Agenda, Bay Village City Council
Regular Meeting, Council Chambers

May 20, 2019
8:00 p.m.

Dwight A. Clark, President of Council, Presiding
Roll Call
Pledge of Allegiance led by Brownie Troop No. 71260

Reading of Minutes – Special Meeting of Council held May 13, 2019

ANNOUNCEMENTS

REPORTS

Mayor Koomar
Director of Law Barbour
Director of Finance Mahoney
Director of Recreation Enovitch
Director of Public Service and Properties Liskovec
Human Resources Director Demalone

Director of Community Services Selig
Police Chief Spaetzel
Fire Chief Lyons
Director of Building Eric Tuck-Macalla

AUDIENCE

COMMUNICATIONS

COMMITTEE OF THE WHOLE

Ordinance enacting revised Codified Ordinance Chapter 151, Employment Provisions, and declaring an emergency.

ENVIRONMENT, SAFETY & COMMUNITY SERVICES COMMITTEE –Mr. Mace

FINANCE AND CLAIMS-Mr. Tadych

ORDINANCE 19-34, as amended, providing for the issuance and sale of $727,202 of notes, in anticipation of the issuance of bonds, for the purpose of paying costs of improving streets and related bridges by resurfacing, paving and making other improvements as designated in the plans approved or to be approved by Council, and declaring an emergency. (First Reading May 6, 2019) (Second Reading May 13, 2019).

Ordinance No. 35, as amended, providing for the issuance and sale of $2,715,933 of notes, in anticipation of the issuance of bonds, for the purpose of paying costs of (i) improving streets by resurfacing, paving and making other improvements as designated in the plans approved or to be
approved by council and (ii) acquiring motor vehicles and equipment and constructing improvements to facilities used in performing the functions of the city’s department of public services and properties, and declaring an emergency. (First Reading May 6, 2013) (Second Reading May 13, 2019).

ORDINANCE No. 19-36, as amended, providing for the issuance and sale of $387,865 of notes, in anticipation of the issuance of bonds, for the purpose of paying costs of improving the city’s parks and recreational facilities by constructing improvements to the rose hill museum, tennis courts and restroom facilities and the Lake Erie shoreline, and declaring an emergency. (First Reading May 6, 2013) (Second Reading May 13, 2019).

ORDINANCE No. 19-37, as amended, providing for the issuance and sale of $850,000 of notes, in anticipation of the issuance of bonds, for the purpose of paying costs of acquiring a fire truck and appurtenant equipment for use in performing the functions of the city’s fire department, and declaring an emergency. (First Reading May 6, 2013) (Second Reading May 13, 2019).

ORDINANCE No. 19-38, as amended, providing for the issuance and sale of $125,000 of notes, in anticipation of the issuance of bonds, for the purpose of paying costs of acquiring computer software for use in performing the administrative functions of the city, and declaring an emergency. (First Reading May 6, 2013) (Second Reading May 13, 2019).

ORDINANCE No. 19-39 providing for the issuance and sale of $494,000 of notes, in anticipation of the issuance of bonds, for the purpose of paying costs of acquiring motor vehicles and equipment and constructing improvements to facilities used in performing the functions of the city’s department of public services and properties, and declaring an emergency. (First Reading May 6, 2019) (Second Reading May 13, 2019).

RESOLUTION adopting a Tax Budget For The City Of Bay Village for the Fiscal Year Beginning January 1, 2020, submitting same to the County Fiscal Officer, and declaring an emergency. (First Reading).

PLANNING, ZONING, PUBLIC BUILDINGS AND GROUNDS COMMITTEE-Ms. Maier

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

ORDINANCE Authorizing the Mayor to enter into an agreement with American Pavements, Inc. for the 2019 Pavement Crack Seal of areas on Lake Road and declaring an emergency.
ORDINANCE No. 19-43 amending Chapter 539 of the Codified Ordinances of the City of Bay Village, by enacting Section 539.07 (i) relating to prohibiting smoking in parks, and declaring an emergency. (Second Reading) (First Reading May 13, 2019).

RESOLUTION authorizing the filing of a NatureWorks Grant Application with the Ohio Department of Natural Resources, and declaring an emergency.

SERVICES, UTILITIES & EQUIPMENT COMMITTEE – Ms. DeGeorge

ORDINANCE authorizing the Mayor to enter into an agreement with FirstEnergy Solutions Corp. (FES), for the supply of utility services to the inhabitants of the city of Bay Village as Governmental Aggregators, and declaring an emergency.

MISCELLANEOUS

Motion to convene to Executive Session regarding contracts – Chagrin Valley Engineering for Lakeside Cemetery, and Pending Litigation: Workers’ Compensation.

ADJOURNMENT
Procedure

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

Roll call on suspension of Charter Rules:

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

Roll call on suspension of Council Rules:

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

Roll call on inclusion of the emergency.

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

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

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

Council Minutes, Special Meeting
May 13, 2019
Council Chambers 8:26 p.m.
Vice President of Council David L. Tadych, presiding

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

Also Present:  Law Director Barbour, Finance Director Mahoney, Director of Public Service and Properties Liskovec, Fire Chief Lyons, Police Chief Spaetzel, Building Director Tuck-Macalla.

AUDIENCE

Claire Banasiak, Mary Slaman, Kyler Passarell, Boy Scout Troop No. 729, Bay Methodist Church, Daniel Barker, Boy Scout Troop No. 729, Bay Methodist Church, Nolan Buchanan, Boy Scout Troop No. 729, Bay Methodist Church.

Vice President of Council Tadych called the 9th special meeting, and the 16th meeting of Council in 2019 to order at 8:26 p.m. with roll call and the Pledge of Allegiance led by Boy Scouts Kyler Passarell, Daniel Barker, and Nolan Buchanan, Troop No. 729, Bay Methodist Church.

Motion by Mace to dispense with the reading of the minutes of the meeting of the Regular Meeting of Council held May 6, 2019 and approve the minutes as prepared and distributed.

Motion passed 5-0.

Motion by Mace to dispense with the reading of the minutes of the meeting of the Cahoon Memorial Park Trustees held May 6, 2019 and approve the minutes as prepared and distributed.

Motion passed 6-0.

Motion by Mace to authorize the Director of Public Service and Properties to advertise for bids for the construction and installation of two (2) pedestrian crosswalks, one at Cahoon and Lake Roads, and one at Columbia and Lake Roads.

Roll Call Vote:  Yeas – DeGeorge, Mace, Maier, Stainbrook, Tadych
Nays – None.

Motion passed 5-0.

Mr. Mace read, by title only, Ordinance 19-34 providing for the issuance and sale of $727,202 of notes, in anticipation of the issuance of bonds, for the purpose of paying costs of improving streets and related bridges by resurfacing, paving and making other improvements as designated
in the plans approved or to be approved by Council, and declaring an emergency. (Second Reading) (First Reading May 6, 2019) (Amended by reading to correct duplication of Section 11.)

Mr. Barbour announced that Ordinance No. 19-34 is placed on second reading.

**Mr. Mace** read, by title only, **Ordinance No. 19-35** providing for the issuance and sale of $2,715,933 of notes, in anticipation of the issuance of bonds, for the purpose of paying costs of (i) improving streets by resurfacing, paving and making other improvements as designated in the plans approved or to be approved by council and (ii) acquiring motor vehicles and equipment and constructing improvements to facilities used in performing the functions of the city’s department of public services and properties, and declaring an emergency. (Second Reading) (First Reading May 6, 2019) (Amended by reading to correct duplication of Section 11.)

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Special Meeting of Council
May 13, 2019

duplication of Section 11.)

Mr. Barbour announced that Ordinance No. 19-39, as amended, is placed on second reading.

Mr. Tadych noted that the total of the six debt issuing ordinances just placed on second reading will, when passed, result in the note issuance of $5.3 million for the City.

Mr. Mace read, by title, only Ordinance No. 19-41 to make appropriations for the current and other expenditures of the City of Bay Village for the Fiscal Year 2019, as previously appropriated in the Annual Appropriations 18-95, 19-07, 19-13, and 19-27, and declaring an emergency, and moved for adoption.

There being no further discussion, Mr. Tadych called for a vote on the motion for adoption of Ordinance No. 19-41.

Roll Call on Suspension of the Charter Rules:
  Yeas- Mace, Maier, Stainbrook, Tadych, DeGeorge.
  Nays- None.
Roll Call on Suspension of the Council Rules:
  Yeas –Mace, Maier, Stainbrook, Tadych, DeGeorge.
  Nays –None.
Roll Call on Inclusion of the Emergency Clause:
  Yeas – Mace, Maier, Stainbrook, Tadych, DeGeorge.
  Nays – None.
Roll Call on Adoption:
  Yeas– Mace, Maier, Stainbrook, Tadych, DeGeorge.
  Nays –None.

Mr. Barbour announced adoption of Ordinance No. 19-41, an emergency measure, with a vote of 5-0.

Mrs. Stainbrook introduced and read, by title only, Ordinance No. 19-42 authorizing the Mayor to enter into a contract with Chagrin Valley Engineering for professional engineering services for erosion prevention/restoration for Lakeside Cemetery, and declaring an emergency, and moved for adoption.

There being no further discussion, Mr. Tadych called for a vote on the motion for adoption of Ordinance No. 19-42

Roll Call on Suspension of the Charter Rules:
  Yeas- Maier, Stainbrook, Tadych, DeGeorge, Mace.
  Nays- None.
Roll Call on Suspension of the Council Rules:
  Yeas –Maier, Stainbrook, Tadych, DeGeorge, Mace.
  Nays –None.
Roll Call on Inclusion of the Emergency Clause:
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Yeas – Maier, Stainbrook, Tadych, DeGeorge, Mace.
Nays – None.
Roll Call on Adoption:
Yeas – Maier, Stainbrook, Tadych, DeGeorge, Mace.
Nays – None.

Mr. Barbour announced adoption of Ordinance No. 19-42, an emergency measure, with a vote of 5-0.

Mrs. Stainbrook introduced and read Ordinance No. 19-43 amending Chapter 539 of the Codified Ordinances of the City of Bay Village, by enacting Section 539.07 (i) relating to prohibiting smoking in parks, and declaring an emergency. (First Reading).

Mr. Barbour announced that Ordinance No. 19-43 is placed on first reading.

Ms. DeGeorge read, by title only, Ordinance No. 19-44 authorizing amendments to the City of Bay Village’s Electric Power Aggregation Plan of Operation and Governance, amending by reading to correct a typographical error by omitting the word “Akron” in reference to a telephone number on Page 4, Section A, Number 1, and declaring an emergency.

There being no further discussion, Mr. Tadych called for a vote on the motion for adoption of Ordinance No. 19-44.

Roll Call on Suspension of the Charter Rules:
Yeas– Stainbrook, Tadych, DeGeorge, Mace, Maier.
Nays– None.
Roll Call on Suspension of the Council Rules:
Yeas – Stainbrook, Tadych, DeGeorge, Mace, Maier.
Nays – None.
Roll Call on Inclusion of the Emergency Clause:
Yeas – Stainbrook, Tadych, DeGeorge, Mace, Maier.
Nays – None.
Roll Call on Adoption:
Yeas– Stainbrook, Tadych, DeGeorge, Mace, Maier.
Nays – None.

Mr. Barbour announced adoption of Ordinance No. 19-44, as amended, an emergency measure, with a vote of 5-0.

AUDIENCE

There were no comments from the audience this evening.

ANNOUNCEMENTS

Mayor Koomar stated that he and Mr. Clark have discussed the Council meeting schedule for
Special Meeting of Council  
May 13, 2019

June 2019. Council will meet on June 3, 10, and 24. Tentatively, the Council meeting of June 17 will be cancelled due to the Mayor being out of town and Mr. Clark having a schedule conflict.

There being no further business to come before the City Council this evening, the meeting adjourned at 8:39 p.m.

_______________________________  __________________________
David L. Tadych, Vice President of Council  Joan Kemper, Clerk of Council
ORDINANCE NO.  
INTRODUCED BY:  

ORDINANCE  
ENACTING REVISED CODIFIED ORDINANCE  
CHAPTER 151 - EMPLOYMENT PROVISIONS  

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

SECTION 1. That Codified Ordinance of the City of Bay Village Chapter 151 which presently reads as follows:  

“CHAPTER 151 - Employment Provisions  

EDITOR’S NOTE: Compensation and bond requirements are not included in these Codified Ordinances due to the fact that they are subject to constant change.  

151.01 Payment to employees on Military leave.  
151.02 Payment of City wages during Jury duty.  
151.03 Mileage allowance.  
151.031 Legitimate expenses.  
151.04 Holidays.  
151.05 Vacations.  
151.06 Health Insurance.  
151.061 Health Insurance eligibility.  
151.07 Physical examinations.  
151.08 Sick leave.  
151.081 Family Medical Leave Act.  
151.09 Longevity  
151.10 Overtime Compensation.  
151.11 Life insurance.  
151.12 Privacy Act rules.  
151.13 Surety bonds.  
151.14 Equal employment opportunity Policies.  
151.15 Compensation payment.  
151.16 Uniforms and uniform Allowances.  
151.17 PERS pick up.  
151.18 Drug free Workplace and Harassment Policy.  
151.19 PERS pickup of additional service Credit.  
151.20 Whistleblower protection for Employees.  

151.01 PAYMENT TO EMPLOYEES ON MILITARY LEAVE.  

(a) All regular full-time employees of the City who are on leaves of absence from their Municipal duties and in attendance in the military service, field training or other active duty of the Ohio National Guard, Ohio Defense Corps, Ohio Naval Militia, or as members of other Reserve components of the Armed Forces of the United States, shall be entitled to receive for the period of such service, training or active duty not in excess of thirty-one days in any one calendar year, their regular pay, less the pay received for participation in such service, training or active duty. Reimbursed expenses, travel and subsistence pay and other similar allowances shall not be considered in determining the amount of pay received for such service, training or active duty.
Provisions of this section shall not apply if such military service, field training or other active duty is less than seventy-two consecutive hours or longer than thirty-one consecutive days.

(b) Any such City employee may, at his election, credit all or any portion of such military leave of absence against his regular annual vacation and for such period so charged the employee shall receive his regular vacation pay without deduction for the pay received for such service, training or active duty.

151.02 PAYMENT OF CITY WAGES DURING JURY DUTY.

(a) All City employees shall receive their regular wages for time lost from their work with the City while serving as a member of a municipal, common pleas or federal court jury panel.

(b) In order to qualify for such pay, the employee shall notify his supervisor of such service in advance and upon completion of such service present proof satisfactory to the Director of Finance from the court as to the time spent in such service.

(c) No time spent in such service shall be counted or used for purposes of determining eligibility for overtime pay or compensatory time off.

(d) The employee may keep any amount received from the court for such services, in lieu of reimbursement for any expenses associated with such service.

151.03 MILEAGE ALLOWANCE.

All employees and elected officials of the City shall receive, as reimbursement for the use of their personal motor vehicles on City business, a sum in accordance with the mileage allowance under the Internal Revenue Service Regulations, plus parking fees. The Director of Finance shall approve such reimbursement.

151.031 LEGITIMATE EXPENSES.

Tips and gratuities which are included in any legitimate expense shall be paid by the City.

151.04 HOLIDAYS.

(a) (1) All full-time employees of the City, excluding employees covered under separate labor contract, shall have the following days off with pay:

<table>
<thead>
<tr>
<th>New Year's Day</th>
<th>Labor Day</th>
</tr>
</thead>
<tbody>
<tr>
<td>Martin Luther King Day</td>
<td>Veterans Day</td>
</tr>
<tr>
<td>Presidents Day</td>
<td>Thanksgiving Day</td>
</tr>
<tr>
<td>Good Friday</td>
<td>Day After Thanksgiving</td>
</tr>
<tr>
<td>Memorial Day</td>
<td>Christmas Day</td>
</tr>
<tr>
<td>July 4th</td>
<td></td>
</tr>
</tbody>
</table>
(2) In the event that any of the aforesaid holidays shall fall on a Saturday or Sunday, when such holiday is not being observed on the preceding Friday or succeeding Monday, such employee shall receive comparable time off with pay on a date designated by the Mayor or the department or division head.

(3) The preceding provision shall not apply to swimming pool personnel or temporary, seasonal or per diem personnel. Refusal on the part of an employee to work on a holiday when requested to do so shall constitute a forfeiture of all benefits of holiday pay under this section. Failure of an employee to work on the scheduled work day preceding and the scheduled work day succeeding the holiday, unless excused by the Mayor or department or division head, or unless on vacation, shall constitute a forfeiture of all benefits of holiday pay under this section.

(b) No employee shall receive the benefit of the provisions of this section in more than one employment capacity with the City.

(c) No part time or seasonal employee will receive holiday pay.

