

VOTING ORDER

J. Fenderbosch
R. James
D. Kos
L. Meiners
O'Donnell
J. Shondel
D. Bucci

**CITY OF AVON LAKE
150 AVON BELDEN ROAD
AVON LAKE, OHIO**

The following business is to be considered at the regular meeting of the Avon Lake City Council on February 23, 2015 at 7:30 P.M. in the Council Chamber.

Pledge of Allegiance

Roll Call: Mr. Bucci, Mrs. Fenderbosch, Mr. James, Mr. Kos, Mr. Meiners, Mr. O'Donnell, Mr. Shondel, Mayor Zilka, Director of Law Lieberman, Director of Finance Presley, Public Works Director Reitz.

Approval of Minutes: February 9, 2015 Regular Council Meeting as prepared and published.

Public Hearing: Upon proposed amendments to Planning & Zoning Code Sections 1218.02, 1218.03, 1218.04, and 1218.05, and the addition of Section 1218.06 to clarify the zoning amendment procedure.

Correspondence

Reports
Mayor
Council President
Public Works Director
Director of Law
Director of Finance
Standing Committees
Special Committees

Audience Participation

Motions:

**Authorizing the purchase of gear for the Fire Department in the amount of \$13,000
– D. Kos.**

Authorizing the purchase of lifepak ECG monitors in the amount of \$11,913 – D. Kos.

Authorizing the Mayor to enter into a Memorandum of Understanding with New World Systems for the installation of updated software and hardware for the County 911 system – D. Kos.

Authorizing a service agreement with TAC Computers in the amount of \$11,614.80 – D. Kos.

Confirming the Mayor's appointment of Ron Jantz to the Cable Advisory Commission effective February 24, 2015 and expiring December 31, 2017 – J. Shondel.

Accepting the resignation of Tim Maloney from the West End Redevelopment Commission effective February 24, 2015 – D. Bucci.

Confirming the Mayor's appointment of Tim Maloney to the Civil Service Commission effective February 24, 2015 and expiring December 31, 2015 – D. Bucci.

Accepting the resignation of Don Cruse from the Avon Lake Historical Preservation Commission effective February 24, 2015 – D. Kos.

Legislation

Third Reading:

Temporary Legislation #10452, authorizing the donation of unclaimed bicycles.

Second Readings:

Temporary Legislation #10446, amending Sections 1218.02, 1218.03, 1218.04, and 1218.05 of the Codified Ordinances and adding Section 1218.06 to clarify the zoning amendment procedure.

Temporary Legislation #10454R, amending the Codified Ordinances to grant City Council and Boards, Commissions, and Committees the power to subpoena witnesses and records.

Temporary Legislation #10455, approving the use of submerged lands.→

Temporary Legislation #10456R, authorizing a personal services agreement for professional environmental consulting services.→

Temporary Legislation #10459, amending Codified Ordinance Section 260.06 (e) (2).

Temporary Legislation #10461, providing for the defense of the City in an action filed by James Pietrangelo II.→

Temporary Legislation #10462, providing for transfers.→

Temporary Legislation #10463, amending Ordinance No. 19-2015, confirming the appointment of the Mayor's Secretary.

Temporary Legislation #10464, amending Codified Ordinance Section 618.12 to allow the culling of deer on property owned or managed by the City.

Temporary Legislation #10465, authorizing the Mayor to enter into a cooperative service agreement with the US Department of Agriculture related to the deer management plan.

Miscellaneous Business and Announcements

Public Input

Executive Session

In compliance with Ohio Revised Code Section 121.22, Council will adjourn to Executive Session to discuss the discipline of a public employee and the purchase of land.

Reconvening of open Council Meeting

Adjournment

BY: Mr. Kos

TEMP NO: 10452

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE DONATION OF
UNCLAIMED PROPERTY IN THE POLICE DEPARTMENT.

WHEREAS, the City of Avon Lake desires to dispose of property that has been unclaimed for ninety (90) days, and

WHEREAS, the property to be disposed of is itemized on the list attached hereto, and consists of bicycles, and

WHEREAS, it has been recommended by the Chief of Police that the City donate this property which has been unclaimed for ninety (90) days to a non-profit organization known as Community Resource Services, and

WHEREAS, Section 737.32 O.R.C. allows such a donation, now therefore;

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVON LAKE,
STATE OF OHIO:

Section No. 1: That the City of Avon Lake does authorize the Chief of Police to donate the property on the attached list to Community Resource Services.

Section No. 2: That Community Resource Services shall provide a statement to the City of Avon Lake indicating that it is a non-profit organization and complies with the requirements of Section 737.32 O.R.C.

Section No. 3: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and any of its committees which resulted in such formal actions, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section No. 4: That this Ordinance shall be in full force and effect from the earliest period allowed by law.

1st reading: 1/26/15
2nd reading: 2/09/15
3rd reading:

PASSED: _____ President of Council

POSTED: _____ Approved

ATTEST: _____ Clerk of Council
Mayor



CITY OF AVON LAKE
POLICE DEPARTMENT

32855 WALKER ROAD --- AVON LAKE, OHIO 44012

TELEPHONE: (440) 933-4567

FAX: (440) 930-4106

Chief Streator,

The following bikes have been in the ALPD impound for over 90 days:

- AA1411069 – Next Power Climber Mountain Bike, 26”, Red/Black
- AA1407247 – Huffy Trail Runner, Pink/White
- AA1405970 – Omega Quest Mountain Bike, Black/Grey
- AA1406655 – Vertical Mountain Bike, 26”, Green
- AA1406104 – Giant Boulder
- AA1411474 – Raleigh 3.0 Sun Tour, 26”
- AA1411911 – BMS Chaos FS20
- AA1410384 – Mongoose Ledge 2.1
- AA1400503 – Roadmaster Mt. Sport
- AA1407386 – Huffy
- AA1407719 – Raleigh Rapide, Red
- AA1411315 – Female Mountain Bike, Black
- AA1411489 – Huffy Superia

ALPD plans on donating these bikes to Community Resource Services located at 33501-L Lake Road, Avon Lake, Ohio 44012 (440-933-5639). CRS is a 5013C non-profit organization.

Respectfully,

Det. Sgt. R. Reikowski #209

1/19/15

Sales and Use Tax Blanket Exemption Certificate

The purchaser hereby claims exception or exemption on all purchases of tangible personal property and selected services made under this certificate from:

(vendor's name)

and certifies that the claim is based upon the purchaser's proposed use of the items or services, the activity of the purchase, or both, as shown hereon:

Purchases directly related to fund raising for 501 (c) (3) Non-Profit Charitable Organization.

Tax Exempt #34-1595037

Purchaser must state a valid reason for claiming exception or exemption.

Avon/Avon Lake Community Resource Services

Purchaser's name

33501-L Lake Road

Street address

Avon Lake, OH 44012

City, state, ZIP code

Signature

Kristin Drene Client Coordinator

Title

1-5-2015

Date signed

N/A

Vendor's license number, if any

Vendors of motor vehicles, titled watercraft and titled outboard motors may use this certificate to purchase these items under the "resale" exception. Otherwise, purchaser must comply with either rule 5703-9-10 or 5703-9-25 of the Administrative Code.

