants, and no other folks parked on site. I am not aware of any complaints that were raised in regards to the parking. Usually staff does not see something that is that extreme. Whenever the Board has dealt with this before, it has always been a retail situation where they are required to provide fifty spaces, and they are providing forty-nine, or something to that effect. So to see it that extreme, is what has raised the staff's eyebrows. I have to assume at that point, it was probably a parking variance.

Ms. Malley: If I may, I can offer some insight as to the parking situation. If you are looking at our office at 136 and 137, Garda is to the right hand side of us. They park all of their vehicles in the back and are not taking up any parking spaces. Next to them is space which is being used by the owner for storage, so no one is taking up that space besides an occasional maintenance man. The church is on the left side of us. They are only there on Sundays and occasionally in the evening.

Mr, Snowden: That was Simple Church that was in front of this Board, back in January.

Ms. Malley: We have never had a parking issue.

Pastor Linder: You have a projected max of seven clients? Do you forecast that It could be higher than that?

Ms. Malley: A hopeful forecasted maximum would be in the twelve to fourteen range. Our growth has been so slow I can not honestly tell you what that might be in a few years.

Mr. Snowden: Do you foresee yourself looking for additional tenant space in the same location?

Ms. Malley: No.

Vice Chairman Enfinger: What does a day look like for one of your clients?

Ms. Malley: They arrive around 10am. We have a schedule we try to stick to. We do have some physical fitness equipment, like a treadmill, so they work out a little bit. They play pool. They play games. Arts and Crafts. They are recreational and somewhat educational activities. We go on outings.

Vice Chairman Enfinger: What is the level of disabilities, for the folks you serve?

Ms. Malley: It's varying. Everyone is ambulatory. We have two individuals that attend that are profoundly developmentally disabled. And then, we have individuals that can cook and clean for themselves. They are more high functioning. It's a wide array.

Ms. Snowden: What are the characteristics of most of your employees? Are they registered nurses, social workers? What is their background, in general?

Ms. Malley: The state has specific requirements that everyone has to meet. Everyone has to pass a background check. We do checks on them every year; sex offender registry, attorney general. Myself, I am an STNA, I'm certified to pass medications. We also have other individuals that are certified to pass medications. Everyone on staff has first aid and CPR. Everyone gets other training annually. The Usual Incident training which is required by the state

Vice Chairman Enfinger: Is there any type of risk for some of the ones that are more challenged, as far as someone walking out and leaving? Do you lock doors behind everyone? Do you confront Alzheimer's or different situations?

Ms. Malley: No, we can not lock anyone in anywhere. You have to have specific authorization to do that and we do not have the need. We have never had anyone run out.

Mr. Snowden: Is there any other outdoor storage or play area outside?

Ms. Malley: No. We keep all of our outdoor activities off site. We go to parks, the Y, or somewhere else to do activities.

Vice Chairman Enfinger: How has your experience there been overall?

Ms. Malley: We have had a really positive experience. The only issue we have had is that people have a hard time finding us.

Vice Chairman Enfinger: Well it sounds like you guys are a good fit. I am just disappointed to hear that it takes over a year to find out that proper authorizations and inspections need to be done.

Mr. Snowden: Mr. Chairman, allow me to interject here. As I have sated, this is sometimes a problem city wide. We have seen it in front of this board many times. Dan and I have reached out several times to property owners and managers of other multi tenant, especially retail tenants, to make them aware that Dan and I are here to assist them and find appropriate locations. It is something we try to address. Obviously, we have a lot of properties in the city.

Vice Chairman Enfinger: Right. I understand. I do recall that the Simple Church was also in a similar situation. They were in there for a while. Is there potential that we need to reach out to this tenant (owner)? Are they possibly thumbing their nose at the authorities?

Mr. Snowden: Dan I would not have a problem. It happens once, it is a mistake and we go to educating, but maybe if it is happening twice we assume it is an indication that the property owner does not know the process. Dan and I will be happy to get in contact with them.

Vice Chairman Enfinger: I appreciate that. Are there any other questions from the members of the Board? I make a motion that we move to adopt Application 169919.

Ms. Wallace: I will Second.

Mr. Snowden: Very well. Ma'am, the Board has approved your Special Exception use Permit. I am going to read what is under "Next Steps" in the Staff Report. I send this information out as a letter on the day following the meeting, to the address provided. So, you will receive a copy. I believe Sam was your representative. He has already submitted for your zoning certificate, which is basically just the administrative approval which comes after you get this approval. I will contact you as soon as that is ready. Once that is secured, you will want to contact the building division and submit plans for building occupancy. I have discussed this with Sam. What he will need to submit is a layout, including the furniture. I think he already has that, but it is something he should do as soon as I contact him. Once that is done, Lt. Posey, and Mr. Slota, our Building Official, can return to the site to give you the final occupancy, and take care of things with the state.

Ms. Malley: Thank you very much for your time.

Vice Chairman Enfinger: Thank you Rachel.

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Aaron Enfinger, Vice Chairman
SECONDER:	Libby Wallace
AYES:	Linder, Donovan, Enfinger, Wallace

2. **<u>2277 Taylor Park Dr.; Application #170167; Major Site Plan Review</u>**

Vice Chairman Enfinger: Can we have the presentation please?

