CITY OF BAY VILLAGE, OHIO

Agenda, Bay Village City Council June 18, 2018
Regular Meeting, Council Chambers 8:00 p.m.

Dwight A. Clark, President of Council, Presiding
Roll Call
Pledge of Allegiance led by Ward 4 Councilman Peter J. Winzig

Reading of Minutes – Special Meeting of June 11, 2018

ANNOUNCEMENTS

Mayor Koomar

Reappointment of Warren Remein to the City Planning Commission for a five year term expiring August 17, 2023.

Appointment of Thomas Kelly to the City Planning Commission to fill the unexpired term of Mark E. Barbour, expiring August 17, 2018.

Reappointment of Thomas Kelly to the City Planning Commission for a five year term expiring August 17, 2023.

REPORTS

Mayor Koomar Director of Community Services Selig
Director of Law Barbour Police Chief Spaetzel
Director of Finance Mahoney Fire Chief Lyons
Director of Recreation Enovitch Chief Building Official Steve Vogel
Director of Public Service and Properties Liskovec
Human Resources Director Demaline

AUDIENCE

COMMUNICATIONS

COMMITTEE OF THE WHOLE

ENVIRONMENT, SAFETY & COMMUNITY SERVICES COMMITTEE –Mr. Mace

Ordinance No. 18-48 amending Chapter 505 of the Codified Ordinances of the City of Bay Village, entitled “Animals and Fowl.” (Third Reading and Adoption) (First Reading June 4, 2018) (Second Reading June 11, 2018)
Resolution approving use by Robert P. Ellis, Jr., Trustee, of Submerged Lands of Lake Erie for shoreline improvements, and declaring an emergency.

Resolution approving use by Steven and Laura Sozio of Submerged Lands of Lake Erie for shoreline improvements, and declaring an emergency.

Resolution declaring the City as a Hybrid Entity; Designating the City’s Health Care Components; Designating a HIPAA Privacy and Security Officer; Directing and Authorizing Certain Parties to carry out this Resolution and providing an effective date.

FINANCE AND CLAIMS-Mr. Tadych

Motion to acknowledge receipt of May 2018 Financial Reports of the City of Bay Village, Ohio as prepared by Finance Director Renee Mahoney.

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

Ordinance No. 18-46, as amended, adding Chapter 907 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. (Second Reading June 11, 2018) (First Reading May 14, 2018).

Motion to confirm the reappointment by Mayor Koomar of Warren Remein to the City Planning Commission for a five year term expiring August 17, 2023.

Motion to confirm the appointment by Mayor Koomar of Thomas Kelly to the City Planning Commission to fill the unexpired term of Mark E. Barbour, expiring August 17, 2018.

Motion to confirm the reappointment by Mayor Koomar of Thomas Kelly to the City Planning Commission for a five year term expiring August 17, 2023.

Motion to permit the installation of a Banner for the Bay Boat Club announcing their 75th Anniversary from June 18, 2018 through September 20, 2018, in accordance with Codified Ordinance No. 1179.09 (4).

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

RECREATION AND PARK IMPROVEMENTS COMMITTEE –Mr. Winzig

SERVICES, UTILITIES & EQUIPMENT COMMITTEE –Ms. DeGeorge

Resolution authorizing the purchase of a Service Department Vehicle, and declaring an emergency.
MISCELLANEOUS

Motion to remove review of Chapter 505, Animals and Fowl, from the Matters Pending before Council Committee.

Motion to adjourn Regular Meetings of Bay Village City Council during the months of July and August in accordance with City Charter Section 2.10. Meetings, with Special Meetings called as necessary.

Motion to convene to Executive Session for the purpose of discussion relating to Contracts: Jefferson Group, Lakeview Cemetery, and Personnel: Compensation, and Labor Contracts Negotiations.
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.
President of Council Dwight A. Clark, presiding

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

Also Present: Law Director Barbour, Finance Director Mahoney, 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: Jeff Gallatin, Clair Banasiak, Suzanne Graham, Tara Wendell.

President of Council Clark called the meeting to order at 8:10 p.m. with roll call, and the Pledge of Allegiance led by Ward 3 Councilwoman Sara Byrnes Maier.

**Motion** by Tadych to dispense with the reading of the minutes of the meeting of the Regular Meeting of Council held June 4, 2018, and approve the minutes as prepared and distributed.

**Motion passed 7-0.**

Mr. Mace read, **Ordinance 18-48** amending Chapter 505 of the Codified Ordinances of the City of Bay Village, entitled “Animals and Fowl.” (Second Reading) (First Reading June 4, 2018).

Mr. Barbour announced that Ordinance No. 18-48 is placed on second reading.

Mr. Mace introduced and read **Resolution 18-51** authorizing the filing of a Community Development Municipal Grant Application, and declaring an emergency, and moved for adoption.

There being no further discussion, Mr. Clark called for a vote on the motion for adoption of Resolution No. 18-51.

Roll Call on Suspension of the Charter Rules:
- Yeas- Clark, DeGeorge, Mace, Maier, Stainbrook, Tadych, Winzig.
- Nays- None.

Roll Call on Suspension of the Council Rules:
- Yeas – Clark, DeGeorge, Mace, Maier, Stainbrook, Tadych, Winzig.
- Nays – None.

Roll Call on Inclusion of the Emergency Clause:
- Yeas – Clark, DeGeorge, Mace, Maier, Stainbrook, Tadych, Winzig.
- Nays – None.

Roll Call on Adoption:
Mr. Clark announced the passage of Resolution 18-51, an emergency measure, with a vote of 7-0.

Mr. Tadych read Resolution 18-47 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, and moved for adoption. (Third Reading and Adoption) (Second Reading June 4, 2018) (First Reading May 21, 2018)

There being no further discussion, Mr. Clark called for a vote on the motion for adoption of Resolution No. 18-47.

Roll Call on Suspension of the Charter Rules:
Yeas- DeGeorge, Mace, Maier, Stainbrook, Tadych, Winzig, Clark
Nays- None.

Roll Call on Suspension of the Council Rules:
Yeas – DeGeorge, Mace, Maier, Stainbrook, Tadych, Winzig, Clark
Nays – None.

Roll Call on Inclusion of the Emergency Clause:
Yeas – DeGeorge, Mace, Maier, Stainbrook, Tadych, Winzig, Clark
Nays – None.

Roll Call on Adoption:
Yeas– DeGeorge, Mace, Maier, Stainbrook, Tadych, Winzig, Clark
Nays – None.

Mr. Clark announced the passage of Resolution 18-47, an emergency measure, with a vote of 7-0.

Mr. Tadych read Ordinance 18-49 to make appropriations for the current and other expenditures of the City of Bay Village for the Fiscal Year 2018 as previously appropriated in Annual Appropriations 17-96, 18-5, 18-25, and 18-30, and declaring an emergency, and moved for adoption. (Second Reading and Adoption) (First Reading June 4, 2018)

There being no further discussion, Mr. Clark called for a vote on the motion for adoption of Ordinance No. 18-49.

Roll Call on Suspension of the Charter Rules:
Yeas- Mace, Maier, Stainbrook, Tadych, Winzig, Clark, DeGeorge
Nays- None.

Roll Call on Suspension of the Council Rules:
Yeas – Mace, Maier, Stainbrook, Tadych, Winzig, Clark, DeGeorge
Nays – None.

Roll Call on Inclusion of the Emergency Clause:
Yeas – Mace, Maier, Stainbrook, Tadych, Winzig, Clark, DeGeorge
Mr. Clark announced the passage of Ordinance 18-49, an emergency measure, with a vote of 7-0.

Mr. Tadych read Ordinance 18-50 providing for the compensation of the Director of Law, Prosecutor, and Special Counsel commencing January 1, 2018 and ending December 31, 2018, and declaring an emergency, and moved for adoption. (Second Reading and Adoption) (First Reading June 4, 2018).

There being no further discussion, Mr. Clark called for a vote on the motion for adoption of Ordinance No. 18-50.

Mr. Clark announced the passage of Ordinance No. 18-50, an emergency measure, with a vote of 7-0.

Mr. Tadych introduced and read Ordinance No. 18-52 authorizing the Mayor to enter into an agreement with McGowan Insurance Agency as agents of Argonaut Insurance, and declaring an emergency, and moved for adoption. (First Reading and Adoption).

There being no further discussion, Mr. Clark called for a vote on the motion for adoption of Ordinance No. 18-52.
Nays – None.
Roll Call on Adoption:
Yeas– Stainbrook, Tadych, Winzig, Clark, DeGeorge, Mace, Maier.
Nays – None.

Mr. Clark announced the passage of Ordinance No. 18-52, an emergency measure, with a vote of 7-0.

**Ms. Maier** read, by title only, **Ordinance 18-46, as amended**, adding Chapter 907 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.**Maier** (First Reading May 14, 2018). Ms. Maier noted that there have been significant revisions to the ordinance since first reading.

Mr. Barbour announced that Ordinance No. 18-46 is moved to second reading.

**Mr. Clark** welcomed new City of Bay Village Law Director Mark Barbour, stating that it is good to have him on the team representing the administration and City Council. Former Law Director Gary Ebert will be serving as Special Counsel through the end of the year as part of the transition process. Mr. Ebert’s institutional knowledge is critical as the City proceeds through many items.

Mr. Clark announced that the Supreme Court has denied the request of J. Pietrangelo v Paul Koomar et al. Mr. Ebert will be circulating a copy of the entry on Tuesday, June 12, 2018 to the administration and Council.

There being no further business to discuss, the meeting adjourned at 8:25 p.m.
ORDINANCE

ENACTING REVISED CODIFIED ORDINANCE
CHAPTER 505 – ANIMALS AND FOWL

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 revised Chapter 505 to read as follows:

“CHAPTER 505 - ANIMALS AND FOWL

505.01 Definitions
505.02 Dogs, cats and other animals running at large.
505.03 Animals prohibited in the City.
505.04 Annual registration of dogs; tags required.
505.05 Abandoning animals.
505.06 Killing or injuring animals.
505.07 Poisoning animals.
505.08 Cruelty to animals generally.
505.081 Cruelty to companion animals.
505.09 Neglect.
505.10 Tethering animals.
505.11 Impounded animals.
505.12 Rabies vaccination of dogs required.
505.13 Unsanitary conditions.
505.14 Barking or howling animals.
505.15 Animal bites; reports and quarantine.
505.16 Determination of nuisance, dangerous, and vicious dogs.
505.17 Appeal procedure.
505.18 Registration of nuisance, dangerous, or vicious dogs.
505.19 Insurance for nuisance, dangerous, and vicious dogs.
505.20 Restraint of nuisance, dangerous, or vicious dogs.
505.21 Inspection obstruction.
505.22 Serious physical harm by nuisance, dangerous, or vicious dogs.
505.23 Physical harm by nuisance, dangerous, or vicious dogs.
505.24 Impoundment: destruction of dogs.
505.25 Keeping banned dogs.
505.26 Animal fights
505.27 Dogfighting offenses
505.28 Hunting prohibited; exceptions.
505.29 Feeding of deer prohibited; exception.
505.30 Coloring rabbits or baby poultry; sale or display of poultry.
505.31 Report of escape of exotic or dangerous animal.
505.32 Strict liability
505.33 Enforcement.
505.99 Penalty.
CROSS REFERENCES
Owner or keeper liable for damages - see Ohio R.C. 951.10
Dog registration - see Ohio R.C. 955.01

505.01 - Definitions.

(a) “Aggressively bite” means any bite, not committed in play that causes a physical injury, including a bruise, puncture, tearing of the skin or laceration.

(b) “Boarding kennel” has the same meaning as in Ohio R.C. 956.01.

(c) “Classified dog” means a dog that has been previously designated as a nuisance, dangerous, or vicious pursuant to this Chapter, Ohio R.C. 955.11, or comparable ordinance.

(d) “Companion animal” means any animal that is kept inside a residential dwelling and any dog or cat regardless of where it is kept, including a pet store as defined in Ohio R.C. 956.01. “Companion animal” does not include livestock or any wild animal.

(e) “Cruelty,” “torment,” and “torture” include every act, omission, or neglect by which unnecessary or unjustifiable pain or suffering is caused, permitted, or allowed to continue, when there is a reasonable remedy or relief.

(f) “Dangerous dog”
   (1) means a dog that, without provocation, and subject to (f)(2) of this section, has done any of the following:
      A. Caused injury, other than killing or serious injury, to any person;
      B. Killed another dog, cat or other domestic animal while off the premises of the owner;
      C. Been the subject of a third or subsequent violation of Ohio R.C. 955.22 (C).
   (2) does not include a police dog that has caused injury, other than killing or serious injury, to any person or has killed another dog while the police dog is being used to assist one or more law enforcement officers in the performance of their official duties.

