



COUNCIL UPDATE

July 1, 2020

MEETINGS & REMINDERS

Please note meetings are being held as webinars and conference calls. Information for residents to participate may be found on the clevelandheights.com calendar.

Thursday, July 2	-	6:00 p.m.	-	Meet Your Police
Friday, July 3	-			Observation of Independence Day
Saturday, July 4	-			Independence Day
Monday, July 6	-	6:00 p.m.	-	Committee of the Whole
	-	7:30 p.m.	-	City Council Meeting
Tuesday, July 7	-	7:00 p.m.	-	Architectural Board of Review
Monday, July 13	-	6:00 p.m.	-	Municipal Services Committee

LEGISLATION (for discussion)

- **Chapter 943, Third Reading.** An Ordinance amending Chapter 943, "Use of Public Ways for Small Cell Wireless Facilities and Wireless Support Structures," of Part Nine, Streets, Utilities and Public Services Code of the Codified Ordinances of Cleveland Heights
- **Revenge Porn Victim Protection, Third Reading.** An Ordinance amending Chapter 749, "Fair Practices" to include the nonconsensual dissemination of a person's private sexual images as a prohibited, discriminatory rationale for the purposes of fair employment, education, and housing practices
- **Recusal Process, Third Reading.** An Ordinance amending Section 111.21, "Voting," of Chapter 111, Council, of Part One, Administrative Code, of the Codified Ordinances of the City of Cleveland Heights to allow Council members to recuse themselves from voting due to a conflict of interest

- **CROWN Act.** A Resolution to support Ohio House Bill 535, also known as the CROWN (“Creating A Respectful and Open Workplace for Natural Hair”) Act
- **Social Justice – Police Reform.** A Resolution condemning the murder of George Floyd by the Minneapolis Police Department, declaring racism a public health crisis, and expressing support for state-wide legislation to combat racism and implement best police practices to address racial bias and improve police-community relations

LEGISLATION (consent agenda)