Mr. Snowden: Thank you Mr. Chairman. 2277 Taylor Park Dr., the applicant is Wesley Ridge Residence Corporation, and the representatives are Michael Healy, Ph7 Architecture, and Mr. Ryan Aiello of Dinsmore's Attorneys. It is for Major Site Plan Review, Application #170167. The property is located on the west side of Taylor Park Dr., just north of Taylor Rd. I am showing you the location on the screen in front of you. You can see it is in our St. Rt. 256 Commercial Corridor, immediately to the west of the Reynoldsburg-Baltimore and Rt. 256 thoroughfare. The applicant is requesting the Board approve a major site plan for a new fitness center facility on the campus of a multi-building residential care facility. The existing zoning is AR-3, Multi-family Residential District. Current use is Residential Care Facility, and you can see Mr. Healy's name listed there, and the remainder of the applicants. The site was recently rezoned, within the last two months, to AR-3. The portion of the property we are looking at is currently undeveloped. The property to the south abuts commercial business in the CS, Community Services District of the city. To the north it abuts the existing care facility buildings. The entire residential care facility complex is adjacent to park land along the west. Along the east side of Taylor park Dr., you can see it is developed there with a McDonald's, AT&T, a small multi-tenant commercial building, and a Shell gas station. So there is some auto oriented commercial directly in front of the site. The proposed building site, which you are seeing mostly brown in front of you, is an approximately 2.61 acre parcel. As part of the rezoning last month, the applicant rezoned these two parcels that exist in this area here, as well as, two other small parcels as part of their overall complex. So, what has happened over the years, is that the Wesley Ridge property, that appears to have started development in 2001/2002, has slowly grown and they have acquired some other small properties from neighboring property owners. Staff was approached by Mr. Aiello earlier this year regarding this project, and staff encouraged him to rezone the entire property to AR-3. The rationale behind the rezoning, although that is not what the Board is considering tonight, the Planning Commission and City Council approved that, was to get all parcels owned by Wesley Ridge into one zoning district and to make them all one site that works together. Residential care facility is a permitted use in our AR districts. AR-3 is the most intense. It allows the highest building, the most number of units, and so on. It also made the fitness center an accessory use to the existing facility. The idea being that the fitness center, as part of this complex, exists primarily for the benefit of the residents on the site. The applicant can give you more of an idea as to what the long term plan is for this particular proposal. Turning to my staff review, and the zoning district regulations and characteristics, you can see that they are meeting the regulations there, however staff would like clarification as to the building height, which was not indicated on the plans. The minimum rear yard depth is not being met. The point is that they do not really need to meet that because they are within their own complex. They are only at a thirty foot set back from the lot line that exists where the fence is. Although there is a lot line there, that is an accessory building to the entire complex. They do not need to meet the set back for that. The minimum would be fifteen feet separation between accessory buildings. The idea there is that there is some sort of minimum fire block that stops fire from passing between. That is for residential, but it is a good rule of thumb. The architectural detailing, per code, anything in AR-3 has to be at least 75% natural materials. Looking at the proposed drawings, there is brick and cement board siding, glass walls, and a standing seam metal roof system. They have easily met their 75% minimum, of the natural material requirement. The applicant, upon study, was not required to provide a traffic study because it did not meet the threshold for minimum number of new trips generated. The applicant is proposing forty-three parking spaces as part of this project. If the facility was a stand along facility, seventy parking spaces would be required. This goes back to the point that I made about use. Staff is viewing this as an accessory use for residents that already live at the site. As stated in Section 1179.03 of the Code, the Board is able to approve parking plans with less parking than required by code, when you are dealing with a mix of uses on one site. And, that is what we are dealing with here. There will be residents that move about the complex on foot. There does not need to be a parking space at the center and a parking space in front of their units. The applicant can speak more to this, but it is staff's understanding that although initially the project will only be open to Wesley Ridge residents, they would like to use this in the future for members of the public who meet their age demographics. When that happens, they will need to do a minor site plan, if not return, to get approved for the additional parking needed to do that. I made a note in there, ie...swim meet. With a 6,000 sq. ft. Pool, a request may come from the Reynoldsburg High School Swim team to use this facility. I understand that is not their plan, but that is something that could theoretically happen. When that time comes, they may need to add parking. That does not mean the Board can not approve this as proposed, it just means that the applicant needs to be aware that if there is a change there, they may need to add parking. Or, provide staff with a statement of how much parking there is on the entire site, and prove to staff they can accommodate what they are proposing, if it changes. Landscaping, the applicant is meeting the minimum requirements for the exterior. The applicant needs to provide a fifteen foot buffer along the south side of the property, which fronts this commercial property. The reason for that is, that property is already developed. The code says that anytime a multifamily or residential use abuts commercial, a fifteen ft. Landscape buffer, with a six ft high berm fence, hedge, etc..., must be provided. Staff recommends the Board require that is provided as part of their zoning certificate, so staff can confirm it is there. They propose to take down the fence on the rear, obviously they do not need to screen the mainlander of their complex from themselves. The applicant will nee to install street trees there per the code, approximately one every 35 ft., or one every 45 ft., depending on the type of tree they use. That should also be shown on the landscape plan. Staff would recommend that the board, as a condition, state that they need to provide a new landscape plan, and staff can review that for minimum compliance with the zoning certificate, if the Board is comfortable with that. Utilities, the applicant is going to have to go through a plot grade utility review, as you can see from page 2 of the plans, providing there is an existing storm water line, from when this was set up for development for retail sales. The City's Engineering review is basically to determine whether they can accommodate and comply. For example, with stormwater, can they handle the stormwater? It has come to staff's attention that there may be an agreement coming together to utilize that storm drain, or not. Ultimately, that is not something that the city really concerns itself with. Underground utilities are not being approved as part of this major site plan. But, they will have to go through a PGU. Staff recommends that the Board determines if the applicant has met all the criteria for major site plan review and approval, as outlined in the prescribed section, and determine whether or not the site plan proposed will have a negative impact on the public health, safety, morals, comfort, or general welfare. Staff's recommendation, if the Board chooses to approve, would be that it be specifically states that changes in the facilities use by external customers be subject to a new zoning certificate, and that the applicant provide a new landscape plan showing that they meet the minimum requirements of the buffer and the street trees. I will be happy to answer any questions and turn things back over to the chair.

Vice Chairman Enfinger: Do we have representatives from the organization?

Mr. Aiello: My name is Ryan Aiello. Address is 191 W. Nationwide Blvd., Columbus. I am an attorney and I represent Wesley Ridge. Eric did a good job explaining the project. Out architect is here, Mike Healy for PU7, as well as Brian Quakenbush from EMH&T, to explain or give answers to the site and how it is laid out. As you know, Wesley Ridge is a senior care facility, that deals with multiple levels of aging. It is an aging place facility. We feel the aquatic center is going to be the new front door for the facility and will greatly enhance the experience of the residents there. To touch on the point that Eric had mentioned, we do envision that non-residents will be using this facility in the near future. I think after two months, but we don't expect that to be a very intense use, and that the parking we will be providing will be adequate for those additional users. The point of that, is to introduce people that are thinking about coming and living at the facility. It is a soft introduction and a way to get them to see the services there and to meet people. I will be happy to field any questions you have.

Ms. Wallace: Are you looking to promote to the Reynoldsburg and Pickerington Senior Centers?

Mr. Aiello: I don't know that we are specifically targeting centers, but it will be open to the elderly population of Reynoldsburg.

Mr. Healy: PH7 Architects, 330 W. Spring St., Columbus, OH. I don't want to mislead you. Outside the Wesley Ridge community, use is very small. We did a comparable facility for Wesley Glen, which is also owned by Methodist Elder Care, at their Clintonville location, and there are less than ten users from outside of the facility. They do not target and market outside of the community. They just want to let the public know that it is a soft sell. People that are 65 and 70 years of age, don't want to work out in a fitness gym. Every senior facility has its own personality, and if fitness and wellness gets popular, and the use is internal, they are not going to worry about the external use at all.

Mr. Snowden: Mr. Chairman, and other members of the Board, I do not want to belabor the point with the parking. Staff would be comfortable if the applicants could show that no more than 50% of their usage was from outside, and that they are at about 50% of their parking.

Staff would be comfortable with that. We do not differentiate between types of recreational facilities. For example, it's one per 200 sq. ft. for a golf course. That would be calculated based on the size of the Pro Shop or the main building. Well the Pro Shop could be a 2000 ft. Pole barn and then they would not be required to have much parking, I believe 6000 sq. ft. Is the pool facility, which is a very large room. But, it has a limited capacity because of swimming lanes and so forth. There are finished classrooms but there is not an assembly space. I am comfortable, if the Board is comfortable. If the Board would like to see more parking, that is up to you.

