



NEWTON FALLS CITY COUNCIL
REGULAR MEETING AGENDA
 Tuesday, December 19, 2023; 6:00 PM
 COUNCIL CHAMBERS
 612 WEST BROAD STREET

CITY COUNCIL MEMBERS	
Ward 1	Patricia Benetis
Ward 2	John Baryak
Ward 3	VACANT
Ward 4	Kevin Rufener
At- Large	Julie Stimpert
Acting Mayor	John Baryak

CITY ADMINISTRATION	
City Manager	Pamela Priddy
Law Director	Bradric Bryan
Finance Director	Sean Housley
City Clerk	Michael Acomb

- I. **Call to Order**
- II. **Pledge of Allegiance / Silent Prayer**
- III. **Roll Call**
- IV. **Changes To Tonight's Agenda**
- V. **Special Presentations by Staff Members or Invited Consultants**
 Brian Gorog – OHM Advisers
- VI. **Public Comments (Agenda Items Only)**
- VII. **Reports**
 - a. Acting Mayor
 - b. Council Members
 - c. Finance Director
 - d. Law Director
 - e. City Manager
- VIII. **Approval of Previous Minutes**
 Regular Meeting Minutes November 15, 2023
 Special Meeting Minutes December 6, 2023
 Regular Meeting Minutes December 6, 2023
- IX. **Public Hearings**
- X. **Unfinished Business**
 ORDINANCE 2023-45 (Version 2) *Sponsor: Councilperson Baryak*
 AN ORDINANCE AMENDING THE ELECTRIC RATES

 ORDINANCE 2023-46 *Sponsor: Councilperson Baryak*
 AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO
 CONTRACTS SPECIFIED HEREIN FOR THE PURCHASE OF CHEMICALS NEEDED
 BY THE VILLAGE OF NEWTON FALLS WATER PLANT FOR THE CALENDAR YEAR
 2024.

ORDINANCE 2023-47

Sponsor: Councilperson Rufener

AN EMERGENCY ORDINANCE AUTHORIZING CERTAIN AMENDMENTS TO THE APPROPRIATIONS FOR THE FISCAL YEAR ENDING DECEMBER 31, 2023 AND AUTHORIZING THE FINANCE DIRECTOR TO AMEND AND FILE A CERTIFICATE OF RESOURCES WITH THE COUNTY AUDITOR

ORDINANCE 2023-48 (Version 2)

Sponsor: Councilperson Rufener

AN EMERGENCY ORDINANCE ESTABLISHING THE ANNUAL OPERATING BUDGET AND SETTING FORTH THE APPROPRIATIONS FOR 2024

ORDINANCE 2023-49

Sponsor: Councilperson Baryak

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT PURCHASE A 2023 FORD F-350 TRUCK FROM SARCHIONE FORD LINCOLN FOR USE BY THE WASTEWATER DEPARTMENT

ORDINANCE 2023-50

Sponsor: Councilpersons Stimpert and Rufener

AN EMERGENCY ORDINANCE AMENDING CHAPTER 191 OF THE VILLAGE'S ADMINISTRATIVE CODE (THE VILLAGE TAX CODE) TO CONFORM TO THE REQUIREMENTS SET FORTH IN OHIO HOUSE BILL 33

ORDINANCE 2023-51

Sponsor: Councilperson Rufener

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ACCEPT THE BID OF HILSCHER-CLARK ELECTRIC FOR TREE TRIMMING SERVICES

ORDINANCE 2023-52

Sponsor: Councilpersons Stimpert and Rufener

AN EMERGENCY ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE TRUMBULL COUNTY SHERIFF FOR POLICE PROTECTION SERVICES

ORDINANCE 2023-53 (Version1)

Sponsor: Councilperson Stimpert

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO AND EXECUTE VARIOUS CONTRACTS WITH PAN AMERICAN INSURANCE GROUP FOR EMPLOYEE HEALTH CARE INSURANCE AND BENEFITS

ORDINANCE 2023-53 (Version2)

Sponsor: Councilperson Stimpert

AN EMERGENCY ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO AND EXECUTE VARIOUS CONTRACTS WITH PAN AMERICAN INSURANCE GROUP FOR EMPLOYEE HEALTH CARE INSURANCE AND BENEFITS

XI. New Business

MOTION

Sponsor: Councilperson Stimpert

A Motion to direct the Law Director to request proposals from qualified professionals to conduct a full forensic financial audit of the Village of Newton Falls and to present those proposals to the Council at the next regular meeting of the Council.

MOTION

Sponsor: Councilperson Stimpert

A Motion to appoint Heidi Zimmermann to the Parks and Recreation Commission for the term beginning 01/01/2024 and ending 12/31/2026.

ORDINANCE 2023-54

Sponsor: Councilpersons Rufener and Stimpert

AN EMERGENCY ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AMENDED DIRECTOR OF LAW AGREEMENT WITH DIRECTOR OF LAW BRADRIC BRYAN

ORDINANCE 2023-54

Sponsor: Councilperson -----

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ACCEPT THE PROPOSAL OF OHM ADVISORS FOR ENGINEERING SERVICES FOR THE NEWTON FALLS 2024 PAVING PROGRAM

Scheduling of 2024 Council Organizational Meeting

XII. Public Comments

XIII. Closing Remarks

- a. Acting Mayor
- b. Council Members
- c. Finance Director
- d. Law Director
- e. City Manager

XIV. Motion to Recess into Executive Session (If Necessary)

XV. Adjournment



NEWTON FALLS CITY COUNCIL
REGULAR MEETING MINUTES
 Wednesday, November 15, 2023; 6:00 PM
 COUNCIL CHAMBERS
 612 WEST BROAD STREET

CITY COUNCIL MEMBERS	
Ward 1	Gideon Fetterolf
Ward 2	John Baryak
Ward 3	Tesa Spletzer
Ward 4	Kevin Rufener
At- Large	Julie Stimpert
Acting Mayor	John Baryak

CITY ADMINISTRATION	
City Manager	Pamela Priddy
Law Director	Bradric Bryan
Finance Director	Sean Housley
City Clerk	Michael Acomb

I. Call to Order

Mr. Baryak called the meeting to order at 6:00 pm.

II. Pledge of Allegiance / Silent Prayer

III. Roll Call

Mr. Baryak asked Mr. Acomb to call the roll.

Council Present: Councilperson Fetterolf, Acting Mayor/Councilperson Baryak, Councilperson Rufener, Councilperson Stimpert

Council Absent: Councilperson Spletzer

Staff Present: City Manager Priddy, Finance Director Housley, Clerk Acomb, Law Director Bryan

Staff Absent: None

Mr. Baryak made a motion to excuse Ms. Spletzer from the meeting. Seconded by Mr. Fetterolf.

No discussion.

Roll Call Vote: Mr. Fetterolf-yes; Mr. Baryak-yes; Mr. Rufener-no; Ms. Stimpert-no.

The motion failed 2-2.

IV. Changes To Tonight's Agenda

No changes were made at this time.

V. Special Presentations by Staff Members or Invited Consultants

Ms. Priddy presented Aaron Teders to make a presentation regarding the electric rates and to explain the debt service. Mr. Teders presented to Council via phone. The presentation is enclosed. After a presentation a mixed discussion occurred in which councilpersons asked a variety of questions and further explanation occurred.

- Mr. Baryak – The annual debt service average will be a total of \$14,500 less moving forward compared to the 2019-2022 period. However, the annual debt service remains due to new debt that will be borrowed for the Church Street Project.
- Mr. Rufener asked for an explanation for the increase in the service charge from \$7.50 to \$16.50. Where does the additional \$9.00 come from? The AMI debt service

- charge of \$4.25 has not been paid off and will remain through 2030. Currently, in service charges, customers are currently paying \$11.75 fixed monthly charges. What is being proposed is an increased service charge to \$16.50, or a \$4.75 increase to the service charge. The AMI debt Service charge of \$4.25 has been rolled into the rates, has not gone away, but will not be seen as a separate service charge. The debt from 2004 has been retired a year earlier than expected, but the Church Street new debt will come in 2024 and is part of the fixed monthly debt charges.
- Ms. Priddy – Page 9 of the presentation shows how the billing is broken down
 - Mr. Baryak – The AMI debt service charge represents the \$3.1M that was borrowed in 2020 for smart meter in water and electric. That debt will not be retired until spring of 2030.
 - Mr. George spoke to explain that the Church Street substation improvement project has been put off since 2004. He stated that the AMI project hurt the Village because it disrupted the progression of substation improvements and is not the reason for the increases. The AMI project did not improve infrastructure in the substations. 75% of the Church Street substation is from the 1970's. Without that substation, the Village cannot provide electricity on high-demand days. He has fought to keep rates low. They are doing all that can be done to save money on the upgrades.
 - Ms. Stimpert – She asked for clarification and wondered if anything could be done to limit the increases in service charges. Mr. George stated that the \$4.75 increase is intended to cover the new loan for the Church Street project.
 - Mr. Baryak – rates increases are intended to be fair across residential and commercial customers; but commercial customers will see an increase so the residents do not have to bear the burden for commercial and industry customers. Everyone will pay their fair share.
 - Mr. Rufener – Regarding the AMI project, the meters haven't been installed but they have arrived so now is the time to pay for those meters once they are installed. This is why the bill is bigger in 2024 than in 2022.

VI. Public Comments (Agenda Items Only)

No public comments.

VII. Reports

- a. Acting Mayor - Mr. Baryak – No report.
- b. Council Members
 - i. Ward 1 – Mr. Fetterolf – He announced this will be his last meeting. He stated his belief that this council's biggest problems have been that some people do not want the Village to make progress and have actively worked against Council. He hopes that the new Council will not have to endure the harassment that this Council endured. Mr. Rufener made a point of order to redirect to Mr. Fetterolf to provide a report limited to his work on various committee and within the Village. Mr. Fetterolf complied and finished his report by stating this Council accomplished a lot.
 - ii. Ward 2 – Mr. Baryak – No report.
 - iii. Ward 4 – Mr. Rufener – No report.
 - iv. At-Large – Ms. Stimpert – This Friday is the Turkey Raffle and the Cooler Raffle. She has questions about the City Lighting based on a discussion with the Commerce Department and will ask those later.

- c. Finance Director – Mr. Housley – The proposed 2024 budget was emailed to Council today. The TIB met last Wednesday. The presentation from the Meeder Group will be uploaded to the website with financial reports.
- d. Law Director – Mr. Bryan – No report.
- e. City Manager – Ms. Priddy – She spoke about the fire inspection report (enclosed). There is work to be done in the Municipal Center. The water plant has major issues, too. The main controls to the water tower failed this past weekend and the repair was \$14,000. Cody will evaluate the current needs based on the new parts and will adjust the current order for only the remaining parts needed. The TIB meeting revealed the Village is doing very well with its investments. Departments are having budget meetings this week and the 2024 budget should reflect those discussions. The Scott Street project has been started. Mr. Lynch was right to start the project; but it needed to be funded differently and is now. He should also be thanked for starting the Dunkin Donuts project which is now also being funded in a more beneficial manner for the community. Tickets are still on sale for turkey dinners. Mr. Stimpert addressed. She wants to know about the Christmas Lighting Program. The tree lighting will happen. The village is waiting for the ornaments from the school. The village was only planning to decorate and light the tree. The Commerce Department has a permit and may hold other events associated with tree lighting. It will take place at 7:00pm on 11/25/23.

VIII. Approval of Previous Minutes

Mr. Baryak called for a motion to adopt the minutes of November 1, 2023.

Moved by: Mr. Fetterolf

Seconded by: Mr. Rufener

No discussion.

Roll Call Vote: Mr. Fetterolf-yes; Mr. Baryak-yes; Mr. Rufener-yes; Ms. Stimpert-yes.

The motion passed 4-0. The minutes were approved.

IX. Public Hearings

None.

X. Unfinished Business

ORDINANCE 2023-45

Sponsor: Councilperson Baryak

AN ORDINANCE AMENDING THE ELECTRIC RATES

Mr. Acomb read the ordinance by title only. The Law Director noted that this version is from the previous meeting. Version 2 of this ordinance is listed in New Business with updated dates and rates. He recommended taking no action on this version and to consider and vote on version 2.

Mr. Baryak spoke in support of the electric rates.

XI. New Business

ORDINANCE 2023-45 (Version 2)

Sponsor: Councilperson Baryak

AN ORDINANCE AMENDING THE ELECTRIC RATES

Mr. Acomb read the ordinance by title only. Mr. Baryak called for a motion to adopt the ordinance.

Moved by: Mr. Fetterolf

Seconded by: Mr. Baryak

No discussion.

Roll Call Vote: Mr. Fetterolf-yes; Mr. Baryak-yes; Mr. Rufener-yes; Ms. Stimpert-yes.

The ordinance passed 4-0. First Reading.

ORDINANCE 2023-46

Sponsor: Councilperson Baryak

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO CONTRACTS SPECIFIED HEREIN FOR THE PURCHASE OF CHEMICALS NEEDED BY THE VILLAGE OF NEWTON FALLS WATER PLANT FOR THE CALENDAR YEAR 2024.

Mr. Acomb read the ordinance by title only. Mr. Baryak called for a motion to adopt the ordinance.

Moved by: Ms. Stimpert

Seconded by: Mr. Baryak

Mr. Rufener asked about the bid tabulation and wanted clarification regarding the award to Aquamark. On the bid tabulation, AQ722-ACH and Aluminum Chlorohydrate (ACH) are listed. Are they the same thing? The bid tabulation shows a bid for Aluminum Chlorohydrate (ACH), but the ordinance and contract show an award for AQ722-ACH. Ms. Priddy called Cody Zeleny and confirmed they are the same thing. Mr. Baryak made a motion to amend the ordinance to strike AQ-722 from Section 1 and from the Exhibit. Seconded by: Mr. Rufener. Roll Call Vote: Mr. Fetterolf-yes; Mr. Baryak-yes; Mr. Rufener-yes; Ms. Stimpert-yes. The motion passed 4-0. Ordinance 2023-46 was amended.

Mr. Baryak called for a vote to adopt the ordinance as amended.

Roll Call Vote: Mr. Fetterolf-yes; Mr. Baryak-yes; Mr. Rufener-yes; Ms. Stimpert-yes.

The ordinance passed 4-0. Ordinance 2023-46 was adopted as amended. First Reading.

RESOLUTION 37-2023

Sponsor: Councilperson Baryak

A RESOLUTION ALLOCATING AND DESIGNATING THE PROPERTIES KNOWN AS 110 BROAD STREET AND 116 BROAD STREET AS THE FUTURE LOCATION FOR A NEW WATER TOWER ONCE THE EXISTING WATER TOWER NEEDS TO BE REPLACED

Mr. Acomb read the resolution by title only. Mr. Baryak called for a motion to pass the resolution.

Moved by: Ms. Stimpert

Seconded by: Mr. Baryak

Mr. Baryak spoke in support of the resolution stating his belief that a new water tower will be needed in no more than ten years. This property will allow for the new one to be built before the old one is torn down. Mr. Rufener spoke against the ordinance. He attended the meeting with Mr. Baryak and stated his belief that the water tower does not need to be replaced. He further stated that the proposed property is located near the bridge and the dam. He suggested a risk analysis be completed and the Village look for other locations. Mr. Fetterolf spoke in support of the resolution and disagreed with Mr. Rufener's comments. He is worried that future administrations will want to use it for a parking lot. He suggested an in-depth risk analysis should be done once the city allocates the property for this purpose. The property should be protected for the benefit of the Village. Mr. Baryak stated his belief that a water tower is going to need to be replaced at some point. Mr. Baryak spoke against losing the property for future Village use.

Roll Call Vote: Mr. Fetterolf-yes; Mr. Baryak-yes; Mr. Rufener-no; Ms. Stimpert-no.

The resolution failed 2-2.

XII. Public Comments

Julie Lemon – 609 Ridge Road

She spoke on many topics. She reviewed finance reports on the website and noted on the 10/31/23 expense report and a \$15799.35 charge with no description of the services. She wondered why Council approved that expense. She made a public records request in October that included a request for a copy of the application for the \$5 million grant and

the applications for various other grants. She stated that copies of the actual applications have not been kept. She wanted to know why OHM isn't doing their job. She thanked the NFFD for their work yesterday with her family during a critical health event with a family member.

Katie Carl – 128 West Quarry

Ms. Stimpert made a point of order to stop cross-talk among council members.

Mr. Baryak recommended that Ms. Lemon direct accusations and complaints to the law director. Ms. Lemon insulted Mr. Baryak and was asked to leave. She complied.

Ms. Carl continued and spoke against the electric rate increase stating it as unfair to the people. She claimed residential insurance rates have gone up because there is no police department. She urged Council to reinstate the police department. She wanted to know why every department has a city manager allocation and asserted that those budget lines could fund a police department. She urged the police department to be returned immediately to protect the town.

Rick - 223 Oak Knoll

He spoke against raising electric rates. He stated that an 8% increase happened in 2018 because of the need for more poles and transformers. The PUCO website shows that residents cannot switch electric suppliers and get a lower rate. He wondered how that might impact economic development.

Chelsea Harper – 515 North Street

Ms. Harper touched on many topics and asked many questions, including, but not limited to: rates in Leavittsburg are higher than Newton Falls, and she stated that electric rates are expected to go up; but the people want to be able to get answers and no one seems to be able to explain it well. She spoke against Resolution 37-2023 alleging bad intentions by the current Council given that they cannot agree if the water tower needs to be replaced or not and some members of Council expressed worry that future administrations would not preserve the property for future use.

Pat Benetis

She read from a prepared statement (enclosed).

Brian Kropp – 247 Elizabeth Street

He spoke on many topics, including: His recollection that Ms. Priddy was not the first choice of the Council when she was selected, and she intended to work for free as a temporary position until someone else could be hired; but now wants to keep the job at a very high salary. He spoke against Mr. Housley holding his position as it was also supposed to be a temporary position for him, and he has now served for multiple years. He spoke against the use of a parliamentarian by the Council. He expressed frustration that multiple law directors have been needed and there are many lawsuits. He spoke in support of the next Council and stated that he looks forward to watching people "who care about the community" do the work. He spoke against one appointed councilperson who he believes does not do the work and talks down to the residents and others who care about the community. He stated his belief that "it is really hard to pass legislation

when you guys have already talked about it before and you don't have your third wheel. It's really hard to pass faulty legislation when you don't have the other person whose already talked to everybody, like the senior kitchen, you guys all go to the senior kitchen and hang out together and have a little pow-wow. You don't think we don't know what you guys are doing?". He spoke against the city manager's desire to be paid \$90,000 "to run the senior kitchen". He stated his excitement for the next Council and stated that "it can't be much worse than you guys". He stated his belief that this Council has "rammed legislation through repeatedly, don't care about the community, ... and it's been 8 years of chaos". He urged the departing members of the Council to go away quietly.

XIII. Closing Remarks

- a. Acting Mayor – Mr. Baryak – He addressed the public and began to argue with members of the public. He spoke against those who are working against the efforts of the Council to improve the village standing.

Mr. Rufener made a motion to adjourn. Seconded by Ms. Stimpert.
No discussion.

Roll Call Vote: Mr. Fetterolf-no; Mr. Baryak-no; Mr. Rufener-yes; Ms. Stimpert-yes.
The motion failed 2-2.

Mr. Baryak spoke in support of Kimble. He stated that once his term is over, "he will be back". He also spoke against residents and non-residents who he believes are working against the Village making progress.

- b. Council Members
 - i. Ward 1 – Mr. Fetterolf – He spoke about his desire to be done as a Councilperson.
 - ii. Ward 2 – Mr. Baryak – no remarks.
 - iii. Ward 4 – Mr. Rufener – no remarks.
 - iv. At-Large – Ms. Stimpert – no remarks.
- c. Finance Director – Mr. Housley – no remarks.
- d. Law Director – Mr. Bryan - no remarks.
- e. City Manager – Ms. Priddy - no remarks.

XIV. Motion to Recess into Executive Session (If Necessary)

No motion was made.

XV. Adjournment

Mr. Baryak made a motion to adjourn. Seconded by Mr. Fetterolf.
No discussion.

Roll Call Vote: Mr. Fetterolf-yes; Mr. Baryak-yes; Mr. Rufener-yes; Ms. Stimpert-yes.
The motion passed 4-0. The meeting was adjourned at 8:02pm.

APPROVED:

John Baryak, Acting Mayor

ATTEST:

Michael Acomb, Council Clerk

Electric Cost of Service and Rate Design Study

Village of Newton Falls, Ohio

November 15, 2023

Need for Cost-of-Service Study

- As Power Supply Costs Change, Rates Need to Change to Fairly Charge the Cost to Serve Each Customer Rate Class
- AMP Credit Scoring Suggests Cost of Service Study Every 5 Years and Timely Implementation of Study Recommendations
- Rate Adjustments Every 5 Years Helps to Prevent Large Adjustments to Rates
- Maintain Financial Integrity of Electric Utility

Why Was a COS Study Prepared

- Last COS Study Completed in 2019
- Power Supply Cost Changes
- Roll In AMI Debt Service Costs Into Base Rates
- Capital Improvements Planned
 - Church St. Substation Improvements ~ \$1.6M
 - Equipment Replacements ~ \$505,000
 - Routine ~ \$66,500 Annually
- New Debt Required to Fund Church St. Improvements
- Meet a Debt Service Revenue Coverage Req. of 1.50

Major Capital Improvement Plan

- Equipment Replacements (2023-2027):
 - 1986 Digger Derrick
 - 2008 and 2015 $\frac{3}{4}$ Ton Pickups
 - 1990 Pole Trailer and 1997 Reel Trailer
 - Not Planned to be Replaced: '89 Dump Truck, '95 Digger Derrick, '08 Bucket Truck
- Church St. Substation Upgrades (Previously Deferred)
 - Replace Outdoor 15 kV Switchgear with Indoor Switchgear
 - Construct Block Building to House Switchgear and Controls
 - Replace 69 kV Insulators and Bussing and Refurbish Structure
 - Replace Conductors After the Transformer
 - No Transformer Replacement Included

Why Do You Need to Change Rates?

- Maintain Financial Health
 - Forecasted Expenses Exceed Forecasted Revenues
 - Fund Balance Projected to be Less Than Minimum Guideline
- Projected Debt Service Coverage Not Met
 - D.S. Coverage Ratio Projected Below 1.10 in 2025
- Roll In Fixed Mo. AMI Debt Service Into Base Rates

Comparison of Revenues from Existing Rates to Proposed Revenue Requirement⁽¹⁾
Village of Newton Falls, Ohio

Line No.	Description Rate Class	Test Year Energy Sales	Revenue at Current Rates				Proposed Revenues		Prop. Rev. Minus Current Rev.	
			Base Rate Revenue	PCA Revenue ⁽²⁾	Total (\$)	Total (\$/kWh)	(\$)	(\$/kWh)	(\$)	(%) ⁽³⁾
1	Residential Non-Demand IS	13,921,425	2,037,043	114,156	2,151,199	0.1545	2,215,735	0.1592	64,536	3.00
2	Residential Non-Demand OS	1,875,790	274,306	15,381	289,688	0.1544	301,275	0.1606	11,588	4.00
3	Residential Demand IS	1,085,277	152,779	8,899	161,678	0.1490	168,145	0.1549	6,467	4.00
4	Residential Demand OS	238,584	33,820	1,956	35,777	0.1500	37,387	0.1567	1,610	4.50
5	Commercial City-Owned IS	14,759,495	1,930,597	121,028	2,051,625	0.1390	2,067,012	0.1400	15,387	0.75
6	Commercial City-Owned OS	407,798	59,490	3,344	62,833	0.1541	63,399	0.1555	566	0.90
7	Municipal	1,804,203	223,970	14,794	238,765	0.1323	252,672	0.1400	13,907	5.82
8	Industrial	7,355,559	789,656	58,325	847,981	0.1153	839,531	0.1141	(8,450)	(1.00)
9	Security Lights		14,046	0	14,046	NA	14,844	NA	798	5.68
Total		41,448,131	5,515,708	337,884	5,853,592	0.1412	5,960,000	0.1438	106,408	1.82

⁽¹⁾ Excludes kWh Tax expenses.

⁽²⁾ Current PCA rate of \$0.00820/kWh effective with February 2023 usage. One Industrial customer receives a 6% discount to PCA rate per annexation agreement.

⁽³⁾ Percent increase/(decrease) in Revenue as compared to Revenue at Current Rates.