(g) “Dog kennel” means an animal rescue for dogs that is registered under Ohio R.C. 956.06, a boarding kennel or a training kennel.

(h) “Domestic animal” includes livestock; other animals that through long association with humans have been bred to a degree resulting in genetic changes affecting the temperament, color, conformation, or other attributes of the species to an extent that makes them different from nondomestic animals of their kind.

(i) “Electronic pet containment system” means an electronic fence or electronic collar that controls the movement of a dog by emitting an electrical shock when the animal wearing the collar nears the boundary of the owner’s, keeper’s or harborer’s property. The collar may be controlled manually by a person or automatically in a predetermined manner. Dogs confined to the residential property of the owner, keeper, or harborer by an electronic fence or an electronic collar shall not be permitted to be nearer than 10 feet away from any public sidewalk or property line that is contiguous to neighboring property. All owners, keepers or harborers of dogs who use an electronic fence shall clearly post their property to indicate to the public that a dog is confined to the property by an electronic fence or electronic collar.
(j) “Farm animals” means chickens, ducks, geese, or any other fowl, sheep, goats, horses, cattle, swine, or any other hoofed animal.


(l) “Fencing” means any permanent enclosing structure including walls, privacy screens, sight barriers, or dog runs. Retaining walls are specifically excluded from this definition. All fencing must comply with City Ordinance Chapter 1163 Fence Regulations, Residence Districts.

(m) “Hunting” means pursuing, shooting, killing, following after or on the trail of, lying in wait for, shooting at, or wounding wild birds or wild quadrupeds while employing any device commonly used to kill or wound wild birds or wild quadrupeds whether or not the acts result in killing or wounding. “Hunting” includes every attempt to kill or wound and every act of assistance to any other person in killing or wounding or attempting to kill or wound wild birds or wild quadrupeds.

(n) “Impounding agency” means a county humane society organized under Ohio R.C. 1717.05, an animal shelter, or a law enforcement agency that has impounded a companion animal in accordance with this section.

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

(p) “Nuisance dog” means a dog that without provocation and while off the premises of its owner, keeper, or harborer:
   (1) Chased or approached a person in either a menacing fashion or an apparent attitude of attack,
   (2) Attempted to bite or otherwise endanger any person,
   (3) Aggressively bites any domestic animal.

(q) “Owner,” “keeper,” or “harborer” means any person who owns, has custody and physical control, or has physical charge or care of an animal, even if temporary in nature.

(r) “Physical harm” means any injury, illness, or other physiological impairment, regardless of its gravity or duration.

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

(t) “Practice of veterinary medicine” has the same meaning as in Ohio R.C. 4741.01.

(u) “Residential dwelling” means a structure or shelter or the portion of a structure or shelter that is used by one or more humans for the purpose of a habitation.

(v) “Responsible person” means a person of sufficient size, strength and knowledge to control a companion animal.

(w) “Serious injury” means any of the following:
(1) Any physical harm that carries a substantial risk of death;
(2) Any physical harm that involves a permanent incapacity, whether partial or total or a temporary substantial incapacity;
(3) Any physical harm that involves a permanent disfigurement or a temporary, serious disfigurement;
(4) Any physical harm that involves acute pain of a duration that results in substantial suffering or any degree of prolonged or intractable pain.

(x) “Serious physical harm” means any of the following:
(1) Physical harm that carries an unnecessary or unjustifiable substantial risk of death;
(2) Physical harm that involves either partial or total permanent incapacity;
(3) Physical harm that involves acute pain of a duration that results in substantial suffering or that involves any degree of prolonged or intractable pain;
(4) Physical harm that results from a person who confines or who is the custodian or caretaker of a companion animal depriving the companion animal of good, wholesome food and water that proximately causes the death of the companion animal.

(y) “Tether” means a rope, chain, cord, dog run or pulley, or similar restraint for holding an animal in place, allowing a radius which it can move about free.

(z) “Training kennel” means an establishment operating for profit that keeps, houses, and maintains dogs for the purpose of training the dogs in return for a fee or other consideration.

(aa) “Trapping” means securing or attempting to secure possession of a wild bird or wild quadruped by means of setting, placing, drawing, or using any device that is designed to close upon, hold fast, confine, or otherwise capture a wild bird or wild quadruped whether or not the means results in capture. “Trapping” includes every act of assistance to any other person in capturing wild birds or wild quadrupeds by means of the device whether or not the means results in capture.

(bb) “Vicious dog” means a dog that, without provocation has killed or caused serious injury to any person. “Vicious dog” does not include either of the following:
(1) A police dog that has killed or caused serious injury to any person while the police dog is being used to assist one or more law enforcement officers in the performance of their official duties;
(2) A dog that has killed or caused serious injury to any person while a person was committing or attempting to commit a trespass or other criminal offense on the property of the owner, keeper, or harbinger of the dog.

(cc) “Wild,” “dangerous” or “undomesticated animal” means an animal whose natural habitat is the wilderness and which, when maintained in a human society, is usually confined in a zoological park and which includes any of the following:
(1) Venomous creature, including spiders and reptiles;
(2) Constrictor snakes;
(3) Omnivorous or carnivorous animal that weighs more than twenty five (25) pounds and which is a predator in its natural habitat;
(4) Animal which by reason of its size, strength or appetite, would, if unrestrained and free in the City, cause peril to persons, household pets, buildings, landscape or shrubbery;
(5) Includes, but is not limited to the following: lion, tiger, lynx, mountain lion, jaguar, cheetah, leopard, panther, bear, wolverine, elk, moose, caribou, elephant, giraffe, rhinoceros, hippopotamus, wolf, wild ox, boar, and crocodilians, including hybrids.
(dd) “Wild animals” includes mollusks, crustaceans, aquatic insects, fish, reptiles, amphibians, wild birds, wild quadrupeds, and all other wild mammals, but does not include domestic deer.

(ee) “Without provocation” means the dog was not:
   (1) Being abused, teased, tormented, or physically threatened or injured by a person;
   (2) Being abused or physically threatened or injured by an animal;
   (3) Being aggressively teased or tormented by an animal;
   (4) Directing its behavior at a trespasser on the property of its owner, keeper, or harborer;
   (5) Reasonably coming to the defense of a human or domestic animal within the immediate vicinity of the dog and under perceived threat; or
   (6) Directing its behavior at a domestic animal that was running at large and unattended by some person.

505.02 - Dogs, cats, and other animals running at large.

(a) No person, being the owner, keeper or harborer of any dog, cat, or other animal, shall permit or allow, by any means or in any manner, such dog, cat, or other animal, to go or remain upon streets, public ways, public places, parks or upon the private premises of any person other than the owner, keeper or harborer, except when accompanied by a responsible person, upon a leash and under control. As against the owner or person in charge or control of any such dog, cat, or other animal, evidence that such dog, cat, or other animal, was found at large upon any public street or place within the City shall be prima facie evidence of a violation of this section.

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

(c) Penalties.
   (1) Whoever violates this section is guilty of a minor misdemeanor on the first offense, a misdemeanor of the forth degree on the second offense, and a misdemeanor of the second degree on the third or any subsequent offense. Upon a third conviction an owner may be subject to the dangerous dog provisions as outlined in this Chapter.
   (2) Notwithstanding division (c)(1) of this section, if the animal bites a domestic animal without provocation as a result of violation of this section, then whoever violates this section is guilty of a misdemeanor of the third degree.
   (3) Notwithstanding division (c)(1) of this section, if the animal bites a human without provocation as a result of a violation of this section, then whoever violates this section is guilty of a misdemeanor of the second degree.
   (4) Notwithstanding division (c)(1) of this section, where the animal bites a human or domestic animal without provocation and causes serious injury as a result of a violation of this section, then whoever violates this section is guilty of a misdemeanor of the first degree.

505.03 - Animals prohibited in the City.

(a) No person shall own, harbor, or keep any farm animal within the City.
(b) No person shall own, harbor, or keep any wild, dangerous, or undomesticated animal within the City.

(c) Whoever violates subsection (a) hereof is guilty of a minor misdemeanor. Whoever violates subsection (b) is guilty of a misdemeanor in the fourth degree for the first offense, a misdemeanor in the third degree for a second offense, and a misdemeanor in the second degree for the third offense. Each and every day during such period of violation may be deemed a separate offense.

505.04 - Annual registration of dogs; tags required.

(a) Except for guide dogs registered under Ohio R.C. 955.011 and dogs kept by an institution or organization for teaching and research purposes under Ohio R.C. 955.16, no person shall own, keep or harbor a dog more than three months of age without annually registering such dog with the County Auditor. Failure of any dog at any time to wear a valid registration tag shall be prima-facie evidence of lack of registration and subject such dog to impounding and disposition provided by Ohio R.C. 955.16. Proof of registration must be produced within twenty-four (24) hours of request. Failure to provide proof of registration will result in a minor misdemeanor.

(b) Whoever violates this section is guilty of a minor misdemeanor for a first offense, and a misdemeanor of the fourth degree for each subsequent offense.

505.05 - Abandoning animals.

(a) No owner or keeper of a dog, cat or other domestic animal shall abandon such animal.

(b) Whoever violates this section is guilty of a misdemeanor of the second degree on a first offense and a misdemeanor of the first degree on each subsequent offense.

505.06 - Killing or injuring animals.

(a) No person shall maliciously, or willfully, kill or injure a farm animal, dog, cat or other domestic animal. This section does not apply to a licensed veterinarian, or animal control officer/law enforcement officer acting in an official capacity, or to trespassing animals as set forth in Ohio R.C. 959.04.

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

505.07 - Poisoning animals.

(a) No person shall maliciously or willfully administer poison, except a licensed veterinarian acting in such capacity, to a farm animal, dog, cat, poultry, deer or other domestic animal. No person shall, willfully place any poisoned food where it may be easily found and eaten by any of such animals, either upon his own lands or the lands of another. This section does not apply to trespassing animals as set forth in Ohio R.C. 959.04.

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

505.08 - Cruelty to animals generally.

(a) No person shall:
(1) Torture an animal, deprive one of necessary sustenance, unnecessarily or cruelly beat, needlessly mutilate or kill, or impound or confine an animal without supplying it during such confinement with a sufficient quantity of good wholesome food and water;
(2) Impound or confine an animal without affording it, during such confinement, access to shelter from wind, rain, snow, or excessive direct sunlight if it can reasonably be expected that the animal would otherwise become sick or in some other way suffer. For the purpose of this section, shelter means a man-made enclosure, windbreak, sunshade, or natural windbreak or sunshade that is developed from the earth’s contour, tree development, or vegetation;
(3) Carry or convey an animal in a cruel or inhuman manner;
(4) Any person charged with Neglect of Animals (C.O. 505.09) who upon notification did not resolve the problem immediately will be charged with this section.

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

505.081 - Cruelty to companion animals.

(a) No person shall knowingly torture, torment, needlessly mutilate or maim, cruelly beat, poison, needlessly kill, or commit an act of cruelty against a companion animal.

(b) No person who confines or who is the custodian or caretaker of a companion animal shall negligently do any of the following:

(1) Commit any act by which unnecessary or unjustifiable pain or suffering is caused, permitted or allowed to continue, when there is a reasonable remedy or relief, against the companion animal;
(2) Omit any act of care by which unnecessary or unjustifiable pain or suffering is caused, permitted or allowed to continue, when there is a reasonable remedy or relief, against the companion animal;
(3) Commit any act of neglect by which unnecessary or unjustifiable pain or suffering is caused, permitted or allowed to continue, when there is a reasonable remedy or relief, against the companion animal;
(4) Needlessly kill the companion animal;
(5) Deprive the companion animal of necessary sustenance, confine the companion animal without supplying it during the confinement with sufficient quantities of good, wholesome food and water, or impound or confine the companion animal without affording it, during the impoundment or confinement, with access to shelter from heat, cold, wind, rain, snow, or excessive direct sunlight, if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the deprivation, confinement, or impoundment in any of those specified manners.

(c) No owner, manager, or employee of a dog kennel who confines or is the custodian or caretaker of a companion animal shall negligently do any of the following:

(1) Commit any act by which unnecessary or unjustifiable pain or suffering is caused, permitted or allowed to continue, when there is a reasonable remedy or relief, against the companion animal;
(2) Omit any act of care by which unnecessary or unjustifiable pain or suffering is caused, permitted, or allowed to continue, when there is a reasonable relief, against the companion animal;
(3) Commit any act of neglect by which unnecessary or unjustifiable pain or suffering is caused, permitted or allowed to continue, when there is a reasonable remedy or relief, against the companion animal;

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(4) Needlessly kill the companion animal;
(5) Deprive the companion animal of necessary sustenance, confine the companion animal without supplying it during the confinement with sufficient quantities of good, wholesome food and water, or impound or confine the companion animal without affording it, during the impoundment or confinement, with access to shelter from heat, cold, wind, rain, snow or excessive direct sunlight if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the deprivation, confinement, or impoundment in any of those specified manners.