Mr. Donovan: I have a question for you. The picture you are showing there has a completely different colored roof than the rest of the buildings in the complex. Is that staying that way?

Mr. Healy: There is an ongoing theme at the campus. There are accent roofs that are standing seam metal. And the main roofs are dimensional asphalt shingles. We started the design with a completely metal seam roof. We are still exploring the possibility of value engineering, and to take a portion of that to dimensional asphalt shingle with the accent roof being standing seam. The idea is, this is a campus with campus architecture. We are picking up all of the existing materials and using them with the same kind of palate, same kind of vernacular.

Mr. Snowden: Mr. Healy, could you tell me how tall the building is? I want to make sure you are meeting that minimum requirement.

Mr. Healy: The mean height of the roof, the hip roof, over the fitness area of the building, is 24 ft. The apex of the curve of the barrel vault of the aquatic center.

Mr. Snowden: We would calculate the height off that small copula that is at the center there.

Mr. Healy: The top of the copula is 45 ft.

Mr. Snowden: The code states that the height limit is 40 ft. I can look to see if Wesley Ridge had variances for height, but, if they did, it would be for the main complex and not for this portion. Is the copula a required element, or is there a possibility of reducing height to avoid variances.

Mr. Healy: I would be happy to comply to 40 ft.

Mr. Snowden: Let me check this to verify. I do not want a small technicality to hold up the Board's ability to approve the site plan.

Vice Chairman Enfinger: To review, it is currently drawn at 45 ft., and the code is currently 40.

Mr. Snowden: That is correct. Let me check two definitions. In the past, we calculated height off the highest architectural point, but not aspire, but let me see how the definition reads to see how to calculate from that ridge line. The top part is an architectural detail.

Ms. Wallace: Is that just a decorative piece?

Mr. Healy: It is. It is not functional. It really is the smallest building on campus so we are trying to give it vertical nature. There is an eight, two, and four story building. We are just trying to give it a presence because it is the new front door for the community.

Mr. Donovan: People outside the complex, attending there, are you going after the silver sneaker people.

Mr. Healy: They really aren't. I think this is an issue that we really don't want to talk about. The focus is internal. And the hope is, once the facility is up and running, fitness and wellness will become a culture within the community and the independent living population is going to take up all the time that could be possibly used out there. The High School swimming team would not ask to use this pool. It's maximum depth is four feet. You cant do competitive swimming in that water depth. This is really about senior water aerobics. There will be a couple of lap swimmers that will swim the perimeter of the pool. It is only a 50 ft. Pool so it is not conducive to competitive swimming.

Pastor Linder: Does your staff have access at off hours?

Mr. Healy: It will depend on their programming and the popularity within the community. Every community ebbs and flows, as new residents move in, old residents move on. Right now they have a single Wellness Director. They will be limited on the programming, and if it takes off in popularity, they may extend their hours.

Mr. Donovan: Have they seen the staff at the other location using it heavily?

Mr. Healy: They don't. The other facility is focused more on therapeutic aquatics and they have a much larger fitness center. This fitness center only has eight pieces of equipment it in and then what we call the fitness gym can seat twenty-four residents doing light aerobics.

Vice Chairman Enfinger: How many residents total do they have on campus?

Mr. Healy: They serve a little over two hundred residents and a full continuum of care. They have independent Ridge homes. They have independent living in the Park Side apartment building, assisted living, memory care, and a rehab nursing center. The big issue is there is not going to be the independent living residence.

Mr. Snowden: Mr. Enfinger, and other members of the Board, if you look on your screen, that is the independent living facility, the smaller homes, what we think of as condos, and the independent living patio homes. Mr. Healy, what is the height of the ridge line on the main fitness center part?

Mr. Healy: I calculated the mean height, it is about 36 ft.

Mr. Snowden: As I stated, we were at forty. I am going to read from section 1175.10B of the code, "accept as otherwise provided in the code, the height regulations prescribed herein, shall not apply to television, radio towers, spires, belfries, copulas, antennas, monuments, etc..., placed above the roof level and not intended for human occupancy. So provided that this ridge is at 40, I'm comfortable we have met the minimum requirements of the zoning code.

Vice Chairman Enfinger: For a point of clarification, the approval of a major site plan encompasses that?

Mr. Snowden: It does. The situation now is there is nothing preventing the Board from approving this. There are no variances required. Mr. Healy if you could help me, when you supply the plan with the zoning certificate, note that on there, so I have something to go back on. Include the maximum height of the building, the ridge height, and the copula height.

Pastor Linder: Eric, I am comfortable with what they feel the use will be by external individuals, but do you need a communication when it reaches past that 50%?

Mr. Snowden: What the code says is that I am involved issuing zoning certificates. Any time a "use is change, expanded, reconstructed" per the code. So, if they wanted to change that, let's say everything this evening is accurate, and the staff reevaluates in five years, they would just have to meet with me, and we would reevaluate at that time. The only thing that we would most likely be looking at, is adding more parking. The nice thing is, that gives them options. Adding parking is not such a huge deal. Other options would be having a parking agreement with one of the neighbors. How much parking they had to add would mean whether they had to come back to the board, or whether I could approve. They have multiple options and are not getting locked into any one thing. They are just getting approved for what they have requested this evening.

Vice Chairman Enfinger: They are requesting that it is used exclusively for the residents, and then if they look outside to bring in individuals, does that have an impact on what we are discussing now?

Mr. Snowden: If it became at any future date, more than 50% of the facilities used, the representatives, or the applicants of the site, should contact me, and we can deal with it then. I think if it is less than 50%, it is almost like an accessory to an accessory. It is not all or nothing, and we have to allow some level of use there. Once that becomes more than 50%, that's usually a good standard and you could say, " this is now the primary use. If you have more than 50% of the people using the facility room outside, we are now not an accessory to a residential care facility, we are just a free standing fitness club and that changes how we are going to look at it.

Vice Chairman Enfinger: Is that verbage in the presentation or documentation? Or is that in the current code?

Mr. Snowden: That would be something that is the code right now. My point for bringing it up is to mainly make them aware of it. Again, we are expanding a complex rather than building a free standing structure.

Vice Chairman Enfinger: That is fine. I want to make sure we didn't need it stated anywhere or need something implicit.

Mr. Snowden: The board could do that if they were more comfortable Mr. Chairman, but it is not required. Anytime a use is expanded like that, it is a pretty normal standard of what I would look for.

Vice Chairman Enfinger: Any further questions from the board? Ok, I make a motion that we move to approve application 170167, Major Site Plan Review, with the following provisions... I remove my motion. We did not discuss the landscape questions.

Mr. Snowden: Mr. Chairmen, and other members of the Board, are there any concerns with that? The applicant, in brief conversations with staff, has understood that they were comfortable. It seems that they were comfortable with adding that. Would you like me to go over more in depth what they would like to see, specifically?

Ms. Wallace: Have they met requirements?

Mr. Healy: As far as I am concerned, we are going to make those revisions contingent on your approval.

