

Agenda, Bay Village City Council
Regular Meeting, Council Chambers

September 6, 2016
8:00 p.m.

Committee Meeting 7:30 p.m. Conference Room
(Public Welcome)

Paul Koomar, President of Council, Presiding
Pledge of Allegiance/Councilman

Roll Call/Pledge of Allegiance led by Paul Vincent, Councilman, Ward 2

Reading of Minutes – Special Meeting of Council held August 8, 2016

Cahoon Memorial Park Trustees Meeting held August 8, 2016

ANNOUNCEMENTS

REPORTS

Mayor Sutherland

Director of Law Ebert

Director of Finance Mahoney

Director of Recreation Enovitch

Director of Public Service/Safety Thomas

Director of Community Services Selig

Police Chief Spaetzel

Fire Chief Lyons

COMMUNICATIONS

COMMITTEE OF THE WHOLE

ENVIRONMENT, SAFETY & COMMUNITY SERVICES COMMITTEE – Mr. Vincent

Ordinance amending Chapter 505, Animal Control, and declaring an emergency. First Reading

Motion to not request a hearing on the advisability of issuing a Wine and Liquor Permit for BAPA 95 LLC, dba Ross Wine & Liquor, 27313 Wolf Road.

Motion to not request a hearing on the advisability of issuing a Wine and Liquor Agency Contract to BABA 95 LLC, dba Ross Wine & Liquor, 27313 Wolf Road.

Motion to not request a hearing on the advisability of issuing a C1, C2 and D6 Liquor Agency Contract to Walgreen Co., dba. Walgreens, 27251 Wolf Road.

FINANCE AND CLAIMS- Mr. Clark

Ordinance to amend appropriations for the current and other expenditures of the City of Bay Village for the Fiscal Year 2016 as previously appropriated in annual appropriations 16-09 and amended by Ordinances Nos. 16-23, 16-46, and 16-55, and declaring an emergency.

Resolution accepting the amounts and rates as determined by the Budget Commission, authorizing the necessary tax levies and certifying them to the County Fiscal Officer, and declaring an emergency.

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Resolution authorizing the Director of Finance to request Tax Advancements before Settlement Dates for Fiscal Year 2017, and declaring an emergency.

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

Resolution approval use by Peter and Elaine Korte, 31146 Lake Road, of submerged lands of Lake Erie for shoreline improvements, and declaring an emergency.

Motion to grant permission to St. Raphael’s Catholic Church, 525 Dover Center Road, to allow three yard signs, 24” x 18” along the school/church driveway, between Dover Center and Douglas Roads, thanking parents for support of a fundraiser, to be erected on September 14, 2016, for one day only.

Motion to grant permission to St. Raphael’s Catholic Church, 525 Dover Center Road, to allow a 4’x 8’ banner on the front lawn of the church, between the sidewalk and the church building, between fence posts on the ground from September 7, 2016 thru October 21, 2016.

Motion to grant permission to Vivid Jewelers, 27205 Wolf Road, for overflow parking at Bay Village City Hall.

PUBLIC IMPROVEMENTS/STREETS/SEWERS/DRAINAGE COMMITTEE-Mr. Henderson

RECREATION AND PARK IMPROVEMENTS COMMITTEE – Mr. Mace

SERVICES, UTILITIES & EQUIPMENT COMMITTEE – Mr. Tadych

MISCELLANEOUS

Motion to convene to Executive Session – Potential Litigation, Edwards Financial Group, LLC, Personnel: Service Department, Vacancy of Mayor.

Ordinance approving the appointment of an Interim Mayor for the City Of Bay Village effective October 1, 2016 and thereafter, and declaring an emergency.

CAHOON MEMORIAL PARK TRUSTEES

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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.

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. 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, Special Meeting
Council Chambers 6:30 p.m.
President of Council Paul A. Koomar, presiding

August 8, 2016

Present: Clark, Henderson, Koomar, Lieske, Mace, Tadych, Vincent, Acting Mayor Ebert

Also Present: Chief Building Official Jeff Grassi, Recreation Director Enovitch, Mr. Greg Gogul

AUDIENCE

The following audience members signed in this evening: Jerrie Barnett, Jeff Gallatin.

Jerrie Barnett commented that recently she received an emergency notification call at 1 a.m. Mr. Ebert stated that he received the same call regarding extensive heat protocol and he is investigating to see why the calls were made at an inappropriate hour.

Prior to beginning the agenda items for the evening, Council President Koomar reviewed the agenda with the following comments:

Mr. Clark commented that he has an inquiry into Finance Director Mahoney regarding the medical claims number for July, 2016.

Mrs. Lieske stated that she will introduce a motion this evening to extend the time for the Planning Commission to review the plans of Leonard and Jeffrey Strnad to remodel and add 628 square feet to the property at 27205 Wolf Road (Burns Automotive) for conversion to retail use as Vivid Jewelers, consistent with current Retail Business District Zoning.

Mr. Ebert commented that he met with the representatives of Vivid Jewelers and also spoke with the Chairman of the Planning Commission and Chairman of the Architectural Board of Review regarding the project. Everyone seems to be on board with the modification of the plans.

Regarding the ordinance to be considered this evening for the stocking of the pond at Walker Road Park with fish, Mr. Ebert noted that the City of Avon Lake has passed the ordinance for their municipality. There will not be a charge for the addition of the fish. Mr. Henderson asked if this has been done in the past, and Mr. Ebert stated that it has been done in the past, but not to the extent that it will be stocked this time.

Recreation Director Enovitch explained that the Ohio Department of Natural Resources is going to come out and do a study as to what species are in the body of water. That will determine what species will be added. Mr. Henderson and Mr. Tadych asked why the City needs to file a formal agreement for the stocking of the fish if it has been done in the past without an agreement. Mr. Enovitch stated that instead of being a catch and release program it will expand to a catch and keep program. This will expand the fishing to an outdoor recreation activity. Council expressed favor with the program.

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Mr. Greg Gogul, resident, was present to explain his proposal for an Ovarian Cancer Research Benefit on Saturday, September 17, 2016, from 11 a.m. to 7 p.m. in Cahoon Memorial Park. Mr. Koomar explained that Mr. Gogul has met with the Police Chief, Safety/Service Director Scott Thomas and Director of Operations Don Landers to work out the operational aspects of the benefit. Mr. Koomar has corresponded with the Mayor through email concerning the operational and legal aspects, to which the Mayor replied. Two items that came up after that email were finishing the arrangements for the insurance, which has now been completed, and parking. Mr. Koomar noted that usually in September there are soccer and flag football games being conducted, and he wanted to be sure that parking did not infringe on those programs. Mr. Koomar called upon Mr. Gogul for a briefing of the preparations.

Mr. Greg Gogul stated that he met with Director of Operations Landers to review the entire course for the run portion of the event. Mr. Landers confirmed with Mr. Gogul that the course that was laid out is the easiest course for them to set up and tear down. The course starts and ends at Cahoon Memorial Park. Mr. Gogul met with Director of Public Safety/Service Scott Thomas and Police Chief Spaetzel in early May. The City Service Department will drop off trash cans. Liners for those cans will be provided by Mr. Gogul through donors and the removal of trash will be taken care of by the volunteers. The volunteers will also take care of park clean-up and leave everything looking as good as it was when they began the activity. The race will begin at 11 a.m. and should be over by Noon. It is not expected to block Wolf Road for a long period of time and the Chief of Police has said that they would block traffic as necessary.

The actual event will begin around 12 Noon. There have been tents, tables, and chairs rented. Seven food trucks will be lined up along the backside of the park. Mr. Gogul spoke with the Fire Chief about fire safety and where things need to be positioned. Emergency exits will be indicated. There will be a tent for BAYarts and a children's tent will include activities such as coloring, balloon making and face painting. A concert stage with a 10 x 20 foot LED outdoor Jumbotron will be on site so that spectators will be able to view the entertainment from anywhere in the park. There are three bands scheduled including one entertainer who is currently a semi-finalist on "America's got Talent." Bands will perform between 10 a.m. and 7 p.m.

In regard to parking, Mr. Gogul has called the Metroparks to inform them that people will probably park across the street from Huntington Beach. They have left Mr. Gogul a message thanking him for the information and stating there is no problem. The event flyer will instruct people for parking. Mr. Gogul met with the Board of Education on Friday, August 5 and asked for their permission to use the school parking lot. Volunteers will direct everyone to these parking areas as much as possible. Mr. Gogul met with the Superintendent of the Board of Education who is looking into the regulations for renting school busses for shuttling purposes from the High School and Metroparks.

Mr. Gogul stated that he has 40 days from this date to advertise. He anticipates between 2000 to 2500 attendees over the whole day. Set up will occur on Friday afternoon, September 16, 2016.

Mr. Tadych asked Mr. Gogul how much he is paying for insurance for the event. Mr. Gogul replied that his total expenses for the event are reaching approximately \$50,000. Insurance cost is approximately \$3,000. They have raised close to \$30,000 of that amount and are expecting

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proceeds from the event to cover the balance. The Ovarian Cancer Foundation Mr. Gogul is working with is in line to become the third national Ovarian Cancer Foundation and they are extremely well-funded. The director goes from one event to another and where lacking funds to pay for tables and chairs that comes back with attendance.

The race entry fee is \$30.00. Tickets for the event are \$20.00. Children ages 5 to 12 are \$10.00, children 5 and under are free.

Upon completion of the agenda review, President of Council Koomar called the meeting to order with roll call and the Pledge of Allegiance led by Ward 1 Councilman David L. Tadych.

ANNOUNCEMENTS

Mr. Koomar called for a reading of the Minutes of the Special Meeting of Council held July 11, 2016. Mr. Clark **MOVED** to dispense with the reading and accept the minutes of the Special Meeting of Council held July 11, 2016 as prepared and distributed. **Motion passed 6-0 and 1 abstention by Mrs. Lieske.**

Motion by Clark to acknowledge receipt of the July, 2016 Financial Reports of the City of Bay Village prepared by Finance Director Renee Mahoney.

Motion passed 7-0.

Motion by **Lieske** to grant the Planning Commission an additional sixty days, from September 4, 2016, to November 3, 2016, to review the plans for the project of Leonard and Jeffrey Strnad to remodel and add 628 square feet to the property at 27205 Wolf Road for conversion to retail use as Vivid Jewelers, consistent with current Retail Business District Zoning.

Motion passed 7-0.

Comments were heard concerning the proposed project. Mr. Vincent stated that the project was presented to the Architectural Board of Review and upon completion it will look very nice. Mrs. Lieske stated that she was impressed with how responsive the owners were at the Planning Commission meeting at the initial presentation to the questions about design and configuration. The Strnads are considering some of those suggestions in their revised drawings. Mr. Tadych stated that the Tree Commission also made comments about trimming the area since it is the entranceway to the City.

Motion passed 7-0.

Mr. Mace read **Ordinance No. 16-56** authorizing the Mayor to execute a fishing agreement with the Ohio Department of Natural Resources, Division of Wildlife, and declaring an emergency.

There being no further discussion, Mr. Koomar called for a vote on the motion for adoption of Ordinance No. 16-56.

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Roll Call on Suspension of Charter Rules:

Yeas – Clark, Henderson, Koomar, Lieske, Mace, Tadych, Vincent

Nays – None.

Roll Call on Suspension of Council Rules:

Yeas – Clark, Henderson, Koomar, Lieske, Mace, Tadych, Vincent

Nays – None.

Roll Call on Use of the Emergency Clause:

Yeas- Clark, Henderson, Koomar, Lieske, Mace, Tadych, Vincent

Nays -None

Roll Call on Adoption:

Yeas–Clark, Henderson, Koomar, Lieske, Mace, Tadych, Vincent

Nays–None.

Mr. Koomar announced adoption of Ordinance No. 16-56, an emergency measure, by a vote of 7-0.

Motion by **Mace** to approve the Ovarian Cancer Research Benefit, sponsored by Greg Gogul entitled “Run for Jess” on Saturday, September 17, 2016, from 9 a.m. to 7 p.m., including any setup on Friday, September 16, 2016, and tear down after the event, and pending receipt of new insurance.

Motion passed 7-0.

There being no further business to discuss, the meeting adjourned at 7:02 p.m.

Paul A. Koomar, President of Council

Joan Kemper, Clerk of Council

CITY OF BAY VILLAGE

CAHOON MEMORIAL PARK TRUSTEES

August 8, 2016

President of Council Koomar called the meeting to order at 7:02 p.m. in the Council Chambers of Bay Village City Hall.

Present: Clark, Henderson, Koomar, Lieske, Mace, Tadych, Vincent, Acting Mayor Ebert.

Also Present: Chief Building Official Jeff Grassi, Recreation Director Enovitch, Mr. Greg Gogul

AUDIENCE

The following audience members signed in this evening: Jerrie Barnett, Jeff Gallatin.

Motion by **Mace** to approve the Ovarian Cancer Research Benefit, sponsored by Greg Gogul entitled "Run for Jess" on Saturday, September 17, 2016, from 9 a.m. to 7 p.m., including any setup on Friday, September 16, 2016, and tear down after the event, and pending receipt of new insurance.

Motion carried 8-0.

There being no further business to discuss, the meeting adjourned at 7:04 p.m.

Paul A. Koomar, President of Council

Joan Kemper, Clerk of Council

ORDINANCE NO.
INTRODUCED BY:

AN ORDINANCE
AMENDING CODIFIED ORDINANCE 505 REGARDING
ANIMALS AND FOUL,
AND DECLARING AN EMERGENCY

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

SECTION 1. That Codified Ordinance 505 which presently reads as follows:

505.19 DANGEROUS AND VICIOUS DOGS.

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

(a) “Dangerous dog” means a dog that caused injury other than killing or serious injury to any person, or kills another dog, cat or other domestic animal while off the premises of the owner. Dangerous dog does not include a police dog that has caused injury other than killing or serious injury to any person or has killed another dog, cat or other domestic animal while the police dog is being used to assist law enforcement officers in the performance of his official duties.

(b) “Menacing fashion,” means that a dog could cause any person being chased or approached to reasonably believe that the dog could cause physical injury to that person.

(c) “Owner” means any person owning, keeping, possessing, harboring, maintaining, or having the care, custody, or control of a dog or the parents or guardian of a minor owning, keeping, possessing, harboring, maintaining or having the care, custody or control of a dog.