This certificate cannot be used by construction contractors to purchase material for incorporation into real property under an exempt construction contract. Construction contractors must comply with rule 5703-9-14 of the Administrative Code.

BY: Mrs. Fenderbosch

TEMP NO: 10446

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTIONS 1218.02, 1218.03, 1218.04 AND 1218.05 OF THE CODIFIED ORDINANCES AND ADDING SECTION 1218.06 TO THE CODIFIED ORDINANCES TO CLARIFY THE ZONING AMENDMENTS PROCEDURE.

WHEREAS, Section 1218.02 of the Codified Ordinances states how amendments to the Zoning Code may be initiated;

WHEREAS, Section 1218.02, which permits amendments to either the text or map of the Zoning Code to be initiated by owners and others having an interest in a specific property, is inconsistent with Section 1218.03 of the Codified Ordinances, which restricts amendments initiated by owners and others having an interest in a specific property to map amendments; and

WHEREAS, Council has determined that it is advisable to amend Sections 1218.02, 1218.03, 1218.04 and 1218.05 of the Codified Ordinances and add new Section 1218.06 to the Codified Ordinances to clarify the zoning amendments procedure;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL
OF THE CITY OF AVON LAKE, STATE OF OHIO:

Section No. 1: That Section 1218.02 of the Codified Ordinances of the City is hereby amended as follows:

1218.02 INITIATION OF ZONING AMENDMENTS.

(a) Amendments to the Code, either text or map, may be initiated in one of the following ways:

~~(a) By(1) By the adoption of a motion by the Planning Commission.~~

~~(2) By the passage of a resolution by City Council.~~

(b) Amendments to the Zoning Map (i.e., the zoning classification of property) may also be initiated by the filing of an application to the Planning Commission by at least one owner or lessee of property or developer with an option on such property within the area proposed to be changed or affected by said amendment.

~~(b) By the adoption of a motion by the Planning Commission.~~

~~(c) By the passage of a resolution by City Council.~~

Section No. 2: That divisions (e), (f) and (g) of Section 1218.03, which read as follows:

- (e) Public Hearing and Notice by Council. Upon receipt from the recommendation from the Planning Commission, Council shall set a time for a public hearing on the proposed amendment. Notice of the public hearing shall be given by Council by at least one publication in one or more newspapers of general circulation in the City. Said notice shall be published at least thirty (30) days before the date of the required hearing. The published notice shall include the time and place of the public hearing, a summary of the proposed amendment and a statement that opportunity to be heard will be afforded to any person interested. During such thirty days, the text of the proposed amendment, maps or plans, if applicable, and the recommendations of the Planning Commission shall be on file for public examination in the office of the Clerk of Council or in such other office as is designated by Council.
- (f) Notice to Property Owners by Council. If the proposed amendment intends to rezone or redistrict ten or less parcels of land, as listed on the tax duplicate, written notice of the hearing shall be mailed by the Clerk of Council, by first class mail, at least thirty (30) days before the day of the public hearing, to all owners of property within 300 feet of such area proposed to be rezoned or redistricted, to the addresses of such owners appearing on the County Auditor's current tax list or the Treasurer's mailing list, and to such other list or lists that may be specified by Council. The notice shall contain the same information as required of notices published in newspapers as specified in subsection (e) hereof.
- (g) Action by Council. After the public hearing required by subsection (e) hereof, Council may:
 - (1) Approve the amendment as recommended by the Planning Commission, or approve it with some minor modifications thereof, with a simple majority;
 - (2) Approve the amendment which was recommended for disapproval by the Planning Commission with a 3/4 majority; or
 - (3) Deny the amendment.

Any such proposal may be amended prior to the voting thereon by Council without further notice or postponement, if such amendment to the proposal shall be germane to the subject matter thereof and is in accordance with the recommendation of the Commission. If no final action is taken within 180 days of the public hearing, it may be deemed a denial.

are hereby deleted.

Section No. 3: That Section 1218.04 of the Codified Ordinances of the City is hereby amended as follows:

1218.04 AMENDMENTS INITIATED BY PLANNING COMMISSION.

The Planning Commission, on its own initiative, may, by the passage of a motion, recommend to City Council changes in the Code and Zoning Map. After the Planning Commission has made a recommendation to City Council, Council shall follow the procedures for review and hearing of the proposed amendment as set forth in ~~Sections 1218.03(e) through 1218.03(g), inclusive~~ Section 1218.06.

Section No. 4: That division (c) of Section 1218.05 of the Codified Ordinances of the City is hereby amended as follows:

- (c) Public Hearing and Action by Council. After receiving a recommendation from the Planning Commission, Council shall follow the procedures for review and hearing of the proposed amendment as set forth in ~~Sections 1218.03(e) through 1218.03(g), inclusive~~ Section 1218.06.

Section No. 5: That there is hereby added new Section 1218.06 of the Codified Ordinances of the City to reads as follows:

1218.06 PUBLIC HEARING, NOTICE AND ACTION BY COUNCIL.

(a) Public Hearing and Notice by Council. Upon receipt of the recommendation from the Planning Commission pursuant to Subsection 1218.03(d), Section 1218.04 or Subsection 1218.05(b), Council shall set a time for a public hearing on the proposed amendment. Notice of the public hearing shall be given by Council by at least one publication in one or more newspapers of general circulation in the City. Said notice shall be published at least thirty (30) days before the date of the required hearing. The published notice shall include the time and place of the public hearing, a summary of the proposed amendment and a statement that opportunity to be heard will be afforded to any person interested. During such thirty days, the text of the proposed amendment, maps or plans, if applicable, and the recommendations of the Planning Commission shall be on file for public examination in the office of the Clerk of Council or in such other office as is designated by Council.

(b) Notice to Property Owners by Council. If the proposed amendment is an amendment to the Zoning Map and intends to rezone or redistrict ten or less parcels of land, as listed on the tax duplicate, written notice of the hearing shall be mailed by the Clerk of Council, by first class mail, at least thirty (30) days before the day of the public hearing, to all owners of property within 300 feet of such area proposed to be rezoned or redistricted, to the addresses of such owners appearing on the County Auditor's current tax list or the Treasurer's mailing list, and to such other list or lists that may be specified

by Council. The notice shall contain the same information as required of notices published in newspapers as specified in subsection (a) hereof.

(c) Action by Council. After the public hearing required by subsection (a) hereof, Council may:

- (1) Approve the amendment as recommended by the Planning Commission, or approve it with some minor modifications thereof, with a simple majority;
- (2) Approve the amendment which was recommended for disapproval by the Planning Commission with a 3/4 majority; or
- (3) Deny the amendment.

Any such proposal may be amended prior to the voting thereon by Council without further notice or postponement, if such amendment to the proposal shall be germane to the subject matter thereof and is in accordance with the recommendation of the Commission. If no final action is taken within 180 days of the public hearing, it may be deemed a denial.

Section No. 6: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and any of its committees which resulted in such formal actions, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section No. 7: That this Ordinance shall be in full force and effect from and after the earliest period allowed by law.