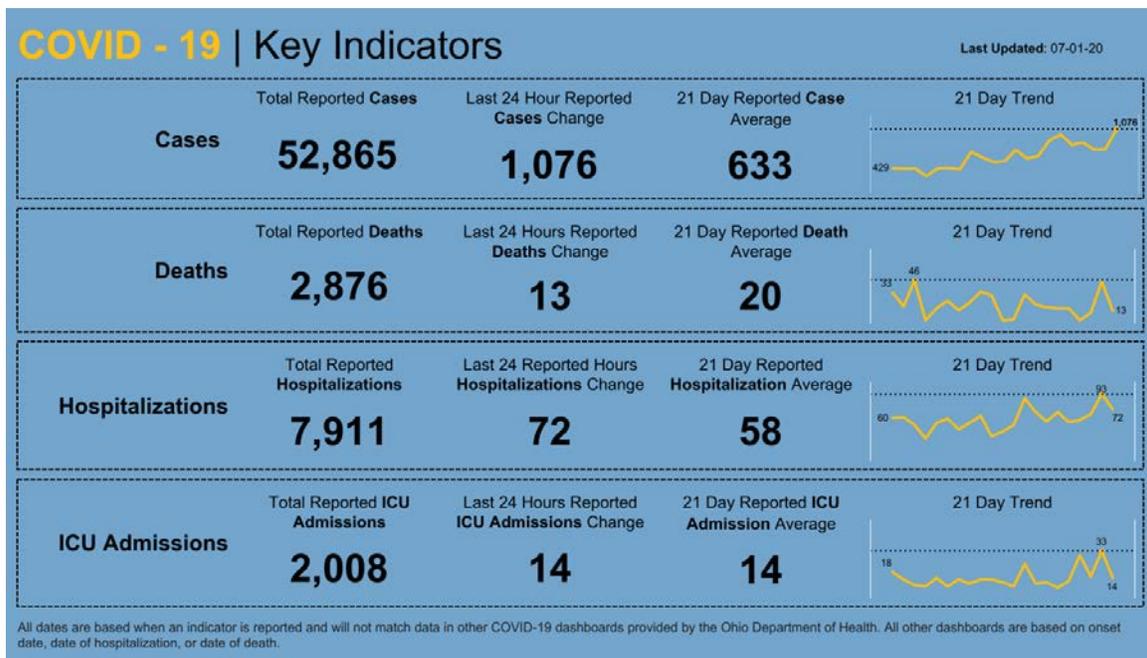
- **Note Ordinance – Refunding, Second Reading.** An Ordinance providing for the issuance and sale of \$1,105,000 of notes, in anticipation of the issuance of bonds, for the purpose of paying costs of (i) reconstructing, resurfacing and otherwise improving City streets, together with necessary appurtenances thereto, (ii) rebuilding Monticello Boulevard and Taylor Road, including engineering and planning costs with respect thereto, (iii) acquiring motorized equipment and appurtenances thereto, (iv) acquiring motor vehicles and equipment used in performing the functions of the City’s Department of Public Works, Sewer Utilities Division, (v) acquiring motor vehicles and equipment used in performing the functions of the City’s Department of Public Works, Forestry Division and (vi) acquiring mobile radios for use by the City’s Police Department, together with the necessary related equipment
- **2020 National Parks and Recreation Month.** A Resolution proclaiming July 2020 to be National Parks and Recreation Month in the City of Cleveland Heights
- **Admissions Tax Suspension.** An Ordinance suspending the levying of admissions tax under Chapter 155, “Admissions Tax,” of Part One, Administrative Code, of the Codified Ordinances of the City of Cleveland Heights; placing a moratorium on the collection and remittance of the same
- **City & East Liquor Objection.** A Resolution objecting to the renewal of all current liquor permits issued by the Ohio Department of Commerce, Division of Liquor Control to Zooz Limited dba City & East Hookah Bar, 2781 Euclid Heights Blvd., Cleveland Heights, Ohio 44106 and requesting that a hearing on the issue of renewal be held in Cuyahoga County, Ohio
- **Outdoor Dining.** A Resolution authorizing the City Manager and her designees to establish a temporary permit program for the establishment or expansion of outdoor dining facilities and use of public and private property or right-of-way in response to the COVID-19 emergency
- **Tax Budget, First Reading.** A Resolution approving the adoption of the 2021 Tax Budget

and setting the public hearing to be held on July 20 at 7:00 virtually. This is the first reading only.

- Cleveland Housing Network CDBG-CV Funds.** A Resolution authorizing the City Manager to enter into an agreement with Cleveland Housing Network Housing Partners, a non-profit corporation, for the use of Community Development Block Grant funds to provide emergency rental assistance to income-eligible tenants unable to pay their full monthly rent due to the economic impact from COVID-19; providing compensation therefor

CORONAVIRUS UPDATE

Ohio and Cuyahoga County continue to experience a surge in the COVID-19 infection rate, an indicator of more community spread of the virus. Last week was the first week of increasing COVID-19 hospital utilization in Ohio after over two months of decreasing utilization since late April. From June 21, 2020, to June 27, 2020, Ohio had approximately 500 to 550 total COVID-19 patients in hospitals statewide. This week, there are approximately 650 COVID-19 patients in hospitals statewide. With the recent surge in positive cases over the last week that number is expected to climb and will be unfortunately followed by an increase in deaths. There has been lots of misinformation circulating that the surge is a result of the additional testing. The most recent available positivity rate, a percentage of positive tests out of all tests performed, was 5.3%, reported by ODH on Monday. That number has remained mostly flat since June 15. On June 14, it was 3.5%. While our testing has increased, if the virus remained at a low level of transmission we would have a lower positivity rate. Instead, our positivity rate is on the upswing.



City facilities will remain closed to the public until further notice. Essential service delivery

continues and residents can conduct business with the City via phone, email, website, and mail. A new dropbox was also installed this week to further facilitate contact-less service.