(d) “Police dog” means a dog that has been trained, and may be used, to assist law enforcement officers in the performance of their duties.

(e) “Serious injury” means any of the following:

(1) Any physical harm that carries a substantial risk of death;

(2) Any physical harm that involves a permanent incapacity, whether partial or total or a temporary substantial incapacity;

(3) Any physical harm that involves a permanent disfigurement or a temporary, serious disfigurement;

(4) Any physical harm that involves acute pain of a duration that results in substantial suffering or any degree of prolonged or intractable pain;

(f) “Vicious dog” (as defined in ORC 955.11 (A) (4)(46) means a dog that, without provocation:

(1) Has killed or caused serious injury to any person;

(2) “Vicious Dog” does not include either of the following:

A. A police dog that has killed or caused serious injury to any person while the police dog is being used to assist one or more law enforcement officers in the performance of their official duties;

B. A dog that has killed or caused serious injury to any person while a person was committing or attempting to commit a trespass or other criminal offense on the property of the owner, keeper, or harbinger of the dog.

(g) "Provocation" means that any dog was teased, tormented or abused by a person or that the dog was coming to the aid or defense of a person who was not engaged in illegal activity, and whose person or property was in imminent danger of physical harm.

(Ord. 12-41. Passed 5-21-12.)

505.20 DETERMINATION OF DANGEROUS AND VICIOUS DOGS.

(a) Whenever a complaint is made to the Police Department or the Animal Control Officer, of the presence of a dangerous or vicious dog within the city, the Chief of Police or designee shall promptly inspect or cause an inspection of the premises on which it is alleged that such animal is being kept.

(b) The Chief of Police or designee shall determine that a dog is dangerous pursuant to this chapter upon proof by a preponderance of the evidence of any of the following:

(1) Without provocation, the dog has caused injury other than killing or serious injury to any person.

(2) Without provocation, the dog has killed another dog, cat or other domestic animal.

(c) The Chief of Police shall determine that a dog is vicious pursuant to this chapter upon proof by a preponderance of the evidence that:

(1) Without provocation; the dog has killed or caused serious injury to any person.

(d) If the Chief determines that a dangerous/vicious dog is being kept within the City, the Chief shall determine the individual, firm or corporation who from the records in the Auditors office of Cuyahoga County, appears to be the owner of the dog, or if such information is not available, the titled owner of the property upon which the dog is kept, and shall, within five days, cause written notice to be served on such owner. Notice shall be served by certified mail with a return receipt requested. If service of such written notice is unable to be perfected, then the Chief of Police shall cause a copy of the aforesaid notice to be served by ordinary mail which shall be deemed complete upon mailing, and also left with the individual, if any, in possession of the premises on which the dog is kept, or if there is no individual in possession of the premises, he shall cause a copy of the notice to be posted on premises.

(e) The notice required by this section (c) hereof shall state, in brief, the findings with respect made to the dangerous or vicious nature of the dog. The notice shall further state that the owner must comply with the requirements of this chapter within thirty days after service of the notice.

(f) Police dogs are exempt from these provisions for all actions occurring in the course of their duties.

(Ord. 12-41. Passed 5-21-12.)

505.21 APPEAL PROCEDURE.

(a) The owner of a dog who has been served with a notice pursuant to Section 505.20 (d) may, within seven days after receipt of such notice, make a written demand to the Chief of

Police for a hearing on the question of whether the dog is dangerous or vicious as defined in Section 505.19.

(b) Every effort should be made to hold a hearing no later than ten days following receipt of written demand to the Chief of Police and at least three days notice of the hearing shall be given to the individual, who made the demand for the hearing.
(Ord. 03-07. Passed 4-7-03.)

505.22 REGISTRATION OF DANGEROUS OR VICIOUS DOGS.

(a) Any person owning, keeping, possessing, maintaining or having the care, custody or control of a dangerous or vicious dog shall:

(1) Register the dog with the police department annually, between January 2 and January 20, and whenever a dog is newly obtained.

(2) At the time of registration provide proof of liability insurance as required by Section 505.23 (a). (Ord. 03-07. Passed 4-7-03.)

(3) Identify the dog by having the dog tattooed with a code number or a microchip implanted at the owner's expense. In the event that said animal has a history of aggressive behavior within the City of Bay Village, said dog will be required to have a tattoo. Provide the Police Department with that code number and two color photos of the dog. One photo should clearly show the tattoo number on the dog and the other should be a clear photo of the whole dog. (Ord. 04-27. Passed 3-1-04.)

(4) Provide two color photographs of the dog annually.

(5) Post on the premises, in a conspicuous place where the dog is kept, at least one City-issued sign available, upon payment of thirty dollars (\$30.00) for each sign from the Police Department. The sign shall be visible and capable of being read from the public highway or street and will include the wording: "DANGEROUS or VICIOUS." The Animal Control Officer will determine sign language. This sign shall be maintained and remain in place during the possession of the animal.

(6) Notify the Police Department within seventy two hours, if the dangerous or vicious dog has died, or has been sold or donated and provide the Police Department with the names, address and telephone number of the new owner.

(b) Whoever fails to register a dangerous or vicious dog as provided in this section is guilty of a minor misdemeanor for the first offense, a misdemeanor of the fourth degree for a second offense and a misdemeanor of the third degree for the third offense. Each and every day during such period of noncompliance with this section may be deemed a separate offense.
(Ord. 03-07. Passed 4-7-03.)

505.23 INSURANCE FOR VICIOUS DOGS.

(a) No owner of a vicious dog shall fail to obtain liability insurance with an insurer authorized to write liability insurance in this State providing coverage in each occurrence, subject to a limit, exclusive of interest and costs, of not less than one hundred thousand dollars (\$100,000) because of damage to property or bodily injury to or death of a person caused by the vicious dog.

(b) Whoever violates this section is guilty of a misdemeanor of the fourth degree on the first offense, a third degree misdemeanor on the second offense, and a second-degree misdemeanor on the third offense. Each and every day during such period of noncompliance with this section may be deemed a separate offense.
(Ord. 03-07. Passed 4-7-03.)

505.24 RESTRAINT OF DANGEROUS OR VICIOUS DOGS.

(a) No owner or person in charge of a dangerous or vicious dog shall fail to do one of the following:

- (1) Keep the dog securely inside of the owner's home.
- (2) Keep the dog in a locked enclosure at least five feet by ten feet, which has a secure top and sides. If the enclosure has no bottom securely attached to the sides, the sides must be embedded into the ground no less than two feet or must have a concrete base with the fencing securely attached or anchored to the concrete perimeter to a depth of six inches. All fencing must conform to the City of Bay Village Building Standards.
- (3) Keep the dog securely muzzled, making sure such muzzle does not interfere with the dogs breathing. Also, the dog must be fitted with a proper collar that will prevent the dog slipping out of it or breaking through it, and attach a substantial leash to the collar that conforms to the dogs weight, size and strength, not more than four feet in length which is held in the hand of a person who is of suitable age, size and discretion to control the dog and who is outside with the dog.

(b) Whoever violates this section is guilty of a misdemeanor in the fourth degree on the first offense, a misdemeanor of the third degree in the second offense and a misdemeanor of the second degree on the third offense.
(Ord. 03-07. Passed 4-7-03.)

505.25 INSPECTION OBSTRUCTION.

(a) Any person owning, keeping, possessing, harboring, maintaining or having the care, custody or control of a dangerous or vicious dog shall be deemed to have given consent to an inspection of the property, other than within any private structure unless otherwise authorized by law, by any law enforcement officer or the Animal Control Officer for the purpose of determining compliance with the requirements of this chapter.

(b) No person, with purpose to prevent, obstruct or delay the performance by law enforcement officer or the Animal Control Officer of any authorized act within his official capacity, shall do any act which hampers or impedes said official in the performance of his lawful duties under the provisions of this chapter.

(1) Whoever violates subsection (b) hereof is guilty of a misdemeanor of the fourth degree.
(Ord. 03-07. Passed 4-7-03.)

505.26 SERIOUS PHYSICAL HARM BY DANGEROUS OR VICIOUS DOGS.

(a) No person, being the owner or having the care, custody or control of any dangerous or vicious dog within the city, shall allow such dog to cause serious physical harm to any person, except in defense of such owner's person or property.

(b) Lack of intent on the part of such person to allow such dog to injure another, or the lack of knowledge of the violent propensities of such dog, is not defense to a violation of this section.

(c) Whoever violates this section is guilty of a misdemeanor of the first degree.
(Ord. 03-07. Passed 4-7-03.)

505.27 PHYSICAL HARM BY DANGEROUS OR VICIOUS DOGS.

(a) No person, being the owner or having the care, custody or control of any dangerous or vicious dog within the City, shall allow such a dog to cause physical harm to any person, except in defense of such owner's person or property, or to cause physical harm to another dog, cat, or other domestic animal.

(b) Lack of intent on the part of such person to allow such dog to injure another, or the lack of knowledge of the violent propensities of such dog, is not defense to a violation of this section.

(c) Whoever violates this section is guilty of a misdemeanor of the second degree.
(Ord. 03-07. Passed 4-7-03.)

505.28 IMPOUNDMENT: DESTRUCTION OF DOGS.

(a) When any person, being the owner or having custody or control of any dog charged with a violation of this chapter, the court may, upon motion of any party or its own motion, order the seizure and impoundment of the dog pending trial.

(b) In the event that a Law Enforcement Officer or the Animal Control Officer has probable cause to believe that a dangerous or vicious dog is running at large, he/she may seize and impound the dog without seeking prior court order.

(c) Nothing in this section shall be construed to prevent a Law Enforcement Officer or Animal Control Officer from seizing or destroying any animal which presents an immediate risk of physical harm to any person or property.

(d) Any dog that attacks and injures any person, another dog or cat, shall be humanely destroyed when, in the courts judgment, such dog represents a continuing threat of serious harm to persons or other such animals. The Chief of Police may petition the court of competent jurisdiction for an order to humanely destroy any dog impounded pursuant to this chapter which represents a threat of harm to any person caring for such animal. The court shall order any dog that kills or causes serious physical harm to any person, other than a person committing a criminal trespass or other crime of violence upon the premises of the owner of such dog, humanely destroyed. (Ord. 03-07. Passed 4-7-03.)

505.29 KEEPING BANNED DOGS.

(a) No person shall own, keep, possess, harbor, maintain or have the care, custody or control of a dog within the city when such dog has been banned by order of a court of competent jurisdiction from any municipality, county, township or other political subdivision.

(b) Compliance with the requirements of this chapter is not a defense to a violation of this section.

(c) Whoever violates this section is guilty of a misdemeanor of the first degree. Each and every day during such period may be deemed a separate offense.
(Ord. 03-07. Passed 4-7-03.)

505.30 DOG FIGHTING.

(a) Animal Fights ORC 959.15: No person shall knowingly engage in or be employed at cockfighting, bearbaiting or pitting an animal against another. No person shall receive money for the admission of another to a place kept for such purpose. No person shall use, train or possess any animal for seizing, detaining or maltreating a domestic animal. Any person, who knowingly purchases a ticket of admission to such place or is present thereat or witnesses such spectacle, is an aider and abettor. Whoever violates this section, is guilty of a misdemeanor of the fourth degree.

(b) Dog Fighting Offenses, Investigations, Confiscation of Dogs and Equipment, ORC 959.16: No person shall do any of the following:

- (1) Promote, engage in or be employed at dog fighting.
- (2) Receive money for the admission of another person to a place kept for dog fighting.
- (3) Sell, purchase, possess or train a dog for dog fighting.
- (4) Use train or possess a dog for seizing, detaining or maltreating a domestic animal.
- (5) Purchase a ticket of admission to or be present at a dog fight.
- (6) Witness a dog fight if it is presented as a public spectacle.

(c) The Department of Agriculture may investigate complaints and follow up rumors of dog fighting activities and may report any information so gathered to an appropriate prosecutor or law enforcement agency.

(d) Any peace officer, as defined in Section 2935.01 of the Revised Code, shall confiscate any dogs that have been, are, or are intended to be used in dog fighting and any equipment or devices used in training such dogs or as part of dog fights.

(e) Whoever violates this section, is guilty of a misdemeanor of the first degree.
(Ord. 03-07. Passed 4-7-03.)

be and the same is amended to read:

505.19 NUISANCE DANGEROUS AND VICIOUS DOGS; DEFINITIONS.

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

(a) "Dangerous dog" means a dog that, without provocation, caused injury other than killing or serious injury to any person, or killed another dog, cat or other domestic animal. Dangerous dog does not include a police dog that has caused injury other than killing or serious injury to

any person or has killed another dog, cat or other domestic animal while the police dog is being used to assist law enforcement officers in the performance of their official duties.

(b) "Menacing fashion," means that a dog could cause any person being chased or approached to reasonably believe that the dog could cause physical injury to that person.

(c) "Nuisance dog," means a dog that without provocation and while off the premises of its owners, keeper or harbinger has chased or approached a person in either a menacing fashion or an apparent attitude of attack or has attempted to bite or otherwise endanger any person.

(d) "Owner" means any person owning, keeping, possessing, harboring, maintaining, or having the care, custody, or control of a dog or the parents or guardian of a minor owning, keeping, possessing, harboring, maintaining or having the care, custody or control of a dog.

(e) "Police dog" means a dog that has been trained, and may be used, to assist law enforcement officers in the performance of their duties.

(f) "Serious injury" means any of the following:

(1) Any physical harm that carries a substantial risk of death;

(2) Any physical harm that involves a permanent incapacity, whether partial or total or a temporary substantial incapacity;

(3) Any physical harm that involves a permanent disfigurement or a temporary, serious disfigurement;

(4) Any physical harm that involves acute pain of a duration that results in substantial suffering or any degree of prolonged or intractable pain;

(g) "Vicious dog" (as defined in ORC 955.11 (A) (4)(6) means a dog that, without provocation:

(1) Has killed or caused serious injury to any person;

(2) "Vicious Dog" does not include either of the following:

A. A police dog that has killed or caused serious injury to any person while the police dog is being used to assist one or more law enforcement officers in the performance of their official duties;

B. A dog that has killed or caused serious injury to any person while a person was committing or attempting to commit a trespass or other criminal offense on the property of the owner, keeper, or harbinger of the dog.