1st reading: 01/12/15

2nd reading:

3rd reading:

PASSED: _____
President of Council

POSTED: _____
Approved

ATTEST: _____
Clerk of Council Mayor

BY: Mr. James

TEMP NO: 10454R

ORDINANCE NO. _____

AN ORDINANCE ENACTING SECTION 220.26 AND CHAPTER ~~298~~268 OF THE CODIFIED ORDINANCES AND AMENDING SECTIONS 260.22, 278.04, 1468.05 and 1476.36 OF THE CODIFIED ORDINANCES TO GRANT CITY COUNCIL AND THE BOARDS, COMMISSIONS AND COMMITTEES THE POWER TO SUBPOENA WITNESSES AND RECORDS; AND DECLARING AN EMERGENCY.

WHEREAS, Council has determined that it is advisable to grant Council, Planning Commission and all Boards, Commissions and Committees established by the Charter or ordinance the power to subpoena witnesses and records;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVON LAKE, STATE OF OHIO:

Section No. 1: That there is hereby enacted new Section 220.26 of the Codified Ordinances of Avon Lake, to read as follows:

220.26 SUBPOENAS.

Subject to the limitations imposed by Section 268.02 of the Codified Ordinances, Council shall have the power to subpoena witnesses and books, documents, records or other evidence at the request of any member of Council. The President of Council or, in his or her absence or unavailability, the President Pro Tem shall sign any subpoena to be issued pursuant to this subsection, and such subpoena shall be served and executed by any person authorized to serve subpoenas, and in the manner required, by Rule 45 of the Ohio Rules of Civil Procedure. The return of such subpoena shall be filed with the Clerk of Council. The Director of Law, the Assistant Director of Law or in their absence or unavailability any member of Council may administer the requisite oaths to witnesses, and Council shall have the same power to compel the giving of testimony by the attending witnesses as is conferred upon courts of justice. In all such cases, witnesses shall be entitled to the same privileges, immunities and compensation as are allowed witnesses in civil cases, and the cost shall be paid from the General Fund of the Municipality. Any person who refuses to obey a subpoena issued pursuant to this subsection or to testify in response to such subpoena shall be guilty of contempt of Council, a misdemeanor of the third degree. ~~In any prosecution brought pursuant to this subsection, it shall be a defense that the testimony to be compelled or books, documents, records or other evidence to be produced is protected from release or disclosure by common law privilege or by any federal, state or local law.~~

Section No. 2: That Section 260.22 of the Codified Ordinances of the City is hereby amended as follows:

260.22 JURY AND WITNESS DUTY.

In the event a City employee is called for jury duty or is required to testify as a witness pursuant to subpoena or court order issued by any court of record and of competent jurisdiction, or by Council or any Board or Commission of the City, the City shall pay to such employee such compensation as the said employee was to receive as pay from the City based on his or her pay rate for the regularly scheduled work time lost in fulfilling the jury duty or witness call responsibility, if any, and excluding overtime. Such employee must provide adequate evidence to prove to the satisfaction of the City that he or she is entitled to such regular compensation. Notwithstanding the provisions of this section, no City employee shall receive such jury duty or witness compensation as called for herein if such employee is also entitled to receive any benefit or compensation for jury duty or serving as a witness during regularly scheduled work time by virtue of the terms of a collective bargaining agreement with the City in effect at the time involved.

Section No. 3: That Subsection 278.04(b) of the Codified Ordinances of the City is hereby amended as follows:

(b) The Commission shall also provide by rule, within the framework set forth in Section 256.13, for appeals from the action of the Mayor, department heads, elected officials, boards and Council in any case of transfer, reduction or removal. The Commission is authorized to subpoena witnesses and to require the production of records in accordance with Chapter ~~298~~268 of the Codified Ordinances. The action of the Commission on any such appeal shall be final, except as otherwise provided by laws of the State.

Section No. 4: That there is hereby enacted new Chapter ~~298~~268 of the Codified Ordinances of Avon Lake, to read as follows:

**CHAPTER ~~298~~268
Subpoenas**

268.01 POWER TO ISSUE SUBPOENAS.

Every Board, Commission or Committee created by the Charter or ordinance that has not otherwise been granted such power by the Charter or ordinance shall have the power to subpoena witnesses and books, documents, records or other evidence at the request of any member of such Board, Commission or Committee or at the request of any person who will appear at a hearing before such Board, Commission or Committee. The President, Chair or other head of such Board, Commission or, in his or her absence or unavailability, the acting head of such Board, Commission or Committee shall sign any subpoena to be issued pursuant to this subsection, and such subpoena shall be served and

executed by any person authorized to serve subpoenas, and in the manner required, by Rule 45 of the Ohio Rules of Civil Procedure. The return of such subpoena shall be filed with the clerk or secretary of such Board, Commission or Committee. The Director of Law, the Assistant Director of Law or, in their absence or unavailability, the Chair or any other member of such Board, Commission or Committee may administer the requisite oaths to witnesses, and such Board, Commission or Committee shall have the same power to compel the giving of testimony by the attending witnesses as is conferred upon courts of justice. In all such cases, witnesses shall be entitled to the same privileges, immunities and compensation as are allowed witnesses in civil cases, and the cost shall be paid from the General Fund of the Municipality. Any person who refuses to obey a subpoena issued pursuant to this subsection or to testify in response to such subpoena shall be guilty of contempt of such Board, Commission or Committee, a misdemeanor of the fourth degree.

268.02 LIMITATIONS ON THE ISSUANCE OF SUBPOENAS.

The power of Council and every Board, Commission or Committee to issue subpoenas shall be subject to the following limitations:

- (a) The body issuing the subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena.
- (b) The subpoena must allow the person to whom it is issued a reasonable time to comply.
- (c) The subpoena must be pertinent to the subject matter area that is being heard or investigated by the body issuing the subpoena.
- (d) The subject matter area to which such subpoena relates must be one that the body issuing the subpoena is authorized to hear or investigate.

In any prosecution brought pursuant to ~~this subsection~~ for the refusal to obey a subpoena, it shall be a defense that the subpoena was issued in violation of this section, that the subpoena subjects the person to undue expense or burden, or that the testimony to be compelled or books, documents, records or other evidence to be produced is protected from release or disclosure by common law privilege or by any federal, state or local law.

Section No. 5: That Subsection 1468.05(f) of the Codified Ordinances of the City is hereby amended as follows:

- (f) The Board may subpoena witnesses and require the production of records in accordance with Chapter ~~298~~268 of the Codified Ordinances.

Section No. 6: That Subsection 1476.36(g) of the Codified Ordinances of the City is hereby amended as follows:

(g) The Board shall issue subpoenas upon written request for the attendance of witnesses and production of documents in accordance with Chapter ~~298~~268 of the Codified Ordinances.

Section No. 7: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and any of its committees which resulted in such formal actions, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section No. 8: That this Ordinance is hereby declared to be an emergency measure, the emergency being the necessity of ensuring that Council and all Boards, Commissions and Committees are able to obtain all relevant information necessary to make informed decisions, thus for the health, safety, and welfare of the residents of Avon Lake. Therefore, this Ordinance shall be in full force and effect from and immediately after its passage and approval by the Mayor.

