VILLAGE OF HAMERSVILLE, OHIO

ORDINANCE NO. 2001-16

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF NOT TO EXCEED $1,020,000 OF SEWER SYSTEM MORTGAGE REVENUE AND IMPROVEMENT REFUNDING BONDS, SERIES 2001 OF THE VILLAGE OF HAMERSVILLE, COUNTY OF BROWN, STATE OF OHIO, UNDER SECTION 12 OF ARTICLE XVIII OF THE OHIO CONSTITUTION FOR THE PURPOSE OF MAKING IMPROVEMENTS TO THE SEWER SYSTEM AND REFINANCING SEWER SYSTEM TEMPORARY MORTGAGE REVENUE BONDS ORIGINALLY ISSUED FOR THE PURPOSE OF PAYING THE COST OF ACQUIRING, CONSTRUCTING AND INSTALLING A MUNICIPAL SEWER SYSTEM; AUTHORIZING A MORTGAGE OF SAID SYSTEM WITH A PLEDGE OF THE REVENUES THEREOF; PROVIDING A FRANCHISE TO BE EFFECTIVE IN THE EVENT OF FORECLOSURE OF SAID MORTGAGE; AND DECLARING AN EMERGENCY.

WHEREAS, the Village has determined that it is necessary to acquire, construct, install and improve a municipally owned sewer system (the "System"); and

WHEREAS, the Village has issued its $1,180,000 Sewer System Temporary Mortgage Revenue Bonds, Series 1997 (the "Series 1997 Bonds") to acquire, construct and install the System; and

WHEREAS, the Village refinanced the Series 1997 Bonds by the issuance of $1,180,000 of its Sewer System Temporary Mortgage Revenue Bonds, Series 1998 (the "Series 1998 Bonds"); and

WHEREAS, the Village refinanced the Series 1998 Bonds by the issuance of $950,000 of its Sewer System Temporary Mortgage Revenue Bonds, Series 1999 (the "Series 1999 Bonds"); and

WHEREAS, the Village refinanced the Series 1999 Bonds by the issuance of $950,000 of its Sewer System Temporary Mortgage Revenue Bonds, Series 2000 (the "Series 2000 Bonds"); and

WHEREAS, the Village refinanced the Series 2000 Bonds by the issuance of $900,000 of its Sewer System Temporary Mortgage Revenue Bonds, Series 2000B (the "Series 2000B Bonds"); and

WHEREAS, the Series 2000B Bonds are about to mature and should be refinanced in a reduced principal amount; and

WHEREAS, the Village has determined it necessary to further improve the municipally owned sewer system; and

WHEREAS, the Village deems it necessary to issue and sell the bonds herein authorized in accordance with the terms and conditions set forth herein;

NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of Hamersville, State of Ohio:

SECTION 1. **Definitions.** When used in this ordinance:

"Additional Bonds" means the bonds issued for the purposes and under the terms and conditions set forth in this Bond Ordinance and the Indenture.

"Bonds" or "Series 2001 Bonds" means the Sewer System Mortgage Revenue Improvement and Refunding Bonds, Series 2001 authorized by this ordinance.

"Bond Account" means the account established in connection with the issuance of the Series 1997 Bonds.

"Bond Purchase Agreement" means the Contract of Purchase with respect to the Series 2001 Bonds, which such Contract of Purchase shall be executed by the Mayor and Clerk-Treasurer of the Village on the date of sale of the Series 2001 Bonds by the Village to the Original Purchaser.

"Debt Service Reserve Account" means the Debt Service Reserve Account established in Section 6 hereof.

"Eligible Investments" means the investments defined in Section 8 hereof.

"Engineer" means Environmental Engineering Services, Lebanon, Ohio, or any professional engineer experienced in the construction of municipal sewer systems appointed to act as Engineer for purposes of this Ordinance and the Indenture.

"Government Obligations" means direct obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by, the United States of America.

"Indenture" means the Indenture of Mortgage dated as of November 15, 2001 by and between the Village and the Trustee, securing the Bonds, as the same may be amended as provided therein.

"Net Income Available for Debt Service" means the Revenues of the System, excluding gains or losses from disposition of assets, judgments received, and gains or losses from the early extinguishment of debt, but including interest earned in or on all funds and accounts established pursuant to the Indenture, minus Operating and Maintenance Expenses.

"1997 Project" means the acquisition, construction and installation of sanitary sewer collection system and force main and related improvements to the System.

"Operating and Maintenance Expenses" means the ordinary expenses of operating the System in accordance with generally accepted accounting principles consistently applied, but excluding expenses of any other utility operated by the Village, whether or not such utility shall be operated as a single unit with the System and further excluding depreciation, amortization and capital improvements and replacements.

