

**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 June 8, 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: May 26, 2015 Regular Council Meeting as prepared and published.**

**Proclamation: Pat Vaccaro, St. Joseph School Principal**

**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 a beach comber from H. Barber & Sons in the amount of \$12,975.00 – R. James.**

**Authorizing the Mayor to enter into an agreement with the Fraternal Order of Police and Susan Stevens to allow the Mayor to sign a Memorandum of Understanding that will permit Ms. Stevens to apply for disability benefits under the Police and Fire Pension Board – D. Bucci.**

**Accepting the resignation of Bill Gross from the Environmental Affairs Advisory Board effective June 3, 2015 – J. Shondel.**

### **Legislation**

#### **Third Readings:**

**Temporary Legislation #10454R2, granting City Council and the Zoning Board of Appeals additional limited subpoena powers, granting Planning Commission limited subpoena powers, and establishing limitations on all exercise of subpoena powers.**

**Temporary Legislation #10501R, approving a job description for the position of Engineering Technical Aide 1.**

**Temporary Legislation #10502, amending Codified Ordinance Section 474.08, entitled Keeping to the Right.**

#### **Second Readings:**

**Temporary Legislation #10505, recognizing Lilly Jach, Erin Litzler, and Samantha Loar for their crosswalk awareness project.→**

**Temporary Legislation #10506, establishing the full-time position of Economic Development Director.**

#### **First Readings:**

**Temporary Legislation #10509, authorizing the Mayor to file an application and enter into an agreement for the 2015 recycling and composting grant program.→**

**Temporary Legislation #10510, approving the use of submerged lands.→**

**Temporary Legislation #10511, approving the use of submerged lands.→**

**Temporary Legislation #10512, awarding a contract for the 2015 concrete street program.**

**Temporary Legislation #10513, amending Codified Ordinance Section 208.01 (e) (15), entitled Boat Launch.→**

→Suspension of the rule requiring three readings

**Temporary Legislation #10514, amending the Codified Ordinances to permit intoxicating liquor at the Lake House, Assembly Hall (Folger Home), and the Peter Miller House Museum.**

**Temporary Legislation #10515, amending Codified Ordinance Section 208.01 (e) (16), entitled Lake House.**

**Temporary Legislation #10516, establishing the full-time position of Recreation Programmer and adopting a job description.**

**Temporary Legislation #10517, authorizing the purchase of approximately .4880 acres of land to be used for expansion and improvement to the water pollution control center.→**

**Temporary Legislation #10518, providing for the issuance and sale of \$1,400,000 of notes.→**

**Temporary Legislation #10519, providing for the issuance and sale of \$986,000 of notes.→**

**Temporary Legislation #10520, providing for the issuance and sale of \$5,700,000 of notes.→**

**Temporary Legislation #10521, providing for the issuance and sale of \$2,600,000 of notes.→**

**Temporary Legislation #10522, providing for the issuance and sale of \$76,000 of notes.→**

**Temporary Legislation #10523, providing for the issuance and sale of \$149,000 of notes.→**

**Temporary Legislation #10524, providing for the issuance and sale of \$800,000 of notes.→**

**Temporary Legislation #10525, amending Codified Ordinance Section 208.01, (e) (14), entitled Pool Fees.→**

### **Miscellaneous Business and Announcements**

#### **Public Input**

#### **Adjournment**

→Suspension of the rule requiring three readings

BY: Mr. James

TEMP NO: 10454R2

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE ENACTING SECTION 220.26 AND CHAPTER 268 OF THE CODIFIED ORDINANCES AND AMENDING SECTIONS 260.22, 278.04, 1214.04, 1214.07, 1468.05 AND 1476.36 OF THE CODIFIED ORDINANCES TO GRANT CITY COUNCIL AND THE ZONING BOARD OF APPEALS ADDITIONAL LIMITED SUBPOENA POWERS, TO GRANT PLANNING COMMISSION LIMITED SUBPOENA POWERS, AND TO ESTABLISH LIMITATIONS ON ALL EXERCISE OF SUBPOENA POWERS; AND DECLARING AN EMERGENCY.

WHEREAS, Council has determined that it is advisable to grant Council and the Zoning Board of Appeals additional limited subpoena powers, to grant Planning Commission limited subpoena powers, and to establish limitations on all exercise of subpoena powers;

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. Upon motion adopted by 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.

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 there is hereby enacted new Chapter 268 of the Codified Ordinances of Avon Lake, to read as follows:

**CHAPTER 268  
Subpoenas**

**268.01 ISSUANCE OF SUBPOENAS.**

Every Board, Commission or Committee that has been granted such power by the Charter or by ordinance may 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.
- (e) Prior to issuance, the subpoena must be approved as to form by either the Director of Law or the Assistant Director of Law.

In any prosecution brought 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. 4: 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 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. 5: That Section 1214.04 of the Codified Ordinances of the City is hereby amended by the addition of the following division (d):

(d) Subpoenas. The Planning Commission may subpoena witnesses and require the production of records in accordance with Chapter 268 of the Codified Ordinances.

Section No. 6: That Section 1214.07 of the Codified Ordinances of the City is hereby amended by the addition of the following division (f):

(f) Subpoenas. The Zoning Board of Appeals may subpoena witnesses and require the production of records in accordance with Chapter 268 of the Codified Ordinances.

Section No. 7: 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 268 of the Codified Ordinances.

Section No. 8: 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 268 of the Codified Ordinances.

Section No. 9: 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. 10: That this Ordinance is hereby declared to be an emergency measure, the emergency being the necessity of ensuring that Council, Planning Commission and the Zoning Board of Appeals are able to obtain all relevant information necessary to make informed decisions, and of establishing limitations on the exercise of subpoena powers to minimize inconvenience, 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.

1<sup>st</sup> reading: 02/09/15

2<sup>nd</sup> reading: 02/23/15

3<sup>rd</sup> reading:

PASSED: \_\_\_\_\_  
President of Council

POSTED: \_\_\_\_\_  
Approved

ATTEST: \_\_\_\_\_  
Clerk of Council Mayor

BY: Mr. Bucci

TEMP NO: 10501R

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE ADOPTING A JOB DESCRIPTION FOR THE POSITION OF ENGINEERING TECHNICAL AIDE I FOR THE PUBLIC WORKS DEPARTMENT, ESTABLISHING THE QUALIFICATIONS AND DUTIES FOR SAID POSITION, AND REPEALING ORDINANCE NO. 171-2001, **AND DECLARING AN EMERGENCY.**

WHEREAS, it has been recommended by the administration and the Human Resources Committee that an updated job description for the position of Engineering Technical Aide I for the Public Works Department be adopted, now therefore;

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

Section No. 1: That the specifications, responsibilities, and duties applicable to the position of Engineering Technical Aide I for the Public Works Department shall be as shown on the job description, a copy of which is attached hereto and made a part hereof.

Section No. 2: That Ordinance No. 171-2001 is hereby repealed.

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.~~ **That this Ordinance is hereby declared to be an emergency measure in order to begin the hiring process to adequately staff the department to bring optimal services to the residents of Avon Lake, 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.**

1<sup>st</sup> reading: 5/11/15  
2<sup>nd</sup> reading: 5/26/15  
3<sup>rd</sup> reading:

PASSED: \_\_\_\_\_ President of Council

POSTED: \_\_\_\_\_ Approved

ATTEST: \_\_\_\_\_ Clerk of Council  
Mayor

**CITY OF AVON LAKE**

**POSITION DESCRIPTION**

**PUBLIC WORKS ENGINEERING TECHNICAL AIDE 1**

May, 2015

Job Title: Engineering Technical Aide 1  
Department: Public Works  
Immediate Supervisor: Public Works Director  
Positions Supervised: None  
FLSA Status: Non-Exempt  
Bargaining Unit: USW local 836  
Civil Service Status: Classified

**GENERAL RESPONSIBILITIES:**

Assist the Public Works Director by performing various technical engineering tasks for various public works projects and programs. Performs inspections of various public works and private construction projects.

**GENERAL QUALIFICATIONS:**

The qualified applicant should possess a minimum of a Bachelor's Degree in a related field or an Associate Degree, with four years of related experience, and two years instruction in drafting, surveying or public works construction materials/methods and experience in construction inspection, drafting design and/or surveying; or an equivalent combination of skills, training, and experience. Should have training and/or experience in AutoCAD and GIS. The qualified applicant must possess a valid Ohio driver's license with an acceptable driving record.

*An individual who poses a direct threat to the health and safety of himself/herself or others in the workplace will be deemed not qualified for this position.*

**CITY OF AVON LAKE  
POSITION DESCRIPTION**

**PUBLIC WORKS ENGINEERING TECHNICAL AIDE 1**

**SPECIFIC DUTIES:**

Essential functions are noted by an “\*”.

1. Under direction, performs various engineering tasks for various public works projects and programs.
  - Utilizes drafting skills with AutoCAD and GIS. \*
  - Assembles information, drafts detailed plans and specifications for various public works projects.
  - Serves as Survey Party Chief, performs engineering field work including field determination of boundary and right-of-way lines.
  - Draws maps of existing topography in project areas.
  - Performs engineering calculations to compute quantities of material to be used on projects to calculate from and interpret survey notes. \*
  - Provides assistance to contractors, engineers, and general public including explanation of department policies, location of services, and other information as requested.
  - Prepares and maintains various records and reports as required.
  - Prepares documentation including reference drawings, cost estimates, documentation of utilities, etc. \*
  - Assist with preparation of data for improvement programs, including paint striping, sidewalk/street repair and improvements.
  - Assist with preparation of data for legislation, construction standards and subdivision regulations as needed.
  - As directed by the Public Works Director, reviews applications for proposed amendments, proposed projects subject to site plans review, subdivision regulations and conditional use applications to ensure completion and accuracy.
  - As directed by the Public Works Director, interprets relevant aspects of the Planning and Zoning codes contained in City ordinances (or makes recommendations regarding interpretations); responds to related questions as needed.
  - As directed by the Public Works Director, communicates with various department heads involved in administrative review to provide or solicit information, or, to ensure review process is completed in a timely manner.
  - Places signs providing notification of public meetings.