(h) "Without Provocation" means that a dog was not teased, tormented or abused by a person or that the dog was coming to the aid or defense of a person who was not engaged in illegal or criminal activity, and whose person or property was in imminent danger of physical harm.

(Ord. 12-41. Passed 5-21-12.)

505.20 DETERMINATION OF NUISANCE, DANGEROUS AND VICIOUS DOGS.

(a) The Police Chief, or his designee, shall have the authority to determine whether a dog is a nuisance dog, dangerous dog, or vicious dog. This determination may be based upon any investigation by the Police Department, which may include observation of and statements about the dog's behavior, including the dog's upbringing and the owner or keeper's control of the dog as well as any other evidence the Police Chief deems necessary.

(b) Whenever a complaint is made to the Police Department or the Animal Control Officer, of the presence of a nuisance, dangerous or vicious dog within the City, the Chief of Police or designee shall promptly inspect or cause an inspection of the premises on which it is alleged that such animal is being kept.

(c) The Chief of Police or designee shall determine that a dog is dangerous pursuant to this chapter upon proof by a preponderance of the evidence of any of the following:

(1) Without provocation, the dog has caused injury other than killing or serious injury to any person.

(2) Without provocation, the dog has killed another dog, cat or other domestic animal.

(d) The Chief of Police shall determine that a dog is vicious pursuant to this chapter upon proof by a preponderance of the evidence that:

(1) Without provocation; the dog has killed or caused serious injury to any person.

(e) If the Chief determines that a dangerous/vicious dog is being kept within the City, the Chief shall determine the individual, firm or corporation who from the records in the Auditors office of Cuyahoga County, appears to be the owner of the dog, or if such information is not available, the titled owner of the property upon which the dog is kept, and shall, within five days, cause written notice to be served on such owner. Notice shall be served by certified mail with a return receipt requested. If service of such written notice is unable to be perfected, then the Chief of Police shall cause a copy of the aforesaid notice to be served by ordinary mail which shall be deemed complete upon mailing, and also left with the individual, if any, in possession of the premises on which the dog is kept, or if there is no individual in possession of the premises, he shall cause a copy of the notice to be posted on premises.

(f) The notice required by this section (e) hereof shall state, in brief:

(1) The description of the dog;

(2) The level of classification of the dog;

(3) The facts upon which the classification is based;

(4) The availability of a hearing to object to the classification and instructions to request that hearing;

(5) The restrictions placed on the dog as a result of the classification;

(6) The penalties for violation of the restrictions; and

(7) The availability of declassification procedures.

(8) The notice shall further state that the owner must comply with the requirements of this chapter within thirty days after service of the notice.

(g) Upon receipt of the dog's classification as a nuisance, dangerous or vicious dog, the owner or keeper of the dog shall comply with the restrictions specified in Section 505.24.

(h) If the owner, keeper or harbinger of the dog disagrees with the designation of the dog as a nuisance, dangerous or vicious dog, as applicable, the owner, keeper or harbinger may request a hearing regarding the city's determination pursuant to Section 505.21.

(i) Police dogs are exempt from these provisions for all actions occurring in the course of their duties.

(Ord. 12-41. Passed 5-21-12.)

505.21 OBJECTION HEARINGS.

(a) The owner of a dog who has been served with a notice pursuant to Section [505.20](#) (e) may, within seven days from the date listed on the notice, object to the city's determination and request, in writing, a hearing on the question of whether the dog is a nuisance, dangerous or vicious as defined in Section [505.19](#). The hearing shall be heard by the Director of Public Safety or their designee.

(b) Every effort should be made to hold a hearing no later than ten days following receipt of and the request for hearing and at least three days' notice of the hearing shall be given to the individual, who made the request for the hearing.

(b) The objection hearing shall be conducted as follows:

(1) Parties may appear pro se or be represented by an attorney.

(2) Parties may present their position, arguments and contentions, including by making statements, presenting evidence and offering witnesses on their behalf, on any relevant issue.

(3) Parties may refute evidence and testimony offered in opposition to their position, arguments and contentions, including by making statements, presenting evidence, and offering witnesses on their behalf, on any relevant issue.

(4) Parties shall be entitled to the right of cross-examination.

(5) The hearing shall be quasi-judicial in nature and all testimony shall be under oath.

(6) Any party shall be entitled to transcribe the proceeding at his own cost.

(7) After considering all substantial, reliable and probative evidence accepted for review, the Director of Public Safety or their designee shall affirm, deny or affirm with conditions the determination.

(8) Within 10 business days of the hearing, the Director of Public Service or their designee shall issue a written decision making a factual finding as to the determination and shall serve the decision upon all parties. This decision shall be a final order.

(Ord. 03-07. Passed 4-7-03.)

505.22 REGISTRATION OF NUISANCE DANGEROUS OR VICIOUS DOGS.

(a) Any person owning, keeping, possessing, maintaining or having the care, custody or control of a nuisance, dangerous or vicious dog shall:

(1) Register the dog with the police department annually, between January 2 and January 20, and whenever a dog is newly obtained.

(2) At the time of registration provide proof of liability insurance as required by Section [505.23](#) (a). (Ord. 03-07. Passed 4-7-03.)

(3) Identify the dog by having the dog tattooed with a code number or a microchip implanted at the owner's expense. In the event that said animal has a history of aggressive behavior within the City of Bay Village, said dog will be required to have a tattoo. Provide the Police Department with that code number and two color photos of the dog. One photo should clearly show the tattoo number on the dog and the other should be a clear photo of the whole dog. (Ord. 04-27. Passed 3-1-04.)

(4) Provide two color photographs of the dog annually.

(5) Post on the premises, in a conspicuous place where the dog is kept, at least one City-issued sign available, upon payment of thirty dollars (\$30.00) for each sign from the Police Department. The sign shall be visible and capable of being read from the public highway or street and will include the wording: "NUISANCE, DANGEROUS or VICIOUS." The Animal Control Officer will determine sign language. This sign shall be maintained and remain in place during the possession of the animal.

(6) Notify the Police Department within seventy two hours, if the nuisance, dangerous or vicious dog has died, or has been sold or donated and provide the Police Department with the names, address and telephone number of the new owner.

(b) Whoever fails to register a nuisance, dangerous or vicious dog as provided in this section is guilty of a misdemeanor of the fourth degree on the first offense, a misdemeanor of the third degree on the second offense, and a misdemeanor of the first degree on the third or any subsequent offense. Each and every day during such period of noncompliance with this section may be deemed a separate offense.

(Ord. 03-07. Passed 4-7-03.)

505.23 INSURANCE FOR NUISANCE, DANGEROUS AND VICIOUS DOGS.

(a) No owner or keeper of a nuisance dog shall fail to obtain liability insurance with an insurer authorized to write liability insurance in this State providing coverage in each occurrence, subject to limit, exclusive of interest and costs, of not less than ten thousand dollars (\$10,000) because of damage to property or bodily injury to or death of a person caused by the nuisance dog. The owner or keeper of any nuisance dog shall provide a copy of the policy for liability insurance to the Chief of Police on a yearly basis.

(b) No owner of a dangerous or vicious dog shall fail to obtain liability insurance with an insurer authorized to write liability insurance in this State providing coverage in each occurrence, subject to a limit, exclusive of interest and costs, of not less than one hundred thousand dollars (\$100,000) because of damage to property or bodily injury to or death of a person caused by the vicious dog. The owner or keeper of any dangerous or vicious dog shall provide a copy of the policy for liability insurance to the Chief of Police on a yearly basis.

(c) Whoever violates this section is guilty of a misdemeanor of the fourth degree on the first offense, a misdemeanor of the third degree on the second offense, and a misdemeanor of the first degree on the third or any subsequent offense. Each and every day during such period of noncompliance with this section may be deemed a separate offense.

(Ord. 03-07. Passed 4-7-03.)

505.24 RESTRAINING, CONFINING DEBARKING OF NUISANCE DANGEROUS OR VICIOUS DOGS.

(a) No owner or person in charge of a nuisance dog shall fail to do any of the following:

(1) While the dog is on the premises of the owner, keeper or harborer, so as to prevent it from causing injury to any person or domestic animal:

(A) Securely confine the dog indoors;

(B) Securely confine the dog in locked pen, which has a secure top and keep the dog under direct supervision by a person who is of sufficient size and strength to control the dog;

(C) Securely confine the dog in a locked fenced yard and keep the dog under direct supervision by a person who is of sufficient size and strength to control the dog. All fencing must conform to the City of Bay Village Building Standards

(D) Keep the dog restrained by a non-retractable tether or a leash no longer than six feet in length and have the leash or tether controlled by a person who is of sufficient size and strength to control the dog or securely attach, tie, or affix the leash or tether to the ground or a stationary object or fixture so that the dog is adequately restrained and station such person in close proximity.

(2) While the dog is off the premises of the owner, keeper or harborer, so as to prevent it from causing injury to any person or domestic animal:

(A) Keep the dog restrained by a non-retractable tether or a leash no longer than six feet in length and have the leash controlled by a person who is of sufficient size and strength to control the dog or securely attach, tie, or affix the leash or tether to the ground or stationary object or fixture so that the dog is adequately restrained and station such person in close proximity; and

(B) Identify the dog with a leash, collar, harness, vest or other garment that is colored neon yellow, without patterns or other adornments except designs intended to increase visibility of the dog at night. The identifying garment shall be visible to an ordinary person from at least 15 feet away so as to provide reasonable warning to that person about the dog's classification.

(3) Post and display on the premises where the dog is kept a conspicuous and legible sign visible from all areas of customary or actual public access warning the public that there is a

nuisance dog on the premises. Such sign shall be at least eight inches by ten inches in rectangular dimensions and contain only the words "NUISANCE DOG" in lettering not less than two inches in height. Such sign shall also include a symbol for any children or people who cannot read words. All signs in residential areas must be setback from the front property line a minimum of five feet. All signs are to be purchased from the City.

(4) Notify the Police Department immediately if the dog is loose or unconfined or has aggressively bitten a human or domestic animal.

(5) Notify veterinarians, veterinary staff, groomers, and other members of the public who come into direct contact with the designated dog that the dog has been designated as a nuisance dog prior to such contact.

(b) No owner or person in charge of a dangerous or vicious dog shall fail to do any of the following:

(1) While the dog is on the premises of the owner, keeper or harbinger, so as to prevent it from causing injury to any person or domestic animal, securely confine the dog at all times:

(A) In a locked enclosure that has secured top and is at least five feet by ten feet, which has a secure top and sides, under the direct supervision of a person who is at least 18 years of age and of sufficient size and strength to control the dog. If the enclosure has no bottom securely attached to the sides, the sides must be embedded into the ground no less than two feet or must have a concrete base with the fencing securely attached or anchored to the concrete perimeter to a depth of six inches. All fencing must conform to the City of Bay Village Building Standards.

(B) In a locked fence yard, which fence is located in the rear yard with self-closing/ self-latching gates on any openings of the fenced yard and restrained by a leash or tether no longer than ten feet in length controlled by a person who is at least 18 years of age and of sufficient size and strength to control the dog or securely attach, tie, or affix the leash or tether to the ground of a stationary object or fixture so that the dog is adequately restrained and station such person in close proximity. All fencing must conform to the City of Bay Village Building Standards; or

(C) In any other locked enclosure that has a secured top, including a house. If the dog is confined in any other locked enclosure that has a top outdoors, keep the dog under the direct supervision of a person who is at least 18 years of age and of sufficient size and strength to control the dog.

(2) While the dog is off the premises of the owner, keeper or harbinger so as to prevent it from causing injury to any person or domestic animal:

(A) Keep the dog securely muzzled with a muzzle made in a manner that will not cause injury to the dog or interfere with the dog's vision or respiration, but allows the dog to eat and drink and prevents it from biting any person .

(B) Also, the dog must be fitted with a proper collar that will prevent the dog slipping out of it or breaking through it, and attach a substantial leash to the collar that conforms to the dogs weight, size and strength, not more than four feet in length which is held in the hand of a person who is at least 18 years of age and of sufficient size and strength to control the dog.

(3) Obtain a dangerous dog registration certificate from the County Auditor pursuant to Ohio R.C. 955.21(I) within 14 calendar days of the final determination of the dog as a dangerous or vicious dog by the city, affix a tag that identifies the dog as a dangerous or vicious dog to the dog's collar, ensure that the dog wears the collar and tag at all times, and present the dangerous dog registration certificate upon being requested to do so by any law enforcement officer, dog warden, animal control officer, or public health official, including evidence that the dog has been

microchipped, rabies vaccinated, and neutered and spayed, unless a licensed veterinarian determines that neutering and spaying of the dog is medically contraindicated.

(4) Notify the Police Department immediately if any of the following occur:

(A) The dog is loose or unconfined;

(B) The dog bites a person, unless the dog is on the property of the owner of the dog and the person who is bitten is unlawfully trespassing or committing a criminal act within the boundaries of that property;

(C) The dog attacks a person or another animal while the dog is off the property of the owner, keeper or harbinger of the dog;

(D) The dog is sold, given to another person or dies, within ten calendar days of the sale, transfer or death, and also notify the County Auditor.

(5) Post and display on the premises where the dog is kept a conspicuous and legible sign visible from all areas of customary or actual public access warning the public that there is a dangerous or vicious dog on the premises. Such sign shall be at least eight inches by ten inches in rectangular dimensions and contain only the words "DANGEROUS DOG" or "VICIOUS DOG" in lettering not less than two inches in height. Such sign shall also include a symbol for any children or people who cannot read words. All signs in residential areas must be setback from the front property line a minimum of five feet. All signs are to be purchased from the City.

(6) Notify veterinarians, veterinary staff, groomers and other members of the public who come into direct contact with the designated dog that the dog has been designated as a dangerous or vicious dog prior to such contact.

(7) Successfully complete a dog obedience or behavior modification course that includes a minimum of six (6) hours of in-person professional training or behavior modification within ninety (90) days of final determination of the dog as dangerous or vicious and provide proof of completion to the Chief of Police.

(8) Consent to an inspection of the property where the dog is kept, other than within any private structure unless otherwise authorized by law, by the Chief of Police or their designee, for the purpose of determining compliance with the requirements of this section.