1st reading:

2nd reading:

3rd reading:

PASSED: _____
President of Council

POSTED: _____
Approved

ATTEST: _____
Clerk of Council Mayor

December 3, 2014

February 18, 2015

U:\ALieberman\Ordinances\Planning, Council & Boards Subpoena Powers Ord3.doc

BY: Mr. James

TEMP NO: 10455

RESOLUTION NO. _____

A RESOLUTION APPROVING THE USE OF SUBMERGED
LANDS, AND DECLARING AN EMERGENCY.

WHEREAS, a resident at 33850 Lake Road, in the City of Avon Lake has requested permission to construct a breakwall in Lake Erie at Avon Lake, Lorain County, Ohio, and

WHEREAS, as part of the application to lease submerged land, the parties involved must submit to the Ohio Department of Natural Resources, a resolution from the Avon Lake City Council approving the proposed use of the submerged lands, now therefore;

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF AVON LAKE,
STATE OF OHIO:

Section No. 1: That the City of Avon Lake finds and determines that the submerged lands to be occupied by the project for the construction of a breakwall at 33850 Lake Road are not necessary or required for the construction, maintenance, or operation by the municipal corporation of breakwaters, piers, docks, wharves, bulkheads, connecting ways, water terminal facilities and improvements and marginal highways in the aid of navigation and water commerce and that the land uses specified in the application comply with regulation of permissible land use under a waterfront plan of the local authority.

Section No. 2: That the property owner shall take the necessary precautions to avoid damage to the municipal infrastructure and shall be responsible for reimbursement to the City of any cost necessary to repair damage caused by the construction described in Section No. 1 herein.

Section No. 3: That prior to constructing the project described in Section No. 1 herein, the property owner shall contact the Public Works Department in order that said Public Works Department may inspect the property and municipal infrastructure in the area, by videotape or such other means, to assess the area prior to the project for the purpose of determining if any damage is incurred as a result of the construction of the project referred to herein.

Section No. 4: That the Clerk of Council is hereby authorized and directed to forward a certified copy of this

Resolution to the Ohio Department of Natural Resources, Office of Real Estate and Land Management.

Section No. 5: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and any of its committees which resulted in such formal actions, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section No. 6: That this Resolution is hereby declared to be an emergency measure in order for the property owner to begin the approval process and to immediately secure materials to begin the erosion control project to protect the Lake Erie shoreline, thus for the public health, safety, and welfare. Therefore, this Resolution shall be in full force and effect from and immediately after its passage and approval by the Mayor.

1st reading: 02/09/15
2nd reading:
3rd reading:

PASSED:	_____	_____
		President of Council
POSTED:	_____	_____
		Approved
ATTEST:	_____	_____
	Clerk of Council	Mayor

BY: Mr. James

TEMP NO: 10456R

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE
A PERSONAL SERVICES AGREEMENT FOR PROFESSIONAL
ENVIRONMENTAL CONSULTING SERVICES, AND DECLARING
AN EMERGENCY.

WHEREAS, Section 59 of the Avon Lake City Charter, entitled Competitive Bidding, authorizes the expenditure of funds exceeding \$25,000 without public bidding for "personal services" as defined in the Charter, and

WHEREAS, the administration and Council desire to continue to retain the personal services of a professional environmental consulting firm to monitor the closed landfill at the Service Department, now therefore;

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVON LAKE,
STATE OF OHIO:

Section No. 1: That the Mayor is hereby authorized and directed to enter into an Agreement with HzW Environmental Consultants, LLC of Mentor, Ohio for the purpose of retaining personal, professional services to monitor the closed landfill.

Section No. 2: That said Agreement shall state among its terms that the cost of said personal, professional services shall not exceed ~~\$58,100.00~~ **\$65,100.00**. Upon receipt of an itemized monthly billing, in conformance with the guidelines and scope of work as set forth in said Agreement, to the satisfaction of the Public Works Director, the Director of Finance is hereby directed to deliver to HzW Environmental Consultants, LLC the warrant of this City in the amount due and payable and to cause said warrant to be paid.

Section No. 3: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and any of its committees which resulted in such formal actions, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section No. 4: That this Ordinance is hereby declared to be an emergency measure, the emergency being the necessity of providing for professional environmental consulting services to test samples for groundwater monitoring according to EPA

requirements, thus for the health, safety, and welfare of the public. Therefore, this Ordinance shall be in full force and effect from and immediately after its passage and approval by the Mayor.

1st reading: 2/09/15
2nd reading:
3rd reading:

PASSED: _____
President of Council

POSTED: _____
Approved

ATTEST: _____
Clerk of Council Mayor

BY: Mr. Bucci

TEMP NO: 10459

ORDINANCE NO. _____

AN ORDINANCE AMENDING CODIFIED ORDINANCE
SECTION 260.06 (e) (2), AND DECLARING AN EMERGENCY.

WHEREAS, the Human Resources Committee recommended amending
Codified Ordinance Section 260.06 (e) (2), and

WHEREAS, Council coming now to consider said recommendation
approves it in full, now therefore;

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVON LAKE,
STATE OF OHIO:

Section No. 1: That Codified Ordinance Section 260.06 (e)
(2) is hereby amended as follows:

260.06 HOLIDAYS

- (e) (1) All other full-time Municipal employees shall be
entitled to the following holidays:
- | | |
|------------------|--|
| New Year's Day | Thanksgiving Day |
| Good Friday | Day after Thanksgiving Day |
| Memorial Day | Christmas Day |
| Independence Day | Four personal holidays after
the first anniversary of
employment |
| Labor Day | |

(2) The Mayor shall receive two personal holidays in
addition to the ~~three~~ **four** personal holidays provided in this
division.

Section No. 2: That it is found and determined that all
formal actions of this Council concerning and relating to the
adoption of this Ordinance were adopted in an open meeting of
this Council and that all deliberations of this Council and any
of its committees which resulted in such formal actions, were in
meetings open to the public, in compliance with all legal
requirements, including Section 121.22 of the Ohio Revised Code.

Section No. 3: That this Ordinance is hereby declared to be
an emergency measure to accurately reflect the personal holidays
of the Mayor and have consistency with references in the Codified
Ordinances. Therefore, this Ordinance shall be in full force and
effect from and immediately after its passage and approval by the
Mayor.

1st reading: 02/09/15
2nd reading:
3rd reading:

PASSED: _____

President of Council

POSTED: _____

Approved

ATTEST: _____

Clerk of Council

Mayor

BY: Mr. Meiners

TEMP NO: 10461

ORDINANCE NO. _____

AN ORDINANCE PROVIDING FOR THE DEFENSE OF THE CITY OF AVON LAKE IN AN ACTION FILED BY JAMES E. PIETRANGELO, II, AND DECLARING AN EMERGENCY.

