Agenda, Bay Village City Council
Regular Meeting, Council Chambers

Dwight A. Clark
President of Council

David L. Tadych
Vice-President of Council
Ward 1

Marty Mace
Council-at-large

Nancy Stainbrook
Council-at-large

Lydia DeGeorge
Ward 2

Sara Byrnes Maier
Ward 3

Peter J. Winzig
Ward 4

Dwight A. Clark, President of Council, Presiding
Roll Call
Pledge of Allegiance led by Vice President of Council and Councilman, Ward 1, David L. Tadych

Reading of Minutes – Special Meeting of Council held May 14, 2018.

ANNOUNCEMENTS

REPORTS

Mayor Koomar
Director of Law Ebert
Director of Finance Mahoney
Director of Recreation Enovitch
Director of Public Service and Properties Liskovac
Human Resources Director Demaline

Director of Community Services Selig
Police Chief Spaetzl
Fire Chief Lyons
Chief Building Official Steve Vogel

AUDIENCE

COMMUNICATIONS

COMMITTEE OF THE WHOLE

ENVIRONMENT, SAFETY & COMMUNITY SERVICES COMMITTEE – Mr. Mace

FINANCE AND CLAIMS-Mr. Tadych

Ordinance 18-34 providing for the issuance and sale of $750,371 of Notes, in anticipation of the issuance of Bonds, for the purpose of paying costs of improving streets by resurfacing, paving and making other improvements as designated in the plans approved or to be approved by Council, and declaring an emergency. (Second Reading May 14, 2018) (First Reading May 7, 2018)

Ordinance 18-35 providing for the issuance and sale of $3,091,629 of Notes, in anticipation of the Issuance of Bonds, for the purpose of paying costs of (i) improving streets by resurfacing, paving and making other improvements as designated in the plans approved or to be approved by Council, (ii) acquiring motor vehicles and equipment for use in performing the functions of the City’s Police Department, (iii) acquiring motor vehicles and equipment and acquiring and

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installing a fuel dispensing system for use in performing the functions of the City’s Department of Public Services and Properties, (iv) improving the City’s Sanitary Sewerage System by construction sewer lines, (v) acquiring motor vehicles and equipment and constructing improvements to facilities used in performing the functions of the City’s Department of Public Services and Properties, (vi) acquiring motor vehicles and equipment for use in performing the functions of the City’s Department of Public Services and Properties, and (vii) acquiring a motor vehicle and equipment for use in performing the functions of the City’s Fire Department, and declaring an emergency. (Second Reading May 14, 2018) (First Reading May 7, 2018)

Resolution 18-36 certifying unpaid grass cutting and cleaning charges to the Cuyahoga County Fiscal Officer for collection. (Second Reading May 14, 2018) (First Reading May 7, 2018)

Resolution 18-37 certifying unpaid sewer rental and refuse collection charges to the Cuyahoga County Fiscal Officer for collection. (Second Reading May 14, 2018) (First Reading May 7, 2018)

Resolution 18-38 certifying unpaid sidewalk repair and/or construction charges to the Cuyahoga County Fiscal Officer for collection. (Second Reading May 14, 2018) (First Reading May 7, 2018)

Resolution 18-39 certifying unpaid tree removal charges to the Cuyahoga County Fiscal Officer for collection. (Second Reading May 14, 2018) (First Reading May 7, 2018)

Resolution adopting a Tax Budget for the City of Bay Village for the Fiscal Year beginning January 1, 2019, submitting same to the County Fiscal Officer, and declaring an emergency. (First Reading)

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

Resolution 18-45 accepting a donation to the City of Bay Village and declaring an emergency. (First Reading May 14, 2018)

Ordinance adding Chapter 925 to the Codified Ordinances of the City of Bay Village, entitled “Small Cell Facilities and Wireless Support Structures within the Right-of-Way,” and declaring an emergency. (First Reading May 14, 2018)

PUBLIC IMPROVEMENTS/STREETS/SEWERS/DRAINAGE COMMITTEE-Mrs. Stainbrook

RECREATION AND PARK IMPROVEMENTS COMMITTEE –Mr. Winzig

MISCELLANEOUS
May 21, 2018
Agenda
Regular Meeting of Council

Motion to convene to Executive Session for the purpose of discussion relating to Contracts: SAFEbuilt, Inc., and Personnel: Law Department.

SERVICES, UTILITIES & EQUIPMENT COMMITTEE –Mrs. DeGeorge

Ordinance 18-44 authorizing the Mayor to enter into a Professional Services Agreement and a Lease Agreement with SAFEbuilt, Inc., and declaring an emergency. (Second Reading May 14, 2018) (First Reading May 7, 2018)

CAHOON MEMORIAL PARK TRUSTEES
May 21, 2018
Agenda
Regular Meeting of Council

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 8:25 p.m.
President of Council Dwight A. Clark, presiding

May 14, 2018

Present: Clark, DeGeorge, Mace, Maier, Stainbrook, Tadych, Winzig, Mayor Koomar

Also Present: Law Director Ebert, Director of Public Service and Properties Liskovec, Fire Chief Lyons, Director of Community Services Selig, Chief Building Official Vogel (SAFEbuilt, Inc.)

AUDIENCE

The following members of the audience signed in this evening: Mark Barbour, Clair Banasiak, Jeff Gallatin, Karen Lieske, Richard Fink, Carl Frey.

President of Council Clark called the meeting to order at 8:25 p.m. with roll call, and the Pledge of Allegiance led by Councilwoman-at-large Nancy Stainbrook.

Motion by Tadych to dispense with the reading of the minutes of the meeting of the Regular Meeting of Council held May 7, 2018, and approve the minutes as prepared and distributed.

Motion passed 7-0.

Mr. Tadych read, by title only, Ordinance 18-34 providing for the issuance and sale of $750,371 of Notes, in anticipation of the issuance of Bonds, for the purpose of paying costs of improving streets by resurfacing, paving and making other improvements as designated in the plans approved or to be approved by Council, and declaring an emergency. (Second Reading) (First Reading May 7, 2018)

Ordinance No. 18-34 was placed on Second Reading.

Mr. Tadych read, by title only, Ordinance 18-35 providing for the issuance and sale of $3,091,629 of Notes, in anticipation of the Issuance of Bonds, for the purpose of paying costs of (i) improving streets by resurfacing, paving and making other improvements as designated in the plans approved or to be approved by Council, (ii) acquiring motor vehicles and equipment for use in performing the functions of the City’s Police Department, (iii) acquiring motor vehicles and equipment and acquiring and installing a fuel dispensing system for use in performing the functions of the City’s Department of Public Services and Properties, (iv) improving the City’s Sanitary Sewerage System by construction sewer lines, (v) acquiring motor vehicles and equipment and constructing improvements to facilities used in performing the functions of the City’s Department of Public Services and Properties, (vi) acquiring motor vehicles and equipment for use in performing the functions of the City’s Department of Public Services and Properties, and (vii) acquiring a motor vehicle and equipment for use in performing the functions
Special Meeting of Council  
May 14, 2018

of the City’s Fire Department, and declaring an emergency. (Second Reading) (First Reading May 7, 2018)

Ordinance No. 18-35 was placed on Second Reading.

Mr. Tadych read, by title only, Resolution 18-36 certifying unpaid grass cutting and cleaning charges to the Cuyahoga County Fiscal Officer for collection. (Second Reading) (First Reading May 7, 2018)

Resolution No. 18-36 was placed on Second Reading.

Mr. Tadych read, by title only, Resolution 18-37 certifying unpaid sewer rental and refuse collection charges to the Cuyahoga County Fiscal Officer for collection. (Second Reading) (First Reading May 7, 2018)

Resolution No. 18-37 was placed on Second Reading.

Mr. Tadych read, by title only, Resolution 18-38 certifying unpaid sidewalk repair and/or construction charges to the Cuyahoga County Fiscal Officer for collection. (Second Reading) (First Reading May 7, 2018)

Resolution No. 18-38 was placed on Second Reading.

Mr. Tadych read, by title only, Resolution 18-39 certifying unpaid tree removal charges to the Cuyahoga County Fiscal Officer for collection. (Second Reading) (First Reading May 7, 2018)

Resolution No. 18-39 was placed on Second Reading.

Ms. Maier introduced and read Resolution No. 18-45 accepting a donation to the City of Bay Village and declaring an emergency.

Resolution No. 18-45 was placed on First Reading.

Ms. Maier introduced and read, by title only, Ordinance 18-46 adding Chapter 925 to the Codified Ordinances of the City of Bay Village, entitled “Small Cell Facilities and Wireless Support Structures within the Right-of-Way,” and declaring an emergency. (First Reading)

Ordinance No. 18-46 was placed on First Reading. Law Director Ebert stated that there will be considerable discussion regarding this ordinance, and the requirement for passage is in July of 2018. Council may have to meet during summer recess for final consideration.