151.05 VACATIONS.

(a) Effective January 1, 2014, full time employees shall accrue vacation time, as set forth in the schedule below, unless otherwise agreed to by contract. An increase in accrual rate due to increase in longevity will be implemented in the next full pay period following the anniversary date. The Finance Director is hereby authorized to account for the hourly accumulation of earned vacation time on the bi-weekly payroll check of all City employees entitled to vacation time.

(1) More than thirty but less than forty hour employees. Employees who work less than a forty-hour week shall accrue vacation hours pro-rated, on the basis of a forty-hour week.

(b) Effective January 1, 2014, unless otherwise agreed by contract, no employee shall be entitled to accumulate more than three weeks of vacation time. Any vacation time accumulated in excess of such limit shall be forfeited if not used by the employee by December 31 of each year.

<table>
<thead>
<tr>
<th>LENGTH OF SERVICE</th>
<th>ANNUAL VACATION IN WEEKS</th>
<th>BI-WEEKLY 35 Hour Week</th>
<th>ACWRUALS 40 Hour Week</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 Months to 4 Years</td>
<td>2</td>
<td>2.69 Hours</td>
<td>3.08 Hours</td>
</tr>
<tr>
<td>4 to 10 Years</td>
<td>3</td>
<td>4.04 Hours</td>
<td>4.62 Hours</td>
</tr>
<tr>
<td>10 to 17 Years</td>
<td>4</td>
<td>5.38 Hours</td>
<td>6.15 Hours</td>
</tr>
<tr>
<td>17 to 25 Years</td>
<td>5</td>
<td>6.73 Hours</td>
<td>7.69 Hours</td>
</tr>
<tr>
<td>25 or More Years</td>
<td>6</td>
<td>8.08 Hours</td>
<td>9.23 Hours</td>
</tr>
</tbody>
</table>

(b) Effective January 1, 2014, unless otherwise agreed by contract, no employee shall be entitled to accumulate more than three weeks of vacation time. Any vacation time accumulated in excess of such limit shall be forfeited if not used by the employee by December 31 of each year.
(c) Effective January 1, 2014, unless otherwise agreed by contract, all employees that have accumulated vacation time in excess of three weeks shall be permitted to sell back to the City any accrued time in excess of three weeks by November 30 of each year. The employee shall receive a one-time payment from the City in the first regular pay date in December. No employee will be paid more than three weeks of time under this provision unless approved by both the Mayor and Director of Finance. Any accrued time in excess of three weeks that an employee does not sell back or use prior to December 31 shall be forfeited.

(d) When an employee resigns, retires or dies, salary payments in lieu of unused vacation allowance shall be granted in accordance with the schedule set forth above, provided the employee is leaving in good standing and has given two weeks' notice of the separation, where applicable:

(1) Any employee who has less than one year of service shall not be entitled to a salary payment in lieu of vacation.

(e) Full time years of service accumulated by any employee in one department or division shall be credited to such employee who transfers to another department or division for purposes of computation of vacation time.

(f) No employee of the City shall receive the benefit of the provisions of this section in more than one employment capacity with the City.

(g) The period of vacation shall be designated by the Mayor or the appropriate department or division head, or in the case of employees of Council, by Council.

(h) Effective January 1, 2014, no employee of the City shall be permitted to perform work for the City, in any capacity, while simultaneously receiving vacation pay.

(i) No part-time or seasonal employee will receive vacation pay.

(j) Any employee who becomes an employee of the City of Bay Village in a position of Director or Assistant Director after being employed by another political subdivision shall for the purposes of computation of vacation time be credited with the total years of his prior service with such political subdivision. The maximum vacation allowance for such an employee may not exceed 4 weeks for their first year of employment with the City of Bay Village and shall increase by 1 week for each year of continued service until the employee meets the vacation schedule in Section 151.06(a).

151.06 HEALTH INSURANCE.

(a) Effective January 1, 2010, the City shall pay the cost of health insurance determined by the Plan adopted annually by the City of Bay Village.
151.061 HEALTH INSURANCE ELIGIBILITY.

(a) Effective January 1, 2012, the City will provide health, dental, vision and hearing insurance to eligible employees, in accordance with state and federal law. The employee’s share of the cost of such benefits shall be determined annually by the City, unless otherwise agreed by contract.

(b) Eligible employees may receive family or employee only coverage per state and/or federal law and in accordance with the terms of the City of Bay Village’s Health Plan.

(c) In lieu of employer sponsored health insurance an opt-out provision is offered as long as proof of coverage from another source is provided to the City, provided that such coverage was not purchased through a public health insurance exchange/marketplace. An employee who elects the opt-out will receive $100 per month in lieu of employee-only coverage or $250 per month in lieu of family coverage.

(d) Health insurance and the opt-out provision will only be offered to employees required to be offered health insurance under the Patient Protection and Affordable Care Act and related regulations.

151.07 PHYSICAL EXAMINATIONS.

(a) Every new employee of the City, except seasonal employees, shall submit to a physical examination, if necessary to the performance of their job duties.

(b) After a period of illness which requires any employee to be absent from his employment for ten consecutive working days or more, the Mayor may require the employee to submit to a physical examination prior to being returned to employment.

(c) Any employee who refuses to undergo such physical examinations as required in subsections (a) through (b) hereof, may be subject to discharge from his employment by the City.

(d) The Mayor shall designate the person who is to perform such physical examinations, and the expenditure of the City funds from the correct account is hereby authorized.

151.08 SICK LEAVE.

(a) Every full-time employee shall be entitled for each completed eighty hours of compensated service to sick leave of 4.6 hours with pay. Such employees may use sick leave, upon approval of the responsible administrative officer of the employing department, for absence due to personal illness, pregnancy, injury, exposure to contagious disease which could be communicated to other employees, and to illness, injury, or death as set forth in the Employee
Handbook. Said Employee Handbook is incorporated herein and made a part hereof as if fully rewritten herein. For the purpose of this section:

(1) Department heads (excepting the Director of Law) and division chiefs shall be considered to have a work week of 40 hours; and
(2) “Completed compensated service” shall include paid holiday time, paid vacation time and paid sick time.

(b) Unused sick leave shall be cumulative without limit. When sick leave is used, it shall be deducted from the employee's credit on the basis of one hour for every one hour of absence from previously scheduled work. There will be no reduction of sick leave time when an employee is absent due to job related injury and that employee has entered into a wage continuation agreement with the City.

(c) Any employee who, without resigning or retiring, transfers from one department of the City to another department of the City shall be credited with the unused balance of his accumulated sick leave.

(d) The responsible administrative officer of the employing department may require an employee to furnish a satisfactory written, signed statement to justify the use of sick leave. If medical attention is required, a certificate stating the nature of the illness from a licensed physician may be required to justify the use of sick leave. Falsification of either a written, signed statement or a physician's certificate shall be grounds for disciplinary action, including dismissal. No sick leave shall be granted an employee upon or after his retirement or termination of employment.

(e) Payment at Resignation, Retirement or Death.
(1) Each employee with ten or more years of service with the City shall receive payment of his or her accrued but unused sick leave based on his or her rate of pay at resignation, retirement or death at the following schedule:
   - Twenty-five percent (25%) after ten years of service
   - Forty percent (40%) after fifteen years of service
   - Fifty percent (50%) after twenty years of service

   up to a maximum payment of fifty percent (50%) of the employee's annual compensation, which payment shall be in full settlement of any and all accumulated sick leave. In the event of death, such payment shall be made to the surviving spouse, or if there is no surviving spouse, to the employee's estate. Employees who are discharged for cause forfeit all rights to payment under this subsection.

(2) Employees laid off for more than one year will receive accumulated sick leave based upon the last day worked and paid in accordance with the above after lapse of one year if not recalled.

(f) The following circumstances will control the use of "sick leave" time for all employees of the City of Bay Village:
(1) Illness of employee: All regularly scheduled working hours.
(2) Death of employee's: son-in-law, daughter-in-law, or other relatives at the discretion of the respective department director. Sufficient time to attend funeral if scheduled to work, four hours maximum time.

(3) Illness requiring hospitalization of: spouse, child, mother, father, brother, sister, and any other relative living in the employee's household.
   A. Days of admittance to and discharge from hospital.
   B. Day of surgery, including child birth.
   C. Time certified as "critical" by attending physician.

(4) Sudden illness or injury: To anyone living in the employee's household. Sufficient time to make temporary arrangements, but no more than four hours.

(g) The following circumstances shall control "bereavement leave" for all employees of the City of Bay Village, which excused leave shall not be charged against accumulated but unused sick leave time and for which the employee shall be compensated as though present in his or her employment with the City.

(1) Death of employee's: employee's spouse, children, step-children, parents, parents-in-law, siblings and/or other relative living in the employee's household. Scheduled working hours from time of death through and including day of funeral or memorial services.

(2) Death of employee's: employee's siblings-in-law, grandparents, grandchildren, aunt, uncle and spouses grandparents, grandchildren, aunt and uncle. Day of funeral or memorial services if scheduled to work.

(i) For the purpose of administering the provisions of this section the following procedures shall be followed:

(1) The Director of Finance shall establish for each employee and each department a sick leave time account.

(2) Charges against the sum of such accumulated but unused sick leave time shall be made of one hour for every one hour of absence during regularly scheduled working hours.

151.09 PAID TIME OFF

(a) Permanent part-time employees compensated on an hourly basis shall earn paid time off at a rate of .0575 hours earned per hour worked, per pay period. When paid time off is used, it shall be deducted from the employee’s credit on the basis of one hour for every one hour absence from scheduled work.

(b) Paid time off may be used when an employee requests scheduled time off upon a twenty-four (24) hour advance notice by the employee and the approval of the employee’s supervisor. Paid time off may be taken with less than a twenty-four (24) hour advance notice at the employee’s supervisor’s discretion.

(c) The maximum amount of paid time off an employee can use in one (1) calendar year is one hundred twenty (120) hours. In the event an employee is on an approved Family
Medical Leave Act (FMLA) absence, any amount of accrued paid time off can be used during the length of the approved FMLA absence.

(d) If PTO is used for an illness or injury refer to Section 151.08-Sick Leave. This article also applies to unused PTO in the event of resignation, retirement or death.

151.091 FAMILY MEDICAL LEAVE ACT (FMLA).

Family Medical Leave shall be granted and administered in accordance with applicable Federal and State laws.

151.10 LONGEVITY.

(a) Effective January 1, 2001, there shall be paid to all non-elected regular full-time employees, excluding employees covered under separate labor contract, additional compensation based on their years of service, at the rate of one hundred dollars ($100.00) per year of service, after completion of five years, to a maximum of three thousand dollars ($3,000).

(b) For new hires after January 1, 2016 the following amendment shall apply: full-time employees shall receive longevity payments after five (5) years of continuous full-time employment in the following table:

<table>
<thead>
<tr>
<th>Years of Service</th>
<th>Longevity Payment</th>
</tr>
</thead>
<tbody>
<tr>
<td>5-9 years</td>
<td>$500 each year</td>
</tr>
<tr>
<td>10-14 years</td>
<td>$1,000 each year</td>
</tr>
<tr>
<td>15-19 years</td>
<td>$1,500 each year</td>
</tr>
<tr>
<td>20-24 years</td>
<td>$2,000 each year</td>
</tr>
<tr>
<td>25 years and above</td>
<td>$2,500 each year</td>
</tr>
</tbody>
</table>

(c) The calculation of "years of service" shall begin on the anniversary date of the employee's original date of hire by the City.

(d) No individual employed by the City in more than one capacity shall be entitled to the benefits of this compensation in other than his primary department.

(e) Termination of employment, for any reason, either voluntary or involuntary, shall terminate all rights and accrued benefits and eligibility under this section, except that those retiring shall be paid a pro-rated amount at time of retirement. Any employee who retires and is hired full-time by another department of the City shall accrue benefits hereunder as if the employee were a new employee and prior service with the City shall not be counted.

(f) For the purpose of determining the eligibility for longevity only, "full-time" shall be defined as an employee working 35 hours or more each week. The Mayor shall receive longevity only if specifically provided for in the compensation ordinance for the term in question.

(g) The amounts due hereunder shall be paid only to full-time employees, as defined in Section 151.10(e), on the first regular pay date in December.
(h) In addition to the cash payments provided for in this chapter, the Mayor is authorized to present Service Award Pins to those full-time or part-time employees, members of boards and commissions, and such other persons as the Mayor may designate from time to time, whether paid or unpaid, who have at least five years’ service with the City.

(i) Part-time and seasonal employees shall not be eligible for longevity compensation hereunder.

151.11 OVERTIME COMPENSATION.

(a) Salaried/Exempt employees shall not be paid overtime for hours worked in excess of forty in workweek, unless otherwise agreed by contract.

(b) Hourly/Non-exempt employees shall receive overtime for hours worked in excess of forty in a workweek.

(c) No employee who serves the City in more than one capacity may combine his total work hours for the calendar week for the purposes of overtime computation, but each position work hours are to be counted separately.

(d) Holiday, vacation and sick leave time shall be included in the computation of overtime hours for the calendar week.

(e) Payment of overtime compensation (except that for the Department of Public Safety) shall be made on the first regular payday occurring after the hours have been worked.

151.12 LIFE INSURANCE.

The City shall pay the cost of group term life and accidental death and dismemberment insurance up to a maximum benefit of $50,000 for employees who work thirty (30) hours or more in a given workweek, elect to participate, and are acceptable to the insurance company. However, once obtaining the age of sixty-five (65) said life insurance will be reduced to thirty-two thousand five hundred dollars ($32,500.00) and once obtaining the age of seventy (70) said life insurance will be reduced to twenty five thousand dollars ($25,000.00).

151.13 PRIVACY ACT RULES.

The Mayor is hereby authorized to adopt such written rules and regulations as may be necessary for the purpose of interpreting and enforcing the Ohio Privacy Act, being Ohio R.C. 1347.01 et seq. Such rules and regulations shall not conflict with or waive any privileges as provided by this City's Charter or ordinances. Such rules and regulations shall be on file with the City, and all parties affected shall be advised of their contents.

151.14 SURETY BONDS.
The surety bonds covering the employees of the City shall be as follows:
(a) Mayor - $15,000 public official bond for term of office.
(b) Director of Finance - $50,000 public official bond for an indefinite term.
(c) All other City employees - $25,000 honesty blanket position bond.

151.15 EQUAL EMPLOYMENT OPPORTUNITY POLICIES.

(a) Council formally declares that the City shall provide equal employment opportunities (EEO) to all employees and applicants for employment without regard to sex, race, color, religion, gender, sexual orientation, gender identity or expression, national origin, age, genetic information, disability or handicap (except where age or handicap would be an obvious and bona fide obstacle to expected and required job performance), genetic information, marital status, amnesty status as a covered veteran or pregnancy in accordance with applicable federal, state and local laws. The City shall comply with all applicable state and local laws governing non-discrimination in the employment in every location or facility. This policy applies to all terms and conditions of employment, including but not limited to recruiting, hiring, placement, promotion, termination, layoff, recall, transfer, leaves of absence, compensation and training.

(b) Artificial barriers of personal attitudes and customs cannot be permitted to have effect in matters of personnel practices.

(c) The City expressly prohibits any form of unlawful employee harassment based on sex, race, color, religion, gender, sexual orientation, gender identity or expression, national origin, age genetic information, disability, veteran status or pregnancy. Improper interference with the ability of the City's employees to perform their expected job duties is absolutely not tolerated.

(d) The Director of Finance, by direction of the Mayor, will have overall responsibility for the implementation of this policy. With the cooperation of appropriate personnel, the Director of Finance will conduct periodic reviews to determine whether or not this policy is being adhered to. Reports of these reviews will be the basis for appropriate action to correct deficiencies.

(e) When outside sources of recruitment are used they shall be informed that the City is an Equal Opportunity Employer and that legal advertisements for bids include the wording, "AN EQUAL OPPORTUNITY EMPLOYER" and that Equal Opportunity clauses be included in all major single purchase orders, leases and contracts.

(f) The Clerk of Council is hereby directed to post, or have posted, a copy of this resolution on all departmental bulletin boards as well as provide a copy of this resolution to all employees of the City.

151.16 COMPENSATION PAYMENT.

(a) Payment dates shall be:
(1) For hourly employees. On February 14, 1975, and every other Friday thereafter, all hourly paid employees shall be paid for all hours worked during the previous two weeks;
(2) For salaried employees and elected officials. All salaried employees and elected officials shall receive their appropriate annual compensation on a bi-weekly basis, payment to be made on the same dates as payment is made to hourly personnel. The Director of Finance shall adjust the pay period rate so that in each calendar year the precise annual compensation is paid regardless of the number of bi-weekly payment dates during the year.

(c) Should any payment date referred to herein fall on a holiday, payment shall be made on the last working day preceding such holiday.

