

March 7, 2014

A Special Meeting of the Bay Village City Council will be held on **Monday, March 10, 2014, immediately following the Committee meeting of Council at 7:30 p.m.** in the Council Chambers of Bay Village City Hall, 350 Dover Center Road, to take action on the items listed below:

1. Pledge of Allegiance to the Flag/Mr. Clark
2. Roll Call
3. Announcements/Audience/Miscellaneous
4. **Motion** to approve the minutes of the Regular Meeting of Council held March 3, 2014
Clark

FIRST READING:

5. **Ordinance** amending Codified Ordinance No. 921.02(a) Sewer Rental Rates, and Declaring an Emergency ***Clark***
6. **Ordinance** Amending Section 1 Of Ordinance 14-06 Regarding Rates Of Compensation For The Officers And Employees Of The General Administration Department And Those Employees Of The City Not Covered By Separate Labor Contract For The Calendar Year 2014 And Thereafter, And Declaring An Emergency. ***Clark***
7. **Ordinance** Authorizing the Mayor to Enter Into an Agreement with Cuyahoga County Department of Public Works for Bridge Inspections, and Declaring an Emergency ***Tadych***

SECOND READING:

8. **Ordinance No. 14-11** Authorizing The Adoption Of New Codified Ordinance Chapter No. 377 Concerning Bicycles For Increased Safety For Motor Vehicles And Bicyclists In The City Of Bay Village, And Declaring An Emergency ***Lee***. (First Reading March 3, 2014)
9. **Ordinance No. 14-12** Amending Codified Ordinance 331.03 Regarding Vehicles Overtaking, Passing To Left; Drivers Duties, and Declaring an Emergency. ***Lee*** (First Reading March 3, 2014)
10. **Ordinance No. 14-13** Amending Codified Ordinance 331.10 Regarding Vehicles Turning at Intersections, and Declaring an Emergency ***Lee*** (First Reading March 3, 2014)
11. **Ordinance No. 14-14** Amending Codified Ordinance 301.04 Regarding "Bicycle; Motorized Bicycle" of the Traffic Code of the City of Bay Village, and Declaring an Emergency ***Lee***. (First Reading March 3, 2014)
12. **Ordinance No. 14-15** Amending Codified Ordinance 301.51 "Vehicle" of the Traffic Code of the City of Bay Village, and Declaring an Emergency. ***Lee*** (First Reading March 3, 2014)
13. **Ordinance No. 14-16** Amending Codified Ordinance 351.08 "Opening Vehicle Door on Traffic Side" of the Traffic Code of the City of Bay Village, and Declaring an Emergency. ***Lee*** (First Reading March 3, 2014)

- 14. Ordinance No. 14-17** To Authorize the Mayor to enter Into An Extension Of The Lease Agreement With Kiddie Kollege, Inc., For The Real Estate Located At 27400 Wolf Road Referred To As "Bayway Cabin", And Declaring An Emergency. *Clark* (First Reading March 3, 2014)
- 15. Ordinance No. 14-20** Providing For The Issuance And Sale Of \$1,000,000 Of Notes, In Anticipation Of The Issuance Of Bonds, For The Purpose Of Paying Costs Of (I) Improving Streets By Resurfacing, Paving And Making Other Improvements As Designated In The Plans Approved Or To Be Approved By Council, (Ii) Improving The City's Parks And Recreational Facilities By Improving Basketball And Tennis Courts, Aquatic And Related Facilities And Their Sites, (Iii) Renovating And Otherwise Improving City Hall, (Iv) Renovating And Otherwise Improving The City's Service Garage And (V) Improving The City's Community House By Installing A New Fire Alarm System, And Declaring An Emergency. *Clark* (First Reading March 3, 2014)
- 16. Ordinance No. 14-21** Providing For The Issuance And Sale Of \$525,000 Of Notes, In Anticipation Of The Issuance Of Bonds, For The Purpose Of Paying Costs Of Improving Streets By Resurfacing, Paving And Making Other Improvements As Designated In The Plans Approved Or To Be Approved By Council, And Declaring An Emergency. *Clark* (First Reading March 3, 2014)
- 17. Ordinance No. 14-22** Providing For The Issuance And Sale Of \$340,000 Of Notes, In Anticipation Of The Issuance Of Bonds, For The Purpose Of Paying Costs Of Acquiring Motor Vehicles And Equipment And Acquiring And Installing A Work Order System For Use In Performing The Functions Of The City's Department Of Public Services And Properties, And Declaring An Emergency. *Clark* (First Reading March 3, 2014)
- 18. Ordinance No. 14-23** Providing For The Issuance And Sale Of \$133,000 Of Notes, In Anticipation Of The Issuance Of Bonds, For The Purpose Of Paying Costs Of Acquiring Motor Vehicles And Equipment For Use In Performing The Functions Of The City's Police Department, And Declaring An Emergency. *Clark* (First Reading March 3, 2014)
- 19. Ordinance No. 14-24** Providing For The Issuance And Sale Of \$129,000 Of Notes, In Anticipation Of The Issuance Of Bonds, For The Purpose Of Paying Costs Of Improving The City's Parks And Recreational Facilities By Constructing And Improving Lighting Facilities At Hartman Field, And Declaring An Emergency. *Clark* (First Reading March 3, 2014)
- 20. Ordinance No. 14-25** Providing For The Issuance And Sale Of \$90,000 Of Notes, In Anticipation Of The Issuance Of Bonds, For The Purpose Of Paying Costs Of Acquiring Office Equipment For Use In Performing The Administrative Functions Of The City, And Declaring An Emergency. *Clark* (First Reading March 3, 2014)
- 21. Ordinance No. 14-26** Providing For the Issuance and Sale Of \$60,000 Of Notes, In Anticipation of the Issuance of Bonds, For The Purpose Of Paying Costs of Acquiring a Bus for Use in Performing the Functions of the City's Department Of Community Services, And Declaring An Emergency. *Clark* (First Reading March 3, 2014)

22. Ordinance No. 14-27 Providing For The Issuance And Sale Of \$43,000 Of Notes, In Anticipation Of The Issuance Of Bonds, For The Purpose Of Paying Costs Of Acquiring A Motor Vehicle And Equipment For Use In Performing The Functions Of The City's Fire Department, And Declaring An Emergency. *Clark*(First Reading March 3, 2014)

THIRD READING:

23. Ordinance No. 13-131 amending Codified Ordinance Chapter 1322 regarding Residential Code of Ohio for One-, Two- and Three-Family Dwellings (Second Reading March 3, 2014) (First Reading December 16, 2013)*Lieske*

SERVICES AND UTILITIES:

24. Motion to advertise for bids for a Decanting Station at the Service Garage*Vincent*

PLANNING, ZONING, PUBLIC BUILDINGS AND GROUNDS COMMITTEE:

25. Motion to remove Fence Regulations for Lakefront Yards from Matters Pending before Council Committee list*Lieske*

26. Adjournment

Paul A. Koomar
President of Council

Charter Reference 2.11

Procedure

Section 2.14 - Effective Date
C.O. 111.10 - Council Rules for Legislation

Roll call on suspension of Charter Rules:

Every ordinance or resolution shall be read on three different days unless two-thirds (2/3) of the total number of Council members provided for in this Charter dispense with the rules.

Roll call on suspension of Council Rules:

No ordinance or resolution shall be passed unless a written copy thereof is before the Council ...at least 24 hours before any meeting of Council at which action...is contemplated.

Roll call on inclusion of the emergency clause:

All ordinances and resolutions shall become effective forty (40) days after their passage by Council unless a later effective date is set forth or an earlier date is established. Resolutions to initiate any public improvement shall become effective immediately upon their passage and approval by the Mayor.

It is required that two-thirds (2/3) of the total number of Council members provided for by this Charter vote affirmatively to enact with the emergency provisions. This clause allows legislation to become effective immediately upon passage and approval by the Mayor.

NOTE: Regular and Special Meetings of Council are scheduled for 8:00 p.m. However, Council generally meets informally at 7:30 p.m. prior to a Regular or Special meeting, and said portion, usually held in the conference room, is open to the public.

CITY OF BAY VILLAGE

Council Minutes, Regular Meeting
Council Chambers 8:00 p.m.

March 3, 2014

Paul A. Koomar, President of Council, presiding

Present: Clark, Henderson, Koomar, Lee, Lieske, Vincent, Mayor Sutherland

Absent: Tadych, due to illness

Others

Present: Law Director Ebert, Finance Director Mahoney, Chief Building Official Cheatham, Operations Manager Landers, Service Director Thomas, Police Chief Spaetzle, Fire Chief Lyons, Recreation Director Enovitch, Community Services Director Bock

Council and members of the administration assembled at 7:30 p.m. in the conference room to review agenda items; this was open to the public.

During the review, President of Council announced that a Town Hall Meeting has been scheduled for March 31, 2014, at 7:30 p.m., at the Dwyer Memorial Center, 300 Bryson Lane. There will not be a Council meeting on Monday, March 17, 2014.

Mr. Koomar stated that he discussed with the Mayor the idea of holding the Council meeting on March 31, 2014 at the Dwyer Memorial Center and allowing the residents to see what the Council does each and every Monday night, and letting them know there is an audience participation section. As part of that structure, Mr. Koomar would like each Council representative to provide an overview of their committee responsibilities and what they are planning to do in the upcoming year. The Department Directors are asked to provide the same type of report.

After the meeting there will be a break-out session to allow residents time to talk with each of the Council representatives and Directors individually. Mr. Koomar encouraged the residents to come to the Council meetings every Monday with their questions or comments.

Spring break is Monday, April 21, 2014. There will be no Council meeting that evening.

Mrs. Barnett asked if the Town Hall Meeting on March 31, 2014 at 7 p.m. will be advertised on the sign in front of the city hall building. Mr. Koomar passed this request on to the Mayor.

Mr. Lee advised that this evening he has six ordinances that he would like to place on first reading. These ordinances all relate to the work that the Environment, Safety and Community Services Committee has been doing to update the city's bicycle ordinances. The ordinances were last updated in the 1970's.

The number one objective in looking at these ordinances is safety; the second objective is uniformity, or uniform rules for the road. Mr. Lee recognized and thanked Mr. Patrick McGannon and Lawrence Kuh, and other members of the sponsoring organizations: the Village Bicycle Cooperative, the Bay Skate and Bike Park, the Bay Village Green Team, and Bike Cleveland. This group has done an excellent job of presenting issues and they will be involved in the education side of this as the new laws roll out to the community.

Mr. Lee also expressed appreciation to Law Director Ebert, Police Chief Spaetzel, Prosecutor Gary Hotz, Councilman Dwight Clark, and Councilwoman Lieske for their assistance.

The intention is to put all of these ordinances on first reading this evening and to follow with three readings before there is a vote for adoption. The emergency clause is included and the ordinances will become effective immediately upon passing. The goal is to have these ordinances effective by May 1, 2014, which is the beginning of Bike-to-School Month here in Bay Village.

The objective is to maintain and enhance Bay Village as a Bicycle Friendly Community, with safety being priority number one.

Mr. Lee highlighted the key provisions of the ordinances as follows:

Current Code – Does not permit bicycles on all streets. Heavily traveled streets can be designated as No-Bike Street.

New Code – Permits bicycles on all streets.

Current Code – Permits single-file riding only throughout the city.

New Code – Permits two abreast on all streets in the city other than Lake Road.

Current Code – Requires bicycles to ride within three feet of the right side of the roadway.

New Code – Would read “As near to the right side as practicable.” Studies have shown that the safest place for bikes to ride is where the right tire of a car would drive on the road, out of the debris field at the edge of the curb and away from culverts and other objects that can be adjacent to the edge of the street.

New Code – Permits riding on sidewalks, except in congested areas such as Bay Days or parade time when the sidewalks might be full of pedestrians. It also provides that certain areas can be designated as not for riding on the sidewalk, e.g., the business district when signage is installed indicated that the area is a “No Bicycle Riding District.”

New Code – Updates the lighting requirements for riding after dark and it also includes language prohibiting texting while riding a bicycle as well as prohibits the use of headphones or two earphones at the same time while riding a bicycle. Ideally, the left ear should be left open so that traffic noise can be heard.

Chapter 377 is the first ordinance to be introduced this evening. This document is essentially a re-write as there is a fair amount of language that carries over from the old ordinance.

The second item is an amendment to Section 331.03, regarding "Vehicles Overtaking, Passing to the Left, Drivers' Duties, and Declaring an Emergency." This ordinance adds Items 4 and 5 to our existing code. Items 1, 2, and 3, of Section 331.03 are in the existing code. Items 4 and 5 specifically provide for language clarifying distances and clearances for passing a bicycle on the road. Two options were distributed to Council for consideration. Mr. Lee is presenting for first reading this evening Option Number Two, which reads that the motor vehicle when overtaking a bicycle proceeding in the same direction shall leave a safe distance but not less than three feet when passing a bicycle. For commercial vehicles, trucks or busses, the distance shall be not less than six feet.

The third item is an amendment to Codified Ordinance 331.10 adding Items 5 and 6. Items 1 through 4 are currently in the code. Items 5 and 6 deal with vehicles turning at intersections or into alleys or driveways.

The fourth item is adopting an updated definition of bicycles from the Ohio Revised Code. That section also represents motorized bicycles; that definition is not changing.

The fifth item is adopting an updated definition of vehicle from the Ohio Revised Code. That ordinance section is 301.51. Bicycles are included within the definition of vehicle. Bicycles are expected to operate following the rules of the road.

The sixth item is an amendment to Section 351.08, specifically adding references to bicyclists in our existing code dealing with opening vehicle doors on the traffic side. Motor vehicle operators should be looking for bicycles when they are opening their door into the traffic.

Mr. Lee stated that he believes everything proposed this evening is consistent with what the bicycle advocates have proposed to the city with the exception of the riding two abreast on Lake Road. The committee discussed this in detail and it was their feeling they should follow the recommendation of the Police Chief, recognizing that Bay Village is different than the neighbors to the east and to the west on Lake Road. There was some discussion about expanding the restriction about riding two abreast on other streets in the community that are heavily trafficked but at the conclusion the committee felt that the only restriction should be on Lake Road.

Mr. Clark advised that he will introduce an ordinance to extend the lease for the rental of the Bayway Cabin to Kiddie Kollege, Inc. The ordinance will be placed on first reading this evening pending finalization of the lease renewal contract.

An ordinance to amend appropriations will be introduced by Mr. Clark and recommended for passage this evening. He noted that the changes are insignificant and fairly small in scope. Councilman Henderson has assisted with a close review of the ordinance. Mr. Henderson stated

that there was a transfer for \$1,000 that was temporarily double counted. A corrected version of the ordinance has been provided to Council.

Regarding the Kiddie Kollege lease extension, Mr. Koomar asked if it is acceptable, from a timing aspect, to put the ordinance on first reading this evening. Mayor Sutherland stated that she would prefer that Council go ahead and pass the ordinance, but it is up to Council. Mr. Clark stated that if the final agreement is ready he would like to not have to go to three readings on this ordinance. If a special meeting is held on March 10, he would like to pass it at that time if it fits the desire of both parties and doesn't cause a problem for the city.

Mr. Henderson noted that at the Finance Committee meeting on February 24, 2014 they talked about needing to have a full accounting of where the cash has been collected from the rent had been accredited to over time. Mrs. Mahoney stated that they talked about that last week. Mr. Clark stated that Mrs. Mahoney sent that information around. It was a little independent of the actual lease extension but they wanted to get clarity on that. Mr. Clark stated that he did not want to hold up the lease renewal for that purpose. If we are going to go into a three year extension we should have a contract finalized and there is not a reason for three readings because they are current with the lease.

Mr. Koomar stated that there will be a special meeting on March 10, 2014. Mrs. Mahoney stated that Mr. Clark's concern was that the money for the rent was not going to the Cahoon Memorial Park Fund, and actually all of the money is getting deposited into the Cahoon Memorial Park Fund but about \$16,000 is owed back to the city's Fund 233. Mr. Clark reiterated that he does not want to hold up the renewal for that purpose.

The motion for approval by the Cahoon Memorial Park trustees for the extension of the lease will be removed from tonight's agenda and placed on the March 10 agenda of Council and the Cahoon Memorial Park Trustees agenda.

A resolution authorizing the sale of property received into possession by the City of Bay Village will be introduced by Mr. Clark this evening. Service Director Thomas stated that a fairly substantial inventory is at the garage and a trailer is currently being rented to store this material that is not being used. They would like to use this resource to get rid of the materials and stop paying rent on the trailer. The Police Department has been successful in using Govdeals.com.

Mr. Clark commented regarding Ordinance No. 14-08 amending Codified Ordinance Section 151 that will be moved to third and final reading this evening. Mr. Henderson stated that he circulated an email about including domestic partner in the bereavement section of the ordinance for consideration. The concept would be to extend for bereavement leave privileges to domestic partners in addition to spouses and other definitions in the document. He stated that it seems like a reasonable time for that consideration prior to passage of the ordinance.

Mayor Sutherland stated that they have some very delicate personnel issues that are going on and she would request that this be discussed in executive session. Law Director Ebert pointed out that the bereavement policy is up to the discretion of the director of the department so the

director would have that ability to give time off in these circumstances. As the Mayor said, there are some lingering issues that need to be kept intact so he would encourage not to amend the ordinance at this time. It can always be amended later. Mr. Koomar suggested including this discussion in executive session on March 10. Mr. Henderson stated that he is not interested in holding up passage of the ordinance.

Mr. Clark will introduce an ordinance this evening for the refinancing of the 2012 note to finance equipment and vehicles in the Public Improvements category. Seven additional ordinances will be introduced for the purchase of new equipment and vehicles for Public Improvements. The reason there are so many ordinances is because there is a one-purpose bond rule that Council has suggested we utilize to classify the ordinances by purpose. All of the numbers are in agreement with the numbers agreed to in the appropriations ordinance approved February 3, 2014. These ordinances will be placed on first reading this evening to be completed by early April and be in a position to be in the market sometime in April.

Mr. Lee commented that the notes that were sold last year of \$1.25 million will be paid off and refinanced with \$1 million. New debt of \$1.32 million will be issued. Mr. Clark stated that every resource available will be used to pay these notes as if they are five-year obligations so the debt is not run a long time into the future. Interest rates will continue to stay good; they are at or below the level of last year's note issue. Mr. Lee noted that the ordinances state a 5% rate but if we were to borrow today the rate will be about one-half of one percent per year based on the city's rating. We have 90 days prior to the maturity of the 2012 note to refund and we will pick a time and date that will be most beneficial to the city.

The ordinance authorizing the Mayor to enter into an agreement with Cuyahoga County Department of Public Works for Bridge Inspection will be held until March 10 to enable Service Director Thomas to inquire as to a contract for all the city's bridges, rather than just Ashton Lane and Queenswood Drive. Mr. Thomas noted that the city currently has 19 culverts, 3 state structures, 2 unknown structures, 1 municipal structure, 2 county structure culverts, and 5 county-inspected bridges. He noted that the Ohio Department of Transportation is offering a program that to inspect all bridges in municipalities for free. Mr. Thomas suggested that the contract with the county be in place just in case.

Mr. Lee noted that the fee quoted for inspecting Ashton Lane Bridge is \$420.00 by the county. Mr. Lee stated that he assumes Mr. Thomas will have numbers for the whole scope of the contract.

Councilwoman Lieske will introduce a motion this evening to extend the time for the Planning Commission to review Chapter 1158 for a period of thirty days to April 8, 2014. A Planning Commission meeting will be held this Wednesday, March 5, 2014.

Mrs. Lieske will read three ordinances this evening relative to Building Code changes that had been held to clarify the definitions and titles. Those have been clarified to refer to the Building Director as Chief Building Official and are in line for second reading of one ordinance and passage of the other two ordinances this evening.

President of Council Koomar called the meeting to order at 8:00 p.m. in the Council Chambers of Bay Village City Hall, with the Pledge of Allegiance led by Boy Scouts Zak Hamil, and Khaled Hamil, who were present this evening for their Citizenship in Community Merit Badge.

Following the roll call, Mr. Koomar called for a reading of the Minutes of the Special Meeting of Council held February 24, 2014. Mr. Clark **MOVED** to dispense with the reading and accept the minutes as prepared and distributed. Motion carried 6-0. Mr. Koomar called for a reading of the Minutes of the Meeting of the Cahoon Memorial Park Trustees held February 24, 2014. Mr. Clark **MOVED** to dispense with the reading and accept the minutes as prepared and distributed. Motion carried 7-0.

ANNOUNCEMENTS

Mayor Sutherland announced that the Green Team has received a grant in the amount of \$5,000. The Mayor noted that this is the fourth grant in succession that the Green Team has received.

Mayor Sutherland stated that as promised last fall, they have implemented a work-order system in the Service Garage, thanks to the efforts of Service Director Thomas. Not only can they actually track employees by the job that they are working on, but they are also tracking equipment. The amount of \$5,097.85 was used over this past weekend in labor and salt. Mayor Sutherland expressed kudos to the Service Department for all of the weather-related demanding work recently.

Mr. Koomar reiterated his earlier announcement that a Town Hall Meeting will be held on Monday, March 31, at 7:30 p.m. at the Dwyer Memorial Center.

REPORTS

Law Director Ebert had no report this evening.

Finance Director Mahoney had no report this evening.

Recreation Director Enovitch reported that registration for Recreation Department Summer programs is now open, on line.

Service Director Thomas had no report this evening.

Community Services Director Bock announced that they are happy to host the Town Hall Meeting at the Dwyer Memorial Center on March 31, 2014 and are very proud that attendees will have an opportunity to observe the recent interior painting of the Dwyer Center.

Police Chief Spaetzel had no report this evening.

Fire Chief Lyons announced that two new Firefighter Paramedics were sworn in by the Mayor and started their work today. Two of the three vacant positions at the Fire Department are now filled by Jason Lee Goodwin, and Shawn Michael Janecek

COMMUNICATIONS

The following communications were received and are on file in the Clerk of Council office for public inspection:

Norfolk and Southern Train Report for the month of February, 2014 advising that an average of 1.4 trains per day travelled through the City of Bay Village during the month of January, 2014.

An e-mail communication from Alicia Howerton, Agency Relations and Development Concierge for the Cleveland Sight Center, advising how much the visit of the Dwyer Center Group was enjoyed and complimenting driver Mike Gore for his services.

AUDIENCE

The following signed in this evening: Ted Vovos, Tom Beers, Bill Sillasen, Lawrence Kuh, Mark S. Kasmay, Patrick McGannon, Chris Alvarado (Bike Cleveland), Conda Boyd, Peg Ludwig, Marty Mace, Denny and Tara Wendell, Jerrie Barnett, Zak and Khaled Hamil, Russell Thompson, George Faulkner, Michael Roach, Jerrie Barnett, Chad Marks, Susan Murnane.

Lawrence Kuh, 28412 West Oviatt, as a member of the Bike Advocacy Groups working on the bicycle ordinances gave a shout-out to the whole committee, and to Steve Lee as Chairman. He stated that it was truly a collaborative effort and expressed appreciation to those in the audience who came forth to support the amendments.

Patrick McGannon, 344 Bradley Road, expressed appreciation for the work on bringing these bike ordinances forward for passage. He noted that the regulations are in uniformity with the state law and most of the language in the ordinances reiterates what is written in state law.

Chris Alvarado, Bike Cleveland, expressed appreciation for the cooperation with citizen groups and stated that Bike Cleveland is in support of these efforts. He emphasized the importance of having uniformity throughout the community, especially with the laws that would permit two bicyclists to ride abreast. He appreciates the Police Chief's concern regarding Lake Road, but stated that it actually safer to ride two abreast because it creates less of a difference for a motorist to overtake two cyclists riding abreast than two cyclists riding one in front of another.

Jerrie Barnett, 316 Bayview Road, asked Mr. Clark when the increase in video service provider fees will take effect. Mr. Clark stated that the city is required to advise each of the three cable companies. It is believed the increase should go in place around May 1, 2014. Mrs. Barnett stated that her fee is 2.52%, and is she correct that it will go up to 5%. Mr. Clark stated it will go up to 5% on the portion of the cable bill. Mrs. Barnett expressed objection to calling this an increase in revenue since she feels it is a tax. Mr. Clark stated that with the loss of revenue from

the Estate Tax it was thought that this would be one way to increase revenue since it has not been raised since its inception. Many of the surrounding communities collect the 5% video service provider fee. Mrs. Barnett noted that sewer and trash bills will go up as well, and water bills are out of sight. She suggested increasing real estate tax. Mr. Koomar supported the comments of Mr. Clark noting the loss of revenue through the Estate Tax and Local Government Fund.

A Bay Middle School student's mother asked what can be done to clean up Cahoon Road to West Oakland so people can exit going right out of the Bay Middle School parking lot, and turn right on West Oakland to exit the area. Service Director Thomas stated that the area at the school on Cahoon is used as a staging area for the construction vehicles. He noted that traffic has been changed to allow a left turn on Cahoon from the Middle School Parking lot to go out to Wolf Road. The mother noted that this is a real problem for the students. Mr. Koomar stated that this will be taken under consideration.

Conda Boyd stated that the traffic pattern was established when the Middle School was built and was designed to avoid putting traffic on West Oakland. She noted that it is a quiet residential street and anything that would increase the traffic on West Oakland would be counter-productive, particularly since there are so many parking on the street in violation of the parking laws. An ambulance or safety vehicle would have difficulty accessing the area during drop-off and pick-up time.