Ms. DeGeorge read, Ordinance 18-44 authorizing the Mayor to enter into a Professional Services Agreement and a Lease Agreement with SAFEbuilt, Inc., and declaring an emergency. (Second Reading) (First Reading May 7, 2018)

Ordinance No. 18-44 was placed on Second Reading.
Special Meeting of Council  
May 14, 2018

Announcements/Audience/Miscellaneous

Richard Fink, 30102 Wolf Road, Bay Village, commented regarding the SAFEbuilt, Inc. services agreement. Mr. Fink stated that he was not at the May 7, 2018 Council meeting, but his understanding is that the contract was presented for first reading and public discussion at that time. His comment would be that SAFEbuilt, Inc., performance should argue strongly against renewing the service agreement. Bay Village is not the only community that has had significant problems with SAFEbuilt, Inc. Mr. Fink stated that he understands that Mr. Vogel is doing a better job than the previous employees, but that is independent of the contract. The first person we had that was responsible for the entire Humiston situation was promoted by SAFEbuilt, Inc. to oversee the whole organization. Mr. Fink stated he believes it would be a mistake to renew the services.

Jeff Snitzner, 27822 Osborn, stated that he disagrees with building a library anywhere in Bay Village.

There being no further business to discuss, the meeting adjourned at 8:36 p.m.

Dwight A. Clark, President of Council

Joan Kemper, Clerk of Council
AN ORDINANCE

PROVIDING FOR THE ISSUANCE AND SALE OF $750,371 OF NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, FOR THE PURPOSE OF PAYING COSTS OF IMPROVING STREETS BY RESURFACING, PAVING AND MAKING OTHER IMPROVEMENTS AS DESIGNATED IN THE PLANS APPROVED OR TO BE APPROVED BY COUNCIL, AND DECLARING AN EMERGENCY.

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

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

SECTION 1. Authorized Principal Amount and Purpose of Anticipated Bonds. It is necessary to issue bonds of the City in the aggregate principal amount of $750,371 (the Bonds) for the purpose of paying costs of improving streets by resurfacing, paving and making other improvements as designated in the plans approved or to be approved by Council.

SECTION 2. Estimated Bond Terms. The Bonds shall be dated approximately May 1, 2019, shall bear interest at the now estimated rate of 5% per year, payable semiannually until the principal amount is paid, and are estimated to mature in 15 annual principal installments on December 1 of each year that are substantially equal. The first interest payment on the Bonds is estimated to be December 1, 2019, and the first principal payment of the Bonds is estimated to be December 1, 2020.

SECTION 3. Authorized Principal Amount of Notes; Note Terms. It is necessary to issue and this Council determines that notes in the aggregate principal amount of $750,371 (the Notes) shall be issued in anticipation of the issuance of the Bonds. The Notes shall be dated the date of issuance and shall mature one year from the date of issuance; provided that the Director of Finance may, if it is determined to be necessary or advisable to the sale of the Notes, establish a maturity date that is any date up to one year from the date of issuance by setting forth that maturity date in the certificate signed in accordance with Section 6 (the Certificate of Award). The Notes shall bear interest at a rate not to exceed 5% per year (computed on the basis of a 360-day year consisting of 12 30-day months), payable at maturity and until the principal amount is paid or payment is provided for. The rate of interest on the Notes shall be determined by the Director of Finance in the Certificate of Award.
SECTION 4. Payment of Debt Charges; Paying Agent. The debt charges on the Notes shall be payable in Federal Reserve funds of the United States of America and shall be payable, without deduction for services of the City's paying agent, at the designated corporate trust office of The Huntington National Bank, or at the principal corporate trust or other office of a bank or trust company designated by the Director of Finance in the Certificate of Award after determining that the payment at that bank or trust company will not endanger the funds or securities of the City and that proper procedures and safeguards are available for that purpose, or at the office of the Director of Finance if agreed to by the Director of Finance and the Original Purchaser (as defined in Section 6) (the Paying Agent).

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

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

"Depository" means any securities depository that is a clearing agency under federal law operating and maintaining, with its Participants or otherwise, a book entry system to record ownership of beneficial interests in the Notes or the principal of, and interest on, the Notes and to effect transfers of the Notes, in book entry form, and includes and means initially The Depository Trust Company (a limited purpose trust company), New York, New York.

"Participant" means any participant contracting with a Depository under a book entry system and includes security brokers and dealers, banks and trust companies, and clearing corporations.

The Notes may be issued to a Depository for use in a book entry system and, if and as long as a book entry system is utilized, (i) the Notes may be issued in the form of a single Note made payable to the Depository or its nominee and immobilized in the custody of the Depository or its agent for that purpose; (ii) the beneficial owners in book entry form shall have no right to receive the Notes in the form of physical securities or certificates; (iii) ownership of beneficial interests in book entry form shall be shown by book entry on the system maintained and operated by the Depository and its Participants, and transfers of the ownership of beneficial interests shall be made only by book entry
by the Depository and its Participants; and (iv) the Notes as such shall not be transferable or exchangeable, except for transfer to another Depository or to another nominee of a Depository, without further action by the City.

If any Depository determines not to continue to act as a Depository for the Notes for use in a book entry system, the Director of Finance may attempt to establish a securities depository/book entry relationship with another qualified Depository. If the Director of Finance does not or is unable to do so, the Director of Finance, after making provision for notification of the beneficial owners by the then Depository and any other arrangements deemed necessary, shall permit withdrawal of the Notes from the Depository, and shall cause the Notes in bearer or payable to order form to be signed by the officers authorized to sign the Notes and delivered to the assigns of the Depository or its nominee, all at the cost and expense (including any costs of printing), if the event is not the result of City action or inaction, of those persons requesting such issuance.

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 13. Compliance with Open Meeting Requirements. This Council finds and determines that all formal actions of this Council and of any of its committees concerning and relating to the passage of this Ordinance were taken in open meetings of this Council or committees, and that all deliberations of this Council and of any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law.
SECTION 14. Captions and Headings. The captions and headings in this Ordinance are solely for convenience of reference and in no way define, limit or describe the scope or intent of any Sections, subsections, paragraphs, subparagraphs or clauses hereof. Reference to a Section means a section of this Ordinance unless otherwise indicated.

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

PASSED: _________, 2018

/s/ Dwight Clark
PRESIDENT OF COUNCIL

/s/ Joan T. Kemper
CLERK OF COUNCIL

APPROVED: _________, 2018

/s/ Paul A. Koomar
MAYOR

I, Joan T. Kemper, Clerk of Council of the City of Bay Village, Ohio, hereby certify the foregoing to be a true copy of Ordinance No. 18-______, passed by the Council of the City of Bay Village on _________, 2018, and now on file in the office of the Clerk of Council.

_________________________
Clerk of Council
AN ORDINANCE

Providing for the issuance and sale of $3,091,629 of Notes, in anticipation of the issuance of Bonds, for the purpose of paying costs of (i) improving streets by resurfacing, paving and making other improvements as designated in the plans approved or to be approved by Council, (ii) acquiring motor vehicles and equipment for use in performing the functions of the City’s police department, (iii) acquiring motor vehicles and equipment and acquiring and installing a fuel dispensing system for use in performing the functions of the City’s department of public services and properties, (iv) improving the City’s sanitary sewerage system by constructing sewer lines, (v) acquiring motor vehicles and equipment and constructing improvements to facilities used in performing the functions of the City’s department of public services and properties, (vi) acquiring motor vehicles and equipment for use in performing the functions of the City’s department of public services and properties, and (vii) acquiring a motor vehicle and equipment for use in performing the functions of the City’s fire department, and declaring an emergency.

WHEREAS, pursuant to Ordinance Nos. 17-28, 17-29, 17-30, 17-31, 17-32, 17-33, 17-34, 17-35 and 17-36, each passed on May 15, 2017, the City issued its $4,360,500 Various Purpose Notes, Series 2017 (the Outstanding Notes), in anticipation of bonds for the purposes stated in Section 1 and other purposes, which Outstanding Notes mature on June 8, 2018; and

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

WHEREAS, the Director of Finance, as fiscal officer of the City, has certified to this Council that the estimated life or period of usefulness of the improvements described in Section 1 is at least five years, the estimated maximum maturity of the Bonds described in clause (i) of Section 1 is 15 years, in clause (ii) of Section 1 is six years, in clauses (iii), (v), (vi) and (vii) of Section 1 is 10 years and in clause (iv) of Section 1 is 40 years, and the maximum maturity of the Notes described in Section 3, to be issued in anticipation of the Bonds described in clause (iii) of Section 1 is June 10, 2030, in anticipation of the Bonds described in clauses (i) ($533,000 of those Bonds) and (iv) of Section 1 is June 10, 2035, in anticipation of the Bonds described in clause (ii) of Section 1 is June 9,
NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Bay Village, County of Cuyahoga, Ohio, that:

SECTION 1. Authorized Principal Amount and Purpose of Anticipated Bonds. It is necessary to issue bonds of the City in the aggregate principal amount of $3,091,629 (the Bonds) for the purpose of paying costs of (i) improving streets by resurfacing, paving and making other improvements as designated in the plans approved or to be approved by Council ($1,770,629), (ii) acquiring motor vehicles and equipment for use in performing the functions of the City’s Police Department ($60,500), (iii) acquiring motor vehicles and equipment and acquiring and installing a fuel dispensing system for use in performing the functions of the City’s Department of Public Services and Properties ($158,000), (iv) improving the City’s sanitary sewerage system by constructing sewer lines ($67,000), (v) acquiring motor vehicles and equipment and constructing improvements to facilities used in performing the functions of the City’s Department of Public Services and Properties ($381,500), (vi) acquiring motor vehicles and equipment for use in performing the functions of the City’s Department of Public Services and Properties ($414,000), and (vii) acquiring a motor vehicle and equipment for use in performing the functions of the City’s Fire Department ($240,000).

