

**DOCKET
OF A MEETING OF
THE LAKEWOOD CITY COUNCIL
TO BE HELD IN THE COUNCIL CHAMBERS
LAKEWOOD CITY HALL - 12650 DETROIT AVENUE
JUNE 15, 2015
7:30 P.M.**

The Regular Meetings of Lakewood City Council shall be held on the first and third Mondays of each month at 7:30 P.M., except that when such meeting date falls on a holiday such meeting shall instead be held on the following day. A Docket and Agenda of the business proposed to be transacted by Council will be available in the Clerk's Office and on the City's website www.onelakewood.com as soon after 4 PM on the Friday before a Council meeting as possible.

Section 121.08 of the Codified Ordinances of the City of Lakewood establishes rules for the public to follow when speaking before Council:

ADDRESSING COUNCIL – The President may recognize any non-member for addressing Council on any question then pending. In such cases, the person recognized shall address the chair, state his or her name and address and the subject matter he or she desires to discuss. Speakers must be courteous in their language and avoid personalities. When addressed by the Chair, the speaker must yield the floor and comply with all rulings of the chair, said rulings not being open to debate. Except with permission of Council specifically given, speakers shall be limited to five minutes. No person who has had the floor shall again be recognized until all others desiring an opportunity to speak have been given an opportunity to do so.

AGENDA ITEMS PROTOCOL:

The Clerk at the beginning of the meeting will present the AGENDA ITEMS sign-in sheet to the President of Council. Speakers will be called to address Council by the Chair. A citizen must first write his or her name, address and agenda item number on the designated sign-in sheet in order to be recognized.

PUBLIC COMMENT PROTOCOL:

The clerk at the end of the meeting will present the PUBLIC COMMENT sign-in sheet to the President of Council. Public Comment will be welcomed at the end of a Council Meeting on miscellaneous issues or issues other than agenda items. A citizen must first write his or her name, address and topic on the designated sign-in sheet in order to be recognized. The forum is not designed to be a question and answer session.

- I. Pledge of Allegiance
 - II. Moment of Silence
 - III. Roll Call
- Reading & disposal of the minutes of the Regular Meeting of Council held June 1, 2015.
Reports, legislation and communications from Members of Council, the Mayor and other City Officials.

****OLD BUSINESS****

1. Committee of the Whole Reports of Committee meetings held June 8, 2015, (Pg. 5) and June 15, 2015 meetings. Ms. Madigan; Chair (To Be Provided)
2. **RESOLUTION NO. 8805-15** – A RESOLUTION to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, authorizing the Mayor to enter into an agreement with Everstream, Inc., an Ohio corporation, or OneCommunity, an Ohio non-profit corporation, for the installation, operation and maintenance of a fiber optic communications system within the city of Lakewood without the necessity of bidding in accordance with Lakewood Codified Ordinance §111.04(a)(10) in an amount not to exceed \$900,000. (REFERRED TO THE COMMITTEE OF THE WHOLE 5/18/15, DEFERRED 6/1/15) (Pg. 6)
3. **ORDINANCE NO. 22-15** – AN ORDINANCE to amend various sections within Chapter 1129, Signs, of the Codified Ordinances of the City of Lakewood in order to update the code. (PLACED ON 1ST READING & REFERRED TO THE COMMITTEE OF THE WHOLE 5/18/15, 2ND READING 6/1/15) (Pg. 9)
4. **RESOLUTION NO. 8809-15** – A RESOLUTION to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, authorizing the Mayor to enter into an amended agreement with Rockport Square, LLC, or its assignee, affiliate or designee, for the development of the remaining phases of the Rockport Square development project. (REFERRED TO THE COMMITTEE OF THE WHOLE 6/1/15) (Pg. 15)
5. **ORDINANCE 24-15** – AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect at the earliest period allowed by law, providing for the submission of the electors of the City of Lakewood, a proposed Third Amended Charter of the City Lakewood. (PLACED ON 1ST READING & REFERRED TO THE COMMITTEE OF THE WHOLE 6/1/15) (Pg. 18)
6. Finance Committee Report regarding Ordinance No. 20-15 & Resolution No. 8807-15. Mr. Nowlin; Chair (To Be Provided).
7. **ORDINANCE NO. 20-15** – AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, authorizing the transfer and advance of certain funds. (PLACED ON 1ST READING AND REFERRED TO THE FINANCE COMMITTEE 5/18/15, PLACED ON 2ND READING 6/1/15) (Pg. 62).
8. **RESOLUTION NO. 8807-15** – A RESOLUTION to take effect immediately provided it received the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, approving the Tax Budget of the City of Lakewood, State of Ohio for the year 2016, and authorizing the filing of same with the Cuyahoga County Fiscal Officer. (REFERRED TO THE FINANCE COMMITTEE 6/1/15) (Pg. 64)
9. Public Works Committee Report regarding Resolution 8806-15 & Madison Avenue Parking. Mr. Juris; Chair (To Be Provided)

10. **RESOLUTION NO. 8806-15** – A RESOLUTION approving the use of submerged lands for property located at and abutting 12550 Lake Avenue, Lakewood, Ohio (a legal description of which is attached hereto as “Exhibit A”), in order to permit the owners the opportunity to undertake lakeshore protection measures. (Pg. 65)
11. Health & Human Services Committee regarding Resolution 8808-15. Ms. Marx, Chair. (To Be Provided)
12. **RESOLUTION NO. 8808-15** – A RESOLUTION to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, authorizing the Mayor or his designee to apply for and enter into an agreement with the Western Reserve Area Agency on Aging for Title III of the Older Americans Act, Senior Community Services for the 2016-2017 program years. (Pg. 68)
13. **ORDINANCE NO. 23-15** – AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to effect and be in force at the earliest period allowed by law, to amend certain provisions of Chapter 516, Chapter 537, Chapter 142, Chapter 501, and Chapter 1327 of the Codified Ordinances of the City of Lakewood, Ohio, to ensure that all persons within the City have equal access to employment, housing, public accommodations, and education. (PLACED ON 1ST READING & REFERRED TO THE RULES & ORDINANCES COMMITTEE 6/1/15) (Pg. 70).

****NEW BUSINESS****

14. Communication from Councilmember Madigan regarding Support for Cuyahoga County Arts and Culture Levy. (Pg. 92)
15. **RESOLUTION NO. 8810-15** – A RESOLUTION supporting the extension of the Cuyahoga County cigarette tax for arts and culture. (Pg. 93)
16. Communication from Councilmember Bullock regarding Lakewood Bicycle infrastructure implementation. (Pg. 95)
17. Communication from Mayor Summers regarding Mayoral appointment to the Lakewood Audit Committee. (Pg.97)
18. Communication from Mayor Summers regarding Mayoral appointment to the Lakewood Citizens Advisory Committee. (Pg. 98)
19. Communication from Mayor Summers regarding Mayoral appointment to the Lakewood Community Relations Advisory Commission. (Pg.99)
20. Communication from Finance Director Pae regarding 2016 Tax Advance Resolution and 2016 Tax Rate Resolution. (Pg.100)
21. **RESOLUTION NO. 8811-15** – A RESOLUTION to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take

effect and be in force after the earliest period allowed by law, requesting the Cuyahoga County Fiscal Officer to draw and the Cuyahoga County Treasurer to pay to the City of Lakewood Director of Finance an advance of all real; personal property; estate taxes and special assessments collected in the year 2016 in such amounts as may be requested and available. (Pg. 101)

22. **RESOLUTION NO. 8812-15** – A RESOLUTION to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, accepting the amounts and rates as determined by the Budget Commission and authorizing the necessary tax levies and certifying them to the County Fiscal Officer. (Pg. 103)
23. Communication from Law Director Butler regarding 2015 first quarter codification ordinance. (Pg. 105)
24. **ORDINANCE NO. 25-15** – AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect at the earliest period allowed by law, to approve the editing and inclusion of certain ordinances and resolutions as part of the various component codes of the Codified Ordinances and to provide for the publication of such new matters. (Pg. 106)
25. Communication from Human Services Director Gelsomino regarding Accepting donation for H20 vehicle purchase. (Pg. 108)
26. Communication from Public Works Director Beno regarding Design-Build contract approval for Underground Connections, Inc. (Pg. 109)
27. **RESOLUTION NO. 8813-15** – A RESOLUTION to take effect immediately provided it receives the vote of at least five members of Council, or otherwise to take effect at the earliest period allowed by law, authorizing the Director of Public Works to enter into a design-build form of agreement for the design and construction of corrections to the sewer system under the western Lakewood clean water pilot project with Underground Connections, Inc in an amount not to exceed \$800,000.
28. Communication from city Engineer Papke regarding Lakewood Streambank Restoration and Fish Shelf. (Pg. 126)
29. **RESOLUTION NO. 8814-15** – A RESOLUTION to take effect immediately provided it received the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, authorizing the Director of Public Works to enter into an agreement to accept a grant from the Ohio EPA clean water fund grant for the Lakewood Stream Bank Restoration and Fish Shelf project in the amount of \$122,842 and requiring a match by the City of Lakewood in the amount of \$81,894. (Pg. 127)



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www.cnelakewood.com

Lakewood City Council

MARY LOUISE MADIGAN, PRESIDENT

RYAN P. NOWLIN, VICE PRESIDENT

Council at Large
RYAN P. NOWLIN
THOMAS R. BULLOCK III
CINDY MARX

Ward Council
DAVID W. ANDERSON, WARD 1
SAM O'LEARY, WARD 2
SHAWN JURIS, WARD 3
MARY LOUISE MADIGAN,
WARD 4

Dear Members of Council,

On Monday June 8, 2015, the Committee of the Whole met to continue its discussion about the Letter of Intent (LOI) regarding Lakewood Hospital. All members of council were present as well as Mayor Summers, Director Butler, Robyn Minter Smyers of Thompson Hine law firm and John Bodine of Huron Business Advisory. Also present were reporter Bruce Geiselman of Cleveland.com and about 25 members of the public.

Mr. Bodine was present as a representative of Huron, one of two firms that responded to a recent RFP by the city. The RFP sought a consultant to review the analysis of strategic options for Lakewood Hospital that was prepared by Subsidiary for the Lakewood Hospital Association. Three members of council participated in the RFP process which led to the selection of Huron. Huron is now beginning its work, and a report on their findings will be made public at the end of their process.

Next, Director Butler made very brief, general comments related to pending litigation and indicated that more detail could be discussed in the executive session that was expected to take place later in the meeting. He noted that the LOI had expired and that while, as he understood it, LHA had voted not to extend the LOI, the Cleveland Clinic has made overtures as to their continued interest in negotiating a Definitive Agreement with the city and other parties. Director Butler indicated that the city would continue its due diligence with regard to the LOI and added that Mr. Bodine's presence at the meeting was a good example of that continued effort.

I then made a motion to enter executive session, reading the same language for the motion that has been used for each executive session and publicly noticed in advance of each meeting. After executive session ended, the meeting was adjourned at 9:17 pm.

Sincerely,

Mary Louise Madigan

READ 5/18/15 & REFERRED TO THE
COMMITTEE OF THE WHOLE.
READ & DEFERRED 6/1/15.

RESOLUTION NO. 8805-15

BY:

A RESOLUTION to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, authorizing the Mayor to enter into an agreement with Everstream, Inc., an Ohio corporation, or OneCommunity, an Ohio non-profit corporation, for the installation, operation and maintenance of a fiber optic communications system within the city of Lakewood without the necessity of bidding in accordance with Lakewood Codified Ordinance §111.04(a)(10) in an amount not to exceed \$900,000.

WHEREAS, the City of Lakewood has obtained two quotes for the construction of a fiber optic communications system that will be available for use by the city, the city's public partners including the private and public schools and Lakewood Public Library as well as private businesses within the community; and

WHEREAS, this fiber optic communications system will make faster internet speeds available to the city, partners and potential business considering relocating to Lakewood; and

WHEREAS, it is in the best interest of the City to award this agreement without competitive bidding; and

WHEREAS, this Council by a vote of at least five of its members determines that this resolution is an emergency measure, and that this resolution shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood, and that it is necessary for the immediate preservation of the public property, health and safety, and to provide for the usual daily operation of municipal departments in order to have this communications network installed prior to the end of the year; now, therefore

BE IT RESOLVED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. Council hereby determines that it is impractical to award the purchase of electronic health monitoring devices under competitive bidding procedures, and that it is more cost-effective and in the best interests of the City to award the contract without competitive bidding, and thus authorizes the Mayor to enter into an agreement with Everstream, Inc., an Ohio corporation, or OneCommunity, an Ohio non-profit corporation, for the installation, maintenance and operation of a fiber optic communications system in an amount not to exceed \$900,000.

Section 2. Council specifically approves the agreement in substantially the same form as that attached as Exhibit A.

Section 3. It is found and determined that all formal actions of this Council concerning and relating to the passage of this resolution were adopted in an open meeting of this Council,

and that all such deliberation of the Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Section 4. This resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in the preamble to this resolution, and provided it receives the affirmative vote of at least five members of Council, this resolution shall take effect and be in force immediately upon its adoption by the Council and approval by the Mayor, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: _____

President of Council

Clerk of Council

Approved: _____

Mayor

Exhibit A

To be provided

ORDINANCE NO. 22-15

BY:

AN ORDINANCE to amend various sections within Chapter 1129, Signs, of the Codified Ordinances of the City of Lakewood in order to update the code.

WHEREAS, certain changes are needed to the sign code within the building code of the city of Lakewood to update sign classification, design standards and illumination in order to keep up with design trends; and

WHEREAS, Article 18, Section 3 of the Constitution of the State of Ohio permits municipalities to exercise all powers of local self-government and to adopt and enforce within their limits such as local police, sanitary and other regulations as are not in conflict with general laws; now, therefore

BE IT ORDAINED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. Section 1329.03 Classification of Signs, of the Codified Ordinances of the City of Lakewood currently reading as follows:

1329.03 CLASSIFICATION OF SIGNS.

- (a) "Sign" means any display, figure, painting, drawing, placard, poster or other device visible from, or on, a public way which is designed, intended or used to convey a message, inform or direct attention to a person, institution, organization, activity, place, object or product, but does not include show window or interior displays. It may be a structure or part thereof painted on or attached directly or indirectly to a structure.
- (b) Classification by Functional Type.
 - (1) "Billboard" means a sign which is primarily intended to direct attention to a specific business, product, service, entertainment or any other activity sold, offered or conducted elsewhere than upon the same lot or premises on which the sign is located and which may, subject to the provisions of this chapter, contain noncommercial message.
 - ...
 - (15) "Streamer or Wind sign" means any sign designed to move in the wind that is not specifically a pennant or lighter-than-air sign.

shall be and is hereby amended to read as follows:

1329.03 CLASSIFICATION OF SIGNS.

- (a) "Sign" means any display, figure, painting, drawing, placard, poster or other device visible from, or on, a public way which is designed, intended or used to convey a message, inform or direct attention to a person, institution, organization, activity, place, object or product, but does not include show

window or interior displays. It may be a structure or part thereof painted on or attached directly or indirectly to a structure.

(b) Classification by Functional Type.

- (1) "Billboard" means a sign which is primarily intended to direct attention to a specific business, product, service, entertainment or any other activity sold, offered or conducted elsewhere than upon the same lot or premises on which the sign is located and which may, subject to the provisions of this chapter, contain noncommercial message.

...

- (15) "Streamer or Wind sign" means any sign designed to move in the wind that is not specifically a pennant or lighter-than-air sign.

- (16) "Electronic Reader Board sign" means a Sign designed to display a message or graphics electronically produced.

Section 2. Section 1329.05 Design Standards, of the Lakewood Codified Ordinances, currently reading as follows:

1329.05 DESIGN STANDARDS.

Signs, as permitted in all use districts, shall be designed to be compatible in character and style with regard to materials, color and size of the building, other signs designed or located on the same building, and other signs adjoining buildings in order to produce an overall unified effect, and in accordance with the standards set forth in this section. Signs shall be reviewed with respect to each of the provisions of this section and shall require approval by the Board of Building Standards.

- (a) Continuity. Signs shall be considered in relationship to their surrounding environment and, if seen in series, should have a continuity of design.

...

- (f) Canopy Signs. A canopy sign is a sign attached to the underside of the canopy at a ninety degree angle to the street, intended for pedestrian visibility. The vertical dimension of the sign shall not exceed twelve inches and the lowest structural member shall be not less than eight feet above sidewalk grade.

- (g) Ground Signs. Shall not extend higher than ten feet above the finished grade. Permanent ground signs shall not be located within the required front and side yards unless approved by the Board of Building Standards.

- (j) Projection Signs. May be permitted in the C1, C2, C3, Districts only in cases where innovative design is demonstrated and where no potential safety hazard to motorists or pedestrians is created, subject to review and approval by the Board of Building Standards. Projecting signs shall not project any further than twenty-four inches from a vertical line projected from the curb. No sign projecting over public property shall swing from any bar, crane, swing or other sign.

- ...
- (n) Awning Signs. One awning sign shall be permitted. The total area of one face of the sign shall not exceed six square feet and the vertical dimension of the sign shall not exceed twelve inches.
 - (o) Changeable Copy Signs/Electronic Reader Boards. Shall comply with all other regulations of this chapter including the design standards in this section, and the provisions for application for permits in Section 1329.12. When reviewing the proposed sign, the Board of Building Standards shall consider and establish the standards applicable for the changeable copy which may include, but are not limited to: determining the portion of the sign permitted for changeable copy; determining the suitable material and method for making changes and the manner for fastening the new copy; and establishing the color and design criteria. Electronic reader board signs cannot flash, blink, scroll or strobe and are permitted to change copy once per hour. These standards shall be set forth in the sign permit and shall apply for the life of the sign unless otherwise amended by the Board according to Section 1329.12.
- ...

shall be and is hereby amended to read as follows:

1329.05 DESIGN STANDARDS.

Signs, as permitted in all use districts, shall be designed to be compatible in character and style with regard to materials, color and size of the building, other signs designed or located on the same building, and other signs adjoining buildings in order to produce an overall unified effect, and in accordance with the standards set forth in this section. Signs shall be reviewed with respect to each of the provisions of this section and shall require approval by the Board of Building Standards.

- (a) Continuity. Signs shall be considered in relationship to their surrounding environment and, if seen in series, should have a continuity of design.
- ...

- (f) Canopy Signs. A canopy sign is a sign attached to the underside of the canopy at a ninety degree angle to the street, intended for pedestrian visibility. The vertical dimension of the sign shall not exceed twelve inches and the lowest structural member shall be not less than eight feet above sidewalk grade. The location, design, and installation of canopies are subject to the approval of the Board of Building Standards.

- (g) Ground Signs. Shall not extend higher than ten feet above the finished grade. Permanent ground signs shall not be located within the required front and side yards unless approved by the Board of Building Standards. The base of ground sign shall be required to have landscaping as approved by the Board of Building Standards.
- ...

- (n) Awning Signs. One awning sign shall be permitted. The total area of one face of the sign shall not exceed six square feet and the vertical dimension of the sign shall not exceed twelve inches. The location, design, and installation of awnings are subject to the approval of the Board of Building Standards.
- (o) Changeable Copy Signs/Electronic Reader Boards. Shall comply with all other regulations of this chapter including the design standards in this section, and the provisions for application for permits in Section 1329.12. When reviewing the proposed sign, the Board of Building Standards shall consider and establish the standards applicable for the changeable copy which may include, but are not limited to: determining the portion of the sign permitted for changeable copy; determining the suitable material and method for making changes and the manner for fastening the new copy; and establishing the color and design criteria. ~~Electronic reader board signs cannot flash, blink, scroll or strobe and are permitted to change copy once per hour. These standards shall be set forth in the sign permit and shall apply for the life of the sign unless otherwise amended by the Board according to Section 1329.12.~~
- (p) Electronic Reader Boards. Shall only be permitted as a part of Comprehensive Sign Plan as defined in 1329.06(q). Shall comply with all other regulations of this chapter including the design standards in this section, and the provisions for application for permits in Section 1329.12. When reviewing the proposed sign, the Board of Building Standards shall consider and establish the standards applicable for the electronic reader boards which may include, but are not limited to: determining the portion of the sign permitted for electronic reader boards; determining the suitable material and method for making changes and the manner for fastening the new copy; and establishing the color and design criteria. Electronic reader board signs cannot flash, blink, scroll or strobe and are permitted to change copy once per hour. The electronic reader board portion of signage must be a subordinate portion of proposed signage. These standards shall be set forth in the sign permit and shall apply for the life of the sign unless otherwise amended by the Board according to Section 1329.12.

...

Section 3. Section 1329.06 Illumination of Signs, of the Codified Ordinances of the City of Lakewood, currently reading as follows:

1329.06 ILLUMINATION OF SIGNS.

- (a) Light sources to illuminate signs shall be shielded from all adjacent residential buildings and streets and shall not be of such brightness so as to cause glare hazardous to pedestrians or motorists or so as to cause reasonable objection from adjacent residential districts.
- (b) All signs in retail, office and industrial districts may be illuminated. Parking lots and automotive sales lots shall be illuminated in accordance with the provisions of this section.
- (c) Flashing or moving illumination shall not be permitted in any district within the City.

shall be and is hereby amended to read as follows:

1329.06 ILLUMINATION OF SIGNS.

- (a) Light sources to illuminate signs shall be shielded from all adjacent residential buildings and streets and shall not be of such brightness so as to cause glare hazardous to pedestrians or motorists or so as to cause reasonable objection from adjacent residential districts.
- (b) All signs in ~~retail, office and~~commercial, industrial and residential districts may be illuminated. Parking lots and automotive sales lots shall be illuminated in accordance with the provisions of this section.
- (c) Flashing or moving illumination shall not be permitted in any district within the City.

Section 4. Section 1329.09 Signs: Commercial, Office C1; Commercial, Retail C2; Commercial General Business C3 District, currently reading as follows:

1329.09 SIGNS: COMMERCIAL, OFFICE C1; COMMERCIAL, RETAILC2; COMMERCIAL GENERAL BUSINESS C3 DISTRICTS.

Accessory signs in the Commercial, Office C1; Commercial, Retail C2; General Business C3 Districts be designed, erected, altered, moved and maintained, in whole or in part, in accordance with these regulations.

- (a) Functional Types Permitted. Business signs, development signs of a temporary nature, directional signs, identification signs, informational signs, nameplates, political signs, real estate signs, temporary signs, mural and bulletin boards on the lots of public or semipublic institutions.

...

shall be and is hereby amended to read as follows:

1329.09 SIGNS: COMMERCIAL, OFFICE C1; COMMERCIAL, RETAILC2; COMMERCIAL GENERAL BUSINESS C3; COMMERCIAL, AND PUBLIC SCHOOL C4 DISTRICTS.

Accessory signs in the Commercial, Office C1; Commercial, Retail C2; General Business C3 Districts be designed, erected, altered, moved and maintained, in whole or in part, in accordance with these regulations.

- (a) Functional Types Permitted. Business signs, development signs of a temporary nature, directional signs, identification signs, informational signs, nameplates, political signs, real estate signs, temporary signs, mural and bulletin boards on the lots of public or semipublic institutions.

...

Section 5. It is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council and that all such deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Adopted: _____

PRESIDENT

CLERK OF COUNCIL

Approved: _____

MAYOR

RESOLUTION NO. 8809-15

BY:

A RESOLUTION to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, authorizing the Mayor to enter into an amended agreement with Rockport Square, LLC, or its assignee, affiliate or designee, for the development of the remaining phases of the Rockport Square development project.

WHEREAS, more than a decade ago the city of Lakewood entered into an agreement with Rockport Square, LLC, for the development of property known as the Rockport Square development project; and

WHEREAS, Rockport Square, LLC, has been unable to meet its obligations under the agreement regarding the final two phases of the project; and

WHEREAS, it is in the best interest of the City to further negotiate and amend this agreement so that the property is put to an eventual tax generating use rather than remain vacant land abutting Detroit Avenue; and

WHEREAS, this Council by a vote of at least five of its members determines that this resolution is an emergency measure, and that this resolution shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood, and that it is necessary for the immediate preservation of the public property, health and safety, and to provide for the usual daily operation of municipal departments in order to encourage the development of this land; now, therefore,

BE IT RESOLVED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. The Mayor or his designee is hereby authorized to enter into an amended agreement with Rockport Square, LLC or its assignee, affiliate or designee, for the development of the remaining two phases of the Rockport Square development project, and any related agreements or instruments to carry out the terms of the amended agreement.