(c) No owner, keeper or harbinger of a dangerous or vicious dog shall fail to identify the dog, at all times, with a leash, collar, harness, vest or other garment that is colored neon yellow, without patterns or other adornments, except designs intended to increase visibility of the dog at night. While the dog is off the premises of the owner, keeper or harbinger, the identifying garment shall be visible and identifiable to an ordinary person from at least 15 feet away so as to provide reasonable warning to that person about the dog's classification and to prevent the dog from causing injury to any person or domestic animal.

(d) No owner, keeper or harbinger of a dangerous or vicious dog shall do any of the following:

(1) Debark or surgically silence a dog that a person knows or has reason to believe is a dangerous or vicious dog;

(2) Possess a dangerous or vicious dog if the person knows or has reason to believe that the dog has been debarked or surgically silenced;

(3) Falsely attest on a waiver form provided by the any veterinarian under Ohio R.C. 955.22(F) that the person's dog is not a dangerous or vicious dog or otherwise provide false information on that written waiver form. It is an affirmative defense to a charge of a violation of this division if the veterinarian who is charged with the violation obtained, prior to debarking or surgically silencing the dog, a written waiver form that complies with Ohio R.C. 955.22(F) and that attests that the dog is not a dangerous or vicious dog.

(e) Penalties.

(1) Whoever violates this section, when the violation involves a nuisance dog, is guilty of a misdemeanor of the fourth degree on the first offense, a misdemeanor of the third degree on the second offense and a misdemeanor of the first degree on the third or any subsequent offense. Notwithstanding the foregoing penalties, if the dog aggressively bites a domestic animal or human without provocation as a result of a violation of this section, then whoever violates this section is guilty of a misdemeanor of the first degree. Additionally, the court shall order the offender to complete dog obedience training within a specified period of time and provide written proof thereof to the Police Chief.

(2) Whoever violates this section, when the violation involves a dangerous dog, is guilty of a misdemeanor of the third degree on the first offense, a misdemeanor of the second degree on the second offense and a misdemeanor of the first degree on the third or any subsequent offense.

Notwithstanding the foregoing penalties if the dangerous dog aggressively bites a domestic animal or human without provocation as a result of a violation of this section, then whoever violates this section is guilty of a misdemeanor of the first degree. Additionally the court shall order the offender to complete dog obedience training within a specified period of time and provide written proof thereof to the Police Chief. The court may further impose reasonable terms, conditions and restrictions deemed necessary to protect public health, safety and welfare.

Notwithstanding the foregoing penalties, if the dangerous dog aggressively bites a domestic animal or human without provocation, causing serious injury, as a result of a violation of this section, then whoever violates this section is guilty of a misdemeanor of the first degree. The court may impose reasonable terms, conditions and restrictions deemed necessary to protect public health, safety and welfare, including humane euthanasia of the dog by a licensed veterinarian.

(3) Whoever violates this section, when the violation involves a vicious dog, is guilty of a misdemeanor of the second degree on the first offense, a misdemeanor of the first degree on the second or any subsequent offense.

Notwithstanding the foregoing penalties if the vicious dog aggressively bites a domestic animal or human without provocation as a result of a violation of this section, then whoever violates this section is guilty of a misdemeanor of the first degree. Additionally the court shall order the offender to complete dog obedience training within a specified period of time and provide written proof thereof to the Police Chief. The court may further impose reasonable terms, conditions and restrictions deemed necessary to protect public health, safety and welfare.

Notwithstanding the foregoing penalties, if the vicious dog aggressively bites a domestic animal or human without provocation, causing serious injury, as a result of a violation of this section, then whoever violates this section is guilty of a misdemeanor of the first degree. The court may impose reasonable terms, conditions and restrictions deemed necessary to protect public health, safety and welfare, including humane euthanasia of the dog by a licensed veterinarian.

Notwithstanding the foregoing penalties, it is a felony to be prosecuted under appropriate state law, if the dog kills a person as a result of a violation of Ohio R.C. 955.22(C). The penalties in this section shall not apply whenever the conduct proscribed in this section constitutes a felony under Ohio R.C. 955.99.

(Ord. 03-07. Passed 4-7-03.)

505.25 INSPECTION OBSTRUCTION.

(a) Any person owning, keeping, possessing, harboring, maintaining or having the care, custody or control of a nuisance, dangerous or vicious dog shall be deemed to have given consent to an inspection of the property, other than within any private structure unless otherwise authorized by law, by any law enforcement officer or the Animal Control Officer for the purpose of determining compliance with the requirements of this chapter.

(b) No person, with purpose to prevent, obstruct or delay the performance by law enforcement officer or the Animal Control Officer of any authorized act within his official capacity, shall do any act which hampers or impedes said official in the performance of his lawful duties under the provisions of this chapter.

(1) Whoever violates this section is guilty of a misdemeanor of the third degree on the first offense, a misdemeanor of the second degree on the second offense and a misdemeanor of the first degree on the third or any subsequent offense..

(Ord. 03-07. Passed 4-7-03.)

505.26 SERIOUS PHYSICAL HARM BY DANGEROUS OR VICIOUS DOGS.

(a) No person, being the owner or having the care, custody or control of any dangerous or vicious dog within the city, shall allow such dog to cause serious physical harm to any person, except in defense of such owner's person or property.

(b) Lack of intent on the part of such person to allow such dog to injure another, or the lack of knowledge of the violent propensities of such dog, is not defense to a violation of this section.

(c) Whoever violates this section is guilty of a misdemeanor of the third degree on the first offense, a misdemeanor of the second degree on the second offense and a misdemeanor of the first degree on the third or any subsequent offense. (Ord. 03-07. Passed 4-7-03.)

505.27 PHYSICAL HARM BY DANGEROUS OR VICIOUS DOGS.

(a) No person, being the owner or having the care, custody or control of any dangerous or vicious dog within the City, shall allow such a dog to cause physical harm to any person, except in defense of such owner's person or property, or to cause physical harm to another dog, cat, or other domestic animal.

(b) Lack of intent on the part of such person to allow such dog to injure another, or the lack of knowledge of the violent propensities of such dog, is not defense to a violation of this section.

(c) Whoever violates this section is guilty of a misdemeanor of the third degree on the first offense, a misdemeanor of the second degree on the second offense and a misdemeanor of the first degree on the third or any subsequent offense.

(Ord. 03-07. Passed 4-7-03.)

505.28 IMPOUNDMENT: DESTRUCTION OF DOGS.

(a) When any person, being the owner or having custody or control of any dog charged with a violation of this chapter, the court may, upon motion of any party or its own motion, order the seizure and impoundment of the dog pending trial.

(b) In the event that a Law Enforcement Officer or the Animal Control Officer has probable cause to believe that a dangerous or vicious dog is running at large, he/she may seize and impound the dog without seeking prior court order.

(c) Nothing in this section shall be construed to prevent a Law Enforcement Officer or Animal Control Officer from seizing or destroying any animal which presents an immediate risk of physical harm to any person or property.

(d) Any dog that attacks and injures any person, another domestic animal, shall be humanely destroyed when, in the courts judgment, such dog represents a continuing threat of serious harm to persons or other such animals. The Chief of Police may petition the court of competent

jurisdiction for an order to humanely destroy any dog impounded pursuant to this chapter which represents a threat of harm to any person caring for such animal. The court shall order any dog that kills or causes serious physical harm to any person, other than a person committing a criminal trespass or other crime of violence upon the premises of the owner of such dog, humanely destroyed. (Ord. 03-07. Passed 4-7-03.)

505.29 DOG CLASSIFIED BY ANOTHER JURISIDCITION.

(a) Any person desiring to bring a dog to live in the City which has been previously declared a nuisance dog, dangerous dog or vicious dog, or similar designation in another jurisdiction, under the provisions of Ohio R.C. 955.11, et seq., or a comparable local ordinance, must notify the Police Department prior to moving the dog to the City.

(b) The Police Chief shall have the authority to determine whether a previously classified dog has engaged in the behaviors warranting designation under section 505.20. This determination may be based upon an investigation that includes observation and testimony about the dog's behavior, including the dog's upbringing and the owner's or keeper's control of the dog, and other relevant evidence as determined by the Chief of Police. The owner or keeper of the dog shall provide the Police Chief with all information requested related to that dog.

(c) Upon reasonable determination by the Chief of Police that a previously classified dog has engaged in behaviors warranting designation under section 505.20, the Police Chief shall give the dog's owner, keeper or harbinger written notice by certified mail or personal service. The notice shall state:

- (1) The description of the dog;
- (2) The level of classification;
- (3) The facts upon which the classification is based;
- (4) The availability of a hearing to object to the classification;
- (5) The restrictions placed on the dog as a result of the classification;
- (6) Penalties for violation of the restrictions; and
- (7) The availability of declassification procedures.

(c) Upon receipt of notice of the dog's classification as a potential nuisance dog, dangerous dog, or vicious dog pursuant to section (c) above, the owner or keeper shall comply with the requirements and restrictions specified in section 505.22 and 505.24 for the dog.

(d) If the dog is classified as a nuisance dog, dangerous dog or vicious dog the owner or keeper of the dog shall have the right to an administrative hearing to object to the designation pursuant to section 505.21. At the hearing the dog's owner or keeper must show, by clear and convincing evidence, that the classification as determined by the Police chief does not match the dog's previous behavior or classification.

(e) Whoever violates subpart (a) of this section is guilty of a misdemeanor of the second degree.

505.30 DANGEROUS AND VICIOUS DOG OWNERSHIP RESTRICTIONS.

(a) No person shall own, keep, maintain, allow, harbor or permit more than one dangerous or vicious dog at any one residence that has aggressively bitten and killed a dog or aggressively bitten and caused serious injury or death to a person.

(b) The provisions set forth in Ohio R.C. 955.54 shall apply inside the City, with the exception to division (A)(2), which shall be construed to include vicious dogs in addition to dangerous dog.

(e) Penalty.

(1) Whoever violates subpart (a) of this section is guilty of a misdemeanor of the second degree.

(2) Whoever violates subpart (b) of this section is guilty of a misdemeanor of the first degree.

PASSED:

PRESIDENT OF COUNCIL

CLERK OF COUNCIL

APPROVED:

MAYOR

9-2-16 ll

ORDINANCE NO.
INTRODUCED BY:

AN ORDINANCE
AMENDING CODIFIED ORDINANCE 505 REGARDING
ANIMALS AND FOUL,
AND DECLARING AN EMERGENCY

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

SECTION 1. That Codified Ordinance 505 which presently reads as follows:

505.19 DANGEROUS AND VICIOUS DOGS.

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

(a) “Dangerous dog” means a dog that caused injury other than killing or serious injury to any person, or kills another dog, cat or other domestic animal while off the premises of the owner. Dangerous dog does not include a police dog that has caused injury other than killing or serious injury to any person or has killed another dog, cat or other domestic animal while the police dog is being used to assist law enforcement officers in the performance of his official duties.

(b) “Menacing fashion,” means that a dog could cause any person being chased or approached to reasonably believe that the dog could cause physical injury to that person.

(c) “Owner” means any person owning, keeping, possessing, harboring, maintaining, or having the care, custody, or control of a dog or the parents or guardian of a minor owning, keeping, possessing, harboring, maintaining or having the care, custody or control of a dog.

(d) “Police dog” means a dog that has been trained, and may be used, to assist law enforcement officers in the performance of their duties.

(e) “Serious injury” means any of the following:

(1) Any physical harm that carries a substantial risk of death;

(2) Any physical harm that involves a permanent incapacity, whether partial or total or a temporary substantial incapacity;

(3) Any physical harm that involves a permanent disfigurement or a temporary, serious disfigurement;

(4) Any physical harm that involves acute pain of a duration that results in substantial suffering or any degree of prolonged or intractable pain;

(f) “Vicious dog” (as defined in ORC 955.11 (A) (4)(46) means a dog that, without provocation:

(1) Has killed or caused serious injury to any person;

(2) “Vicious Dog” does not include either of the following:

A. A police dog that has killed or caused serious injury to any person while the police dog is being used to assist one or more law enforcement officers in the performance of their official duties;

B. A dog that has killed or caused serious injury to any person while a person was committing or attempting to commit a trespass or other criminal offense on the property of the owner, keeper, or harbinger of the dog.

(g) “Provocation” means that any dog was teased, tormented or abused by a person or that the dog was coming to the aid or defense of a person who was not engaged in illegal activity, and whose person or property was in imminent danger of physical harm.

(Ord. 12-41. Passed 5-21-12.)

505.20 DETERMINATION OF DANGEROUS AND VICIOUS DOGS.

(a) Whenever a complaint is made to the Police Department or the Animal Control Officer, of the presence of a dangerous or vicious dog within the city, the Chief of Police or designee shall promptly inspect or cause an inspection of the premises on which it is alleged that such animal is being kept.

(b) The Chief of Police or designee shall determine that a dog is dangerous pursuant to this chapter upon proof by a preponderance of the evidence of any of the following:

(1) Without provocation, the dog has caused injury other than killing or serious injury to any person.

(2) Without provocation, the dog has killed another dog, cat or other domestic animal.

(c) The Chief of Police shall determine that a dog is vicious pursuant to this chapter upon proof by a preponderance of the evidence that:

(1) Without provocation; the dog has killed or caused serious injury to any person.

(d) If the Chief determines that a dangerous/vicious dog is being kept within the City, the Chief shall determine the individual, firm or corporation who from the records in the Auditors office of Cuyahoga County, appears to be the owner of the dog, or if such information is not available, the titled owner of the property upon which the dog is kept, and shall, within five days, cause written notice to be served on such owner. Notice shall be served by certified mail with a return receipt requested. If service of such written notice is unable to be perfected, then the Chief of Police shall cause a copy of the aforesaid notice to be served by ordinary mail which shall be deemed complete upon mailing, and also left with the individual, if any, in possession of the premises on which the dog is kept, or if there is no individual in possession of the premises, he shall cause a copy of the notice to be posted on premises.

(e) The notice required by this section (c) hereof shall state, in brief, the findings with respect made to the dangerous or vicious nature of the dog. The notice shall further state that the owner must comply with the requirements of this chapter within thirty days after service of the notice.