Director Thomas stated that the sewer project on Cahoon will be completed in June. Mr. Koomar asked if there is any flexibility to accommodate student drop-off and pick-up times.

The mother of the Bay Middle School student questioned why the project had to be done during the school year. She suggested that any construction done near the schools be scrutinized for the impact to the students and for student safety.

George Faulkner, former resident of Bay Village, referenced the prohibition against riding two abreast on Lake Road. He asked if the Law Director has considered a conflict between Ohio Revised Code 4511.55(b) which allows two cyclists abreast on a single lane. Mr. Ebert stated that being a charter city this has been carefully looked at by the Police Department, and Police Chief Spaetzle. The concern in Bay Village is that the city opted for curbs, gutters and sidewalks on Lake Road when the state did the project versus the bicycle lane that Avon Lake has. It is the most heavily, and fastest, traveled area in Bay Village. The concern going two abreast is that a car would be pushed beyond the center line. With one cyclist, a motorist shouldn't have to go over the center line even with the three feet passing requirement of the proposed ordinance.

Police Chief Spaetzle thanked all the groups that were involved in the bicycle legislation. The ordinance being done is overdue. The Chief noted that he is a bicyclist himself and travels Lake Road in the summer every day coming back and forth to work, and is very familiar with riding Lake Road. He stated that even he gets nervous riding down Lake Road riding close to the curb. Lake Road, except for where there is a turn lane, is a 15 ft. lane width. You can actually go around a single rider without crossing over the hazard zones. With two abreast, you must go across the line. Chief Spaetzle stated that he understands theoretically why all this is being

proposed, but when you look at Bay Village it is almost like a funnel. You come out of Rocky River with very wide two lanes and into Bay Village with narrow two lanes. While riding two abreast on Lake Road complies with the state law as it is currently written, motorists don't understand it. It creates a situation where anybody who is backed up behind those cyclists get aggravated. Very irate motorists create hazardous situations because of that. We would like to avoid that. Chief Spaetzel stated his concern is not anything but the safety of the bicycle riders, one of which is himself. He noted that this is how they came to that conclusion. They would certainly be amenable to posting at the entrance to the city and any laterals that run into Lake Road that it is single file for this section only as part of the uniformity concerns to make people aware.

Mr. Faulkner commented further stating that as a former resident of Lake Road for years he understands the frustration with the drivers and cyclists on Lake Road. He asked how citations will be reconciled in Rocky River Court for violations of the ordinance. Mr. Ebert stated that the police are very sensitive to the issue and someone would have to be very defiant to get to that point in time. Even last year when Lake Road was repaved the issue was the bicycle grates and the catch basins. There was a problem with some of the grates that were lower than the pavement. Mr. Ebert noted that it is understood that it is a deviation from the state law but this is the only road where this is being required.

Lawrence Kuh stated that the whole nature of the ordinance is to increase safety. He is hearing the opinion of two individuals in the whole situation that think it is safer to ride single file, when there have been multiple examples that riding two abreast is safer. Bike Cleveland and other organizations have stated that riding two abreast, regardless of whether the road is wide or narrow, is safer. How are we now saying it is not safer? We want people to ride the cars across the center; that's what is safer when passing a bicycle – to pass like you are passing a car.

Mr. Koomar thanked everyone for their comments. He noted that the ordinances are going on first reading tonight. Part of this is to get everyone's input for consideration.

COMMITTEE OF THE WHOLE

Presentation by Cleveland Clinic of Lifesaving Assistance App

Fire Chief Lyons introduced Mr. Bill Sillasen, Regional EMS Director for the Cleveland Clinic and Mr. Thomas Beers, EMS Manager for the Cleveland Clinic to demonstrate the application called PulsePoint. In the summer of 2013, the Cleveland Clinic approached the Westshore Fire Chiefs with the idea of implementing this new technology. The PulsePoint is a location-aware phone application that empowers everyday citizens to provide life-saving assistance to victims of Sudden Cardiac Arrest. Communities can now use the application to dispatch citizens to major cardiac emergencies where the potential need for bystander CPR is high. Notifications are made simultaneously with the dispatch of paramedics to anyone within the area that has indicated their willingness and ability to assist during a sudden cardiac emergency. These notifications are only made if the victim is in a public place and only to potential rescuers that are in the immediate

vicinity of the emergency. When notifications do occur they intend to target potential citizen rescuers that are primarily within walking distance of the event. To install the PulsePoint app simply search *PulsePoint* in the [Apple App Store](#) or in Android Apps on [Google Play](#).

Mr. Sillasen and Mr. Beers were thanked for the presentation of PulsePoint this evening. Chief Lyons reminded everyone that the Bay Village Fire Department has CPR for Family and Friends at no charge at the Bay Village Fire Station every third Wednesday of the month, from 7 p.m. to 10 p.m. Call the Fire Station at 440-871-1212 to register.

ENVIRONMENT, SAFETY & COMMUNITY SERVICES COMMITTEE – Mr. Lee

Mr. Lee introduced Ordinance No. 14-11 Authorizing The Adoption Of New Codified Ordinance Chapter No. 377 Concerning Bicycles For Increased Safety For Motor Vehicles And Bicyclists In The City Of Bay Village, And Declaring An Emergency.

Mr. Koomar announced that Ordinance No. 14-11 is placed on first reading.

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Mr. Lee introduced Ordinance No. 14-13 Amending Codified Ordinance 331.10 Regarding Vehicles Turning at Intersections, and Declaring an Emergency.

Mr. Koomar announced that Ordinance No. 14-13 is placed on first reading.

Mr. Lee introduced Ordinance No. 14-14 Amending Codified Ordinance 301.04 Regarding “Bicycle; Motorized Bicycle” of the Traffic Code of the City of Bay Village, and Declaring an Emergency.

Mr. Koomar announced that Ordinance No. 14-14 is placed on first reading.

Mr. Lee introduced Ordinance No. 14-15 Amending Codified Ordinance 301.51” “Vehicle” of the Traffic Code of the City of Bay Village, and Declaring an Emergency.

Mr. Koomar announced that Ordinance No. 14-15 is placed on first reading.

Mr. Lee introduced Ordinance No. 14-16 Amending Codified Ordinance 351.08 “Opening Vehicle Door on Traffic Side” of the Traffic Code of the City of Bay Village, and Declaring an Emergency.

Mr. Koomar announced that Ordinance No. 14-16 is placed on first reading.

FINANCE & CLAIMS COMMITTEE

Mr. Clark introduced **Ordinance No. 14-17** To Authorize the Mayor to enter Into An Extension Of The Lease Agreement With Kiddie Kollege, Inc., For The Real Estate Located At 27400 Wolf Road Referred To As “Bayway Cabin”, And Declaring An Emergency.

Mr. Koomar announced that Ordinance No. 14-17 is placed on first reading.

Mr. Clark introduced **Ordinance 14-18** to Amend Appropriations for the Current and other Expenditures of the City of Bay Village for the Fiscal Year 2014, as previously appropriated in Temporary Appropriations 13-119 and 14-01, and Annual Appropriation 14-02, and Declaring an Emergency

There being no further discussion, Mr. Koomar called for a vote on the motion to adopt Ordinance No. 14-18.

- Roll Call on Suspension of Charter Rules:
 - Yeas- Clark, Henderson, Koomar, Lee, Lieske, Vincent
 - Nays-None
- Roll Call on Suspension of Council Rules:
 - Yeas –Clark, Henderson, Koomar, Lee, Lieske, Vincent
 - Nays–None
- Roll Call on Use of the Emergency Clause:
 - Yeas –Clark, Henderson, Koomar, Lee, Lieske, Vincent
 - Nays -None
- Roll Call on Adoption:
 - Yeas–Clark, Henderson, Koomar, Lee, Lieske, Vincent
 - Nays–None.

Mr. Koomar announced adoption Ordinance No. 14-18, an emergency measure, by a vote of 6-0.

Mr. Clark introduced **Resolution No. 14-19** Authorizing the Sale of Property Items Received into Possession by the City of Bay Village, and Declaring an Emergency.

There being no further discussion, Mr. Koomar called for a vote on the motion to adopt Ordinance No. 14-19.

- Roll Call on Suspension of Charter Rules:
 - Yeas- Henderson, Koomar, Lee, Lieske, Vincent, Clark
 - Nays-None
- Roll Call on Suspension of Council Rules:
 - Yeas –Henderson, Koomar, Lee, Lieske, Vincent, Clark
 - Nays–None
- Roll Call on Use of the Emergency Clause:
 - Yeas –Henderson, Koomar, Lee, Lieske, Vincent, Clark

Nays -None
Roll Call on Adoption:
Yeas–Henderson, Koomar, Lee, Lieske, Vincent, Clark
Nays–None.

Mr. Koomar announced adoption Ordinance No. 14-19, an emergency measure, by a vote of 6-0

Mr. Clark read **Ordinance No. 14-08** amending Codified Ordinance Section 151 regarding Employment Provisions.

There being no further discussion, Mr. Koomar called for a vote on the motion to adopt Ordinance No. 14-08.

Roll Call on Use of the Emergency Clause:
Yeas –Koomar, Lee, Lieske, Vincent, Clark, Henderson
Nays -None
Roll Call on Adoption:
Yeas–Koomar, Lee, Lieske, Vincent, Clark, Henderson
Nays–None.

Mr. Koomar announced adoption Ordinance No. 14-18, an emergency measure, by a vote of 6-0.

Mr. Clark introduced **Ordinance No. 14-20** Providing For The Issuance And Sale Of \$1,000,000 Of Notes, In Anticipation Of The Issuance Of Bonds, For The Purpose Of Paying Costs Of (I) Improving Streets By Resurfacing, Paving And Making Other Improvements As Designated In The Plans Approved Or To Be Approved By Council, (Ii) Improving The City’s Parks And Recreational Facilities By Improving Basketball And Tennis Courts, Aquatic And Related Facilities And Their Sites, (Iii) Renovating And Otherwise Improving City Hall, (Iv) Renovating And Otherwise Improving The City’s Service Garage And (V) Improving The City’s Community House By Installing A New Fire Alarm System, And Declaring An Emergency.

Mr. Koomar announced that Ordinance No. 14-20 is placed on first reading.

Mr. Clark introduced **Ordinance No. 14-21** Providing for the Issuance and Sale Of \$525,000 Of Notes, In Anticipation of the Issuance of Bonds, For The Purpose Of Paying Costs of Improving Streets by Resurfacing, Paving and Making Other Improvements as Designated in the Plans Approved or to Be Approved by Council, And Declaring an Emergency.

Mr. Koomar announced that Ordinance No. 14-21 is placed on first reading.

Mr. Clark introduced **Ordinance No. 14-22** Providing For The Issuance And Sale Of \$340,000 Of Notes, In Anticipation Of The Issuance Of Bonds, For The Purpose Of Paying Costs Of Acquiring Motor Vehicles And Equipment And Acquiring And Installing A Work Order System For Use In Performing The Functions Of The City’s Department Of Public Services And Properties, And Declaring An Emergency.

Mr. Koomar announced that Ordinance No. 14-22 is placed on first reading.

Mr. Clark introduced **Ordinance No. 14-23** Providing for the Issuance and Sale Of \$133,000 Of Notes, In Anticipation of the Issuance of Bonds, For The Purpose Of Paying Costs of Acquiring Motor Vehicles and Equipment for Use in Performing the Functions of the City's Police Department, And Declaring an Emergency.

Mr. Koomar announced that Ordinance No. 14-23 is placed on first reading.

Mr. Clark introduced **Ordinance No. 14-24** Providing for the Issuance and Sale Of \$129,000 Of Notes, In Anticipation of the Issuance of Bonds, For The Purpose Of Paying Costs of Improving the City's Parks and Recreational Facilities by Constructing and Improving Lighting Facilities at Hartman Field, And Declaring an Emergency.

Mr. Koomar announced that Ordinance No. 14-24 is placed on first reading.

Mr. Clark introduced **Ordinance No. 14-25** Providing for the Issuance and Sale Of \$90,000 Of Notes, In Anticipation of the Issuance of Bonds, For The Purpose Of Paying Costs of Acquiring Office Equipment for Use in Performing the Administrative Functions of the City, And Declaring an Emergency.

Mr. Koomar announced that Ordinance No. 14-25 is placed on first reading.

Mr. Clark introduced **Ordinance No. 14-26** Providing for the Issuance and Sale Of \$60,000 Of Notes, In Anticipation of the Issuance of Bonds, For The Purpose Of Paying Costs of Acquiring a Bus for Use in Performing the Functions of the City's Department Of Community Services, And Declaring An Emergency.

Mr. Koomar announced that Ordinance No. 14-26 is placed on first reading.

Mr. Clark introduced **Ordinance No. 14-27** Providing for the Issuance and Sale Of \$43,000 Of Notes, In Anticipation of the Issuance of Bonds, For The Purpose Of Paying Costs of Acquiring a Motor Vehicle and Equipment for Use in Performing the Functions of the City's Fire Department, And Declaring an Emergency.

Mr. Koomar announced that Ordinance No. 14-27 is placed on first reading.

PLANNING, ZONING & PUBLIC GROUNDS & BUILDINGS COMMITTEE – Mrs. Lieske

Motion by **Mrs. Lieske** to extend the time for the Planning Commission to review Chapter 1158 for a period of thirty days to April 8, 2014.

Motion passed 6-0.

Mrs. Lieske read **Ordinance No. 13-131** amending Codified Ordinance Chapter 1322 regarding Residential Code of Ohio for One, Two, and Three-Family Dwellings.

Mr. Koomar announced that Ordinance No. 13-131 is placed on second reading.

Mrs. Lieske read **Ordinance No. 13-97** amending Codified Ordinance 1301 regarding Department of Building, Engineering, and Inspection; Enforcement.

There being no further discussion, Mr. Koomar called for a vote on the motion to adopt Ordinance No. 13-97.

Roll Call on Adoption:

Yeas— Lee, Lieske, Vincent, Clark, Henderson, Koomar
Nays—None.

Mr. Koomar announced adoption Ordinance No. 13-97, by a vote of 6-0.

Ordinance 13-106 amending C.O. Section 1344.03 regarding Residential, Commercial and Accessory Structure Maintenance Definitions.

Roll Call on Adoption:

Yeas— Lieske, Vincent, Clark, Henderson, Koomar, Lee
Nays—None.

Mr. Koomar announced adoption Ordinance No. 13-106, by a vote of 6-0.

Mrs. Lieske thanked everyone for working on the clarifying of the definitions in these ordinances.

RECREATION AND PARK IMPROVEMENTS COMMITTEE

Mr. Henderson had no report this evening.

SERVICES, UTILITIES & EQUIPMENT COMMITTEE

Mr. Vincent had no report this evening.

MISCELLANEOUS

In compliance with Section 121.22 of the Ohio Revised Code, Mr. Clark **MOVED** to convene to Executive Session regarding Contracts (Rocky River Wastewater Treatment Plant), Litigation (Wischmeyer Creek), and Personnel (Restructuring of Service Department).

Minutes of Regular Meeting
Bay Village City Council
March 3, 2014

**Roll Call Vote: Yeas- Clark, Henderson, Koomar, Lee, Lieske, Vincent. Nays – None.
Motion passed 6-0.**

Also present in Executive Session were Mayor Sutherland, Law Director Ebert, Finance Director Mahoney, Service Director Thomas, and from the Rocky River Wastewater Treatment Plant: Jeff Harrington and Dave Matty.

Council reconvened in an open meeting at 10:29 p.m. Present were: Clark, Henderson, Koomar, Lee, Lieske, Vincent.

There being no further business to discuss, the meeting adjourned at 10:31 p.m.

Paul A. Koomar, President of Council

Joan Kemper, Clerk of Council

ORDINANCE NO.
INTRODUCED BY:

AN ORDINANCE
**AMENDING CODIFIED ORDINANCE 921.02 REGARDING SEWER
RENTAL RATES, AND DECLARING AN EMERGENCY**

BE IT ORDAINED by the Council of the City of Bay Village, Ohio:

SECTION 1. That Codified Ordinance Section 921.02 which presently reads as follows:

“921.02 RENTAL RATES.

There is hereby established and imposed a charge upon all improved lots, lands and parcels of real estate within the City, except Municipal facilities, which are served by the City’s water system or any other public or private water system and which are capable of being connected to the City’s sewerage system by reason of the proximity of a public sewer on a street or easement abutting the lot, land or parcel to be charged, whether actually connected or not, at the following rates:

Annual User Charge Including Operating, Repair, Maintenance and Improvement

	Rates in Effect for:	<u>1/1/2013 & Thereafter</u>
<u>User Class</u>		
(a)	Single-family	<u>\$260.00/yr</u>
(b)	Double-family	<u>345.00/yr</u>
(c)	Apartments	
	2 bedroom or more	<u>171.00/yr</u>
	1 bedroom or less	<u>104.00/yr</u>
(d)	Commercial	<u>24.02/MCF</u>
(e)	Industrial	<u>24.02/MCF</u>

Commercial and industrial rate will be **\$24.02** per MCF but not less than **\$171.00** per year.

be and the same is amended to read:

“921.02 RENTAL RATES.

There is hereby established and imposed a charge upon all improved lots, lands and parcels of real estate within the City, except Municipal facilities, which are served by the City’s water system or any other public or private water system and which are capable of being connected to the City’s sewerage system by reason of the proximity of a public sewer on a street or easement abutting the lot, land or parcel to be charged, whether actually connected or not, at the following rates:

	Rates in Effect for:	<u>1/1/2014 & Thereafter</u>
<u>User Class</u>		
(a)	Single-family	<u>\$325.00/yr</u>
(b)	Double-family	<u>420.00/yr</u>

(c)	Apartments	
	2 bedroom or more	<u>214.00/yr</u>
	1 bedroom or less	<u>130.00/yr</u>
(d)	Commercial	<u>30.03/MCF</u>
(e)	Industrial	<u>30.03/MCF</u>

Commercial and industrial rate will be \$30.03 per MCF but not less than \$246.00 per year.

and present Section 921.02 is hereby repealed.

SECTION 2. That this Council finds and determines that all formal actions of this 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 and of any committee that resulted in those formal actions were in meetings open to the public in compliance with law.

SECTION 3. That this ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety and welfare, and for the further reason that it is necessary for the daily operation of the Finance Department, wherefore this ordinance shall be in full force and take effect immediately upon its passage and approval by the Mayor.

PASSED:

PRESIDENT OF COUNCIL

CLERK OF COUNCIL

APPROVED:

MAYOR

03/07/14 II

ORDINANCE NO.
INTRODUCED BY:

AN ORDINANCE
**AMENDING SECTION 1 OF ORDINANCE 14-06 REGARDING RATES OF COMPENSATION FOR THE OFFICERS
AND EMPLOYEES OF THE GENERAL ADMINISTRATION DEPARTMENT AND THOSE EMPLOYEES OF THE
CITY NOT COVERED BY SEPARATE LABOR CONTRACT FOR THE CALENDAR YEAR 2014 AND THEREAFTER,
AND DECLARING AN EMERGENCY.**

BE IT ORDAINED by the Council of the City of Bay Village, Ohio:

SECTION 1. That March 17, 2014 the compensation to be paid to the officers and employees of the GENERAL ADMINISTRATION DEPARTMENT and those employees not covered by separate labor contract shall be:

	January 1, 2014 and thereafter	March 17, 2014 and thereafter
1. Director of Finance	\$91,555	\$91,555
2. Assistant Finance Director	66,385	66,385
3. Accounts Payable Coordinator	17.23 – 19.73 per hour	17.23 – 19.73 per hour
4. Part-time Clerical	11.45 – 15.60 per hour	11.45 – 15.60 per hour
5. Director of Law	70,878	70,878
6. Assistant to Law Director	20.89 per hour	20.89 per hour
7. Prosecutor	33,257	33,257
8. Dir. Public Service & Properties	88,740	88,740
9. Assistant Service Director	81,151	0
10. General Foreman	71,985	71,985

11. Supervisor	74,005	74,005	74,005
11. Sewer Collections Foreman			\$58,000
12. Infrastructure Manager	56,265		\$63,000
13. Projects Coordinator			\$30/hr
14. Part-time	10.52 – 16.88 per hour		10.52 – 16.88 per hour
15. Seasonal	8.07 – 16.31 per hour		8.07 – 16.31 per hour
16. Director of Recreation	71, 923	71, 923	71, 923
17. Asst. Recreation Director	42,289	42,289	42,289
18. Assistant to Mayor	44,617	44,617	44,617
19. Clerk of Council	49,225	49,225	49,225
20. Fire Chief	98,886	98,886	98,886
21. Police Chief	98,886	98,886	98,886
22. Deputy Police Officer			
Start	22.43 per hour		22.43 per hour
After 2080 hours	24.93 per hour		24.93 per hour
After 4160 hours	28.25 per hour		28.25 per hour
After 6240 hours	32.19 per hour		32.19 per hour
23. School Guard	9.61 – 13.89 per hour		9.61 – 13.89 per hour
24. Jailer/Matron	13.89 per hour		13.89 per hour

25. Director of Community Services	63,659	63,659
26. Senior Van Driver	8.94 – 12.30 per hour	8.94 – 12.30 per hour

The individual who may serve pro-tem as Secretary to Council or as Secretary to Planning Commission, Board of Zoning Appeals, Recreation Commission, Civil Service Commission, Architectural Board of Review, Tree Commission or Charter Review Committee shall be paid fifty dollars (\$50.00) for the first two hours of attendance and his or her hourly rate thereafter per regular or special meeting attended in lieu of wages.”

and present Section 1 of Ordinance 14-06 is hereby repealed.

SECTION 2. That it is found and determined that all formal actions concerning and relating to the adoption of this ordinance were adopted in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 3. That this ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety and welfare, and for the further reason that it is necessary to provide for compensation in conformance with agreements reached during labor negotiations and to secure adequate personnel for the City’s needs, wherefore this ordinance shall be in full force and take effect immediately upon its passage and approval by the Mayor.

PASSED:

CLERK OF COUNCIL

PRESIDENT OF COUNCIL

APPROVED:

MAYOR

ORDINANCE NO.
INTRODUCED BY:

AN ORDINANCE
**AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH
CUYAHOGA COUNTY DEPARTMENT OF PUBLIC WORKS TO
CONDUCT BRIDGE INSPECTIONS**

WHEREAS, Cuyahoga County council passed Ordinance No. 02013-0007, establishing a Countywide Inspection Program; and

WHEREAS, the City has received a 2014 Bridge Inspection Structural Cost Proposal from the Cuyahoga County Department of Public Works (hereinafter "CCDPW") for inspection of bridges within the City of Bay Village; and

WHEREAS, the City desires to retain CCDPW for inspections and related services for the City of Bay Village; and

WHEREAS, CCDPW will bill the City directly for said services;

BE IT ORDAINED, by the Council of the City of Bay Village, Ohio:

SECTION 1. CCDPW will develop a task order of inspections and related services that CCDPW is willing to perform for the City.

SECTION 2. The task order shall include the scope of work to be performed, together with an estimate of the cost of the work prepared by CCDPW.

SECTION 3. CCDPW will bill the City directly for said services.

SECTION 4. That the Mayor is hereby authorized in the name of the City of Bay Village to enter into an agreement with the Cuyahoga County of Public Works to conduct bridge inspections.

SECTION 5. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.11 of the Ohio Revised Code.

SECTION 6. That this ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety and welfare, and for the further reasons stated in the preamble hereof, wherefore this ordinance shall be in full force and take effect immediately upon its passage and approval by the Mayor.

PASSED:

PRESIDENT OF COUNCIL

CLERK OF COUNCIL

APPROVED:

MAYOR

3-7-14 II

AN ORDINANCE
AUTHORIZING THE ADOPTION OF NEW CODIFIED ORDINANCE
CHAPTER NO. 377 CONCERNING BICYCLES FOR INCREASED
SAFETY FOR MOTOR VEHICLES AND BICYCLISTS
IN THE CITY OF BAY VILLAGE,
AND DECLARING AN EMERGENCY

WHEREAS, in the interest of uniformity with the bicycle safety codes of the City of Bay Village and the State of Ohio, it is necessary to replace Codified Ordinance Chapter 377 concerning bicycles.

BE IT ORDAINED, by the Council of the City of Bay Village, Ohio:

SECTION 1: That Council hereby adopts replacement Chapter 377 concerning bicycles for increased safety for motor vehicles and bicyclists in the City of Bay Village.

CHAPTER 377
Bicycles

REGULATIONS

- 377.01 Code Application to Bicycles.**
- 377.02 Definitions.**
- 377.03 Parent's responsibility.**
- 377.04 Obedience to traffic control devices.**
- 377.05 Riding Bicycle on Right Side of Roadway; Obedience to Traffic Law; Passing.**
- 377.06 Riding on sidewalks.**
- 377.07 Riding upon seats; Handlebars.**
- 377.08 Emerging from alley or driveway.**
- 377.09 Attaching bicycle or sled to vehicle.**
- 377.10 Riding bicycles abreast.**
- 377.11 Lights and reflector on bicycle; Brakes.**
- 377.12 Signal device on bicycle**
- 377.13 Impounding of bicycles.**
- 377.14 Reckless operation; Control, course and speed.**
- 377.15 Parking of bicycle.**

PENALTY

- 377.99 Penalty.**

CROSS REFERENCES

- Bicycle defined - see TRAF. 301.04(a)
- Bicycles prohibited on freeways - see TRAF. 303.06
- Motorized bicycles (Mopeds) - see TRAF. Ch. 379

REGULATIONS

377.01 CODE APPLICATION TO BICYCLES.

These regulations are applicable to bicycles whenever a bicycle is operated upon any sidewalk or street, subject to those exceptions stated herein.

