VOTING ORDER

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

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 August 24, 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: **July 13, 2015 Regular Council Meeting as prepared and published.**

Public Hearing: **Upon an amendment to Planning & Zoning Code Chapter 1212 and Chapter 1214 regarding definitions and multi-family residential district regulations.**

Correspondence

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

Audience Participation

Motions

Accepting the resignation of Angelo Tetorakis effective November 2, 2015 – D. Bucci.

Legislation

Second Readings:

Temporary Legislation #10539, amending Codified Ordinance Section 1010.11 and adding Codified Ordinance Section 1010.111 pertaining to tree lawns.

Temporary Legislation #10541, amending Planning & Zoning Code Chapter 1212 and Chapter 1242 pertaining to multi-family regulations.→

First Readings:

Temporary Legislation #10544, authorizing the purchase of two police vehicles.

Temporary Legislation #10545, adopting the Solid Waste Management District Plan.→

Temporary Legislation #10546, approving the final plat for Waterside Crossing North C-No. 2.→

Temporary Legislation #10547, amending Planning & Zoning Code Section 1217.04 regarding Conditional Use Permits.

Temporary Legislation #10548, amending Planning & Zoning Code Section 1212.03, 1244.02, 1246.02, 1250.03, and 1250.04 regarding self-service storage facilities.

Temporary Legislation #10549, amending Codified Ordinance Section 208.01 (e) (16), entitled Lake House, and repealing Ordinance No. 90-2015.

Temporary Legislation #10550, amending Section 1216.11 of the Codified Ordinances to modify standards for obtaining a waiver from Planning Commission and allowing Planning Commission to deliberate in private as to whether to grant a waiver.

Temporary Legislation #10551, amending Codified Ordinance Chapter 618, with the addition of Section 618.17, Nuisance, Dangerous, and Vicious Dogs, Section 618.18, Designation of Nuisance, Dangerous, and Vicious Dogs, Section 618.19, Seizure of a Dog for Public Safety, Section 618.20, Confining and Restraining Nuisance, Dangerous and Vicious Dogs, Section 618.21, Insurance for Vicious and Dangerous Dogs, and Section 618.22, Registration of Vicious and Dangerous

→Suspension of the rule requiring three readings

Dogs.

Temporary Legislation #10552, providing for the continued defense of the City of Avon Lake in an action filed by James E. Pietrangelo.→

Miscellaneous Business and Announcements

Public Input

Adjournment

→Suspension of the rule requiring three readings

BY: Mr. James TEMP NO: 10539

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 1010.11 OF THE CODIFIED ORDINANCES AND ADDING SECTION 1010.111 PERTAINING TO TREE LAWNS.

WHEREAS, Section 1010.11 of the Codified Ordinances of Avon Lake restricts the items permitted within City tree lawns;

WHEREAS, items and structures have been placed within City tree lawns in violation of Section 1010.11;

WHEREAS, such items and structures are interfering with the City's ability to obtain State grant funds for road maintenance, repair and improvement;

WHEREAS, the State has advised the City that the City may permit certain of the items and structures to remain within the tree lawns if certain terms and conditions are satisfied; and

WHEREAS, Council desires to amend Section 1010.11 and enact new Section 1010.111 of the Codified Ordinances to permit certain items and structures to remain within tree lawns under terms and conditions that comply with the State's requirements for obtaining grant funds;

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

Section No. 1: That Section 1010.11 of the Codified Ordinances of Avon Lake is hereby amended by the addition of new division (d), to read as follows:

(d) Certain items in the City tree lawns that are otherwise in violation of the foregoing provisions of this section may be permitted to remain in their current locations in accordance with and subject to the terms and conditions of Section 1010.111 of this Code.

Section No. 2: That there is hereby enacted new Section 1010.111 of the Codified Ordinances of Avon Lake, to read as follows:

1010.111 CERTAIN TOLERATED TREE LAWN ITEMS.

(a) Until the Mayor orders it to be removed, an item or structure within a City tree lawn that is otherwise in violation of Section 1010.11 may remain in its current location if it is a Tolerated Item (as hereinafter defined) and if the tree lawn is not part of the right-of-way of a state route, arterial street, or street the posted speed limit of which exceeds 25 miles per hour. The owner(s) of the Tolerated Item shall, at the cost of such owner(s), promptly remove the

Tolerated Item when ordered by the Mayor to do so, and in default thereof, the City may remove the Tolerated Item and charge the owner(s) for the cost of such removal.

(b) Until the Mayor orders it to be removed, an item or structure within a City tree lawn that is otherwise in violation of Section 1010.11 and that is not permitted by division (a) of this section, may be permitted to remain in its current location if it is a State Tolerated Item (as hereinafter defined) and if the owner(s) of the State Tolerated Item executes and delivers to the City a revocable license agreement and such other instruments as the City may request, all in form and substance acceptable to the Public Works Director and Director of Law.

(c) For purposes of this section, "Tolerated Item" means a structure or item that is in violation of Section 1010.11, but satisfies all of the following:

(1) It existed in its current location in the City tree lawn as of January 1, 2013.

(2) It is owned by the owner(s) of the lot adjoining such section of the City tree lawn.

(3) It is an item that cannot be removed from the City tree lawn without significant cost or substantial damage to the item.

(4) It is not a rock or boulder.

(d) For purposes of this section, "State Tolerated Item" means a structure or item that is in violation of Section 1010.11, but satisfies all of the following:

(1) It existed in its current location in the City tree lawn as of January 1, 2013.

(2) It is more than four (4) feet from the edge of the pavement of the street right-of-way.

(3) It is owned by the owner(s) of the lot adjoining such section of the City tree lawn.

(4) It is an item that cannot be removed from the City tree lawn without significant cost or substantial damage to the item.

(5) It is not a rock or boulder.

(e) The determination as to whether an item is a Tolerated Item or State Tolerated Item shall be made by the Public Works Director. An owner of an item or structure within a tree lawn may request a determination as to whether that item is a Tolerated Item or State Tolerated Item. If such owner is dissatisfied with the determination of the Public Works Director, then such owner may appeal such determination by making a demand in writing to the Building Inspector for a hearing before the Demolition Board of Appeal established pursuant to Section 1468.05 of the Codified Ordinances (the "Board"). Such demand must be served upon the Building Inspector within fourteen (14) days after the Public Works Director issues a determination that the item or structure is not a Tolerated Item or State Tolerated Item. The hearing shall be held within thirty (30) days from the receipt of the written demand, and at least five (5) days' notice of the hearing shall be given to the owner. A majority of the Board may reverse the determination of the Public Works Director. The owner shall be promptly notified of the decision of the Board. The decision of the Board shall be final and conclusive.

(f) Until January 1, 2017, no fee shall be payable for requesting a determination as to whether an item is a Tolerated Item or State Tolerated Item or appealing the decision of the Public Works Director to the Board. On and after January 1, 2017, the fees shall be as specified in the General Fee Schedule set forth in Section 208.01 of the Codified Ordinances.

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.

1st reading: 7/13/15
2nd reading:
3rd reading:

PASSED: _____ _____
President of Council

POSTED: _____ _____
Approved

ATTEST: _____ _____
Clerk of Council Mayor

BY: Mrs. Fenderbosch TEMP NO: 10541

ORDINANCE NO. _____

AN ORDINANCE AMENDING PLANNING & ZONING CODE CHAPTER 1212, ENTITLED DEFINITIONS, AND CHAPTER 1242, ENTITLED MULTI-FAMILY RESIDENTIAL DISTRICT REGULATIONS, AND DECLARING AN EMERGENCY.