(f) Police dogs are exempt from these provisions for all actions occurring in the course of their duties.

(Ord. 12-41. Passed 5-21-12.)

505.21 APPEAL PROCEDURE.

(a) The owner of a dog who has been served with a notice pursuant to Section 505.20 (d) may, within seven days after receipt of such notice, make a written demand to the Chief of

Police for a hearing on the question of whether the dog is dangerous or vicious as defined in Section 505.19.

(b) Every effort should be made to hold a hearing no later than ten days following receipt of written demand to the Chief of Police and at least three days notice of the hearing shall be given to the individual, who made the demand for the hearing.
(Ord. 03-07. Passed 4-7-03.)

505.22 REGISTRATION OF DANGEROUS OR VICIOUS DOGS.

(a) Any person owning, keeping, possessing, maintaining or having the care, custody or control of a dangerous or vicious dog shall:

(1) Register the dog with the police department annually, between January 2 and January 20, and whenever a dog is newly obtained.

(2) At the time of registration provide proof of liability insurance as required by Section 505.23 (a). (Ord. 03-07. Passed 4-7-03.)

(3) Identify the dog by having the dog tattooed with a code number or a microchip implanted at the owner's expense. In the event that said animal has a history of aggressive behavior within the City of Bay Village, said dog will be required to have a tattoo. Provide the Police Department with that code number and two color photos of the dog. One photo should clearly show the tattoo number on the dog and the other should be a clear photo of the whole dog. (Ord. 04-27. Passed 3-1-04.)

(4) Provide two color photographs of the dog annually.

(5) Post on the premises, in a conspicuous place where the dog is kept, at least one City-issued sign available, upon payment of thirty dollars (\$30.00) for each sign from the Police Department. The sign shall be visible and capable of being read from the public highway or street and will include the wording: "DANGEROUS or VICIOUS." The Animal Control Officer will determine sign language. This sign shall be maintained and remain in place during the possession of the animal.

(6) Notify the Police Department within seventy two hours, if the dangerous or vicious dog has died, or has been sold or donated and provide the Police Department with the names, address and telephone number of the new owner.

(b) Whoever fails to register a dangerous or vicious dog as provided in this section is guilty of a minor misdemeanor for the first offense, a misdemeanor of the fourth degree for a second offense and a misdemeanor of the third degree for the third offense. Each and every day during such period of noncompliance with this section may be deemed a separate offense.
(Ord. 03-07. Passed 4-7-03.)

505.23 INSURANCE FOR VICIOUS DOGS.

(a) No owner of a vicious dog shall fail to obtain liability insurance with an insurer authorized to write liability insurance in this State providing coverage in each occurrence, subject to a limit, exclusive of interest and costs, of not less than one hundred thousand dollars (\$100,000) because of damage to property or bodily injury to or death of a person caused by the vicious dog.

(b) Whoever violates this section is guilty of a misdemeanor of the fourth degree on the first offense, a third degree misdemeanor on the second offense, and a second-degree misdemeanor on the third offense. Each and every day during such period of noncompliance with this section may be deemed a separate offense.
(Ord. 03-07. Passed 4-7-03.)

505.24 RESTRAINT OF DANGEROUS OR VICIOUS DOGS.

(a) No owner or person in charge of a dangerous or vicious dog shall fail to do one of the following:

- (1) Keep the dog securely inside of the owner's home.
- (2) Keep the dog in a locked enclosure at least five feet by ten feet, which has a secure top and sides. If the enclosure has no bottom securely attached to the sides, the sides must be embedded into the ground no less than two feet or must have a concrete base with the fencing securely attached or anchored to the concrete perimeter to a depth of six inches. All fencing must conform to the City of Bay Village Building Standards.
- (3) Keep the dog securely muzzled, making sure such muzzle does not interfere with the dogs breathing. Also, the dog must be fitted with a proper collar that will prevent the dog slipping out of it or breaking through it, and attach a substantial leash to the collar that conforms to the dogs weight, size and strength, not more than four feet in length which is held in the hand of a person who is of suitable age, size and discretion to control the dog and who is outside with the dog.

(b) Whoever violates this section is guilty of a misdemeanor in the fourth degree on the first offense, a misdemeanor of the third degree in the second offense and a misdemeanor of the second degree on the third offense.
(Ord. 03-07. Passed 4-7-03.)

505.25 INSPECTION OBSTRUCTION.

(a) Any person owning, keeping, possessing, harboring, maintaining or having the care, custody or control of a dangerous or vicious dog shall be deemed to have given consent to an inspection of the property, other than within any private structure unless otherwise authorized by law, by any law enforcement officer or the Animal Control Officer for the purpose of determining compliance with the requirements of this chapter.

(b) No person, with purpose to prevent, obstruct or delay the performance by law enforcement officer or the Animal Control Officer of any authorized act within his official capacity, shall do any act which hampers or impedes said official in the performance of his lawful duties under the provisions of this chapter.

(1) Whoever violates subsection (b) hereof is guilty of a misdemeanor of the fourth degree.
(Ord. 03-07. Passed 4-7-03.)

505.26 SERIOUS PHYSICAL HARM BY DANGEROUS OR VICIOUS DOGS.

(a) No person, being the owner or having the care, custody or control of any dangerous or vicious dog within the city, shall allow such dog to cause serious physical harm to any person, except in defense of such owner's person or property.

(b) Lack of intent on the part of such person to allow such dog to injure another, or the lack of knowledge of the violent propensities of such dog, is not defense to a violation of this section.

(c) Whoever violates this section is guilty of a misdemeanor of the first degree.
(Ord. 03-07. Passed 4-7-03.)

505.27 PHYSICAL HARM BY DANGEROUS OR VICIOUS DOGS.

(a) No person, being the owner or having the care, custody or control of any dangerous or vicious dog within the City, shall allow such a dog to cause physical harm to any person, except in defense of such owner's person or property, or to cause physical harm to another dog, cat, or other domestic animal.

(b) Lack of intent on the part of such person to allow such dog to injure another, or the lack of knowledge of the violent propensities of such dog, is not defense to a violation of this section.

(c) Whoever violates this section is guilty of a misdemeanor of the second degree.
(Ord. 03-07. Passed 4-7-03.)

505.28 IMPOUNDMENT: DESTRUCTION OF DOGS.

(a) When any person, being the owner or having custody or control of any dog charged with a violation of this chapter, the court may, upon motion of any party or its own motion, order the seizure and impoundment of the dog pending trial.

(b) In the event that a Law Enforcement Officer or the Animal Control Officer has probable cause to believe that a dangerous or vicious dog is running at large, he/she may seize and impound the dog without seeking prior court order.

(c) Nothing in this section shall be construed to prevent a Law Enforcement Officer or Animal Control Officer from seizing or destroying any animal which presents an immediate risk of physical harm to any person or property.

(d) Any dog that attacks and injures any person, another dog or cat, shall be humanely destroyed when, in the courts judgment, such dog represents a continuing threat of serious harm to persons or other such animals. The Chief of Police may petition the court of competent jurisdiction for an order to humanely destroy any dog impounded pursuant to this chapter which represents a threat of harm to any person caring for such animal. The court shall order any dog that kills or causes serious physical harm to any person, other than a person committing a criminal trespass or other crime of violence upon the premises of the owner of such dog, humanely destroyed. (Ord. 03-07. Passed 4-7-03.)

505.29 KEEPING BANNED DOGS.

(a) No person shall own, keep, possess, harbor, maintain or have the care, custody or control of a dog within the city when such dog has been banned by order of a court of competent jurisdiction from any municipality, county, township or other political subdivision.

(b) Compliance with the requirements of this chapter is not a defense to a violation of this section.

(c) Whoever violates this section is guilty of a misdemeanor of the first degree. Each and every day during such period may be deemed a separate offense.
(Ord. 03-07. Passed 4-7-03.)

505.30 DOG FIGHTING.

(a) Animal Fights ORC 959.15: No person shall knowingly engage in or be employed at cockfighting, bearbaiting or pitting an animal against another. No person shall receive money for the admission of another to a place kept for such purpose. No person shall use, train or possess any animal for seizing, detaining or maltreating a domestic animal. Any person, who knowingly purchases a ticket of admission to such place or is present thereat or witnesses such spectacle, is an aider and abettor. Whoever violates this section, is guilty of a misdemeanor of the fourth degree.

(b) Dog Fighting Offenses, Investigations, Confiscation of Dogs and Equipment, ORC 959.16: No person shall do any of the following:

- (1) Promote, engage in or be employed at dog fighting.
- (2) Receive money for the admission of another person to a place kept for dog fighting.
- (3) Sell, purchase, possess or train a dog for dog fighting.
- (4) Use train or possess a dog for seizing, detaining or maltreating a domestic animal.
- (5) Purchase a ticket of admission to or be present at a dog fight.
- (6) Witness a dog fight if it is presented as a public spectacle.

(c) The Department of Agriculture may investigate complaints and follow up rumors of dog fighting activities and may report any information so gathered to an appropriate prosecutor or law enforcement agency.

(d) Any peace officer, as defined in Section 2935.01 of the Revised Code, shall confiscate any dogs that have been, are, or are intended to be used in dog fighting and any equipment or devices used in training such dogs or as part of dog fights.

(e) Whoever violates this section, is guilty of a misdemeanor of the first degree.
(Ord. 03-07. Passed 4-7-03.)

be and the same is amended to read:

505.19 NUISANCE DANGEROUS AND VICIOUS DOGS; DEFINITIONS.

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

(a) "Dangerous dog" means a dog that, without provocation, caused injury other than killing or serious injury to any person, or killeds another dog, cat or other domestic animal ~~while off the premises of the owner~~. Dangerous dog does not include a police dog that has caused injury other

than killing or serious injury to any person or has killed another dog, cat or other domestic animal while the police dog is being used to assist law enforcement officers in the performance of ~~his~~their official duties.

(b) “Menacing fashion,” means that a dog could cause any person being chased or approached to reasonably believe that the dog could cause physical injury to that person.

(c) “Nuisance dog,” means a dog that without provocation and while off the premises of its owners, keeper or harbinger has chased or approached a person in either a menacing fashion or an apparent attitude of attack or has attempted to bite or otherwise endanger any person.

(de) “Owner” means any person owning, keeping, possessing, harboring, maintaining, or having the care, custody, or control of a dog or the parents or guardian of a minor owning, keeping, possessing, harboring, maintaining or having the care, custody or control of a dog.

(ed) “Police dog” means a dog that has been trained, and may be used, to assist law enforcement officers in the performance of their duties.

(fe) “Serious injury” means any of the following:

- (1) Any physical harm that carries a substantial risk of death;
- (2) Any physical harm that involves a permanent incapacity, whether partial or total or a temporary substantial incapacity;
- (3) Any physical harm that involves a permanent disfigurement or a temporary, serious disfigurement;
- (4) Any physical harm that involves acute pain of a duration that results in substantial suffering or any degree of prolonged or intractable pain;

(gf) “Vicious dog” (as defined in ORC 955.11 (A) (4)(46) means a dog that, without provocation:

- (1) Has killed or caused serious injury to any person;
- (2) “Vicious Dog” does not include either of the following:
 - A. A police dog that has killed or caused serious injury to any person while the police dog is being used to assist one or more law enforcement officers in the performance of their official duties;
 - B. A dog that has killed or caused serious injury to any person while a person was committing or attempting to commit a trespass or other criminal offense on the property of the owner, keeper, or harbinger of the dog.

(hg) “Without Provocation” means that ~~any~~ dog was not teased, tormented or abused by a person or that the dog was coming to the aid or defense of a person who was not engaged in illegal or criminal activity, and whose person or property was in imminent danger of physical harm.

(Ord. 12-41. Passed 5-21-12.)

505.20 DETERMINATION OF NUISANCE, DANGEROUS AND VICIOUS DOGS.

(a) The Police Chief, or his designee, shall have the authority to determine whether a dog is a nuisance dog, dangerous dog, or vicious dog. This determination may be based upon any investigation by the Police Department, which may include observation of and statements about the dog’s behavior, including the dog’s upbringing and the owner or keeper’s control of the dog as well as any other evidence the Police Chief deems necessary.

(b) Whenever a complaint is made to the Police Department or the Animal Control Officer, of the presence of a nuisance, dangerous or vicious dog within the Ceity, the Chief of Police or designee shall promptly inspect or cause an inspection of the premises on which it is alleged that such animal is being kept.

(~~cb~~) The Chief of Police or designee shall determine that a dog is dangerous pursuant to this chapter upon proof by a preponderance of the evidence of any of the following:

(1) Without provocation, the dog has caused injury other than killing or serious injury to any person.

(2) Without provocation, the dog has killed another dog, cat or other domestic animal.

(~~de~~) The Chief of Police shall determine that a dog is vicious pursuant to this chapter upon proof by a preponderance of the evidence that:

(1) Without provocation; the dog has killed or caused serious injury to any person.

(~~ed~~) If the Chief determines that a dangerous/vicious dog is being kept within the City, the Chief shall determine the individual, firm or corporation who from the records in the Auditors office of Cuyahoga County, appears to be the owner of the dog, or if such information is not available, the titled owner of the property upon which the dog is kept, and shall, within five days, cause written notice to be served on such owner. Notice shall be served by certified mail with a return receipt requested. If service of such written notice is unable to be perfected, then the Chief of Police shall cause a copy of the aforesaid notice to be served by ordinary mail which shall be deemed complete upon mailing, and also left with the individual, if any, in possession of the premises on which the dog is kept, or if there is no individual in possession of the premises, he shall cause a copy of the notice to be posted on premises.

(~~fe~~) The notice required by this section (~~ee~~) hereof shall state, in brief;:

~~(1) the description of the dog;~~

~~(2) findings with respect made to the dangerous or vicious nature of the dog. The level of classification of the dog;~~

~~(3) -The facts upon which the classification is based;~~

~~(4) The availability of a hearing to object to the classification and instructions to request that hearing;~~

~~(5) The restrictions placed on the dog as a result of the classification;~~

~~(6) The penalties for violation of the restrictions; and~~

~~(7) The availability of declassification procedures.~~

~~(8) The notice shall further state that the owner must comply with the requirements of this chapter within thirty days after service of the notice.~~

~~(gf) Upon receipt of the dog's classification as a nuisance, dangerous or vicious dog, the owner or keeper of the dog shall comply with the restrictions specified in Section 505.24.~~

~~(h) If the owner, keeper or harbinger of the dog disagrees with the designation of the dog as a nuisance, dangerous or vicious dog, as applicable, the owner, keeper or harbinger may request a hearing regarding the city's determination pursuant to Section 505.21.~~

~~(i) Police dogs are exempt from these provisions for all actions occurring in the course of their duties.~~

(Ord. 12-41. Passed 5-21-12.)