2. **Performs various inspections of public works and private construction projects.**
  - Inspects projects to ensure compliance with established codes, specifications, procedures and standards.
  - Inspects materials to ensure proper quality, utilization, and performance.
  - Prepares construction inspection reports and correspondence regarding infractions.
  - Discusses work related problems with the Public Works Director, associates, supervisors, contractors, and homeowners as needed to research and resolve issues and problems.
  - Investigates complaints and alleged violations involving public property codes; contact citizens or appropriate agencies to resolve violations.
  
3. **Performs other duties as directed by the Public Works Director.**

**REQUIRED KNOWLEDGE, SKILLS, AND ABILITIES:**

Before being hired, the successful applicant for the job should possess:

- An Associate Degree, two years instruction in drafting, surveying, or public works construction material/methods and experience I construction inspection, drafting design and/or surveying, or an equivalent combination of skills, training and experience;
- Knowledge of basic principles and practices of civil engineering;
- Knowledge of professional standards governing public works projects;
- Knowledge of advanced mathematics including geometry and trigonometry;
- Knowledge of basic design and construction techniques, materials, and standards;
- Knowledge of design and surveying techniques;
- Knowledge of inspection methods;
- Knowledge of safety practices and procedures;
- Ability to prepare, operate, and utilize field/surveying equipment and drafting instruments;
- Ability to read and interpret construction plans and drawings;
- Ability to apply knowledge of construction methods and materials to City improvements;
- Ability to gather, analyze, and interpret data;
- Ability to prepare and maintain accurate documentation;
- Ability to communicate effectively through speech and writing;
- Ability to follow detailed oral and written instructions;
- Ability to develop and maintain working relationships with employees, contractors, and citizens;
- Ability to create files and add information to the G.I.S. mapping system;
- Ability to draw in AutoCad;
- Ability to work overtime as needed.

After performing the job, the employee should also possess:

- Knowledge of department policies and procedures;
- Knowledge of City policies and procedures;
- Knowledge of City projects and records regarding previous projects;
- Knowledge of established City codes, standards, and specifications.

*This job description does not constitute an employment agreement between the employer and employee and is subject to change as the needs of the employer and the requirements of the job change.*

BY: Mr. Kos

TEMP NO: 10502

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING CODIFIED ORDINANCE  
SECTION 474.08 ENTITLED KEEPING TO THE RIGHT,  
AND DECLARING AN EMERGENCY.

WHEREAS, the Safety Committee recommended amending Codified Ordinance Section 474.08, 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 474.08 is hereby amended as follows:

~~474.08 KEEPING TO RIGHT.~~

~~Every person operating a bicycle shall keep to the right hand curb upon all streets, highways and other public ways in the City.~~

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 eliminate conflicts with Ohio Revised Code in order to clarify bicycle safety, 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.

1<sup>st</sup> reading: 5/11/15  
2<sup>nd</sup> reading: 5/26/15  
3<sup>rd</sup> reading:

PASSED: \_\_\_\_\_

\_\_\_\_\_  
President of Council

POSTED: \_\_\_\_\_

\_\_\_\_\_  
Approved

ATTEST: \_\_\_\_\_

Clerk of Council

\_\_\_\_\_  
Mayor

BY: Mr. Kos

TEMP NO: 10505

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION RECOGNIZING LILLY JACH, ERIN LITZLER,  
AND SAMANTHA LOAR FOR THEIR CROSSWALK AWARENESS  
PROJECT.

WHEREAS, Lilly Jach, Erin Litzler, and Samantha Loar  
are working to achieve the Girl Scout Silver Award, the  
second highest award given by the Girl Scouts, and

WHEREAS, under the Girl Scout requirements, the girls  
are asked to contribute 50 or more hours in a project that  
will improve some aspect of their community, and

WHEREAS, Lilly, Erin, and Samantha have selected  
crosswalk awareness as their project to provide greater  
awareness and knowledge of the laws governing the use of  
crosswalks and the responsibilities of pedestrians,  
motorists, and bicyclists, and

WHEREAS, as part of their project, awareness will be  
raised through public service announcements, car magnets,  
ribbons on all Avon Lake crosswalk signs, and a survey of  
all Avon Lake crosswalks to determine which need to be  
painted, now therefore;

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

Section No. 1: That this Council does hereby  
recognize and commend Lilly Jach, Erin Litzler, and  
Samantha Loar for their determination and dedication to  
improve their community through safety awareness.

Section No. 2: That the Clerk of Council is hereby  
directed to forward a copy of this Resolution to Lilly  
Jach, Erin Litzler, and Samantha Loar.

Section No. 3: That it is found and determined that  
all formal actions of this Council concerning and relating  
to the adoption of this Resolution 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 Resolution shall be in full force and effect from and after the earliest period allowed by law.

PASSED: \_\_\_\_\_  
President of Council

POSTED: \_\_\_\_\_  
Approved

ATTEST: \_\_\_\_\_  
Clerk of Council Mayor

1st reading: 5/26/15  
2nd reading:  
3rd reading:

BY: Mr. Bucci

TEMP NO: 10506

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE ESTABLISHING THE FULL-TIME POSITION  
OF ECONOMIC DEVELOPMENT DIRECTOR.

WHEREAS, Section 36 of the Charter authorizes Council to provide for other departments, divisions, boards, commissions, officers and employees as it may deem necessary from time to time, and determine the organization and duties of said departments, divisions, boards, commissions, officers and employees, and

WHEREAS, it has been determined by the Economic Development Committee that it is in the best interest of the City of Avon Lake and its residents to establish the Department of Economic Development, and

WHEREAS, the Department of Economic Development shall be overseen by a full-time Economic Development Director, and

WHEREAS, the specifications, duties, and qualifications applicable to the position of Economic Development Director shall be shown on a job description approved by City Council, now therefore;

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

Section No. 1: That the Department of Economic Development is hereby created.

Section No. 2: There is hereby created an Economic Development Director.

Section No. 3: The Economic Development Director shall be appointed by and report directly to the Mayor, with the confirmation of City Council.

Section No. 4: The Economic Development Director shall be entitled to the rights and benefits conferred by Sections 260 and 262 of the Codified Ordinances.

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 Ordinance shall be in full force and effect on January 1, 2016.

1<sup>st</sup> reading: 5/26/15  
2<sup>nd</sup> reading:  
3<sup>rd</sup> reading:

PASSED: \_\_\_\_\_  
President of Council

POSTED: \_\_\_\_\_  
Approved

ATTEST: \_\_\_\_\_  
Clerk of Council Mayor

BY: Mr. James

TEMP NO. 10509

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF AVON LAKE TO FILE AN APPLICATION AND ENTER INTO AGREEMENT WITH THE LORAIN COUNTY BOARD OF COMMISSIONERS THROUGH THE LORAIN COUNTY SOLID WASTE MANAGEMENT DISTRICT FOR THE PURPOSE OF ACQUIRING FUNDS THROUGH THE 2015 RECYCLING AND COMPOSTING GRANT PROGRAM PURSUANT TO THE LORAIN COUNTY SOLID WASTE PLAN, AND DECLARING AN EMERGENCY.

WHEREAS, the Avon Lake City Council and Administration recognize the existence of a problem with recycling/composting within the boundaries of the City of Avon Lake and the need to address the problem at the local level, and

WHEREAS, the Lorain County Board of Commissioners provides through the Lorain County Solid Waste Management District Plan for the purpose of allocation of funds in the form of grants for the purposes of supplemental recycling/composting programs, now therefore;

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

Section No. 1: That the Council of the City of Avon Lake hereby endorses and supports a Recycling/Composting Program for the City of Avon Lake and authorizes the necessary funds to implement said program, if approved, as indicated in its application.

Section No. 2: That the Mayor of the City of Avon Lake is hereby authorized to apply for and, if awarded, enter into agreement with the Lorain County Solid Waste Management District to administer a grant to implement said program, and that the Mayor of the City of Avon Lake is hereby authorized to sign said agreement.

Section No. 3: That the Council of the City of Avon Lake hereby requests the Lorain County Solid Waste Management District to consider and fund its program as described in the application.

Section No. 4: 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. 5: That this Resolution is hereby declared to be an emergency measure, the emergency being the necessity to file an application in a timely manner for the purpose of acquiring funds to address the recycling/composting problem in Avon Lake, 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.

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

BY: Mr. James

TEMP NO: 10510

RESOLUTION NO. \_\_\_\_\_

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

WHEREAS, a resident at 32842 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 32842 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.

PASSED: \_\_\_\_\_  
President of Council

POSTED: \_\_\_\_\_  
Approved

ATTEST: \_\_\_\_\_  
Clerk of Council Mayor

BY: Mr. James

TEMP NO: 10511

RESOLUTION NO. \_\_\_\_\_

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

WHEREAS, a resident at 75 Rice Park Drive, 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 75 Rice Park Drive 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.

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

BY: Mr. James

TEMP NO: 10512

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AWARING A CONTRACT FOR THE 2015  
CONCRETE STREET PROGRAM, AND DECLARING AN  
EMERGENCY.

WHEREAS, in accordance with the direction of Council, the Public Works Department has prepared plans and specifications for the 2015 Concrete Street Program, which have been and are now on file in the Public Works Department, and

WHEREAS, further in accordance with the direction of Council, the Public Works Department has caused notice to be given as provided by law, inviting bids for construction of said improvements, with bids having been received, opened and tabulated as provided by law, and

WHEREAS, Council coming now to consider said bids has determined that the bid submitted by Denes Concrete of Wellington, Ohio, is the lowest and best responsive bid and is acceptable to this Council, now therefore;

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

Section No. 1: That the bid by Denes Concrete of Wellington, Ohio (hereafter referred to as "Contractor") for the 2015 Concrete Street Program for the City of Avon Lake, Ohio, in accordance with the plans and specifications, be and the same is hereby awarded to said Contractor in accordance with said plans and specifications and bid received. The total amount of said contract is in the sum of \$1,418,060.00.