Section 2. Council specifically approves the agreement attached as Exhibit A.

Section 3. It is found and determined that all formal actions of this Council concerning and relating to the passage of this resolution were adopted in an open meeting of this Council, and that all such deliberation of the Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Section 4. This resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in the preamble

to this resolution, and provided it receives the affirmative vote of at least five members of Council, this resolution shall take effect and be in force immediately upon its adoption by the Council and approval by the Mayor, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: _____

President of Council

Clerk of Council

Approved: _____

Mayor

Exhibit A

Amended Tax Increment Financing and Development Agreement

(To be provided)

ORDINANCE NO. 24-15

BY:

AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect at the earliest period allowed by law, providing for the submission to the electors of the City of Lakewood, a proposed Third Amended Charter of the City of Lakewood.

WHEREAS, the 2014 Charter Review Commission, after reviewing and researching the Second Amended Charter of the City of Lakewood, has recommended to Council that the Charter be amended; and

WHEREAS, the 2014 Charter Review Commission has proposed a Third Amended Charter of the City of Lakewood for consideration by Council and the electors of the City; and

WHEREAS, pursuant to the Second Amended Charter of the City of Lakewood and the Constitution of the State of Ohio, the Council has determined to authorize and direct the submission to the electors of the City of Lakewood of the proposed Third Amended Charter, attached hereto and incorporated herein as "Exhibit A," at the general election to be held on Tuesday, November 3, 2015, which election is not less than 60 nor more than 120 days from the effective date of this Ordinance; and

WHEREAS, this ordinance is hereby declared to be an emergency measure immediately necessary for the preservation and enhancement of the public peace, health, safety and welfare of the City of Lakewood, in that the effective date must fall before the deadline imposed for the submission of municipal charter changes to the Cuyahoga County Board of Elections; now, therefore,

BE IT ORDAINED BY THE CITY OF LAKEWOOD, OHIO, TWO THIRDS OF ALL COUNCILMEMBERS CONCURRING:

Section 1. This Council hereby determines to authorize and direct the submission to the electors of the City of Lakewood at the general election to be held at the usual places of voting in the City on Tuesday, November 3, 2015, the proposed Third Amended Charter of the City of Lakewood, attached hereto and incorporated herein as "Exhibit A."

Section 2. The Board of Elections of Cuyahoga County is hereby directed to submit the following question to the electors of the City at the general election on November 3, 2015:

Shall the proposed Third Amended Charter of the City of Lakewood, as reported by the City Council of the City of Lakewood, Ohio be adopted?

Section 3. The Clerk of this Council is instructed immediately to file a certified copy of this Ordinance and the proposed form of the ballot question with the County Board of Elections not less than 60 days and not more than 120 days prior to November 3, 2015.

Section 4. If the majority of electors vote in favor of adopting the Third Amended Charter of the City of Lakewood, it shall become effective January 1, 2016, and all prior charters shall be repealed, except as may otherwise be provided in such Third Amended Charter.

Section 5. It is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council, and that all such deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Section 6. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in the preamble, and provided it receives the affirmative vote of at least five members of Council, this ordinance shall take effect and be in force immediately upon its adoption by the Council and approval by the Mayor, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: _____

President

Clerk

Approved: _____

Mayor

EXHIBIT A

(Proposed Third Amended Charter on Following Pages)

Draft of the

THIRD AMENDED CHARTER

OF THE CITY OF LAKEWOOD, OHIO

August 12, 2014

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Draft of the

THIRD AMENDED CHARTER

OF THE CITY OF LAKEWOOD, OHIO

August 12, 2014

PREAMBLE

We, the people of the city of Lakewood, in the county of Cuyahoga and state of Ohio, in order that we may have the benefits of municipal home rule and exercise all the powers of local self-government, do frame and adopt this charter for the government of the city.

ARTICLE ONE. MUNICIPAL POWERS

1.1 MUNICIPAL POWERS

The city shall have all power now or later granted to municipalities by the Constitution and laws of the state of Ohio.

1.2 MANNER OF EXERCISE

All powers shall be exercised in the manner required by this charter, or if not required by this charter, in a manner provided by ordinance or resolution of city council.

1.3 INTERPRETATION

Unless the context clearly requires otherwise, words and phrases used in this charter shall be interpreted in the same manner as provided in the Ohio Revised Code for the interpretation of state statutes. As used in this charter relating to matters of local self-government, "general law" means law that may be altered, excepted from or disregarded under the authority of this charter. As used in this charter relating to matters of police, sani-

tary or other similar regulations, "general law" means law that may not be altered, excepted from or disregarded under the authority of this charter.

ARTICLE TWO. COUNCIL

2.1 MEMBERSHIP, ELECTION AND TERM

Except as limited by this charter, the legislative powers of the city shall be vested in a city council consisting of seven members. Four members shall be residents of and elected from the four wards in the city, one member from each ward, and three members shall be elected at large. Except as necessary in the case of vacancies, members representing each ward shall be elected in the regular municipal election held in the year immediately prior to the year in which a presidential general election is held; and members at large shall be elected in the regular municipal election held in the year immediately following the year in which a presidential general election is held. All members of council shall serve for a term of four years commencing on January 1 of the year following the date of the member's election.

2.2 QUALIFICATIONS AND VACANCIES

(a) Qualifications. Each member of council shall have been for at least one year immediately prior to the date of taking office both a resident and registered voter of the city. Each member of council elected from a ward of the city shall be a resident of the ward from which the member was elected. All members of council shall continue to be residents and registered voters of the city and, if elected or appointed from a ward, shall be and continue to be a resident of that ward.

Any member who ceases to possess those qualifications shall immediately forfeit his or her office. Council shall be the judge of the election and qualification of its members.

(b) Vacancy. Vacancies in council shall be filled by appointment made by the remaining councilmembers. In the event council does not appoint a successor within 60 days of the occurrence of a vacancy, the mayor may fill the vacancy. If the vacancy occurs more than two years and 120 days before the municipal primary election for the next term of that office, the appointee shall serve only until his or her successor is elected and qualified at the next regular municipal election. If the vacancy occurs afterward, the appointee shall serve until the end of the unexpired term of

the former councilmember. Any vacancy that results from a recall election shall be filled in the manner provided by Article Nine.

2.3 COUNCIL SALARIES

(a) Salaries. The salaries of the members of council shall be established by ordinance or resolution, provided that the legislation is adopted not less than 30 days prior to the deadline for the filing of nominating petitions by candidates for the office of councilmember for the next term, and subject to further provisions of this charter.

(b) Salary Recommendation. Council shall accept, reject, or modify the civil service commission's recommendations made under Article Six within 90 days of receiving them. Without any action by council within the 90-day period, the recommendations of the civil service commission shall become effective as if adopted by ordinance or resolution under Section 2.8, but consistent with Section 2.3(c).

(c) Timing of Salary Change. No change in the salary for a member of council shall take effect during the current term of that member.

2.4 COUNCIL MEETINGS AND ELECTION OF OFFICERS

(a) Meetings. At 7:30 p.m. on the first Monday in January following each regular municipal election or, if that Monday falls on a holiday, on the first Tuesday, council shall meet at the usual place of holding council meetings. After the first meeting, council shall meet at times established by its rules or by ordinance or resolution.

The mayor, president of council, or any three members of council may call special meetings of council upon written notice served personally upon each member or at his or her usual place of residence, at least six hours before the time of the meeting. Any notice of a special meeting shall state the subject or subjects to be considered at the meeting and no other subject shall be considered.

All meetings of council or its committees shall be open to the public, except that executive sessions may be held in accordance with general law.

(b) Election of Council Officers. The president and vice president of council shall be elected at the first meeting of council by a majority of those present. The member of council present who has the longest consecutive tenure of office shall preside over the organizational meeting

until the president of council is elected.

2.5 ORGANIZATION AND PROCEDURES

(a) Quorum. A majority of councilmembers shall be a quorum to do business but a smaller number may adjourn from day to day and compel the attendance of absent members in a manner and under penalties established by ordinance or resolution.

(b) Rules. Council shall determine its own rules and order of business and shall keep a permanent record of its proceedings. Any citizen shall have access to the minutes and records at all reasonable times.

(c) Voting. The affirmative vote of a majority of councilmembers present shall be necessary to adopt any ordinance or resolution. The vote on any ordinance or resolution shall be recorded and kept in a permanent record.

2.6 PRESIDENT AND VICE PRESIDENT OF COUNCIL

(a) The president and vice president shall each serve a term of two years. The president or vice president may be removed from his or her office by a two-thirds vote of all councilmembers.

The president of council shall preside at all meetings of council and perform the duties imposed by this charter and by the rules of council. The president shall have the same right to vote on all matters presented to council as any other member of council.

(b) In the event of a vacancy in the office, or the temporary absence or disability of the president of council, the vice president shall serve as acting president of council. The acting president shall exercise the powers and perform the duties of the president of council until the vacancy in the office of president of council is filled by council or until the temporary absence or disability of the president of council ends.

2.7 CLERK AND OTHER STAFF OF COUNCIL

Council shall choose a clerk of council and other staff employees it determines to be necessary. The clerk of council shall keep the records of council and perform other duties as required by this charter or by council. The clerk and other staff employees shall serve at the pleasure of council.

2.8 ENACTMENT OF ORDINANCES AND RESOLUTIONS

(a) Each proposed ordinance or resolution shall be in writing and shall not contain more than one subject, which shall be clearly stated in the title. General appropriation ordinances may contain the various subjects and accounts for which moneys are appropriated. The vote on the passage of each ordinance or resolution shall be officially recorded and the official record shall be publicly available.

(b) No resolution of a permanent character or ordinance shall come to a vote until it has been read, by title, on three separate days. The requirement of reading on three separate days may be dispensed with by a two-thirds vote of all councilmembers. A majority of councilmembers present may require that an ordinance be read in full rather than by title.

No ordinance, resolution or section of an ordinance or resolution shall be revised or amended unless the new ordinance or resolution contains the entire ordinance or resolution or section to be revised or amended, and the ordinance, resolution or section revised or amended is repealed.

(c) No ordinance or resolution shall under any circumstances be adopted or passed unless it has been read on three separate days, which (1) changes the amount of salary or compensation for any elected officer of the city; (2) amends any zoning ordinance; (3) grants, renews or extends a franchise or other special privilege; or (4) regulates the rate to be charged by a public utility for its services.

(d) The enacting clause of all ordinances passed by council shall be "Be it ordained by the city of Lakewood." The enacting clause of all ordinances submitted by initiative shall be "Be it ordained by the people of the city of Lakewood."

2.9 MAYOR'S APPROVAL OR DISAPPROVAL OF LEGISLATION

(a) Any ordinance or resolution passed by council shall be signed by the presiding officer and presented to the mayor by the clerk of council. If the mayor approves the ordinance or resolution, the mayor shall sign it within 10 days after its passage or adoption.

(b) If the mayor does not approve an ordinance or resolution, the mayor shall return it to council with a statement of his or her objections to the measure within 10 days, or if council is not then in session, at the next regular meeting of council, which objections council shall enter into its

minutes. The mayor may approve or disapprove the whole or any item or part of any ordinance or resolution appropriating money, but otherwise the approval or disapproval shall be addressed to the entire ordinance or resolution. Not later than at the next regular meeting, council shall reconsider the legislation and, if upon reconsideration the legislation or the part of the legislation disapproved by the mayor is approved by a vote of two thirds of all members of council, it shall then take effect as if it had received the signature of the mayor.

(c) If the mayor does not sign or disapprove an ordinance or resolution within 10 days after its passage, it shall take effect in the same manner as if the mayor had signed it on the 10th day.

2.10 RECORDING AND CODIFICATION OF LEGISLATION

(a) All ordinances and resolutions upon their final passage or adoption shall be recorded in an official record kept for that purpose and shall be authenticated by the signatures of the presiding officer and the clerk of council.

(b) Ordinances of a general and permanent nature shall, after their effective date, be incorporated into the codified ordinances of the city. Council shall prescribe how the codified ordinances are to be organized and maintained. The codified ordinances shall be published and available for public inspection at all reasonable times.

2.11 PUBLICATION

Council may prescribe the manner of giving public notice of the enactment of any and all ordinances, resolutions or other acts, procedures, statements, including financial statements, or reports required by law to be published. Publication shall include posting on the official city website.

2.12 EFFECTIVE DATE OF LEGISLATION

(a) Council may provide for legislation to take immediate effect by stating the necessity for its immediacy in a separate section of the legislation and passing the legislation by a two-thirds vote of all councilmembers. An ordinance or resolution passed in this manner shall become effective upon approval by the mayor, or upon the expiration of the time within which it may be disapproved by the mayor, or upon its passage or approval notwithstanding the disapproval by the mayor, as the case may be, as provided in Section 2.9, or at a time fixed in the legislation sooner than the

period of time specified in Section 2.12(b).

(b) No other ordinance or resolution shall become effective until 40 days after its passage or adoption and approval by the mayor, the expiration of the time within which it may be disapproved by the mayor, or its passage or adoption notwithstanding the disapproval by the mayor, as the case may be, as provided in Section 2.9.

ARTICLE THREE. OFFICE OF THE MAYOR

3.1 EXECUTIVE AND ADMINISTRATIVE POWERS

The executive and administrative powers of the city shall be vested in the mayor, directors of departments and other administrative officers provided for in this charter or by ordinance or by resolution.

3.2 RESIDENCY, TERM AND QUALIFICATIONS OF MAYOR

The mayor shall be elected for a term of four years, commencing on the first day of January following the election, shall have been for at least one year immediately prior to the date of taking office both a resident of the city and a registered voter of the city, and shall continue as both a resident and registered voter of the city during the term of office. Except in the case of vacancies, the mayor shall be elected in the regular municipal election held in the year immediately prior to the year in which a presidential general election is held.

3.3 MAYOR EX-OFFICIO DIRECTOR

Subject to the provisions of this charter, if a department of public safety is created the mayor shall by virtue of his or her office be its director, without additional compensation, and to that extent shall exercise all powers and perform all duties delegated to and conferred upon the director of public safety by this charter, by ordinance or resolution and by general law.

3.4 MAYOR'S APPOINTMENT POWER

The mayor may appoint, with approval of council, and may remove, if and when the office is created, a director of public safety, and shall appoint, with the approval of council, other directors in accordance with this charter. The mayor shall make all other appointments under the provisions of this charter not otherwise provided for by general law or by council legisla-

tion; and those appointees shall serve until removed by the mayor or until their respective successors are appointed and qualified.

3.5 SALARY OF THE MAYOR

(a) Salary. The salary of the mayor shall be established by ordinance or resolution, provided that the legislation must be adopted not less than 30 days prior to the deadline for the filing of nominating petitions by candidates for the office of mayor for the next term, and subject to further provisions of this charter.

(b) Salary Recommendation. Council shall accept, reject, or modify the civil service commission's recommendations made under Article Six within 90 days of receiving them. Without any action by council within the 90-day period, the recommendations of the civil service commission with respect to the mayor's salary shall become effective as if adopted by ordinance or resolution under Section 2.8, but consistent with Section 3.5(c).

(c) Timing of Salary Change. No change in the salary for the mayor shall take effect during the current term of the mayor.

3.6 GENERAL POWERS AND DUTIES OF MAYOR

The mayor shall be the chief conservator of the peace within the city; shall supervise the administration of the affairs of the city; shall see that all ordinances of the city are enforced; shall recommend to council for adoption any measures the mayor may deem necessary or expedient; shall with the director of finance keep council advised of the financial condition and future needs of the city; shall prepare and submit any reports required by council; and shall exercise powers and perform duties conferred upon or required of the mayor by this charter, by ordinance or resolution of council, or by general law.

3.7 MAYOR'S INVESTIGATION

The mayor or anyone appointed by the mayor may, without notice, cause the affairs of any department or the conduct of any officer or employee to be examined or investigated.

3.8 ACTING AND INTERIM MAYOR

(a) Temporary Absence. When the mayor is absent and inaccessible, or is unable for any cause to perform the duties of the office of mayor, the

person designated by ordinance or resolution of council shall be the acting mayor until the mayor resumes the office.

If the mayor does not resume the duties of the office within 60 days, council shall declare the office vacant and appoint an interim mayor as specified in Section 3.8(b).

(b) Vacancy in the Office of Mayor. In the case of the death, resignation or removal of the mayor, the mayor ceasing to reside and remain a registered voter in the city, or other vacancy in the office of mayor, council shall appoint an interim mayor. Until council meets and appoints by a majority vote of its members a qualified person to serve as interim mayor, the acting mayor shall assume the duties of the office. The appointment of an interim mayor shall be made within 60 days of the vacancy.

If the vacancy occurs more than two years and 120 days before the municipal primary election for the next term of that office, the interim mayor shall serve only until his or her successor is elected and qualified at the next regular municipal election. If the vacancy occurs afterward, the interim mayor shall serve until the end of the unexpired term of the former mayor. Any vacancy that results from a recall election shall be filled in the manner provided by Article Nine.

3.9 LOCATION OF OFFICE; FULL-TIME POSITION

The mayor's office shall be located at city hall. The mayor is to serve the city on a full-time basis. While the mayor must devote his or her primary time and attention to the business of the city, holding the office of the mayor does not necessarily preclude limited outside employment, provided that outside employment does not conflict or interfere with carrying out the duties assigned by this charter or general law, or otherwise violate any provision of this charter or general law.

3.10 RIGHT OF MAYOR AND DIRECTORS IN COUNCIL

The mayor and the directors of all departments established by this charter or by legislation shall be entitled to participate in meetings of council. The mayor shall be entitled to introduce ordinances and resolutions and shall be entitled to take part in the discussion of all matters coming before council. The directors of departments shall be entitled to take part in all discussions in council relating to their respective departments.

ARTICLE FOUR. DEPARTMENTS AND OFFICERS

4.1 GENERAL PROVISIONS

There shall be a department of law and a department of finance. Council may, in its discretion, establish additional city departments, offices or agencies to provide and administer city services, including but not limited to public safety, planning and development, human services and public works, and may prescribe or reassign the functions of all departments, offices and agencies. Notwithstanding council's discretion to prescribe or reassign department functions as set forth in this section, no function assigned by this charter to a particular department, office or agency may be discontinued or assigned to any other unless this charter specifically permits its discontinuance or reassignment.

4.2 DIRECTORS OF DEPARTMENTS

Except as otherwise provided by this charter, the head of each department shall be a director, appointed by the mayor, and shall serve at the mayor's pleasure. Each director shall administer his or her department in accordance with this charter, the applicable ordinances adopted by council, the rules and regulations made by the mayor, and general law, except as general law may be limited by council. Each director may, subject to applicable civil service regulations, appoint, promote, transfer, reduce or remove division heads, officers and employees within his or her department.

4.3 DEPARTMENT OF LAW

The department of law shall be headed by a director of law, who shall be an attorney admitted to practice law in the state, shall be a registered voter of the city, and shall be appointed by the mayor with the approval of council. The director of law shall serve as chief legal adviser to council, the mayor, all boards and commissions, and all city departments, offices and agencies; shall represent the city in all legal proceedings; and shall perform any other duties prescribed by this charter, ordinance, resolution or general law, except as general law may be limited by council.

4.4 DEPARTMENT OF FINANCE

The department of finance shall be headed by a director of finance. The director of finance shall be responsible for the administration of all financial requirements called for by this charter, ordinance, resolution or gen-

eral law, except as general law may be limited by council. The director of finance shall also be the city auditor.

ARTICLE FIVE. FINANCE

5.1 DIRECTOR OF FINANCE

The director of finance shall have charge of the administration of the financial affairs of the city in accordance with Section 4.4.

5.2 BONDS REQUIRED

Council shall establish the amount of bond to be given by each officer, clerk or employee in the city government, if any be required, and required bonds shall be given with surety. Premiums on official bonds shall be paid by the city.

5.3 FISCAL YEAR

The fiscal year of the city shall begin the first day of January unless otherwise specified by ordinance.

5.4 APPROPRIATIONS

No money shall be drawn from the treasury of the city, nor shall any obligation for the expenditure of money be incurred, except by appropriations adopted by council. Any monies appropriated shall be used for the specified purposes and these purposes may not be changed without authority from council. No money, from whatever source derived, shall be appropriated for use by or at the direction of individual members of council.

5.5 BUDGET DOCUMENT

On or before the second city council meeting in November in each year, the director of finance shall prepare an estimate of the expense of conducting the affairs of the city for the following fiscal year. This estimate shall be compiled from detailed information obtained from the various departments and shall set forth at a minimum:

(a) an itemized estimate of the expense of operating each department;

(b) comparisons of proposed current estimates with the corresponding items of expenditures for the last two completed fiscal years and with an estimate of expenditures necessary to complete the current fiscal year;

(c) reasons for proposed increases or decreases in expenditures compared with the current fiscal year;

(d) a schedule for each department listing required operations of the department for the next fiscal year and any additional activities desired to be undertaken;

(e) compensation increases as either additional pay to current employees, or for additional employees;

(f) an itemization of all anticipated revenue from taxes and other sources;

(g) the amounts required to pay interest on the city's debt, and for bond retirement funds as required by law;

(h) the total amount of the outstanding city debt with a schedule of maturities of bond issues and any other long-term financial obligations of the city; and

(i) any other information as may be required by council.

Upon receipt of the estimate, council shall begin the appropriations process. Council shall hold public hearings upon any proposed appropriation legislation before a committee or the entirety of council. After the public hearings, council, taking the estimate into consideration, shall by temporary or permanent appropriation legislation provide for the funding of the city as provided by general law or except as general law may be limited by council.

5.6 REPORTS

The director of finance shall periodically report on the finances of the city to the mayor, council, the public and any specific persons designated by law, including financial transactions for the fiscal year or any part of the fiscal year and the effect of those transactions on appropriations within each department of the city government.

5.7 CAPITAL PLAN

Annually, after consultation with the mayor and the heads of affected city departments, the director of finance shall prepare and submit to the mayor and council a recommended five-year financial plan for the city's capital needs.

5.8 ASSESSMENTS

(a) No public improvement, any part of the cost of which is to be specially assessed upon the owners of property in the city, shall be made without the approval of council. Before property in the city may be specially assessed for public improvements, council shall establish regulations sufficient to require preliminary legislation declaring the improvements necessary; to ensure the affected owners receive notice of the proposed assessment, an opportunity to examine plans for the improvement, and the ability to be heard in at least one public forum before the assessment is authorized by council; to divide assessed costs equitably among the city and affected property owners; to provide for repayment over an appropriate period of time; and to establish an opportunity for owners to make damage claims arising from the improvements and have those claims heard.

(b) Council may by a two-thirds vote of all members specially assess the cost of a public improvement upon affected property owners. However, if the owners representing a majority of the foot frontage of the lots to be assessed petition council for the improvement and assessment, council may approve the special assessment by a majority vote.

5.9 MUNICIPAL INCOME TAX

Any legislation providing for an increase in the rate of municipal income tax charged on taxable income within the city, or providing for a reduction in the resident income tax credit for residents of the city, shall not become effective until council submits the legislation to the registered voters at a primary or general election occurring more than 60 days after the passage of the legislation, and until the legislation is approved by a majority of those voting on the measure.

5.10 PROPERTY TAX LEVIES

(a) Taxation by Vote of Council. In any calendar year, taxes may be levied upon the tax duplicate without a vote of the people for the current operating expenses of the city, but no such tax shall be levied at a rate exceeding by more than 5.2 mills the rate for these purposes within the constitutional limitation allocated to the city on the 1938 tax duplicate. Except as permit-

ted in this section, all power to tax shall be as defined and limited by general law.