"Operating Fund" means the fund by that name described in Section 7 hereof.

"Original Purchaser" means, as to the Series 2001 Bonds, Ross, Sinclaire & Associates, Inc., Cincinnati, Ohio, and as to the Additional Bonds, the person or persons identified in the legislation providing for the issuance and sale of such Bonds.

"Prior Engineer" means Brandstetter Carroll, Inc., Cincinnati, Ohio.

"Project" means the 1997 Project and the 2001 Project.

"Project Account" means the account by that name created in connection with the issuance of the Series 1997 Bonds.

"Replacement and Improvement Fund" means the fund by that name established in Section 7 hereof.

"Required Debt Service Reserve Balance" means, as to the Series 2001 Bonds, $95,000, which equals the maximum principal and interest requirements on the Series 2001 Bonds for any year. Upon the issuance of any Additional Bonds, the interest on which is excludible from gross income for purposes of federal income taxation, the Bond Reserve Requirement shall mean the lesser of the maximum principal and interest requirements on all outstanding Bonds for any year or one hundred and twenty-five percent (125%) of the average annual principal and interest requirements on all outstanding Bonds; provided that the Bond Reserve Requirement, as adjusted, shall be less than ten percent (10%) of the face amount of all outstanding Bonds the interest on which is excludible from gross income for purposes of federal income taxation.

"Revenues" means the revenues and other moneys defined in Section 2 hereof.

"Series 1997 Bonds" means the Sewer System Mortgage Temporary Revenue Bonds, Series 1997, authorized by Ordinance No. 1997-19 passed on October 9, 1997.

"Series 1998 Bonds" means the Sewer System Temporary Mortgage Revenue Bonds, Series 1998, authorized by Ordinance No. 1998-12 passed on September 28,1998.

"Series 1999 Bonds" means the Sewer System Temporary Mortgage Revenue Refunding Bonds, Series 1999, authorized by Ordinance No. 1999-7 passed on September 13, 2000.

"Series 2000 Bonds" means the Sewer System Temporary Mortgage Revenue Refunding Bonds, Series 2000, authorized by Ordinance No. 2000-02 passed on May 24, 2000.

"Series 2000B Bonds" means the Sewer System Temporary Mortgage Revenue Refunding Bonds, Series 2000B, authorized by Ordinance No. 2000-7 passed on November 15, 2000.

"Series 2001 Bonds" means the Sewer System Mortgage Revenue Improvement and Refunding Bonds, Series 2001, authorized by this ordinance.

"Surplus Fund" means the fund by that name established in Section 7 hereof.

"System" means the sewer system (including all extensions, improvements, replacements and alterations at any time made in respect thereto), of the Village of Hamersville, County of Brown, Ohio.

"2001 Project" means the construction of improvements to the System.

"Trustee" means Fifth Third Bank, Cincinnati, Ohio, or any bank or trust company that is appointed successor trustee under the terms of the mortgage as referred to in Section 12 hereof.

"Village" means the Village of Hamersville, County of Brown, Ohio, sometimes also referred to as the "Mortgagor."

SECTION 2. That it is necessary in order to protect the health, safety and welfare of its inhabitants to issue and sell not to exceed $1,020,000 of sewer system mortgage revenue improvement and refunding bonds of the Village issued for the purposes of (i) refinancing the Series 2000B Bonds which were issued to refinance the Series 2000 Bonds which were issued to refinance the Series 1999 Bonds which were issued to refinance the Series 1998 Bonds which were issued to refinance the Series 1997 Bonds which were issued for the purpose of acquiring, constructing and installing a municipal sewer system, capitalizing interest on the Series 1997 Bonds and paying costs related to the issuance of the Series 1997 Bonds, secured by a mortgage and a first lien on and payable from (a) the proceeds of the Permanent Bonds and (b) the gross revenues of the System, and all extensions, improvements, replacements and alterations at any time made in respect thereto, specifically including, but not limited to, moneys received from the benefited property owners from the levy and collection of special assessments after provision only for the reasonable operating and maintenance expenses thereof (said proceeds of Permanent Bonds and the revenues of the System are herein sometimes called the "Revenues"), including a franchise stating the terms upon which, in case of foreclosure, the purchaser may operate the System, by the covenant of the Village to maintain certain rates and collect certain charges for the facilities and services afforded by the System; provided, however, that nothing in this ordinance shall be construed as pledging the general credit of the Village to the payment of said Series 2001 Bonds or any part thereof, or the interest thereon; (ii) paying the cost of constructing improvements to the System; and (iii) paying the costs of issuance of the Series 2001 Bonds, under the authority of the provisions of the Ohio Revised Code and the Uniform Public Securities Law thereof, including the cost of printing the bonds, expense of delivery of the bonds, service charges of the paying agent and registrar, legal services and obtaining an approving legal opinion and all necessary costs in connection therewith.

