

**Agenda, Bay Village City Council**  
Regular Meeting, Council Chambers

**September 19, 2016**  
**8:00 p.m.**

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

Paul Koomar, President of Council, Presiding  
Roll Call/Pledge of Allegiance led by Councilman-at-large Dwight Clark  
Reading of Minutes – Special Meeting of Council held September 12, 2016

## **ANNOUNCEMENTS**

### **REPORTS**

Mayor Sutherland	Director of Community Services Selig
Director of Law Ebert	Police Chief Spaetzel
Director of Finance Mahoney	Fire Chief Lyons
Director of Recreation Enovitch	Chief Building Official Jeff Grassi
Director of Public Service/Safety Thomas	

## **COMMUNICATIONS**

### **COMMITTEE OF THE WHOLE**

Offer of a donation from the Bay Village VFW and American Legion

**Resolution** recommending the passage of Issue No. 106 on the November 8, 2016 ballot, and declaring an emergency.

### **ENVIRONMENT, SAFETY & COMMUNITY SERVICES COMMITTEE – Mr. Vincent**

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

**Ordinance** amending Chapter 513 of the Codified Ordinances by enacting Sections 513.15 and 513.16 prohibiting the establishment and operation of Medical Marijuana dispensaries, the indoor and outdoor cultivation of Medical Marijuana, and the delivery of Marijuana, and declaring an emergency. (First Reading).

**Ordinance** amending Codified Ordinance 513.01 regarding Drug Abuse Control/Definitions, and declaring an emergency. (First Reading).

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**FINANCE AND CLAIMS- Mr. Clark**

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

**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 Appropriation 16-09, and amended by Ordinances 16-23, 16-46, 16-55, and 16-57.

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

**Resolution** granting permission to St. Raphael Church to erect a ground sign, and declaring an emergency.

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

**RECREATION AND PARK IMPROVEMENTS COMMITTEE – Mr. Mace**

**SERVICES, UTILITIES & EQUIPMENT COMMITTEE – Mr. Tadych**

**MISCELLANEOUS**

**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

September 12, 2016

Council Chambers 8:00 p.m.

President of Council Paul A. Koomar, presiding

Present: Clark, Henderson, Koomar, Lieske, Mace, Tadych, Vincent, Mayor Sutherland

Also Present: Law Director Ebert, Recreation Director Enovitch, Community Services Director Selig, Director of Public Service/Safety Thomas, Police Chief Spaetzel, Fire Chief Lyons.

## AUDIENCE

The following audience members signed in this evening: Jerrie Barnett, Jeff Gallatin, Tom and Janet Kauker, Margaret Watterson, Jerrie Barnett, Denny and Tara Wendell, Pam Cottam, Lydia DeGeorge.

President of Council Koomar called the meeting to order at 8:00 p.m. with roll call and the Pledge of Allegiance, led by Councilwoman Karen Lieske.

Mr. Koomar called upon Ward 2 Council Paul Vincent for a brief report on the Environment, Safety and Community Services Committee Meeting held this evening at 6 p.m. in the Council Chambers of Bay Village City Hall. Councilman Vincent stated that there were a number of items discussed regarding the current dog ordinance, and proposed changes to the dog ordinance at the meeting this evening. Chapter 505.01, which is the animal-at-large code, will be addressed to increase violations for dogs, cats and other animals running at large. There is also a "One-Strike Rule" that they are proposing to implement which would inflict a penalty to an owner whose dog ran off their property and attacked another animal or a person. Presently, we do not have that rule. The goal would be to help protect residents and their pets.

Mr. Koomar asked Councilman Henderson for his comments regarding the Municipal Bridge Application Grant for the Queenswood Bridge. Mr. Henderson called upon Service/Safety Director Thomas to describe the projects, and the excellent work done by the City. Mr. Thomas stated that last spring when they had someone looking at the Queenswood Bridge, and the year prior when they talked about the actual cost of \$130,000 to do some temporary fixes to the bridge, they researched the possibility of a grant with the Ohio Department of Transportation. They applied for this federal grant, and were successful in achieving the grant in the amount of \$1,379,336. Mr. Thomas noted that they applied at a time when usually these federal grants are an 80/20 (80% grant/20% local participation). This time, however, the state contributed another 15% with monies generated from turnpike tolls to increase the contributions of federal and state to 95%. They were then looking at the cost of design, or 10% of the total project cost, and an environmental study costing an additional \$3,000. The project is scheduled for 2019, however, in meeting with the Ohio Department of Transportation the officials have advised that the project can be moved up if the engineering design is done.

Mr. Henderson stated that earlier there were discussions about the safety of Queenswood Bridge,

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and asked Mr. Thomas to speak to why it is advisable to do the project on this timeline. Mr. Thomas stated that in speaking with Osborn Engineering and the state engineers, they feel that this bridge is sound enough to be able to last. Truck traffic has been removed from the bridge and the City will continue to monitor the bridge. If there are any problems whatsoever that they feel are an issue they will close the bridge down.

Mr. Clark noted that the amount of \$130,000 has been approved from the Infrastructure Improvement Fund for this project.

Mayor Sutherland stated that she thinks Director Scott Thomas has done a phenomenal job on securing the \$1.3 million grant, which, for a community the size of Bay Village is unheard of. Mayor Sutherland addressed Mr. Thomas and complimented his work and said that he will be missed as he has submitted his resignation effective October 3, 2016. Mayor Sutherland stated it will be a great loss to the City. She noted that he is very creative and she is very happy she stole him from the City of North Olmsted.

Mr. Koomar called for a reading of the Minutes of the Regular Meeting of Council held September 6, 2016. Mr. Clark **MOVED** to dispense with the reading and accept the minutes of the Regular Meeting of Council held September 6, 2016 as prepared and distributed. **Motion passed 7-0.** Mr. Koomar called for a reading of the Minutes of the Meeting of the Cahoon Memorial Park Trustees held September 6, 2016. Mr. Clark **MOVED** to dispense with the reading and accept the minutes of the meeting of the Cahoon Memorial Park Trustees held September 6, 2016 as prepared and distributed. **Motion passed 7-0-1 (abstention by Mayor Sutherland).**

**Law Director Ebert** read a Proclamation in honor of the service of Mayor Deborah L. Sutherland.

*“The Council of the City of Bay Village joins with the citizens of the Bay Village community in extending good wishes for a well-earned retirement to Mayor Debbie Sutherland; and*

*WHEREAS, Debbie, a Bay Village native and Bay High graduate, is married to Bob, and they are the proud parents of Amanda (Davin) and Jenny; and*

*WHEREAS, Debbie began her career in politics in 1996 serving as a Ward 2 City Council representative for 4 ½ years. On October 2, 2000 the Bay Village City Council appointed her Mayor, thereby becoming the first woman Mayor in the history of Bay Village. She has dedicated herself to the betterment of Bay Village in her 20 years in office. She holds the record as the longest serving Mayor in the city’s history; and*