Mr. Snowden: If that is what the Board is comfortable with. I will explain what I would want to see Mr. Healy, and members of the Board. As you show me the landscape plan, on page 4 of your submission, redo that landscape plan, and send that in with your zoning certificate approval. Basically, you are sending me the same package, just updated with these details. Show me on there that you are adding street trees, per the code, at 25, 35, or 45 ft., depending on the height of the tree that you are picking from our table. Then, show me that you are giving a 15 ft. landscape buffer, and your choices there were bound, hedge, continuously landscaped tree line, and fence. Obviously, I am more supportive of more landscape material and fewer fences, as is practical. I just want to see that, and as long as I could say it was on the plan, I could approve it, if at that point, the Board was comfortable.

Vice Chairman Enfinger: So again, I make a motion that we move to approve application 170167, with the following conditions: Staff reviews a revised landscape plan, and that any changes in future use be approved by the Board of Building and Zoning Appeals.

Mr. Donovan: I second it

Mr. Snowden: Mr. Spears represents the property owner to the south. As I explained in my statement regarding utilities, they are going to have to get a Plot Grade Utility approval. If you would like to discuss this gentleman's concerns, that would be up to the Board.

Mr. Spears: Does Site Plan approval include the underground utilities?

Mr. Snowden: It does not. The underground utilities can move around. The point of the underground utilities being included in the requirements for submission, is so Staff and the City Engineer can begin the process of looking at exactly where they are going to be. There is truly nothing that gives the Board the authority to say where the underground utilities are going to go.

Vice Chairman Enfinger: If you would like to speak on the record sir, absolutely go ahead.

Mr. Spears: I'm Frank Spears and I represent the owner of the neighboring property, Taylor Park Centre. I have been involved in it for over ten years now. Our main concern obviously, is the drainage of the site. It goes under our site and passes through our system.

Mr. Snowden: Excuse me, Mr Aiello, I received that earlier from you. Can you move the drainage board a little closer so the members of our Board can see it? I don't think this is something they have seen. I want them to understand what we are really talking about. In the process of the rezoning, the applicants to the south raised some questions, which in the opinion of staff, are something that need to be addressed between the two property owners. There is not a whole lot that the city can address for them. But I think that is what Mr. Spears wants to speak about.

Mr. Spears: This property was originally a part of Taylor Park Centre, when it was first assembled. Now it has become a separately owned parcel. We have a drainage system. We are starting to talk about how that will be handled, but have not come to any conclusions. So I just wanted to make sure that was not part of this approval of the site plan. And, if it's not, that's fine.

Mr. Snowden: this Board has never been specifically approving the below ground structures of these plans. Now, when the Board approves things like parking lot locations, and building locations, there are certain utility decisions that have to be made because of that. My understanding is that, from an engineering standpoint, the applicant would like to tie into the stormwater system that is there on the property already. If the applicant chose to do that, it would be fine based on the approval you already gave. If the applicant needed to utilize another stormwater system, or construct additional stormwater systems in other locations, as long as they were not digging any additional ponds, and it was all underground and going to other collection points, that would be acceptable. If for some reason, this goes through the process and folks decide they need to add another pond, then we are looking at modifying the site plan.

Mr. Spears: That was my main concern because it is on the site plan now, that it was not a part of he approval process.

Mr. Snowden: What will happen now after we are finished, the applicant will submit a Plot Grade Utility Plan. The Plot Grade Utility Plan is the City Engineer's review of the site. But what the city will be doing, the city's consulting Engineer, EMH&T out of New Albany, they will be specifically reviewing how they are accommodating the stormwater. The applicant has to accommodate the stormwater somehow. They cannot simply build asphalt, and allow that water to flow into the City's system. The City's stormwater system exists to drain the city streets. So, they are going to need to accommodate that somehow. Whether it is on the existing line that goes into the southern portion, or in some other way, is immaterial to the City. It just needs to be accommodated. So if there is a question about this, it is something that needs to be worked out between the property owners. Even though it is shown on the plan, they are not committed to put stormwater that way. My strong suggestion is to work that out before the Plot Grade Utility Review is submitted. Because that will commit them to the utility. That is what Mr. Andrew, our consulting engineer with EMH&T, reviews. So, he cannot review, approve, and then have a different stormwater system installed. That would not make sense.

Mr. Spears: The other concern we have is connectivity between the Centre and the aquatic center that is being built. I could not tell if there was a sidewalk along the front. And here again, that may not be a part of tonight.

Mr. Snowden: If we are talking about the site plan, there is already an existing sidewalk. So as far as the parking lots, they are getting approved for that. What you saw in the previous plan, did not show a parking connection to your property. That means, in order to change that, they would have to come back through me.

Mr. Spears: We are not asking for that.

Mr. Snowden: I'm saying, if theoretically things were to change in the future, that would need to come back through here.

Mr. Spears: The main thing I was talking about, is there a sidewalk on Taylor Rd.?

Mr. Snowden: There is already a sidewalk there. That is the City's land. The City installed that sidewalk with TIFF money from when this complex was built.

Mr. Spears: It goes all the way to 256?

Mr. Snowden: It is owned by the city, but the property owner is responsible for maintaining.

Mr. Spears: That was my two concerns. My concern is, can you walk right out of the center and into the retail centre?

Mr. Snowden: The City is not going to allow someone to remove an existing sidewalk. It is on both sides which was required when it was built. The Staff did some research and it looks like the street was built in approximately 2007. They would be permitted to make a curb cut, which is what they are showing on the plan. But, they will not be permitted to remove the sidewalk.

Vice Chairman Enfinger: Any other public comments on that issue?

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Aaron Enfinger, Vice Chairman
SECONDER:	Richard Donovan
AYES:	Linder, Donovan, Enfinger, Wallace

E. OTHER BUSINESS

Vice Chairman Enfinger: There is no other business, but I would like to welcome the newest member of our Board, Pastor Linder. So welcome Pastor Linder, and I look forward to working together in the future.

F. ADJOURNMENT

Eric Snowden

Chairman Planning Administrator

Police Department

James O'Neill
7240 E. Main Street
Reynoldsburg OHIO 43068
614-322-6947 Phone

ORDINANCE REQUEST

DATE: **October 12, 2015**

TO: **Finance Committee**

RE: ORDINANCE APPROPRIATING FUNDS FROM UNAPPROPRIATED GENERAL FUND TO ACCOUNT 110.111.5362 (Equipment Maintenance) FOR DONATED MONIES RECEIVED(Second Reading 9/28/2015)

The Reynoldsburg Division of Police request to transfer $100.00 from the general fund to account 110.111.5632 for donations made to the motorcycle unit.