151.17 UNIFORMS AND UNIFORM ALLOWANCES.

(a) Department of Public Safety. Effective January 1, 1998, deputy police officers in the Division of Police shall receive a five hundred dollar ($500.00) uniform allowance at the completion of each 1,040 hours of service.

(2) The above payments may be made at any time during the thirty days following the date on which they are due as may be convenient to the Director of Finance.

(b) Department of Public Service and Properties. Effective January 1, 2016, the Director of Public Services and Properties shall receive a Two Hundred Fifty Dollar ($250.00) uniform allowance, and the Department of Public Service and Properties shall provide a uniform allowance of Eight Hundred Dollars ($800.00) for all full-time employees of the Department whose job requires manual labor outside the office of the Department. This allowance is to be paid within the 1st pay period in February.

(c) Police Chief and Fire Chief. Effective January 1, 2016, the Chief of the Fire Division and the Chief of the Police Division shall receive an allowance of nine hundred dollars ($900.00) uniform allowance. This allowance is to be paid within the 1st pay period in February.

151.18 PERS PICK UP.

(a) Effective July 1, 1993, the full amount of the statutorily required contributions to the Public Employees Retirement System of Ohio shall be withheld from the gross pay of each person within any of the classes established in subsection (b) hereof and shall be "picked up" (assumed and paid to the Public Employees Retirement System of Ohio) by the City. This "pick up" by the City is, and shall be designated as, public employee contributions and shall be in lieu of contributions to the Public Employees Retirement System of Ohio by each person within any of the classes established in subsection (b) hereof. No person subject to this "pick up" shall have the option of choosing to receive the statutorily required contribution to the Public Employees Retirement System of Ohio directly instead of having it "picked up" by the City or of being excluded from the "pick up".

The City shall, in reporting and making remittance to the Public Employees Retirement System of Ohio report that the public employee's contribution for each person subject to this "pick up" has been made as provided by the statute.
(b) The "pick up" by the City provided by this section shall apply to all persons that: Are employees of the City who are or become contributing members of the Public Employees Retirement System of Ohio.

(c) The City's method of payment of salary to employees who are participants in PERS is hereby modified as follows, in order to provide for a salary reduction pick-up of employee contributions to PERS.

(d) The total salary for each employee shall be the salary otherwise payable under the City policies. Such total salary of each employee shall be payable by the City in two parts: (1) deferred salary and (2) cash salary. An employee's deferred salary shall be equal to that percentage of that employee's total salary which is required from time to time by PERS to be paid as an employee contribution by that employee, and shall be paid by the City to PERS on behalf of that employee as a pick-up and in lieu of the PERS employee contribution otherwise payable by that employee. An employee's cash salary shall be equal to that employee's total salary less the amount of the pick-up for that employee, and shall be payable, subject to applicable payroll deductions, to that employee. The City shall compute and remit its employer contributions to PERS based upon an employee's total salary. The total combined expenditures of the City for each employees' total salaries payable under applicable City policies and the pick-up provisions of this section shall not be greater than the amounts it would have paid for those items had this provision not been in effect.

(e) The Director of Finance is hereby authorized and directed to implement the provisions of this section to institute the "pick up" of the statutorily required contributions to the Public Employees Retirement System of Ohio for those persons reflected in subsection (b) hereof so as to enable them to obtain the result in Federal and State tax deferments and other benefits.

151.19 DRUGFREE WORKPLACE.

(a) All employees shall agree to a drug-free workplace program as defined by the State of Ohio Bureau of Workers' Compensation and in accordance with the Ohio Bureau of Workers' Compensation Drug-Free Safety Program-Advanced Level.

151.20 HARASSMENT POLICY.

(a) It is the policy of the City to promote a productive work environment and not to tolerate verbal or physical conduct by any employee that harasses, disrupts or interferes with another's work performance or that creates an intimidating, offensive or hostile environment. No form of harassment will be tolerated, including harassment for the following reasons: race, national origin, religion, disability, pregnancy, age, military status or sex. Each person has a responsibility to keep the workplace free of any form of harassment, and in particular, sexual harassment. No supervisor or manager is to threaten or insinuate either explicitly or implicitly that an employee's refusal or willingness to submit to sexual advances will affect the employee's terms or conditions of employment. Other sexually harassing or offensive conduct in the workplace, whether committed by supervisors, managers, non-supervisory or non-employees is also prohibited. This conduct includes, but is not limited to:
(1) Unwanted physical contact or conduct of any kind, including sexual flirtations, touching, advances or propositions;
(2) Verbal abuse of a sexual nature;
(3) Demeaning, insulting, intimidating, or sexually suggestive comments about an individual's dress or body;
(4) The display in the workplace of demeaning, insulting, intimidating, or sexually suggestive objects or pictures, including nude photographs;
(5) Demeaning, insulting, intimidating or sexually suggestive written, recorded, or electronically transmitted messages.

Any of the above conduct or offensive conduct, directed at individuals because of their race, national origin, religion, disability, pregnancy, age or military status or sexually orientation is also prohibited.

Any employee who believes that a supervisor's, manager's, other employee's or non-employee's actions or words constitute unwelcome harassment has a responsibility to report or complain about the situation as soon as possible.

The report or complaint should be made to the employee's supervisor or to the department head or personnel manager if the complaint involves the supervisor or manager.

Complaints of harassment are to be handled and investigated under the City's grievance policy, unless special procedures are considered appropriate. Regardless, all complaints of harassment are to be investigated properly in as impartial and confidential a manner as possible. Employees are required to cooperate in any investigation. A timely resolution of each complaint should be reached and communicated to the parties involved. Retaliation against any employee for filing a complaint or participating in an investigation is strictly prohibited.

Any employee, supervisor or manager who is found to have violated this harassment policy will be subject to appropriate disciplinary action, up to and including termination of employment. The City prohibits any form of retaliation against employees for bringing bonifide complaints or providing information of harassment. However, if an investigation of a complaint shows that the complaint or information was false, the individual who provided the false information will be subject to disciplinary action, up to and including termination.

(b) It is the policy of the City that an employee should have an opportunity to present complaints regarding harassment and to appeal the decision through a dispute resolution or grievance procedure. The City will attempt to resolve promptly all complaints. Employees who believe that they have been improperly harassed are to proceed as follows:

Step 1: Promptly bring the complaint to the attention of the immediate supervisor. If the complaint involves the supervisor, then it is permissible to proceed directly to Step 2.

Step 1a: The supervisor is to investigate the complaint, attempt to resolve it and give a decision to the employee within a reasonable time. The supervisor should prepare a written and dated summary of the complaint and proposed resolution for file purposes.
Step 2: Appeal the decision of the department head if dissatisfied with the supervisor's decision or initiate the procedure with the department head if Step 1 has been bypassed, because the immediate supervisor is the subject of complaint. Such an appeal or initial complaint must be made in a timely fashion in a written form. The supervisor's version of the complaint and decision will then be submitted in writing as well. The department head will, in a timely fashion, confer with the employee, supervisor, and any other persons considered appropriate; investigate the issues; and communicate a decision in writing to all parties involved.

Step 3: Appeal an unsatisfactory department head decision to the Mayor. The timeliness requirement and the procedures to be followed are similar to those in Step 2. The Mayor may take the necessary steps to review and investigate the complaint and will then issue a written, final and binding decision.

Final decisions on complaints will not be precedent or binding on future complaints. When appropriate, the decisions will be retroactive to the date of the employee's original complaint. Information concerning a complaint is to be held in confidence. Supervisors, department heads and other persons who investigate a grievance are to discuss it only with those individuals who have a need to know about it or who are needed to supply necessary background information or advice.

Employees are not to be penalized for proper use of the complaint procedure, however, it is not considered proper use if an employee raises complaints in bad faith if solely for the purpose of delay or harassment or repeatedly raises meritless grievance complaints. Implementation of the complaint procedure by an employee does not limit the right of the City to proceed with any disciplinary action which is not in retaliation for the complaint procedure. The City may, at its discretion, refuse to proceed with any complaint it determines is improper under this policy.

151.21 PERS PICKUP OF ADDITIONAL SERVICE CREDIT.

(a) Effective October 1, 1997, employees of the City of Bay Village, described in subsection (b) hereof, may purchase additional service credit, tax-deferred, and the City of Bay Village shall withhold the required service credit deduction from the gross pay of each person who elects to do so and shall pick up (assume and pay) such deduction to the Public Employees Retirement System of Ohio. A person electing this pick up deduction shall not have the option of choosing to receive the payroll deduction directly instead of having this deduction picked up by the City of Bay Village. Members who have elected to participate in this plan cannot increase, decrease, or terminate the amount of the pickup deduction.

(b) The pickup deduction by the City provided by this section shall apply to all persons making the election within the following classes:
All employees, other than seasonal, of the City who are contributing members of the Public Employees Retirement System of Ohio.

(c) The Director of Finance is hereby authorized and directed to implement the provisions of this section to effect the pickup of the payroll deduction for the purchase of additional
service credit to the Public Employees Retirement System of Ohio for those persons reflected in subsection (b) hereof.

151.22 WHISTLEBLOWER PROTECTION FOR EMPLOYEES.

(a) If any employee of the City of Bay Village becomes aware in the course of employment of a violation of state or federal statutes, rules, or regulations or the misuse of public resources, and the employee’s supervisor or Mayor has authority to correct the violation or misuse, the employee may file a written report identifying the violation or misuse with the supervisor or appointing authority. In addition to or instead of filing a written report with the supervisor or Mayor, the employee may file a written report with the office of internal auditing created under Section 126.45 of the Ohio Revised Code.

If the employee reasonably believes that a violation or misuse of public resources is a criminal offense, the employee, in addition to or instead of filing a written report with the supervisor, appointing authority, or the office of internal auditing, may report it to the Prosecutor, Director of Law, to the Chief of Police, the President of Council, or, if the violation or misuse of public resources is within the jurisdiction of the inspector general, to the inspector general in accordance with Section 121.46 of the Revised Code. In addition to that report, if the employee reasonably believes the violation or misuse is also a violation of Chapter 102, Section 2921.42, or Section 2921.43 of the Ohio Revised Code, the employee may report it to the Ohio Ethics Commission.

(b) Except as otherwise provided in subsection (c) hereof, no employee shall take any disciplinary action against any employee for making any report authorized by subsection (a) hereof, including, without limitation, doing any of the following:

(1) Removing or suspending the employee from employment
(2) Withholding from the employee salary increases or employee benefits to which the employee is otherwise entitled
(3) Transferring or reassigning the employee
(4) Denying the employee promotion that otherwise would have been received;
(5) Reducing the employee in pay or position

(c) Any employee shall make a reasonable effort to determine the accuracy of any information reported under subsection (a) hereof. The employee is subject to disciplinary action, including suspension or removal, as determined by the employee's appointing authority, for purposely, knowingly, or recklessly reporting false information under subsection (a) hereof.

be and the same is amended to read:

“CHAPTER 151 – EMPLOYMENT PROVISIONS”
151.01 Payment to employees on military leave.

(a) All regular full-time employees of the City who are on leaves of absence from their Municipal duties and in attendance in the military service, field training or other active duty of the Ohio National Guard, Ohio Defense Corps, Ohio Naval Militia, or as members of other Reserve components of the Armed Forces of the United States, shall be entitled to receive for the period of such service, training or other active duty not in excess of thirty-one days in any one calendar year, their regular pay, less the pay received for participation in such service, training or other active duty. Reimbursed expenses, travel and subsistence pay and other similar allowances shall not be considered in determining the amount of pay received for such service, training or other active duty. Provisions of this section shall not apply if such military service, field training or other active duty is less than seventy-two consecutive hours or longer than thirty-one consecutive days. Full-time shall be defined as that term is described and contained in the Compensation Ordinance.
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151.02 PAYMENT OF CITY WAGES DURING JURY DUTY. Payment of city wages during jury duty,

(i) All full-time employees shall receive their regular wages for time lost from their work with the City while serving as a member of a municipal, common pleas or federal court jury panel. Full-time shall be defined as that term is described and contained in the Compensation Ordinance.

(b) In order to qualify for such pay, the employee shall notify his supervisor of such service in advance and upon completion of such service present proof satisfactory to the Director of Finance from the court as to the time spent in such service.

(c) No time spent in such service shall be counted or used for purposes of determining eligibility for overtime pay or compensatory time off.

(d) The employee may keep any amount received from the court for such services, in lieu of reimbursement for any expenses associated with such service.

151.03 MILEAGE ALLOWANCE. Holidays.

All employees and elected officials of the City shall receive, as reimbursement for the use of their personal motor vehicles on City business, a sum in accordance with the mileage allowance under the Internal Revenue Service Regulations, plus parking fees. The Director of Finance shall approve such reimbursement.

151.031 LEGITIMATE EXPENSES.

Tips and gratuities which are included in any legitimate expense shall be paid by the City.

151.04 HOLIDAYS.

(a) (1) All full-time employees of the City, excluding employees covered under a separate labor contract, shall have the following days off with pay:

- New Year’s Day
- Martin Luther King Day
- Presidents Day
- Good Friday
- Memorial Day
- July 4th
- Labor Day
- Veterans Day
- Thanksgiving Day
- After Thanksgiving
- Christmas Day
- After Christmas
(2) In the event that any of the aforesaid holidays shall fall on a Saturday or Sunday, when such holiday is not being observed on the preceding Friday or succeeding Monday, such employee shall receive comparable time off with pay on a date designated by the Mayor or the department or division head.

(3) The preceding provision shall not apply to swimming pool personnel or temporary, seasonal or per diem personnel.

(3) Refusal on the part of an employee to work on a holiday when requested to do so shall constitute a forfeiture of all benefits of holiday pay under this section. Failure of an employee to work on the scheduled work day preceding and the scheduled work day succeeding the holiday, unless excused by the Mayor or department or division head, or unless on vacation, shall constitute a forfeiture of all benefits of holiday pay under this section.

(b) No employee shall receive the benefit of the provisions of this section in more than one employment capacity with the City.

(c) No part time or seasonal employee will receive holiday pay.

151.05 VACATIONS

(a) Effective January 1, 2014, full time employees shall accrue vacation time, as set forth in the schedule below, unless otherwise agreed to by contract. An increase in accrual rate due to increase in longevity will be implemented in the next full pay period following the anniversary date. The Finance Director is hereby authorized to account for the hourly accumulation of earned vacation time on the bi-weekly payroll check of all City employees entitled to vacation time.

(1) More than thirty but less than forty hour employees. Employees who work more than thirty, but less than a forty-hour week shall accrue vacation hours pro-rated, on the basis of a forty-hour week. Full-time shall be defined as that term is described and contained in the Compensation Ordinance.

(b) Effective January 1, 2014, unless otherwise agreed by contract, no employee shall be entitled to accumulate more than three weeks of vacation time. Any vacation time accumulated in excess of such limit three weeks shall be forfeited if not used by the employee by December 31 of each year, unless otherwise authorized.
(b) Effective January 1, 2014, unless otherwise agreed by contract, no employee shall be entitled to accumulate more than three weeks of vacation time. Any vacation time accumulated in excess of such limit shall be forfeited if not used by the employee by December 31 of each year. Full time length of service shall be defined as length of service from the last date of hire as a full-time employee.

(c) Effective January 1, 2014, unless otherwise agreed by contract, all employees that have accumulated vacation time in excess of three weeks shall be permitted to sell back to the City any accrued time in excess of three weeks by November 30 of each year. The employee shall receive a one-time payment from the City in the first regular pay date in December. No employee will be paid more than three weeks of time under this provision unless approved by both the Mayor and Director of Finance. Any accrued time in excess of three weeks that an employee does not sell back or use prior to December 31 shall be forfeited.

(d) When an employee with more than one year of service resigns, retires or dies, salary payments in lieu of unused vacation allowance shall be granted in accordance with the schedule set forth above, provided the employee is leaving in good standing and has given two weeks’ notice of the separation, where applicable.

(1) Any employee who has less than one year of service shall not be entitled to a salary payment in lieu of vacation.

<table>
<thead>
<tr>
<th>LENGTH OF SERVICE</th>
<th>ANNUAL VACATION IN WEEKS</th>
<th>BI-WEEKLY 35 Hour Week</th>
<th>BI-WEEKLY 40 Hour Week</th>
<th>ACCRUALS 40 Hour Week</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 Months to 4 Years</td>
<td>2</td>
<td>2.69 Hours</td>
<td>3.08 Hours</td>
<td></td>
</tr>
<tr>
<td>4 to 10 Years</td>
<td>3</td>
<td>4.04 Hours</td>
<td>4.62 Hours</td>
<td></td>
</tr>
<tr>
<td>10 to 17 Years</td>
<td>4</td>
<td>5.38 Hours</td>
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<td>17 to 25 Years</td>
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<td>6.73 Hours</td>
<td>7.69 Hours</td>
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</tr>
<tr>
<td>25 or More Years</td>
<td>6</td>
<td>8.08 Hours</td>
<td>9.23 Hours</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Full-time Length of Service</th>
<th>Annual Vacation in Days</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 Months to 4 Years</td>
<td>10</td>
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<tr>
<td>4 to 10 Years</td>
<td>15</td>
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<td>10 to 17 Years</td>
<td>20</td>
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<tr>
<td>17 to 25 Years</td>
<td>25</td>
</tr>
<tr>
<td>25 or More Years</td>
<td>30</td>
</tr>
</tbody>
</table>
**Ordinance – Chapter 151**

(e) Full time years of service accumulated by any employee in one department or division shall be credited to such employee who transfers to another department or division for purposes of computation of vacation time.