Rate Comparison

Description	Effective 12/1/2019	Effective 2/1/2023	2024 Proposed Rates
Residential Non-Demand Metered			
<i>Inside</i>			
Service Charge (\$/Month)	7.50	7.50	16.50
Debt Service Charge (\$/Month)	NA	4.25	NA
Energy Charge (\$/kWh)	0.12690	0.12690	0.13200
<i>Outside</i>			
Service Charge (\$/Month)	10.00	10.00	19.00
Debt Service Charge (\$/Month)	NA	4.25	NA
Energy Charge (\$/kWh)	0.12700	0.12700	0.13500
Residential Demand Metered			
<i>Inside</i>			
Service Charge (\$/Month)	7.50	7.50	16.50
Debt Service Charge (\$/Month)	NA	4.25	NA
Energy Charge (\$/kWh)			
1st 125 kWh / kW	0.12912	0.12912	0.13630
All kWh in Excess of 125 kWh/kW	0.11621	0.11621	0.13130
<i>Outside</i>			
Service Charge (\$/Month)	10.00	10.00	19.00
Debt Service Charge (\$/Month)	NA	4.25	NA
Energy Charge (\$/kWh)			
1st 125 kWh / kW	0.12922	0.12922	0.13830
All kWh in Excess of 125 kWh/kW	0.11630	0.11630	0.13330
Power Cost Adjustment (\$/kWh)	0.00000	0.00820	0.00000

Description	Effective 12/1/2019	Effective 2/1/2023	2024 Proposed Rates
Commercial City-Owned			
<i>Inside</i>			
Service Charge (\$/Month)	25.00	25.00	40.00
Debt Service Charge (\$/Month)	NA	15.15	NA
Capacity Charge (\$/kVA)	12.00	12.00	15.00
Energy Charge (\$/kWh)	0.08255	0.08255	0.08195
<i>Outside</i>			
Service Charge (\$/Month)	30.00	30.00	45.00
Debt Service Charge (\$/Month)	NA	15.15	NA
Capacity Charge (\$/kVA)	12.50	12.50	15.25
Energy Charge (\$/kWh)	0.08262	0.08262	0.08195
Commercial Customer-Owned			
<i>Inside</i>			
Service Charge (\$/Month)	25.00	25.00	40.00
Debt Service Charge (\$/Month)	NA	15.15	NA
Capacity Charge (\$/kVA)	11.60	11.60	14.60
Energy Charge (\$/kWh)	0.08255	0.08255	0.08195
<i>Outside</i>			
Service Charge (\$/Month)	30.00	30.00	45.00
Debt Service Charge (\$/Month)	NA	15.15	NA
Capacity Charge (\$/kVA)	12.10	12.10	14.85
Energy Charge (\$/kWh)	0.08262	0.08262	0.08195
Power Cost Adjustment (\$/kWh)	0.00000	0.00820	0.00000

Rate Comparison Continued

Residential Non-Demand Inside (Class Arg) Outside (C)	Effective 12/1/2019	Effective 2/1/2023	2024 Proposed Rates
Description			
Municipal			
Service Charge (\$/Month)	25.00	25.00	45.00
Debt Service Charge (\$/Month)	NA	18.35	NA
Energy Charge (\$/kWh)	0.11520	0.11520	0.13075
Industrial			
Service Charge (\$/Month)	150.00	150.00	250.00
Debt Service Charge (\$/Month)	NA	515.00	NA
Capacity Charge (\$/kVA)	14.00	14.00	18.00
XFMR Discount (\$/kW-mo.)	NA	NA	(0.40)
Energy Charge (\$/kWh)	0.06805	0.06805	0.06800
Reactive Charge (\$/kVAR)	NA	NA	0.50
Power Cost Adjustment (\$/kWh)	0.00000	0.00820	0.00000

Private Area Lighting (PAL)	Effective 12/1/2019	Effective 2/1/2023	2024 Proposed Rates
175 Watt Mercury Vapor	8.00	8.00	9.00
400 Watt Mercury Vapor	11.50	11.50	12.00
1,000 Watt Mercury Vapor	19.75	19.75	20.00
150 Watt H.P.S.	8.00	8.00	9.00
250 Watt H.P.S.	10.00	10.00	10.00
400 Watt H.P.S.	12.00	12.00	12.00

Bill Comparison

Description	Metered Usage			Existing Rates ⁽¹⁾		Proposed Rates ⁽¹⁾⁽²⁾		Difference (Prop - Existing)		Ohio Edison (Summer) ⁽¹⁾⁽³⁾		Ohio Edison (Winter) ⁽¹⁾⁽⁴⁾	
	(kWh)	(kW)	LF %	(\$)	(\$/kWh)	(\$)	(\$/kWh)	(\$)	(%)	(\$)	(\$/kWh)	(\$)	(\$/kWh)
Residential Non-Demand													
Inside (Class Avg.)	600	-		96	0.1593	98	0.1642	2.89	3.0	116	0.1941	108	0.1805
Outside (Class Avg.)	745	-		118	0.1590	123	0.1652	4.60	3.9	143	0.1924	133	0.1788
Outside	600	-		98	0.1636	103	0.1713	4.63	4.7	116	0.1941	108	0.1805
Residential Demand													
Inside (Class Avg.)	845	6.6	17.6	131	0.1555	136	0.1603	4.09	3.1	162	0.1915	150	0.1779
Outside (Class Avg.)	947	7.2	18.1	148	0.1565	154	0.1628	5.97	4.0	181	0.1909	168	0.1773
Outside	845	6.6	17.6	134	0.1585	140	0.1653	5.69	4.2	162	0.1915	150	0.1779
Commercial (City-Owned)													
Inside (Class Avg.)	4,607	15.2	41.6	661	0.1434	665	0.1444	4.85	0.7	766	0.1662	717	0.1556
Outside (Class Avg.)	3,089	12.0	35.2	490	0.1586	495	0.1604	5.51	1.1	540	0.1749	508	0.1644
Industrial⁽⁵⁾													
Customer A 12-mo. Avg.	226,079	555	55.8	26,504	0.1172	25,962	0.1148	(542)	(2.0)	36,647	0.1621	28,239	0.1249
Customer B1 12-mo. Avg. ⁽⁶⁾	245,000	557	60.3	27,915	0.1139	27,603	0.1127	(312)	(1.1)	43,629	0.1781	29,653	0.1210
Customer B2 12-mo. Avg. ⁽⁶⁾	129,893	352	50.6	15,911	0.1225	15,895	0.1224	(16)	(0.1)	22,160	0.1706	18,503	0.1425
Municipal⁽⁴⁾													
Inside	4,850	-		663	0.1367	700	0.1444	37	5.6	916	0.1889	872	0.1798
Outside	4,850	-		663	0.1367	700	0.1444	37	5.6	916	0.1889	872	0.1798

⁽¹⁾ Includes Ohio Excise Tax.

⁽²⁾ Proposed rates includes a PCA rate of zero for 2024.

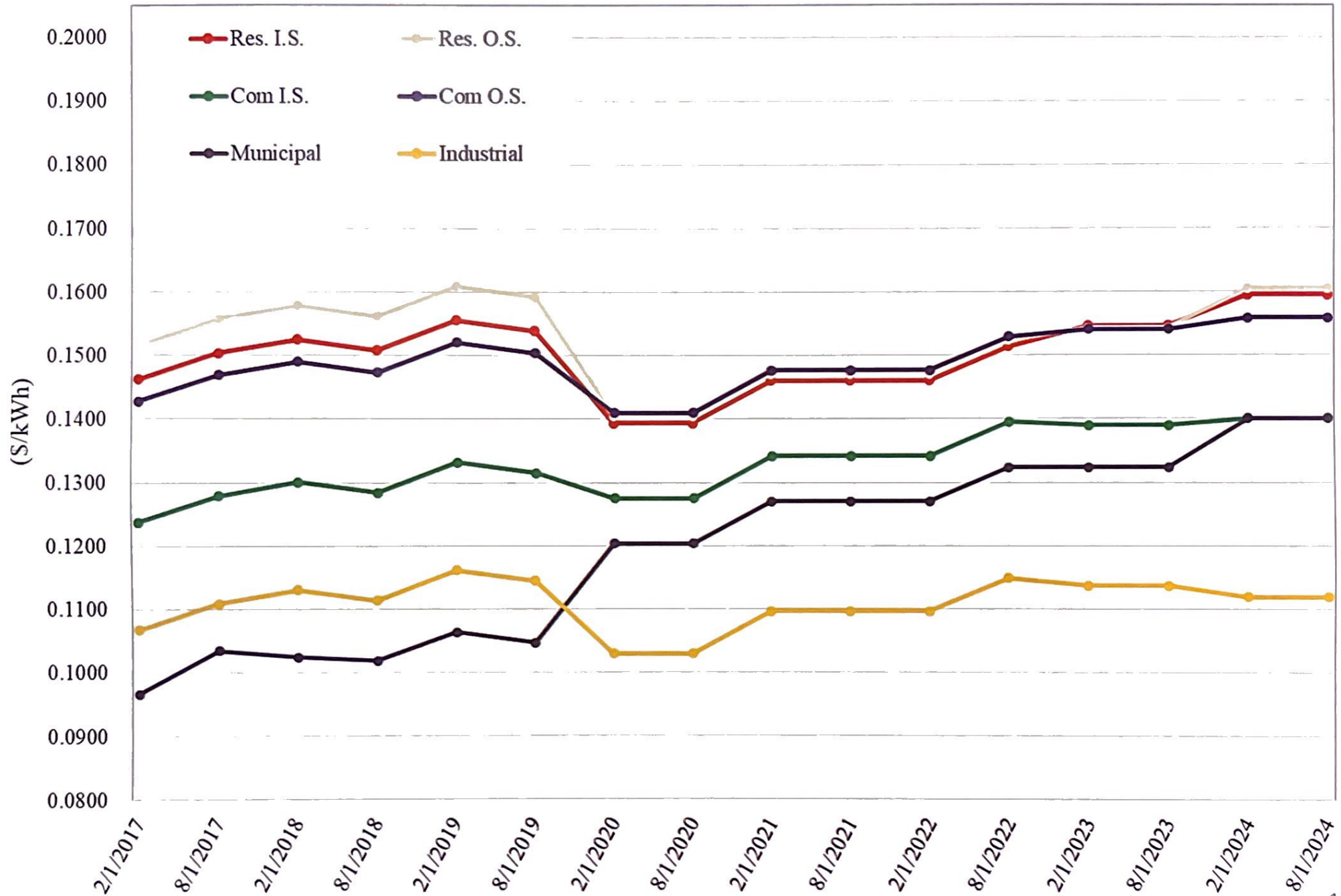
⁽³⁾ Ohio Edison Rates effective Aug. 1, 2023. Applies to months June - August.

⁽⁴⁾ Ohio Edison Rates effective Oct. 1, 2023. Applies to non-summer months.

⁽⁵⁾ Assumes 90% power factor for monthly usages in excess of 10,000 kWh.

⁽⁶⁾ Includes a 6% discount to the PCA charge in accordance with customer annexation agreement.

Figure 1
Average Electric Costs by Rate Class⁽¹⁾
Village of Newton Falls, Ohio



⁽¹⁾ Excludes Ohio Excise Tax

Electric Utility Historical and Projected Operating Results Using Proposed Rates Effective For Bills Rendered February, 2024

Village of Newton Falls, Ohio

Description	Historical				Projected				
	2019	2020	2021	2022	2023	2024	2025	2026	2027
Sales Revenue									
Customer Base Rate	4,397,332	4,902,909	5,158,761	5,399,585	5,433,055	5,945,864	6,135,404	6,408,433	6,408,433
PCA Revenue	1,295,590	0	230,403	377,352	342,859	0	137,613	77,711	243,250
Security Lights	14,469	14,312	13,842	14,240	14,073	14,844	14,844	14,844	14,844
Total Sales Revenue	5,707,391	4,917,221	5,403,006	5,791,178	5,789,987	5,960,708	6,287,861	6,500,987	6,666,527
Other Revenue									
Pole Attachment Fees	16,380	8,190	15,456	7,525	23,815	15,706	15,706	15,706	15,706
BAN Proceeds ⁽¹⁾	1,160,000	925,000	690,000	455,000	0	1,570,000	1,490,000	1,410,000	1,330,000
Late Penalties	81,841	91,194	92,857	0	0	0	0	0	0
Ohio Excise Tax ⁽²⁾	180,835	172,940	180,686	181,568	177,387	180,862	186,927	197,251	197,251
Grants/Miscellaneous ⁽³⁾	154,758	31,430	(96,367)	(12,079)	(24,500)	(24,500)	(24,500)	(24,500)	(24,500)
Total Other Revenue	1,593,814	1,228,754	882,632	632,015	176,702	1,742,068	1,668,133	1,598,457	1,518,457
TOTAL REVENUE	7,301,205	6,145,975	6,285,637	6,423,192	5,966,689	7,702,776	7,955,994	8,099,445	8,184,984
EXPENSES									
Purchase Power ⁽⁴⁾	3,966,731	3,886,986	4,092,721	4,206,039	3,978,063	4,146,309	4,427,551	4,610,441	4,775,980
Distribution Operation & Maint.	392,638	354,312	340,402	384,499	605,043	538,561	558,762	580,290	602,119
General & Administration ⁽⁵⁾	572,749	579,667	570,867	458,906	639,655	634,529	666,306	694,230	722,135
Ohio Excise Tax ⁽²⁾	180,835	172,940	180,686	181,568	177,387	180,862	186,927	197,251	197,251
Debt Service ⁽⁶⁾	1,476,021	1,233,147	1,053,777	812,474	611,770	165,930	1,828,518	1,744,353	1,659,096
Capital Improvements ⁽⁷⁾	68,694	2,594	214,931	133,444	141,300	631,647	1,451,050	157,000	62,000
Total Expenses	6,657,670	6,229,645	6,453,383	6,176,931	6,153,217	6,297,838	9,119,114	7,983,565	8,018,581
Transfer In									
Transfer Out ⁽⁸⁾		462,000							
Margin	643,535	(545,671)	(167,746)	246,261	(186,528)	1,404,937	(1,163,120)	115,879	166,403
Energy Sales (kWh)	41,833,124	39,085,246	41,093,515	42,970,914	40,678,843	41,448,131	42,873,657	45,300,122	45,300,122
Sales Revenue (\$/kWh)	0.1364	0.1258	0.1315	0.1348	0.1423	0.1438	0.1467	0.1435	0.1472
Electric Fund Balance									
BOY	2,014,929	2,658,464	2,112,794	1,945,048	2,191,310	2,004,781	3,409,719	2,246,599	2,362,478
EOY	2,658,464	2,112,794	1,945,048	2,191,310	2,004,781	3,409,719	2,246,599	2,362,478	2,528,881
Minimum Fund Balance ⁽⁹⁾	1,315,778	1,533,073	1,571,691	1,518,952	2,241,990	1,743,315	1,955,104	1,988,251	2,020,524
Target Fund Balance	1,591,494	2,057,515	2,096,133	2,043,393	2,913,590	2,414,915	2,626,703	2,659,850	2,692,123
Debt Service Coverage Ratio ⁽¹⁰⁾	<u>3.34</u>	<u>0.75</u>	<u>1.15</u>	<u>1.95</u>	<u>0.93</u>	<u>4.29</u>	<u>1.95</u>	<u>1.92</u>	<u>1.79</u>

(1) Village 2004 Bond Anticipation Note balance retired in 2023. Projected new bond anticipation note proceeds of \$1.57M in 2024 for Church Street substation improvements.

(2) Ohio Excise Tax Revenues from customers. Revenues from Customers located within Village corporation limits is transferred to General Fund. Revenues from Customer located outside corporation limits paid to the State of Ohio.

(3) Includes misc. revenues and end of year adjustments to reflect the difference between billed and collected revenues. Projected years 2023 through 2027 includes an end of year adjustment of -\$25,000 annually.

(4) Projected power supply cost using AMP project budgets and Village sales and load forecast.

(5) Includes medical, insurance, administrative and billing allocations, office supplies, professional service, etc. expenses.

(6) Includes BAN principal and interest expense, capital lease payment and BAN Cost of Issuance fees. Assumes an \$80,000 principal payment beginning in 2025 and thereafter and an annual interest rate of 6.0%.

(7) Village 69 kV breakers replaced in 2021. Church Street substation improvements planned in 2024/2025 (\$1.6M). Forecast includes planned equipment replacement of digger derrick (\$350,027), reel trailer (\$15,000), '08 3/4 ton pickup (\$60,000), 2015 3/4 ton pick (\$65,000) and pole trailer (\$15,000). Forecast includes an average annual expense of \$66,460 for pole testing, treating and replacement and material stock and inventory.

(8) Approximately \$462,000 was transferred out for Economic Development purposes.

(9) 2023 includes the following, 9 months of operation and maintenance expense (\$958,621) excluding purchase power and Excise tax expenses, one year of debt service (\$611,770), one-year of normalized capital outlay (\$171,600) and an emergency fund of \$500,000 to cover unexpected expenses. Target Fund Balance Guideline includes 2-years of normalized capex and \$1M in lieu of \$500k for emergency purposes.

(10) Typical revenue secured bonds require a minimum net income of 110% greater than annual principal and interest payments including capital lease payments.

Summary

- Proposed Overall Revenue Increase ~ 1.8%
 - Projected Net Sales Growth ~ 3,824,000 kWh (2024-2027)
 - New Customer Revenue ~ \$220,000 in 2025
 - New Cust. Revenue ~ \$490,000 Annually By 2026
- Minimum Fund Balance Met Through 2027
 - Approx. \$508,000 More Than Minimum Guideline
 - Approx. \$163,000 Less Than Target Guideline
- Village Debt Service Obligations Met

Debt Summary

- Historical / Current Debt Service
 - '04 BAN Retired in 2023 ~ \$250,000 Annually
 - 2021 – 2022 AMI ~ \$115,000 Annually
 - 2019 – 2020 Capital Lease ~ \$45,000 Annually
 - 2019 – 2022 Annual Debt Average ~ \$330,000
- Current / Future Debt Service
 - 2023 – 2030 ~ \$147,000 Annually
 - 2025 New Debt ~ \$169,500 Annually
 - 2025 – 2027 Annual Debt Average ~ \$316,500

Inspection Visit Summary

UH - Newton Falls Joint Fire District

Annual Life Safety Inspection - Visit Id #: 26524988

Annual Life Safety Inspection

Inspection Visit Info

Inspection Date: 09/28/2023

Inspector: Williamson, James

Unresolved Corrective Actions: 15

Building Name: City of Newton Falls Municipal Center

Building Address: 612 W Broad ST

Basic Info

Fire Alarm System

Provide Service Company Information, Date of Service and Type If Not available, leave blank

Item Failed Inspection

Corrective Actions

Corrective Action 1 - Unresolved

901.6 Inspection, Testing and Maintenance. Fire detection, alarm and extinguishing systems shall be maintained in an operative condition at all times and shall be replaced or repaired were defective. Nonrequired fire protection systems and equipment shall be inspected, tested, and maintained or removed. Any discontinuance or removal of nonrequired Fire protection equipment shall be approved by the fire code official. Such approval shall be conditioned upon receipt of verification of the building's official determination that such fire protection equipment is nonrequired. 901.7 Systems Out of Service. Where a required fire protection system is out of service, the fire department, and the fire code official shall be notified immediately and, where required by the fire code official, the building shall either be evacuated, or an approved fire watch shall be provided for all occupants left unprotected by the shutdown until the fire protection system has been returned to service.

Knox Box or Key Lock Box

Indicate if present. Pass: Present, Fail: Not Present. Provide Education on benefits of having a Key Lock Box/Knox Box.

Item Failed Inspection

Corrective Actions

Corrective Action 1 - Unresolved

This is not required by the fire code. It is strongly recommended by the AHJ (Authority having jurisdiction) One is installed. More information can be obtained from the fire department

Electrical Equipment, Wiring And Hazards

605.5

Extension cords. Extension cords and flexible cords shall not be a substitute for permanent wiring. Extension cords and flexible cords shall not be affixed to structures, extended through walls, ceilings or floors, or under doors or floor coverings, nor shall such cords be subject to environmental damage or physical impact. Extension cords shall be used only with portable appliances.

Item Failed Inspection

Corrective Actions

Corrective Action 1 - Unresolved

The use of extension cords as permanent wiring is not permitted

Fire Protection Systems

901.4.1

Required fire protection systems. Fire protection systems required by this code or the building code as listed in rule 1301:7-7-80 of the Administrative Code shall be installed, repaired, operated, tested and maintained in accordance with this code. A fire protection system for which a design option, exception or reduction to the provisions of this code or the building code as listed in rule 1301:7-7-80 of the Administrative Code has been granted shall be considered a required system.

Item Failed Inspection

Corrective Actions

Corrective Action 1 - Unresolved

There are non functioning pull stations, horn/strobes. The main fire panel is non-functional. The existing fire alarm shall be brought back to code compliance.

901.6

Inspection, testing and maintenance. Fire detection, alarm and extinguishing systems, mechanical smoke exhaust systems, and smoke and heat vents shall be maintained in an operative condition at all times, and shall be replaced or repaired where defective. Nonrequired fire protection systems and equipment shall be inspected, tested and maintained or removed. Any discontinuance or removal of nonrequired fire protection equipment shall be approved by the fire code official. Such approval shall be conditioned upon receipt of building official determination that such fire protection equipment is nonrequired.

Item Failed Inspection

Corrective Actions

Corrective Action 1 - Unresolved

There are non functioning pull stations, horn/strobes. The main fire panel is non-functional. The existing fire alarm shall be brought back to code compliance.

Inspection Visit Summary

UH - Newton Falls Joint Fire District

Annual Life Safety Inspection - Visit Id #: 26524988

901.6.3

Item Failed Inspection

Annual inspection tag for fire protection systems. An inspection tag shall be attached to each fire protection system near the main control valve, main panel, or other such appropriate and visible location as determined by the fire code official.

Corrective Actions

Corrective Action 1 - Unresolved

There are non functioning pull stations, horn/strobes. The main fire panel is non-functional. The existing fire alarm shall be brought back to code compliance.

Fire Alarm and Detection Systems

907.8.5

Item Failed Inspection

Inspection, testing and maintenance. The building owner shall be responsible to maintain the fire and life safety systems in an operable condition at all times. Service personnel shall meet the certification requirements of this rule as applicable and the qualification requirements of NFPA 72 as listed in rule 1301:7-7-80 of the Administrative Code for inspection, testing and maintenance of such systems. Records of inspection, testing and maintenance shall be maintained.

Corrective Actions

Corrective Action 1 - Unresolved

There are non functioning pull stations, horn/strobes. The main fire panel is non-functional. The existing fire alarm shall be brought back to code compliance.

907.9

Item Failed Inspection

Where required in existing buildings and structures. An approved fire alarm system shall be provided in existing buildings and structures where required in rule 1301:7-7-11 of the Administrative Code.

Corrective Actions

Corrective Action 1 - Unresolved

There are non functioning pull stations, horn/strobes. The main fire panel is non-functional. The existing fire alarm shall be brought back to code compliance.

Means of Egress

1004.3

Item Failed Inspection

Posting of occupant load. Every room or space that is an assembly occupancy shall have the occupant load of the room or space posted in a conspicuous place, near the main exit or exit access doorway from the room or space. Posted signs shall be of an approved legible permanent design and shall be maintained by the owner or the owner's authorized agent.

Corrective Actions

Corrective Action 1 - Unresolved

Contact the Trumbull County Building Department for occupancy loads

1008.3

Item Failed Inspection

Emergency power for illumination. The power supply for means of egress illumination shall normally be provided by the premises' electrical supply.

Corrective Actions

Corrective Action 1 - Unresolved

1026.5 Illumination emergency power. All emergency egress lighting needs to be evaluated for battery life.

Annual Life Safety Inspection Summary

Minor Violation

Item Failed Inspection

Minor Violations have been identified in your place of business. Typical time frame is 30-90 Days from the date of the inspection. Inspector: Leave blank if no violations or a serious hazard if found. Mark Minor Violation AND Serious Hazard if both types are located.

Corrective Actions

Corrective Action 1 - Unresolved

With this exception of below. All remaining issues shall have 60 days to correct. If there is any thing additional needed. Please contact the Fire Chief or Certified Fire Safety Inspector

Serious Violation

Item Failed Inspection

A Serious Hazard has been identified in your place of business. Inspector: If a Serious Hazard has been identified, mark FAIL in this section, notate the violation in the notes and notify the Fire Chief. If no Serious Violation has been found, leave this section blank.

Corrective Actions

Corrective Action 1 - Unresolved

The fire alarm shall be evaluated by a certified fire alarm technician. In the event a new system is recommended contact to the Trumbull County Building Department shall take place. The fire department will work with you as long as progress is being made.

Inspection Visit Summary

UH - Newton Falls Joint Fire District

Annual Life Safety Inspection - Visit Id #: 26524988

General Storage

315.3.2

Item Failed Inspection

Means of Egress: Combustible materials shall not be stored in exits or enclosures for stairways and ramps.

Corrective Actions

Corrective Action 1 - Unresolved

1027.3 Obstructions. A means of egress shall be free from obstructions that would prevent its use.

315.3.3

Item Failed Inspection

Equipment Rooms: Combustible material shall not be stored in boiler rooms, mechanical rooms, electrical equipment rooms or in fire command centers as specified in paragraph (G)(1)(e)(508.1.5) of rule 1301:7-7-05 of the Administrative Code.

Corrective Actions

Corrective Action 1 - Unresolved

315.2.3 Equipment Rooms. Combustible material shall not be stored in boiler rooms, mechanical rooms, or electrical equipment rooms.

Fire Protection/Utility Equipment Identification

509.1.1

Item Failed Inspection

Utility identification. Where required by the fire code official, gas shutoff valves, electric meters, service switches and other utility equipment shall be clearly and legibly marked to identify the unit or space that it serves. Identification shall be made in an approved manner, readily visible and shall be maintained.

Corrective Actions

Corrective Action 1 - Unresolved

In house signage can be made. 4" letter on doors to electrical, mechanical or HVAC rooms.

Patricia Ann Benetis
70 West 8th Street
Ward 1 Council Elect
Newton Falls, OH 44444
Integrity, Honesty, Transparency and Frugality
November 15, 2023

Well, we made the Tribune again today. It talked about the Ninety thousand (\$90,000.00) raise three council members want to give City Manager Pamela Priddy. Below is a table showing how much an hour Mrs. Priddy is getting for the hours that she actually works for the City of Newton Falls.

Proposed Salary \$90,000					
52 weeks times 40 hours					2080
Lunch hours 52 weeks * 8 hours a week - Senior Kitchen					416
Vacation Hours 30 days * 8 hours					240
Actual Working hours					1424
Pay per working hour - \$90,000 divided by 2080 hours					\$43.27
Actual Working hours - \$90,000 divided by 1424 hours					\$63.20
Lunch Duties:					
416 hours times \$43.27					\$18,000
416 Hours times \$63.20					\$26,291.20

416 hours times \$43.27 = \$18,000. I realize the Mrs. Priddy does spend more than eight (8) hours per week for the Senior Lunches. Eight (8) hours a week is really not accurate, but again I will be accused of comparing apples to oranges. I am sure we could probably find someone that would be willing to work for that sum. Next I am going to get reprimanded because I didn't say that you need someone licensed by the Health Department. I am sure that could be arranged.

A pet peeve of mine is that when I do or say something Mrs. Priddy doesn't come and speak with me, but sends someone else. It happened again today. She sent a messenger to tell me that I had to move my chair in Silver Sneakers. I was not told who was the person behind the reprimand of that news, but I am 99% sure it was City Manager Pamela Priddy. The reason was that people couldn't get through behind my chair. OK. You could say that I shouldn't block someone's path, but why is it OK for her volunteers and people that want to speak with her to go right through the middle of the class. Isn't there another hallway they could use rather than going through the class?

If Lunch is from 12:00 – 1:00, why do people have to arrive before 11:30 when there is a class scheduled?



NEWTON FALLS CITY COUNCIL
SPECIAL MEETING MINUTES
Wednesday, December 6, 2023; 5:00 PM
COUNCIL CHAMBERS
612 WEST BROAD STREET

CITY COUNCIL MEMBERS	
Ward 1	Patricia Benetis
Ward 2	John Baryak
Ward 3	VACANT
Ward 4	Kevin Rufener
At- Large	Julie Stimpert
Acting Mayor	John Baryak

CITY ADMINISTRATION	
City Manager	Pamela Priddy
Law Director	Brad Bryan
Finance Director	Sean Housley
City Clerk	Michael Acomb

This meeting was requested via emails from Ms. Stimpert and Mr. Rufener on 12/03/2023.

I. Call to Order

Mr. Bryan advised Ms. Stimpert, as the senior member of Council in attendance, to call the meeting to order. Ms. Stimpert called the meeting to order at 5:05 pm.

II. Pledge of Allegiance / Silent Prayer

III. Roll Call

Mr. Bryan advised, and Mr. Rufener made a motion to appoint Ms. Stimpert as presiding officer for this meeting. Seconded by Ms. Benetis.

No discussion.

Roll Call Vote: Ms. Benetis-yes; Mr. Rufener-yes; Ms. Stimpert-yes.

The motion passed 3-0.

Ms. Stimpert asked Mr. Acomb to call the roll.

Council Present: Councilperson Benetis, Councilperson Rufener, Councilperson Stimpert

Council Absent: Acting Mayor/Councilperson Baryak,

Staff Present: City Manager Priddy, Finance Director Housley, Clerk Acomb, Law

Director Bryan

Staff Absent: None

IV. Public Comments (limited to those items on the agenda)

Rick Kerlin – 1009 Woodglen

He wondered about the Acting Mayor's absence and if this meeting was legal without him. He questioned the rules that permit the present members of Council to vote by motion and appoint Ms. Stimpert as presiding officer. Mr. Bryan stated that a quorum is present and in the absence of the presiding officer, the remaining members of Council can make a motion to appoint a presiding officer for the meeting. He further stated that no rules exist to prevent that from happening in law, the Charter, or Roberts Rules of Order. Mr. Kerlin stated his disagreement citing the Charter does not state that such action can take place.

V. Old Business

None.

VI. New Business

Interviews and consideration of candidates for the vacant Ward 3 council seat, in or out of executive session, as determined by Council.

Ms. Stimpert asked Mr. Bryan about the proper procedure. Mr. Bryan provided the options for conducting the interviews, which included Council needing to decide regarding whether to conduct the interviews in executive session or open session. He advised that if an open session was chosen that the other candidates be asked to leave to not gain an unfair advantage.