SECTION 2. Estimated Bond Terms. The Bonds shall be dated approximately May 1, 2019, shall bear interest at the now estimated rate of 5% per year, payable semiannually until the principal amount is paid, and are estimated to mature in 13 annual principal installments on December 1 of each year that are substantially equal. The first interest payment on the Bonds is estimated to be December 1, 2019, and the first principal payment of the Bonds is estimated to be December 1, 2020.

SECTION 3. Authorized Principal Amount of Notes; Note Terms. It is necessary to issue and this Council determines that notes in the aggregate principal amount of $3,091,629 (the Notes) shall be issued in anticipation of the issuance of the Bonds and to retire, together with other funds available to the City, the Outstanding Notes. The Notes shall be dated the date of issuance and shall mature one year from the date of issuance; provided that the Director of Finance may, if it is determined to be necessary or advisable to the sale of the Notes, establish a maturity date that is any date up to one year from the date of issuance by setting forth that maturity date in the certificate signed in accordance with Section 6 (the Certificate of Award). The Notes shall bear interest at a rate not to exceed 5% per year (computed on the basis of a 360-day year consisting of 12 30-day months), payable at maturity and until the principal amount is paid or payment is provided for. The rate of interest on the Notes shall be determined by the Director of Finance in the Certificate of Award.

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

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

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

"Depository" means any securities depository that is a clearing agency under federal law operating and maintaining, with its Participants or otherwise, a book entry system to record ownership of beneficial interests in the Notes or the principal of, and interest on, the Notes and to effect transfers of the Notes, in book entry form, and includes and means initially The Depository Trust Company (a limited purpose trust company), New York, New York.

"Participant" means any participant contracting with a Depository under a book entry system and includes security brokers and dealers, banks and trust companies, and clearing corporations.

The Notes may be issued to a Depository for use in a book entry system and, if and as long as a book entry system is utilized, (i) the Notes may be issued in the form of a single Note made payable to the Depository or its nominee and immobilized in the custody of the Depository or its agent for that purpose; (ii) the beneficial owners in book entry form shall have no right to receive the Notes in the form of physical securities or certificates; (iii) ownership of beneficial interests in book entry form shall be shown by book entry on the system maintained and operated by the Depository and its Participants, and transfers of the ownership of beneficial interests shall be made only by book entry by the Depository and its Participants; and (iv) the Notes as such shall not be transferable or
exchangeable, except for transfer to another Depository or to another nominee of a Depository, without further action by the City.

If any Depository determines not to continue to act as a Depository for the Notes for use in a book entry system, the Director of Finance may attempt to establish a securities depository/book entry relationship with another qualified Depository. If the Director of Finance does not or is unable to do so, the Director of Finance, after making provision for notification of the beneficial owners by the then Depository and any other arrangements deemed necessary, shall permit withdrawal of the Notes from the Depository, and shall cause the Notes in bearer or payable to order form to be signed by the officers authorized to sign the Notes and delivered to the assigns of the Depository or its nominee, all at the cost and expense (including any costs of printing), if the event is not the result of City action or inaction, of those persons requesting such issuance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PASSED: ____________, 2018  /s/ Dwight Clark

PRESIDENT OF COUNCIL

/s/ Joan T. Kemper

CLERK OF COUNCIL

APPROVED: ____________, 2018

/s/ Paul A. Koomar

MAYOR

I, Joan T. Kemper, Clerk of Council of the City of Bay Village, Ohio, hereby certify the foregoing to be a true copy of Ordinance No. 18-______, passed by the Council of the City of Bay Village on ____________, 2018, and now on file in the office of the Clerk of Council.

Clerk of Council
RESOLUTION NO. 18-36
INTRODUCED BY: Mr. Tadych

A RESOLUTION
CERTIFYING UNPAID GRASS CUTTING AND CLEANING CHARGES TO THE CUYAHOGA COUNTY FISCAL OFFICER FOR COLLECTION, AND DECLARING AN EMERGENCY.

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

SECTION 1. That pursuant to Section 521.11 of the Codified Ordinances of the City of Bay Village, it is hereby determined and declared that the list of grass cutting and cleaning charges on file in the office of the Director of Finance of the City, which list is hereby incorporated herein by reference, is delinquent and unpaid. The Director of Finance is hereby directed to do all things necessary to cause said unpaid grass cutting and cleaning charges to be certified to the Cuyahoga County Fiscal Officer for collection as other taxes, and the Fiscal Officer is hereby requested pursuant to statute, to cause said charges to be extended on the 2018 tax duplicate for collection in semi-annual installments.

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 shall be in full force and effect at the earliest time permitted by law.

PASSED:

______________________________
PRESIDENT OF COUNCIL

______________________________
CLERK OF COUNCIL

APPROVED:

______________________________
MAYOR

042618 kek
RESOLUTION NO. 18-37
INTRODUCED BY: Mr. Tadych

First Reading May 7, 2018
Second Reading May 14, 2018

A RESOLUTION
CERTIFYING UNPAID SEWER RENTAL AND REFUSE COLLECTION
CHARGES TO THE CUYAHOGA COUNTY FISCAL OFFICER FOR COLLECTION,
AND DECLARING AN EMERGENCY.

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

SECTION 1. That pursuant to Section 921.05 and Section 923.04 of the Codified
Ordinances of the City of Bay Village it is hereby determined and declared the list of sewer rental
and refuse collection charges on file in the office of the Director of Finance of the City, which list
is hereby incorporated herein by reference, is delinquent and unpaid. The Director of Finance is
hereby directed to do all things necessary to cause said unpaid sewer rental and refuse collection
charges to be certified to the Cuyahoga County Fiscal Officer for collection as other taxes, and the
Fiscal Officer is hereby requested, pursuant to statute, to cause said sewer rental charges to be
extended in the 2018 tax duplicate for collection in semi-annual installments.

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 shall be in full force and effect at the earliest time
permitted by law.

PASSED:

______________________________
PRESIDENT OF COUNCIL

______________________________
CLERK OF COUNCIL

APPROVED:

______________________________
MAYOR

042618 kek
RESOLUTION NO. 18-38
INTRODUCED BY: Mr. Tadych

A RESOLUTION
CERTIFYING UNPAID SIDEWALK REPAIR AND/OR CONSTRUCTION CHARGES TO THE CUYAHOGA COUNTY FISCAL OFFICER FOR COLLECTION, AND DECLARING AN EMERGENCY.

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

SECTION 1. That pursuant to Section 543.01 of the Codified Ordinances of the City of Bay Village, it is hereby determined and declared that the list of sidewalk repair and/or construction charges on file in the office of the Director of Finance of the City, which list is hereby incorporated herein by reference, is delinquent and unpaid. The Director of Finance is hereby directed to do all things necessary to cause said unpaid sidewalk repair and/or construction charges to be certified to the Cuyahoga County Fiscal Officer for collection as other taxes, and the Fiscal Officer is hereby requested pursuant to statute, to cause said charges to be extended on the 2018 tax duplicate for collection in semi-annual installments.

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 shall be in full force and effect at the earliest time permitted by law.

PASSED:

PRESIDENT OF COUNCIL

CLERK OF COUNCIL

APPROVED:

MAYOR

042618 kek
A RESOLUTION
CERTIFYING UNPAID TREE REMOVAL CHARGES TO THE
CUYAHOGA COUNTY FISCAL OFFICER FOR COLLECTION,
AND DECLARING AN EMERGENCY.

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

SECTION 1. That pursuant to Section 547.15 of the Codified Ordinances of the City of Bay Village, it is hereby determined and declared that the list of tree removal charges on file in the office of the Director of Finance of the City, which list is hereby incorporated herein by reference, is delinquent and unpaid. The Director of Finance is hereby directed to do all things necessary to cause said unpaid tree removal charges to be certified to the Cuyahoga County Fiscal Officer for collection as other taxes, and the Fiscal Officer is hereby requested pursuant to statute, to cause said charges to be extended on the 2018 tax duplicate for collection in semi-annual installments.

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 shall be in full force and effect at the earliest time permitted by law.