(b) Levy for Police and Fire Pension Fund. Notwithstanding any other provision of this charter, and in addition to all other levies authorized or required by law, but otherwise in the manner provided for the making of other municipal levies, council shall levy annually, without a vote of the people, outside the constitutional and statutory 10-mill limitation and outside the limitations provided by this charter, a tax upon all real and personal property listed for taxation upon the tax lists and duplicates for each year sufficient in rate to provide all moneys required to meet the city's obligations related to the Ohio Police and Fire Pension Fund and to pay debt charges on securities issued to support the fund.

(c) Levy for Certain Municipal Improvements. Without prejudice to the use of other funds from taxes or other sources available for these purposes, council may levy a tax upon all real and personal property listed for taxation upon the tax list and duplicate at a rate not to exceed two mills outside the levies provided in Section 5.10(a) and (b) to provide a fund for the purpose of financing the reconstruction, expansion, operation and maintenance of a sewage disposal plant and sewer system, and the capital needs of street infrastructure, municipal buildings, parks and recreation facilities.

5.11 CHARTER EXCEPTIONS FOR DEBT INSTRUMENTS

(a) No provision in this charter relating to granting, renewing or extending franchises or other special privileges shall apply to franchises or special privileges given in connection with the issuance of bonds, notes or other debt instruments by the city. Those franchises or other special privileges given in connection with the issuance of bonds, notes or other debt instruments by the city shall instead conform to any applicable provisions of the state Constitution.

(b) No provision in this charter shall require the director of law to prepare or endorse his or her approval of the form and correctness on bonds, notes or other debt instruments of the city, when the city has engaged other counsel as bond counsel to prepare and render approving opinions with respect to these bonds, notes or other debt instruments of the city.

(c) No provision in this charter shall require the director of finance to certify the availability of money related to legislation authorizing or otherwise

affecting the issuance or terms of bonds, notes or other debt instruments of the city.

ARTICLE SIX. CIVIL SERVICE COMMISSION

6.1 APPOINTMENT AND TERM OF MEMBERS

The civil service commission is composed of three members who are registered voters of the city, appointed under this article. During their term members of the commission shall not hold any other office or position of employment with the city. Not more than two members shall be of the same political party, as determined by current voter registration, but members may have no party affiliation. The mayor shall appoint two members of the commission and council shall appoint one member of the commission. Each member of the commission shall serve a term of three years and until his or her successor has been appointed and qualified for office. The members of the commission shall be ineligible to be reappointed to succeed themselves for more than one additional three-year term, unless the member is completing a term for which he or she was appointed to fill a midterm vacancy.

6.2 PRESIDENT; SECRETARY

The commission shall designate one of its members as president and may appoint a secretary. The secretary shall not have a vote.

6.3 CLASSIFIED AND UNCLASSIFIED SERVICE

The civil service of the city is divided into the unclassified and the classified service. The unclassified service shall include elected officers; directors of departments; members of all boards or commissions appointed by the mayor and council; the clerk of council and the secretary of the civil service commission; and unskilled labor and hourly personnel. The classified service shall comprise all positions not specifically included in the unclassified service.

6.4 PROCEDURE

(a) The commission shall make, promulgate, prescribe and enforce rules for the appointment, promotion, transfer, layoff, reinstatement, suspension and removal of employees in the classified service, and other rules necessary for the enforcement of the merit system of pay and promotion

and for the commission's procedure. The commission shall keep a permanent, public record of its proceedings.

(b) Any member of the commission may subpoena and require the attendance of witnesses, cause the administration of oaths and compel testimony and the production of books, papers and other evidence pertinent to any issue before the commission. If any applicant fails to respond to these requests, the commission may take that failure into account when deciding the applicant's matter.

6.5 SALARIES AND COUNCIL APPROPRIATION

The salaries of the commission shall be set by council, and a sufficient sum shall be appropriated each year to carry out the civil service provisions of this charter.

6.6 SUSPENSION AND REMOVAL OF COMMISSION MEMBER

With written explanation to council and the commission, filed with the clerk of council and the secretary of the commission, the mayor may at any time for cause suspend any commissioner for up to 30 days. Cause may include but need not be limited to neglect of duty or misfeasance or malfeasance in office. The president of council shall call a hearing of council within 30 days of the filing of the mayor's writing. At the hearing the mayor may further explain the cause for the commissioner's suspension, and the suspended commissioner may appear with, without or by counsel in response. At the conclusion of the hearing, council shall by a majority vote of councilmembers present either remove or reinstate the commissioner. For good cause, council may continue the hearing for up to 30 days.

6.7 SALARY RECOMMENDATIONS

On or before July 1 of each year in which a presidential general election is held, the civil service commission shall review and make a written report to council, which report shall be filed with the clerk of council and the office of the mayor, setting forth the commission's recommendations for the salary and other compensation for the offices of mayor and members of council. Council shall place that report on the next docket at a regularly scheduled council meeting. If council takes no action or fails to decline to follow the suggestions within 90 days, the recommendations shall take effect as if council had adopted them by ordinance approved by the mayor. However, no increase in salary under this section shall exceed 10 percent

of the salary for the office of mayor or council, unless there has been no increase in salary for that office in the preceding 10 years.

ARTICLE SEVEN. BOARDS AND COMMISSIONS

7.1 GENERAL PROVISIONS

(a) Council may by ordinance create boards and commissions in addition to those created in this charter. No function assigned by this charter to a board or commission may be discontinued or assigned to any other unless this charter specifically permits its discontinuance or reassignment.

(b) All appointments to boards and commissions, including those in other parts of the charter, shall to the extent possible be finalized so that the appointee may attend at least one meeting prior to assuming office.

(c) Any member of a board or commission named specifically in this charter may subpoena and require the attendance of witnesses, cause the administration of oaths and compel testimony and the production of books, papers and other evidence pertinent to any issue before that board or commission. If any applicant fails to respond to these requests, the board or commission may take that failure into account when deciding the applicant's matter.

7.2 PLANNING COMMISSION

(a) Organization. The planning commission is composed of five members who are registered voters of the city. Three members of the commission shall be appointees of the mayor, and two members shall be appointees of council. Each member of the commission shall serve until the expiration of his or her term, which shall be five years, with each term staggered so that one commission member's term expires each year. Members of the commission shall be ineligible to succeed themselves unless the member is completing a term for which he or she was appointed to fill a midterm vacancy. The appointing authority of the commission member may remove that member for cause.

(b) Engineer as Ex Officio Member. A person serving in the capacity of city engineer shall, by virtue of his or her position, be a non-voting member of the commission.

(c) Officers. The commission shall elect its own chairperson and vice chairperson. A majority of the commission shall constitute a quorum to do business. The city's chief planning officer or his or her designee shall be the secretary to the commission and shall be responsible for the preparation of the docket and the minutes for all commission meetings and shall perform all other duties incident to the office of secretary. The secretary shall have no vote.

(d) Administrative Staff. The secretary and his or her staff shall provide all administrative and support services to the commission.

(e) General Plan. The planning commission shall make and adopt a general plan for the development and improvement of the city, and for any area outside of the city that, in the judgment of the commission, bears relation to the planning of the city. No general plan or portions or amendments of the plan shall be adopted by the commission until after a public hearing. The general plan established or amended from time to time by ordinance shall constitute the official plan of the city. The commission shall also make plans and proposals for specific improvements and projects that it deems desirable for the city and its surrounding area and recommend them to the appropriate authority. These plans and proposals shall not become a part of the general plan until adopted by council. The commission may call upon officers and employees of other departments and divisions of the city for assistance in city planning. The commission shall take the initiative in planning for the city and surrounding area. It may make investigations, maps and studies relating to the planning of the community as it deems desirable.

(f) Development; Authority to Contract. The planning commission may recommend to the appropriate public authorities or private agencies programs for the development and improvement of the community, for the enactment of legislation pertaining to that development and improvement, for the building of public structures and improvements and for the financing of those things. Subject to the approval of council, the commission may enter into agreements with other public or private entities to carry forward any of its purposes. In addition to the powers and functions provided in this charter, the commission shall have other powers and functions provided by council. The commission may establish rules and regulations for its own procedure not inconsistent with this section or any ordinances of the city.

(g) Mandatory Referral. No public building, street, park, playground, harbor, dock, wharf, bridge, tunnel, or publicly or privately owned utility shall be authorized or constructed in the city, in whole or in part; nor shall any street be opened, widened, narrowed, relocated or vacated, or its use changed for any purpose whatsoever; nor shall ordinance referring to zoning or other regulations controlling the use or development of land in the city be adopted unless it has first been submitted to the commission for report and recommendation. The commission shall act on any matter within 60 days of its referral unless a longer time is allowed by council. Any resolution, ordinance or matter referred and disapproved by formal action of the commission shall require a two-thirds vote of all councilmembers for adoption or authorization.

(h) Review of Other Public Plans. If any plan, design or other proposal concerning the character, extent, location or use of any public improvement or public property within the city does not fall within the province of council or other office of the city, then the commission shall review the plan, design or proposal by the state, county, district, school, or other public entity having jurisdiction over the public improvement or property in accordance with general law.

7.3 BOARD OF ZONING APPEALS

(a) Organization. The board of zoning appeals is composed of five members who shall be appointed for a term of five years each. Three members of the board shall be appointees of the mayor, and two members shall be appointees of council. Members of the board shall be ineligible to succeed themselves unless the member is completing a term for which he or she was appointed to fill a midterm vacancy. The appointing authority may remove the appointed member for cause. The planning staff, housing and building staff, and person acting in the capacity of the city engineer shall furnish any technical advice and services as required by the board.

(b) Officers. The board shall elect its own chairperson and vice chairperson. A majority of the board shall constitute a quorum to do business. The city's chief planning officer or his or her designee shall be the secretary to the board and shall be responsible for the preparation of the docket and the minutes for all board meetings and shall perform all other duties incident to the office of secretary. The secretary shall have no vote.

(c) Powers and Duties. The board of zoning appeals shall hear and decide appeals from any regulation, order, decision, requirement, or determina-

tion made by administrative officials or agents in the application of ordinances governing zoning in the city. The board shall hear and decide all appeals made for variances in the application of ordinances governing zoning in the city, except that no variance shall be granted unless the board finds:

- (1) there exists practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or building involved;
- (2) there are special circumstances or conditions applying to the land or buildings and not applying generally to land or buildings in the neighborhood, and that the circumstances or conditions exist so that strict application of the provisions of the ordinances of the city would deprive the applicant of the reasonable use of the land or buildings;
- (3) the granting of the variance is necessary for the reasonable use of the land or building and that the variance granted by the board is the minimum variance that will accomplish this purpose; and
- (4) the granting of the variance will be in harmony with the general purpose and intent of the ordinances of the city and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

The board shall perform other duties and functions as may be imposed upon the board by this charter or by council, and it may establish rules and regulations for its own procedure not inconsistent with this section or any ordinances of the city.

7.4 BOARD OF BUILDING STANDARDS AND BUILDING APPEALS

(a) Organization. The board of building standards and building appeals is composed of five members, who shall be appointed for a term of five years each. Three members of the board shall be appointees of the mayor, and two members shall be appointees of council. Members of the board shall be ineligible to succeed themselves unless the member is completing a term for which he or she was appointed to fill a midterm vacancy. The appointing authority may remove any member for cause. The planning staff, housing and building staff, and person acting in the capacity of the city engineer shall furnish any technical advice and services as required by the board.

(b) Officers. The board shall elect its own chairperson and vice chairperson. A majority of the board shall constitute a quorum to do business. The

city's chief planning officer or his or her designee shall be the secretary to the board and shall be responsible for the preparation of the docket and the minutes for all board meetings and shall perform all other duties incident to the office of secretary. The secretary shall have no vote.

(c) Powers and Duties. The board of building standards and building appeals may:

(1) approve or disapprove materials, types of construction, appliances, devices and designs proposed for use under the building and property maintenance codes;

(2) make, amend and repeal rules and regulations for carrying into effect all provisions of the building and property maintenance codes, other than those relating to zoning;

(3) hear and decide appeals from and review upon motion of a member of the board any order, requirement, decision or determination of any administrative official or agency of the city relating to a matter regulated by the building and property maintenance codes, except that matters relating to zoning shall not come within the province or jurisdiction of the board. In taking any action, the board may vary or modify the application of any provision of the building and property maintenance codes, except those relating to zoning, when the enforcement would do manifest injustice, impose unnecessary hardship or be contrary to the intent and purpose of the codes or the public interest;

(4) review upon the motion of a member of the board any rule, regulation or decision of the board, but no review shall prejudice the rights of any person who has acted in good faith before the decision is reversed or modified;

(5) exercise with respect to any building situated in the city the same powers as are exercised by the board of building standards under the laws of the state, all as permitted by general law;

(6) formulate and submit to council changes in and amendments to the building and property maintenance codes that the board determines are desirable;

(7) establish rules and regulations for its own procedure not inconsistent with this section or any ordinances of the city;

(8) act as the architectural board of review of the city under all authority granted to that board by the ordinances of the city and general law; and

(9) perform other duties and functions as may be imposed upon the board by this charter or by council.

7.5 CHARTER REVIEW COMMISSION AND CHARTER AMENDMENTS

(a) In January of 2024 and each 10th year thereafter, nine registered voters of the city shall be appointed as members of a charter review commission. Five members of the commission shall be appointed by council and four members shall be appointed by the mayor. Members of the commission shall not hold any other office or position of employment with the city. The commission shall review the charter and within six months after the appointment of its members may recommend to council, by a two-thirds vote of all the members of the commission, revisions and amendments to this charter. Council may submit any proposed amendments recommended by the commission to a vote of the people in the manner provided under this charter and the state Constitution. Amendments shall be in the form provided by council.

(b) Amendments to this charter may be submitted to the registered voters of the city by a two-thirds vote of all councilmembers and, upon petitions signed by 10 percent of the registered voters of the city proposing an amendment, shall be submitted to the voters by council. The submission of a proposed amendment to the registered voters shall be governed by the requirements of Article XVIII, Sections 8 and 9 of the Constitution of the state of Ohio as to the submission of the question of choosing a charter commission; and notice of the proposed amendment may be mailed to the registered voters as provided by the Constitution or notice may be given pursuant to ordinances adopted by council. If any amendment is approved by a majority of those voting on the amendment, it shall become a part of the charter of the city, except that if two or more inconsistent amendments on the same subject are submitted at the same election and each is approved, only the amendment receiving the largest affirmative vote shall become a part of the charter. A copy of the charter or any amendment shall be certified to the secretary of state within 30 days after its adoption by the registered voters.

ARTICLE EIGHT. ETHICS AND TRAINING

8.1 ETHICS

(a) Expectations of Government. The citizens of Lakewood rightfully expect their government of elected and appointed officials, and their employees, to behave legally and ethically following principles of open government. All officials will treat each other with respect and together work to make Lakewood a desirable place to live. The citizens also rightfully expect honesty, respect and fair treatment by all involved in governance. City officials have a responsibility to educate, monitor and support all employees and city representatives in this mission.

(b) Oath of Office. Every elected or appointed officeholder of the city shall, before entering upon the duties of his or her office, take and subscribe to an oath or affirmation, to be filed and kept in the office of the clerk of council, that he or she will in all respects faithfully discharge the duties of his or her office.

(c) Public Ethics. The city shall be governed by the following ethical obligations:

(1) The mayor, councilmembers, director of law and director of finance owe a fiduciary duty to the city. As such, these officials, and the city employees under their supervision, shall be held to the highest ethical standards in all public matters. In the interest of preserving the public trust, these officials shall avoid any perceived conflict of interest or any action likely to give the appearance of impropriety in the execution of their public duties.

(2) Upon taking office, the mayor shall insure that policies governing the ethics of city employees in the execution of their job duties are in place, that these policies are consistent with the ethical requirements of general law, and that these policies are communicated in writing to all city employees.

Nothing in this section shall be construed to prevent council from enacting by ordinance or resolution any rules or policies governing ethics of city employees.

(3) No city official or employee, through any improper use of that person's official position with the city, may affect the hiring of any person, letting of any contract or any other action by the city that may result in that official or employee, or any of the official or employee's immediate family members or close business associates, securing anything of value.

Nothing in this section shall be construed to prohibit a city official or employee from serving as an employment, personal or credit reference for any person.

(4) Any person who has been found guilty by a court of competent jurisdiction of any felony violation of the general law relating to bribery, theft in office, having an unlawful interest in a public contract, soliciting or accepting improper compensation, perjury relating to any official duty, or corrupt practices relating to state or federal elections, shall be ineligible to hold office as mayor, member of council, director of law or director of finance.

If, while in office, the mayor, any member of council, the director of law or the director of finance is found guilty by a court of competent jurisdiction of any felony violation of the general law relating to bribery, theft in office, having an unlawful interest in a public contract, soliciting or accepting improper compensation, perjury relating to any official duty, or corrupt practices relating to state or federal elections, that person shall, upon the finality of the conviction, immediately forfeit the office held.

The terms used in this section shall be interpreted consistent with their use in the general law. Nothing in this section shall be construed to prohibit council from enacting additional prohibitions or penalties relating to public ethics.

8.2 TRAINING FOR COUNCIL AND MAYOR

The city is committed to the best practices of municipal governance, innovation and administration, including those related to ethics, finances, budgeting, safety forces, infrastructure, human resources, planning and development, and current issues facing Lakewood. To achieve these goals, councilmembers and the mayor shall complete training on the best practices of municipal governance and administration. Training sessions are to be provided for by the city, as determined by council, within three months of a person's election or appointment to the position of councilmember or mayor.

Training shall consist of four contact hours of instruction for new councilmembers and 16 contact hours of instruction for a new mayor. Councilmembers who have previously served on council and any mayor who has previously held the office of mayor of the city are exempt from the requirements of this section.

When training is completed, the clerk of council shall provide each officer with a certificate of completion. The certificate shall be signed by the person designated by council to verify the completion of the training. The signed certificate shall be filed with the clerk of council prior to the expiration of the three-month period of time for the completion of training.

**ARTICLE NINE.
ELECTIONS, INITIATIVE, REFERENDUM, RECALL**

9.1 ELECTIONS

(a) Regular and Special Municipal Elections. General municipal elections for the purpose of the election of officers provided for in this charter shall be held on the first Tuesday after the first Monday in November in each odd-numbered year and shall be known as regular municipal elections. Except for primary elections, all other elections held under the provisions of this charter or as may be required by law shall be known as special municipal elections.

(b) Primary Elections. On the second Tuesday in September prior to each general municipal election, a primary election shall be held for the purpose of nominating persons, without regard to political parties, for election to offices provided for by this charter to be voted for at the next regular municipal election.

The number of candidates for the offices of mayor and each of the four ward councilmembers at any regular municipal election shall be the two persons on the primary election ballot receiving the highest number of votes at the primary election. The number of candidates for the office of councilmember at large at any regular municipal election in the city shall be the six candidates on the primary ballot receiving the highest number of votes at the primary election.

In case there shall not be more than two persons who have filed petitions for the office of mayor or any of the offices of the ward councilmembers, then those persons shall be the candidates at the regular municipal election and the primary for the particular office shall not be held. In case there shall not be more than six persons who have filed petitions for the office of councilmember at large, then those persons shall be the candidates at the regular municipal election and the primary for that office shall not be held.

(c) Election Procedures. Write-in votes for municipal candidates in regular municipal elections shall be permitted only if a duly nominated candidate cannot participate due to death or other disqualification, or if a candidate does not have an opponent, or if no candidate has been nominated. The ballots used in the primary and regular municipal elections shall be without party mark or designation. The names of all candidates shall be placed upon the same ballot and shall be rotated in the manner provided by general law.

(d) Certificate of Nomination when no Primary is Held. In the event a primary election is not held, the county board of elections shall declare each candidate to be nominated, issue appropriate certificates of nomination to them and certify their names in order that they be printed on the official ballots provided for use in the regular municipal election, as if a primary election had been held and each person had been nominated at that election.

(e) Designation of Candidates. Candidates for nominations to elective offices provided for in this charter shall have their names printed on the official primary ballot by filing a declaration of candidacy, meeting all required qualifications and paying any required filing fees.

(f) Declarations of Candidacy. Candidates for the offices of mayor and member of council shall, not later than 4:00 p.m. of the 90th day before the day of the municipal primary election, file a declaration of candidacy. Except as otherwise required by this charter, the general law of the state shall govern declarations of candidacy. Nominations for each elective municipal office shall be made by petition only, on standard forms provided by the county board of elections for the nomination of nonpartisan candidates.

(g) Ballot Form. Except as otherwise required by this charter, the form of the ballot at primary, special and regular municipal elections shall be determined by the election authorities in accordance with general law.

(h) Nomination and Election of Judges. Candidates for judge of the Lakewood Municipal Court shall be nominated by petition signed by at least 200 registered voters of the city. The petition or petitions when filed shall be accompanied by the written acceptance of the nominee. Each signer of a petition shall sign his or her name and after his or her name designate his or her residence. The petition or petitions shall be filed with the county board of elections as one instrument at least 90 days prior to the date of

the election for the office of judge. The names of all nominated candidates shall appear on a nonpartisan judicial ballot in the regular municipal election. There shall not be a primary election to nominate judicial candidates.

9.2 INITIATIVE

(a) Right to Initiative. Any proposed ordinance or resolution on matters that the city is authorized by law to control by legislative action may be submitted to council by a petition signed by registered voters equal in number to at least 5 percent of the total votes cast for the office of mayor at the last regular municipal election at which a mayor was elected.

(b) Form of Initiative Petition. Petitions submitting proposed legislation to council shall be filed with the clerk of council. Signatures to a petition need not all be appended to one paper, but all petition papers circulated regarding any proposed legislation shall be uniform in character and shall contain the proposed legislation in full. There shall appear on the petition the names and addresses of at least five registered voters who shall be officially regarded as filing the petition and shall constitute a committee of the petitioners for the purposes set forth in this section.

(c) Signatures to Initiative Petition. Each signer of an initiative petition shall sign his or her name in ink, and shall place his or her residence address on the petition paper after his or her name. To each petition paper there shall be attached an affidavit by the circulator of the petition stating the number of signers to that part of the petition and that each signature appended to the paper is the genuine signature of the person whose name it purports to be, and was made in the presence of the circulator.

(d) Filing of Initiative Petition. All papers constituting an initiative petition shall be assembled and filed with the clerk of council as one instrument. Within 10 days of the filing of a petition the clerk shall transmit all the papers constituting the petition with a certified copy of the text of the proposed legislation to the county board of elections. The board shall examine all signatures on the petition to determine the number of registered voters of the city who signed the petition. The board shall return the petition to the clerk within 10 days after receiving it, together with a statement attesting to the number of registered voters of the city who signed the petition. Upon receipt of the statement from the board of elections, the clerk shall endorse upon the petition a certificate of the result by showing the number of signatures required and the number of registered voters the board of elections has determined signed the petition.

(e) Additional Initiative Signatures. If the clerk's certificate shows that the petition contains insufficient valid signatures in its support, the clerk shall at once notify each member of the committee described in Section 9.2(b) by depositing the notice in the United States mail with postage prepaid and by sending to an email address indicated to be sufficient for notice by the member of the committee. The committee shall have 15 days after the notice of insufficient valid signatures is sent to file petitions containing additional signatures with the clerk. Within 10 days after the filing of these additional signatures, the clerk shall transmit all the additional petitions to the county board of elections. The board shall examine all signatures on the additional petitions to determine the number of registered voters of the city who signed the additional petitions. The board shall return the additional petitions to the clerk within 10 days after receiving them, together with a statement attesting to the number of registered voters of the city who signed the additional petitions. If the signatures are still insufficient, or if no further petitions have been filed, the clerk shall file the petition in the clerk's office and shall notify, in the manner specified above, each member of the committee of that fact. The final finding of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.