VII. Motion to Recess into Executive Session (if necessary).

Mr. Rufener made a motion to enter executive session for the purpose of considering the appointment of a public official, including conducting interviews and discussing the candidates. Ms. Benetis seconded the motion.

No discussion.

Roll Call Vote: Ms. Benetis-yes; Mr. Rufener-yes; Ms. Stimpert-yes.

The motion passed 3-0. The council entered executive session at 5:11 pm and adjourned to the conference room.

The Council returned to chambers. Ms. Stimpert made a motion to adjourn the executive session and resume the regular session. Seconded by Mr. Rufener.

No discussion.

Roll Call Vote: Ms. Benetis-yes; Mr. Rufener-yes; Ms. Stimpert-yes.

The motion passed 3-0. The council adjourned executive session and resumed the regular session at 5:59 pm.

Motion to make an appointment to the vacant Ward 3 seat.

No motion was made. Ms. Stimpert thanked the three candidates for their time and interest in the position. She announced that Council will continue to advertise the position and interview additional candidates. The reason for the continuance of the process is that the Council wants to find the best candidate, the position has been advertised for less two weeks and the Council wants to give all interested residents of Ward 3 ample time to consider and apply for the position. She reassured that the three candidates were outstanding and continue to be under consideration and a final decision should be made by the end of the month. Mr. Rufener thanked all the candidates for their time and interest. He reiterated that desire of the Council to give everyone in the community a fair chance to apply. He encouraged anyone who is interested but did not have enough time to express interest and prepare to do so. He wants everyone who might be interested to have the opportunity to be considered.

VIII. Public Comments (limited to those items on the agenda)

None.

IX. Adjournment

Ms. Benetis made a motion to adjourn the meeting. Seconded by Ms. Stimpert

No discussion.

Roll Call Vote: Ms. Benetis-yes; Mr. Rufener-yes; Ms. Stimpert-yes.

The motion passed 3-0. The meeting adjourned at 6:01 pm.



NEWTON FALLS CITY COUNCIL
REGULAR MEETING MINUTES
Wednesday, December 6, 2023; 6:00 PM
COUNCIL CHAMBERS
612 WEST BROAD STREET

CITY COUNCIL MEMBERS	
Ward 1	Patricia Benetis
Ward 2	John Baryak
Ward 3	VACANT
Ward 4	Kevin Rufener
At- Large	Julie Stimpert
Acting Mayor	John Baryak

CITY ADMINISTRATION	
City Manager	Pamela Priddy
Law Director	Bradric Bryan
Finance Director	Sean Housley
City Clerk	Michael Acomb

I. Call to Order

Mr. Bryan advised Ms. Stimpert, as the senior member of Council in attendance, to call the meeting to order. Ms. Stimpert called the meeting to order at 6:01 pm.

Mr. Bryan advised, and Mr. Rufener made a motion to appoint Ms. Stimpert as acting chair for this meeting. Seconded by Ms. Benetis.

No discussion.

Roll Call Vote: Ms. Benetis-yes; Mr. Rufener-yes; Ms. Stimpert-yes.

The motion passed 3-0.

II. Pledge of Allegiance / Silent Prayer

III. Roll Call

Ms. Stimpert asked Mr. Acomb to call the roll.

Council Present: Councilperson Benetis, Councilperson Rufener, Councilperson Stimpert

Council Absent: Acting Mayor/Councilperson Baryak

Staff Present: City Manager Priddy, Finance Director Housley, Clerk Acomb, Law Director Bryan

Staff Absent: None

IV. Changes To Tonight's Agenda

Ms. Stimpert made a motion to add a motion to the agenda to change the date of the regular meeting scheduled for December 20 to December 19 at 6:00 pm. Seconded by Ms. Benetis.

No discussion.

Roll Call Vote: Ms. Benetis-yes; Mr. Rufener-yes; Ms. Stimpert-yes.

The motion passed 3-0.

V. Special Presentations by Staff Members or Invited Consultants

None

VI. Public Comments (Agenda Items Only)

Brian Kropp – 247 Elizabeth street

He spoke against the content of his public comments captured at the November 15, 2023 meeting. He asked to have the last sentence of his comments as recorded in the draft minutes be stricken from the record as it is inaccurate and out of order.

Adam Zimmermann – 515 LeMae Avenue

He asked various questions about the appropriations amendment including: Why is \$12,000 being appropriated for the Senior Kitchen at this time of the year and why is it being appropriated again for 2024? He spoke against those appropriations. (2) Why \$125,000 for zoning department? He spoke against that appropriation and wondered why a one-man department needs that much money; (3) He wondered why there no more senior lunches and why is money being appropriated into that fund.

Rick Kerlin – 1009 Woodglen

He spoke against the Council establishing a new committee when they cannot fill the committees that they currently have, and committee setup is an administrative function. He spoke in support of the donations received to support it and the affordability of the meal for senior citizens. He spoke against others telling seniors how to spend their money and spoke in support of the Senior Kitchen. He spoke against those who do not attend the senior kitchen making rules for it when the seniors value it. He stated his belief that Council committees hold no administrative authority. Mr. Kerlin resisted against Ms. Stimpert when advised that his time had expired, stating that he doesn't recognize the meeting. When Mr. Bryan advised, Mr. Kerlin complies.

Heidi Zimmermann – 515 LeMae Avenue

She spoke as a member of the Parks and Recreation Committee to correct previous comments made. She stated that no park bench project is under the control or oversight of the Parks and Recreation committee per the city manager.

Brenda Kray – 571 Ridge Road

She spoke in support of the Senior Kitchen, citing the compassion, friendships that have been developed, the camaraderie and the quality of the meals. She spoke in support of Pam Priddy's efforts for the venture. She urged people to show compassion and let the program continue and other stop acting against it.

Condie Bright – Washington Street

He spoke in support of the senior kitchen, but spoke against tax money being used and urged voice of the tax payers to be taken into account if tax money will be used.

VII. Reports

- a. Acting Mayor - absent
- b. Council Members
 - i. Mr. Rufener – No report.
 - ii. Ms. Benetis – She thanked the voters for their support during the election and expressed hoped to serve well.
 - iii. Ms. Stimpert – The turkey raffle was successful for the Fire Board. She thanked all the supporters of the event.
- c. Finance Director – November is closed. He offered thanks to his assistant for handling the tasks. All reports were uploaded today, and the Council had received them previously by noon this past Monday.

- d. Law Director – Mr. Bryan – He advised that the Acting Mayor and member of Council is absent alongside a vacant seat. The new charter amendment, Article 3. Section 16 was amended, and states that all ordinance require three readings with two weeks between each reading unless the second reading is passed by a 4/5 vote; meaning that 4 affirmative votes are required. He advised that public hearing can be held tonight. Votes can be taken on Ordinances 2023-45 and 2023-46, but will need third readings, if passed. He advised that all new business can be considered, but first readings will require unanimous approval. He advised that will ask for Ordinance 2023-50 to be amended for the next meeting as it cannot pass at this meeting. The resolution can be considered and requires 3 votes to pass. The Motions requires 2 affirmative votes tonight. Ms. Stimpert asked if any can be postponed. Mr. Bryan suggested going through the agenda and decide on each item individually. He also advised that the three reading rule will not apply if Council is whole next week.
- e. City Manager – Ms. Priddy – She discussed the Sheriff's Report. Tree trimmers are just hitting the "hot spots" in the city right now. The Village applied for a \$2.5M river project grant, including the downtown area. The project is split into two separate projects, and they will move forward to the next stages. She is also working on several other grants totaling an additional \$1.5M. She explained that two kayak launches will be built, along with shelters, a fishing pier, and restrooms. The truck for the wastewater plant is needed ASAP. Mr. Rufener asked about the grants process. Ms. Priddy said the grants have moved onto the state level of approval. She stated her belief that once at that level, they are almost always approved by the State. The award announcements should be made in January.

Ms. Stimpert called for a motion to excuse Acting Mayor Baryak. No motion was made. Mr. Baryak was not excused from the meeting.

VIII. Approval of Previous Minutes

Regular Meeting Minutes November 15, 2023

Mr. Rufener asked for clarification regarding how to handle these minutes given Mr. Kropp's request. Mr. Bryan advised that Council could postpone consideration and ask Mr. Acomb to review the audio and make appropriate revisions, or Council can make motion to amend the minutes in this meeting and approve them as amended. Mr. Rufener made a motion to postpone consideration and a vote on the minutes and to direct the Clerk to review the audio and make appropriate revisions. Seconded by Ms. Stimpert.

No discussion.

Roll Call Vote: Ms. Benetis-yes; Mr. Rufener-yes; Ms. Stimpert-yes.

The motion passed 3-0.

IX. Public Hearings

ORDINANCE 2023-45 (Version 2)

Sponsor: Councilperson Baryak

AN ORDINANCE AMENDING THE ELECTRIC RATES

Mr. Acomb read the ordinance by title only.

No public comments.

ORDINANCE 2023-46

Sponsor: Councilperson Baryak

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO CONTRACTS SPECIFIED HEREIN FOR THE PURCHASE OF CHEMICALS NEEDED BY THE VILLAGE OF NEWTON FALLS WATER PLANT FOR THE CALENDAR YEAR 2024.

Mr. Acomb read the ordinance by title only.

No public comments.

X. Unfinished Business

ORDINANCE 2023-45 (Version 2)

Sponsor: Councilperson Baryak

AN ORDINANCE AMENDING THE ELECTRIC RATES

Mr. Acomb read the ordinance by title only.

Mr. Bryan clarified that a second reading can occur tonight; but the third reading cannot occur this month because if the next meeting is re-scheduled to December 19, then 2 weeks will not have passed as required by the Charter. He advised that an option exists to postpone it.

Mr. Rufener made a motion to postpone consideration of and a vote on Ordinance 2023-45 until December 19. Seconded by Ms. Stimpert.

No discussion.

Roll Call Vote: Ms. Benetis-yes; Mr. Rufener-yes; Ms. Stimpert-yes.

The motion to postpone passed 3-0.

ORDINANCE 2023-46

Sponsor: Councilperson Baryak

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO CONTRACTS SPECIFIED HEREIN FOR THE PURCHASE OF CHEMICALS NEEDED BY THE VILLAGE OF NEWTON FALLS WATER PLANT FOR THE CALENDAR YEAR 2024.

Mr. Bryan clarified that his comments regarding the procedure for handling Ordinance 2023-45 also apply to this ordinance. Mr. Acomb read the ordinance by title only.

Ms. Stimpert made a motion to postpone consideration of and a vote on Ordinance 2023-46 until December 19. Seconded by Mr. Rufener.

No discussion.

Roll Call Vote: Ms. Benetis-yes; Mr. Rufener-yes; Ms. Stimpert-yes.

The motion to postpone passed 3-0.

XI. New Business

ORDINANCE 2023-47

Sponsor: Councilperson Rufener

AN ORDINANCE AUTHORIZING CERTAIN AMENDMENTS TO THE APPROPRIATIONS FOR THE FISCAL YEAR ENDING DECEMBER 31, 2023 AND AUTHORIZING THE FINANCE DIRECTOR TO AMEND AND FILE A CERTIFICATE OF RESOURCES WITH THE COUNTY AUDITOR

Mr. Acomb read the ordinance by title only.

Mr. Rufener made a motion to postpone consideration of and a vote on Ordinance 2023-47 until December 19. Seconded by Ms. Stimpert.

No discussion.

Roll Call Vote: Ms. Benetis-yes; Mr. Rufener-yes; Ms. Stimpert-yes.

The motion to postpone passed 3-0.

ORDINANCE 2023-48

Sponsor: Councilperson Rufener

AN ORDINANCE ESTABLISHING THE ANNUAL OPERATING BUDGET AND
SETTING FORTH THE APPROPRIATIONS FOR 2024

Mr. Acomb read the ordinance by title only.

Ms. Stimpert made a motion to postpone consideration of and a vote on Ordinance
2023-48 until December 19. Seconded by Mr. Rufener.

No discussion.

Roll Call Vote: Ms. Benetis-yes; Mr. Rufener-yes; Ms. Stimpert-yes.

The motion to postpone passed 3-0.

ORDINANCE 2023-49

Sponsor: Councilperson Baryak

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO AN
AGREEMENT PURCHASE A 2023 FORD F-350 TRUCK FROM SARCHIONE FORD
LINCOLN FOR USE BY THE WASTEWATER DEPARTMENT

Mr. Acomb read the ordinance by title only.

Mr. Rufener made a motion to postpone consideration of and a vote on Ordinance 2023-
49 until December 19. Seconded by Ms. Benetis.

No discussion.

Roll Call Vote: Ms. Benetis-yes; Mr. Rufener-yes; Ms. Stimpert-yes.

The motion to postpone passed 3-0.

ORDINANCE 2023-50

Sponsor: Councilpersons Stimpert and Rufener

AN ORDINANCE AMENDING CHAPTER 191 OF THE VILLAGE'S ADMINISTRATIVE
CODE (THE VILLAGE TAX CODE) TO CONFORM TO THE REQUIREMENTS SET
FORTH IN OHIO HOUSE BILL 33

Mr. Bryan requested to be heard after the ordinance is read. Ms. Stimpert agreed.

Mr. Acomb read the ordinance by title only.

Mr. Bryan explained that HB 33 made amendments to the state tax code that
applies to municipalities, and we are required to comply and change our local tax
codes. The changes are not as extensive as they have been in the past. The
changes are primarily related to not being permitted to require persons under 18
to pay income taxes and changes filing requirements, mostly for those who work
at home. He recommended that this ordinance be amended to become an
emergency ordinance, but not consider it tonight. Mr. Bryan clarified that the
motion would be to (1) add the word "emergency" to the ordinance title, (2) add
"January 1, 2024" as the effective date in Section 1, (3) substitute the emergency
clause in Section 3, and (4) amend the ordinance exhibit to remove the formerly
amended date of January 1, 2024 in the Chapter heading.

Mr. Rufener made a motion to amend the ordinance as Mr. Bryan stated. Seconded by
Mr. Benetis.

No discussion.

Roll Call Vote: Ms. Benetis-yes; Mr. Rufener-yes; Ms. Stimpert-yes.

The motion passed 3-0. The ordinance was amended.

Mr. Rufener made a motion to postpone consideration of and a vote on amended
Ordinance 2023-50 until December 19. Seconded by Ms. Stimpert.

No discussion.

Roll Call Vote: Ms. Benetis-yes; Mr. Rufener-yes; Ms. Stimpert-yes.

The motion to postpone passed 3-0.

ORDINANCE 2023-51

Sponsor: Councilperson Rufener

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ACCEPT THE BID OF HILSCHER-CLARK ELECTRIC FOR TREE TRIMMING SERVICES

Mr. Acomb read the ordinance by title only.

Ms. Stimpert made a motion to postpone consideration of and a vote on Ordinance 2023-51 until December 19. Seconded by Mr. Rufener.

No discussion.

Roll Call Vote: Ms. Benetis-yes; Mr. Rufener-yes; Ms. Stimpert-yes.

The motion to postpone passed 3-0.

ORDINANCE 2023-52

Sponsor: Councilpersons Stimpert and Rufener

AN EMERGENCY ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE TRUMBULL COUNTY SHERIFF FOR POLICE PROTECTION SERVICES

Mr. Acomb read the ordinance by title only.

Moved by: Mr. Rufener

Seconded by: Ms. Benetis

Ms. Benetis stated her belief that Council has no choice not much. Mr. Bryan stated that there is not a sufficient number of councilpersons present to pass to the ordinance as an emergency and even a unanimous vote would fail. He advised that postponement is a viable option. He pointed out that the Sheriff's Contract does have a 60-day cancellation notice and there really is no other option. He recommended. Mr. Rufener made a motion to postpone consideration of and a vote on Ordinance 2023-52 until December 19. Seconded by Ms. Stimpert.

Roll Call Vote: Ms. Benetis-yes; Mr. Rufener-yes; Ms. Stimpert-yes.

The motion to postpone passed 3-0.

ORDINANCE 2023-53

Sponsor: Councilperson Stimpert

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO AND EXECUTE VARIOUS CONTRACTS WITH PAN AMERICAN INSURANCE GROUP FOR EMPLOYEE HEALTH CARE INSURANCE AND BENEFITS

Mr. Acomb read the ordinance by title only.

Mr. Bryan announced that the city manager asked to be heard. She stated that coverage is effective Jan 1, 2024. She asked the Council to amend the ordinance to an emergency ordinance, then postpone it to December 19 for consideration. Mr. Bryan stated that the proposed amendment to the ordinance would be (1) Add the word 'emergency' to the title and (2) Add the emergency clause to section 3 because we need for the employee insurance benefits to be paid and effective to ensure continuation as of January 1, 2024.

Ms. Stimpert asked for a motion to place the ordinance on the floor for discussion.

Seconded by: Mr. Rufener.

Ms. Stimpert asked for more information and wanted to know why this company was chosen, if the contract was competitively bid, and why with only few weeks left in the year, was this ordinance created with no initial sponsor? Ms. Priddy stated that employees seem to be happy; a number of large claims occurred, and the proposal was revised twice favorably to the Village. Multiple bids were received from multiple carriers.

Mr. Housley stated that this approval would not be a commitment through the end of next year; but could consider other plans despite that vote because the approval is only authorizing a price guarantee. Mr. Rufener stated that there is concern about this ordinance. Why does it take so long to process? Why does it take so long to get claims paid? Why are employees being turned into collections when they have paid their bills? Customer service is poor. A \$1500 deductible, then the city pays an HRA, after that, claims are covered at 100%. Ms. Priddy replied that employees need to pay their portion of the deductible. Providers are billing incorrectly for a discounted amount at times, though. Larger claims range from \$100K- \$300K. Those claims require a Pan American review. Mr. Rufener stated that employees are telling him differently, and he does not think that this company is a good choice. Ms. Priddy stated that the collection notices can be resolved very easily by submitting the EOB back to the company. She stated that the collection efforts are appropriate. Ms. Stimpert made a motion to postpone consideration of, and a vote on, Ordinance 2023-53 until December 19. She asked that the various bids received be shared with the Council at the next meeting. Seconded by Ms. Benetis.

Roll Call Vote: Ms. Benetis-yes; Mr. Rufener-yes; Ms. Stimpert-yes.

The motion to postpone passed 3-0.

Mr. Bryan will introduce an emergency version of the ordinance for the next agenda to be considered alongside this Version 1.

RESOLUTION 38-2023

Sponsor: Councilpersons Stimpert and Rufener

A RESOLUTION ESTABLISHING A COMMUNITY SERVICES AND ACTIVITIES COMMITTEE TO SOLICIT, EVALUATE, AND RECOMMEND OPTIONS RELATED TO COMMUNITY AND SENIOR SERVICES AND ACTIVITIES PROVIDED BY THE VILLAGE

Mr. Acomb read the resolution by title only.

Ms. Stimpert made a motion to place the resolution on the floor for discussion. Seconded by: Ms. Benetis.

Ms. Stimpert stated her full support for the senior kitchen and community activities being held at the Municipal Center. She is not in support of the use of tax dollars for those things though. She believes a committee will improve the offerings. Ms. Priddy was recognized and clarified that tax dollars are not being used and it is self-sufficient. She asked Mr. Housley to explain the reason for the appropriation. She explained that SCOPE handles the donated money and gives it to the finance department for accounting and disbursement of only the donated money. She stated that no taxpayer money has been used for the kitchen, other than the oven and freezer. Mr. Housley explained that the appropriations cannot allow the senior kitchen money to be comingled with the other funds; so Fund 213 was made to receive the donation and a reconciliation of all donations was performed and all donations received in 2023 were re-classified into fund 213. He stated further that he “was involved with the writing the legislation with [the Law Director’s] assistance” that created Fund 213. He stated that relevant expenditures were also re-classified into Fund 213, with the exclusions of equipment. So, Fund 213 now receives the donations and the only money in/out of Fund 213 is from donations. He offered that Fund 213 could be required to donate back to the general fund for general maintenance of the building, equipment, and utilities. Mr. Rufener stated his analysis of the budget revealed

that \$804 remained in the account; but an upcoming expected expenditure is more than the remaining funds and the fund would end the year in the RED. Mr. Housley explained that a county filing is due soon and he is restricted in what and how he can report. He assured the council that no tax dollars will be used in Fund 213. He explained that an analysis of all received donations occurred; and he reclassified those donations as deposits into Fund 213. This means that all revenues shown for Fund 213 were donations received from the community. Ms. Stimpert stated that these services need to be sustained but not with taxpayer dollars and the participation of residents is important. She stated her belief that taxpayer dollars are funding the Senior Kitchen because people who are being paid by the Village are running it, and not every expense related to its operation is being accounted for. Ms. Benetis asked if the stove and freezer were paid with Village money; could she have a party there and use the kitchen? Mr. Housley stated that it is up to the City Manager to approve that use or not. Ms. Priddy explained that the public cannot use the refrigerator or freezer because of the risk of contamination or spoilage and the restriction on the kitchen license. Residents can use the ovens and stove and the rest of the kitchen, though.

Roll Call Vote: Ms. Benetis-yes; Mr. Rufener-yes; Ms. Stimpert-yes.
The resolution passed 3-0.

MOTION

Sponsor: Councilpersons Stimpert and Rufener

A Motion to Establish a Committee to Solicit and Evaluate Options and Costs Related to the Provision of Police Services for the Village Consisting of Two Members of Council Appointed by Council and Three Residents Appointed by Council and to Direct the Clerk of Council to Post and Advertise a Request for Residents Interested In Serving on the Committee to Submit Letters of Interest and Qualifications to the Clerk No Later than Thursday December 14, 2023.

Mr. Acomb read the motion.

Moved by: Mr. Rufener

Seconded by: Ms. Stimpert

Ms. Stimpert stated that residents want this committee to jointly explore options for the future. Ms. Benetis spoke in support of the Village police department and supports the committee. Mr. Rufener concurred with Ms. Benetis and spoke in support of the creation of the committee so that ideas can be generated, transparent discussion about cost, and rational, thoughtful discussion can take place.

Roll Call Vote: Ms. Benetis-yes; Mr. Rufener-yes; Ms. Stimpert-yes.

The motion passed 3-0.

Ms. Stimpert asked if a special meeting to interview candidates could be used to appoint to these seats. Mr. Bryan stated 'yes' if interviewing candidates appears on the agenda.

MOTION (Added to the agenda at the beginning of the meeting)

A motion to change the date of the regular Council meeting scheduled for December 20 to December 19 at 6:00 pm.

Moved by: Ms. Benetis

Seconded by: Ms. Stimpert

No discussion.

Roll Call Vote: Ms. Benetis-yes; Mr. Rufener-yes; Ms. Stimpert-yes.

The motion passed 3-0

XII. Public Comments

Brian Kropp – 247 Elizabeth Street

Mr. Kropp asked two questions. (1) Were the charter amendments in effect immediately? and (2) How does the finance director write legislation? What business does he have writing legislation? Mr. Kropp asserted that Mr. Housley's job is to assist the legislators and asked someone clarify how this happened by someone who is not an elected official? He commended Council for a calm and professional and responsible meeting.

Adam Zimmermann – 515 Lemae Avenue

He stated his belief that Mr. Baryak's absence is now clear in his intent to stall legislation. He stated that a fire inspection was included in the agenda packet and wanted an explanation for the listed violations. He stated his wishes to have those violations corrected. He stated that once money enters the Village funds it becomes taxpayer dollars, including donations. He stated disbelief that at some point there was no idea how much money came in from the donations. How was that calculated to be exactly \$12,000? He expressed his lack of trust in the finance department.

Phillip Beer – 509 Ravenna Road

He welcomed the Council and expressed confidence in them. He spoke in support of the Sheriff's department; but expressed a desire to get the police department and the Chief back in place. He stated that the police levy may pass now that trustworthy leadership is in place. He expressed the importance of having a police department.

Rick Kerlin – 1009 Woodglen

He spoke against Resolution 38-2023 and in support of Council committees having no administrative authority per the Charter. He commented on confusion in town between legislative actions and administrative actions.

XIII. Closing Remarks

- a. Acting Mayor – absent.
- b. Council Members
 - i. Mr. Rufener – He stated that Resolution 38-2023 does not state the committee has administrative authority. Rather, it is established to advise Council and coordinate action at the direction of Council with the administrators. There are multiple vacancies advertised on the Village webpage for various commission seats. Late Night in the Falls will be happening the next two Fridays.
 - ii. Ms. Benetis – She thanked everyone for the experience tonight.
 - iii. Ms. Stimpert – She congratulated Ms. Benetis. She thanked Pam for the music downtown and commented about the way the area is decorated. She asked residents to get involved with the commissions and expressed her strong desire to engage the community in the happenings of the Village.
- c. Finance Director – Mr. Housley – He stated that he found tonight's meeting to be quite pleasing.
- d. Law Director – Mr. Bryan – The charter amendments were effective when the BOE certified the election results. The committees that were established tonight have no administrative authority; but their goal is to gather information and make recommendations to Council and the Administration.

- e. City Manager – Ms. Priddy – Mr. Acomb was asked to read a proclamation honoring students at Newton Falls High School who made the ornaments and decorated the Village tree. She also stated that she gave a pizza party to the students. There will be a free turkey dinner on December 15 and a holiday bingo on December 16 at St. Michael’s Church. Mr. Acomb read the proclamation. Ms. Priddy thanked Mr. Hill, the art teacher, and the students who enjoyed the experience so much.

XIV. Motion to Recess into Executive Session (If Necessary)

No motion was made.

XV. Adjournment

Ms. Stimpert called for a motion to adjourn the meeting.

Moved by: Ms. Benetis

Seconded by Mr. Rufener.

No discussion.

Roll Call Vote: Ms. Benetis-yes; Mr. Rufener-yes; Ms. Stimpert-yes.

The motion passed 3-0. The meeting adjourned at 7:35 pm.

APPROVED:

ATTEST:

John Baryak, Acting Mayor

Michael Acomb, Council Clerk

VILLAGE OF NEWTON FALLS, OHIO
ORDINANCE NO.: 2023-45
SPONSOR: Councilperson Baryak

Version 2

AN ORDINANCE AMENDING THE ELECTRIC RATES

WHEREAS, the Village's electric service engineering consultant, Sawvel & Associates, Inc., conducted a cost of service study for the Village Electric Department and calculated recommended rate amendments based upon the results of the study; and

WHEREAS, Council desires to implement the recommended electric rate amendments as calculated by the consultant.

NOW, THEREFORE, the Council of the Village of Newton Falls, State of Ohio, hereby ordains:

SECTION 1. That Council hereby and herein amends the electric rates as set forth in the attachment hereto that is incorporated herein, effective for and going forward from the invoices prepared on or about February 19, 2024 and due on or around March 4, 2024.

SECTION 2. That all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in an open meeting of this Council, and all deliberations of this Council or any of its committees that resulted in such formal action were taken in meetings open to the public and/or in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 3. That this Ordinance shall be effective as of the earliest date permitted by law.

PASSED IN COUNCIL THIS _____ DAY OF _____, 2023.

John Baryak, Acting Mayor

Attest:

Michael Acomb, Clerk of Council

Approved as to Legal Form.