SECTION 3. That bonds (hereinafter sometimes called the "Series 2001 Bonds") of the Village be issued in the principal sum of not to exceed $1,020,000, for the purposes aforesaid. The Series 2001 Bonds shall be dated November 15, 2001. The Series 2001 Bonds shall be issued only in denominations of $5,000 or any integral multiple of $5,000. Interest on the Series 2001 Bonds shall be calculated on an actual days elapsed, 360-day year basis. Interest on the Series 2001 Bonds shall be calculated on an actual days elapsed, 360-day year basis. Interest on the Series 2001 Bonds shall be payable semiannually, on each June 1 and December 1, commencing June 1, 2002, until maturity. The Series 2001 Bonds shall mature or be subject to mandatory sinking fund redemption on the first day of December in the years and in the respective principal amounts, and shall bear interest as set forth in the Bond Purchase Agreement. The Series 2001 Bonds shall initially be numbered from R-1 upwards; provided, however that in the event of the exchange or transfer of any Series 2001 Bonds, any new Series 2001 Bonds issued by the Trustee as a result of such exchange or transfer shall be numbered in a manner which will assure that such new Series 2001 Bonds retain the same terms with respect to optional and mandatory sinking fund redemption as were possessed by the exchanged or transferred Series 2001 Bonds.

The Series 2001 Bonds are callable either in whole or in part on any date, in such order of maturity as determined by the Village, at the option of the Village (in the amount of $5,000 or any integral multiple thereof), at the redemption prices as set forth in the Bond Purchase Agreement, plus accrued interest to the date of redemption.

Notice of the call for redemption of the Series 2001 Bonds, specifying the numbers of the Series 2001 Bonds to be redeemed, shall be sent by the Trustee by first-class mail to the registered holders thereof, not less than thirty (30) days nor more than sixty (60) days prior to the date of redemption, upon which date all interest upon the Series 2001 Bonds or portions thereof so called shall cease except those as to which default shall be made, upon presentation, in the payment of the redemption price. Prior to any notice of call for redemption, funds for such redemption shall be on deposit with the Trustee and the Village shall direct the Trustee in writing to make any notice of call for redemption.

If less than all of the Series 2001 Bonds shall be called for redemption at the option of the Village, those Series 2001 Bonds to be called shall be determined by the Village; provided, however, that the portion of any Series 2001 Bond to be redeemed shall be in the principal amount of $5,000 or any integral multiple thereof.

The principal of, and interest on, the Series 2001 Bonds shall be payable to the registered holders thereof by check or draft of the Trustee as paying agent, and such payment shall be made without deduction for the services of such paying agent. At the written request of the registered owner received by the Trustee at least one business day prior to the corresponding record date, interest accrued on the Series 2001 Bonds will be payable by wire transfer within the continental United States in immediately available funds to the bank account number of such owner specified in such request and entered by the Trustee on the registration records; provided that interest payable at maturity shall be paid only upon presentation and surrender of such owner's Series 2001 Bonds.

The Series 2001 Bonds shall be designated "Sewer System Mortgage Revenue Improvement and Refunding Bonds, Series 2001".

SECTION 4. Upon the face of each of the Series 2001 Bonds shall be recited a reference to the constitutional provision and the ordinance under which issued. Each of the Series 2001 Bonds shall express upon its face the purpose for which the same is issued; that the Series 2001 Bond is payable solely from the gross revenues of the System, and the extensions thereto, and is secured by a mortgage and a franchise stating the terms upon which, in case of foreclosure, the purchaser at such foreclosure may operate the System, which franchise extends for a period of twenty (20) years after the date of sale of the System upon foreclosure. The Series 2001 Bonds shall bear the manual or facsimile signatures of the Mayor and Clerk-Treasurer of the Village, shall be authenticated manually by the Trustee, and may, but shall not be required to, bear the manual or facsimile impression of the corporate seal of the Village. The Series 2001 Bonds shall be prepared, issued, and delivered to the Original Purchaser, as defined in Section 1 hereof, under the direction of the Mayor and Clerk-Treasurer of the Village as hereinafter provided.