WHEREAS, the Council of the City of Avon Lake has instructed the Law Director and Assistant Law Director to defend the City of Avon Lake, which has been named in an action filed by James E. Pietrangelo, II, now therefore;

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVON LAKE,
STATE OF OHIO:

Section No. 1: That the Law Director and Assistant Law Director be, and they are hereby authorized and directed to defend and prepare on behalf of the City of Avon Lake and its departments and employees the legal proceedings necessary in connection with an action filed by James E. Pietrangelo, II against the City of Avon Lake and Duane Streater.

Section No. 2: That the necessary expenses for said representation be paid upon approval voucher submitted therefore, in an amount not to exceed \$10,000.00.

Section No. 3: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and any of its committees which resulted in such formal actions, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section No. 4: That this Ordinance is hereby declared to be an emergency measure, the emergency being the necessity of preparing and filing the necessary legal proceedings in a timely manner to defend the City and uphold the laws and regulations of the City, thus for the health, safety, and welfare of the public. Therefore, this Ordinance shall go into immediate force and effect from and after its passage and approval by the Mayor.

PASSED: _____
President of Council

POSTED: _____
Approved

ATTEST: _____
Clerk of Council Mayor

BY: Mr. Meiners

TEMP NO: 10462

ORDINANCE NO. _____

AN ORDINANCE PROVIDING FOR TRANSFERS, AND DECLARING AN EMERGENCY.

WHEREAS, it has been determined by the Finance Director that certain transfers of funds are needed, now therefore;

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVON LAKE, STATE OF OHIO:

Section No. 1: That the following transfers be executed for the month of February:

From 204	Income Tax Transfer Fund	\$812,500.00
To 101	General Fund	\$609,375.00
To 207	Income Tax Capital Improvement Fund	\$162,500.00
To 301	Bond Retirement (Unvoted) Fund	\$ 40,625.00

Section No. 2: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and any of its committees which resulted in such formal actions, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section No. 3: That this Ordinance is hereby declared to be an emergency measure, the emergency being the necessity of transferring funds for the current and necessary expenses of the City of Avon Lake, thus for the public welfare. Therefore, this Ordinance shall be in full force and effect from and immediately after its passage and approval by the Mayor.

PASSED: _____

Council President

POSTED: _____

Approved

ATTEST: _____

Clerk of Council

Mayor

BY: Mr. Bucci

TEMP NO: 10463

ORDINANCE NO. _____

AN ORDINANCE AMENDING ORDINANCE NO. 19-2015
CONFIRMING THE APPOINTMENT OF MARY KRUPAR TO THE
POSITION OF SECRETARY TO THE MAYOR, AND DECLARING
AN EMERGENCY.

WHEREAS, it has been determined that Ordinance No.
19-2015 needs to be amended, now therefore;

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVON LAKE,
STATE OF OHIO:

Section No. 1: That Ordinance No. 19-2015 is hereby
amended as follows:

**Section No. 4: That in addition to applicable benefits
provided to full-time, non-bargaining unit employees, Mrs.
Krupar shall receive 8.33 paid vacation days to be taken by
December 31, 2015. Mrs. Krupar shall also receive two
personal days to be taken by December 31, 2015.**

Section No. 2: That it is found and determined that
all formal actions of this Council concerning and relating
to the adoption of this Ordinance were adopted in an open
meeting of this Council and that all deliberations of this
Council and any of its committees which resulted in such
formal actions, were in meetings open to the public, in
compliance with all legal requirements, including Section
121.22 of the Ohio Revised Code.

Section No. 3: That this Ordinance is hereby declared
to be an emergency measure, the emergency being the
necessity to fulfill commitments made to an employee and to
advise the Finance Department in order for their payroll
records to be accurate. Therefore, this ordinance shall be
in full force and effect immediately upon passage and
approval by the Mayor.

PASSED: _____

President of Council

POSTED: _____

Approved

ATTEST: _____

Clerk of Council

Mayor

BY: Mr. Shondel

TEMP NO: 10464

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 618.12 OF THE CODIFIED ORDINANCES TO ALLOW THE CULLING OF DEER ON PROPERTY OWNED OR MANAGED BY THE CITY OF AVON LAKE THROUGH THE USE OF SHARPSHOOTERS AND TO PROHIBIT INTERFERENCE WITH SUCH CULLING, AND DECLARING AN EMERGENCY.

WHEREAS, the overpopulation of white-tailed deer within the City of Avon Lake negatively impacts public health and safety primarily due to an excessive number of deer-related vehicular accidents, as well as destruction of natural habitats and biodiversity, increases the risk of disease transmission to humans from deer parasites, and damage to private and public property; and,

WHEREAS, in an attempt to control the deer population, City Council amended Section 618.12 of the Codified Ordinances to allow the taking of white-tailed deer with the use of archery equipment; and,

WHEREAS, although helpful, the archery program has not significantly reduced the deer population; and,

WHEREAS, City Council believes additional action is required to manage the deer population; and,

WHEREAS, City Council believes that the most effective, safe and humane way to reduce the deer population is sharpshooting by competent markspersons using firearms; and,

WHEREAS, City Council desires to initiate a sharpshooting deer culling program on property owned or managed by the City; now therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVON LAKE,
STATE OF OHIO:

Section No. 1: That Section 618.12 of the Codified Ordinances of Avon Lake is hereby amended as follows:

618.12 HUNTING PROHIBITED; EXCEPTIONS.

(a) Except as provided in **divisions (f) and (g)** of this section, no person shall hunt with firearms or other weapons within the City, except for the taking of white-tailed deer with the use of archery equipment that is legal

as described in ORC 1501:31-15-11 and in accordance with the terms, requirements, restrictions and conditions of a Municipal Deer Control Permit on:

(1) Property not owned or managed by the City of Avon Lake during Ohio's deer hunting seasons only after the following:

A. An application for a Municipal Deer Control Permit has been submitted to the Chief of Police during a designated application period containing:

1. A map, with boundaries outlined on the map, of the property or properties (collectively, the "Subject Property") on which the applicant(s) wishes to take deer and the approximate location(s) on the Subject Property where the shooter(s) will be stationed, and
2. The County Auditor's parcel numbers of the Subject Property and total acreage, and
3. Signatures of all owners of the Subject Property, and
4. A list of the names, current residence addresses and ages of all shooters that are applying to shoot on the Subject Property, and
5. Verification that each shooter identified in the application has a current Ohio Hunting License, and
6. Verification that each shooter identified in the application has satisfactorily completed the Ohio Hunter Education Course.

B. The Chief of Police or his designee has issued a Municipal Deer Control Permit to the applicant(s) after visiting the Subject Property and determining that shooting with archery equipment can be

safely conducted on the Subject Property and approving the shooters identified in the application, taking into account the following factors:

1. Proximity of the proposed shooting locations to structures adjacent to the Subject Property, and
2. Characteristics of the Subject Property and neighboring properties.

(2) Property owned or managed by the City of Avon Lake (the "Subject City Property") during Ohio's deer hunting seasons only after the following:

A. An application for a Municipal Deer Control Permit to take deer on the Subject City Property has been submitted to the Chief of Police during a designated application period containing:

1. A list of the names, current residence addresses and ages of all shooters that are applying to take deer on the Subject City Property, and
2. Verification that each shooter identified in the application has a current Ohio Hunting License, and
3. Verification that each shooter identified in the application has satisfactorily completed the Ohio Hunter Education Course.