Bradric T. Bryan, Law Director

Exhibit A
Listing of Proposed Charges

**Comparison of Existing Rates to
Proposed Rates
Village of Newton Falls, Ohio**

Description	Effective 12/1/2019	Effective 2/1/2023	2024 Proposed Rates
Residential Non-Demand Metered			
<i>Inside</i>			
Service Charge (\$/Month)	7.50	7.50	16.50
Debt Service Charge (\$/Month)		4.25	-
Energy Charge (\$/kWh)			
First 600 kWh	0.12690	0.12690	0.13200
Next 600 kWh	0.12690	0.12690	0.13200
All Remaining kWh	0.12690	0.12690	0.13200
<i>Outside</i>			
Service Charge (\$/Month)	10.00	10.00	19.00
Debt Service Charge (\$/Month)		4.25	-
Energy Charge (\$/kWh)			
First 600 kWh	0.12700	0.12700	0.13500
Next 600 kWh	0.12700	0.12700	0.13500
All Remaining kWh	0.12700	0.12700	0.13500
Residential Demand Metered			
<i>Inside</i>			
Service Charge (\$/Month)	7.50	7.50	16.50
Debt Service Charge (\$/Month)		4.25	-
Energy Charge (\$/kWh)			
1st 125 kWh / kW	0.12912	0.12912	0.13630
All kWh in Excess of 125 kWh/kW	0.11621	0.11621	0.13130
Demand Charge (\$/kW-mo.)			0.00
<i>Outside</i>			
Service Charge (\$/Month)	10.00	10.00	19.00
Debt Service Charge (\$/Month)		4.25	-
Energy Charge (\$/kWh)			
1st 125 kWh / kW	0.12922	0.12922	0.13830
All kWh in Excess of 125 kWh/kW	0.11630	0.11630	0.13330
Demand Charge (\$/kW-mo.)			0.00
Commercial City-Owned			
<i>Inside</i>			
Service Charge (\$/Month)	25.00	25.00	40.00
Debt Service Charge (\$/Month)		15.15	-
Capacity Charge (\$/kVA)	12.00	12.00	15.00
Energy Charge (\$/kWh)	0.08255	0.08255	0.08195
<i>Outside</i>			
Service Charge (\$/Month)	30.00	30.00	45.00
Debt Service Charge (\$/Month)		15.15	-
Capacity Charge (\$/kVA)	12.50	12.50	15.25
Energy Charge (\$/kWh)	0.08262	0.08262	0.08195
Commercial Customer-Owned			
<i>Inside</i>			
Service Charge (\$/Month)	25.00	25.00	40.00
Debt Service Charge (\$/Month)		15.15	-
Capacity Charge (\$/kVA)	11.60	11.60	14.60
Energy Charge (\$/kWh)	0.08255	0.08255	0.08195
<i>Outside</i>			
Service Charge (\$/Month)	30.00	30.00	45.00
Debt Service Charge (\$/Month)		15.15	-
Capacity Charge (\$/kVA)	12.10	12.10	14.85
Energy Charge (\$/kWh)	NA	NA	NA
Power Cost Adjustment (\$/kWh)	0.00000	0.00820	0.00000

Description	Effective 12/1/2019	Effective 2/1/2023	2024 Proposed Rates
Municipal			
Service Charge (\$/Month)	25.00	25.00	45.00
Debt Service Charge (\$/Month)		18.35	-
Purch. Pwr (\$/kWh)	NA	NA	NA
Surcharge (\$/kWh)	NA	NA	NA
Energy Charge (\$/kWh)	0.11520	0.11520	0.13075
Demand Charge (\$/kW-mo.)			
Industrial			
Service Charge (\$/Month)	150.00	150.00	250.00
Debt Service Charge (\$/Month)		515.00	-
Capacity Charge (\$/kVA)	14.00	14.00	18.00
XFMR Discount (\$/kW-mo.)			(0.40)
Energy Charge (\$/kWh)	0.06805	0.06805	0.06800
Reactive Charge (\$/kVAR)			0.50
Power Cost Adjustment (\$/kWh)	0.00000	0.00820	0.00000

Security Lights	Effective 12/1/2019	Effective 2/1/2023	2024 Proposed Rates
175 Watt Mercury Vapor	8.00	8.00	9.00
400 Watt Mercury Vapor	11.50	11.50	12.00
1,000 Watt Mercury Vapor	19.75	19.75	20.00
150 Watt H.P.S.	8.00	8.00	9.00
250 Watt H.P.S.	10.00	10.00	10.00
400 Watt H.P.S.	12.00	12.00	12.00

Exhibit B
Proposed Rate Tariffs and Riders

VILLAGE OF NEWTON FALLS, OHIO

ELECTRIC UTILITY DEPARTMENT

ELECTRIC RATE SCHEDULES

Approved: _____

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RESIDENTIAL SERVICE SCHEDULE "NON-DEMAND METERED"

Availability of Service

Available for single-phase service at secondary voltages where not more than 25 kVA of transformer capacity is required. Residential Service is defined as normal year-round service to individual dwellings, for residential purposes, where use is primarily for space heating, water heating, air conditioning, lighting, refrigeration, cooking, clothes drying and incidental farm use.

Rates of Service

Inside Village Limits

Service Charge (\$ per meter per month):	\$16.50
Energy Charge (\$/kWh)	
All kWh:	\$0.13200

Outside Village Limits

Service Charge (\$ per meter per month):	\$19.00
Energy Charge (\$/kWh)	
All kWh:	\$0.13500

Riders

Consumers under this schedule shall be subject to the applicable Power Cost Adjustment Rider and Ohio Excise Tax Rider.

Minimum Charge

The minimum charge under this schedule shall not be less than the monthly Service Charge.

Seasonal Service

Seasonal service shall be defined as service that is furnished where the occupancy is normally less than 12 months for homes, cottages, mobile homes, farm labor camps, cabins, wells, etc. Such seasonal service will be furnished only where Consumer's premises are located immediately adjacent to Utility's distribution facilities. Any line extension required for such seasonal service shall be subject to Utility's Service Policy pertaining to same.

Such seasonal service and applicable Minimum Charge shall continue for not less than 6 consecutive months each time service is established. Utility's applicable charge(s) shall apply each time that service is connected or disconnected. All such service applications shall be in the name of the property owner, who shall be responsible for the payment of all bills.

Other Terms and Conditions

1. Application for Service & Responsibility for Payment of Bills: Shall be in accordance with Utility's Service Policy.
2. Application for Temporary Service: For temporary service, Utility's Service Policy shall apply. Utility reserves the right to require that Applications for Temporary Service be in the name of the property owner, who shall be subject to the Utility's applicable "turn-on" and "turn-off" charge for such temporary service.
3. Character of Service Furnished: The type of service furnished under this Schedule shall be single-phase at a nominal potential of approximately 120/240 volts, 3 wire. At sole option of the Utility, 120 volts, 2 wire service may be furnished.

This Schedule is not applicable for 3-phase service. If a 3-phase service is supplied, Utility's applicable Commercial Service Schedule shall apply to all services both single and 3-phase.

4. Motor Size Limitations: The size of individual single-phase motors shall not exceed 15 HP nameplate rating except where written permission is granted by the Utility. Utility reserves the right to require that all motors, 10 HP and larger, be equipped with reduced voltage starting equipment so as to avoid unnecessary voltage surges on Utility's system.
5. Other Charges for Special Services: See Utility's Service Policy as to charges not set forth herein, applicable for the disconnection and reconnection of service and the charges to be made for other special services furnished to Consumer.
6. Use of Service: Service under this Schedule shall not be resold or shared with others. Any violation of this regulation shall be subject for the service to be disconnected upon 5 days' notice.
7. Parallel Generation: Consumers are prohibited from operating an electric generating facility in parallel with the Utility's electric system without an executed Interconnection Agreement. Installation of Consumer-owned generation may not avoid the Utility's recovery of unavoidable costs associated with the Utility's operation and maintenance and debt service expenses.

RESIDENTIAL SERVICE SCHEDULE "DEMAND METERED"

Availability of Service

Available for single-phase service at secondary voltages where not more than 25 kVA of transformer capacity is required. Residential Service is defined as normal year-round service to individual dwellings, for residential purposes, where use is primarily for space heating, water heating, air conditioning, lighting, refrigeration, cooking, clothes drying and incidental farm use.

Rates for Service

Inside Village Limits

Service Charge (\$ per meter per month):	\$16.50
Energy Charge (\$/kWh)	
1st 125 kWh per kW:	\$0.13630
All kWh in Excess of (kWx125):	\$0.13130

Outside Village Limits

Service Charge (\$ per meter per month):	\$19.00
Energy Charge (\$/kWh)	
1st 125 kWh per kW:	\$0.13830
All kWh in Excess of (kWx125):	\$0.13330

Riders

Consumers under this schedule shall be subject to the applicable Power Cost Adjustment Rider and Ohio Excise Tax Rider.

Minimum Charge

The minimum charge under this schedule shall not be less than the monthly Service Charge.

Seasonal Service

Seasonal service shall be defined as service that is furnished where the occupancy is normally less than 12 months for homes, cottages, mobile homes, farm labor camps, cabins, wells, etc. Such seasonal service will be furnished only where Consumer's premises are located immediately adjacent to Utility's distribution facilities. Any line extension required for such seasonal service shall be subject to Utility's Service Policy pertaining to same.

Such seasonal service and applicable Minimum Charge shall continue for not less than 6 consecutive months each time service is established. Utility's applicable charge(s) shall apply each time that service is connected or disconnected. All such service applications shall be in the name of the property owner, who shall be responsible for the payment of all bills.

Other Terms and Conditions

1. Application for Service & Responsibility for Payment of Bills: Shall be in accordance with Utility's Service Policy.
2. Application for Temporary Service: For temporary service, Utility's Service Policy shall apply. Utility reserves the right to require that Applications for Temporary Service be in the name of the property owner, who shall be subject to the Utility's applicable "turn-on" and "turn-off" trip charge for such temporary service.
3. Character of Service Furnished: The type of service furnished under this Schedule shall be single-phase at a nominal potential of approximately 120/240 volts, 3 wire. At sole option of the Utility, 120 volts, 2 wire service may be furnished.

This Schedule is not applicable for 3-phase service. If a 3-phase service is supplied, Utility's applicable Commercial Service Schedule shall apply to all services both single and 3-phase.

4. Motor Size Limitations: The size of individual single-phase motors shall not exceed 15 HP nameplate rating except where written permission is granted by the Utility. Utility reserves the right to require that all motors, 10 HP and larger, be equipped with reduced voltage starting equipment so as to avoid unnecessary voltage surges on Utility's system.
5. Other Charges for Special Services: See Utility's Service Policy as to charges not set forth herein, applicable for the disconnection and reconnection of service and the charges to be made for other special services furnished to Consumer.
6. Use of Service: Service under this Schedule shall not be resold or shared with others. Any violation of this regulation shall be subject for the service to be disconnected upon 5 days' notice.
7. Parallel Generation: Consumers are prohibited from operating an electric generating facility in parallel with the Utility's electric system without an executed Interconnection Agreement. Installation of Consumer-owned generation may not avoid the Utility's recovery of unavoidable costs associated with the Utility's operation and maintenance and debt service expenses.

COMMERCIAL SECONDARY SERVICE SCHEDULE "CITY-OWNED EQUIPMENT"

Availability of Service

Applicable to all non-residential Consumers served at secondary voltages through one single-phase or three-phase meter capable of measuring demand and whose monthly average billing demand is less than 500 kW during the twelve-month period starting in January and ending December of the prior year. New Consumer monthly billing demand shall be estimated by a Village electric representative based on information provided to the Village by the Consumer.

Rates for Service

Inside Village Limits

Service Charge (\$ per meter per month):	\$40.00
Capacity Charge (\$/kW-mo.)	
All kW:	\$15.00
Energy Charge (\$/kWh)	
All kWh:	\$0.08195

Outside Village Limits

Service Charge (\$ per meter per month):	\$45.00
Capacity Charge (\$/kW-mo.)	
All kW:	\$15.25
Energy Charge (\$/kWh)	
All kWh:	\$0.08195

Determination of Billing Capacity

The monthly billing capacity (kW) shall be the maximum demand established by the Consumer using the highest fifteen-minute integrated demand during the month for which the bill is rendered, as indicated or recorded by a demand meter.

Where demand metering equipment is installed and the power factor at the time of maximum measured demand is less than 85%, Utility reserves the right to determine the billing capacity based on the measured kVA demand instead of kW demand. Where highly fluctuating or intermittent loads, welding machines, electric furnaces, hoists, elevators, X-rays, and the like are operated by the Consumer, Utility reserves the right to determine the billing demand by averaging the Consumer's total load over a two-minute period or by increasing the 15-minute measured maximum demand by 50% of the kVA nameplate rating of the fluctuating load equipment that is in operation. Where such fluctuating loads require additional or separate transformers or additional system capacity, the measured billing capacity as determined above shall be increased by 70% of the nameplate rated kVA capacity of the additional transformers, or kVA of system capacity required to adequately service such fluctuating loads.

Riders

Consumers under this schedule shall be subject to the applicable Power Cost Adjustment Rider and Ohio Excise Tax Rider.

Minimum Charge

The monthly Minimum Charge under this Schedule shall be not less than the Service Charge and applicable capacity rate per kW of monthly Billing Capacity as hereinafter determined, nor less than the Minimum Charge specified in the Consumer's Service Contract with Utility.

The Minimum Charge is applicable on a 12-month year-round basis and seasonal disconnects will not avoid the applicable Billing Capacity and resultant Minimum Charge.

Other Terms and Conditions

1. Application For Service and Responsibility for Payment of Bills: Shall be in accordance with Utility's Service Policy.
2. Application for Temporary Service: For temporary service, Utility's Service Policy shall apply. Utility reserves the right to require that Applications for Temporary Service be in the name of the property owner, who shall be subject to the Utility's applicable charges for such temporary service.
3. Character of Service: For new installations, service will normally be supplied through a single set of service wires with all service delivered to a single meter location. Under such conditions, a single bill will be rendered for service.

Three-phase alternating current, sixty (60) cycle, at one standard utility secondary nominal voltage of 277/480V or 120/208V; or single-phase of a nominal voltage of approximately 120/240V. If Consumer desires a voltage that is impractical for Utility to furnish, Consumer shall furnish, at his expense, the necessary transformers to deliver such voltage.

4. Availability of 3-Phase Service: Normally, only single-phase service is available. Utility may, at its option, furnish a 3-phase service, after giving consideration to the investment required and probable use of 3-phase service by Consumer; also providing Consumer enters into an appropriate contract covering the investment involved.

The minimum charge and financing of any 3-phase line extension shall conform to Utility's Service Policy.

5. Single Billing If Service is Supplied Through Single Service Drop: Where service is supplied through a single service drop of either 3 or 4 wires extending to a single service entrance and meter location designated by Utility, a single bill will be rendered, whether or not Utility elects to use single or multiple metering.
6. Multiple Billing Where Service is Supplied Through Multiple Service Drops: Where service is delivered at different meter locations through individual and separately metered single and 3-phase service drops, a separate bill will be rendered for each service drop location.
7. Requirements to Qualify for Single Billing: If Consumer arranges his/her wiring at his/her costs so that all requirements can be supplied by means of a single 3 or 4-wire service drop

extending to a single meter location designated by Utility and providing that such service can be supplied from a single transformer bank and metered through a single meter, a single bill will be rendered for such service.

Where a service drop supplies more than a single establishment, firm, business or activity, each establishment, firm, business or activity shall be separately metered and billed.

8. 3-Phase Service is Required for Unbalanced or Fluctuating Loads: For highly fluctuating loads such as welders and electric melting furnaces and/or unbalanced single-phase loads, Utility reserves the right to require Consumer to operate such loads at 3-phase, with the loads balanced as far as practical, substantially equal on each phase.

To avoid voltage disturbances detrimental to the service furnished to other Consumers, Utility reserves the right to install a separate transformer to serve such fluctuating loads. In such an event, the Utility shall enter into a contract to recover the costs of the separate and additional transformer and associated equipment within an acceptable period, but not more than 2 ½ years.

9. Term of Service: A minimum service term of 12 months is required under this rate schedule. A 12-month term of service shall renew thereafter unless terminated by Consumer or Utility.
10. Limitation of Schedule Commercial Secondary: Where individual or unusual substation facilities are required to serve Consumer, or where the required transformer capacity is 150 kVA or more, Utility may require Consumer to install, own and operate, at his expense, the necessary complete substation (consisting of transformer, structure, protective devices, etc.) required to utilize service at Utility's specified untransformed Primary Voltage delivered to Consumer's premises. The size, capacity and other Substation Specifications shall be approved by Utility and the entire installation shall conform to Utility specifications and standards.
11. Motor Specifications: Single-phase service will not be furnished to operate individual motors in excess of 15 HP rating, except where written permission is granted by Utility. All motors 10 HP and larger, at Utility's option, may be required to be equipped with reduced voltage starting equipment or other devices to avoid unnecessary voltage surges and fluctuations on Utility's system.

Motors designed for full voltage "across the line" starting may, at Utility's option, be permitted to operate on Utility's system, provided, however, that Utility has determined that such operation will not be detrimental to service furnished to others.

12. Other Charges for Special Services: See Utility's Service Policy as to charges not set forth herein, applicable for the disconnection and reconnection of service and the charges to be made for other special services furnished to Consumer.
13. New Line Extensions: All new line extensions or the furnishing of additional capacity shall be subject to the Utility's Service Policy covering the same. Utility reserves the right to increase the minimum period of service and/or increase the Minimum Charge where an unusual investment is required to furnish service as compared to the estimated or probable revenue to be received.

14. Use of Service: Service under this Schedule shall not be resold or shared with others. Any violation of this regulation shall be subject for the service to be disconnected upon 5 days' notice.
15. Parallel Generation: Consumers are prohibited from operating an electric generating facility in parallel with the Utility's electric system without an executed Interconnection Agreement. Installation of Consumer-owned generation may not avoid the Utility's recovery of unavoidable costs associated with the Utility's operation and maintenance and debt service expenses.

COMMERCIAL PRIMARY SERVICE SCHEDULE "CONSUMER-OWNED EQUIPMENT"

Availability of Service

Applicable to all non-residential Consumers served at primary voltages through one single-phase or three-phase meter capable of measuring demand and whose monthly average billing demand is less than 500 kW during the twelve-month period starting in January and ending December of the prior year. New Consumer monthly billing demand shall be estimated by a Village electric system representative based on information provided to the Village by the Consumer.

Rates for Service

Inside Village Limits

Service Charge (\$ per meter per month):	\$40.00
Capacity Charge (\$/kW)	
All kW:	\$14.60
Energy Charge (\$/kWh)	
All kWh:	\$0.08195

Outside Village Limits

Service Charge (\$ per meter per month):	\$45.00
Capacity Charge (\$/kW)	
All kW:	\$14.85
Energy Charge (\$/kWh)	
All kWh:	\$0.08195

Determination of Billing Capacity

The monthly billing capacity (kW) shall be the maximum demand established by the Consumer using the highest fifteen-minute integrated demand during the month for which the bill is rendered, as indicated or recorded by a demand meter.

Where demand metering equipment is installed and the power factor at the time of maximum measured demand is less than 85%, Utility reserves the right to determine the billing capacity based on the measured kVA demand instead of kW demand. Where highly fluctuating or intermittent loads, welding machines, electric furnaces, hoists, elevators, X-rays, and the like are operated by the Consumer, Utility reserves the right to determine the billing demand by averaging the Consumer's total load over a two-minute period or by increasing the 15-minute measured maximum demand by 50% of the kVA nameplate rating of the fluctuating load equipment that is in operation. Where such fluctuating loads require additional or separate transformers or additional system capacity, the measured billing capacity as determined above shall be increased by 70% of the nameplate rated kVA capacity of the additional transformers, or kVA of system capacity required to adequately service such fluctuating loads.

Riders

Consumers under this schedule shall be subject to the applicable Power Cost Adjustment Rider and Ohio Excise Tax Rider.

Minimum Charge

The monthly Minimum Charge under this Schedule shall be not less than the Service Charge and applicable capacity rate per kW of monthly Billing Capacity as hereinafter determined, nor less than the Minimum Charge specified in the Consumer's Service Contract with Utility.

The Minimum Charge is applicable on a 12-month year-round basis and seasonal disconnects will not avoid the applicable Billing Capacity and resultant Minimum Charge.

Other Terms and Conditions

1. Application For Service and Responsibility for Payment of Bills: Shall be in accordance with Utility's Service Policy.
2. Application for Temporary Service: For temporary service, Utility's Service Policy shall apply. Utility reserves the right to require that Applications for Temporary Service be in the name of the property owner, who shall be subject to the Utility's applicable charges for such temporary service.
3. Character of Service: For new installations, service will normally be supplied through a single set of service wires with all service delivered to a single meter location. Under such conditions, a single bill will be rendered for service.

Utility to provide single or three-phase alternating current, sixty (60) cycle, at one nominal primary voltage of 7,200/12,470V. If Consumer desires a voltage that is impractical for Utility to furnish, Consumer shall furnish, at his expense, the necessary transformers to deliver such voltage.

Utility shall meter the service at the secondary voltage level.

4. Availability of 3-Phase Service: Normally, only single-phase service is available. Utility may, at its option, furnish a 3-phase service, after giving consideration to the investment required and probable use of 3-phase service by Consumer; also providing Consumer enters into an appropriate contract covering the investment involved.

The minimum charge and financing of any 3-phase line extension shall conform to Utility's Service Policy.

5. Single Billing If Service is Supplied Through Single Service Drop: Where service is supplied through a single service drop of either 3 or 4 wires extending to a single service entrance and meter location designated by Utility, a single bill will be rendered, whether or not Utility elects to use single or multiple metering.
6. Multiple Billing Where Service is Supplied Through Multiple Service Drops: Where service is delivered at different meter locations through individual and separately metered single and 3-phase service drops, a separate bill will be rendered for each service drop location.
7. Requirements to Qualify for Single Billing: If Consumer arranges his wiring at his costs so

that all requirements can be supplied by means of a single 3 or 4-wire service drop extending to a single meter location designated by Utility and providing that such service can be supplied from a single transformer bank and metered through a single meter, a single bill will be rendered for such service.

Where a service drop supplies more than a single establishment, firm, business or activity, each establishment, firm, business or activity shall be separately metered and billed.

8. 3-Phase Service is Required for Unbalanced or Fluctuating Loads: For highly fluctuating loads such as welders and electric melting furnaces and/or unbalanced single-phase loads, Utility reserves the right to require Consumer to operate such loads at 3-phase, with the loads balanced as far as practical, substantially equal on each phase.

To avoid voltage disturbances detrimental to the service furnished to other Consumers, Utility reserves the right to install a separate transformer to serve such fluctuating loads. In such an event, the Utility shall enter into a contract to recover the costs of the separate and additional transformer and associated equipment within an acceptable period, but not more than 2 ½ years.

9. Term of Service: A minimum service term of 12 months is required under this rate schedule. A 12-month term of service shall renew thereafter unless terminated by Consumer or Utility.

10. Motor Specifications: Single-phase service will not be furnished to operate individual motors in excess of 15 HP rating, except where written permission is granted by Utility. All motors 10 HP and larger, at Utility's option, may be required to be equipped with reduced voltage starting equipment or other devices to avoid unnecessary voltage surges and fluctuations on Utility's system.

Motors designed for full voltage "across the line" starting may, at Utility's option, be permitted to operate on Utility's system, provided, however, that Utility has determined that such operation will not be detrimental to service furnished to others.

11. Other Charges for Special Services: See Utility's Service Policy as to charges not set forth herein, applicable for the disconnection and reconnection of service and the charges to be made for other special services furnished to Consumer.

12. New Line Extensions: All new line extensions or the furnishing of additional capacity shall be subject to the Utility's Service Policy covering the same. Utility reserves the right to increase the minimum period of service and/or increase the Minimum Charge where an unusual investment is required to furnish service as compared to the estimated or probable revenue to be received.

13. Use of Service: Service under this Schedule shall not be resold or shared with others. Any violation of this regulation shall be subject for the service to be disconnected upon 5 days' notice.

14. Parallel Generation: Consumers are prohibited from operating an electric generating facility in parallel with the Utility's electric system without an executed Interconnection Agreement. Installation of Consumer-owned generation may not avoid the Utility's recovery of unavoidable costs associated with the Utility's operation and maintenance and debt service expenses.

MUNICIPAL SERVICE SCHEDULE "OTHER CITY DEPARTMENTS"

Availability of Service

Applicable to Newton Falls municipal facilities and the various departments of the Village of Newton Falls for municipal services. Service is typically supplied at secondary voltages through one single-phase or three-phase meter.

Rates for Service

Service Charge (\$ per meter per month):	\$45.00
Energy Charge (\$/kWh)	
All kWh:	\$0.13075

Riders

Consumers under this schedule shall be subject to the applicable Power Cost Adjustment Rider and Ohio Excise Tax Rider.

Minimum Charge

The minimum charge under this schedule shall not be less than the monthly Service Charge.

Other Terms and Conditions

1. Application for Service & Responsibility for Payment of Bills: Shall be in accordance with Utility's Service Policy.
2. Application for Temporary Service: For temporary service, Utility's Service Policy shall apply. Utility reserves the right to require that Applications for Temporary Service be in the name of the property owner, who shall be subject to the Utility's applicable "turn-on" and "turn-off" trip charge for such temporary service.
3. Character of Service: For new installations, service will normally be supplied through a single set of service wires with all service delivered to a single meter location. Under such conditions, a single bill will be rendered for service.

Three-phase alternating current, sixty (60) cycle, at one standard utility secondary nominal voltage of 277/480V or 120/208V; or single-phase of a nominal voltage of approximately 120/240V. If Consumer desires a voltage that is impractical for the Utility to furnish, Consumer shall furnish, at his expense, the necessary transformers to deliver such voltage.

4. Availability of 3-Phase Service: Normally, only single-phase service is available. Utility may, at its option, furnish a 3-phase service, after giving consideration to the investment required and probable use of 3-phase service by Consumer; also providing Consumer enters into an appropriate contract covering the investment involved.

The minimum charge and financing of any 3-phase line extension shall conform to Utility's Service Policy.

5. Single Billing If Service is Supplied Through Single Service Drop: Where service is supplied through a single service drop of either 3 or 4 wires extending to a single service entrance and meter location designated by Utility, a single bill will be rendered, whether or not Utility elects to use single or multiple metering.
6. Multiple Billing Where Service is Supplied Through Multiple Service Drops: Where service is delivered at different meter locations through individual and separately metered single and 3-phase service drops, a separate bill will be rendered for each service drop location.
7. Requirements to Qualify for Single Billing: If Consumer arranges his wiring at his costs so that all requirements can be supplied by means of a single 3 or 4-wire service drop extending to a single meter location designated by Utility and providing that such service can be supplied from a single transformer bank and metered through a single meter, a single bill will be rendered for such service.

Where a service drop supplies more than a single establishment, firm, business or activity, each establishment, firm, business or activity shall be separately metered and billed.

8. 3-Phase Service is Required for Unbalanced or Fluctuating Loads: For highly fluctuating loads such as welders and electric melting furnaces and/or unbalanced single-phase loads, Utility reserves the right to require Consumer to operate such loads at 3-phase, with the loads balanced as far as practical, substantially equal on each phase.

To avoid voltage disturbances detrimental to the service furnished to other Consumers, Utility reserves the right to install a separate transformer to serve such fluctuating loads. In such an event, the Utility shall enter into a contract to recover the costs of the separate and additional transformer and associated equipment within an acceptable period, but not more than 2 ½ years.