Gary and Karen Knapp	$50.00
Roger Shull	$10.00
Greg Osbourne	$40.00

TOTAL **$100.00**

Service Department
Nathan Burd
7232 E. Main Street
Reynoldsburg OH 43068
614-322-6884 Phone

RESOLUTION REQUEST

DATE:	**October 12, 2015**
TO:	**Finance Committee**
RE:	ORDINANCE AUTHORIZING MAYOR TO ENTER INTO AN AGREEMENT WITH EVANS, MECHWART, HAMBLETON & TILTON, INC., ("EMH&T") FOR PROFESSIONAL CONSULTING AND STRUCTURAL ENGINEERING SERVICES. (Second Reading 9/28/2015).

Please see attached memo and contract. This item will allow us to utilize EMH&T as our primary engineering firm for 2016 and 2017.

Nathan Burd
Director of Public Service
City of Reynoldsburg
7232 East Main Street
Reynoldsburg, Ohio 43068
(614) 322-6884
nburd@ci.reynoldsburg.oh.us

MEMORANDUM

Date: August 25, 2015
To: City Council Members
Re: Contract with EMH&T for 2016 and 2017

We are required to request qualifications from engineering firms every two years prior to authorizing a two year contract for a primary and secondary engineering firm. Our committee received and evaluated submissions in June. EMH&T was the highest rated firm and the attached contract will enable us to utilize them as our primary firm for general engineering needs for 2016 and 2017.

We have been very pleased with EMH&T over the last two years. Their work has been instrumental in significant projects, including the Brice Road Improvement Project, the 2015 street program, assisting the city's applications for OPWC grants, water line replacement, and general day-to-day engineering needs. We are particularly pleased with their responsiveness whenever they are needed. The city is receiving prompt, professional service from EMH&T.

The attached agreement is largely the same as our current agreement. The annual not-to-exceed amount spent on their services remains $75,000. Hourly fees will remain the same in 2016 as the current contract and several fees will change minimally in 2017 (outlined on page 16 of the agreement).

Our code requires that this item be introduced to Council by October. This item can go through the normal legislative process as it will not become effective until January 1, 2016. If you have any questions, please feel free to contact me. Thank you.

PROFESSIONAL SERVICES AGREEMENT

Between

The CITY OF REYNOLDSBURG

and

EMH&T, Inc.

THIS IS AN AGREEMENT made as of ___________ ____, 2015, between the CITY OF REYNOLDSBURG, with its main office located at 7232 East Main Street, Reynoldsburg, Ohio 43068 (CITY) and EMH&T, Inc., an Ohio Corporation with its main office located at 5500 New Albany Road, Columbus, Ohio 43054 (CONSULTANT). This agreement shall be in effect until December 31, 2017.

Witnesseth, that in consideration of the mutual covenants and agreement herein contained, the parties hereto do mutually agree as follows:

PART 1 - SERVICES OF THE CONSULTANT

1.01. General Consultation / City Engineer Services

A. CONSULTANT shall serve as "Consulting City Engineer" and assist and advise the Mayor, Service Department, and Council on planning, engineering, and construction matters. CONSULTANT will provide plan reviews and technical assistance to City Staff, Council, Boards and Commissions, etc. as requested by CITY.

B. The CONSULTANT shall assign and provide details of a qualified individual to act as the "Consulting City Engineer" whom has direct supervisory charge of general consultation tasks and will serve as the CONSULTANT's main point of contact with CITY. The Person(s) assigned by the CONSULTANT are subject to approval by the CITY.

C. CONSULTANT will review and address engineering and project planning questions from staff, residents, developers, project partners, etc.

D. CONSULTANT will attend meetings at the request of CITY to present and discuss engineering topics. Anticipated meeting attendance is:

1. City Council / Committee Meetings (2 per month)
2. Staff Meeting (1 per month)
3. Other Departmental Meetings (3 per month)

E. CONSULTANT will meet with staff to establish capital improvement needs and develop updates to the City's Capital Improvement Plan. This effort includes:

1. Preparation of concept exhibits for projects and the evaluation of alternative project approaches.
2. Preparation of preliminary cost estimates.

3. Assist CITY with prioritization of the needed improvements and identification of alternative funding sources.

F. Enforcement and maintenance of standards to include updates to standard construction drawings and review of engineering practices and design manuals.

G. CONSLUTANT will assist CITY in the identification of outside funding sources for City projects.

H. Coordination with outside agencies and project partners to include MORPC, Franklin County, City of Columbus, Licking County, Township(s), Etc.

I. Develop studies of existing engineering data, reports, etc., which have been made previously by City, County or other agencies and give full consideration to same.

J. CONSULTANT will maintain and update the City Zoning Map and City Address Map upon request of CITY.

K. CONSULTANT will provide record storage and maintenance of record plans, city maps, and other project generated data. Both physical and electronic data will be stored by CONSULTANT and made available to CITY upon request.

L. CONSULTANT shall be an independent contractor and not an agent of the CITY and shall direct and supervise the professional services as required by this contract with the CITY. The CONSULTANT shall be responsible for means, methods, techniques and sequences and proceedings associated with CONSULTANT's work and shall be responsible for the acts and omissions of its employees, agents and any other persons/sub-consultants providing services under this contract with the CITY.

1.02. Capital Improvement Plan (CIP) - Design and Construction Phase Services

A. The Services to be provided by the CONSULTANT for specific projects will be detailed in a duly executed individual Project Proposal. Each Project Proposal will indicate the specific tasks and functions to be performed and deliverables to be provided.

B. This agreement is not a commitment by the CITY to CONSULTANT to authorize Project Proposals for CIP work.

C. The general format of the Project Proposal is shown in Exhibit A.

D. CONSULTANT is to provide the CITY anticipated hours needed to complete CONSULTANT's tasks as identified by the CITY. Hours shall be broken down by specific tasks and individual classifications.

E. In the event the CITY allows the CONSULTANT to develop the scope of services, the CONSULTANT shall provide anticipated hours needed to achieve the CITY's objectives.

F. The CONSULTANT shall not be obligated to perform any CIP design and/or construction phase services unless and until the CITY and CONSULTANT agree as to the particulars of the specific project, CONSULTANT's services, compensation, and other appropriate matters.

G. The CONSULTANT shall assign and provide details of a qualified individual to act as the "Project Manager" whom has direct supervisory charge of CITY projects. The CONSULTANT shall also provide details and assign a qualified 'Project Engineer", if different than "Project Manager", whom is responsible for primary production activities. Persons assigned by the CONSULTANT are subject to approval by the CITY.

H. Upon authorization by CITY of CIP Project Proposal's, CONSULTANT shall furnish all personnel, equipment, and material necessary to perform engineering, surveying, construction administration, and other project-specific consultation services as follows:

1. Provide complete and detailed plans, including necessary field work, specifications, and estimates of cost. Provide, assemble, and advertise bid packages using CITY's bidding and contract document template.

2. Furnish to CITY at cost the necessary copies of detailed plans, specifications, estimates, and contract documents required for the prosecution of work. Plans, field books, and field records shall become property of CITY, but shall remain in the files of CONSULTANT for future reference.

3. Assist at all lettings, tabulate proposals and bids, and report same to CITY.

4. Present plans to and assist in obtaining approval of such plans from any City, County State or Federal Department of other political subdivision which may have jurisdiction in the development of the project.