(d) Subsections (a), (b) and (c) of this section do not apply to any of the following:
(1) A companion animal used in scientific research conducted by an institution in accordance with the federal animal welfare act and related regulations;
(2) The lawful practice of veterinary medicine by a person who has been issued a license, temporary permit, or registration certificate to do so under Ohio R.C. 4741;
(3) Dogs being used or intended for use for hunting or field trial purposes, provided that the dogs are being treated in accordance with usual and commonly accepted practices for the care of hunting dogs;
(4) The use of common training devices, if the companion animal is being treated in accordance with usual and commonly accepted practices for the training of animals;
(5) The administering of medicine to a companion animal that was properly prescribed by a person who has been issued a license, temporary permit, or registration certificate under Ohio R.C. 4741.

(e) Penalties
(1) Whoever violates subsection (a) hereof is guilty of a misdemeanor of the first degree on a first offense. On each subsequent offense such person is guilty of a felony and shall be prosecuted under appropriate State law.
(2) Whoever violates subsection (b) hereof is guilty of a misdemeanor of the second degree on a first offense and a misdemeanor of the first degree on each subsequent offense.
(3) Whoever violates subsection (c) hereof is guilty of a misdemeanor of the first degree.
(4) A court may order a person who is convicted of or pleads guilty to a violation of this section to forfeit to an impounding agency, as defined in Ohio R.C. 959.132, any or all of the companion animals in that person’s ownership or care. The court also may prohibit or place limitations on the person’s ability to own or care for any companion animals for a specified or indefinite period of time.
(5) A court may order a person who is convicted of or pleads guilty to a violation of this section to reimburse an impounding agency for the reasonably necessary costs incurred by the agency for the care of a companion animal that the agency impounded as a result of the investigation or prosecution of the violation, provided that the costs were not otherwise paid under Ohio R.C. 959.132.
(6) If a court has reason to believe that a person who is convicted of or pleads guilty to a violation of this section suffers from a mental or emotional disorder that contributed to the violation, the court may impose as a community control sanction or as a condition of probation a requirement that the offender undergo psychological evaluation or counseling. The court shall order the offender to pay the costs of the evaluation or counseling.

505.09 - Neglect of animals.

(a) For the sake of public health, comfort or enjoyment of any people, and for the animal’s well-being, no animal should be kept in unsanitary conditions. No person shall maintain or keep an
animal in unsanitary conditions, including accumulation of feces, odor, insect or rodent infestation. Anyone who keeps an animal must provide the following:

1. Clean potable drinking water at all times, and suitable food of sufficient quantity to ensure normal growth and maintenance or normal body weight.
2. Food and water receptacles kept clean and disinfected and located so as to avoid contamination by feces.
3. Necessary veterinary medical care when the animal exhibits signs of pain or suffering.
4. Provide the animal shelter to ensure protection from elements, which is appropriate to the animal’s weight and type of hair-coat. Such shelters must also provide sufficient space to allow any animal the ability to turn about freely and lie in a normal position. The shelter must be in an area providing sufficient shade by natural or artificial means to protect the animal from direct rays of sun at all times, and must supply sufficient ventilation. All areas must be regularly cleaned and sanitized. Accumulated feces must be removed on a regular basis to control disease parasites.

Whoever violates this section is guilty of a misdemeanor of the fourth degree on a first offense. If the violation is not resolved immediately upon notification, the owner, keeper or harborer will be charged with cruelty to animals under Ohio R.C. 959.13. A second offense, or a first offense that is left unresolved, shall constitute a second offense under cruelty to animals, Ohio R.C. 959.13.

505.10 - Tethering animals

(a) No person shall tether any animal under these circumstances:
1. A heat or cold advisory has been issued by a local or state authority or national weather service.
2. A severe weather warning has been issued by a local or state authority or national weather service.
3. Between the hours of 10 pm to 6 am.
4. The tether is attached by means of pinch, prong, or choke-type collar or if the collar is unsafe or is not properly fitted.
5. The tether allows the animal to touch the fence, cross the property line, or cross onto public property.
6. The tether may cause injury or entanglement.
7. The tether is made of material that is unsuitable for the animal’s size and weight or that causes any unnecessary discomfort to the animal.
8. No owner or occupant is present at the premises.
9. The tethered animal cannot move about free of fecal or urine matter, or otherwise unsanitary or unsafe conditions.
10. No person shall tether any animal on public property or private property open to the public and leave unattended for any reason.

(b) Whoever violates this section is guilty of a minor misdemeanor for the first offense, a misdemeanor in the fourth degree for a second offense, and a misdemeanor in the first degree for the third offense or any subsequent offense. If an animal becomes sick or injured as a result of a violation of this section, then whoever violates this section is guilty of a misdemeanor of the first degree. Each and every day during such period of noncompliance with this section may be deemed a separate offense.

505.11 - Impounded animals.
(a) In order to claim and redeem any impounded animal from the City kennel, the owner, keeper or harborer thereof shall submit proof of ownership to the law enforcement officer or Animal Control Officer. Further, as consideration of release, the owner, keeper or harborer of a dog, shall show proof of county dog license registration of that animal. Finally as a condition of release, the owner, keeper or harborer shall pay all fees and cost in connection to the impoundment.

(b) The following fees and costs shall accrue with regard to the impoundment of animals:
   (1) Seizing and impounding of an animal: $25.00
   (2) Kennel fee for feeding and housing, per 24-hour period: $15.00 or prevailing kennel/boarding fees, whichever is greater. If animal is picked up within 24 hours of notification, kennel fees will be waived.

(c) Impound fees will be placed in the appropriate fund for the use of buying kennel supplies.

505.12 - Rabies vaccination of dogs required.

(a) Any person owning, keeping or harboring any dog or cat over the age of six (6) months shall be required to have such animal currently immunized against rabies by a licensed veterinarian.

(b) All owners, keepers and harborers as described in section (a) hereof shall maintain a record of such immunization as provided by a veterinarian and produce proof of such immunization to any law enforcement officer.

(c) Whoever violates this section shall be guilty of a minor misdemeanor.

505.13 - Unsanitary conditions

(a) No person shall own any animal in the City so as to create noxious or offensive odors or unsanitary conditions that cause a risk to the health, comfort, or safety of the public.

(b) No owner or keeper or person having custody or control of any animal shall allow or permit such animal to defecate on any public property or upon private property other than that of the owner or keeper or person who has accepted custody or control of such animal. It shall be the duty of all persons having control of animal to immediately remove all feces and dispose of same in a sanitary and proper manner, in order to carry out the intent of this section.

(c) Whoever violates this section is guilty of a minor misdemeanor.

505.14 - Barking or howling animals.

(a) No person shall keep or harbor any animal within the City which, by frequent or habitual barking, howling, yelping, screeching or biting disturbs the peace, quiet and good order of the City or endangers the repose or health of persons in the City. Any person who allows any animal habitually to remain, be lodged or fed within any dwelling, building, yard or enclosure, which he occupies or owns, shall be considered as harboring such animal. However, it is deemed that no nuisance exists if any time such animal howls, barks, screeches or bites it is in response to a trespass on the property of the owner, or in response to the teasing, tormenting or abusing of such animal on the owner’s property.

(b) Whoever violates this section is guilty of a minor misdemeanor.
505.15 - Animal bites; reports and quarantine.

(a) Whenever any person is bitten by any animal a report of such bite shall be made to the Chief of Police within 24 hours. All animals deemed by the County Health Officials as an animal susceptible to rabies shall be quarantined under an order issued by the Chief of Police. The animal shall be quarantined by its owner or by a harbinger, or shall be quarantined in a pound or kennel. In all cases, such quarantine shall be under the supervision of the Chief of Police and shall be at the expense of the owner or harbinger. Quarantine shall continue until the Chief of Police determines that the animal is not afflicted with rabies. The quarantine period hereby required shall not be less than ten days from the date on which the person was bitten. If at any time during the quarantine, the Chief of Police requires the animal to be examined for symptoms of rabies, then the examination shall be by a licensed doctor of veterinary medicine. The veterinarian shall report to the Chief of Police the conclusions reached as a result of the examinations. The examination by a veterinarian shall be at the expense of the owner or harbinger. No animal shall be released from quarantine unless and until it has been properly vaccinated against rabies.

(b) No person shall fail to comply with the requirements of this section or with any order of the Chief of Police made pursuant thereto, nor fail to immediately report to the Chief of Police any symptoms or behavior suggestive of rabies.

(c) Whoever violates this section is guilty of a minor misdemeanor.

505.16 - Determination of nuisance, dangerous, and vicious dogs.

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

(b) The Chief of Police or designee shall determine that a dog is a nuisance pursuant to this Chapter upon proof by a preponderance of the evidence of any of the following:
   (1) Without provocation has chased or approached a person in either a menacing fashion or an apparent attitude of attack or has attempted to bite or otherwise endanger any person;
   (2) Without provocation, and while off the premises of its owner, keeper, or harbinger, aggressively bites any domestic animal.

(c) The Chief of Police or designee shall determine that a dog is dangerous pursuant to this Chapter upon proof by a preponderance of the evidence of any of the following:
   (1) Without provocation, the dog has caused injury other than killing or serious injury to any person;
   (2) Without provocation, the dog has killed another domestic animal.

(d) The Chief of Police shall determine that a dog is vicious pursuant to this Chapter upon proof by a preponderance of the evidence that without provocation, the dog has killed or caused serious injury to any person.

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

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

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

505.17 - Appeal procedure.

(a) The owner of a dog who has been served with a notice pursuant to Section 505.16(e) may, within
seven days after receipt of such notice, make a written demand to the Chief of Police for a
hearing on the question of whether the dog is nuisance, dangerous, or vicious as defined in this
Chapter.

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

505.18 - Registration of nuisance, dangerous, or vicious dogs.

(a) Any person owning, keeping, possessing, maintaining or having the care, custody or control of a
nuisance, dangerous, or vicious dog shall:
(1) Register the dog with the police department by January 31st of each year, and whenever a
dog is newly obtained and provide two color photographs of the dog annually.
(2) At the time of registration provide proof of liability insurance as required by Section
505.19.
(3) Identify the dog by having a microchip implanted at the owner’s expense.
(4) Post on the premises, in a conspicuous place and visible from all areas of customary or
actual public access, at least one City-issued sign available, upon payment of thirty
dollars ($30.00) for each sign, from the Police Department. The sign shall include the
wording for the designated classification as a “NUISANCE DOG”, “DANGEROUS
DOG”, or “VICIOUS DOG”. This sign shall be maintained and remain in place during
the possession of the animal.
(5) Notify the Police Department within seventy two hours, if the nuisance, dangerous, or
vicious dog has died, been sold or donated and provide the Police Department with the
name, address and telephone number of the new owner. The owner must advise the
transferee of the dog’s classification prior to the transfer of ownership.
(6) Notify the Police Department immediately if the classified dog is loose, unconfined,
attacks another domestic animal or has bitten a person or domestic animal.

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

505.19 - Insurance for nuisance, dangerous, and vicious dogs.

(a) No owner of a vicious dog shall fail to obtain liability insurance with an insurer authorized to write liability insurance in this State providing coverage in each occurrence, subject to a limit, exclusive of interest and costs, of not less than three hundred thousand dollars ($300,000) because of damage to property or bodily injury to or death of a person caused by the vicious dog.

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

(c) Such insurance noted in subsection (a) and (b) must be obtained within 14 calendar days of the final determination of the dog as a nuisance, dangerous, or vicious dog. The owner shall provide a copy of the policy for liability insurance to the Chief of Police on a yearly basis and shall maintain the insurance while the owner maintains possession of the classified dog.

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

505.20 - Restraint of nuisance, dangerous, or vicious dogs.

