

**Ordinance No. 7453**  
**AN ORDINANCE AUTHORIZING THE CITY FINANCE  
DIRECTOR TO CONTRACT WITH JULIAN & GRUBE, INC., FOR THE  
PERFORMANCE OF PROFESSIONAL SERVICES**

**WHEREAS**, the municipality maintains financial records in accordance with generally accepted principles of cash-based accounting; and,

**WHEREAS**, State and Federal regulations require the City's annual financial statements to be presented on an accrual basis in accordance with Generally Accepted Accounting Principles; and,

**WHEREAS**, the city has traditionally engaged the services of an independent accounting firm to assist with the GAAP conversion; and,

**WHEREAS**, Julian & Grube, Inc. has performed the required services in recent years pursuant to a multi-year contract that is scheduled to expire; and,

**WHEREAS**, the Finance Director recommends extension of a three year contract to Julian & Grube, Inc.;

**Now therefore**, be it enacted by the Council of the Municipality of Defiance, Ohio, that:

**Section 1:** The Finance Director is authorized to enter into a contract with Julian & Grube, Inc., to perform accounting services necessary to the preparation of annual financial statements in accordance with Generally Accepted Accounting Principles for a period of three years at a cost of \$12,400 per year. The Finance Director is further authorized to pay costs arising under the authorized contract as they become due from moneys appropriated and budgeted for that purpose in 2013 and subsequent years of the contract term without further legislative authorization.

**Section 2:** It is found and determined that all legislative actions pertaining to the adoption of this Ordinance were taken in Public Session and that all deliberations that affected or influenced any such legislative act, including all deliberations in Committee, were conducted in Public Session duly convened in accordance with law.

**Section 3:** This Ordinance shall be effective on the earliest date permitted by law.

Passed: December 4 \_\_\_\_\_, 2012      Tim Holtsberry \_\_\_\_\_  
President of Council

Attest: Lisa Elders \_\_\_\_\_, Clerk

Approved: December 4 \_\_\_\_\_, 2012      Bob Armstrong \_\_\_\_\_  
Mayor

# ORDINANCE NO. 7454

## AN ORDINANCE CREATING THE ANDREW TUTTLE MUSEUM FUND AND DECLARING AN EMERGENCY

**WHEREAS**, Andrew Tuttle, late of the City of Defiance, bequeathed a valuable collection of coins, native American artifacts, autographs and other items of artistic, cultural and historic significance to the municipality on condition that the government establish a museum in his honor for public display of the collection; and,

**WHEREAS**, Council took appropriate legislative action to create the museum; and,

**WHEREAS**, facilities are being prepared to display artifacts bequeathed by Andrew Tuttle together with other materials of artistic, cultural and historic significance owned by or on loan to the municipality; and,

**WHEREAS**, Charitable contributions have been and are being received to defray expenses of the museum; and,

**WHEREAS**, The Defiance Area Foundation has established a fund to receive and invest moneys donated for perpetual maintenance of the museum and income generated by the investment of those funds will periodically be paid to the municipality for expenditure for museum purposes; and,

**WHEREAS**, Council deems it advisable to establish a special purpose fund to receive and expend all moneys coming into the municipality's possession for museum purposes;

**Now therefore**, be it enacted by the Council of the Municipality of Defiance, Ohio, that:

**Section 1:** The "Andrew Tuttle Museum Fund" is hereby created. All moneys received by the municipality for museum purposes including, without limitation: all sums donated to the municipality to defray museum operating expenses, all sums distributed to the municipality as earnings on funds held by the Defiance Area Foundation for the benefit of the museum and all proceeds from the sale of deaccessioned museum artifacts shall be credited to the Andrew Tuttle Museum Fund and shall not be commingled with other municipal assets.