*WHEREAS, Mayor Sutherland obtained her Master’s degree in Public Administration from Cleveland State University’s Levin College of Urban Affairs and in 2002 she was selected as “Outstanding Fellow” for Cleveland State University’s Leadership Academy XI. She was selected for the prestigious Leadership Cleveland Class of 2004; and*

*WHEREAS, Mayor Sutherland became one of the outstanding leaders of Northeast Ohio, being elected President of the Cuyahoga County Mayors and Managers Association in 2006 and re-elected in 2007. She was a tireless advocate for regional cooperation and served on many task forces to improve life in Northeast Ohio, including those dealing with economic development and alternative energy. She was appointed to the Great Lakes Compact Advisory Board, the*

*Cuyahoga County Board of Elections, and is the Westshore representative to NOACA. She serves on the Board of Trustees of Destination Cleveland, and is the Legislative Committee Chair for the Cuyahoga County Mayors' and City Managers' Association as well as the Chair of NOACA's External Affairs Committee. Her efforts have been recognized by Crain's Cleveland Business, who named her one of 2007's "Women of Note" and one of the 2007 "Power Pack 50" denoting the 50 most influential people in Northeast Ohio. In 2008 she was included as one of Inside Business's "100 Most Influential People" and she was recognized by Cleveland Magazine as one of 50 "Influentials" changing life in Northeast Ohio; and*

*WHEREAS, among her many accomplishments during her tenure, Mayor Sutherland can boast the construction of a new Family Aquatic Facility, a new Police Station, a joint Bay School/City Community Gym, the jointly owned Avon Lake/Bay Village Walker Rd. Park and the first new commercial development in 30 years. Numerous road and sewer projects have been undertaken and completed; all without ever raising taxes; and*

*WHEREAS, Debbie was known for her sayings, one heard frequently was "Don't let the perfect be the enemy of the good"; and*

*WHEREAS, all residents, past and present, have been well served by Mayor Sutherland who has utilized her knowledge and years of experience to lead the community through a post 9/11 era, the Great Recession and Super Storm Sandy, just to name a few of the challenges she faced. Debbie was a Mayor with determination and the vision to make her hometown a better community.*

*NOW THEREFORE, I, Gary A. Ebert, Law Director for the City of Bay Village, on behalf of City Council, the Administration, and residents of the Bay Village community do hereby extend our sincere appreciation to Mayor Debbie Sutherland for her more than 20 years of dedicated service, and extend sincere best wishes for a well-deserved, happy and healthy retirement in South Carolina living near her daughter, and much success in her new venture.*

*In witness whereof I have hereunto set my hand and seal this 12<sup>th</sup> day of September 2016.*

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*Gary A. Ebert, Law Director*

Mayor Sutherland stated that she very much appreciates the proclamation, commenting as follows: "It has been a wonderful, wonderful experience, not only representing my hometown, but working with a very, very talented group of people. The people who work at the City of Bay Village for the residents are just phenomenal. That has been really the highlight of my career, having the opportunity to work with, not only the Directors, the guys at the Service Garage, the cops that are on the street, the firefighters, they're just phenomenal people. It has been just a really great ride. But, all good things must come to an end and we have a house in South Carolina, and a daughter down there, and family south of the Mason-Dixon Line, so we are going to migrate south. Bob is going to be down permanently, but I will keep coming back and forth for my business. It has really been phenomenal and of course I could not be as successful without my trusty assistant, Sue. Sue went to high school with Bob and myself and we have

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been friends for a really long time. It is the people around us that have made us so successful. I really want to thank everybody for their support.”

**Mr. Vincent** introduced and read **Ordinance 16-62** authorizing the Mayor to implement a Wellness Incentive Program for full-time employees, and declaring an emergency, and moved for adoption.

There being no further discussion, Mr. Koomar called for a vote on the motion for adoption of Ordinance No. 16-62.

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. 16-62, an emergency measure, by a vote of 7-1.

**Motion by Mr. Henderson** accepting the Municipal Bridge Application Grant.

**Motion passed 7-0.**

**Motion by Henderson** to advertise for letters of interest for engineering services for the Queenswood Road Bridge Replacement Project.

**Motion passed 7-0.**

There being no further business to discuss, the meeting adjourned at 8:22 p.m.

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Paul A. Koomar, President of Council

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Joan Kemper, Clerk of Council

RESOLUTION NO.  
INTRODUCED BY:

**A RESOLUTION**  
**RECOMMENDING THE PASSAGE OF ISSUE 106 ON THE NOVEMBER 8, 2016  
BALLOT, AND DECLARING AN EMERGENCY.**

**WHEREAS**, our schools are a reflection of the City in which they function; and

**WHEREAS**, for decades the Bay Village School district has been considered one of the best in the country, ranking among the top five hundred of the nation's 13,000 school districts; and

**WHEREAS**, the difficulties in connection with funding for our public schools today impact the City as a whole; and

**WHEREAS**, the Mayor and the Council of the City of Bay Village recognize the importance of working together to continue the education and quality of life of our youth and thereby investing in the future quality of our City;

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

**SECTION 1.** That the Mayor and the Council of the City of Bay Village, Ohio recommend passage of Issue No. 106 on election day, November 8, 2016.

**SECTION 2.** That the Clerk of Council of the City of Bay Village, Ohio is hereby authorized and directed to forward a certified copy of this resolution to Amy Huntley, President of the Board of Education.

**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:

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PRESIDENT OF COUNCIL

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CLERK OF COUNCIL

APPROVED:

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MAYOR

9/15/16 II

**DRAFT 9-15-16**

ORDINANCE NO.  
INTRODUCED BY:

**AN ORDINANCE**  
**AMENDING CODIFIED ORDINANCE SECTION 505.01 DOGS,**  
**CATS, AND OTHER ANIMALS RUNNING AT LARGE AND**  
**REPEALING SECTION 505.99 PENALTIES,**  
**AND DECLARING AN EMERGENCY**

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

**SECTION 1.** That Codified Ordinance 505.01 which presently reads as follows:

**505.01 DOGS, CATS, AND OTHER ANIMALS RUNNING AT LARGE.**

(a) No person, being the owner or in charge or control of any dog, cat, or other animal, shall permit or allow by any means or in any manner, such dog, cat, or other animal, to go or remain upon any public Street or place within the City except when accompanied by a responsible person and upon a leash. The length of a leash shall be no longer than that which is reasonably necessary to maintain control of a pet and to prevent the pet from trespassing on private property, or from chasing or attacking any person, animal or vehicle. As against the owner or person in charge or control of any such dog, cat, or other animal, evidence that such dog, cat, or other animal, was found at large upon any public street or place within the City shall be prima- facie evidence of a violation of this section.