(a) No owner or person in charge of a nuisance dog shall fail to do any of the following:
   (1) Keep the dog securely inside of the owner’s home, or
   (2) Keep the dog in a locked enclosure at least five feet by ten feet, which has a secure top and sides. If the enclosure has no bottom securely attached to the sides, the sides must be embedded into the ground no less than two feet or must have a concrete base with the fencing securely attached or anchored to the concrete perimeter to a depth of six inches. All fencing must conform to the City of Bay Village Building Codes.
   (3) Securely confine the dog in a locked fenced portion of the rear yard, which fence is at least six feet in height with self-closing and self-latching gates on all openings and keep the dog under the direct supervision by a person who is of sufficient age, size and strength to control the dog. All fencing must conform to the City of Bay Village Building Codes.
   (4) While off the premises or not secured in the home or locked enclosure, the dog must be fitted with a proper collar that will prevent the dog slipping out of it or breaking through it, and attach a substantial non-retractable leash to the collar that conforms to the dog’s weight, size and strength, not more than four feet in length which is held in the hand of a person who is of sufficient age, size and strength to control the dog.
   (5) While off the premises or not secured in the home or locked enclosure, the dog must be fitted with a leash, collar, harness, vest or other garment that is colored neon yellow, without patterns or other adornments except designs to increase visibility of the dog at night. The identifying garment shall be visible and identifiable to an ordinary person from at least 15 feet away so as to provide reasonable warning to that person about the dog’s classification.
(6) Notify veterinarians, veterinary staff, groomers and other members of the public who come into direct contact with the dog that the dog has been designated as a nuisance dog prior to such contact.

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

(1) Keep the dog securely inside of the owner’s home, or

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

(3) If off the premises or not secured in the home or locked enclosure, keep the dog securely muzzled, making sure such muzzle does not interfere with the dogs breathing. The dog must be fitted with a proper collar that will prevent the dog slipping out of it or breaking through it, and attach a substantial non-retractable leash to the collar that conforms to the dog’s weight, size and strength, not more than four feet in length which is held in the hand of a person who is of sufficient age, size and strength to control the dog.

(4) While off the premises or not secured in the home or locked enclosure, the dog must be fitted with a leash, collar, harness, vest or other garment that is colored neon yellow, without patterns or other adornments except designs to increase visibility of the dog at night. The identifying garment shall be visible and identifiable to an ordinary person from at least 15 feet away so as to provide reasonable warning to that person about the dog’s classification.

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

(6) No person shall do any of the following:

A. Debark or surgically silence a dog that the person knows or has reason to believe is a dangerous or vicious dog;

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

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

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

505.21 - Inspection obstruction.

(a) Any person owning, keeping, possessing, harboring, maintaining or having the care, custody or control of a nuisance, dangerous, or vicious dog shall be deemed to have given consent to an inspection of the property, other than within any private structure unless otherwise authorized by law, by any law enforcement officer or the Animal Control Officer for the purpose of determining compliance with the requirements of this chapter.
(b) No person, with purpose to prevent, obstruct or delay the performance by a law enforcement officer or the Animal Control Officer of any authorized act within his official capacity, shall do any act which hampers or impedes said official in the performance of his lawful duties under the provisions of this chapter.

(c) Whoever violates subsection (b) hereof is guilty of a misdemeanor of the fourth degree.

505.22 - Serious physical harm by nuisance, dangerous, or vicious dogs.

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

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

(c) Whoever violates this section is guilty of a misdemeanor of the first degree.

505.23 - Physical harm by nuisance, dangerous, or vicious dogs.

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

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

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

505.24 - Impoundment: destruction of dogs.

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

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

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

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

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

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

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

505.26 - Animal fights.

(a) No person shall knowingly do either of the following:
(1) Engage in cockfighting, bearbaiting, or pitting an animal against another;
(2) Use, train, or possess any animal for seizing, detaining, or maltreating a domestic animal.

(b) No person shall knowingly do either of the following:
(1) Be employed at cockfighting, bearbaiting, or pitting an animal against another;
(2) Do any of the following regarding an event involving cockfighting, bearbaiting, or pitting an animal against another:
   A. Wager money or anything else of value on the results of the event;
   B. Pay money or give anything else of value in exchange for admission to or being present at the event;
   C. Receive money or anything else of value in exchange for the admission of another person to the event or for another person to be present at the event;
   D. Use, possess, permit, or cause to be present at the event any device or substance intended to enhance an animal’s ability to fight or to inflict injury on another animal;
   E. Permit or cause a minor to be present at the event if any person present at or involved with the event is conducting any of the activities described in this section.

(c) A person who knowingly witnesses cockfighting, bearbaiting, or an event in which one animal is pitted against another when a violation of subsection (b) of this section is occurring at the cockfighting, bearbaiting, or event is an aider and abettor and has committed a violation of this division.

(d) Whoever violates this section is guilty of a misdemeanor of the first degree.

505.27 - Dogfighting offenses.

(a) No person shall knowingly do any of the following:
(1) Promote, engage in, or be employed at dogfighting;
(2) Receive money or anything else of value for the admission of another person to a dogfighting event or a place kept for dogfighting;
(3) Sell, purchase, possess, or train a dog for dogfighting;
(4) Use, train, or possess a dog for seizing, detaining, or maltreating a domestic animal;
(5) Pay money or give anything else of value in exchange for admission to or be present at a dogfight;
(6) Witness a dogfight if it is presented as a public spectacle.

(b) The department of agriculture may investigate complaints and follow up rumors of dogfighting activities and may report any information so gathered to an appropriate prosecutor or law enforcement agency.

(c) Any peace officer, as defined in Ohio R.C. 2935.01, may seize and cause to be impounded in accordance with Ohio R.C. 959.161 any dogs that have been, are, or are intended to be used in dogfighting. In addition, any peace officer shall confiscate any equipment or devices used in training such dogs or as part of dogfights.

(d) Whoever violates this section is guilty of a misdemeanor of the first degree.

505.28 - Hunting prohibited, exceptions.

(a) The hunting of animals or fowl within the City is prohibited. No person shall hunt, kill or attempt to kill any animal or fowl by the use of firearms or any other means, except as follows:

(1) The limited hunting of white-tailed deer by crossbow or long bow may be permitted within the City under the following terms and conditions:
   A. The Chief of Police or his designated representative may, in his sole discretion, issue a Municipal Deer Control Permit to a qualified archer applicant;
   B. As a corollary to and following the issuance by the ODNR of its own Deer Damage Control Permit or license to allow only bow-hunting (long bow and crossbow) of white-tailed deer;
   C. In areas of not less than two (2) contiguous acres by a qualified archer, on such forms and subject to such rules and regulations as the Chief of Police may prescribe.
   D. Hunting shall be conducted from an elevated platform of no less than 10’ only;
   E. Written permission from the property owner(s) has been obtained;
   F. Qualified archer shall be defined as an individual having obtained an approval/certification from approved archery proficiency test site, a valid Ohio hunting license, if applicable, and all other state requirements;
   G. Compliance with all laws, rules and regulations of the City and State.
   H. All applicants shall agree, in writing, to defend and indemnity the City for any negligent acts or damages committed by the applicant.
   I. Any other requirements as deemed necessary to preserve and protect the health, safety and welfare of the residents as determined solely by the Chief of Police.
   J. Chief of Police is hereby authorized to promulgate any and all rules and regulations necessary to carry out the provision of this section and all other rules and regulations necessary to insure public health and safety.
   K. Nothing in this section shall be deemed to prohibit the killing of rats and other undesirable rodents authorized to be killed by the Chief of Police using means for such killing which are also authorized by the Chief of Police.

(2) The prohibition set forth in subsection (a) does not apply to deer culling population management programs sponsored by and conducted on land owned or managed by the Cleveland Metropolitan Park District.

(b) No person shall trap by use of clam-type traps or similar devices game animals, game birds or other animals or birds within the City.
The City may utilize firearm-trained personnel to cull white-tailed deer as part of a City deer management plan. Culling may take place on City-owned land and on private properties that exceed 2 acres, either individually or combined, at the request of the property owner, provided all of the following conditions apply:

1. The Chief of Police, or his designee, has determined that such culling can be conducted safely on such property;
2. Such personnel are employed by or associated with a federal agency, state agency or local law enforcement.
3. Such culling has been approved by the Ohio Department of Natural Resources, Division of Wildlife.

No person shall, for the purpose of hindering or preventing the lawful culling of white-tailed deer pursuant to this section, knowingly engage in any of the following conduct:

1. Block, obstruct, impede or attempt to block, obstruct or impede a person lawfully engaged in such culling;
2. Erect a barrier with the intent to deny ingress or egress from the areas where such culling is lawfully being conducted;
3. Make or attempt to make loud noises or gestures, set out or attempt to set out animal baits, scents, lures or human scent, use any other natural or artificial visual, aural, olfactory or physical stimuli, or engage in or attempt to engage in any other similar action or activity in order to interfere with such culling;

Whoever violates this section is guilty of a misdemeanor of the first degree.

505.29 - Feeding of deer prohibited; exception.

(a) In this section, “food” means corn, fruit, oats, hay, wheat, alfalfa, salt or mineral blocks, grain, vegetables, human food scraps, commercially sold wildlife feed, birdseed, or livestock feed. “Food” does not include shrubs, live crops, plants, flowers, vegetation, gardens, trees, and fruit or nuts that have fallen from trees to the ground.

(b) No person shall intentionally feed deer or make food available for consumption by deer on private or public property within the City of Bay Village. A person shall be presumed to have intentionally fed deer, or made food available for consumption by deer, if the person places food or causes food to be placed on the ground or any alternative feed venue outdoors.

(c) The City is permitted to place bait for deer as part of the City’s deer management plan.

(d) It is an affirmative defense to prosecution under this section if a person places food, in good faith, for the purpose of feeding domestic animals owned and located on the involved property.

(e) Whoever violates this section shall receive a warning on the first offense, and is guilty of a minor misdemeanor on subsequent offenses.

505.30 - Coloring rabbits or baby poultry; sale or display of poultry.

(a) No person shall dye or otherwise color any rabbit or baby poultry, including, but not limited to, chicks and ducklings. No person shall sell, offer for sale, expose for sale, raffle or give away any rabbit or poultry which has been dyed or otherwise colored. No poultry younger than four weeks of age may be sold, given away or otherwise distributed to any person in lots of less than six. Stores, shops, vendors and others offering young poultry for sale or other distribution shall
provide and operate brooders or other heating devices that may be necessary to maintain poultry in good health, and shall keep adequate food and water available to the poultry at all times.

(b) Whoever violates this section is guilty of a minor misdemeanor.

505.31 - Report of escape of exotic or dangerous animal.

(a) The owner or keeper of any member of a species of the animal kingdom that escapes from his custody or control and that is not indigenous to this State or presents a risk of serious physical harm to persons or property, or both, shall, immediately after he discovers or reasonably should have discovered the escape, report it to:

(1) A law enforcement officer of the City and the sheriff of the county where the escape occurred; and

(2) The division of animal health in the department of agriculture by means of the twenty-four-hour telephone number that is maintained by the division.

(b) A law enforcement officer or natural resources law enforcement officer may destroy an exotic or dangerous animal that has escaped and that poses a threat to public safety. A law enforcement officer or natural resources law enforcement officer that destroys an escaped exotic or dangerous animal pursuant to this section is not liable for damages in a civil action for any injury, death, or loss to person or property that allegedly arises from the destruction of the animal or snake.

(c) The person that possesses a dangerous wild animal or restricted snake that escapes is responsible for all reasonable costs associated with the capture or destruction of the animal or snake. The person shall reimburse the political subdivision that employs the law enforcement officer who captured or destroyed the dangerous wild animal or restricted snake for the costs incurred in capturing or destroying the animal or snake. However, if the law enforcement officer is a state highway patrol trooper or if a natural resources law enforcement officer captured or destroyed the dangerous wild animal or restricted snake, the person shall reimburse the state highway patrol or department of natural resources, as applicable, for those costs.

(d) Whoever violates this section is guilty of a misdemeanor of the first degree.

505.32 - Strict liability.

The provisions of Sections 505.02 through 505.31 are specifically intended to impose strict liability.

505.33 - Enforcement.

The Animal Control Officer and Division of Police of the City of Bay Village are responsible for the enforcement of this chapter. The powers and authority granted under this Chapter shall be supplemental to the powers and authority already provided for by the Ohio Revised Code relating to local animal control regulations.

505.99 - Penalty.

Penalties for this Chapter shall be as stated in Section 501.99."

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:

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PRESIDENT OF COUNCIL

__________________________

CLERK

__________________________

MAYOR

060818 kek
RESOLUTION NO.
INTRODUCED BY:

A RESOLUTION
APPROVING USE BY ROBERT P. ELLIS JR. OF SUBMERGED LANDS OF LAKE ERIE FOR SHORELINE IMPROVEMENTS, AND DECLARING AN EMERGENCY.

WHEREAS, Robert P. Ellis Jr., 29404 Lake Road, Bay Village, Ohio 44140, will be in need of a lease with the Ohio Department of Natural Resources for use of submerged lands to construct the proposed structure as described in Submerged Land Lease Application, SUB-2471-CU; and

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

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

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

SECTION 1. That Robert P. Ellis Jr. be permitted to proceed with such construction as requested on said submerged lands, subject to any other necessary approvals, and pursuant to a lease to be executed for and in consideration as will be hereafter determined by the State of Ohio.

