

ORDINANCE NO. 2014-02

AN ORDINANCE AUTHORIZING CHARLES NEFF, MAYOR, OR HIS DESIGNEE, AUTHORITY TO PROVIDE ANY ASSISTANCE NECESSARY TO THE BOARD OF COMMISSIONERS FOR MADISON COUNTY AND MOUNT STERLING HOLDINGS LLC IN ADOPTING THE OHIO ENTERPRISE AGREEMENT; APPROVING THE AGREEMENT; PROPAGATING RULES AND PROCEDURES FOR IMPLEMENTING, COMPLYING WITH AND REPORTING TO COUNCIL REGARDING THE OHIO ENTERPRISE AGREEMENT, AND DECLARING AN EMERGENCY

WHEREAS, the Council of the Village of Mount Sterling is committed to economic development of the Village, and;

WHEREAS, the Village Administration encourages and facilitates the development and acquisition of real and personal property with the Village of Mount Sterling, and;

WHEREAS, the Village of Mount Sterling designated the purposed area of development as an "Enterprise Zone," pursuant to O.R.C. §5709, by Ordinance No. 1994-28 adopted on September 13, 1994, and;

WHEREAS, the Council of the Village of Mount Sterling appreciates the work of the Madison County Improvement Corporation and the Board of Commissioners of Madison County to create and preserve jobs in the Village of Mount Sterling, and;

WHEREAS, the Council of the Village of Mount Sterling would recognize the efforts of the State of Ohio, Department of Development in supporting the expansion of jobs within the Village of Mount Sterling, and;

WHEREAS, the Council of the Village of Mount Sterling would like to thank Jerry Alcott, President of Mount Sterling Holdings LLC, for the expansion of the its facilities in the Village of Mount Sterling, and;

WHEREAS, a special thanks is due Keihin Thermal Technology for its continued belief in the workers of the Village of Mount Sterling. Further, the Council of the Village of Mount Sterling wants to acknowledge cooperative relationship that has developed over the past twenty five (25) years. It is the desire of this Council to express to Keihin Thermal Technology, its continued support and encouragement into the future.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF MOUNT STERLING, STATE OF OHIO

SECTION I.

Charles Neff, Mayor or his designee, is authorized to assist the Board of Commissions for Madison County, Mount Sterling Holdings and the Ohio Department of Development in adopting the Ohio Enterprise Agreement. See Attached.

SECTION II.

Charles Neff, Mayor or his designee, is authorized to negotiate an agreement for the sharing of income tax revenue that results from increased employment in the Enterprise Zone pursuant to O.R.C. § 5709.82¹ Compensation for school district or taxing unit for revenue foregone as result of tax exemptions

SECTION III.

Charles Neff, Mayor or his designee, is directed to participate in the Tax Incentive Review Committee pursuant to dictates contained in O.R.C. §5709.85².

SECTION IV.

On the basis of the determinations, on or before the first day of September of each year, the Tax Incentive Review Council shall submit to the legislative authority written recommendations for continuation, modification, or cancellation of each agreement. Charles Neff, Mayor or his designee, shall cause a Resolution or Ordinance to be brought to the Council of the Village of Mount approving or denying the determination of the Tax Incentive Review Council. As a part of the Tax Incentive Review Council’s determination and recommendation, the Mayor or his designee, shall provide Council with appropriate amount of income tax revenue that resulted from the new employees within the Enterprise Zone pursuant to O.R.C. § 5709.82. The Mayor or his designee shall include in the following annual budget the necessary appropriation to meet the obligation to the school district. The Fiscal Officer shall report to Council of the date of payment.

SECTION V.

That the Clerk of Council, pursuant to O.R.C, §731.24, shall cause to be published in a manner required by law, this Ordinance.

SECTION VI.

This Ordinance is hereby declared to be an emergency measure, the immediate passage of which is necessary for the public health, safety and welfare and for the further reason that said Enterprise Zone Agreement must be signed by the respective parties and presented to the Ohio Department of Development prior to the start of any construction; wherefore, this Ordinance shall take effect and be in force immediately upon its passage and effective date of certification issued by the Ohio Board of Building Standards.