Section No. 2: That the Contractor shall furnish his good and sufficient performance bond in the amount of \$1,418,060.00 to the satisfaction of the Mayor and approved as to form by the Director of Law, conditioned to insure faithful performance of the contract thereby awarded and completion of the work free and clear of all claims and encumbrances.

Section No. 3: That the Contractor shall deposit and keep in force and effect on file with said Director of Finance memoranda of policies of insurance in the amounts and under the conditions set forth in the specifications of the contract documents.



BY: Mr. James

TEMP NO: 10513

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING CODIFIED ORDINANCE  
SECTION 208.01, (e) (15), ENTITLED BOAT LAUNCH,  
AND DECLARING AN EMERGENCY.

WHEREAS, the Parks & Recreation Commission and the Public Service Committee recommended amending Codified Ordinance Section 208.01 (e) (15), Boat Launch, 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 208.01 (e) (15) is hereby amended as follows:

(15) Boat Launch

- A. \$5.00 per launch per 24 hour day
- B. **\$50.00 season pass**
- C. **Ice \$1.50 per bag**
- D. **Worms \$2.50 per dozen**

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 establish the amended boat launch fee schedule to have it in effect for the upcoming season Therefore, this Ordinance shall be in full force and effect from and immediately after its passage and approval by the Mayor.

PASSED: \_\_\_\_\_

\_\_\_\_\_  
President of Council

POSTED: \_\_\_\_\_

\_\_\_\_\_  
Approved

ATTEST: \_\_\_\_\_

Clerk of Council

\_\_\_\_\_  
Mayor

BY: Mr. O'Donnell

TEMP NO: 10514

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING SECTION 1070.02 OF THE CODIFIED ORDINANCES TO PERMIT INTOXICATING LIQUOR AT THE LAKE HOUSE, ASSEMBLY HALL (FOLGER HOME) AND THE PETER MILLER HOUSE MUSEUM, AND AMENDING SECTION 1070.99 OF THE CODIFIED ORDINANCES TO PROVIDE AN APPROPRIATE PENALTY FOR VIOLATIONS.

WHEREAS, Subsection 1070.02(l) of the Codified Ordinances of the City currently prohibits intoxicating liquor in any park, on any beach or in a park building or other recreational areas; and

WHEREAS, Council has determined that it is advisable to allow intoxicating liquor at Assembly Hall (the Folger Home), Lake House at Veterans Memorial Park and the Peter Miller House Museum;

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

Section No. 1: That division (l) of Section 1070.02 of the Codified Ordinances of the City is hereby amended as follows:

(l) Consumption of Alcoholic Beverages. No~~Except~~ as hereinafter provided, no intoxicating liquor or intoxicated person is permitted in any park, on any beach or in a park building and other recreational areas. "Intoxicating liquor" includes all beverages which contain any alcoholic content whatsoever, i.e. beer, wine, liquor, ale or spirituous beverages. The dispensing, use, drinking and consumption of intoxicating liquor shall be permitted indoors and in adjacent enclosed areas outdoors only at:

- (i) Lake House located at Veterans Memorial Park,
- (ii) Assembly Hall (the Folger Home) located at Veterans Memorial Park, and
- (iii) The Peter Miller House Museum located at Miller Road Park,

if such dispensing, use, drinking and consumption has been approved in advance by the Mayor and the Recreation Director, adequate security in the form of one or more off-duty peace officers authorized to discharge duties in Lorain County is provided, and if:

- (1) Such dispensing, use, drinking or consumption is pursuant to a valid Class F, F-1, F-2, F-3, F-4, F-5, F-6, F-7 or F-8 Liquor Permit issued by the Ohio Department of Commerce, Division of Liquor Control; or

(2) Such dispensing, use, drinking or consumption is in conjunction with a scheduled event held at Lake House or Assembly Hall at which alcoholic beverages will be provided at no charge to the guests.

The number of security persons to be provided and requirements concerning their affiliation and enforcement authority must be approved in advance by the Chief of Police. The fee for utilizing Lake House, Assembly Hall (the Folger Home) and the Peter Miller House Museum for an event at which intoxicating liquor is to be dispensed, used, drunk or consumed shall be as specified in the General Fee Schedule set forth in Section 208.01 of the Codified Ordinances.

Section No. 2: That Section 1070.99 of the Codified Ordinances of the City is hereby amended by the addition of the following division (c):

(c) Whoever violates Section 1070.02(1) is guilty of a misdemeanor of the fourth degree and shall be fined not more than two hundred fifty dollars (\$250.00) or imprisoned not more than thirty (30) days, or both.

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 and after the earliest period allowed by law.

1<sup>st</sup> reading:  
2<sup>nd</sup> reading:  
3<sup>rd</sup> reading:

PASSED: \_\_\_\_\_  
President of Council

POSTED: \_\_\_\_\_  
Approved

ATTEST: \_\_\_\_\_  
Clerk of Council Mayor

BY: Mr. James

TEMP NO: 10515

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING CODIFIED ORDINANCE SECTION 208.01 (e) (16), ENTITLED LAKE HOUSE, AND DECLARING AN EMERGENCY.

WHEREAS, the Parks & Recreation Commission and the Public Service Committee recommended amending Codified Ordinance Section 208.01 (e) (16), entitled Lake House, 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 208.01 (e) (16) is hereby amended as follows:

(16) Lake House Rental

~~A security deposit of \$100.00 is required for each rental and will be refunded by the Recreation Director or his or her designee upon satisfactory inspection of the rooms uses. Usage fees can be waived upon recommendation of the Recreation Director or his or her designee.~~

~~Resident: \_\_\_\_\_ 150.00 for the first three  
\_\_\_\_\_ hours \*plus 25.00 each  
\_\_\_\_\_ additional hour~~

~~Nonresident \_\_\_\_\_ 250.00 for the first  
three  
\_\_\_\_\_ hours \*plus 50.00 for each  
\_\_\_\_\_ additional hour~~

~~Nonprofit organization \_\_\_\_\_ 50.00 for the first three  
\_\_\_\_\_ hours\*plus 15.00 each  
\_\_\_\_\_ additional hour~~

~~\*There will be a three-hour minimum for all reservations.~~

	NO ALCOHOL			ALCOHOL		
<b>MONDAY - THURSDAY DAYTIME (8am - 4pm)</b>	<b>First 3 Hours</b>	<b>Additional Hours</b>	<b>Security Deposit</b>	<b>First 3 Hours</b>	<b>Additional Hours</b>	<b>Security Deposit</b>
Resident	\$ 100.00	\$ 15.00	\$ 100.00	\$ 200.00	\$ 30.00	\$ 200.00
Avon Lake Non-profit	\$ 50.00	\$ 15.00	\$ 100.00	\$ 100.00	\$ 30.00	\$ 200.00
Avon Lake Business	\$ 50.00	\$ 15.00	\$ 100.00	\$ 100.00	\$ 30.00	\$ 200.00
Avon Lake Bereavement	\$ 75.00	\$ 15.00	\$ 100.00	\$ 150.00	\$ 30.00	\$ 200.00
Non-resident	\$ 200.00	\$ 25.00	\$ 100.00	\$ 400.00	\$ 50.00	\$ 200.00
Out-of-town Non-profit	\$ 75.00	\$ 25.00	\$ 100.00	\$ 150.00	\$ 50.00	\$ 200.00
Out-of-town Business	\$ 75.00	\$ 25.00	\$ 100.00	\$ 150.00	\$ 50.00	\$ 200.00
Non-resident Bereavement	\$ 100.00	\$ 25.00	\$ 100.00	\$ 200.00	\$ 50.00	\$ 200.00
	NO ALCOHOL			ALCOHOL		
<b>MONDAY - THURSDAY EVENING (5:30pm - 11pm)</b>	<b>First 3 Hours</b>	<b>Additional Hours</b>	<b>Security Deposit</b>	<b>First 3 Hours</b>	<b>Additional Hours</b>	<b>Security Deposit</b>
Resident	\$ 125.00	\$ 20.00	\$ 100.00	\$ 225.00	\$ 40.00	\$ 200.00
Avon Lake Non-profit	\$ 75.00	\$ 20.00	\$ 100.00	\$ 125.00	\$ 40.00	\$ 200.00
Avon Lake Business	\$ 75.00	\$ 20.00	\$ 100.00	\$ 125.00	\$ 40.00	\$ 200.00
Avon Lake Bereavement	\$ 100.00	\$ 20.00	\$ 100.00	\$ 175.00	\$ 40.00	\$ 200.00
Non-resident	\$ 225.00	\$ 40.00	\$ 100.00	\$ 425.00	\$ 80.00	\$ 200.00
Out-of-town Non-profit	\$ 100.00	\$ 40.00	\$ 100.00	\$ 175.00	\$ 80.00	\$ 200.00
Out-of-town Business	\$ 100.00	\$ 40.00	\$ 100.00	\$ 175.00	\$ 80.00	\$ 200.00
Non-resident Bereavement	\$ 125.00	\$ 40.00	\$ 100.00	\$ 225.00	\$ 80.00	\$ 200.00
	NO ALCOHOL			ALCOHOL		
<b>WEEKEND (5:30pm Friday - 11pm Sunday)</b>	<b>First 3 Hours</b>	<b>Additional Hours</b>	<b>Security Deposit</b>	<b>First 3 Hours</b>	<b>Additional Hours</b>	<b>Security Deposit</b>
Resident	\$ 150.00	\$ 25.00	\$ 100.00	\$ 300.00	\$ 50.00	\$ 200.00

Avon Lake Bereavement	\$ 125.00	\$ 25.00	\$ 100.00	\$ 250.00	\$ 50.00	\$ 200.00
Non-resident	\$ 250.00	\$ 50.00	\$ 100.00	\$ 500.00	\$ 100.00	\$ 200.00
Non-resident Bereavement	\$ 150.00	\$ 50.00	\$ 100.00	\$ 300.00	\$ 100.00	\$ 200.00
	<b>NO ALCOHOL</b>			<b>ALCOHOL</b>		
<b>HOLIDAY</b>	<b>First 3 Hours</b>	<b>Additional Hours</b>	<b>Security Deposit</b>	<b>First 3 Hours</b>	<b>Additional Hours</b>	<b>Security Deposit</b>
Resident	\$ 200.00	\$ 50.00	\$ 100.00	\$ 400.00	\$ 100.00	\$ 200.00
Avon Lake Bereavement	\$ 150.00	\$ 50.00	\$ 100.00	\$ 300.00	\$ 100.00	\$ 200.00
Non-resident	\$ 300.00	\$ 100.00	\$ 100.00	\$ 600.00	\$ 200.00	\$ 200.00
Non-resident Bereavement	\$ 200.00	\$ 100.00	\$ 100.00	\$ 400.00	\$ 200.00	\$ 200.00

Three hours minimum rental will be charged. All setup and cleanup time must be a part of the charged rental time. A two-hour cleaning period is required between all rentals. Any weekday rental carrying over from daytime into the evening hours will be charged daytime rate. Non-profit organizations must provide non-profit documentation. Non-profit and Business address will be used to determine residency. Bereavement rentals can only be made through the Recreation Office. Holidays include New Year's Day, Good Friday, Easter, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Day After Thanksgiving Day, Christmas Day. For those Holidays falling on weekends, the Holiday rate shall be used.