(b) No person, being the owner or in charge or control of any dog, cat, or other animal, shall permit or allow by any means or in any manner, such dog, cat, or other animal, to go or remain on any city park property without reasonable restraint and leashed and under control. Reasonable restraint and under control is defined here as restraint which conforms to the animals weight, size, and strength, being controlled by a person who is of suitable age, size and discretion to control the animal.

(c) While on private property, it shall be unlawful to allow any dog, cat, or other animal, outdoors on private property unless the animal is leashed, or contained in a fence or under the control of a responsible individual. It shall be unlawful for any owner to allow his or her animal to cross outside the property line of its owner to any extent, including reaching over, under or through a fence. Any method of pet containment is not considered valid during a period of time when failure or lack of maintenance renders it non-effective. Visible signage to an electronic pet containment system must be posted.

(d) Whoever violates or fails to comply with this section is guilty of a minor misdemeanor and is subject to incremental increases in misdemeanor degrees with repeated offenses that occur within the first twelve (12) months of the first offense.  
(Ord. 03-07. Passed 4-7-03.)

**be and the same is amended to read:**

**505.01 DOGS, CATS, AND OTHER ANIMALS RUNNING AT LARGE.**

(a) No person, being the owner or in charge or control of any dog, cat, or other animal, shall permit or allow by any means or in any manner, such dog, cat, or other animal, to go or remain upon any public Street or place within the City except when accompanied by a responsible person and upon a leash. The length of a leash shall be no longer than that which is reasonably necessary to maintain control of a pet and to prevent the pet from trespassing on private property, or from chasing or attacking any person, animal or vehicle. As against the owner or person in charge or control of any such dog, cat, or other animal, evidence that such dog, cat, or other animal, was found at large upon any public street or place within the City shall be prima- facie evidence of a violation of this section.

(b) No person, being the owner or in charge or control of any dog, cat, or other animal, shall permit or allow by any means or in any manner, such dog, cat, or other animal, to go or remain on any city park property without reasonable restraint and leashed and under control. Reasonable restraint and under control is defined here as restraint which conforms to the animals weight, size, and strength, being controlled by a person who is of suitable age, size and discretion to control the animal.

(c) While on private property, it shall be unlawful to allow any dog, cat, or other animal, outdoors on private property unless the animal is leashed, or contained in a fence or under the control of a responsible individual. It shall be unlawful for any owner to allow his or her animal to cross outside the property line of its owner to any extent, including reaching over, under or through a fence. Any method of pet containment is not considered valid during a period of time when failure or lack of maintenance renders it non-effective. Visible signage to an electronic pet containment system must be posted.

~~(d) — Whoever violates or fails to comply with this section is guilty of a minor misdemeanor and is subject to incremental increases in misdemeanor degrees with repeated offenses that occur within the first twelve (12) months of the first offense.  
(Ord. 03-07. Passed 4-7-03.)~~

(d) Penalties.

(1) Whoever violates this section is guilty of a minor misdemeanor on the first offense, a misdemeanor of the fourth degree on the second offense, and a misdemeanor of the second degree on the third or any subsequent offense. **(THREE STRIKES LANGUAGE HERE?)**

(2) Notwithstanding division (d)(1) of this section, if the animal bites a domestic animal without provocation as a result of violation of this section, then whoever violates this section is guilty of a misdemeanor of the third degree.

(3) Notwithstanding division of this section, if the animal bites a human without provocation as a result of a violation of this section, then whoever violates this section is guilty of a misdemeanor of the second degree.

**DRAFT 9-15-16**

(4) Notwithstanding division (d)(1) of this section, where the animal bites a human or domestic animal without provocation and causes serious injury as defined by Ohio R.C. 955.11(A)(5), as a result of a violation of this section, then whoever violates this section is guilty of a misdemeanor of the first degree.

**and present Sections 505.01 and 505.99 are hereby repealed.**

**SECTION 2.** That this Council finds and determines that all formal actions of this Council concerning and relating to the passage of this ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and of any committee that resulted in those formal actions were in meetings open to the public in compliance with law.

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

PASSED:

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PRESIDENT OF COUNCIL

\_\_\_\_\_  
CLERK OF COUNCIL

APPROVED:

\_\_\_\_\_  
MAYOR

9-15-16

ORDINANCE NO.  
INTRODUCED BY:

**AN ORDINANCE**  
**AMENDING CHAPTER 513 OF THE CODIFIED ORDINANCES BY  
ENACTING SECTIONS 513.15 AND 513.16 PROHIBITING THE ESTABLISHMENT  
AND OPERATION OF MEDICAL MARIHUANA DISPENSARIES, THE INDOOR AND  
OUTDOOR CULTIVATION OF MEDICAL MARIHUANA,  
AND THE DELIVERY OF MARIHUANA, AND  
DECLARING AN EMERGENCY**

**WHEREAS**, on June 8, 2016 Ohio Governor John Kasich signed House Bill 523 into law after it passed the Ohio General Assembly; and

**WHEREAS**, House Bill 523 will become effective on September 8, 2016; and

**WHEREAS**, House Bill 523 provides for the regulation and legalization of medical marihuana within the State of Ohio; and

**WHEREAS**, House Bill 523 allows for the Department of Commerce to award licenses to medical marihuana cultivators, processors, and testing laboratories; and

**WHEREAS**, House Bill 523 allows for the State Board of Pharmacy to award licenses to medical marihuana dispensaries; and

**WHEREAS**, the act included the adoption of Ohio Revised Code Section 3796.29 which authorized the legislation of a municipal corporation to adopt by Ordinance restrictions including the prohibition of cultivators, processors or retail dispensaries within said municipal corporation; and

**WHEREAS**, the Bay Village City Council takes legislative notice that the use, possession, cultivation, distribution, and sale of marihuana, whether for medical or recreational use, remains illegal under the Controlled Substances Act, codified at 21 U.S.C. Section 841, and that federal courts have recognized that the federal government may enforce the Controlled Substances Act notwithstanding contrary laws of any State; and

**WHEREAS**, in light of the continuing conflict between state and federal law, the City of Bay Village must resolve for itself whether, as a land use matter, medical marihuana cultivators, dispensaries, and processors, as defined by House Bill 523, should be permitted, regulated, or prohibited; and

**WHEREAS**, the Bay Village City Council finds and declares that it is necessary to retain local control over the regulation of commercial medical marihuana activities in order to protect the public health, safety, and welfare while it further considers whether future regulations may allow for the safe and responsible operation of medical marihuana cultivators, processors, and dispensaries within the City of Bay Village.