WHEREAS, Planning Commission has at its meeting of July 7, 2015 recommended to Council that proposed amendments to Chapter 1212 and Chapter 1242 of the Planning & Zoning Code be adopted, now therefore;

WHEREAS, Council coming now to consider said recommendations approves them in full, now therefore;

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

Section No. 1: That Planning & Zoning Code Chapter 1212, entitled Definitions, is hereby amended as follows:

CHAPTER 1212 Definitions

1212.03 (35) DWELLING, ATTACHED SINGLE-FAMILY: Single-family dwelling units which are structurally attached to one another, ***on fee simple footprints and*** ~~but~~ which maintain separate identities, including such elements as separate ground-floor entrances, services and attached garages.

Section No. 2: That Planning & Zoning Code Chapter 1242, entitled Multi-Family Residential District Regulations, is hereby amended as follows:

CHAPTER 1242 Multiple-Family Residential District Regulations

1242.01 Purpose.
1242.02 Permitted uses.
1242.03 Lot regulations and maximum density.
1242.04 Required building and parking setbacks.
1242.05 Maximum building height and minimum spacing between buildings.
1242.06 Attached Single-Family Requirements
1242.06~~7~~ Accessory use regulations.
1242.07~~8~~ Dwelling unit requirements.
1242.08~~9~~ Landscaping and screening requirements.
1242.09~~10~~ Supplemental regulations for group homes for persons with disabilities.
1242.11 Approval Procedures
1242.10~~2~~ Site plan review required.

CROSS REFERENCES

Division into districts - see Ohio R.C. 713.06
Basis of districts - see Ohio R.C. 713.10
Nonconforming uses - see P. & Z. Ch. 1266
Conditional uses - see P. & Z. Ch. 1250
Planned unit developments - see P. & Z. Ch. 1252
Signs - see P. & Z. Ch. 1262
Off-street parking and loading - see P. & Z. Ch. 1264
Adult entertainment businesses - see P. & Z. Ch. 1254
Wireless telecommunications - see P. & Z. Ch. 1256
Supplementary regulations - see P. & Z. Ch. 1260
District Boundary Descriptions - see P. & Z. Appendix A

1242.01 PURPOSE.

The Multiple-Family Residential Districts are established to accommodate attached single-family and multiple-family dwellings at varying densities in order to offer a variety of living environments within the City and in a manner which protects the desirable characteristics of existing residential development. R-2 is intended for implementation when the City nears build-out or as a buffer zone between districts.

(a) R-2 Multiple-Family Residential District. Provide areas for multiple-family dwellings of five units/acre as the permitted use by right and conditionally permit institutional and commercial recreation uses.

(b) R-3 Multiple-Family Residential District. Provide areas for primarily multiple-family dwellings of up to 12 units/acre.

(c) Unit Types. Notwithstanding the definition in Chapter 1212, multifamily residential dwellings may include a variety of unit types, including but not limited to attached, townhouse, patio and similar unit types. Multifamily dwellings may also include a variety of unit ownership concepts, including fee simple footprints for attached single-family units, condominium and rental units.

1242.02 PERMITTED USES.

(a) Principal uses. The principal uses enumerated in Schedule 1242.02, denoted with a P, are permitted by right in the district indicated, provided that all the requirements of other City ordinances and this Code have been met.

(b) Conditional Uses. The conditional uses enumerated in Schedule 1242.02, denoted with a C, may (together with their accessory uses) be permitted in the district indicated, provided that all the requirements of other City ordinances and this Code have been met.

(c) Accessory Uses. The accessory uses, buildings, and structures enumerated below are permitted in any Multiple-Family Residential District, unless indicated otherwise below, when such accessory use is associated with, subordinate to, and located on the same zoning lot as, the principal use. Such uses shall comply with the supplemental requirements noted.

(1) Private garages or off-street parking areas for the exclusive use of residents and their guests, as set forth in Chapter 1264;

(2) Swimming pools for the exclusive use of residents and their guests, subject to Section 1240.06(f) and any other applicable City ordinance;

(3) Child day care homes (Types A & B) as defined in Section 1212.03 (27);

(4) Home Occupations in accordance with Section 1240.07;

(5) Signs in accordance with Chapter 1262;

(6) Fences in accordance with Section 1242.06(b);

(7) Satellite dish-receiving antennas, when no greater than three (3) feet in diameter, when not located in any required yards and, which, when placed on the ground, are not higher that eight (8) feet, or when placed on a roof, do not extend more than four (4) feet above the roof line;

(8) Porches. An unenclosed porch attached to a multiple-family dwelling may be erected within the required front yard or required rear yard. The installation of removable screen panels shall not be interpreted as enclosing a porch. This allowance into otherwise required yards shall not apply to any non-residential conditional uses in the R-2 or R-3 District.

(9) Other accessory structures in accordance with Section 1242.04 through 1242.08.

(10) Maintenance of livestock. Maintaining or harboring livestock is prohibited.

(11) Fruits and vegetables; pets. Raising fruits, vegetables or nursery stock for private use, and keeping household pets not kept, raised or bred for profit, are permitted in Multiple-Family Districts.

SCHEDULE 1242.02

Permitted Uses in Multiple-Family Districts

	R-2	*R-3*
A. RESIDENTIAL		
1. Two-family dwellings	P	P
2. Multiple-family dwellings (minimum 3 units)	P	P
3. Attached single-family dwellings	P	P
4. Senior citizen housing	P	P
5. Group homes for handicapped persons (b)	P	P
B. INSTITUTIONAL/OTHER		
1. Places of worship	C	C
2. Schools: public, private or religious	C	C
3. Public libraries/museums	C	C
4. Public administrative offices	C	C
5. Nursing homes, assisted living facilities	C	C
6. Child day care centers	C	P
7. Public service/maintenance facility	C	C
8. Public utility transmission and distribution stations	P	P
9. Wireless telecommunications towers and facilities	C	C
10. Funeral homes	C	C
11. Public safety facilities	C	C
12. Public parks, playgrounds and recreation uses	C	C
13. Golf courses	C	C
14. Cemeteries	C	C
C. SIMILAR USES - as determined by the Planning Commission pursuant to Section 1217.09		
1. For applicable review procedures refer to Section 1242.10.		

2. See Section 1242.09 for additional regulations.		

P Permitted Principal Use C Permitted Conditional Use

1242.03 LOT REGULATIONS AND MAXIMUM DENSITY.

The minimum lot and area width and maximum density, per acre for multiple-family developments, are specified in Schedule 1242.03.

SCHEDULE 1242.03

Minimum ***Development*** Lot Area and Width, Maximum Density

	R-2	*R-3*
A. MINIMUM ~~LOT~~ ***DEVELOPMENT*** AREA REQUIRED	30,000 square feet	30,000 square feet
B. MINIMUM ***DEVELOPMENT*** LOT WIDTH	100 feet	100 feet
C. MAXIMUM DWELLING UNITS PER ACRE	5	12

1242.04 REQUIRED BUILDING AND PARKING SETBACKS.

The minimum building and parking setback requirements for multiple-family developments are specified in Schedule 1242.04.