**Section 2:** Moneys credited to the Andrew Tuttle Museum Funds shall be expended exclusively for costs reasonably incurred to operate, maintain and enlarge the museum, to include, without limitation:

- a. Expenses incurred to rent, purchase, construct, install, maintain, operate and replace real and personal property used to house, store or display items of artistic, cultural and historic significance that have been accessioned into the museum collection or are loaned to the museum by other cultural or educational institutions;
- b. Expenses incurred to present lectures, musical performances, plays and other programming that is wholly or partially produced or sponsored by the museum;
- c. Expenses incurred to acquire, maintain and preserve artifacts accessioned into the museum collection or loaned to the museum by another cultural or educational institution to include, without limitation, costs reasonably incurred to clean, restore and preserve such artifacts and insure them against loss;
- d. Expenses incurred to train and compensate personnel to care for artifacts loaned to the museum or accessioned into the museum collection and to operate museum facilities for the display of artifacts in the museum's possession.

**Section 3:** It is found and determined that all legislative actions pertaining to the adoption of this Ordinance were taken in Public Session and that all deliberations that affected or influenced any such legislative act, including all deliberations in Committee, were conducted in Public Session duly convened in accordance with law.

**Section 4:** This Ordinance is declared to be an emergency measure necessary to preserve the welfare of the community for the reason that charitable donations have been received by the Finance Director and must be credited to the special purpose fund hereby created in order to properly segregate the funds from other municipal funds to honor the intent and satisfy reasonable expectations of the benefactors. As such, this Ordinance shall be effective immediately upon passage by an affirmative vote of not less than 5 Members of Council and approval of the Mayor.

Passed: December 4, 2012 Tim Holtsberry  
President of Council

Votes in Favor of Adoption: 7  
Votes Opposed to Adoption: 0

Attest: Lisa Elders, Clerk

Approved: December 4, 2012 Bob Armstrong  
Mayor

# ORDINANCE NO. 7455

## AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO EMPLOY AN ASSISTANT ENGINEER AND DECLARING AN EMERGENCY

**WHEREAS**, seven individuals responded to a solicitation seeking candidates for appointment to the position of Assistant City Engineer and all respondents were properly evaluated; and,

**WHEREAS**, the preferred candidate has more than 10 years experience as a practicing engineer and Council finds that this experience justifies a starting salary higher than provided for by the Classification schedule;

**Now therefore**, be it enacted by the Council of the Municipality of Defiance, Ohio, that:

**Section 1:** The City Administrator is authorized to appoint Melinda Warner, P.E., to the position of Assistant City Engineer at a starting salary of \$65,000 per year, payable in accordance with general Ordinances and subject to general laws and municipal Civil Service Rules.

**Section 2:** It is found and determined that all legislative actions pertaining to the adoption of this Ordinance were taken in Public Session and that all deliberations that affected or influenced any such legislative act, including all deliberations in Committee, were conducted in Public Session or in Executive Session duly convened in accordance with law.

**Section 3:** This Ordinance is declared to be an emergency measure necessary to preserve the health, safety and welfare of the community for the reason that immediate employment of the selected candidate is necessary to assure the candidate's availability and to address a back log of accumulated work in the Engineering Division. As such, this Ordinance shall be effective immediately upon passage by an affirmative vote of not less than 5 Members of Council and approval of the Mayor.

Passed: December 4 \_\_\_\_\_, 2012      Tim Holtsberry \_\_\_\_\_  
President of Council

Votes in Favor of Adoption: 7  
Votes Opposed to Adoption: 0

Attest: Lisa Elders \_\_\_\_\_, Clerk

Approved: December 4 \_\_\_\_\_, 2012      Bob Armstrong \_\_\_\_\_  
Mayor

**Ordinance No. 7456**  
**AN ORDINANCE AMENDING CHAPTER 161 OF THE CODIFIED  
ORDINANCES PERTAINING TO THE ESTABLISHMENT, POWERS  
AND DUTIES OF THE SHADE TREE COMMISSION**

**WHEREAS**, The Shade Tree Commission was established by Ordinance 3850, passed November 6, 1979; and,

**WHEREAS**, Ordinance 3850 was amended to conform to Charter requirements at the time it was incorporated into the Administrative Code following adoption of the City Charter in 1983; and,