505.21 APPEAL PROCEDURE OBJECTION HEARINGS.

(a) The owner of a dog who has been served with a notice pursuant to Section [505.20](#) (~~ed~~) may, within seven days ~~after receipt of such notice from the date listed on the notice, object to the city's determination and request , in make a written demand to the Chief of Police for a writing, a~~ hearing on the question of whether the dog is [a nuisance](#), dangerous or vicious as defined in Section [505.19](#). ~~The hearing shall be heard by the Director of Public Safety or their designee.~~

(b) Every effort should be made to hold a hearing no later than ten days following receipt of ~~written demand to the Chief of Police and and the request for hearing and~~ at least three ~~days~~

~~noticed~~ days' notice of the hearing shall be given to the individual, who made the ~~demand~~ request for the hearing.

(b) The objection hearing shall be conducted as follows:

(1) Parties may appear pro se or be represented by an attorney.

(2) Parties may present their position, arguments and contentions, including by making statements, presenting evidence and offering witnesses on their behalf, on any relevant issue.

(3) Parties may refute evidence and testimony offered in opposition to their position, arguments and contentions, including by making statements, presenting evidence, and offering witnesses on their behalf, on any relevant issue.

(4) Parties shall be entitled to the right of cross-examination.

(5) The hearing shall be quasi-judicial in nature and all testimony shall be under oath.

(6) Any party shall be entitled to transcribe the proceeding at his own cost.

(7) After considering all substantial, reliable and probative evidence accepted for review, the Director of Public Safety or their designee shall affirm, deny or affirm with conditions the determination.

(8) Within 10 business days of the hearing, the Director of Public Service or their designee shall issue a written decision making a factual finding as to the determination and shall serve the decision upon all parties. This decision shall be a final order.

(Ord. 03-07. Passed 4-7-03.)

505.22 REGISTRATION OF NUISANCE DANGEROUS OR VICIOUS DOGS.

(a) Any person owning, keeping, possessing, maintaining or having the care, custody or control of a nuisance, dangerous or vicious dog shall:

(1) Register the dog with the police department annually, between January 2 and January 20, and whenever a dog is newly obtained.

(2) At the time of registration provide proof of liability insurance as required by Section 505.23 (a). (Ord. 03-07. Passed 4-7-03.)

(3) Identify the dog by having the dog ~~tattooed~~ tattooed with a code number or a microchip implanted at the owner's expense. In the event that said animal has a history of aggressive behavior within the City of Bay Village, said dog will be required to have a ~~tattoo~~ tattoo. Provide the Police Department with that code number and two color photos of the dog. One photo should clearly show the ~~tattoo~~ tattoo number on the dog and the other should be a clear photo of the whole dog. (Ord. 04-27. Passed 3-1-04.)

(4) Provide two color photographs of the dog annually.

(5) Post on the premises, in a conspicuous place where the dog is kept, at least one City-issued sign available, upon payment of thirty dollars (\$30.00) for each sign from the Police Department. The sign shall be visible and capable of being read from the public highway or street and will include the wording: "NUISANCE, DANGEROUS or VICIOUS." The Animal Control Officer will determine sign language. This sign shall be maintained and remain in place during the possession of the animal.

(6) Notify the Police Department within seventy two hours, if the nuisance, dangerous or vicious dog has died, or has been sold or donated and provide the Police Department with the names, address and telephone number of the new owner.

(b) Whoever fails to register a nuisance, dangerous or vicious dog as provided in this section is guilty of a ~~minor~~ misdemeanor of the fourth degree on ~~for~~ the first offense, a misdemeanor of the ~~fourth~~ third degree on the second offense, and a misdemeanor of the first degree on the ~~for a second~~ third or any subsequent offense ~~and a misdemeanor of the third degree for the third~~

~~offense~~. Each and every day during such period of noncompliance with this section may be deemed a separate offense.

(Ord. 03-07. Passed 4-7-03.)

505.23 INSURANCE FOR NUISANCE, DANGEROUS AND VICIOUS DOGS.

(a) No owner or keeper of a nuisance dog shall fail to obtain liability insurance with an insurer authorized to write liability insurance in this State providing coverage in each occurrence, subject to limit, exclusive of interest and costs, of not less than ten thousand dollars (\$10,000) because of damage to property or bodily injury to or death of a person caused by the nuisance dog. The owner or keeper of any nuisance dog shall provide a copy of the policy for liability insurance to the Chief of Police on a yearly basis.

(b) No owner of a ~~dangerous or~~ vicious dog shall fail to obtain liability insurance with an insurer authorized to write liability insurance in this State providing coverage in each occurrence, subject to a limit, exclusive of interest and costs, of not less than one hundred thousand dollars (\$100,000) because of damage to property or bodily injury to or death of a person caused by the vicious dog. The owner or keeper of any dangerous or vicious dog shall provide a copy of the policy for liability insurance to the Chief of Police on a yearly basis.

~~(c)~~ Whoever violates this section is guilty of a misdemeanor of the fourth degree on the first offense, a ~~third degree~~-misdemeanor of the third degree on the second offense, and a ~~second degree~~-misdemeanor of the first degree on the third or any subsequent offense. Each and every day during such period of noncompliance with this section may be deemed a separate offense.
(Ord. 03-07. Passed 4-7-03.)

505.24 ~~RESTRAINING~~, CONFINING DEBARKING OF NUISANCE DANGEROUS OR VICIOUS DOGS.

(a) No owner or person in charge of a nuisance dog shall fail to do any of the following:

(1) While the dog is on the premises of the owner, keeper or harbinger, so as to prevent it from causing injury to any person or domestic animal:

(A) Securely confine the dog indoors;

(B) Securely confine the dog in locked pen, which has a secure top and keep the dog under direct supervision by a person who is of sufficient size and strength to control the dog;

(C) Securely confine the dog in a locked fenced yard and keep the dog under direct supervision by a person who is of sufficient size and strength to control the dog. All fencing must conform to the City of Bay Village Building Standards

(D) Keep the dog restrained by a non-retractable tether or a leash no longer than six feet in length and have the leash or tether controlled by a person who is of sufficient size and strength to control the dog or securely attach, tie, or affix the leash or tether to the ground or a stationary object or fixture so that the dog is adequately restrained and station such person in close proximity.

(2) While the dog is off the premises of the owner, keeper or harbinger, so as to prevent it from causing injury to any person or domestic animal:

(A) Keep the dog restrained by a non-retractable tether or a leash no longer than six feet in length and have the leash controlled by a person who is of sufficient size and strength to control the dog or securely attach, tie, or affix the leash or tether to the ground or stationary object or fixture so that the dog is adequately restrained and station such person in close proximity; and

(B) Identify the dog with a leash, collar, harness, vest or other garment that is colored neon yellow, without patterns or other adornments except designs intended to increase visibility

of the dog at night. The identifying garment shall be visible to an ordinary person from at least 15 feet away so as to provide reasonable warning to that person about the dog's classification.

(3) Post and display on the premises where the dog is kept a conspicuous and legible sign visible from all areas of customary or actual public access warning the public that there is a nuisance dog on the premises. Such sign shall be at least eight inches by ten inches in rectangular dimensions and contain only the words "NUISANCE DOG" in lettering not less than two inches in height. Such sign shall also include a symbol for any children or people who cannot read words. All signs in residential areas must be setback from the front property line a minimum of five feet. All signs are to be purchased from the City.

(4) Notify the Police Department immediately if the dog is loose or unconfined or has aggressively bitten a human or domestic animal.

(5) Notify veterinarians, veterinary staff, groomers, and other members of the public who come into direct contact with the designated dog that the dog has been designated as a nuisance dog prior to such contact.

(b) No owner or person in charge of a dangerous or vicious dog shall fail to do ~~any one~~ of the following:

(1) While the dog is on the premises of the owner, keeper or harbinger, so as to prevent it from causing injury to any person or domestic animal, securely confine the dog at all times:

(A) In a locked enclosure that has secured top and is at least five feet by ten feet, which has a secure top and sides, under the direct supervision of a person who is at least 18 years of age and of sufficient size and strength to control the dog. If the enclosure has no bottom securely attached to the sides, the sides must be embedded into the ground no less than two feet or must have a concrete base with the fencing securely attached or anchored to the concrete perimeter to a depth of six inches. All fencing must conform to the City of Bay Village Building Standards.

(B) In a locked fence yard, which fence is located in the rear yard with self-closing/ self-latching gates on any openings of the fenced yard and restrained by a leash or tether no longer than ten feet in length controlled by a person who is at least 18 years of age and of sufficient size and strength to control the dog or securely attach, tie, or affix the leash or tether to the ground of a stationary object or fixture so that the dog is adequately restrained and station such person in close proximity. All fencing must conform to the City of Bay Village Building Standards; or

(C) In any other locked enclosure that has a secured top, including a house. If the dog is confined in any other locked enclosure that has a top outdoors, keep the dog under the direct supervision of a person who is at least 18 years of age and of sufficient size and strength to control the dog.

Keep the dog securely inside of the owner's home.

~~—(2) Keep the dog in a locked enclosure at least five feet by ten feet, which has a secure top and sides. If the enclosure has no bottom securely attached to the sides, the sides must be embedded into the ground no less than two feet or must have a concrete base with the fencing securely attached or anchored to the concrete perimeter to a depth of six inches. All fencing must conform to the City of Bay Village Building Standards.~~

(23) While the dog is off the premises of the owner, keeper or harbinger so as to prevent it from causing injury to any person or domestic animal:

(A) Keep the dog securely muzzled, making sure such muzzle does not interfere with the dogs breathing with a muzzle made in a manner that will not cause injury to the dog or interfere with the dog's vision or respiration, but allows the dog to eat and drink and prevents it from biting any person.

- (B) -Also, the dog must be fitted with a proper collar that will prevent the dog slipping out of it or breaking through it, and attach a substantial leash to the collar that conforms to the dogs weight, size and strength, not more than four feet in length which is held in the hand of a person who is at least 18 years of age and of sufficient size and strength to control the dog. of suitable age, size and discretion to control the dog and who is outside with the dog.

(3) Obtain a dangerous dog registration certificate from the County Auditor pursuant to Ohio R.C. 955.21(I) within 14 calendar days of the final determination of the dog as a dangerous or vicious dog by the city, affix a tag that identifies the dog as a dangerous or vicious dog to the dog's collar, ensure that the dog wears the collar and tag at all times, and present the dangerous dog registration certificate upon being requested to do so by any law enforcement officer, dog warden, animal control officer, or public health official, including evidence that the dog has been microchipped, rabies vaccinated, and neutered and spayed, unless a licensed veterinarian determines that neutering and spaying of the dog is medically contraindicated.

(4) Notify the Police Department immediately if any of the following occur:

(A) The dog is loose or unconfined;

(B) The dog bites a person, unless the dog is on the property of the owner of the dog and the person who is bitten is unlawfully trespassing or committing a criminal act within the boundaries of that property;

(C) The dog attacks a person or another animal while the dog is off the property of the owner, keeper or harbinger of the dog;

(D) The dog is sold, given to another person or dies, within ten calendar days of the sale, transfer or death, and also notify the County Auditor.

(5) Post and display on the premises where the dog is kept a conspicuous and legible sign visible from all areas of customary or actual public access warning the public that there is a dangerous or vicious dog on the premises. Such sign shall be at least eight inches by ten inches in rectangular dimensions and contain only the words "DANGEROUS DOG" or "VICIOUS DOG" in lettering not less than two inches in height. Such sign shall also include a symbol for any children or people who cannot read words. All signs in residential areas must be setback from the front property line a minimum of five feet. All signs are to be purchased from the City.

(6) Notify veterinarians, veterinary staff, groomers and other members of the public who come into direct contact with the designated dog that the dog has been designated as a dangerous or vicious dog prior to such contact.

(7) Successfully complete a dog obedience or behavior modification course that includes a minimum of six (6) hours of in-person professional training or behavior modification within ninety (90) days of final determination of the dog as dangerous or vicious and provide proof of completion to the Chief of Police.

(8) Consent to an inspection of the property where the dog is kept, other than within any private structure unless otherwise authorized by law, by the Chief of Police or their designee, for the purpose of determining compliance with the requirements of this section.

(c) No owner, keeper or harbinger of a dangerous or vicious dog shall fail to identify the dog, at all times, with a leash, collar, harness, vest or other garment that is colored neon yellow, without patterns or other adornments, except designs intended to increase visibility of the dog at night. While the dog is off the premises of the owner, keeper or harbinger, the identifying garment shall be visible and identifiable to an ordinary person from at least 15 feet away so as to provide reasonable warning to that person about the dog's classification and to prevent the dog from causing injury to any person or domestic animal.

(d) No owner, keeper or harbinger of a dangerous or vicious dog shall do any of the following:

(1) Debark or surgically silence a dog that a person knows or has reason to believe is a dangerous or vicious dog;

(2) Possess a dangerous or vicious dog if the person knows or has reason to believe that the dog has been debarked or surgically silenced;

(3) Falsely attest on a waiver form provided by the any veterinarian under Ohio R.C. 955.22(F) that the person's dog is not a dangerous or vicious dog or otherwise provide false information on that written waiver form. It is an affirmative defense to a charge of a violation of this division if the veterinarian who is charged with the violation obtained, prior to debarking or surgically silencing the dog, a written waiver form that complies with Ohio R.C. 955.22(F) and that attests that the dog is not a dangerous or vicious dog.

(e) Penalties.

(1) Whoever violates this section, when the violation involves a nuisance dog, is guilty of a misdemeanor ~~in~~ of the fourth degree on the first offense, a misdemeanor of the third degree ~~in~~ on the second offense and a misdemeanor of the ~~second~~-first degree on the third or any subsequent offense. Notwithstanding the foregoing penalties, if the dog aggressively bites a domestic animal or human without provocation as a result of a violation of this section, then whoever violates this section is guilty of a misdemeanor of the first degree. Additionally, the court shall order the offender to complete dog obedience training within a specified period of time and provide written proof thereof to the Police Chief.