B. The Chief of Police or his designee has issued a Municipal Deer Control Permit to the applicant(s) after visiting the Subject Property and determining that shooting with archery equipment can be safely conducted on the Subject Property and approving the shooters identified in the application, taking into account the following factors:

1. Proximity of the proposed shooting locations to structures adjacent to the Subject Property, and
 2. Characteristics of the Subject Property and neighboring properties.
- (3) Property not owned or managed by the City for which a Deer Damage Control Permit (ODNR 9003) from the Ohio Division of Wildlife has been issued (the "Control Property") only after the following:
- A. Not later than 15 days after the owner(s) of the Control Property has received a Deer Damage Control Permit from the Ohio Division of Wildlife, an application by the owner of the Control Property for a Municipal Deer Control Permit to shoot on the Control Property has been submitted to the Chief of Police containing:
1. A map, with boundaries outlined on the map, of the Control Property and the approximate location(s) on the Control Property where the shooter(s) will be stationed, and
 2. The County Auditor's parcel numbers of the Control Property and total acreage, and
 3. A list of the names, current residence addresses and ages of all shooters that will be permitted to take deer on the Control Property, and
 4. A copy of the Deer Damage Control Permit issued by the Ohio Division of Wildlife, and
 5. Verification that each shooter identified in the application has a current Ohio Hunting License, and

6. Verification that each shooter identified in the application has satisfactorily completed the Ohio Hunter Education Course.

B. The Chief of Police or his designee has issued a Municipal Deer Control Permit to the applicant after visiting the Control Property and determining that shooting with archery equipment can be safely conducted on the Control Property and approving the shooters identified in the application, taking into account the following factors:

1. Proximity of the proposed shooting locations to structures adjacent to the Control Property, and
2. Characteristics of the Control Property and neighboring properties.

(4) Property owned or managed by the City for which a Deer Damage Control Permit from the Ohio Division of Wildlife has been issued (the "Control City Property") only after the following:

A. An application for a Municipal Deer Control Permit to take deer on the Control City Property has been submitted to the Chief of Police containing:

1. A list of the names, current residence addresses and ages of all shooters that are applying to take deer on the Control City Property, and
2. Verification that each shooter identified in the application has a current Ohio Hunting License, and
3. Verification that each shooter identified in the application has

satisfactorily completed the Ohio Hunter Education Program.

B. The Chief of Police or his designee has issued a Municipal Deer Control Permit to the applicant(s) after determining that shooting with archery equipment can be safely conducted on the Control City Property and approving the shooters identified in the application, taking into account the following factors:

1. Proximity to structures adjacent to the Control City Property, and
2. Characteristics of the Control City Property and neighboring properties.

(b) A Municipal Deer Control Permit may be denied if:

- (1) Any of the applicants has violated any provision of this section on any prior occasion, or
- (2) The application is incomplete, or
- (3) False information has been provided on the application.

(c) The Chief of Police or his designee may attach to a Municipal Deer Control Permit any terms, requirements, restrictions or conditions that the Chief of Police or his designee may deem appropriate for the protection of the public or neighboring properties.

(d) Shooting may only be conducted from a fixed elevated position at least ten feet off the ground, unless the Chief of Police or his designee waives such requirement.

(e) Prior to the issuance of a Municipal Deer Control Permit, the Chief of Police or his designee shall personally notify or notify by ordinary mail the occupants of properties that share a common boundary with any portion of the Subject Property, Subject City Property, Control Property, or Control City Property, as the case may be, that an application for a Municipal Deer Control Permit for use on such Subject Property, Subject City Property, Control Prop-

erty, or Control City Property has been received, unless the Chief of Police or his designee, in his discretion determines that such notification is unnecessary or impractical. The failure of the Chief of Police or his designee to provide such notification shall not invalidate a Municipal Deer Control Permit.

(f) Except as otherwise provided by and excepting white-tailed deer, taking by the use of traps shall not be prohibited.

(g) The City may utilize sharpshooters with firearms to cull white-tailed deer on property owned or managed by the City or, with the consent of the co-owners or co-managers, on property co-owned or co-managed by the City, provided that:

- (1) The Chief of Police or his designee has determined that such sharpshooting can be safely conducted on such property; and
- (2) Such sharpshooters are obtained through a federal or state agency; and
- (3) Such culling has been approved by the Ohio Department of Natural Resources, Division of Wildlife.

(h) No person may, for the purpose of hindering or preventing the lawful culling of white-tailed deer pursuant to division (g) of this section engage in any of the following conduct:

- (1) Block, obstruct, impede or attempt to block, obstruct or impede a person lawfully engaged in such culling;
- (2) Erect a barrier with the intent to deny ingress or egress from the areas where such culling is lawfully being conducted;
- (3) Make or attempt to make unauthorized physical contact with or in any way interfere with a person lawfully engaged in such culling; or
- (4) Make or attempt to make loud noises or gestures, set out or attempt to set out animal baits, scents, lures or human scent, use

any other natural or artificial visual, aural, olfactory or physical stimuli, or engage in or attempt to engage in any other similar action or activity in order to interfere with such culling.

(i) Whoever violates this section is guilty of a misdemeanor of the first degree and shall be subject to the penalty provided in Section 698.02.

Section No. 2: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were conducted in an open meeting of this Council and that all deliberations of this Council and any of its committees that resulted in such formal actions, were in meetings open to the public, in accordance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section No. 3: That this Ordinance is hereby declared to be an emergency measure necessary to protect the health and safety of the City's residents, the emergency being the necessity to begin the process of reducing the deer population while conditions are favorable. Therefore, this Ordinance shall be in full force and effect immediately after its passage and approval by the Mayor.

1st reading:
2nd reading:
3rd reading:

PASSED: _____
President of Council

POSTED: _____
Approved

ATTEST: _____
Clerk of Council Mayor

BY: Mr. Shondel

TEMP NO: 10465

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING A COOPERATIVE SERVICE AGREEMENT BETWEEN THE CITY OF AVON LAKE AND THE UNITED STATES DEPARTMENT OF AGRICULTURE, ANIMAL AND PLANT HEALTH INSPECTION SERVICE RELATED TO THE DEER MANAGEMENT PLAN, AND DECLARING AN EMERGENCY.

WHEREAS, the overpopulation of white-tailed deer within the City of Avon Lake negatively impacts public health and safety primarily due to an excessive number of deer-related vehicular accidents, as well as destruction of natural habitats and biodiversity, increases the risk of disease transmission to humans from deer parasites, and damage to private and public property; and,

WHEREAS, it has been determined that it is in the best interest of the City to implement a comprehensive deer management plan to reduce the deer population of the City to a level that is acceptable from a safety and nuisance perspective and thereafter to maintain the deer population at such level; and,

WHEREAS, as part of the City's comprehensive deer management plan, it is necessary to authorize a cooperative service agreement with the United States Department of Agriculture, Animal and Plant Health Inspection Service, as recommended by the Environmental Committee of City Council; now therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVON LAKE,
STATE OF OHIO:

Section No. 1: That the Mayor be and he hereby is authorized and directed to enter into a Cooperative Service Agreement with the United States Department of Agriculture, Animal and Plant Health Inspection Service as part of a comprehensive deer management plan at a cost not to exceed _____ Dollars (\$ _____), a copy of which proposed agreement is attached hereto and incorporated herein by reference.