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

**SECTION 1.** That Chapter 513 of the Codified Ordinances of the City of Bay Village is hereby amended by enacting new Sections 513.15 and 513.16 which shall read as follows:

**513.15 PROHIBITED ACTIVITIES RELATING TO MEDICAL MARIHUANA**

The following prohibitions apply to all property within the boundaries of the City of Bay Village, regardless of the zone, adopted specific plan, overlay zone, or any other development or use classification or other designation of property:

- a) It is unlawful for any person to engage in the indoor or outdoor cultivation of medical marihuana or to establish or operate, or to allow, cause, create, suffer, or permit the establishment or operation of a medical marihuana cultivation facility.
- b) It is unlawful for any person to engage in the processing of medical marihuana or to establish or operate, or to allow, cause, create, suffer, or permit the establishment or operation of a medical marihuana processing facility.
- c) It is unlawful for any person to establish or operate, or to allow, cause create, suffer, or permit the establishment or operation of a medical marihuana dispensary.
- d) It is unlawful for any person to deliver medical marihuana, or to allow, cause, create, suffer, or permit the delivery of medical marihuana, except that a patient or caregiver as registered by the State Board of Pharmacy under Section 3796.08 of the Ohio Revised Code may engage in all activities allowed pursuant to Sections 3796.22 and 3796.23 of the Ohio Revised Code.
- e) No zoning permit, building permit, certificate of occupancy or any other permit shall be granted to a business for opening, using any land or devoting any floor area of the business for the purposes of operating a medical marihuana cultivation facility, processing facility, or dispensary.

**513.16 PUBLIC NUISANCE; VIOLATION; REMEDIES NOT EXCLUSIVE; PENALTY**

- a) Engaging in any activity or using property to engage in any activity, prohibited under this chapter constitutes a public nuisance subject to abatement.
- b) Notwithstanding any other provision of the zoning ordinances of the City of Bay Village, any person who violates this chapter shall be guilty of a misdemeanor of the first degree. Each day or any portion thereof that a person violates any provision of this chapter shall constitute a separate offense.
- c) Any enforcement action taken pursuant to this chapter shall not prejudice or adversely affect any other action, whether administrative, civil or criminal, that may be brought to abate the public nuisance or violation or to seek compensation for damages suffered. An administrative, civil, or criminal action may be brought concurrently with any other process regarding the same public nuisance or violation.

**SECTION 2.** That this Council finds and determines that all formal actions of this Council concerning and relating to the passage of this ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and of any committee that resulted in those formal actions were in meetings open to the public in compliance with law.

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

ORDINANCE NO.  
INTRODUCED BY:

**AN ORDINANCE**  
**AMENDING CODIFIED ORDINANCE 513.01 REGARDING**  
**DRUG ABUSE CONTROL/DEFINITIONS,**  
**AND DECLARING AN EMERGENCY**

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

**SECTION 1.** That Codified Ordinance Section 1373.01 which presently reads as follows:

**513.01 DEFINITIONS.**

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

- (a) "Administer" means the direct application of a drug, whether by injection, inhalation, ingestion or any other means to a person or an animal.
- (b) "Controlled substance" means a drug, compound, mixture, preparation or substance included in Schedule I, II, III, IV, or V.
- (c) "Dispense" means sell, leave with, give away, dispose of or deliver.
- (d) "Distribute" means to deal in, ship, transport or deliver but does not include administering or dispensing a drug.
- (e) "Hypodermic" means a hypodermic syringe or needle, or other instrument or device for the injection of medication.
- (f) "Manufacturer" means a person who manufactures a controlled substance as "manufacture" is defined in Ohio R.C. 3715.01.
- (g) Except as provided in subsection (g)(2) hereof:
  - (1) "Marihuana" means all parts of a plant of the genus cannabis, whether growing or not, the seeds of a plant of that type; the resin extracted from a part of a plant of that type; and every compound, manufacture, salt, derivative, mixture or preparation of a plant of that type or of its seeds or resin. "Marihuana" does not include the mature stalks of the plant, fiber produced from the stalks, oils or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from the mature stalks, fiber, oil or cake, or the sterilized seed of the plant that is incapable of germination. (ORC 3719.01)
  - (2) "Marihuana" does not include hashish. (ORC 2925.01)
- (h) "Controlled substance analog" has the same meaning as provided in Ohio R.C. 3719.01.
- (i) "Official written order" means an order written on a form provided for that purpose by the Director of the United States Drug Enforcement Administration, under any laws of the United States making provision for the order, if the order forms are authorized and required by Federal law.
- (j) "Pharmacist" means a person licensed under Ohio R.C. Chapter 4729 to engage in the practice of pharmacy.

(k) "Pharmacy" has the same meaning as in Ohio R.C. 4729.01.

(l) "Poison" means any drug, chemical, or preparation likely to be deleterious or destructive to adult human life in quantities of four grams or less.

(m) "Licensed health professional authorized to prescribe drugs", "prescriber" and "prescription" have the same meanings as in Ohio R.C. 4729.01.

(n) "Sale" includes delivery, barter, exchange, transfer or gift, or offer thereof, and each transaction of those natures made by any person, whether as principal, proprietor, agent, servant or employee.

(o) "Schedule I", "Schedule II", "Schedule III", "Schedule IV" and "Schedule V" mean controlled substance Schedules I, II, III, IV, and V respectively, established pursuant to Ohio R.C. 3719.41, as amended pursuant to Ohio R.C. 3719.43 or 3719.44.

(p) "Wholesaler" means a person who, on official written orders other than prescriptions, supplies controlled substances that the person has not manufactured, produced or prepared personally and includes a "wholesale distributor of dangerous drugs" as defined in Ohio R.C. 4729.01.

(ORC 3719.01)

(q) "Drug of abuse" means any controlled substance as defined in subsection (b) hereof, any harmful intoxicant as defined in subsection (x) hereof and any dangerous drug as defined in subsection (r) hereof.