9. Term of Service: A minimum service term of 12 months is required under this rate schedule. A 12-month term of service shall renew thereafter unless terminated by Consumer or Utility.
10. Substation Equipment: Where individual or unusual substation facilities are required to serve Consumer, or where the required transformer capacity is 150 kVA or more, Utility may require Consumer to be responsible for the total cost to install, own and operate, at his expense, the necessary complete substation (consisting of transformer, structure, protective devices, etc.) required to utilize service at Utility's specified untransformed Primary Voltage delivered to Consumer's premises.
11. Motor Specifications: Single-phase service will not be furnished to operate individual motors in excess of 15 HP rating, except where written permission is granted by Utility. All motors 10 HP and larger, at Utility's option, may be required to be equipped with reduced voltage starting equipment or other devices to avoid unnecessary voltage surges and fluctuations on Utility's system.

Motors designed for full voltage "across the line" starting may, at Utility's option, be permitted to operate on Utility's system, provided, however, that Utility has determined that such operation will not be detrimental to service furnished to others.

12. Other Charges for Special Services: See Utility's Service Policy as to charges not set forth herein, applicable for the disconnection and reconnection of service and the charges to be made for other special services furnished to Consumer.

13. New Line Extensions: All new line extensions or the furnishing of additional capacity shall be subject to the Utility's Service Policy covering the same. Utility reserves the right to increase the minimum period of service and/or increase the Minimum Charge where an unusual investment is required to furnish service as compared to the estimated or probable revenue to be received.
14. Use of Service: Service under this Schedule shall not be resold or shared with others. Any violation of this regulation shall be subject for the service to be disconnected upon 5 days notice.
15. Parallel Generation: Consumers are prohibited from operating an electric generating facility in parallel with the Utility's electric system without an executed Interconnection Agreement. Installation of Consumer-owned generation may not avoid the Utility's recovery of unavoidable costs associated with the Utility's operation and maintenance and debt service expenses.

INDUSTRIAL SERVICE SCHEDULE "IND"

Availability of Service

Applicable to all non-residential Consumers served at primary or secondary voltages through a three-phase meter capable of measuring billing demand and whose monthly average billing demand is 500 kW or higher during the twelve-month period starting in January and ending in December of the prior year. New Consumer monthly billing demand shall be estimated by a Village electric system representative based on information provided to the Village by the Consumer.

Rates for Service

Service Charge (\$ per meter per month):	\$250.00
Capacity Charge (\$/kW-mo.)	
All kW:	\$18.00
Transformer Discount (\$/kW-mo.)	
All kW:	(0.40)
Reactive Charge (\$/kVAR-mo.)	
All kVAR:	0.50
Energy Charge (\$/kWh)	
All kWh:	\$0.06800

Determination of Billing Capacity

The monthly billing capacity (kW) shall be the maximum demand established by the Consumer for using the highest fifteen-minute integrated demand during the month for which the bill is rendered, as indicated or recorded by a demand meter.

Where highly fluctuating or intermittent loads, welding machines, electric furnaces, hoists, elevators, X-rays, and the like are operated by the Consumer, Utility reserves the right to determine the billing demand by averaging the Consumer's total load over a two-minute period or by increasing the 15-minute measured maximum demand by 50% of the kVA nameplate rating of the fluctuating load equipment that is in operation. Where such fluctuating loads require additional or separate transformers or additional system capacity, the measured billing capacity as determined above shall be increased by 70% of the nameplate rated kVA capacity of the additional transformers, or kVA of system capacity required to adequately service such fluctuating loads.

Determination of Billing Reactive Load

The Reactive Charge is applicable to Consumers whose average monthly power factor is less than 85% lagging. The reactive load shall be the fifteen-minute reactive demand (kVAR) coincident with the Consumer's highest fifteen-minute integrated demand (kW) reading.

Credit For Transformer Ownership

Consumers who own, operate, and maintain all transforming, controlling, regulating and protective equipment will be given a discount credit of \$0.40 per kW applicable to the monthly billing capacity.

Metering

Utility reserves the right to meter at either primary or secondary voltage by means of standard metering equipment. If a Consumer is metered at primary voltage; metered kWh, kW, and kVAR shall be decreased by 1% for billing purposes.

Riders

Consumers under this schedule shall be subject to the applicable Power Cost Adjustment Rider and Ohio Excise Tax Rider.

Minimum Charge

The Monthly Minimum Charge under this Schedule shall be not less than the applicable capacity rate per kW of monthly Billing Capacity as hereinafter determined plus the Service Charge, nor less than the Minimum Charge specified in Consumer's Service Contract with Utility.

The Minimum Charge is applicable on a 12-month year-round basis and seasonal disconnects will not avoid the applicable Billing Capacity and resultant Minimum Charge.

Other Terms and Conditions

1. Application For Service and Responsibility for Payment of Bills: Shall be in accordance with Service Policy.
2. Application for Temporary Service: For temporary service, Utility's Service Policy shall apply. Utility reserves the right to require that Applications for Temporary Service be in the name of the property owner, who shall be subject to the Utility's applicable charges for such temporary service.
3. Character of Service: Three-phase alternating current, sixty (60) cycle, at one standard utility nominal primary voltage of 7,200/12,470V or one standard utility secondary nominal voltage of 277/480V or 120/208V. If Consumer desires a voltage that is impractical for Utility to furnish, Consumer shall furnish, at his expense, the necessary transformers to deliver such voltage.

Where Consumer installs power factor corrective equipment, Utility may require Consumer to install, at his expense, such control devices as are necessary to prevent excessive or detrimental voltage variations on Utility's system.

4. Availability of 3-Phase Service: Normally, only single-phase service is available. Utility may, at its option, furnish a 3-phase service, after giving consideration to the investment required and probable use of 3-phase service by Consumer; also providing Consumer enters into an appropriate contract covering the investment involved.

The minimum charge and financing of any 3-phase line extension shall conform to Utility's Service Policy.

5. Substation Equipment: Where individual or unusual substation facilities are required to serve Consumer, or where the required transformer capacity is 150 kVA or more, Utility may require Consumer to be responsible for the total cost to install, own and operate, at his expense, the necessary complete substation (consisting of transformer, structure, protective

devices, etc.) required to utilize service at Utility's specified untransformed Primary Voltage delivered to Consumer's premises.

6. Multiple Billing Where Service is Supplied Through Multiple Service Drops: Where service is delivered at different meter locations through individual and separately metered single and 3-phase service drops, a separate bill will be rendered for each service drop location.
7. 3-Phase Service is Required for Unbalanced or Fluctuating Loads: For highly fluctuating loads such as welders and electric melting furnaces and/or unbalanced single-phase loads, Utility reserves the right to require Consumer to operate such loads at 3-phase, with the loads balanced as far as practical, substantially equal on each phase.

To avoid voltage disturbances detrimental to the service furnished to other Consumers, Utility reserves the right to install a separate transformer to serve such fluctuating loads. In such an event, the Utility shall enter into a contract to recover the costs of the separate and additional transformer and associated equipment within an acceptable period, but not more than 2 ½ years.

8. Term of Service: A minimum service term of 12 months is required under this rate schedule. A 12-month term of service shall renew thereafter unless terminated by Consumer or Utility.
9. Other Charges for Special Services: See Utility's Service Policy as to charges not set forth herein, applicable for the disconnection and reconnection of service and the charges to be made for other special services furnished to Consumer.
10. New Line Extensions: All new line extensions or the furnishing of additional capacity shall be subject to Utility's Service Policy covering the same. Utility reserves the right to increase the minimum period of service and/or increase the Minimum Charge where an unusual investment is required to furnish service as compared to the estimated or probable revenue to be received.
11. Contract Provisions: A written Contract will be required to cover service furnished under this schedule, the term to depend upon investment required by Utility, revenue to be received, etc. The Contract shall specify the Minimum Charge, the Minimum Billing Capacity, Contribution in Aid of Construction (if any), and related matters required to protect Utility's Investment and to secure payment of Consumer's accounts.
12. Use of Service: Service under this Schedule shall not be resold or shared with others. Any violation of this regulation shall be subject for the service to be disconnected upon 5 days' notice.
13. Parallel Generation: Consumers are prohibited from operating an electric generating facility in parallel with the Utility's electric system without an executed Interconnection Agreement. Installation of Consumer-owned generation may not avoid the Utility's recovery of unavoidable costs associated with the Utility's operation and maintenance and debt service expenses.

PRIVATE AREA LIGHTING “PAL”

Availability

Available to Consumers where Utility’s standard outdoor lighting unit can be installed on Utility’s existing pole and does not require any extension or addition to Utility’s existing secondary or primary distribution facilities, including the transformer. Any relocation of a lighting unit shall be at the Consumer’s expense.

Where additional facilities are required, the Consumer shall pay, in advance, the total installation cost for the additional distribution facilities (poles, wires, transformer, and appurtenances) as are required. In all cases, the lighting fixture itself, including the lamp, will be installed, owned, operated, and maintained by Utility.

This service is available only where there is reasonable assurance that the service to be furnished will be permanent. Utility reserves the right to refuse to furnish such service when, in Utility’s opinion, the installation will not be of permanent character.

All applications for outdoor Security Lighting Service shall be on a 12-month year-round service basis. Where the premises are occupied by a tenant, Utility reserves the right to require the Application for Service to be made by the property owner with bills to be sent to the premises to the attention of the tenant. However, the property owner shall be responsible for the payment of the bills.

Character of Service

The Utility will install, own, operate, and maintain, at its expense, the necessary mast arm-mounted lighting unit and related appurtenances. The lighting unit shall be a luminaire, photo-electric or otherwise controlled to provide substantially dusk-to-dawn year-round operation per year.

Rates for Service

Fixture Charge (\$ per fixture per month)

175-Watt Mercury Vapor	\$9.00
400-Watt Mercury Vapor	\$12.00
1,000-Watt Mercury Vapor	\$20.00
150-Watt High Pressure Sodium	\$9.00
250-Watt High Pressure Sodium	\$10.00
400-Watt High Pressure Sodium	\$12.00

POWER COST ADJUSTMENT RIDER “A”

Applicable:

The calculation of monthly bills pursuant to the rates and charges therein shall be subject to adjustment for changes in the cost of fuel and purchased power by applying a Power Cost Adjustment (PCA) as a unit charge or credit to the total billed energy kilowatt-hours (kWh) on the bill.

Overview:

This PCA calculation is intended to be based on forward-looking projections of fuel, purchased power and other power supply-related costs, as well as projections of Consumer sales (kWh), for the period. The calculation is further intended to be performed at a minimum six-month interval or more frequently, if required, to accomplish recovery of fuel-related cost in a timely manner. The calculation includes a provision to reconcile over or under-collection of cost from previous periods based on actual cost versus projected cost for the period.

The PCA calculation shall be performed in a manner consistent with this rider and initially set to a rate of zero at the time of implementing the herein base rates. Thereafter, the PCA calculation shall be reviewed at a minimum every six months. The PCA calculation shall be reviewed and new projections shall be made for the subsequent six-month periods (i.e., August and February of each year). Following such PCA review and calculation, the PCA shall be applied, as deemed necessary to accomplish recovery of the fuel, purchased power and other power supply-related costs in a timely manner. The PCA shall be recalculated and applied at intervals more frequent than six months if actual fuel and purchased power costs vary significantly from projections.

Definition of Fuel Cost:

The cost in dollars and cents of all projected fuel used in the production of electric energy during the applicable time period determined from the projected weighted average cost of such fuel applied to the projected quantity used. The projected weighted average cost of fuel as used shall be defined as the cost of fuel consumed in generating facilities priced at cost including freight, demurrage, and taxes, of fuel on hand at the beginning of the applicable time period, plus projected cost of fuel received during the applicable time period, divided by the total quantity of fuel on hand and projected to be received.

Definition of Purchased Power Cost:

The net cost in dollars and cents of all projected purchased power required during the applicable time period. The net cost of purchased power shall be the projected total cost of power and energy received from suppliers and Utility approved Consumer-owned renewable generation, including service and dispatch fees and any power supply-related charges, less the projected amounts received for off-system sales of energy.

Determination of PCA Unit Charge or Credit:

When fuel total cost and purchased power cost increases above or decreases below \$0.10006/kWh-sold, the rate for electric service shall be increased or decreased in accordance with the following formula:

Calculation:

$$PCA = \frac{P + R}{S} - B$$

Where:

- PCA = Power Charge factor, expressed in dollars per kWh-sold rounded to the nearest five decimal places.
- P = Total projected fuel cost and projected purchased power cost during the applicable time period expressed as dollars (\$) as defined in this schedule.
- S = Projected sales (kWh) excluding wholesale energy sales, for the applicable time period for which the fuel cost and purchased power cost (P) is computed.
- R = Reconciliation of the actual cumulative over or under-recovery of fuel cost and purchased power cost from preceding applicable time periods including over or under-recovery of fuel cost and purchased power cost before the effective date of this Rider expressed as dollars (\$).
- B = Base power supply cost for the schedule of rates and charges provided by this Ordinance, B shall be \$0.10006/kWh sold.

OHIO EXCISE TAX RIDER “B”

The applicable Excise Tax shall be added to the total amount billed to the Consumer under the applicable electric rate schedule. The Excise Tax rate shall apply to the total energy sales (kWh) billed to the Consumer.

The Excise Tax is imposed on monthly Consumer energy sales (kWh) under Ohio Revised Code §5727.8 and any adjustments or amendments thereto.

The Excise Tax charge is to be applied to monthly Consumer energy sales (kWh) on monthly electric bills using the following rates:

First 2,000 kWh times \$0.00465/kWh
Next 13,000 kWh times \$0.00419/kWh
Over 15,000 kWh times \$0.00363/kWh

The above rates are based on a 30-day billing cycle. If your billing cycle is 30 days exactly, the above-referenced rates will be used. If the billing cycle is less than or more than 30 days, the daily calculation will be used.

The daily calculation will be determined as follows:

Determine the number of kWh used during the billing cycle; Divide that number by the number of days in the billing cycle (Daily average kWh). Take the daily average kWh and (for each block, round the tax amount to the nearest whole cent (x.xx))

- Multiply \$0.00465 for the first 67 kWh distributed;
- Multiply \$0.00419 for the next 68 to 400 kWh distributed;
- Multiply \$0.00363 for the remaining kWh distributed.

The tax is the sum of the above multiplied by the number of days in the billing cycle.

VILLAGE OF NEWTON FALLS, OHIO
ORDINANCE NO.: 2023-46
SPONSOR: Councilperson Baryak

**AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO
CONTRACTS SPECIFIED HEREIN FOR THE PURCHASE OF CHEMICALS NEEDED
BY THE VILLAGE OF NEWTON FALLS WATER PLANT FOR THE CALENDAR
YEAR 2024.**

WHEREAS, It is necessary for the Village to contract for the purchase of chemicals needed for the Water Plant; and

WHEREAS, the contracts were properly advertised pursuant to law, and a bid opening was conducted on Wednesday, October 25, 2023; and

WHEREAS, the Village Water Plant Supervisor has reviewed the bids and determined that the entities listed below submitted the lowest and best bid for each of the chemicals listed based upon the bid price, the companies' past performance, and the Village's evaluation of the companies' ability to deliver the chemicals when needed; and

WHEREAS, Council has or will appropriate funds for the purchase of these chemicals in the 2024 appropriations ordinance.

NOW, THEREFORE, BE IT ORDAINED, by the Council of the Village of Newton Falls, Ohio:

SECTION 1: That Council hereby authorizes the City Manager to enter into contracts with the following companies who are herein declared to be the lowest and best bidders for the purchase of the specified chemicals needed by the Village of Newton Falls Water Plant for the year 2024, and the terms and conditions of the provision of such chemicals shall be in conformity with the sealed bids submitted to the Village of Newton Falls and the contracts attached hereto.

Sal Chemical Company, Weirton, WV

Hydrofluosilicic Acid	\$38.00/100 lbs.
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Bonded Chemicals, Columbus, OH

Activated Carbon Watercarb 800	\$138.00/100 lbs.
Activated Carbon CB5	\$135.00/100 lbs.
Caustic Soda 50%	\$ 22.70/100 lbs.
Chlorine	\$169.00/100 lbs.
Potassium Permanganate (KM _n O ₄)	\$2.82/lb.

Aquamark, Chesterland, OH

Aluminum Chlorhydrate	\$.485/lb.
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ORDINANCE NO. 2023-46
PAGE TWO

SECTION 2. That all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in an open meeting of this Council, and all deliberations of this Council or any of its committees that resulted in such formal action were taken in meetings open to the public and/or in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 3. That this Ordinance shall be effective as of the earliest date permitted by law.

PASSED IN COUNCIL THIS ____ DAY OF ____, 2023.

John Baryak, Acting Mayor

Attest:

Michael Acomb, Clerk of Council

Approved as to Legal Form.

Bradric T. Bryan, Law Director

BID TABULATION
WATER TREATMENT CHEMICALS
2024

COMPANY	CHECK / BID BOND	ALUMINUM CHLOROHYDRATE (ACH)	CAUSTIC SODA	CHLORINE	HYDRO FLUOSILIC ACID 25%	ACTIVATED CARBON - WATERCARB 800	KMNO-4		JACOBI	ACTIVATED CARBON - CB5
Sal Chemical Company	YES	NO BID	\$36.00 / 100 LBS	NO BID	\$38.00 / 100 LBS	NO BID	\$3.42 / LB		NO BID	NO BID
Aquamark, Inc	YES	.485 / POUND	NO BID	NO BID	NO BID	NO BID	NO BID		NO BID	NO BID
Shannon Chemicals	YES	NO BID	NO BID	NO BID	NO BID	NO BID	\$2.58 / LB		NO BID	NO BID
JCI Chemicals, Inc.	YES	NO BID	\$33.75 / 100 LBS	NO BID	NO BID	NO BID	NO BID		NO BID	NO BID
Bonded Chemicals, Inc	YES	NO BID	\$22.70 / 100 LBS	\$169 / 100 LBS	NO BID	\$138 / 100 LBS	\$2.62 / LB		NO BID	\$135 / 100 LBS

CONTRACT

Agreement

Date: _____ *Date:* _____

IT IS MUTUALLY AGREED between the parties that
THE CONTRACTOR will furnish, and the City will accept,
for the engagement hereinafter described,

<i>NAME OF CONTRACTOR:</i>	<i>Sal Chemical</i>
<i>DATE(s) OF CONTRACT:</i>	<i>2024</i>
<i>TYPE OF CONTRACT:</i>	<i>Chemical</i>
<i>ORDINANCE/RESOLUTION:</i>	<i>Ordinance 2023-46</i>
<i>COST:</i>	<i>Hydrofluosilicic Acid - \$38.00/100 lbs.</i>

SPECIAL PROVISIONS: *Terms: Net Thirty (30) Days*
Bid Price is firm for one (1) year
Bid price includes delivery

Sal Chemical

3036 Birch Drive
Weirton, WV 26062
Signed:

Date: _____

VILLAGE OF NEWTON FALLS, OHIO
ORDINANCE NO.: 2023-47
SPONSOR: Councilperson Rufener

VERSION 2

**AN EMERGENCY ORDINANCE AUTHORIZING CERTAIN AMENDMENTS TO THE
APPROPRIATIONS FOR THE FISCAL YEAR ENDING DECEMBER 31, 2023 AND
AUTHORIZING THE FINANCE DIRECTOR TO AMEND AND FILE A CERTIFICATE
OF RESOURCES WITH THE COUNTY AUDITOR**

WHEREAS, as a result of certain occurrences, information, and expenditures, amendments to the Year 2023 Appropriations and transfers of items already appropriated for the Year 2023 are desired and required; and

WHEREAS, this Ordinance incorporates funding sources and expenditures that originated after the most recent Certificate of Resources was issued; and

WHEREAS, the appropriation amendments authorizes an update of the Certificate of Resources to be filed with the Trumbull County Auditor.

NOW, THEREFORE, the Council of the Village of Newton Falls, State of Ohio, hereby ordains:

SECTION 1. That the Exhibit attached hereto hereby amends the current appropriations for fiscal year 2023. Any funds not listed in this exhibit shall remain intact as previously listed and appropriated.

SECTION 2. That the Village Finance Director is hereby authorized to draw warrants on the Village Treasury for payment of the foregoing appropriations upon receiving proper certification and vouchers thereof, and no salaries or wages shall be paid except to persons employed by authority of and in accordance with law or ordinance.

SECTION 3. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

ORDINANCE NO. 2023-47
PAGE TWO

SECTION 4. That this Ordinance is hereby declared to be an emergency measure necessary for the public peace, health, welfare, and safety of the residents of the Village because these appropriation amendments need to be effective prior to the end of the 2023 fiscal year.

PASSED IN COUNCIL THIS _____ DAY OF _____, 2023.

John Baryak, Acting Mayor

Attest:

Michael Acomb, Clerk of Council

Approved as to Legal Form.

Law Director

CITY OF NEWTON FALLS		2023 Current Appropriations	2023 Proposed Appropriations	Difference
100	General Fund			
POLICE				
Personal Services	Legal Level	285,984.12	285,984.12	-
Other Operations	Legal Level	459,224.00	459,224.00	-
	Total:	745,208.12	745,208.12	-
Police Support				
Personal Services	Legal Level	1,050.00	1,050.00	-
Other Operations	Legal Level	-	-	-
	Total:	1,050.00	1,050.00	-
FIRE				
Other Operations	Legal Level	75,228.11	75,228.11	-
	Total:	75,228.11	75,228.11	-
ZONING				
Personal Services	Legal Level	55,520.80	55,520.80	-
Other Operations	Legal Level	43,918.00	43,918.00	-
	Total:	99,438.80	99,438.80	-
GENERAL ADMINISTRATION				
Personal Services	Legal Level	-	-	-
Other Operations	Legal Level	-	-	-
	Total:	-	-	-
CITY ADMINISTRATION				
Personal Services	Legal Level	62,385.45	62,385.45	-
Other Operations	Legal Level	93,831.83	93,831.83	-
	Total:	156,217.28	156,217.28	-
Council				
Personal Services	Legal Level	9,616.83	9,616.83	-
Other Operations	Legal Level	10,204.86	10,204.86	-
	Total:	19,821.69	19,821.69	-
MUNICIPAL COURT				
Personal Services	Legal Level	702,277.34	702,277.34	-
Other Operations	Legal Level	32,484.00	32,484.00	-
	Total:	734,761.34	734,761.34	-
FINANCE				
Personal Services	Legal Level	99,126.24	99,126.24	-
Other Operations	Legal Level	37,232.54	37,232.54	-
	Total:	136,358.78	136,358.78	-
BOARDS & COMMISSIONS				
Personal Services	Legal Level	680.00	680.00	-
Other Operations	Legal Level	300.00	300.00	-
	Total:	980.00	980.00	-
LAW				
Personal Services	Legal Level	68,075.84	68,075.84	-
Other Operations	Legal Level	27,394.76	27,394.76	-
	Total:	95,470.60	95,470.60	-
BUILDING & LANDS MAINTENANCE				
Personal Services	Legal Level	33,905.00	33,905.00	-
Other Operations	Legal Level	132,288.02	132,288.02	-
	Total:	166,193.02	166,193.02	-
DEBT / TRANSFERS & ADVANCES				
Other Operations	Legal Level	108,500.00	159,500.00	51,000.00
	Total:	108,500.00	159,500.00	51,000.00
100	Total:	2,339,227.74	2,390,227.74	51,000.00

CITY OF NEWTON FALLS		2023 Current Appropriations	2023 Proposed Appropriations	Difference
101 GENERAL FUND RESERV				
Other Operations	Legal Level	-	-	-
101	Total:	-	-	-
201 STREET CMR				
Personal Services	Legal Level	393,893.00	393,893.00	-
Other Operations	Legal Level	91,712.00	91,712.00	-
201	Total:	485,605.00	485,605.00	-
202 STATE HIGHWAY IMPRO				
Other Operations	Legal Level	7,006.00	7,006.00	-
202	Total:	7,006.00	7,006.00	-
203 PERMISSIVE AUTO				
Other Operations	Legal Level	109,823.00	109,823.00	-
203	Total:	109,823.00	109,823.00	-
204 PARK AND RECREATION				
Personal Services	Legal Level	-	-	-
Other Operations	Legal Level	34,000.00	34,000.00	-
204	Total:	34,000.00	34,000.00	-
204 PARK AND RECREATION / Community Center				
Personal Services	Legal Level	-	-	-
Other Operations	Legal Level	50,000.00	64,731.00	14,731.00
204	Total:	50,000.00	64,731.00	14,731.00
208 DRUG LAW ENFORCEMEN				
Other Operations	Legal Level	-	-	-
208	Total:	-	-	-
213 COMMUNITY SERVICES AND ACTIVITIES				
Other Operations	Legal Level	-	13,000.00	13,000.00
213	Total:	-	13,000.00	13,000.00
214 SR CITIZEN VAN				
Personal Services	Legal Level	-	-	-
Other Operations	Legal Level	-	-	-
214	Total:	-	-	-
215 INDIGENT DRIVERS				
Other Operations	Legal Level	1,432.00	1,432.00	-
215	Total:	1,432.00	1,432.00	-
216 ECONOMIC DEVELOPMEN				
Personal Services	Legal Level	-	-	-
Other Operations	Legal Level	-	-	-
216	Total:	-	-	-
217 ECONOMIC/HILP				

CITY OF NEWTON FALLS		2023 Current Appropriations	2023 Proposed Appropriations	Difference
Other Operations 217	Legal Level Total:	16,742.00 16,742.00	16,742.00 16,742.00	- -
217 HOME IMPROVEMENT LOAN				
Other Operations 217	Legal Level Total:	- -	- -	- -
218 LAW LIBRARY				
Other Operations 218	Legal Level Total:	15,000.00 15,000.00	15,000.00 15,000.00	- -
219 ENFORCEMENT AND EDU				
Other Operations 219	Legal Level Total:	8,500.00 8,500.00	8,500.00 8,500.00	- -
220 SPECIAL LEVY POLICE				
Personal Services Other Operations 220	Legal Level Legal Level Total:	16,474.00 561.00 17,035.00	16,474.00 561.00 17,035.00	- - -
221 INCOME TAX				
Personal Services Other Operations 221	Legal Level Legal Level Total:	1,141.00 1,179,910.00 1,181,051.00	1,140.99 1,290,844.62 1,291,985.61	(0.01) 110,934.62 110,934.61
222 COURT COMPUTERIZATI				
Other Operations 222	Legal Level Total:	135,000.00 135,000.00	135,000.00 135,000.00	- -
223 COURT GENERAL SPECI				
Personal Services Other Operations 223	Legal Level Legal Level Total:	84,058.72 12,240.00 96,298.72	84,058.72 12,240.00 96,298.72	- - -
224 COURT SECURITY/DIVE				
Personal Services Other Operations 224	Legal Level Legal Level Total:	- 5,410.00 5,410.00	- 300.00 300.00	- (5,110.00) (5,110.00)
225 INDIGENT DRIVERS AL				
Other Operations 225	Legal Level Total:	10,000.00 10,000.00	10,000.00 10,000.00	- -
234 ONE OHIO OPIOID SET				
Personal Services Other Operations 233	Legal Level Legal Level Total:	- 3,155.00 3,155.00	- 3,155.00 3,155.00	- - -
400 CAPITAL IMPROVEMENT				
Other Operations 400	Legal Level Total:	61,229.00 61,229.00	41,527.00 41,527.00	(19,702.00) (19,702.00)

CITY OF NEWTON FALLS		2023 Current Appropriations	2023 Proposed Appropriations	Difference
410 AMI METERING PROJECT				
Other Operations	Legal Level	150,000.00	150,000.00	-
410	Total:	150,000.00	150,000.00	-
501 WATER OPERATING				
Personal Services	Legal Level	554,367.10	554,367.10	-
Other Operations	Legal Level	1,122,929.41	1,054,784.41	(68,145.00)
501	Total (Water Operating):	1,677,296.51	1,609,151.51	(68,145.00)
501 WATER DISTRIBUTION				
Personal Services	Legal Level	444,860.10	444,860.10	-
Other Operations	Legal Level	475,244.41	540,244.41	65,000.00
501	Total (Water Distribution):	920,104.51	985,104.51	65,000.00
502 SEWER OPERATING				
Personal Services	Legal Level	530,909.63	530,909.63	-
Other Operations	Legal Level	2,235,753.33	2,235,753.33	-
502	Total:	2,766,662.96	2,766,662.96	-
503 ELECTRIC OPERATING				
Personal Services	Legal Level	653,455.19	653,455.19	-
Other Operations	Legal Level	5,777,774.20	5,777,774.20	-
503	Total:	6,431,229.39	6,431,229.39	-
504 STORMWATER OPERATING				
Other Operations	Legal Level	103,789.00	103,789.00	-
504	Total:	103,789.00	103,789.00	-
508 GUARANTEE TRUST				
Other Operations	Legal Level	39,031.00	39,031.00	-
508	Total:	39,031.00	39,031.00	-
510 REFUSE				
Other Operations	Legal Level	415,447.75	415,447.75	-
510	Total:	415,447.75	415,447.75	-
514 UTILITY OFFICE				
Personal Services	Legal Level	147,168.00	147,168.00	-
Other Operations	Legal Level	96,995.00	96,995.00	-
514	Total:	244,163.00	244,163.00	-
516 SEWER DEBT				
Other Operations	Legal Level	184,595.52	360,295.52	175,700.00
516	Total:	184,595.52	360,295.52	175,700.00
517 ELECTRIC DEBT				
Other Operations	Legal Level	483,801.67	630,201.67	146,400.00
517	Total:	483,801.67	630,201.67	146,400.00
519 WATER DEBT SERVICE				

CITY OF NEWTON FALLS		2023 Current Appropriations	2023 Proposed Appropriations	Difference
Other Operations 519	Legal Level Total:	272,125.00 272,125.00	249,201.36 249,201.36	(22,923.64) (22,923.64)
520 SEWER RESERVE				
Other Operations 520	Legal Level Total:	- -	- -	- -
521 DEBT RETIRE 2020 BON				
Other Operations 521	Legal Level Total:	385,199.00 385,199.00	385,199.00 385,199.00	- -
602 EMPLOYEE BENEFITS				
Other Operations 602	Legal Level Total:	1,101,581.00 1,101,581.00	1,101,581.00 1,101,581.00	- -
705 TRUMBULL COUNTY CAPI				
Other Operations 705	Legal Level Total:	11,801.00 11,801.00	11,801.00 11,801.00	- -
709 FLOWER FUND				
Other Operations 709	Legal Level Total:	5,645.00 5,645.00	5,645.00 5,645.00	- -
711 FIRE/TWNSP FUEL				
Other Operations 711	Legal Level Total:	52,089.00 52,089.00	52,089.00 52,089.00	- -
Grand Total:		19,821,075.77	20,281,960.74	460,884.97

VILLAGE OF NEWTON FALLS, OHIO
RESOLUTION NO.: 2023-48
SPONSOR: Councilperson Rufener

VERSION 2

**AN EMERGENCY ORDINANCE ESTABLISHING THE ANNUAL OPERATING
BUDGET AND SETTING FORTH THE APPROPRIATIONS FOR 2024**

WHEREAS, at the direction of and with the assistance of the City Manager, Sean Housley, the Finance Director, has prepared the attached Annual Operating Budget and Appropriations for 2024; and

WHEREAS, Council deems it necessary and proper to exercise its authority over the budget and appropriations by authorizing and certifying the within Annual Operating Budget and Appropriation Ordinance for 2024.