Parks and Recreation

- Community Center will remain closed until further notice. The basketball courts, restrooms, and water fountains remain closed as well.
- A total of 9 of the 18 city tennis courts were opened with signage on July 1. Social distancing protocols are in effect. Tennis is now available at Denison, Cain, and Forest Hill at a reduced capacity.
- Cardio Drumming is taking place at Cain Park on Thursdays at 6:30 pm. The class is \$5 a session.
- The staff has partnered with Yoga Roots to provide outdoor yoga at the Community Center on at 6:30 pm Wednesdays. The class is free for residents. Must register with Yoga Roots in advance. Space is very limited.
- Over 200 residents were tested for COVID-19 on Thursday, June 25 in the Community Center parking lot. This was a successful partnership with the County Board of Health and Metro Health. Staff is working on providing another testing event in July and/or August. All tests were free.
- The senior center continues to make wellness checks as well as deliver shelf-stable food and face masks to local seniors. Socials workers are maintaining caseloads and helping seniors in need of assistance as well.
- Virtual fitness classes continue on the Cleveland Heights Parks and Recreation Dept. Facebook Live page.

Police

- Over the past month, the Police Department has experienced a drastic increase in the number of calls for fireworks as compared to this time in previous years. The increase in fireworks complaints is a problem that is being experienced nationwide and there is likely any number of reasons for the increase. The Police Department is committed to public safety but the difficulty lies in locating the precise location of these complaints as most of the time the offenders are gone before we arrive. For those times when are able to locate the source but have no witnesses or evidence, a warning is given to the person or persons suspected of being involved. Other times, when an officer actually witnesses the incident, the person is issued a criminal violation citation for the offense.

We have increased patrols in those areas of the City where we are experiencing an increase in complaints and Officers in unmarked vehicles are patrolling the City during the evening hours to try and catch the offenders.

- On Thursday, July 2, 2020, the Police Department will hold a virtual Meet Your Police Event from 6:00 pm – 8:00 pm. The format will be the same as our weekly meetings that have been temporarily suspended due to the pandemic. Officers will be available for residents to call in to discuss incidents affecting their neighborhoods. Information about the meeting will be posted on the Police Department’s Facebook page and a link will be provided on Thursday for residents to join the meeting.

Sanitary Sewer Evaluation Survey

	Requirements	Due
Phase 1 SSES	CCTV - 393,658 LF	Complete
Phase 2 SSES	CCTV – 224,792 LF	30-Jun-21
Phase 1 SSES	1,980 Manhole Inspections	Complete
Phase 2 SSES	1,125 Manhole Inspections	30-Jun-21
CMOM	132,000 LF/yr Pipe Cleaned	31-Dec-20
Model	Calibrated Model	Complete

Completed Through June 19, 2020

	<u>Completed Thru Mat June 19, 2020 (LF)</u>	<u>Overall Remaining (LF)</u>	<u>Overall Remaining (%)</u>
CCTV Phase 1	395,097	0	0%
CCTV Phase 2	71,293	153,499	68%
MHs Phase 1	1,978	0	0%
MHs Phase 2	1,115	10	1%
Cleaning Total	549,115	-	-
Cleaning (2018) only	173,355	-	-
Cleaning (2019) only	304,188	-	-
Cleaning (2020) only	71,572	60,428	46%

Work Completed by Entity

	<u>City</u>	<u>Contractor</u>	<u>County</u>
CCTV (Phase 1)	19% 75,464 LF	54% 215,287 LF	27% 104,346 LF
CCTV (Phase 2)	7% 15,318 LF	14% 30,838 LF	11% 25,137 LF
Cleaning (2020) only	12% 15,318 LF	23% 30,838 LF	19% 25,137 LF
Cleaning Total	31% 168,482 LF	44% 243,821 LF	25% 136,802 LF

Model Update

Tasks	% Complete
1. Flow and rainfall Analysis	100%
2. Model Expansion in GIS	100%
3. Model Expansion in Infoworks ICM	100%
4. Delamere - Model Setup	100%
5. Delamere - DWF and WWF calibration	100%
6. Delamere - Capacity evaluation	100%
7. Delamere - Alternative development	100%
8. DWF and WWF Calibration for all flow meters	100%

*DWF = dry weather flow, WWF = wet weather flow

Other

- **#20-01 – 2020 Street Resurfacing & ADA Curb Ramp Replacement Program** - Work is scheduled to begin sometime in early July.
- **#20-02 – 2020 Surface Treating Program** - All the pavement repairs have been completed, and the contractor is tentatively scheduled to start chip sealing sometime in mid-July.