SCHEDULE 1242.04

Minimum Building and Parking Setbacks

	R-2 & R-3
A. FRONT BUILDING SETBACK (as measured from the street right-of-way line)	
1. Standard	50
2. If no parking in front of building	30
B. SIDE AND REAR BUILDING SETBACK	
1. Adjacent to R-1, R-1A, R-1B District	35
2. Adjacent to all other districts	20
C. PARKING SETBACK	
1. Adjacent to R-1, R-1A, R-1B District	35
2. Adjacent to all other districts	20

1242.05 MAXIMUM BUILDING HEIGHT AND MINIMUM SPACING BETWEEN BUILDINGS.

In a multiple-family residential development, the maximum height and minimum spacing between principal and accessory buildings is specified in Schedule 1242.05.

SCHEDULE 1242.05

Maximum Building Height and Minimum Spacing Between Buildings

	(In Feet)
A. Maximum Height of Principal Buildings	45
B. Maximum Height of Accessory Buildings	15

C. Minimum Distance Between Principal Buildings	40
D. Minimum Distance Between a Principal Building and an Accessory Structure	15

1242.06 ATTACHED SINGLE-FAMILY REQUIREMENTS.

(a) Attached single-family dwellings shall have a maximum of six units attached.

(b) The common elements shall either be held in corporate ownership by the owner(s) of the project area for use of the residents within the attached dwelling units or dedicated to a homeowners association that will have title to the land to be retained as common open space for use of the residents of the attached dwelling units.

(c) The instruments governing the common elements and the homeowners association shall be subject to review and approval of the Planning Commission and Council and shall include adequate provisions for the perpetual maintenance of the common areas including, but not limited to open space, parking, utility areas and driveways.

1242.06~~7~~ ACCESSORY USE REGULATIONS.

Accessory buildings and structures shall comply with the following regulations.

(a) Accessory Buildings. Accessory buildings shall comply with the development standards established for principal buildings and uses in Section 1242.04.

(b) Fences. Any proposed fence shall be approved as part of the site plan review in accordance with Section 1217.03.

(c) Accessory Structures. Accessory structures, including dumpsters, shall be located in the rear yard, setback from a side and rear lot line a minimum of 10 feet, except that such dumpster shall be set back a minimum of 25 feet when adjacent to a Single-Family Residential District. Accessory structures, including mechanical equipment, which are located on the roof of a building shall either be located in a manner that such structure is not visible from the front lot line or shall be enclosed in a structure that matches the materials of the building or shall be covered or painted to blend with the building.

1242.07~~8~~ DWELLING UNIT REQUIREMENTS.

In order to provide healthful living conditions and to preserve the character of the neighborhood, dwelling units shall be erected, altered, moved, maintained or occupied only in accordance with the following standards establishing minimum floor areas of dwelling units and required garage space.

(a) Minimum Area of Dwelling Unit. In an R-2 or R-3 District, the minimum floor area for a dwelling unit shall be not less than 1,000 square feet for a townhouse and not less than 700 square feet for an apartment. For townhouse and multiple-family dwellings, where applicable, measurements will be made to the centerline of party walls. All areas within garages, porches, public halls and general storage rooms in apartment dwellings shall be excluded in this measurement.

(b) Senior Citizen Apartments. For a multiple-family development which is intended to be senior citizen housing, as defined in Section 1212.03(93) and in accordance with Section 1250.04(cc), the minimum dwelling unit floor area shall be 500 square feet.

1242.08~~9~~ LANDSCAPING AND SCREENING REQUIREMENTS.

Landscape buffers and visual screening shall be provided on each lot in compliance with the following standards in order to reduce the impact between incompatible uses or zones to break

up and lessen the impact of large parking areas to provide interest and lessen the monotony of the streetscape, to obscure the view of accessory uses and to provide protection from soil erosion.

(a) Landscaping and Maintenance of Yards. Required yards and all other portions of the lot not covered by permitted structures shall be landscaped with grass, trees, shrubbery and/or other appropriate ground cover or landscaping material, which at all times shall be maintained in good and healthy condition.

(b) Screening of Accessory Uses. Accessory uses, including dumpsters and loading areas, shall be screened by an opaque fence or wall a minimum of six feet in height placed adjacent to the dumpster or loading area so as to effect screening from any adjacent streets and any adjoining properties.

(c) Screening and Landscaping of Parking Lots. Perimeter and interior landscaping of parking lots shall be provided in accordance with the regulations set forth in Section 1264.12.

(d) Screening When Lot Abuts a Single-Family Residential District. Where any structure is to be built or altered by expansion or diminution in any Multiple-Family District and the lot upon which such structure is to be built is contiguous to a Single-Family Residential District, parking and driveway areas shall be screened in accordance with the following regulations, and shall be approved as part of the site plan required by Section 1217.03.

(1) Screening shall consist of one or a combination of the following:

A. A dense vegetative planting incorporating, trees and/or shrubs of a variety which shall be equally effective in winter and summer.

B. A nonliving opaque structure such as a solid masonry wall, solidly constructed decorated fence, or louvered fence.

C. A landscaped mound or berm.

(2) The height of screening shall be in accordance with the following:

A. Visual screening, walls, fences, or mounds and fences in combination, shall be a minimum of six feet high in order to accomplish the desired screening effect.

B. Vegetation shall be planted with such minimum height to assure that the required six feet high screening effect shall be achieved not later than twelve months after the initial installation.

(3) All screening shall be free of advertising or other signs, except for directional signs and other signs for the efficient flow of vehicles.

(4) The required landscaping shall be maintained in healthy condition by the current owner and replaced when necessary. Replacement material shall conform to the original intent of the landscape plan.

1242.~~09~~*10* SUPPLEMENTAL REGULATIONS FOR GROUP HOMES FOR PERSONS WITH DISABILITIES.

In addition to the applicable standards of this Code, a group home for persons with disabilities shall comply with the following regulations.

(a) The owner/operator shall be properly licensed by the State of Ohio; and

(b) No more than two (2) group homes for persons with disabilities shall be located within one-fourth of a mile or 1,320 feet of each other.

1242.11 APPROVAL PROCEDURES

R-2 and R-3 multifamily developments are subject to site plan review pursuant to the procedures set forth in Section 1217.03.

Further subdivision within the multifamily development creating fee simple footprints of attached single family dwellings is subject to the procedures of Chapter 1216.

1242.102 SITE PLAN REVIEW REQUIRED.

Any new construction of a conditional or accessory use in an R-2 or R-3 District is subject to site plan review pursuant to Section 1217.03(a) (unless exempt by the provisions of Section 1217.02(b)(5)) and shall require the submission and approval of a site plan pursuant to the procedures set forth in Section 1217.03(b) through (i).

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 to have the code amendments approved to allow the project to move forward during the construction season and to offer more housing opportunities in Avon Lake, thus for the public welfare. Therefore, this Ordinance shall be in full force and effect from and immediately after its passage and approval by the Mayor.

1st reading: 7/13/15
2nd reading:
3rd reading:

PASSED: _____ _____
President of Council

POSTED: _____ _____
Approved

ATTEST: _____ _____
Clerk of Council Mayor

BY: Mr. Kos TEMP NO: 10544

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE PURCHASE OF TWO FORD SUV INTERCEPTORS FOR THE POLICE DEPARTMENT, AND DECLARING AN EMERGENCY.