- (a) Every person riding a bicycle upon a street shall be granted all of the rights and shall be subject to all duties applicable to the driver of a vehicle. Every person riding a bicycle upon a sidewalk shall be granted all of the rights and shall be subject to all of the duties applicable to a pedestrian.
- (b) Except as provided in subsection (c) of this section, a bicycle operator who violates any section of this Code described in subsection (d) of this section that is applicable to bicycles may be issued a ticket, citation or summons by a law enforcement officer for the violation in the same manner as the operator of a motor vehicle would be cited for the same violation. A person who commits any such violation while operating a bicycle shall not have any points assessed against the person's driver's license, commercial driver's license, temporary instruction permit or probationary license under Ohio R.C. 4510.036.
- (c) Subsection (b) of this section does not apply to violations of Section 333.01 of this Traffic Code. (ORC 4511.52)
- (d) The provisions of this Traffic Code shall apply to bicycles except those provisions, which by their nature are not applicable.

377.02 DEFINITIONS.

As used in this chapter, certain words are defined as follows:

- (a) "Bicycle" has the same meaning as defined in Section 301.04(a) of this Traffic Code.
- (b) "Bicyclist" means a person utilizing a bicycle.

377.03 PARENT'S RESPONSIBILITY.

The parent and/or guardian of any child, under the age of 18, or of any ward shall not authorize or knowingly permit any such child or ward to violate any of the provisions of this chapter.

377.04 OBEDIENCE TO TRAFFIC CONTROL DEVICES.

(a) Any person operating a bicycle shall obey the instructions of official traffic control signals, signs and other traffic control devices applicable to vehicles, unless otherwise directed by a police officer or unless the traffic signals are otherwise malfunctioning, including the failure of a vehicle detector to detect the vehicle. In the case of a malfunctioning light, operator must:

- (1) Stop at a clearly marked stop lines, but if none, stop before entering the crosswalk on the near side of the intersection, or, if none, stop before entering the intersection;

(2) Yield the right-of-way to all vehicles in the intersection or approaching on an intersecting road, if the vehicles will constitute an immediate hazard during the time the driver is moving across or within the intersection or junction of roadways; and

(3) Exercise ordinary care while proceeding through the intersection.

(b) Whenever authorized signs are erected that no right, left or "U" turns are permitted, no person operating a bicycle shall disobey the direction of any such sign, except where such person dismounts from the bicycle to make any such turn, in which event such person shall then obey the regulations applicable to pedestrians.

377.05 RIDING BICYCLE ON RIGHT SIDE OF ROADWAY; OBEDIENCE TO TRAFFIC RULES.

It shall be legal to ride a bicycle upon a street or public way, subject to the following:

(a) Every person operating a bicycle upon a roadway shall ride as near to the right side of the roadway as practicable obeying all traffic rules applicable to vehicles and exercising due care when passing a standing vehicle or one proceeding in the same direction.

(b) This section does not require a person operating a bicycle to ride at the edge of the roadway when it is unreasonable or unsafe to do so. Conditions that may require riding away from the edge of the roadway include when necessary to avoid fixed or moving objects, parked or moving vehicles, surface hazards, or if it is otherwise unsafe or impracticable to do so, including if the lane is too narrow for the bicycle and an overtaking vehicle to travel safely side by side within the lane.

(c) At no time shall a bicyclist under the age of seven operate a bicycle on a street, unless accompanied by a parent or legal guardian.

(d) A person riding a bicycle upon a street shall yield the right of way to any pedestrian.

(e) When a bicycle is operated on the roadway, the operator shall give hand signals to other vehicle operators in the vicinity before turning or changing lanes. Such signals shall conform with the motor vehicle laws of Ohio. The signal shall be made not less than one time but is not required to be continuous. A bicycle operator is not required to make a signal if the bicycle is in a designated turn lane, and a signal shall not be given when the operator's hands are needed for the safe operation of the bicycle.

377.06 RIDING ON SIDEWALKS.

It shall be legal to ride a bicycle upon a sidewalk or public way, or upon any path set aside for the exclusive use of bicycles, subject to the following:

(a) Except as provided in section (b) below, it shall be legal to operate a bicycle upon a sidewalk when sidewalks are available and not congested with pedestrian traffic. If the sidewalk is congested with pedestrian traffic, any bicycle operator using the sidewalk shall walk the bicycle.

(b) No person shall ride a bicycle upon a sidewalk along which signs have been erected by authority of the Mayor or Director of Public Safety prohibiting such bicycle riding.

(c) A person propelling a bicycle upon and along a sidewalk, or across a roadway upon and along a crosswalk, shall yield the right of way to any pedestrian and shall give an audible signal before overtaking and passing such pedestrian. This audible signal may be given by the voice or by a bell or other warning device capable of giving an audible signal and shall be given at a distance and in such a manner as not to startle a person being overtaken and passed.

(d) A person operating a bicycle upon a sidewalk, before overtaking and passing a blind person carrying a white cane or guided by a dog, shall dismount and overtake or pass on foot, if necessary for safety.

(e) A person shall not operate a bicycle from a sidewalk so as to suddenly leave a curb or other place of safety and move into the path of a vehicle that is so close as to constitute an immediate hazard.

(f) No person shall operate a bicycle on a sidewalk at a speed greater than an ordinary walk when approaching or entering a crosswalk or approaching or crossing a driveway if a vehicle is approaching the crosswalk or driveway.

377.07 RIDING UPON SEATS; HANDLEBARS.

(a) A person operating a bicycle shall not ride other than astride the permanent and regular seat attached thereto, or carry any other person upon such bicycle other than upon a firmly attached and regular seat thereon, and no person shall ride upon a bicycle other than upon such a firmly attached and regular seat.

(b) No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

(c) The provisions of parts (a) and (b) above shall not be construed as prohibiting the carrying of a child in a seat or trailer designed for carrying children and firmly attached to the bicycle.

(d) Every person operating a bicycle shall maintain at least one (1) hand on the handle bars at all times and no person operating a bicycle shall carry any package, bundle or article that prevents the driver from keeping at least one (1) hand upon the handle bars.

377.08 EMERGING FROM ALLEY OR DRIVEWAY.

(a) The operator of a bicycle emerging from an alley, driveway or building shall, upon approaching a sidewalk or the sidewalk area extending across any alley or driveway, yield the right of way to all pedestrians approaching on such sidewalk area and upon entering the street shall yield the right of way to all vehicles approaching on such street.

(Ord. 73-166. Passed 10-4-73.)

377.09 ATTACHING BICYCLE OR SLED TO VEHICLE

(a) No person riding upon any, bicycle, coaster, scooter, roller skates, sled or toy vehicle shall attach the same or self to any vehicle upon a roadway.

(b) No operator shall knowingly permit any person riding upon any bicycle, coaster, scooter, roller skates, sled or toy vehicle to attach the same or self to any vehicle while it is moving upon a roadway. This section does not apply to the towing of a disabled vehicle, nor to the towing of a trailer designed for this purpose.

377.10 RIDING BICYCLES ABREAST.

Persons riding bicycles upon a roadway shall not ride more than two (2) abreast in a single lane, however, persons riding on Lake Road shall ride single file only.

377.11 LIGHTS AND REFLECTOR; BRAKES.

(a) Every bicycle when in use at the times specified in Section 4513.03 of the Ohio Revised Code shall be equipped with the following:

(1) A lamp mounted on the front of either the bicycle or the operator that shall emit a white light visible from a distance of at least five hundred (500) feet to the front and three hundred (300) feet to the sides. A generator powered lamp, which emits light only when the bicycle is moving, may be used to meet this requirement;

(2) A red reflector on the rear of a type that shall be visible from all distances from one hundred (100) feet to six hundred (600) feet to the rear when directly in front of lawful lower beams of head lamps on a motor vehicle; and

(3) A light emitting either flashing or steady red light visible from a distance of five hundred (500) feet to the rear shall be used in addition to the red reflector. If the light performs as a reflector such that it is visible as specified in subsection (2) above, it shall satisfy the requirement for a reflector;

(b) Additional lights and reflectors may be used in addition to those required under part (a) above except that red lights and reflectors shall not be used on the front of the bicycle nor shall white or colorless lights or reflectors be used on the rear of the bicycle.

(c) Every bicycle shall be equipped with an adequate brake when used on a street, sidewalk or highway.

377.12 SIGNAL DEVICE ON BICYCLE.

A bicycle may be equipped with a device capable of giving audible, signal, except that a bicycle shall not be equipped with nor shall any person use upon a bicycle any siren or whistle.

377.13 IMPOUNDING OF BICYCLES.

(a) Whenever any person operates a bicycle in violation of any section of this Traffic Code, the bicycle may be seized by any member of the Police Department and the Chief of Police shall have the authority to impound any bicycle at the police station. An impounded bicycle shall not be released to a minor.

(b) When any bicycle has been seized and so impounded, notice shall be made forthwith by the officer in charge to the owner of the bicycle or, in the event the person is a minor under the age of eighteen years, such notice shall be made to the parent or guardian of the licensee of the bicycle. The notice shall contain a full explanation of the reason for seizing and impounding the bicycle.

(c) Any bicycle impounded under the provisions of this Traffic Code shall be surrendered to the owner or to the parents or guardian of any minor upon showing sufficient proof of ownership of the bicycle, but nothing herein shall relieve the offender of any penalty that may be imposed under the general penalty section of this chapter.

(d) It shall be the duty of the police officer or the person in charge of records to keep in an appropriate book or file the names and addresses of all owners of bicycles impounded, the name and address of the violator if he is not the owner, the license number and the serial number of the bicycle, together with the nature and circumstances of each violation, as well as the disposition of each case.

377.14 RECKLESS OPERATION; CONTROL, COURSE AND SPEED.

(a) No person shall operate a bicycle:

- (1) Without due regard for the safety and rights of pedestrians, drivers and occupants of all other vehicles, and so as to endanger the life, limb, or property of any person while in the lawful use of the streets or sidewalks or any other public or private property;
- (2) Without exercising reasonable and ordinary control over such bicycle;
- (3) In a weaving or zigzag course unless such irregular course is necessary for the safe operation in compliance with law;
- (4) While wearing more than one earphone attached to a radio, tape player, MP3 player, mobile telephone or other audio device.
- (5) While using a handheld electronic communications device to write, send or read text-based communications.

377.15 PARKING OF BICYCLE.

(a) A bicycle shall be parked in a designated bicycle parking area when provided. No person shall park a bicycle upon a sidewalk in such a manner so as to unduly interfere with pedestrian traffic, or upon a roadway so as to unduly interfere with vehicular traffic.

(b) When a designated parking area is not provided, bicycles shall be parked in such a manner as not to interfere with building entrances.

PENALTY

377.99 PENALTY.

(a) Whoever violates any provision of Sections 377.01 to 377.15, inclusive is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree, on each subsequent offense within one year of the first offense, the person is guilty of a misdemeanor of the third degree, and

shall be punished as provided in Section 303.99(b), and the court may prohibit such violator from riding a bicycle for a period not to exceed six months. Whoever violates any provision of this chapter may be punished by having his bicycle impounded for a period not exceeding thirty days.

(b) Except as provided in subsection (c) of Section 377.01, in the case of a violation of any section of this Traffic Code described in subsection (d) of Section 377.01 by a bicycle operator or by a motor vehicle operator when the trier of fact finds that the violation by the motor vehicle operator or the bicycle operator endangered the lives of bicycle riders at the time of the violation, the court, notwithstanding any provision of this Traffic Code to the contrary, may require the bicycle operator or motor vehicle operator to take and successfully complete a bicycling skills course approved by the court in addition to or in lieu of any penalty otherwise prescribed by the Traffic Code for that violation.

SECTION 2. That this Council finds and determines that all formal actions of this 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, and of any committees, that resulted in those formal actions were in meetings open to the public in compliance with law.

SECTION 3. That this ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety and welfare, and for the further reason that it is immediately necessary to update the Codified Ordinances, wherefore this ordinance shall be in full force and take effect immediately upon its passage and approval by the Mayor.

PASSED:

PRESIDENT OF COUNCIL

CLERK OF COUNCIL

APPROVED:

MAYOR

II 2/28/14

3/5/14 – corrected typo

AN ORDINANCE
AMENDING CODIFIED ORDINANCE 331.03 REGARDING
VEHICLES OVERTAKING, PASSING TO LEFT; DRIVERS DUTIES,
AND DECLARING AN EMERGENCY

WHEREAS, due to the implementation of new Chapter 377 relating to bicycles and motor vehicle safety, it is necessary to amend Chapter 331.10 regarding overtaking, passing to left and driver's duties.

BE IT ORDAINED by the Council of the City of Bay Village, Ohio:

SECTION 1. That Codified Ordinance Subsection 331.03 which presently reads as follows:

331.03 OVERTAKING, PASSING TO LEFT; DRIVER'S DUTIES.

(a) The following rules govern the overtaking and passing of vehicles proceeding in the same direction:

(1) The operator of a vehicle overtaking another vehicle proceeding in the same direction shall, except as provided in subsection (a)(3) hereof, signal to the vehicle to be overtaken, shall pass to the left thereof at a safe distance, and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.

(2) Except when overtaking and passing on the right is permitted, the operator of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle at the latter's audible signal, and the operator shall not increase the speed of the operator's vehicle until completely passed by the overtaking vehicle.

(3) The operator of a vehicle overtaking and passing another vehicle proceeding in the same direction on a divided street or highway as defined in Section 331.31, a limited access highway as defined in Ohio R.C. 5511.02 or a highway with four or more traffic lanes, is not required to signal audibly to the vehicle being overtaken and passed.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

be and the same is amended to read:

331.03 OVERTAKING, PASSING TO LEFT; DRIVER'S DUTIES.

(a) The following rules govern the overtaking and passing of vehicles proceeding in the same direction:

(1) The operator of a vehicle overtaking another vehicle proceeding in the same direction shall, except as provided in subsection (a)(3) hereof, signal to the vehicle to be overtaken, shall pass to the left thereof at a safe distance, and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.

(2) Except when overtaking and passing on the right is permitted, the operator of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle at the latter's audible signal, and the operator shall not increase the speed of the operator's vehicle until completely passed by the overtaking vehicle.

(3) The operator of a vehicle overtaking and passing another vehicle proceeding in the same direction on a divided street or highway as defined in Section 331.31, a limited access highway as defined in Ohio R.C. 5511.02 or a highway with four or more traffic lanes, is not required to signal audibly to the vehicle being overtaken and passed.

(4) Except as provided in division (5) of this section, the operator of a motor vehicle overtaking a bicycle proceeding in the same direction on a roadway shall leave a safe distance, **but not less than three (3) feet**, when passing the bicycle and shall maintain that distance, and shall not increase the speed of his or her vehicle, until safely past the overtaken bicycle. **The same requirements shall apply to the operator of a commercial motor vehicle, commercial truck, commercial unit, or bus, except that the safe distance shall not be less than six (6) feet.**

(5) The operator of a motor vehicle overtaking a bicycle proceeding in the same direction on a roadway shall vacate the lane in which the bicycle is located if the roadway has two or more marked lanes running in the same direction, unless the driver can meet the requirements of division (4) of this section.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

(ORC 4511.27)

and present 331.03 is hereby repealed.

SECTION 2. That this Council finds and determines that all formal actions of this 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, and of any committees, that resulted in those formal actions were in meetings open to the public in compliance with law.

SECTION 3. That this ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety and welfare,

and for the further reason that it is immediately necessary to update the Codified Ordinances, wherefore this ordinance shall be in full force and take effect immediately upon its passage and approval by the Mayor.

PASSED:

PRESIDENT OF COUNCIL

CLERK OF COUNCIL

APPROVED:

MAYOR

II 2/28/14

AN ORDINANCE
AMENDING CODIFIED ORDINANCE 331.10 REGARDING
VEHICLES TURNING AT INTERSECTIONS,
AND DECLARING AN EMERGENCY

WHEREAS, due to the implementation of new Chapter 377 relating to bicycles and motor vehicle safety, it is necessary to amend Chapter 331.10 regarding turning at intersections.

BE IT ORDAINED, by the Council of Bay Village, Ohio:

SECTION 1: That Codified Ordinance Subsection 331.10 which presently reads as follows:

331.10 TURNING AT INTERSECTIONS.

(a) The driver of a vehicle intending to turn at an intersection shall be governed by the following rules:

(1) Approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.

(2) At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of such center line where it enters the intersection and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered. Whenever practicable the left turn shall be made in that portion of the intersection to the left of the center of the intersection.

(3) At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle, and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left-hand lane of the roadway being entered lawfully available to the traffic moving in that lane.

(4) Markers, buttons or signs may be placed within or adjacent to intersections and thereby require and direct that a different course from that specified in this section be traveled by vehicles turning at an intersection, and when such markers, buttons or signs are so placed, no operator of a vehicle shall turn such vehicle at an intersection other than as directed and required by such markers, buttons or signs.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

be and the same is amended to read:

331.10 TURNING AT INTERSECTIONS.

(a) The driver of a vehicle intending to turn at an intersection shall be governed by the following rules:

(1) Approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.

(2) At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of such center line where it enters the intersection and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered. Whenever practicable the left turn shall be made in that portion of the intersection to the left of the center of the intersection.

(3) At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle, and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left-hand lane of the roadway being entered lawfully available to the traffic moving in that lane.

(4) Markers, buttons or signs may be placed within or adjacent to intersections and thereby require and direct that a different course from that specified in this section be traveled by vehicles turning at an intersection, and when such markers, buttons or signs are so placed, no operator of a vehicle shall turn such vehicle at an intersection other than as directed and required by such markers, buttons or signs.

(5) The operator of a vehicle within an intersection intending to turn to the left shall yield the right of way to any vehicle, including a bicycle, approaching from the opposite direction.

(6) When a motor vehicle and a bicycle are traveling in the same direction on any roadway, the operator of the motor vehicle overtaking such bicycle traveling on the right side of the roadway shall not turn to the right in front of the bicycle at the intersection or at any alley or driveway until such vehicle has overtaken and is safely clear of the bicycle.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

(ORC 4511.36)

and present 331.10 is hereby repealed.

SECTION 2. That this Council finds and determines that all formal actions of this

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, and of any committees, that resulted in those formal actions were in meetings open to the public in compliance with law.

SECTION 3. That this ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety and welfare, and for the further reason that it is immediately necessary to update the Codified Ordinances, wherefore this ordinance shall be in full force and take effect immediately upon its passage and approval by the Mayor.

PASSED:

PRESIDENT OF COUNCIL

CLERK OF COUNCIL

APPROVED:

MAYOR

ll 2/28/14

ORDINANCE NO. 14-14
INTRODUCED BY: Mr. Lee

First Reading: 3-3-14

AN ORDINANCE
**AMENDING CODIFIED ORDINANCE 301.04 "BICYCLE; MOTORIZED BICYCLE"
OF THE TRAFFIC CODE OF THE CITY OF BAY VILLAGE AND DECLARING AN
EMERGENCY**

WHEREAS, due to the implementation of new Chapter 377 relating to bicycles and motor vehicle safety, it is necessary to amend Section 301.04, which is the definition of "Bicycle; Motorized Bicycle";

BE IT ORDAINED by the Council of the City of Bay Village, Ohio:

SECTION 1. That Codified Ordinance Subsection 301.04 which presently reads as follows:

301.04 BICYCLE; MOTORIZED BICYCLE.

(a) "Bicycle" means every device, other than a tricycle designed solely for use as a play vehicle by a child, propelled solely by human power, upon which any person may ride having two tandem wheels or one wheel in the front and two wheels in the rear or two wheels in the front and one wheel in the rear, any of which is more than fourteen inches in diameter.
(ORC 4511.01(G))

(b) "Motorized bicycle" means any vehicle having either two tandem wheels or one wheel in the front and two wheels in the rear, that is capable of being pedaled and is equipped with a helper motor of not more than fifty cubic centimeters piston displacement which produces no more than one brake horsepower and is capable of propelling the vehicle at a speed of no greater than twenty miles per hour on a level surface.
(ORC 4511.01(H))

be and the same is amended to read:

301.04 BICYCLE; MOTORIZED BICYCLE.

(a) "Bicycle" means every device, other than that is designed solely for use as a play vehicle by a child, that is propelled solely by human power, upon which a person may ride, and that has two or more wheels , any of which is more than fourteen inches in diameter.

and present 301.04(a) is hereby repealed.

SECTION 2. That this Council finds and determines that all formal actions of this 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, and of any committees,

that resulted in those formal actions were in meetings open to the public in compliance with law.

SECTION 3. That this ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety and welfare, and for the further reason that it is immediately necessary to update the Codified Ordinances, wherefore this ordinance shall be in full force and take effect immediately upon its passage and approval by the Mayor.

PASSED:

PRESIDENT OF COUNCIL

CLERK OF COUNCIL

APPROVED:

MAYOR

II 2/28/14

AN ORDINANCE
**AMENDING CODIFIED ORDINANCE 301.51 “VEHICLE” OF THE TRAFFIC CODE
OF THE CITY OF BAY VILLAGE AND DECLARING AN EMERGENCY**

WHEREAS, due to the implementation of new Chapter 377 relating to bicycles and motor vehicle safety, it is necessary to amend Section 301.51, which is the definition of “Vehicle”;

BE IT ORDAINED by the Council of the City of Bay Village, Ohio:

SECTION 1. That Codified Ordinance Subsection 301.51 which presently reads as follows:

301.51 VEHICLE

“Vehicle” means every device, including a motorized bicycle, in, upon or by which any person or property may be transported or drawn upon a street or highway, except that “vehicle” does not include any motorized wheelchair, electric personal assistive mobility device, or any device, other than a bicycle, that is moved by human power. (ORC4511.01(A))

be and the same is amended to read:

301.51 VEHICLE

“Vehicle” means every device, including a motorized bicycle, in, upon or by which any person or property may be transported or drawn upon a highway, except that “vehicle” does not include any motorized wheelchair, electric personal assistive mobility device, any device that is moved by power collected from overhead electric trolley wires or that is used exclusively upon stationary rails or tracks, or any device, other than a bicycle, that is moved by human power (ORC4511.01(A))

and present Section 301.51 is hereby repealed.

SECTION 2. That this Council finds and determines that all formal actions of this 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, and of any committees, that resulted in those formal actions were in meetings open to the public in compliance with law.

SECTION 3. That this ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety and welfare, and for the further reason that it is immediately necessary to update the Codified Ordinances, wherefore this ordinance shall be in full force and take effect immediately upon its passage and approval by the Mayor.

PASSED:

PRESIDENT OF COUNCIL

CLERK OF COUNCIL

APPROVED:

MAYOR

II 2/28/14

FISCAL OFFICER'S CERTIFICATE

TO THE COUNCIL OF THE CITY OF BAY VILLAGE, OHIO:

As fiscal officer of the City of Bay Village, Ohio, I certify in connection with your proposed issue of \$1,000,000 of notes (the Notes), to be issued in anticipation of the issuance of bonds (the Bonds), for the purpose of paying costs of (i) improving streets by resurfacing, paving and making other improvements as designated in the plans approved or to be approved by Council (the Street improvements) (\$515,000 of the Notes), (ii) improving the City's parks and recreational facilities by improving basketball and tennis courts, aquatic and related facilities and their sites (the Recreation improvements) (\$390,000 of the Notes), (iii) renovating and otherwise improving City Hall (the City Hall improvements) (\$50,000 of the Notes), (iv) renovating and otherwise improving the City's Service Garage (the Service Garage improvements) (\$25,000 of the Notes) and (v) improving the City's Community House by installing a new fire alarm system (the Community House improvements and, together with the Street improvements, the Recreation improvements, the City Hall improvements and the Service Garage improvements, the improvements) (\$20,000), that:

1. The estimated life or period of usefulness of the improvements is at least five years.
2. The estimated maximum maturity of the Bonds, calculated in accordance with Section 133.20 of the Revised Code, is (i) 15 years as to the portion of the Bonds related to the Street improvements, being my estimate of the life or period of usefulness of the improvement, (ii) 30 years as to the portion of the Bonds related to the Recreation improvements and (iii) 20 years as to the portion of the Bonds related to the City Hall improvements, the Service Garage improvements and the Community House improvements; if and to the extent a portion of the proceeds of the related Bonds may be determined to be allocated to a class or classes having a maximum maturity of less than 20 years but in excess of five years, then the maximum maturity of the related Bonds would still be at least 20 years by reason of a sufficient portion of the proceeds of the related Bonds allocated to a class or classes having a maximum maturity or an estimated period of usefulness in excess of 20 years. If notes in anticipation of the related Bonds are outstanding later than the last day of December of the fifth year following the year of issuance of the original issue of notes, the period in excess of those five years shall be deducted from that maximum maturity of the related Bonds.
3. The maximum maturity of the Notes is June 12, 2033, which date is 20 years from June 12, 2013, the date of issuance of the original notes issued for those purposes.