NOW, THEREFORE, BE IT ORDAINED, by the Council of the Village of Newton Falls, Ohio:

SECTION 1. That Council hereby adopts the attached Annual Operating Budget and Appropriations as the Annual Operating Budget and Appropriations for the Village of Newton Falls for the calendar year 2024.

SECTION 2. That the Finance Director is hereby authorized and directed to promptly forward a copy of this Ordinance to the Trumbull County Auditor and/or Treasurer as required by law.

SECTION 3. That all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in an open meeting of this Council, and all deliberations of this Council or any of its committees that resulted in such formal action were taken in meetings open to the public and/or in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 4. That this Ordinance is hereby declared to be an emergency measure necessary for the public peace, health, welfare, and safety of the residents of the Village because Council desires the Ordinance to be effective as of January 1, 2024 so that the Village has an immediately effective 2024 budget and can therefore expend money as of the first of the year. Therefore, this Ordinance shall take immediate effect upon its passage, pursuant to Newton Falls Charter Article III, Section 21.

PASSED IN COUNCIL THIS ____ DAY OF _____, 2023.

ORDINANCE NO. 2023-48
PAGE TWO

John Baryak, Acting Mayor

Attest:

Michael Acomb, Clerk of Council

Approved as to Legal Form.

Bradric T. Bryan, Law Director

2024 Appropriations: CITY OF NEWTON FALLS		Exhibit A	2024 Appropriations
100	General Fund	100	
POLICE		POLICE	
Personal Services	Legal Level	Personal Services	81,348.37
Other Operations	Legal Level	Other Operations	467,495.20
	Total:		548,843.57
Police Support		Police Support	
Personal Services	Legal Level	Personal Services	-
Other Operations	Legal Level	Other Operations	-
	Total:		-
FIRE		FIRE	
Other Operations	Legal Level	Other Operations	77,490.00
	Total:		77,490.00
ZONING		ZONING	
Personal Services	Legal Level	Personal Services	80,513.00
Other Operations	Legal Level	Other Operations	44,918.00
	Total:		125,431.00
GENERAL ADMINISTRATION		GENERAL ADMINISTRATION	
Personal Services	Legal Level	Personal Services	-
Other Operations	Legal Level	Other Operations	-
	Total:		-
CITY ADMINISTRATION		CITY ADMINISTRATION	
Personal Services	Legal Level	Personal Services	47,431.74
Other Operations	Legal Level	Other Operations	74,267.37
	Total:		121,699.11
Council		Council	
Personal Services	Legal Level	Personal Services	9,470.42
Other Operations	Legal Level	Other Operations	8,857.23
	Total:		18,327.65
MUNICIPAL COURT		MUNICIPAL COURT	
Personal Services	Legal Level	Personal Services	708,137.63
Other Operations	Legal Level	Other Operations	32,484.00
	Total:		740,621.63
FINANCE		FINANCE	
Personal Services	Legal Level	Personal Services	79,656.87
Other Operations	Legal Level	Other Operations	33,034.28
	Total:		112,691.15
BOARDS & COMMISSIONS		BOARDS & COMMISSIONS	
Personal Services	Legal Level	Personal Services	701.76
Other Operations	Legal Level	Other Operations	300.00
	Total:		1,001.76
LAW		LAW	
Personal Services	Legal Level	Personal Services	77,293.42
Other Operations	Legal Level	Other Operations	28,140.06
	Total:		105,433.49
BUILDING & LANDS MAINTENANCE		BUILDING MAINTENANCE	
Personal Services	Legal Level	Personal Services	34,455.67

2024 Appropriations: CITY OF NEWTON FALLS		Exhibit A	2024 Appropriations
Other Operations	Legal Level	Other Operations	574,060.02
	Total:		608,515.69
DEBT / TRANSFERS & ADVANCES		TRANSFERS OUT	
Other Operations	Legal Level	Other Operations	104,006.30
	Total:		104,006.30
100	Total: 100		2,564,061.34
101 GENERAL FUND RESERV		101	
Other Operations	Legal Level	Other Operations	-
101	Total: 101		-
201 STREET CMR		201	
Personal Services	Legal Level	Personal Services	366,450.89
Other Operations	Legal Level	Other Operations	66,273.61
201	Total: 201		432,724.50
202 STATE HIGHWAY IMPRO		202	
Other Operations	Legal Level	Other Operations	7,100.00
202	Total: 202		7,100.00
203 PERMISSIVE AUTO		203	
Other Operations	Legal Level	Other Operations	45,600.00
203	Total: 203		45,600.00
204 PARK AND RECREATION		204	
Personal Services	Legal Level	Personal Services	1,870.00
Other Operations	Legal Level	Other Operations	12,107.68
204	Total: 204		13,977.68
204 PARK AND RECREATION / Community Center		204	
Personal Services	Legal Level	Personal Services	-
Other Operations	Legal Level	Other Operations	-
204	Total: 204		-
208 DRUG LAW ENFORCEMEN		208	
Other Operations	Legal Level	Other Operations	-
208	Total: 208		-
213 COMMUNITY SERVICES AND ACTIVITIES		213	
Other Operations	Legal Level	Other Operations	1,700.00
213	Total: 213		1,700.00
214 SR CITIZEN VAN		214	
Personal Services	Legal Level	Personal Services	-
Other Operations	Legal Level	Other Operations	-

2024 Appropriations: CITY OF NEWTON FALLS		Exhibit A	2024 Appropriations
214	Total: 214		-
215	INDIGENT DRIVERS	215	
Other Operations	Legal Level	Other Operations	2,500.00
215	Total: 215		2,500.00
216	ECONOMIC DEVELOPMEN	216	
Personal Services	Legal Level	Personal Services	-
Other Operations	Legal Level	Other Operations	-
216	Total: 216		-
217	ECONOMIC/HILP	217	
Other Operations	Legal Level	Other Operations	26,000.00
217	Total: 217		26,000.00
217	HOME IMPROVEMENT LOAN	217	
Other Operations	Legal Level	Other Operations	-
217	Total: 217		-
218	LAW LIBRARY	218	
Other Operations	Legal Level	Other Operations	15,000.00
218	Total: 218		15,000.00
219	ENFORCEMENT AND EDU	219	
Other Operations	Legal Level	Other Operations	8,500.00
219	Total: 219		8,500.00
220	SPECIAL LEVY POLICE	220	
Personal Services	Legal Level	Personal Services	16,474.00
Other Operations	Legal Level	Other Operations	622.00
220	Total: 220		17,096.00
221	INCOME TAX	221	
Personal Services	Legal Level	Personal Services	1,950.00
Other Operations	Legal Level	Other Operations	1,288,894.62
221	Total: 221		1,290,844.62
222	COURT COMPUTERIZATI	222	
Other Operations	Legal Level	Other Operations	250,000.00
222	Total: 222		250,000.00
223	COURT GENERAL SPECI	223	
Personal Services	Legal Level	Personal Services	135,546.00
Other Operations	Legal Level	Other Operations	36,000.00
223	Total: 223		171,546.00

2024 APPROPRIATIONS, EXHIBIT A

2024 Appropriations: CITY OF NEWTON FALLS		Exhibit A	2024 Appropriations
224	COURT SECURITY/DIVE	224	
Personal Services	Legal Level	Personal Services	-
Other Operations	Legal Level	Other Operations	-
224	Total: 224		-
225	INDIGENT DRIVERS AL	225	
Other Operations	Legal Level	Other Operations	11,070.00
225	Total: 225		11,070.00
234	ONE OHIO OPIOID SET	234	
Personal Services	Legal Level	Personal Services	-
Other Operations	Legal Level	Other Operations	3,155.00
233	Total: 233		3,155.00
400	CAPITAL IMPROVEMENT	400	
Other Operations	Legal Level	Other Operations	64,688.97
400	Total: 400		64,688.97
410	AMI METERING PROJECT	410	
Other Operations	Legal Level	Other Operations	150,000.00
410	Total: 410		150,000.00
501	WATER OPERATING	501	
Personal Services	Legal Level	Personal Services	507,349.99
Other Operations	Legal Level	Other Operations	886,491.41
501	Total (Water Operating): 501		1,393,841.40
501	WATER DISTRIBUTION	501	
Personal Services	Legal Level	Personal Services	476,588.57
Other Operations	Legal Level	Other Operations	422,447.41
501	Total (Water Distribution): 501		899,035.98
502	SEWER OPERATING	502	
Personal Services	Legal Level	Personal Services	569,841.70
Other Operations	Legal Level	Other Operations	3,455,663.83
502	Total: 502		4,025,505.53
503	ELECTRIC OPERATING	503	
Personal Services	Legal Level	Personal Services	721,669.50
Other Operations	Legal Level	Other Operations	5,433,661.20
503	Total: 503		6,155,330.70
504	STORMWATER OPERATING	504	
Other Operations	Legal Level	Other Operations	73,284.32

2024 Appropriations: CITY OF NEWTON FALLS		Exhibit A	2024 Appropriations
504	Total: 504		73,284.32
508	GUARANTEE TRUST	508	
Other Operations	Legal Level	Other Operations	40,280.00
508	Total: 508		40,280.00
510	REFUSE	510	
Other Operations	Legal Level	Other Operations	444,000.00
510	Total: 510		444,000.00
514	UTILITY OFFICE	514	
Personal Services	Legal Level	Personal Services	143,589.39
Other Operations	Legal Level	Other Operations	100,100.00
514	Total: 514		243,689.39
516	SEWER DEBT	516	
Other Operations	Legal Level	Other Operations	360,295.04
516	Total: 516		360,295.04
517	ELECTRIC DEBT	517	
Other Operations	Legal Level	Other Operations	147,364.00
517	Total: 517		147,364.00
519	WATER DEBT SERVICE	519	
Other Operations	Legal Level	Other Operations	141,150.74
519	Total: 519		141,150.74
520	SEWER RESERVE	520	
Other Operations	Legal Level	Other Operations	-
520	Total: 520		-
521	DEBT RETIRE 2020 BON	521	
Other Operations	Legal Level	Other Operations	237,056.00
521	Total: 521		237,056.00
602	EMPLOYEE BENEFITS	602	
Other Operations	Legal Level	Other Operations	1,125,377.00
602	Total: 602		1,125,377.00
705	TRUMBULL COUNTY CAPI	705	
Other Operations	Legal Level	Other Operations	12,178.00
705	Total: 705		12,178.00
709	FLOWER FUND	709	
Other Operations	Legal Level	Other Operations	5,826.00

2024 Appropriations: CITY OF NEWTON FALLS		Exhibit A	2024 Appropriations
709	Total: 709		5,826.00
711	FIRE/TWNSP FUEL	711	
Other Operations	Legal Level	Other Operations	53,756.00
711	Total: 711		53,756.00
Grand Total:		Grand Total:	20,433,534.21

VILLAGE OF NEWTON FALLS, OHIO
ORDINANCE NO.: 2023-49
SPONSOR: Councilperson Baryak

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT PURCHASE A 2023 FORD F-350 TRUCK FROM SARCHIONE FORD LINCOLN FOR USE BY THE WASTEWATER DEPARTMENT

WHEREAS, in order to properly serve the Village residents and property owners, the Wastewater Department desires to purchase a new truck to replace a 20 year old van that is currently serving as the Department's primary vehicle; and

WHEREAS, the Wastewater Department Supervisor and City Manager have investigated options for purchasing a new upfitted truck; and

WHEREAS, formal advertisement and bidding are not required if purchases are made through the State's Cooperative Purchasing Program as managed by the Ohio Department of Transportation; and

WHEREAS, Village Council desires to take advantage of the State's Cooperative Purchasing Program in order to obtain a beneficial price on the purchase of a new 2023 Ford F-350 truck from Sarchione Ford Lincoln of Alliance, Ohio that will be upfitted through Quality Truck Body of Youngstown, Ohio; and

WHEREAS, Council has approved this expenditure in the Village's 2024 Budget.

NOW, THEREFORE, the Council of the Village of Newton Falls, State of Ohio, hereby ordains:

SECTION 1. That Council hereby and herein authorizes the City Manager to enter into an agreement to purchase a new 2023 Ford F-350 truck from Sarchione Ford Lincoln of Alliance, Ohio for the State bid price that will be upfitted with a bed, plow system, and other equipment through Quality Truck Body of Youngstown, as set forth in the attached quotations, for a total amount of \$81,004.10, pursuant to the State of Ohio Department of Transportation specifications.

SECTION 2. That the Village of Newton Falls agrees that it shall not hold the Director of Transportation and the Ohio Department of Transportation responsible for any claim or dispute arising out of participation in the contract pursuant to Ohio Revised Code Section 5513.01(B) in connection with the purchase authorized by this Ordinance.

SECTION 3. That all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in an open meeting of this Council, and all deliberations of this Council or any of its committees that resulted in such formal action were taken in meetings open to the public and/or in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

ORDINANCE NO.: 2023-49
PAGE TWO

SECTION 4. That this Ordinance shall be effective as of the earliest date permitted by law.

PASSED IN COUNCIL THIS _____ DAY OF _____, 2023.

John Baryak, Acting Mayor

Attest:

Michael Acomb, Clerk of Council

Approved as to Legal Form.

Bradric T. Bryan, Law Director

VILLAGE OF NEWTON FALLS, OHIO
ORDINANCE NO.: 2023-50
SPONSOR: Councilpersons Stimpert and Rufener

**AN EMERGENCY ORDINANCE AMENDING CHAPTER 191 OF THE VILLAGE'S
ADMINISTRATIVE CODE (THE VILLAGE TAX CODE) TO CONFORM TO THE
REQUIREMENTS SET FORTH IN OHIO HOUSE BILL 33**

WHEREAS, Ohio House Bill 33, the State's biennium budget bill, made several changes to the requirements related to Ohio municipal income taxes; and

WHEREAS, as a result of the adoption of Ohio House Bill 33, the Village is required to amend its Tax Code, Chapter 191 of the Village Administrative Code, to conform with the requirements of Ohio House Bill 33.

NOW, THEREFORE, the Council of the Village of Newton Falls, State of Ohio, hereby ordains:

SECTION 1. That Council hereby and herein amends Chapter 191 of the Village Administrative Code, titled Income Tax, effective January 1, 2024, as set forth in the attachment hereto that is incorporated herein by reference.

SECTION 2. That all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in an open meeting of this Council, and all deliberations of this Council or any of its committees that resulted in such formal action were taken in meetings open to the public and/or in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 3. That That this Ordinance is hereby declared to be an emergency measure necessary for the public peace, health, welfare, and safety of the residents of the Village because Council desires for these amendments be effective as of January 1, 2024 so that these amendments are applicable to the entire tax year. Therefore, this Ordinance shall take immediately effect upon its passage, pursuant to Newton Falls Charter Article III, Section 21.

PASSED IN COUNCIL THIS _____ DAY OF _____, 2023.

John Baryak, Acting Mayor

Attest:

Michael Acomb, Clerk of Council

Approved as to Legal Form.

Bradric T. Bryan, Law Director

CHAPTER 191 Income Tax (Effective January 1, 2016)

- 191.01 Authority to levy tax; purpose of tax.
- 191.02 Definitions.
- 191.03 Imposition of tax.
- 191.04 Collection at source.
- 191.05 Annual return; filing.
- 191.06 Credit for tax paid to other municipalities.
- 191.07 Estimated taxes.
- 191.08 Rounding of amounts.
- 191.09 Requests for refunds.
- 191.10 Second municipality imposing tax after time period allowed for refund.
- 191.11 Amended returns.
- 191.12 Limitations.
- 191.13 Audits.
- 191.14 Service of assessment.
- 191.15 Administration of claims.
- 191.16 Tax information confidential.
- 191.17 Fraud.
- 191.18 Interest and penalties.
- 191.19 Authority of Tax Administrator; verification of information.
- 191.20 Request for opinion of the Tax Administrator.
- 191.21 Board of Review.
- 191.22 Authority to create rules and regulations.
- 191.23 Rental and leased property.
- 191.24 Savings clause.
- 191.25 Collection of tax after termination of ordinance.
- 191.26 Contractor and subcontractor provisions.

191.27 Election to Be Subject to R.C. 718.80 to 718.95.

191.99 Violations; penalties.

CROSS REFERENCES

Power to levy income tax - see Ohio Const., Art. XVIII, Sec. 3

Payroll deductions - see Ohio R.C. 9.42

Municipal income taxes - see Ohio R.C. Ch. 718

191.01 AUTHORITY TO LEVY TAX; PURPOSE OF TAX.

(A) To provide funds for the purposes of general municipal operations, maintenance, new equipment, extension and enlargement of municipal services and facilities and capital improvements, Newton Falls 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 percent (1.0%). The tax is levied at a uniform rate on all persons residing in or earning or receiving income in Newton Falls. The tax is levied on income, qualifying wages, commissions and other compensation, and on net profits as hereinafter provided in Section 191.03 and other sections as they may apply.

(2) The income tax revenue shall be allocated as follows:

(a) General Fund: seventy-five percent (75.0%).

(b) Capital Projects: five percent (5.0%).

(c) Street Department: ten percent (10.0%).

(d) Parks & Recreation: ten percent (10.0%).

(C) The tax on income and the withholding tax established by this Ordinance 2015-14 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). This ordinance is effective for tax years beginning on and after January 1, 2016. Municipal tax years beginning on or before December 31, 2015, are subject to the income tax ordinance and amendments thereto, and rules and regulations and amendments thereto, as the existed before January 1, 2016.

(Ord. 2015-14. Passed 11-16-15.)

191.02 DEFINITIONS.

(A) Any term used in this ordinance that is not otherwise defined in this ordinance 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 ordinance that is not otherwise defined in this ordinance 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 ordinance:

(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 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 the full amount allowed by (C)(1)(h)(i) of this section.

(iv) Intentionally left blank.

(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 191.05.

(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 191.05.

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 Review pursuant to Section 191.21, 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 191.09, 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 Review" means the entity, created under Section 191.21, to hear appeals of municipal income tax matters.

(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.

(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 or a class 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 191.04 to the extent the qualifying wages are not subject to withholding for Newton Falls 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 191.04.

(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 191.04, 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 191.04, 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 Newton Falls on not more than 20 days in a taxable year.

(ii) The exemption provided in division (C)(12)(q)(i) 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 191.04 (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" means a municipality and 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 Newton Falls under Section 191.03,

(ii) (a) For an individual who is a resident of Newton Falls, income reduced by exempt income to the extent otherwise included in income, then reduced as provided in division (C)(21)(b) of this section.

(b) For an individual who is a nonresident of Newton Falls, 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 191.03, then reduced as provided in division (C)(21)(b) of this section.

(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 only 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 Newton Falls. If the terms are capitalized in the ordinance they are referring to Newton Falls. If not capitalized they refer to a municipal corporation other than Newton Falls.

(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 ordinance, 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 Newton Falls, may elect to be treated as a C corporation for Newton Falls. The election shall be made on the annual return for Newton Falls. Newton Falls will treat the publicly traded partnership as a C corporation if the election is so made.

(24.5) "Newton Falls" means the City of Newton Falls, Ohio.

(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 Newton Falls. The City of Newton Falls, however, has not allowed net operating loss carryforward under former Chapter 191, and shall not allow net operating loss carryforward for tax year 2016. Therefore the "Pre-2017 net operating loss carryforward" provisions in ORC 718, that require inclusions of the losses in certain calculations, are not included in those calculations.

(b) Intentionally left blank.

(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)(iii) 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 ORC Section 718.03, 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 191.03(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 Newton Falls in accordance with this ordinance.

(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 ordinance. "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)(i)(e) 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 191.09, 191.12, 191.13, 191.19(B), 191.20, 191.21, 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 Newton Falls 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.

191.03 IMPOSITION OF TAX.

The income tax levied by Newton Falls at a rate of one percent (1.0%) is levied on the Municipal Taxable Income of every person residing in and/or earning and/or receiving income in Newton Falls,

Individuals.

(A) For residents of Newton Falls, 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 191.02 (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 191.02 (C)(21). Exemptions which may apply are specified in Section 191.02 (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 Newton Falls 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 Newton Falls each year with respect to the nonqualified deferred compensation plan.

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

(2) If, in addition to Newton Falls, 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 Newton Falls 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 Newton Falls for all or part of a taxable year if the individual was domiciled in Newton Falls on the last day of the immediately preceding taxable year or if the Tax Administrator reasonably concludes that the individual is domiciled in Newton Falls 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 Newton Falls for all or part of the taxable year.

(2) For the purpose of determining whether an individual is domiciled in Newton Falls 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 Newton Falls. For the purposes of this division, an individual has one "contact period" with Newton Falls if the individual is away overnight from the individual's abode located outside of Newton Falls and while away overnight from that abode spends at least some portion, however minimal, of each of two consecutive days in Newton Falls.

(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 Newton Falls, unless the taxpayer is an individual who resides in Newton Falls 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) and (G) of this section, net profit from a business or profession conducted both within and without the boundaries of Newton Falls shall be considered as having a taxable situs in Newton Falls 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 Newton Falls 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 Newton Falls 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 191.04 (C);

(c) Total gross receipts of the business or profession from sales and rentals made and services performed during the taxable period in Newton Falls 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 Newton Falls, the taxpayer may request, or the Tax Administrator of Newton Falls 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 191.12 (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 191.12 (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, and except as provided in division (G) of this section, receipts from sales and rentals made and services performed shall be situated to a municipal corporation as follows:

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

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

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

(iii) The property is shipped from a place within Newton Falls to purchasers outside Newton Falls, 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 situated to Newton Falls to the extent that such services are performed in Newton Falls.

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

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

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

(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 Newton Falls' tax only if the property generating the net profit is located in Newton Falls or if the individual taxpayer that receives the net profit is a resident of Newton Falls. Newton Falls shall allow such taxpayers to elect to use separate accounting

for the purpose of calculating net profit situated 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 situated 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 Newton Falls, 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 Newton Falls 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 Newton Falls shall report the individual's net profit from all real estate activity on the individual's annual tax return for Newton Falls. 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 Newton Falls' 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.

(8) Left intentionally blank.

(9) Intentionally left blank.

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

(a) "Qualifying remote employee or owner" means an individual who is an employee or a taxpayer or who is a partner or member holding an ownership interest in a taxpayer that is treated as a partnership for federal income tax purposes, provided that the individual meets both of the following criteria:

(i) The taxpayer has assigned the individual to a qualifying reporting location.

(ii) The individual is permitted or required to perform services for the taxpayer at a qualifying remote work location.

(b) "Qualifying remote work location" means a permanent or temporary location at which an employee or owner who chooses or is required to perform services for the taxpayer, other than a reporting location of the taxpayer or any other location owned or controlled by a customer or client of the taxpayer. "Qualifying remote work location" may include the residence of an employee owner and may be located outside of a municipal corporation that imposes an income tax in accordance with this chapter. An employee or owner may have more than one qualifying remote work location during a taxable year.

(c) "Reporting location" means either of the following:

(i) A permanent or temporary place of doing business, such as an office, warehouse, storefront, construction site, or similar location, that is owned or controlled directly or indirectly by the taxpayer;

(ii) Any location in this state owned or controlled by a customer or client of the taxpayer, provided that the taxpayer is required to withhold taxes under Section 4 of this Ordinance, on qualifying wages paid to an employee for the performance of personal services at that location.