WHEREAS, the City of Avon Lake has entered into a Cooperative Purchasing Program with the State of Ohio, and

WHEREAS, the State has advertised for bids for the purchase of two 2016 Ford SUV Interceptors and finds that the bid of Lebanon Ford of Lebanon, Ohio to be the lowest and best bid, now therefore;

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

Section No. 1: That the bid by Lebanon Ford of Lebanon, Ohio submitted through the Cooperative Purchasing Program of the State of Ohio, to supply the City with two 2016 Ford SUV Interceptors in the total amount of $52,224.00, be and it is hereby accepted and approved.

Section No. 2: That upon deliver to this City with the proper specifications, to the full satisfaction of the Police Chief and the Director of Finance and accompanied by Title Certificate showing said vehicle to be free and clear of any and all liens and encumbrances and titled in the City of Avon Lake, then the Director of Finance is hereby directed to deliver to Lebanon Ford of Lebanon, Ohio the warrant of this City in the amount of $52,224.00 and to cause said warrant to be paid.

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

Section No. 4: That this Ordinance is hereby declared to be an emergency measure, the emergency being the necessity of providing the Police Department with safe and reliable vehicles in order that they may promptly, safely and efficiently perform their duties and further to take advantage of the State Purchasing Program since a limited number of vehicles are available, 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.

PASSED: _____ _____
President of Council

POSTED: _____ _____
Approved

ATTEST: _____ _____
Clerk of Council Mayor

BY: Mr. James TEMP NO: 10545

ORDINANCE NO. _____

AN ORDINANCE TO ADOPT THE SOLID WASTE MANAGEMENT PLAN FOR THE LORAIN COUNTY SOLID WASTE MANAGEMENT DISTRICT, AND DECLARING AN EMERGENCY.

WHEREAS, the City of Avon Lake is located within the Lorain County Solid Waste Management District, and

WHEREAS, the Lorain County Solid Waste Management District Policy Committee prepared and adopted a final draft of the Solid Waste Management Plan in accordance with Ohio Revised Code Section 3734.53, 3734.54, and 3734.55, and

WHEREAS, the Lorain County Solid Waste Management District has provided a copy of the Adopted Final Solid Waste Management Plan for ratification to each of the legislative authorities of the District, and

WHEREAS, the City of Avon Lake must decide whether it approves of said Solid Waste Management Plan within 90 days of receipt of the Final Draft Plan, now therefore;

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

Section No. 1: That the City of Avon Lake approves the Lorain County Solid Waste Management District Solid Waste Management Plan.

Section No. 2: That the Clerk is hereby directed to send the District a copy of this ordinance to the attention of Keith Bailey, Director, Lorain County Solid Waste Management District, 226 Middle Avenue, Elyria, Ohio 44035.

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 to adopt the Solid Waste Management Plan within the required time frame to

approve the management of solid waste, recycling, and waste reduction, thus for the public welfare. Therefore, this Ordinance shall go into immediate force and effect from and after its passage and approval by the Mayor.

PASSED: _____ _____
President of Council

POSTED: _____ _____
Approved

ATTEST: _____ _____
Clerk of Council Mayor

BY: Mrs. Fenderbosch TEMP NO: 10546

ORDINANCE NO. _____

AN ORDINANCE APPROVING THE FINAL PLAT FOR WATERSIDE CROSSING NORTH C-NO. 2 AND DECLARING AN EMERGENCY.

WHEREAS, there has been submitted to and approved by the Planning Commission of the City of Avon Lake on August 4, 2015, the proposed final plat for Waterside Crossing North C-No. 2, and

WHEREAS, the final plat of said proposed Waterside Crossing North C-No. 2 has now been submitted to this Council for its consideration and approval, and

WHEREAS, as provided in Section 1216.08 of the Avon Lake Codified Ordinances, Council has examined said plat and has been advised by the Public Works Director and Planning Commission that it complies with the subdivision requirements of this Municipality and the preliminary plan theretofore approved by Council, now therefore;

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

Section No. 1: That the final plat for Waterside Crossing North C-No. 2 located north of Walker Road, east of Belmar, and west of Moorewood be and the same is hereby approved. The Clerk of Council is authorized to sign the plat accordingly.

Section No. 2: That upon certification by the Public Works Director, Council finds that all inspections and engineering fees have been paid, and all improvements have been installed as required by the Subdivision Code.

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 to allow for the timely recording of the plat in order to move forward with the project and to prevent

unnecessary delay in the mortgage closings of homes, and further to permit the city to begin collecting property taxes as soon as possible, thus for the public welfare. Therefore, this Ordinance shall go into immediate force and effect from and after its passage and approval by the Mayor.

PASSED: _____ _____
President of Council

POSTED: _____ _____
Approved

ATTEST: _____ _____
Clerk of Council Mayor

BY: Mrs. Fenderbosch TEMP NO: 10547

ORDINANCE NO. _____

AN ORDINANCE AMENDING PLANNING & ZONING CODE SECTION 1217.04, REGARDING CONDITIONAL USE PERMITS, AND DECLARING AN EMERGENCY.

WHEREAS, Planning Commission at its meeting of July 7, 2015 recommended to Council that an amendment to Planning & Zoning Code Section 1217.04 regarding Conditional Use Permits be adopted, 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 Planning & Zoning Code Section 1217.04, Conditional Use Permits, is hereby amended with the following addition of subsection (g).

(g) Any lawfully existing use that, at the time when the use was established, was not classified as a conditional use, but which now, because of the passage of this Planning and Zoning Code, or amendment thereto, is listed as a conditional use in the district in which it is located, shall be deemed without further action to have been granted a conditional use permit. Any change, modification, enlargement or alteration of such use, site development conditions, or change in operations shall only be permitted upon review and approval by the Planning Commission according to the procedures for conditional uses set forth in this Code.

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

Section No. 3: That this Ordinance is hereby declared to be an emergency measure, the emergency being the necessity to clearly establish procedures for granting conditional use permits in all instances to ensure the appropriate use of land and maintain the integrity of the Planning & Zoning Code, thus for the health safety and welfare of the residents of Avon Lake. Therefore, this Ordinance shall be in full force and effect from and immediately after its passage and approval by the Mayor.

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

PASSED: _____ _____
President of Council

POSTED: _____ _____
Approved

ATTEST: _____ _____
Clerk of Council Mayor

BY: Mrs. Fenderbosch TEMP NO: 10548

ORDINANCE NO. _____

AN ORDINANCE AMENDING PLANNING & ZONING CODE SECTIONS 1212.03, 1244.02, 1246.02, 1250.03, AND 1250.04, REGARDING SELF-SERVICE STORAGE FACILITIES, AND DECLARING AN EMERGENCY.

WHEREAS, Planning Commission at its meeting of July 7, 2015 recommended to Council that amendments to Planning & Zoning Code Sections 1213.03, 1244.02, 1246.02,1250.03, and 1250.04 regarding self-service storage facilities be adopted, and

WHEREAS, Council coming now to consider said recommendations approves them in full, now therefore;

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

Section No. 1: That Planning & Zoning Code Section 1212.03, Definitions of General Terms, is hereby amended as follows:

Code Section 1212.03 DEFINITIONS OF GENERAL TERMS

(xxxx) "Self-service storage facility" means real property containing multiple individual spaces utilized for dead storage of personal property and the users of which control access to their spaces. Self-service storage facility does not include a garage or other storage area in a private residence. No occupant may use a self-service storage facility for residential purposes.
(xxxx) "Storage unit" means an individual, compartmentalized and controlled room, space, access bay, stall or locker in a self-service storage facility.

