

ORDINANCE NO. 54-15

AN ORDINANCE AMENDING ORDINANCE NO. 99-14, AUTHORIZING THE ISSUANCE AND SALE OF MUNICIPAL INCOME TAX OR REVENUE NOTES IN ANTICIPATION OF THE ISSUANCE OF BONDS OF THE CITY OF AVON, OHIO, IN A PRINCIPAL AMOUNT NOT TO EXCEED \$3,000,000 FOR THE PURPOSE OF MAKING VARIOUS IMPROVEMENTS TO THE CITY'S WATER SYSTEM AND DECLARING AN EMERGENCY.

WHEREAS, the council of the City of Avon, Ohio (the "Council") has enacted Ordinance No. 99-14, authorizing the issuance and sale of municipal income tax or revenue notes in anticipation of the issuance of bonds, in a principal amount not to exceed \$3,000,000 (the "Notes") for the purpose of making various improvements to the City of Avon's (the "City") water system, and declaring an emergency; and

WHEREAS, the Council wishes to amend Ordinance 99-14 to designate the Notes as Series 2015 Notes.

NOW THEREFORE, BE IT ORDAINED by the council of the city of Avon, Ohio that:

Section 1 – Section 4 of Ordinance No 99-14 of the City which reads:

Section 2 – Pursuant to Section 133.30(B) of the Ohio Revised Code, the Notes shall be issued in one or more separate issues of taxable or tax-exempt notes, and shall be designated either "Taxable Water System Improvement Bond Anticipation Notes, Series 2015A" or "Tax-Exempt Water System Improvement Bond Anticipation Notes, Series 2015A" with appropriate subseries designations as necessary, and shall further identify the security for the Notes as determined by the Director of Finance in the Certificate of Award. The Notes shall state the purpose for which they are issued and that they are issued pursuant to this ordinance; shall be issued in such numbers and denominations as may be requested by the original purchaser; and shall be executed by the Mayor and the Director of Finance of the City, provided that one of such signatures may be a facsimile signature.

The Notes, pursuant to the terms set forth below, may also be issued to a Depository (as hereinafter defined) for use in a book-entry system (as hereinafter defined). The Director of Finance is hereby authorized and directed, to the extent necessary or required, to enter into any agreements determined necessary in connection with the authentication, immobilization, and transfer of Notes, including arrangements for the payment of principal and interest by wire transfer, after determining that the execution thereof will not endanger the funds or securities of the City, which determination shall be conclusively evidenced by the signing of any such agreement.

If and as long as a book-entry system is utilized, (i) the Notes shall be issued in the form of one note in the name of the Depository or its nominee, as owner, and immobilized in the custody of the Depository; (ii) the beneficial owners in book-entry form shall have no right to receive Notes in the form of physical securities or certificates; (iii) ownership of beneficial

interests in book-entry form shall be shown by a book entry on the system maintained and operated by the Depository and its Participants (as hereinafter defined), and transfers of the ownership of beneficial interests shall be made only by book entry by the Depository and its Participants; and (iv) the Notes as such shall not be transferable or exchangeable, except for transfer to another Depository or to another nominee of a Depository, without further action by the Council of the City.

If any Depository determines not to continue to act as a Depository for the Notes for use in a book-entry system, the Director of Finance may attempt to have established a securities depository/book-entry relationship with another qualified Depository. If the Director of Finance does not or is unable to do so, the Director of Finance, after making provision for notification of the beneficial owners by the then Depository and any other arrangements he deems necessary, shall permit withdrawal of the Notes from the Depository, and authenticate and deliver note certificates in bearer or registered form, as he determines, to the assigns of the Depository or its nominee, all at the cost and expense (including any costs of printing), if the event is not the result of Council action or inaction, of those persons requesting such issuance.

As used in this Section and this Ordinance:

“Book-entry form” or “book-entry system” means a form or system under which (i) the beneficial right to principal and interest may be transferred only through a book entry and (ii) physical notes are issued only to a Depository or its nominee as owner, with the Notes “immobilized” to the custody of the Depository, and the book entry is the record that identifies the owners of beneficial interests in that principal and interest.

“Depository” means any securities depository that is a clearing agency under federal law operating and maintaining a book-entry system to record beneficial ownership of the right to principal and interest, and to effect transfers of Notes, in book-entry form, and includes and means initially The Depository Trust Company (a limited purpose trust company), New York, New York.

“Participant” means any participant contracting with a Depository under a book-entry system and includes security brokers and dealers, banks and trust companies, and clearing corporations.

“Taxable Notes” means one or more series of Taxable Water System Improvement Bond Anticipation Notes, Series 2014A.