Section No. 2: That the Mayor be and he hereby is authorized to execute and deliver on behalf of the City any and all instruments he may deem necessary or advisable to implement the Cooperative Service Agreement

Section No. 3: That it is found and determined that all formal actions of this Council concerning and relating to the

adoption of this Ordinance were conducted in an open meeting of this Council and that all deliberations of this Council and any of its committees that resulted in such formal actions, were in meetings open to the public, in accordance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section No. 4: That this Ordinance is hereby declared to be an emergency measure necessary to protect the health and safety of the City's residents, the emergency being the necessity to begin the process of reducing the deer population while conditions are favorable. Therefore, this Ordinance shall be in full force and effect immediately after its passage and approval by the Mayor.

1st reading:
2nd reading:
3rd reading:

PASSED:	_____	_____
		President of Council
POSTED:	_____	_____
		Approved
ATTEST:	_____	_____
	Clerk of Council	Mayor

February 13, 2015
U:\ALieberman\Deer Management\Cooperative Service Agreement Ord1.docx

WITH 2 AMENDMENTS

PAGE 2 - DELETE .. PRIVATE PROPERTIES ..

PAGE 6 - ADD .. ISSUANCE OF MDCP BY CHIEF OF POLICE

Agreement #:
Accounting Code:
WBS Element:

COOPERATIVE SERVICE AGREEMENT
between
THE CITY OF AVON LAKE
and
UNITED STATES DEPARTMENT OF AGRICULTURE
ANIMAL AND PLANT HEALTH INSPECTION SERVICE (APHIS)
WILDLIFE SERVICES (WS)

ARTICLE 1

The purpose of this Cooperative Service Agreement is to allow for reimbursement of funds expended by the APHIS WS program while assisting the CITY OF AVON LAKE with initiating the CITY OF AVON LAKE's White-tailed Deer Management Plan as detailed in the attached work plan and financial plan.

ARTICLE 2

APHIS WS has statutory authority under the Act of March 2, 1931 (46 Stat. 1468; 7 U.S.C.426-426b) as amended, and the Act of December 22, 1987 (101 Stat. 1329-331, 7 U.S.C. 426c), to cooperate with States, local jurisdictions, individuals, public and private agencies, organizations, and institutions while conducting a program of wildlife services involving mammal and bird species that are reservoirs for zoonotic diseases, or animal species that are injurious and/or a nuisance to, among other things, agriculture, horticulture, forestry, animal husbandry, wildlife, and human health and safety.

ARTICLE 3

APHIS WS and the CITY OF AVON LAKE mutually agree:

1. The parties' authorized representatives who shall be responsible for carrying out the provisions of this Agreement shall be:

CITY OF AVON LAKE

Joseph Reitz
Deer Management Coordinator
150 Avon Belden Road
Avon Lake, Ohio 44012
Phone: 440.933.6141 x1200
Fax: 440.930.4107

APHIS WS:

Andrew J. Montoney
State Director
USDA, APHIS, Wildlife Services
4469 Professional Parkway
Groveport, OH 43125-9229
Office: (614) 993-3444
Fax: (614) 836-5597

2. To meet as determined necessary by either party to discuss mutual program interests, accomplishments, needs, technology, and procedures to maintain or amend the Work Plan (Attachment A). Personnel authorized to attend meetings under this Agreement shall be the CITY OF AVON LAKE or his/her designee, the State Director or his/her designee, and/or those additional persons authorized and approved by the CITY OF AVON LAKE, and the State Director.
3. APHIS WS shall perform services more fully set forth in the Work Plan, which is attached hereto and made a part hereof. The parties may mutually agree in writing, at any time during the term of this Agreement, to amend, modify, add or delete services from the Work Plan.

ARTICLE 4

The CITY OF AVON LAKE agrees:

1. To authorize APHIS WS to conduct direct control activities to reduce human health and safety risks and property damage associated with white-tailed deer populations on CITY OF AVON LAKE property ~~and private properties where permission is obtained.~~ These activities are defined in the Work Plan (Attachment A). APHIS WS will be considered an invitee on the lands controlled by the CITY OF AVON LAKE. The CITY OF AVON LAKE will be required to exercise reasonable care to warn APHIS-WS as to dangerous conditions or activities in the project areas.
2. To reimburse APHIS WS for costs of services provided under this Agreement up to but not exceeding the amount specified in the Financial Plan (Attachment B) on a quarterly basis. The final quarterly invoice will arrive approximately by the end of November 2015. The CITY OF AVON LAKE will begin processing for payment invoices submitted by APHIS-WS within 30 days of receipt. The CITY OF AVON LAKE ensures and certifies that it is not currently debarred or suspended and is free of delinquent Federal debt.
3. To designate to APHIS WS the CITY OF AVON LAKE authorized individual whose responsibility shall be the coordination and administration of activities conducted pursuant to this Agreement.
4. To notify APHIS WS verbally or in writing as far in advance as practical of the date and time of any proposed meeting related to the program.
5. APHIS WS shall be responsible for administration and supervision of APHIS WS personnel and APHIS WS activities.
6. There will be no equipment with a procurement price of \$5,000 or more per unit purchased directly with funds from the cooperator for use solely on this project. All

other equipment purchased for the program is and will remain the property of APHIS WS.

7. To coordinate with APHIS WS before responding to all media requests.

ARTICLE 5

APHIS WS Agrees:

1. To conduct activities within the CITY OF AVON LAKE as described in the attached Work Plan.
2. Designate to the CITY OF AVON LAKE the authorized APHIS WS individual who shall be responsible for the joint administration of the activities conducted pursuant to this Agreement.
3. To invoice the CITY OF AVON LAKE for actual costs incurred by APHIS WS on a Quarterly basis, during the performance of services agreed upon and specified in the attached Work and Financial Plans. The final quarterly invoice will arrive approximately by the end of November 2015. APHIS WS shall keep records and receipts of all reimbursable expenditures hereunder for a period of not less than one year from the date of completion of the services provided under this Agreement and the CITY OF AVON LAKE shall have the right to inspect and audit such records.
4. To provide the CITY OF AVON LAKE an estimate of APHIS WS deer damage management expenditures prior to May 1, 2015.
5. To coordinate with the CITY OF AVON LAKE before responding to all media requests.

ARTICLE 6

This Agreement is contingent upon the passage by Congress of an appropriation from which expenditures may be legally met and shall not obligate APHIS WS upon failure of Congress to so appropriate. This Agreement may also be reduced or terminated if Congress only provides APHIS WS funds for a finite period under a Continuing Resolution.