Dated: March 3, 2014

Director of Finance
City of Bay Village, Ohio

AN ORDINANCE

PROVIDING FOR THE ISSUANCE AND SALE OF \$1,000,000 OF NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, FOR THE PURPOSE OF PAYING COSTS OF (i) IMPROVING STREETS BY RESURFACING, PAVING AND MAKING OTHER IMPROVEMENTS AS DESIGNATED IN THE PLANS APPROVED OR TO BE APPROVED BY COUNCIL, (ii) IMPROVING THE CITY'S PARKS AND RECREATIONAL FACILITIES BY IMPROVING BASKETBALL AND TENNIS COURTS, AQUATIC AND RELATED FACILITIES AND THEIR SITES, (iii) RENOVATING AND OTHERWISE IMPROVING CITY HALL, (iv) RENOVATING AND OTHERWISE IMPROVING THE CITY'S SERVICE GARAGE AND (v) IMPROVING THE CITY'S COMMUNITY HOUSE BY INSTALLING A NEW FIRE ALARM SYSTEM, AND DECLARING AN EMERGENCY.

WHEREAS, pursuant to Ordinance Nos. 13-27, 13-28, 13-29, 13-30 and 13-31, each passed on April 22, 2013, the City issued its \$1,250,000 Various Purpose Notes, Series 2013 (the Outstanding Notes), in anticipation of bonds for the purposes stated in Section 1, which Outstanding Notes mature on June 12, 2014; and

WHEREAS, this Council finds and determines that the City should retire the Outstanding Notes with the proceeds of the Notes described in Section 3 and other funds available to the City; and

WHEREAS, the Director of Finance, as fiscal officer of the City, has certified to this Council that the estimated life or period of usefulness of the improvements described in Section 1 is at least five years, the estimated maximum maturity of the Bonds described in clause (i) of Section 1 is 15 years, in clause (ii) of Section 1 is 30 years and in clause (iii) of Section 1 is 20 years, and the maximum maturity of the Notes described in Section 3, to be issued in anticipation of the Bonds, is June 12, 2033;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Bay Village, County of Cuyahoga, Ohio, that:

SECTION 1. Authorized Principal Amount and Purpose of Anticipated Bonds. It is necessary to issue bonds of the City in the aggregate principal amount of \$1,000,000 (the Bonds) for the purpose of paying costs of (i) improving streets by resurfacing, paving and making other improvements as designated in the plans approved or to be approved by Council (\$515,000), (ii) improving the City's parks and recreational facilities by improving basketball and tennis courts, aquatic and related facilities and their sites (\$390,000), (iii) renovating and otherwise improving City Hall (\$50,000), (iv) renovating and otherwise improving the City's Service Garage (\$25,000) and (v) improving the City's Community House by installing a new fire alarm system (\$20,000).

SECTION 2. Estimated Bond Terms. The Bonds shall be dated approximately May 1, 2015, shall bear interest at the now estimated rate of 5% per year, payable semiannually until the principal amount is paid, and are estimated to mature in 20 annual principal installments on December 1 of each year that are substantially equal. The first interest payment on the Bonds is estimated to be December 1, 2015, and the first principal payment of the Bonds is estimated to be December 1, 2016.

SECTION 3. Authorized Principal Amount of Notes; Note Terms. It is necessary to issue and this Council determines that notes in the aggregate principal amount of \$1,000,000 (the Notes) shall be issued in anticipation of the issuance of the Bonds and to retire, together with other funds available to the City, the Outstanding Notes. The Notes shall be dated the date of issuance and shall mature one year from the date of issuance; provided that the Director of Finance may, if it is determined to be necessary or advisable to the sale of the Notes, establish a maturity date that is any date up to one year from the date of issuance by setting forth that maturity date in the certificate signed in accordance with Section 6 (the Certificate of Award). The Notes shall bear interest at a rate not to exceed 4% per year (computed on the basis of a 360-day year consisting of 12 30-day months), payable at maturity and until the principal amount is paid or payment is provided for. The rate of interest on the Notes shall be determined by the Director of Finance in the Certificate of Award.

SECTION 4. Payment of Debt Charges; Paying Agent. The debt charges on the Notes shall be payable in Federal Reserve funds of the United States of America and shall be payable, without deduction for services of the City's paying agent, at the designated corporate trust office of The Huntington National Bank, or at the principal corporate trust or other office of a bank or trust company designated by the Director of Finance in the Certificate of Award after determining that the payment at that bank or trust company will not endanger the funds or securities of the City and that proper procedures and safeguards are available for that purpose, or at the office of the Director of Finance if agreed to by the Director of Finance and the Original Purchaser (as defined in Section 6) (the Paying Agent).

SECTION 5. Form and Execution of Notes; Book Entry System. The Notes shall be signed by the Mayor and the Director of Finance, in the name of the City and in their official capacities, provided that one of those signatures may be a facsimile. The Notes shall be issued in the denominations and numbers as requested by the Original Purchaser and approved by the Director of Finance in the Certificate of Award, provided that no Note shall be issued in a denomination less than \$100,000. The entire principal amount may be represented by a single note and may be issued as fully registered securities (for which the Director of Finance will serve as note registrar) and in book entry or other uncertificated form in accordance with Section 9.96 and Chapter 133 of the Revised Code if it is determined by the Director of Finance that issuance of fully registered securities in that form will facilitate the sale and delivery of the Notes. The Notes shall not have coupons attached, shall be numbered as determined by the Director of Finance and shall express upon their faces the purpose, in summary terms, for which they are issued and that they are issued pursuant to this Ordinance. As used in this Section and this Ordinance:

“Book entry form” or “book entry system” means a form or system under which (i) the ownership of beneficial interests in the Notes and the principal of, and interest on, the Notes may be transferred only through a book entry, and (ii) a single physical Note certificate is issued by the City and payable only to a Depository or its nominee, with such Notes “immobilized” in the custody of

the Depository or its agent for that purpose. The book entry maintained by others than the City is the record that identifies the owners of beneficial interests in the Notes and that principal and interest.

“Depository” means any securities depository that is a clearing agency under federal law operating and maintaining, with its Participants or otherwise, a book entry system to record ownership of beneficial interests in the Notes or the principal of, and interest on, the Notes and to effect transfers of the 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.

The Notes may be issued to a Depository for use in a book entry system and, if and as long as a book entry system is utilized, (i) the Notes may be issued in the form of a single Note made payable to the Depository or its nominee and immobilized in the custody of the Depository or its agent for that purpose; (ii) the beneficial owners in book entry form shall have no right to receive the Notes in the form of physical securities or certificates; (iii) ownership of beneficial interests in book entry form shall be shown by book entry on the system maintained and operated by the Depository and its Participants, 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 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 establish 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 deemed necessary, shall permit withdrawal of the Notes from the Depository, and shall cause the Notes in bearer or payable to order form to be signed by the officers authorized to sign the Notes and delivered 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 City action or inaction, of those persons requesting such issuance.

The Director of Finance is also hereby authorized and directed, to the extent necessary or required, to enter into any agreements determined necessary in connection with the book entry system for the Notes, after determining that the signing thereof will not endanger the funds or securities of the City.

SECTION 6. Award and Sale of the Notes. The Notes shall be sold at not less than par at private sale by the Director of Finance to the original purchaser designated by the Director of Finance in the Certificate of Award (the Original Purchaser) in accordance with law and the provisions of this Ordinance. The Director of Finance shall sign the Certificate of Award referred to in Section 3 evidencing that sale to the Original Purchaser, cause the Notes to be prepared, and have the Notes signed and delivered, together with a true transcript of proceedings with reference to the issuance of the Notes if requested by the Original Purchaser, to the Original Purchaser upon payment of the purchase price. The Mayor, the Director of Finance, the Director of Law, the Clerk

of Council and other City officials, as appropriate, are each authorized and directed to sign any transcript certificates, financial statements and other documents and instruments and to take such actions as are necessary or appropriate to consummate the transactions contemplated by this Ordinance. The Director of Finance is authorized, if it is determined to be in the best interest of the City, to combine the issue of Notes with one or more other note issues of the City into a consolidated note issue pursuant to Section 133.30(B) of the Revised Code.

The Director of Finance is authorized to request a rating for the Notes from one or more nationally-recognized rating agencies in connection with the sale and issuance of the Notes. The expenditure of the amounts necessary to secure those rating(s) and to pay the other financing costs (as defined in Section 133.01 of the Revised Code) in connection with the Notes is authorized and approved, and the Director of Finance is authorized to provide for the payment of any such amounts and costs from the proceeds of the Notes to the extent available and otherwise from any other funds lawfully available that are appropriated or shall be appropriated for that purpose.

SECTION 7. Application of Note Proceeds. The proceeds from the sale of the Notes, except any premium and accrued interest, shall be paid into the proper fund or funds and those proceeds are appropriated and shall be used for the purpose for which the Notes are being issued. Any portion of those proceeds representing premium and accrued interest shall be paid into the Bond Retirement Fund.

SECTION 8. Application and Pledge of Bond or Renewal Note Proceeds or Excess Funds. The par value to be received from the sale of the Bonds or of any renewal notes and any excess funds resulting from the issuance of the Notes shall, to the extent necessary, be used to pay the debt charges on the Notes at maturity and are pledged for that purpose.

SECTION 9. Provisions for Tax Levy. During the year or years in which the Notes are outstanding, there shall be levied on all the taxable property in the City, in addition to all other taxes, the same tax that would have been levied if the Bonds had been issued without the prior issuance of the Notes. The tax shall be within the ten-mill limitation imposed by law, shall be and is ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers, in the same manner, and at the same time that taxes for general purposes for each of those years are certified, levied, extended and collected, and shall be placed before and in preference to all other items and for the full amount thereof. The proceeds of the tax levy shall be placed in the Bond Retirement Fund, which is irrevocably pledged for the payment of the debt charges on the Notes or the Bonds when and as the same fall due. In each year, to the extent other funds are available for the payment of the debt charges on the Bonds and are appropriated for that purpose, the amount of the tax shall be reduced by the amount of the money so available and appropriated.

SECTION 10. Federal Tax Considerations. The City covenants that it will use, and will restrict the use and investment of, the proceeds of the Notes in such manner and to such extent as may be necessary so that (a) the Notes will not (i) constitute private activity bonds, arbitrage bonds or hedge bonds under Sections 141, 148 or 149 of the Internal Revenue Code of 1986, as amended (the Code) or (ii) be treated other than as bonds to which Section 103 of the Code applies, and (b) the interest thereon will not be treated as a preference item under Section 57 of the Code.

The City further covenants that (a) it will take or cause to be taken such actions that may be required of it for the interest on the Notes to be and remain excluded from gross income for federal

income tax purposes, (b) it will not take or authorize to be taken any actions that would adversely affect that exclusion, and (c) it, or persons acting for it, will, among other acts of compliance, (i) apply the proceeds of the Notes to the governmental purposes of the borrowing, (ii) restrict the yield on investment property, (iii) make timely and adequate payments to the federal government, (iv) maintain books and records and make calculations and reports, and (v) refrain from certain uses of those proceeds and, as applicable, of property financed with such proceeds, all in such manner and to the extent necessary to assure such exclusion of that interest under the Code.

The Director of Finance, as the fiscal officer, or any other officer of the City having responsibility for issuance of the Notes is hereby authorized (a) to make or effect any election, selection, designation (including specifically designation or treatment of the Notes as “qualified tax-exempt obligations”), choice, consent, approval, or waiver on behalf of the City with respect to the Notes as the City is permitted or required to make or give under the federal income tax laws, including, without limitation thereto, any of the elections provided for or available under Section 148 of the Code, for the purpose of assuring, enhancing or protecting favorable tax treatment or status of the Notes or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing the rebate amount or payments of penalties, or making payments of special amounts in lieu of making computations to determine, or paying, excess earnings as rebate, or obviating those amounts or payments, as determined by that officer, which action shall be in writing and signed by the officer, (b) to take any and all other actions, make or obtain calculations, make payments, and make or give reports, covenants and certifications of and on behalf of the City, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the Notes, and (c) to give one or more appropriate certificates of the City, for inclusion in the transcript of proceedings for the Notes, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Notes, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of the interest on and the tax status of the Notes.

Each covenant made in this section with respect to the Notes is also made with respect to all issues any portion of the debt service on which is paid from proceeds of the Notes (and, if different, the original issue and any refunding issues in a series of refundings), to the extent such compliance is necessary to assure exclusion of interest on the Notes from gross income for federal income tax purposes, and the officers identified above are authorized to take actions with respect to those issues as they are authorized in this section to take with respect to the Notes.

SECTION 11. Certification and Delivery of Ordinance. The Clerk of Council is directed to deliver or cause to be delivered a certified copy of this Ordinance to the Cuyahoga County Fiscal Officer.

SECTION 11. Retention of Bond Counsel. The legal services of Squire Sanders (US) LLP, as bond counsel, be and are hereby retained. The legal services shall be in the nature of legal advice and recommendations as to the documents and the proceedings in connection with the issuance and sale of the Notes and the rendering of the necessary legal opinion upon the delivery of the Notes. In rendering those legal services, as an independent contractor and in an attorney-client relationship, that firm shall not exercise any administrative discretion on behalf of the City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State, the City or any other political subdivision, or the execution of public trusts. That firm shall be paid just and reasonable compensation for those legal services and shall be

reimbursed for the actual out-of-pocket expenses it incurs in rendering those legal services. The Director of Finance is authorized and directed to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment as written statements are submitted by that firm.

SECTION 12. Satisfaction of Conditions for Note Issuance. This Council determines that all acts and conditions necessary to be done or performed by the City or to have been met precedent to and in the issuing of the Notes in order to make them legal, valid and binding general obligations of the City have been performed and have been met, or will at the time of delivery of the Notes have been performed and have been met, in regular and due form as required by law; that the full faith and credit and general property taxing power (as described in Section 9) of the City are pledged for the timely payment of the debt charges on the Notes; and that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Notes.

SECTION 13. Compliance with Open Meeting Requirements. This Council finds and determines that all formal actions of this Council and of any of its committees concerning and relating to the passage of this Ordinance were taken in open meetings of this Council or committees, and that all deliberations of this Council and of any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law.

SECTION 14. Captions and Headings. The captions and headings in this Ordinance are solely for convenience of reference and in no way define, limit or describe the scope or intent of any Sections, subsections, paragraphs, subparagraphs or clauses hereof. Reference to a Section means a section of this Ordinance unless otherwise indicated.

SECTION 15. Declaration of Emergency; Effective Date. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health and safety of the City, and for the further reason that this Ordinance is required to be immediately effective so that the Notes can be delivered at the earliest possible date, which is necessary to enable the City to retire the Outstanding Notes and thereby preserve its credit; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED: _____, 2014

/s/ Paul A. Koomar
PRESIDENT OF COUNCIL

/s/ Joan T. Kemper
CLERK OF COUNCIL

APPROVED: _____, 2014

/s/ Deborah L. Sutherland
MAYOR

I, Joan T. Kemper, Clerk of Council of the City of Bay Village, Ohio, hereby certify the foregoing to be a true copy of Ordinance No. 14-_____, passed by the Council of the City of Bay Village on _____, 2014, and now on file in the office of the Clerk of Council.

Clerk of Council

FISCAL OFFICER'S CERTIFICATE

TO THE COUNCIL OF THE CITY OF BAY VILLAGE, OHIO:

As fiscal officer of the City of Bay Village, Ohio, I certify in connection with your proposed issue of \$525,000 of notes (the Notes), to be issued in anticipation of the issuance of bonds (the Bonds), for the purpose of paying costs of improving streets by resurfacing, paving and making other improvements as designated in the plans approved or to be approved by Council (the improvement), that:

1. The estimated life or period of usefulness of the improvement is at least five years.
2. The estimated maximum maturity of the Bonds, calculated in accordance with Section 133.20 of the Revised Code, is 15 years, being my estimate of the life or period of usefulness of the improvement. If notes in anticipation of the Bonds are outstanding later than the last day of December of the fifth year following the year of issuance of the original issue of notes, the period in excess of those five years shall be deducted from that maximum maturity of the Bonds.
3. The maximum maturity of the Notes is 240 months from their date of issuance.

Dated: March 3, 2014

Director of Finance
City of Bay Village, Ohio

AN ORDINANCE
**PROVIDING FOR THE ISSUANCE AND SALE OF \$525,000 OF NOTES, IN
ANTICIPATION OF THE ISSUANCE OF BONDS, FOR THE PURPOSE OF
PAYING COSTS OF IMPROVING STREETS BY RESURFACING,
PAVING AND MAKING OTHER IMPROVEMENTS AS DESIGNATED IN
THE PLANS APPROVED OR TO BE APPROVED BY COUNCIL, AND
DECLARING AN EMERGENCY.**

WHEREAS, the Director of Finance, as fiscal officer of the City, has certified to this Council that the estimated life or period of usefulness of the improvement described in Section 1 is at least five years, the estimated maximum maturity of the Bonds described in Section 1 is 15 years, and the maximum maturity of the Notes described in Section 3, to be issued in anticipation of the Bonds, is 240 months from their date of issuance;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Bay Village, County of Cuyahoga, Ohio, that:

SECTION 1. Authorized Principal Amount and Purpose of Anticipated Bonds. It is necessary to issue bonds of the City in the aggregate principal amount of \$525,000 (the Bonds) for the purpose of paying costs of improving streets by resurfacing, paving and making other improvements as designated in the plans approved or to be approved by Council.

SECTION 2. Estimated Bond Terms. The Bonds shall be dated approximately May 1, 2015, shall bear interest at the now estimated rate of 5% per year, payable semiannually until the principal amount is paid, and are estimated to mature in 15 annual principal installments on December 1 of each year that are substantially equal. The first interest payment on the Bonds is estimated to be December 1, 2015, and the first principal payment of the Bonds is estimated to be December 1, 2016.

SECTION 3. Authorized Principal Amount of Notes; Note Terms. It is necessary to issue and this Council determines that notes in the aggregate principal amount of \$525,000 (the Notes) shall be issued in anticipation of the issuance of the Bonds. The Notes shall be dated the date of issuance and shall mature one year from the date of issuance; provided that the Director of Finance may, if it is determined to be necessary or advisable to the sale of the Notes, establish a maturity date that is any date up to one year from the date of issuance by setting forth that maturity date in the certificate signed in accordance with Section 6 (the Certificate of Award). The Notes shall bear interest at a rate not to exceed 4% per year (computed on the basis of a 360-day year consisting of 12 30-day months), payable at maturity and until the principal amount is paid or payment is provided for. The rate of interest on the Notes shall be determined by the Director of Finance in the Certificate of Award.

SECTION 4. Payment of Debt Charges; Paying Agent. The debt charges on the Notes shall be payable in Federal Reserve funds of the United States of America and shall be payable, without deduction for services of the City's paying agent, at the designated corporate trust office of The Huntington National Bank, or at the principal corporate trust or other office of a bank or trust company designated by the Director of Finance in the Certificate of Award after determining that the payment at that bank or trust company will not endanger the funds or securities of the City and that proper procedures and safeguards are available for that purpose, or at the office of the Director of Finance if agreed to by the Director of Finance and the Original Purchaser (as defined in Section 6) (the Paying Agent).

SECTION 5. Form and Execution of Notes; Book Entry System. The Notes shall be signed by the Mayor and the Director of Finance, in the name of the City and in their official capacities, provided that one of those signatures may be a facsimile. The Notes shall be issued in the denominations and numbers as requested by the Original Purchaser and approved by the Director of Finance in the Certificate of Award. The entire principal amount may be represented by a single note and may be issued as fully registered securities (for which the Director of Finance will serve as note registrar) and in book entry or other uncertificated form in accordance with Section 9.96 and Chapter 133 of the Revised Code if it is determined by the Director of Finance that issuance of fully registered securities in that form will facilitate the sale and delivery of the Notes. The Notes shall not have coupons attached, shall be numbered as determined by the Director of Finance and shall express upon their faces the purpose, in summary terms, for which they are issued and that they are issued pursuant to this Ordinance. As used in this Section and this Ordinance:

“Book entry form” or “book entry system” means a form or system under which (i) the ownership of beneficial interests in the Notes and the principal of, and interest on, the Notes may be transferred only through a book entry, and (ii) a single physical Note certificate is issued by the City and payable only to a Depository or its nominee, with such Notes “immobilized” in the custody of the Depository or its agent for that purpose. The book entry maintained by others than the City is the record that identifies the owners of beneficial interests in the Notes and that principal and interest.

“Depository” means any securities depository that is a clearing agency under federal law operating and maintaining, with its Participants or otherwise, a book entry system to record ownership of beneficial interests in the Notes or the principal of, and interest on, the Notes and to effect transfers of the 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.

The Notes may be issued to a Depository for use in a book entry system and, if and as long as a book entry system is utilized, (i) the Notes may be issued in the form of a single Note made payable to the Depository or its nominee and immobilized in the custody of the Depository or its agent for that purpose; (ii) the beneficial owners in book entry form shall have no right to receive the Notes in the form of physical securities or certificates; (iii) ownership of beneficial interests in

book entry form shall be shown by book entry on the system maintained and operated by the Depository and its Participants, 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 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 establish 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 deemed necessary, shall permit withdrawal of the Notes from the Depository, and shall cause the Notes in bearer or payable to order form to be signed by the officers authorized to sign the Notes and delivered 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 City action or inaction, of those persons requesting such issuance.

The Director of Finance is also hereby authorized and directed, to the extent necessary or required, to enter into any agreements determined necessary in connection with the book entry system for the Notes, after determining that the signing thereof will not endanger the funds or securities of the City.

SECTION 6. Award and Sale of the Notes. The Notes shall be sold at not less than par at private sale by the Director of Finance to the original purchaser designated by the Director of Finance in the Certificate of Award (the Original Purchaser) in accordance with law and the provisions of this Ordinance. The Director of Finance shall sign the Certificate of Award referred to in Section 3 evidencing that sale to the Original Purchaser, cause the Notes to be prepared, and have the Notes signed and delivered, together with a true transcript of proceedings with reference to the issuance of the Notes if requested by the Original Purchaser, to the Original Purchaser upon payment of the purchase price. The Mayor, the Director of Finance, the Director of Law, the Clerk of Council and other City officials, as appropriate, are each authorized and directed to sign any transcript certificates, financial statements and other documents and instruments and to take such actions as are necessary or appropriate to consummate the transactions contemplated by this Ordinance. The Director of Finance is authorized, if it is determined to be in the best interest of the City, to combine the issue of Notes with one or more other note issues of the City into a consolidated note issue pursuant to Section 133.30(B) of the Revised Code.

The Director of Finance is authorized to request a rating for the Notes from one or more nationally-recognized rating agencies in connection with the sale and issuance of the Notes. The expenditure of the amounts necessary to secure those rating(s) and to pay the other financing costs (as defined in Section 133.01 of the Revised Code) in connection with the Notes is authorized and approved, and the Director of Finance is authorized to provide for the payment of any such amounts and costs from the proceeds of the Notes to the extent available and otherwise from any other funds lawfully available that are appropriated or shall be appropriated for that purpose.

SECTION 7. Application of Note Proceeds. The proceeds from the sale of the Notes, except any premium and accrued interest, shall be paid into the proper fund or funds and those

proceeds are appropriated and shall be used for the purpose for which the Notes are being issued. Any portion of those proceeds representing premium and accrued interest shall be paid into the Bond Retirement Fund.

SECTION 8. Application and Pledge of Bond or Renewal Note Proceeds or Excess Funds. The par value to be received from the sale of the Bonds or of any renewal notes and any excess funds resulting from the issuance of the Notes shall, to the extent necessary, be used to pay the debt charges on the Notes at maturity and are pledged for that purpose.

SECTION 9. Provisions for Tax Levy. During the year or years in which the Notes are outstanding, there shall be levied on all the taxable property in the City, in addition to all other taxes, the same tax that would have been levied if the Bonds had been issued without the prior issuance of the Notes. The tax shall be within the ten-mill limitation imposed by law, shall be and is ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers, in the same manner, and at the same time that taxes for general purposes for each of those years are certified, levied, extended and collected, and shall be placed before and in preference to all other items and for the full amount thereof. The proceeds of the tax levy shall be placed in the Bond Retirement Fund, which is irrevocably pledged for the payment of the debt charges on the Notes or the Bonds when and as the same fall due. In each year, to the extent other funds are available for the payment of the debt charges on the Bonds and are appropriated for that purpose, the amount of the tax shall be reduced by the amount of the money so available and appropriated.

SECTION 10. Federal Tax Considerations. The City covenants that it will use, and will restrict the use and investment of, the proceeds of the Notes in such manner and to such extent as may be necessary so that (a) the Notes will not (i) constitute private activity bonds, arbitrage bonds or hedge bonds under Sections 141, 148 or 149 of the Internal Revenue Code of 1986, as amended (the Code) or (ii) be treated other than as bonds to which Section 103 of the Code applies, and (b) the interest thereon will not be treated as a preference item under Section 57 of the Code.

The City further covenants that (a) it will take or cause to be taken such actions that may be required of it for the interest on the Notes to be and remain excluded from gross income for federal income tax purposes, (b) it will not take or authorize to be taken any actions that would adversely affect that exclusion, and (c) it, or persons acting for it, will, among other acts of compliance, (i) apply the proceeds of the Notes to the governmental purposes of the borrowing, (ii) restrict the yield on investment property, (iii) make timely and adequate payments to the federal government, (iv) maintain books and records and make calculations and reports, and (v) refrain from certain uses of those proceeds and, as applicable, of property financed with such proceeds, all in such manner and to the extent necessary to assure such exclusion of that interest under the Code.