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 in order to establish equitable Lake House rental fees to coincide with the new policies for the Lake House rentals and bring revenue into the City, 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.

1<sup>st</sup> reading:  
2<sup>nd</sup> reading:  
3<sup>rd</sup> reading:

PASSED: \_\_\_\_\_ President of Council

POSTED: \_\_\_\_\_ Approved

ATTEST: \_\_\_\_\_ Clerk of Council  
Mayor

BY: Mr. Bucci

TEMP NO: 10516

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE ESTABLISHING THE FULL-TIME POSITION OF RECREATION PROGRAMMER AND ADOPTING A JOB DESCRIPTION ESTABLISHING THE QUALIFICATIONS AND DUTIES FOR SAID POSITION, AND DECLARING AN EMERGENCY.

WHEREAS, it has been recommended by the Parks and Recreation Commission and the Human Resources Committee that the full-time position of Recreation Programmer be established and a job description for said position be adopted, now therefore;

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

Section No. 1: That the full-time position of Recreation Programmer is hereby established.

Section No. 2: That the specifications, responsibilities, and duties applicable to the full-time position of Recreation Programmer shall be as shown on the job description, a copy of which is attached hereto and made a part hereof.

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 establishing the full-time position of Recreation Programmer to fill a vacancy and continue to offer quality recreation programs to the residents of Avon Lake, 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.

1<sup>st</sup> reading:  
2<sup>nd</sup> reading:  
3<sup>rd</sup> reading:

PASSED: \_\_\_\_\_  
President of Council

POSTED: \_\_\_\_\_  
Approved

ATTEST: \_\_\_\_\_  
Clerk of Council Mayor

# CITY OF AVON LAKE

## Position Description

Job Title: Recreation Programmer  
Department: Parks and Recreation department  
Immediate Supervisor: Recreation Director  
Positions Supervised: This position is not supervisory in nature  
FLSA Status: Full-Time/Non-Exempt  
Bargaining Unit: TBD  
Civil Service Status: Classified

### **GENERAL RESPONSIBILITIES:**

This position is responsible for the planning, development, and coordination of recreation programs and activities for all age groups. May also coordinate programming and maintenance of Recreational Facilities.

### **GENERAL QUALIFICATIONS:**

- Associate degree necessary, but Bachelor's Degree preferred, in Parks and Recreation, or a related field, or five (5) years of work related experience in a recreation setting or an equivalent combination of education, training and prior work experience;
- Two (2) years' experience of progressively more responsible experience in recreation, sports or a closely related field;
- Proficiency with Microsoft Office Suite applications including, Outlook, Word, Excel, Power Point, Publisher, and Access, and Photo Editor;
- First Aid/CPR Certification preferred;
- Valid Ohio Driver's License or must obtain one within six months of employment.

*An individual who poses a direct threat to the health and safety of himself/herself or others in the workplace will be deemed not qualified for this position.*

# CITY OF AVON LAKE

## Position Description

### SPECIFIC DUTIES

Each general responsibility is followed by a list of the specific tasks necessary to perform the duty. Essential functions are noted by an "\*\*".

Under the direction of the Recreation Director, the Recreation Programmer performs a variety of technical and routine tasks including but not limited to: coordination of recreation programs, set-up and tear down of program facilities, equipment, and materials, and participation in the management of the Old Firehouse Community Center.

- \* Identifies, plans, develops, conducts, and evaluates recreation activities and programs to attract and encourage program participation of all city residents including, but not limited to: senior citizen programming; adult programming; teen programming; youth programming; preschool programming; family programming; fitness, health, and wellness programming; performing and fine arts programming; seasonal programming; outdoor adventure programming; and summer youth programming; special programs and events;
- \* Prepares marketing materials for recreation programs, events, and services, including but not limited to flyers, newsletters, electronic postings, advertisements, and public service announcements;
- \* Participates in Management the Old Firehouse Community Center, including but not limited to the schedule of events - including recreation programming and community group meetings, and the maintenance of the facility – including cleaning of floors, bathrooms, kitchen area, offices;
- \* Prepares contracts for recreation service providers and building use agreements for community groups;
- \* Distributes and collects program evaluations and shares results with contract instructors and staff;
- \* Prepares End of Program Reports on the outcomes of the recreation programs and services;
- \* Makes recommendations regarding equipment and supplies required for recreation programs;
- \* Interviews, trains, and oversees seasonal recreation programming staff and volunteers
- \* Maintains open and frequent communications with department staff regarding programs, facilities and staffing issues;
- \* Evaluates, researches, and recommend budgetary requests to Recreation Director;
- \* Researches alternative funding for departmental programs, events, and services, including but not limited to: fundraising, grants, partnerships, consortiums;

## **CITY OF AVON LAKE**

### **Position Description**

- \* Increases and extends Recreational knowledge and experience through attending and participating in meetings, workshops, conferences, trainings, and similar;
- \* Communicates clearly, effectively, and in a timely manner with the public via direct contact, telephone, written form, and electronic means including but not limited to texting, e-mails, tweeting, FaceTime or Skype (or similar), Instagram, etc.;
- \* Other duties as deemed as necessary or assigned.

### **REQUIRED KNOWLEDGE, SKILLS AND ABILITIES**

*The job description does not constitute an employment agreement between the City of Avon Lake and the employee and is subject to change by the City as the needs of the City and the requirements of the job change.*

- Knowledge of the operation of vehicles, phones, copiers, fax machines, computers, and other office equipment;
- Knowledge of policies, procedures, rules, and ordinances pertaining to the parks and of the use of facilities;
- Ability to meet the public courteously and to provide information;
- Ability to schedule programs for the city and for private functions while not neglecting the City's programs;
- Knowledge of the care and upkeep of recreation facilities;
- Skill in office related tasks such as, accurate recordkeeping, documentation, good writing skills, organization skills, computer system skills;
- Ability to establish and maintain effective working relationships with co-workers, subordinates, and other City employees as well as the general public;
- Ability to plan and oversee the work of seasonal employees

### **PHYSICAL AND MENTAL DEMANDS**

## **CITY OF AVON LAKE**

### **Position Description**

*The physical demands described here are representative of those that must be met by a Recreation Programmer to successfully perform the essential functions of the job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.*

While performing the duties of this position, the employee is frequently required to sit, stand, walk, run, use fingers and hands dexterously to operate tools, equipment or controls, reach with arms and hands, climb, balance, stoop, kneel, crouch, or crawl, and communicate orally. The employee must work outside in adverse weather conditions, occasionally transport up to 20 pounds, walk up to one mile, and stand for extended periods occasionally.

### **WORK ENVIRONMENT**

*The work environment characteristics described here are representative of those a Recreation Programmer encounters while performing the essential functions of this job. Reasonable accommodations may be made to enable individuals to perform the essential functions.*

This job requires sedentary work that involves walking or standing frequently, exerting up to 20 pounds of force on a recurring basis, and routine keyboard operations. The job risk includes exposure to bright/dim light, chemicals, blood borne pathogens, and environmental hazards.

By: Mr. Meiners

TEMP NO: 10517

ORDINANCE NO: \_\_\_\_\_

AN ORDINANCE AUTHORIZING THE MAYOR OF THE CITY OF AVON LAKE AND THE AVON LAKE BOARD OF MUNICIPAL UTILITIES TO ENTER INTO AN AGREEMENT TO PURCHASE APPROXIMATELY .4880 ACRES OF LAND TO BE USED FOR EXPANSION AND IMPROVEMENT OF THE WATER POLLUTION CONTROL CENTER, AND DECLARING AN EMERGENCY.

WHEREAS, the City of Avon Lake and Avon Lake Regional Water require the acquisition of approximately .4880 acres of vacant land comprising a portion of Lorain County Permanent Parcel No. 04-00-006-111-012 as further described in the attached legal description (hereafter "the property"), and

WHEREAS, the acquisition of the property is necessary for the expansion and improvement of the water pollution control center including the construction of a new raw sewage pumping station and screening building, and

WHEREAS, Avon Lake Regional Water had an appraisal of the property performed by Douglas S. Kayle of Kayle Real Estate Services, and

WHEREAS, the property appraised for Ninety-Five Thousand Dollars (\$95,000.00), and

WHEREAS, the property is owned by NRG Energy, Inc., successor in interest to Orion Power Midwest, LP, and

WHEREAS, NRG Energy, Inc. has agreed to sell the property to the City of Avon Lake and Avon Lake Regional Water for the appraised value of ninety-five thousand dollars (\$95,000.00), now therefore:

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

Section No. 1: That the Mayor of the City of Avon Lake and the Avon Lake Board of Municipal Utilities is hereby authorized to enter into an agreement with NRG Energy, Inc., successor in interest to Orion Power Midwest, LP, to purchase said premises, to-wit: approximately .4880 acres of vacant land comprising a portion of Lorain County Permanent Parcel No. 04-00-006-111-012

as further described in the attached legal description (hereafter "the property").