ARTICLE 7

APHIS WS assumes no liability for any actions or activities conducted under this Cooperative Service Agreement except to the extent that recourse or remedies are provided by Congress under the Federal Tort Claims Act (28 U.S.C. 1346(b), 2401(b), and 2671-2680).

ARTICLE 8

Pursuant to Section 22, Title 41, United States Code, no member of or delegate to Congress shall be admitted to any share or part of this Agreement or to any benefit to arise therefrom.

ARTICLE 9

Nothing in this Agreement shall prevent APHIS WS from entering into separate agreements with any other organization or individual for the purpose of providing wildlife damage management services exclusive of those provided for under this agreement.

ARTICLE 10

The CITY OF AVON LAKE certifies that APHIS WS has advised the CITY OF AVON LAKE that there may be private sector service providers available to provide wildlife management services that the CITY OF AVON LAKE is seeking from APHIS WS.

ARTICLE 11

The performance of wildlife damage management actions by APHIS WS under this agreement is contingent upon a determination by APHIS WS that such actions are in compliance with the National Environmental Policy Act, Endangered Species Act, and any other applicable environmental statutes. APHIS WS will not make a final decision to conduct requested wildlife damage management actions until it has made the determination of such compliance.

ARTICLE 12

This Cooperative Service Agreement may be amended at any time by mutual agreement of the parties in writing. Also, this Agreement may be terminated at any time by mutual agreement of the parties in writing, or by one party provided that party notifies the other in writing at least 120 days prior to effecting such action. Further, in the event the CITY OF

AVON LAKE does not provide necessary funds, APHIS WS is relieved of the obligation to provide services under this agreement.

In accordance with the Debt Collection Improvement Act of 1996, the Department of Treasury requires a **Taxpayer Identification Number** for individuals or businesses conducting business with the agency.

CITY OF AVON LAKE's Taxpayer Identification Number (TIN): _____

BY: _____ Date _____

~~Mayor Greg Zilka~~
Mayor of the City of Avon Lake
150 Avon Belden Road
Avon Lake, Ohio 44012
Phone: (440) 930-4100
Fax: (440) 930-4107

**UNITED STATES DEPARTMENT OF AGRICULTURE
ANIMAL AND PLANT HEALTH INSPECTION SERVICE
WILDLIFE SERVICES**

BY: _____ Date _____

Andrew J. Montoney, State Director
USDA, APHIS, WS
4469 Professional Parkway
Groveport, OH 43125-9229
Office: (614) 993-3444
Fax: (614) 836-5597

ATTACHMENT A WORK PLAN

Introduction

The U.S. Department of Agriculture (USDA) is authorized to protect American agriculture and other resources from damage associated with wildlife. The primary authority for Wildlife Services (WS) is the Act of March 2, 1931 (46 Stat. 1468; 7 U.S.C.426-426b) as amended, and the Act of December 22, 1987 (101Stat. 1329-331, 7 U.S.C. 426c). Wildlife Services activities are conducted in cooperation with other Federal, State and local agencies; private organizations and individuals.

The WS program uses an Integrated Wildlife Damage Management (IWDM) approach (sometimes referred to as IPM or "Integrated Pest Management") in which a series of methods may be used or recommended to reduce wildlife damage. IWDM is described in Chapter 1, 1-7 of the Animal Damage Control Program Final Environmental Impact Statement (USDA, 1994). These methods include the alteration of cultural practices as well as habitat and behavioral modification to prevent damage. However, controlling wildlife damage may require that the offending animal(s) are killed or that the populations of the offending species be reduced.

Purpose

To assist the CITY OF AVON LAKE with meeting the objectives of their White-tailed Deer Management Plan.

Planned APHIS WS Activities

This work plan is contingent upon an approved deer management plan between the City of Avon Lake and the Ohio Division of Wildlife, and the resulting permit issued by the Ohio Division of Wildlife, AND ISSUANCE OF MDCP BY THE AVONLAKE CHIEF OF POLICE.

Through the implementation of management measures described below, APHIS WS will assist the CITY OF AVON LAKE with initiating the sharpshooting portion of their White-tailed Deer Management Plan. These objectives are to help reduce damage and public safety threats caused by white-tailed deer in the CITY OF AVON LAKE.

APHIS WS employees will be used to assist with initiating the sharpshooting portion of the White-tailed Deer Management Plan of the CITY OF AVON LAKE. WS will coordinate with the CITY OF AVON LAKE project coordinator and Ohio Division of Wildlife (ODW) staff to inspect, propose and certify baiting and shooting zones to be used. APHIS WS personnel will prepare and arrange any necessary deer damage management equipment. WS will conduct removal of white-tailed deer from the CITY OF AVON LAKE using rifles equipped with noise-suppression devices. WS will collect and transport whole carcasses to a predetermined CITY OF AVON LAKE facility. WS will conduct removal activities for up to 6 nights between February 1st -March 31st 2015. Every effort

will be made to conduct removal activities during this time period but activities are contingent upon weather conditions.

CITY OF AVON LAKE will be responsible for the following:

- Obtain Deer Permits from ODW and any other necessary authorizations naming APHIS WS as subpermittee.
- Provide a Project Coordinator during all phases of the project. The Project Coordinator shall be present and reachable via cellular phone during removal activities.
- Provide yearly white-tailed deer population estimates.
- Stock bait sites nightly, during an agreed upon time window, for at least 1 week continuously prior to removal operations. Bait sites shall be agreed upon by APHIS WS and The CITY OF AVON LAKE.
- CITY OF AVON LAKE law enforcement shall verify that shooting areas are closed and empty of visitors prior to removal operations.
- CITY OF AVON LAKE law enforcement shall be available during removal operations and in direct communications with APHIS WS.
- Eviscerate, clean, and temporarily store deer carcasses immediately following daily operations.
- If necessary, ice carcasses in advance of carcass transportation to a venison processing facility.
- Transport deer carcasses to the designated venison processor each within 24 hours of removal.
- Maintain records as required by ODW and report results to ODW and APHIS WS upon completion of the program.

Monitoring of Accomplishments

APHIS WS will provide a final annual report to the City of Avon Lake no later than April 30 of the removal year.

Effective Dates

The cooperative agreement shall become effective on February 1, 2015 and shall expire on July 31, 2015.

**ATTACHMENT B
FINANCIAL PLAN**

Personnel Costs	\$ 11,218
Travel	\$ 0
Vehicle	\$ 1,243
Supplies	\$ 90
Equipment	\$ 0
<u>Subtotal (Direct Costs)</u>	<u>\$ 12,551</u>
Pooled Job Costs	\$ 1,381
<u>Indirect Costs</u>	<u>\$ 2,028</u>
TOTAL	\$15,960

The distribution of the budget from this Financial Plan may vary as necessary to accomplish the purpose of this agreement, but may not exceed **\$15,960**

Financial Point of Contact

CITY OF AVON LAKE

APHIS, WS: Virginia Green
4469 Professional Parkway
Groveport, OH 43125-9229
Office: (614) 993-3444
Fax: (614) 836-5597
Virginia.K.Green@aphis.usda.gov