Section No. 2: That Planning & Zoning Code Section 1244.02 Permitted Uses in Office and Business Districts (a) is hereby amended as follows:

SCHEDULE 1244.02
Permitted Uses in Office and Business Districts (a)

	OFFICE O-1	LIMITED BUSINESS B-1	GENERAL BUSINESS B-2	SPECIAL BUSINESS B-3
A. RESIDENTIAL				
1. Dwelling Units Above the First Floor				P
2. Nursing Home; Assisted Living Facilities	C	C	C	
3. Senior Citizen Housing; Apartments for the Physically Disabled	C	C	C	
B. PROFESSIONAL/MEDICAL				
1. Administrative, Business Professional and Medical Offices	P	P	P	P
2. Funeral Homes	C	C	C	

3. Hospitals	C	C	C	
4. Urgent Care Clinics	C	C	C	
5. Veterinary Hospitals (without outdoor kennels)		P`	P	
6. Ambulance and Emergency Medical Services		C	C	
C. RETAIL/SERVICE				
1. Retail in Wholly Enclosed Buildings		P	P	P
2. Retail and Personal Services (e.g. hair care dry cleaner, shoe repair, self-service laundry)	C	P	P	P
3. Other Services (e.g. small appliance repair, electronics)		P	P	P
4. Financial Establishment	P	P	P	P
5. Automatic Teller Machines (whether freestanding or on the outside wall of a building	C	C	C	C
6. Restaurant (table service)	C	P	P	P
7. Restaurant (counter service)	P	P	P	P
8. Restaurant (freestanding structure)	C	C	C	C
9. Nightclub		C	C	C
10. Bar, Tavern	C	C	P	P
11. Outdoor Display of Materials for Retail Sale		C	C	C
12. Outdoor Storage of Materials		C	C	C
13. Drive-Through Facilities	C	C	C	C
14. Hotels/Motels			C	C
15. Self-service storage facility			***C***	
D. AUTOMOTIVE				
1. Sales/Rental Automobiles, Trucks			C	
2. Boat, Sales, Rental and Charter			C	C
3. Gasoline Service Station (which may include an accessory car wash		C	P	C
4. Repair Garage/Services		C	C	
5. Carwash			C	C
E. ENTERTAINMENT/ARTS/RECREATION				
1. Membership/Sports/Fitness Club	C	P	P	C
2. Studios for Arts, Crafts or Instruction: Dance, Exercise, Martial Arts, etc.		P	P	C
3. Indoor Commercial Recreation Bowling Alley, Skating Rink, etc.		C	C	C
4. Theater		C	C	C
5. Assembly Hall, Meeting Place			C	C
6. Outdoor Commercial Recreation			C	C
F. INSTITUTIONAL/OTHER				
1. Places of Worship; Schools	C	C	C	
2. Museums	P	P	P	C
3. Libraries	P	P	P	C
4. Child Day Care Center	C	C	C	C
5. Public Utility Transmission and Distribution Stations	P	P	P	P

6. Wireless Telecommunications Towers and Facilities	C	C	C	C
7. Public Safety Facilities	C	C	C	
8. Public Service and Maintenance Facilities	C	C	C	C
9. Outdoor Special Event	C	C	C	C
G. ACCESSORY BUILDINGS AND USES				
1. Off-Street Parking and Loading Facilities	A	A	A	A
2. Signs	A	A	A	A
3. Accessory Buildings	A	A	A	A
4. Employee Cafeterias	A	A	A	A
5. Retail Establishments Shall not Exceed 10% of the Gross Floor Area of an Office Project and 50% of the Gross Floor Area of the First Floor of Any One Building	A			
6. Fences	A	A	A	A
7. Outdoor Storage of Materials or Fleet Vehicles Used in the Operation of a Principal Use			A	
H. SIMILAR USES - As determined by the Planning Commission pursuant to Section 1217.09				

P Permitted Principal Use
C Permitted Conditional Use
A Permitted Accessory Use
(a) For applicable review procedures refer to Section 1244.07.

Section No. 3: That Planning & Zoning Code Section 1246.02, Permitted Uses in Industrial Districts (a), is hereby amended as follows:

SCHEDULE 1246.02
Permitted Uses in Industrial Districts (a)

Permitted Use	*L1 Light Industrial*	*I Industrial*
A. OFFICES		
1. Administrative offices	P	P
2. Laboratories/research facilities	P	P
B. BUSINESS SERVICES, EQUIPMENT SALES, SUPPLIES (in a wholly enclosed building)		
1. Sales and service of construction equipment, farm machinery, recreational vehicles and other large equipment	P	P
2. Business services and suppliers such as carpet cleaning, office supply, etc.	P	P
3. Wholesale establishment	P	P
4. Vehicle, appliance and equipment repair services	P	P
5. Printing and publishing	P	P
C. STORAGE DISTRIBUTION (In a wholly enclosed building)		

1. Warehouse distribution facility - for products of a single business	P	P
2. Construction trades/contractors facility	P	P
3. Storage and distribution of flammable gases in tanks above ground and flammable liquids below ground		P
4. Truck terminal - warehousing and distribution of products from multiple businesses	C	P
5. Metal salvage or junk storage (In a wholly enclosed building)		P
6. Self-service storage facility	C ~~P~~	C ~~P~~
7. Recycling center, which may include the transfer, composting or mulching of organic material generated primarily from residential yard waste	P	P
D. MANUFACTURING/PACKAGING/FABRICATION/ASSEMBLY		
1. Food and drink preparation, production and storage	P	P
2. Fabrication and assembly operations	P	P
3. Machine shop	P	P
4. Light industrial uses that meet the definition and comply with the performance standards in each district	P	P
5. Manufacture of products from raw materials	C	C
E. OTHER		
1. Instructional or training facilities	P	P
2. Veterinary hospitals/kennels		P
3. Public utility transmission and distribution stations	P	P
4. Wireless telecommunications towers and facilities	C	C
5. Public service and maintenance facilities, including Municipal recycling	C	P
6. Public safety facilities	C	C
7. Child day care center	C	C
8. Union halls	C	C
9. Auto sales and repair garages	P	P
10. Adult uses (b)	P	P
11. Indoor commercial recreation	C	
F. OUTDOOR ACTIVITIES		
1. General storage of materials accessory to a principal use in an enclosed building	C	P
2. Fleet vehicles used in operation of principal use	C	P
3. Sales, rental and leasing of vehicles, trucks and equipment	C	P
4. Metal salvage or junk storage (including unlicensed vehicles, impound lots, auto repossessing and other outdoor activities which are principal uses)		C
5. Outdoor special event	C	C
G. ACCESSORY BUILDINGS AND USES		
1. Off-street parking and loading facilities	A	A
2. Signs	A	A
3. Accessory buildings	A	A
4. Employee cafeterias	A	A
5.Retail establishments shall not exceed 10% of the gross floor area of an office project nor 50% of the gross floor area of the first floor of any one building	A	A
6. Fences	A	A
7.Child care facility associated with a permitted use and located in the same	A	A

building		
8. Recreational facilities	A	A
H.SIMILAR USES - as determined by the Planning Commission pursuant to Section 1217.09		

Section No. 4: That Planning & Zoning Code Section 1250.03 (a)(2), Regulations for Conditional Uses in Business and Industrial Districts, is hereby amended as follows:

SCHEDULE 1250.03(a)(2)
Regulations for Conditional Uses In Business and Industrial Districts