(f) Hearing by Council Committee. When the certificate of the clerk shows the petition and supplemental petition, if any, to be sufficient, the clerk shall submit the proposed ordinance or resolution to council at its next regular meeting and council shall at once read and refer the legislation to an appropriate committee. There shall be at least one public hearing on the proposed legislation before the committee to which it is referred. The committee shall then report the proposed legislation to council with its recommendation, not later than the third regular meeting of council following that at which the proposed legislation was submitted to council by the clerk.

(g) Action by Council. Upon receiving the proposed legislation from the committee council shall at once proceed to consider it and shall take final action on the legislation within 30 days from the date of the committee report.

(h) Power of Council and Committee. If council rejects the proposed legislation or passes it in a form different from that set forth in the petition, the committee of the petitioners may, as provided in this section, require that it be submitted to a vote of the registered voters in its original form, or that it be submitted to a vote of the registered voters with any proposed

change, addition or amendment, which was presented in writing either at a public hearing before the committee to which the proposed legislation was referred, or during the consideration of the legislation by council.

(i) Certification; Supplemental Initiative Petition. When legislation proposed by petition is to be submitted to a vote of the registered voters, the committee of the petitioners shall certify that fact and the proposed legislation to the clerk of council within 30 days after council's final action on the proposed legislation and shall also file with the clerk a supplemental petition asking that the proposed legislation be submitted to popular vote. In the event the proposed legislation is in its original form, the supplemental petition must be signed by the number of registered voters whose signatures, added to the number of signatures of those who signed the original petition submitted pursuant to this section, equal 15 percent of the total votes cast for the office of mayor at the last regular municipal election at which a mayor was elected. In the event the proposed legislation is different from its original form, the supplemental petition must contain the proposed legislation in full and be signed by at least the number of registered voters who equal 15 percent of the total votes cast for the office of mayor at the last regular municipal election at which a mayor was elected. In all other respects, supplemental petitions shall be in the form, signed in the same manner and verified by the circulator all as required of original petitions. The sufficiency of any supplemental petition shall be determined, and it may be further supported, in the manner provided for original petitions for proposing legislation to council.

(j) Submission to Registered Voters. When the certificate of the clerk shows the petition and supplemental petition, if any, to be sufficient, the clerk shall certify the fact to council at its next regular meeting. If a primary, special, regular municipal or other general election is to be held not more than six months after the receipt of the clerk's certificate by council, provided the deadline imposed by the county board of elections for filing ballot issues has not passed, the proposed legislation shall then be submitted to a vote of the registered voters. If no election is to be held within that time, council may provide for submitting the proposed legislation to the registered voters at a special election. If no other provision is made as to the time of submitting proposed legislation to a vote of the registered voters, it shall be submitted at the next primary, regular municipal or other general election.

If a majority of the registered voters voting on any legislation proposed under this section shall vote in favor of the proposal, it shall become an

ordinance or resolution of the city. If the provisions of two or more pieces of legislation adopted or approved at the same election conflict, the provisions of the legislation receiving the highest number of affirmative votes shall prevail.

(k) Ballot Form. The ballots used when voting upon any legislation proposed under this section shall state the title of the legislation and be in a form created by the county board of elections in accordance with general law in order to determine whether the registered voters are for the legislation or against the legislation.

(l) Repealing Ordinances. Proposed legislation for repealing any existing legislation in whole or in part may be submitted to council as provided in this section.

(m) Publication, Amendment or Repeal. Ordinances or resolutions adopted as provided in this section shall be published and may be amended or repealed by council as in the case of other ordinances and resolutions.

9.3 REFERENDUM

(a) Right to Referendum. A petition requesting the repeal of an existing ordinance or resolution may be filed with the clerk of council at any time within 40 days after the adoption of any ordinance or resolution by council; the expiration of the time within which it may be disapproved by the mayor; or its passage or adoption notwithstanding the disapproval by the mayor, as the case may be. The petition must be signed by registered voters equal in number to at least 15 percent of the total votes cast for the office of mayor at the last regular municipal election at which a mayor was elected. The ordinance or resolution that is the subject of the petition shall not become operative until the steps in this section have been taken.

(b) Form of Referendum Petition. Petitions seeking a referendum vote on any ordinance or resolution shall be filed with the clerk of council. Signatures to a petition need not all be appended to one paper, but all petition papers circulated with respect to a referendum vote on any ordinance or resolution shall be uniform in character. It need not contain the text of the ordinance or resolution the repeal of which is sought, but shall contain the number assigned to the ordinance or resolution and its full title. There shall appear on the petition the names and addresses of at least five registered voters who shall be officially regarded as filing the petition and shall

constitute a committee of the petitioners for the purpose set forth in this section.

(c) Signatures to Referendum Petition. Each signer of a referendum petition shall sign his or her name in ink, and shall place his or her residence address on the petition paper after his or her name. The signatures to any petition paper need not all be appended to one paper, but to each paper there shall be attached an affidavit by the circulator of the petition stating the number of signers to that part of the petition and that each signature appended to the paper is the genuine signature of the person whose name it purports to be, and was made in the presence of the circulator.

(d) Filing of Referendum Petition. All papers constituting a petition shall be assembled and filed with the clerk of council as one instrument. Within 10 days after the filing of a petition the clerk shall transmit all the papers constituting the petition to the county board of elections. The board shall examine all signatures on the petition to determine the number of registered voters of the city who signed the petition. The board shall return the petition to the clerk within 10 days after receiving it, together with a statement attesting to the number of registered voters of the city who signed the petition. Upon receipt of the statement from the board of elections, the clerk shall endorse upon the petition a certificate of the result by showing the number of signatures required and the number of registered voters the board has determined signed the petition.

(e) Additional Referendum Signatures. If the clerk's certificate shows that the petition contains insufficient valid signatures in its support, the clerk shall at once notify each member of the committee described in Section 9.3(b) by depositing the notice in the United States mail with postage prepaid and by sending to an email address indicated to be sufficient for notice by the member of the committee. The committee shall have 15 days after the notice of insufficient valid signatures is sent to file petitions containing additional signatures with the clerk. Within 10 days after the filing of these additional signatures, the clerk shall transmit all the additional petitions to the county board of elections. The board shall examine all signatures on the additional petitions to determine the number of registered voters of the city who signed the additional petitions. The board shall return the additional petitions to the clerk within 10 days after receiving them, together with a statement attesting to the number of registered voters of the city who signed the additional petitions. If the signatures are still insufficient, or if no further petitions have been filed, the clerk shall file

the petition in the clerk's office and shall notify, in the manner specified above, each member of the committee of that fact.

(f) Procedure. If the referendum petition is found sufficient, or is rendered sufficient by additional signatures as permitted in this section, the clerk shall certify that fact to council and place the ordinance or resolution on the next council docket for reconsideration. Council shall have 30 days within which to reconsider and at its discretion repeal the ordinance or resolution. If on reconsideration the ordinance or resolution is not entirely repealed, or if council takes no final or other action within the 30-day period, council shall submit the ordinance or resolution to a vote of the registered voters. If a primary, special, regular municipal or other general election is to be held not more than six months after the refusal of council to reconsider the ordinance or resolution, provided the deadline imposed by the county board of elections for filing ballot issues has not passed, the ordinance or resolution shall then be submitted to a vote of the registered voters. If no election is to be held within that time, council may submit the ordinance or resolution to the registered voters at a special election. If no other provision is made as to the time of submitting the ordinance or resolution to a vote of the registered voters, it shall be submitted at the next primary, regular municipal or other general election.

(g) Ballot Form. The ballots used when voting upon any ordinance or resolution proposed under this section shall state the title of the ordinance or resolution and be in a form created by the county board of elections in accordance with general law in order to determine whether the registered voters are for the ordinance or resolution or against the ordinance or resolution.

(h) Majority Vote. If a majority of registered voters shall vote against the ordinance or resolution that is the subject of referendum, it shall be deemed repealed.

(i) Enactments not Subject to Referendum. Notwithstanding any provisions to the contrary in Section 9.3(a), (k) or (l) or any other provisions of this charter, ordinances or resolutions enacted for the following purposes shall not be subject to referendum: to appropriate money for any lawful purpose; to create, revise or abolish departments or to provide regulations for their governance; to authorize the appointment of employees in any of the departments; to authorize or otherwise affect the issuance of bonds, notes or other debt instruments of the city; to authorize a contract for a public improvement or an expenditure of money which contract is to be

paid or expenditure is to be made, in whole or part, from the proceeds of bonds, notes or other debt instruments of the city; and to provide for the payment of operating expenses of any department of the city.

(j) Initiated Legislation Subject to Referendum. Ordinances and resolutions submitted to council by initiative petition, as provided in Section 9.2, and passed by council without change, or passed in an amended form and not required to be submitted to a vote of the registered voters by a committee of the petitioners, shall be subject to referendum in the same manner as other ordinances and resolutions.

(k) Referendum of Measures Taking Early Effect. An ordinance or resolution that under Section 2.12 goes into effect earlier than 40 days after its passage and approval by the mayor, or the expiration of the time within which it may be disapproved by the mayor, or its passage notwithstanding the disapproval by the mayor, as the case may be, shall go into effect at the time indicated in the ordinance or resolution but shall be subject to referendum in the same manner as other ordinances and resolutions, except that it shall go into effect at the time indicated in the ordinance or resolution. If the ordinance or resolution is submitted to the registered voters and not approved, it shall be considered repealed and any further action under the ordinance or resolution shall cease; but the repealed ordinance or resolution shall be deemed sufficient authority for payment under the ordinance or resolution of any expense incurred, work done, or material or service furnished previous to the referendum.

(l) Acts Preliminary to Referendum Election. In case a petition is filed requiring that a measure passed by council providing for an expenditure of money or a public improvement be submitted to a vote of the registered voters, all steps preliminary to the actual expenditure or actual execution of a contract for the improvement may be taken prior to the election.

9.4 RECALL

(a) Recall Procedure. Any elected officer provided for in this charter may be removed from office by the registered voters qualified to vote for the office as provided in this section. A petition demanding that the question of removing the officer be submitted to those qualified to vote for the office shall be addressed to council and filed with the clerk of council. The petition shall be signed by registered voters equal in number to at least 15 percent of the total votes cast at the last regular municipal election for the office of the officer sought to be recalled, in case the officer was elected by

the voters of the entire city. The petition shall be signed by registered voters equal in number to at least 25 percent of the total votes cast by the voters of the officer's ward at the last regular municipal election for that office, if the officer was elected to a ward position. The question of the removal of any officer shall not be submitted to the registered voters until the officer has served one year of the term during which the person is sought to be recalled or, in case of an officer retained in a recall election, until one year after that recall election.

(b) Recall Petitions. Recall petition papers shall be procured from the clerk of council. Prior to the issuance of petition papers, an affidavit shall be made by one or more registered voters qualified to vote for the officer and filed with the clerk, stating the name and office of the officer sought to be removed. The clerk shall enter in a record maintained by the clerk the name of each registered voter to whom the petition paper was issued and shall certify upon each paper the name of each registered voter to whom the paper was issued and the date of issuance. No petition paper issued under this section shall be accepted as part of a petition unless it bears the clerk's certificate and is filed as provided in this section.

(c) Signatures to Recall Petition. Each signer of a recall petition shall sign his or her name in ink, and shall place his or her residence address on the petition paper after his or her name. The signatures to any petition paper need not all be appended to one paper, but to each paper there shall be attached an affidavit by the circulator of the petition stating the number of signers to that part of the petition and that each signature appended to the paper is the genuine signature of the person whose name it purports to be, and was made in the presence of the circulator.

(d) Filing of Recall Petition. All papers constituting a recall petition shall be assembled and filed with the clerk of council as one instrument within 30 days after the filing with the clerk the affidavit required by Section 9.4(b). Within 10 days after the filing of a petition the clerk shall transmit all the papers constituting the petition to the county board of elections. The board shall examine all signatures on the petition to determine the number of registered voters of the city or ward who signed the petition. The board shall return the petition to the clerk within 10 days after receiving it, together with a statement attesting to the number of registered voters of the city or ward who signed the petition. Upon receipt of the statement from the board of elections, the clerk shall endorse upon the petition a certificate of the result by showing the number of signatures required and the number of qualified registered voters the board of elections has

determined signed the petition. If the clerk's certificate shows that the petition contains insufficient valid signatures in its support, the clerk shall at once notify each person to whom the petition paper was issued pursuant to Section 9.4(b) by depositing the notice in United States mail with postage prepaid and by sending to an email address indicated to be sufficient for notice by any person to whom the petition paper was issued.

(e) Supplemental Recall Petitions. In the event the initial petition contained insufficient signatures, it may be supported by supplemental signatures of qualified registered voters signed in the manner required in Section 9.4(c) appended to petitions issued, signed and filed as required for the original petition within 15 days after the date of the notice of insufficiency by the clerk. Within 10 days after the filing of these additional signatures, the clerk shall transmit all the additional petitions to the county board of elections. The board shall examine all signatures on the additional petitions to determine the number of registered voters of the city or ward who signed the additional petitions. The board shall return the additional petitions to the clerk within 10 days after receiving them, together with a statement attesting to the number of registered voters of the city or ward who signed the additional petitions. If the signatures are still insufficient, the clerk shall notify each person to whom the original petition paper was issued pursuant to Section 9.4(b) in the manner described in Section 9.4(d). The final finding of the insufficiency of a recall petition shall not prejudice the filing of a new petition for the same purpose, provided that no new petition shall be filed by any of the same persons within one year after the final finding of insufficiency.

(f) Recall Election. If a recall petition or supplemental petition shall be certified by the clerk to be sufficient, the clerk shall at once submit the petition with a certificate to council and shall notify the officer sought to be recalled of the recall action. If the officer whose removal is sought does not resign within five days after this notice, council shall order and fix a day for holding a recall election. Any recall election shall be held not less than 60 nor more than 90 days after the petition has been presented to council, whether at a primary, regular municipal or other general election or, if none of these elections shall occur within 90 days after the petition has been presented to council, at a special recall election called by council. The recall election shall be submitted to the registered voters of the entire city if the officer to be recalled was elected by the voters of the entire city, and the recall election shall be submitted to the registered voters of a single ward if the officer to be recalled was elected by the voters of a single ward. The county board of elections shall publish notice and make all arrange-

ments for holding the recall election, which shall be conducted in all other respects as are special municipal elections.

(g) Ballots. The ballots at any recall election shall be in a form created by the county board of elections in accordance with general law in order to determine whether the officer whose removal is sought shall be recalled from office.

(h) Succeeding Officer. If the incumbent officer is not recalled in a recall election, he or she shall continue in office for the remainder of his or her unexpired term, subject to recall except as provided in this charter. If the incumbent officer is recalled in the recall election, he or she shall be deemed removed from office upon the announcement of the official canvass of that election, and the office shall be filled as in the case of permanent vacancies, except that the recalled officer may not be appointed to fill the vacancy.

ARTICLE TEN. APPROPRIATION OF PROPERTY

10.1 APPROPRIATION

Property within the city may be appropriated for any public or municipal purpose, and subject only to the limitations on appropriations imposed by the state Constitution, appropriation shall be made in the manner provided in this article. By appropriation the city may acquire a fee simple title or any lesser estate, easement or use. Appropriation of property located outside the city shall be made according to the requirements of and in the manner provided by the general law.

10.2 INITIAL RESOLUTION

When it is deemed necessary to appropriate property council shall adopt a resolution declaring its intent, defining the purpose of the appropriation, setting forth a pertinent description of the property, and identifying the estate or interest to be appropriated. At least one reading of the resolution is necessary prior to its adoption.

10.3 NOTICE

Immediately upon the adoption of the resolution required by Section 10.2, the clerk of council shall cause written notice to be given to the owner, person in possession or person having a recorded interest in every piece of

land sought to be appropriated, or to his or her authorized agent; and the notice shall be served by a person designated for the purpose and return made in the manner provided by law for the service and return of summonses in civil actions. If the owner, person or agent cannot be found, notice shall be given in accordance with the notice provisions adopted under Section 2.11, and council may then pass an ordinance, by a two-thirds vote of all members of council, directing the appropriation to proceed.

10.4 FURTHER PROCEEDINGS

On the passage of any ordinance directing that an appropriation proceed, the director of law shall apply to a court of competent jurisdiction. The application shall describe as correctly as possible the land or other property to be appropriated, the interest or estate to be taken, the object for which the land is desired, and the name of the owner of each lot or parcel sought to be appropriated, and all the subsequent proceedings with regard to appropriation shall be undertaken in the manner provided by general law for the appropriation of property by municipalities in the state.

ARTICLE ELEVEN. GENERAL PROVISIONS

11.1 CONTINUANCE OF OFFICERS, ORDINANCES AND CONTRACTS

(a) All persons holding office or serving as officials at the time this amended charter goes into effect shall continue serving in the performance of their duties until specific provision shall have been made for the discontinuance of their duties or office. Only when a specific provision has been made to discontinue official duties or an office shall the term of the officeholder or official expire and the office be deemed abolished. The powers conferred and the duties imposed on any officer, commission, board or department of the city under general law shall, if the position is no longer required by this charter, then be exercised and discharged by the officer, commission, board or department upon whom or which are imposed corresponding functions, powers and duties under the charter, by council or under general law.

(b) Except as otherwise provided in this charter, any vacancy that occurs in any appointed position on any board, commission or other body under this charter, whether during the term or upon the expiration of the term of a member, shall be filled by appointment by the appointing authority who or

that appointed the member whose office became vacant. Midterm vacancies shall be filled for the unexpired term of the previous appointee.

(c) All ordinances and resolutions in force on the effective date of this amended charter, to the extent they are not inconsistent with its provisions, shall continue in force until they are amended or repealed.

(d) All contracts entered into by the city prior to the effective date of this amended charter are continued in full force and effect. All public work begun prior to the effective date of this amended charter shall be continued. All public improvements for which legislative steps have been taken under law in force at the time of the adoption of this amended charter may be carried to completion in accordance with the provisions of those laws.

(e) The city's lease of the real and personal property constituting Lakewood Hospital and its transfer of the hospital's non-capital assets, control, operation and management to a third party may be continued by council following the expiration of the current lease and any renewal period, on terms approved by council.

11.2 SEVERABILITY

If any part of this charter shall be held to be invalid or unconstitutional by a court of competent jurisdiction, the order shall not be held to invalidate or impair the validity, force or effect of any of the remaining provisions of the charter unless it clearly appears that the remaining provision is wholly or necessarily dependent for its operation upon the provision held unconstitutional or invalid.

CHARTER REVIEW COMMISSION 2014

Tom Brown, Chair
Jay Carson
Steve Davis
Scott Kermode
Andrew Meyer
Ed Monroe
Pamela Smith
Allison Urbanek
Thomas C. Wagner

Dr. Larry Keller, Staff Director

PLACED ON 1ST READING & REFERRED TO THE
FINANCE COMMITTEE 5/18/15.

PLACED ON 2ND READING 6/1/15.

ORDINANCE NO. 20-15

BY:

AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, law authorizing the transfer and advance of certain funds.

WHEREAS, this Council by a vote of at least five of its members determines that this ordinance is an emergency measure, and that this ordinance shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood, and that it is necessary for the immediate preservation of the public peace, property, health and safety, and to provide for the usual daily operation of municipal departments to provide for the usual daily operation of the City in that the City must record all financial transactions within the appropriate fiscal period; now, therefore,

BE IT ORDAINED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. The Director of Finance be and is hereby authorized to make the following transfers and advances:

		2015	
		2nd Quarter	
	<u>Fund</u>	<u>Transfers Out</u>	<u>Transfers In</u>
101	General Fund	\$ 212,867	
	Special Revenue Funds		
250	Office on Aging IIIB		\$ 170,000
	Internal Service Funds		
600	Hospitalization		\$ 39,589
601	Workers' Compensation		\$ 3,279
	Debt Service Payment s		
101	General Fund (HB 300 Lease)	\$ 55,000	
211	SCMR (HB 300 Lease)	\$ 6,250	
260	Lakewood Hosptl (HB 300 Lease)	\$ 300	
501	Water (HB 300 Lease)	\$ 3,813	
510	WWC (HB 300 Lease)	\$ 800	
511	WWTP (HB 300 Lease)	\$ 18,750	
520	Parking (HB 300 Lease)	\$ 1,125	
530	Winterhurst (HB 300 Lease)	\$ 20,000	
301	Debt Service Fund	\$ -	\$ 106,038
512	WWTP Improvements	\$ 400,000	
301	Debt Service Fund		\$ 400,000

Section 2. It is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council, and that all such deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Section 3. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in the preamble, and provided it receives the affirmative vote of at least five members of Council, this ordinance shall take effect and be in force immediately upon its adoption by the Council and approval by the Mayor, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: _____

President of Council

Clerk of Council

Approved: _____

Mayor

RESOLUTION NO. 8807-15

BY:

A RESOLUTION to take effect immediately provided it received the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, approving the Tax Budget of the City of Lakewood, State of Ohio for the year 2016, and authorizing the filing of same with the Cuyahoga County Fiscal Officer.

WHEREAS, this Council by a vote of at least five of its members determines that this resolution is an emergency measure, and that this resolution shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood, and that it is necessary to provide for the usual daily operation of the City in that the Tax Budget must be submitted to the County Fiscal Office on or before July 20, 2015; now, therefore,

BE IT RESOLVED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. The annual Tax Budget submitted by the Director of Finance of the City of Lakewood, showing the amount of money needed and the necessary expenditures in the various departments of the municipality for the year 2016, be and the same is hereby approved and the Clerk of Council is hereby ordered and directed to file the same with the Fiscal Officer of Cuyahoga County pursuant to the statutes of the State of Ohio.

Section 2. It is found and determined that all formal actions of this Council concerning and relating to the passage of this resolution were adopted in an open meeting of this Council, and that all such deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements.

Section 3. This resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in the preamble to this resolution, and provided it receives the affirmative vote of at least five members of Council, this resolution shall take effect and be in force immediately upon its adoption by the Council and approval by the Mayor, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: _____

President of Council

Clerk of Council

Approved: _____

Mayor

RESOLUTION NO. 8806-15

BY:

A RESOLUTION approving the use of submerged lands for property located at and abutting 12550 Lake Avenue, Lakewood, Ohio (a legal description of which is attached hereto as "Exhibit A"), in order to permit the owners the opportunity to undertake lakeshore protection measures.

WHEREAS, property owner, Meridian Condominiums Inc., 12550 Lake Avenue, Lakewood, Ohio, have proposed to construct shore protection in Lake Erie at Lakewood, Cuyahoga County, Ohio; and

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

BE IT RESOLVED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. The City of Lakewood finds and determines that territory being proposed for construction of shore protection, which territory is further described in the application for a submerged lands lease, is not necessary or required for the construction, maintenance or operation by the municipal corporation of breakwaters, piers, docks, wharves, bulkheads, connecting waterways, water terminals, facilities and improvements, and marginal highways in the aid of navigation and water commerce, and the land uses specified in the application comply with regulation of permissible land use as determined by the city.

Section 2. The Clerk of Council is hereby authorized and directed to certify a copy of this resolution to the Ohio Department of Natural Resources, Office of Real Estate and Land Management.