- **19-03 – 2020 Pavement Striping Program** - Work has begun with the painting of all the long lines. Hand crews are scheduled to begin in the next week or so. Additionally, the contractor will be painting all the city parking lots this year.
- **Safe Routes to Schools – FY2020 – ODOT PID 103700** - We have not received any further information from ODOT yet about scheduling a pre-construction meeting
- **Solar Panel Update** - We are working on completing the net metering, and interconnection agreements for First Energy at the three city facilities. The contractor continues work on the solar system design.
- **#20-03 – Selwyn Waterline Replacement & Road Resurfacing** - The contractor has connected all residents to the temporary water main and started saw cutting the roadway.
- **#20-05 – Fire Vehicle Source Capture Exhaust Systems** - Work is wrapping up at Station 1 and will begin later this week at Station 2
- **MCIP – Delamere Project** - Wade Trim, Inc. has completed 90% of the design work and it is currently under review.



CLEVELAND HEIGHTS

Committee of the Whole

July 6, 2020

6:00 p.m.

Agenda

1. Legislation
Goal: Review legislation
2. Executive Session
To consider the appointment of a public official
3. Charter Amendment
Goal: Council will review the potential need to amend the charter to clarify the timeline for petition deadlines for the mayor position
4. Legislation Process & Deadlines
Goal: Staff will discuss options for proposing legislation for legal and administrative review in order to facilitate effective agenda and workload management



CALENDAR NO. 3500:

Susan Kutash, 3044 Somerton Rd., 'A' Single-Family, requests variance to Code Section 1121.12(a)(10) to permit generator in west side yard to have setback less than minimum 5' required.

Action: Granted 4-0 with the following conditions:

1. Variance 3500 is granted to permit an emergency generator to be located in the west side yard with a setback of 2' as shown on the revised site plan dated June 10, 2020.
2. Receipt of a building permit;
3. Submit a plan to screen the generator from the view of street and neighbors for Planning Director's approval; and
4. Complete construction within 18 months of the effective date of this variance.

CALENDAR NO. 3501:

Andrew Plante & Melinda Lawrence, 2301 Coventry Rd. 'AA' Single-Family, requests variance to Code Section 1121.12(h)(3) to permit maintaining fence less than minimum 6' height required to surround a new swimming pool.

Action: Granted 4-0 with the following conditions:

1. Variance 3501 is granted to permit the existing fence to surround and enclose a new swimming pool as shown on the site plan submitted with the BZA application.
2. All gates providing access to the rear yard will be code conforming self-closing and self-latching gates.
3. Receipt of building permit; and
4. Complete construction within 18 months of the effective date of this variance.

CALENDAR NO. 3502:

Hebrew Academy of Cleveland, 1516 Warrensville Center Rd., 'AA' Single-Family, requests variance to Code Section 1165.03(g)(1) to permit a building to be located on more than one parcel (not permitted).

Action: Granted 4-0 with the following conditions:

1. Variance 3502 is granted to permit the school building as shown on the site plan submitted with the BZA application to be located on more than one parcel;
2. Receipt of a building permit; and
3. Complete construction of the school building shown on the site plan submitted with the BZA application within 48 months of the effective date of this variance.



CLEVELAND HEIGHTS

AGENDA (tentative) – CLEVELAND HEIGHTS CITY COUNCIL MEETING

Monday, July 6, 2020

Online Only

Regular Meeting

7:30 p.m.