**WHEREAS**, Review of the City's Ordinances pertaining to the oversight of the planting, maintenance and removal of trees on public lands by the Shade Tree Commission has convinced the Law Director that amendment of Chapter 161 of the Codified Ordinances is necessary to conform the allocation of powers and responsibilities to the Tree Commission as enacted by Ordinance 3850 to Charter requirements; and,

**WHEREAS**, Review of the City's Ordinances pertaining to the oversight of the planting, maintenance and removal of trees on public lands by the Shade Tree Commission has convinced the Ohio Department of Natural Resources that amendment of Chapter 161 of the Codified Ordinances is required conform the City's Ordinances to requirements of the *Tree City USA* program; and,

**WHEREAS**, Emerald Ash Borer infestation has resulted in the loss of many Ash trees and will continue to cause the death of Ash trees for the foreseeable future necessitating that a comprehensive plan be developed to assure that expenditures made in furtherance of reforestation efforts be directed to the purchase of saplings that are well suited for the soil and water conditions in which they will be planted;

**Now therefore**, be it enacted by the Council of the Municipality of Defiance, Ohio, that:

**Section 1:** Chapter 161 of the Codified Ordinances is amended to provide (deleted text ~~stricken~~, newly added text *italicized*):

**CHAPTER 161**  
**Shade Tree Commission**

**161.01 ESTABLISHMENT; COMPOSITION.** There is hereby established ~~in and for the City~~ a Shade Tree Commission, which shall consist of five ~~members, including its Chairperson~~ *resident electors of the municipality who are not otherwise employed by the municipality. Members shall not hold any elective or appointive office in the municipal government. Election or appointment of a Member of the Shade Tree Commission to the Office of Mayor, President of Council or Member of Council shall disqualify that Member from service on the Shade Tree Commission on the date on which such Member assumes elective office. For purposes of this Chapter, appointment of a municipal elector to the Defiance Municipal Library Board shall be deemed an appointment to State office and such Elector shall not be disqualified from contemporaneous service on the municipal Shade Tree Commission unless simultaneous service is prohibited by State regulations then in effect.*

**161.02 APPOINTMENTS; TERMS OF OFFICE.**

(a) The Members of the Shade Tree Commission shall be appointed by the Mayor ~~in the following sequence~~ *with advice and consent of Council.* The Mayor shall appoint the Chairperson for the Commission who shall serve for a term of four years. ~~The Chairperson shall recommend four other persons to the Mayor as candidates for membership to the Commission. The Chairperson shall base recommendations~~ *nominations for appointment, so far as practical, on the prospective candidates' knowledge of botany, forestry, arboriculture-horticulture, landscape architecture and or resource management. The Mayor shall retain complete discretion in the appointment of members.*

(b) At the time of the initial appointments, the first two members named shall serve for a period of two years. The remaining members shall be appointed for three years. Thereafter, all appointees shall be appointed for a *term* of four years. *In the event a vacancy shall occur during the term of any Member, his or her successor shall be appointed for the unexpired balance of that term. Members may be appointed to successive terms.*

(c) *Any Member who fails to attend three consecutive regularly scheduled meetings or who fails to attend 50% of the regularly scheduled meetings during*

any period of twelve consecutive months shall be removed from the Commission and his or her seat declared vacant.

(d) In addition to the Members appointed in accordance with paragraphs (a), (b) and (c) of this Section, the City Administrator shall designate one, and may designate two, full time employees of the municipality to serve as technical advisors to the Commission. Employees so designated shall attend meetings of the Commission and, subject to supervisory discretion of the City Administrator, perform such research and other tasks as are assigned to them by the Commission. Employees designated to serve on the Commission shall be compensated at their regular rate of pay and in accordance with applicable laws and municipal policies governing overtime compensation for all time expended in service to the Commission. Employees designated as advisors to the Commission shall have all rights and privileges accorded Members of the Commission but shall not vote on any question presented to the Commission.

#### **161.03 COMPENSATION.**

Members of the Shade Tree Commission shall serve without compensation. Appropriated and appropriately budgeted funds may be expended to pay travel, training and other expenses incurred by Members in the course of service to the Commission. Such expenditures shall be approved by the City Administrator, Board of Control or Ordinance of Council in accordance with monetary limits imposed on the discretionary spending authority of Department Heads and Board of Control by general Ordinances in effect at the time such expenses are incurred.