PASSED:

ATTEST:

Clerk of Council

Mayor Neff

Submitted to Mayor:

APPROVED:

Date of Approval:

Mark J. Pitstick, Law Director
Approved as to Form

I, _____, the Clerk of Council, hereby certifies that Ordinance 2014-02 was published in _____ Newspaper for once a week for two consecutive weeks beginning on the _____ day of _____, 20__ and ending on the ____ day of _____, 20___. See Attached Sworn Affidavit of Posting by the Newspaper. Further, I certify that a complete copy of the Ordinance was posted in the lobby of Village Hall.

Clerk of Council

¹ 5709.82 Compensation for school district or taxing unit for revenue foregone as result of tax

exemptions

(A) As used in this section:

(1) “New employee” means both of the following:

(a) Persons employed in the construction of real property exempted from taxation under the chapters or sections of the Revised Code enumerated in division (B) of this section;

(b) Persons not described by division (A)(1)(a) of this section who are first employed at the site of such property and who within the two previous years have not been subject, prior to being employed at that site, to income taxation by the municipal corporation within whose territory the site is located on income derived from employment for the person's current employer. “New employee” does not include any person who replaces a person who is not a new employee under division (A)(1) of this section.

(2) “Infrastructure costs” means costs incurred by a municipal corporation in a calendar year to acquire, construct, reconstruct, improve, plan, or equip real or tangible personal property that directly benefits or will directly benefit the exempted property. If the municipal corporation finances the acquisition, construction, reconstruction, improvement, planning, or equipping of real or tangible personal property that directly benefits the exempted property by issuing debt, “infrastructure costs” means the annual debt charges incurred by the municipal corporation from the issuance of such debt. Real or tangible personal property directly benefits exempted property only if the exempted property places or will place direct, additional demand on the real or tangible personal property for which such costs were or will be incurred.

(3) “Taxing unit” has the same meaning as in [division \(H\) of section 5705.01 of the Revised Code](#).

(B)(1) Except as otherwise provided under division (C) of this section, the legislative authority of any political subdivision that has acted under the authority of Chapter 725. or 1728., [sections 3735.65 to 3735.70](#), or [section 5709.40, 5709.41, 5709.62, 5709.63, 5709.632, 5709.73, 5709.78, 5709.84, or 5709.88 of the Revised Code](#) to grant an exemption from taxation for real or tangible personal property may negotiate with the board of education of each city, local, exempted village, or joint vocational school district or other taxing unit within the territory of which the exempted property is located, and enter into an agreement whereby the school district or taxing unit is compensated for tax revenue foregone by the school district or taxing unit as a result of the exemption. Except as otherwise provided in division (B)(1) of this section, if a political subdivision enters into more than one agreement under this section with respect to a tax exemption, the political subdivision shall provide to each school district or taxing unit with which it contracts the same percentage of tax revenue foregone by the school district or taxing unit, which may be based on a good faith projection made at the time the exemption is granted. Such percentage shall be calculated on the basis of amounts paid by the political subdivision and any amounts paid by an owner under division (B)(2) of this section. A political subdivision may provide a school district or other taxing unit with a smaller percentage of foregone tax revenue than that provided to other school districts or taxing units only if the school district or taxing unit expressly consents in the agreement to receiving a smaller percentage. If a subdivision has acted under the authority of [section 5709.40, 5709.41, 5709.73, or 5709.78 of the Revised Code](#) and enters into a compensation agreement with a city, local, or exempted village school district, the subdivision shall provide compensation to the joint vocational school district within the territory of which the exempted property is located at the same rate and under the same terms as received by the city, local, or exempted village school district.

(2) An owner of property exempted from taxation under the authority described in division (B)(1) of this section may, by becoming a party to an agreement described in division (B)(1) of this section or by entering into a separate agreement with a school district or other taxing unit, agree to compensate the school district or taxing unit by paying cash or by providing property or services by gift, loan, or otherwise. If the owner's property is exempted under the authority of [section 5709.40, 5709.41, 5709.73, or 5709.78 of the Revised Code](#) and the owner enters into a compensation agreement with a city, local, or exempted village school district, the owner shall provide compensation to the joint vocational school district within the territory of which the owner's property is located at the same rate and under the same terms as received by the city, local, or exempted village school district.