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

SECTION 3. That this Council finds and determines that all formal actions of this Council concerning and relating to the passage of this resolution were taken in an open meeting of this Council, and that all deliberations of this Council and of any committee that resulted in those formal actions were in meetings open to the public in compliance with law.

SECTION 4. That this resolution is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety and welfare, and for the further reasons stated in the preamble hereof, wherefore this resolution shall be in full force and take effect immediately upon its passage and approval by the Mayor.
Resolution – Submerged Lands, Ellis

PASSED:

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PRESIDENT OF COUNCIL

__________________________
CLERK OF COUNCIL

APPROVED:

__________________________
MAYOR

061418 kek
RESOLUTION NO.
INTRODUCED BY:

A RESOLUTION
APPROVING USE BY STEVEN AND LAURA SOZIO OF
SUBMERGED LANDS OF LAKE ERIE FOR SHORELINE IMPROVEMENTS,
AND DECLARING AN EMERGENCY.

WHEREAS, Steven and Laura Sozio, 28900 Lake Road, Bay Village, Ohio 44140, will be in need of a lease with the Ohio Department of Natural Resources for use of submerged lands to construct the proposed structure as described in Submerged Land Lease Application, SUB-2476-CU; and

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

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

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

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

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

SECTION 3. That this Council finds and determines that all formal actions of this Council concerning and relating to the passage of this resolution were taken in an open meeting of this Council, and that all deliberations of this Council and of any committee that resulted in those formal actions were in meetings open to the public in compliance with law.

SECTION 4. That this resolution is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety and welfare, and for the further reasons stated in the preamble hereof, wherefore this resolution shall be in full force and take effect immediately upon its passage and approval by the Mayor.
Resolution – Submerged Lands, Sozio

PASSED:

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PRESIDENT OF COUNCIL

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CLERK OF COUNCIL

APPROVED:

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MAYOR

061518 kek
RESOLUTION NO.
INTRODUCED BY:

A RESOLUTION
DECLARING THE CITY AS A HYBRID ENTITY; DESIGNATING THE CITY’S
HEALTH CARE COMPONENTS; DESIGNATING A HIPAA PRIVACY AND
SECURITY OFFICER; DIRECTING AND AUTHORIZING CERTAIN PARTIES TO
CARRY OUT THIS RESOLUTION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Bay Village, Ohio (the “City”) is a home rule city acting under its
charter adopted by the electorate pursuant to Article XVIII, Section 7 of the Ohio Constitution and
Article 1, Section 1.1 of the Charter of the City of Bay Village; and

WHEREAS, the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”),
and regulations promulgated thereunder, and the Health Information Technology for Economic and
Clinical Health Act (“HITECH”), and regulations promulgated thereunder, require public and private
entities that provide certain health care services to comply with regulations related to the collection,
use, disclosure and security of individually identifiable health information; and

WHEREAS, as a “covered entity” under HIPAA, the City strives to protect the
confidentiality, integrity and availability of protected health information (“PHI”) by taking
reasonable and appropriate steps to protect the security and privacy of PHI and comply with all
applicable laws and regulations relating to data privacy and security, including, without limitation,
HIPAA, HITECH, the Ohio’s Protected Health Information Laws and the Ohio Identity Theft
Enforcement and Protection Laws; and

WHEREAS, because the City is a single legal entity with business activities that include
both covered and non-covered functions, the City may declare itself a Hybrid entity as defined by 45
C.F.R. § 164.103 and in accordance with 45 C.F.R. § 164.105(a)(2)(iii)(C); and

WHEREAS, the City Council has determined that the City can more effectively and
efficiently comply with HIPAA by declaring the City as a “Hybrid entity” and formally designating
the City’s health care components in accordance with 45 C.F.R. § 164.105(a)(2)(iii)(C); and

WHEREAS, after an assessment of the City’s divisions, programs and departments for
applicability of HIPAA, only certain portions of the City are components of the City that create,
transmit, use, or maintain health information and therefore should be designated as Healthcare
components; and

WHEREAS, HIPAA regulations require the City to designate an individual or individuals as
the privacy officer(s) to be responsible for the development and implementation of required privacy
policies and procedures for the City and the Fire Department Chief has assumed those duties relative
to HIPAA compliance for public safety functions as outlined herein and the Human Resources
Administrator has assumed those duties relative to HIPAA compliance for administrative and health
plan functions as outlined herein; and
WHEREAS, as a Hybrid entity, the City has ongoing responsibilities to establish and maintain ongoing policies, procedures and business practices to maintain compliance with HIPAA requirements;

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

SECTION 1. That this Council finds and determines that the recitals made in the preamble of this Resolution are true and correct, and incorporates such recitals herein.

SECTION 2. That this Council hereby designates the City as a “Hybrid entity.” In accordance with 45 C.F.R. 164.1058(a)(2)(iii)(C), the following components are designated as “Covered Components” of the Hybrid entity:

1. The Fire Department with respect to its provisions of emergency medical services only;
2. The Police Department with respect to its provisions of emergency medical dispatch services and its provisions of technology services related to emergency medical dispatch services only;
3. The Human Resources Department in its function administering health insurance benefits plan only;
4. The Finance Department with respect to its duties involving the billing, payment, and administration of health insurance payments for medical plans only;
5. The Law Department with respect to its duties relating to records management only;
6. The Information Services Department with respect to its duties relating to providing technology services for other Covered Components;
7. The Internal Auditor with respect to its duties to audit other Covered Components; and
8. The Mayor’s Office with respect to its duties related to the management of other Covered Components.

SECTION 3. This Council affirms that all Covered Components are required to protect the security and privacy of PHI and comply with all applicable laws and regulations relating to data privacy and security, including, without limitation, HIPAA, HITECH, Ohio’s Protected Health Information Laws and the Ohio Identity Theft Enforcement and Protection Laws. To this end, Council directs and authorizes all Heads of Departments that have been designated as Covered Components to take any and all action necessary to implement this Resolution and ensure the following policy guidelines are followed:

1. All employees, agents, and volunteers are to comply with HIPAA, Ohio’s Protected Health Information Laws, and those regulations that implement these laws;
2. All employees, agents, and volunteers are to comply with City policies and procedures implementing HIPAA and Ohio’s Protected Health Information Laws;
3. All personnel are to ensure that access, use, and disclosure of PHI is limited to authorized personnel for only permitted uses;
4. All personnel are to safeguard the confidentiality, integrity, and availability of PHI in accordance with City policies and the Security Regulations promulgated pursuant to HIPAA;
5. All personnel are to immediately document and notify the Privacy and Security Officer of any unauthorized disclosures;
6. All personnel are to take steps to mitigate any damages caused by unauthorized disclosure;
7. All personnel are to ensure the security of facilities and technological operations;
8. Key personnel are to ensure that business associate agreements are executed with contractors that perform duties involving PHI on behalf of the City; and
9. All personnel are to be trained and updated on all new requirements on a continuing basis.

SECTION 4. That this Council designates the Fire Department Chief as the City’s HIPAA Privacy and Security Officer responsible for the development, implementation and oversight of the City’s HIPAA privacy and security policies and procedures in relation to the policies and procedures applicable to the Covered Components outlined in Section 2 herein.

SECTION 5. The City directs and authorizes the HIPAA Privacy and Security Officer to work in conjunction with the Law Director to approve changes in the designation of departments, divisions, units and/or programs as health care components to maintain compliance with HIPAA and the Ohio’s Protected Health Information Laws, to develop policies and procedures, and outline other actions as necessary to implement this Resolution and comply with HIPAA and the Ohio’s Protected Health Information Laws.

SECTION 6. 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 7. That this resolution is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety and welfare, 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
042618 kek
AN ORDINANCE ENACTING NEW CHAPTER 907 “USE OF PUBLIC WAYS FOR SMALL CELL WIRELESS FACILITIES AND WIRELESS SUPPORT STRUCTURES” OF STREETS AND PUBLIC SERVICES CODE.

WHEREAS, Substitute House Bill 478 (Sub. H.B. 478) will go into effect on July 31, 2018; and

WHEREAS, Sub. H.B. 478 amends Ohio Revised Code Chapter 4939 to provide, among other things, that municipalities permit wireless service providers, cable providers, video service providers, and their designated agents to construct, maintain, modify, operate, or replace small cell facilities and poles/support structures therefor in the public right-of-ways and also to attach small cell wireless facilities to certain municipally owned support structures located in the right-of-way; and

WHEREAS, this Council desires to regulate small cell facilities, new wireless support structures, and the persons and entities who desire to construct, operate, and maintain such facilities in the City; and

WHEREAS, this Council finds that enacting new Chapter 907 “Use of Public Ways For Small Cell Wireless Facilities and Wireless Support Structures” of the Streets and Public Services Code of the Codified Ordinances of the City of Bay Village promotes the public health, safety and welfare of the City and its residents.

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

Section 1. New Chapter 907 “Use of Public Ways For Small Cell Wireless Facilities and Wireless Support Structures” of the Streets and Public Services Code, of the Codified Ordinances of the City of Bay Village is enacted to read as follows:

“CHAPTER 907
USE OF PUBLIC WAYS FOR SMALL CELL WIRELESS FACILITIES AND WIRELESS SUPPORT STRUCTURES

907.01 PURPOSE, DEFINITIONS AND AUTHORITY TO PROMULGATE DESIGN GUIDELINES.

(a) The purpose of this Chapter is to:

(1) Provide standards for the construction, installation, modification, operation, and removal of Facilities and Wireless Support Structures in the City’s Right-of-Way to protect the health, safety, and welfare of the citizens of the City;

(2) Preserve the character of the City, including the City’s neighborhoods, downtown, and historic districts and protect property values;
(3) Give guidance to wireless telecommunications providers to assist such companies in the timely, efficient, safe, and aesthetically-pleasing installation of Facilities and Wireless Support Structures; and

(4) To exercise the City’s home rule authority and, to the extent legally permitted, not to conflict with or preempt applicable state and federal laws.

(b) For the purpose of this Chapter, and the interpretation and enforcement thereof, the following words and phrases shall have the following meanings, unless the context of the sentence in which they are used shall indicate otherwise:

(1) “Applicant” means any person or entity who submits an Application pursuant to this Chapter.

(2) “Application” means all necessary documentation submitted by an Applicant to obtain a Small Cell Use Permit from the City to Collocate a Small Cell Facility and/or to construct, maintain, modify, operate, or replace a Wireless Support Structure.

(3) “Accessory Equipment” means equipment used in conjunction with a Small Cell Facility and generally at the same location of the Small Cell Facility, including, but not limited to, electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs.

(4) “City” means City of Bay Village.

(5) “Collocation” or “Collocate” means to install, mount, maintain, modify, operate, or replace wireless Facilities on a Wireless Support Structure.


(7) “Eligible Facilities or Eligible Support Structure Request” means any request for modification of an existing support structure or base station that does not substantially change the physical dimension of such support structure involving Collocation of new Facilities; removal of Facilities; or replacement of Facilities. A substantial change means:

(A) A modification that changes the physical dimension of a Wireless Support Structure by increasing the height of the Wireless Support Structure by more than ten percent (10%) or more than ten (10) feet, whichever is greater; and/or by adding an appurtenance to the body of the Wireless Support Structure that would protrude from the edge of the Wireless Support Structure by more than six (6) feet;
(B) The installation of more than the standard number of equipment cabinets for the technology involved or the installation of more than (4) cabinets, whichever is less;

(C) The installation for any new ground-mounted equipment cabinets if there are no existing ground-mounted equipment cabinets;

(D) Any excavation or deployment outside of the current site of the Facility;

(E) Removal of any concealment elements of the Facilities or the Wireless Support Structure; and

(F) Any change that does not comply with this Chapter, the Design Guidelines, or state or federal law and regulations.

The threshold for measuring increases that may constitute a substantial change are cumulative, measured from the Facilities as originally permitted (including any modifications that were reviewed and approved by the City prior to the enactment of the federal Spectrum Act on February 22, 2012.)


(9) "Facilities Operator" means the person or entity responsible for the installation, operation, maintenance, replacement, and modification of Facilities. Facilities Operator includes:

(A) Operators;

(B) Applicants who applied for consent to Collocate a Small Cell Facility or to construct, maintain, modify, operate, or replace a new Wireless Support Structure pursuant to Ohio Revised Code. Section 4939.031(E) and who have obtained a Small Cell Use Permit; and

(C) Applicants who applied for consent to Collocate a Small Cell Facility or to construct, maintain, modify, operate, or replace a new Wireless Support Structure pursuant to Ohio Revised Code. Section 4939.033 and who have obtained a Small Cell Use Permit.