#### **161.04 MEETINGS; RULES AND REGULATIONS; RECORDS; DECISIONS**

All Meetings of the Shade Tree Commission shall be open to the public and notice of meetings shall be given in accordance with Ohio R.C. 121.22 conducted in accordance with applicable requirements of the Ohio Open Meetings Act in effect on the date the meeting is convened. A majority of the voting members shall constitute a quorum for the transaction of business. The Commission shall make its own adopt procedural rules and regulations and keep a record of consistent with all applicable requirements of the City Charter, Ohio Open Meetings Act, Ohio Public Records Act and this Chapter to govern its proceedings. All plans, findings, advice, reports and recommendations made by the Commission shall be in writing and shall designate, by name, those members of the Commission approving or concurring therein and those opposed and the reason for their opposition. The Rules shall provide a mechanism by which one voting Member of the Commission is designated Chairperson and provide that the Chairperson shall be responsible for assuring that all activities of the Commission are undertaken and performed in accordance with the adopted Rules. The Rules shall further provide for:

(1) timely publication of notice of proceedings to be entertained by the Commission;

(2) timely preparation, publication and preservation of minutes of all proceedings before the Commission;

(3) a mechanism for the designation of a presiding officer in the absence of the Chairperson; and,

(4) a requirement that all determinations be approved by a Roll Call Vote demonstrating the concurrence of not less than three voting members.

#### **161.05 POWERS AND DUTIES**

(a) The Shade Tree Commission shall have the power to compile an inventory of the trees, shrubs and long-lived perennial plants on municipally-owned lands and within public rights-of-way maintained by the municipality. With permission of the appropriate governmental entity, the Commission may inventory trees, shrubs and perennial plants on public lands within the municipality that are owned by the United States, the State of Ohio, Defiance County or any township and within rights-of-way maintained by the Department of Transportation. The Commission may inventory trees, shrubs and perennial plants established on privately-owned lands that are adjacent to public land or public rights-of-way and near enough to improvements constructed or proposed for construction on those lands as to, in the opinion of the Commission, affect the utility of the improvements provided, however, that no entry shall be made upon those lands without permission of the owner. The inventory shall include a study of soil and water conditions in the

*immediate vicinity of the trees, shrubs and perennial plants inventoried and an assessment of probable changes to those soil and water conditions as a result of future development anticipated by the 2030 Land Use Plan or Strategic Plan. The inventory shall include an assessment of the health of inventoried vegetation and recommendations regarding the species deemed appropriate for planting in each area based on the existing and probable future soil and water conditions at that location.*

*(b) ~~The Commission shall develop a comprehensive investigate and formulate any action, plan, program or legislation which the Commission finds to be necessary or advisable for the planting, care, preservation, trimming, planting, and removal or other disposition of trees, shrubs and floral displays on public grounds or on grounds municipally-owned lands and other grounds maintained by the municipality and within rights-of-way maintained under public by maintenance and supervision in the City, and shall report and recommend the same to Council, the Mayor or administrative departments or boards.~~*

*(b c) The Commission shall review the inventory and comprehensive plan required by paragraphs (a) and (b) of this Section on a continuing basis and shall conduct not less than six regularly scheduled meetings per year for that purpose. On or before July 1 of each year, the Commission shall present a current inventory and any recommended changes to the comprehensive plan to Council. Upon acceptance of the comprehensive plan by Resolution of Council, ~~have control of projects sponsored by the Municipality designed to beautify the community through improved landscaping and management of the City's tree, shrub and floral resources. It shall have exclusive control over projects expending public funds for the planting, trimming, care, preservation and removal of trees and shrubs from public grounds adjacent to public rights of way. This program shall be administered by the City Administrator or by the appropriate division in the Department of Service and Safety. As to other areas, the Commission shall maintain all trees, shrubs and perennial plants on all lands maintained by the municipality and within municipally maintained rights-of-way in accordance with the recommendations of the comprehensive plan—coordinate its activities and share its resources with appropriate departments and boards. The Planning Commission and City Administrator shall verify compliance with the comprehensive plan prior to recommending approval of any proposed subdivision to Council.~~*