Conditional Use	District Permitted						Minimum Lot Requirements		
	B-1	B-2	B-3	O	LI	I	Area [a]	Width (feet)	Additional Specific Criteria if Applicable
33. Schools, places of worship	X	X		X			1 ac.	(b)	1250.04(bb)
34. Self-service storage facility		***X***			***X***	***X***	***(b)***	***(b)***	***1250.04 (cc)***
~~34~~ ***35.*** Senior citizen housing	X	X		X			2 ac.	200	1250.04 ~~(cc)~~ ***(dd)***
~~35~~ ***36.*** Storage of fleet vehicles used in the operation of a principal use					X		(b)	(b)	1250.04 ~~(dd)~~ ***(ee)***
~~36~~ ***37.*** Studios for instruction, arts and crafts			X				(b)	(b)	1250.04 ~~(ee)~~ ***(ff)***
~~37~~ ***38.*** Truck terminal					X		2 ac.	200	1250.04 ~~(ff)~~ ***(gg)***
~~38~~ ***39.*** Urgent care clinics	X	X		X			(b)	(b)	1250.04 ~~(gg)~~ ***(hh)***
(a) Area required if located in a separate building (b) Shall comply with district regulations									

Section No. 5: That Planning & Zoning Code Section 1250.04, Supplemental Regulations for Specific Uses, is hereby amended as follows:

1250.04 SUPPLEMENTAL REGULATIONS FOR SPECIFIC USES

(cc) Self-Service Storage Facility

a) General Regulations:

1. The users may use the storage spaces only for the purpose of storing personal property.

2. *The size of each storage unit shall not exceed 500 square feet.*

3. *Radioactive material, explosives and flammable or hazardous chemicals shall be prohibited from storage.*

4. *The outdoor storage of inventory, materials, vehicles, or merchandise is prohibited, unless specifically approved by the Planning Commission during the application process for the requested conditional use.*

5. *Sale, repair, fabrication, or servicing of goods, motor vehicles, appliances, equipment, or materials or similar activities may not be conducted in or from self-service storage facilities.*

6. *Self-storage facilities may not be used for residential purposes.*

7. *Except for sinks and restroom facilities provided solely for the use of managers or security personnel of self-storage facilities containing more than ten (10) individual storage units, neither sinks nor restroom facilities shall be permitted within self-storage facilities.*

8. *The Fire Department shall have access to the individual storage units for the purpose of inspection to determine compliance with this section and with the Ohio Fire Code. Owners, lessees and users of storage units shall allow access to their storage units for this inspection up to three times per year or at any time in response to a concern or complaint. The Fire Chief is authorized to draft regulations establishing procedures for these inspections.*

9. *No storage unit door opening shall face a residential zoning district.*

b) *Owners of leased self-service storage facilities must include language within the lease for the individual storage units advising the lessees of the regulations drafted pursuant to this section and shall further contain a provision authorizing inspection of the storage units by the Fire Department up to three times per calendar year.*

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

Section No. 7: That this Ordinance is hereby declared to be an emergency measure to establish regulations for self-service storage facilities to promote economic development in the City of Avon Lake and maintain the integrity of the Planning & Zoning Code, thus for the health, safety, and welfare of the residents of Avon Lake. Therefore, this Ordinance shall be in full force

and effect from and immediately after its passage and approval by the Mayor.

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

PASSED: _____ _____
President of Council

POSTED: _____ _____
Approved

ATTEST: _____ _____
Clerk of Council Mayor

BY: Mr. James TEMP NO: 10549

ORDINANCE NO. _____

AN ORDINANCE AMENDING CODIFIED ORDINANCE SECTION 208.01 (e) (16), ENTITLED LAKE HOUSE, AND REPEALING ORDINANCE NO. 90-2015, AND DECLARING AN EMERGENCY.

WHEREAS, the Recreation Director recommended amending Codified Ordinance Section 208.01 (e) (16), regarding Lake House rental fees and repealing Ordinance No. 90-2015, and

WHEREAS, said amended fee schedule will be compatible with the SportsMan on-line reservation program to allow for rental fees to be processed more efficiently, 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 iof 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.~~

WEEKDAY: MONDAY - THURSDAY	RENTAL FEE		SECURITY DEPOSIT	
	First 3 Hours	Additional Hours	No Alcohol	Alcohol
Resident	$ 100.00	$ 15.00	$ 100.00	$ 200.00
Avon Lake Non-profit	$ 50.00	$ 15.00	$ 100.00	$ 200.00
Avon Lake Business	$ 50.00	$ 15.00	$ 100.00	$ 200.00
Avon Lake Bereavement	$ 75.00	$ 15.00	$ 100.00	$ 200.00
Non-resident	$ 200.00	$ 30.00	$ 100.00	$ 200.00
Out-of-town Non-profit	$ 75.00	$ 30.00	$ 100.00	$ 200.00
Out-of-town Business	$ 75.00	$ 30.00	$ 100.00	$ 200.00
Non-resident Bereavement	$ 100.00	$ 30.00	$ 100.00	$ 200.00

WEEKEND: FRIDAY - SUNDAY	RENTAL FEE		SECURITY DEPOSIT	
	First 3 Hours	Additional Hours	No Alcohol	Alcohol
Resident	$ 150.00	$ 25.00	$ 100.00	$ 200.00
Avon Lake Bereavement	$ 125.00	$ 25.00	$ 100.00	$ 200.00
Non-resident	$ 250.00	$ 50.00	$ 100.00	$ 200.00
Non-resident Bereavement	$ 150.00	$ 50.00	$ 100.00	$ 200.00

HOLIDAY	RENTAL FEE		SECURITY DEPOSIT	
	First 3 Hours	Additional Hours	No Alcohol	Alcohol
Resident	$ 200.00	$ 50.00	$ 100.00	$ 200.00
Non-resident	$ 300.00	$ 100.00	$ 100.00	$ 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 Ordinance No. 90-2015 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 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.

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

PASSED: _____ _____
President of Council

POSTED: _____ _____
Approved

ATTEST: _____ _____
Clerk of Council Mayor

BY: Mrs. Fenderbosch TEMP NO: 10550

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 1216.11 OF THE CODIFIED ORDINANCES TO MODIFY THE STANDARDS FOR OBTAINING A WAIVER FROM THE PLANNING COMMISSION AND ALLOWING THE PLANNING COMMISSION TO DELIBERATE IN PRIVATE AS TO WHETHER TO GRANT A WAIVER; AND DECLARING AN EMERGENCY.

WHEREAS, Section 1216.11 of the Codified Ordinances of the City of Avon Lake permits the Planning Commission to grant waivers from the provisions of Chapter 1216 and the Design Standards of Chapter 1220 of the Codified Ordinances;

WHEREAS, Council has determined that it is advisable to modify the standards for obtaining such waivers;

WHEREAS, in deciding whether to grant a waiver, the Planning Commission is acting as a quasi-judicial body, similar to the Zoning Board of Appeals; and

WHEREAS, it is conducive to the dispensation of justice that the Planning Commission be permitted to conduct its deliberations as to whether to grant a waiver in private, free from political and public pressure;

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

Section No. 1: That Section 1216.11 of the Codified Ordinances of the City is hereby repealed.

Section No. 2: That there is hereby enacted new Section 1216.11 of the Codified Ordinances of the City, to read as follows:

1216.11 WAIVERS.

(a) Grant of Waiver. The Planning Commission may grant waivers from the provisions of this Chapter 1216 and the Design Standards of Chapter 1220 when undue hardship would result from strict compliance.