(10) "Operator" means a wireless service provider, cable Operator, or a video service provider that operates a Small Cell Facility and provides wireless service, including a wireless service provider, cable operator, or a video service provider that provides information services as defined in the federal "Telecommunications Act of 1996," 110 Stat. 59, 47 U.S.C. 153(20), and services that are fixed in nature or use unlicensed spectrum.
(11) "Public Way" or "Right-of-Way" means the surface of, and the space within, through, on, across, above or below, any public street, public road, public highway, public freeway, public lane, public path, public alley, public court, public sidewalk, public boulevard, public parkway, public drive, public easement, and any other land dedicated or otherwise designated for a comparable public use, which is owned or controlled by the City or other public entity or political subdivision.

(12) "Small Cell Facility" means a wireless facility that meets both of the following requirements:

(A) Each antenna is located inside an enclosure of not more than six (6) cubic feet in volume or, in the case of an antenna with exposed elements, the antenna and all of its exposed elements can fit within an enclosure of not more than six (6) cubic feet in volume; and

(B) 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.

(13) "Small Cell Equipment" means a Small Cell Facility and all Accessory Equipment.

(14) "Small Cell Use Permit" means the permit granted by the City authorizing the Applicant to Collocate a Small Cell Facility or to construct, maintain, modify, operate, or replace a Wireless Support Structure in the Right-of-Way.

(15) "Wireless Support Structure" means a pole, such as a monopole, either guyed or self-supporting, street light pole, traffic signal pole, a fifteen-foot or taller sign pole, or utility pole capable of supporting Small Cell Facilities. As used in this Chapter, "Wireless Support Structure" excludes all of the following:

(A) A utility pole or other facility owned or operated by a municipal electric utility; and

(B) A utility pole or other facility used to supply traction power to public transit systems, including railways, trams, streetcars, and trolleybuses.

(c) The Chief Building Official is authorized and directed to promulgate written Design Guidelines with objective, technologically feasible criteria.
907.02  CONSENT REQUIRED.

(a) Any person or entity seeking to Collocate a Small Cell Facility in the Right-of-Way, or to construct, maintain, modify, operate, or replace a Wireless Support Structure in the Right-of-Way, shall first file a written Application for a Small Cell Use Permit with the Chief Building Official in accordance with the requirements in this Chapter, Design Guidelines, Ohio Revised Code. Chapter 4939, and all applicable state and federal laws and regulations.

(b) Applicants are strongly encouraged to contact the Chief Building Official and request a pre-Application conference. This meeting will provide an opportunity for early coordination regarding proposed Facilities, locations, design, Application submittal, and the approval process in order to avoid any potential delays in the processing of an Application and deployment of Facilities in the City.

(c) A Small Cell Use Permit granted under this Chapter shall not convey any right, title or interest in the Right-of-Way, but shall be deemed a permit only to use and occupy the Public Ways for the limited purposes and term stated in the permit, this Chapter, and the Design Guidelines promulgated by the Chief Building Official. No Small Cell Use Permit shall be construed as any warranty of title.

907.03  PERMIT APPLICATION TYPES.

Applicants shall classify their Application as one of the following types:

(a) Type 1: Eligible Facilities Requests.

(b) Type 2: Application for Collocation of Small Cell Equipment on a Wireless Support Structure that does not constitute an Eligible Facilities Request.

(c) Type 3: New Wireless Support Structure. Such applications address construction, modification, replacement, or removal of a Wireless Support Structure within the Right-of-Way. At the time of Application, Applicants shall certify that Small Cell Equipment will be placed on the Wireless Support Structure within 180 days from the date the Small Cell Use Permit is issued.

907.04  CONSOLIDATED CONSENT APPLICATIONS.

(a) Pursuant to Ohio Revised Code. Section 4939.0312, an Applicant may file one consolidated application for up to thirty (30) individual small cell Facilities or thirty (30) individual Wireless Support Structures as long as the facilities or structures for which consent is requested are substantially similar.

(1) Small Cell Facilities shall be considered substantially similar when the Small Cell Equipment is identical in type, size, appearance and function.
(2) Wireless Support Structures shall be considered substantially similar when
the Wireless Support Structures are identical in type, size, appearance and
function and are to be located in a similar location.

(3) Applications for Facilities and Wireless Support Structures cannot be
commingled.

(b) The City may, at its discretion, require separate Applications for any Small Cell
Facilities or Wireless Support Structures that are not substantially similar.

907.05 APPLICATION FEE.

(a) The fee for each application is Two Hundred Fifty Dollars ($250.00). The fee is
adjusted upward by ten percent (10%) every five years, rounded to the nearest
Five (5) Dollars, beginning in the year 2023.

(b) An Application shall not be deemed complete until the fee is paid.

(c) If Applications are consolidated, then the fee shall be the sum resulting from the
fee set forth in subsection (a) multiplied by the total number of Facilities or
Wireless Support Structures included in the consolidated Application.

907.06 ATTACHMENT FEE.

(a) In addition to the Application Fee, an annual fee shall be paid to the City for each
Small Cell Facility attached to a municipally-owned Wireless Support is Two
Hundred Dollars ($200.00). The fee is adjusted upward by ten percent (10%)
every five years, rounded to the nearest five (5) dollars, beginning in the year
2023.

(b) The first-year attachment fee shall be paid when the collocation is complete, and
no later than January 1 each year thereafter. The first-year attachment fee shall not
be prorated, regardless of the date that the collocation is complete.

907.07 REQUIRED APPLICATION MATERIALS.

The Applicant must submit the following documentation with each Application.

(a) Completed Application form including the identity, legal status and federal tax
identification number of the Applicant, as well as all affiliates and agents of the
Applicant that will use or be, in any way, responsible for the Facilities.

(b) The name, address, and telephone number of the local officer, agent, or employee
responsible for the accuracy of the application to be notified in case of
emergency.
(c) Fully dimensional scaled site plan (scale no smaller than one inch equals forty (40) feet). The site plan must include:

(1) The exact proposed location of the Facilities within the Right-of-Way;

(2) All existing Facilities with all existing transmission equipment;

(3) The location of all overhead and underground public utilities, telecommunications, cable, water, sanitary sewer, and storm water drainage utilities in the Public Way within one hundred (100) feet surrounding the proposed Facilities.

(4) The legal property boundaries within one hundred (100) feet surrounding the proposed Facilities;

(5) Indication of distance between the Facilities and existing curbs, driveways, sidewalks, trees, utilities, other poles, and existing buildings within one hundred (100) feet surrounding the proposed Facilities; and

(6) Access and utility easements within one hundred (100) feet surrounding the proposed Facilities.

(d) Elevation drawings (scale no smaller than one inch equals ten (10) feet) of the proposed Facilities.

(e) Evidence that the Applicant provided notice by mail to all property owners within 300 feet of the proposed Facilities prior to submitting the Application. The notice shall include:

(1) Name of the Applicant;

(2) Estimated date Applicant intends to submit the Application;

(3) Detailed description of the proposed Facilities and the proposed location; and

(4) Accurate, to-scale photo simulation of the proposed Facilities. Scale shall be no smaller than one inch equals forty (40) feet.

(f) A preliminary installation/construction schedule and completion date.

(g) Structural calculations prepared, stamped and signed by an engineer licensed and registered by the State of Ohio showing that the Wireless Support Structure can accommodate the weight of the proposed small cell equipment.

(h) Analysis demonstrating that the proposed Facilities do not interfere with the City's public safety radio system, traffic and emergency signal light system, or other City safety communications components. It shall be the responsibility of the
Applicant to evaluate, prior to making the Application for a Small Cell Use Permit, the compatibility between the existing City infrastructure and Applicant's proposed Facilities.

(i) A landscape plan that demonstrates screening of proposed small cell equipment.

(j) Drawings of the proposed Facilities. For all equipment depicted, the Applicant must also include, if applicable:

(1) The manufacturer's name and model number;

(2) Physical dimensions, including, without limitation, height, width, depth and weight with mounts and other necessary hardware; and

(3) The noise level generated by the equipment, if any.

(k) If the Applicant is not an Operator, then the Applicant must provide proof that the Applicant has been engaged by a wireless service provider who will be the end-user of the Facilities.

907.08 APPLICATION REVIEW.

(a) Applications shall be evaluated in the timeframes as follows:

(1) Type 1 Applications  60 days

(2) Type 2 Applications  90 days

(3) Type 3 Applications  120 days

(b) Applications shall be reviewed for completeness. If the Application is incomplete, then the Applicant will be notified of the insufficiency, and the timeframes set forth in subsection (a) shall be tolled until the Application is made complete.

(c) The timeframes set out in subsection (a) may also be tolled as follows:

(1) If the City receives between fifteen (15) and thirty (30) applications in a thirty-day period, then the City may toll for an additional twenty (20) days.

(2) If the City receives more than thirty (30) applications in a thirty-day period, then the City may toll for an additional fifteen (15) days for every fifteen (15) applications received.

(3) By mutual agreement between the Applicant and the City.

(4) When an Applicant submits an underground area waiver pursuant to the Design Guidelines, in which case the City may toll for an additional thirty (30) days.
(d) If two Applicants request to Collocate on the same Wireless Support Structure or two Wireless Support Structures are proposed within a distance that would violate the spacing requirements set forth in Section 907.16, then the Chief Building Official may resolve the conflict in any reasonable and nondiscriminatory manner.

(e) If a request for consent is denied, the City shall provide, in writing, its reasons for denying the request, supported by substantial, competent evidence. The denial of consent shall not unreasonably discriminate against the Applicant. Grounds for denying an Application may include, but are not limited to:

1. Failure to provide information required under Section 907.07;
2. Failure to comply with Design Guidelines;
3. Failure to provide financial surety pursuant to Section 907.15;
4. Failure to remove abandoned Facilities as required under Section 907.12;
5. Conflict with the historic nature or character of the surrounding area;
6. Conflict with planned future improvements in the Right-of-Way; and/or
7. Failure to comply with generally applicable health, safety, and welfare requirements.

907.09 PERMITTING PROCESS, DURATION, AND TERMINATION.

(a) Upon approval of its Application, an Applicant shall receive a Small Cell Use Permit indicating that the City has granted the Applicant consent to occupy the Right-of-Way.

(b) A Small Cell Use Permit issued to an Operator shall have duration of no longer than ten (10) years. Permits may be renewed for five year terms.

(c) A Small Cell Use Permit issued to a Facilities Operator who is not an Operator shall have a term of ten (10) years or the duration of the Facilities Operator’s agreement with a wireless service provider provided pursuant to Section 907.06(k), whichever is shorter.

(d) A Small Cell Use Permit shall not be renewed if the Facilities Operator or the Facilities are not in compliance with all applicable laws and regulations.
(e) Pursuant to Ohio Revised Code, Section 4939.0314(E), a Small Cell Use Permit shall be deemed terminated if the Facilities Operator has not completed construction of the Facilities or has failed to attach Small Cell Equipment to a Wireless Support Structure within 180 days of issuance of the Permit, unless the delay is caused by:

(1) Make-ready work for a municipally-owned Wireless Support Structure; or

(2) The lack of commercial power or backhaul availability at the site, provided that the Operator has made a request for commercial power or backhaul services within sixty (60) days after the Small Cell Use Permit was granted.

If the additional time to complete the installation exceeds three hundred sixty days (360) after the issuance of the Permit, then the Permit shall be deemed terminated regardless of the cause of the delay.

(f) A Small Cell Use Permit for a new Wireless Support Structure shall be deemed terminated if the Facilities Operator fails to attach Small Cell Equipment to the new Wireless Support Structure within 180 days of issuance of the Small Cell Use Permit.

(g) If the Facilities Operator fails to remit the annual attachment fee required pursuant to Section 907.10, then the Small Cell Use Permit will expire on the ninetieth (90th) day from the date the annual attachment fee was due.

(h) At any time and upon service of a sixty (60)-day advance written notice to City, a Small Cell Use Permit may be terminated by the Facilities Operator.

(i) Upon termination of a Small Cell Use Permit, the Facilities Operator shall restore and rehabilitate all City-owned Wireless Support Structures and the Right-of-Way to their former condition and utility.

(j) The City shall not issue any refunds for any amounts paid by the Facilities Operator upon termination of the Permit.