*(e d) The Commission may gather and disseminate information to the public ~~on~~ regarding the planting, trimming, care and removal of trees and shrubs to promote public awareness of the species recommended for planting within the City and public understanding of the importance of soil, water and other environmental conditions to the selection of appropriate species and varieties for planting at any given location; to promote public understanding of proper techniques for the maintenance of ~~planned management of the City's trees and shrubs and to promote public interest in urban forestry and the use of landscaping beautification. The Commission may establish reasonable fees for its educational projects to reduce energy consumption and improve air and water quality.~~*

*(d) The City Administrator may request the Commission ~~shall have exclusive jurisdiction and control over lands entrusted to its care for the purpose of implementing programs outlined in this chapter to provide site specific advice and guidance regarding the planting or maintenance of landscaping of any land owned or otherwise maintained by the municipality. The Commission shall respond to such requests within a reasonable period of time. The response shall be advisory only and shall not limit discretion otherwise vested in the City Administrator by Charter, General Law or Municipal Ordinance.~~*

*(e) The Commission shall implement an annual Arbor Day and program appropriate public educational and ceremonial events to commemorate the observance of Arbor Day.*

**Section 2:** It is found and determined that all legislative actions pertaining to the adoption of this Ordinance were taken in Public Session and that all deliberations that affected or influenced any such legislative act, including all deliberations in Committee, were conducted in Public Session duly convened in accordance with law.

**Section 3:** This Ordinance shall be effective on the earliest date permitted by law.

Passed: December 4, 2012 Tim Holtsberry  
President of Council

Attest: Lisa Elders, Clerk

Approved: December 4, 2012 Bob Armstrong  
Mayor

ORDINANCE No. 7457

**AN ORDINANCE AMENDING ORDINANCE NO. 7329 PASSED  
DECEMBER 13, 2011 TO MAKE APPROPRIATIONS FOR  
CURRENT EXPENSES AND OTHER EXPENDITURES OF  
THE CITY OF DEFIANCE, OHIO, DURING THE PERIOD OF  
JANUARY 1, 2012 THROUGH DECEMBER 31, 2012,  
AND DECLARING AN EMERGENCY.**

**WHEREAS**, the City Finance Director has determined that additional appropriations are necessary to provide for expenditures; and

**WHEREAS**, that in addition to approving the expenditure of all public funds, Council must approve the appropriation of all public funds;

**Now, therefore**, be it enacted by the Council of the Municipality of Defiance, Defiance County, Ohio:

**Section 1:** That, to provide for expenses of the City of Defiance, State of Ohio, during the period of January 1, 2012 through December 31, 2012, Ordinance No. 7329 is hereby amended by appropriation changes to the following accounts:

<b>101 - GENERAL FUND</b>			
<b>265 - BUILDINGS &amp; LAND</b>			
Operating	\$	18,900.00	
<b>TOTAL - BUILDINGS &amp; LAND</b>			<b>\$ 18,900.00</b>
<b>336 - FIRE DEPARTMENT</b>			
Operating	\$	6,445.00	
<b>TOTAL - FIRE DEPARTMENT</b>			<b>\$ 6,445.00</b>
<b>751 - PARKS &amp; RECREATION</b>			
Operating	\$	5,870.00	
<b>TOTAL - PARKS &amp; RECREATION</b>			<b>\$ 5,870.00</b>
<b>TOTAL - GENERAL FUND</b>			<b>\$ 31,215.00</b>
<b>203 - PERMISSIVE TAX FUND</b>			
Operating	\$	3,200.00	
<b>TOTAL - PERMISSIVE TAX FUND</b>			<b>\$ 3,200.00</b>
<b>704 - HOTEL/MOTEL TAX FUND</b>			
Operating	\$	1,120.00	
<b>TOTAL - HOTEL/MOTEL TAX FUND</b>			<b>\$ 1,120.00</b>
<b>793 - FIRE DAMAGE, REPAIR &amp; REMOVAL FUND</b>			
Operating	\$	20,000.00	
<b>TOTAL - FIRE DAMAGE, REPAIR &amp; REMOVAL FUND</b>			<b>\$ 20,000.00</b>
<b>GRAND TOTAL - ALL FUNDS</b>			<b>\$ 55,535.00</b>