(2) Whoever violates this section, when the violation involves a dangerous dog, is guilty of a misdemeanor of the third degree on the first offense, a misdemeanor of the second degree on the second offense and a misdemeanor of the first degree on the third or any subsequent offense.

Notwithstanding the foregoing penalties if the dangerous dog aggressively bites a domestic animal or human without provocation as a result of a violation of this section, then whoever violates this section is guilty of a misdemeanor of the first degree. Additionally the court shall order the offender to complete dog obedience training within a specified period of time and provide written proof thereof to the Police Chief. The court may further impose reasonable terms, conditions and restrictions deemed necessary to protect public health, safety and welfare.

Notwithstanding the foregoing penalties, if the dangerous dog aggressively bites a domestic animal or human without provocation, causing serious injury, as a result of a violation of this section, then whoever violates this section is guilty of a misdemeanor of the first degree. The court may impose reasonable terms, conditions and restrictions deemed necessary to protect public health, safety and welfare, including humane euthanasia of the dog by a licensed veterinarian.

(3) Whoever violates this section, when the violation involves a vicious dog, is guilty of a misdemeanor of the second degree on the first offense, a misdemeanor of the first degree on the second or any subsequent offense.

Notwithstanding the foregoing penalties if the vicious dog aggressively bites a domestic animal or human without provocation as a result of a violation of this section, then whoever violates this section is guilty of a misdemeanor of the first degree. Additionally the court shall order the offender to complete dog obedience training within a specified period of time and provide written proof thereof to the Police Chief. The court may further impose reasonable terms, conditions and restrictions deemed necessary to protect public health, safety and welfare.

Notwithstanding the foregoing penalties, if the vicious dog aggressively bites a domestic animal or human without provocation, causing serious injury, as a result of a violation of this section, then whoever violates this section is guilty of a misdemeanor of the first degree. The court may impose reasonable terms, conditions and restrictions deemed necessary to protect public health, safety and welfare, including humane euthanasia of the dog by a licensed veterinarian.

Notwithstanding the foregoing penalties, it is a felony to be prosecuted under appropriate state law, if the dog kills a person as a result of a violation of Ohio R.C. 955.22(C). The penalties in this section shall not apply whenever the conduct proscribed in this section constitutes a felony under Ohio R.C. 955.99.

(Ord. 03-07. Passed 4-7-03.)

505.25 INSPECTION OBSTRUCTION.

(a) Any person owning, keeping, possessing, harboring, maintaining or having the care, custody or control of a nuisance, dangerous or vicious dog shall be deemed to have given consent to an inspection of the property, other than within any private structure unless otherwise authorized by law, by any law enforcement officer or the Animal Control Officer for the purpose of determining compliance with the requirements of this chapter.

(b) No person, with purpose to prevent, obstruct or delay the performance by law enforcement officer or the Animal Control Officer of any authorized act within his official capacity, shall do any act which hampers or impedes said official in the performance of his lawful duties under the provisions of this chapter.

(1) Whoever violates this section is guilty of a misdemeanor of the third degree on the first offense, a misdemeanor of the second degree on the second offense and a misdemeanor of the first degree on the third or any subsequent offense. ~~Whoever violates subsection (b) hereof is guilty of a misdemeanor of the fourth degree.~~

(Ord. 03-07. Passed 4-7-03.)

505.26 SERIOUS PHYSICAL HARM BY DANGEROUS OR VICIOUS DOGS.

(a) No person, being the owner or having the care, custody or control of any dangerous or vicious dog within the city, shall allow such dog to cause serious physical harm to any person, except in defense of such owner's person or property.

(b) Lack of intent on the part of such person to allow such dog to injure another, or the lack of knowledge of the violent propensities of such dog, is not defense to a violation of this section.

(c) Whoever violates this section is guilty of a misdemeanor of the third degree on the first offense, a misdemeanor of the second degree on the second offense and a misdemeanor of the first degree on the third or any subsequent offense. ~~Whoever violates this section is guilty of a misdemeanor of the first degree.~~

(Ord. 03-07. Passed 4-7-03.)

505.27 PHYSICAL HARM BY DANGEROUS OR VICIOUS DOGS.

(a) No person, being the owner or having the care, custody or control of any dangerous or vicious dog within the City, shall allow such a dog to cause physical harm to any person, except in defense of such owner's person or property, or to cause physical harm to another dog, cat, or other domestic animal.

(b) Lack of intent on the part of such person to allow such dog to injure another, or the lack of knowledge of the violent propensities of such dog, is not defense to a violation of this section.

(c) Whoever violates this section is guilty of a misdemeanor of the third degree on the first offense, a misdemeanor of the second degree on the second offense and a misdemeanor of the

~~first degree on the third or any subsequent offense. Whoever violates this section is guilty of a misdemeanor of the second degree.~~

(Ord. 03-07. Passed 4-7-03.)

505.28 IMPOUNDMENT: DESTRUCTION OF DOGS.

(a) When any person, being the owner or having custody or control of any dog charged with a violation of this chapter, the court may, upon motion of any party or ~~it's~~ own motion, order the seizure and impoundment of the dog pending trial.

(b) In the event that a Law Enforcement Officer or the Animal Control Officer has probable cause to believe that a dangerous or vicious dog is running at large, he/she may seize and impound the dog without seeking prior court order.

(c) Nothing in this section shall be construed to prevent a Law Enforcement Officer or Animal Control Officer from seizing or destroying any animal which presents an immediate risk of physical harm to any person or property.

(d) Any dog that attacks and injures any person, another ~~dog or cat~~ domestic animal, shall be humanely destroyed when, in the courts judgment, such dog represents a continuing threat of serious harm to persons or other such animals. The Chief of Police may petition the court of competent jurisdiction for an order to humanely destroy any dog impounded pursuant to this chapter which represents a threat of harm to any person caring for such animal. The court shall order any dog that kills or causes serious physical harm to any person, other than a person committing a criminal trespass or other crime of violence upon the premises of the owner of such dog, humanely destroyed. (Ord. 03-07. Passed 4-7-03.)

505.29 DOG CLASSIFIED BY ANOTHER JURISIDCITION.

(a) Any person desiring to bring a dog to live in the City which has been previously declared a nuisance dog, dangerous dog or vicious dog, or similar designation in another jurisdiction, under the provisions of Ohio R.C. 955.11, et seq., or a comparable local ordinance, must notify the Police Department prior to moving the dog to the City.

(b) The Police Chief shall have the authority to determine whether a previously classified dog has engaged in the behaviors warranting designation under section 505.20. This determination may be based upon an investigation that includes observation and testimony about the dog's behavior, including the dog's upbringing and the owner's or keeper's control of the dog, and other relevant evidence as determined by the Chief of Police. The owner or keeper of the dog shall provide the Police Chief with all information requested related to that dog.

(c) Upon reasonable determination by the Chief of Police that a previously classified dog has engaged in behaviors warranting designation under section 505.20, the Police Chief shall give the dog's owner, keeper or harbinger written notice by certified mail or personal service. The notice shall state:

- (1) The description of the dog;
- (2) The level of classification;
- (3) The facts upon which the classification is based;
- (4) The availability of a hearing to object to the classification;
- (5) The restrictions placed on the dog as a result of the classification;
- (6) Penalties for violation of the restrictions; and
- (7) The availability of declassification procedures.

(c) Upon receipt of notice of the dog's classification as a potential nuisance dog, dangerous dog, or vicious dog pursuant to section (c) above, the owner or keeper shall comply with the requirements and restrictions specified in section 505.22 and 505.24 for the dog.

(d) If the dog is classified as a nuisance dog, dangerous dog or vicious dog the owner or keeper of the dog shall have the right to an administrative hearing to object to the designation pursuant to section 505.21. At the hearing the dog's owner or keeper must show, by clear and convincing evidence, that the classification as determined by the Police chief does not match the dog's previous behavior or classification.

(e) Whoever violates subpart (a) of this section is guilty of a misdemeanor of the second degree.

505.30 DANGEROUS AND VICIOUS DOG OWNERSHIP RESTRICTIONS.

(a) No person shall own, keep, maintain, allow, harbor or permit more than one dangerous or vicious dog at any one residence that has aggressively bitten and killed a dog or aggressively bitten and caused serious injury or death to a person.

(b) The provisions set forth in Ohio R.C. 955.54 shall apply inside the City, with the exception to division (A)(2), which shall be construed to include vicious dogs in addition to dangerous dog.

(e) Penalty.

(1) Whoever violates subpart (a) of this section is guilty of a misdemeanor of the second degree.

(2) Whoever violates subpart (b) of this section is guilty of a misdemeanor of the first degree.

PASSED:

PRESIDENT OF COUNCIL

CLERK OF COUNCIL

APPROVED:

MAYOR

9-2-16 ll

CITY OF BAY VILLAGE AGENDA REQUEST JULY 27, 2016

OVERVIEW

1. Action Requested

Increase the budget for Health Care by \$400,000 to allow for new payment structure in consortium.

Increase budget for Play in Bay to allow for refund to Village Foundation for \$500 for overpayment from 2015 project.

2. Previous Action

none

3. Background/Justification for Current Action

As of March 2016 the City moved to Jefferson Health Plan (JHP) in order to try to save on health care costs. The new payment structure is that the reserve that was previously held by the City will now be held with Jefferson. The City now pays a set price per employee plan per month (about \$100,000) and the reserve over what is paid in claims costs is held in a separate account with JHP. This reserve would be used to pay any run out claims if the City decided to change carriers. Also, JHP bills the City one month in advance which will cause an extra month (January 2017) to be paid under the 2016 budget. Previously the City held the reserves of which were used when the City switched from MMO to JHP.

The Play in Bay project from 2015 actual expenditure was \$16,485 and the Village Foundation had donated \$16,985 to the City the \$500 excess donation needs to be returned.

4. Financial Impact

There is enough cash in the Health Insurance Fund (600) to pay for these claims and allow for the transfer of reserve from the City to the City account with JHP.

None for the Play in Bay – cash is in Fund (234)

5. Affected Parties

None

6. Implementation Plan

Adjust budget by additional \$400,000 in the Health Insurance (Fund 600).

Reimburse Village Foundation over payment.

7. High-Level Timeline/Schedule

NA

CITY OF BAY VILLAGE, OHIO
ORDINANCE NO.
By: Clark

To amend appropriations for the current and other expenditures of the City of Bay Village for the fiscal year 2016, as previously appropriated in annual appropriation 16-09 and amended by ordinances 16-23, 16-46 and 16-55.

NOW, THEREFORE, be it ordained by the Council of the City of Bay Village, State of Ohio:

Section 1: That to provide for the current expenses and other expenditures of the City of Bay Village during the fiscal year ending December 31, 2016, the following sums be and they are hereby set aside and appropriated from the funds herein specified as follows, to wit:

Section 2: That there be appropriated transferred and advanced from the following funds and as further detailed in the Schedules attached hereto as Exhibit "A" and Exhibit "B" and incorporated herein:

General Fund - 100						
Fund #	Fund Activity	Personal Services	Other	Capital Improvement	Transfers/Advances	Total
100	Total General Fund	\$ 6,813,167	\$ 3,541,762	\$ 40,700	\$ 1,024,006	\$ 11,419,635

Special Revenue Fund Group 200						
Fund #	Fund Activity	Personal Services	Other	Capital Improvement	Transfers/Advances	Total
210	Emergency Paramedic	\$ 1,143,720	\$ 88,975	\$ 12,000	\$ -	\$ 1,244,695
230	Parks and Recreation	663,770	292,700	15,500	-	971,970
231	Community Gym Capital Improvement	-	-	5,000	-	5,000
234	Play in Bay	-	500	-	-	500
235	Bay Family Services	-	43,700	-	-	43,700
236	Community Diversion	-	9,000	-	-	9,000
238	Tennis Court Maintenance	-	-	10,000	-	10,000
240	Equipment Replacement	-	5,000	888,320	-	893,320
245	Private Property Maintenance	13,555	32,500	-	-	46,055
250	State Highway	-	51,000	-	-	51,000
270	Street Construction	637,250	294,100	750,000	175,000	1,856,350
280	Police Pension	348,500	-	-	-	348,500
281	Fire Pension	471,100	-	-	-	471,100
282	Accrued Benefits	140,000	-	-	-	140,000
284	Endowment Trust	-	23,707	-	-	23,707
290	Senior Programs	-	49,500	-	-	49,500
292	Law Enforcement	-	28,000	-	-	28,000
293	Drug Fine/Bail Forfeiture	-	500	-	-	500
294	Alcohol Intervention	-	6,500	-	-	6,500
297	Federal Equitable Sharing	-	50,000	-	-	50,000
200	Total Special Revenue Funds	\$ 3,417,895	\$ 975,682	\$ 1,680,820	\$ 175,000	\$ 6,249,397

Debt Service Fund Group 300						
Fund #	Fund Activity	Personal Services	Other	Capital Improvement	Transfers/Advances	Total
300	General Bond Retirement	\$ -	\$ 4,591,935	\$ -	\$ -	\$ 4,591,935

Capital Project Fund Group - 400						
Fund #	Fund Activity	Personal Service	Other	Capital Improvement	Transfers/Advances	Total
480	Walker Road Park	-	220	-	-	220
490	Public Improvement	-	-	120,700	-	120,700
494	Infrastructure Improvements	-	-	130,000	-	130,000
495	Municipal Building Improvements	-	-	46,000	88,000	134,000
400	Total Capital Project Fund Group	\$ -	\$ 220	\$ 296,700	\$ 88,000	\$ 384,920

Enterprise Fund Group - 500						
Fund #	Fund Activity	Personal Service	Other	Capital Improvement	Transfers/Advances	Total
520	Pool	\$ 222,000	\$ 111,500	\$ 10,000	\$ -	\$ 343,500
580	Sewer	815,475	1,481,612	94,000	-	2,391,087
500	Total Enterprise Fund Group	\$ 1,037,475	\$ 1,593,112	\$ 104,000	\$ -	\$ 2,734,587