Section No. 2: That the funds for the purchase of the property shall come from regular waste water revenue funds and that Avon Lake Regional Water will submit an application for reimbursement through Ohio EPA 0% HAB funding.

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 that the Seller and Buyer must finalize a purchase-sale agreement and preserve time-sensitive grant funds, all to provide for the safety, health and welfare of the citizens of Avon Lake. Therefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

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

ORDINANCE NO. \_\_\_\_\_-2015

**AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF \$1,400,000 OF NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, FOR THE PURPOSE OF PAYING COSTS OF IMPROVING STREETS IN THE CITY BY RECONSTRUCTING, RESURFACING, GRADING, DRAINING, CURBING, PAVING, CONSTRUCTING STORM SEWERS AND RELATED DRAINAGE FACILITIES AND MAKING OTHER IMPROVEMENTS AS DESIGNATED IN THE PLANS APPROVED OR TO BE APPROVED BY COUNCIL, AND DECLARING AN EMERGENCY.**

WHEREAS, pursuant to Ordinance No. 62-2013, passed on May 28, 2013, there were issued \$1,500,000 of notes in anticipation of bonds for the purpose stated in Section 1 as part of a consolidated issue of \$1,950,000 Various Purpose Notes, Series 2013, which notes were retired at maturity with \$1,500,000 of notes (the Outstanding Notes) issued in anticipation of bonds pursuant to Ordinance No. 56-2014, passed on May 12, 2014, as part of a consolidated issue of \$12,329,000 Various Purpose Notes, Series 2014, which Outstanding Notes mature on July 14, 2015; 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 improvement described in Section 1 is at least five years, the estimated maximum maturity of the Bonds described in Section 1 is 20 years and the maximum maturity of the Notes described in Section 3, to be issued in anticipation of the Bonds, is July 16, 2033;

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of Avon Lake, Lorain County, Ohio, that:

**Section 1.** Authorized Principal Amount of Anticipated Bonds and Purpose. It is necessary to issue bonds of the City in the aggregate principal amount of \$1,400,000 (the Bonds) for the purpose of paying costs of improving streets in the City by reconstructing, resurfacing, grading, draining, curbing, paving, constructing storm sewers and related drainage facilities and making other improvements as designated in the plans approved or to be approved by Council, together with the necessary related improvements and appurtenances thereto.

**Section 2.** Estimated Bond Terms. The Bonds shall be dated approximately June 1, 2016, 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 20 annual principal installments on December 1 of each year that are in such amounts that the total principal and interest payments on the Bonds in any fiscal year in which principal is payable are substantially equal. The first interest payment on the Bonds is estimated to be December 1, 2016, and the first principal payment on the Bonds is estimated to be December 1, 2017.

**Section 3.** Authorized Principal Amount of Notes; Dating; Interest Rate. It is necessary to issue and this Council determines that notes in the aggregate principal amount of \$1,400,000 (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 not later than one year from the date of issuance by setting forth that maturity date in the certificate awarding the Notes and signed in accordance with Section 6 (the Certificate of Award). The Notes shall bear interest at a rate not to exceed 4% 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 lawful money of the United States of America or in Federal Reserve funds of the United States of America, as determined by the Director of Finance in the Certificate of Award, 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 designated corporate trust office 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.** 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, provided that no Note shall be issued in a denomination less than \$100,000. The entire principal amount may be represented by a single note and may be issued as fully registered securities (for which the Director of Finance will serve as note registrar) and in book entry or other uncertificated form in accordance with Section 9.96 and Chapter 133 of the Revised Code if it is determined by the Director of Finance that issuance of fully registered securities in that form will facilitate the sale and delivery of the Notes. The Notes shall not have coupons attached, shall be numbered as determined by the Director of Finance and shall express upon their faces the purpose, in summary terms, for which they are issued and that they are issued pursuant to this Ordinance. As used in this section and this Ordinance:

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

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

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

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

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

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

**Section 6.** Award and Sale of the Notes. The Notes shall be sold at not less than par plus accrued interest at private sale by the Director of Finance to the original purchaser identified in

the Certificate of Award (the Original Purchaser) in accordance with law and the provisions of this Ordinance and the Certificate of Award. The Director of Finance shall sign the Certificate of Award 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 (i) engage the services of a municipal advisor and (ii) 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 engage a municipal advisor and/or 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 money is lawfully available for the payment of debt charges on the Notes and Bonds and is appropriated for that purpose, the amount of the tax shall be reduced by the amount of money so available and appropriated.

**Section 10. Federal Tax Considerations.** The City covenants that it will use, and will restrict the use and investment of, the proceeds of the Notes in such manner and to such extent as may be necessary so that (a) the Notes will not (i) constitute private activity bonds, arbitrage bonds or hedge bonds under Sections 141, 148 or 149 of the Internal Revenue Code of 1986, as amended (the Code) or (ii) be treated other than as bonds to which Section 103 of the Code applies, and (b) the interest 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 purpose 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 is applicable and desirable), choice, consent, approval, or waiver on behalf of the City with respect to the Notes as the City is permitted to or required to make or give under the federal income tax laws, including, without limitation thereto, any of the elections provided for in 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 or 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 Lorain County Auditor.

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

**Section 13.** 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 14.** Compliance with Open Meeting Requirements. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council or committees, and that all deliberations of this Council and 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, 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 sold 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.

1<sup>st</sup> Reading:  
2<sup>nd</sup> Reading:  
3<sup>rd</sup> Reading:

PASSED: \_\_\_\_\_, 2015

\_\_\_\_\_  
President of Council

POSTED: \_\_\_\_\_, 2015

\_\_\_\_\_  
Approved

ATTEST: \_\_\_\_\_  
Clerk of Council

\_\_\_\_\_  
Mayor

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**ORDINANCE NO. \_\_\_\_\_-2015**

**AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF \$986,000 OF NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, FOR THE PURPOSE OF PAYING COSTS OF IMPROVING LEAR ROAD AND KREBS ROAD AND THE INTERSECTION THEREOF BY WIDENING, GRADING, DRAINING, CURBING, PAVING, CONSTRUCTING TURN LANES, STORM SEWERS AND RELATED DRAINAGE FACILITIES AND INSTALLING SIGNAGE AND TRAFFIC AND RAILROAD SIGNALIZATION, AND DECLARING AN EMERGENCY.**

WHEREAS, pursuant to Ordinance No. 57-2014, passed on May 12, 2014, there were issued \$986,000 of notes (the Outstanding Notes) in anticipation of bonds for the purpose stated in Section 1 as part of a consolidated issue of \$12,329,000 Various Purpose Notes, Series 2014, which Outstanding Notes mature on July 14, 2015; 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

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 20 years and the maximum maturity of the Notes described in Section 3, to be issued in anticipation of the Bonds, is July 15, 2034;

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of Avon Lake, Lorain County, Ohio, that:

**Section 1.** Authorized Principal Amount of Anticipated Bonds and Purpose. It is necessary to issue bonds of the City in the aggregate principal amount of \$986,000 (the Bonds) for the purpose of paying costs of constructing storm sewers, catch basins and related drainage facilities, together with the for the purpose of paying costs of improving Lear Road and Krebs Road and the intersection thereof by widening, grading, draining, curbing, paving, constructing turn lanes, storm sewers and related drainage facilities and installing signage and traffic and railroad signalization, all together with the necessary appurtenances thereto.

**Section 2.** Estimated Bond Terms. The Bonds shall be dated approximately June 1, 2016, 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 20 annual principal installments on December 1 of each year that are in such amounts that the total principal and interest payments on

the Bonds in any fiscal year in which principal is payable are substantially equal. The first interest payment on the Bonds is estimated to be December 1, 2016, and the first principal payment on the Bonds is estimated to be December 1, 2017.

**Section 3.** Authorized Principal Amount of Notes; Dating; Interest Rate. It is necessary to issue and this Council determines that notes in the aggregate principal amount of \$986,000 (the Notes) shall be issued in anticipation of the issuance of the Bonds and to retire 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 not later than one year from the date of issuance by setting forth that maturity date in the certificate awarding the Notes and signed in accordance with Section 6 (the Certificate of Award). The Notes shall bear interest at a rate not to exceed 4% 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 lawful money of the United States of America or in Federal Reserve funds of the United States of America, as determined by the Director of Finance in the Certificate of Award, 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 designated corporate trust office 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.** 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. The entire principal amount may be represented by a single note and may be issued as fully registered securities (for which the Director of Finance will serve as note registrar) and in book entry or other uncertificated form in accordance with Section 9.96 and Chapter 133 of the Revised Code if it is determined by the Director of Finance that issuance of fully registered securities in that form will facilitate the sale and delivery of the Notes. The Notes shall not have coupons attached, shall be numbered as determined by the Director of Finance and shall express upon their faces the purpose, in summary terms, for which they are issued and that they are issued pursuant to this Ordinance. As used in this section and this Ordinance:

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

the record that identifies the owners of beneficial interests in the Notes and that principal and interest.

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

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

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

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

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

**Section 6.** Award and Sale of the Notes. The Notes shall be sold at not less than par plus accrued interest at private sale by the Director of Finance to the original purchaser identified in the Certificate of Award (the Original Purchaser) in accordance with law and the provisions of this Ordinance and the Certificate of Award. The Director of Finance shall sign the Certificate of Award 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 (i) engage the services of a municipal advisor and (ii) 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 engage a municipal advisor and/or 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 money is lawfully available for the payment of debt charges on the Notes and Bonds and is appropriated for that purpose, the amount of the tax shall be reduced by the amount of money so available and appropriated.