SECTION 5. The Series 2001 Bonds are hereby awarded and shall be delivered to the firm of Ross, Sinclaire & Associates, Inc. (such firm being hereinbefore and hereinafter designated the "Original Purchaser"), Cincinnati, Ohio, upon payment for the Series 2001 Bonds. The Mayor and Clerk-Treasurer of the Village are hereby authorized and directed in the name of and on behalf of the Village to make, execute and deliver to the Original Purchaser the Bond Purchase Agreement setting forth such award and sale, the other matters referred to in this ordinance and such other matters as the Mayor and the Clerk/Treasurer determine are consistent with this ordinance and Indenture.

SECTION 6. The proceeds of the sale of the Series 2001 Bonds, plus other lawfully available funds of the Village as set forth in the Letter of Instruction, and except for accrued interest, shall be deposited with the Trustee as follows:

(a) the amount as set forth in the Letter of Instruction shall be deposited with the Trustee to the Bond Account created in connection with the issuance of the Series 1997 bonds, and shall be used to pay, together with other money in the Bond Account, the principal of and interest on the Series 2000B Bonds on November 30, 2001.

(b) the amount of the Required Debt Service Reserve Balance, as set forth in the Letter of Instruction, shall be deposited to the account hereby created and designated as the "Sewer System Debt Service Reserve Account" (the "Debt Service Reserve Account");

(c) the amount as set forth in the Letter of Instruction shall be deposited to the account hereby created and designated as the "Sewer System Costs of Issuance Account" (the "Costs of Issuance Account"); and

(d) the balance of the proceeds to the account hereby created and designated as the "Sewer System Project Account" (the "Project Account"), to be held by the Trustee and disbursed to pay the costs of the Project upon the requisition signed by the Clerk/Treasurer of the Village.

Any accrued interest on the Series 2001 Bonds shall be transferred by the Trustee to the Bond Account hereinafter established and shall be applied by such Trustee only to the payment of the interest and principal of the Series 2001 Bonds and for no other purpose.

SECTION 7. From and after the date of issuance and delivery of the Series 2001 Bonds the entire income and revenue of the System shall be set aside and deposited by the Village in a special and separate fund designated as the "Sewer System Operating Fund", created in connection with the issuance of the Series 1997 Bonds and hereinafter designated the "Operating Fund". The Operating Fund shall be administered by the Village as follows with the following payments only being made and in the following order:

FIRST: Reasonable expenses of operation and maintenance of the System, such expenses to exclude those of any other utility of the Village, whether or not such other utility shall be operated as a single unit with the System, and further to exclude depreciation and capital replacements;

SECOND: To the extent that Revenues are available, there shall next be paid monthly, on the first day of each month, commencing December 1, 2001, into the Bond Account hereby established and held by the Trustee, an amount equal to one-sixth (1/6) of the interest due on all outstanding 2001 Bonds on the next ensuing interest payment date (provided that the May 1 and November 1 payment shall be net of any interest earnings or other balances in the Bond Account available to pay interest on the Series 2001 Bonds); plus, commencing December 1, 2001 an amount equal to one-twelfth (1/12) of the principal due on the next ensuing principal payment date (provided that such additional amounts shall be deposited as may be necessary to provide adequate moneys for said debt service payments) from the Revenue Fund into the Bond Account. Moneys in the Bond Account shall be used to pay principal, premium, if any, and interest on the Series 2001 Bonds, on either regularly scheduled maturity dates or on dates scheduled for either mandatory or optional redemption;

Payments from the Revenue Fund for any Additional Bonds shall be made into the Bond Account at the times and in the amounts for which provision is made in the bond ordinance and supplemental Indenture providing for the issuance of such Additional Bonds.

THIRD: There shall be paid on the date of delivery of the Series 2001 Bonds from the proceeds of the Series 2001 Bonds and other lawfully available money of the Village, the amount equal to the Required Debt Service Reserve Balance into the Debt Service Reserve Account. No payments shall be made for so long as the Required Debt Service Reserve Balance is maintained. Monthly payments in an amount equal to one-twelfth (1/12) of the Required Debt Service Reserve Balance shall next be made if at any time said balance is less than the Required Debt Service Reserve Balance and shall continue until said Required Debt Service Reserve Balance is established. The Debt Service Reserve Account shall be held by the Trustee and shall be used only for the payment of principal and interest on the Series 2001 Bonds. Moneys in the Debt Service Reserve Account shall be invested, to the extent possible, in direct obligations of the United States of America. After the balance in the Debt Service Reserve Account equals the Required Debt Service Reserve Balance, any surplus in said fund, including interest earnings thereon, shall be deposited or transferred to the Bond Account;