<http://www.youtube.com/c/cityofclevelandheights/live>

- 1) Meeting called to order by Mayor
- 2) Roll Call of Council Members
- 3) Excuse absent members
- 4) Approval of the minutes of the regular Council meeting held Monday, June 15, 2020
- 5) Personal communications received from citizens (via electronic mail)
- 6) Report of the City Manager
- 7) Report of the Chief of Police
- 8) Report of the Clerk of Council
- 9) Committee Reports

a.) **PLANNING AND DEVELOPMENT COMMITTEE**

RESOLUTION 78-2020 (PD). A Resolution condemning the murder of George Floyd by the Minneapolis Police Department, declaring racism a public health crisis, and expressing support for state-wide legislation to combat racism and implement best police practices to address racial bias and improve police-community relations

Introduced by Council Member _____

Vote	_____	_____	_____
	For	Against	No. Reading

b.) **PUBLIC SAFETY AND HEALTH COMMITTEE**

c.) **ADMINISTRATIVE SERVICES COMMITTEE**

ORDINANCE NO. 51-2020 (AS), Third Reading. An Ordinance amending Section 111.21, "Voting," of Chapter 111, Council, of Part One, Administrative Code, of the Codified Ordinances of the City of Cleveland Heights to allow Council members to recuse themselves from voting due to a conflict of interest

Introduced by Council Member _____

Vote _____
For Against No. Reading

ORDINANCE NO. 108-2019 (AS), Third Reading. An Ordinance amending Chapter 749, "Fair Practices" to include the nonconsensual dissemination of a person's private sexual images as a prohibited, discriminatory rationale for the purposes of fair employment, education, and housing practices

Introduced by Council Member _____

Vote _____
For Against No. Reading

d.) **COMMUNITY RELATIONS AND RECREATION COMMITTEE**

RESOLUTION 79-2020 (CRR). A Resolution to support Ohio House Bill 535, also known as the CROWN ("Creating A Respectful and Open Workplace for Natural Hair") Act

Introduced by Council Member _____

Vote _____
For Against No. Reading

e.) **FINANCE COMMITTEE**

f.) **MUNICIPAL SERVICES COMMITTEE**

ORDINANCE NO. 54-2020 (MS), Third Reading. An Ordinance amending Chapter 943, "Use of Public Ways for Small Cell Wireless Facilities and Wireless Support Structures," of Part Nine, Streets, Utilities and Public Services Code of the Codified Ordinances of Cleveland Heights

Introduced by Council Member _____

Vote _____
For Against No. Reading

10) **Consent Agenda**

Note: Individual Consent Agenda items are not discussed separately during the Council meeting, unless removed from the Consent Agenda on the request of a member of Council. Once an item is removed from the Consent Agenda it will be placed on the Regular Agenda.

ORDINANCE NO. 57-2020 (F), Second Reading. An Ordinance providing for the issuance and sale of \$1,105,000 of notes, in anticipation of the issuance of bonds, for the purpose of paying costs of (i) reconstructing, resurfacing and otherwise improving City streets, together with necessary appurtenances thereto, (ii) rebuilding Monticello Boulevard and Taylor Road, including engineering and planning costs with respect thereto, (iii) acquiring motorized equipment and appurtenances thereto, (iv) acquiring motor vehicles and equipment used in performing the functions of the City’s Department of Public Works, Sewer Utilities Division, (v) acquiring motor vehicles and equipment used in performing the functions of the City’s Department of Public Works, Forestry Division and (vi) acquiring mobile radios for use by the City’s Police Department, together with the necessary related equipment

RESOLUTION 80-2020 (CRR). A Resolution proclaiming July 2020 to be National Parks and Recreation Month in the City of Cleveland Heights

RESOLUTION 81-2020 (F). An Ordinance suspending the levying of admissions tax under Chapter 155, “Admissions Tax,” of Part One, Administrative Code, of the Codified Ordinances of the City of Cleveland Heights; placing a moratorium on the collection and remittance of the same

RESOLUTION 82-2020 (PSH). A Resolution objecting to the renewal of all current liquor permits issued by the Ohio Department of Commerce, Division of Liquor Control to Zooz Limited dba City & East Hookah Bar, 2781 Euclid Heights Blvd., Cleveland Heights, Ohio 44106 and requesting that a hearing on the issue of renewal be held in Cuyahoga County, Ohio