“Tax-Exempt Notes” means the Tax-Exempt Water System Improvement Bond Anticipation Notes, Series 2014A.

is hereby amended to read as follows:

Section 3 – Pursuant to Section 133.30(B) of the Ohio Revised Code, the Notes shall be issued in one or more separate issues of taxable or tax-exempt notes, and shall be designated either “Taxable Water System Improvement Bond Anticipation Notes, Series 2015-2” or “Tax-

Exempt Water System Improvement Bond Anticipation Notes, Series 2015-2” with appropriate subseries designations as necessary, and shall further identify the security for the Notes as determined by the Director of Finance in the Certificate of Award. The Notes shall state the purpose for which they are issued and that they are issued pursuant to this ordinance; shall be issued in such numbers and denominations as may be requested by the original purchaser; and shall be executed by the Mayor and the Director of Finance of the City, provided that one of such signatures may be a facsimile signature.

The Notes, pursuant to the terms set forth below, may also be issued to a Depository (as hereinafter defined) for use in a book-entry system (as hereinafter defined). The Director of Finance is hereby authorized and directed, to the extent necessary or required, to enter into any agreements determined necessary in connection with the authentication, immobilization, and transfer of Notes, including arrangements for the payment of principal and interest by wire transfer, after determining that the execution thereof will not endanger the funds or securities of the City, which determination shall be conclusively evidenced by the signing of any such agreement.

If and as long as a book-entry system is utilized, (i) the Notes shall be issued in the form of one note in the name of the Depository or its nominee, as owner, and immobilized in the custody of the Depository; (ii) the beneficial owners in book-entry form shall have no right to receive Notes in the form of physical securities or certificates; (iii) ownership of beneficial interests in book-entry form shall be shown by a book entry on the system maintained and operated by the Depository and its Participants (as hereinafter defined), and transfers of the ownership of beneficial interests shall be made only by book entry by the Depository and its Participants; and (iv) the Notes as such shall not be transferable or exchangeable, except for transfer to another Depository or to another nominee of a Depository, without further action by the Council of the City.

If any Depository determines not to continue to act as a Depository for the Notes for use in a book-entry system, the Director of Finance may attempt to have established a securities depository/book-entry relationship with another qualified Depository. If the Director of Finance does not or is unable to do so, the Director of Finance, after making provision for notification of the beneficial owners by the then Depository and any other arrangements he deems necessary, shall permit withdrawal of the Notes from the Depository, and authenticate and deliver note certificates in bearer or registered form, as he determines, to the assigns of the Depository or its nominee, all at the cost and expense (including any costs of printing), if the event is not the result of Council action or inaction, of those persons requesting such issuance.

As used in this Section and this Ordinance:

“Book-entry form” or “book-entry system” means a form or system under which (i) the beneficial right to principal and interest may be transferred only through a book entry and (ii) physical notes are issued only to a Depository or its nominee as owner, with the Notes “immobilized” to the custody of the Depository, and the book entry is the record that identifies the owners of beneficial interests in that principal and interest.

“Depository” means any securities depository that is a clearing agency under federal law operating and maintaining a book-entry system to record beneficial ownership of the right to principal and interest, and to effect transfers of Notes, in book-entry form, and includes and means initially The Depository Trust Company (a limited purpose trust company), New York, New York.

“Participant” means any participant contracting with a Depository under a book-entry system and includes security brokers and dealers, banks and trust companies, and clearing corporations.

“Taxable Notes” means one or more series of Taxable Water System Improvement Bond Anticipation Notes, Series 2015-2.

“Tax-Exempt Notes” means the Tax-Exempt Water System Improvement Bond Anticipation Notes, Series 2015-2.

Section 4 – The remaining sections of Ordinance No. 99-14 shall remain in full force and effect.

Section 5 – It is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all such deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including the City’s Charter, Codified Ordinances and any applicable provisions of Section 121.22 of the Ohio Revised Code.

[remainder of page intentionally left blank]

Section 6 – This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare of the City and for the further reason that the immediate issuance and sale of the Notes herein authorized is necessary to enable the City to commence construction of the water system improvements and thereby provide safe and sanitary water to the residents of the City; therefore, this Ordinance shall be in full force and effect immediately upon passage of Council by the required three-fourths majority and approval by the Mayor.

PASSED: _____ DATE SIGNED: _____

By: _____
Craig Witherspoon, Council President

DATE APPROVED BY THE MAYOR: _____

Bryan K. Jensen, Mayor

APPROVED AS TO FORM:

John A. Gasior, Law Director

ATTEST:

Ellen R. Young
Clerk of Council

Posted: _____
In Five Places as
Provided by Council

Prepared By:
John A. Gasior, Esq.
Law Director