PASSED:

___________________________________
PRESIDENT OF COUNCIL

___________________________________
CLERK OF COUNCIL

APPROVED:

___________________________________
MAYOR

042618 kek
RESOLUTION NO.
INTRODUCED BY:

RESOLUTION
ADOPTING A TAX BUDGET FOR THE CITY OF BAY VILLAGE FOR THE
FISCAL YEAR BEGINNING JANUARY 1, 2019, SUBMITTING SAME
TO THE COUNTY FISCAL OFFICER, AND DECLARING AN EMERGENCY.

WHEREAS, there has been prepared a tentative tax budget for the City of Bay Village for
the fiscal year beginning January 1, 2019, showing detailed estimates of all balances that will be
available at the beginning of the year 2019 for the purpose of such year and of all revenues to be
received for such fiscal year, including all general and special taxes, fees, costs, percentages,
penalties, allowances, prerequisites and all other types or classes of revenues; also estimates of all
said revenues or balances; and otherwise conforming with the requirements of law; and

WHEREAS, the budget will be available for public inspection; and

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

SECTION 1. That the tax budget of the City of Bay Village for the fiscal year
beginning January 1, 2019 as prepared and submitted to Council, copies of which are on file in the
offices of the Finance Director and Clerk of Council, is hereby adopted as the official tax budget
for the City of Bay Village for the fiscal year beginning January 1, 2019.

SECTION 2. That the Clerk of Council is hereby directed to certify a copy of said tax
budget and a copy of this Resolution to the Cuyahoga County Fiscal Officer, Ohio.

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 reason that it is immediately necessary to adopt such tax budget to provide funds for
2019, wherefore this Resolution shall be in full force and take effect immediately upon its passage
and approval by the Mayor.

ADOPTED:

PRESIDENT OF COUNCIL

CLERK OF COUNCIL

APPROVED:

MAYOR
051718 kek
RESOLUTION NO. 18-45  
INTRODUCED BY: Ms. Maier  

A RESOLUTION
ACCEPTING A DONATION TO THE CITY OF BAY VILLAGE
AND DECLARING AN EMERGENCY.

WHEREAS, a donation of a parcel of land on Knickerbocker Road, Permanent Parcel Number 204-10-040, valued in excess of $100.00, has been offered to the City of Bay Village by the William Mural Trust; and

WHEREAS, Codified Ordinance Section 103.05 specifies conditions and procedures regulating the acceptance of property and/or services by the City; and

WHEREAS, in compliance with said Section, the attorney for said Trust has provided Council with satisfactory assurance that the donation is being made free and clear of any restrictions, and that there are no encumbrances thereon;

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

SECTION 1. That Council hereby accepts the donation of Permanent Parcel Number 204-10-040, valued in excess of $100.00, which has been offered to the City of Bay Village by the William Mural Trust.

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 comply with provisions of C.O. 103.05 in order that the donations may be accepted by the City, 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

050718 kek
ORDINANCE NO. 18-46
INTRODUCED BY: Ms. Maier

ORDINANCE
ENACTING CODIFIED ORDINANCE
CHAPTER 925 - SMALL CELL FACILITIES AND WIRELESS SUPPORT STRUCTURES WITHIN THE RIGHT-OF-WAY

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

SECTION 1. That the Codified Ordinances of the City of Bay Village are hereby amended by enacting new Chapter 925 to read as follows:

"CHAPTER 925 - SMALL CELL FACILITIES AND WIRELESS SUPPORT STRUCTURES WITHIN THE RIGHT-OF-WAY

925.01 Purpose and intent
925.02 Applicability
925.03 Definitions
925.04 Application required
925.05 Application review timeframes and process
925.06 General small cell requirements
925.07 Small cell design guidelines
925.08 Standard conditions of permit approval
925.09 Safety requirements
925.10 Recovery of costs
925.11 Severability
925.99 Penalty

925.01 - Purpose and intent

(a) The purpose of this chapter is to establish general procedures and standards, consistent with all applicable federal and state laws, for the siting, construction, installation, collocation, modification, operation, and removal of small cell wireless communications facilities in the right-of-way.

(b) The intent of this chapter is to:

(1) Establish basic criteria for applications to locate small cell facilities and wireless support structures in the right-of-way and authorize the Chief Building Official to develop, publish, and from time to time amend applications and other associated materials to provide clear guidance to applicants;

(2) Ensure that small cell facilities and wireless support structures are carefully designed, constructed, modified, maintained, and removed when no longer in use in conformance with all applicable health and safety regulations;

(3) Preserve the character of the City by minimizing the potentially adverse visual impact of small cell facilities and wireless support structures through careful
design, siting, landscaping and camouflaging techniques to blend these facilities into their environment to the maximum extent practicable;

(4) Enhance the ability of wireless communications carriers to deploy small cell facilities and wireless support structures in the city quickly, effectively, and efficiently so that residents, businesses, and visitors benefit from ubiquitous and robust wireless service availability;

(5) Establish an application process and structure for payment of fees and charges to be uniformly applied to all applicants and owners of small cell facilities and wireless support structures for such facilities;

(6) Comply with, and not conflict with or preempt, all applicable state and federal laws, including without limitation Section 101(a) and Section 704 of the Telecommunications Act, Pub. L. 104-104, 101 Stats. 56, 70 (Feb. 8, 1996) (codified as 47 U.S.C. §§ 253(a), 332(c)(7)), as may be amended or superseded, and Section 6409(a) of the Middle Class Tax Relief and Job Creation Act, Pub. L. 112-96, 126 Stat. 156 (Feb. 22, 2012) (codified as 47 U.S.C. § 1455(a)), as may be amended or superseded, and all FCC rules and regulations to interpret and implement applicable federal statutes.

925.02 - Applicability

(a) Subject to section 4939.0314 of the Ohio Revised Code and approval of an application under this chapter, an operator may, as a permitted use not subject to zoning review or approval, collocate a small cell facility and construct, maintain, modify, operate, or replace wireless support structures in, along, across, upon, and under the city right-of-way.

(1) An operator shall comply with generally applicable standards that are consistent with this chapter and adopted by the city for construction and public safety in the right-of-way.

(2) All structures and facilities shall be constructed and maintained so as not to impede or impair public safety or the legal use of the right-of-way by the city, the traveling public, or other public utilities.

(b) Except as provided in this chapter as well as any franchise, pole attachment, or other agreements between the city and a cable operator or public utility, the city shall not require any zoning or other approval, consent, permit, certificate, or condition for the construction, replacement, location, attachment, or operation of a small cell facility in the right-of-way, or otherwise prohibit or restrain the activities as described in this Chapter, except as otherwise provided in division (B) of section 4939.0311 of the Ohio Revised Code.

(c) Exceptions for prior franchises or agreements are as outlined in section 4939.08 of the Ohio Revised Code.

(d) Exclusions.

(1) Amateur radio facilities. This chapter shall not govern the installation of any amateur radio facility that is owned or operated by a federally licensed amateur radio station operator or is used exclusively for receive-only antennas.
(2) Certain over-the-air receiving devices (OTARD). This chapter shall not govern the installation of any OTARD antennas covered under FCC regulations codified in 47 C.F.R. §§1.4000 et seq., as may be amended or superseded. OTARD antennas include, without limitation, direct-to-home satellite dish antennas less than one meter in diameter, television antennas and wireless cable antennas.

(3) Handsets and user equipment. This chapter shall not govern the use of personal wireless devices (e.g., cell phones) or other consumer-grade mobile user equipment used in the right-of-way.

(e) The permitting procedures and authorizations set forth in the amendments made to sections 4939.01 to 4939.09 of the Revised Code by H.B. 478 of the 132nd General Assembly shall apply only to the placement of small cell facilities and wireless support structures in the right-of-way, and do not authorize the construction and operation of a wireline backhaul facility.

(f) Relationship to other chapters. This chapter shall supersede all conflicting requirements of other titles and chapters of this Code regarding the locating and permitting of small cell facilities and wireless support structures in the right-of-way.

(g) Nothing in this chapter precludes the city from applying its generally applicable health, safety, and welfare regulations when granting consent for a small cell facility or wireless support structure.

925.03 - Definitions

(a) Abandoned. Small cell facilities or wireless support structures that are unused for a period of three hundred sixty-five days without the operator otherwise notifying the city and receiving the city’s approval.

(b) Affiliate. When used in relation to any person, means another person who owns or controls, is owned or controlled by, or is under common ownership or control with, such person.

(c) Agent. A person that provides the city written authorization to work on behalf of a public utility.

(d) Antenna. Any transmitting or receiving device used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies, wireless communications signals, or other communication signals.

(e) Applicant. Any person that submits an application to the city to site, install, construct, collocate, modify, and/or operate a small cell facility or wireless support structure in the right-of-way according to the requirements of this chapter.