FOURTH: Monthly, as aforesaid, such sum in addition to any of the foregoing allocations as may be necessary and available, after meeting the requirements of the preceding paragraphs FIRST, SECOND and THIRD, to make up any previous deficiency;

FIFTH: On a periodic basis, but no less frequently than annually, on December 10, the revenues remaining in the Revenue Fund at the end of the month, or, in the case of annual transfers, the preceding calendar year, after making the payments required by paragraphs FIRST to FOURTH, inclusive, including any balances to be accrued and maintained, and after reserving therein an amount at least as great as Working Capital for the System and to provide necessary accruals against the current requirements of paragraphs SECOND to FOURTH, inclusive, shall be transferred to the Surplus Fund (the "Surplus Fund"); and

The Surplus Fund shall be maintained in the custody of the Village and shall be used as follows: (a) to the extent necessary, from time to time moneys in the Surplus Fund shall be transferred to the Bond Account to permit the payment of all obligations payable from such Bond Account; (b) moneys in the Surplus Fund shall be used for payment of principal of and interest on any unvoted general obligation bonds and notes issued by the Village to pay a portion of the cost of improving and extending the System, or may be transferred to the appropriate fund of the Village to permit such payment; and (c) moneys in the Surplus Fund otherwise may be used for any other lawful System purpose, including without implied limitation, the retirement of outstanding Bonds by call or by purchase for cancellation and the payment of administrative costs of the System by transfer to the appropriate Village fund. Until required or used for such purposes, moneys in the Surplus Fund shall be invested in Eligible Investments maturing, or redeemable by the holder, in not more than five (5) years from the date of investment. Interest and other investment earnings on the Surplus Fund shall be retained in such Fund.

Any Series 2001 Bonds purchased for cancellation shall be purchased at a price not exceeding their then prevailing call price, if any, nor exceeding their fair market value.

SECTION 8. The Sewer System Bond Account (the "Bond Account") which is held by the Trustee shall continue in existence for the Series 2001 Bonds. The amount of the proceeds of the Series 2001 Bonds representing capitalized interest and the proceeds of the Permanent Bonds shall be deposited by the Village, immediately upon receipt, and shall be used, together with other lawfully available funds of the Village, to pay the principal of and interest on the Series 2001 Bonds. Moneys in the Bond Account may be invested in direct obligations of the United States of America or other investments permitted by Ohio Law ("Eligible Investments"), maturing or redeemable by the holder not later than the times and to the extent such moneys are required for the purpose of paying interest payments or principal on the Bonds.

Interest on any moneys or investments in each of the funds and accounts established under the Bond Legislation shall be credited to that fund or account. All investments by the Trustee shall be made at the written direction of the Village. Unless otherwise directed by the Village in writing, all moneys held in any fund or account held by the Trustee shall be invested in direct obligations of the United States of America.

SECTION 9. The Village hereby covenants with the holders of the Bonds and with the Trustee that as soon as the System is completely operational (as set forth in the certificate of the Engineer as set forth in the second paragraph of Section 5A of the Indenture) it will at all times prescribe and charge such rates for the services of the System, and will so restrict Operating and Maintenance Expenses of the System, as shall result in Net Income Available For Debt Service at least equal to one hundred ten percent (110%) of the maximum amount of principal and interest debt service requirements necessary in any succeeding year to meet interest and principal maturities of all Bonds secured by revenues of the System, and one hundred percent (100%) of the maximum amount of principal and interest necessary to be paid in any succeeding year on all Bonds and general obligation bonds and notes (said notes to be treated as twenty year bonds with level debt service and an interest rate equal to the most recent 20-year general obligation bond index as published in _The Bond Buyer_) and other obligations of the Village which are also expected to be paid from revenues of the System. The Village further covenants that it will (a) furnish to the Trustee and to the Original Purchaser reports of the operation and income of the System at least annually, and more frequently, if requested, which reports shall begin with a report for 2001, and shall be supplied no later than June 30 of the year following the year to which the report relates, and also a complete and accurate copy of the periodic audit reports issued by the Auditor of State or his designee, within thirty (30) days of the date such reports are released to the public, and will permit the authorized representative of the Trustee, of the Original Purchaser, or of any holder or holders of twenty-five percentum (25%) of the amount of the Bonds at the time outstanding to inspect the System and all records, accounts and data of the System at all reasonable times; (b) segregate the revenues, funds and properties of the System as prescribed by Ohio law; and (c) observe and perform all its agreements and obligations provided by the Bonds, the mortgage hereinafter provided for and this ordinance.