907.10 ANNUAL REGISTRATION.

(a) All Facilities Operators with consent to occupy or use the Right-of-Way shall register with the City each calendar year between January 1 and January 31 on a form provided by the City. The form will allow the Facilities Operator to indicate when there is no change in the information required, and when such indication is submitted, previously provided information will be considered current and will be relied upon. Facilities Operators who obtain consent to occupy the Right-of-Way after September 30 of any year need not file an Annual Registration for next calendar year.
(b) The purpose of registration under this Section is to:

(1) Compile, update and supplement the City's database so that the City has accurate and current information concerning the Facilities Operators that own or operate Facilities in the City/Village's public Right-of-Way;

(2) Assist the City in monitoring the usage of the public Right-of-Way in order to ensure that the public receives the maximum possible benefit from that use, and the use is consistent with the best management and care of the public Right-of-Way;

(3) Assist the City in the collection and enforcement of any municipal taxes, fees, or other charges that may be due the City; and

(4) Assist the City in monitoring compliance with local, state and federal laws.

(c) Registration forms will be provided by the City and shall require the following information:

(1) Any material changes to the information the Facilities Operator provided to the City in the Application for Small Cell Use Permit including, but not limited to:

(A) The identity, legal status, and federal tax identification number of the Facilities Operator, including any affiliates or agents.

(B) The name, address and telephone number of the local officer, agent or employee responsible for the accuracy of the Facilities Operator's registration statement and available at all reasonable times to be notified in case of emergency.

(C) Evidence that the Facilities Operator is in compliance with the insurance, indemnity and financial surety requirements pursuant to this Chapter.

(D) Such other information as the Chief Building Official may reasonably require.

(d) In addition to the annual registration requirement, each Facilities Operator shall keep all required registration information current at all times and shall provide the City with notice of changes to the required information within fifteen (15) days following the date on which the Facilities Operator has notice of the need for such change.
907.11 NONCONFORMING FACILITIES.

(a) Facilities in the Right-of-Way that are legally in existence on the date of the adoption of this Chapter but that do not comply with the requirements of this Chapter may remain in the Right-of-Way but shall be considered a “Nonconforming Facility.”

(b) Any person or entity who owns or operates a Nonconforming Facility shall register such facility pursuant to Section 907.10 within ninety (90) days of the date this ordinance takes effect.

(c) If a Nonconforming Facility is damaged or destroyed beyond repair, any replacement Facility must be designed in accordance with all provisions of this Chapter, the Design Guidelines, and state and federal law and regulations.

907.12 ABANDONED AND DAMAGED FACILITIES.

(a) A Facilities Operator shall provide written notice to the City of its intent to discontinue use of any Facilities. The notice shall include the date the use will be discontinued. If Facilities are not removed within three hundred sixty five (365) days from the date the use was discontinued, the Facilities shall be considered a nuisance and the City may remove the Facilities at the expense of the Facilities Operator.

(b) In the event that Facilities are damaged, the Facilities Operator shall promptly repair the damaged Facilities. Damaged Facilities shall be repaired no later than thirty (30) days after obtaining written notice that the Facilities are damaged. If the damaged Facilities are not repaired within thirty (30) days, then the damaged Facilities shall be considered a nuisance and the City may repair or remove the Facilities at the expense of the Facilities Operator.

907.13 INSURANCE REQUIREMENTS.

(a) As a condition of the City’s consent to occupy the Right-of-Way, a Facilities Operator must secure and maintain the following liability insurance policies insuring both the Facilities Operator and as additional insureds the City, its elected and appointed officers, officials, agents and employees:

(1) Comprehensive general liability insurance with limits not less than:

   (A) Five Million Dollars ($5,000,000.00) for bodily injury or death to each person;

   (B) Five Million Dollars ($5,000,000.00) for property damage resulting from any one (1) accident; and

   (C) Five Million Dollars ($5,000,000.00) for all other types of liability.
(2) Automobile liability for owned, non-owned and hired vehicles with a limit of Three Million Dollars ($3,000,000.00) for each person and Three Million Dollars ($3,000,000.00) for each accident.

(3) Worker's compensation within statutory limits and employer's liability insurance with limits of not less than One Million Dollars ($1,000,000.00).

(4) Comprehensive form premises-operations, explosions and collapse hazard, underground hazard and products completed hazard with limits of not less than Three Million Dollars ($3,000,000.00).

(b) Each such insurance policy shall contain the following endorsement:

"It is hereby understood and agreed that this policy may not be canceled nor the intention not to renew be stated until ninety (90) days after receipt by the City, by registered mail, of a written notice addressed to the Chief Building Official of such intent to cancel or not to renew."

(c) Within sixty (60) days after receipt by the City of the notice provided for in subsection (b) above, and in no event later than thirty (30) days prior to the cancellation of the policy, the Facilities Operator shall obtain and furnish to the City replacement insurance policy meeting the requirements of this Section.

907.14 INDEMNIFICATION.

A Facilities Operator 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, maintaining or removing Facilities in the Right-of-Way.

907.15 FINANCIAL SURETY.

(a) Each Facilities Operator must procure and provide to the City a bond, escrow, deposit, letter of credit, or other financial surety to ensure compliance with this Chapter and Chapter 4939. The financial surety must be in an amount sufficient to cover the cost of removal of all Facilities owned or operated by the Facilities Operator.

(b) The City may, in its sole discretion, draw on the financial surety to remove abandoned Facilities, remove or repair damaged Facilities, or to repair damage to any City property caused by the Facilities Operator or its agent. In such event, the Facilities Operator shall cause the financial surety be replenished to its prior
amount within ten (10) business days after City notifies the Facilities Operator that it has drawn on the financial surety.

907.16 RESERVED SPACE.

The City reserves the right to install, and permit others to install, Facilities in the Right-of-Way. The City may reserve space in the Right-of-Way and on Wireless Support Structures for future utility, safety, or transportation uses. Such space may be reserved in an ordinance or plan approved by the Mayor, City Council, Chief Building Official, Building Commissioner, or Planning Commission.

907.17 REMOVAL OR RELOCATION OF FACILITIES.

(a) The City may require a Facilities Operator to remove or relocate Facilities to accomplish construction and maintenance activities. The Facilities Operator shall remove or relocate the Facilities at no cost to the City. If the Facilities Operator fails to remove or relocate the Facilities within ninety (90) days of receiving a request to do so from the City, then the City may remove the Facilities at Facilities Operator’s sole cost and expense, without further notice to the Facilities Operator.

(b) If the Facilities are placed in a location other than the location approved by the City, the Facilities Operator shall relocate the Facilities within thirty (30) days of receiving notice that the Facilities are located improperly.

907.18 NOTICE OF WORK.

A Facilities Operator shall notify the Chief Building Official of all nonemergency work within ten (10) calendar days prior to performing any upgrades or maintenance on any Facilities, regardless of whether the work requires any permit or consent from the City.

907.99 PENALTIES; EQUITABLE REMEDIES.

(a) Any person or entity found guilty of violating, disobeying, omitting, neglecting or refusing to comply with any of the provisions of this Chapter shall be fined not less than One Hundred Dollars ($100.00) nor more than Five Hundred Dollars ($500.00) for each offense. A separate and distinct offense shall be deemed committed each day during or on which a violation occurs or continues.

(b) Nothing in this Chapter shall be construed as limiting any judicial remedies that the City may have, at law or in equity, for enforcement of this Chapter.”

Section 2. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council, and of any of its committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.
Section 3. This Ordinance shall be in full force and effect from and after the earliest period allowed by law.
SMALL CELL DESIGN GUIDELINES

SECTION 1 OVERVIEW AND PURPOSE, DEFINITIONS.

(a) The purpose of these Design Guidelines is to:

(1) Protect the health, safety, and general welfare of the citizens of the City;

(2) Preserve the character of the City’s neighborhoods and historic districts and to protect property values;

(3) Give guidance to wireless telecommunications providers to assist such companies in the timely, efficient, safe, and aesthetically-pleasing installation of Facilities; and

(4) To exercise the City’s home rule authority and, to the extent legally permitted, not to conflict with or preempt applicable state and federal laws.

(b) For the purpose of these regulations, and the interpretation and enforcement hereof, the following words and phrases shall have the following meanings, unless the context of the sentence in which they are used shall indicate otherwise:

(1) “ Applicant” means any person or entity who submits an Application pursuant to these design guidelines and Chapter 907 of the Code.

(2) “ Application” means the form issued by Chief Building Official, to be submitted by an Applicant to obtain a Small Cell Use Permit from the City to Collocate a Small Cell Facility and/or to construct, maintain, modify, operate, or replace a Wireless Support Structure.

(3) “ Accessory Equipment” means equipment used in conjunction with a Small Cell Facility and generally at the same location as, or in proximity to, the Small Cell Facility including, but not limited to, electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs.

(4) “ City” means City of Bay Village.

(5) “ Collocation” or “Collocate” means to install, mount, maintain, modify, operate, or replace wireless Facilities on a Wireless Support Structure.

(6) “Design Guidelines” means the standards established in these regulations promulgated by the Chief Building Official.

(8) "Facilities Operator" means the person or entity responsible for the installation, operation, maintenance, replacement, and modification of Facilities. Facilities Operator includes:

(A) Operators;

(B) Applicants who applied for consent to Collocate a Small Cell Facility or to construct, maintain, modify, operate, or replace a new Wireless Support Structure pursuant to OHIO REVISED CODE Section 4939.031(E) and who have obtained a Small Cell Use Permit; and

(C) Applicants who applied for consent to Collocate a Small Cell Facility or to construct, maintain, modify, operate, or replace a new Wireless Support Structure pursuant to OHIO REVISED CODE Section 4939.033 and who have obtained a Small Cell Use Permit.

(9) "Historic district" means a building, property, or site, or group of buildings, properties, or sites that are either of the following:

(A) Listed in the national register of historic places or formally determined eligible for listing by the keeper of the national register, the individual who has been delegated the authority by the federal agency to list properties and determine their eligibility for the national register, in accordance with section VI.D.1.a.i-v of the nationwide programmatic agreement codified at 47 C.F.R. part 1, Appendix C;

(B) A registered historic district as defined in section 149.311 of the Ohio Revised Code.

(10) "Operator" means a wireless service provider, cable operator, or video service provider that operates a Small Cell Facility and provides wireless service, including 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.

(11) "Public Way" or "Right-of-Way" means the surface of, and the space within, through, on, across, above or below, any public street, public road, public highway, public freeway, public lane, public path, public alley, public court, public sidewalk, public boulevard, public parkway, public drive, public easement, and any other land dedicated or otherwise designated for a comparable public use, which is owned or controlled by the City or other public entity or political subdivision.
(12) “Small Cell Facility” means a wireless facility that meets both of the following requirements:

(A) Each antenna is located inside an enclosure of not more than six (6) cubic feet in volume or, in the case of an antenna with exposed elements, the antenna and all of its exposed elements can fit within an enclosure of not more than six (6) cubic feet in volume; and

(B) 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 “Small Cell Equipment” means a Small Cell Facility and all Accessory Equipment.

(13) “Small Cell Equipment” means a Small Cell Facility and all Accessory Equipment.

(14) “Small Cell Use Permit” means the permit granted by the City authorizing an Applicant to Collocate a Small Cell Facility or to construct, maintain, modify, operate, or replace a Wireless Support Structure in the Right-of-Way.

(15) “Underground Area” means an area in the Right-of-Way where existing electric utilities, cable facilities, telecommunications facilities and other facilities, other than structures and facilities owned by the City or a transit authority, are located underground.

(16) “Wireless Support Structure” means a pole, such as a monopole, either guyed or self-supporting, street light pole, traffic signal pole, a fifteen-foot or taller sign pole, or utility pole capable of supporting Small Cell Facilities. “Wireless Support Structure” excludes all of the following:

(A) A utility pole or other facility owned or operated by a municipal electric utility; and

(B) A utility pole or other facility used to supply traction power to public transit systems, including railways, trams, streetcars, and trolleybuses.

SECTION 2 GENERAL STANDARDS

(a) Facilities shall not be installed unless the Facilities are compliant with these Design Guidelines, Chapter 907 of the Codified Ordinances and any Application requirements, and all applicable local, state, and federal laws.
(b) A Facilities Operator shall not construct, maintain, modify, operate, or replace any Facilities not clearly depicted in an Application for a Small Cell Use Permit.

(c) All work shall be performed in a professional manner consistent with the highest standards of workmanship.

(d) Facilities shall be maintained in good and safe condition and in a manner that complies with all applicable federal, state and local requirements.

(e) Facilities shall not be installed in any location that causes any interference with the City's public safety radio system, traffic and emergency signal light system, or other City safety communications systems or system components.

(f) The City may propose an alternative location for proposed Facilities up to one hundred (100) feet from the proposed location or within a distance that is equivalent to the width of the Public Way, whichever is greater. The Facilities Operator shall utilize the alternative location unless the Facilities Operator shows that the alternative location is not technically feasible.

(g) Facilities shall not interfere with existing or planned street trees.