(d) "Qualifying reporting location" means one of the following:

(i) The reporting location in this state at which an employee owner performs services for the taxpayer on a regular or periodic basis during the taxable year;

(ii) If no reporting location exists in this state for an employee or owner under division (G)(1)(d)(i) of this section, the reporting location in this state at which the employee's or owner's supervisor regularly or periodically reports during the taxable year;

(iii) If no reporting location exists in this state for an employee or owner under division (G)(1)(d)(i) or (ii) of this section, the location that the taxpayer otherwise assigns as the employee's or owner's qualifying reporting location, provided the assignment is made in good faith and is recorded and maintained in the taxpayer's business records. A taxpayer may change the qualifying reporting location designated for an employee or owner under this division at any time.

(2) For tax years ending on or after December 31, 2023, a taxpayer may elect to apply the provisions of this division to the apportionment of its net profit from a business or profession. For taxpayers that make this election, the provisions of division (F) of this section apply to such apportionment except as otherwise provided in this division.

A taxpayer shall make the election allowed under this division in writing on or with the taxpayer's net profit return, or if applicable, a timely filed amended net profit return or a timely filed appeal of an assessment. The election applies to the taxable year for which that return or appeal is filed and for all subsequent taxable years, until the taxpayer revokes the election.

The taxpayer shall make the initial election with the tax administrator of each municipal corporation with which, after applying the apportionment provisions authorized in this division, the taxpayer is required to file a net profit return for that taxable year. A taxpayer shall not be required to notify the tax administrator of a municipal corporation in which a qualifying remote employee's or owner's qualifying remote work location is located, unless the taxpayer is otherwise required to file a net profit return with that municipal corporation due to business operations that are unrelated to the employee's or owner's activity at the qualifying remote work location.

After the taxpayer makes the initial election, the election applies to every municipal corporation in which the taxpayer conducts business. The taxpayer shall not be required to file a net profit return with a municipal corporation solely because a qualifying remote

employee's or owner's qualifying remote work location is located in such municipal corporation.

Nothing in this division prohibits a taxpayer from making a new election under this division after properly revoking a prior election.

(3) For the purpose of calculating the ratios described in division (F)(1) of this section, all of the following apply to a taxpayer that has made the election described in division (G)(2):

(a) For the purpose of division (F)(1)(a) of this section, the average original cost of any tangible personal property used by a qualifying remote employee or owner at that individual's qualifying remote work location shall be situated to that individual's qualifying reporting location.

(b) For the purpose of division (F)(1)(b) of this section, any wages, salaries, and other compensation paid during the taxable period to a qualifying remote employee or owner for services performed at that individual's qualifying remote work location shall be situated to that individual's qualifying reporting location.

(c) For the purpose of division (F)(1)(c) of this section, and notwithstanding division (F)(4) of this section, any gross receipts of the business or profession from services performed during the taxable period by a qualifying remote employee or owner for services performed at that individual's qualifying remote work location shall be situated to that individual's qualifying reporting location.

(4) Nothing in this division prevents a taxpayer from requesting, or a tax administrator from requiring, that the taxpayer use, with respect to all or a portion of the income of the taxpayer, an alternative apportionment method as described in division (F)(2) of this section. However, a tax administrator shall not require an alternative apportionment method in such a manner that it would require a taxpayer to file a net profit return with a municipal corporation solely because a qualifying remote employee's or owner's qualifying remote work location is located in that municipal corporation.

(5) Except as otherwise provided in this division, nothing in this division is intended to affect the withholding of taxes on qualifying wages pursuant to Section 4 of this Ordinance.

191.04 COLLECTION AT SOURCE.

Withholding provisions.

(A) Each employer, agent of an employer, or other payer located or doing business in Newton Falls shall withhold an income tax from the qualifying wages earned and/or received by each employee in Newton Falls. Except for qualifying wages for which withholding is not required under Section 191.03 or division (B)(4) or (6) of this section, the tax shall be withheld at the rate, specified in Section 191.03 of this ordinance, of one percent (1.0%). 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 Newton Falls 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 Newton Falls 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 Newton Falls 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) Intentionally left blank.

(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 and subsequent payments, based on the Tax Administrator's determination, may be required to be made by electronic funds transfer to the Tax Administrator of all taxes deducted and withheld on behalf of Newton Falls. 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 Newton Falls as the return required of a non-resident employee whose sole income subject to the tax under this ordinance 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 Newton Falls 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 ordinance 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 Newton Falls 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 Newton Falls 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 Newton Falls 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 Newton Falls 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 year;

(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 Newton Falls 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 ordinance, 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 Newton Falls income tax on qualifying wages paid to an employee for the performance of personal services in Newton Falls if the employee performed such services in Newton Falls 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 Newton Falls.

(ii) The employee performed services at one or more presumed worksite locations in Newton Falls. For the purposes of this division, "presumed worksite location" means a construction site or other temporary worksite in Newton Falls 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 Newton Falls and has requested that the employer withhold tax from the employee's qualifying wages as provided in Section 191.04.

(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 Newton Falls only if the employee spent more time performing services for or on behalf of the employer in Newton Falls 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 Newton Falls exceeds the 20-day threshold, the employer shall withhold and remit tax to Newton Falls for any subsequent days in that calendar year on which the employer pays qualifying wages to the employee for personal services performed in Newton Falls.

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

(5) If an employer's fixed location is Newton Falls and the employer qualifies as a small employer as defined in Section 191.02, 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 Newton Falls, regardless of the number of days which the employee worked outside the corporate boundaries of Newton Falls.

To determine whether an employer qualifies as a small employer for a taxable year, 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 the Tax Administrator and an employer enter into an agreement regarding the manner in which the employer shall comply with the requirements of Section 191.04.

191.05 ANNUAL RETURN; FILING.

(A) An annual Newton Falls 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 191.04 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 Newton Falls.

(2) Retirees having no Municipal Taxable Income for Newton Falls 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 Newton Falls, at which time the retiree shall be required to comply with all applicable provisions of this ordinance.

(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 Newton Falls, 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) Newton Falls 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 Newton Falls 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 ordinance, each individual income tax 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 Newton Falls. No remittance is required if the net amount due is ten dollars or less.

(b) Except as otherwise provided in this ordinance, 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 (15th) 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 Newton Falls. 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 Newton Falls' income tax return. The extended due date of Newton Falls' 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. For the tax years ending on or after January 1, 2023, the extended

due date of Newton Falls' income tax return for a taxpayer that is not an individual shall be the 15th day of the eleventh 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 Newton Falls' 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 submit a written request that the Tax Administrator grant the taxpayer a six-month extension of the date for filing the taxpayer's Newton Falls income tax return. If the request is received by the Tax Administrator on or before the date Newton Falls income tax return is due, the Tax Administrator shall grant the taxpayer's requested extension.

(3) If the state 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 Newton Falls' income tax return. The extended due date of Newton Falls' 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 Newton Falls, 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) If a taxpayer receives an extension for the filing of a municipal tax return under division (G)(2), (3), or (4) of this section, the tax administrator shall not make any inquiry or send any notice to the taxpayer with regard to the return on or before the date the taxpayer files the return or on or before the extended due date to file the return, whichever occurs first. If a tax administrator violates division (G)(5) of this section, the municipal corporation shall reimburse the taxpayer for any reasonable costs incurred to respond to such inquiry or notice, up to \$150. Division (G)(5) of this section does not apply to an extension received under division (G)(2) of this section if the tax administrator has actual knowledge that the taxpayer failed to file for a federal extension as required to receive the extension under division (G)(2) of this section or failed to file for an extension under division (G)(2)(b) of this section.

~~(5)~~ (6) 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, Newton Falls 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 Newton Falls for a taxable year pursuant to division (H)(1) of this section shall file with Newton Falls 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 191.04 or provisions for semi-monthly withholding.

(J) Taxes withheld for Newton Falls by an employer, the agent of an employer, or other payer as described in Section 191.04 shall be allowed to the taxpayer as credits against payment of the tax imposed on the taxpayer by Newton Falls, unless the amounts withheld were not remitted to Newton Falls 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 Newton Falls 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 Newton Falls, provided that the generic form, once completed and filed, contains all of the information required by ordinance, resolution, or rules and regulations adopted by Newton Falls or the Tax Administrator, and provided that the taxpayer or tax return preparer filing the generic form otherwise complies with the provisions of this ordinance and of Newton Falls' 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 Newton Falls' 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 Newton Falls for both an extension of time for filing of the return and an extension of time for payment of taxes required by Newton Falls 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 Newton Falls 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 Newton Falls in accordance with this ordinance. 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 (P)(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 Newton Falls' 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 Newton Falls 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 Newton Falls. A taxpayer that is required to file a consolidated Newton Falls income tax return for a taxable year shall file a consolidated Newton Falls 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 Newton Falls 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 191.02, 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 Newton Falls income tax return shall make any adjustment otherwise required under Section 191.02 (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 Newton Falls 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 191.05, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to Newton Falls. 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 191.05, include the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to Newton Falls. 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 191.05, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to Newton Falls;

(b) The pass-through entity shall be subject to Newton Falls income taxation as a separate taxpayer in accordance with this ordinance 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 Newton Falls income tax return shall make the computations required under divisions (R) through (Y) of Section 191.05 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 Newton Falls income tax return is jointly and severally liable for any tax, interest, penalties, fines, charges, or other amounts imposed by Newton Falls in accordance with this ordinance 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 Newton Falls before January 1, 2016, to file a consolidated or combined tax return with Newton Falls 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.

191.06 CREDIT FOR TAX PAID TO OTHER MUNICIPALITIES.

(A) Every individual taxpayer domiciled in Newton Falls 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 ordinance, 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 Newton Falls under this ordinance, or the tax due the other municipality, whichever is less.

(B) Newton Falls shall grant a credit against its tax on income to a resident of Newton Falls 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) No credit shall be allowed for school district income tax.

191.07 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 Newton Falls' income tax for the current taxable year.

(2) "Tax liability" means the total taxes due to Newton Falls 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 Newton Falls from qualifying wages shall be considered as paid to Newton Falls 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 191.05 or on or before the fifteenth (15th) 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 (15th) 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 Newton Falls, 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 (15th) 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 (15th) 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 (15th) 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 (15th) 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 (15th) 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 191.05.

(D) (1) In the case of any underpayment of any portion of a tax liability, penalty and interest may be imposed pursuant to Section 191.18 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 Newton Falls under Section 191.05 for that year.

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

191.08 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 ordinance. 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.

191.09 REQUESTS FOR REFUNDS.

(A) As used in this section, "withholding tax" has the same meaning as in Section 191.18.

(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 Newton Falls:

(1) Overpayments of ten dollars or more;

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

(C) (1) Except as otherwise provided in this ordinance, 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 for payment. Except as provided in division (C)(3) of this section, the Tax 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 the 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 191.21.

(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 191.18 (A)(4).

191.10 SECOND MUNICIPALITY IMPOSING TAX AFTER TIME PERIOD ALLOWED FOR REFUND.

(A) Income tax that has been deposited with Newton Falls, but should have been deposited with another municipality, is allowable by Newton Falls 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 Newton Falls is subject to recovery by Newton Falls. If Newton Falls' tax on that income is imposed after the time period allowed for a refund of the tax or withholding paid to the other municipality, Newton Falls shall allow a nonrefundable credit against the tax or withholding Newton Falls 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 Newton Falls' tax rate is less than the tax rate in the other municipality, then the nonrefundable credit shall be calculated using Newton Falls' tax rate. However, if Newton Falls' 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 Newton Falls, along with any penalty and interest that accrued during the period of nonpayment.

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

191.11 AMENDED RETURNS.

(A) (1) If a taxpayer's tax liability shown on the annual tax return for Newton Falls 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 Newton Falls. 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 191.12 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 (D) of this section 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 Newton Falls. 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 191.09.

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

191.12 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 Review the request described in Section 191.21. That date shall not be affected by any subsequent decision, finding, or holding by any administrative body or court that the Board of 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 Review becomes final or, if any party appeals from the determination of the Board of Review, the sixtieth day after the date on which the final determination of the Board of 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 191.09.

(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 Newton Falls 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 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 191.09, with interest on that amount as provided by division (E) of Section 191.09.

(E) No civil action to recover Newton Falls 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.

191.13 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.

191.14 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, the 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 Newton Falls 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 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 the 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 Newton Falls 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 Review.

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

191.15 ADMINISTRATION OF CLAIMS.

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

(B) Nothing in this ordinance prohibits a Tax Administrator from doing either of the following if such action is in the best interests of Newton Falls:

(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.

191.16 TAX INFORMATION CONFIDENTIAL.

(A) Any information gained as a result of returns, investigations, hearings, or verifications required or authorized by this ordinance 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 Newton Falls as authorized by this ordinance. The Tax Administrator or a designee thereof may furnish copies of returns filed or otherwise received under this ordinance 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 Newton Falls from publishing or disclosing statistics in a form that does not disclose information with respect to particular taxpayers.

191.17 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 Newton Falls ordinance or state law to be filed with 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 Newton Falls or the Tax Administrator.

191.18 INTEREST AND PENALTIES.

(A) As used in this section:

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

(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 Newton Falls 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 the Tax Administrator or Newton Falls 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 Newton Falls 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 Newton Falls 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 fails, 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 Newton Falls 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, Newton Falls may impose a penalty equal to fifteen percent (15%) of the amount not timely paid.

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

(3) (a) For tax years ending on or before December 31, 2022, Wwith respect to returns other than estimated income tax returns, Newton Falls 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.

(b) For tax years ending on or after January 1, 2023, with respect to returns other than estimated income tax returns, Newton Falls may impose a penalty not exceeding \$25 for each failure to timely file each return, regardless of the liability shown thereon, except

that Newton Falls shall abate or refund the penalty assessed on the taxpayer's first failure to timely file a return after the taxpayer files that return.

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

(E) Nothing in this section limits the authority of Newton Falls 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 Newton Falls shall publish the rate described in division (A) of this section applicable to the next succeeding calendar year.

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

191.19 AUTHORITY OF TAX ADMINISTRATOR; VERIFICATION OF INFORMATION.

Authority.

(A) Nothing in this ordinance 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 query 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 Newton Falls' 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 ordinance;

(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 191.03;

(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 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 191.04.

Verification of accuracy of returns and determination of liability.

(B) (1) The 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 ordinance for the purpose of verifying the accuracy of any return made or, if no return was filed, to ascertain the tax due under this ordinance. 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 the Tax Administrator believes is subject to, the provisions of this ordinance 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 Newton Falls 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 ordinance 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 ordinance prohibits the Tax Administrator from imposing a penalty upon the person to whom the request was directed pursuant to Section 191.18, in addition to any applicable penalty described in Section 191.99.

(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 191.19 within 30 days after filing the next tax document requiring such identifying information, nothing in this ordinance prohibits the Tax Administrator from imposing a penalty pursuant to Section 191.18.

(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 191.99 for a violation of Section 191.17 and any other penalties that may be imposed by the Tax Administrator by law.

191.20 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) The 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.

191.21 BOARD OF REVIEW.

(A) (1) The Board of Review shall consist of three members. Two members shall be appointed by the legislative authority of Newton Falls, but such appointees may not be employees, elected officials, or contractors with Newton Falls at any time during their term or in the five years (which applies only to these two appointments) immediately preceding the date of appointment. One member shall be appointed by the Mayor of Newton Falls. This member may be an employee of Newton Falls, 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 Review Newton Falls 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 Newton Falls shall serve at the discretion of the administrative official.

(3) Members of the Board of 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 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 Review shall impair the power and authority of the remaining members to exercise all the powers of the Board of Review.

(6) If a member is temporarily unable to serve on the Board of Review due to a conflict of interest, illness, absence, or similar reason, the legislative authority or top administrative official that appointed the member shall appoint another individual to temporarily serve on the Board of 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 the 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 Review by filing a request with the Board of 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 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 Review and may be represented by an attorney at law, certified public accountant, or other representative. The Board of 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 Review may affirm, reverse, or modify the Tax Administrator's assessment or any part of that assessment. The Board of Review shall issue a final determination on the appeal within 90 days after the Board of 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 Review's final determination as provided in Section 5717.011 of the ORC.

(F) The Board of 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 Review created pursuant to this section are not meetings of a public body subject to Section 121.22 of the ORC.

191.22 AUTHORITY TO CREATE RULES AND REGULATIONS.

(A) Nothing in this ordinance prohibits the legislative authority of Newton Falls, or the Tax Administrator pursuant to authority granted to the administrator by resolution or ordinance, to adopt rules to administer an income tax imposed by Newton Falls in accordance with this ordinance. Such rules shall not conflict with or be inconsistent with

any provision of this ordinance. Taxpayers are hereby required to comply not only with the requirements of this chapter, but also to comply with the Rules and Regulations.

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

191.23 RENTAL AND LEASED PROPERTY.

(A) All property owners of real property located in Newton Falls, who rent or otherwise lease the same, or any part thereof, to any person for 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 on December 31 during such calendar year such apartment, room or other residential dwelling rental property.

(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 Newton Falls. 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 residential real property located in Newton Falls. The Tax Administrator, or his duly authorized agent, may compel the production of papers and records and the attendance of all personal 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 residential real property in Newton Falls.

(C) Any property owner or person that violates one or more of the following shall be subject to Section 191.99:

(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.

191.24 SAVINGS CLAUSE.

This ordinance 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 ordinance 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 ordinance and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this ordinance. It is hereby declared to be the intention of Council that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, or part hereof, not been included therein.

191.25 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 191.12 and Section 191.99 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 191.05 and Section 191.04 as though the same were continuing.

191.26 CONTRACTOR AND SUBCONTRACTOR PROVISIONS.

Option 1: All employers that provide any contractual service within Newton Falls and who employ subcontractors with that service, shall provide Newton Falls the names and addresses of the subcontractors. The subcontractors shall be responsible for all income tax withholding requirements under this ordinance.

Option 2: Any contractor and/or subcontractor performing work or services within the corporate limits of Newton Falls, or applying for a permit to do building, construction or reconstruction of any structure within Newton Falls, shall, when applying for the building permit, or prior to performing work or services within Newton Falls, register his business name, current mailing address for the business, business tax I.D. number, the person or persons to whom correspondence shall be directed, and the names, addresses, and social security numbers of all persons employed by the contractor and/or subcontractor with regard to the work being performed within, with the Tax Administrator. The contractor and/or subcontractor shall also indicate the estimated times and dates during which work shall be performed within Newton Falls.

191.27 ELECTION TO BE SUBJECT TO R.C. 718.80 TO 718.95.

(A) Newton Falls hereby adopts and incorporates herein by reference Sections 718.80 to 718.95 of the ORC for tax years beginning on or after January 1, 2018.

(B) A taxpayer, as defined in division (C) of this section, may elect to be subject to Sections 718.80 to 718.95 of the ORC in lieu of the provisions of this Ordinance.

(C) "Taxpayer" has the same meaning as in section 718.01 of the ORC, except that "taxpayer" does not include natural persons or entities subject to the tax imposed under

Chapter 5745 of the ORC. "Taxpayer" may include receivers, assignees, or trustees in bankruptcy when such persons are required to assume the role of a taxpayer.

191.99 VIOLATIONS; PENALTIES.

(A) Whoever violates Section 191.17, division (A) of Section 191.16, or Section 191.04 by failing to remit Newton Falls 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 Newton Falls, 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 191.16 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 Newton Falls, 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 191.16 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 ordinance;
- (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 ordinance.

(E) Any person who violates any of the provisions in Section 191.99 (D) shall be subject to the penalties provided for in Section 191.99 (A) of this ordinance.

VILLAGE OF NEWTON FALLS, OHIO
ORDINANCE NO.: 2023-51
SPONSOR: Councilperson Rufener

**AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ACCEPT THE BID OF
HILSCHER-CLARK ELECTRIC FOR TREE TRIMMING SERVICES**

WHEREAS, on October 26, 2023, the Village advertised for bids for tree trimming services for work on certain specified trees throughout the Village; and

WHEREAS, the Village Electric Department Supervisor and City Manager have determined that Hilscher-Clark Electric submitted the lowest and best bid for the project.

NOW, THEREFORE, the Council of the Village of Newton Falls, State of Ohio, hereby ordains:

SECTION 1. That Council hereby and herein authorizes the City Manager to accept the attached bid from Hilscher-Clark Electric in the amount of \$34,502.60 for tree trimming services for work on certain specified trees throughout the Village.

SECTION 2. That all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in an open meeting of this Council, and all deliberations of this Council or any of its committees that resulted in such formal action were taken in meetings open to the public and/or in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 3. That this Ordinance shall be effective as of the earliest date permitted by law.

PASSED IN COUNCIL THIS _____ DAY OF _____, 2023.

John Baryak, Acting Mayor

Attest:

Michael Acomb, Clerk of Council

Approved as to Legal Form.

Bradric T. Bryan, Law Director



Hilscher-Clarke Electric
Canton, Akron, Coshocton, Massillon, Central Ohio, Tri-State

October 26, 2023

Re: Newton Falls

Bill,

As per your request, we are submitting the pricing to perform the above-listed project. This quote is based on the following:

1. Line clearance trimming of non-established wood performed in 52 "hot spot" locations including removal of 3 full trees, stump grinding and lawn repair identified by Newton Falls Electric Department.
2. *Please note this amount is also contained in the total bids for the full trimming of the three circuits.
This quote would be for this work to be completed prior to any additional circuit trimming and the price for the remaining work would be adjusted if awarded to Hilscher-Clarke.
3. Ohio State sales tax has been excluded on labor.
4. Premium time has been excluded in the cost below.
5. Due to the current global climate, material pricing and lead times will be evaluated at the time project is awarded.

Total Construction Cost.....\$34,502.60

Please call if you have any questions.

Sincerely,
Cliff Perren
HILSCHER-CLARKE ENERGY

Hilscher-Clarke Electric Company
An Equal Opportunity Employer

NFED Key target points Tree Trimming 2023

- Milton Blvd
- 2025 East River Road (American Legion)
- Right away from Milton Blvd to the school
- 9 Mahoning Court
- Entrance to 700 Newton Drive and 1st tree on Trumbull Court
- Entrance of 800 Newton Drive
- In between 800 and 900 Newton Drive
- 1007 Woodglen
- 1013 Woodglen
- 1019 Woodglen
- 1004 Paige Court
- 1012 Paige Court
- 303 Mayhill
- 217 Ashlynn Court
- Feed to the right of 2200 Milton Blvd heading West
- 4599 Newton Tomlinson
- 233 East Broad
- 309 East Broad
- NE Corner of Lincoln and East Broad
- NE Corner of Oak Knoll
- 312 Oak Knoll
- 253 Arlington
- 609 Arlington
- 619 Arlington
- 114 Kendall
- Corner of Bellevue and Newton Bailey
- 4335 Newton Bailey and East of this address
- 4249 Newton Bailey
- 4227 Newton Bailey
- Across from 335 Warren Road
- 337 Columbia *Cut and remove 3 trees – grind stumps - reseed
- 617 Columbia
- 621 Columbia
- Right Away Crossing on Columbia to Kendall
- 4484 Columbia
- 4456 Columbia
- 324 Ophelia
- 532 Russell St
- 711 Russell St

10/26/23

LEGAL NOTICE

The Village of Newton Falls will be accepting Sealed Bids for tree trimming services for various locations within the Village. Bids will be received in the City Clerk's office, 612 West Broad Street, Newton Falls, Ohio 44444 until 11:00 a.m. on Thursday, November 16, 2023, at which time they will be opened and publicly read.

Specifications are available in the Clerk's office, Monday through Friday 8:30 a.m. to 4:00 p.m.

Each bid must be accompanied by a certified check or (bid bond) in the amount of \$100.00 (One Hundred Dollars).

The Village will accept the lowest/best bid. The Village of Newton Falls reserves the right to reject any/all bids.

Any questions regarding tree trimming services may be directed to Bill George, Electric Department Superintendent at electric@ci.newtonfalls.oh.us or 330-872-7711.

Please publish: 11-01-23 and 11-08-23

VILLAGE OF NEWTON FALLS, OHIO
ORDINANCE NO.: 2023-52
SPONSOR: Councilpersons Stimpert and Rufener

**AN EMERGENCY ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER
INTO AN AGREEMENT WITH THE TRUMBULL COUNTY SHERIFF FOR POLICE
PROTECTION SERVICES**

WHEREAS, O. R. C. Section 311.29 permits the County Sheriff to enter into an agreement with the Village to provide police protection services to the Village; and

WHEREAS, the Village contracted with the Trumbull County Sheriff for such services for the calendar year 2023; and

WHEREAS, the above referenced contract expires on December 31, 2023; and

WHEREAS, Council desires to ensure that the Village has police protection services from the Trumbull County Sheriff going forward into the 2024 calendar year; and

WHEREAS, the Trumbull County Sheriff and Village are ready and willing to enter into a renewed Police Protection Services Agreement.

NOW, THEREFORE, the Council of the Village of Newton Falls, State of Ohio, hereby ordains:

SECTION 1. That Council hereby authorizes the City Manager to enter into the attached Agreement, or an agreement substantially similar thereto, with the Trumbull County Sheriff, setting forth the terms, conditions, and compensation for the provision of police protection services to the Village in 2024.

SECTION 2. That all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in an open meeting of this Council, and all deliberations of this Council or any of its committees that resulted in such formal action were taken in meetings open to the public and/or in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 3. That this Ordinance is hereby declared to be an emergency measure necessary for the public peace, health, welfare, and safety of the residents of the Village because the current police protection services agreement between the Village and Trumbull County Sheriff expires on December 31, 2023, the Village requires police protection services going forward into the 2024 calendar year, and Council desires for this Agreement to be effective prior to the end of the year so that the Village can have police protection services in place as of January 1, 2024. Therefore, this Ordinance shall take immediate effect upon its passage, pursuant to Newton Falls Charter Article III, Section 21.

ORDINANCE NO. 2023-52
PAGE TWO

PASSED IN COUNCIL THIS _____ DAY OF _____, 2023.

John Baryak, Acting Mayor

Attest:

Michael Acomb, Clerk of Council

Approved as to Legal Form.

Bradric T. Bryan, Law Director

AGREEMENT

THIS AGREEMENT, made and entered into this 1st day of January, 2024, by and between **Paul S. Monroe, Trumbull County Sheriff**, hereinafter referred to as "Sheriff" and **Village of Newton Falls**, hereinafter referred to as "Village," witnesseth as follows:

WHEREAS, the parties desire to enter into a contract for police protection and service as authorized under Ohio Revised Code Section 311.29; and

WHEREAS, the parties desire to set forth in this Agreement the specific duties and responsibilities to be assumed by each party hereunder jointly and severally; and

WHEREAS, the parties desire to set forth the compensatory arrangement to serve as consideration for the basis of this Agreement;

NOW, THEREFORE, the parties agree as follows:

ARTICLE I Term of Agreement

This Agreement shall become effective immediately upon the date first above written and shall be in full force and effect continuously throughout the twelve (12) months following, specifically from: January 1, 2024 through December 31, 2024.

ARTICLE II Terms of Service

1. Sheriff agrees to furnish four (4) duly qualified deputies sheriff to provide police protection and service to all geographic locations under the jurisdiction and control of Village, specifically, to wit, such area known as Village of Newton Falls, Ohio, with the understanding that such deputies shall be subject to use by Sheriff in other locations within the county only in the event of times of emergency as shall be determined in the sole discretion of Sheriff.
2. Said deputies so furnished shall be trained by Sheriff in accordance with the provisions of the Ohio Peace Officers Training Council and as Sheriff otherwise requires. Supervision and discipline of said deputies shall be the responsibility of Sheriff.
3. Said deputies shall provide police protection and services to the residents of Village for a total of one hundred and sixty (160) hours per week with the time of the hours of work to be determined upon mutual written agreement of the parties hereto. Any overtime

required on an as needed basis shall be incorporated in and part of the contract price as set forth in Article III of this Agreement and not invoiced as additional hourly payment.