(f) Cable Operator. Any person or group of persons:

(1) who provides cable service over a cable system and directly or through one or more affiliates owns a significant interest in such cable system, or
(2) who otherwise controls or is responsible for, through any arrangement, the management and operation of such a cable system;

(g) Cable Service.
(1) the one-way transmission to subscribers of (i) video programming, or (ii) other programming service, and
(2) subscriber interaction, if any, which is required for the selection of such video programming or other programming service;

(h) Cable Franchise. An initial authorization, or renewal thereof (including a renewal of an authorization which has been granted subject to 47 U.S.C. 522 Section 546), issued by a franchising authority, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement, or otherwise, which authorizes the construction or operation of a cable system.

(i) Collocation or Collocate. To install, mount, maintain, modify, operate, or replace wireless facilities on a wireless support structure.

(j) Decorative Pole. A pole, arch, or structure other than a street light pole placed in the public way specifically designed and placed for aesthetic purposes and on which no appurtenances or attachments have been placed except for any of the following:
(1) Electric lighting;
(2) Specially designed informational or directional signage;
(3) Temporary holiday or special event attachments.

(k) Eligible Facilities Request. Means the same as defined by the FCC in 47 U.S.C. 1455 (a)(2), as may be amended, which defines that term as "any request for modification of an existing support structure that does not substantially change the physical dimensions of such support structure, involving:
(1) Collocation of new small cell facilities;
(2) Removal of small cell facilities; or
(3) Replacement of small cell facilities.

(l) FCC. The U.S. Federal Communications Commission and any legally appointed, designated, or elected agent or successor.

(m) Micro Wireless Facility. A small cell facility that is not more than twenty-four inches in length, fifteen inches in width, and twelve inches in height and that does not have an exterior antenna more than eleven inches in length suspended on cable strung between wireless support structures.

(n) Occupy or Use. With respect to the right-of-way, to place a tangible thing in the right-of-way for any purpose, including, but not limited to, constructing, repairing, positioning, maintaining, or operating lines, poles, pipes, conduits, ducts, equipment, or other structures, appurtenances, or facilities necessary for the delivery of public utility services or any services provided by a cable operator.
(o) Person. Any individual, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or not-for-profit.

(p) Public Utility. A facilities-based provider of wireless service to one or more end users in this state, or any company described in section 4905.03 of the Ohio Revised Code except in divisions (B) and (I) of that section, which company also is a public utility as defined in section 4905.02 of the Revised Code; and includes any electric light company as defined in section 4905.03 of the Ohio Revised Code, including electric light companies organized as nonprofit corporations, but not including municipal corporations or other units of local government that provide electric service.

(q) Right-Of-Way Fee. A fee levied to recover the costs incurred by the city and associated with the occupancy or use of right-of-way.

(r) Right Of Way. The surface of and the space above and below the paved or unpaved portions of any public street, public road, public highway, public freeway, public lane, public path, public bike path, public way, public alley, public court, public sidewalk, public boulevard, public parkway, public drive and any other land dedicated or otherwise designated for the same now or hereafter held by the city which shall, within its proper use and meaning in the sole opinion of the Chief Building Official, entitle a permittee, in accordance with the terms hereof and of any right-of-way permit, to the use thereof for the purpose of installing or operating any poles, wires, cables, transformers, conductors, ducts, lines, mains, conduits, vaults, manholes, amplifiers, appliances, attachments or other property or facilities as may be ordinarily necessary and pertinent to the provision of utility, cable television, communications or other services as set forth in any service agreement or any right-of-way permit. Right-of-way shall not include private easements or public property, except to the extent the use or occupation of public property is specifically granted in a right-of-way permit or by administrative regulation.

(s) Right Of Way Permit, Non-Residential. A permit issued by the City that must be obtained in order to perform any work in, on, above, within, over, below, under, or through any part of the public right-of-way, including, but not limited to, the act or process of digging, boring, tunneling, trenching, excavating, obstructing, or installing, as well as the act of opening and cutting into the surface of any paved or improved surface that is part of the public right-of-way.

(t) Right Of Way Permit, Small Cell. Means a small cell facility or wireless support structure right-of-way occupancy permit as further defined in §925.04.

(u) Small Cell Design Guidelines. Means those detailed design guidelines, specifications and examples promulgated by the Chief Building Official for the design and installation of small cell facilities and wireless support structures in the right-of-way, which are effective insofar as they do not conflict with FCC rules and regulations or the General Small Cell Requirements established in §925.06 of this Chapter.

(v) Small Cell Facility. A wireless facility that meets both of the following requirements:
(1) Each antenna is located inside an enclosure of not more than six cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an enclosure of not more than six cubic feet in volume.

(2) All other wireless equipment associated with the facility is cumulatively not more than twenty-eight cubic feet in volume. The calculation of equipment volume shall not include electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

(w) Small Cell Facility Operator or Operator. A wireless service provider, or its designated agent, or cable operator, or its designated agent, or a video service provider, or its designated agent that operates a small cell facility and provides wireless service as defined herein. For the purpose of this chapter, “operator” includes a wireless service provider, cable operator, or a video service provider that provides information services as defined in the “Telecommunications Act of 1996,” 110 Stat. 59, 47 U.S.C. 153(20), and services that are fixed in nature or use unlicensed spectrum.

(x) Tolling or Toll Period. The pausing or delaying of the running of a required time period.

(y) Utility Pole. A structure that is designed for, or used for the purpose of, carrying lines, cables, or wires for electric or telecommunications service. “Utility pole” excludes street signs and decorative poles.

(z) Video Service Provider. A person granted a video service authorization under sections 1332.21 to 1332.34 of the Ohio Revised Code.

(aa) Wireless Facility.

(1) Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including all of the following:
   A. Equipment associated with wireless communications;
   B. Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration.

(2) The term includes small cell facilities.

(3) The term does not include any of the following:
   A. The structure or improvements on, under, or within which the equipment is collocated;
   B. Coaxial or fiber-optic cable that is between wireless support structures or utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.

(bb) Wireless Service. Any services using licensed or unlicensed wireless spectrum, whether at a fixed location or mobile, provided to the public using wireless facilities.

(cc) Wireless Support Structure. A pole, street light pole, traffic signal pole, a fifteen-foot or taller sign pole, or utility pole capable of supporting small cell facilities, excluding utility
poles or other facilities used to supply traction power to public transit systems, including railways, trams, streetcars, and trolleybuses.

925.04 - Application required

(a) General Requirements. The following requirements shall apply to all small cell facilities and wireless support structures proposed within the right-of-way.
   (1) No person shall occupy or use the right-of-way except in accordance with law.
   (2) In occupying or using the right-of-way, no person shall unreasonably compromise the public health, safety, and welfare.
   (3) No person shall occupy or use the right-of-way without first obtaining, under this Chapter or section 1332.24 or 4939.031 of the Ohio Revised Code, any requisite consent of the city.

(b) Pre-Application Conference.
   (1) Purpose. Applicants are strongly encouraged to contact the city and request a pre-application conference. This meeting will provide an opportunity for early coordination regarding proposed small cell facilities and wireless support structure locations, design, and the application submittal, and the approval process in order to avoid any potential delays in the processing of an application and deployment of small cell facilities and wireless support structures in the city.
   (2) Appointment Required. An appointment is required for all pre-application conferences. Applicants must contact the designated city staff member as noted on the application form, who will provide applicants an appointment with all applicable city representatives in a timely manner.

(c) Application Required. Anyone seeking to site small cell facilities in the right-of-way shall first duly file a written application with the Building Department, in accordance with the requirements in this section and additional detailed requirements set forth in the Design Guidelines as modified from time to time by the Chief Building Official.

(d) Categories of Small Cell Applications. In accordance with FCC regulations and state law, the Building Department shall classify every application to locate small cell facility in the right-of-way as one of the following types:
   (1) Eligible Facilities Request:
      A. Involves collocation, replacement, modification, or removal of small cell facilities on an existing wireless support structure; and
      B. Does not substantially change the physical dimensions of the existing wireless support structure.
   (2) Collocation with Substantial Modifications:
      A. Involves collocation, replacement or modification of small cell facilities on an existing wireless support structure; and
      B. Substantially changes the physical dimensions of the existing wireless support structure.
   (3) New Wireless Support Structure:
      A. Involves the construction, modification, or replacement of a wireless support structure associated with a small cell facility within the right-of-way.
   A. Involves the removal of a wireless support structure installed within the right-of-
      way in association with a small cell facility.