(b) Application. An application for a waiver must be in writing, must state fully the grounds for the waiver and the hardship that would result if the waiver is not granted, must identify the applicable sections of the Codified Ordinances and must be signed by an owner of the property. If preliminary plan approval is required, an

application for a waiver shall be submitted at the time the preliminary plan is filed for consideration by the Planning Commission.

(c) Hearing and Notice. The Planning Commission shall hold a public hearing on the application for a waiver. Notice of such public hearing shall be given in one or more newspapers of general circulation in the City at least ten days before the date of said public hearing. All notices shall set the time and place of the public hearing and the nature of the proposed waiver. The Planning Commission Secretary shall send written notice of the hearing, by first class mail, at least ten days before the day of the public hearing, to the applicant and to all owners of property within 300 feet of the applicant's property to the addresses of such owners appearing on the County Auditor's current tax list or the Treasurer's mailing list, and to such other list or lists that may be specified by the Planning Commission. It is the responsibility of the applicant to provide, with the application, an accurate roster of the names and addresses of the property owners within such 300 feet. If the roster is not provided the Planning Commission Secretary shall not further process the application. The applicant and all owners of property that would be affected by the waiver shall be given an opportunity to present evidence either in favor of or in opposition to the waiver.

(d) Conditions. In granting any waiver, the Planning Commission may prescribe conditions that it deems necessary or desirable for the public interest.

(e) Approval of Council. Any waiver granted by the Planning Commission must be submitted to Council for approval and shall not be effective unless so approved.

(f) Criteria. In making its decision, the Planning Commission shall take into account any of the following considerations as may be applicable: the nature of the proposed use of the property and the existing use of property in the vicinity, the number of persons to reside or work at the property and the probable effect upon traffic conditions in the vicinity.

(g) Burden of Proof and Evidence. The burden shall be upon the applicant for a waiver to prove entitlement thereto. No waiver shall be granted unless the applicant proves by clear and convincing evidence that:

(1) There are special circumstances or conditions affecting the applicant's property such that the strict application of the regulations would deprive the applicant of the reasonable use of the applicant's property;

(2) The waiver is necessary for the preservation and enjoyment of a substantial property right of the applicant; and

(3) The granting of the waiver will not be detrimental to the public welfare or injurious to other property in the territory in which the applicant's property is situated.

Only evidence that would be admissible under the Ohio Rules of Evidence may be considered by the Planning Commission.

(h) Continuance. The Planning Commission may continue a hearing on an application for a waiver to the next regularly scheduled meeting or to a special meeting of the Planning Commission to consider additional evidence.

(i) Deliberations. Because proceedings by the Planning Commission on an application for a waiver are quasi-judicial in nature, deliberations by the members of the Planning Commission on whether to grant the waiver may be conducted in private and the members of the Planning Commission may vote in private on any such application. The Planning Commission shall keep a record of the vote of each member upon each application, or if absent or failing to vote, such fact shall be recorded.

(j) Issuance of Decision. If the deliberation of the members of the Planning Commission on whether to grant a waiver is conducted in private, then the decision of the Planning Commission and the reasons therefor shall be set forth in writing and mailed to the applicant and given to the Clerk of Council not later than thirty (30) days after the conclusion of the hearing on the application.

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 maintaining the integrity of the Planning and Zoning Code, thus for the health, safety, and welfare of the residents of Avon Lake. Therefore, this Ordinance shall be in full force and effect from and immediately after its passage and approval by the Mayor.

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

PASSED: _____ _____
President of Council

POSTED: _____ _____
Approved

ATTEST: _____ _____
Clerk of Council Mayor

BY: Mr. Kos TEMP NO: 10551

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE CODIFIED ORDINANCES WITH THE ADDITION OF SECTION 618.17, NUISANCE, DANGEROUS, AND VICIOUS DOGS - DEFINITIONS, SECTION 618.18, DESIGNATION OF NUISANCE, DANGEROUS, AND VICIOUS DOGS, SECTION 618.19, SEIZURE OF A DOG FOR PUBLIC SAFETY, SECTION 618.20, CONFINING AND RESTRAINING VICIOUS AND DANGEROUS DOGS, SECTION 618.21, INSURANCE FOR VICIOUS AND DANGEROUS DOGS, AND SECTION 618.22, REGISTRATION OF VICIOUS AND DANGEROUS DOGS.

WHEREAS, due to recent events in the City of Avon Lake and changes to State Law, the Safety Committee recommended additions to the Avon Lake Codified Ordinances regarding nuisance, dangerous, and vicious dogs, and

WHEREAS, Council coming now to consider said recommendations approves them in full, now therefore;

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

Section No. 1: That the Avon Lake Codified Ordinances are hereby amended with the addition of the following sections:

618.17 - NUISANCE, DANGEROUS AND VICIOUS DOGS - DEFINITIONS

(a) As used in this section, "Serious injury" shall mean any of the following:

(1) Any physical harm that carries a substantial risk of death;

(2) Any physical harm that involves a permanent incapacity, whether partial or total, or a temporary, substantial incapacity;

(3) Any physical harm that involves a permanent disfigurement or a temporary, serious disfigurement;

(4) Any physical harm that involves acute pain of a duration that results in substantial suffering or any degree of prolonged or intractable pain.

(b) "Injury" shall mean any injury other than killing or serious injury.

(c) "Without provocation" shall mean that a dog was not teased, tormented, or abused by a person or other animal, or that the dog was not coming to the aid or the defense of a person or other domestic animal who was not engaged in illegal or criminal activity and who was not using the dog as a means of carrying out such activity.

(d) "Vicious Dog" shall mean a dog that, without provocation, has killed or caused serious injury to any person.

(e) "Dangerous dog" shall mean a dog that, without provocation, has caused injury, other than killing or serious injury, to any person; or has killed or caused serious injury to another domestic animal.

(f) "Nuisance dog" shall mean a dog that without provocation and while off the premises of its owner, keeper, harborer or handler has chased or approached a person or domestic animal in either a menacing fashion or an apparent attitude of attack or has attempted to bite or otherwise endanger any person or domestic animal.

(g) "Police dog" shall mean a dog that has been trained and may be used to assist law enforcement officers in the performance of their duties.

618.18 - DESIGNATION OF NUISANCE, DANGEROUS AND VICIOUS DOGS

(a) No owner, keeper, harborer, or handler of a dog shall fail to adequately restrain the dog so as to, without provocation and while off the premises of its owner, keeper, harborer or handler, chase or approach a person, or domestic animal in either a menacing fashion or an apparent attitude of attack or attempt to bite or otherwise endanger any person or domestic animal with the exception of the dog being a police dog. If the owner keeper, harborer or handler of the dog is convicted of this section that dog shall be designated a nuisance dog.

(b) No owner, keeper, harborer or handler of a dog shall fail to adequately restrain the dog so as to allow it to, without provocation, kill or seriously injure a person. This is a strict liability offense with the exceptions of the dog being a police dog or the dog having killed or having caused serious injury to any person while the person was committing or attempting to commit a trespass or other criminal offense on the property of the owner, keeper, harborer or handler of the dog. If the owner, keeper, harborer or handler is convicted of this section that dog shall be designated a vicious dog.

(c) No owner, keeper, harborer or handler of a dog shall fail to adequately restrain the dog so as to allow to, without provocation, injure a person. This is a strict liability offense with the exceptions of the dog being a police dog or the dog having caused injury to any person while the person was committing or attempting to commit a trespass or other criminal offense on the property of the owner, keeper, harborer or handler of the dog. If the owner, keeper, harborer or handler of the dog is convicted of this section that dog shall be designated a dangerous dog.