The Director of Finance, as the fiscal officer, or any other officer of the City having responsibility for issuance of the Notes is hereby authorized (a) to make or effect any election, selection, designation (including specifically designation of the Notes as “qualified tax-exempt obligations”), choice, consent, approval, or waiver on behalf of the City with respect to the Notes as the City is permitted or required to make or give under the federal income tax laws, including, without limitation thereto, any of the elections provided for or available under Section 148 of the Code, for the purpose of assuring, enhancing or protecting favorable tax treatment or status of the

Notes or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing the rebate amount or payments of penalties, or making payments of special amounts in lieu of making computations to determine, or paying, excess earnings as rebate, or obviating those amounts or payments, as determined by that officer, which action shall be in writing and signed by the officer, (b) to take any and all other actions, make or obtain calculations, make payments, and make or give reports, covenants and certifications of and on behalf of the City, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the Notes, and (c) to give one or more appropriate certificates of the City, for inclusion in the transcript of proceedings for the Notes, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Notes, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of the interest on and the tax status of the Notes.

SECTION 11. Certification and Delivery of Ordinance. The Clerk of Council is directed to deliver or cause to be delivered a certified copy of this Ordinance to the Cuyahoga County Fiscal Officer.

SECTION 11. Retention of Bond Counsel. The legal services of Squire Sanders (US) LLP, as bond counsel, be and are hereby retained. The legal services shall be in the nature of legal advice and recommendations as to the documents and the proceedings in connection with the issuance and sale of the Notes and the rendering of the necessary legal opinion upon the delivery of the Notes. In rendering those legal services, as an independent contractor and in an attorney-client relationship, that firm shall not exercise any administrative discretion on behalf of the City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State, the City or any other political subdivision, or the execution of public trusts. That firm shall be paid just and reasonable compensation for those legal services and shall be reimbursed for the actual out-of-pocket expenses it incurs in rendering those legal services. The Director of Finance is authorized and directed to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment as written statements are submitted by that firm.

SECTION 12. Satisfaction of Conditions for Note Issuance. This Council determines that all acts and conditions necessary to be done or performed by the City or to have been met precedent to and in the issuing of the Notes in order to make them legal, valid and binding general obligations of the City have been performed and have been met, or will at the time of delivery of the Notes have been performed and have been met, in regular and due form as required by law; that the full faith and credit and general property taxing power (as described in Section 9) of the City are pledged for the timely payment of the debt charges on the Notes; and that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Notes.

SECTION 13. Compliance with Open Meeting Requirements. This Council finds and determines that all formal actions of this Council and of any of its committees concerning and relating to the passage of this Ordinance were taken in open meetings of this Council or committees, and that all deliberations of this Council and of any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law.

SECTION 14. Captions and Headings. The captions and headings in this Ordinance are solely for convenience of reference and in no way define, limit or describe the scope or intent of any Sections, subsections, paragraphs, subparagraphs or clauses hereof. Reference to a Section means a section of this Ordinance unless otherwise indicated.

SECTION 15. Declaration of Emergency; Effective Date. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health and safety of the City, and for the further reason that this Ordinance is required to be immediately effective in order to issue and sell the Notes, which is necessary to enable the City to enter into contracts for the improvement which is needed to eliminate existing and potential hazards to vehicular and pedestrian traffic in the City; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED: _____, 2014

/s/ Paul A. Koomar
PRESIDENT OF COUNCIL

/s/ Joan T. Kemper
CLERK OF COUNCIL

APPROVED: _____, 2014

/s/ Deborah L. Sutherland
MAYOR

I, Joan T. Kemper, Clerk of Council of the City of Bay Village, Ohio, hereby certify the foregoing to be a true copy of Ordinance No. 14-_____, passed by the Council of the City of Bay Village on _____, 2014, and now on file in the office of the Clerk of Council.

Clerk of Council

FISCAL OFFICER'S CERTIFICATE

TO THE COUNCIL OF THE CITY OF BAY VILLAGE, OHIO:

As fiscal officer of the City of Bay Village, Ohio, I certify in connection with your proposed issue of \$340,000 of notes (the Notes), to be issued in anticipation of the issuance of bonds (the Bonds), for the purpose of paying costs of acquiring motor vehicles and equipment and acquiring and installing a work order system for use in performing the functions of the City's Department of Public Services and Properties, together with all necessary appurtenances thereto (the improvement), that:

1. The estimated life or period of usefulness of the improvement is at least five years.
2. The estimated maximum maturity of the Bonds, calculated in accordance with Section 133.20 of the Revised Code, is 10 years, being my estimate of the life or period of usefulness of the improvement. If notes in anticipation of the Bonds are outstanding later than the last day of December of the fifth year following the year of issuance of the original issue of notes, the period in excess of those five years shall be deducted from that maximum maturity of the Bonds.
3. The maximum maturity of the Notes is 15 years from their date of issuance.

Dated: March 3, 2014

Director of Finance
City of Bay Village, Ohio

AN ORDINANCE
**PROVIDING FOR THE ISSUANCE AND SALE OF \$340,000 OF NOTES, IN
ANTICIPATION OF THE ISSUANCE OF BONDS, FOR THE PURPOSE OF
PAYING COSTS OF ACQUIRING MOTOR VEHICLES AND
EQUIPMENT AND ACQUIRING AND INSTALLING A WORK ORDER
SYSTEM FOR USE IN PERFORMING THE FUNCTIONS OF THE
CITY'S DEPARTMENT OF PUBLIC SERVICES AND PROPERTIES,
AND DECLARING AN EMERGENCY.**

WHEREAS, the Director of Finance, as fiscal officer of the City, has certified to this Council that the estimated life or period of usefulness of the improvement described in Section 1 is at least five years, the estimated maximum maturity of the Bonds described in Section 1 is 10 years, and the maximum maturity of the Notes described in Section 3, to be issued in anticipation of the Bonds, is 15 years from their date of issuance;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Bay Village, County of Cuyahoga, Ohio, that:

SECTION 1. Authorized Principal Amount and Purpose of Anticipated Bonds. It is necessary to issue bonds of the City in the aggregate principal amount of \$340,000 (the Bonds) for the purpose of paying costs of acquiring motor vehicles and equipment and acquiring and installing a work order system for use in performing the functions of the City's Department of Public Services and Properties, together with all necessary appurtenances thereto.

SECTION 2. Estimated Bond Terms. The Bonds shall be dated approximately May 1, 2015, shall bear interest at the now estimated rate of 5% per year, payable semiannually until the principal amount is paid, and are estimated to mature in 10 annual principal installments on December 1 of each year that are substantially equal. The first interest payment on the Bonds is estimated to be December 1, 2015, and the first principal payment of the Bonds is estimated to be December 1, 2016.

SECTION 3. Authorized Principal Amount of Notes; Note Terms. It is necessary to issue and this Council determines that notes in the aggregate principal amount of \$340,000 (the Notes) shall be issued in anticipation of the issuance of the Bonds. The Notes shall be dated the date of issuance and shall mature one year from the date of issuance; provided that the Director of Finance may, if it is determined to be necessary or advisable to the sale of the Notes, establish a maturity date that is any date up to one year from the date of issuance by setting forth that maturity date in the certificate signed in accordance with Section 6 (the Certificate of Award). The Notes shall bear interest at a rate not to exceed 4% per year (computed on the basis of a 360-day year consisting of 12 30-day months), payable at maturity and until the principal amount is paid or

payment is provided for. The rate of interest on the Notes shall be determined by the Director of Finance in the Certificate of Award.

SECTION 4. Payment of Debt Charges; Paying Agent. The debt charges on the Notes shall be payable in Federal Reserve funds of the United States of America and shall be payable, without deduction for services of the City's paying agent, at the designated corporate trust office of The Huntington National Bank, or at the principal corporate trust or other office of a bank or trust company designated by the Director of Finance in the Certificate of Award after determining that the payment at that bank or trust company will not endanger the funds or securities of the City and that proper procedures and safeguards are available for that purpose, or at the office of the Director of Finance if agreed to by the Director of Finance and the Original Purchaser (as defined in Section 6) (the Paying Agent).

SECTION 5. Form and Execution of Notes; Book Entry System. The Notes shall be signed by the Mayor and the Director of Finance, in the name of the City and in their official capacities, provided that one of those signatures may be a facsimile. The Notes shall be issued in the denominations and numbers as requested by the Original Purchaser and approved by the Director of Finance in the Certificate of Award. The entire principal amount may be represented by a single note and may be issued as fully registered securities (for which the Director of Finance will serve as note registrar) and in book entry or other uncertificated form in accordance with Section 9.96 and Chapter 133 of the Revised Code if it is determined by the Director of Finance that issuance of fully registered securities in that form will facilitate the sale and delivery of the Notes. The Notes shall not have coupons attached, shall be numbered as determined by the Director of Finance and shall express upon their faces the purpose, in summary terms, for which they are issued and that they are issued pursuant to this Ordinance. As used in this Section and this Ordinance:

“Book entry form” or “book entry system” means a form or system under which (i) the ownership of beneficial interests in the Notes and the principal of, and interest on, the Notes may be transferred only through a book entry, and (ii) a single physical Note certificate is issued by the City and payable only to a Depository or its nominee, with such Notes “immobilized” in the custody of the Depository or its agent for that purpose. The book entry maintained by others than the City is the record that identifies the owners of beneficial interests in the Notes and that principal and interest.

“Depository” means any securities depository that is a clearing agency under federal law operating and maintaining, with its Participants or otherwise, a book entry system to record ownership of beneficial interests in the Notes or the principal of, and interest on, the Notes and to effect transfers of the 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.

The Notes may be issued to a Depository for use in a book entry system and, if and as long as a book entry system is utilized, (i) the Notes may be issued in the form of a single Note made

payable to the Depository or its nominee and immobilized in the custody of the Depository or its agent for that purpose; (ii) the beneficial owners in book entry form shall have no right to receive the Notes in the form of physical securities or certificates; (iii) ownership of beneficial interests in book entry form shall be shown by book entry on the system maintained and operated by the Depository and its Participants, 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 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 establish 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 deemed necessary, shall permit withdrawal of the Notes from the Depository, and shall cause the Notes in bearer or payable to order form to be signed by the officers authorized to sign the Notes and delivered 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 City action or inaction, of those persons requesting such issuance.

The Director of Finance is also hereby authorized and directed, to the extent necessary or required, to enter into any agreements determined necessary in connection with the book entry system for the Notes, after determining that the signing thereof will not endanger the funds or securities of the City.

SECTION 6. Award and Sale of the Notes. The Notes shall be sold at not less than par at private sale by the Director of Finance to the original purchaser designated by the Director of Finance in the Certificate of Award (the Original Purchaser) in accordance with law and the provisions of this Ordinance. The Director of Finance shall sign the Certificate of Award referred to in Section 3 evidencing that sale to the Original Purchaser, cause the Notes to be prepared, and have the Notes signed and delivered, together with a true transcript of proceedings with reference to the issuance of the Notes if requested by the Original Purchaser, to the Original Purchaser upon payment of the purchase price. The Mayor, the Director of Finance, the Director of Law, the Clerk of Council and other City officials, as appropriate, are each authorized and directed to sign any transcript certificates, financial statements and other documents and instruments and to take such actions as are necessary or appropriate to consummate the transactions contemplated by this Ordinance. The Director of Finance is authorized, if it is determined to be in the best interest of the City, to combine the issue of Notes with one or more other note issues of the City into a consolidated note issue pursuant to Section 133.30(B) of the Revised Code.

The Director of Finance is authorized to request a rating for the Notes from one or more nationally-recognized rating agencies in connection with the sale and issuance of the Notes. The expenditure of the amounts necessary to secure those rating(s) and to pay the other financing costs (as defined in Section 133.01 of the Revised Code) in connection with the Notes is authorized and approved, and the Director of Finance is authorized to provide for the payment of any such amounts and costs from the proceeds of the Notes to the extent available and otherwise from any other funds lawfully available that are appropriated or shall be appropriated for that purpose.

SECTION 7. Application of Note Proceeds. The proceeds from the sale of the Notes, except any premium and accrued interest, shall be paid into the proper fund or funds and those proceeds are appropriated and shall be used for the purpose for which the Notes are being issued. Any portion of those proceeds representing premium and accrued interest shall be paid into the Bond Retirement Fund.

SECTION 8. Application and Pledge of Bond or Renewal Note Proceeds or Excess Funds. The par value to be received from the sale of the Bonds or of any renewal notes and any excess funds resulting from the issuance of the Notes shall, to the extent necessary, be used to pay the debt charges on the Notes at maturity and are pledged for that purpose.

SECTION 9. Provisions for Tax Levy. During the year or years in which the Notes are outstanding, there shall be levied on all the taxable property in the City, in addition to all other taxes, the same tax that would have been levied if the Bonds had been issued without the prior issuance of the Notes. The tax shall be within the ten-mill limitation imposed by law, shall be and is ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers, in the same manner, and at the same time that taxes for general purposes for each of those years are certified, levied, extended and collected, and shall be placed before and in preference to all other items and for the full amount thereof. The proceeds of the tax levy shall be placed in the Bond Retirement Fund, which is irrevocably pledged for the payment of the debt charges on the Notes or the Bonds when and as the same fall due. In each year, to the extent other funds are available for the payment of the debt charges on the Bonds and are appropriated for that purpose, the amount of the tax shall be reduced by the amount of the money so available and appropriated.

SECTION 10. Federal Tax Considerations. The City covenants that it will use, and will restrict the use and investment of, the proceeds of the Notes in such manner and to such extent as may be necessary so that (a) the Notes will not (i) constitute private activity bonds, arbitrage bonds or hedge bonds under Sections 141, 148 or 149 of the Internal Revenue Code of 1986, as amended (the Code) or (ii) be treated other than as bonds to which Section 103 of the Code applies, and (b) the interest thereon will not be treated as a preference item under Section 57 of the Code.

The City further covenants that (a) it will take or cause to be taken such actions that may be required of it for the interest on the Notes to be and remain excluded from gross income for federal income tax purposes, (b) it will not take or authorize to be taken any actions that would adversely affect that exclusion, and (c) it, or persons acting for it, will, among other acts of compliance, (i) apply the proceeds of the Notes to the governmental purposes of the borrowing, (ii) restrict the yield on investment property, (iii) make timely and adequate payments to the federal government, (iv) maintain books and records and make calculations and reports, and (v) refrain from certain uses of those proceeds and, as applicable, of property financed with such proceeds, all in such manner and to the extent necessary to assure such exclusion of that interest under the Code.

The Director of Finance, as the fiscal officer, or any other officer of the City having responsibility for issuance of the Notes is hereby authorized (a) to make or effect any election, selection, designation (including specifically designation of the Notes as “qualified tax-exempt obligations”), choice, consent, approval, or waiver on behalf of the City with respect to the Notes as

the City is permitted or required to make or give under the federal income tax laws, including, without limitation thereto, any of the elections provided for or available under Section 148 of the Code, for the purpose of assuring, enhancing or protecting favorable tax treatment or status of the Notes or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing the rebate amount or payments of penalties, or making payments of special amounts in lieu of making computations to determine, or paying, excess earnings as rebate, or obviating those amounts or payments, as determined by that officer, which action shall be in writing and signed by the officer, (b) to take any and all other actions, make or obtain calculations, make payments, and make or give reports, covenants and certifications of and on behalf of the City, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the Notes, and (c) to give one or more appropriate certificates of the City, for inclusion in the transcript of proceedings for the Notes, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Notes, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of the interest on and the tax status of the Notes.

SECTION 11. Certification and Delivery of Ordinance. The Clerk of Council is directed to deliver or cause to be delivered a certified copy of this Ordinance to the Cuyahoga County Fiscal Officer.

SECTION 11. Retention of Bond Counsel. The legal services of Squire Sanders (US) LLP, as bond counsel, be and are hereby retained. The legal services shall be in the nature of legal advice and recommendations as to the documents and the proceedings in connection with the issuance and sale of the Notes and the rendering of the necessary legal opinion upon the delivery of the Notes. In rendering those legal services, as an independent contractor and in an attorney-client relationship, that firm shall not exercise any administrative discretion on behalf of the City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State, the City or any other political subdivision, or the execution of public trusts. That firm shall be paid just and reasonable compensation for those legal services and shall be reimbursed for the actual out-of-pocket expenses it incurs in rendering those legal services. The Director of Finance is authorized and directed to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment as written statements are submitted by that firm.

SECTION 12. Satisfaction of Conditions for Note Issuance. This Council determines that all acts and conditions necessary to be done or performed by the City or to have been met precedent to and in the issuing of the Notes in order to make them legal, valid and binding general obligations of the City have been performed and have been met, or will at the time of delivery of the Notes have been performed and have been met, in regular and due form as required by law; that the full faith and credit and general property taxing power (as described in Section 9) of the City are pledged for the timely payment of the debt charges on the Notes; and that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Notes.

SECTION 13. Compliance with Open Meeting Requirements. This Council finds and determines that all formal actions of this Council and of any of its committees concerning and

relating to the passage of this Ordinance were taken in open meetings of this Council or committees, and that all deliberations of this Council and of any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law.

SECTION 14. Captions and Headings. The captions and headings in this Ordinance are solely for convenience of reference and in no way define, limit or describe the scope or intent of any Sections, subsections, paragraphs, subparagraphs or clauses hereof. Reference to a Section means a section of this Ordinance unless otherwise indicated.

SECTION 15. Declaration of Emergency; Effective Date. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health and safety of the City, and for the further reason that this Ordinance is required to be immediately effective in order to issue and sell the Notes, which is necessary to enable the City to enter into contracts for the improvement which is needed to provide for the efficient and safe administration of the functions of the City's Department of Public Services and Properties; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED: _____, 2014

/s/ Paul A. Koomar
PRESIDENT OF COUNCIL

/s/ Joan T. Kemper
CLERK OF COUNCIL

APPROVED: _____, 2014

/s/ Deborah L. Sutherland
MAYOR

I, Joan T. Kemper, Clerk of Council of the City of Bay Village, Ohio, hereby certify the foregoing to be a true copy of Ordinance No. 14-_____, passed by the Council of the City of Bay Village on _____, 2014, and now on file in the office of the Clerk of Council.

Clerk of Council

FISCAL OFFICER'S CERTIFICATE

TO THE COUNCIL OF THE CITY OF BAY VILLAGE, OHIO:

As fiscal officer of the City of Bay Village, Ohio, I certify in connection with your proposed issue of \$133,000 of notes (the Notes), to be issued in anticipation of the issuance of bonds (the Bonds), for the purpose of paying costs of acquiring motor vehicles and equipment for use in performing the functions of the City's Police Department, together with all necessary appurtenances thereto (the improvement), that:

1. The estimated life or period of usefulness of the improvement is at least five years.
2. The estimated maximum maturity of the Bonds, calculated in accordance with Section 133.20 of the Revised Code, is six years. That maximum maturity is based on my calculation of the average number of years of life or period of usefulness of the improvement as measured by the weighted average of the amounts proposed to be expended for the several classes of the improvement as follows: (i) \$47,000 for equipment, 10 years, and \$86,000 for motor vehicles, five years; the weighted average is therefore six years. If notes in anticipation of the Bonds are outstanding later than the last day of December of the fifth year following the year of issuance of the original issue of notes, the period in excess of those five years shall be deducted from that maximum maturity of the Bonds.
3. The maximum maturity of the Notes is 11 years from their date of issuance.

Dated: March 3, 2014

Director of Finance
City of Bay Village, Ohio

AN ORDINANCE
**PROVIDING FOR THE ISSUANCE AND SALE OF \$133,000 OF NOTES, IN
ANTICIPATION OF THE ISSUANCE OF BONDS, FOR THE PURPOSE OF
PAYING COSTS OF ACQUIRING MOTOR VEHICLES AND
EQUIPMENT FOR USE IN PERFORMING THE FUNCTIONS OF THE
CITY'S POLICE DEPARTMENT, AND DECLARING AN EMERGENCY.**

WHEREAS, the Director of Finance, as fiscal officer of the City, has certified to this Council that the estimated life or period of usefulness of the improvement described in Section 1 is at least five years, the estimated maximum maturity of the Bonds described in Section 1 is six years, and the maximum maturity of the Notes described in Section 3, to be issued in anticipation of the Bonds, is 11 years from their date of issuance;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Bay Village, County of Cuyahoga, Ohio, that:

SECTION 1. Authorized Principal Amount and Purpose of Anticipated Bonds. It is necessary to issue bonds of the City in the aggregate principal amount of \$133,000 (the Bonds) for the purpose of paying costs of acquiring motor vehicles and equipment for use in performing the functions of the City's Police Department, together with all necessary appurtenances thereto.

SECTION 2. Estimated Bond Terms. The Bonds shall be dated approximately May 1, 2015, shall bear interest at the now estimated rate of 5% per year, payable semiannually until the principal amount is paid, and are estimated to mature in six annual principal installments on December 1 of each year that are substantially equal. The first interest payment on the Bonds is estimated to be December 1, 2015, and the first principal payment of the Bonds is estimated to be December 1, 2016.

SECTION 3. Authorized Principal Amount of Notes; Note Terms. It is necessary to issue and this Council determines that notes in the aggregate principal amount of \$133,000 (the Notes) shall be issued in anticipation of the issuance of the Bonds. The Notes shall be dated the date of issuance and shall mature one year from the date of issuance; provided that the Director of Finance may, if it is determined to be necessary or advisable to the sale of the Notes, establish a maturity date that is any date up to one year from the date of issuance by setting forth that maturity date in the certificate signed in accordance with Section 6 (the Certificate of Award). The Notes shall bear interest at a rate not to exceed 4% per year (computed on the basis of a 360-day year consisting of 12 30-day months), payable at maturity and until the principal amount is paid or payment is provided for. The rate of interest on the Notes shall be determined by the Director of Finance in the Certificate of Award.

SECTION 4. Payment of Debt Charges; Paying Agent. The debt charges on the Notes shall be payable in Federal Reserve funds of the United States of America and shall be payable, without deduction for services of the City's paying agent, at the designated corporate trust office of The Huntington National Bank, or at the principal corporate trust or other office of a bank or trust company designated by the Director of Finance in the Certificate of Award after determining that the payment at that bank or trust company will not endanger the funds or securities of the City and that proper procedures and safeguards are available for that purpose, or at the office of the Director of Finance if agreed to by the Director of Finance and the Original Purchaser (as defined in Section 6) (the Paying Agent).

SECTION 5. Form and Execution of Notes; Book Entry System. The Notes shall be signed by the Mayor and the Director of Finance, in the name of the City and in their official capacities, provided that one of those signatures may be a facsimile. The Notes shall be issued in the denominations and numbers as requested by the Original Purchaser and approved by the Director of Finance in the Certificate of Award. The entire principal amount may be represented by a single note and may be issued as fully registered securities (for which the Director of Finance will serve as note registrar) and in book entry or other uncertificated form in accordance with Section 9.96 and Chapter 133 of the Revised Code if it is determined by the Director of Finance that issuance of fully registered securities in that form will facilitate the sale and delivery of the Notes. The Notes shall not have coupons attached, shall be numbered as determined by the Director of Finance and shall express upon their faces the purpose, in summary terms, for which they are issued and that they are issued pursuant to this Ordinance. As used in this Section and this Ordinance:

“Book entry form” or “book entry system” means a form or system under which (i) the ownership of beneficial interests in the Notes and the principal of, and interest on, the Notes may be transferred only through a book entry, and (ii) a single physical Note certificate is issued by the City and payable only to a Depository or its nominee, with such Notes “immobilized” in the custody of the Depository or its agent for that purpose. The book entry maintained by others than the City is the record that identifies the owners of beneficial interests in the Notes and that principal and interest.

“Depository” means any securities depository that is a clearing agency under federal law operating and maintaining, with its Participants or otherwise, a book entry system to record ownership of beneficial interests in the Notes or the principal of, and interest on, the Notes and to effect transfers of the 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.

The Notes may be issued to a Depository for use in a book entry system and, if and as long as a book entry system is utilized, (i) the Notes may be issued in the form of a single Note made payable to the Depository or its nominee and immobilized in the custody of the Depository or its agent for that purpose; (ii) the beneficial owners in book entry form shall have no right to receive the Notes in the form of physical securities or certificates; (iii) ownership of beneficial interests in

book entry form shall be shown by book entry on the system maintained and operated by the Depository and its Participants, 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 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 establish 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 deemed necessary, shall permit withdrawal of the Notes from the Depository, and shall cause the Notes in bearer or payable to order form to be signed by the officers authorized to sign the Notes and delivered 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 City action or inaction, of those persons requesting such issuance.

The Director of Finance is also hereby authorized and directed, to the extent necessary or required, to enter into any agreements determined necessary in connection with the book entry system for the Notes, after determining that the signing thereof will not endanger the funds or securities of the City.

SECTION 6. Award and Sale of the Notes. The Notes shall be sold at not less than par at private sale by the Director of Finance to the original purchaser designated by the Director of Finance in the Certificate of Award (the Original Purchaser) in accordance with law and the provisions of this Ordinance. The Director of Finance shall sign the Certificate of Award referred to in Section 3 evidencing that sale to the Original Purchaser, cause the Notes to be prepared, and have the Notes signed and delivered, together with a true transcript of proceedings with reference to the issuance of the Notes if requested by the Original Purchaser, to the Original Purchaser upon payment of the purchase price. The Mayor, the Director of Finance, the Director of Law, the Clerk of Council and other City officials, as appropriate, are each authorized and directed to sign any transcript certificates, financial statements and other documents and instruments and to take such actions as are necessary or appropriate to consummate the transactions contemplated by this Ordinance. The Director of Finance is authorized, if it is determined to be in the best interest of the City, to combine the issue of Notes with one or more other note issues of the City into a consolidated note issue pursuant to Section 133.30(B) of the Revised Code.