(f) No employee of the City shall receive the benefit of the provisions of this section in more than one employment capacity with the City.

(g) The period of vacation shall be designated by the Mayor or the appropriate department or division head, or in the case of employees of Council, by Council.

(h) Effective January 1, 2014, no employee of the City shall be permitted to perform work for the City, in any capacity, while simultaneously receiving vacation pay.

(i) No part time or seasonal employee will receive vacation pay.

(j) Any employee who becomes an employee of the City of Bay Village in a position of Director or Assistant Director after being employed by another political subdivision shall for the purposes of computation of vacation time be credited with the total years of his prior service with such political subdivision. However, the Mayor has discretion concerning the amount of vacation hours based on prior years of experience. The maximum vacation allowance for such an employee may not exceed 4 weeks for their first year of employment with the City of Bay Village and shall increase by 1 week for each year of continued service until the employee meets the vacation schedule in Section 151.06(a).

151.06 Health Insurance

(a) Effective January 1, 2010, Full-time and Statutory Full-time employees of the City shall pay the cost of health insurance determined by the Plan adopted annually by the City of Bay Village.

(b) An election are eligible to participate in the group shall be made only at such times as permitted by the insurance carrier.

151.061 Health Insurance Eligibility

(a) Effective January 1, 2012, the City will provide City’s health, dental, vision and hearing insurance to eligible plans. Eligible employees, may receive family or employee only coverage in accordance with state and federal law and in accordance with the terms of the City’s Healthcare Plan(s). The City and eligible employees will share the cost of such insurance plans. The employee’s share of the cost of such benefits shall be determined annually by the City, unless otherwise agreed by contract. Full-time and Statutory Full-time shall be defined as the terms that are described and contained in the Compensation Ordinance.
(b) Eligible employees may receive family or employee only Full coverage per state and/or federal law and in accordance with begins on the second first day of the City month following the date of Bay Village’s Health Plan hire. Coverage terminates on the last day of the month of termination.

(c) In lieu of employer sponsored health insurance an opt-out provision is offered as long as proof of coverage from another source is provided to the City, provided that such coverage was not purchased through a public health insurance exchange/marketplace. An employee who elects the opt-out incentive will receive $100 per month in lieu of employee-only coverage or $250 per month in lieu of family coverage.

(d) Health insurance plans and the opt-out provision will only be offered to employees required to be offered eligible for health insurance under the Patient Protection and Affordable Care Act and related regulations in accordance with state and federal law.

151.07 PHYSICAL EXAMINATIONS.

(a) Every new employee of the City, except seasonal employees, and/or family members on the City’s insurance plan who are regular tobacco users shall submit to pay a $50 per month total family surcharge.

(f) Working spouses of City employees who are eligible for group health insurance coverage through their employer’s plan shall pay a $75 per month surcharge in 2020 and a $100 per month surcharge in 2021 in order to participate in the City’s health insurance plan, including medical, hospitalization, dental, vision and prescription coverage.

151.06 - Physical examinations.

(a) As a condition of employment, candidates for employment may be required to take and pass a medical/physical examination. The Mayor or his/her designee shall determine the appropriate medical/physical examination necessary to the performance of their job duties and the facility(s) to perform the examination. The City shall be responsible for the costs involved.

(b) After a period of illness which requires any employee to be absent from his employment for twelve (12) or more consecutive working scheduled days or more, the Mayor may require the employee be required to submit to a medical/physical examination prior to being returned to employment.

(c) Any employee who refuses to undergo such physical examinations as required in subsections (a) through (b) hereof, comply with this requirement may be subject to discharge from his employment by the City.

(d) The Mayor shall designate the person who is to perform such physical examinations, and the expenditure of the City funds from the correct account is hereby authorized.
Ordinance – Chapter 151

151.07  SICK LEAVE

(a) Every full-time employee shall be entitled to receive sick leave hours on the basis of 4.6 hours for each complete eighty (80) hours of compensated service as defined in this Ordinance and with pay. Such employees may accrue a maximum of 120 sick leave days upon approval of the responsible administrative officer of the employing department, for absence hours per calendar year. Compensated service shall be defined as actual hours worked, vacation, sick and holiday hours.

Eligible employees shall receive sick leave pay at their current rate of pay, if during scheduled work hours they are absent due to personal illness, or non-work related injury; pregnancy; sick leave due to illness or injury; documented sick leave due to scheduled doctor appointments; documented exposure to contagious disease which could be communicated to other employees, and to illness, injury, or death as set forth in the Employee Handbook. Said Employee Handbook is incorporated herein and made a part hereof as if fully rewritten herein. For the purpose of this section:

1. (1) Department heads (excepting the Director of Law) and division chiefs shall be considered to have a work week of 40 hours; and
(2) “Completed compensated service” shall include paid holiday; to care for an ill or injured member of the employee’s immediate family or any other relative residing with the employee; Full-time, paid vacation time shall be defined as that term is described and paid sick time contained in the Compensation Ordinance.

(b) Unused sick leave shall be cumulative without limit. When sick leave is used, it shall be deducted from the employee’s credit on the basis of one hour for every one hour of absence from previously scheduled work. There will be no reduction of sick leave time when an employee is absent due to job related injury and that employee has entered into a wage continuation agreement with the City.

(c) Any employee who, without resigning or retiring, transfers from one department of the City to another department of the City shall be credited with the unused balance of his accumulated sick leave.

(d) Any employee who, without resigning or retiring, transfers from another public entity to the City shall be able to transfer the unused balance of accumulated sick leave to the City. Unused balance must be documented by prior public entity before being credited to employee’s account.

(e) The responsible administrative officer of the employing department may require an employee to furnish a satisfactory written, signed statement to justify the use of sick leave. If medical attention is required, a certificate stating the nature of the illness from a licensed physician may be required to justify the use of sick leave. Falsification of either a written, signed statement or a physician’s certificate shall be grounds for disciplinary action, including dismissal. No sick leave shall be granted to an employee upon or after his retirement or termination of employment.

(f) Payment at Resignation, Retirement or Death.

(1) Each employee with ten or more years of service with the City shall receive payment of his or her accrued but unused sick leave based on his or her rate of pay at resignation, retirement or death at the following schedule:

Payment at Resignation, Retirement or Death:

- For each year of service, an eligible employee shall receive two weeks of paid vacation.
- For each year of service, an eligible employee shall receive two weeks of paid sick leave.
- For each year of service, an eligible employee shall receive two weeks of paid holiday.
- For each year of service, an eligible employee shall receive two weeks of paid retirement benefits.
- For each year of service, an eligible employee shall receive two weeks of paid death benefits.

Note: This schedule applies only to employees who have completed their respective years of service prior to resignation, retirement or death.
Twenty-five percent (25%) after ten years of service
Forty percent (40%) after fifteen years of service
Fifty percent (50%) after twenty years of service

up to a maximum payment of fifty percent (50%) of the employee’s annual base compensation, which payment shall be in full settlement of any and all accumulated sick leave. In the event of death, such payment shall be made to the surviving spouse, or if there is no surviving spouse, to the employee’s estate. Employees who are discharged for cause forfeit all rights to payment under this subsection.

(2) Employees laid off for more than one year will receive accumulated sick leave based upon the last day worked and paid in accordance with the above after lapse of one year if not recalled.

The following circumstances will control the use of "sick leave" time for all employees of the City of Bay Village:

(1) Illness of employee: All regularly scheduled working hours.

(2) Death of employee’s: son-in-law, daughter-in-law, or other relatives at the discretion of the respective department director. Sufficient time to attend funeral if scheduled to work, four hours maximum time.

(3) Illness requiring hospitalization of: spouse, child, mother, father, brother, sister, and any other relative living in the employee’s household.
   A. Days of admittance to and discharge from hospital.
   B. Day of surgery, including child birth
   C. Time certified as "critical" by attending physician.

(4) Sudden illness or injury: To anyone living in the employee’s household. Sufficient time to make temporary arrangements, but no more than four hours.

The following circumstances shall control "bereavement leave" for all employees of the City of Bay Village, which accrued leave shall not be charged against accumulated but unused sick leave time and for which the employee shall be compensated as though present in his or her employment with the City:

(1) Death of employee’s: employee’s spouse, children, step-children, parents, parents-in-law, siblings and/or other relative living in the employee’s household.
   Scheduled working hours from time of death through and including day of funeral or memorial services.

(2) Death of employee’s: employee’s siblings in-law, grandparents, grandchildren, aunt, uncle and spouses grandparents, grandchildren, aunt and uncle. Day of funeral or memorial services if scheduled to work.

For the purpose of administering the provisions of this section the following procedures shall be followed:

(1) The Director of Finance shall establish for each employee and each department a sick leave time account.

(2) Charges against the sum of such accumulated but unused sick leave time shall be made of one hour for every one hour of absence during regularly scheduled working hours.
151.08 Bereavement Leave.

(a) All Full-time, Statutory Full-time and Regular Part-time employees of the City of Bay Village, shall be granted a three day leave of absence, with pay, for the death of an immediate family member. Full-time, Statutory Full-time and Regular Part-time shall be defined as the terms that are described and contained in the Compensation Ordinance.

   (1) For purposes of this section “immediate family” includes: employee’s spouse, children, step-children, parents, step-parents, parents-in-law, siblings, siblings-in-law, grandparents, grandchildren and/or other relative living in the employee’s household.

(b) Employees will be permitted with proper authorization to take additional days off for bereavement leave at the Employer’s discretion, which shall be charged against any accumulated leave.

151.09 PAID TIME OFF - Paid time off.

(a) Permanent part (a) Statutory Full-time and Regular Part-time employees compensated on an hourly basis shall earn paid time off at a rate of .0575 hours earned per hour worked, per pay period. When paid time off is used, it shall be deducted from the employee’s credit on the basis of one hour for every one hour absence from scheduled work. Statutory Full-time and Regular Part-time shall be defined as the terms that are described and contained in the Compensation Ordinance.

(b) Paid time off may be used when an employee requests scheduled time off upon a twenty-four (24) hour advance notice by the employee and the approval of the employee’s supervisor. Paid time off may be taken with less than a twenty-four (24) hour advance notice at the employee’s supervisor’s discretion.

(c) The maximum amount of paid time off an employee can use in one (1) calendar year is one-hundred twenty (120) hours. In the event an employee, unless on an approved Family Medical Leave Act (FMLA) absence, any amount of accrued paid time off can be used during the length of the approved FMLA absence.

(d) If PTO is used for an illness or injury refer to sick leave purposes the same requirements as contained in Section 151.08.07 (Sick Leave. This article also applies to unused PTO in) above shall apply.

(e) In the event of resignation, retirement or death of a Statutory Full-time or Regular Part-time employee, Section 151.07(f) above shall apply.

151.09 FAMILY MEDICAL LEAVE ACT - Family Medical Leave Act (FMLA).

Family Medical Leave shall be granted and administered in accordance with applicable Federal and State laws.

151.10 LONGEVITY - Longevity.
(a) Effective January 1, 2001, there shall be paid to all full-time, non-elected, regular full-time, non-bargaining employees, excluding employees covered under separate labor contract, hired on or before January 1, 2016 and after completion of five (5) years of continuous full-time service, shall be entitled to additional compensation based on their years of service, at the rate of one-dollar ($100.00) per year of service, after completion of five years, up to a maximum of three-thousand dollars ($3,000.00). Full-time shall be defined as that term is described and contained in the Compensation Ordinance.

(b) For new hires, full-time non-elected, non-bargaining employees hired on or after January 1, 2016, the following amendment shall apply. Full-time employees shall receive longevity payments and after completion of five (5) years of continuous full-time employment in service shall be eligible for the following additional compensation:

<table>
<thead>
<tr>
<th>Years of Service</th>
<th>Compensation Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>5-9 years</td>
<td>$500 each year</td>
</tr>
<tr>
<td>10-14 years</td>
<td>$1,000 each year</td>
</tr>
<tr>
<td>15-19 years</td>
<td>$1,500 each year</td>
</tr>
<tr>
<td>20-24 years</td>
<td>$2,000 each year</td>
</tr>
<tr>
<td>25 years and above</td>
<td>$2,500 each year</td>
</tr>
</tbody>
</table>

The calculation of "years full-time length of service" shall begin to be defined as length of service from the anniversary date of the employee's original date of hire by the City.

(d) No individual employed by the City in more than one capacity as a full-time employee shall be entitled to the benefits of this compensation in other than his primary department defined as that term is described and contained in the Compensation Ordinance.

(e) Termination of employment, for any reason, either voluntary or involuntary, shall terminate all rights and accrued benefits and eligibility under this section, except that those retiring shall be paid a pro-rated amount at time of retirement. Any employee who retires and is re-hired.
full-time by another department of the City shall accrue benefits hereunder as if the employee were a new employee and prior service with the City shall not be counted.

(4) For the purpose of determining the eligibility for longevity only, “full-time” shall be defined as an employee working 35 hours or more each week.  

(d) The Mayor shall receive longevity only if specifically provided for in the compensation ordinance for the term in question.

(e) The amounts due hereunder shall be paid only to full-time employees, as defined in Section 151.10(e), on the first regular pay date in December.

(g) Part-time and seasonal employees shall not be eligible for longevity compensation hereunder.

151.11 OVERTIME COMPENSATION.

151.12 - Overtime compensation.

(a) Salaried/Exempt employees shall not be paid overtime for hours worked in excess of forty in workweek, unless otherwise agreed by contract.

(b) Hourly/Non-exempt employees shall receive overtime be compensated at the rate of 1 1/2 times their hourly rate for all hours worked in excess of forty (40) in a workweek consistent with the Fair Labor Standards Act (FLSA).  Hours of work shall be defined as actual hours worked including pay for holidays and vacation.  Sick leave pay is excluded from overtime computation.

(c) No employee Consistent with the Fair Labor Standards Act (FLSA), employees who serves the City in more than one (1) capacity may not combine his/her total work hours for the calendar week/weekwork for the purposes of overtime computation, but Work hours in each position work hours are to be counted capacity shall be computed separately.

(d) Holiday, vacation and sick leave time shall be included in the computation of overtime hours for the calendar week.

(e) Payment of overtime compensation (except that for the Department of Public Safety) shall be made on the first regular payday occurring after the hours have been worked.
151.12 LIFE INSURANCE

(a) The City shall pay the cost of group term life and accidental death and dismemberment insurance up to a maximum benefit of $50,000 for employees who work thirty (30) hours or more in a given workweek, elect to participate, and are acceptable to the insurance company. 00 each for Full-time employee. However, once obtaining the age of sixty-five (65) said life insurance will be reduced to thirty-two thousand five hundred dollars ($32,500.00) and once obtaining the age of seventy (70) said life insurance will be reduced to twenty five thousand dollars ($25,000.00). Full-time shall be defined as that term is described and contained in the Compensation Ordinance.

(b) Coverage begins on the first day of the month following the date of Full-time employment. Coverage terminates on the last day of Full-time employment.

151.13 PRIVACY ACT RULES

The Mayor is hereby authorized to adopt such written rules and regulations as may be necessary for the purpose of interpreting and enforcing the Ohio Privacy Act, being Ohio R.C. 1347.01 et seq. Such rules and regulations shall not conflict with or waive any privileges as provided by this City’s Charter or ordinances. Such rules and regulations shall be on file with the City, and all parties affected shall be advised of their contents.

151.14 SURETY BONDS

The surety bonds covering the employees of the City shall be as follows:

(a) Mayor - $15,000 public official bond for term of office.

(b) Director of Finance - $50,000 public official bond for an indefinite term.

(c) All other City employees - $25,000 honesty blanket position bond.

151.15 EQUAL EMPLOYMENT OPPORTUNITY POLICIES

(a) Council formally declares that the City shall provide equal employment opportunities (EEO) to all employees and applicants for employment without regard to sex, race, color, religion, gender, sexual orientation, gender identity or expression, national origin, age, genetic information, disability or handicap (except where age or handicap would be an obvious and bona fide obstacle to expected and required jobemployee dishonesty and faithful performance), genetic information, marital status, amnesty status as a covered veteran or pregnancy in accordance with applicable federal, state and local laws. The City shall comply with all applicable state and local laws governing non-discrimination in the employment in every location or facility. This policy applies to all terms and conditions of employment,
including but not limited to recruiting, hiring, placement, promotion, termination, layoff, recall, transfer, leaves of absence, compensation and training. Of duty coverage at a minimum of $50,000 limit.