(ORC 3719.011)

(r) "Dangerous drug" means any of the following:

(1) Any drug to which either of the following applies:

A. Under the "Federal Food, Drug, and Cosmetic Act", 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, the drug is required to bear a label containing the legend "Caution: Federal law prohibits dispensing without prescription" or "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian" or any similar restrictive statement, or the drug may be dispensed only upon a prescription;

B. Under Ohio R.C. Chapter 3715 or 3719, the drug may be dispensed only upon a prescription.

(2) Any drug that contains a Schedule V narcotic drug and that is exempt from Ohio R.C. Chapter 3719 or to which that chapter does not apply;

(3) Any drug intended for administration by injection into the human body other than through a natural orifice of the human body. (ORC 4729.02)

(s) "Bulk amount" of a controlled substance means any of the following:

(1) For any compound, mixture, preparation, or substance included in Schedule I, Schedule II or Schedule III, with the exception of controlled substance analogs, marijuana, cocaine, L.S.D., heroin, and hashish and except as provided in subsection (s)(2) or (5) hereof, whichever of the following is applicable:

A. An amount equal to or exceeding ten grams or twenty-five unit doses of a compound, mixture, preparation or substance that is or contains any amount of a Schedule I opiate or opium derivative;

B. An amount equal to or exceeding ten grams of a compound, mixture, preparation or substance that is or contains any amount of raw or gum opium;

C. An amount equal to or exceeding thirty grams or ten unit doses of a compound, mixture, preparation or substance that is or contains any amount of a Schedule I

hallucinogen other than tetrahydrocannabinol, or lysergic acid amide, or a Schedule I stimulant or depressant;

D. An amount equal to or exceeding twenty grams or five times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation or substance that is or contains any amount of a Schedule II opiate or opium derivative;

E. An amount equal to or exceeding five grams or ten unit doses of a compound, mixture, preparation or substance that is or contains any amount of phencyclidine;

F. An amount equal to or exceeding 120 grams or thirty times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation or substance that is or contains any amount of a Schedule II stimulant that is in a final dosage form manufactured by a person authorized by the Federal Food, Drug, and Cosmetic Act, 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, and the Federal Drug Abuse Control laws as defined in Ohio R.C. 3719.01, that is or contains any amount of a Schedule II depressant substance or a Schedule II hallucinogenic substance;

G. An amount equal to or exceeding three grams of a compound, mixture, preparation or substance that is or contains any amount of a Schedule II stimulant, or any of its salts or isomers, that is not in a final dosage form manufactured by a person authorized by the Federal Food, Drug, and Cosmetic Act and the Federal Drug Abuse Control laws;

(2) An amount equal to or exceeding one hundred twenty grams or thirty times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule III or IV substance other than an anabolic steroid or a Schedule III opiate or opium derivative;

(3) An amount equal to or exceeding twenty grams or five times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule III opiate or opium derivative;

(4) An amount equal to or exceeding 250 milliliters or 250 grams of a compound, mixture, preparation or substance that is or contains any amount of a Schedule V substance.

(5) An amount equal to or exceeding 200 solid dosage units, sixteen grams or sixteen milliliters of a compound, mixture, preparation or substance that is or contains any amount of a Schedule III anabolic steroid.

(t) "Unit dose" means an amount or unit of a compound, mixture or preparation containing a controlled substance, that is separately identifiable and in a form that indicates that it is the amount or unit by which the controlled substance is separately administered to or taken by an individual.

(u) "Cultivate" includes planting, watering, fertilizing or tilling.

(v) "Drug abuse offense" means any of the following:

(1) A violation of Ohio R.C. 2925.02, 2925.03, 2925.04 to 2925.06, 2925.11, 2925.12, 2925.13, 2925.22, 2925.23, 2925.24, 2925.31, 2925.32, 2925.36 or 2925.37; or a violation of Ohio R.C. 2913.02(A) that constitutes theft of drugs;

(2) A violation of an existing or former law of this or any other state or of the United States, that is substantially equivalent to any section listed in subsection (v)(1) hereof;

(3) An offense under an existing or former law of this or any other state, or of the United States, of which planting, cultivating, harvesting, processing, making, manufacturing, producing, shipping, transporting, delivering, acquiring, possessing, storing, distributing, dispensing, selling, inducing another to use, administering to another, using or otherwise dealing with a controlled substance is an element;

(4) A conspiracy or attempt to commit, or complicity in committing or attempting to commit any offense under subsection (v)(1), (2) or (3) hereof.

(w) "Felony drug abuse offense" means any drug abuse offense that would constitute a felony under the laws of this State, any other state or the United States.

(x) "Harmful intoxicant" does not include beer or intoxicating liquor, but means any of the following:

(1) Any compound, mixture, preparation or substance the gas, fumes or vapor of which when inhaled can induce intoxication, excitement, giddiness, irrational behavior, depression, stupefaction, paralysis, unconsciousness, asphyxiation or other harmful physiological effects, and includes, but is not limited to, any of the following:

A. Any volatile organic solvent, plastic cement, model cement, fingernail polish remover, lacquer thinner, cleaning fluid, gasoline, or other preparation containing a volatile organic solvent;

B. Any aerosol propellant;

C. Any fluorocarbon refrigerant;

D. Any anesthetic gas.

(2) Gamma Butyrolactone;

(3) 1,4 Butanediol.

(y) "Manufacture" means to plant, cultivate, harvest, process, make, prepare or otherwise engage in any part of the production of a drug by propagation, extraction, chemical synthesis or compounding, or any combination of the same, and includes packaging, repackaging, labeling and other activities incident to production.

(z) "Possess" or "possession" means having control over a thing or substance but may not be inferred solely from mere access to the thing or substance through ownership or occupation of the premises upon which the thing or substance is found.

(aa) "Sample drug" means a drug or pharmaceutical preparation that would be hazardous to health or safety if used without the supervision of a licensed health professional authorized to prescribe drugs, or a drug of abuse, and that, at one time, had been placed in a container plainly marked as a sample by a manufacturer.

(bb) "Standard pharmaceutical reference manual" means the current edition, with cumulative changes if any, of references that are approved by the State Board of Pharmacy.

(cc) "Juvenile" means a person under eighteen years of age.

(dd) "School" means any school operated by a board of education, any community school established under Ohio R.C. Chapter 3314, or any nonpublic school for which the State Board of Education prescribes minimum standards under Ohio R.C. 3301.07, whether or not any instruction, extracurricular activities or training provided by the school is being conducted at the time a criminal offense is committed.

(ee) "School premises" means either of the following:

(1) The parcel of real property on which any school is situated, whether or not any instruction, extracurricular activities or training provided by the school is being conducted on the premises at the time a criminal offense is committed;

(2) Any other parcel of real property that is owned or leased by a board of education of a school, any community school established under Ohio R.C. Chapter 3314, or the governing body of a nonpublic school for which the State Board of Education prescribes minimum standards under Ohio R.C. 3301.07 and on which some of the instruction, extracurricular activities or training of the school is conducted, whether or not any instruction, extracurricular activities or training provided by the school is being conducted on the parcel of real property at the time a criminal offense is committed.

(ff) "School building" means any building in which any of the instruction, extracurricular activities or training provided by a school is conducted, whether or not any instruction, extracurricular activities or training provided by the school is being conducted in the school building at the time a criminal offense is committed.