Internal Service Fund Group - 600						
Fund #	Fund Activity	Personal Service	Other	Capital Improvement	Transfers/Advances	Total
600	Health Insurance	\$ -	\$ 1,697,250	\$ -	\$ -	\$ 1,697,250
601	General Insurance	-	166,118	-	-	166,118
602	Workers Compensation	140,000	-	-	-	140,000
600	Total Internal Service Fund Group	\$ 140,000	\$ 1,863,368	\$ -	\$ -	\$ 2,003,368

Trust Fund Group - 800						
Fund #	Fund Activity	Personal Service	Other	Capital Improvement	Transfers/Advances	Total
810	Cahoon Park	\$ -	\$ 66,900	\$ -	\$ -	\$ 66,900
820	Cahoon Memorial	-	3,300	-	-	3,300
830	Cahoon Library	-	8,000	-	-	8,000
840	Waldeck	-	6,200	-	-	6,200
860	Dwyer	-	5,000	-	-	5,000
800	Total Trust Fund Group	\$ -	\$ 89,400	\$ -	\$ -	\$ 89,400

Deposit Fund Group - 900						
Fund #	Fund Activity	Personal Service	Other	Capital Improvement	Transfers/Advances	Total
930	Building Deposits	\$ -	\$ 30,000	\$ -	\$ -	\$ 30,000
931	Security Deposits	-	22,000	-	-	22,000
900	Total Deposit Fund Group	\$ -	\$ 52,000	\$ -	\$ -	\$ 52,000

Grand Total All Funds **\$ 11,408,537** **\$ 12,707,479** **\$ 2,122,220** **\$ 1,287,006** **\$ 27,525,242**

(Limited) 1990 Transfers and Advances by Fund		Amount
General Fund to Parks and Recreation		\$ 430,000
General Fund to Community Gym		8,306
General Fund to Street Construction		425,000
General Fund to Cahoon Income		25,000
General Fund to Cahoon Trust		2,000
General Fund to Cahoon Library		10,000
General Fund to Bay Family Services		43,700
General Fund to Accrued Benefits		30,000
General Fund to Fire Pension		50,000
Municipal Building Improvement to Equipment Replacement		88,000
Total Transfers		\$ 1,112,006
Street Construction to Infrastructure Improvements		175,000
Total Advances and Advance Repayments		\$ 175,000
Total Transfers and Advances		\$ 1,287,006

- Section 3: That the City Director of Finance be and is hereby authorized and directed to draw warrants against the appropriations set forth upon presentation of proper vouchers.
- Section 4: That all expenditures within the fiscal year ending December 31, 2016. shall be made in accordance with the code accounts set forth above, and shall be made within the appropriations herein provided ("Appropriations" as used means the total amount appropriated for an individual fund).
- 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 this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.
- Section 6: This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare for the reason that it is necessary in the current operation of the City, and therefore shall take effect immediately upon its enactment and approval by the Mayor.

PASSED:

PRESIDENT OF COUNCIL

CLERK OF COUNCIL

MAYOR

**EXHIBIT A
SCHEDULE OF BUDGETS BY DEPARTMENT FOR GENERAL FUND**

Department	Personal Services	Other	Equipment Replacement	Transfer	Total
Council	\$ 60,400.00	\$ 9,150.00	\$ -	\$ -	\$ 69,550.00
Clerk of Council	52,610.00	900.00	-	-	53,510.00
Mayor	132,600.00	7,400.00	1,000.00	-	141,000.00
Law	111,340.00	112,000.00	-	-	223,340.00
Finance	275,791.00	35,500.00	1,200.00	-	312,491.00
Taxation	-	194,300.00	-	-	194,300.00
General Administration	190,900.00	463,672.00	-	1,024,006.00	1,678,578.00
Civil Service	-	24,150.00	-	-	24,150.00
Planning Commission	-	800.00	-	-	800.00
Zoning Board of Appeals	-	700.00	-	-	700.00
Service	1,812,620.00	1,880,600.00	10,500.00	-	3,703,720.00
Fire	1,274,600.00	96,650.00	14,000.00	-	1,385,250.00
Police	2,677,516.00	307,465.00	14,000.00	-	2,998,981.00
Central Dispatch	-	131,325.00	-	-	131,325.00
Building	-	261,275.00	-	-	261,275.00
Architecture Board of Review	-	25.00	-	-	25.00
Community Services	224,790.00	15,850.00	-	-	240,640.00
GRAND TOTAL	\$ 6,813,167.00	\$ 3,541,762.00	\$ 40,700.00	\$ 1,024,006.00	\$ 11,419,635.00

EXHIBIT "B"
SCHEDULE OF CAPITAL PROJECTS AND EQUIPMENT APPROPRIATIONS BY FUND

Fund	Description	Amount
Equipment Replacement (240)		
	Computer Replacements	33,800.00
	Phone System (From 2012)	133,000.00
	Fire - Equipment	15,000.00
	Police - Cars 1125 and 1151	90,420.00
	Police - CAD/RMS System	14,575.00
	Police Equipment	24,200.00
	Service - Construction Trailer	4,000.00
	Service - Truck 19 - GMC 4wd	30,000.00
	Service - Truck 18 - Ford Explorer	30,000.00
	Service - Truck 71 - Pick up Truck 2wd	35,000.00
	Service - Truck 503 - Ford Tractor/Loader	35,000.00
	Service - Truck 66 F250 with Plow	35,000.00
	Service - Truck 21 Super Duty Dump	60,000.00
	Service - Truck 35 Five Ton Dump	170,000.00
	Service -Scareb - with Westlake	178,325.00
Total Equipment Replacement (240)		888,320.00
Street Construction (270)		
	Street Improvements	700,000.00
Total Street Construction (270)		700,000.00
Public Improvement (490)		
	Play in Bay Improvement	10,000.00
	Service - School Flashers Normandy	6,000.00
	Dwyer Window Replacement	10,000.00
	Dwyer - Kitchen Engineering	20,500.00
	Kiddie Kollege Floor	13,000.00
	Bay Lodge Floor	13,000.00
	SWIF Parking Lot Grant Completion	25,000.00
	PD Garage Light Replacement	7,200.00
	Rose Hill/Osborn House	16,000.00
Total Public Improvements (490)		120,700.00
Infrastructure Improvement (494)		
	Queenswood Bridge	130,000.00
Municipal Building Improvements (495)		
	Service Painting Projects	46,000.00
Sewer (580)		
	Computer Model Lake/Bradley Sanitary	20,000.00
	Porter Creek Sewer	15,000.00
	Huntington Pump Station CPU Design	30,000.00
	Huntington Pump Station Radiator/Heat Exchanger	15,000.00
Total Sewer (580)		80,000.00
GRAND TOTAL		\$ 1,965,020.00

RESOLUTION NO.
INTRODUCED BY:

A RESOLUTION
**ACCEPTING THE AMOUNTS AND RATES AS DETERMINED BY THE BUDGET
COMMISSION AND AUTHORIZING THE NECESSARY TAX LEVIES AND
CERTIFYING THEM TO THE COUNTY FISCAL OFFICER,
AND DECLARING AN EMERGENCY**

WHEREAS, the Council in accordance with the provisions of law has previously adopted a Tax budget for the next succeeding fiscal year commencing January 1, 2017; and

WHEREAS, The Budget Commission of Cuyahoga County, Ohio, has certified its action thereon to this Council together with an estimate by the county Fiscal Officer of the rate of each tax necessary to be levied by this Council, and what part thereof is without, and what part within the ten mill tax limitation.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Bay Village, Ohio:

SECTION 1. That the amounts and rates as determined by the Budget Commission in its certification be and the same are hereby accepted, and that there be and is hereby levied on the tax duplicate of said City the rate of each tax necessary to be levied inside and outside the ten mill limitation as follows:

	<u>MILLS</u>
<u>OUTSIDE THE 10 MILL LIMITATION:</u>	
General Fund	6.88
Recreation Fund	.50
Police Pension Fund	.69
Fire Pension Fund	.69
Paramedic Fund	<u>2.25</u>
	11.01

INSIDE THE 10 MILL LIMITATION

General Bond Retirement Fund	3.89
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SECTION 2. That the Clerk of Council is hereby directed to certify a copy of this Resolution to the Fiscal Officer of said County.

SECTION 3. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this resolution 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 4. That this resolution 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 adopt and certify to the County Fiscal Officer the City's acceptance of the levies of taxes to be made in 2017 for collection in 2017 in order to comply with statues of the State with respect to fiscal matters and to provide sources of revenue for municipal operation during 2017, wherefore this resolution 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

8-5-16 LL

RESOLUTION NO.
INTRODUCED BY:

A RESOLUTION
**AUTHORIZING THE DIRECTOR OF FINANCE TO REQUEST TAX
ADVANCEMENTS BEFORE SETTLEMENT DATES FOR FISCAL YEAR 2017,
AND DECLARING AN EMERGENCY**

SECTION 1. That the Director of Finance is hereby authorized to request the Cuyahoga County Auditor to issue an order to the Treasurer of said County to pay to the City of Bay Village such funds as may be available from time to time for disbursement by said County Treasurer, in advance of regular semi-annual settlements with said County Treasurer.

SECTION 2. That this Council finds and determines that all formal actions of this Council concerning and relating to the passage of this resolution 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 resolution 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 request said tax advancements in order that the City may obtain funds for the daily operations of its departments, wherefore this resolution 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

RESOLUTION NO.
INTRODUCED BY:

A RESOLUTION
**APPROVING USE BY PETER B. AND ELAINE B. KORTE OF SUBMERGED LANDS
OF LAKE ERIE FOR SHORELINE IMPROVEMENTS,
AND DECLARING AN EMERGENCY.**

WHEREAS, Peter B. and Elaine B. Korte, 31146 Lake Road, Bay Village, Ohio 44140 will be in need of a lease with the Ohio Department of Natural Resources for use of submerged lands, to construct an erosion control structure; and

WHEREAS, said improvements will take place in submerged lands of Lake Erie, which is under the jurisdiction of the State of Ohio and Cuyahoga County, Ohio; and

WHEREAS, it is determined by the Council of the City of Bay Village, Ohio, pursuant to ORC§1506.11 (B) that the City of Bay Village has no need for said designated parcel of submerged lands for any planned use such as ports or docks, nor any other contemplated use for such submerged lands; and further has no objection to said use and does hereby approve said use of the submerged lands for the purpose herein stated;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Bay Village, Ohio:

SECTION 1. That Peter B. and Elaine B. Korte be permitted to proceed with such construction as requested on said submerged lands, subject to any other necessary approvals, and pursuant to a lease to be executed for and in consideration as will be hereinafter determined by the State of Ohio.

SECTION 2. The Council of the City of Bay Village through its action on the submerged land lease resolution, has considered only the needs of the City for the future use of the land and water involved in the request and has not reviewed the impact of said lease on the landowners which adjoin or abut the property involved in the lease application. This impact should be expressed to the Ohio Department of Natural Resources or through the public hearing process held by that office on the submerged land lease application.

SECTION 3. That this Council finds and determines that all formal actions of this Council concerning and relating to the passage of this resolution 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 4. That this resolution 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 resolution 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

8-24-16 LL

Joan Kemper

From: Mark Cunningham <mcunningham@saintraphaelparish.com>
Sent: Monday, August 01, 2016 2:34 PM
To: Joan Kemper
Cc: Sue Kohl
Subject: [Possible SPAM - Bay Village SPAM Filter] St. Raphael Sign Request for City Council

Importance: Low

Good Afternoon Joan,

I have two sign requests this afternoon, both concerning temporary signs on our St. Raphael Church property.

Request #1



Dimensions: 4'x8' Banner

Placement: The front lawn of the church, between the sidewalk and the church building; between fence posts in the ground

Duration: August 5th (or as soon as approved) thru October 21st

Request #2

Three yard signs to be placed along the school/church driveway thanking parents for support of a fundraiser (I don't have the exact content, but I think it will be a list of donor names).

Dimensions: 24" x 18"

Placement: along the church driveway between Dover Center and Douglas roads

Duration: September 14th (one day only)

Please let me know if you need more information or have any questions.

Thanks, and Blessings,

Mark A. Cunningham

Stewardship Director

St. Raphael Parish

525 Dover Center Road

Bay Village, OH 44140

440-871-1100 x146

mcunningham@saintraphaelparish.com

www.SaintRaphaelParish.com

351.15 OVERNIGHT PARKING; MAXIMUM CONTINUOUS PARKING LIMIT.

(a) No person shall park a motor vehicle on any street for a period of time longer than thirty minutes between the hours of 2:30 a.m. and 5:00 a.m. of any day, except persons on emergency calls.

(Ord. 76-19. Passed 3-1-76.)

(b) No person shall park a motor vehicle on any street for a period of time longer than six hours between the hours of 5:00 a.m. and 2:30 a.m. the following day, nor shall any person park a motor vehicle on any City property between the hours aforesaid unless such vehicle displays a permission decal obtained from the Mayor or the Director of Public Safety.

(Ord. 81-68. Passed 6-15-81.)

ORDINANCE NO.
INTRODUCED BY:

AN ORDINANCE
**APPROVING AN INTERIM MAYOR FOR THE CITY OF BAY VILLAGE EFFECTIVE
OCTOBER 1, 2016 AND THEREAFTER,
AND DECLARING AN EMERGENCY.**

WHEREAS, Mayor Deborah Sutherland has announced her retirement as mayor for the City of Bay Village effective September 30, 2016; and

WHEREAS, Gary A. Ebert, the current Law Director, has agreed to serve as Interim Mayor effective October 1, 2016 until such time as Council shall appoint a successor as provided under Section 3.9 of the Bay Village City Charter;

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

SECTION 1. Law Director Gary A. Ebert shall be appointed and serve as Interim Mayor for the City of Bay Village effective October 1, 2016 through December 31, 2016 or until a successor is appointed pursuant to Section 3.9 of the Bay Village City Charter.

SECTION 2. The compensation for the Law Director while serving as Interim Mayor of the City of Bay Village shall be increased \$500.00 per pay period effective October 1, 2016, which represents the approximate difference between the salary established for the Mayor and the salary for the Law Director.

SECTION 3. 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 4. That this ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety and welfare, 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

9-2-16 ll