(b) Artificial barriers of personal attitudes and customs cannot be permitted to have effect in matters of personnel practices.

(c) The City expressly prohibits any form of unlawful employee harassment based on sex, race, color, religion, gender, sexual orientation, gender identity or expression, national origin, age, genetic information, disability, veteran status or pregnancy. Improper interference with the ability of the City’s employees to perform their expected job duties is absolutely not tolerated.

(d) The Director of Finance, by direction of the Mayor, will have overall responsibility for the implementation of this policy. With the cooperation of appropriate personnel, the Director of Finance will conduct periodic reviews to determine whether or not this policy is being adhered to. Reports of these reviews will be the basis for appropriate action to correct deficiencies.

(e) When outside sources of recruitment are used they shall be informed that the City is an Equal Opportunity Employer and that legal advertisements for bids include the wording, “AN EQUAL OPPORTUNITY EMPLOYER” and that Equal Opportunity clauses be included in all major single purchase orders, leases and contracts.

(f) The Clerk of Council is hereby directed to post, or have posted, a copy of this resolution on all departmental bulletin boards as well as provide a copy of this resolution to all employees of the City.

151.16 COMPENSATION PAYMENT - Compensation payment.

(a) Payment dates shall be:

(1) For hourly non-salaried employees. On February 14, 1975, and are paid every other Friday thereafter, all hourly paid employees shall be paid for all hours worked during the previous two weeks;

(2) For salaried employees and elected officials. All salaried employees and elected officials shall receive their appropriate annual compensation on a bi-weekly basis, payment to be made on the same dates as payment is made to hourly personnel. The Director of Finance shall adjust the pay period rate so that in each calendar year the precise annual compensation is paid regardless of the number of bi-weekly payment dates during the year.

(b) Effective January 1, 2021 all employees with the exception of elected officials will be paid every other Friday for the hours worked during the previous two weeks. Elected officials will continue to be paid an annual compensation on a bi-weekly basis, payment to be made on the same dates as all other employees are paid.

(b) Should any payment date referred to herein fall on a holiday, payment shall be made on the last working day preceding such holiday.
151.17 UNIFORMS AND UNIFORM ALLOWANCES. Uniforms and uniform allowances.

(a) Department of Public Safety. Effective January 1, 1998, Deputy police officers in the Division of Police shall receive a five hundred dollar ($500.00) uniform allowance at the completion of each 1,040 hours of service.

(b) Department of Public Service and Properties. Effective January 1, 2016, the Director of Public Services and Properties shall receive a Two Hundred Fifty Dollar ($250.00) uniform allowance, and the Department of Public Service and Properties shall provide a uniform allowance of Eight Hundred Dollars ($800.00) for all full-time non-bargaining employees of the Department whose job requires manual labor outside the office of the Department, equivalent to the amount negotiated in the collective bargaining agreement. This allowance is to be paid within the 1st pay period in February.

(c) Police Chief and Fire Chief. Effective January 1, 2016, the Chief of the Fire Division and the Chief of the Police Division shall receive an allowance of Nine Hundred Dollars ($900.00), uniform allowance equivalent to the amount negotiated in the collective bargaining agreement. This allowance is to be paid within the 1st pay period in February.

151.18 PERS PICK UP. The full amount of the statutorily required contributions to the Public Employees Retirement System of Ohio shall be withheld from the gross pay of each person within any of the classes established in subsection (b) hereof and shall be "picked up", assumed and paid to the Public Employees Retirement System of Ohio by the City. This "pick up" by the City is, and shall be designated as, public employee contributions and shall be in lieu of contributions to the Public Employees Retirement System of Ohio by each person within any of the classes established in subsection (b) hereof. No person subject to this "pick up" shall have the option of choosing to receive the statutorily required contribution to the Public Employees Retirement System of Ohio directly instead of having it "picked up" by the City or of being excluded from the "pick up".

The City shall, in reporting and making remittance to the Public Employees Retirement System of Ohio report that the public employee's contribution for each person subject to this "pick up" has been made as provided by the statute.
(b) The "pick up" by the City provided by this section shall apply to all persons who are employees of the City and who are or become contributing members of the Public Employees Retirement System of Ohio.

(c) The City’s method of payment of salary to employees who are participants in PERS is hereby modified as follows, in order to provide for a salary reduction of employee contributions to PERS.

(d) The total salary for each employee shall be the salary otherwise payable under the City policies. Such total salary of each employee shall be payable by the City in two parts: (1) deferred salary and (2) cash salary. An employee’s deferred salary shall be equal to that percentage of that employee’s total salary which is required from time to time by PERS to be paid as an employee contribution by that employee, and shall be paid by the City to PERS on behalf of that employee as a pick up and in lieu of the PERS employee contribution otherwise payable by that employee. An employee’s cash salary shall be equal to that employee’s total salary less the amount of the pick up for that employee, and shall be payable, subject to applicable payroll deductions, to that employee. The City shall compute and remit its employer contributions to PERS based upon an employee’s total salary. The total combined expenditures of the City for each employee’s total salaries payable under applicable City policies and the pick up provisions of this section shall not be greater than the amounts it would have paid for those items had this provision not been in effect.

(e) The Director of Finance is hereby authorized and directed to implement the provisions of this section to institute the pick up of the statutorily required contributions to the Public Employees Retirement System of Ohio for those persons reflected in subsection (b) hereof so as to enable them to obtain the result in Federal and State tax deferments and other benefits.

151.18 DRUGFREE WORKPLACE.

(a) All employees shall agree to a drug free workplace program as defined by the State of Ohio Bureau of Workers’ Compensation and in accordance with the Ohio Bureau of Workers’ Compensation Drug-Free Safety Program-Advanced Level.

151.19 HARASSMENT POLICY.

(a) It is the policy of the City to promote a productive work environment and not to tolerate verbal or physical conduct by any employee that harasses, disrupts or interferes with another’s work performance or that creates an intimidating, offensive or hostile environment. No form of harassment will be tolerated, including harassment for the following reasons: race, national origin, religion, disability, pregnancy, age, military status or sex. Each person has a responsibility to keep the workplace free of any
form of harassment, and in particular, sexual harassment. No supervisor or manager is to threaten or insinuate either explicitly or implicitly that an employee's refusal or willingness to submit to sexual advances will affect the employee's terms or conditions of employment. Other sexually harassing or offensive conduct in the workplace, whether committed by supervisors, managers, non-supervisory or non-employees is also prohibited. This conduct includes, but is not limited to:

1. Unwanted physical contact or conduct of any kind, including sexual flirtations, touching, advances or propositions;
2. Verbal abuse of a sexual nature;
3. Demeaning, insulting, intimidating, or sexually suggestive comments about an individual's dress or body;
4. The display in the workplace of demeaning, insulting, intimidating, or sexually suggestive objects or pictures, including nude photographs;
5. Demeaning, insulting, intimidating or sexually suggestive written, recorded, or electronically transmitted messages.

Any of the above conduct or offensive conduct, directed at individuals because of their race, national origin, religion, disability, pregnancy, age or military status or sexually orientation is also prohibited.

Any employee who believes that a supervisor's, manager's, other employee's or non-employee's actions or words constitute unwelcome harassment has a responsibility to report or complain about the situation as soon as possible.

The report or complaint should be made to the employee's supervisor or to the department head or personnel manager if the complaint involves the supervisor or manager.

Complaints of harassment are to be handled and investigated under the City's grievance policy, unless special procedures are considered appropriate. Regardless, all complaints of harassment are to be investigated promptly and in a impartial and confidential manner as possible. Employees are required to cooperate in any investigation. A timely resolution of each complaint should be reached and communicated to the parties involved. Retaliation against any employee for filing a complaint or participating in an investigation is strictly prohibited.

Any employee, supervisor or manager who is found to have violated this harassment policy will be subject to appropriate disciplinary action, up to and including termination of employment. The City prohibits any form of retaliation against employees for bringing bonifide complaints or providing information of harassment. However, if an investigation of a complaint shows that the complaint or information was false, the individual who provided the false information will be subject to disciplinary action, up to and including termination.

(b) It is the policy of the City that an employee should have an opportunity to present complaints regarding harassment and to appeal the decision through a dispute resolution or grievance procedure. The City will attempt to resolve promptly all complaints. Employees who believe that they have been improperly harassed are to proceed as follows:

Step 1: Promptly bring the complaint to the attention of the immediate supervisor. If the complaint involves the supervisor, then it is permissible to proceed directly to Step 2.

Step 1a: The supervisor is to investigate the complaint, attempt to resolve it and give a decision to the employee within a reasonable time. The supervisor should prepare a written and dated summary of the complaint and proposed resolution for file purposes.

Step 2: Appeal the decision of the department head if dissatisfied with the supervisor's decision or initiate the procedure with the department head if Step 1 has been bypassed, because the immediate supervisor is the subject of complaint. Such an appeal or initial complaint must be made in a
timely fashion in a written form. The supervisor's version of the complaint and decision will then be submitted in writing as well. The department head will, in a timely fashion, confer with the employee, supervisor, and any other persons considered appropriate; investigate the issues; and communicate a decision in writing to all parties involved.

Step 3: Appeal an unsatisfactory department head decision to the Mayor. The timeliness requirement and the procedures to be followed are similar to those in Step 2. The Mayor may take the necessary steps to review and investigate the complaint and will then issue a written, final and binding decision.

Final decisions on complaints will not be precedent or binding on future complaints. When appropriate, the decisions will be retroactive to the date of the employee's original complaint. Information concerning a complaint is to be held in confidence. Supervisors, department heads and other persons who investigate a grievance are to discuss it only with those individuals who have a need to know about it or who are needed to supply necessary background information or advice.

Employees are not to be penalized for proper use of the complaint procedure, however, it is not considered proper use if an employee raises complaints in bad faith if solely for the purpose of delay or harassment or repeatedly raises meritless grievance complaints. Implementation of the complaint procedure by an employee does not limit the right of the City to proceed with any disciplinary action which is not in retaliation for the complaint procedure. The City may, at its discretion, refuse to proceed with any complaint it determines is improper under this policy.

151.20 19. PERS PICKUP OF ADDITIONAL SERVICE CREDIT

(a) Effective October 1, 1997, employees of the City of Bay Village, described in subsection (b) hereof, may purchase additional service credit, tax-deferred, and the City of Bay Village shall withhold the required service credit deduction from the gross pay of each person who elects to do so and shall pick up (assume and pay) such deduction to the Public Employees Retirement System of Ohio. A person electing this pickup deduction shall not have the option of choosing to receive the payroll deduction directly instead of having this deduction picked up by the City of Bay Village. Members who have elected to participate in this plan cannot increase, decrease, or terminate the amount of the pickup deduction.

(b) The pickup deduction by the City provided by this section shall apply to all persons making the election within the following classes:

All who are employees, other than seasonal, of the City and who are or become contributing members of the Public Employees Retirement System of Ohio.

(c) The Director of Finance is hereby authorized and directed to implement the provisions of this section to effect the pickup of the payroll deduction for the purchase of additional service credit to the Public Employees Retirement System of Ohio for those persons reflected in subsection (b) hereof.

151.21 WHISTLEBLOWER PROTECTION FOR EMPLOYEES.

(a) If any employee of the City of Bay Village becomes aware in the course of employment of a violation of state or federal statutes, rules, or regulations or the misuse of public resources, and the employee’s supervisor or Mayor has authority to correct the violation or misuse, the employee may file a written report identifying the violation or misuse with the supervisor or appointing authority. In addition to or instead of filing a written report with the supervisor or Mayor, the employee may file a written report.
with the office of internal auditing created under Section 126.45 of the Ohio Revised Code. If the employee reasonably believes that a violation or misuse of public resources is a criminal offense, the employee, in addition to or instead of filing a written report with the supervisor, appointing authority, or the office of internal auditing, may report it to the Prosecutor, Director of Law, to the Chief of Police, the President of Council, or, if the violation or misuse of public resources is within the jurisdiction of the inspector general, to the inspector general in accordance with Section 121.46 of the Revised Code. In addition to that report, if the employee reasonably believes the violation or misuse is also a violation of Chapter 102., Section 2921.42, or Section 2921.43 of the Ohio Revised Code, the employee may report it to the Ohio Ethics Commission.

(b) Except as otherwise provided in subsection (c) hereof, no employee shall take any disciplinary action against any employee for making any report authorized by subsection (a) hereof, including, without limitation, doing any of the following:

1. Removing or suspending the employee from employment
2. Withholding from the employee salary increases or employee benefits to which the employee is otherwise entitled
3. Transferring or reassigning the employee
4. Denying the employee promotion that otherwise would have been received;
5. Reducing the employee in pay or position

(c) Any employee shall make a reasonable effort to determine the accuracy of any information reported under subsection (a) hereof. The employee is subject to disciplinary action, including suspension or removal, as determined by the employee's appointing authority, for purposely, knowingly, or recklessly reporting false information under subsection (a) hereof. 

and present Chapter 151 is hereby repealed.

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

SECTION 3. That this ordinance will be in full force and take effect at the earliest time permitted by law.
Ordinance – Chapter 151

PASSED:

__________________________
PRESIDENT OF COUNCIL

__________________________
CLERK

__________________________
MAYOR

05.16.19 jt
AN ORDINANCE

PROVIDING FOR THE ISSUANCE AND SALE OF $727,202 OF NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, FOR THE PURPOSE OF PAYING COSTS OF IMPROVING STREETS AND RELATED BRIDGES BY RESURFACING, PAVING AND MAKING OTHER IMPROVEMENTS AS DESIGNATED IN THE PLANS APPROVED OR TO BE APPROVED BY COUNCIL, AND DECLARING AN EMERGENCY.

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

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

SECTION 1. Authorized Principal Amount and Purpose of Anticipated Bonds. It is necessary to issue bonds of the City in the aggregate principal amount of $727,202 (the Bonds) for the purpose of paying costs of improving streets and related bridges by resurfacing, paving and making other improvements as designated in the plans approved or to be approved by Council.

SECTION 2. Estimated Bond Terms. The Bonds shall be dated approximately May 1, 2020, shall bear interest at the now estimated rate of 5% per year, payable semiannually until the principal amount is paid, and are estimated to mature in 15 annual principal installments on December 1 of each year that are substantially equal. The first interest payment on the Bonds is estimated to be December 1, 2020, and the first principal payment of the Bonds is estimated to be December 1, 2021.

SECTION 3. Authorized Principal Amount of Notes; Note Terms. It is necessary to issue and this Council determines that notes in the aggregate principal amount of $727,202 (the Notes) shall be issued in anticipation of the issuance of the Bonds. The Notes shall be dated the date of issuance and shall mature one year from the date of issuance; provided that the Director of Finance may, if it is determined to be necessary or advisable to the sale of the Notes, establish a maturity date that is any date up to one year from the date of issuance by setting forth that maturity date in the certificate signed in accordance with Section 6 (the Certificate of Award). The Notes shall bear interest at a rate not to exceed 5% per year (computed on the basis of a 360-day year consisting of 12 30-day months), payable at maturity and until the principal amount is paid or payment is provided for. The rate of interest on the Notes shall be determined by the Director of Finance in the Certificate of Award.
SECTION 4. Payment of Debt Charges; Paying Agent. The debt charges on the Notes shall be payable in Federal Reserve funds of the United States of America and shall be payable, without deduction for services of the City’s paying agent, at the designated corporate trust office of The Huntington National Bank, or at the principal corporate trust or other office of a bank or trust company designated by the Director of Finance in the Certificate of Award after determining that the payment at that bank or trust company will not endanger the funds or securities of the City and that proper procedures and safeguards are available for that purpose, or at the office of the Director of Finance if agreed to by the Director of Finance and the Original Purchaser (as defined in Section 6) (the Paying Agent).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 12. Retention of Bond Counsel. The legal services of Squire Patton Boggs (US) LLP, as bond counsel, be and are hereby retained. The legal services shall be in the nature of legal advice and recommendations as to the documents and the proceedings in connection with the issuance and sale of the Notes and the rendering of the necessary legal opinion upon the delivery of the Notes. In rendering those legal services, as an independent contractor and in an attorney-client relationship, that firm shall not exercise any administrative discretion on behalf of the City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State, the City or any other political subdivision, or the execution of public trusts. That firm shall be paid just and reasonable compensation for those legal services and shall be reimbursed for the actual out-of-pocket expenses it incurs in rendering those legal services. The Director of Finance is authorized and directed to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment as written statements are submitted by that firm.