**Section 10.** Federal Tax Considerations. The City covenants that it will use, and will restrict the use and investment of, the proceeds of the Notes in such manner and to such extent as may be necessary so that (a) the Notes will not (i) constitute private activity bonds, arbitrage bonds or hedge bonds under Sections 141, 148 or 149 of the Internal Revenue Code of 1986, as amended

(the Code) or (ii) be treated other than as bonds to which Section 103 of the Code applies, and (b) the interest 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 purpose 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 is applicable and desirable), choice, consent, approval, or waiver on behalf of the City with respect to the Notes as the City is permitted to or required to make or give under the federal income tax laws, including, without limitation thereto, any of the elections provided for in 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 or 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 Lorain County Auditor.

**Section 12.** Satisfaction of Conditions for Note Issuance. This Council determines that all acts and conditions necessary to be done or performed by the City or to have been met precedent

to and in the issuing of the Notes in order to make them legal, valid and binding general obligations of the City have been performed and have been met, or will at the time of delivery of the Bonds have been performed and have been met, in regular and due form as required by law; that the full faith and credit and general property taxing power (as described in Section 9) of the City are pledged for the timely payment of the debt charges on the Notes; and that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Notes.

**Section 13. 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 14. Compliance with Open Meeting Requirements.** This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council or committees, and that all deliberations of this Council and 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, 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 sold 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.

1<sup>st</sup> Reading:  
2<sup>nd</sup> Reading:  
3<sup>rd</sup> Reading:

PASSED: \_\_\_\_\_, 2015

\_\_\_\_\_  
President of Council

POSTED: \_\_\_\_\_, 2015

\_\_\_\_\_  
Approved

ATTEST: \_\_\_\_\_  
Clerk of Council

\_\_\_\_\_  
Mayor

**ORDINANCE NO. \_\_\_\_\_-2015**

**AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF \$5,700,000 OF NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, FOR THE PURPOSE OF PAYING COSTS OF IMPROVING THE SANITARY SEWER SYSTEM BY CONSTRUCTING AND RECONSTRUCTING SANITARY SEWERS AND RELATED SANITARY FACILITIES, WATER MAINS AND RELATED WATER SUPPLY FACILITIES AND STORM SEWERS AND RELATED DRAINAGE FACILITIES TO PROVIDE FOR THE SEPARATION OF EXISTING STORM SEWERS FROM SANITARY SEWERS AND CONTROL AND LIMIT THE VOLUME OF STORM WATER ENTERING OR OTHERWISE AFFECTING THE SANITARY SEWER SYSTEM, AS PART OF THE "MOOREWOOD AREA COMBINED SEWER SEPARATION PROJECT", AND DECLARING AN EMERGENCY.**

WHEREAS, pursuant to Ordinance No. 81-2014, passed on June 16, 2014, there were issued \$6,000,000 of notes (the Outstanding Notes) in anticipation of bonds for the purpose stated in Section 1 as part of a consolidated issue of \$12,329,000 Various Purpose Notes, Series 2014, which Outstanding Notes mature on July 14, 2015; 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 improvement described in Section 1 is at least five years, the estimated maximum maturity of the Bonds described in Section 1 is 40 years and the maximum maturity of the Notes described in Section 3, to be issued in anticipation of the Bonds, is July 15, 2034;

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of Avon Lake, Lorain County, Ohio, that:

**Section 1.** Authorized Principal Amount of Anticipated Bonds and Purpose. It is necessary to issue bonds of the City in the aggregate principal amount of \$5,700,000 (the Bonds) for the purpose of paying costs of improving the sanitary sewer system by constructing and reconstructing sanitary sewers and related sanitary facilities, water mains and related water supply facilities and storm sewers and related drainage facilities to provide for the separation of existing

storm sewers from sanitary sewers and control and limit the volume of storm water entering or otherwise affecting the sanitary sewer system, all together with the necessary appurtenances and work incidental thereto, as part of the "Moorewood Area Combined Sewer Separation Project".

**Section 2.** Estimated Bond Terms. The Bonds shall be dated approximately June 1, 2016, 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 40 annual principal installments on December 1 of each year that are in such amounts that the total principal and interest payments on the Bonds in any fiscal year in which principal is payable are substantially equal. The first interest payment on the Bonds is estimated to be December 1, 2016, and the first principal payment on the Bonds is estimated to be December 1, 2017.

**Section 3.** Authorized Principal Amount of Notes; Dating; Interest Rate. It is necessary to issue and this Council determines that notes in the aggregate principal amount of \$5,700,000 (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 not later than one year from the date of issuance by setting forth that maturity date in the certificate awarding the Notes and signed in accordance with Section 6 (the Certificate of Award). The Notes shall bear interest at a rate not to exceed 4% 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 lawful money of the United States of America or in Federal Reserve funds of the United States of America, as determined by the Director of Finance in the Certificate of Award, 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 designated corporate trust office 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.** 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, provided that no Note shall be issued in a denomination less than \$100,000. The entire principal amount may be represented by a single note and may be issued as fully registered securities (for which the Director of Finance will serve as note registrar) and in book entry or other uncertificated form in accordance with Section 9.96 and Chapter 133 of the Revised Code if it is determined by the Director of Finance that issuance of fully registered securities in that form will facilitate the sale and delivery of the Notes. The Notes shall not have coupons attached, shall be numbered as determined

by the Director of Finance and shall express upon their faces the purpose, in summary terms, for which they are issued and that they are issued pursuant to this Ordinance. As used in this section and this Ordinance:

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

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

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

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

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

The Director of Finance is also hereby authorized and directed, to the extent necessary or required, to enter into any agreements determined necessary in connection with the book entry

system for the Notes, after determining that the signing thereof will not endanger the funds or securities of the City.

**Section 6.** Award and Sale of the Notes. The Notes shall be sold at not less than par plus accrued interest at private sale by the Director of Finance to the original purchaser identified in the Certificate of Award (the Original Purchaser) in accordance with law and the provisions of this Ordinance and the Certificate of Award. The Director of Finance shall sign the Certificate of Award 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 (i) engage the services of a municipal advisor and (ii) 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 engage a municipal advisor and/or 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 money from the sanitary sewer system or other sources is lawfully available for the payment of the debt charges on the Notes and Bonds and is appropriated for that purpose, the tax shall be reduced by the amount of money so available and appropriated.

**Section 10. Federal Tax Considerations.** The City covenants that it will use, and will restrict the use and investment of, the proceeds of the Notes in such manner and to such extent as may be necessary so that (a) the Notes will not (i) constitute private activity bonds, arbitrage bonds or hedge bonds under Sections 141, 148 or 149 of the Internal Revenue Code of 1986, as amended (the Code) or (ii) be treated other than as bonds to which Section 103 of the Code applies, and (b) the interest 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 purpose 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 is applicable and desirable), choice, consent, approval, or waiver on behalf of the City with respect to the Notes as the City is permitted to or required to make or give under the federal income tax laws, including, without limitation thereto, any of the elections provided for in 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 or 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 Lorain County Auditor.

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

**Section 13.** 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 14.** Compliance with Open Meeting Requirements. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council or committees, and that all deliberations of this Council and 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, 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 sold 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.

1<sup>st</sup> Reading:  
2<sup>nd</sup> Reading:  
3<sup>rd</sup> Reading:

PASSED: \_\_\_\_\_, 2015

\_\_\_\_\_  
President of Council

POSTED: \_\_\_\_\_, 2015

\_\_\_\_\_  
Approved

ATTEST: \_\_\_\_\_  
Clerk of Council

\_\_\_\_\_  
Mayor

ORDINANCE NO. \_\_\_\_\_-2015

**AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF \$2,600,000 OF NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, FOR THE PURPOSE OF PAYING COSTS OF CONSTRUCTING STORM SEWERS, CATCH BASINS AND RELATED DRAINAGE FACILITIES, AS PART OF THE "MOOREWOOD AREA COMBINED SEWER SEPARATION PROJECT", AND DECLARING AN EMERGENCY.**

WHEREAS, pursuant to Ordinance No. 80-2014, passed on June 16, 2014, there were issued \$2,600,000 of notes (the Outstanding Notes) in anticipation of bonds for the purpose stated in Section 1 as part of a consolidated issue of \$12,329,000 Various Purpose Notes, Series 2014, which Outstanding Notes mature on July 14, 2015; 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

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 40 years and the maximum maturity of the Notes described in Section 3, to be issued in anticipation of the Bonds, is July 15, 2034;

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of Avon Lake, Lorain County, Ohio, that:

**Section 1.** Authorized Principal Amount of Anticipated Bonds and Purpose. It is necessary to issue bonds of the City in the aggregate principal amount of \$2,600,000 (the Bonds) for the purpose of paying costs of constructing storm sewers, catch basins and related drainage facilities, together with the necessary appurtenances and work incidental thereto, as part of the "Moorewood Area Combined Sewer Separation Project".

**Section 2.** Estimated Bond Terms. The Bonds shall be dated approximately June 1, 2016, 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 40 annual principal installments on December 1 of each year that are in such amounts that the total principal and interest payments on the Bonds in any fiscal year in which principal is payable are substantially equal. The first interest payment on the Bonds is estimated to be December 1, 2016, and the first principal payment on the Bonds is estimated to be December 1, 2017.

