

**ORDINANCE 2023-05**  
**BY**  
**MAYOR RAYMOND ARRIOLA**

**AN ORDINANCE DIRECTING THE BOARD OF ELECTIONS OF MONTGOMERY COUNTY, OHIO TO PLACE ON THE BALLOT AT THE ELECTION TO BE HELD ON NOVEMBER 7, 2023 THE QUESTION OF WHETHER THE MUNICIPALITY OF NEW LEBANON, OHIO SHOULD EFFECT A GOVERNMENTAL ELECTRICITY AGGREGATION PROGRAM WITH OPT OUT PROVISIONS PURSUANT TO SECTION 4928.20 AND A NATURAL GAS AGGREGATION PROGRAM WITH OPT OUT PROVISIONS PURSUANT TO SECTION 4929.26 OF THE OHIO REVISED CODE.**

**WHEREAS**, the Ohio legislature has enacted electric (R.C. § 4928.20) and natural gas (R.C. § 4929.26) deregulation legislation which authorizes the legislative authorities of cities, villages, townships, and counties to aggregate the retail electrical and natural gas loads located within their respective jurisdictions and to enter into service agreements to facilitate for those loads the purchase and sale of electricity and natural gas; and

**WHEREAS**, governmental aggregations provide an opportunity for residential and small business consumers to participate collectively in the potential benefits of electricity and natural gas deregulation through lower electricity and natural gas rates which would not otherwise be available to those electricity and natural gas customers individually; and

**WHEREAS**, the Municipality wishes to: i) establish a governmental aggregation program with opt out provisions pursuant to Section 4928.20 of the Ohio Revised Code for the residents, businesses, and other electric consumers in the Municipality; and ii) establish a governmental aggregation program with opt out provisions pursuant to Section 4929.26 of the Ohio Revised Code for the residents, businesses, and other natural gas consumers in the Municipality.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE MUNICIPALITY OF NEW LEBANON, MONTGOMERY COUNTY, OHIO, AS FOLLOWS:**

**SECTION I:** The Municipal Council has concluded that it is in the best interest of the Municipality and its residents and businesses located within the corporate limits of the Municipality to establish these aggregation programs pursuant to Sections 4928.20 (electric) and 4929.26 (natural gas) of the Ohio Revised Code.

**SECTION II:** The aggregation programs must be approved by the electors of the Municipality pursuant to Section III of this Ordinance. Upon approval by the electorate, the Municipality is hereby authorized to: i) automatically aggregate, in accordance with Section 4928.20 of the Ohio Revised Code, the retail electric loads (customers) located within the Municipality, and enter into service agreements to facilitate for those loads the purchase and sale of electricity; and ii) automatically aggregate, in accordance with Section 4929.26 of the Ohio Revised Code, the retail natural gas loads (customers) located within the Municipality, and enter into service agreements to facilitate for those loads the purchase and sale of natural gas. The Municipality

may exercise such authority jointly with any other municipal corporation, township, or county or other political subdivision of the state of Ohio.

**SECTION III:** The Board of Elections of Montgomery County is hereby directed to submit the following questions to the electors of the Municipality at the general election on November 7, 2023:

**"Shall the Municipality of New Lebanon have the authority to aggregate the retail electric loads located in the Municipality of New Lebanon, and for that purpose, enter into service agreements to facilitate for those loads the sale and purchase of electricity, such aggregation to occur automatically except where any person elects to opt out?"**

**"Shall the Municipality of New Lebanon have the authority to aggregate the retail natural gas loads located in the Municipality of New Lebanon, and for that purpose, enter into service agreements to facilitate for those loads the sale and purchase of natural gas, such aggregation to occur automatically except where any person elects to opt out?"**

**SECTION IV:** The Clerk of Council of the Municipality is instructed to immediately file a certified copy of this Ordinance and the proposed form of the ballot question with the Montgomery County, Ohio Board of Elections not less than ninety days prior to the general election. The aggregation programs shall not take effect unless approved by a majority of the electors voting upon this Ordinance and the aggregation programs provided for herein at the election held pursuant to this Section III and Sections 4928.20 and 4929.26 of the Ohio Revised Code.

**SECTION V:** Upon approval of a majority of the electors voting at the general election provided for in Section III of this Ordinance, the Municipality, individually or jointly with any other political subdivision, may develop a plan of operation for the aggregation programs. Before adopting this plan, the Municipal Council shall hold at least two public hearings on the plan.

**SECTION VI:** Notice of the hearings shall be published for two consecutive weeks by posting in five (5) conspicuous places within the Municipality prior to the first hearing. The notice will summarize the plan and state the date, time, and place of each hearing. No plan adopted by this Municipal Council shall aggregate the electric load of any electric load center, or the natural gas load of any natural gas center, within the Municipality unless it, in advance, clearly discloses to the person owning, occupying, controlling, or using the load center that the person will be enrolled automatically in the Aggregation Program and will remain so enrolled unless the person affirmatively elects, by a stated procedure, not to be enrolled. The disclosure shall state prominently the rates, charges, and other terms and conditions of enrollment. The stated procedure shall allow any person enrolled in the Aggregation Program for electric loads the opportunity to opt out of the program at least once every three years without paying a switching fee and shall allow any person enrolled in the Aggregation Program for natural gas loads the opportunity to opt out of the program at least once every two years without paying a switching fee. Any person that opts out of the Aggregation Program for retail electric loads pursuant to the

state procedure shall default to the standard service offer provided under division (a) of Section 4928.35 of the Ohio Revised Code until the person chooses an alternative supplier. Any person that opts out of the Aggregation Program for natural gas loads pursuant to the stated procedure shall default to the natural gas company providing distribution service for the person's retail natural gas load, until the person chooses an alternative supplier.

**SECTION VII:** It is hereby found and determined that all formal actions of this Municipal Council concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council that resulted in those formal actions were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

**SECTION VIII:** This Ordinance shall take effect immediately upon passage as provided in Section 2.15 of the Charter of the Municipality of New Lebanon, Ohio.

**SECTION 1:** This ordinance shall take effect and be in force from and after the earliest period by law.

Passed this 6<sup>th</sup> day of June, 2023.

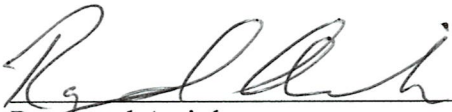
First Reading: May 2, 2023

Second Reading: May 16, 2023


Third Reading: June 6, 2023

Effective Date: June 6, 2023

APPROVED:

  
Raymond Arriola  
Mayor

ATTEST:

  
Philip E. Hinson  
CFO/Clerk of Council

APPROVED:

  
Glenna A. Madden  
Municipal Manager

Dated: June 6, 2023

CERTIFICATE

I, Philip E. Hinson, CFO/Clerk of Council of the Municipality of New Lebanon, Ohio do hereby certify the foregoing is a true and correct copy of Ordinance 2023-05 as passed by Council and approved by the Mayor and that the same has been published as required by Section 2.17 of the Charter of the Municipality of New Lebanon, Ohio.

A handwritten signature in black ink, appearing to read "P. E. Hinson", written over a horizontal line.

Philip E. Hinson  
CFO/Clerk of Council