The Director of Finance is authorized to request a rating for the Notes from one or more nationally-recognized rating agencies in connection with the sale and issuance of the Notes. The expenditure of the amounts necessary to secure those rating(s) and to pay the other financing costs (as defined in Section 133.01 of the Revised Code) in connection with the Notes is authorized and approved, and the Director of Finance is authorized to provide for the payment of any such amounts and costs from the proceeds of the Notes to the extent available and otherwise from any other funds lawfully available that are appropriated or shall be appropriated for that purpose.

SECTION 7. Application of Note Proceeds. The proceeds from the sale of the Notes, except any premium and accrued interest, shall be paid into the proper fund or funds and those

proceeds are appropriated and shall be used for the purpose for which the Notes are being issued. Any portion of those proceeds representing premium and accrued interest shall be paid into the Bond Retirement Fund.

SECTION 8. Application and Pledge of Bond or Renewal Note Proceeds or Excess Funds. The par value to be received from the sale of the Bonds or of any renewal notes and any excess funds resulting from the issuance of the Notes shall, to the extent necessary, be used to pay the debt charges on the Notes at maturity and are pledged for that purpose.

SECTION 9. Provisions for Tax Levy. During the year or years in which the Notes are outstanding, there shall be levied on all the taxable property in the City, in addition to all other taxes, the same tax that would have been levied if the Bonds had been issued without the prior issuance of the Notes. The tax shall be within the ten-mill limitation imposed by law, shall be and is ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers, in the same manner, and at the same time that taxes for general purposes for each of those years are certified, levied, extended and collected, and shall be placed before and in preference to all other items and for the full amount thereof. The proceeds of the tax levy shall be placed in the Bond Retirement Fund, which is irrevocably pledged for the payment of the debt charges on the Notes or the Bonds when and as the same fall due. In each year, to the extent other funds are available for the payment of the debt charges on the Bonds and are appropriated for that purpose, the amount of the tax shall be reduced by the amount of the money so available and appropriated.

SECTION 10. Federal Tax Considerations. The City covenants that it will use, and will restrict the use and investment of, the proceeds of the Notes in such manner and to such extent as may be necessary so that (a) the Notes will not (i) constitute private activity bonds, arbitrage bonds or hedge bonds under Sections 141, 148 or 149 of the Internal Revenue Code of 1986, as amended (the Code) or (ii) be treated other than as bonds to which Section 103 of the Code applies, and (b) the interest thereon will not be treated as a preference item under Section 57 of the Code.

The City further covenants that (a) it will take or cause to be taken such actions that may be required of it for the interest on the Notes to be and remain excluded from gross income for federal income tax purposes, (b) it will not take or authorize to be taken any actions that would adversely affect that exclusion, and (c) it, or persons acting for it, will, among other acts of compliance, (i) apply the proceeds of the Notes to the governmental purposes of the borrowing, (ii) restrict the yield on investment property, (iii) make timely and adequate payments to the federal government, (iv) maintain books and records and make calculations and reports, and (v) refrain from certain uses of those proceeds and, as applicable, of property financed with such proceeds, all in such manner and to the extent necessary to assure such exclusion of that interest under the Code.

The Director of Finance, as the fiscal officer, or any other officer of the City having responsibility for issuance of the Notes is hereby authorized (a) to make or effect any election, selection, designation (including specifically designation of the Notes as “qualified tax-exempt obligations”), choice, consent, approval, or waiver on behalf of the City with respect to the Notes as the City is permitted or required to make or give under the federal income tax laws, including, without limitation thereto, any of the elections provided for or available under Section 148 of the Code, for the purpose of assuring, enhancing or protecting favorable tax treatment or status of the

Notes or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing the rebate amount or payments of penalties, or making payments of special amounts in lieu of making computations to determine, or paying, excess earnings as rebate, or obviating those amounts or payments, as determined by that officer, which action shall be in writing and signed by the officer, (b) to take any and all other actions, make or obtain calculations, make payments, and make or give reports, covenants and certifications of and on behalf of the City, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the Notes, and (c) to give one or more appropriate certificates of the City, for inclusion in the transcript of proceedings for the Notes, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Notes, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of the interest on and the tax status of the Notes.

SECTION 11. Certification and Delivery of Ordinance. The Clerk of Council is directed to deliver or cause to be delivered a certified copy of this Ordinance to the Cuyahoga County Fiscal Officer.

SECTION 11. Retention of Bond Counsel. The legal services of Squire Sanders (US) LLP, as bond counsel, be and are hereby retained. The legal services shall be in the nature of legal advice and recommendations as to the documents and the proceedings in connection with the issuance and sale of the Notes and the rendering of the necessary legal opinion upon the delivery of the Notes. In rendering those legal services, as an independent contractor and in an attorney-client relationship, that firm shall not exercise any administrative discretion on behalf of the City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State, the City or any other political subdivision, or the execution of public trusts. That firm shall be paid just and reasonable compensation for those legal services and shall be reimbursed for the actual out-of-pocket expenses it incurs in rendering those legal services. The Director of Finance is authorized and directed to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment as written statements are submitted by that firm.

SECTION 12. Satisfaction of Conditions for Note Issuance. This Council determines that all acts and conditions necessary to be done or performed by the City or to have been met precedent to and in the issuing of the Notes in order to make them legal, valid and binding general obligations of the City have been performed and have been met, or will at the time of delivery of the Notes have been performed and have been met, in regular and due form as required by law; that the full faith and credit and general property taxing power (as described in Section 9) of the City are pledged for the timely payment of the debt charges on the Notes; and that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Notes.

SECTION 13. Compliance with Open Meeting Requirements. This Council finds and determines that all formal actions of this Council and of any of its committees concerning and relating to the passage of this Ordinance were taken in open meetings of this Council or committees, and that all deliberations of this Council and of any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law.

SECTION 14. Captions and Headings. The captions and headings in this Ordinance are solely for convenience of reference and in no way define, limit or describe the scope or intent of any Sections, subsections, paragraphs, subparagraphs or clauses hereof. Reference to a Section means a section of this Ordinance unless otherwise indicated.

SECTION 15. Declaration of Emergency; Effective Date. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health and safety of the City, and for the further reason that this Ordinance is required to be immediately effective in order to issue and sell the Notes, which is necessary to enable the City to enter into contracts for the improvement which is needed to timely and efficiently provide municipal police services to City residents and thereby better maintain order and safety in the City; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED: _____, 2014

/s/ Paul A. Koomar
PRESIDENT OF COUNCIL

/s/ Joan T. Kemper
CLERK OF COUNCIL

APPROVED: _____, 2014

/s/ Deborah L. Sutherland
MAYOR

I, Joan T. Kemper, Clerk of Council of the City of Bay Village, Ohio, hereby certify the foregoing to be a true copy of Ordinance No. 14-_____, passed by the Council of the City of Bay Village on _____, 2014, and now on file in the office of the Clerk of Council.

Clerk of Council

FISCAL OFFICER'S CERTIFICATE

TO THE COUNCIL OF THE CITY OF BAY VILLAGE, OHIO:

As fiscal officer of the City of Bay Village, Ohio, I certify in connection with your proposed issue of \$129,000 of notes (the Notes), to be issued in anticipation of the issuance of bonds (the Bonds), for the purpose of paying costs of improving the City's parks and recreational facilities by constructing and improving lighting facilities at Hartman Field, together with the necessary appurtenances thereto (the improvement), that:

1. The estimated life or period of usefulness of the improvement is at least five years.
2. The estimated maximum maturity of the Bonds, calculated in accordance with Section 133.20 of the Revised Code, is 30 years. If notes in anticipation of the Bonds are outstanding later than the last day of December of the fifth year following the year of issuance of the original issue of notes, the period in excess of those five years shall be deducted from that maximum maturity of the Bonds.
3. The maximum maturity of the Notes is 240 months from their date of issuance.

Dated: March 3, 2014

Director of Finance
City of Bay Village, Ohio

AN ORDINANCE
PROVIDING FOR THE ISSUANCE AND SALE OF \$129,000 OF NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, FOR THE PURPOSE OF PAYING COSTS OF IMPROVING THE CITY'S PARKS AND RECREATIONAL FACILITIES BY CONSTRUCTING AND IMPROVING LIGHTING FACILITIES AT HARTMAN FIELD, AND DECLARING AN EMERGENCY.

WHEREAS, the Director of Finance, as fiscal officer of the City, has certified to this Council that the estimated life or period of usefulness of the improvement described in Section 1 is at least five years, the estimated maximum maturity of the Bonds described in Section 1 is 30 years, and the maximum maturity of the Notes described in Section 3, to be issued in anticipation of the Bonds, is 240 months from their date of issuance;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Bay Village, County of Cuyahoga, Ohio, that:

SECTION 1. Authorized Principal Amount and Purpose of Anticipated Bonds. It is necessary to issue bonds of the City in the aggregate principal amount of \$129,000 (the Bonds) for the purpose of paying costs of improving the City's parks and recreational facilities by constructing and improving lighting facilities at Hartman Field, together with the necessary appurtenances thereto.

SECTION 2. Estimated Bond Terms. The Bonds shall be dated approximately May 1, 2015, shall bear interest at the now estimated rate of 5% per year, payable semiannually until the principal amount is paid, and are estimated to mature in 30 annual principal installments on December 1 of each year that are substantially equal. The first interest payment on the Bonds is estimated to be December 1, 2015, and the first principal payment of the Bonds is estimated to be December 1, 2016.

SECTION 3. Authorized Principal Amount of Notes; Note Terms. It is necessary to issue and this Council determines that notes in the aggregate principal amount of \$129,000 (the Notes) shall be issued in anticipation of the issuance of the Bonds. The Notes shall be dated the date of issuance and shall mature one year from the date of issuance; provided that the Director of Finance may, if it is determined to be necessary or advisable to the sale of the Notes, establish a maturity date that is any date up to one year from the date of issuance by setting forth that maturity date in the certificate signed in accordance with Section 6 (the Certificate of Award). The Notes shall bear interest at a rate not to exceed 4% per year (computed on the basis of a 360-day year consisting of 12 30-day months), payable at maturity and until the principal amount is paid or payment is provided for. The rate of interest on the Notes shall be determined by the Director of Finance in the Certificate of Award.

SECTION 4. Payment of Debt Charges; Paying Agent. The debt charges on the Notes shall be payable in Federal Reserve funds of the United States of America and shall be payable, without deduction for services of the City's paying agent, at the designated corporate trust office of The Huntington National Bank, or at the principal corporate trust or other office of a bank or trust company designated by the Director of Finance in the Certificate of Award after determining that the payment at that bank or trust company will not endanger the funds or securities of the City and that proper procedures and safeguards are available for that purpose, or at the office of the Director of Finance if agreed to by the Director of Finance and the Original Purchaser (as defined in Section 6) (the Paying Agent).

SECTION 5. Form and Execution of Notes; Book Entry System. The Notes shall be signed by the Mayor and the Director of Finance, in the name of the City and in their official capacities, provided that one of those signatures may be a facsimile. The Notes shall be issued in the denominations and numbers as requested by the Original Purchaser and approved by the Director of Finance in the Certificate of Award. The entire principal amount may be represented by a single note and may be issued as fully registered securities (for which the Director of Finance will serve as note registrar) and in book entry or other uncertificated form in accordance with Section 9.96 and Chapter 133 of the Revised Code if it is determined by the Director of Finance that issuance of fully registered securities in that form will facilitate the sale and delivery of the Notes. The Notes shall not have coupons attached, shall be numbered as determined by the Director of Finance and shall express upon their faces the purpose, in summary terms, for which they are issued and that they are issued pursuant to this Ordinance. As used in this Section and this Ordinance:

“Book entry form” or “book entry system” means a form or system under which (i) the ownership of beneficial interests in the Notes and the principal of, and interest on, the Notes may be transferred only through a book entry, and (ii) a single physical Note certificate is issued by the City and payable only to a Depository or its nominee, with such Notes “immobilized” in the custody of the Depository or its agent for that purpose. The book entry maintained by others than the City is the record that identifies the owners of beneficial interests in the Notes and that principal and interest.

“Depository” means any securities depository that is a clearing agency under federal law operating and maintaining, with its Participants or otherwise, a book entry system to record ownership of beneficial interests in the Notes or the principal of, and interest on, the Notes and to effect transfers of the 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.

The Notes may be issued to a Depository for use in a book entry system and, if and as long as a book entry system is utilized, (i) the Notes may be issued in the form of a single Note made payable to the Depository or its nominee and immobilized in the custody of the Depository or its agent for that purpose; (ii) the beneficial owners in book entry form shall have no right to receive

the Notes in the form of physical securities or certificates; (iii) ownership of beneficial interests in book entry form shall be shown by book entry on the system maintained and operated by the Depository and its Participants, 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 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 establish 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 deemed necessary, shall permit withdrawal of the Notes from the Depository, and shall cause the Notes in bearer or payable to order form to be signed by the officers authorized to sign the Notes and delivered 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 City action or inaction, of those persons requesting such issuance.

The Director of Finance is also hereby authorized and directed, to the extent necessary or required, to enter into any agreements determined necessary in connection with the book entry system for the Notes, after determining that the signing thereof will not endanger the funds or securities of the City.

SECTION 6. Award and Sale of the Notes. The Notes shall be sold at not less than par at private sale by the Director of Finance to the original purchaser designated by the Director of Finance in the Certificate of Award (the Original Purchaser) in accordance with law and the provisions of this Ordinance. The Director of Finance shall sign the Certificate of Award referred to in Section 3 evidencing that sale to the Original Purchaser, cause the Notes to be prepared, and have the Notes signed and delivered, together with a true transcript of proceedings with reference to the issuance of the Notes if requested by the Original Purchaser, to the Original Purchaser upon payment of the purchase price. The Mayor, the Director of Finance, the Director of Law, the Clerk of Council and other City officials, as appropriate, are each authorized and directed to sign any transcript certificates, financial statements and other documents and instruments and to take such actions as are necessary or appropriate to consummate the transactions contemplated by this Ordinance. The Director of Finance is authorized, if it is determined to be in the best interest of the City, to combine the issue of Notes with one or more other note issues of the City into a consolidated note issue pursuant to Section 133.30(B) of the Revised Code.

The Director of Finance is authorized to request a rating for the Notes from one or more nationally-recognized rating agencies in connection with the sale and issuance of the Notes. The expenditure of the amounts necessary to secure those rating(s) and to pay the other financing costs (as defined in Section 133.01 of the Revised Code) in connection with the Notes is authorized and approved, and the Director of Finance is authorized to provide for the payment of any such amounts and costs from the proceeds of the Notes to the extent available and otherwise from any other funds lawfully available that are appropriated or shall be appropriated for that purpose.

SECTION 7. Application of Note Proceeds. The proceeds from the sale of the Notes, except any premium and accrued interest, shall be paid into the proper fund or funds and those proceeds are appropriated and shall be used for the purpose for which the Notes are being issued. Any portion of those proceeds representing premium and accrued interest shall be paid into the Bond Retirement Fund.

SECTION 8. Application and Pledge of Bond or Renewal Note Proceeds or Excess Funds. The par value to be received from the sale of the Bonds or of any renewal notes and any excess funds resulting from the issuance of the Notes shall, to the extent necessary, be used to pay the debt charges on the Notes at maturity and are pledged for that purpose.

SECTION 9. Provisions for Tax Levy. During the year or years in which the Notes are outstanding, there shall be levied on all the taxable property in the City, in addition to all other taxes, the same tax that would have been levied if the Bonds had been issued without the prior issuance of the Notes. The tax shall be within the ten-mill limitation imposed by law, shall be and is ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers, in the same manner, and at the same time that taxes for general purposes for each of those years are certified, levied, extended and collected, and shall be placed before and in preference to all other items and for the full amount thereof. The proceeds of the tax levy shall be placed in the Bond Retirement Fund, which is irrevocably pledged for the payment of the debt charges on the Notes or the Bonds when and as the same fall due. In each year, to the extent other funds are available for the payment of the debt charges on the Bonds and are appropriated for that purpose, the amount of the tax shall be reduced by the amount of the money so available and appropriated.

SECTION 10. Federal Tax Considerations. The City covenants that it will use, and will restrict the use and investment of, the proceeds of the Notes in such manner and to such extent as may be necessary so that (a) the Notes will not (i) constitute private activity bonds, arbitrage bonds or hedge bonds under Sections 141, 148 or 149 of the Internal Revenue Code of 1986, as amended (the Code) or (ii) be treated other than as bonds to which Section 103 of the Code applies, and (b) the interest thereon will not be treated as a preference item under Section 57 of the Code.

The City further covenants that (a) it will take or cause to be taken such actions that may be required of it for the interest on the Notes to be and remain excluded from gross income for federal income tax purposes, (b) it will not take or authorize to be taken any actions that would adversely affect that exclusion, and (c) it, or persons acting for it, will, among other acts of compliance, (i) apply the proceeds of the Notes to the governmental purposes of the borrowing, (ii) restrict the yield on investment property, (iii) make timely and adequate payments to the federal government, (iv) maintain books and records and make calculations and reports, and (v) refrain from certain uses of those proceeds and, as applicable, of property financed with such proceeds, all in such manner and to the extent necessary to assure such exclusion of that interest under the Code.

The Director of Finance, as the fiscal officer, or any other officer of the City having responsibility for issuance of the Notes is hereby authorized (a) to make or effect any election, selection, designation (including specifically designation of the Notes as “qualified tax-exempt obligations”), choice, consent, approval, or waiver on behalf of the City with respect to the Notes as the City is permitted or required to make or give under the federal income tax laws, including,

without limitation thereto, any of the elections provided for or available under Section 148 of the Code, for the purpose of assuring, enhancing or protecting favorable tax treatment or status of the Notes or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing the rebate amount or payments of penalties, or making payments of special amounts in lieu of making computations to determine, or paying, excess earnings as rebate, or obviating those amounts or payments, as determined by that officer, which action shall be in writing and signed by the officer, (b) to take any and all other actions, make or obtain calculations, make payments, and make or give reports, covenants and certifications of and on behalf of the City, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the Notes, and (c) to give one or more appropriate certificates of the City, for inclusion in the transcript of proceedings for the Notes, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Notes, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of the interest on and the tax status of the Notes.

SECTION 11. Certification and Delivery of Ordinance. The Clerk of Council is directed to deliver or cause to be delivered a certified copy of this Ordinance to the Cuyahoga County Fiscal Officer.

SECTION 11. Retention of Bond Counsel. The legal services of Squire Sanders (US) LLP, as bond counsel, be and are hereby retained. The legal services shall be in the nature of legal advice and recommendations as to the documents and the proceedings in connection with the issuance and sale of the Notes and the rendering of the necessary legal opinion upon the delivery of the Notes. In rendering those legal services, as an independent contractor and in an attorney-client relationship, that firm shall not exercise any administrative discretion on behalf of the City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State, the City or any other political subdivision, or the execution of public trusts. That firm shall be paid just and reasonable compensation for those legal services and shall be reimbursed for the actual out-of-pocket expenses it incurs in rendering those legal services. The Director of Finance is authorized and directed to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment as written statements are submitted by that firm.

SECTION 12. Satisfaction of Conditions for Note Issuance. This Council determines that all acts and conditions necessary to be done or performed by the City or to have been met precedent to and in the issuing of the Notes in order to make them legal, valid and binding general obligations of the City have been performed and have been met, or will at the time of delivery of the Notes have been performed and have been met, in regular and due form as required by law; that the full faith and credit and general property taxing power (as described in Section 9) of the City are pledged for the timely payment of the debt charges on the Notes; and that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Notes.

SECTION 13. Compliance with Open Meeting Requirements. This Council finds and determines that all formal actions of this Council and of any of its committees concerning and relating to the passage of this Ordinance were taken in open meetings of this Council or committees,

and that all deliberations of this Council and of any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law.

SECTION 14. Captions and Headings. The captions and headings in this Ordinance are solely for convenience of reference and in no way define, limit or describe the scope or intent of any Sections, subsections, paragraphs, subparagraphs or clauses hereof. Reference to a Section means a section of this Ordinance unless otherwise indicated.

SECTION 15. Declaration of Emergency; Effective Date. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health and safety of the City, and for the further reason that this Ordinance is required to be immediately effective in order to issue and sell the Notes, which is necessary to enable the City to enter into contracts for the improvement which is needed to promote the health of the residents of the City by enhancing their recreational opportunities; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED: _____, 2014

/s/ Paul A. Koomar
PRESIDENT OF COUNCIL

/s/ Joan T. Kemper
CLERK OF COUNCIL

APPROVED: _____, 2014

/s/ Deborah L. Sutherland
MAYOR

I, Joan T. Kemper, Clerk of Council of the City of Bay Village, Ohio, hereby certify the foregoing to be a true copy of Ordinance No. 14-_____, passed by the Council of the City of Bay Village on _____, 2014, and now on file in the office of the Clerk of Council.

Clerk of Council

FISCAL OFFICER'S CERTIFICATE

TO THE COUNCIL OF THE CITY OF BAY VILLAGE, OHIO:

As fiscal officer of the City of Bay Village, Ohio, I certify in connection with your proposed issue of \$90,000 of notes (the Notes), to be issued in anticipation of the issuance of bonds (the Bonds), for the purpose of paying costs of acquiring office equipment for use in performing the administrative functions of the City, together with all necessary appurtenances thereto (the improvement), that:

1. The estimated life or period of usefulness of the improvement is at least five years.
2. The estimated maximum maturity of the Bonds, calculated in accordance with Section 133.20 of the Revised Code, is five years, being my estimate of the life or period of usefulness of the improvement. If notes in anticipation of the Bonds are outstanding later than the last day of December of the fifth year following the year of issuance of the original issue of notes, the period in excess of those five years shall be deducted from that maximum maturity of the Bonds.
3. The maximum maturity of the Notes is 10 years from their date of issuance.

Dated: March 3, 2014

Director of Finance
City of Bay Village, Ohio

AN ORDINANCE
**PROVIDING FOR THE ISSUANCE AND SALE OF \$90,000 OF NOTES, IN
ANTICIPATION OF THE ISSUANCE OF BONDS, FOR THE PURPOSE OF
PAYING COSTS OF ACQUIRING OFFICE EQUIPMENT FOR USE IN
PERFORMING THE ADMINISTRATIVE FUNCTIONS OF THE CITY,
AND DECLARING AN EMERGENCY.**

WHEREAS, the Director of Finance, as fiscal officer of the City, has certified to this Council that the estimated life or period of usefulness of the improvement described in Section 1 is at least five years, the estimated maximum maturity of the Bonds described in Section 1 is five years, and the maximum maturity of the Notes described in Section 3, to be issued in anticipation of the Bonds, is 10 years from their date of issuance;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Bay Village, County of Cuyahoga, Ohio, that:

SECTION 1. Authorized Principal Amount and Purpose of Anticipated Bonds. It is necessary to issue bonds of the City in the aggregate principal amount of \$90,000 (the Bonds) for the purpose of paying costs of acquiring office equipment for use in performing the administrative functions of the City, together with all necessary appurtenances thereto.

SECTION 2. Estimated Bond Terms. The Bonds shall be dated approximately May 1, 2015, shall bear interest at the now estimated rate of 5% per year, payable semiannually until the principal amount is paid, and are estimated to mature in five annual principal installments on December 1 of each year that are substantially equal. The first interest payment on the Bonds is estimated to be December 1, 2015, and the first principal payment of the Bonds is estimated to be December 1, 2016.

SECTION 3. Authorized Principal Amount of Notes; Note Terms. It is necessary to issue and this Council determines that notes in the aggregate principal amount of \$90,000 (the Notes) shall be issued in anticipation of the issuance of the Bonds. The Notes shall be dated the date of issuance and shall mature one year from the date of issuance; provided that the Director of Finance may, if it is determined to be necessary or advisable to the sale of the Notes, establish a maturity date that is any date up to one year from the date of issuance by setting forth that maturity date in the certificate signed in accordance with Section 6 (the Certificate of Award). The Notes shall bear interest at a rate not to exceed 4% per year (computed on the basis of a 360-day year consisting of 12 30-day months), payable at maturity and until the principal amount is paid or payment is provided for. The rate of interest on the Notes shall be determined by the Director of Finance in the Certificate of Award.

SECTION 4. Payment of Debt Charges; Paying Agent. The debt charges on the Notes shall be payable in Federal Reserve funds of the United States of America and shall be payable, without deduction for services of the City's paying agent, at the designated corporate trust office of The Huntington National Bank, or at the principal corporate trust or other office of a bank or trust company designated by the Director of Finance in the Certificate of Award after determining that the payment at that bank or trust company will not endanger the funds or securities of the City and that proper procedures and safeguards are available for that purpose, or at the office of the Director of Finance if agreed to by the Director of Finance and the Original Purchaser (as defined in Section 6) (the Paying Agent).