**Section 3.** Authorized Principal Amount of Notes; Dating; Interest Rate. It is necessary to issue and this Council determines that notes in the aggregate principal amount of \$2,600,000 (the Notes) shall be issued in anticipation of the issuance of the Bonds and to retire 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 not later than one year from the date of issuance by setting forth that maturity date in the certificate awarding the Notes and signed in accordance with Section 6 (the Certificate of Award). The Notes shall bear interest at a rate not to exceed 4% 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 lawful money of the United States of America or in Federal Reserve funds of the United States of America, as determined by the Director of Finance in the Certificate of Award, 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 designated corporate trust office 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.** 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, provided that no Note shall be issued in a denomination less than \$100,000. The entire principal amount may be represented by a single note and may be issued as fully registered securities (for which the Director of Finance will serve as note registrar) and in book entry or other uncertificated form in accordance with Section 9.96 and Chapter 133 of the Revised Code if it is determined by the Director of Finance that issuance of fully registered securities in that form will facilitate the sale and delivery of the Notes. The Notes shall not have coupons attached, shall be numbered as determined by the Director of Finance and shall express upon their faces the purpose, in summary terms, for which they are issued and that they are issued pursuant to this Ordinance. As used in this section and this Ordinance:

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

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

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

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

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

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

**Section 6.** Award and Sale of the Notes. The Notes shall be sold at not less than par plus accrued interest at private sale by the Director of Finance to the original purchaser identified in the Certificate of Award (the Original Purchaser) in accordance with law and the provisions of this Ordinance and the Certificate of Award. The Director of Finance shall sign the Certificate of Award 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 (i) engage the services of a municipal advisor and (ii) 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 engage a municipal advisor and/or 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 money is lawfully available for the payment of debt charges on the Notes and Bonds and is appropriated for that purpose, the amount of the tax shall be reduced by the amount of money so available and appropriated.

**Section 10.** Federal Tax Considerations. The City covenants that it will use, and will restrict the use and investment of, the proceeds of the Notes in such manner and to such extent as may be necessary so that (a) the Notes will not (i) constitute private activity bonds, arbitrage bonds or hedge bonds under Sections 141, 148 or 149 of the Internal Revenue Code of 1986, as amended (the Code) or (ii) be treated other than as bonds to which Section 103 of the Code applies, and (b) the interest 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 purpose 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 is applicable and desirable), choice, consent, approval, or waiver on behalf of the City with respect to the Notes as the City is permitted to or required to make or give under the federal income tax laws, including, without limitation thereto, any of the elections provided for in 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 or 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 Lorain County Auditor.

**Section 12. Satisfaction of Conditions for Note Issuance.** This Council determines that all acts and conditions necessary to be done or performed by the City or to have been met precedent to and in the issuing of the Notes in order to make them legal, valid and binding general obligations of the City have been performed and have been met, or will at the time of delivery of the Bonds have been performed and have been met, in regular and due form as required by law; that the full

faith and credit and general property taxing power (as described in Section 9) of the City are pledged for the timely payment of the debt charges on the Notes; and that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Notes.

**Section 13.** 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 14.** Compliance with Open Meeting Requirements. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council or committees, and that all deliberations of this Council and 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, 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 sold 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.

1<sup>st</sup> Reading:  
2<sup>nd</sup> Reading:  
3<sup>rd</sup> Reading:

PASSED: \_\_\_\_\_, 2015

\_\_\_\_\_  
President of Council

POSTED: \_\_\_\_\_, 2015

\_\_\_\_\_  
Approved

ATTEST: \_\_\_\_\_  
Clerk of Council

\_\_\_\_\_  
Mayor

ORDINANCE NO. \_\_\_\_\_-2015

**AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF \$76,000 OF NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, FOR THE PURPOSE OF PAYING COSTS OF CONSTRUCTING, EQUIPPING AND OTHERWISE IMPROVING A NEW SALT STORAGE FACILITY, AND DECLARING AN EMERGENCY.**

WHEREAS, pursuant to Ordinance No. 64-2013, passed on May 28, 2013, there were issued \$150,000 of notes in anticipation of bonds for the purpose stated in Section 1 as part of a consolidated issue of \$1,950,000 Various Purpose Notes, Series 2013, which notes were retired at maturity, together with other funds of the City, with \$84,000 of notes (the Outstanding Notes) issued in anticipation of bonds pursuant to Ordinance No. 60-2014, passed on May 12, 2014, as part of a consolidated issue of \$12,329,000 Various Purpose Notes, Series 2014, which Outstanding Notes mature on July 14, 2015; 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 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 July 16, 2033;

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of Avon Lake, Lorain County, Ohio, that:

**Section 1.** Authorized Principal Amount of Anticipated Bonds and Purpose. It is necessary to issue bonds of the City in the aggregate principal amount of \$76,000 (the Bonds) for the purpose of paying costs of constructing, equipping and otherwise improving a new salt storage facility, together with all appurtenances thereto.

**Section 2.** Estimated Bond Terms. The Bonds shall be dated approximately June 1, 2016, 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 in such amounts that the total principal and interest payments on the Bonds in any fiscal year in which principal is payable are substantially equal. The first interest payment on the Bonds is estimated to be December 1, 2016, and the first principal payment on the Bonds is estimated to be December 1, 2017.

**Section 3.** Authorized Principal Amount of Notes; Dating; Interest Rate. It is necessary to issue and this Council determines that notes in the aggregate principal amount of \$76,000 (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 not later than one year from the date of issuance by setting forth that maturity date in the certificate awarding the Notes and signed in accordance with Section 6 (the Certificate of Award). The Notes shall bear interest at a rate not to exceed 4% 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 lawful money of the United States of America or in Federal Reserve funds of the United States of America, as determined by the Director of Finance in the Certificate of Award, 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 designated corporate trust office 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.** 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. The entire principal amount may be represented by a single note and may be issued as fully registered securities (for which the Director of Finance will serve as note registrar) and in book entry or other uncertificated form in accordance with Section 9.96 and Chapter 133 of the Revised Code if it is determined by the Director of Finance that issuance of fully registered securities in that form will facilitate the sale and delivery of the Notes. The Notes shall not have coupons attached, shall be numbered as determined by the Director of Finance and shall express upon their faces the purpose, in summary terms, for which they are issued and that they are issued pursuant to this Ordinance. As used in this section and this Ordinance:

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

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

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

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

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

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

**Section 6.** Award and Sale of the Notes. The Notes shall be sold at not less than par plus accrued interest at private sale by the Director of Finance to the original purchaser identified in the Certificate of Award (the Original Purchaser) in accordance with law and the provisions of this Ordinance and the Certificate of Award. The Director of Finance shall sign the Certificate of Award 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 (i) engage the services of a municipal advisor and (ii) 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 engage a municipal advisor and/or 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 money is lawfully available for the payment of debt charges on the Notes and Bonds and is appropriated for that purpose, the amount of the tax shall be reduced by the amount of money so available and appropriated.

**Section 10.** Federal Tax Considerations. The City covenants that it will use, and will restrict the use and investment of, the proceeds of the Notes in such manner and to such extent as may be necessary so that (a) the Notes will not (i) constitute private activity bonds, arbitrage bonds or hedge bonds under Sections 141, 148 or 149 of the Internal Revenue Code of 1986, as amended (the Code) or (ii) be treated other than as bonds to which Section 103 of the Code applies, and (b) the interest 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 purpose 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 is applicable and desirable), choice, consent, approval, or waiver on behalf of the City with respect to the Notes as the City is permitted to or required to make or give under the federal income tax laws, including, without limitation thereto, any of the elections provided for in 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 or 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 Lorain County Auditor.

**Section 12.** Satisfaction of Conditions for Note Issuance. This Council determines that all acts and conditions necessary to be done or performed by the City or to have been met precedent to and in the issuing of the Notes in order to make them legal, valid and binding general obligations of the City have been performed and have been met, or will at the time of delivery of the Bonds have been performed and have been met, in regular and due form as required by law; that the full

faith and credit and general property taxing power (as described in Section 9) of the City are pledged for the timely payment of the debt charges on the Notes; and that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Notes.

**Section 13.** 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 14.** Compliance with Open Meeting Requirements. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council or committees, and that all deliberations of this Council and 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, 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 sold 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.

1<sup>st</sup> Reading:  
2<sup>nd</sup> Reading:  
3<sup>rd</sup> Reading:

PASSED: \_\_\_\_\_, 2015

\_\_\_\_\_  
President of Council

POSTED: \_\_\_\_\_, 2015

\_\_\_\_\_  
Approved

ATTEST: \_\_\_\_\_  
Clerk of Council

\_\_\_\_\_  
Mayor

ORDINANCE NO. \_\_\_\_\_-2015

**AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF \$149,000 OF NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, FOR THE PURPOSE OF PAYING COSTS OF ACQUIRING EQUIPMENT AND APPARATUS FOR USE BY THE CITY'S SERVICE DEPARTMENT AND FOR OTHER CITY FUNCTIONS, AND DECLARING AN EMERGENCY.**

WHEREAS, pursuant to Ordinance No. 63-2013, passed on May 28, 2013, there were issued \$225,000 of notes in anticipation of bonds for the purpose stated in Section 1 as part of a consolidated issue of \$1,950,000 Various Purpose Notes, Series 2013, which notes were retired at maturity, together with other funds of the City, with \$159,000 of notes (the Outstanding Notes) issued in anticipation of bonds pursuant to Ordinance No. 59-2014, passed on May 12, 2014, as part of a consolidated issue of \$12,329,000 Various Purpose Notes, Series 2014, which Outstanding Notes mature on July 14, 2015; 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 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 July 16, 2028;

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of Avon Lake, Lorain County, Ohio, that:

**Section 1.** Authorized Principal Amount of Anticipated Bonds and Purpose. It is necessary to issue bonds of the City in the aggregate principal amount of \$149,000 (the Bonds) for the purpose of paying costs of acquiring equipment and apparatus for use by the City's Service Department and for other City functions.

**Section 2.** Estimated Bond Terms. The Bonds shall be dated approximately June 1, 2016, shall bear interest at the now estimated rate of 4% 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 in such amounts that the total principal and interest payments on the Bonds in any fiscal year in which principal is payable are substantially equal. The first interest

payment on the Bonds is estimated to be December 1, 2016, and the first principal payment on the Bonds is estimated to be December 1, 2017.