5. Provide land surveying field parties to perform topographic survey, boundary survey and construction layout staking.

6. Provide project representation during construction to be an interpreter and arbitrator of the plans and specifications and make every reasonable effort to protect CITY against deficiencies in Contractor's work.

7. The CONSULTANT shall furnish full-time resident field personnel as the work requires. The construction representative(s) shall spend their full-time on the work beginning when the construction contractor starts construction and ending when all work under the construction contract is completed to the satisfaction of CITY.

8. CONSULTANT shall maintain a complete record of the progress of work and all incidents relative to the design or construction process.

9. Advise and recommend to the CITY in the matter of testing materials and reviewing laboratory results.

10. Track quantities and prepare pay estimates for construction work in conformance with the conditions of each contract.

11. Review completed work and submit a final report for the acceptance of construction project. The issuance of final report does not make CONSULTANT responsible for any deficiencies in the work that were not discovered or apparent at time of report.

1.03. Development Reimbursed Services

A. CONSULTANT will provide CITY with the following services which are to be reimbursed through application fees and developer deposits under the City of Reynoldsburg Development Handbook:

1. Private site improvement plan reviews.

2. Plan reviews of public improvements that are constructed in conjunction with private site developments (utility extensions, public roadway extensions, etc.).

3. Construction observation services.

4. Monitor placement and maintenance of storm water and erosion control measures.

5. Project punchlist and warranty services

PART 2 – CITY'S RESPONSIBILITIES

2.01. CITY's Responsibilities

A. The CITY shall provide full information, which shall set forth the CITY's objectives, schedule, constraints, and budget within reasonable contingencies and criteria.

B. CITY shall make decisions and carry out its other responsibilities in a timely manner and shall bear costs incident thereto so as not to delay the services of the CONSULTANT.

C. CITY shall provide requirements, programs, instruction, reports, data, and other information to CONSULTANT pursuant to this Agreement. CONSULTANT may use such information in performing or furnishing services under this Agreement.

PART 3 – GENERAL CONSIDERATIONS

3.01. Standards and Parameters of Performance

A. CONSULTANT shall be responsible for the technical accuracy of its services and documents. This CITY shall not be responsible for discovering deficiencies. CONSULTANT shall correct deficiencies without additional compensation except to the extent such action is directly attributable to deficiencies in CITY furnished information.

B. CONSULTANT shall serve as CITY's prime professional under each individual CIP Project Proposal. CONSULTANT may employ such subconsultants as CONSULTANT deems necessary to assist in the performance or furnishing of the services with approval of CITY.

C. CONSULTANT shall comply with applicable laws or regulations and CITY mandated standards. This Agreement is based on these requirements as of the effective date of each individual CIP Project Proposal. Changes to these requirements after the effective date of each individual Project Proposal may be the basis of modification to CITY's responsibilities or to CONSULTANT's scope of services, times or performance, or compensation.

D. If CONSULTANT provides services during the construction phase of any Project, CONSULTANT shall not supervise, direct, or have control over a Contractor's work, nor shall CONSULTANT have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected by a Contractor, for safety precautions and programs incident to a Contractor's work in progress, nor for any failure of a Contractor to comply with laws and regulations applicable to a Contractor's furnishing and performing the work.

E. CONSULTANT shall not be responsible for the acts or omissions of any Contractor(s), subcontractor(s) or supplier(s), or of any of a Contractor's agents or employees or any other persons (except CONSULTANT's own employees) at a site or otherwise furnishing or performing any of a Contractor's work; or for any decision made on interpretations or clarifications of the contract documents given by CITY without consultation and advice of CONSULTANT.

3.02. Subcontracting/Assignments/Liability

A. No assignment of the contract or any portion thereof shall be made without prior written approval of the CITY.

B. CONSULTANT shall be and remain solely responsible to the CITY for the acts CONSULTANT performs or faults of any sub-CONSULTANT and of any sub-CONSULTANT's officers, agents or employees.

C. CONSULTANT shall indicate the percentage of contract to be subcontracted in contemplation of contract performance. Following the award of the contract, no additional subcontracting will be allowed without the express prior written consent of the City.

3.03. Unresolved Findings for Recovery

CONSULTANT affirmatively represents and warrants that it is not subject to any unresolved finding for recovery issued by the Auditor of State under Ohio Revised Code Section 9.24, or that it has taken the appropriate remedial steps required under Section 9.24, or that it otherwise qualifies under that section.

3.04. Ethics and Drug Free Workplace

CONSULTANT agrees that its performance under this Agreement would not be contrary to the terms of R.C. § 102.03 and § 102.04, as applicable (ethics and conflict of interest). CONSULTANT agrees to comply with all applicable state and federal laws regarding drug-free workplace, and while working on state property, will not purchase, transfer, use or possess illegal drugs or alcohol or abuse prescription drugs in any way.

3.05. Ohio Elections Law

CONSULTANT affirms that, as applicable, no party listed in Division (I), (J), (Y), or (Z) of Section 3517.l3 of the Ohio Revised Code or spouse of such party has made, as an individual, within the two previous calendar years, one or more contributions totaling in excess of $500.00 to any elected official of the CITY OF REYNOLDSBURG.

3.06. Taxes

The City is a tax exempt entity and shall provide a tax exempt certificate to the CONSULTANT. The CONSULTANT agrees to withhold all City Income Taxes due or payable under the provisions of Chapter 191 of the Codified Ordinance of the City of Reynoldsburg for wages, salaries, and commissions paid to employees and further agrees that any subcontractors shall be required to agree to withhold any such City Income Taxes due under said Chapter 191 of the Codified Ordinances of the City of Reynoldsburg for services performed under this Contract.

3.07. Use of Documents

A. Upon completion or termination of the Agreement, all documents prepared by the CONSULTANT, including tracings, drawings, estimates, specifications, field notes, investigations, copies of computer/electronic files (original application files in .TIF format for drawings), studies and reports shall become the property of and shall be delivered to the CITY upon full payment of monies owed to the CONSULTANT. Copies of CITY-furnished data that may be relied upon by CONSULTANT are limited to the printed copies (also known as hard copies) that are delivered to CONSULTANT pursuant to Part 2 above. Files in electronic media format of text, data, graphics, or of other types that are furnished by CITY to CONSULTANT are only for convenience of CONSULTANT. CONSULTANT shall also be entitled to maintain copies on behalf of the CITY.

B. Copies of Documents that may be relied upon by CITY are limited to the printed copies (also known as hard copies) that are signed or sealed by CONSULTANT. Files in electronic media format of text, data, graphics, or of other types that are furnished by CONSULTANT to CITY are only for convenience of CITY.

C. When transferring documents in electronic media format, CONSULTANT makes no representations as to compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by CONSULTANT at the beginning of a Specific Project unless indicated differently in the Project Proposal.

D. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.