4. Sheriff shall on a monthly basis furnish Village with a monthly activity report showing the names of the deputies assigned, hours and dates worked, as well as a breakdown of the calls for service to which the deputies responded.

5. Sheriff shall provide the cruiser, equipment, uniform, side arms, regular standard equipment, and training for the deputies assigned to protect and serve the residents of Newton Village and such shall be similar to that furnished for other deputies under the employ of Sheriff. Further, the costs of the provided cruiser, including vehicle maintenance and fuel, equipment, uniform, side arms, regular standard equipment, and training for the deputies assigned to protect and serve the residents of Newton Village shall be incorporated in and part of the contract price set forth in Article III of this Agreement.

6. Any injury incurred by the assigned deputies while providing services for Village shall be processed through the Office of the Sheriff as part of the county coverage with the Ohio Bureau of Workers' Compensation. Further, all costs of worker's compensation coverage for the assigned deputies shall be incorporated in and part of the contract price set forth in Article III of this Agreement.

ARTICLE III

Compensation and Payment

As consideration for the deputy services provided hereunder, Newton Village shall pay to Sheriff the monetary value of those services and related costs, specifically, to wit: **\$399,636.77** for a total of one hundred sixty (160) hours of weekly dedicated service at the assigned deputies' hourly rate to include hazard duty, P.E.R.S, Medicare, life insurance, health insurance and longevity, equipment, uniform, side arms, regular standard equipment, and training for the assigned deputies and related worker's compensation insurance costs. Ten percent (10%) of the monetary amount identified herein shall be added to the costs due and payable by Newton Village, in order to cover vehicle maintenance and fuel for the vehicle provided by Sheriff. Under this Agreement, total costs due and payable by Newton Village shall be \$399,636.77 (\$363,306.16 + \$36,330.61). Payment for any overtime incurred by deputies providing such services shall be incorporated within the contract price and not separately invoiced.

All personnel benefits due and owing deputy sheriff personnel providing security services to Village shall be the responsibility of Sheriff, including but not limited to, specifically, to wit: clothing allowance, leave time earned, and any necessary unemployment compensation.

The payment due and owing Sheriff for the security services provided hereunder by assigned deputies shall be paid to the Trumbull County Treasurer, to be credited to a special fund to be known as the "sheriff's policing revolving fund," on a monthly basis in equal monthly installments.

ARTICLE IV Termination

Either party may terminate this Agreement at any time upon sixty (60) days' written notice transmitted by certified mail or by personal delivery to the other respective party. Payment made for services yet to be delivered shall be refunded by Sheriff to Village.

Notice shall be deemed delivered on the date of personal service or the date of mailing, if transmitted by certified mail.

ARTICLE V Severability

If any provision, or portion thereof, of this Agreement is, or becomes, invalid under any applicable statute or rule of law, it is to be deemed stricken and the rest of this Agreement shall remain in full force and effect.

ARTICLE VI Governing Law

This Agreement shall be governed by the laws of the State of Ohio.

ARTICLE VII Non-Waiver

Nothing in this Agreement, including without limitation the insurance provisions provided herein, shall in any way serve to supersede, waive, limit and/or otherwise affect any rights, privileges and/or immunities afforded to either party under applicable law, including but not limited to, those contained in Chapter 2744 of the Revised Code of the State of Ohio.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written and shall become effective as stated herein.

Paul S. Monroe
Trumbull County Sheriff

TCSO Witness (Print)

TCSO Witness Signature

TCSO Witness (Print)

TCSO Witness Signature

Village of Newton Falls (Print)

Village of Newton Falls Signature

Village of Newton Falls Witness (Print)

Village of Newton Falls Witness Signature

Village of Newton Falls Witness (Print)

Village of Newton Falls Witness Signature

2023-24 Deputy Wages						
			Hours Worked	Hourly Rate	Total Due	
	Scheduled Work Hours		2080	\$ 27.52	\$ 57,241.60	
	Hazardous Duty Pay		2080	\$ 0.40	\$ 832.00	
	Overtime			\$ 41.88	-	
	Gross Wages				\$ 58,073.60	
	P.E.R.S.	18.10%			\$ 10,511.32	
	Workers Compensation	1.35%			-	
	Medicare	1.45%			\$ 842.07	
	Life Insurance				\$ 117.60	
	Health Insurance	\$22,313.28	\$ 2,231.33		\$20,081.95	
	Longevity				\$ 1,200.00	
	Total				\$ 32,752.94	
	Total Amount Deputy				\$ 90,826.54	
	Clothing Allowance (100%)				-	
	Vehicle/Fuel Overhead 10%				\$ 9,082.65	
	Total Balance Due: Deputy				<u>\$ 99,909.19</u>	
FOR 2024 TOWNSHIP/ROAD COVERAGE CONTRACTS - ADDITIONAL 10% WILL BE ADDED FOR FUEL/VEHICLE OVERHEAD COSTS						

	ANNUAL DEPUTY COST	\$ 99,909.19		
	HOURS WORKED	HOURLY RATE	WEEKS/YR	ANNUAL COST
	1	\$ 48.03	52	\$ 2,497.73
	8	\$ 48.03	52	\$ 19,981.84
	12	\$ 48.03	52	\$ 29,972.76
	16	\$ 48.03	52	\$ 39,963.68
	20	\$ 48.03	52	\$ 49,954.60
	24	\$ 48.03	52	\$ 59,945.52
	28	\$ 48.03	52	\$ 69,936.43
	32	\$ 48.03	52	\$ 79,927.35
	36	\$ 48.03	52	\$ 89,918.27
	40	\$ 48.03	52	\$ 99,909.19
	160	\$ 48.03	52	\$ 399,636.77

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO AND EXECUTE VARIOUS CONTRACTS WITH PAN AMERICAN INSURANCE GROUP FOR EMPLOYEE HEALTH CARE INSURANCE AND BENEFITS

WHEREAS, with the assistance of the Village's employee health insurance broker, WJL Administrative Services, LLC, the Village obtained quotes for employee health insurance and benefits coverage for 2024; and

WHEREAS, the City Manager and Council have determined that the attached rate proposal from Pan American Insurance Group provides the best coverage for the best price when taking into account the Village's employee benefit needs and short-term and long-range benefit strategies.

NOW, THEREFORE, BE IT ORDAINED, by the Council of the Village of Newton Falls, Ohio:

SECTION 1. That Council hereby authorizes the City Manager to enter into and execute various agreements with Pan American Insurance Group for employee health care insurance and benefits based upon the rate proposal that is attached hereto.

SECTION 2. That all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in an open meeting of this Council, and all deliberations of this Council or any of its committees that resulted in such formal action were taken in meetings open to the public and/or in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 3. That this Ordinance shall be effective as of the earliest date permitted by law.

PASSED IN COUNCIL THIS _____ DAY OF _____, 2023.

John Baryak, Acting Mayor

Attest:

Michael Acomb, Clerk of Council

Approved as to Legal Form.

Bradric T. Bryan, Law Director

VILLAGE OF NEWTON FALLS, OHIO
ORDINANCE NO.: 2023-53
SPONSOR: Councilperson Stimpert

VERSION 2

AN EMERGENCY ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO AND EXECUTE VARIOUS CONTRACTS WITH PAN AMERICAN INSURANCE GROUP FOR EMPLOYEE HEALTH CARE INSURANCE AND BENEFITS

WHEREAS, with the assistance of the Village's employee health insurance broker, WJL Administrative Services, LLC, the Village obtained quotes for employee health insurance and benefits coverage for 2024; and

WHEREAS, the City Manager and Council have determined that the attached rate proposal from Pan American Insurance Group provides the best coverage for the best price when taking into account the Village's employee benefit needs and short-term and long-range benefit strategies.

NOW, THEREFORE, BE IT ORDAINED, by the Council of the Village of Newton Falls, Ohio:

SECTION 1. That Council hereby authorizes the City Manager to enter into and execute various agreements with Pan American Insurance Group for employee health care insurance and benefits based upon the rate proposal that is attached hereto.

SECTION 2. That all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in an open meeting of this Council, and all deliberations of this Council or any of its committees that resulted in such formal action were taken in meetings open to the public and/or in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 3. That this Ordinance is hereby declared to be an emergency measure necessary for the public peace, health, welfare, and safety of the residents of the Village because the Village needs to have its 2024 employee health insurance benefits in place and in effect as of January 1, 2024. Therefore, this Ordinance shall take immediate effect upon its passage, pursuant to Newton Falls Charter Article III, Section 21.

PASSED IN COUNCIL THIS _____ DAY OF _____, 2023.

John Baryak, Acting Mayor

Attest:

Michael Acomb, Clerk of Council

Approved as to Legal Form.

Bradric T. Bryan, Law Director

PROPOSAL FOR:
City of Newton Falls Ohio
Provided by:
WJL ADMINISTRATIVE SERVICES, LLC

Carrier:	Pan American	Best Rating:	A
Specific Deductible:	\$30,000	Stop Loss	
Contract Type:	24/12	Eff Date:	1/1/2024
Plan Design:	Current Plan		

Fixed Cost	Number	Rate	Monthly	Annually
SPECIFIC PREMIUM - MEDICAL & RX				
Employee	10	\$350.00	\$3,500.00	\$42,000.00
EE/CH	4	\$606.21	\$2,424.84	\$29,098.08
EE/SP	12	\$683.20	\$8,198.40	\$98,380.80
Family	9	\$1,019.35	\$9,174.15	\$110,089.80
AGGREGATE PREMIUM				
Employee	35	\$42.16	\$1,475.60	\$17,707.20
Subtotal - Premiums			\$24,772.99	\$297,275.88
Administration (per employee)				
Medical	35	\$21.00	\$735.00	\$8,820.00
Dental	35		\$0.00	\$0.00
PPO (per employee)	35	\$18.75	\$656.25	\$7,875.00
UR (per employee)	35	\$1.50	\$52.50	\$630.00
Broker Fee (per employee)	35		\$0.00	\$0.00
Life/AD&D (per employee)	35		\$0.00	\$0.00
Annual Plan Costs				
Printing Costs (Booklets)				
TOTAL FIXED COSTS			\$26,216.74	\$314,600.88
Medical Claims & RX (Expected Costs)				
Employee			\$0.00	\$0.00
Family			\$0.00	\$0.00
Total Expected Medical Claims			\$0.00	\$0.00
Total Expected Medical (Fixed + Expected)			\$26,216.74	\$314,600.88
Medical Claims & RX (Maximum)				
Employee	10	\$573.16	\$5,731.60	\$68,779.20
EE/CH	4	\$1,010.48	\$4,041.92	\$48,503.04
EE/SP	12	\$1,141.75	\$13,701.00	\$164,412.00
Family	9	\$1,714.90	\$15,434.10	\$185,209.20
Total Maximum Medical Claims			\$38,908.62	\$466,903.44
Total Maximum Medical (Fixed +Maximum)			\$65,125.36	\$781,504.32
Total Annual Maximum Cost (Medical & RX)				
Employee		\$1,006.57		
EE/CH		\$1,700.10		
EE/SP		\$1,908.36		\$65,125.36
Family		\$2,817.66		

*Fixed Cost does not include any applicable PPO Directory Cost

VILLAGE OF NEWTON FALLS, OHIO
ORDINANCE NO.: 2023-54
SPONSOR: Councilpersons Rufener and Stimpert

**AN EMERGENCY ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER
INTO AN AMENDED DIRECTOR OF LAW AGREEMENT WITH DIRECTOR OF LAW
BRADRIC BRYAN**

WHEREAS, Mr. Bryan was hired as the Newton Falls Director of Law, effective April 14, 2022, pursuant to an Agreement that was authorized by Council and executed by the City Manager in accordance with Ordinance No. 2022-19; and

WHEREAS, the above agreement was amended pursuant to Ordinance No. 2023-30, and that amended agreement expires by its terms on December 31, 2023; and

WHEREAS, in order to allow the City Manager and Council to have additional time to identify and hire a new Director of Law and maintain legal representation for the Village while that process continues, the City Manager and Council are requesting Mr. Bryan to continue to serve as the Village Director of Law after the first of the year at the same rate of compensation until a new Director of Law can be identified, hired, and commence work for the Village.

NOW, THEREFORE, the Council of the Village of Newton Falls, State of Ohio, hereby ordains:

SECTION 1. That Council hereby and herein authorizes the City Manager to enter into the attached Amended Director of Law Agreement.

SECTION 2. That all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in an open meeting of this Council, and all deliberations of this Council or any of its committees that resulted in such formal action were taken in meetings open to the public and/or in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 3. That this Ordinance is hereby declared to be an emergency measure necessary for the public peace, health, and welfare of the residents of the Village of Newton Falls for the reason that it is necessary for the Village have a Director of Law while the search for a replacement Director of Law is conducted to ensure that upcoming, continuing, and arising legal matters are promptly handled. Therefore, this Ordinance shall take immediate effect upon its passage pursuant to Newton Falls Charter Article III, Section 21.

PASSED IN COUNCIL THIS _____ DAY OF _____, 2023.

ORDINANCE NO. 2023-54

PAGE TWO

John Baryak, Acting Mayor

Attest:

Michael Acomb, Clerk of Council

Approved as to Legal Form.

Bradric T. Bryan, Law Director

AMENDED DIRECTOR OF LAW AGREEMENT

This Agreement is effective this 1st day of January, 2024, by and between the Village of Newton Falls, Ohio (“Newton Falls”), an Ohio municipal corporation, and Bradric Bryan (“Attorney”), 22050 Mastick Road, Fairview Park, Ohio 44126, an attorney licensed to practice law in the State of Ohio, collectively referred to as the “Parties”.

WHEREAS, Attorney was hired as the Newton Falls Director of Law, effective April 14, 2022, pursuant to an Agreement that was authorized by Council and executed by the City Manager in accordance with Ordinance No. 2022-19; and

WHEREAS, the above agreement was amended pursuant to Ordinance No. 2023-30, and that amended agreement expires by its terms on December 31, 2023; and

WHEREAS, in order to allow the City Manager and Council to have additional time to identify and hire a new Director of Law and maintain legal representation for the Village while that process continues, the City Manager and Council are requesting Attorney to continue to serve as the Village Director of Law after December 31, 2023 at the same rate of compensation until a new Director of Law can be identified, hired, and commence work for the Village.

NOW, THEREFORE, Newton Falls and Attorney hereby enter into the within Agreement for Attorney to serve as its Director of Law under the supervision of the City Manager in accordance with the provisions of the Newton Falls Charter and the following terms and conditions.

1. Scope of Work and Compensation. Mr. Bryan shall regularly attend Regular Council Meetings and Special and other meetings requested by the City Manager and Council and perform all other necessary legal work within the scope of duties for the Director of Law set forth in the Newton Falls Charter, unless otherwise authorized by Council or required by law and with the exception of matters necessitated by contractual obligations (including litigation matters for which insurance counsel has been appointed). As compensation for undertaking the duties of the Director of Law, Attorney shall be paid a fixed monthly salary of \$7,750 per month, with Attorney being included in the Ohio Public Employees Retirement System. Attorney shall be considered a part-time employee and shall not be entitled to any other employee benefits except as specified herein. Attorney shall cover his own expenses in the performance of his duties with the exception of expenses approved in advance by the City Manager or Council such as court or other government filing fees, court reporter or deposition costs, expert fees, and the like.

2. Term and Termination. This Agreement shall be effective as of January 1, 2024 until a new Director of Law can be identified, hired, and commence work for the Village. In the absence of the hiring of a new Director of Law, this Agreement may be terminated by either party: (a) immediately for cause; or (b) at will and without cause with the provision of thirty (30) days’ written notice to the other party.

Attorney

Newton Falls

Bradric T. Bryan

Pamela S. Priddy, City Manager

VILLAGE OF NEWTON FALLS, OHIO
ORDINANCE NO.: 2023-55
SPONSOR: Councilperson -----

**AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ACCEPT THE
PROPOSAL OF OHM ADVISORS FOR ENGINEERING SERVICES FOR THE
NEWTON FALLS 2024 PAVING PROGRAM**

WHEREAS, Orchard, Hiltz & McCliment, Inc., dba OHM Advisors ("OHM"),
presently provides engineering services for the Village; and

WHEREAS, pursuant to the parameters of the Village's engineering services
agreement with OHM, OHM has presented a proposal to the Village for the provision of
engineering services related to the Newton Falls 2024 Paving Program.

NOW, THEREFORE, the Council of the Village of Newton Falls, State of Ohio,
hereby ordains:

SECTION 1. That Council hereby authorizes the City Manager to accept the
attached proposal, or a proposal substantially similar thereto, from OHM in the amount
of \$53,700 for the provision of engineering services related to the Newton Falls 2024
Paving Program.

SECTION 2. That all formal actions of this Council concerning and relating to the
adoption of this Ordinance were taken in an open meeting of this Council, and all
deliberations of this Council or any of its committees that resulted in such formal action
were taken in meetings open to the public and/or in compliance with all legal
requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 3. That this Ordinance shall be effective as of the earliest date
permitted by law.

PASSED IN COUNCIL THIS _____ DAY OF _____, _____.

Mayor

Attest:

Michael Acomb, Clerk of Council

Approved as to Legal Form.

Bradric T. Bryan, Law Director



December 8, 2023

Village of Newton Falls
Attn: Pamela S. Priddy, City Manager
612 West Broad Street
Newton Falls, OH 44444

RE: Newton Falls 2024 Paving Program
Location: Village of Newton Falls
Proposal #23087

Dear Ms. Priddy:

The following scope of services, price proposal, and project schedule which represent our understanding of the project, based upon prior discussions, meetings, and/or additional project information made available at the time of this proposal. Should you have any questions, please let us know.

Proposal Outline

Proposal Outline	1
Project Understanding	2
Scope of Services - Information Gathering Tasks	2
Scope of Services - Design Engineering Tasks	2
Scope of Services - Bidding and Award Tasks	3
Scope of Services - Construction Services Tasks	4
Price Proposal	5
Anticipated Project Schedule	6
Clarifications and Assumptions	6
Client Responsibilities	6
Terms & Conditions	6

Sincerely,
OHM Advisors

Chad M. Lewis, PE
Project Manager
Chad.lewis@ohm-advisors.com
D: 216.865.1345

Tony Burgoyne, PE
Principal
Tony.burgoyne@ohm-advisors.com

Authorization to Proceed

Signature

Date

Printed Name

Title

OHM Advisors

388 SOUTH MAIN STREET, SUITE 301
AKRON, OHIO 44311

T 330.913.1080
F 330.319.8691

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Project Understanding

The referenced project includes asphalt pavement resurfacing on Church Street, Bane Street, Oak Knoll Street, and on Maple Drive at the intersection with Milton Boulevard.

This proposal includes professional services for pavement cores, design engineering, bidding services and construction administration services in accordance with the scoped tasks described herein.

Scope of Services - Information Gathering Tasks

Task #3 Pavement Cores

- The following services are included in the fee shown:
 - Performance of seven (7) pavement cores
 - Advancement to 18 inches below the pavement base material
 - Identification and evaluation of pavement properties and thickness
 - Identification and evaluation of subbase soil properties
 - Water level readings, if encountered
 - Core photos
 - Constructability cautionary notes, if applicable
 - Summary page of each core
 - This information will be used for follow-on engineering tasks

Scope of Services - Design Engineering Tasks

Task #56 Pre-Design and Field Analysis

- The following services are included in the fee shown:
 - Field visit of the following project locations
 - Church Street from S. Center Street to River Street
 - Bane Street from Ravenna Road to S. Canal Street
 - Oak Knoll Street from Milton Boulevard to Lincoln Avenue
 - Maple Drive at the Milton Boulevard intersection
 - Determine and quantify appropriate rehabilitation measures
 - Manholes, catch basins, and other visible castings
 - Adjustments to grade
 - Reconstructs to grade
 - Pavement
 - ADA detectable warning pads replacement/installation
 - Asphalt partial and full-depth replacement areas
 - Asphalt resurfacing limits
 - Traffic Control
 - Pavement markings
 - Establish design criteria, standards, and specifications
 - Village of Newton Falls codes and ordinances
 - ODOT Location & Design Manuals
 - Develop preliminary cost estimate
 - The engineer will verify scope and cost estimate with the client's expectations



Task #60 Construction Documents

- The following services are included in the fee shown:
 - Preparation of 8.5x11" Construction Plan Exhibits shall be as follows:
 - Location Map
 - Roadway Typical Section
 - General Summary of Work Pay Items
 - Plan View Exhibits
 - Project Details
 - Design will include all details and specifications required for public bidding of a unit price contract, in accordance with industry standards
 - Deliverables:
 - Construction Plan Exhibits to be included in the Bidding Documents

Task #90 Official Engineer's Project Cost Estimate

- The following services are included in the fee shown:
 - Finalization of estimated quantities for construction
 - Estimate and evaluation of construction costs based on historical unit bid pricing

Scope of Services - Bidding and Award Tasks

Task #151 Bidding and Contract Documents

- The following services are included in the fee shown:
 - Preparation of bid documents including legal advertisement, instructions to bidders, bid forms, contract forms and affidavits, prevailing wage forms, EEO forms, scope of work, schedule, and other Owner forms and requirements to be added to the public bidding process
 - These documents will be 100% complete, ready for bidding of the Public Project
 - Bid books will be made available for purchasing by bidders
 - Contract Documents
 - Upon community legislation to award the construction bid, OHM will prepare (3) three copies of contract documents for execution, bonding, insurance, etc.
 - OHM will prepare the notice of commencement for signature(s)

Task #152 Bid Process, Review, and Award

- The following services are included in the fee shown:
 - Addendums/Clarifications
 - This activity is necessary to provide written explanation to all bidders for any questions regarding the bid documents and plans
 - Depending upon the size and complexity of the project, multiple addendums/clarifications may be required for the project
 - OHM will prepare addendums/clarifications and any necessary supporting documents and distribute to plan holders
 - Post-Bid Activities
 - Evaluation of bids and contractor qualifications
 - Pre-Award Meeting to review all bid items with apparent low bidder
 - Recommendation of Award to the Owner

OHM Advisors

388 SOUTH MAIN STREET, SUITE 301
AKRON, OHIO 44311

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Scope of Services - Construction Services Tasks

Task #175 Pre-Construction Services

- The following services are included in the fee shown:
 - Obtain signatures on work agreements
 - Pre-construction meeting
 - Coordination with Contractor, Utilities, Safety Forces, Residents, and Businesses
 - Personnel coordination and project schedule
 - Perform materials, suppliers, and shop drawing reviews and communicate revisions/approvals with contractor
 - Review contractual items
 - Distribution of documents/information (meeting records)

Task #176 Construction Services

- The following services are included in the fee shown:
 - Coordination with Contractor, Utilities, Safety Forces, Residents, and Businesses
 - Prepare daily inspection reports
 - Regular progress meetings with contractor
 - Inspection and testing services
 - Response to RFIs (request for information) from contractor
 - Review of pay requests and recommendations for payment
 - Negotiation of Change Orders
 - Prevailing Wage Verification
 - Coordination of Funding Reimbursements
 - Staffing will include the following:
 - Construction Inspector: On-Site during all working hours of construction
 - Field Client Representative: On-site weekly reviews with construction inspector, and Off-Site Coordination via phone with Inspector, Contractors, Owner, and Construction Manager
 - Construction Manager: On-site Reviews as needed/Off-Site Coordination with Inspector, Contractors, and Owner where possible via phone to control costs
 - Construction Engineer: Involved on an as-needed basis to facilitate field decisions and design-related issues.
 - Construction Administrative Assistant: Coordination of all documentation from pre-construction, contracts, pay requests, and close-out documents
 - Typical Weekly Staffing for a 40-hour/week construction project is approximately:

• Construction Inspector:	40 Hours
• Field Client Representative	4 Hours
• Construction Manager:	4 Hours
• Construction Engineer:	1 Hour
• Construction Admin:	2 Hours
 - Total Budget Cost per 40-hour week Project = \$ 6,880
 - Total Cost is therefore directly related to the time duration of the construction project

Task #177 Post-Construction Services

- The following services are included in the fee shown:
 - Review of final construction with contractor and Owner
 - Preparation, distribution, and approval of final punch list
 - Review of As-Built Drawings
 - Maintenance Bond Coordination

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- Lien releases, payments, and final acceptance

Task #178 Additional Construction Services If Authorized

- This task has been included as an “If Authorized” fee in the event that one or more of the following conditions occur:
 - The Contractor’s work schedule exceeds the number of weeks assumed in Price Proposal table
 - The Contractor’s work schedule includes work weeks exceeding 40 hours
 - The Contractor’s work process requires multiple work crews and therefore multiple inspectors on-site simultaneously
 - The Contractor is granted extra time (time extension) to complete the project
 - The Contractor is awarded a change order for additional work or changed work conditions
- If any of the above conditions apply, the Engineer shall document and estimate the total cost to complete the additional inspection services and request authorization/approval from the Owner to cover these costs

Price Proposal

#	Information Gathering Tasks	Fee
Task #3	Pavement Cores	\$ 4,250
	Subtotal =	\$ 4,250
#	Design Engineering Tasks	Fee
Task #56	Pre-Design and Field Analysis	\$ 4,500
Task #60	Construction Documents	\$ 4,500
Task #90	Official Engineer’s Project Cost Estimate	\$ 1,250
	Subtotal =	\$10,250
#	Bidding and Award Tasks	Fee
Task #151	Bidding and Contract Documents	\$ 4,000
Task #152	Bid Process, Review, and Award	\$ 4,000
	Subtotal =	\$ 8,000
#	Construction Services Tasks	Fee
Task #175	Pre-Construction Services	\$ 1,840
Task #176	Construction Services	\$ 27,520*
Task #177	Post-Construction Services	\$ 1,840
Task #178	Additional Construction Services (If Authorized)	TBD
	Subtotal =	\$ 31,200
	Grand Total =	\$ 53,700

OHM Advisors

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*Proposed fee based on four (4) weeks of full time inspection services (40 hours per week). Additional fee will be needed for services beyond this duration, as explained in Task #178.

Compensation

The fee proposal above shall be completed on a lump sum basis.

Anticipated Project Schedule

Information Gathering Tasks: December 2023 – February 2024

Design Engineering Tasks: February – March 2024

Bidding & Award Tasks: March – April 2024

Construction Services Tasks: May – July 2024

Clarifications and Assumptions

- Our Proposal was prepared based on the following assumptions:
 - If additional labor effort or change in schedule is required beyond described herein, OHM Advisors will negotiate an amendment with the Village of Newton Falls. OHM Advisors will not proceed with additional services without written authorization to proceed from the Village of Newton Falls.
 - Meetings shall be conducted in accordance with the Scope of Services as described herein. Additional meetings, not described within our Scope of Services, shall be considered additional services and will be billed on an hourly basis under the Additional As-Needed Services Allowance upon agreement with the Village of Newton Falls.

Client Responsibilities

- Village of Newton Falls will provide a single point of contact to OHM Advisors who is knowledgeable about the project needs and desired outcomes.
- Village of Newton Falls will provide the following, if available, to assist us with the project: (prior as-builts and existing plans, plat maps, site surveys indicating site boundaries, existing topography, access to structures, easements and utility line information, utility availability, building information, etc.)

Terms & Conditions

The Terms and Conditions contained in the Annual Engineering contract per ordinance number 2022-55 shall also apply to this contract.

OHM Advisors

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OHM-Advisors.com