Section 3. 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 of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

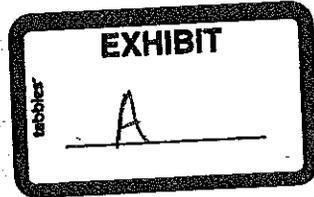
Adopted: _____

PRESIDENT

CLERK

Approved: _____

MAYOR



**The Meridian Condominium Inc.
Submerged Land Lease Parcel
12,204 Square Feet (0.2802 Acre)
Page 1 of 2**

Situated in the City of Lakewood, County of Cuyahoga and State of Ohio and known as being submerged land within Lake Erie adjacent to Original Rockport Section No. 21 (Fractional Township 7-N, Range 14-W Connecticut Western Reserve). Also being adjacent to the land conveyed to The Meridian Condominium, Inc. as recorded in Volume 13629, Page 305 of the Cuyahoga County Records, being more definitely described as follows:

Commencing at a 5/8" iron pin in a monument box found at the intersection of the centerline of Lake Avenue (100 feet wide) and the centerline of Cove Avenue;

Thence, along the centerline of Lake Avenue, North 73° 01' 35" West, 473.92 feet to the southerly extension of the easterly line of said land conveyed to The Meridian Condominium, Inc., said point being referenced by a 5/8" iron pin in a monument box found 0.12 feet South;

Thence, leaving the centerline of Lake Avenue, along the southerly extension of the easterly line of said land conveyed to The Meridian Condominium, Inc., North 00° 58' 51" West, 52.56 feet to the southeasterly corner of said land conveyed to The Meridian Condominium, Inc.;

Thence, along The Meridian Condominium, Inc.'s easterly line, North 00° 58' 51" West, 863.34 feet to the shoreline of Lake Erie as observed on August 19, 2014 and the **True Point of Beginning** for the parcel herein described;

Thence, along said shoreline of Lake Erie the following thirteen courses;

South 67° 55' 04" West, 10.19 feet;

Thence South 88° 54' 11" West, 45.07 feet;

Thence North 51° 17' 07" West, 35.30 feet;

Thence South 64° 42' 36" West, 14.31 feet;

Thence North 50° 10' 51" West, 26.31 feet;

Thence North 45° 38' 43" West, 43.66 feet;

Thence North 58° 03' 57" West, 6.71 feet;

Thence North 83° 49' 57" West, 8.67 feet;

Thence North 42° 34' 02" West, 14.54 feet;

Thence South 78° 33' 38" East, 5.41 feet;

Thence North 07° 47' 20" East, 11.38 feet;

Thence North 37° 36' 55" West, 17.15 feet;

Thence North 69° 41' 55" West, 29.72 feet to the historic 1956 delineation line of Lake Erie;

**The Meridian Condominium Inc.
Submerged Land Lease Parcel
12,204 Square Feet (0.2802 Acre)
Page 2 of 2**

Thence, leaving said shoreline of Lake Erie, along the historic 1956 delineation line of Lake Erie, South 50° 55' 24" East, 22.70 feet to the littoral rights partition line between said land conveyed to The Meridian Condominium, Inc. and land conveyed to Winton Properties, Inc. as recorded in Volume 14817, Page 857 of the Cuyahoga County Records;

Thence, along said littoral rights partition line, North 18° 15' 48" East, 55.25 feet;

Thence, leaving said littoral rights partition line, South 87° 21' 53" East, 38.29 feet;

Thence South 67° 32' 09" East, 28.73 feet;

Thence South 36° 09' 00" East, 55.85 feet;

Thence South 49° 16' 18" East, 34.61 feet;

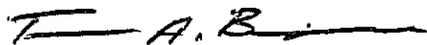
Thence South 73° 16' 02" East, 51.40 feet;

Thence South 35° 14' 11" East, 54.78 feet to the littoral rights partition line between said land conveyed to The Meridian Condominium, Inc. and land conveyed to Marine Towers, LLC as recorded in Volume 94-08430, Page 7 of the Cuyahoga County Records;

Thence, along said littoral rights partition line, South 21° 43' 01" West, 6.59 feet to the point of beginning.

Containing within said bounds 12,204 square feet (0.2802 acre) of land as surveyed by KS Associates, Inc. under the supervision of Trevor A. Bixler, Professional Surveyor No. 7730 in August, 2014 and March, 2015.

The basis of bearings for this survey is Ohio State Plane, North Zone NAD83(2011) Grid North.



3-25-15

Trevor A. Bixler, P.S.
Professional Surveyor, Ohio No. 7730

KS ASSOCIATES
Civil Engineers + Surveyors
260 Burns Road, Suite 100
Elyria, OH 44035
440 365 4730



RESOLUTION NO. 8808-15

BY:

A RESOLUTION to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, authorizing the Mayor or his designee to apply for and enter into an agreement with the Western Reserve Area Agency on Aging for title III of the Older Americans Act, Senior Community Services for the 2016-2017 program years.

WHEREAS, the City of Lakewood received notification from Western Reserve Area Agency on Aging of the deadline for proposals to accept funding under Title III of the Older Americans Act for the Senior Community Services program for the 2016 and 2017 program years, such deadline being July 10, 2015; and

WHEREAS, the WRAAA Request for Proposal requires the City of Lakewood to produce a resolution permitting contracting authority and authority to submit a proposal along with the proposal; and

WHEREAS, this Council by a vote of at least five of its members determines that this resolution is an emergency measure, and that this resolution shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood, and that it is necessary for the immediate preservation of the public property, health and safety, and to provide for the usual daily operation of municipal departments in that this legislation is necessary to include this resolution with the proposal for 2016-2017 Senior Community Services programs and the proposal is due on or before July 10, 2015; now, therefore,

BE IT RESOLVED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. The Mayor or his designee is hereby authorized to enter into an agreement with the Western Reserve Area Agency on Aging for Title III of the Older Americans Act, Senior Community Services for the 2016-17 program years.

Section 2. The Mayor or his designee is hereby authorized to submit a grant proposal to Western Reserve Area Agency on Aging for the provision of program services for the 2016 and 2017 program years.

Section 3. It is found and determined that all formal actions of this Council concerning and relating to the passage of this resolution were adopted in an open meeting of this Council, and that all such deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements.

Section 4. This resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in the preamble to this resolution, and provided it receives the affirmative

vote of at least five members of Council, this resolution shall take effect and be in force immediately upon its adoption by the Council and approval by the Mayor, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: _____

PRESIDENT

CLERK

Approved: _____

MAYOR

ORDINANCE NO. 23-15

BY:

AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to effect and be in force at the earliest period allowed by law, to amend certain provisions of Chapter 516, Chapter 537, Chapter 142, Chapter 501, and Chapter 1327 of the Codified Ordinances of the City of Lakewood, Ohio, to ensure that all persons within the City have equal access to employment, housing, public accommodations, and education.

WHEREAS, it is the intent of the City Council, in enacting this ordinance, to protect and safeguard the right and opportunity of all persons to be free from all forms of discrimination, including discrimination based on age, race, color, creed, religion, national origin, ancestry, disability, marital status, gender, gender identity or expression, sexual orientation, or physical characteristic. The Council's purpose in enacting this ordinance is to promote the public health and welfare of all persons who live, work, or visit the City of Lakewood. It is important for the City of Lakewood to ensure that all persons within the city have equal access to employment, housing, public accommodations, and education.

WHEREAS, this Council by a vote of at least five of its members determines that this ordinance is an emergency measure, and that this ordinance shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood, and that it is necessary for the immediate preservation of the public peace, property, health and safety; now, therefore

BE IT ORDAINED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. Chapter 516, Fair Housing, of the Lakewood Codified Ordinances, currently reading as follows:

516.01 POLICY.

It is hereby designated to be the continuing policy of the City to do all things necessary and proper to secure for all citizens their right to equal housing opportunities regardless of their race, color, religion, gender, sexual orientation, ancestry, handicap, familial status, national origin or gender identity or expression.

516.02 SCOPE.

The provisions of this chapter shall apply to all housing located within the territorial limits of the City.

516.03 DEFINITIONS.

As used in this chapter certain terms are defined as follows:

(a) "Director" means the Director of Community Development for the City of Lakewood or other Community Development Officer within the Department of Planning and Development.

(b) "Dwelling" means any building, structure or portion thereof which is occupied as, or designed or intended for occupancy as a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure or portion thereof.

(c) "Family" includes a single individual.

(d) "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees in bankruptcy, receivers and fiduciaries. It also includes, but is not limited to any owner, leaver, assignor, builder, manager, broker, salesman, agent, employee, lending institution, and the City, the State and all authorities, agencies, boards and commissions thereof.

(e) "Discrimination" means to render any difference in treatment to any person in the sale, lease, rental or financing of a dwelling or housing unit because of a person's race, color, religion, sex, sexual orientation, ancestry, handicap, familial status or national origin.

(f) "To rent" includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupants.

(g) "Discriminatory housing practice" means any act that is unlawful as designated by this chapter.

(h) "Discrimination complaint service" means that service established by this chapter.

516.04 DISCRIMINATION IN SALE OR RENTAL OF HOUSING.

It shall be unlawful to:

(a) Refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, gender, sexual orientation, ancestry, handicap, familial status, national origin, or gender identity or expression.

(b) Discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, gender, sexual orientation, ancestry, handicap, familial status, national origin, or gender identity or expression.

(c) Make, print, publish or cause to be made, printed or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on race, color, religion, gender, sexual orientation,

ancestry, handicap, familial status, national origin, or gender identity or expression.

(d) Represent to any person because of race, color, religion, gender, sexual orientation, ancestry, handicap, familial status, national origin, or gender identity or expression, that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.

(e) For profit, to induce or attempt to induce any person to sell or rent any dwelling by a representative regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, gender, sexual orientation, ancestry, handicap, familial status, national origin, or gender identity or expression.

516.05 DISCRIMINATION IN FINANCING OF HOUSING.

It shall be unlawful to:

(a) Refuse to lend money, whether or not secured by mortgage or otherwise, for the acquisition, construction, rehabilitation, repair, or maintenance of housing or otherwise withhold financing of housing from any persons because of the race, color, religion, gender, sexual orientation, ancestry, handicap, familial status, national origin, or gender identity or expression of any present or prospective owner, occupant, or user of such housing provided such person whether an individual, corporation or association of any type, lends money as one of the principal aspects or incident to his principal business and not only as part of the purchase price of an owner-occupied residence he is selling nor merely casually or occasionally to a relative or friend.

(b) Discriminate against any person in the terms or conditions of selling, transferring, assigning, renting, leasing or subleasing any housing or in furnishing facilities, services or privileges in connection with the ownership, occupancy, or use of any housing because of the race, color, religion, gender, sexual orientation, ancestry, handicap, familial status, national origin, or gender identity or expression of any present or prospective owner, occupant or user of such housing.

(c) Discriminate against any person in the terms or conditions of any loan of money, whether or not secured by mortgage or otherwise, for the acquisition, construction, rehabilitation, repair or maintenance of housing because of race, color, religion, gender, sexual orientation, ancestry, handicap, familial status, national origin, or gender identity or expression of any present or prospective owner, occupant, or user of such housing.

(d) Make any inquiry, elicit any information, make or keep any record or use any form of application containing questions or entries concerning race, color, religion, gender, sexual orientation, ancestry, handicap, familial status, national origin, or gender identity or expression in connection with the sale or lease of any housing or the loan of any money, whether or not secured by mortgage or otherwise, for the acquisition, construction, rehabilitation, repair or maintenance of housing.

516.06 DISCRIMINATION IN BROKERAGE SERVICES.

It shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization or facility relating to the business of selling or renting dwellings or to discriminate against a person in the terms or conditions of such access, membership or participation, on account of race, color, religion, gender, sexual orientation, ancestry, handicap, familial status, national origin, or gender identity or expression.

516.07 ADMINISTRATION, DISCRIMINATION COMPLAINT SERVICE AND ENFORCEMENT.

(a) This chapter shall be administered by the Director of Community Development, and the Director shall also be responsible for the establishment and administration of a discrimination complaint service.

(b) The discrimination complaint service shall be available to any person who alleges that his rights have been denied relative to housing and/or financing for housing because of race, color, religion, gender, sexual orientation, ancestry, handicap, familial status, national origin, or gender identity or expression. (Ord. 79-10. Passed 12-20-10.)

(c) Any person who claims to have been subjected to a discriminatory housing practice shall file a complaint in writing within 180 days of the alleged violation with the Director. The complaint shall contain such information and will be in such form as the Director may require.

(d) If the Director determines that there are reasonable grounds to believe a violation has occurred, he shall attempt to conciliate the matter within five working days of the filing of the complaint by utilizing conciliation conferences with all interested parties and such representatives as the parties may choose to assist them. These conferences shall be informal, and nothing shall be made public by the Director regarding the conferences unless all parties agree thereto in writing. During this period the Director shall make such investigation as he deems appropriate.

(e) If the Community Development Director and the Law Director determine that the person complained against has violated this chapter, the Law Director shall prepare and issue a directive requiring that person to cease and desist from such unlawful conduct and within fifteen calendar days take such affirmative action as will effectuate the purpose of this chapter. If after the fifteenth day, the situation has not been rectified, the Director of Community Development shall initiate the proper legal action through the Law Department of the City or through the complainant's legal counsel, or the U. S. Department of Housing and Urban Development, whatever the Director deems appropriate.

(f) If at the conclusion of the informal hearing, the Director of Community Development and Law Director determine upon the preponderance of the evidence presented that the person complained against has not violated this chapter, the Director shall issue an order dismissing the complaint.

(g) The Director is advised to seek at any time the cooperation and aid of the U. S. Department of Housing and Urban Development and any other person or group regarding any matter before the Director as he deems appropriate.

516.08 OTHER LEGAL ACTIONS.

Nothing contained in this chapter shall prevent any person from exercising any right or seeking any remedy to which he or she might otherwise be entitled or from filing any complaint with any other agency or court of law.

516.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a misdemeanor of the third degree.

shall be and hereby is repealed and new Chapter 516, Discrimination Prohibited, of the Lakewood Codified Ordinances, is enacted to read as follows:

516.01 DEFINITIONS

(a) "Advertising" means to make, print, publish, advertise or otherwise disseminate any notice, statement or advertisement, with respect to any employment activity, any business activity, or any educational activity.

(b) "Age" means 18 years of age or older except as otherwise provided by law.

(c) "Business Establishment" means any entity, however organized, which furnishes goods, services or accommodations to the general public. An otherwise qualifying establishment which has membership requirements is considered to furnish services to the general public if its membership requirements consist only of payment of fees or consist only of requirements under which a substantial portion of the residents of the city could qualify.

(d) "Disability" or "Disabled" means, with respect to an individual, a physical or mental impairment, a record of such an impairment, or being perceived or regarded as having such impairment. For purposes of this chapter discrimination on the basis of disability means that no covered entity shall discriminate against a qualified individual with a disability because of that individual's disability. The term "qualified individual with a disability" shall mean an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment positions that the individual holds or desires.

(e) "Discriminate, Discrimination or Discriminatory" means any act, policy or practice that, regardless of intent, has the effect of subjecting any person to differential treatment as a result of that person's race, color, creed, religion, national origin, ancestry, disability, marital status, gender, gender identity or expression, sexual orientation, or physical characteristic.

(f) "Educational Institution" means any public or private educational institution including an academy, college, elementary or secondary school, extension course, kindergarten, pre-school, nursery school, university, and any business, nursing, professional, secretarial, technical or vocational school.

(g) "Employee" means any individual employed or seeking employment from an employer.

(h) "Employer" means any person who, for compensation, regularly employs five (5) or more individuals, not including the employer's parents, spouse or children. For purposes of this chapter an employer "regularly" employs five (5) individuals when the employer employs five or more individuals for each working day in any twenty (20) or more calendar weeks in the current or previous calendar year. For purposes of this chapter an "employer" is also any person acting on behalf of an employer, directly or indirectly, or any employment agency.

(i) "Gender" means actual or perceived sex.

(j) "Gender Identity or Expression" means having or being perceived as having a gender identity or expression whether or not that gender identity or expression is different from that traditionally associated with the sex assigned to that individual at birth.

(k) "Labor Organization" means any organization that exists and is constituted for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection on behalf of employees.

(l) "Person" means a natural person, firm, corporation, partnership or other organization, association or group of persons however arranged.

(m) "Physical Characteristic" means a bodily condition or bodily characteristic of any person that is from birth, accident, or disease, or from any natural physical development, including individual physical mannerisms including but not limited to height and weight. Physical characteristic shall not relate to those situations where a bodily condition or characteristic will present a danger to the health, welfare or safety of any individual.

(n) "Place of public accommodation" means inns, taverns, hotels, motels, restaurants, wholesale outlets, retail outlets, banks, savings and loan associations, other financial institutions, credit information bureaus, insurance companies, dispensaries, clinics, hospitals, theaters, recreational parks and facilities, trailer camps, garages, public halls, and

all other establishments within the City which offers goods, services, accommodations and entertainment to the public. A place of public accommodation does not include any institution, club or other place of accommodation, which by its nature is distinctly private.

(o) "Sexual orientation" means actual or perceived heterosexuality, homosexuality or bisexuality.

(p) "Transaction in real estate" means the exhibiting, listing, advertising, negotiating, agreeing to transfer or transferring, whether by sale, lease, sublease, rent, assignment or other agreement, of any interest in real property or improvements thereon.

516.02 PROHIBITED ACTS OF DISCRIMINATION - EMPLOYMENT

With regard to employment, it shall be unlawful for any employers or labor organizations, to engage in any of the following acts, wholly or partially for a discriminatory reason:

(a) To fail to hire, refuse to hire or discharge an individual;

(b) To discriminate against any individual, with respect to compensation, terms, conditions, or privileges of employment, including promotion. Nothing in this section shall be construed to require any employer to provide benefits, such as insurance, to individuals not employed by the employer;

(c) To limit, segregate, or classify employees in any way which would deprive or tend to deprive any employee of employment opportunities, or which would otherwise tend to adversely affect his or her status as an employee;

(d) To fail or refuse to refer for employment any individual in such a manner that would deprive an individual of employment opportunities, that would limit an individual's employment opportunities or that would otherwise adversely affect an individual's status as a prospective employee or as an applicant for employment;

(e) To discriminate against an individual in admission to, or employment in, any program established to provide apprenticeship or other job training, including an on-the-job training program;

(f) To print or publish, or cause to be printed or published, any discriminatory notice or advertisement relating to employment. This subsection shall not be construed so as to expose the person who prints or publishes the notice or advertisement, such as a newspaper, to liability;

(g) To discriminate in referring an individual for employment whether the referral is by an employment agency, labor organization or any other person.

516.03 PROHIBITED ACTS OF DISCRIMINATION - HOUSING AND REAL ESTATE TRANSACTIONS

With regard to housing and real estate transactions, it shall be unlawful to engage in any of the following acts wholly or partially for a

discriminatory reason:

- (a) To discriminate by impeding, delaying, discouraging or otherwise limiting or restricting any transaction in real estate;
- (b) To discriminate by imposing different terms on a real estate transaction;
- (c) To represent falsely that an interest in real estate is not available for transaction;
- (d) To include in the terms or conditions of a real estate transaction any discriminatory clause, condition or restriction;
- (e) To discriminate in performing, or refusing to perform, any act necessary to determine an individual's financial ability to engage in a real estate transaction;
- (f) For a property manager to discriminate by refusing to provide equal treatment of, or services to, occupants of any real estate which he or she manages;
- (g) To make, print or publish, or cause to be made, printed or published any discriminatory notice, statement, or advertisement with respect to a real estate transaction or proposed real estate transaction, or financing relating thereto. This subsection shall not be construed to prohibit advertising directed to physically disabled persons or persons over the age of fifty-five for the purpose of calling to their attention the existence or absence of housing accommodations or services for the physically disabled or elderly;
- (h) To discriminate in any financial transaction involving real estate, on account of the location of the real estate be it residential or non-residential ("red-lining");
- (i) For a real estate operator, a real estate broker, a real estate salesperson, a financial institution, an employee of any of these, or any other person, for the purposes of inducing a real estate transaction from which such person may benefit financially to represent that a change has occurred or will or may occur in the composition with respect to age, race, color, creed, religion, national origin, ancestry, disability, marital status, gender, gender identity or expression, sexual orientation, or physical characteristic of the owners or occupants in the block, neighborhood or area in which the real property is located or to represent that this change will or may result in the lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools in the block, neighborhood or area in which the real property is located ("block-busting");
- (j) Notwithstanding the provisions of subsections (a) through (h), it shall not be an unlawful discriminatory practice for an owner to limit occupancy on the basis of a person's low-income, age over fifty-five (55) years or disability status in accordance with federal or state law;
- (k) Notwithstanding the provisions of subsections (a) through

(h), it shall not be an unlawful discriminatory practice for an owner, lessor or renter to refuse to rent, lease or sublease a portion of a single family dwelling unit to a person as a tenant, roomer or boarder where it is anticipated that the owner, lessor or renter will be occupying any portion of the single-family dwelling or to refuse to rent, lease or sublease where it is anticipated that the owner, lessor or renter will be sharing either a kitchen or a bathroom with the tenant, roomer or boarder.

516.04 PROHIBITED ACTS OF DISCRIMINATION – BUSINESS ESTABLISHMENTS OR PUBLIC ACCOMMODATIONS

It shall be unlawful for a business establishment or place of public accommodation to engage in any of the following acts wholly or partially for a discriminatory reason:

(a) To deny, directly or indirectly, any person the full enjoyment of the goods, services, facilities, privileges, advantages and accommodations of any business establishment or place of public accommodation;

(b) To print, publish, circulate, post, or mail, directly or indirectly, a statement, advertisement, or sign which indicates that the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a business establishment or place of public accommodation will be unlawfully refused, withheld from or denied an individual, or which indicates that an individual's patronage of, or presence at, the business establishment or place of public accommodation is objectionable, unwelcome, unacceptable or undesirable.

516.05 PROHIBITED ACTS OF DISCRIMINATION – EDUCATIONAL INSTITUTIONS

It shall be unlawful for an educational institution to engage in any of the following acts wholly or partially for a discriminatory reason:

(a) To deny, restrict, abridge or condition the use of, or access to, any educational facilities or educational services to any person otherwise qualified;

(b) Notwithstanding the provisions of subsection (a) it shall not be an unlawful discriminatory practice to limit attendance in classes or programs conducted by an educational institution based upon a reasonable educational objective, except where to do so would otherwise violate a duty imposed upon the institution by federal or state law to provide reasonable accommodation;

(c) Notwithstanding the provisions of subsection (a), it shall not be an unlawful discriminatory practice for an educational institution operated by a religious or denominational institution, or established for a bona fide religious purpose, to admit students or program attendees on the basis of that student's or attendee's religious or denominational affiliation or

preference.

516.06 CITY SERVICES, FACILITIES, TRANSACTIONS AND CONTRACTS

The City of Lakewood shall be bound by the provisions of this chapter to the same extent as private individuals. All contractors proposing to, or currently doing business with the City of Lakewood, shall abide by this ordinance.

516.07 GENERAL EXCEPTIONS

(a) Any practice which has a discriminatory effect and which would otherwise be prohibited by this chapter shall not be deemed unlawful if it can be established that the practice is not intentionally devised to contravene the prohibitions of this chapter and there exists no less discriminatory means of satisfying a business purpose.

(b) Unless otherwise prohibited by law, nothing contained in this chapter shall be construed to prohibit promotional activities such as senior citizen discounts and other similar practices designed primarily to encourage participation by protected group.

(c) It shall not be an unlawful discriminatory practice for an employer to observe the conditions of a bona fide seniority system or a bona fide employee benefit system such as a retirement, pension or insurance plan which is not a subterfuge or pretext to evade the purposes of this chapter.

(d) It shall not be an unlawful discriminatory practice for any person to carry out an affirmative action plan. An affirmative action plan is any plan devised to effectuate remedial or corrective action taken in response to past discriminatory practices, or as otherwise required by state or federal law.

(e) Nothing contained in this chapter shall be deemed to prohibit selection or rejection based solely upon a bona fide occupational qualification or a bona fide physical requirement. Nothing contained in this chapter shall be deemed to prohibit a religious or denominational institution from selecting or rejecting applicants and employees for non-secular positions on the basis of the applicant's or employee's conformance with the institution's religious or denominational principles. If a party asserts that an otherwise unlawful practice is justified as a permissible bona fide occupational qualification, or a permissible bona fide physical requirement, that party shall have the burden of proving:

(1) That the discrimination is in fact a necessary result of such a bona fide condition; and

(2) That there exists no less discriminatory means of satisfying the bona fide requirement.

(f) If a party asserts that an otherwise unlawful practice is justified as a permissible bona fide religious or denominational preference, that party shall have the burden of proving that the discrimination is in

fact a necessary result of such a bona fide condition.