3.08. Authorized Project Representatives

Contemporaneous with the execution of each individual Project Proposal, CONSULTANT and CITY shall designate specific individuals to act as CONSULTANT's and CITY's representatives with respect to the service to be performed or furnished by CONSULTANT and responsibilities of CITY under the individual Specific Project. Such individuals may have authority to transmit instruction, receive information, and render decisions relative to a specific project on behalf of each respective party.

3.09. Insurance

A. Prior to the commencement of any work under this agreement, CONSULTANT shall furnish to CITY certificates of insurance showing that CONSULTANT has obtained the following insurance policies with insurance companies licensed and authorized to do business in the State of Ohio. A new certificate of insurance shall be provided to the CITY each year at the time of policy renewal.

1. Worker's Compensation Insurance: CONSULTANT shall procure and maintain during the life of this contract, Worker's Compensation Insurance, including employers Liability Coverage, in accordance with all applicable statutes of the State of Ohio.

2. Commercial General Liability Insurance: CONULTANT shall procure and maintain during the life of this agreement, Commercial General Liability Insurance on an Occurrence Basis with limits of Liability not less than $1,000,000.00 per occurrence and/or aggregate combined single limit, Personal Injury, Bodily Injury, Bodily Injury and Property Damage.

3. Motor Vehicle Liability: CONSULTANT shall procure and maintain during the life of this contract Motor Vehicle Liability Insurance, including Ohio Coverages, with limits of liability of not less than $1,000,000.00 per occurrence combined single limit Bodily Injury and Property Damage. Coverage shall include all owned vehicles, all non-owned vehicles, and all hired vehicles.

4. Professional Liability: Professional Liability Insurance on a Claims Made Basis with Limits of liability of not less than $1,000,000.00 per claim/aggregate;

B. Cancellation Notice: Workers' Compensation Insurance, Commercial General Liability Insurance, Motor Vehicle, and Professional Liability Insurance, as described above, shall include an endorsement stating the following: It is understood and agreed that thirty (30) days advance written notice of cancellation, non-renewal, reduction and/or material change shall be sent to CITY OF REYNOLDSBURG.

C. At any time, CITY may request that CONSULTANT, provide additional insurance coverage, increased limits, or revised deductibles that are more protective than those specified. If so requested by CITY, with the concurrence of CONSULTANT, CONSULTANT shall require CONSULTANT's subconsultants to obtain such additional insurance coverage, different limits, or revised deductibles for such period of time as requested by the CITY, and this agreement will be amended to incorporate these requirements.

3.10. Nondiscrimination

The CONSULTANT shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, handicap, or national origin. CONSULTANT will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, age, handicap, or national origin. Such action shall include, but not be limited to employment upgrading, promotion, demotion, termination, rates of pay, or other forms of compensation, and selection for training. CONSULTANT agrees to post in conspicuous places, available to employees and applicants for employment, notices summarizing the provisions of this equal opportunity clause. CONSULTANT shall, in all solicitations or advertisements for employees placed by, or on behalf of the CONSULTANT, state that they are an equal opportunity employer.

3.11. Termination

A. The CITY, may in writing, suspend all or any part of work for such a period the CITY deems appropriate.

B. This Agreement may be terminated by either party upon not less than seven days written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

C. This Agreement may be terminated by the CITY upon not less than seven days written notice to the CONSULTANT in the event that the Project is permanently abandoned. If the Project is abandoned by the CITY for more than 90 consecutive days, the CONSULTANT may terminate this Agreement by giving written notice.

D. In the event of termination, the CONSULTANT shall be compensated for the reasonable value of services performed prior to termination, together with reimbursable expenses then due.

3.12. Allocation of Risk

A. The CONSULTANT agrees to indemnify and hold the CITY harmless from and against any loss or damage resulting solely from the failure of the CONSULTANT to perform any duty or obligation expressly undertaken by the CONSULTANT pursuant to the terms of this Agreement or the negligent performance or failure to perform by the CONSULTANT of any such express duty or obligation.

B. CONSULTANT will conduct the research that in their professional opinion is necessary to determine the viability of re-using existing equipment and materials in the design of the project. The CITY recognizes that CONSULTANT's research may not identify all defects and that the information and inspection upon which CONSULTANT relies may contain errors or may not be complete. Given the inherent limitations of such inspections, CONSULTANT's recommendations shall not be relied upon by any party as a warranty of the condition of the existing equipment or materials. The extent of the risk the CITY wishes to accept in reusing existing equipment or materials is something the CITY must determine.

C. The CONSULTANT shall indemnify and hold harmless the CITY and its officers, agents and employees from and against all claims or suits asserted or prosecuted by third parties to the extent arising directly out of error, omission, or negligent act of the CONSULTANT or its sub-CONSULTANTS; and the CONSULTANT at its own expense, shall defend the CITY in all such litigation, pay all attorney's fees, damages, court costs and other expenses arising out of such litigation; and at its own expense, shall satisfy and cause to be discharged judgments as may be obtained against the CITY or any of its officers, agents or employees pursuant to such litigation.

D. The CONSULTANT shall be given written notice of the assertion of such claims or suits promptly after such matters are brought to the attention of the CITY and subject to the assent of the City Attorney, which assent shall not be unreasonably withheld or delayed, and shall be permitted to participate in the defense and settlement of any such suits or claims. Nothing contained herein, however, is intended to confer on any third party any rights or benefits hereunder; nor is the foregoing indemnification obligation intended to alter or extend the CONSULTANT's liability for failure to comply with the terms of the contract or for professional or personal negligence or misconduct.

E. In no event will either party be liable for punitive, multiple, enhanced, incidental, indirect or consequential damages, including loss of profits, even if any of the parties should have been aware of the possibility of such damages.

3.13. Entire Agreement; Waiver

This contract contains the entire agreement between the parties hereto and shall not be modified, amended or supplemented, or any rights herein waived, unless specifically agreed upon in writing by the parties hereto. This contract supersedes any and all previous agreements, whether written or oral, between the parties. A waiver by any party of any breach or default by the other party under this contract shall not constitute a continuing waiver by such party of any subsequent act in breach of or in default here under.

3.14. Headings

The headings in this contract have been inserted for convenient reference and shall not be considered in any questions of interpretation or construction of the contract.

3.15. Severability

The provisions of the contract are severable and independent, and if any such provision shall be unenforceable in whole or in part, the remaining provisions and any partially enforceable provision, to the extent enforceable in any jurisdiction, shall, nevertheless, be binding and enforceable.

3.16. Controlling Law

This Agreement and the rights of the parties hereunder shall be governed by the laws of the State of Ohio, and any action with respect to this engagement shall be filed in the Franklin County, Ohio in a court of competent jurisdiction. The CONSULTANT further shall obey or satisfy all lawful rules, regulations and requirements issued or promulgated under said respective laws by any duly authorized City, State or Federal officials.