RESOLUTION 83-2020 (AS). A Resolution authorizing the City Manager and her designees to establish a temporary permit program for the establishment or expansion of outdoor dining facilities and use of public and private property or right-of-way in response to the COVID-19 emergency

RESOLUTION 84-2020 (F), First Reading. A Resolution approving the adoption of the 2021 Tax Budget

RESOLUTION 85-2020 (PD). A Resolution authorizing the City Manager to

enter into an agreement with Cleveland Housing Network Housing Partners, a non-profit corporation, for the use of Community Development Block Grant funds to provide emergency rental assistance to income-eligible tenants unable to pay their full monthly rent due to the economic impact from COVID-19; providing compensation therefor

Motion to suspend rules by Council Member _____

Vote _____ _____ _____
 For Against No. Reading

Motion to adopt by Council Member _____

Vote _____ _____ _____
 For Against No. Reading

11) Mayor’s Report

2021 Tax Budget Public Hearing set for July 20, 2020 at 7:00 p.m.

12) Adjournment

NEXT MEETING OF COUNCIL: MONDAY, JULY 20, 2020

Proposed: 06/15/2020

ORDINANCE NO. 54-2020 (MS), *Third Reading*

By Council Member Dunbar

An Ordinance amending Chapter 943, “Use of Public Ways for Small Cell Wireless Facilities and Wireless Support Structures,” of Part Nine, *Streets, Utilities and Public Services Code* of the Codified Ordinances of Cleveland Heights; and declaring an emergency.

WHEREAS, Substitute House Bill 478 (Sub. H.B. 478) took effect on August 1, 2018 and amended ORC Chapter 4939 with regard to the authority of municipalities to regulate the installation of small cell wireless facilities in the public right-of-way, including on utility poles and street lights, including municipally-owned facilities, and to construct, maintain, modify, operate, or replace wireless support structures in the right-of-way; and

WHEREAS, this Council on July 16, 2018 adopted Ordinance No. 82-2018 creating a new Chapter 943 of the Codified Ordinances of the City of Cleveland Heights to regulate the use and occupancy of the public rights of way within the City for small cell wireless facilities and support structures as well as enacting design guidelines applicable to small cell wireless facilities and support structures pursuant to Sub. H.B. 478; and

WHEREAS, on September 26, 2018, the Federal Communications Commission (FCC) adopted a Declaratory Ruling and Order known as the “Small Cell Order,” that limited and revised state and local regulatory authority concerning certain small cell wireless installations within public rights-of-way nationwide; and

WHEREAS, this Council on May 6, 2019, adopted Ordinance No. 29-2019 amending Chapter 943, “Use of Public Ways for Small Cell Wireless Support Structures,” of Part Nine, *Streets, Utilities and Public Services Code* of the Codified Ordinances of Cleveland Heights to lawfully exercise municipal authority on this subject in a manner that is consistent with Ohio Revised Code Chapter 4939 and the FCC’s Small Cell Order.; and

WHEREAS, this Council herein determines to further amend Chapter 943 to be consistent with the City’s Small Cell Facilities Use Permit Application, recently further updated in order to reflect the FCC Small Cell Order.

BE IT ORDAINED by the Council of the City of Cleveland Heights, Ohio, that:

SECTION 1. Chapter 943, “Use of Public Ways for Small Cell Wireless Facilities and Wireless Support Structures” of Part Nine, *Streets, Utilities and Public Services Code* of the Codified Ordinances of Cleveland Heights shall be, and is hereby, enacted and adopted in its entirety to read as set forth in Exhibit A, attached hereto and fully incorporated herein. A complete copy of Exhibit A is also on file with the Clerk of Council.