Sewer rates are to be reviewed annually not later than thirty (30) days after the close of the fiscal year and if for any reason the rates have proved insufficient to cover the above requirements, then the Mayor is hereby authorized and directed to commission a rate study by a nationally recognized firm of certified public accountants familiar with sewer systems or a recognized independent engineer familiar with public sewer systems and the Village agrees to comply with the recommendations made in such rate study no later than sixty (60) days from the date such study is received.

SECTION 10. It is hereby covenanted and agreed by the Village with the holder or holders of the Series 2001 Bonds herein authorized and provided for, that the Village and each and every officer thereof will satisfactorily and punctually perform all duties with reference to the System required by the constitution and statutes of the State of Ohio, by this ordinance and by the mortgage hereinafter provided for, all and each of which duties are hereby defined and established to be the duties specifically enjoined by law resulting from an office, trust and station within the meaning of Section 2731.01 of the Ohio Revised Code.

SECTION 11. Until the Series 2001 Bonds herein authorized shall be fully paid, the Village shall operate the System and maintain the same and all parts thereof in constant good condition and repair and maintain insurance upon the same, payable to the Trustee, as its interest may appear, of a kind and in an amount which normally would be carried by private companies engaged in a similar type of business. If commercial insurance is not available, the Village shall institute a reasonable and sound policy of self-insurance until such time as commercial insurance again becomes available.

SECTION 12. In order to secure the payment of the principal of and the interest on the Bonds as the same shall become due and payable, the Mayor and Clerk-Treasurer are hereby authorized and directed in the name of and on behalf of the Village to make, execute, acknowledge and deliver to the Trustee, and the Village Solicitor is hereby authorized and directed to execute and deliver, in trust for the purchaser or purchasers of the Bonds, a good and sufficient first mortgage deed upon all of the property of the System now owned by the Village or hereinafter acquired, together with all extensions, betterments and additions to the System, made during the time any of the Bonds shall remain outstanding and unpaid. Said mortgage shall be in such form and contain such terms, covenants and conditions not inconsistent with this ordinance as shall be approved by the Village Solicitor. Said mortgage shall contain a condition that in case the Village shall make default in the payment of any of the Bonds or the interest thereon or of any of the terms of said mortgage or this ordinance, the owners or holders of twenty-five per centum (25%) in amount of said Bonds remaining unpaid or the Trustee for said bondholders, on its own initiative, may elect to declare the entire amount of said Bonds due and payable and that, upon default in the payment thereof, said mortgage may be foreclosed.

SECTION 13. In the event of any litigation commenced or pending in any court having jurisdiction in which the Village is a party, which litigation involves the System, the operation of the same, the Revenues from the same, or wrongful performance or failure to perform any of the terms and conditions of this ordinance, and there is at such time any default in the payment of the Bonds or interest when and as the same fall due, the court, having jurisdiction of such cause may appoint a receiver to administer and operate the System, on behalf of the Village, with full power to pay and to provide for the payment of the Bonds and interest thereon, and for the payment of the operating expenses and to apply the income and Revenues to the payment of the Bonds and interest thereon in accordance with this ordinance and the provisions of the mortgage securing such indebtedness. The power of such receiver to provide for the payment of Bonds that are due and outstanding shall not be construed as pledging the general credit of the Village to the payment of the Bonds, or any part thereof or interest thereon. Such receiver shall have such powers under the direction of the court, as receivers in general equity cases and as provided by Section 715.09 of the Ohio Revised Code.

SECTION 14. In the event of the foreclosure of the mortgage provided for in Section 12, the purchaser or purchasers at such foreclosure sale shall be entitled to operate the System as improved or extended, under the terms of the following franchise, which is hereby ordained and established to take effect immediately upon the confirmation of such foreclosure sale, to wit:

FRANCHISE TO CONSTRUCT, MAINTAIN, AND OPERATE A PUBLIC UTILITY KNOWN AS THE SEWER SYSTEM IN AND FOR THE VILLAGE OF HAMERSVILLE, OHIO, UPON AND UNDER THE STREETS, LANES, ALLEYS, AVENUES AND OTHER PUBLIC THOROUGHFARES OF SAID VILLAGE, AND TO FIX AND PRESCRIBE THE TERMS AND CONDITIONS UNDER WHICH SAID OPERATION SHALL BE CONDUCTED.

Section A. Hereafter, when the word "Grantee" appears in this franchise, it shall be held to mean and include the purchaser or purchasers at judicial sale upon foreclosure of the mortgage on the sewer system of the Village of Hamersville, and any person, association of persons, partnership or corporation who shall, upon such foreclosure, become the owner of said public utility, and this franchise shall inure to the benefit of such person, association, partnership or corporation and their heirs, executors, administrators, successors and assigns.