(gg) "Counterfeit controlled substance" means:

(1) Any drug that bears, or whose container or label bears, a trademark, trade name or other identifying mark used without authorization of the owner of rights to that trademark, trade name or identifying mark; or

(2) Any unmarked or unlabeled substance that is represented to be a controlled substance manufactured, processed, packed or distributed by a person other than the person that manufactured, processed, packed or distributed it; or

(3) Any substance that is represented to be a controlled substance but is not a controlled substance or is a different controlled substance; or

(4) Any substance other than a controlled substance that a reasonable person would believe to be a controlled substance because of its similarity in shape, size and color, or its marking, labeling, packaging, distribution or the price for which it is sold or offered for sale.

(hh) An offense is "committed in the vicinity of a school" if the offender commits the offense on school premises, in a school building, or within one thousand feet of the boundaries of any school premises, regardless of whether the offender knows the offense is being committed on school premises, in a school building, or within one thousand feet of the boundaries of any school premises.

(ii) An offense is "committed in the vicinity of a juvenile" if the offender commits the offense within one hundred feet of a juvenile or within the view of a juvenile, regardless of whether the offender knows the age of the juvenile, whether the offender knows the offense is being committed within one hundred feet of or within view of the juvenile, or whether the juvenile actually views the commission of the offense.

(jj) "Hashish" means the resin or a preparation of the resin contained in marihuana, whether in solid form or in a liquid concentrate, liquid extract, or liquid distillate form.

(kk) "Public premises" means any hotel, restaurant, tavern, store, arena, hall, or other place of public accommodation, business, amusement, or resort.

(ll) "Methamphetamine" means methamphetamine, any salt, isomer, or salt of an isomer of methamphetamine, or any compound, mixture, preparation, or substance containing methamphetamine or any salt, isomer or salt of an isomer of methamphetamine.

(mm) "Lawful prescription" means a prescription that is issued for a legitimate medical purpose by a licensed health professional authorized to prescribe drugs, that is not altered or forged, and that was not obtained by means of deception or by the commission of any theft offense.

(nn) "Deception" and "theft offense" have the same meanings as in Ohio R.C. 2913.01.

**be and the same is amended to read:**

**513.01 DEFINITIONS.**

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

- (a) "Administer" means the direct application of a drug, whether by injection, inhalation, ingestion or any other means to a person or an animal.
- (b) "Controlled substance" means a drug, compound, mixture, preparation or substance included in Schedule I, II, III, IV, or V.
- (c) "Dispense" means sell, leave with, give away, dispose of or deliver.
- (d) "Distribute" means to deal in, ship, transport or deliver but does not include administering or dispensing a drug.
- (e) "Hypodermic" means a hypodermic syringe or needle, or other instrument or device for the injection of medication.
- (f) "Manufacturer" means a person who manufactures a controlled substance as "manufacture" is defined in Ohio R.C. 3715.01.
- (g) Except as provided in subsection (g)(2) hereof:
  - (1) "Marihuana" means all parts of a plant of the genus cannabis, whether growing or not, the seeds of a plant of that type; the resin extracted from a part of a plant of that type; and every compound, manufacture, salt, derivative, mixture or preparation of a plant of that type or of its seeds or resin. "Marihuana" does not include the mature stalks of the plant, fiber produced from the stalks, oils or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from the mature stalks, fiber, oil or cake, or the sterilized seed of the plant that is incapable of germination. (ORC 3719.01)
  - (2) "Marihuana" does not include hashish.  
(ORC 2925.01)
- (h) "Controlled substance analog" has the same meaning as provided in Ohio R.C. 3719.01.
- (i) "Official written order" means an order written on a form provided for that purpose by the Director of the United States Drug Enforcement Administration, under any laws of the United States making provision for the order, if the order forms are authorized and required by Federal law.
- (j) "Pharmacist" means a person licensed under Ohio R.C. Chapter 4729 to engage in the practice of pharmacy.
- (k) "Pharmacy" has the same meaning as in Ohio R.C. 4729.01.
- (l) "Poison" means any drug, chemical, or preparation likely to be deleterious or destructive to adult human life in quantities of four grams or less.
- (m) "Licensed health professional authorized to prescribe drugs", "prescriber" and "prescription" have the same meanings as in Ohio R.C. 4729.01.
- (n) "Sale" includes delivery, barter, exchange, transfer or gift, or offer thereof, and each transaction of those natures made by any person, whether as principal, proprietor, agent, servant or employee.
- (o) "Schedule I", "Schedule II", "Schedule III", "Schedule IV" and "Schedule V" mean controlled substance Schedules I, II, III, IV, and V respectively, established pursuant to Ohio R.C. 3719.41, as amended pursuant to Ohio R.C. 3719.43 or 3719.44.

(p) "Wholesaler" means a person who, on official written orders other than prescriptions, supplies controlled substances that the person has not manufactured, produced or prepared personally and includes a "wholesale distributor of dangerous drugs" as defined in Ohio R.C. 4729.01.

(ORC 3719.01)

(q) "Drug of abuse" means any controlled substance as defined in subsection (b) hereof, any harmful intoxicant as defined in subsection (x) hereof and any dangerous drug as defined in subsection (r) hereof.

(ORC 3719.011)

(r) "Dangerous drug" means any of the following:

(1) Any drug to which either of the following applies:

A. Under the "Federal Food, Drug, and Cosmetic Act", 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, the drug is required to bear a label containing the legend "Caution: Federal law prohibits dispensing without prescription" or "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian" or any similar restrictive statement, or the drug may be dispensed only upon a prescription;

B. Under Ohio R.C. Chapter 3715 or 3719, the drug may be dispensed only upon a prescription.

(2) Any drug that contains a Schedule V narcotic drug and that is exempt from Ohio R.C. Chapter 3719 or to which that chapter does not apply;

(3) Any drug intended for administration by injection into the human body other than through a natural orifice of the human body. (ORC 4729.02)

(s) "Bulk amount" of a controlled substance means any of the following:

(1) For any compound, mixture, preparation, or substance included in Schedule I, Schedule II or Schedule III, with the exception of controlled substance analogs, marihuana, cocaine, L.S.D., heroin, and hashish and except as provided in subsection (s)(2) or (5) hereof, whichever of the following is applicable:

A. An amount equal to or exceeding ten grams or twenty-five unit doses of a compound, mixture, preparation or substance that is or contains any amount of a Schedule I opiate or opium derivative;

B. An amount equal to or exceeding ten grams of a compound, mixture, preparation or substance that is or contains any amount of raw or gum opium;

C. An amount equal to or exceeding thirty grams or ten unit doses of a compound, mixture, preparation or substance that is or contains any amount of a Schedule I hallucinogen other than tetrahydrocannabinol, or lysergic acid amide, or a Schedule I stimulant or depressant;

D. An amount equal to or exceeding twenty grams or five times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation or substance that is or contains any amount of a Schedule II opiate or opium derivative;

E. An amount equal to or exceeding five grams or ten unit doses of a compound, mixture, preparation or substance that is or contains any amount of phencyclidine;