(e) Required Small Cell Application Materials. The applicant shall submit to the city the
    following materials and information associated with each small cell facility application
    type in order for the application to be considered complete:
    (1) Completed application form and fee as specified on the application.
    (2) A scaled and dimensioned site plan (not smaller than one inch equals 50 feet)
        clearly indicating the following:
        A. Proposed location within the right-of-way including nearest cross street
           intersection(s);
        B. For adjacent parcel(s) perpendicular to the proposed small cell facility location,
           property ownership, including current ownership;
        C. All existing conditions within 400 feet of the proposed location, including but not
           limited to, buildings, utilities within the right-of-way and associated above grade
           structures, location of electric service and fiber optic cable, all other underground
           and overhead utilities, small cell structures and facilities, sidewalks/shared-use
           paths, back of adjacent curb/edge of pavement, driveways, and trees.
        D. Dimensions shall be provided from the proposed small cell facility to existing
           wireless support structures and equipment, utility structures, back of curb/edges of
           pavement including driveways, sidewalks and shared-use paths.
        E. Dimensions shall be provided between proposed wireless support structures and
           associated ground mounted equipment.
        F. Scaled and dimensioned elevations/profiles and sections (not smaller than 1 inch
           equals 5 feet) of existing wireless support structures and/or new wireless support
           structures clearly indicating the following, as applicable:
           1. Height from established grade at the base of the wireless support structure to
              the highest point of the wireless support structure and the height to the highest
              point of proposed antenna or antenna enclosures, as applicable (overall
              height).
           2. Height from established grade at the base of the wireless support structure to
              the lowest point of all proposed small cell equipment to be installed on the
              wireless support structure
           3. The distance from the outer edge of the wireless support structure parallel to
              the outer edge of all equipment associated with the small cell facility to be
              installed on the support structure.
        G. Scaled and dimensioned details of proposed small cell facilities, including
           elevations/profiles, plans and sections (not smaller than 1 inch equals 5 feet)
           clearly indicating the following, as applicable:
           1. Height, width, depth and volume in cubic feet of all proposed antenna and
              exposed elements and/or proposed antenna enclosures.
           2. Height, width, depth and volume of all other wireless equipment associated
              with the facility, with all electric meters, concealment elements,
              telecommunications demarcation boxes, grounding equipment, power transfer
              switches, cut-off switches, and vertical cable runs for the connection of power
              and other services clearly labeled.
3. Method of installation/connection to pole or ground, as applicable.
4. Color specifications for all small cell support structures and associated exposed equipment, cabinets and concealment elements.
5. Electrical plans and wiring diagrams
6. Footing and foundation drawings and structural analysis sealed and signed by a professional engineer in the State of Ohio

H. Manufacturer's specification sheets for all small cell facility equipment proposed, including poles, equipment cabinets, shrouds, or concealment devices, antennas, meters, radios, switches, telecommunications demarcation boxes, and grounding equipment.

I. Scaled and dimensioned landscape plans associated with required screening of ground mounted small cell equipment (where applicable), including a planting plan with proposed plant species, quantities, spacing, height at installation, and planting details.

(f) Required Application Materials for Small Cell Facilities Removal. For applications involving the removal of small cell facilities under an Eligible Facilities Request, the following materials and information shall be provided:

(1) Completed application form and fee as specified on the application.
(2) A scaled and dimensioned site plan (not smaller than one inch equals 20 feet) clearly indicating the following:
A. Proposed location within the right-of-way including nearest cross street intersection;
B. Adjacent parcel(s) perpendicular to the existing small cell facility location property ownership, including current ownership.
C. All existing conditions within 50 feet of the existing small cell facilities locations to be removed, including but not limited to, buildings, utilities within the right-of-way and associated above grade structures, location of electric service and fiber optic cable, all other underground and overhead utilities, small cell structures and facilities, sidewalks/shared-use paths, back of adjacent curb/edge of pavement, driveways, street trees and plant material.

(3) Scaled and dimensioned site and/or structure remediation details in accordance with Small Cell Design Guidelines requirements (not smaller than 1 inch equals 4 feet) clearly indicating the following:
A. Proposed remediation plan for modifications made to city-owned wireless support structures and other areas of the right-of-way associated with collocation of small cell wireless facilities and ground mounted equipment after the removal of these facilities.
B. Proposed restoration of electric and fiber optic connections after removal of small cell facilities, as applicable.

(g) Required Application Materials for Wireless Support Structure Removal. For applications involving the removal of a wireless support structure installed in association with a small cell facility, the following materials and information must be provided:

(1) Non-Residential Right-of-Way Permit application and fee as specified.

925.05 - Application review timeframes and process
Ordinance - Chapter 925, Small Cell Facilities

(a) Permit Application Review Timeframes.
   (1) Eligible Facilities Request. Notwithstanding sections 4939.01 to 4939.037 of the Ohio Revised Code, the city shall grant or deny its consent for an Eligible Facilities Request under 47 C.F.R. 1.40001 not later than sixty days after the date of filing by an entity of a completed application.
   (2) Collocation with Substantial Modifications. The city shall grant or deny its consent for requests to collocate, or to replace or modify a small cell facility on an existing wireless support structure where substantial modifications are required to the wireless support structure not later than ninety days after the date of filing by a person of a completed application.
   (3) New Wireless Support Structure. The city shall grant or deny its consent for requests to construct, modify, or replace a wireless support structure associated with a small cell facility not later than one hundred twenty days following the date of filing of a complete application by an entity.
   (4) Wireless Support Structure Removal. The city shall grant or deny its consent for requests to remove wireless support structures associated with small cell facilities from the right-of-way typical to the review timeframes for the Non-Residential Right-of-Way Permit required for this activity.

(b) Failure to grant or deny within prescribed timeframes. If the city fails to approve or deny a request for consent under this section or a request for a relevant work permit within the required time period, provided the time period is not tolled under §925.05(d), the request shall be deemed granted upon the requesting entity providing notice to the city that the time period for acting on the request has lapsed.

(c) Application denials.
   (1) The city shall not unreasonably withhold or deny consent for small cell facilities and wireless support structures within the right-of-way.
   (2) If a request for consent is denied, the city shall provide in writing its reasons for denying the request, supported by substantial, competent evidence, and such information as the applicant may reasonably request to obtain consent. The denial of consent shall not unreasonably discriminate against the entity requesting the consent.
   (3) Except in the case of a public utility subject to the jurisdiction and recognized on the rolls of the public utilities commission or of a cable operator possessing a valid franchise awarded pursuant to the “Cable Communications Policy Act of 1984,” 98 Stat. 2779, 47 U.S.C.A. 541, the city, for good cause shown, may withhold, deny, or delay its consent to any person based upon the person's failure to possess the financial, technical, and managerial resources necessary to protect the public health, safety, and welfare.

(d) Tolling of required timeframes.
   (1) The time periods required in §925.05(a) may be tolled only:
      A. By mutual agreement between the entity requesting consent and the city;
      B. In cases where the city determines that the application is incomplete; or
      C. If the number of requests for consent for small cell facilities or wireless support structures received is likely to result in difficulty processing applications within
the time limits set forth in §925.05(a) due to the lack of resources of the city, then the city may toll the time limits as follows:

1. The time period may be tolled for up to twenty-one days for the first fifteen small cell facility or wireless support structure requests received by the city above the thresholds provided in the Table below within any consecutive thirty-day period:

<table>
<thead>
<tr>
<th>Population of city at time Small Cell Facility or Wireless Support Structure Applications are received:</th>
<th>Number of Applications:</th>
</tr>
</thead>
<tbody>
<tr>
<td>30,000 persons or fewer</td>
<td>15 or more</td>
</tr>
<tr>
<td>30,001 to 40,000 persons</td>
<td>20 or more</td>
</tr>
<tr>
<td>40,001 to 50,000 persons</td>
<td>25 or more</td>
</tr>
<tr>
<td>50,001 to 60,000 persons</td>
<td>30 or more</td>
</tr>
<tr>
<td>60,001 to 100,000 persons</td>
<td>60 or more</td>
</tr>
</tbody>
</table>

2. Further, for every additional fifteen requests that the city receives above the thresholds provided in the Table above the city may toll the time period for those requests for up to fifteen days in addition to the time period provided in division (1)(c)(1) of this section.

3. In no instance shall the city toll the time period for any small cell facility or wireless support structure request by more than ninety consecutive days. Upon request, the city shall provide an operator written notice of the time limit for a small cell facility or wireless support structure request.

(2) The time period for incompleteness, the city shall provide written notice to the person requesting consent not later than thirty days after receiving the request, clearly and specifically delineating all missing documents or information. The missing documents or information shall be reasonably related to determining whether the request meets the requirements of applicable federal and state law. Any notice of incompleteness requiring other information or documentation, including information of the type described in section 4939.0313 of the Revised Code or documentation intended to illustrate the need for the request or to justify the business decision for the request, does not toll the time period.

(3) The time period for granting or denying consent resumes when the entity makes a supplemental submission in response to the city’s notice of incompleteness.

(4) If a supplemental submission is inadequate, the city shall notify the entity not later than ten days after receiving the supplemental submission that the supplemental submission did not provide the information identified in the original notice delineating missing documents or information. The time period may be tolled in the case of second or subsequent notices under the procedures identified in divisions (1) to (3) of this section. Second or subsequent notices of incompleteness may not specify missing documents or information that was not delineated in the original notice of incompleteness.

(e) Timeframe for completion of permit.

(1) Permits granted for an Eligible Facilities Request, Collocation with Substantial Modifications and New Wireless Support Structure shall be completed by the
operator or its agent within one hundred eighty days after issuance of the permit, unless:

A. The city and the operator agree to extend this period; or
B. A delay is caused by make-ready work for a city-owned wireless support structure or decorative pole or by the lack of commercial power or backhaul availability at the site, provided that:
   1. The operator has made a timely request within sixty days after the issuance of the permit for commercial power or backhaul services; and
   2. The additional time to complete installation does not exceed three hundred sixty days after issuance of the permit.