PART 4 – PAYMENTS TO CONSULTANT

4.01 Fee for General Consultation Services

CITY agrees to compensate CONSULTANT an annual amount not to exceed **Seventy-five Thousand Dollars and no cents ($75,000.00)** for the general engineering services outlined in Scope of Services, Section 1.01 General Consultation / City Engineer Services. Payment for services provided under Section 1.01of the Scope of Services shall be hourly not to exceed without prior authorization of the CITY. Labor fees will be computed per the time rates established in Exhibit B. Invoices will be submitted monthly.

4.02. Direct Personnel Expense

Direct Personnel Expense is defined as the direct salaries of the CONSULTANT's personnel engaged on the Project and the portion of the cost of their mandatory and customary contributions and benefits related thereto, such as employment taxes and other statutory employee benefits, insurance, sick leave, holidays, vacations, pensions and similar contributions and benefits.

4.03. Reimbursable Expenses

A. Reimbursable Expenses include expenses incurred by the CONSULTANT in the interest of the Project for:

1. Expense of transportation in connection with travel required to carry out the scope of services;
2. Long-distance communications;
3. Fees paid by the CONSULTANT for securing approval of authorities having jurisdiction over the Project; in general, all approval fees shall be paid up front by the CONSULTANT and reimbursed by the CITY and as such are not within the not-to-exceed fee limit established by the CONSULTANT;
4. Reproductions; and
5. Postage and handling of Drawings and Specifications.

B. Reimbursable expenses must be anticipated and quantified by the CONSULTANT and included in the Project Proposal. In the event that expenses exceed original estimates, the CONSULTANT may request from the CITY additional compensation.

4.04. Payment of Invoices

A. Invoices are due and payable within 30 days of receipt.

B. In the event of a disputed or contested invoice, only that portion so contested may be withheld from payment, and the undisputed portion will be paid.

4.05. Independent Consultant/Employment Taxes

A. The CONSULTANT shall be and remain an independent contractor with respect to all services performed hereunder and shall accept full exclusive liability for the payments of any and all contributions or taxes for Social Security, unemployment benefits, pensions, and annuities now or hereafter imposed under any State or Federal laws which are measured by the wages, salaries, or other remuneration paid to persons employed by the CONSULTANT on work performed under the terms of this agreement. The CONSULTANT shall indemnify and save harmless the CITY from any contributions, taxes or liability referred to in this article. CONSULTANT is not an employee of the CITY.

B. While the CONSULTANT shall be required to render services described hereunder during the term of the contract, nothing herein shall be construed to imply that the City shall have or may exercise any right of control over CONSULTANT with regard to the manner or method of its performance of services hereunder. Except as expressly provided herein, none of the parties shall have the right to bind or obligate the others in any manner without the prior written consent of the other parties.

IN WITNESS WHEREOF, the parties hereto have executed the Agreement, the effective date of which is indicated on Page 1.

City Of Reynoldsburg (CITY)

By:____________________________
Mayor

Name: Brad McCloud

Date: ____________________________

By:____________________________
Clerk of Council

Name: April Beggerow

Date: ____________________________

Ordinance:____________________________

APPROVED AS TO FORM

By: ____________________________
City Attorney

Date:____________________________

EMH&T, Inc. (CONSULTANT)

By:____________________________
Authorizing Agent

Name: Sandra C. Doyle-Ahern

Date: ____________________________

EXHIBIT A

General Project Proposal Format

[Date]

[Name of Recipient]
[Title]
[Address]

Subject: [Professional Services for......]

Dear [Name of Recipient],

Provide scope of service(s) for project and its phase(s). Phase(s) to be as directed by CITY.

STUDY AND REPORT PHASE

Prepare studies and analysis and reports as directed by CITY's project representative.

DESIGN PHASE

In consultation with CITY, determine general scope, extent, and character of individual project. Provide technical design, technical criteria, topographic or other survey as needed, preparation of easement descriptions as needed, prepare bid documents, plans, and specifications, prepare and pursue necessary permits, furnish drawings, prepare opinions of probable costs, assist in bidding and preparation of construction documents. In essence, provide CITY with complete level of design services from original scope detail through the bidding and selection of contractor.

CONSTRUCTION PHASE

Offer to CITY construction engineering services as authorized by CITY project representative. Such services may include general administration of construction contracts, site observation of construction, interpretation of contract documents, assisting City obtain needed materials testing services, dispute resolution, review and approval of change orders, review and approval of contractor pay requests, preparation of final inspection reporting and review and/or preparation of as-built drawings.

ADDITIIONAL SERIVCES

There may be special services needed to meet the goal and objectives of the City. They include but are not limited to the following:

- Attend community meetings or represent CITY at County, State, or Regional meetings.
- Assist CITY in preparation applications for grant funding.
- Right of Way/ Easement Acquisition.
- Preparation of master utility plans, including technical modeling, reliability and capacity analysis.
- Perform wetland or other environmental engineering analysis.
- Preparation of management plans.
- Geographic information services
- Traffic/Signal engineering or traffic calming studies.
- Other related services as may be requested and directed by the CITY's Project Representative.

ANTICIPATED HOURS/COMPENSATION

Services shall be provided on an hourly, or lump sum as determined by the CITY and CONSULTANT and as described in section I.02.C of this contract.

Fees are to be negotiated for each individual project. Anticipated hours are to be provided with each Project Proposal. Detail effort by providing the anticipated hours by the client manager, project manager, and support staff to satisfy the scope requirements of each project.

SCHEDULE

Provide schedule of services.

EXHIBIT B

Rate Schedule

Exhibit B – Rate Schedule

The CITY agrees to pay CONSULTANT as compensation for services performed as required by Part 4 of the Agreement a fee in accordance with the following hourly rates:

Description	CY 2016 Rates	CY 2017 Rates
Labor Rates		
Principal	$150	$150
Senior Engineer/ Project Manager	$120	$130 *
Engineer II	$105	$110 *
Engineer I	$85	$90 *
Engineer Aide	$78	$78
Senior Surveyor	$105	$105
Surveyor II	$90	$90
Surveyor I	$80	$80
Senior Environmental Scientist	$98	$98
Environmental Scientist II	$86	$86
Environmental Scientist I	$70	$70
Senior Planner	$98	$98
Landscape Architect / Planner	$85	$85
Project Designer II	$72	$82 *
Project Designer I	$66	$70 *
Senior Construction Representative	$110	$115 *
Resident Project Representative II	$70	$75 *
Resident Project Representative I	$60	$60
Survey Field Crew	$144	$144
Administrative / Clerical	$55	$60 *
Reimbursable Expenses		
Stakes, prints, postal, special deliver and miscellaneous items	At Cost	At Cost
Mileage	Current IRS Rate	Current IRS Rate
Filing fees, subconsultant services, permitting fees, etc.	Actual Fee Plus 5%	Actual Fee Plus 5%

* Indicates an increase in rate between 2016 and 2017

Whenever it is deemed necessary by the CITY, acting through the Mayor or the Mayor's designated representative, for employees of the CONSULTANT to work more than forty (40) hours per week, overtime compensation of one and one-half times the regular rate shall be paid for all hours worked over forty (40) per week in accordance with the Fair Labor Standards Act of the United States.