(C) This division does not apply to the following:

(1) The legislative authority of a municipal corporation that has acted under the authority of [division \(H\) of section 715.70](#) or [section 715.81 of the Revised Code](#) to consent to the granting of an exemption from taxation for real or tangible personal property in a joint economic development district.

(2) The legislative authority of a municipal corporation that has specified in an ordinance adopted under [section 5709.40](#) or [5709.41 of the Revised Code](#) that payments in lieu of taxes provided for under [section 5709.42 of the Revised Code](#) shall be paid to the city, local, or exempted village school district in which the improvements are located in the amount of taxes that would have been payable to the school district if the improvements had not been exempted from taxation, as directed in the ordinance.

If the legislative authority of any municipal corporation has acted under the authority of Chapter 725. or 1728. or [section 3735.671, 5709.40, 5709.41, 5709.62, 5709.63, 5709.632, or 5709.88](#), or a housing officer under [section 3735.67 of the Revised Code](#), to grant or consent to the granting of an exemption from taxation for real or tangible personal property on or after July 1, 1994, the municipal corporation imposes a tax on incomes, and the payroll of new employees resulting from the exercise of that authority equals or exceeds one million dollars in any tax year for which such property is exempted, the legislative authority and the board of education of each city, local, or exempted village school district within the territory of which the exempted property is located shall attempt to negotiate an agreement providing for compensation to the school district for all or a portion of the tax revenue the school district would have received had the property not been exempted from taxation. The agreement may include as a party the owner of the property exempted or to be exempted from taxation and may include provisions obligating the owner to compensate the school district by paying cash or providing property or services by gift, loan, or otherwise. Such an obligation is enforceable by the board of education of the school district pursuant to the terms of the agreement.

If the legislative authority and board of education fail to negotiate an agreement that is mutually acceptable within six months of formal approval by the legislative authority of the instrument granting the exemption, the legislative authority shall compensate the school district in the amount and manner prescribed by division (D) of this section.

(D) Annually, the legislative authority of a municipal corporation subject to this division shall pay to the city, local, or exempted village school district within the territory of which the exempted property is located an amount equal to fifty per cent of the difference between the amount of taxes levied and collected by the municipal corporation on the incomes of new employees in the calendar year ending on the day the payment is required to be made, and the amount of any infrastructure costs incurred in that calendar year. For purposes of such computation, the amount of infrastructure costs shall not exceed thirty-five per cent of the amount of those taxes unless the board of education of the school district, by resolution adopted by a majority of the board, approves an amount in excess of that percentage. If the amount of those taxes or infrastructure costs must be estimated at the time the payment is made, payments in subsequent years shall be adjusted to compensate for any departure of those estimates from the actual amount of those taxes.

A municipal corporation required to make a payment under this section shall make the payment from its general fund or a special fund established for the purpose. The payment is payable on the thirty-first day of December of the tax year for or in which the exemption from taxation commences and on that day for each subsequent tax year property is exempted and the legislative authority and board fail to negotiate an acceptable agreement under division (C) of this section.

CREDIT(S)

[\(2011 H 153, eff. 9-29-11; 2003 S 82, eff. 2-12-04; 2002 H 524, eff. 6-28-02; 1998 H 434, eff. 3-22-99; 1996 H 627, eff. 12-2-96; 1995 H 269, eff. 11-15-95; 1994 S 221, eff. 9-28-94; 1994 S 19, eff. 7-22-94; 1992 S 363, eff. 1-13-93; 1990 H 103\)](#)

UNCODIFIED LAW

1994 S 19, § 3, eff. 7-22-94, reads:

(A) Except as otherwise provided in division (B) of this section, the amendments made by this act to sections 3735.67 and 3735.68 and the enactment of [sections 3735.671, 3735.672, and 3735.673 of the Revised Code](#) apply only to community reinvestment areas described in resolutions adopted under [section 3735.66 of the Revised Code](#) on or after July 1, 1994, and to applications for exemption from taxation under [section 3735.67 of the Revised Code](#) for property within community reinvestment areas described in such resolutions and filed with housing officers on or after that date.