SECTION 5. Form and Execution of Notes; Book Entry System. The Notes shall be signed by the Mayor and the Director of Finance, in the name of the City and in their official capacities, provided that one of those signatures may be a facsimile. The Notes shall be issued in the denominations and numbers as requested by the Original Purchaser and approved by the Director of Finance in the Certificate of Award. The entire principal amount may be represented by a single note and may be issued as fully registered securities (for which the Director of Finance will serve as note registrar) and in book entry or other uncertificated form in accordance with Section 9.96 and Chapter 133 of the Revised Code if it is determined by the Director of Finance that issuance of fully registered securities in that form will facilitate the sale and delivery of the Notes. The Notes shall not have coupons attached, shall be numbered as determined by the Director of Finance and shall express upon their faces the purpose, in summary terms, for which they are issued and that they are issued pursuant to this Ordinance. As used in this Section and this Ordinance:

"Book entry form" or "book entry system" means a form or system under which (i) the ownership of beneficial interests in the Notes and the principal of, and interest on, the Notes may be transferred only through a book entry, and (ii) a single physical Note certificate is issued by the City and payable only to a Depository or its nominee, with such Notes "immobilized" in the custody of the Depository or its agent for that purpose. The book entry maintained by others than the City is the record that identifies the owners of beneficial interests in the Notes and that principal and interest.

"Depository" means any securities depository that is a clearing agency under federal law operating and maintaining, with its Participants or otherwise, a book entry system to record ownership of beneficial interests in the Notes or the principal of, and interest on, the Notes and to effect transfers of the 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.

The Notes may be issued to a Depository for use in a book entry system and, if and as long as a book entry system is utilized, (i) the Notes may be issued in the form of a single Note made payable to the Depository or its nominee and immobilized in the custody of the Depository or its agent for that purpose; (ii) the beneficial owners in book entry form shall have no right to receive the Notes in the form of physical securities or certificates; (iii) ownership of beneficial interests in

book entry form shall be shown by book entry on the system maintained and operated by the Depository and its Participants, 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 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 establish 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 deemed necessary, shall permit withdrawal of the Notes from the Depository, and shall cause the Notes in bearer or payable to order form to be signed by the officers authorized to sign the Notes and delivered 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 City action or inaction, of those persons requesting such issuance.

The Director of Finance is also hereby authorized and directed, to the extent necessary or required, to enter into any agreements determined necessary in connection with the book entry system for the Notes, after determining that the signing thereof will not endanger the funds or securities of the City.

SECTION 6. Award and Sale of the Notes. The Notes shall be sold at not less than par at private sale by the Director of Finance to the original purchaser designated by the Director of Finance in the Certificate of Award (the Original Purchaser) in accordance with law and the provisions of this Ordinance. The Director of Finance shall sign the Certificate of Award referred to in Section 3 evidencing that sale to the Original Purchaser, cause the Notes to be prepared, and have the Notes signed and delivered, together with a true transcript of proceedings with reference to the issuance of the Notes if requested by the Original Purchaser, to the Original Purchaser upon payment of the purchase price. The Mayor, the Director of Finance, the Director of Law, the Clerk of Council and other City officials, as appropriate, are each authorized and directed to sign any transcript certificates, financial statements and other documents and instruments and to take such actions as are necessary or appropriate to consummate the transactions contemplated by this Ordinance. The Director of Finance is authorized, if it is determined to be in the best interest of the City, to combine the issue of Notes with one or more other note issues of the City into a consolidated note issue pursuant to Section 133.30(B) of the Revised Code.

The Director of Finance is authorized to request a rating for the Notes from one or more nationally-recognized rating agencies in connection with the sale and issuance of the Notes. The expenditure of the amounts necessary to secure those rating(s) and to pay the other financing costs (as defined in Section 133.01 of the Revised Code) in connection with the Notes is authorized and approved, and the Director of Finance is authorized to provide for the payment of any such amounts and costs from the proceeds of the Notes to the extent available and otherwise from any other funds lawfully available that are appropriated or shall be appropriated for that purpose.

SECTION 7. Application of Note Proceeds. The proceeds from the sale of the Notes, except any premium and accrued interest, shall be paid into the proper fund or funds and those

proceeds are appropriated and shall be used for the purpose for which the Notes are being issued. Any portion of those proceeds representing premium and accrued interest shall be paid into the Bond Retirement Fund.

SECTION 8. Application and Pledge of Bond or Renewal Note Proceeds or Excess Funds. The par value to be received from the sale of the Bonds or of any renewal notes and any excess funds resulting from the issuance of the Notes shall, to the extent necessary, be used to pay the debt charges on the Notes at maturity and are pledged for that purpose.

SECTION 9. Provisions for Tax Levy. During the year or years in which the Notes are outstanding, there shall be levied on all the taxable property in the City, in addition to all other taxes, the same tax that would have been levied if the Bonds had been issued without the prior issuance of the Notes. The tax shall be within the ten-mill limitation imposed by law, shall be and is ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers, in the same manner, and at the same time that taxes for general purposes for each of those years are certified, levied, extended and collected, and shall be placed before and in preference to all other items and for the full amount thereof. The proceeds of the tax levy shall be placed in the Bond Retirement Fund, which is irrevocably pledged for the payment of the debt charges on the Notes or the Bonds when and as the same fall due. In each year, to the extent other funds are available for the payment of the debt charges on the Bonds and are appropriated for that purpose, the amount of the tax shall be reduced by the amount of the money so available and appropriated.

SECTION 10. Federal Tax Considerations. The City covenants that it will use, and will restrict the use and investment of, the proceeds of the Notes in such manner and to such extent as may be necessary so that (a) the Notes will not (i) constitute private activity bonds, arbitrage bonds or hedge bonds under Sections 141, 148 or 149 of the Internal Revenue Code of 1986, as amended (the Code) or (ii) be treated other than as bonds to which Section 103 of the Code applies, and (b) the interest thereon will not be treated as a preference item under Section 57 of the Code.

The City further covenants that (a) it will take or cause to be taken such actions that may be required of it for the interest on the Notes to be and remain excluded from gross income for federal income tax purposes, (b) it will not take or authorize to be taken any actions that would adversely affect that exclusion, and (c) it, or persons acting for it, will, among other acts of compliance, (i) apply the proceeds of the Notes to the governmental purposes of the borrowing, (ii) restrict the yield on investment property, (iii) make timely and adequate payments to the federal government, (iv) maintain books and records and make calculations and reports, and (v) refrain from certain uses of those proceeds and, as applicable, of property financed with such proceeds, all in such manner and to the extent necessary to assure such exclusion of that interest under the Code.

The Director of Finance, as the fiscal officer, or any other officer of the City having responsibility for issuance of the Notes is hereby authorized (a) to make or effect any election, selection, designation (including specifically designation of the Notes as “qualified tax-exempt obligations”), choice, consent, approval, or waiver on behalf of the City with respect to the Notes as the City is permitted or required to make or give under the federal income tax laws, including, without limitation thereto, any of the elections provided for or available under Section 148 of the Code, for the purpose of assuring, enhancing or protecting favorable tax treatment or status of the

Notes or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing the rebate amount or payments of penalties, or making payments of special amounts in lieu of making computations to determine, or paying, excess earnings as rebate, or obviating those amounts or payments, as determined by that officer, which action shall be in writing and signed by the officer, (b) to take any and all other actions, make or obtain calculations, make payments, and make or give reports, covenants and certifications of and on behalf of the City, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the Notes, and (c) to give one or more appropriate certificates of the City, for inclusion in the transcript of proceedings for the Notes, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Notes, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of the interest on and the tax status of the Notes.

SECTION 11. Certification and Delivery of Ordinance. The Clerk of Council is directed to deliver or cause to be delivered a certified copy of this Ordinance to the Cuyahoga County Fiscal Officer.

SECTION 11. Retention of Bond Counsel. The legal services of Squire Sanders (US) LLP, as bond counsel, be and are hereby retained. The legal services shall be in the nature of legal advice and recommendations as to the documents and the proceedings in connection with the issuance and sale of the Notes and the rendering of the necessary legal opinion upon the delivery of the Notes. In rendering those legal services, as an independent contractor and in an attorney-client relationship, that firm shall not exercise any administrative discretion on behalf of the City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State, the City or any other political subdivision, or the execution of public trusts. That firm shall be paid just and reasonable compensation for those legal services and shall be reimbursed for the actual out-of-pocket expenses it incurs in rendering those legal services. The Director of Finance is authorized and directed to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment as written statements are submitted by that firm.

SECTION 12. Satisfaction of Conditions for Note Issuance. This Council determines that all acts and conditions necessary to be done or performed by the City or to have been met precedent to and in the issuing of the Notes in order to make them legal, valid and binding general obligations of the City have been performed and have been met, or will at the time of delivery of the Notes have been performed and have been met, in regular and due form as required by law; that the full faith and credit and general property taxing power (as described in Section 9) of the City are pledged for the timely payment of the debt charges on the Notes; and that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Notes.

SECTION 13. Compliance with Open Meeting Requirements. This Council finds and determines that all formal actions of this Council and of any of its committees concerning and relating to the passage of this Ordinance were taken in open meetings of this Council or committees, and that all deliberations of this Council and of any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law.

SECTION 14. Captions and Headings. The captions and headings in this Ordinance are solely for convenience of reference and in no way define, limit or describe the scope or intent of any Sections, subsections, paragraphs, subparagraphs or clauses hereof. Reference to a Section means a section of this Ordinance unless otherwise indicated.

SECTION 15. Declaration of Emergency; Effective Date. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health and safety of the City, and for the further reason that this Ordinance is required to be immediately effective in order to issue and sell the Notes, which is necessary to enable the City to enter into contracts for the improvement which is needed to provide for the efficient and safe administration of the government of the City; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED: _____, 2014

/s/ Paul A. Koomar
PRESIDENT OF COUNCIL

/s/ Joan T. Kemper
CLERK OF COUNCIL

APPROVED: _____, 2014

/s/ Deborah L. Sutherland
MAYOR

I, Joan T. Kemper, Clerk of Council of the City of Bay Village, Ohio, hereby certify the foregoing to be a true copy of Ordinance No. 14-_____, passed by the Council of the City of Bay Village on _____, 2014, and now on file in the office of the Clerk of Council.

Clerk of Council

FISCAL OFFICER'S CERTIFICATE

TO THE COUNCIL OF THE CITY OF BAY VILLAGE, OHIO:

As fiscal officer of the City of Bay Village, Ohio, I certify in connection with your proposed issue of \$60,000 of notes (the Notes), to be issued in anticipation of the issuance of bonds (the Bonds), for the purpose of paying costs of acquiring a bus for use in performing the functions of the City's Department of Community Services, together with all necessary appurtenances thereto (the improvement), that:

1. The estimated life or period of usefulness of the improvement is at least five years.
2. The estimated maximum maturity of the Bonds, calculated in accordance with Section 133.20 of the Revised Code, is 15 years. If notes in anticipation of the Bonds are outstanding later than the last day of December of the fifth year following the year of issuance of the original issue of notes, the period in excess of those five years shall be deducted from that maximum maturity of the Bonds.
3. The maximum maturity of the Notes is 240 months from their date of issuance.

Dated: March 3, 2014

Director of Finance
City of Bay Village, Ohio

AN ORDINANCE
**PROVIDING FOR THE ISSUANCE AND SALE OF \$60,000 OF NOTES, IN
ANTICIPATION OF THE ISSUANCE OF BONDS, FOR THE PURPOSE OF
PAYING COSTS OF ACQUIRING A BUS FOR USE IN PERFORMING
THE FUNCTIONS OF THE CITY'S DEPARTMENT OF COMMUNITY
SERVICES, AND DECLARING AN EMERGENCY.**

WHEREAS, the Director of Finance, as fiscal officer of the City, has certified to this Council that the estimated life or period of usefulness of the improvement described in Section 1 is at least five years, the estimated maximum maturity of the Bonds described in Section 1 is 15 years, and the maximum maturity of the Notes described in Section 3, to be issued in anticipation of the Bonds, is 240 months from their date of issuance;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Bay Village, County of Cuyahoga, Ohio, that:

SECTION 1. Authorized Principal Amount and Purpose of Anticipated Bonds. It is necessary to issue bonds of the City in the aggregate principal amount of \$60,000 (the Bonds) for the purpose of paying costs of acquiring a bus for use in performing the functions of the City's Department of Community Services, together with all necessary appurtenances thereto.

SECTION 2. Estimated Bond Terms. The Bonds shall be dated approximately May 1, 2015, shall bear interest at the now estimated rate of 5% per year, payable semiannually until the principal amount is paid, and are estimated to mature in 15 annual principal installments on December 1 of each year that are substantially equal. The first interest payment on the Bonds is estimated to be December 1, 2015, and the first principal payment of the Bonds is estimated to be December 1, 2016.

SECTION 3. Authorized Principal Amount of Notes; Note Terms. It is necessary to issue and this Council determines that notes in the aggregate principal amount of \$60,000 (the Notes) shall be issued in anticipation of the issuance of the Bonds. The Notes shall be dated the date of issuance and shall mature one year from the date of issuance; provided that the Director of Finance may, if it is determined to be necessary or advisable to the sale of the Notes, establish a maturity date that is any date up to one year from the date of issuance by setting forth that maturity date in the certificate signed in accordance with Section 6 (the Certificate of Award). The Notes shall bear interest at a rate not to exceed 4% per year (computed on the basis of a 360-day year consisting of 12 30-day months), payable at maturity and until the principal amount is paid or payment is provided for. The rate of interest on the Notes shall be determined by the Director of Finance in the Certificate of Award.

SECTION 4. Payment of Debt Charges; Paying Agent. The debt charges on the Notes shall be payable in Federal Reserve funds of the United States of America and shall be payable, without deduction for services of the City's paying agent, at the designated corporate trust office of The Huntington National Bank, or at the principal corporate trust or other office of a bank or trust company designated by the Director of Finance in the Certificate of Award after determining that the payment at that bank or trust company will not endanger the funds or securities of the City and that proper procedures and safeguards are available for that purpose, or at the office of the Director of Finance if agreed to by the Director of Finance and the Original Purchaser (as defined in Section 6) (the Paying Agent).

SECTION 5. Form and Execution of Notes; Book Entry System. The Notes shall be signed by the Mayor and the Director of Finance, in the name of the City and in their official capacities, provided that one of those signatures may be a facsimile. The Notes shall be issued in the denominations and numbers as requested by the Original Purchaser and approved by the Director of Finance in the Certificate of Award. The entire principal amount may be represented by a single note and may be issued as fully registered securities (for which the Director of Finance will serve as note registrar) and in book entry or other uncertificated form in accordance with Section 9.96 and Chapter 133 of the Revised Code if it is determined by the Director of Finance that issuance of fully registered securities in that form will facilitate the sale and delivery of the Notes. The Notes shall not have coupons attached, shall be numbered as determined by the Director of Finance and shall express upon their faces the purpose, in summary terms, for which they are issued and that they are issued pursuant to this Ordinance. As used in this Section and this Ordinance:

“Book entry form” or “book entry system” means a form or system under which (i) the ownership of beneficial interests in the Notes and the principal of, and interest on, the Notes may be transferred only through a book entry, and (ii) a single physical Note certificate is issued by the City and payable only to a Depository or its nominee, with such Notes “immobilized” in the custody of the Depository or its agent for that purpose. The book entry maintained by others than the City is the record that identifies the owners of beneficial interests in the Notes and that principal and interest.

“Depository” means any securities depository that is a clearing agency under federal law operating and maintaining, with its Participants or otherwise, a book entry system to record ownership of beneficial interests in the Notes or the principal of, and interest on, the Notes and to effect transfers of the 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.

The Notes may be issued to a Depository for use in a book entry system and, if and as long as a book entry system is utilized, (i) the Notes may be issued in the form of a single Note made payable to the Depository or its nominee and immobilized in the custody of the Depository or its agent for that purpose; (ii) the beneficial owners in book entry form shall have no right to receive the Notes in the form of physical securities or certificates; (iii) ownership of beneficial interests in

book entry form shall be shown by book entry on the system maintained and operated by the Depository and its Participants, 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 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 establish 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 deemed necessary, shall permit withdrawal of the Notes from the Depository, and shall cause the Notes in bearer or payable to order form to be signed by the officers authorized to sign the Notes and delivered 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 City action or inaction, of those persons requesting such issuance.

The Director of Finance is also hereby authorized and directed, to the extent necessary or required, to enter into any agreements determined necessary in connection with the book entry system for the Notes, after determining that the signing thereof will not endanger the funds or securities of the City.

SECTION 6. Award and Sale of the Notes. The Notes shall be sold at not less than par at private sale by the Director of Finance to the original purchaser designated by the Director of Finance in the Certificate of Award (the Original Purchaser) in accordance with law and the provisions of this Ordinance. The Director of Finance shall sign the Certificate of Award referred to in Section 3 evidencing that sale to the Original Purchaser, cause the Notes to be prepared, and have the Notes signed and delivered, together with a true transcript of proceedings with reference to the issuance of the Notes if requested by the Original Purchaser, to the Original Purchaser upon payment of the purchase price. The Mayor, the Director of Finance, the Director of Law, the Clerk of Council and other City officials, as appropriate, are each authorized and directed to sign any transcript certificates, financial statements and other documents and instruments and to take such actions as are necessary or appropriate to consummate the transactions contemplated by this Ordinance. The Director of Finance is authorized, if it is determined to be in the best interest of the City, to combine the issue of Notes with one or more other note issues of the City into a consolidated note issue pursuant to Section 133.30(B) of the Revised Code.

The Director of Finance is authorized to request a rating for the Notes from one or more nationally-recognized rating agencies in connection with the sale and issuance of the Notes. The expenditure of the amounts necessary to secure those rating(s) and to pay the other financing costs (as defined in Section 133.01 of the Revised Code) in connection with the Notes is authorized and approved, and the Director of Finance is authorized to provide for the payment of any such amounts and costs from the proceeds of the Notes to the extent available and otherwise from any other funds lawfully available that are appropriated or shall be appropriated for that purpose.

SECTION 7. Application of Note Proceeds. The proceeds from the sale of the Notes, except any premium and accrued interest, shall be paid into the proper fund or funds and those

proceeds are appropriated and shall be used for the purpose for which the Notes are being issued. Any portion of those proceeds representing premium and accrued interest shall be paid into the Bond Retirement Fund.

SECTION 8. Application and Pledge of Bond or Renewal Note Proceeds or Excess Funds. The par value to be received from the sale of the Bonds or of any renewal notes and any excess funds resulting from the issuance of the Notes shall, to the extent necessary, be used to pay the debt charges on the Notes at maturity and are pledged for that purpose.

SECTION 9. Provisions for Tax Levy. During the year or years in which the Notes are outstanding, there shall be levied on all the taxable property in the City, in addition to all other taxes, the same tax that would have been levied if the Bonds had been issued without the prior issuance of the Notes. The tax shall be within the ten-mill limitation imposed by law, shall be and is ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers, in the same manner, and at the same time that taxes for general purposes for each of those years are certified, levied, extended and collected, and shall be placed before and in preference to all other items and for the full amount thereof. The proceeds of the tax levy shall be placed in the Bond Retirement Fund, which is irrevocably pledged for the payment of the debt charges on the Notes or the Bonds when and as the same fall due. In each year, to the extent other funds are available for the payment of the debt charges on the Bonds and are appropriated for that purpose, the amount of the tax shall be reduced by the amount of the money so available and appropriated.

SECTION 10. Federal Tax Considerations. The City covenants that it will use, and will restrict the use and investment of, the proceeds of the Notes in such manner and to such extent as may be necessary so that (a) the Notes will not (i) constitute private activity bonds, arbitrage bonds or hedge bonds under Sections 141, 148 or 149 of the Internal Revenue Code of 1986, as amended (the Code) or (ii) be treated other than as bonds to which Section 103 of the Code applies, and (b) the interest thereon will not be treated as a preference item under Section 57 of the Code.

The City further covenants that (a) it will take or cause to be taken such actions that may be required of it for the interest on the Notes to be and remain excluded from gross income for federal income tax purposes, (b) it will not take or authorize to be taken any actions that would adversely affect that exclusion, and (c) it, or persons acting for it, will, among other acts of compliance, (i) apply the proceeds of the Notes to the governmental purposes of the borrowing, (ii) restrict the yield on investment property, (iii) make timely and adequate payments to the federal government, (iv) maintain books and records and make calculations and reports, and (v) refrain from certain uses of those proceeds and, as applicable, of property financed with such proceeds, all in such manner and to the extent necessary to assure such exclusion of that interest under the Code.

The Director of Finance, as the fiscal officer, or any other officer of the City having responsibility for issuance of the Notes is hereby authorized (a) to make or effect any election, selection, designation (including specifically designation of the Notes as “qualified tax-exempt obligations”), choice, consent, approval, or waiver on behalf of the City with respect to the Notes as the City is permitted or required to make or give under the federal income tax laws, including, without limitation thereto, any of the elections provided for or available under Section 148 of the Code, for the purpose of assuring, enhancing or protecting favorable tax treatment or status of the

Notes or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing the rebate amount or payments of penalties, or making payments of special amounts in lieu of making computations to determine, or paying, excess earnings as rebate, or obviating those amounts or payments, as determined by that officer, which action shall be in writing and signed by the officer, (b) to take any and all other actions, make or obtain calculations, make payments, and make or give reports, covenants and certifications of and on behalf of the City, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the Notes, and (c) to give one or more appropriate certificates of the City, for inclusion in the transcript of proceedings for the Notes, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Notes, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of the interest on and the tax status of the Notes.

SECTION 11. Certification and Delivery of Ordinance. The Clerk of Council is directed to deliver or cause to be delivered a certified copy of this Ordinance to the Cuyahoga County Fiscal Officer.

SECTION 11. Retention of Bond Counsel. The legal services of Squire Sanders (US) LLP, as bond counsel, be and are hereby retained. The legal services shall be in the nature of legal advice and recommendations as to the documents and the proceedings in connection with the issuance and sale of the Notes and the rendering of the necessary legal opinion upon the delivery of the Notes. In rendering those legal services, as an independent contractor and in an attorney-client relationship, that firm shall not exercise any administrative discretion on behalf of the City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State, the City or any other political subdivision, or the execution of public trusts. That firm shall be paid just and reasonable compensation for those legal services and shall be reimbursed for the actual out-of-pocket expenses it incurs in rendering those legal services. The Director of Finance is authorized and directed to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment as written statements are submitted by that firm.

SECTION 12. Satisfaction of Conditions for Note Issuance. This Council determines that all acts and conditions necessary to be done or performed by the City or to have been met precedent to and in the issuing of the Notes in order to make them legal, valid and binding general obligations of the City have been performed and have been met, or will at the time of delivery of the Notes have been performed and have been met, in regular and due form as required by law; that the full faith and credit and general property taxing power (as described in Section 9) of the City are pledged for the timely payment of the debt charges on the Notes; and that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Notes.

SECTION 13. Compliance with Open Meeting Requirements. This Council finds and determines that all formal actions of this Council and of any of its committees concerning and relating to the passage of this Ordinance were taken in open meetings of this Council or committees, and that all deliberations of this Council and of any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law.

SECTION 14. Captions and Headings. The captions and headings in this Ordinance are solely for convenience of reference and in no way define, limit or describe the scope or intent of any Sections, subsections, paragraphs, subparagraphs or clauses hereof. Reference to a Section means a section of this Ordinance unless otherwise indicated.

SECTION 15. Declaration of Emergency; Effective Date. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health and safety of the City, and for the further reason that this Ordinance is required to be immediately effective in order to issue and sell the Notes, which is necessary to enable the City to enter into contracts for the improvement which is needed to provide for the efficient and safe transit of residents of the City; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED: _____, 2014

/s/ Paul A. Koomar

PRESIDENT OF COUNCIL

/s/ Joan T. Kemper

CLERK OF COUNCIL

APPROVED: _____, 2014

/s/ Deborah L. Sutherland

MAYOR

I, Joan T. Kemper, Clerk of Council of the City of Bay Village, Ohio, hereby certify the foregoing to be a true copy of Ordinance No. 14-_____, passed by the Council of the City of Bay Village on _____, 2014, and now on file in the office of the Clerk of Council.

Clerk of Council

FISCAL OFFICER'S CERTIFICATE

TO THE COUNCIL OF THE CITY OF BAY VILLAGE, OHIO:

As fiscal officer of the City of Bay Village, Ohio, I certify in connection with your proposed issue of \$43,000 of notes (the Notes), to be issued in anticipation of the issuance of bonds (the Bonds), for the purpose of paying costs of acquiring a motor vehicle and equipment for use in performing the functions of the City's Fire Department, together with all necessary appurtenances thereto (the improvement), that:

1. The estimated life or period of usefulness of the improvement is at least five years.
2. The estimated maximum maturity of the Bonds, calculated in accordance with Section 133.20 of the Revised Code, is 10 years. If notes in anticipation of the Bonds are outstanding later than the last day of December of the fifth year following the year of issuance of the original issue of notes, the period in excess of those five years shall be deducted from that maximum maturity of the Bonds.
3. The maximum maturity of the Notes is 15 years from their date of issuance.

Dated: March 3, 2014

Director of Finance
City of Bay Village, Ohio

AN ORDINANCE
**PROVIDING FOR THE ISSUANCE AND SALE OF \$43,000 OF NOTES, IN
ANTICIPATION OF THE ISSUANCE OF BONDS, FOR THE PURPOSE OF
PAYING COSTS OF ACQUIRING A MOTOR VEHICLE AND
EQUIPMENT FOR USE IN PERFORMING THE FUNCTIONS OF THE
CITY'S FIRE DEPARTMENT, AND DECLARING AN EMERGENCY.**

WHEREAS, the Director of Finance, as fiscal officer of the City, has certified to this Council that the estimated life or period of usefulness of the improvement described in Section 1 is at least five years, the estimated maximum maturity of the Bonds described in Section 1 is 10 years, and the maximum maturity of the Notes described in Section 3, to be issued in anticipation of the Bonds, is 15 years from their date of issuance;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Bay Village, County of Cuyahoga, Ohio, that:

SECTION 1. Authorized Principal Amount and Purpose of Anticipated Bonds. It is necessary to issue bonds of the City in the aggregate principal amount of \$43,000 (the Bonds) for the purpose of paying costs of acquiring a motor vehicle and equipment for use in performing the functions of the City's Fire Department, together with all necessary appurtenances thereto.