**RECAPITULATION OF APPROPRIATIONS**

101	General Fund	\$	31,215.00
203	Permissive Tax Fund	\$	3,200.00
704	Hotel/Motel Tax Fund	\$	1,120.00
793	Fire Damage, Repair & Removal Fund	\$	20,000.00
<b>GRAND TOTAL - ALL FUNDS</b>			<b>\$ 55,535.00</b>

**Section 2:** It is found and determined that all formal actions of the Council concerning and relating to the adoption of this Ordinance were taken in open meetings of this Council and that all deliberations that resulted in such formal action being taken, including all deliberations conducted by Committees of the Council, were conducted in meetings open to the public duly convened in compliance with law.

**Section 3:** This Ordinance shall be in full force and effect from and after the earliest date permitted by law.

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Tim Holtsberry  
President of Council

Passed: December 4, 2012

Attest: Lisa Elders, Clerk

Votes Approving Adoption: 7

Votes Opposing Adoption: 0

Approved: December 4, 2012

By: Bob Armstrong, Mayor

ORDINANCE No. 7458

**AN ORDINANCE AUTHORIZING THE TRANSFER  
OF FUNDS FOR THE CITY OF DEFIANCE, OHIO FOR THE  
YEAR ENDING DECEMBER 31, 2012,  
AND DECLARING AN EMERGENCY.**

**Whereas**, the Council of the City of Defiance has previously provided for the transfer of funds in the annual appropriation ordinance; and

**Whereas**, the City Finance Director has determined that it is necessary to transfer a portion of the appropriated funds in order to meet current expenses and other expenditures of the City:

**Now, therefore**, be it enacted by the Council of the City of Defiance, Defiance County, Ohio:

**Section 1:** The following amounts shall be transferred:

<u>FUND FROM</u>	<u>AMOUNT</u>	<u>FUND TO</u>
General Fund #101	\$ 18,337	Police Pension Fund #732
General Fund #101	\$ 15,837	Fire Pension Fund #733
WPC Fund #590	\$ 20,275	General Fund #101
WPC Fund #590	\$ 18,000	Utilities Billing Office Fund #585
WPC Fund #590	\$ 30,000	SCMR Fund (204)
WTP Fund #591	\$ 23,738	General Fund #101
WTP Fund #591	\$ 18,000	Utilities Billing Office Fund #585
Refuse #596	\$ 2,000	Utilities Billing Office Fund #585

**Section 2:** It is found and determined that all formal actions of the Council concerning and relating to the adoption of this Ordinance were taken in open meetings of this Council and that all deliberations that resulted in such formal action being taken, including all deliberations conducted by Committees of the Council, were conducted in meetings open to the public duly convened in compliance with law.

**Section 3:** This Ordinance shall be in full force and effect from and after the earliest date permitted by law.

Tim Holtsberry  
President of Council

Passed: December 4, 2012

Votes Approving Adoption: 7

Votes Opposing Adoption: 0

Attest: Lisa Elders, Clerk

Approved: December 4, 2012

By: Bob Armstrong, Mayor

Ordinance No. 7459  
**AN ORDINANCE AUTHORIZING WATER AND SEWER  
SERVICES TO BE PROVIDED TO LANDS LOCATED BEYOND THE  
MUNICIPAL CORPORATION LINE**

**WHEREAS**, Commerce Drive Realty Holdings, LLC, acquired a parcel of land located in the East half of the Northwest quarter of Section 18, Richland Township, that has been assigned Parcel No. J080018000902; and,

**WHEREAS**, Commerce Drive Realty Holdings, LLC, and others are presently circulating a Petition seeking the annexation of the aforesaid parcel and neighboring lands; and,

**WHEREAS**, the Defiance County Community Improvement Corporation is preparing proposals to improve and extend Commerce Drive to encourage industrial development of lands located between Carpenter Road and Dommersville Road; and,