(B) The amendments or enactments by this act of [sections 3735.67, 3735.671, 3735.672, 3735.673, and 3735.68 of the Revised Code](#) do not apply, and those sections in effect prior to those amendments do apply, to any exemption to be granted based upon or pursuant to any resolution or ordinance enacted under [section 3735.66 of the Revised Code](#) prior to the effective date of those amendments or enactments. In addition, those amendments and enactments do not apply, and those sections as in effect prior to those amendments do apply, to the first two amendments to such ordinance or resolution, including amendments of such resolution or ordinance made after the effective date of the amendments or enactments to those sections by this act, which grant an extension of the date after which the granting of tax exemptions may be terminated pursuant to the provisions of such resolution or ordinance, provided each such extension does not exceed five years and provided further that the applicable housing officer determines in writing, which determination shall be conclusive, that good faith efforts and material progress have been made toward the investments, including but not limited to existing or new buildings, machinery, equipment, furniture, and fixtures, of a nature contemplated in connection with the adoption of any such resolution or ordinance being amended.

(C) For the purposes of section 5709.82 of the Revised Code as amended by this act, “new employee” does not include either of the following:

(1) Persons otherwise described in divisions (A)(1)(a) and (b) of that section if structures exempted or to be exempted from taxation under [section 3735.67](#) or [3735.671 of the Revised Code](#) as amended or enacted by this act has been or will be so exempted pursuant to a resolution or ordinance adopted by the legislative authority of a municipal corporation under [section 3735.66 of the Revised Code](#) prior to the day this act becomes law pursuant to [Article II, Section 16, of the Ohio Constitution](#), and those structures are part of a project that has been identified specifically in connection with an ordinance or resolution adopted by the legislative authority prior to that day.

(2) Persons otherwise described in divisions (A)(1)(a) and (b) of that section if the community reinvestment area in which are situated the structures exempted or to be exempted from taxation under [section 3735.67](#) or [3735.671 of the Revised Code](#) as amended or enacted by this act is described in an ordinance or resolution adopted by the legislative authority of a municipal corporation under [section 3735.66 of the Revised Code](#) prior to the effective date of this act, the structures so exempted or to be so exempted are part of a project that has been identified specifically in connection with an ordinance or resolution adopted prior to that date, and construction of such structures is completed prior to July 1, 1998.

² **5709.85 Tax incentive review council**

(A) The legislative authority of a county, township, or municipal corporation that grants an exemption from taxation under Chapter 725. or 1728. or under section 3735.67, 5709.28, 5709.40, 5709.41, 5709.62, 5709.63, [5709.632](#), [5709.73](#), or [5709.78 of the Revised Code](#) shall create a tax incentive review council. The council shall consist of the following members:

(1) In the case of a municipal corporation eligible to designate a zone under [section 5709.62 of the Revised Code](#), the chief executive officer or that officer's designee; a member of the legislative authority of the municipal corporation, appointed by the president of the legislative authority or, if the chief executive officer of the municipal corporation is the president, appointed by the president pro tempore of the legislative authority; the county auditor or the county auditor's designee; the chief financial officer of the municipal corporation or that officer's designee; an individual appointed by the board of education of each city, local, exempted village, and joint vocational school district to which the instrument granting the exemption applies; and two members of the public appointed by the

chief executive officer of the municipal corporation with the concurrence of the legislative authority. At least four members of the council shall be residents of the municipal corporation, and at least one of the two public members appointed by the chief executive officer shall be a minority. As used in division (A)(1) of this section, a “minority” is an individual who is African-American, Hispanic, or Native American.

(2) In the case of a county or a municipal corporation that is not eligible to designate a zone under [section 5709.62](#) or [5709.632 of the Revised Code](#), three members appointed by the board of county commissioners; two members from each municipal corporation to which the instrument granting the tax exemption applies, appointed by the chief executive officer with the concurrence of the legislative authority of the respective municipal corporations; two members of each township to which the instrument granting the tax exemption applies, appointed by the board of township trustees of the respective townships; the county auditor or the county auditor's designee; and an individual appointed by the board of education of each city, local, exempted village, and joint vocational school district to which the instrument granting the tax exemption applies. At least two members of the council shall be residents of the municipal corporations or townships to which the instrument granting the tax exemption applies.