(2) If divisions (1)(a) and (b) of this section cannot be met, the permit shall be void unless the city grants an extension in writing to the operator.

(f) Consolidated application for multiple small cell facilities and/or support structures.
   (1) Applicants seeking to construct, modify, collocate, or replace more than one small cell facility or more than one wireless support structure may file at the applicants discretion, a consolidated application for up to 30 small cell facility requests or up to 30 wireless support structure requests in a single application and receive a single permit for the construction, modification, collocation, or replacement of the small cell facilities or wireless support structures subject to the following:
   A. This single application may be filed for multiple small cell facilities or multiple wireless support structures only if they are of substantially the same type.
   B. The city may separately address small cell facility collocations or wireless support structures for which incomplete information has been received or which are denied.

   (2) In the case of a consolidated application, the fees provided for in section 4939.0316 of the Ohio Revised Code and by the City may be cumulative. However, the City may, at its discretion, opt to reduce such fees in order to encourage consolidated application submittals.

   (3) In the case of a consolidated application, each small cell facility or wireless support structure proposed to be constructed, modified, collocated on, or replaced shall constitute a separate request for consent for purposes of tolling the response deadline as authorized under section 4939.036 of the Ohio Revised Code. A request by a single operator for a new or replacement support structure and associated small cell facility constitutes one request.

(g) Small Cell and Wireless Support Structure activities not requiring consent.
   (1) City consent shall not be required for either of the following activities conducted in the right-of-way:
   A. Routine maintenance of wireless facilities;
   B. The replacement of wireless facilities with wireless facilities that are consistent with the city’s current design requirements and guidelines and that are either:
      1. Substantially similar to the existing wireless facilities; or
      2. The same size or smaller than the existing wireless facilities.

   (2) The city may require a Non-Residential Right-of-Way Permit for any activity described in division (1) of this section and for any activity for which consent is
authorized herein and under section 4939.031 of the Ohio Revised Code. Any such permit shall be subject to any applicable State law.

(3) Notwithstanding the amendments made to sections 4939.01 to 4939.09 of the Ohio Revised Code by H.B. 478 of the 132nd General Assembly, a cable or video service provider shall not be required to obtain permits from the city or to pay fees, with the exception of work permits and associated fees, to place, operate, maintain, or replace micro wireless facilities pursuant to an existing franchise or video service authorization under Chapter 1332 of the Ohio Revised Code; nor shall a holder of an existing franchise or video service authorization be required to obtain additional authorizations or to pay additional fees for the placement of micro wireless facilities already covered under an existing franchise or video service authorization under Chapter 1332 of the Ohio Revised Code.

925.06 - General small cell requirements

(a) Existing Wireless Support Structures

(1) Collocation encouraged. The collocation of wireless facilities on existing support structures is strongly encouraged as a means to minimize the extent of intrusion of redundant support structures within the right-of-way.

(2) Structural Integrity of Existing Support Structures.

A. The city shall not authorize any attachments to city-owned infrastructure that negatively impacts the structural integrity of the support structure.

B. The city may condition approval of the collocation on replacement or modification of the wireless support structure at the operator’s cost if the city determines that replacement or modification is necessary for compliance with the city’s written construction and/or safety standards. A replacement or modification of the wireless support structure shall conform to the applicable design guideline(s) and the city’s applicable specifications for the type of structure being replaced. The city may retain ownership of a replacement wireless support structure.

(3) Maximum Permitted Height. For an existing wireless support structure, the antenna and any associated shroud or concealment material are permitted to be collocated at the top of the existing wireless support structure and shall not increase the height of the existing wireless support structure by more than five feet, unless otherwise specified in the Small Cell Design Guidelines based on the specific context and characteristics of the wireless support structure.

(4) Right to reserve space on wireless support structure or pole. The city may reserve space for future public safety or transportation uses in the right-of-way or on a wireless support structure or pole owned by the city in a documented and approved plan in place at the time an application is filed.

A. A reservation of space shall not preclude placement of a pole or collocation of a small cell facility.

B. If replacement of the city’s pole or wireless support structure is necessary to accommodate the collocation of the small cell facility and the future use, the applicant/vendor shall pay for the replacement of the pole or wireless support structure, and the replaced pole or wireless support structure must accommodate the future use.
(b) New Wireless Support Structures/Poles

(1) Maximum Permitted Height

A. For a new wireless support structure, the overall height of the wireless support structure and any collocated antennas shall not be more than forty feet in height above established grade measured at the base of the wireless support structure.

B. The city shall limit the maximum permissible height of wireless support structures to not less than thirty-five feet in height above established grade measured at the base of the structure in areas meeting the following criteria:
   1. The area is within three hundred feet of the proposed site for a new wireless support structure in the same right-of-way or a connecting right-of-way, and where there are no wireless support structures or utility poles taller than thirty feet in height above ground level; and
   2. The maximum allowable height for building construction in the underlying or adjacent zoning district is thirty-five feet in height above ground level or less.

(2) Multiple requests for wireless support structures in violation of spacing requirements. If multiple requests are received by the city to install two or more poles that would violate applicable spacing requirements outlined in the Small Cell Design Guidelines, or to collocate two or more small cell facilities on the same wireless support structure, notwithstanding division (l) of section 4939.0313 of the Revised Code, the city may resolve conflicting requests through whatever reasonable and nondiscriminatory manner it deems appropriate.

(3) City directed alternate location for wireless support structures. The city may propose an alternate location to any proposed location of a new wireless support structure, subject to the following:

A. That the alternate location is within one hundred feet of the proposed location or within a distance that is equivalent to the width of the right-of-way in or on which the new wireless support structure is proposed, whichever is greater; and

B. The operator shall use the alternate location if it has the right to do so on reasonable terms and conditions and the alternate location does not impose technical limits or additional costs.

(4) Waiver to city directed alternate wireless support structure location or under grounding requirements.

A. Small cell operators may seek a waiver of the under grounding or alternative location requirements for the placement of a new wireless support structure to support small cell facilities if the operator is unable to achieve its service objective using a small cell facility under the following circumstances:
   1. From a location in the right-of-way where the prohibition does not apply;
   2. In a utility easement the operator has the right to access; or
   3. In or on other suitable locations or structures made available by the city at reasonable rates, fees, and terms.

B. The city shall process waivers in a reasonable and nondiscriminatory manner that does not have the effect of prohibiting the provision of wireless service.

(c) Antenna

(1) Size. Each antenna shall be located entirely within an enclosure of not more than six cubic feet in volume or, in the case of an antenna that has exposed elements,
the antenna and all of its exposed elements could fit within an enclosure of not more than six cubic feet in volume.

(2) Location. All antenna to be installed on new or existing wireless support structures shall be mounted to the top of the wireless support structure and aligned with the centerline of the wireless support structure, unless otherwise specified in the Design Guidelines based on the specific context and characteristics of the wireless support structure.

(d) Small Cell Facilities Installed on Wireless Support Structures
(1) Size. Exclusive of the antenna, all wireless equipment associated with the facility shall not cumulatively exceed twenty-eight cubic feet in volume. The calculation of equipment volume shall not include electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.
(2) Equipment Enclosures Required. All small cell facilities mounted to wireless support structures or located on the ground shall be fully contained within enclosures or cabinets.

(e) Power and Fiber Optic Supply.
(1) Independent Power Source Required. Small cell facilities located on city-owned support structures may not use the same power source providing power for the existing facilities original to the purposes of the support structure. Independent power source must be contained within a separate conduit inside the existing support structure.
(2) Applicant shall coordinate, establish, maintain and pay for all power and communication connections with private utilities.

925.07 - Small cell design guidelines

(a) The Chief Building Official shall promulgate additional detailed Small Cell Design Guidelines with objective, technically feasible criteria applied in a non-discriminatory manner that reasonably match the aesthetics and character of the immediate area regarding all of the following, which the city shall consider in reviewing an application:
(1) The location of any ground-mounted small cell facilities;
(2) The location of a small cell facility on a wireless support structure;
(3) The appearance and concealment of small cell facilities, including those relating to materials used for arranging, screening, and landscaping;
(4) The design and appearance of a wireless support structure including any height requirements adopted in accordance with §925.06.

(b) The Small Cell Design Guidelines will accord with §925.06 but will provide greater detail, description, and examples of acceptable small cell facilities including visual depictions.

(c) The Small Cell Design Guidelines shall provide administrative and procedural guidance to applicants, such as a list of minimum application requirements.
(d) The provisions in this section shall not limit or prohibit the Chief Building Official’s discretion to promulgate and make publicly available other information, materials or requirements in addition to, and separate from, the Small Cell Design Guidelines which do not conflict with state or federal law.