Section B. In the event that any judicial foreclosure shall be had of the property hereinbefore described, the mortgaged property shall be sold under such proceedings, the Grantee is hereby granted the right for the full period of twenty (20) years from the date of such foreclosure sale or the final confirmation thereof, if such confirmation be then required under Ohio procedure, to construct, maintain, operate and extend, upon, along and under the streets, lanes, alleys, avenues, and other public thoroughfares and public property in the Village with the full and necessary privileges for the use of the streets, lanes, alleys, avenues and other public thoroughfares or property for the purpose of constructing, erecting, maintaining, operating and extending sewer lines and/or mains, transmission facilities, and all other apparatus necessary for the operation for all purposes.

Section C. This franchise shall be held to apply to and give the exclusive right to own and operate all the property rights and interests theretofore owned or operated by the Village as said public utility, with all extensions, betterments, replacements and new equipment which have been made or added thereto by the Village prior to the taking effect of this franchise, together with the extensions and betterments which may thereafter be made from time to time by the Grantee during the life of this franchise.

Section D. The Grantee, in the construction, maintenance, extension and repair of said public utility shall not unnecessarily interrupt or obstruct the passage upon any street, lane, alley, avenue or other public thoroughfare or property, and whenever it shall in any way open any of said thoroughfares or property, for the construction or maintenance of any underground construction, it shall replace such thoroughfares and property in as good a condition as before undertaking such work. The Grantee shall hold the Village harmless from any liability, cost, damage or expense which shall arise or be caused by the occupancy or use of the streets, lanes, avenues or other public thoroughfares or property by the Grantee.

Section E. The Grantee, in the operation of said public utility, shall be subject at all times, to such reasonable regulations of the council of the Village or its corporate successor, and the Village shall not interfere with the ability of such Grantee to earn a fair return upon the reproduction cost of said public utility, less depreciation, after proper allowance for operation and depreciation or replacement.

Section F. For a period of ten (10) years after the taking effect of this franchise, the Grantee may charge rates for supplying services of said public utility to the corporation and its inhabitants at a rate in excess of the maximum rates in effect at any time prior thereto as determined by the Public Utilities Commission of Ohio, as arbitrator.

Services rendered to the Village by said public utility for public purposes, shall be charged against the Village and shall be paid for by it as the same accrues, but out of the current revenues of the Village collected or in the process of collection. The payments to be made by the Village to the Grantee for such services to be furnished to the Village, shall be paid to the Grantee in the same manner and at the same time as other customers of the Village make payment during the term of the contract; and, in order to provide means for the payment of the account to be paid by the Village under this contract, the Village in its annual budget and taxation and appropriation ordinances each year during the term of this contract, obligates itself to include and levy a sufficient sum on all the taxable property in the Village to pay for the services, rendered as aforesaid, the proceeds of which levy shall be placed in a separate and distinct fund and which taxes, when collected, shall be held inviolate for that purpose.

Section G. In the event that the above rates, which are minimum rates, not maximum rates, shall prove insufficient to enable the Grantee to earn, after payment of operating expenses, maintenance and a reasonable allowance for depreciation, a net return of eight and one-half per centum (8-½%) upon the reproduction cost of said public utility after making reasonable allowance for depreciation of said public utility since the time of installation and after taking into consideration the adequacy of the maintenance thereof, the Village, by appropriate ordinances, shall raise such rates sufficiently to produce such return as provided in Section 4909.34 of the Ohio Revised Code, except that it shall not be necessary for the Village to wait until one year before the expiration of said period, but duty to increase shall arise upon request of the Grantee, forthwith, whereupon, in event that such action by the Village is not taken, complaint may be filed with the Public Utilities Commission or its successors in office, and proceedings had before said commission as provided in Section 4909.34 et seq., of the Ohio Revised Code. The Grantee's right to complain to said commission shall be cumulative to its right to enforce performance of the above imposed duty on the Village under the provisions of Section 2731.01 of the Ohio Revised Code.

Section H. For the second period of ten years of this franchise the rates to be charged by the Grantee shall be fixed by the council of the Village by and with the consent of the Grantee or by the Public Utilities Commission or its successors in office, in event of the failure of the Village and the Grantee to agree, but in any event, the rates shall be such as to enable the Grantee to earn a minimum of eight and one-half per centum (8-½%) upon the reproduction cost of said public utility, less depreciation, as hereinbefore provided, as determined by the Public Utilities Commission after payment of operating expenses, maintenance and proper allowances for depreciation or replacement.