SECTION 13. Satisfaction of Conditions for Note Issuance. This Council determines that all acts and conditions necessary to be done or performed by the City or to have been met precedent to and in the issuing of the Notes in order to make them legal, valid and binding general obligations of the City have been performed and have been met, or will at the time of delivery of the Notes have been performed and have been met, in regular and due form as required by law; that the full faith and credit and general property taxing power (as described in Section 9) of the City are pledged for the timely payment of the debt charges on the Notes; and that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Notes.

SECTION 14. Compliance with Open Meeting Requirements. This Council finds and determines that all formal actions of this Council and of any of its committees concerning and relating to the passage of this Ordinance were taken in open meetings of this Council or committees, and that all deliberations of this Council and of any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law.
SECTION 15. Captions and Headings. The captions and headings in this Ordinance are solely for convenience of reference and in no way define, limit or describe the scope or intent of any Sections, subsections, paragraphs, subparagraphs or clauses hereof. Reference to a Section means a section of this Ordinance unless otherwise indicated.

SECTION 16. Declaration of Emergency; Effective Date. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health and safety of the City, and for the further reason that this Ordinance is required to be immediately effective in order to issue and sell the Notes, which is necessary to enable the City to enter into contracts for the improvement which is needed to eliminate existing and potential hazards to vehicular and pedestrian traffic in the City; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED: ______________________________

PRESIDENT OF COUNCIL

______________________________

CLERK OF COUNCIL

APPROVED: ______________________________

MAYOR

I, Joan T. Kemper, Clerk of Council of the City of Bay Village, Ohio, hereby certify the foregoing to be a true copy of Ordinance No. 19-34, passed by the Council of the City of Bay Village on ________________, and now on file in the office of the Clerk of Council.

______________________________

Clerk of Council
AN ORDINANCE
PROVIDING FOR THE ISSUANCE AND SALE OF $2,715,933 OF NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, FOR THE PURPOSE OF PAYING COSTS OF (i) IMPROVING STREETS BY RESURFACING, PAVING AND MAKING OTHER IMPROVEMENTS AS DESIGNATED IN THE PLANS APPROVED OR TO BE APPROVED BY COUNCIL AND (ii) ACQUIRING MOTOR VEHICLES AND EQUIPMENT AND CONSTRUCTING IMPROVEMENTS TO FACILITIES USED IN PERFORMING THE FUNCTIONS OF THE CITY’S DEPARTMENT OF PUBLIC SERVICES AND PROPERTIES, AND DECLARING AN EMERGENCY.

WHEREAS, pursuant to Ordinance Nos. 18-34 and 18-35, each passed on May 21, 2018, the City issued its $3,842,000 Various Purpose Notes, Series 2018 (the Outstanding Notes), in anticipation of bonds for the purposes stated in Section 1 and other purposes, which Outstanding Notes mature on June 7, 2019; and

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

WHEREAS, the Director of Finance, as fiscal officer of the City, has certified to this Council that the estimated life or period of usefulness of the improvements described in Section 1 is at least five years, the estimated maximum maturity of the Bonds described in clause (i) of Section 1 is 15 years and in clause (ii) of Section 1 is 10 years, and the maximum maturity of the Notes described in Section 3, to be issued in anticipation of the Bonds described in clause (i) ($235,000 of those Bonds) of Section 1 is June 10, 2035, in anticipation of the Bonds described in clause (ii) ($206,000 of those Bonds) of Section 1 is June 9, 2031, in anticipation of the Bonds described in clause (i) ($691,000 of those Bonds) of Section 1 is June 9, 2036, in anticipation of the Bonds described in clause (ii) ($394,129 of those Bonds) of Section 1 is June 8, 2032, in anticipation of the Bonds described in clause (i) ($546,629 of those Bonds) of Section 1 is June 8, 2037, and in anticipation of the Bonds described in clause (i) ($643,175 of those Bonds) of Section 1 is June 7, 2038;

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

SECTION 1. Authorized Principal Amount and Purpose of Anticipated Bonds. It is necessary to issue bonds of the City in the aggregate principal amount of $2,715,933 (the Bonds) for the purpose of paying costs of (i) improving streets by resurfacing, paving and making other improvements as designated in the plans approved or to be approved by Council ($2,115,804) and (ii)
acquiring motor vehicles and equipment and constructing improvements to facilities used in performing the functions of the City’s Department of Public Services and Properties ($600,129).

SECTION 2. Estimated Bond Terms. The Bonds shall be dated approximately May 1, 2020, shall bear interest at the now estimated rate of 5% per year, payable semiannually until the principal amount is paid, and are estimated to mature in 13 annual principal installments on December 1 of each year that are substantially equal. The first interest payment on the Bonds is estimated to be December 1, 2020, and the first principal payment of the Bonds is estimated to be December 1, 2021.

SECTION 3. Authorized Principal Amount of Notes; Note Terms. It is necessary to issue and this Council determines that notes in the aggregate principal amount of $2,715,933 (the Notes) shall be issued in anticipation of the issuance of the Bonds and to retire, together with other funds available to the City, the Outstanding Notes. The Notes shall be dated the date of issuance and shall mature one year from the date of issuance; provided that the Director of Finance may, if it is determined to be necessary or advisable to the sale of the Notes, establish a maturity date that is any date up to one year from the date of issuance by setting forth that maturity date in the certificate signed in accordance with Section 6 (the Certificate of Award). The Notes shall bear interest at a rate not to exceed 5% per year (computed on the basis of a 360-day year consisting of 12 30-day months), payable at maturity and until the principal amount is paid or payment is provided for. The rate of interest on the Notes shall be determined by the Director of Finance in the Certificate of Award.

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

SECTION 5. Form and Execution of Notes; Book Entry System. The Notes shall be signed by the Mayor and the Director of Finance, in the name of the City and in their official capacities, provided that one of those signatures may be a facsimile. The Notes shall be issued in the denominations and numbers as requested by the Original Purchaser and approved by the Director of Finance in the Certificate of Award, provided that no Note shall be issued in a denomination less than $100,000. The entire principal amount may be represented by a single note and may be issued as fully registered securities (for which the Director of Finance will serve as note registrar) and in book entry or other uncertificated form in accordance with Section 9.96 and Chapter 133 of the Revised Code if it is determined by the Director of Finance that issuance of fully registered securities in that form will facilitate the sale and delivery of the Notes. The Notes shall not have coupons attached, shall be numbered as determined by the Director of Finance and shall express upon their faces the purpose, in summary terms, for which they are issued and that they are issued pursuant to this Ordinance. As used in this Section and this Ordinance:
“Book entry form” or “book entry system” means a form or system under which (i) the ownership of beneficial interests in the Notes and the principal of, and interest on, the Notes may be transferred only through a book entry, and (ii) a single physical Note certificate is issued by the City and payable only to a Depository or its nominee, with such Notes deposited or maintained in the custody of the Depository or its agent for that purpose. The book entry maintained by others than the City is the record that identifies the owners of beneficial interests in the Notes and that principal and interest.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 12. Retention of Bond Counsel. The legal services of Squire Patton Boggs
(US) LLP, as bond counsel, be and are hereby retained. The legal services shall be in the nature of
legal advice and recommendations as to the documents and the proceedings in connection with the
issuance and sale of the Notes and the rendering of the necessary legal opinion upon the delivery of
the Notes. In rendering those legal services, as an independent contractor and in an attorney-client
relationship, that firm shall not exercise any administrative discretion on behalf of the City in the
formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations
of the State, the City or any other political subdivision, or the execution of public trusts. That firm
shall be paid just and reasonable compensation for those legal services and shall be reimbursed for
the actual out-of-pocket expenses it incurs in rendering those legal services. The Director of Finance
is authorized and directed to make appropriate certification as to the availability of funds for those
fees and any reimbursement and to issue an appropriate order for their timely payment as written
statements are submitted by that firm.

SECTION 13. Satisfaction of Conditions for Note Issuance. This Council determines
that all acts and conditions necessary to be done or performed by the City or to have been met
precedent to and in the issuing of the Notes in order to make them legal, valid and binding general
obligations of the City have been performed and have been met, or will at the time of delivery of the
Notes have been performed and have been met, in regular and due form as required by law; that the
full faith and credit and general property taxing power (as described in Section 9) of the City are
pledged for the timely payment of the debt charges on the Notes; and that no statutory or constitutional
limitation of indebtedness or taxation will have been exceeded in the issuance of the Notes.

SECTION 14. Compliance with Open Meeting Requirements. This Council finds and
determines that all formal actions of this Council and of any of its committees concerning and relating
to the passage of this Ordinance were taken in open meetings of this Council or committees, and that
all deliberations of this Council and of any of its committees that resulted in those formal actions were
in meetings open to the public, all in compliance with the law.

SECTION 15. Captions and Headings. The captions and headings in this Ordinance are
solely for convenience of reference and in no way define, limit or describe the scope or intent of
any Sections, subsections, paragraphs, subparagraphs or clauses hereof. Reference to a Section
means a section of this Ordinance unless otherwise indicated.
SECTION 16. Declaration of Emergency; Effective Date. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health and safety of the City, and for the further reason that this Ordinance is required to be immediately effective so that the Notes can be delivered at the earliest possible date, which is necessary to enable the City to retire the Outstanding Notes and thereby preserve its credit; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED:

___________________________
PRESIDENT OF COUNCIL

____________________________
CLERK OF COUNCIL

APPROVED:

____________________________
MAYOR

I, Joan T. Kemper, Clerk of Council of the City of Bay Village, Ohio, hereby certify the foregoing to be a true copy of Ordinance No. 19-35, passed by the Council of the City of Bay Village on______________, and now on file in the office of the Clerk of Council.

____________________________
Clerk of Council
AN ORDINANCE

PROVIDING FOR THE ISSUANCE AND SALE OF $387,865 OF NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, FOR THE PURPOSE OF PAYING COSTS OF IMPROVING THE CITY’S PARKS AND RECREATIONAL FACILITIES BY CONSTRUCTING IMPROVEMENTS TO THE ROSE HILL MUSEUM, TENNIS COURTS, RESTROOM FACILITIES AND THE LAKE ERIE SHORELINE, AND DECLARING AN EMERGENCY.

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

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

SECTION 1. Authorized Principal Amount and Purpose of Anticipated Bonds. It is necessary to issue bonds of the City in the aggregate principal amount of $387,865 (the Bonds) for the purpose of paying costs of improving the City’s parks and recreational facilities by constructing improvements to the Rose Hill Museum, tennis courts, restroom facilities and the Lake Erie shoreline, all together with the necessary appurtenances thereto.

SECTION 2. Estimated Bond Terms. The Bonds shall be dated approximately May 1, 2020, shall bear interest at the now estimated rate of 5% per year, payable semiannually until the principal amount is paid, and are estimated to mature in 30 annual principal installments on December 1 of each year that are substantially equal. The first interest payment on the Bonds is estimated to be December 1, 2020, and the first principal payment of the Bonds is estimated to be December 1, 2021.

SECTION 3. Authorized Principal Amount of Notes; Note Terms. It is necessary to issue and this Council determines that notes in the aggregate principal amount of $387,865 (the Notes) shall be issued in anticipation of the issuance of the Bonds. The Notes shall be dated the date of issuance and shall mature one year from the date of issuance; provided that the Director of Finance may, if it is determined to be necessary or advisable to the sale of the Notes, establish a maturity date that is any date up to one year from the date of issuance by setting forth that maturity date in the certificate signed in accordance with Section 6 (the Certificate of Award). The Notes shall bear interest at a rate not to exceed 5% per year (computed on the basis of a 360-day year consisting of 12 30-day months), payable at maturity and until the principal amount is paid or payment is provided for. The rate of interest on the Notes shall be determined by the Director of Finance in the Certificate of Award.
SECTION 4. Payment of Debt Charges; Paying Agent. The debt charges on the Notes shall be payable in Federal Reserve funds of the United States of America and shall be payable, without deduction for services of the City’s paying agent, at the designated corporate trust office of The Huntington National Bank, or at the principal corporate trust or other office of a bank or trust company designated by the Director of Finance in the Certificate of Award after determining that the payment at that bank or trust company will not endanger the funds or securities of the City and that proper procedures and safeguards are available for that purpose, or at the office of the Director of Finance if agreed to by the Director of Finance and the Original Purchaser (as defined in Section 6) (the Paying Agent).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 12. Retention of Bond Counsel. The legal services of Squire Patton Boggs (US) LLP, as bond counsel, be and are hereby retained. The legal services shall be in the nature of legal advice and recommendations as to the documents and the proceedings in connection with the issuance and sale of the Notes and the rendering of the necessary legal opinion upon the delivery of the Notes. In rendering those legal services, as an independent contractor and in an attorney-client relationship, that firm shall not exercise any administrative discretion on behalf of the City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State, the City or any other political subdivision, or the execution of public trusts. That firm shall be paid just and reasonable compensation for those legal services and shall be reimbursed for the actual out-of-pocket expenses it incurs in rendering those legal services. The Director of Finance is authorized and directed to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment as written statements are submitted by that firm.

SECTION 13. Satisfaction of Conditions for Note Issuance. This Council determines that all acts and conditions necessary to be done or performed by the City or to have been met precedent to and in the issuing of the Notes in order to make them legal, valid and binding general obligations of the City have been performed and have been met, or will at the time of delivery of the Notes have been performed and have been met, in regular and due form as required by law; that the full faith and credit and general property taxing power (as described in Section 9) of the City are pledged for the timely payment of the debt charges on the Notes; and that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Notes.

SECTION 14. Compliance with Open Meeting Requirements. This Council finds and determines that all formal actions of this Council and of any of its committees concerning and relating to the passage of this Ordinance were taken in open meetings of this Council or committees, and that
all deliberations of this Council and of any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law.

**SECTION 15. Captions and Headings.** The captions and headings in this Ordinance are solely for convenience of reference and in no way define, limit or describe the scope or intent of any Sections, subsections, paragraphs, subparagraphs or clauses hereof. Reference to a Section means a section of this Ordinance unless otherwise indicated.

**SECTION 16. Declaration of Emergency; Effective Date.** This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health and safety of the City, and for the further reason that this Ordinance is required to be immediately effective in order to issue and sell the Notes, which is necessary to enable the City to enter into contracts for the improvement which is needed to promote the health of the residents of the City by enhancing their recreational opportunities; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED: 

___________________________ 
PRESEDENT OF COUNCIL

___________________________ 
CLERK OF COUNCIL

APPROVED:

___________________________ 
MAYOR

I, Joan T. Kemper, Clerk of Council of the City of Bay Village, Ohio, hereby certify the foregoing to be a true copy of Ordinance No. 19-36, passed by the Council of the City of Bay Village on May 20, 2019, and now on file in the office of the Clerk of Council.

___________________________ 
Clerk of Council
AN ORDINANCE
PROVIDING FOR THE ISSUANCE AND SALE OF $850,000 OF NOTES, IN
ANTICIPATION OF THE ISSUANCE OF BONDS, FOR THE PURPOSE OF
PAYING COSTS OF ACQUIRING A FIRE TRUCK AND APPURTEINANT
EQUIPMENT FOR USE IN PERFORMING THE FUNCTIONS OF THE
CITY’S FIRE DEPARTMENT, AND DECLARING AN EMERGENCY.

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

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

SECTION 1. Authorized Principal Amount and Purpose of Anticipated Bonds. It is
necessary to issue bonds of the City in the aggregate principal amount of $850,000 (the Bonds) for
the purpose of paying costs of acquiring a fire truck and appurtenant equipment for use in
performing the functions of the City’s Fire Department, together with all necessary appurtenances
thereto.

SECTION 2. Estimated Bond Terms. The Bonds shall be dated approximately May 1,
2020, shall bear interest at the now estimated rate of 5% per year, payable semiannually until the
principal amount is paid, and are estimated to mature in 10 annual principal installments on December
1 of each year that are substantially equal. The first interest payment on the Bonds is estimated to be
December 1, 2020, and the first principal payment of the Bonds is estimated to be December 1, 2021.