516.08 POSTING OF NOTICES

Every employer or institution subject to this chapter shall post and keep posted in a conspicuous location where business or activity is customarily conducted or negotiated, a notice, the language and form of which has been prepared by the City of Lakewood, setting forth excerpts from or summaries of the pertinent provisions of this chapter and information pertinent to the enforcement of rights hereunder. The notice shall be in both English and Spanish. If over ten percent of an employer's employees speak, as their native language, a language other than English or Spanish, notices at that employer's place of business shall be posted in that language. At the request of the employer or institution, notices required by this section shall be provided by the City. Notices shall be posted within ten days after the receipt from the City.

516.09 CORRECTION OR RETALIATION

(a) It shall be an unlawful discriminatory practice to coerce, threaten, retaliate against or interfere with any person in the exercise of, or on account of having exercised, or on account of having aided or encouraged any other person in the exercise of, any right granted or protected under this ordinance, or on account of having expressed opposition to any practice prohibited by this ordinance.

(b) It shall be an unlawful discriminatory practice for any person to require, request, or suggest that a person retaliate against, interfere with, intimidate or discriminate against a person, because that person has opposed any practice made unlawful by this ordinance, or because that person has made a charge, or because that person has testified, assisted or participated in any manner in an investigation, proceeding or hearing authorized under this ordinance.

(c) It shall be an unlawful discriminatory practice for any person to cause or coerce, or attempt to cause or coerce, directly or indirectly, any person in order to prevent that person from complying with the provisions of this ordinance.

516.10 PRESERVATION OF BUSINESS RECORDS

Where a complaint of discrimination has been filed against a person under this ordinance, such person shall preserve all records relevant to the complaint, until a final disposition of the complaint.

516.11 HUMAN RIGHTS COMMISSION

(a) There is hereby created the City of Lakewood Human Rights Commission, hereafter referred to as "the Commission," to be comprised of fifteen (15) members who shall be broadly representative of the population of the city. On the basis of recommendations from any and all interested parties, including the city council, as well as ethnic, racial,

religious, neighborhood, civic, community, social, fraternal, educational, commercial and advocacy organizations, the mayor shall appoint the members of the Commission, subject to confirmation by a majority vote of the whole membership of the city council. Except for the initial appointees, the Commission members shall serve staggered three (3) year terms and may be reappointed for another three (3) year term after which the member shall not be reappointed for at least one (1) year. Of the initial members appointed, five (5) members shall be appointed for one (1) year, five (5) members shall be appointed for two (2) years, and five (5) shall be appointed for three (3) years. Every member shall have been a resident of the City of Lakewood for at least one (1) year prior to appointment and shall continue to be a resident so long as he or she shall serve as a member of the Commission. In the event of a vacancy a replacement will be chosen by the mayor and will serve out the remainder of the vacant term.

(b) The Commission shall elect its own chair and vice-chair by majority vote. The chair and vice-chair shall be voting members of the Commission and serve one-year terms. There shall be a three-term limit for officers. The Commission may create and modify rules regarding its meetings and procedures. The Commission may create and appoint task forces and committees it deems appropriate to carry out its functions. When appropriate for purposes of investigating and adjudicating complaints, cases will be assigned to panels consisting of three commission members. The Commission chair and vice-chair will appoint commissioners to panels and provide administrative oversight of panels; they will not serve on the panels. Each panel shall choose its own panel chair on a case-by-case basis.

(c) The work of the Commission shall be managed by an executive director, who shall be appointed by and serve at the pleasure of the Commission. The Commission shall employ such other persons as may be necessary to carry out its educational, administrative and investigative work.

(d) The responsibilities of the Commission staff, under the direction of the executive director, include managing Commission records and accounts, developing public education programs, providing training for Commission members, managing citizen complaints, seeking additional private-sector funding for the Commission, facilitating Commission scheduling and communication, and any other tasks needed to help the Commission perform its functions.

(e) In addition, the Commission may use the services of attorneys, hearing examiners, clerks and other employees and agents who are city government employees, except in those cases in which the city government is a party, and in which case the Commission may seek the city attorney's approval to engage appropriate counsel.

(f) In the enforcement of this chapter, the Commission and its panels shall have the following powers and duties:

(1) To receive, initiate, investigate, seek to conciliate, hold hearings on and pass upon complaints alleging violations of this chapter;

(2) To maintain an office in the City of Lakewood;

(3) To cooperate with relevant federal and state authorities;

(4) To present an annual report to the mayor and city council setting forth the number of complaints received during the prior year, as well as the disposition of the complaints, and the number of convictions for violation. The Commission shall publish this report and make it available in some format to the general public;

(5) To require answers to interrogatories, compel the attendance of witnesses, examine witnesses under oath or affirmation in person by deposition and require the production of documents relevant to the complaint. The Commission may make rules authorizing or designating any member or individual to exercise these powers in the performance of official duties;

(6) To cooperate with community, professional, civic and religious organizations, as well as state and federal agencies, in the development of public education programs regarding compliance with the provisions of this chapter and equal opportunity and treatment of all individuals;

(7) To conduct tests to ascertain the availability of housing, both in sales and also in rentals of real property;

(8) To prepare an annual budget to be presented to and approved by the City Council;

(9) To develop and maintain a website that provides information on this Chapter, grievance procedures, the Commission's Annual Report and any other information that would further the purposes and intentions of this Chapter.

516.12 COMPLAINTS – CONSIDERATION BY THE COMMISSION

(a) A person claiming to be aggrieved by a discriminatory practice, or a member of the Commission, may file with the Commission a written sworn complaint stating that a discriminatory practice has been committed, setting forth the facts sufficient to enable the Commission to identify the persons charged (hereinafter the respondent). Within ten (10) days after receipt of the complaint, the Commission shall serve on the complainant a notice acknowledging the filing of the complaint and informing the complainant of the respondent's time limits.

(b) The Commission shall, within ten (10) days of the filing of the complaint, furnish the respondent with a copy of the complaint and a notice advising the respondent of the respondent's procedural rights and obligations under this chapter.

(c) The complaint must be filed within one (1) year after the commission of the alleged discriminatory practice.

(d) The Commission shall commence an investigation of the complaint within thirty (30) days after the filing of the complaint. The Commission, or designee, shall promptly investigate the matter to determine whether the discriminatory practice exists.

(e) If it is determined that there is no reasonable cause to believe that the respondent has engaged in a discriminatory practice, the Commission shall furnish a copy of the order to the complainant, the respondent and such public officers and persons as the Commission deems proper.

(f) The complainant, within thirty (30) days after receiving a copy of the order dismissing the complaint, may file with the Commission an application for reconsideration of the order.

(g) Upon such application, the chair or vice-chair of the Commission shall review the original investigation and make a determination within thirty (30) days whether there is reasonable cause to believe that the respondent has engaged in a discriminatory practice.

(h) If it is determined that there is no reasonable cause to believe that the respondent has engaged in a discriminatory practice, the Commission shall issue an order dismissing the complaint after reconsideration and furnish a copy of the order to the complainant, the respondent and such public officers and persons as the Commission deems proper.

516.13 CONCILIATION AGREEMENTS

(a) If the Commission determines after investigation that there is reasonable cause to believe that the respondent has engaged in a discriminatory practice, the Commission shall endeavor to eliminate the alleged discriminatory practices by conference, conciliation and persuasion.

(b) The terms of a conciliation agreement reached with a respondent shall require the respondent to refrain from discriminatory practices in the future and shall make such further provisions as may be agreed upon between the Commission or its assigned staff and the respondent.

(c) If a conciliation agreement is entered into, the Commission shall issue and serve on the complainant an order stating its terms. A copy of the order shall be delivered to the respondent and such public officers and persons as the Commission deems proper.

(d) Except for the terms of the conciliation agreement, the Commission shall not make public, without the written consent of the complainant and the respondent, information concerning efforts in a particular case to eliminate discriminatory practice by conference, conciliation or persuasion, whether or not there is a determination of reasonable cause or a conciliation agreement. The conciliation agreement itself shall not be made public unless the complainant and the respondent

otherwise agree and the Commission also determines that disclosure is not required to further the purposes of this chapter.

(e) At the expiration of one (1) year from the date of a conciliation agreement, and at other times in its reasonable discretion, the Commission or its staff may investigate whether the respondent is following the terms of the agreement.

(f) If a finding is made that the respondent is not complying with the terms of the agreement, the Commission shall take such action as it deems appropriate to assure compliance.

(g) At any time after a complaint is filed, the Commission may file an action in a municipal court, seeking appropriate temporary relief against the respondent, pending final determination of proceedings under the chapter, including an order or decree restraining such respondent from doing or procuring any act tending to render ineffectual any order the Commission may enter with respect to the complaint. The court has the power to grant such temporary relief or restraining order as it deems just and proper.

516.13 HEARINGS

(a) If a conciliation agreement has not been reached within ninety (90) days after an administrative determination of reasonable cause to believe that discrimination took place, the Commission shall serve on the respondent by mail or in person a written notice, together with a copy of the complaint as it may have been amended, or a copy of the letter of determination, requiring the respondent to answer the allegation(s) of the complaint at a hearing before the Commission or another individual pursuant to its rules, at a time and place specified by the hearing examiner or examiners after conference with the parties or their attorneys. A copy of the notice shall be furnished to the complainant and such public officers and persons as the Commission deems proper.

(b) A member of the Commission who filed the complaint or endeavored to eliminate the alleged discriminatory practice by conference, conciliation or persuasion shall not participate in the hearing or in the subsequent deliberation of the Commission.

(c) The respondent may file an answer with the Commission by registered or certified mail in accordance with the rules of the Commission before the hearing date. The respondent may amend an answer at any time prior to the issuance of an order based on the complaint, but no order shall be issued unless the respondent has had an opportunity of a hearing on the complaint or amendment on which the order is based.

(d) A respondent, who has filed an answer or whose default in answering has been set aside for good cause shown, may appear at the hearing with or without representation, may examine and cross-examine witnesses and the complainant and may offer evidence.

(e) The complainant and the complainant's private attorney, and, in the discretion of the Commission, any person may intervene, examine and cross-examine witnesses and present evidence.

(f) If the respondent fails to answer the complaint, the Commission may find the respondent in default. Unless the default is set aside for good cause shown, the hearing may proceed on the evidence in support of the complaint.

(g) Efforts at conference, conciliation and persuasion shall not be received in evidence.

(h) Testimony taken at the hearing shall be under oath and transcribed. If the testimony is not taken before the Commission, the record shall be transmitted to the Commission.

(i) In a proceeding under this chapter, the production of a written, printed or visual communication, advertisement or other form of publication, or a written inquiry, or record, or other document purporting to have been made by a person shall be prima facie evidence that it was authorized by the person.

(j) All hearings conducted under this section shall be conducted in accordance with Chapter 119 of the Ohio Revised Code.

516.14 FINDINGS AND ORDERS

(a) If the Commission determines that the respondent has not engaged in a discriminatory practice, the Commission shall state its findings of fact and conclusions of law and shall issue an order dismissing the complaint. A copy of the order shall be delivered to the complainant, the respondent and such public officers and persons as the Commission deems proper.

(b) If the Commission determines that the respondent has engaged in a discriminatory practice, the Commission shall state its findings of fact and conclusions of law and shall issue an order requiring the respondent to cease and desist from the discriminatory practice and to take such affirmative action as in the judgment of the Commission will carry out the purposes of this chapter. A copy of the order shall be delivered to the respondent, the complainant and to such public officers and persons as the Commission deems proper.

516.15 REMEDIES

(a) Affirmative action ordered under this section may include, but is not limited to:

(1) Hiring, reinstatement or upgrading of employees with or without back pay. Interim earnings or amounts earnable with reasonable diligence by the person or persons discriminated against shall operate to reduce the back pay otherwise allowable;

(2) Admission or restoration of individuals to union membership, admission to or participation in, a guidance program, apprenticeship, training program, on-the-job training program, or

other occupational training or retraining program, and the utilization of objective criteria in the admission of individuals to such programs;

(3) Admission of individuals to a place of public accommodation;

(4) The extension to all individuals of the full and equal enjoyment of the advantages, facilities, privileges and services of the respondent;

(5) Reporting as to the manner of compliance;

(6) Posting notices in conspicuous places in the respondent's place of business in the form prescribed by the Commission and inclusion of such notices in advertising material;

(7) Payment to the complainant of damages for an injury, including humiliation and embarrassment, caused by the discriminatory practice, and costs, including reasonable attorney fees;

(8) Payment to the Commission of a \$500 fine for each violation. Each day on which a continuing violation occurs shall constitute a new and separate violation of this ordinance. Fines collected pursuant to this section will be used to establish a fund to educate the community about nondiscrimination practices and to promote nondiscrimination in the City of Lakewood;

(9) Such other remedies as shall be necessary and proper to eliminate all the discrimination identified by the evidence submitted at the hearing or in the record.

(b) The Commission may publish, or cause to be published, the names of persons who have been determined to have engaged in a discriminatory practice.

516.16 JUDICIAL REVIEW

A complainant or respondent aggrieved by an order of the Commission, including an order dismissing a complaint or stating the terms of a conciliation agreement, may obtain judicial review, and the Commission may obtain an order of the court for enforcement of its order, in a proceeding brought in the municipal court. A proceeding under this section must be initiated within thirty (30) days after the Commission issued its order under Sec.516.14 of this Chapter.

516.17 SUBPOENAS

(a) Upon written application to the Commission, a party to a proceeding is entitled as of right to the issuance of subpoenas for deposition or hearing in the name of the Commission by an individual designated pursuant to its rules requiring attendance and the giving of testimony by witnesses and the production of documents.

(b) A subpoena so issued shall show on its face the name and address of the party at whose request the subpoena is directed.

(c) On petition of the person to whom the subpoena is directed and notice to the requesting party, the Commission or an individual designated pursuant to its rules may vacate or modify the subpoena.

(d) Any depositions of witnesses shall be taken as prescribed by the Ohio Rules of Civil Procedure.

(e) Witnesses whose depositions are taken, or who are summoned before the Commission or its agents, will be entitled to the same witness and mileage fees as are paid to the witnesses subpoenaed in municipal court.

(f) If a person fails to comply with a subpoena issued by the Commission, the municipal court may issue an order requiring compliance. In any proceeding brought under this section, the court may modify or set aside the subpoena.

516.18 RESISTANCE TO, OBSTRUCTION, ETC., OF COMMISSION

Any person who willfully resists, prevents, impedes or interferes with the Commission, its members, agents or agencies in the performance of duties pursuant to this Act, or violates any order of the Commission shall be subject to a fine of not more than five hundred (500) dollars in addition to such order or decree that may be issued.

516.19 ADDITIONAL REMEDIES PRESERVED

(a) Any person injured by any act in violation of the provisions of this chapter shall have a civil cause of action in municipal court.

(b) A civil cause of action under this section shall be filed in a municipal court within one (1) year after the alleged discriminatory practice ceases or within thirty (30) days of an order by the Commission under Sec. 516.14 of this Chapter. Any such action shall supersede any complaint or hearing before the Commission concerning the same alleged violations, and any such administrative action shall be closed upon such filing.

516.20 STATE/FEDERAL REMEDIES

(a) The remedies provided for in this chapter are in addition to, not in lieu of, those provided for by state and federal law. This chapter shall therefore not be construed so as to limit a person's right to file complaint with any state or federal agency, board, tribunal or court vested with jurisdiction to receive, review and act upon complaints of discrimination. This chapter shall not be construed as limiting the right of any person to seek remedies in courts of competent jurisdiction pursuant to state or federal law which grant private rights of action to persons aggrieved by discriminatory acts of the type prohibited by this chapter. There is no requirement that an aggrieved person file a complaint with the City of Lakewood pursuant to this chapter before seeking any other federal, state or other remedy available to the person.

(b) A person's election to seek remedies provided for in this

chapter shall not operate to toll any statute of limitation set forth in state or federal law for pursuing remedies under state or federal law for acts of discrimination of the type prohibited by this chapter.

516.21 SEVERABILITY

If any section, subsection, sentence, clause, phrase or portion of this Chapter, or the application thereof to any person, firm, corporation or circumstance, is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portion thereof. The City Council of the City of Lakewood hereby declares that it would have adopted this Chapter and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.

Section 2. Section 1327.08, Equal Opportunity, of the Lakewood Codified Ordinances, currently reading as follows:

1327.08 EQUAL OPPORTUNITY

No person shall be denied the right to purchase or lease a condominium unit in the City because of race, color, religion, sex, sexual orientation, ancestry, handicap, familial status or national origin.

shall be and hereby is repealed and new Section 1327.08, Equal Opportunity, of the Lakewood Codified Ordinances, is enacted to read as follows:

1327.08 EQUAL OPPORTUNITY

No person shall be denied the right to purchase or lease a condominium unit in the City because of race, color, religion, sex, sexual orientation, gender identity or expression, ancestry, handicap, familial status or national origin.

Section 3. Section 142.01, Establishment; Purpose, of the Lakewood Codified Ordinances, currently reading as follows:

142.01 ESTABLISHMENT; PURPOSE

The Lakewood Community Relations Advisory Commission is hereby established to serve in an advisory capacity for the purpose of educating, informing and making recommendations to City officials, departments, boards and commissions on matters relating to community relations within the City of Lakewood in an effort to advance:

(a) Respect for diversity: Acknowledge we live in a dynamic community with an ever-changing variety of group and individual experiences, and affirm values derived from the understanding of our

differences (whether based on socio-economic class, culture, religion, race, ethnicity, age, gender, or sexual orientation).

(b) Bonds of mutuality: Recognize the interdependence of our different interests as we work toward serving the common good, and ensure community relations have substantive meaning by acknowledging, as Martin Luther King Jr. stated, "Whatever affects one directly affects all indirectly."

(c) Equity: Affirm our commitment to social justice, and assure all groups and individuals have the opportunity to participate fully in civic affairs with equal access to employment, community resources, and decision-making processes.

shall be and hereby is repealed and new Section 142.01, Establishment; Purpose, of the Lakewood Codified Ordinances, is enacted to read as follows:

142.01 ESTABLISHMENT; PURPOSE

The Lakewood Community Relations Advisory Commission is hereby established to serve in an advisory capacity for the purpose of educating, informing and making recommendations to City officials, departments, boards and commissions on matters relating to community relations within the City of Lakewood in an effort to advance:

(a) Respect for diversity: Acknowledge we live in a dynamic community with an ever-changing variety of group and individual experiences, and affirm values derived from the understanding of our differences (whether based on socio-economic class, culture, religion, race, ethnicity, age, gender, sexual orientation, or gender identity or expression).

(b) Bonds of mutuality: Recognize the interdependence of our different interests as we work toward serving the common good, and ensure community relations have substantive meaning by acknowledging, as Martin Luther King Jr. stated, "Whatever affects one directly affects all indirectly."

(c) Equity: Affirm our commitment to social justice, and assure all groups and individuals have the opportunity to participate fully in civic affairs with equal access to employment, community resources, and decision-making processes.

Section 4. Section 537.18, INTIMIDATION, of the Lakewood Codified Ordinances, currently reading as follows:

537.18 INTIMIDATION

(a) No person shall violate Section 537.05, 537.06, 537.10(a)(3), (4) or (5), 541.03 or 541.04 by reason of race, color, religion or national origin of another person or group of persons.

(b) No person shall violate Section 537.06, 541.03 or 541.04 by reason of actual or perceived sexual orientation, age, gender, gender

identity or expression, or disability as defined by Ohio R.C. 3304.11(A), of another person or group of persons.

(c) Whoever violates subsection (a) hereof is guilty of intimidation. A violation of intimidation under subsection (a) is an offense of the next higher degree than the offense the commission of which is a necessary element of intimidation. In case of an offense that is a misdemeanor of the first degree, whoever violates this section shall be prosecuted under Ohio R.C. 2927.12.

(d) Whoever violates subsection (b) of this section is guilty of intimidation. A violation of intimidation under subsection (b) is an offense of the next higher degree than the offense the commission of which is a necessary element of intimidation when the underlying offense is a second, third or fourth degree misdemeanor.

shall be and hereby is repealed and new Section 537.18, INTIMIDATION, of the Lakewood Codified Ordinances, is enacted to read as follows:

537.18 INTIMIDATION

(a) No person shall violate Section 537.05, 537.06, 537.10(a)(3), (4) or (5), 541.03 or 541.04 by reason of race, color, religion, national origin, or actual or perceived sexual orientation, age, gender, gender identity or expression, or disability as defined by Ohio R.C. 3304.11(A) of another person or group of persons.

(b) Whoever violates subsection (a) hereof is guilty of intimidation. A violation of intimidation under subsection (a) is an offense of the next higher degree than the offense the commission of which is a necessary element of intimidation. In case of an offense that is a misdemeanor of the first degree, whoever violates this section may be prosecuted under Ohio R.C. 2927.12.

Section 5. It is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council, and that all such deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Section 6. This ordinance is found to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City for the reasons set forth in the preamble, and provided it receives the affirmative vote of at least five members of Council, this ordinance shall take effect and be in force immediately upon its adoption by the Council and approval by the Mayor, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: _____

President of Council

Clerk of Council

Approved: _____

Mayor



12650 DETROIT AVENUE 44107 216/529-6055 FAX 216/226-3650
www.onelakewood.com
Lakewood City Council
MARY LOUISE MADIGAN, PRESIDENT
RYAN P. NOWLIN, VICE PRESIDENT

Council at Large
RYAN P. NOWLIN
THOMAS R. BULLOCK III
CINDY MARX

Ward Council
DAVID W. ANDERSON, WARD 1
SAM O'LEARY, WARD 2
SHAWN JURIS, WARD 3
MARY LOUISE MADIGAN, WARD 4

June 15, 2015

Lakewood City Council
Lakewood, OH 44107

Re: Support the Cuyahoga County Arts and Culture Levy

Dear Colleagues,

In 2006, Cuyahoga County voters expressed support for the county's arts and culture sector by approving a tax on cigarettes to directly fund the County's arts and culture organizations. Since 2008, these funds have invested \$125 million in more than 300 organizations, making Cuyahoga County one of the top public funders of arts and culture in the nation.

Lakewood can only be as robust and vibrant as the County of which we are a part. County arts and culture programs are constantly interacting with the Lakewood public. Last year's Cleveland Orchestra "At Home in Lakewood" performance series is a prime example of how investing in these organizations enriches Lakewood.

In addition to benefitting the County as a whole, levy funds have directly supported influential arts and culture institutions in Lakewood. Since 2008, organizations such as the Beck Center for the Arts, Lakewood Historical Society, Lakewood Public Library, LakewoodAlive, and several others have received over \$1.7 million in operating and program support.

This November, the public will be asked to decide whether or not to continue taxing cigarettes to support arts and culture. I ask my colleagues and the public to vote to renew the levy so that Lakewood and Cuyahoga County can continue to benefit from this sector's important economic, educational, and quality of life benefits.

Sincerely,

Mary Louise Madigan
Councilmember, Ward 4

RESOLUTION NO.

BY:

A Resolution supporting the extension of the Cuyahoga County cigarette tax for arts and culture.

WHEREAS, Cuyahoga County's arts and culture sector supports thousands of jobs and results in hundreds of millions of dollars of annual economic activity; and

WHEREAS, Cuyahoga County's arts and culture sector supports and enriches education programs for children throughout our county; and

WHEREAS, Cuyahoga County's arts and culture sector strengthens our neighborhoods, attracts visitors to our region, and enhances our quality of life; and

WHEREAS, Cuyahoga County voters passed a thirty cents per pack tax on cigarettes in 2006 that provides dedicated, public funding to support arts and culture organizations and initiatives throughout Cuyahoga County, including Lakewood; and,

WHEREAS, the proceeds from this cigarette tax have renewed the strength and vitality of our arts and culture sector; and

WHEREAS, Lakewood's arts and culture organizations such as the Beck Center for the Arts, LakewoodAlive, Lakewood Public Library, the Lakewood Historical Society, and several others have received \$1.7 million in investment from the proceeds of this cigarette tax; and

WHEREAS, this cigarette tax is scheduled to expire in January 2017; and,

WHEREAS, an extension of this tax may be placed before Cuyahoga County voters in the November 2015 General Election; and

WHEREAS, extending this cigarette tax will not increase taxes and will not add to what consumers currently pay; and

WHEREAS, Cuyahoga County's ability to sustain and further develop its arts and culture sector will be placed at risk without the continuation of this cigarette tax as a dedicated funding source; now, therefore:

BE IT RESOLVED BY THE CITY OF LAKEWOOD, STATE OF OHIO:

Section 1. That this Council hereby endorses the passage by voters in the November 2015 General Election of an extension of Cuyahoga County's excise tax on tobacco products for purpose funding arts and culture;

Section 2. That this Council asks the residents of Lakewood to join in supporting the passage of the extension of Cuyahoga County's excise tax on tobacco products for the purpose of funding arts and culture; and

Section 3. It is found and determined that all formal actions of this Council concerning and relating to the passage of this resolution were adopted in an open meeting of this Council, and that all such deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements.