F. An amount equal to or exceeding 120 grams or thirty times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation or substance that is or contains any amount of a Schedule II stimulant that is in a final dosage form manufactured by a person authorized by the

Federal Food, Drug, and Cosmetic Act, 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, and the Federal Drug Abuse Control laws as defined in Ohio R.C. 3719.01, that is or contains any amount of a Schedule II depressant substance or a Schedule II hallucinogenic substance;

G. An amount equal to or exceeding three grams of a compound, mixture, preparation or substance that is or contains any amount of a Schedule II stimulant, or any of its salts or isomers, that is not in a final dosage form manufactured by a person authorized by the Federal Food, Drug, and Cosmetic Act and the Federal Drug Abuse Control laws;

(2) An amount equal to or exceeding one hundred twenty grams or thirty times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule III or IV substance other than an anabolic steroid or a Schedule III opiate or opium derivative;

(3) An amount equal to or exceeding twenty grams or five times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule III opiate or opium derivative;

(4) An amount equal to or exceeding 250 milliliters or 250 grams of a compound, mixture, preparation or substance that is or contains any amount of a Schedule V substance.

(5) An amount equal to or exceeding 200 solid dosage units, sixteen grams or sixteen milliliters of a compound, mixture, preparation or substance that is or contains any amount of a Schedule III anabolic steroid.

(t) "Unit dose" means an amount or unit of a compound, mixture or preparation containing a controlled substance, that is separately identifiable and in a form that indicates that it is the amount or unit by which the controlled substance is separately administered to or taken by an individual.

(u) "Cultivate" includes planting, watering, fertilizing or tilling.

(v) "Drug abuse offense" means any of the following:

(1) A violation of Ohio R.C.. 2925.02, 2925.03, 2925.04 to 2925.06, 2925.11, 2925.12, 2925.13, 2925.22, 2925.23, 2925.24, 2925.31, 2925.32, 2925.36 or 2925.37; or a violation of Ohio R.C. 2913.02(A) that constitutes theft of drugs;

(2) A violation of an existing or former law of this or any other state or of the United States, that is substantially equivalent to any section listed in subsection (v)(1) hereof;

(3) An offense under an existing or former law of this or any other state, or of the United States, of which planting, cultivating, harvesting, processing, making, manufacturing, producing, shipping, transporting, delivering, acquiring, possessing, storing, distributing, dispensing, selling, inducing another to use, administering to another, using or otherwise dealing with a controlled substance is an element;

(4) A conspiracy or attempt to commit, or complicity in committing or attempting to commit any offense under subsection (v)(1), (2) or (3) hereof.

(w) "Felony drug abuse offense" means any drug abuse offense that would constitute a felony under the laws of this State, any other state or the United States.

(x) "Harmful intoxicant" does not include beer or intoxicating liquor, but means any of the following:

(1) Any compound, mixture, preparation or substance the gas, fumes or vapor of which when inhaled can induce intoxication, excitement, giddiness, irrational behavior,

depression, stupefaction, paralysis, unconsciousness, asphyxiation or other harmful physiological effects, and includes, but is not limited to, any of the following:

A. Any volatile organic solvent, plastic cement, model cement, fingernail polish remover, lacquer thinner, cleaning fluid, gasoline, or other preparation containing a volatile organic solvent;

B. Any aerosol propellant;

C. Any fluorocarbon refrigerant;

D. Any anesthetic gas.

(2) Gamma Butyrolactone;

(3) 1,4 Butanediol.

(y) "Manufacture" means to plant, cultivate, harvest, process, make, prepare or otherwise engage in any part of the production of a drug by propagation, extraction, chemical synthesis or compounding, or any combination of the same, and includes packaging, repackaging, labeling and other activities incident to production.

(z) "Possess" or "possession" means having control over a thing or substance but may not be inferred solely from mere access to the thing or substance through ownership or occupation of the premises upon which the thing or substance is found.

(aa) "Sample drug" means a drug or pharmaceutical preparation that would be hazardous to health or safety if used without the supervision of a licensed health professional authorized to prescribe drugs, or a drug of abuse, and that, at one time, had been placed in a container plainly marked as a sample by a manufacturer.

(bb) "Standard pharmaceutical reference manual" means the current edition, with cumulative changes if any, of references that are approved by the State Board of Pharmacy.

(cc) "Juvenile" means a person under eighteen years of age.

(dd) "School" means any school operated by a board of education, any community school established under Ohio R.C. Chapter 3314, or any nonpublic school for which the State Board of Education prescribes minimum standards under Ohio R.C. 3301.07, whether or not any instruction, extracurricular activities or training provided by the school is being conducted at the time a criminal offense is committed.

(ee) "School premises" means either of the following:

(1) The parcel of real property on which any school is situated, whether or not any instruction, extracurricular activities or training provided by the school is being conducted on the premises at the time a criminal offense is committed;

(2) Any other parcel of real property that is owned or leased by a board of education of a school, any community school established under Ohio R.C. Chapter 3314, or the governing body of a nonpublic school for which the State Board of Education prescribes minimum standards under Ohio R.C. 3301.07 and on which some of the instruction, extracurricular activities or training of the school is conducted, whether or not any instruction, extracurricular activities or training provided by the school is being conducted on the parcel of real property at the time a criminal offense is committed.

(ff) "School building" means any building in which any of the instruction, extracurricular activities or training provided by a school is conducted, whether or not any instruction, extracurricular activities or training provided by the school is being conducted in the school building at the time a criminal offense is committed.

(gg) "Counterfeit controlled substance" means:

(1) Any drug that bears, or whose container or label bears, a trademark, trade name or other identifying mark used without authorization of the owner of rights to that trademark, trade name or identifying mark; or

(2) Any unmarked or unlabeled substance that is represented to be a controlled substance manufactured, processed, packed or distributed by a person other than the person that manufactured, processed, packed or distributed it; or

(3) Any substance that is represented to be a controlled substance but is not a controlled substance or is a different controlled substance; or

(4) Any substance other than a controlled substance that a reasonable person would believe to be a controlled substance because of its similarity in shape, size and color, or its marking, labeling, packaging, distribution or the price for which it is sold or offered for sale.

(hh) An offense is "committed in the vicinity of a school" if the offender commits the offense on school premises, in a school building, or within one thousand feet of the boundaries of any school premises, regardless of whether the offender knows the offense is being committed on school premises, in a school building, or within one thousand feet of the boundaries of any school premises.

(ii) An offense is "committed in the vicinity of a juvenile" if the offender commits the offense within one hundred feet of a juvenile or within the view of a juvenile, regardless of whether the offender knows the age of the juvenile, whether the offender knows the offense is being committed within one hundred feet of or within view of the juvenile, or whether the juvenile actually views the commission of the offense.