SECTION 3. Authorized Principal Amount of Notes; Note Terms. It is necessary to
issue and this Council determines that notes in the aggregate principal amount of $850,000 (the Notes)
shall be issued in anticipation of the issuance of the Bonds. The Notes shall be dated the date of
issuance and shall mature one year from the date of issuance; provided that the Director of Finance
may, if it is determined to be necessary or advisable to the sale of the Notes, establish a maturity date
that is any date up to one year from the date of issuance by setting forth that maturity date in the
certificate signed in accordance with Section 6 (the Certificate of Award). The Notes shall bear
interest at a rate not to exceed 5% per year (computed on the basis of a 360-day year consisting of 12
30-day months), payable at maturity and until the principal amount is paid or payment is provided
for. The rate of interest on the Notes shall be determined by the Director of Finance in the Certificate
of Award.
SECTION 4.  Payment of Debt Charges; Paying Agent.  The debt charges on the Notes shall be payable in Federal Reserve funds of the United States of America and shall be payable, without deduction for services of the City’s paying agent, at the designated corporate trust office of The Huntington National Bank, or at the principal corporate trust or other office of a bank or trust company designated by the Director of Finance in the Certificate of Award after determining that the payment at that bank or trust company will not endanger the funds or securities of the City and that proper procedures and safeguards are available for that purpose, or at the office of the Director of Finance if agreed to by the Director of Finance and the Original Purchaser (as defined in Section 6) (the Paying Agent).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 12. Retention of Bond Counsel. The legal services of Squire Patton Boggs (US) LLP, as bond counsel, be and are hereby retained. The legal services shall be in the nature of legal advice and recommendations as to the documents and the proceedings in connection with the issuance and sale of the Notes and the rendering of the necessary legal opinion upon the delivery of the Notes. In rendering those legal services, as an independent contractor and in an attorney-client relationship, that firm shall not exercise any administrative discretion on behalf of the City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State, the City or any other political subdivision, or the execution of public trusts. That firm shall be paid just and reasonable compensation for those legal services and shall be reimbursed for the actual out-of-pocket expenses it incurs in rendering those legal services. The Director of Finance is authorized and directed to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment as written statements are submitted by that firm.

SECTION 13. Satisfaction of Conditions for Note Issuance. This Council determines that all acts and conditions necessary to be done or performed by the City or to have been met precedent to and in the issuing of the Notes in order to make them legal, valid and binding general obligations of the City have been performed and have been met, or will at the time of delivery of the Notes have been performed and have been met, in regular and due form as required by law; that the full faith and credit and general property taxing power (as described in Section 9) of the City are pledged for the timely payment of the debt charges on the Notes; and that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Notes.

SECTION 14. Compliance with Open Meeting Requirements. This Council finds and determines that all formal actions of this Council and of any of its committees concerning and relating to the passage of this Ordinance were taken in open meetings of this Council or committees, and that all deliberations of this Council and of any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law.
SECTION 15.  Captions and Headings.  The captions and headings in this Ordinance are solely for convenience of reference and in no way define, limit or describe the scope or intent of any Sections, subsections, paragraphs, subparagraphs or clauses hereof.  Reference to a Section means a section of this Ordinance unless otherwise indicated.

SECTION 16.  Declaration of Emergency; Effective Date.  This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health and safety of the City, and for the further reason that this Ordinance is required to be immediately effective in order to issue and sell the Notes, which is necessary to enable the City to enter into contracts for the improvement which is needed to timely and efficiently provide municipal fire services to City residents and thereby better protect their property and provide for their safety; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED: _

_______________________________
PRESIDENT OF COUNCIL

_______________________________
CLERK OF COUNCIL

APPROVED:

_______________________________
MAYOR

I, Joan T. Kemper, Clerk of Council of the City of Bay Village, Ohio, hereby certify the foregoing to be a true copy of Ordinance No. 19-37, passed by the Council of the City of Bay Village on ______________, and now on file in the office of the Clerk of Council.

_______________________________
Clerk of Council
AN ORDINANCE

PROVIDING FOR THE ISSUANCE AND SALE OF $125,000 OF NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, FOR THE PURPOSE OF PAYING COSTS OF ACQUIRING COMPUTER SOFTWARE FOR USE IN PERFORMING THE ADMINISTRATIVE FUNCTIONS OF THE CITY, AND DECLARING AN EMERGENCY.

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

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

SECTION 1. Authorized Principal Amount and Purpose of Anticipated Bonds. It is necessary to issue bonds of the City in the aggregate principal amount of $125,000 (the Bonds) for the purpose of paying costs of acquiring computer software for use in performing the administrative functions of the City, together with all necessary appurtenances thereto.

SECTION 2. Estimated Bond Terms. The Bonds shall be dated approximately May 1, 2020, shall bear interest at the now estimated rate of 5% per year, payable semiannually until the principal amount is paid, and are estimated to mature in five annual principal installments on December 1 of each year that are substantially equal. The first interest payment on the Bonds is estimated to be December 1, 2020, and the first principal payment of the Bonds is estimated to be December 1, 2021.

SECTION 3. Authorized Principal Amount of Notes; Note Terms. It is necessary to issue and this Council determines that notes in the aggregate principal amount of $125,000 (the Notes) shall be issued in anticipation of the issuance of the Bonds. The Notes shall be dated the date of issuance and shall mature one year from the date of issuance; provided that the Director of Finance may, if it is determined to be necessary or advisable to the sale of the Notes, establish a maturity date that is any date up to one year from the date of issuance by setting forth that maturity date in the certificate signed in accordance with Section 6 (the Certificate of Award). The Notes shall bear interest at a rate not to exceed 5% per year (computed on the basis of a 360-day year consisting of 12 30-day months), payable at maturity and until the principal amount is paid or payment is provided for. The rate of interest on the Notes shall be determined by the Director of Finance in the Certificate of Award.
SECTION 4. Payment of Debt Charges; Paying Agent. The debt charges on the Notes shall be payable in Federal Reserve funds of the United States of America and shall be payable, without deduction for services of the City’s paying agent, at the designated corporate trust office of The Huntington National Bank, or at the principal corporate trust or other office of a bank or trust company designated by the Director of Finance in the Certificate of Award after determining that the payment at that bank or trust company will not endanger the funds or securities of the City and that proper procedures and safeguards are available for that purpose, or at the office of the Director of Finance if agreed to by the Director of Finance and the Original Purchaser (as defined in Section 6) (the Paying Agent).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**SECTION 12. Retention of Bond Counsel.** The legal services of Squire Patton Boggs (US) LLP, as bond counsel, be and are hereby retained. The legal services shall be in the nature of legal advice and recommendations as to the documents and the proceedings in connection with the issuance and sale of the Notes and the rendering of the necessary legal opinion upon the delivery of the Notes. In rendering those legal services, as an independent contractor and in an attorney-client relationship, that firm shall not exercise any administrative discretion on behalf of the City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State, the City or any other political subdivision, or the execution of public trusts. That firm shall be paid just and reasonable compensation for those legal services and shall be reimbursed for the actual out-of-pocket expenses it incurs in rendering those legal services. The Director of Finance is authorized and directed to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment as written statements are submitted by that firm.

**SECTION 13. Satisfaction of Conditions for Note Issuance.** This Council determines that all acts and conditions necessary to be done or performed by the City or to have been met precedent to and in the issuing of the Notes in order to make them legal, valid and binding general obligations of the City have been performed and have been met, or will at the time of delivery of the Notes have been performed and have been met, in regular and due form as required by law; that the full faith and credit and general property taxing power (as described in Section 9) of the City are pledged for the timely payment of the debt charges on the Notes; and that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Notes.

**SECTION 14. Compliance with Open Meeting Requirements.** This Council finds and determines that all formal actions of this Council and of any of its committees concerning and relating to the passage of this Ordinance were taken in open meetings of this Council or committees, and that all deliberations of this Council and of any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law.
SECTION 15. Captions and Headings. The captions and headings in this Ordinance are solely for convenience of reference and in no way define, limit or describe the scope or intent of any Sections, subsections, paragraphs, subparagraphs or clauses hereof. Reference to a Section means a section of this Ordinance unless otherwise indicated.

SECTION 16. Declaration of Emergency; Effective Date. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health and safety of the City, and for the further reason that this Ordinance is required to be immediately effective in order to issue and sell the Notes, which is necessary to enable the City to enter into contracts for the improvement which is needed to provide for the efficient and safe administration of the government of the City; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED:  

______________________________

PRESIDENT OF COUNCIL

______________________________

CLERK OF COUNCIL

APPROVED:

______________________________

MAYOR

I, Joan T. Kemper, Clerk of Council of the City of Bay Village, Ohio, hereby certify the foregoing to be a true copy of Ordinance No. 19-38, passed by the Council of the City of Bay Village on ____________, and now on file in the office of the Clerk of Council.

______________________________

Clerk of Council
AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF $494,000 OF NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, FOR THE PURPOSE OF PAYING COSTS OF ACQUIRING MOTOR VEHICLES AND EQUIPMENT AND CONSTRUCTING IMPROVEMENTS TO FACILITIES USED IN PERFORMING THE FUNCTIONS OF THE CITY’S DEPARTMENT OF PUBLIC SERVICES AND PROPERTIES, AND DECLARING AN EMERGENCY.

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

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

SECTION 1. Authorized Principal Amount and Purpose of Anticipated Bonds. It is necessary to issue bonds of the City in the aggregate principal amount of $494,000 (the Bonds) for the purpose of paying costs of acquiring motor vehicles and equipment and constructing improvements to facilities used in performing the functions of the City’s Department of Public Services and Properties.

SECTION 2. Estimated Bond Terms. The Bonds shall be dated approximately May 1, 2020, shall bear interest at the now estimated rate of 5% per year, payable semiannually until the principal amount is paid, and are estimated to mature in 10 annual principal installments on December 1 of each year that are substantially equal. The first interest payment on the Bonds is estimated to be December 1, 2020, and the first principal payment of the Bonds is estimated to be December 1, 2021.

SECTION 3. Authorized Principal Amount of Notes; Note Terms. It is necessary to issue and this Council determines that notes in the aggregate principal amount of $494,000 (the Notes) shall be issued in anticipation of the issuance of the Bonds. The Notes shall be dated the date of issuance and shall mature one year from the date of issuance; provided that the Director of Finance may, if it is determined to be necessary or advisable to the sale of the Notes, establish a maturity date that is any date up to one year from the date of issuance by setting forth that maturity date in the certificate signed in accordance with Section 6 (the Certificate of Award). The Notes shall bear interest at a rate not to exceed 5% per year (computed on the basis of a 360-day year consisting of 12 30-day months), payable at maturity and until the principal amount is paid or payment is provided for. The rate of interest on the Notes shall be determined by the Director of Finance in the Certificate of Award.
SECTION 4. Payment of Debt Charges; Paying Agent. The debt charges on the Notes shall be payable in Federal Reserve funds of the United States of America and shall be payable, without deduction for services of the City’s paying agent, at the designated corporate trust office of The Huntington National Bank, or at the principal corporate trust or other office of a bank or trust company designated by the Director of Finance in the Certificate of Award after determining that the payment at that bank or trust company will not endanger the funds or securities of the City and that proper procedures and safeguards are available for that purpose, or at the office of the Director of Finance if agreed to by the Director of Finance and the Original Purchaser (as defined in Section 6) (the Paying Agent).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 12. Retention of Bond Counsel. The legal services of Squire Patton Boggs (US) LLP, as bond counsel, be and are hereby retained. The legal services shall be in the nature of legal advice and recommendations as to the documents and the proceedings in connection with the issuance and sale of the Notes and the rendering of the necessary legal opinion upon the delivery of the Notes. In rendering those legal services, as an independent contractor and in an attorney-client relationship, that firm shall not exercise any administrative discretion on behalf of the City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State, the City or any other political subdivision, or the execution of public trusts. That firm shall be paid just and reasonable compensation for those legal services and shall be reimbursed for the actual out-of-pocket expenses it incurs in rendering those legal services. The Director of Finance is authorized and directed to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment as written statements are submitted by that firm.

SECTION 13. Satisfaction of Conditions for Note Issuance. This Council determines that all acts and conditions necessary to be done or performed by the City or to have been met precedent to and in the issuing of the Notes in order to make them legal, valid and binding general obligations of the City have been performed and have been met, or will at the time of delivery of the Notes have been performed and have been met, in regular and due form as required by law; that the full faith and credit and general property taxing power (as described in Section 9) of the City are pledged for the timely payment of the debt charges on the Notes; and that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Notes.

SECTION 14. Compliance with Open Meeting Requirements. This Council finds and determines that all formal actions of this Council and of any of its committees concerning and relating to the passage of this Ordinance were taken in open meetings of this Council or committees, and that
all deliberations of this Council and of any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law.

SECTION 15. Captions and Headings. The captions and headings in this Ordinance are solely for convenience of reference and in no way define, limit or describe the scope or intent of any Sections, subsections, paragraphs, subparagraphs or clauses hereof. Reference to a Section means a section of this Ordinance unless otherwise indicated.

SECTION 16. Declaration of Emergency; Effective Date. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health and safety of the City, and for the further reason that this Ordinance is required to be immediately effective in order to issue and sell the Notes, which is necessary to enable the City to enter into contracts for the improvement which is needed to provide for the efficient and safe administration of the functions of the City’s Department of Public Services and Properties; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED: 

______________________________
PRESIDENT OF COUNCIL

______________________________
CLERK OF COUNCIL

APPROVED:

______________________________
MAYOR

I, Joan T. Kemper, Clerk of Council of the City of Bay Village, Ohio, hereby certify the foregoing to be a true copy of Ordinance No. 19-39, passed by the Council of the City of Bay Village on ________________, and now on file in the office of the Clerk of Council.

______________________________
Clerk of Council
ORDINANCE NO.
INTRODUCED BY:

AN ORDINANCE
AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH
AMERICAN PAVEMENTS, INC. FOR THE 2019 PAVEMENT CRACK SEAL OF
AREAS ON LAKE ROAD AND DECLARING AN EMERGENCY.

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

SECTION 1. That the Mayor is hereby authorized to enter into an agreement with
American Pavements Inc., 7475 Montgomery Drive, Plain City, Ohio 43064, to crack seal the said
roads in accordance with the plans and specifications at a total bid price not to exceed Thirty
Thousand, Seven Hundred Fifty Dollars ($30,750.00).

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

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

PASSED:

_____________________________
PRESIDENT OF COUNCIL

_____________________________
CLERK OF COUNCIL

APPROVED:

_____________________________
MAYOR

05.17.19 jt
ORDINANCE NO.  
INTRODUCED BY:  

ORDINANCE 
AMENDING CHAPTER 539 OF THE CODIFIED ORDINANCES OF  
THE CITY OF BAY VILLAGE BY ENACTING SECTION 539.07(i) RELATING TO  
PROHIBITING SMOKING IN PARKS AND DECLARING AN EMERGENCY 

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

SECTION 1. That Chapter 539.07 of the Codified Ordinances of the City of Bay Village is hereby amended by enacting new Section 539.07(i) which shall read as follows:

“Chapter 539 - PARK REGULATIONS

539.01 - Short title.  
This chapter shall be known and may be cited as the "Bay Village ordinance regulating conduct in public parks."

(Ord. 70-41. Passed 4-6-70.)

539.02 - Definitions.  
For the purposes of this chapter, the following terms, phrases, words and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

(a) City means the City of Bay Village.

(b) Director means a person immediately in charge of any park area and its activities and to whom all park attendants of such area are responsible.

(c) Park means a park reservation, playground, beach, recreation center or any other area in the City, owned or used by the City, and devoted to active or passive recreation, including Cahoon Memorial Park.

(d) Person means any individual, firm, partnership, association, corporation, company or organization of any kind.

(e) Vehicle means any wheeled conveyance, whether motor-powered, animal-drawn or self-propelled. The term shall include any trailer in tow of any size, kind or description. Exception is made for baby carriages and vehicles in the service of the City parks.

(Ord. 70-41. Passed 4-6-70.)

539.03 - Park property.
No person in a park shall:

(a) Buildings and other property.

(1) Disfiguration and removal. Willfully mark, deface, disfigure, injure, tamper with or displace or remove any building, bridges, tables, benches, fireplaces, railings, paving or paving material, water lines or other public utilities or parts or appurtenances thereof, signs, notice or placards, whether temporary or permanent, monuments, stakes, posts or other boundary markers, or other structures or equipment, facilities, grounds or park property or appurtenances whatsoever, either real or personal.

(2) Restrooms and washrooms. Fail to cooperate in maintaining restrooms and washrooms in a neat and sanitary condition. No person over the age of five years shall use the restrooms and washrooms designated for the opposite sex.

(3) Removal of natural resources. Dig or remove any beach sand, whether submerged or not, or any soil, rock, stones, trees, shrubs or plants, downtimber or other wood or materials, or make any excavation by tool, equipment, blasting or other means or agency, without the prior written consent of the Director.

(4) Erection of structures. Construct or erect any building or structure of whatever kind, whether permanent or temporary in character, or run or string any public service utility into, upon or across such lands without the prior written consent of the Director.

(b) Trees, shrubbery, lawns.

(1) Injury and removal. Damage, cut, carve, transplant or remove any tree or plant or injure the bark, or pick the flowers or seeds, of any tree or plant, or attach any rope, wire or other contrivance to any tree or plant, or dig in or otherwise disturb grass areas, or in any other way injure or impair the natural beauty or usefulness of any area, without the prior written consent of the Director.