Adopted: _____

President

Clerk

Approved: _____

Mayor



12650 DETROIT AVENUE 44107 216/529-6055 FAX 216/226-3650

www.onelakewood.com

Lakewood City Council
MARY LOUISE MADIGAN, PRESIDENT
RYAN NOWLIN, VICE PRESIDENT

Council at Large
RYAN NOWLIN
TOM BULLOCK
CINDY MARX

Ward Council
WARD I – DAVID ANDERSON
WARD II – SAM O'LEARY
WARD III – SHAWN JURIS
WARD IV – MARY LOUISE MADIGAN

June 15, 2015

Lakewood City Council
12650 Detroit Avenue
Lakewood, Ohio 44107

Re: Lakewood Bicycle infrastructure implementation

Dear Members of Council:

In August 2014, Bike Lakewood completed its report, "Lakewood Bicycling Priorities Report 2014". This report built upon the framework contained in the City of Lakewood's 2011 Bicycle Master Plan and the principles in Lakewood's Community Vision Update of 2012 by surveying 190 Lakewood cyclists, ranging in experience from "Fearless and Confident" to "Will not ride in traffic", and using their input, together with recommendations received from the League of American Bicyclists (LAB) when it designated Lakewood a Bicycle Friendly Community at the Bronze level in 2013, to develop a ranked priorities implementation list for bicycle improvements.

Bike Lakewood's report provides a roadmap for improving bikeability in Lakewood for the next several years as Lakewood prepares to reapply in 2018 to LAB once again for a Bicycle Friendly Community designation. The goal is to make Lakewood a place where all people can safely and comfortably ride a bike to a park, library, store, restaurant, school, place of employment, or anywhere else.

As we can see, a lot of thought, research, and community input has been invested into Lakewood's bike planning. In addition, our commitment to cycling has continuously received broad, super-majority support, not only with unanimous adoption of our Bicycle Master Plan by city officials, but with consistent support in surveys of resident priorities over many years.

We have a lot of progress yet to achieve: despite a recent Lakewood bicycling increase, 2010 Census data shows that for most areas of Lakewood, bike riding still makes up less than one percent of commute-to-work trips (the type of travel for which the most reliable data is available), with the notable exception of Birdtown and neighborhoods to its north at or exceeding 1.5 percent.¹ To meaningfully increase cycling for the greater population, our focus must be to enable the 60 to 70 percent of residents who are cautious about cycling in traffic ("interested but concerned") to feel safe

¹ By comparison, the national average for commuting to work by bicycle is 0.5 percent. The City of Cleveland recently increased its bicycle commute trips rate to 0.6 percent, according to 2011 data. Source: NOACA's "Regional Bicycle Plan: 2013 Update."

and comfortable doing so, and the only step proven effective for increasing their rate of cycling is to plan and implement safe and convenient infrastructure.

The time has come to increase our rate of implementation for Lakewood's bicycle improvements, both physical (e.g. infrastructure and facilities) and educational (e.g. safety training and encouragement to less-experienced cyclists). This will be necessary to make meaningful progress towards a 2018 reapplication to LAB, and, more importantly, to achieving our goals of getting more Lakewood residents safely onto bikes as part of a healthy, active living lifestyle and of distinguishing Lakewood as the "Bicycle Capital of Northeast Ohio" (an explicitly-stated goal of our Bicycle Master Plan). To do so, further decision-maker focus is required so we can develop the necessary plans and fund them in the city budget for 2016 and future years.

Therefore, I will be convening an informal working group that will meet at regular intervals in City Hall on a public basis. I envision working with the authors of the Bike Lakewood report, representatives of the Administration, interested Council colleagues, and members of the public. I hope and expect that this work will help me develop recommendations and project plans that I will draft as legislation to submit to Council for formal consideration this year.

I am excited about taking this step, and I look forward to collaborating with all of you to realize Lakewood's not-fully-tapped potential as a bike-friendly community.

Sincerely,

A handwritten signature in black ink that reads "Thomas R. Bullock III". The signature is written in a cursive style with a horizontal line underlining the name.

Thomas R. Bullock III
Member of Council, at Large

Attachment



12650 DETROIT AVENUE • 44107 • 216/521-7580 • fax 216/529-5652
Website: www.onelakewood.com

MICHAEL SUMMERS
MAYOR

June 15, 2015

Lakewood City Council
Lakewood, Ohio 44107

Dear Members of Council:

Re: Mayoral appointments to the Lakewood Audit Committee

It is with great pleasure that I announce my appointment of Ann Spence and re-appointments of Gregory Calieri and Clint Waddell to the City of Lakewood Audit Committee. Their term will begin immediately and expire on December 31, 2016.

I am grateful that these fine Lakewood citizens are willing to volunteer their time, energy and knowledge to improve the quality of our community. I am confident that they will bring commitment, prudence and enthusiasm to this important responsibility.

Sincerely,

Michael P. Summers



12650 DETROIT AVENUE • 44107 • 216/521-7580 • fax 216/529-5652
Website: www.onelakewood.com

MICHAEL SUMMERS
MAYOR

June 15, 2015

Lakewood City Council
Lakewood, Ohio 44107

Dear Members of Council:

Re: Mayoral appointment to the Lakewood Citizens Advisory Committee

It is with great pleasure that I announce my appointment of Lindsey Grdina to the City of Lakewood Citizens Advisory Committee. Her term will begin immediately and expire on December 31, 2016.

I am grateful that this fine Lakewood citizen is willing to volunteer her time, energy and knowledge to improve the quality of our community. I am confident that she will bring commitment, prudence and enthusiasm to this important responsibility.

Sincerely,

Michael P. Summers



12650 DETROIT AVENUE • 44107 • 216/521-7580 • fax 216/529-5652
Website: www.onelakewood.com

MICHAEL SUMMERS
MAYOR

June 15, 2015

Lakewood City Council
Lakewood, Ohio 44107

Dear Members of Council:

Re: *Mayoral appointment to the Lakewood Community Relations Advisory Commission*

It is with great pleasure that I announce my appointment of Lisa Tomm to the City of Lakewood Community Advisory Commission. Her term will begin immediately and expire on December 31, 2017.

I am grateful that this fine Lakewood citizen is willing to volunteer her time, energy and knowledge to improve the quality of our community. I am confident that she will bring commitment, prudence and enthusiasm to this important responsibility.

Sincerely,

Michael P. Summers



Jennifer R. Pae,
Director of Finance

12650 DETROIT AVENUE • 44107 • 216/529-6093 • FAX 216/529-6806

June 15, 2015

Lakewood City Council

Re: 2016 Tax Advance Resolution and 2016 Tax Rate Resolution

Dear Members of Council,

Attached is a resolution authorizing the Director of Finance to request from the Cuyahoga County Treasurer real and personal property tax, estate tax and special assessment advances when collected and available to the City in 2016. Participation in the tax advance program enhances the City's cash flow management and "funds invested" amount.

The County Fiscal Officer requires the City to file this resolution stating the City's intent to receive advances in 2016 prior to October 1, 2015.

Also attached is the tax rate resolution maintaining the City of Lakewood's property tax rate of 17.40 mills for the tax year 2016.

Respectfully,

Jennifer R. Pae
Director of Finance

RESOLUTION NO.

BY:

A RESOLUTION to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, requesting the Cuyahoga County Fiscal Officer to draw and the Cuyahoga County Treasurer to pay to the City of Lakewood Director of Finance an advance of all real; personal property; estate taxes and special assessments collected in the year 2016 in such amounts as may be requested and available.

WHEREAS, Ohio Revised Code Section 321.34 (A)(1) provides that “[W]hen the local authorities by resolution so request, the county auditor shall pay township clerks, treasurers of municipal corporations, the treasurer of any board of education, and the treasurer of any other political subdivision or taxing district whose funds derived from taxes or other sources are payable by law to the county treasurer, any money that may be in the county treasury to the accounts of such local authorities, respectively, and lawfully applicable to the purpose of the current fiscal year in which such request is made. The auditor and county treasurer shall retain any amounts needed to make such payments of obligations of local political subdivisions or taxing districts as are required by law to be paid directly by the county authorities;” and

WHEREAS, Ohio Revised Code Section 321.341 provides that “... [A]t any time prior to a settlement under section 5731.46 of the Revised Code, the fiscal officer of a municipal corporation or a township may request the county auditor to make payment to such subdivision from the fund of an amount not to exceed seventy-five per cent of taxes paid into such fund and standing to the credit of the subdivision, including both taxes with respect to which a final determination has been made under section 5731.27 of the Revised Code and taxes subject to review and final determination under section 5731.26 of the Revised Code. Within five days of the receipt of such request the auditor shall draw a warrant in such amount upon such fund, payable to the subdivision;” and

WHEREAS, this Council by a vote of at least five of its members determines that this resolution is an emergency measure, and that this resolution shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood, and that it is necessary to provide for the usual daily operation of the City in that the Cuyahoga County Fiscal Officer requires the City to file this resolution stating the City’s intent to receive advances in 2016 prior to December 1, 2015; now, therefore,

BE IT RESOLVED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. The Cuyahoga County Fiscal Officer be requested to draw and the Cuyahoga County Treasurer be requested to pay to the City of Lakewood Director of Finance an advance of all real, personal property, estate taxes and special assessments collected in the year 2016 in such amounts as may be requested and available.

Section 2. The Director of Finance is hereby directed to forward a certified copy of this Resolution upon passage, to the Cuyahoga County Fiscal Officer.

Section 3. It is found and determined that all formal actions of this Council concerning and relating to the passage of this resolution were adopted in an open meeting of this Council, and that all such deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements.

Section 4. This resolution is hereby declared to be an emergency measure necessary for the usual daily operation of City for the reasons set forth in the preamble to this resolution, and provided it receives the affirmative vote of at least five members of Council, this resolution shall take effect and be in force immediately upon its adoption by the Council and approval by the Mayor, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: _____

President of Council

Clerk of Council

Approved: _____

Mayor

RESOLUTION NO.

BY:

A RESOLUTION to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, accepting the amounts and rates as determined by the Budget Commission and authorizing the necessary tax levies and certifying them to the County Fiscal Officer.

WHEREAS, this Council in accordance with the provisions of law has previously adopted a Tax Budget for the next succeeding fiscal year commencing January 1st, 2016; and

WHEREAS, the Budget Commission of Cuyahoga County, Ohio, has certified its action thereon to this Council together with an estimate by the County Fiscal Officer of the rate of each tax necessary to be levied by this Council, and what part thereof is without, and what part is within the ten mill tax limitation; and

WHEREAS, this Council by a vote of at least five of its members determines that this resolution is an emergency measure, and that this ordinance shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood, and that it is necessary to provide for the usual daily operation of the City; now, therefore,

BE IT RESOLVED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. The amounts and rates as determined by the Budget Commission in its certification, be and the same are hereby accepted.

Section 2. There be and is hereby levied on the tax duplicate of said City, and rate of each tax necessary to be levied within and without the ten mill limitation as follows:

	Fiscal Officer's Estimate of Tax Rate to be Levied	
	<u>Inside</u> <u>10 Mill</u> <u>Limitation</u>	<u>Outside</u> <u>10 Mill</u> <u>Limitation</u>
General Fund	-0-	8.65
General Bond Retirement Fund	3.47	-0-
Police Pension Fund	-0-	1.60
Fireman Pension Fund	-0-	1.68
Sewage Disposal Fund	<u>-0-</u>	<u>2.00</u>
	3.47	13.93

Section 3. This resolution is hereby declared to be an emergency measure necessary for the usual daily operation of City for the reasons set forth in the preamble to this resolution, and provided it receives the affirmative vote of at least five of its members, this resolution shall take effect and be in force immediately upon its adoption by the Council and approval by the Mayor, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: _____

President of Council

Clerk of Council

Approved: _____

Mayor



**LAW DEPARTMENT
OFFICE OF PROSECUTION**

12650 Detroit Avenue | Lakewood, Ohio 44107
(216) 529-6030 | Fax (216) 228-2514
www.onelakewood.com

kevin.butler@lakewoodoh.net
(216) 529-6034

KEVIN M. BUTLER
DIRECTOR OF LAW

PAMELA L. ROESSNER
CHIEF PROSECUTOR

JENNIFER L. SWALLOW
CHIEF ASSISTANT
LAW DIRECTOR

MANDY J. GWIRTZ
ASSISTANT LAW DIRECTOR/
ASSISTANT PROSECUTOR

June 15, 2015

Lakewood City Council
12650 Detroit Avenue
Lakewood, Ohio 44107

Re: 2015 first quarter codification ordinance

Dear Members of Council:

Attached please find an ordinance authorizing the inclusion of those ordinances of a general and permanent nature adopted by Council on or before April 30, 2015 into the Codified Ordinances of the City of Lakewood.

The Walter H. Drane Company has completed the editing and printing of the 2015 first quarter replacement pages for the Codified Ordinances.

This legislation is necessary to allow the completion of this project by authorizing the inclusion of those replacement pages into the Codified Ordinances and the distribution of replacement pages to Council and employees who maintain hardbound copies of the Codified Ordinances.

Please refer the ordinance to an appropriate committee for further discussion.

Very truly yours,

Kevin M. Butler

ORDINANCE NO.

BY:

AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect at the earliest period allowed by law, to approve the editing and inclusion of certain ordinances and resolutions as parts of the various component codes of the Codified Ordinances and to provide for the publication of such new matter.

WHEREAS, the Walter H. Drane Company has completed a quarterly revision and updating of the Codified Ordinances of the City; and

WHEREAS, various ordinances and resolutions of a general and permanent nature that have been passed by Council but not yet included in the Codified Ordinances of the City have now been made a part thereof; and

WHEREAS, this Council by a vote of at least five of its members determines that this ordinance is an emergency measure and that it shall take effect immediately, as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood, and that it is necessary for the immediate preservation of the public property, health, and safety and to provide for the usual daily operation of municipal departments, in that the publication and distribution of the 2014 Replacement Pages for the Codified Ordinances of the City of Lakewood should be conducted at the earliest date possible; now, therefore,

BE IT ORDAINED BY CITY OF LAKEWOOD, OHIO:

Section 1. The editing, arrangement and numbering and renumbering of the following ordinances and resolutions and parts of ordinances and resolutions are hereby approved as parts of the various component codes of the Codified Ordinances of the City, so as to conform to the classification and numbering system of the Codified Ordinances:

<u>Ord. No.</u>	<u>Date</u>	<u>C.O. Section</u>
28-14	12-15-14	1339.01 to 1339.17, 1339.99
36-14	1-20-15	1103.02(zz-1), (zz-2), 1143.01 1171-03
37-14	12-15-14	506.04(a)
39-14	12-15-14	309.01
46-14	12-15-14	915.01
14-04	12-15-14	902.04
4-15	3-16-15	903.10
12-15	4-20-15	145.01 to 145.05 1161.03(t)

Section 2. The Second Amended Charter published in the Codified Ordinances is the official charter of the City of Lakewood.

Section 3. It is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council and that all such deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Section 4. This ordinance is hereby ~~declared~~ to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City

and for the usual daily operation of the City for the reasons set forth and defined in its preamble, and provided it receives the affirmative vote of at least five members of Council this ordinance shall take effect and be in force immediately, or otherwise shall take effect and be in force after the earliest period allowed by law.

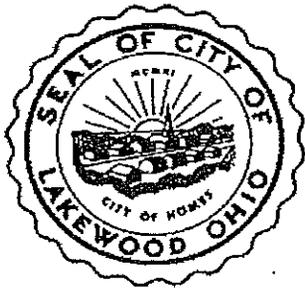
Adopted: _____

President of Council

Clerk of Council

Approved: _____

Mayor



DEPARTMENT OF HUMAN SERVICES
16024 MADISON AVENUE • 44107
Telephone: (216) 529-6685 Facsimile: (216) 529-5937
Web site: www.onelakewood.com

Antoinette B. Gelsomino
DIRECTOR OF HUMAN SERVICES

June 15, 2015

Lakewood City Council
Lakewood, Ohio

Re: Accepting donation for H2O vehicle purchase

Dear Members of Council:

Pursuant to L.C.O. 111.14, Authority to Accept Income or Other Things of Value, this communication serves to notify you that the City intends to accept a donation of \$23,290 from the Lakewood Foundation/H2O Advisory Council. The funds will be deposited to Account 277-0000-385-0000 and used to purchase a new eight passenger van for the H2O program. No matching funds are required.

Sincerely,

Antoinette B. Gelsomino



JOSEPH J. BENO, PE
DIRECTOR OF PUBLIC WORKS

DEPARTMENT OF PUBLIC WORKS
DIVISION OF ENGINEERING AND CONSTRUCTION
12650 DETROIT AVENUE X< 44107 X< (216) 521-6692

June 15, 2015

Lakewood City Council
Lakewood, OH 44107

RE: Design-Build contract approval for Underground Connections, Inc.

Dear Members of Council:

I am asking City Council to approve a design-build contract with Underground Connections, Inc. in relation to previous Resolutions 8794-15 and 8800-15 in the amount of \$800,000. The cost of this contract will be divided between the work performed at 102 separate properties. City Engineer Mark Papke and the Division of Engineering have reviewed the submitted qualifications and ranked them appropriately with Underground Connections ranking the higher of the two sets of qualifications received.

Your approval of this contract is another step in this project toward complete separation of private property sewers in our clean water pilot study area. This pilot study project will make improvements to and separate the storm and sanitary sewers on these 102 residential properties.

As stated in previous resolutions, using Sewer funding, the city will pay 90% of these construction cost and the individual home owner will pay 10% of the cost at their property. These improvements are needed to positively direct storm water flows into dedicated storm water pipes. When storm water finds its way into sanitary sewers during rain events, the result can be combined sewer overflows (CSO's) into Lake Erie or the Rocky River.

In order to expedite the schedule of the work on this contract, I ask that this resolution be approved at the July 6th meeting after further discussion at the appropriate committee meeting.

Sincerely,

Joseph J. Beno, PE
Director of Public Works

RESOLUTION NO.

BY:

A RESOLUTION to take effect immediately provided it receives the vote of at least five members of Council, or otherwise to take effect at the earliest period allowed by law, authorizing the Director of Public Works to enter into a design-build form of agreement for the design and construction of corrections to the sewer system under the western Lakewood clean water pilot project with Underground Connections, Inc. in an amount not to exceed \$800,000.

WHEREAS, Lakewood identified Underground Connections, Inc. through a request for qualification process as the most qualified of the two qualifications received; and

WHEREAS, this Council by a vote of at least five of its members determines that this resolution is an emergency measure and that it shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood and that it is necessary for the immediate preservation of the public property, health, and safety and to provide for the usual daily operation of municipal departments in that the City wishes to create the design-build delivery model for this project so it may occur in 2015; now, therefore,

BE IT RESOLVED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. The Director of Public Works to enter into a design-build form of agreement for the design and construction of corrections to the sewer system under the western Lakewood clean water pilot project with Underground Connections, Inc. in an amount not to exceed \$800,000.

Section 2. Council hereby specifically approves the contract between the city of Lakewood and Underground Connections, Inc. in substantial form as is attached as Exhibit A.

Section 3. It is found and determined that all formal actions of this Council concerning and relating to the passage of this resolution were adopted in an open meeting of this council, and that all such deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements.

Section 4. This resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in the preamble to this resolution, and provided it receives the affirmative vote of at least five members of Council this resolution shall take effect and be in force immediately upon its adoption by the Council and approval by the Mayor, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: _____

President

Clerk

Approved: _____

Mayor

Exhibit A

DESIGN/BUILD AGREEMENT

Effective Date of Agreement: _____, 2015

THIS AGREEMENT ("Agreement") is made and entered into on the dates so noted below with the Effective Date above note, by and between:

_____ (the "DB"), and

The City of Lakewood (the "City").

Owner Name:	City of Lakewood, Ohio
City address for notices is:	Division of Engineering and Construction 12650 Detroit Avenue Lakewood, OH 44107 Attn: Mark K. Papke
The Design-Builder:	_____
Design-Builder address for notices is:	_____ _____, Ohio _____
For the Project:	Pilot Project for the elimination of water intrusion into City sanitary storm sewer system.
City's Responsible Administrator:	Mark K. Papke City Engineer
City's Authorized Representative is:	Mark K. Papke, City Engineer (or others designated by him)
City Representative address for notices is:	Division of Engineering and Construction 12650 Detroit Avenue Lakewood, Ohio 44107
Consulting Engineer	CT Consultants Attn: Richard Iafelice Vice-President

Consulting Engineer address for notices is:	8150 Sterling Court Mentor, Ohio 44060
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NOW, THEREFORE, in consideration of the mutual promises herein contained, the DB and the City hereby agree as follows:

ARTICLE 1. THE WORK.

The Design Builder (“DB”) shall provide all work required by the Contract Documents (the “Work.”)The Project is a pilot project with the objective to eliminate the sources of clean water on private property from entering the City’s sanitary sewer system. The purpose of the Project is to initially evaluate the costs and benefits of such a program and the potential conducting of similar projects citywide. Preliminary to the undertaking of the work of the DB, the City has conducted and shall continue to conduct physical inspections of approximately 102 privately-owned parcels (“Individual Parcels”) located on Eldred Avenue, Delaware Avenue and Atkins Avenue in order to assess the ability to reduce infiltration and inflow within the existing sanitary sewer system. The Work of the DB shall include (but shall not be limited to) the assessment of the City’s individual inspection reports as to each Individual Parcel including review of pre-construction videotapes and other data and information compiled by the City; design and development of individual plans of repair and corrective action in order to address the remediation of conditions and rehabilitation of each Individual Parcel. Thereafter , the DB shall proceed to perform the Work in accordance with the plans and specifications generated by the DB and pre-approved by the City related to each Individual Parcel.

This Davis Bacon Project will utilize the Design-Build (“Design-Build”) project delivery method.

ARTICLE II. SCOPE OF SERVICES; PRESENTMENT OF PLANS AND SPECIFICATIONS AND FIRM PRICE

The selected Design-Builder, as a portion of its required Scope of Services and its Work, will discuss and clarify with the City the breakdown of the Project’s detailed cost components; address the City’s Project requirements; and develop and ultimately refine the Project schedules associated with the performance of the Work related to each Individual Parcel and the Project overall. Project schedules shall be required to be revised, from time to time, and tendered to the City for its review and approval on a periodic basis and in any event no less often than at each bi-weekly job meeting undertaken or as otherwise directed and requested by the City.

When authorized to proceed in writing by the City with respect to the Work as to one or more Individual Parcels, the DB shall proceed on a phased basis.

1. Initially, the DB shall proceed with a constructability review of the Individual Parcels and shall provide comments and suggestions as to the City-provided inspection reports, CCTV videos and logs and other documents produced by the City and/or the

Consulting Engineer associated with the City's initial physical inspection reports relative to the Individual Parcels. While the information provided by the City is believed to be accurate, the DB shall not be entitled to rely on the accuracy of such information and shall, rather, come to its own conclusions relative to the extent and nature of the Work to be performed as to each Individual Parcel.