(h) Signage shall be mounted on all new Facilities providing the Facilities Operator's name, an emergency contact phone number, an informational contact number, and all other information required by law. Unless otherwise prohibited by law, signage shall be discreet in color and shall match the Facilities and surrounding area and font size used on the sign shall be no smaller than 9 point font and no larger than 14 point font.

(i) Unless otherwise required by law, all manufacturer stickers and decals shall be removed from Facilities.

(j) Facilities shall be camouflaged using existing land forms, vegetation, and structures to screen the Facilities from view and to blend in with the surrounding built and natural environment.

(k) The City may require the Facilities Operator to incorporate additional concealment elements before approving an Application. Concealment elements may include, but shall not be limited to, fencing, public art, strategic placement, and placement within existing or replacement street furniture.

(l) Facilities shall not have any flashing lights, sirens or regular noise other than a cooling fan that may run intermittently.

(m) All hardware, including antenna mounting brackets and hardware, antenna mounting posts, cables, shrouds and other equipment mounted shall be painted in a color designated by the City, and the color shall match the Facilities. The City may require the Facilities Operator use a different, non-matching color on a case-
by-case basis when the City determines a non-matching color would better fulfil the purposes of these Design Guidelines.

(n) A Facilities Operator shall remove or paint over any graffiti on the Facilities at Facility Operator's sole expense as soon as practicable, but no later than ten (10) days from the date the Facilities Operator receives notice of the graffiti.

SECTION 3 SPECIFICATIONS FOR COLLOCATION

(a) Small Cell Equipment shall not interfere with the primary purpose of a Wireless Support Structure.

(b) Small Cell Equipment to be attached to a Wireless Support Structure shall be attached at least six (6) feet above ground level. If Small Cell Equipment is projecting toward the street then the Small Cell Equipment shall be installed no less than sixteen (16) feet above ground level.

SECTION 4 ANTENNAS

(a) Antennas and Accessory Equipment must be capable of fitting within an enclosure not larger than six (6) cubic feet in volume.

(b) Antennas and Accessory Equipment shall not increase the overall height of an existing Wireless Support Structure by more than five (5) feet.

(c) Antennas mounted on a Wireless Support Structure shall be enclosed inside the Wireless Support Structure whenever possible and otherwise within a canister, shroud, or other enclosure. All Accessory Equipment associated with the antenna shall be concealed and shall not visibly protrude from the shroud or canister.

(d) The width of the canister or other shroud encasing the antenna and Accessory Equipment shall not exceed the width of the narrowest portion of the Wireless Support Structure.

(e) The enclosure or shroud shall be painted to match or complement the Wireless Support Structure.

(f) Antennas shall be installed in a manner that minimizes the visual impact to the general public.

(g) Antennas shall not impair light or views from adjacent window(s).

(h) Antennas located on the exterior of a Wireless Support Structure shall be top-mounted on a Wireless Support Structure. The City may approve a side-mounted antenna if, in the City's discretion, the side-mounted antenna would be more appropriate given the built environment, neighborhood character, overall site appearance or would promote the purposes in these Design Guidelines.
SECTION 5  WIRELESS SUPPORT STRUCTURE-MOUNTED EQUIPMENT

(a) All Wireless Support Structure-mounted Small Cell Equipment other than the antenna(s) and electric meter must be concealed within an equipment cabinet.

(b) Equipment cabinets shall be mounted flush to the Wireless Support Structure.

(c) Equipment cabinets shall be stacked together on the same side of the Wireless Support Structure and oriented away from any windows and doorways to minimize visual impacts thereupon.

(d) The equipment cabinets must be non-reflective and painted, wrapped or otherwise colored to match the Wireless Support Structure.

SECTION 6  GROUND-MOUNTED SMALL CELL EQUIPMENT

(a) The City shall not approve the proposed location of ground-mounted Small Cell Equipment unless the Applicant:

(1) Proposes the ground-mounted Equipment in connection with a Collocation; and

(2) Shows that the Equipment cannot be feasibly placed on the Wireless Support Structure or in an underground vault.

(b) If technically feasible, Small Cell Equipment should be located in a vault buried underground rather than being ground-mounted. If underground placement is not technically feasible, ground-mounted Small Cell Equipment shall be contained in a shroud or cabinet.

(c) All ground-mounted Small Cell Equipment shall be installed in a manner that minimizes the visual and ingress/egress impact to the general public.

(d) Ground-mounted Small Cell Equipment shall be placed as far as practicable from pedestrian sidewalks and shall neither block nor be placed within the sidewalk in any way.

SECTION 7  CABLES

(a) All cables, conduit and wiring shall be located inside conduit and inside the Wireless Support Structure or an equipment cabinet.

(b) Excess cables and wiring shall not be spooled, coiled or otherwise stored on the exterior of the Wireless Support Structure unless within an enclosure. Cables shall not be externally visible.
SECTION 8 ELECTRICAL METERS

(a) Facilities Operators shall use flat-rate electric service when available in order to eliminate the need for a meter.

(b) If a meter is required, then Facilities Operators shall use the smallest and least intrusive electric meter available. If not prohibited by the electric service provider, the electric meter shall be painted to match the Wireless Support Structure.

SECTION 9 UTILITY LINES

(a) Service lines shall be undergrounded to avoid additional overhead lines. Undergrounded cables and wires must transition directly into the Wireless Support Structure base without any external junction box.

SECTION 10 SPECIFICATIONS FOR REPLACEMENT OF WIRELESS SUPPORT STRUCTURES

(a) A Facilities Operator shall be required to replace an existing Wireless Support Structure in the following circumstances:

(1) The Wireless Support Structure upon which the Applicant has proposed to Collocate Small Cell Equipment is deemed incapable of bearing the added weight of the Small Cell Equipment; or

(2) An existing Wireless Support Structure is located within 100 feet or less of the proposed site of a new Wireless Support Structure but the existing Wireless Support Structure is incapable of bearing the additional weight of the Small Cell Equipment.

(b) Designs for replacement of Wireless Support Structures shall be as architecturally similar as possible to the existing Wireless Support Structure to be replaced unless otherwise approved by the City.

(1) All luminaire mast arms shall be the same length, arch, and style as the original luminaire arm, unless otherwise specified by the City.

(2) The City may require the Facilities Operator to install a new metal Wireless Support Structure rather than a new wood support structure.

(c) The overall height of a replacement Wireless Support Structure, including proposed Collocated antenna, shall not be greater than forty (40) feet in height above ground level. Notwithstanding the foregoing height limitation, the overall height of a replacement Wireless Support Structure, including proposed Collocated antenna, shall not be more than thirty-five (35) feet in height above ground level in the First Residence District, Family and Group Homes, Third Residence District, Cluster Development District, or any other residential zoning
district in the City so long as there is no Wireless Support Structure or utility pole taller than thirty feet located within three-hundred (300) feet of the location of the proposed replacement Wireless Support Structure.

(d) All existing signs, traffic signals, emergency signal detection units, video detection cameras, video cameras, crosswalk service buttons, crosswalk signals, and any other pedestrian or traffic devices shall be reinstalled or replaced with new units by the Facilities Operator and installed at no cost to the City.

(e) The concrete Wireless Support Structure foundation for the original Wireless Support Structure shall be removed either partially or completely by the Facilities Operator as instructed by the City.

(1) If partially removed, the original Wireless Support Structure foundation shall be taken back to a level that is twelve (12) inches below the existing grade and covered with four (4) inches of one-half (½) inch to three-quarter (¾) inch compose of rock material. The remaining eight (8) shall be native soil and landscaped with natural vegetation that is the same as the surrounding vegetation.

(2) If the entire original Wireless Support Structure foundation must be removed, then all foundation materials (concrete, rebar, metals, bolts, etc.) shall be removed. The type of backfill material and compaction required is: (a) one-half (½) sack slurry for the entire depth in paved areas, and (b) one-half (1/2) sack slurry for the entire depth except the top twelve (12) inches will be native soil in landscaped areas with natural vegetation that is the same as the surrounding vegetation.

SECTION 11 SPECIFICATIONS FOR NEW WIRELESS SUPPORT STRUCTURES

(a) New Wireless Support Structures shall be designed and constructed to accommodate Small Cell Equipment from at least two (2) wireless service providers on the same Wireless Support Structure.

(b) New Wireless Support Structures shall maintain a distance of three hundred (300) feet from existing monopoles, or utility poles.

(c) In non-residential districts, new Wireless Support Structures shall be located at the shared property line between two residential parcels where the parcels intersect the Right-of-Way.

(d) In non-residential districts, new Wireless Support Structures shall be located between tenant spaces, storefront bays, or adjoining properties at the shared property lines where the parcels intersect the Right-of-Way.

(e) New Wireless Support Structures shall not interfere with any metered parking space.
(f) A new Wireless Support Structure shall not be located in front of a building entrance or exit.

(g) The overall height of a new Wireless Support Structure, including proposed Collocated antenna, shall not be greater than forty (40) feet in height above ground level. Notwithstanding the foregoing height limitation, the overall height of a replacement Wireless Support Structure, including proposed Collocated antenna, shall not be more than thirty-five (35) feet in height above ground level in the First Residence District, Family and Group Homes, Third Residence District, Cluster Development District, or any other residential zoning district in the City so long as there is no Wireless Support Structure or utility pole taller than thirty feet located within three-hundred (300) feet of the location of the proposed replacement Wireless Support Structure.

(h) The City may require the Facilities Operator to install a metal Wireless Support Structure rather than a wood Wireless Support Structure. Unless otherwise specified by the City, new wood Wireless Support Structures are prohibited in the following zoning districts:

[DESIGNATE DISTRICTS BASED ON PREFERENCE OF CITY/CITY]

SECTION 12 HISTORIC DISTRICT REGULATIONS

Except antennas, all Small Cell Equipment to be located in the Right-of-Way in Cahoon Park, or in any other Historic District in the City, shall be located in an underground vault or shall be subject to such reasonable, technologically feasible, and non-discriminatory design or concealment measures as the City may specify, as long as such measures do not have the effect of prohibiting the Facilities Operator’s provision of reasonable service in the City. Such measures are not considered part of the small cell facility for purposes of facility size restrictions in this Chapter 907 of the Codified Ordinances. A waiver submitted pursuant to Section 13(d) will be considered if it is shown to be technologically infeasible.

SECTION 13 UNDERGROUND AREA REGULATIONS

(a) Whenever any existing electric utilities, cable facilities, telecommunications facilities or other facilities are located underground within a Public Way of the City, the Facilities Operator must also locate its Facilities underground.

(b) A Facilities Operator may replace an existing Wireless Support Structure or Collocate Small Cell Facilities on an Existing Wireless Support Structure even if the Wireless Support Structure is located in an Underground Area.

(c) A Facilities Operator shall not install a new Wireless Support Structure in an Underground Area.
(d) An Operator may apply to the Board of Zoning Appeals for a waiver of the underground placement requirement if the Operator is unable to achieve its service objective and has the effect of prohibiting the provision of reasonable service in the City under the following circumstances:

1. From a location in the public Right-of-Way where the prohibition does not apply;
2. From a utility easement the service provider has the right to access; and
3. From other suitable locations or structures made available by the City at reasonable rates, fees and terms.

(e) Submission of a waiver pursuant to subsection (d) is subject to the Facilities Operator's agreement to toll the timeframes set forth in Section 907.08(a) of the Codified Ordinances by fourteen (14) days.

SECTION 14 PENALTIES; EQUITABLE REMEDIES

(a) Any person or entity found guilty of violating, disobeying, omitting, neglecting or refusing to comply with any of the provisions of these Design Guidelines shall be fined not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00) for each offense. A separate and distinct offense shall be deemed committed each day during or on which a violation occurs or continues.

(b) Nothing in these Design Guidelines shall be construed as limiting any judicial remedies that the City may have, at law or in equity, for enforcement of this the Design Guidelines.

Adopted by: ________________________________
Chief Building Official

Date adopted: ________________________________
RESOLUTION NO.
INTRODUCED BY:

A RESOLUTION
AUTHORIZING THE PURCHASE OF A SERVICE DEPARTMENT VEHICLE AND
DECLARING AN EMERGENCY.

WHEREAS, the City of Bay Village Service Department is in need of a new vehicle to replace an existing vehicle per the replacement schedule, and the Council of the City of Bay Village has previously appropriated funds for the purchase of said vehicle; and

WHEREAS, the needed vehicle is available through the State of Ohio DAS Procurement Schedule; and

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

SECTION 1. That the Service Director is hereby authorized and directed to submit a purchase order to purchase one (1) 2018 Dodge Grand Caravan from Lebanon Chrysler Dodge Jeep Ram, 518 W. Main Street, Lebanon, Ohio 45036, per Ohio DAS Procurement Index No: GDC 104, Contract No: RS903518, total cost $23,600.00.

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, 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

061318 kek