**WHEREAS**, Commerce Drive Realty Holdings, LLC, is presently improving Permanent Parcel No. J080018000902 by the erection of an industrial building in anticipation of the planned annexation and eventual improvement of Commerce Drive as a municipal street; and,

**WHEREAS**, There is an immediate need to supply the industrial building now under construction with potable water and access to municipal sewer services, and;

**WHEREAS**, Codified Ordinances 921.10 and 925.21 require that any extension of water and sewer services to property that is not located within the municipal corporation be approved by an Ordinance of Record;

**Now therefore**, be it enacted by the Council of the Municipality of Defiance, Ohio, that:

**Section 1:** Commerce Drive Realty Holdings, LLC, is granted permission to establish temporary service connections to municipal water distribution and sewage collection mains located within the Commerce Drive right-of-way. Compliance with general Ordinances requiring service lines to be installed perpendicular to the main is waived for so long as the connections authorized by this Ordinance remain in use.

**Section 2:** Connections authorized by this Ordinance shall conform to plans and material specifications approved by the City Engineer. Tap fees shall be charged in the amounts provided by general Ordinance.

**Section 3:** Water shall be furnished and waste water shall be accepted for disposal at the rates provided by general Ordinance for water delivered in like quantities to, and for acceptance of waste water of like kind, composition and volume from, other properties located beyond the municipal corporation limits. Upon annexation, water and sewer services shall be provided at the rates established by general Ordinance for like kind services to all other lands located within the municipality provided, however, that all costs incurred to operate and maintain the service connections authorized by this Ordinance shall be the sole responsibility of the property served notwithstanding that portions of the authorized service lines may be located within a public right-of-way.

**Section 4:** The City Administrator may terminate the right to maintain and use the water and sewer connections authorized by this Ordinance at any time. The exercise of this authority by the City Administrator shall not be subject to judicial review.

**Section 5:** The City Administrator shall terminate all use of the connections authorized by this Ordinance in the event Commerce Drive Realty Holdings, LLC, or any successor in title to any portion of the property to which Parcel Number J080018000902 has been assigned, fails to diligently pursue annexation of the land to the City of Defiance.

**Section 6:** In the event one or more special assessments is levied to allocate costs incurred to extend Commerce Drive, or to extend, enlarge or otherwise improve water and sewer mains located within or adjacent to the Commerce Drive right-of-way, in proportion to the benefits conferred by such improvements to adjacent properties, the relative benefit conferred on lands served by the temporary connections authorized by this Ordinance shall be determined as if those connections did not exist. The City Administrator shall immediately terminate all use of the connections authorized by this Ordinance in the event any objection to the levy of an assessment or to the proposed amount thereof is made by any person on the grounds that lands served by the connections authorized by this Ordinance are not benefitted by the extension of any main to front the property because of the existing access to municipal water and sewer services.

**Section 7:** Upon extension of any water or sewer main so as to permit the structure now under construction to be served by a service line or lines installed perpendicular to the main, the City Administrator may order that service connections conforming to all general requirements then in effect be installed at no cost to the municipality and may terminate all rights to use the connections authorized by this Ordinance. In the event relocation of either or both service connections is Ordered, the replacement services shall be installed at no cost to the City and the City shall not be obligated to reimburse any person for any portion of the cost incurred to install the temporary services authorized by this Ordinance. The City Administrator shall not require relocation of the services authorized by this Ordinance in the absence of a finding that relocation of the connections will benefit the City in an appreciable way, but the Administrator's exercise of discretion regarding such matters shall not be subject to judicial review.

**Section 8:** It is found and determined that all legislative actions pertaining to the adoption of this Ordinance were taken in Public Session and that all deliberations that affected or influenced any such legislative act, including all deliberations in Committee, were conducted in Public Session duly convened in accordance with law.

**Section 9:** This Ordinance shall be effective on the earliest date permitted by law.

Passed: December 4, 2012      Tim Holtsberry  
President of Council

Attest: Lisa Elders, Clerk

Approved: December 4, 2012      Bob Armstrong  
Mayor