(e) The Chief Building Official shall have authority to update or supplement the Small Cell Design Guidelines to address relevant changes in law, technology, or administrative processes. In the event of any conflict between the Small Cell Design Guidelines and the standards articulated in this chapter, the language of this chapter takes precedence over the language of the Small Cell Design Guidelines.

925.08 - Standard conditions of permit approval

(a) Standard conditions of approval. Permission to site small cell facilities and wireless support structures in the right-of-way shall be conditioned on compliance with the standard conditions of approval provided in §925.08. The Building Department or Planning may add or modify conditions of approval as necessary or appropriate to protect and promote the public health, safety, and welfare.

(b) Small Cell Facility Permit duration. The city’s approval term of an attachment to a wireless support structure shall be for a period of not less than ten years, with presumption of renewal for successive five-year terms, subject to terms providing for early termination or nonrenewal for cause or by mutual agreement and unless otherwise agreed to by both the operator and the city, except for generally applied permitting to safeguard the public health, safety, and welfare. An operator may remove its small cell facilities at any time subject to applicable permit requirements and may stop paying annual charges or fees under §925.08(n).

(c) Compliance with all applicable laws. Permittee shall at all times maintain compliance with all applicable federal, state and local laws, regulations, ordinances, or other rules.

(d) Inspections; emergencies. The city or its designee may inspect small cell facilities and wireless support structures in the right-of-way upon reasonable notice to the permittee. The permittee shall cooperate with all inspections. The city reserves the right to support, repair, disable, or remove any elements of the facility in emergencies or when the facility threatens imminent harm to persons or property.

(e) Relocation or adjustment as requested by city. If requested by the city, in order to accomplish construction and maintenance activities directly related to improvements for the health, safety, and welfare of the public, an operator shall relocate or adjust its facilities within the right-of-way at no cost to the city, as long as such request similarly binds all users in or on such public way. Such relocation or adjustment shall be completed in accordance with local law.

(f) Contact information for responsible parties. Permittee shall at all times maintain accurate contact information for all parties responsible for the facility, which shall include a phone number, street mailing address, and email address for at least one natural person. All such contact information for responsible parties shall be provided to the Building Department.
(g) Indemnification. Any operator who owns or operates small cell facilities or wireless support structures in the right-of-way shall indemnify, protect, defend, and hold the city and its elected officials, officers, employees, agents, and volunteers harmless against any and all claims, lawsuits, judgments, costs, liens, losses, expenses, fees to include reasonable attorney fees and costs of defense, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including personal or bodily injury or death, property damage or other harm for which recovery of damages is sought, to the extent that it is caused by the negligence of the operator who owns or operates small cell facilities and wireless service in the right-of-way, any agent, officer, director, representative, employee, affiliate, or subcontractor of the operator, or their respective officers, agents, employees, directors, or representatives while installing, repairing, or maintaining facilities in the right-of-way.

(h) Interference with public safety radio services. In the event that the city has reason to believe that permittee's radio communications operations are causing interference with the city's radio communications operations, then the permittee shall, at its cost, immediately cooperate with the city to either rule out permittee as the interference source or eliminate the interference. Cooperation with the city may include, but shall not be limited to, temporarily switching the small cell facilities on and off for testing.

(i) Adverse impacts on adjacent properties. Permittee shall undertake all reasonable efforts to avoid undue adverse impacts to adjacent properties and/or uses that may arise from the construction, operation, maintenance, modification, or removal of the small cell facility and/or wireless support structure.

(j) Good condition required. Small cell facilities and support structures shall at all times be kept and maintained in good condition, order, and repair by qualified maintenance and construction personnel, so that the same shall not menace or endanger the health, safety or welfare of any person or property.

(k) Graffiti abatement. Permittee shall promptly remove any graffiti on the small cell facility at permittee’s sole expense.

(l) RF exposure compliance. All facilities must comply with all standards and regulations of the FCC and any other state or federal government agency with the authority to regulate RF exposure standards.

(m) Relocation for public improvement projects. Permittee shall remove and relocate the permitted small cell facility and/or support structure at permittee’s sole expense to accommodate construction of a public improvement project by the City as required under this chapter.

(n) Removal of small cell facilities if use discontinued or abandoned.
   (1) In the event that the use of a small cell facility is discontinued, the owner shall submit an Eligible Facilities Request as required herein, as written notice to the city of its intent to discontinue use and the date when the use shall be discontinued. If a small cell wireless facility is not removed within 180 days of
discontinued use, the small cell facility shall be considered abandoned and the city may remove it at the owner’s expense.

(2) In the event that a wireless support structure is discontinued, the owner shall submit a Non-Residential Right-of-Way Permit as written notice to the city of its intent to remove the wireless support structure from the right-of-way. If a wireless support structure is not removed within 180 days of discontinued use, the wireless support structure shall be considered abandoned and the city may remove it at the owner’s expense.

(3) Small cell facilities and wireless support structures determined by the city to be abandoned without application notice from the owner may be removed by the city at the owner’s expense to ensure the public health, safety, and welfare.

(4) The city may impose reasonable requirements for bonds, escrow deposits, letters of credit, or any other type of financial surety to ensure removal of abandoned or unused wireless facilities or damage to village property caused by an operator or its agent.

925.09 - Safety requirements

(a) Prevention of failures and accidents. Any person who owns a small cell wireless facility sited in the right-of-way shall at all times employ ordinary and reasonable care and install and maintain in use nothing less than the best available technology for preventing failures and accidents which are likely to cause damage, injury, or nuisance to the public.

(b) Compliance with fire safety and FCC regulations. Small cell facilities, wires, cables, fixtures, and other equipment shall be installed and maintained in substantial compliance with the requirements of the National Electric Code, all FCC, state, and local regulations, and in such manner that will not interfere with the use of other property.

(c) Surety bond or equivalent financial tool for cost of removal. All owners must procure and provide to the city a bond, or must provide proof of an equivalent financial mechanism, to ensure compliance with all provisions of this section. The bond or equivalent financial method must specifically cover the cost of removal of unused or abandoned small cell facilities or damage to city property caused by an operator or its agent of each small cell facility which the owner installs in the right-of-way in case the city has to remove or pay for removal of the wireless facility. Two acceptable alternatives to a bond include a funds set-aside and a letter of credit.

925.10 – Recovery of costs

(a) Application processing fee. For processing an application for consent, the city may charge a fee for each small cell facility and wireless support structure requested as prescribed under section 4939.031 of the Ohio Revised Code and as listed on the associated application forms. The city may adjust this fee ten per cent every five years, rounded to the nearest five dollars.

(b) Annual collocation fee. For reimbursement for operator’s attachment of small cell facilities to wireless support structures owned or operated by the city and located in the
right-of-way, the city may charge an annual fee as prescribed under 4939.031 of the Ohio Revised Code and as listed on associated application forms. The city may adjust this fee ten per cent every five years, rounded to the nearest five dollars.

(c) Tax liabilities and assessments not applicable. Placement of small cell facilities in the right-of-way or attachment of small cell facilities to a wireless support structure and any fees associated therewith shall not subject a municipal corporation to any state or local tax liabilities or assessments.

925.11 - Severability

The provisions of any part of this chapter are severable. If any provision or subsection, or the application of any provision or subsection to any person or circumstances is held invalid, the remaining provisions, subsection, and applications of such ordinance to other persons or circumstances shall not be made invalid as well. It is declared to be the intent of this section that the remaining provisions would have been adopted had such invalid provisions not been included in this chapter when originally adopted by Council.

925.99 - Penalty

(a) In addition to any other penalties set forth in this chapter, any person or permittee violating any section in this chapter shall be guilty of a minor misdemeanor. Each day the violation continues shall be deemed a separate offense.

(b) Nothing herein shall prevent the city from taking any other lawful action, including civil actions at law or equity, including temporary restraining orders, preliminary injunctions and permanent injunctions, as is necessary to prevent or remedy any violations.”

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 will be in full force and take effect at the earliest time permitted by law.

PASSED:

__________________________________________
PRESIDENT OF COUNCIL

__________________________________________
CLERK

__________________________________________
MAYOR
051018 kek
ORDINANCE NO. 18-44
INTRODUCED BY: Mrs. DeGeorge

First Reading May 7, 2018
Second Reading May 14, 2018

AN ORDINANCE
AUTHORIZING THE MAYOR TO ENTER INTO A PROFESSIONAL SERVICES
AGREEMENT AND A LEASE AGREEMENT WITH SAFEbuilT,
AND DECLARING AN EMERGENCY.

WHEREAS, the City entered into a Professional Services Agreement and a Lease
Agreement with SAFEbuilT effective May 1, 2013 and expiring on April 30, 2018; and

WHEREAS, the City would like to extend both agreements and has negotiated
amendments satisfactory to both parties;

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

SECTION 1. That the Mayor is hereby authorized to enter into a Professional Services
Agreement and a Lease Agreement with SAFEbuilT, said agreements are on file with the City of
Bay Village and will expire on December 31, 2020.

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, property and safety, and
for the further reason that it is immediately necessary to provide said services, 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

050218 kek