SECTION 2. Estimated Bond Terms. The Bonds shall be dated approximately May 1, 2015, shall bear interest at the now estimated rate of 5% per year, payable semiannually until the principal amount is paid, and are estimated to mature in 10 annual principal installments on December 1 of each year that are substantially equal. The first interest payment on the Bonds is estimated to be December 1, 2015, and the first principal payment of the Bonds is estimated to be December 1, 2016.

SECTION 3. Authorized Principal Amount of Notes; Note Terms. It is necessary to issue and this Council determines that notes in the aggregate principal amount of \$43,000 (the Notes) shall be issued in anticipation of the issuance of the Bonds. The Notes shall be dated the date of issuance and shall mature one year from the date of issuance; provided that the Director of Finance may, if it is determined to be necessary or advisable to the sale of the Notes, establish a maturity date that is any date up to one year from the date of issuance by setting forth that maturity date in the certificate signed in accordance with Section 6 (the Certificate of Award). The Notes shall bear interest at a rate not to exceed 4% per year (computed on the basis of a 360-day year consisting of 12 30-day months), payable at maturity and until the principal amount is paid or payment is provided for. The rate of interest on the Notes shall be determined by the Director of Finance in the Certificate of Award.

SECTION 4. Payment of Debt Charges; Paying Agent. The debt charges on the Notes shall be payable in Federal Reserve funds of the United States of America and shall be payable, without deduction for services of the City's paying agent, at the designated corporate trust office of The Huntington National Bank, or at the principal corporate trust or other office of a bank or trust company designated by the Director of Finance in the Certificate of Award after determining that the payment at that bank or trust company will not endanger the funds or securities of the City and that proper procedures and safeguards are available for that purpose, or at the office of the Director of Finance if agreed to by the Director of Finance and the Original Purchaser (as defined in Section 6) (the Paying Agent).

SECTION 5. Form and Execution of Notes; Book Entry System. The Notes shall be signed by the Mayor and the Director of Finance, in the name of the City and in their official capacities, provided that one of those signatures may be a facsimile. The Notes shall be issued in the denominations and numbers as requested by the Original Purchaser and approved by the Director of Finance in the Certificate of Award. The entire principal amount may be represented by a single note and may be issued as fully registered securities (for which the Director of Finance will serve as note registrar) and in book entry or other uncertificated form in accordance with Section 9.96 and Chapter 133 of the Revised Code if it is determined by the Director of Finance that issuance of fully registered securities in that form will facilitate the sale and delivery of the Notes. The Notes shall not have coupons attached, shall be numbered as determined by the Director of Finance and shall express upon their faces the purpose, in summary terms, for which they are issued and that they are issued pursuant to this Ordinance. As used in this Section and this Ordinance:

“Book entry form” or “book entry system” means a form or system under which (i) the ownership of beneficial interests in the Notes and the principal of, and interest on, the Notes may be transferred only through a book entry, and (ii) a single physical Note certificate is issued by the City and payable only to a Depository or its nominee, with such Notes “immobilized” in the custody of the Depository or its agent for that purpose. The book entry maintained by others than the City is the record that identifies the owners of beneficial interests in the Notes and that principal and interest.

“Depository” means any securities depository that is a clearing agency under federal law operating and maintaining, with its Participants or otherwise, a book entry system to record ownership of beneficial interests in the Notes or the principal of, and interest on, the Notes and to effect transfers of the 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.

The Notes may be issued to a Depository for use in a book entry system and, if and as long as a book entry system is utilized, (i) the Notes may be issued in the form of a single Note made payable to the Depository or its nominee and immobilized in the custody of the Depository or its agent for that purpose; (ii) the beneficial owners in book entry form shall have no right to receive the Notes in the form of physical securities or certificates; (iii) ownership of beneficial interests in

book entry form shall be shown by book entry on the system maintained and operated by the Depository and its Participants, 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 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 establish 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 deemed necessary, shall permit withdrawal of the Notes from the Depository, and shall cause the Notes in bearer or payable to order form to be signed by the officers authorized to sign the Notes and delivered 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 City action or inaction, of those persons requesting such issuance.

The Director of Finance is also hereby authorized and directed, to the extent necessary or required, to enter into any agreements determined necessary in connection with the book entry system for the Notes, after determining that the signing thereof will not endanger the funds or securities of the City.

SECTION 6. Award and Sale of the Notes. The Notes shall be sold at not less than par at private sale by the Director of Finance to the original purchaser designated by the Director of Finance in the Certificate of Award (the Original Purchaser) in accordance with law and the provisions of this Ordinance. The Director of Finance shall sign the Certificate of Award referred to in Section 3 evidencing that sale to the Original Purchaser, cause the Notes to be prepared, and have the Notes signed and delivered, together with a true transcript of proceedings with reference to the issuance of the Notes if requested by the Original Purchaser, to the Original Purchaser upon payment of the purchase price. The Mayor, the Director of Finance, the Director of Law, the Clerk of Council and other City officials, as appropriate, are each authorized and directed to sign any transcript certificates, financial statements and other documents and instruments and to take such actions as are necessary or appropriate to consummate the transactions contemplated by this Ordinance. The Director of Finance is authorized, if it is determined to be in the best interest of the City, to combine the issue of Notes with one or more other note issues of the City into a consolidated note issue pursuant to Section 133.30(B) of the Revised Code.

The Director of Finance is authorized to request a rating for the Notes from one or more nationally-recognized rating agencies in connection with the sale and issuance of the Notes. The expenditure of the amounts necessary to secure those rating(s) and to pay the other financing costs (as defined in Section 133.01 of the Revised Code) in connection with the Notes is authorized and approved, and the Director of Finance is authorized to provide for the payment of any such amounts and costs from the proceeds of the Notes to the extent available and otherwise from any other funds lawfully available that are appropriated or shall be appropriated for that purpose.

SECTION 7. Application of Note Proceeds. The proceeds from the sale of the Notes, except any premium and accrued interest, shall be paid into the proper fund or funds and those

proceeds are appropriated and shall be used for the purpose for which the Notes are being issued. Any portion of those proceeds representing premium and accrued interest shall be paid into the Bond Retirement Fund.

SECTION 8. Application and Pledge of Bond or Renewal Note Proceeds or Excess Funds. The par value to be received from the sale of the Bonds or of any renewal notes and any excess funds resulting from the issuance of the Notes shall, to the extent necessary, be used to pay the debt charges on the Notes at maturity and are pledged for that purpose.

SECTION 9. Provisions for Tax Levy. During the year or years in which the Notes are outstanding, there shall be levied on all the taxable property in the City, in addition to all other taxes, the same tax that would have been levied if the Bonds had been issued without the prior issuance of the Notes. The tax shall be within the ten-mill limitation imposed by law, shall be and is ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers, in the same manner, and at the same time that taxes for general purposes for each of those years are certified, levied, extended and collected, and shall be placed before and in preference to all other items and for the full amount thereof. The proceeds of the tax levy shall be placed in the Bond Retirement Fund, which is irrevocably pledged for the payment of the debt charges on the Notes or the Bonds when and as the same fall due. In each year, to the extent other funds are available for the payment of the debt charges on the Bonds and are appropriated for that purpose, the amount of the tax shall be reduced by the amount of the money so available and appropriated.

SECTION 10. Federal Tax Considerations. The City covenants that it will use, and will restrict the use and investment of, the proceeds of the Notes in such manner and to such extent as may be necessary so that (a) the Notes will not (i) constitute private activity bonds, arbitrage bonds or hedge bonds under Sections 141, 148 or 149 of the Internal Revenue Code of 1986, as amended (the Code) or (ii) be treated other than as bonds to which Section 103 of the Code applies, and (b) the interest thereon will not be treated as a preference item under Section 57 of the Code.

The City further covenants that (a) it will take or cause to be taken such actions that may be required of it for the interest on the Notes to be and remain excluded from gross income for federal income tax purposes, (b) it will not take or authorize to be taken any actions that would adversely affect that exclusion, and (c) it, or persons acting for it, will, among other acts of compliance, (i) apply the proceeds of the Notes to the governmental purposes of the borrowing, (ii) restrict the yield on investment property, (iii) make timely and adequate payments to the federal government, (iv) maintain books and records and make calculations and reports, and (v) refrain from certain uses of those proceeds and, as applicable, of property financed with such proceeds, all in such manner and to the extent necessary to assure such exclusion of that interest under the Code.

The Director of Finance, as the fiscal officer, or any other officer of the City having responsibility for issuance of the Notes is hereby authorized (a) to make or effect any election, selection, designation (including specifically designation of the Notes as “qualified tax-exempt obligations”), choice, consent, approval, or waiver on behalf of the City with respect to the Notes as the City is permitted or required to make or give under the federal income tax laws, including, without limitation thereto, any of the elections provided for or available under Section 148 of the Code, for the purpose of assuring, enhancing or protecting favorable tax treatment or status of the

Notes or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing the rebate amount or payments of penalties, or making payments of special amounts in lieu of making computations to determine, or paying, excess earnings as rebate, or obviating those amounts or payments, as determined by that officer, which action shall be in writing and signed by the officer, (b) to take any and all other actions, make or obtain calculations, make payments, and make or give reports, covenants and certifications of and on behalf of the City, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the Notes, and (c) to give one or more appropriate certificates of the City, for inclusion in the transcript of proceedings for the Notes, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Notes, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of the interest on and the tax status of the Notes.

SECTION 11. Certification and Delivery of Ordinance. The Clerk of Council is directed to deliver or cause to be delivered a certified copy of this Ordinance to the Cuyahoga County Fiscal Officer.

SECTION 11. Retention of Bond Counsel. The legal services of Squire Sanders (US) LLP, as bond counsel, be and are hereby retained. The legal services shall be in the nature of legal advice and recommendations as to the documents and the proceedings in connection with the issuance and sale of the Notes and the rendering of the necessary legal opinion upon the delivery of the Notes. In rendering those legal services, as an independent contractor and in an attorney-client relationship, that firm shall not exercise any administrative discretion on behalf of the City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State, the City or any other political subdivision, or the execution of public trusts. That firm shall be paid just and reasonable compensation for those legal services and shall be reimbursed for the actual out-of-pocket expenses it incurs in rendering those legal services. The Director of Finance is authorized and directed to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment as written statements are submitted by that firm.

SECTION 12. Satisfaction of Conditions for Note Issuance. This Council determines that all acts and conditions necessary to be done or performed by the City or to have been met precedent to and in the issuing of the Notes in order to make them legal, valid and binding general obligations of the City have been performed and have been met, or will at the time of delivery of the Notes have been performed and have been met, in regular and due form as required by law; that the full faith and credit and general property taxing power (as described in Section 9) of the City are pledged for the timely payment of the debt charges on the Notes; and that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Notes.

SECTION 13. Compliance with Open Meeting Requirements. This Council finds and determines that all formal actions of this Council and of any of its committees concerning and relating to the passage of this Ordinance were taken in open meetings of this Council or committees, and that all deliberations of this Council and of any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law.

SECTION 14. Captions and Headings. The captions and headings in this Ordinance are solely for convenience of reference and in no way define, limit or describe the scope or intent of any Sections, subsections, paragraphs, subparagraphs or clauses hereof. Reference to a Section means a section of this Ordinance unless otherwise indicated.

SECTION 15. Declaration of Emergency; Effective Date. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health and safety of the City, and for the further reason that this Ordinance is required to be immediately effective in order to issue and sell the Notes, which is necessary to enable the City to enter into contracts for the improvement which is needed to timely and efficiently provide municipal fire services to City residents and thereby better protect their property and provide for their safety; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED: _____, 2014

/s/ Paul A. Koomar
PRESIDENT OF COUNCIL

/s/ Joan T. Kemper
CLERK OF COUNCIL

APPROVED: _____, 2014

/s/ Deborah L. Sutherland
MAYOR

I, Joan T. Kemper, Clerk of Council of the City of Bay Village, Ohio, hereby certify the foregoing to be a true copy of Ordinance No. 14-_____, passed by the Council of the City of Bay Village on _____, 2014, and now on file in the office of the Clerk of Council.

Clerk of Council

ORDINANCE NO. 13-131
INTRODUCED BY: Mr. Lee

First Reading 12-16-13
Second Reading 3-10-14

AN ORDINANCE
AMENDING CODIFIED ORDINANCE CHAPTER 1322 REGARDING
RESIDENTIAL CODE OF OHIO FOR ONE-, TWO-, AND THREE-
FAMILY DWELLINGS

BE IT ORDAINED by the Council of the City of Bay Village, Ohio:

SECTION 1. That codified Ordinance Chapter 1322 which presently reads as follows:

“CHAPTER 1322
Residential Code of Ohio for One-, Two-, and Three-Family Dwellings

1322.01	Application and enforcement.
1322.02	Board of Building Code Appeals.
1322.03	File and distribution copies.
1322.04	Definitions.
1322.05	Permit requirements and fees.
1322.06	Enforcement; right of entry.
1322.07	<i>Conflicts of laws.</i>
1322.08	Homeowners' exception.
1322.09	<i>Workmanship.</i>
1322.99	Penalty.

1322.01 APPLICATION AND ENFORCEMENT.

In order to regulate the erection, construction, repair, alteration and maintenance of residential dwellings, the Residential Code of Ohio for One-, Two-, and Three-Family Dwellings as adopted by the Ohio Board of Building Standards and as may be amended and updated from time to time, pursuant to Ohio R.C. 3781.10, shall apply and be enforced within the Municipality.
(Ord. 06-111. Passed 11-6-06.)

1322.02 BOARD OF BUILDING CODE APPEALS.

The Board of Zoning Appeals is hereby designated as the Board to carry out and perform the duties charged upon the Board of Appeals by the Residential Code of Ohio. Appeals shall follow the process noted in Bay Village Planning and Zoning Code Chapter 1127.
(Ord. 06-111. Passed 11-6-06.)

1322.03 FILE AND DISTRIBUTION COPIES.

One copy of the ~~2006~~-Residential Code of Ohio, as adopted in Section 1322.01, shall be on file with the Clerk of Council for inspection by the public and available on file with the Bay Village Library. In addition, the Clerk of Council shall have copies available for sale to the public, at cost.
(Ord. 06-111. Passed 11-6-06.)

1322.04 DEFINITIONS.

As used in this chapter and in the ~~2006~~ Residential Code of Ohio adopted in Section 1322.01:

- (a) "Building Official" means the Building Director and Building Inspector of the City.
- (b) "City" or "Municipality" means the City of Bay Village.
- (c) "Planning and Zoning Code" means Part Eleven of the Codified Ordinances of the City. (Ord. 06-111. Passed 11-6-06.)

1322.05 PERMIT REQUIREMENTS AND FEES.

(a) Work requiring approval by the Residential Code of Ohio adopted herein shall not proceed until fees have been paid as required by Chapter 1305 and the necessary permits have been issued.

(b) In addition to the requirements of the Residential Code of Ohio, approvals and permits shall be required for the following work:

- (1) Accessory structures.
- (2) Fences.
- (3) Driveways and sidewalks over 50 square feet.
- (4) Swimming pools over 12 inches deep as defined in Chapter 1349.
- (5) New kitchen wall and base cabinets and countertops.
- (6) Yard and lot grading.

(c) Standards of construction for approvals required by this Section shall be those of the current Residential Code of Ohio. Permit fees shall be paid as required by Chapter 1305.

(d) In reference to 1322.05(b)(5), whenever the wall, base cabinets and countertops are replaced, the entire kitchen area shall be brought to current code requirements for the electric and plumbing. Replaced, for the purposes of this Section, shall mean the replacement of all wall, base cabinets and countertops within a twelve (12) month period. (Ord. 06-111. Passed 11-6-06.)

1322.06 ENFORCEMENT; RIGHT OF ENTRY.

The Building Official shall enforce the ~~2006~~ Residential Code of Ohio, as adopted in Section 1322.01, and all other laws relating to buildings and structures and, in the discharge of his or her official duties, shall have authority, upon proper identification, to enter any dwelling, building, structure or premises at any reasonable hour to enforce and ascertain compliance with such Code or law. (Ord. 06-111. Passed 11-6-06.)

~~1322.07 CONFLICTS OF LAWS.~~

~~In the event of any conflict between the requirements of the 2006 Residential Code of Ohio, as adopted in Section 1322.01, and the Regional Dwelling House Code, as adopted in Section 1321.01, or any provisions of any other City ordinance or technical code adopted by the City, the 2006 Residential Code of Ohio shall govern. (Ord. 06-111. Passed 11-6-06.)~~

~~1322.08 HOMEOWNERS' EXCEPTION.~~

No provisions of this chapter or of the ~~2006~~ Residential Code of Ohio, as adopted in Section 1322.01 shall be interpreted to require that the owner of dwelling governed by the ~~2006~~ Residential Code of Ohio who performs construction work shall be licensed or registered or hold a certificate of qualification personally to perform work upon the premises occupied, or to be occupied, by such owner thereof or by such owner's established resident. All such work shall be done by said owner, and work shall be done in conformity with the provisions of the ~~2006~~

Residential Code of Ohio and rules or regulations promulgated thereunder, and all other Ordinances of the City and no work shall be done unless all permits, inspections and approvals required by the ~~2006~~ Residential Code of Ohio are secured. (Ord. 06-111. Passed 11-6-06.)

~~1322.09~~ WORKMANSHIP.

~~(a) In addition to the provisions of the 2006 Residential Code of Ohio, as adopted in Section 1322.01, all erection, construction, alteration and repair of one, two and three-family dwellings and appurtenant structures shall be performed in a workmanlike manner including, but not limited to, the following:~~

~~(1) All work shall be in compliance with those performance standards recognized by the applicable trade or industry.~~

~~(2) Walls shall be plumb, floors level and corners square within accepted standards and tolerances within the trade or industry, unless required by design to be otherwise.~~

~~(b) The mere fact that a particular erection, construction, alteration or repair is functional shall not give rise to a presumption that it has been performed in a workmanlike manner as discussed in subsection (a) hereof.~~ (Ord. 06-111. Passed 11-6-06.)

1322.99 PENALTY.

Whoever violates this chapter shall be deemed guilty of a misdemeanor and fined not less than twenty-five dollars (\$25.00) nor more than one thousand dollars (\$1000.00) for a first offense and for a second or subsequent offense shall be guilty of a misdemeanor of the first degree. Each day's continued violation shall constitute a separate offense. (Ord. 06-111. Passed 11-6-06.)

be and the same is hereby amended to read:

“CHAPTER 1322

Residential Code of Ohio for One-, Two-, and Three-Family Dwellings

1322.01	Application and enforcement.
1322.02	Board of Building Code Appeals.
1322.03	File and distribution copies.
1322.04	Definitions.
1322.05	Permit requirements and fees.
1322.06	Enforcement; right of entry.
<u>1322.07</u>	Homeowners' exception.
<u>1322.08</u>	Workmanship.
1322.99	Penalty.

1322.01 APPLICATION AND ENFORCEMENT.

In order to regulate the erection, construction, repair, alteration and maintenance of residential dwellings, the Residential Code of Ohio for One-, Two-, and Three-Family Dwellings as adopted by the Ohio Board of Building Standards and as may be amended and updated from time to time, pursuant to Ohio R.C. 3781.10, shall apply and be enforced within the Municipality.

1322.02 BOARD OF BUILDING CODE APPEALS.

The Board of Zoning Appeals is hereby designated as the Board to carry out and perform the duties charged upon the Board of Appeals by the Residential Code of Ohio. Appeals shall follow the process noted in Bay Village Planning and Zoning Code Chapter 1127.

1322.03 FILE AND DISTRIBUTION COPIES.

One copy of the most current edition of the Residential Code of Ohio, as adopted in Section 1322.01, shall be on file with the Clerk of Council for inspection by the public and available on file with the Bay Village Library. In addition, the Clerk of Council shall have copies available for sale to the public, at cost.

1322.04 DEFINITIONS.

As used in this chapter and in the most current edition Residential Code of Ohio adopted in Section 1322.01:

- (a) "Building Official" means the Building Director and Building Inspector of the City.
- (b) "City" or "Municipality" means the City of Bay Village.
- (c) "Planning and Zoning Code" means Part Eleven of the Codified Ordinances of the City.

1322.05 PERMIT REQUIREMENTS AND FEES.

(a) Work requiring approval by the Residential Code of Ohio adopted herein shall not proceed until fees have been paid as required by Chapter 1305 and the necessary permits have been issued.

(b) In addition to the requirements of the Residential Code of Ohio, approvals and permits shall be required for the following work:

- (1) Accessory structures.
- (2) Fences.
- (3) Driveways and sidewalks over 50 square feet.
- (4) Swimming pools over 12 inches deep as defined in Chapter 1349.
- (5) New kitchen wall and base cabinets and countertops.
- (6) Yard and lot grading.

(c) Standards of construction for approvals required by this Section shall be those of the current Residential Code of Ohio. Permit fees shall be paid as required by Chapter 1305.

(d) In reference to 1322.05(b)(5), whenever the wall, base cabinets and countertops are replaced, the entire kitchen area shall be brought to current code requirements for the electric and plumbing. Replaced, for the purposes of this Section, shall mean the replacement of all wall, base cabinets and countertops within a twelve (12) month period.

1322.06 ENFORCEMENT; RIGHT OF ENTRY.

The Building Official shall enforce the most current edition of the Residential Code of Ohio, as adopted in Section 1322.01, and all other laws relating to buildings and structures and, in the discharge of his or her official duties, shall have authority, upon proper identification, to enter any dwelling, building, structure or premises at any reasonable hour to enforce and ascertain compliance with such Code or law.

1322.07 HOMEOWNERS' EXCEPTION.

No provisions of this chapter or of the *most current edition* of the Residential Code of Ohio, as adopted in Section 1322.01 shall be interpreted to require that the owner of dwelling governed by the *most current edition* of the Residential Code of Ohio who performs construction work shall be licensed or registered or hold a certificate of qualification personally to perform work upon the premises occupied, or to be occupied, by such owner thereof or by such owner's established resident. All such work shall be done by said owner, and work shall be done in conformity with the provisions of the *most current edition* of the Residential Code of Ohio and rules or regulations promulgated thereunder, and all other Ordinances of the City and no work shall be done unless all permits, inspections and approvals required by the *most current edition* of the Residential Code of Ohio are secured.

1322.08 WORKMANSHIP.

(a) All construction work regardless of trade shall be completed in a workman-like manner, within acceptable standards and tolerances recognized by such trade or industry.

(b) Meeting the performance standards of the applicable code and thus being 'functional' shall not be deemed a sufficient level of workmanship in and of itself. Work that is deemed shoddy, incomplete, haphazard, or inferior shall be construed as poor workmanship. The quality of the work shall reflect the value received and meet or exceed the minimum codes and the industry standards.

1322.99 PENALTY.

Whoever violates this chapter shall be deemed guilty of a misdemeanor and fined not less than twenty-five dollars (\$25.00) nor more than one thousand dollars (\$1000.00) for a first offense and for a second or subsequent offense shall be guilty of a misdemeanor of the first degree. Each day's continued violation shall constitute a separate offense."

and current Chapter 1322 is hereby repealed.

SECTION 2. That this Council finds and determines that all formal actions of this 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 and of any committee that resulted in those formal actions were in meetings open to the public in compliance with law.

SECTION 3. That this ordinance shall be in full force and take effect at the earliest time permitted by law.

PASSED:

PRESIDENT OF COUNCIL

CLERK

APPROVED:

MAYOR

7/24/13 jc

MATTERS PENDING BEFORE COUNCIL COMMITTEE

March 4, 2014

Items in italics are from the 1-30-06 Strategic Planning Committee Meeting

Public Improvements, Streets, Sewers & Drainage- Tadych, Henderson, Lee

- *Capital Improvements – Buildings (all) 2-9-06*
- Long Term Sewer Improvement Plan (2-11-08)
- Sunset Drive Area Storm Sewer and Road Improvements (5-12-08)
- Wind Turbines (Public Improvements Committee Meeting (5-10-10)
- Saddler Beach Easement and Stormwater System Improvements (5-6-13)

Recreation and Parks Improvement-Henderson, Vincent, Clark

Finance & Claims- Clark, Tadych, Henderson

Services, Utilities & Equipment-Vincent, Lieske, Tadych

- LEEDCo – Resolution of Support for Off-Shore Wind Turbines

Planning, Zoning, Public Grounds & Buildings-Lieske, Lee, Vincent

- Zoning Code Review /Sign Update (Section 1179) (10-22-07)
- *Cahoon Memorial Park Information Sign (2-9-06)*
- Section 1158 – Attached Residence District (1/29/07)
- Architectural Board of Review Design Guidelines (2/12/07) (4/23/07)
- Community House Restoration & Budget Fact Finding (03/05/12)
- Fence Regulations for Lakefront Yards (C.O. 1163.05 (e) (f) (g) (h) (4-23-12)

Environment, Safety & Community Services-Lee, Clark, Lieske

- Animal Kennel (11-5-12)
- Review of Codified Ordinance Chapter 377, Bicycles (1-13-14)