(d) No owner, keeper, harborer or handler of a dog shall fail to adequately restrain the dog so as to allow it, without provocation, to kill or seriously injure another domestic animal. This is a strict liability offense with the exception of the dog being a police dog or the dog having killed or having caused serious injury to any domestic animal trespassing on the property of the owner, keeper, haborer or handler of the dog. If the owner keeper, harborer, handler or keeper of the dog is convicted of this section that dog shall be designated a dangerous dog.

(e) No owner, keeper, harborer or handler of a dog shall fail to adequately restrain the dog so as to allow it, without provocation to injure a domestic animal. This is a strict liability offense with the exception of the dog being a police dog or the dog having caused injury to any domestic animal trespassing on the property of the owner, keeper, harborer or handler of the dog.

(f) All violations of this Chapter are Unclassified Misdemeanors.

(g) A violation of section (a) is punishable by a Fourth Degree Misdemeanor.

(h) A violation of section (b) is punishable by a First Degree Misdemeanor.

(i) A violation of section (c) is punishable by a Second Degree Misdemeanor.

(j) A violation of section (d) is punishable by a Second Degree Misdemeanor.

(k) A violation of section (e) is punishable by Third Degree Misdemeanor.

(l) A licensed veterinarian acting in his/her official capacity has no criminal liability under this section.

618.19 - SEIZURE OF A DOG FOR PUBLIC SAFETY

(a) Immediately, upon a resultant death or serious injury, the Police Department shall, in the interest of public safety, seize the killing/seriously injuring dog, at least until the initial Court hearing. At such hearing, the City has the burden to prove, by preponderance of the evidence that, in the interests of public safety, continued detention is necessary until final disposition.

(b) The owner, keeper, or harborer of the dog shall be responsible for any and all costs associated with the housing of the dog.

(c) All violations of this Chapter are Unclassified Misdemeanors.

(d) Any violation of section (b) is punishable by a Fourth Degree Misdemeanor.

618.20 - CONFINING AND RESTRAINING VICIOUS AND DANGEROUS DOGS

(a) No owner, keeper, harborer or handler of a vicious or dangerous dog shall fail to do one of the following:

(1) Keep the dog securely inside of the owner, keeper, harborer or handler's home or transport vehicle.

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

(3) While off the premises of its owner, keeper, harborer or handler, it must be fitted with a proper collar that will prevent the dog from slipping out of it or breaking through it, and have a substantial chain link leash or tether attached to the collar that conforms to the dog's weight, size and strength. The leash shall not be more than six feet in length and shall be controlled by a person who is at least eighteen years old and of suitable size and discretion to control the dog.

(4) While off the premises of the owner, keeper, harborer or handler the dog shall be muzzled in such a manner to not interfere with the dog's breathing.

(b) Any owner, keeper, harborer or handler of a vicious or dangerous dog shall be deemed to have given consent to an inspection of the property, other than within any private structure unless otherwise authorized by law, by a law enforcement officer or Animal Control Officer for the purpose of determining compliance with the requirements of this Chapter.

(c) All violations of this Chapter are Unclassified Misdemeanors.

(d) A violation of this Chapter is punishable by a Second Degree Misdemeanor.

618.21 INSURANCE FOR VICIOUS AND DANGEROUS DOGS

(a) No owner of a vicious or dangerous dog shall fail to obtain liability insurance with an insurer authorized to

write liability insurance in this State providing coverage in each occurrence, subject to a limit, exclusive of interest and costs, of not less than one hundred thousand dollars ($100,000.00) for a vicious dog and not less than fifty thousand dollars ($50,000) for a dangerous dog because of damage to property or bodily injury to or death of a person caused by the vicious or dangerous dog.

(b) The owner of the vicious or dangerous dog shall provide continued yearly proof of the required liability insurance to the Police Department no more than ten days later from the original date of coverage.

(c) All violations of this Chapter are Unclassified Misdemeanors.

(d) A violation of this Chapter is punishable by Misdemeanor of the Fourth Degree for the first offense and each subsequent offense shall be a Misdemeanor of the Third Degree.

618.22 REGISTRATION OF VICIOUS AND DANGEROUS DOGS

(a) The owner of the vicious or dangerous dog shall register the dog as such with the County Auditor and receive or provide the following:

(1) a vicious or dangerous dog certificate;

(2) any applicable fees;

(3) the owner's address, phone number and appropriate means for the County Auditor to contact the owner;

(4) satisfactory evidence of the dog's current rabies vaccination or a statement from a licensed veterinarian that a rabies vaccination is medically contraindicated for the dog;

(5) satisfactory evidence of the fact that the dog is neutered or spayed or a statement from a licensed veterinarian that neutering or spaying of the dog is medically contraindicated;

(6) satisfactory evidence of the fact that the person has posted and will continue to post clearly

visible signs at the person's residence warning people of the presence of a vicious or dangerous dog on the property;

(7) satisfactory evidence of the fact that the dog has been permanently identified by means of a microchip and the dog's microchip number.

(b) Upon the issuance of a dangerous dog registration certificate to the owner of the dog, the County Auditor shall provide the owner with a uniformly designed tag that identifies the animal as a vicious or dangerous dog. The owner shall renew the certificate annually in the same manner the initial certificate was obtained.

(c) If the owner/certificate holder relocates to a new county, the owner/certificate holder shall follow the procedure in O.R.C. 955.22 (I) (3) (b).

(d) The owner shall provide the Avon Lake Police Department with a copy of all certification and documentation received from and provided to the County Auditor.

(d) All violations of this Chapter are Unclassified Misdemeanors.

(e) A violation of this Chapter is punishable by a Misdemeanor of the Fourth Degree for the first offense and each subsequent offense shall be a Misdemeanor of the Third Degree.

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 shall be in full force and effect from the earliest period allowed by law.

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

PASSED: _____ _____
President of Council

POSTED: _____ _____
Approved

ATTEST: _____ _____
Clerk of Council Mayor

BY: Mr. Meiners TEMP NO: 10552

ORDINANCE NO. _____

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

WHEREAS, the City of Avon Lake wishes Porter, Wright, Morris and Arthur LLP to continue to act as co-counsel in the defense the City in an action filed by James E. Pietrangelo, II, now therefore;

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

Section No. 1: That the law firm of Porter, Wright, Morris and Arthur LLP is hereby authorized and directed to continue to defend and prepare on behalf of the City of Avon Lake and its departments and employees the legal proceedings necessary in connection with an action filed by James E. Pietrangelo, II against the City of Avon Lake.

Section No. 2: That Margaret Koesel and Tracey Turnbull of Porter, Wright, Morris and Arthur, LLP, Special Assistant Law Directors for this matter, are authorized to continue in the defense of the City of Avon Lake.

Section No. 3: That the necessary expenses for said representation be paid upon approval voucher submitted therefore, in an amount not to exceed $50,000.00.

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 Ordinance is hereby declared to be an emergency measure, the emergency being the necessity of preparing and filing the necessary legal proceedings in a timely manner to defend the City and uphold the laws and regulations of the City, thus for the health, safety, and welfare of the public. Therefore, this Ordinance shall go into immediate force and effect from and after its passage and approval by the Mayor.

PASSED: _____ _____
President of Council

POSTED: _____ _____
Approved

ATTEST: _____ _____
Clerk of Council Mayor