**Section 3.** Authorized Principal Amount of Notes; Dating; Interest Rate. It is necessary to issue and this Council determines that notes in the aggregate principal amount of \$149,000 (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 not later than one year from the date of issuance by setting forth that maturity date in the certificate awarding the Notes and signed in accordance with Section 6 (the Certificate of Award). The Notes shall bear interest at a rate not to exceed 4% 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 lawful money of the United States of America or in Federal Reserve funds of the United States of America, as determined by the Director of Finance in the Certificate of Award, 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 designated corporate trust office 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.** 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. The entire principal amount may be represented by a single note and may be issued as fully registered securities (for which the Director of Finance will serve as note registrar) and in book entry or other uncertificated form in accordance with Section 9.96 and Chapter 133 of the Revised Code if it is determined by the Director of Finance that issuance of fully registered securities in that form will facilitate the sale and delivery of the Notes. The Notes shall not have coupons attached, shall be numbered as determined by the Director of Finance and shall express upon their faces the purpose, in summary terms, for which they are issued and that they are issued pursuant to this Ordinance. As used in this section and this Ordinance:

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

the record that identifies the owners of beneficial interests in the Notes and that principal and interest.

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

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

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

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

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

**Section 6.** Award and Sale of the Notes. The Notes shall be sold at not less than par plus accrued interest at private sale by the Director of Finance to the original purchaser identified in the Certificate of Award (the Original Purchaser) in accordance with law and the provisions of this Ordinance and the Certificate of Award. The Director of Finance shall sign the Certificate of Award 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 (i) engage the services of a municipal advisor and (ii) 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 engage a municipal advisor and/or 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 money is lawfully available for the payment of debt charges on the Notes and Bonds and is appropriated for that purpose, the amount of the tax shall be reduced by the amount of money so available and appropriated.

**Section 10.** Federal Tax Considerations. The City covenants that it will use, and will restrict the use and investment of, the proceeds of the Notes in such manner and to such extent as may be necessary so that (a) the Notes will not (i) constitute private activity bonds, arbitrage bonds or hedge bonds under Sections 141, 148 or 149 of the Internal Revenue Code of 1986, as amended

(the Code) or (ii) be treated other than as bonds to which Section 103 of the Code applies, and (b) the interest 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 purpose 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 is applicable and desirable), choice, consent, approval, or waiver on behalf of the City with respect to the Notes as the City is permitted to or required to make or give under the federal income tax laws, including, without limitation thereto, any of the elections provided for in 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 or 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 Lorain County Auditor.

**Section 12.** Satisfaction of Conditions for Note Issuance. This Council determines that all acts and conditions necessary to be done or performed by the City or to have been met precedent

to and in the issuing of the Notes in order to make them legal, valid and binding general obligations of the City have been performed and have been met, or will at the time of delivery of the Bonds have been performed and have been met, in regular and due form as required by law; that the full faith and credit and general property taxing power (as described in Section 9) of the City are pledged for the timely payment of the debt charges on the Notes; and that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Notes.

**Section 13.** 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 14.** Compliance with Open Meeting Requirements. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council or committees, and that all deliberations of this Council and 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, 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 sold 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.

1<sup>st</sup> Reading:  
2<sup>nd</sup> Reading:  
3<sup>rd</sup> Reading:

PASSED: \_\_\_\_\_, 2015

\_\_\_\_\_  
President of Council

POSTED: \_\_\_\_\_, 2015

\_\_\_\_\_  
Approved

ATTEST: \_\_\_\_\_  
Clerk of Council

\_\_\_\_\_  
Mayor

**ORDINANCE NO. \_\_\_\_\_-2015**

**AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF \$800,000 OF NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, FOR THE PURPOSE OF PAYING COSTS OF IMPROVING THE WATER SUPPLY SYSTEM BY CONSTRUCTING AND RECONSTRUCTING WATER MAINS AND RELATED WATER SUPPLY FACILITIES, AND DECLARING AN EMERGENCY.**

WHEREAS, pursuant to Ordinance No. 58-2014, passed on May 12, 2014, there were issued \$1,000,000 of notes (the Outstanding Notes) in anticipation of bonds for the purpose stated in Section 1 as part of a consolidated issue of \$12,329,000 Various Purpose Notes, Series 2014, which Outstanding Notes mature on July 14, 2015; 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 improvement described in Section 1 is at least five years, the estimated maximum maturity of the Bonds described in Section 1 is 40 years and the maximum maturity of the Notes described in Section 3, to be issued in anticipation of the Bonds, is July 15, 2034;

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of Avon Lake, Lorain County, Ohio, that:

**Section 1.** Authorized Principal Amount of Anticipated Bonds and Purpose. It is necessary to issue bonds of the City in the aggregate principal amount of \$800,000 (the Bonds) for the purpose of paying costs of improving the water supply system by constructing and reconstructing water mains and related water supply facilities, together with the necessary appurtenances and work incidental thereto.

**Section 2.** Estimated Bond Terms. The Bonds shall be dated approximately June 1, 2016, 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 40 annual principal installments on December 1 of each year that are in such amounts that the total principal and interest payments on the Bonds in any fiscal year in which principal is payable are substantially equal. The first interest payment on the Bonds is estimated to be December 1, 2016, and the first principal payment on the Bonds is estimated to be December 1, 2017.

**Section 3.** Authorized Principal Amount of Notes; Dating; Interest Rate. It is necessary to issue and this Council determines that notes in the aggregate principal amount of \$800,000 (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 not later than one year from the date of issuance by setting forth that maturity date in the certificate awarding the Notes and signed in accordance with Section 6 (the Certificate of Award). The Notes shall bear interest at a rate not to exceed 4% 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 lawful money of the United States of America or in Federal Reserve funds of the United States of America, as determined by the Director of Finance in the Certificate of Award, 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 designated corporate trust office 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.** 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. The entire principal amount may be represented by a single note and may be issued as fully registered securities (for which the Director of Finance will serve as note registrar) and in book entry or other uncertificated form in accordance with Section 9.96 and Chapter 133 of the Revised Code if it is determined by the Director of Finance that issuance of fully registered securities in that form will facilitate the sale and delivery of the Notes. The Notes shall not have coupons attached, shall be numbered as determined by the Director of Finance and shall express upon their faces the purpose, in summary terms, for which they are issued and that they are issued pursuant to this Ordinance. As used in this section and this Ordinance:

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

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

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

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

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

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

**Section 6.** Award and Sale of the Notes. The Notes shall be sold at not less than par plus accrued interest at private sale by the Director of Finance to the original purchaser identified in the Certificate of Award (the Original Purchaser) in accordance with law and the provisions of this Ordinance and the Certificate of Award. The Director of Finance shall sign the Certificate of Award 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 (i) engage the services of a municipal advisor and (ii) 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 engage a municipal advisor and/or 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 money from the water supply system or other sources is lawfully available for the payment of the debt charges on the Notes and Bonds and is appropriated for that purpose, the tax shall be reduced by the amount of money so available and appropriated.

**Section 10.** Federal Tax Considerations. The City covenants that it will use, and will restrict the use and investment of, the proceeds of the Notes in such manner and to such extent as may be necessary so that (a) the Notes will not (i) constitute private activity bonds, arbitrage bonds or hedge bonds under Sections 141, 148 or 149 of the Internal Revenue Code of 1986, as amended (the Code) or (ii) be treated other than as bonds to which Section 103 of the Code applies, and (b) the interest 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 purpose 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 is applicable and desirable), choice, consent, approval, or waiver on behalf of the City with respect to the Notes as the City is permitted to or required to make or give under the federal income tax laws, including, without limitation thereto, any of the elections provided for in 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 or 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 Lorain County Auditor.

**Section 12.** Satisfaction of Conditions for Note Issuance. This Council determines that all acts and conditions necessary to be done or performed by the City or to have been met precedent to and in the issuing of the Notes in order to make them legal, valid and binding general obligations of the City have been performed and have been met, or will at the time of delivery of the Bonds have been performed and have been met, in regular and due form as required by law; that the full

faith and credit and general property taxing power (as described in Section 9) of the City are pledged for the timely payment of the debt charges on the Notes; and that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Notes.

**Section 13. 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 14. Compliance with Open Meeting Requirements.** This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council or committees, and that all deliberations of this Council and 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, 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 sold 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.

1<sup>st</sup> Reading:  
2<sup>nd</sup> Reading:  
3<sup>rd</sup> Reading:

PASSED: \_\_\_\_\_, 2015

\_\_\_\_\_  
President of Council

POSTED: \_\_\_\_\_, 2015

\_\_\_\_\_  
Approved

ATTEST: \_\_\_\_\_  
Clerk of Council

\_\_\_\_\_  
Mayor

BY: Mr. James

TEMP NO: 10525

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING CODIFIED ORDINANCE  
SECTION 208.01, (e) (14), ENTITLED POOL FEES, AND  
DECLARING AN EMERGENCY.

WHEREAS, the Parks & Recreation Commission and the Public Service Committee recommended amending Codified Ordinance Section 208.01 (e) (14), Pool Fees, 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 208.01 (e) (14) is hereby amended as follows:

(14) Pool Fees

- |   |                  |
|---|------------------|
| A. General admission for residents            |                  |
| Ages 3 through 17                             | \$4.00 per day   |
| Ages 18 through 59                            | \$5.00 per day   |
| Ages 60 years of age and over                 | No charge        |
| Ages 2 years of age and under                 | No charge        |
| <b>Active duty armed forces personnel and</b> | <b>No charge</b> |
| <b>Purple Heart recipients and their</b>      |                  |
| <b>immediate families</b>                     |                  |
| B. Guests accompanied by resident             |                  |
| Through 17 years of age                       | \$6.00 per day   |
| Ages 18 through 59                            | \$7.00 per day   |
| 60 years of age and over                      | \$4.00 per day   |
| C. City nonresident employees and             | Non resident     |
| their immediate families                      | guest fee        |
| (Do not have to be accompanied by a resident) |                  |

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 establish amended pool fees and have them

in effect for the upcoming season to honor those serving in the armed forces or those having received a Purple Heart award. Therefore, this Ordinance shall be in full force and effect from and immediately after its passage and approval by the Mayor.

PASSED: \_\_\_\_\_  
President of Council

POSTED: \_\_\_\_\_  
Approved

ATTEST: \_\_\_\_\_  
Clerk of Council Mayor