(3) In the case of a township in which improvements are declared a public purpose under [section 5709.73 of the Revised Code](#), the board of township trustees; the county auditor or the county auditor's designee; and an individual appointed by the board of education of each city, local, exempted village, and joint vocational school district to which the instrument granting the exemption applies.

(B) The county auditor or the county auditor's designee shall serve as the chairperson of the council. The council shall meet at the call of the chairperson. At the first meeting of the council, the council shall select a vice-chairperson. Attendance by a majority of the members of the council constitutes a quorum to conduct the business of the council.

(C)(1) Annually, the tax incentive review council shall review all agreements granting exemptions from property taxation under Chapter 725. or 1728. or under [section 3735.671](#), [5709.28](#), [5709.62](#), [5709.63](#), or [5709.632 of the Revised Code](#), and any performance or audit reports required to be submitted pursuant to those agreements. The review shall include agreements granting such exemptions that were entered into prior to July 22, 1994, that continue to be in force and applicable to the current year's property taxes.

With respect to each agreement, other than an agreement entered into under [section 5709.28 of the Revised Code](#), the council shall determine whether the owner of the exempted property has complied with the agreement, and may take into consideration any fluctuations in the business cycle unique to the owner's business.

With respect to an agreement entered into under [section 5709.28 of the Revised Code](#), the council shall consist of the members described in division (A)(2) of this section and shall determine whether the agreement complies with the requirements of [section 5709.28 of the Revised Code](#) and whether a withdrawal, removal, or conversion of land from an agricultural security area established under Chapter 931. of the Revised Code has occurred in a manner that makes the exempted property no longer eligible for the exemption.

On the basis of the determinations, on or before the first day of September of each year, the council shall submit to the legislative authority written recommendations for continuation, modification, or cancellation of each agreement.

(2) Annually, the tax incentive review council shall review all exemptions from property taxation resulting from the declaration of public purpose improvements pursuant to [section 5709.40](#), [5709.41](#), [5709.73](#), or [5709.78 of the Revised Code](#). The review shall include such exemptions that were granted prior to July 22, 1994, that continue to be in force and applicable to the current year's property taxes. With respect to each improvement for which an exemption is granted, the council shall determine the increase in the true value of parcels of real property on which improvements have been undertaken as a result of the exemption; the value of improvements exempted from taxation as a result of the exemption; and the number of new employees or employees retained on the site of the improvement as a result of the exemption.

Upon the request of a tax incentive review council, the county auditor, the housing officer appointed pursuant to [section 3735.66 of the Revised Code](#), the owner of a new or remodeled structure or improvement, and the

legislative authority of the county, township, or municipal corporation granting the exemption shall supply the council with any information reasonably necessary for the council to make the determinations required under division (C) of this section, including returns or reports filed pursuant to [sections 5711.02, 5711.13, and 5727.08 of the Revised Code](#).

(D) Annually, the tax incentive review council shall review the compliance of each recipient of a tax exemption under Chapter 725. or 1728. or [section 3735.67, 5709.40, 5709.41, 5709.62, 5709.63, 5709.632, 5709.73, or 5709.78 of the Revised Code](#) with the nondiscriminatory hiring policies developed by the county, township, or municipal corporation under [section 5709.832 of the Revised Code](#). Upon the request of the council, the recipient shall provide the council any information necessary to perform its review. On the basis of its review, the council may submit to the legislative authority written recommendations for enhancing compliance with the nondiscriminatory hiring policies.

(E) A legislative authority that receives from a tax incentive review council written recommendations under division (C)(1) or (D) of this section shall, within sixty days after receipt, hold a meeting and vote to accept, reject, or modify all or any portion of the recommendations.

(F) A tax incentive review council may request from the recipient of a tax exemption under Chapter 725. or 1728. or [section 3735.67, 5709.28, 5709.40, 5709.41, 5709.62, 5709.63, 5709.632, 5709.73, or 5709.78 of the Revised Code](#) any information reasonably necessary for the council to perform its review under this section. The request shall be in writing and shall be sent to the recipient by certified mail. Within ten days after receipt of the request, the recipient shall provide to the council the information requested.