(jj) "Hashish" means the resin or a preparation of the resin contained in marihuana, whether in solid form or in a liquid concentrate, liquid extract, or liquid distillate form.

(kk) "Public premises" means any hotel, restaurant, tavern, store, arena, hall, or other place of public accommodation, business, amusement, or resort.

(ll) "Methamphetamine" means methamphetamine, any salt, isomer, or salt of an isomer of methamphetamine, or any compound, mixture, preparation, or substance containing methamphetamine or any salt, isomer or salt of an isomer of methamphetamine.

(mm) "Lawful prescription" means a prescription that is issued for a legitimate medical purpose by a licensed health professional authorized to prescribe drugs, that is not altered or forged, and that was not obtained by means of deception or by the commission of any theft offense.

(nn) "Deception" and "theft offense" have the same meanings as in Ohio R.C. 2913.01.

**(oo) "Medical marihuana" has the same meaning as in Section 3796.01(A)(2) of the Ohio Revised Code.**

**(pp) "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, storing, or trimming of medical marihuana.**

**(qq) "Cultivation facility" means a person that engages in the cultivation of medical marihuana and that is licensed by the Department of Commerce pursuant to Section 3796.09 of the Ohio Revised Code.**

**(rr) "Processing" means any activity involving the extraction of medical marihuana into a form described in Section 3796.06 of the Ohio Revised Code, including without limitation the creation of medical marihuana extracts, oils, tinctures, edibles, patches, or any other product containing tetrahydrocannabinol or cannabidiol;**

(ss) “Processing facility” means a person that engages in the processing of medical marihuana and that is licensed by the Department of Commerce pursuant to Section 3796.09 of the Ohio Revised Code.

(tt) “Dispensary” means a person that dispenses, transfers, or sells medical marihuana and that is licensed by the Ohio State Board of Pharmacy pursuant to Section 3796.10 of the Ohio Revised Code.

(uu) “Person” means any individual, partnership of any kind, corporation, limited liability company, association, joint venture, or other organization or entity, however formed.

**and present Section 513.01 is hereby repealed.**

**SECTION 2.** That this Council finds and determines that all formal actions of this Council concerning and relating to the passage of this ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and of any committee that resulted in those formal actions were in meetings open to the public in compliance with law.

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

9-1-16 LL

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, 16-55 and 16-57.**

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:

<b>General Fund - 100</b>						
Fund #	Fund Activity	Personal Service	Other	Capital Improvement	Transfers/Advances	Total
<b>100</b>	<b>Total General Fund</b>	<b>\$ 6,815,667</b>	<b>\$ 3,541,762</b>	<b>\$ 40,700</b>	<b>\$ 1,024,006</b>	<b>\$ 11,422,135</b>

<b>Special Revenue Fund Group - 200</b>						
Fund #	Fund Activity	Personal Service	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
<b>200</b>	<b>Total Special Revenue Funds</b>	<b>\$ 3,417,895</b>	<b>\$ 975,682</b>	<b>\$ 1,680,820</b>	<b>\$ 175,000</b>	<b>\$ 6,249,397</b>

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

<b>Capital Project Fund Group - 400</b>						
<b>Fund #</b>	<b>Fund Activity</b>	<b>Personal Service</b>	<b>Other</b>	<b>Capital Improvement</b>	<b>Transfers/Advances</b>	<b>Total</b>
	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
	<b>400 Total Capital Project Fund Group</b>	<b>\$ -</b>	<b>\$ 220</b>	<b>\$ 296,700</b>	<b>\$ 88,000</b>	<b>\$ 384,920</b>

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

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

<b>Trust Fund Group - 800</b>						
<b>Fund #</b>	<b>Fund Activity</b>	<b>Personal Service</b>	<b>Other</b>	<b>Capital Improvement</b>	<b>Transfers/Advances</b>	<b>Total</b>
	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
	<b>800 Total Trust Fund Group</b>	<b>\$ -</b>	<b>\$ 89,400</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 89,400</b>

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

<b>Grand Total All Funds</b>	<b>\$ 11,411,037</b>	<b>\$ 12,707,479</b>	<b>\$ 2,122,220</b>	<b>\$ 1,287,006</b>	<b>\$ 27,527,742</b>
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<b>Itemized list of Transfers and Advances by Fund</b>	
<b>Description</b>	<b>Amount</b>
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:

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PRESIDENT OF COUNCIL

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CLERK OF COUNCIL

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MAYOR

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

Department	Personal Service	Other	Equipment Replacement	Transfers	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
<b>Planning Commission</b>	<b>1,700.00</b>	<b>800.00</b>	<b>-</b>	<b>-</b>	<b>2,500.00</b>
<b>Zoning Board of Appeals</b>	<b>800.00</b>	<b>700.00</b>	<b>-</b>	<b>-</b>	<b>1,500.00</b>
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
<b>GRAND TOTAL</b>	<b>\$6,815,667.00</b>	<b>\$3,541,762.00</b>	<b>\$ 40,700.00</b>	<b>\$1,024,006.00</b>	<b>\$11,422,135.00</b>

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

Fund	Description	Amount
<b>Equipment Replacement (240)</b>		
	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
	<b>Total Equipment Replacement (240)</b>	<u>888,320.00</u>
<b>Street Construction (270)</b>		
	Street Improvements	750,000.00
	<b>Total Street Construction (270)</b>	<u>750,000.00</u>
<b>Public Improvement (490)</b>		
	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
	<b>Total Public Improvements (490)</b>	<u>120,700.00</u>
<b>Infrastructure Improvement (494)</b>		
	Queenswood Bridge	130,000.00
<b>Municipal Building Improvements (495)</b>		
	Service Painting Projects	46,000.00
<b>Sewer (580)</b>		
	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
	<b>Total Sewer (580)</b>	<u>80,000.00</u>
<b>GRAND TOTAL</b>		<u>\$ 2,015,020.00</u>

RESOLUTION NO.  
INTRODUCED BY:

**A RESOLUTION**  
**GRANTING PERMISSION TO ST. RAPHAEL CHURCH TO**  
**ERECT A GROUND SIGN,**  
**AND DECLARING AN EMERGENCY.**

**WHEREAS**, St. Raphael's Church requested permission to erect a Parish Office sign;  
and

**WHEREAS**, permission has been granted by the Architectural Board of Review and the Chief Building Official;

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

**SECTION 1.** That this Council hereby grants permission given to St. Raphael Church under C.O. Section 1179.10(A), to erect a ground sign thirty-three point six inches (33.6") in length and forty-two inches (42") in width, and will announce the name of the Parish Office. Said sign shall be maintained in an attractive manner and in a state of good repair.

**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 that is immediately necessary to grant permission so that the sign may be erected without further delay, 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

9/15/16 II