2. The DB shall further supplement its knowledge and information associated with each Individual Parcel and shall thereafter design the remediation and rehabilitation plan as to each Individual Parcel, providing further a schedule for the completion of the Work associated with each Individual Parcel and such other information as directed by the City and/or the Consulting Engineer.
3. The DB-generated plans and specifications associated with the performance of the Work for each Individual Parcel shall be tendered to the City Engineer for review whereafter, upon approval of the City Engineer, the DB shall proceed to obtain a building permit and other required individual permits from the Building Department in accordance with the then-applicable ordinances, standards and requirements of the City Building Department. Such building permits shall be issued by the City on a no-charge basis to the DB.
4. In the event the plans and specifications tendered for review by the City Engineer are unacceptable and/or require revisions on the part of the DB, the DB shall undertake such revisions and modifications as required on a timely basis and in accordance with the directives and/or instructions and/or suggestions of the City Engineer. Provided, however, no such directives, instructions or suggestions of the City Engineer shall constitute assumption of nor relieve the DB from any of the express duties and responsibilities of the DB to solely perform the necessary design work relative to remedial actions.
5. In the event the plans and specifications tendered for review by the City Engineer are acceptable, the DB shall undertake the performance of the Work per Individual Parcel upon issuance of an Authorization to Proceed by the City as below noted.
6. Simultaneously with the submission of the aforementioned plans and specifications, the DB shall tender its firm price for performance of the Work per Individual Parcel, the date DB shall complete the proposed Work and such other pertinent information as the City requires. Same shall be submitted in written form, utilizing such forms for submission of the DB's firm price, guaranteed date of completion and other information as the City Engineer prescribes. The City Engineer may also require the presentment of other forms and reporting documents generated by the City, Consulting Engineer or by the DB and those forms shall be utilized uniformly during the course of performance of the Project and submitted in accordance with such directions and on a timely basis as the City directs.

7. The approval of the plans and specifications generated by the DB together with its firm price submission shall become effective only upon the issuance by the City of and Authorization to Proceed associated with the respective Individual Parcel.

The firm price presented by the DB may be subject to modification solely in accordance with the provisions as to changes ordered and/or approved by the City pursuant to Article 6 of the General Conditions.

In the performance of the Work for each Individual Parcel, the DB, to the satisfaction of the City and as additionally set forth in the General Conditions and all other Contract Documents, shall provide all necessary materials, tools and equipment, and all utility and transportation services, and perform all labor, coordination and supervision necessary to complete in a satisfactory manner all the Work associated with each Individual Parcel and in all respects in strict accordance with the Contract Documents on file at the office of the City Engineer and any other offices of the City. The DB shall also perform the Work in accordance with the the City building code and other governmental ordinances and/ or regulations governing the performance of the Work.

A significant component and covenant of the Design Builder shall be the obligation to communicate directly with owners and occupants of the Individual Parcels in order to, among other things, schedule the undertaking of Work including entry into the residences and other structures located on the Individual Parcels. Such obligation of the Builder shall further include assurances that the highest level of safety and security of the occupants and owners is maintained throughout the course of the Project and as may be further subject to the reasonable directions and conditions as may or shall be imposed by the City.

ARTICLE III: CITY OPTIONS

The City reserves the right to accept or reject the firm price offering of the DB and to, in its discretion, allow for the bidding and/or performance of the Work by others associated with one or more of the Individual Parcels in its sole and exclusive discretion. In such event, the DB shall not be compensated for its generation of plans and specifications and/or other activities undertaken by the DB associated with the activities required of the DB prior to receipt of an Authorization to Proceed with performance of the Work as to the applicable Individual Parcel. In such instance the City shall be granted, without further action, an irrevocable and permanent license to utilize the plans and specifications and other work product of the DB for any purpose the City deems appropriate and/or necessary so long as the City tenders its acknowledgment that it accepts and shall use such DB's plans and specifications and other work product without warranty or guaranty whatsoever being extended by the DB as to the accuracy and/or applicability of such plans and specifications generated by the DB.

The City's option rights under this Article III are independent of the "Termination for Convenience" rights as set forth in Article 9 of the General Conditions. The City retains the right

to terminate this Contract for convenience at any time in accordance with Article 9 of the General Conditions.

ARTICLE IV. CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement and those documents more fully set forth in the definition of Contract Documents appearing in the General Conditions. The Contract Documents are incorporated by reference into this Agreement to be as fully a part of this Contract as if attached hereto or fully rewritten herein, and shall remain in effect during the term of this Contract. This Contract constitutes the complete agreement between the City and the DB and supersedes any previous agreements or understandings.

ARTICLE V. SUPPLEMENTATION OF CITY DIRECTIONS AND PROCEDURES

The City reserves the right to furnish the DB with such further drawings, directions, documents, illustrations, procedure modifications and/or explanations ("Further Directions") as may be necessary in the discretion of the City to accomplish the Work to be done. The DB shall comply with any Further Directions issued to the DB to the extent that the scope of work of DB does not materially change. The DB shall conform to any Further Directions by the City as a part of this Agreement.

ARTICLE VI. CONTRACT SUM

The total Contract Sum associated with the entirety of the Work shall not exceed the amount of \$800,000.00. The Contract Sum represents the total amount allocated by the City toward completion of the Project associated with the performance of the entirety of the Work relating to the 102 Individual Parcels referenced herein.

Upon acceptance of a firm price tendered by the DB in respect to each Individual Parcel, the balance of the Contract Sum shall be reduced by the amount of the firm price allocable to each respective Individual Parcel. In the event that the total amount of firm price offers tendered by DB do not exceed the Contract, the City shall be entitled to retain the balance of the Contract Sum.

As a fully addressed in the General Conditions, no claims for extras, additions or alterations shall be made by DB as to any firm price offer tendered to the City except in the instance of an approved Change Order. No modification, amendment or alteration shall be made in or to the Contract Documents, except by Change Order in accordance with the Contract Documents. When a Change Order is executed, the firm price for the Work as to the applicable Individual Parcel shall be modified and the Contract Sum accordingly adjusted.

ARTICLE VII. RETAINAGE. The City shall withhold payment of 10% of the entire approved periodic billings associated with each payment application tendered by the DB until such time as Four Hundred Thousand Dollars (\$400,000.00) (i.e. Fifty percent (50%) of the Contract Sum)

has been invoiced by DB. Thereafter, in respect to all remaining payment applications approved by the City, no further retaining shall be withheld. When there exists no other reason to withhold retainage and Contractor receives a certificate of Final Completion as to the overall Project and such other documents as required by the City in accordance with the Contract Documents, the retainage held will be paid to the DB in accordance with the provisions of the General Conditions.

ARTICLE VIII. PAYMENT OF SUBCONTRACTORS AND MATERIAL SUPPLIERS.

The DB shall promptly make payment to all subcontractors and material suppliers. The DB further agrees not to withhold a larger percentage of any subcontractor's and material supplier's payments, than the percentage of the DB's payments retained by the City. The City retains the right to require of the DB evidence of payment to subcontractors and material suppliers, inclusive of but not limited to the issuance of executed partial lien and claim waivers and, ultimately, final lien and claim waivers prior to issuance of final payment and release of the retainage.

If at any time there should be evidence of any lien or claim asserted associated with any of the Work of DB, the City or the Authorized Representative shall cause to be retained an amount equal to 150% of the lien or claim, which amount shall be deducted from subsequent payments due the DB for the purpose of securing such lien or claim. Should the City make payments on behalf of the DB to suppliers and/or subcontractors or others associated with the Project as to whom the DB and/or its subcontractors or suppliers are obligated, directly or indirectly, then the DB shall pay to the City a sum of money equal to the sum of all monies that the City may be compelled and/or has elected to pay, other than from funds retained from the DB, in discharging any lien or claim. Such reimbursement obligation on the part of DB shall further include the obligation on the part of DB to reimburse the City for its reasonable attorneys fees and costs incurred as well as allocable related costs and the administrative fees and personnel costs of City representatives and/or agents, including the fees and costs of the City's Consulting Engineer.

ARTICLE IX. PROJECT COMPLETION

The DB shall commence the Work as to each City-identified Individual Parcel on such date specified in the Authorization to Proceed and shall fully complete the Work within those number of days identified and proposed by DB and approved by the City. The DB recognizes that the City cannot and does not commit to any specific date or dates when the City shall have tendered to the DB all of the City's inspection reports and other related documents and things permitting the DB to generate its plans and specifications and submit its firm price offer per Individual Parcel. The DB recognizes that, given the fact that its Work shall be performed on the Individual Parcels owned and and/or occupied by residential occupants, there may be instances when there may be delays affecting the performance of the DB's Work. The DB hereby expressly waives any claim for compensation associated with delays in the performance of its Work, whether or not within or outside the control of the City. Such limitation shall include but shall not be limited to delays associated with lack of access to an Individual Parcel related to failure and/or inability

on the part of the owner(s) and/or occupant(s) of such Individual Parcels to grant or permit the Work to proceed. The DB recognizes the assumption of the risk that such delays shall or may occur during the course of the performance of its Work.

ARTICLE X. LIQUIDATED DAMAGES

City and the DB agree that if the Work is not completed in accordance with the guaranteed completion date referenced in the City's Authorization to Proceed as to an Individual Parcel, the City's damages would be extremely difficult or impracticable to determine. Accordingly, the parties agree that the amounts indicated below are reasonable estimates of and reasonable sums for damages. The City may deduct any liquidated damages due from the DB from any amounts otherwise due to the DB under the Contract Documents. This provision shall not limit any right or remedy of City in the event of any other default of the DB other than failing to complete the Work within the Contract Time.

As applicable to each Individual Parcel with reference to the Date of Completion identified on each Notice to Proceed:

Liquidated damages shall apply as to the final completion dates for each Individual Parcel and on a daily rate basis as follows:

1. 30 days after stated final completion date: \$25.00 for each day;
2. Commencing 60 days after the stated final completion date: \$50.00 for each day;
3. Commencing 90 days after the stated final completion date: \$75.00 for each day.

ARTICLE XI. CONSEQUENTIAL/INCIDENTAL DAMAGES.

The DB shall be held liable for any consequential and/or incidental damages suffered by the City and each owner and/or occupant of an Individual Parcel as a result of DB's breach of the provisions of the Contract Documents, including (but not limited to) expenses reasonably incurred in the inspection, receipt, transportation, and care and custody of goods rightfully rejected, any commercially reasonable charges, expenses, or commissions in connection with effecting cover and any other reasonable expense incident to the delay or other breach. Such obligation on the part of the DB shall be supplemental to the provision of insurance coverage required and as set forth in the attached General Conditions, the Insurance Requirements and applicable Contract Documents.

ARTICLE XII. WAIVER OF RIGHT TO FILE MECHANIC'S LIENS OR OTHERWISE PURSUE CLAIMS AS TO INDIVIDUAL PARCELS AND OWNERS.

The DB expressly waives any right to file any mechanics liens and/or claims in respect to any work associated with any Individual Parcel and hereby further covenants that it shall cause each of its subcontractors and/or suppliers to waive any right to file mechanic's liens and claims affecting any Individual Parcel. The DB recognizes and acknowledges that its only right or

remedy relative to any claims it may assert as to Work performed as to the Project or any Individual Parcel is to pursue its monetary claims directly against the City and in accordance with the Contract Documents. In the event of the filing of a mechanic's lien or claim by the DB, any subcontractor, supplier or other party or entity providing services and/or materials arising from the actions and/or omissions of the DB, the DB shall indemnify and hold harmless the City, the Consulting Engineer, each Individual Parcel Owner and each Individual Parcel occupant, their respective agents, representatives and employees (collectively, the "Indemnitees") from all liens, claims, losses, demands, causes of action or suits of whatever nature arising out of any claims or liens asserted. Such indemnification shall extend to any and all damages, losses and expenses, including but not limited to attorney fees, arising out of or resulting from the assertion of any liens and/or claims claims by any third parties. Such obligation herein set forth shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist or as was or is imposed upon the DB in accordance with the Contract Documents.

In the event of the institution of any litigation or arbitration proceedings as to which claims may be or are asserted against any of the Indemnitees, the DB agrees to further reimburse each Indemnitee for all of and Indemnitee's its attorney fees, administrative time and consequential damages and expenses incurred by the City in defense of and/or associated with resolving such claims or liens. The City and each Indemnitee shall be entitled to elect to engage legal counsel of its choice.

ARTICLE XIII. PREVAILING WAGES.

The DB shall provide that eight (8) hours shall constitute a day's work and that the prevailing wage rate of the locality as determined by the Department of Industrial Relations of the State of Ohio shall control the contract wages as stipulated in Chapter 4115, Ohio Revised Code. Provided, however, the prevailing wage rates shall not apply associated with the services strictly related to design work undertaken by the DB.

ARTICLE XIII. PAYMENT NOT DEEMED PROJECT ACCEPTANCE.

No certificate of payment, no provision in the Contract Documents, and no partial or entire use of the Work performed by the DB shall constitute an acceptance of Work not done in accordance with the Contract Documents or shall relieve the DB of liability in respect to any express or implied warranties or responsibility for faulty materials or workmanship. The DB shall remedy any defects in the Work and pay for any damage resulting therefrom, which shall appear within a period of two (2) years from the date of final acceptance of the Work, acceptance of the Work as to each Individual Parcel to be issued by way of individual Certificate of Final Completion.

ARTICLE XIV. ASSIGNMENT OF ANTI-TRUST RIGHTS.

Note: Each party to this transaction recognizes that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the ultimate purchaser of goods and services; in this instance the ultimate purchaser is the City. Therefore, the following assignment is made:

For good cause and as consideration for executing the contract and intending to be legally bound, the DB, acting herein by and through the person signing this contract on behalf of the DB as a duly authorized agent, hereby assigns, sells, conveys and transfers to the City any and all right, title and interest in and to any and all claims and causes of action the DB may have or hereafter acquire under the antitrust laws of the United States of America or the State of Ohio, PROVIDED that the claims or causes of action relate to the particular goods, products, commodities, intangibles, or services purchased, procured, or acquired by or rendered to , the City pursuant to the contract, and EXCEPT as to any claims or causes of action which result from antitrust violations commencing after the price is established under the contract and which are not passed on to the City under an escalation clause, Change Order, or through some other means. In addition, the DB warrants and represents that the DB will require any and all of the DB's subcontractors and first-tier suppliers to assign any and all federal and state antitrust claims and causes of action to the City, subject to the provision and exception stated above. The provisions of this article shall become effective at the time the City awards or accepts the contract, without further acknowledgment by any of the parties.

ARTICLE XV - DB'S COVENANTS AND REPRESENTATIONS

Without superseding, limiting, or restricting any other representation or warranty set forth elsewhere in the Contract Documents, or implied by operation of law, the the DB makes the following covenants and representations to City:

- A. The DB and all of its design professionals and subcontractors are properly certificated, licensed and qualified to perform the Work required by the Contract Documents.
- B. The DB accepts the relationship of trust and confidence with the City established by the Contract Documents and shall fully cooperate with City and comply with all Further Instructions.
- C. The DB and its design professionals have carefully examined the overall site of the Project, adjacent areas and those Individual Parcels subject to the performance of work by the DB; have suitably investigated the nature and location of the Work relative to each Individual Parcel and have satisfied themselves as to the general and local conditions which will be applicable, including but not limited to: (1) conditions related to site access and to the transportation, disposal, handling and storage of materials; (2) the availability of labor, water, power and roads; (3) normal weather conditions; (4) observable physical conditions of each Individual Parcel and existing site conditions including: size, utility capacities and connection options of external utilities; (5) the surface conditions of the ground and (6) the character and

availability of the equipment and facilities which will be needed prior to and during the performance of Work.

D. The DB and its design professionals have suitably reviewed and/or shall, as provided, suitably review all those inspection reports and other data provided by the City and shall proceed in accordance with the Contract Documents and those Further Directions issued by the City.

E. The DB and its design professionals have carefully reviewed the City documents tendered to it together with all Contract Documents. The DB acknowledges that such documents provide, inter alia, a suitable understanding on the part of the DB of the scope, level of quality, design intent and the procedures for the development of the design to a state of 100% completion.

F. The DB agrees that, in respect to each Individual Parcel, (1) it will manage, coordinate and fully complete the design and all necessary and appropriate pre-construction activities; (2) The DB will cause its design professionals and others providing design and/or Project -related services to describe and depict the final design associated with each Individual Parcels subject to approval by the City, which construction documents, plans and specifications will include all information required by the DB and/or its subcontractors and suppliers to complete the construction and (3) it will manage and timely construct the Work as to each Individual Parcel in consideration for the City's payment of the firm price proposed by the DB and approved by the City.

G. The DB and its design professionals have reviewed the preliminary schedule agreed to between the DB and the City and agree that the design and construction tasks and milestones are reasonable and feasible.

H. The DB also agrees that time is of the essence for the performance of the Work.

I. The DB agrees that all Construction Documents will be complete, coordinated, and accurate.

J. The DB agrees that all materials, equipment and furnishings incorporated into or used in the Work will be of good quality, new (unless otherwise required or permitted by the Contract Documents) and free of liens, claims and security interests of third parties. As required by the City, the DB will furnish satisfactory evidence as to the kind and quality of the materials, equipment and furnishings, including those City Specifications referenced in the General Conditions.

K. The DB agrees that the Work will be of good quality, free of defects and will conform with the requirements of the Contract Documents. Work not conforming to the requirements of the Contract Documents, including substitutions in design or construction not specifically approved or authorized by the City in advance, may be considered defective.

L. The DB agrees to correct and otherwise address any error(s), omission(s), or deficiencies in the Contract Documents at no additional cost to City. Provided, however, this provision in no way limits the liability of the DB.

M. The DB hereby agrees to take direction from representatives, employees and/or agents of the City and shall cooperate with the Consulting Engineer, the Authorized Representative and all other persons involved in the Project.

N. The DB and its subcontractors shall only engage employees hired by it and subcontractors qualify under the background check qualifications and conditions provision of the General Conditions.

O. The DB shall only execute subcontracts in the form approved by the City, a copy of which is attached hereto as Attachment A. The DB acknowledges and understands that such subcontracts with its subcontractors and suppliers shall irrevocably contain the provision providing for the right of assignment to the City in the event of default by the DB and that, in the event of default on the part of the DB, the DB shall take any and all steps and measures to assure full and unencumbered assignment of the individual subcontracts which the City elects to have assigned to it, which election as to assignment shall be in the exclusive and sole discretion of the City. Further, the DB acknowledges and agrees that, in the event of assignment, the City shall not assume such outstanding obligations and duties of the DB, including but not limited the obligation to pay the DB's subcontractors and/or subcontractors shall amounts and/or assume such of the DB's obligations which preceded the date of assignment of such subcontracts.

ARTICLE XVI. NON-ASSIGNMENT

DB shall not be entitled to assign any of its rights and interests under this Contract. Nothing herein, however, shall limit the right of the DB to engage the services of City-acceptable subcontractors and providers of other services and labor, including design services, subject to the provisions of the Contract Documents. Provided, however, the City retains the right to require the DB to terminate its contractual relationships with suppliers and/or subcontractors in accordance with the provisions of the General Conditions.

ARTICLE XVII. OTHER CONDITIONS AND TERMS

A. The parties for themselves, their heirs, executors, administrators, successors and assigns do hereby agree to the full performance of the covenants herein contained.

B. This Contract and any modifications, amendments or alterations thereto shall be governed, construed and enforced by and under the laws of the State of Ohio.

C. If any term or provision of this Contract or the application thereof to any person or circumstance, is finally determined including any appeal taken, to be invalid or unenforceable by

a court of competent jurisdiction, the remainder of the contract or the application of such term or provision to other person or circumstances, shall not be affected thereby, and each term and provision of the contract shall be valid and enforced to the fullest extent permitted by law.

D. This Agreement has been executed in several counterparts, each of which shall constitute a complete original Agreement, which may be introduced in evidence or used for any other purpose without production of any other counterparts.

IN WITNESS WHEREOF, the parties hereto have set their hands to as of the day and year first above mentioned.

The person or persons signing this Agreement on behalf of the DB hereby represent and warrant to City that this Agreement is duly authorized, signed, and delivered by the DB.

THIS AGREEMENT is entered into by City and the DB as of the date set forth above.

(Balance of page left intentionally blank-Signatures appear on the next page)

CITY:

THE DB/THE DESIGN-BUILDER

CITY OF LAKEWOOD, OHIO

(Name of Firm)

(Type of Organization)

By: _____
(Signature)

By: _____
(Signature)

(Printed Name)

(Printed Name)

(Title)

(Title)

Attach notary acknowledgment for all signatures of the DB. If signed by other than the sole proprietor, a general partner, or corporate officer, attach original notarized Power of Attorney or Corporate Resolution.

STATE OF _____)

) SS:

COUNTY OF _____)

BEFORE ME, a Notary Public in and for said County and State, personally appeared _____, the _____ of the above-named _____, who acknowledged that he/she did sign the foregoing instrument, being duly authorized and that the same is his/her free act and deed individually and as such representative, and the free act and deed of said _____.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal, at _____, _____, this _____ day of _____, 2015.

Notary Public

My commission expires: _____



DEPARTMENT OF PUBLIC WORKS
12650 DETROIT AVENUE • 44107 • (216) 529-6807

JOSEPH J. BENO, PE
Director of Public Works

MARK K. PAPKE, PE, CPESC
City Engineer

June 15, 2015

Lakewood City Council and Mayor

**RE: Council Resolution – Lakewood Streambank Restoration and Fish Shelf
15(H)EPA-18 - Section 319(h) Nonpoint Source Project Grants**

Dear Members of City Council and Mayor Summers,

The above referenced project entails restoring the City's property that abuts the Rocky River which has eroded and creating a fish shelf for fisherman. The City property is located at the stock pile yard at the Animal Shelter site. Over the past several years, the Rocky River bank continues to erode in this area and approximately 15' plus has been lost. This project is needed to minimize further erosion. The City applied for a grant through the Ohio EPA and they have agreed to assist with the funding. The total project cost is estimated to be \$204,736 of which the Ohio EPA would fund \$122,842 (which is the capped amount).

Please see the attached resolution for the above referenced project. Based on the response dates required by OEPA, this resolution needs to be adopted at Council's earliest convenience.

Please let me know if you have any further questions.

Respectfully,
THE CITY OF LAKEWOOD

Mark K. Papke, PE, CPESC
City Engineer

Copy to: Joe Beno – Lakewood Public Works Director

RESOLUTION NO.

BY:

A RESOLUTION to take effect immediately provided it received the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, authorizing the Director of Public Works to enter into an agreement to accept a grant from the Ohio EPA clean water fund grant for the Lakewood Stream Bank Restoration and Fish Shelf project in the amount of \$122,842 and requiring a match by the City of Lakewood in the amount of \$81,894.

WHEREAS, the City of Lakewood has applied and been awarded a clean water fund grant for the construction of a fish shelf and to restore a portion of the river bank of Rocky River within the city; and

WHEREAS, acceptance of this grant and approval of matching funds will allow the stabilization of the bank and restoration of vegetation to this area; and

WHEREAS, this Council by a vote of at least five of its members determines that this resolution is an emergency measure, and that this resolution shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood, and that it is necessary for the immediate preservation of the public property, health and safety, and to provide for the usual daily operation of municipal departments in that this agreement is necessary to begin design and engineering work required stabilize and restore the stream bank this season for construction in 2016; now, therefore,

BE IT RESOLVED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. The Director of Public Works, is hereby authorized to enter into an agreement to accept a grant from the Ohio EPA clean water fund grant for the Lakewood Stream Bank Restoration and Fish Shelf project in the amount of \$122,842 and requiring a match by the City of Lakewood in the amount of \$81,894.

Section 2. It is found and determined that all formal actions of this Council concerning and relating to the passage of this resolution were adopted in an open meeting of this Council, and that all such deliberation of the Council and any of its committees that resulted in such formal action were in meetings open to the public and in compliance with all legal requirements.

Section 3. This resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in the preamble to this resolution, and provided it receives the affirmative vote of at least five members of Council, this resolution shall take effect and be in force immediately upon its adoption by the Council and approval by the Mayor, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: _____

President of Council

Clerk of Council

Approved: _____

Mayor