Section I. This franchise shall take effect immediately upon the confirmation by the court of the foreclosure sale of the property constituting said public utility to the Original Purchaser and to the Trustee.

SECTION 15. Should it be judicially determined by a court having jurisdiction to pass upon the validity of this ordinance, the mortgage or bonds herein authorized, that any provision of the ordinance is beyond the powers of this council or the Village, or is otherwise invalid, then such decision shall in no way affect the validity of said mortgage or the validity of the Bonds, or any proceeds related thereto, except as to the particular matters found by such decision to be invalid.

SECTION 16. The funds derived from the sale of the Series 2001 Bonds authorized by this ordinance become and they are hereby set aside and appropriated for the payments as described in this ordinance.

SECTION 17. That sums which are expended from the above appropriations and which are proper charges against and are repaid by any other department, any firm, person or corporation, shall be considered reappropriated for such original purpose; provided that the total appropriation as increased by any such repayment shall not be exceeded.

SECTION 18. That the Clerk-Treasurer of the Village of Hamersville be and she is hereby authorized to draw her warrants of the Village Treasury and Depository for payments from any of the foregoing appropriations upon receiving proper approval in accordance with the ordinances of the Village of Hamersville.

SECTION 19. This Council, for the Village, hereby covenants that it will restrict the use of the proceeds of the Series 2001 Bonds hereby authorized in such manner and to such extent, if any, and take such other action as may be necessary, after taking into account reasonable expectations at the time the debt is incurred, so that they will not constitute obligations the interest on which is subject to federal income taxation or "arbitrage bonds" under Section 103 (b)(2) and 148 of the Internal Revenue Code of 1986, as amended (the "Code") and the regulations prescribed thereunder. The Clerk-Treasurer or any other officer having responsibility with respect to the issuance of the Series 2001 Bonds is authorized and directed to give an appropriate certificate on behalf of the Village, on the date of delivery of the Series 2001 Bonds, for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances and reasonable expectations pertaining to the use of the proceeds thereof and the provisions of said Sections 103(b)(2) and 148 and regulations thereunder.

These Series 2001 Bonds are hereby designated as "qualified tax-exempt obligations" to the extent permitted by Section 265(b) of the Code. The Mayor, Clerk-Treasurer, Village Solicitor and other appropriate officers, and any of them, are authorized to take such actions and give such certifications on behalf of the Village with respect to such matters as are appropriate under the Code.

SECTION 20. This Council hereby finds and determines that all formal actions relative to the passage of this ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and of its committees, if any, which resulted in formal action, were taken in meetings open to the public, in full compliance with applicable legal requirements, including Section 121.22 of the Revised Code.

SECTION 21. That the Mayor and the Clerk-Treasurer are each hereby authorized and directed to execute and deliver such other certificates and agreements deemed necessary with Peck, Shaffer & Williams LLP, special counsel to the Village, in connection with the issuance of the Series 2001 Bonds.

SECTION 22. That this ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health and safety of the Village and its inhabitants for the reason that the immediate issuance and sale of the bonds herein authorized is necessary to enable the Village to refinance the Series 2000B Bonds and construct the improvements in a timely fashion; therefore, this ordinance shall take effect and be in force from and immediately after its adoption by this Council.

ADOPTED this 12th day of November, 2001.

Duane C. [signature]

Mayor

Attest:

____
Clerk of Council

CERTIFICATE

The undersigned, Clerk of Council, Hamersville, Ohio, hereby certifies the foregoing to be a true, complete and correct copy of Ordinance No. 2001-_____ of the Village Council with respect to the issuance of the not to exceed $1,020,000 Sewer System Mortgage Revenue Improvement and Refunding Bonds, Series 2001, adopted November 12, 2001 and it has not been amended or rescinded as of this date.

____
Clerk of Council, Village of Hamersville, Ohio

Dated: November 12, 2001

ADOPTED this 12th day of November, 2001.

Duane C. Tru

Mayor

Attest:

Tammie Ogle

Clerk of Council

CERTIFICATE

The undersigned, Clerk of Council, Hamersville, Ohio, hereby certifies the foregoing to be a true, complete and correct copy of Ordinance No. 2001-_____ of the Village Council with respect to the issuance of the not to exceed $1,020,000 Sewer System Mortgage Revenue Improvement and Refunding Bonds, Series 2001, adopted November 12, 2001 and it has not been amended or rescinded as of this date.

Tammie Ogle

Clerk of Council, Village of Hamersville, Ohio

Dated: November 12, 2001