(2) Climbing trees, etc. Climb any tree or walk or stand or sit upon monuments, vases, fountains, railings, fences or gun-carriages or upon any other property not designated or customarily used for such purposes.

(c) Wild animals, birds, etc.

(1) Hunting. Hunt, molest, harm, frighten, kill, trap, chase, tease, shoot or throw missiles at any animal, reptile or bird; nor remove or have in his possession the young of any wild animal, or the eggs or nest or young of any reptile or bird; nor collect, remove, have in his possession, give away, sell or offer to sell, or buy or offer to buy, or accept as a gift, any specimen, alive or dead, of any of the group of tree snails. Exception to the foregoing is made in that snakes known to be deadly poisonous, such as rattlesnakes, moccasins, coral snakes or other deadly reptiles, may be killed on sight.

(2) Feeding. Give or offer or attempt to give to any animal or bird any tobacco, alcohol or other known noxious substances.
(d) Deer.

   (1) Hunting. Hunting of deer is permitted as part of the City's Deer Management Plan as approved by the Ohio Division of Wildlife.

(Ord. 70-41. Passed 4-6-70.)

(Ord. No. 17-92, § 1, 12-11-2017)

539.04 - Sanitation.

No person in a park shall:

(a) Pollution of waters. Throw, discharge or otherwise place or cause to be placed in the waters of any fountain, pond, lake, stream, bay or other body of water in or adjacent to any park or any tributary, stream, storm sewer or drain flowing into such waters, any substance, matter or thing, liquid or solid, which will or may result in the pollution of such waters.

(b) Refuse and trash. Have brought into a park or dump, deposit or leave in a park any bottles, broken glass, ashes, paper, boxes, cans, dirt, rubbish, waste, garbage, refuse or other trash. No refuse or trash shall be placed in any waters in or contiguous to any park, or left anywhere on the grounds thereof, but shall be placed in the proper receptacles where these are provided. Where receptacles are not so provided, all such rubbish or waste shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere.

(Ord. 70-41. Passed 4-6-70.)

539.05 - Traffic.

No person in a park shall:

(a) State motor vehicle laws apply. Fail to comply with all applicable provisions of the State and City motor vehicle traffic laws in regard to equipment and operation of vehicles, together with such regulations as are contained in this chapter and other ordinances.

(b) Enforcement of traffic regulations. Fail to obey all law enforcement officers and park employees, such persons being hereby authorized and instructed to direct traffic whenever and wherever needed in the parks and on the highways, streets or roads immediately adjacent thereto in accordance with the provisions of these regulations and such supplementary regulations as may be issued subsequently by the Director.

(c) Obey traffic signs. Fail to observe carefully all traffic signs indicating speed, direction, caution, stopping or parking, and all others posted for proper control and to safeguard life and property.

(d) Speed of vehicles. Ride or drive a vehicle at a rate of speed exceeding 15 miles an hour, except upon such roads as the Director may designate, by posted signs, for speedier travel.
(e) Operation confined to roads. Drive any vehicle on any area except the park roads or parking areas, or such other areas as may on occasion be specifically designated as temporary parking areas by the Director.

(f) Parking.

(1) Designated areas. Park a vehicle in other than an established or designated parking area, and such use shall be in accordance with the posted directions thereat and with the instructions of any attendant who may be present.

(2) Full-parking. Full-park on a road or driveway at any time.

(3) Night parking. Leave a vehicle standing or parked after sunset without lights clearly visible on any driveway or road area except legally established parking areas.

(4) Emergency procedure. Fail to immediately notify an attendant of an emergency in the nature of a breakdown requiring the assistance of a tow truck, mechanic or other person.

(5) Double-parking. Double-park any vehicle on any road or parkway unless directed by a park official.

(6) Muffler required. Fail to use a muffler adequate to deaden the sound of the engine in a motor vehicle.

(g) Bicycles.

(1) Confined to roads. Ride a bicycle on other than a vehicular road or path designated for that purpose. A bicyclist shall be permitted to wheel or push a bicycle by hand over any grassy area or wooded trail or any area reserved for pedestrian use.

(2) Operation. Ride a bicycle other than on the right-hand side of the road as close as conditions permit, and bicycles shall be kept in single file when two or more are operating as a group. Bicyclists shall at all times operate their vehicles with reasonable regard to the safety of others.

(3) Designated racks. Leave a bicycle in a place other than a bicycle rack when such is provided and there is a space available.

(4) Immobile. Leave a bicycle lying on the ground or paving, or set against trees, or in any place or position where other persons may trip over or be injured by them.

(5) Night operation. Ride a bicycle on any road between 30 minutes after sunset or before 30 minutes before sunrise without an attached headlight plainly visible at least 200 feet in front of, and without a red tail light or red reflector plainly visible from at least 200 feet from the rear of, such bicycle.

(h) Snowmobiles prohibited. The operation of snowmobiles in any park is hereby prohibited.
Ordinance – Enacting Section 539.07(i)
Final

(Ord. 70-41. Passed 4-6-70.)

539.06 - Recreational activities.

No person in a park shall:

(a) Bathing and swimming.

(1) Designated areas. Swim, bathe or wade in any waters or waterways in or adjacent to any park, except in such waters and at such places as are provided therefor, and in compliance with such regulations as are herein set forth or may be hereafter adopted. Nor shall any person frequent any waters or places customarily designated for the purpose of swimming or bathing, or congregate thereat when such activity is prohibited by the Director upon a finding that such use of the water would be dangerous or otherwise inadvisable.

(2) Certain hours. Frequent any waters or places designated for the purpose of swimming or bathing, or congregate thereat, except between such hours of the day as are designated by the Director for such purposes for each individual area.

(3) Structure on beach. Erect, maintain, use or occupy on or in any beach or bathing area any tent, shelter or structure of any kind unless there is an unobstructed view into such tent, shelter or structure from at least two sides; nor shall any guy wire, rope or extension or exterior brace or support be connected or fastened from any such structure to any other structure, stake, rock or other object outside thereof.

(4) Bath houses. Dress or undress on any beach or in any vehicle, toilet or other place, except in such bathing houses or structures as may be provided for that purpose.

(b) Boating.

(1) Designated areas. Bring into or operate any boat, raft or other water craft, whether motor-powered or not, upon any waters, except at places designated for boating by the Director. Such activity shall be in accordance with applicable regulations as are now or may hereafter be adopted.

(2) Operation of boats. Navigate, direct or handle any boat in such manner as to unjustifiably or unnecessarily annoy or frighten or endanger any other person, or fail to operate any boat in accordance with the laws, rules and regulations of the State regarding the operation of watercraft.

(c) Picnic areas and use.

(1) Regulated. Picnic or lunch in a place other than those designated for that purpose. Attendants shall have the authority to regulate the activities in such areas when necessary to prevent congestion and to secure the maximum use for the comfort and convenience of all. Visitors shall comply with any directions given to achieve this end.
(2) Availability. Violate the regulation that use of the individual fireplaces, together with tables and benches, follows generally the rule of "first come, first served."

(3) Nonexclusive. Use any portion of the picnic areas or of any of the buildings or structures therein for the purpose of holding picnics to the exclusion of other persons, nor shall any person use such area and facilities for an unreasonable time if the facilities are crowded.

(4) Duty of picnicker. Leave a picnic area before the fire is completely extinguished; trash or refuse shall not be burned in fireplaces.

(d) Camping. No person shall set up tents, shacks or any other temporary shelter for the purpose of overnight camping, nor shall any person leave in a park after closing hours any movable structure or special vehicle to be used or that could be used for such purpose, such as a house-trailer, camp-trailer, camp-wagon or the like.

(e) Games. Take part in or abet the playing of any games involving thrown or otherwise propelled objects such as balls, stones, arrows, javelins or model airplanes except in areas set apart for such forms of recreation. The playing of rough or comparatively dangerous games such as football, baseball and quoits is prohibited except on the fields and courts or areas provided therefor.

(f) Horseback riding. Ride a horse except on designated bridle trails. Where permitted, horses shall be thoroughly broken, properly restrained and ridden with due care, and shall not be allowed to graze or go unattended, nor shall they be hitched to any rock, tree or shrub.

(Ord. 70-41. Passed 4-6-70.)

539.07 - Behavior.

No person in a park shall:

(a) Intoxicating beverages.

(1) Prohibition. Bring intoxicating liquor, alcoholic beverages or beer into a park, nor shall any person have upon his person, in his possession or under his control, or buy or sell or drink, alcoholic beverages or beer at any time in a park.

(2) Drunkenness. Enter a park or be in a park under the influence of intoxicating liquor or beer.

(b) Fireworks and explosives. Bring into a park or have in his possession, or set off or otherwise cause to explode or discharge or burn, any firecracker, torpedo, rocket or other fireworks or explosives of inflammable material, or discharge them or throw them into any such area from land or a highway adjacent thereto. This prohibition includes any substance, compound, mixture or article that in conjunction with any other substance or compound would be dangerous from any of the foregoing standpoints. This section shall not apply to persons to
whom the Fire Chief has granted a permit for the discharge of fireworks pursuant to Section 549.11.

(c) Domestic animals. Allow a dog or other domestic animal to run at large in a park.

(d) Fires. Build or attempt to build a fire except in a fireplace provided for such purpose or in such areas and under such regulations as may be designated by the Director. No person shall drop, throw or otherwise scatter lighted matches, burning cigarettes or cigars, tobacco paper or other inflammable material within any park area or on any highway, road or street abutting or contiguous thereto.

(e) Closed areas. Enter an area posted as "Closed to the Public," nor shall any person use or abet the use of any area in violation of posted notices.

(f) Games of chance. Gamble in any manner whatsoever, or participate in or abet any game of chance.

(g) Going onto ice. Go onto the ice on any of the waters except such areas as are designated as skating fields, and provided a safety signal is displayed.

(h) Remain in a park after closing hours. Enter, be in or remain in a park after the designated closing hour of such park.

(Ord. 70-41. Passed 4-6-70.)

(i) Smoking prohibited. Smoke tobacco, natural, synthetic, powder or manufactured substances use smokeless tobacco, or use an electronic or vaporized smoking device in any City park, playground, trail, beachfront or recreation facility owned by the City or within 100 feet of sporting fields, spectator area, the entrances to all recreation facilities, and all sport and play areas including natural and man-made trails, unless within a City-designated smoking area.

539.08 - Merchandising, advertising and signs.

No person in a park shall:

(a) Vending and peddling. Expose or offer for sale any article or thing, nor shall he station or place any stand, cart or vehicle for the transportation, sale or display of any such article or thing without approval pursuant to the established rules and regulations by the Department of Parks and Recreation and approval by City Council or Cahoon Park Trustees.

(Ord. 75-88. Passed 6-16-75.)

(b) Advertising. Announce, advertise, or call public attention in any way to any article or service for sale or hire except with the prior consent of the Director.
(c) Signs. Paste, glue, tack or otherwise post any sign, placard, advertisement or inscription whatever, nor shall any person erect or cause to be erected any sign whatever on any public lands or highways or roads adjacent to a park except with the prior consent of the Director.

(Ord. 70-41. Passed 4-6-70.)

539.09 - Park operating policy.

(a) Hours. Except for unusual and unforeseen emergencies, parks shall be open to the public every day of the year during the hours between 5:00 a.m. and 11:00 p.m. unless otherwise specified for each individual park by the Director. The opening and closing hours for each individual park shall be posted therein for the public information. The Director may allow the use of any park, during the hours such park is normally closed, by persons or groups designated in advance by such Director. No boating, bathing, games or sports shall be permitted in Cahoon Memorial Park on Sunday.

(b) Closed areas. Any section or part of any park may be declared closed to the public by the Director at any time and for any interval of time, either temporarily or at regular and stated intervals (daily or otherwise), and either entirely or merely to certain uses, as the Director shall find reasonably necessary.

(Ord. 70-41. Passed 4-6-70.)

539.10 - Enforcement.

(a) Officials. The Director, park attendants and all other law enforcement officers shall, in connection with their duties imposed by law, diligently enforce the provisions of this chapter.

(b) Ejectment. The Director and any park attendant or police officer shall have the authority to eject from the park any person acting in violation of this chapter.

(c) Fees and charges. The Director has the duty to collect fees and charges for any activity for which fees and charges are made by the Recreation Department, and any person failing to pay the same, or who acts in violation of this chapter shall be subject to penalty as provided in Section 539.99.

(Ord. 77-92. Passed 8-15-77.)

539.11 - Use of Cahoon Memorial Park.

Only residents or their invited guests may use Cahoon Memorial Park. No person who is not a resident of the City or an invited guest of such resident shall use the facilities of Cahoon Memorial Park.

(Ord. 70-41. Passed 4-6-70.)

539.12 - Trustees.
Nothing in this chapter shall be deemed to abrogate, restrict, modify, alter or change the rights, duties or obligations of the Trustees of the Cahoon Memorial Park as set forth in the Will of Ida Maria Cahoon dated June 16, 1917. (See page 28D of the Preliminary Unit).

(Ord. 70-41. Passed 4-6-70.)

539.99 - Penalty.

Whoever violates any provision of this chapter is guilty of a minor misdemeanor.

(Ord. 79-82. Passed 6-18-79.)

and present 539.07 is hereby repealed.

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

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

PASSED:

__________________________
PRESIDENT OF COUNCIL

__________________________
CLERK

__________________________
MAYOR

05.07.19 jt
RESOLUTION NO.
INTRODUCED BY:

A RESOLUTION
AUTHORIZING THE FILING OF A NATUREWORKS GRANT APPLICATION
WITH THE OHIO DEPARTMENT OF NATURAL RESOURCES,
AND DECLARING AN EMERGENCY.

WHEREAS, the State of Ohio through the Ohio Department of Natural Resources (ODNR) administers financial assistance for public recreation purposes through the NatureWorks Grant Program; and

WHEREAS, the City of Bay Village desires financial assistance in the amount of $41,450.00 under the NatureWorks Grant Program for the purchase and installation of new playground equipment at Bradley Road Park and has prepared the application for submission;

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

SECTION 1. That Council hereby authorizes the application to ODNR for financial assistance in the amount of $41,450.00, provision of all information and documentation required to become eligible for possible funding assistance, and execution of any agreements necessary to receive any awarded funds.

SECTION 2. That Council hereby agrees to obligate the funds required to satisfactorily complete the proposed project and become eligible for reimbursement under the terms of the NatureWorks Grant Program, and $10,000.00 previously allocated towards the proposed project.

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

SECTION 4. That this resolution is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety and welfare, and for the further reason that it is necessary to authorize the filing of said application in a timely manner, 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
Resolution – NatureWorks Grant Round 26

APPROVED:

________________________
MAYOR

051519 kek

REQUIRED CERTIFICATE OF RECORDING OFFICER

I, the undersigned, hereby certify, that the foregoing is a true and correct copy of resolution adopted by the Council of the City of Bay Village, Ohio held on the ___ day in the month of __________, 2019, and that I am a duly authorized to execute this certificate.

________________________
(original signature)        _______________________
(title)
ORDINANCE NO.
INTRODUCED BY:

AN ORDINANCE
AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH FIRSTENERGY SOLUTIONS CORP. (FES), FOR THE SUPPLY OF UTILITY SERVICES TO THE INHABITANTS OF THE CITY OF BAY VILLAGE AS GOVERNMENTAL AGGREGATORS, AND DECLARING AN EMERGENCY

WHEREAS, by and through Ordinance No. 10-13 Council authorized all necessary actions to effect a governmental electricity aggregation program pursuant to the Ohio Revised Code; and

WHEREAS, on May 4th, 2010, the electors of the City of Bay Village voted to approve the City’s authority to aggregate for the provision of competitive retail electric service; and

WHEREAS, by and through Ordinance 19-44 Council authorized Amendment to the Electric Power Aggregation Plan of Operation and Governance regulating competitive retail electric service; and

WHEREAS, the City’s consultant Sustainable Energy Services Inc. recommends that an agreement be entered into with FirstEnergy Solutions Corp. (FES), for the supply of utility services to the inhabitants of the City of Bay Village as governmental aggregators;

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

SECTION 1. That the Mayor be and she is hereby authorized to enter into an agreement with FirstEnergy Solutions Corp. (FES), for the supply of utility services to the residents of the City of Bay Village as more fully set forth in the Master Agreement on file with the City of Bay Village with such revisions which may be approved by the Mayor and the Director of Law.

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

SECTION 3. That this ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety and welfare, and for the further reason to establish a program for competitive utility services, wherefore this ordinance shall be in full force and take effect immediately upon its passage and approval by the Mayor.
PASSED:

____________________________
PRESIDENT OF COUNCIL

____________________________
CLERK OF COUNCIL

APPROVED:

____________________________
MAYOR

05.16.19 jt