ORDINANCE NO. 54-2020 (MS)

SECTION 2. Notice of the passage of this Ordinance shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

SECTION 3. This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being the need to take immediate action to accommodate requests for Facilities permits filed pursuant to the FCC's Small Cell Order. Wherefore, provided it receives the affirmative vote of five or more of the members elected or appointed to this Council, this Resolution shall take effect and be in force immediately upon passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

JASON S. STEIN, Mayor
President of the Council

AMY HIMMELEIN
Clerk of Council

PASSED:

Exhibit A

CHAPTER 943 USE OF PUBLIC WAYS FOR SMALL CELL WIRELESS FACILITIES AND WIRELESS SUPPORT STRUCTURES

943.01 OVERVIEW AND PURPOSE; DEFINITIONS; EFFECTIVE DATE

- (a) The purpose of this Chapter is to:
- (1) Protect the health, safety, and welfare of the residents of the City;
 - (2) Provide standards for the construction, installation, modification, operation, and removal of Facilities and Wireless Support Structures in the City's Right-of-Way to protect the health, safety, and welfare of the citizens of the City;
 - (3) Preserve the existing or intended character of the City, including the City's residential neighborhoods, commercial districts, other business districts and historic districts;
 - (4) Give guidance to wireless telecommunications providers to assist such companies in the timely, efficient, safe, and aesthetically pleasing installation of Facilities and Wireless Support Structures; and
 - (5) Comply with, and not conflict with or preempt, all applicable state and federal law; and
 - (6) Facilitate deployment of small cell Facilities and advanced wireless communications within the City in a manner that complies with the requirements of this Chapter and does not materially inhibit such deployment or the provision or availability of advanced wireless communications.

(b) For the purpose of this Chapter, and the interpretation and enforcement hereof, the following words and phrases shall have the following meanings, unless the context of the sentence in which they are used shall indicate otherwise:

- (1) "Applicant" means any person or entity who submits an Application pursuant to this Chapter.
- (2) "Application" means all necessary documentation submitted by an Applicant to obtain a Small Cell Use Permit from the City to Collocate a Small Cell Facility and/or to construct, maintain, modify, operate, or replace a Wireless Support Structure.

ORDINANCE NO. 54-2020 (MS)

- (3) “Accessory Equipment” means equipment used in conjunction with a Small Cell Facility and generally at the same location of the Small Cell Facility, including, but not limited to, electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, vertical cable runs and other appurtenances.
- (4) “City” means the City of Cleveland Heights.
- (5) “Collocation” or “Collocate” means to install, mount, maintain, modify, operate, or replace wireless Facilities on a Wireless Support Structure.
- (6) “Design Guidelines” means standards applicable to Small Cell Equipment and Wireless Support Structures in the Right-of-Way, established in Sections 943.21 et seq. herein.
- (7) “Eligible Facilities Request” means any request for modification of an existing support structure or base station that does not substantially change the physical dimension of such support structure involving Collocation of new Facilities; removal of Facilities; or replacement of Facilities. A substantial change means:
 - (i) A modification that changes the physical dimension of a Wireless Support Structure by increasing the height of the Wireless Support Structure by more than ten percent (10%) or more than ten (10) feet, whichever is greater; and/or by adding an appurtenance to the body of the Wireless Support Structure that would protrude from the edge of the Wireless Support Structure by more than six (6) feet;
 - (ii) The installation of more than the standard number of equipment cabinets for the technology involved or the installation of more than (4) cabinets, whichever is less;
 - (iii) The installation for any new ground-mounted equipment cabinets if there are not existing ground-mounted equipment cabinets;
 - (iv) Any excavation or deployment outside of the current site of the Facility;
 - (v) Removal of any concealment elements of the Facilities or the Wireless Support Structure; or
 - (vi) Any change that does not comply with this Chapter, including but not limited to the Design Guidelines set forth in Sections 943.21 et seq. herein, or state or federal law and regulations.

The threshold for measuring increases that may constitute a substantial change are cumulative, measured from the Facilities as originally permitted (including any modifications that were reviewed and approved by the City prior to the enactment of the Spectrum Act on February 22, 2012).

- (8) “Facilities” means Small Cell Facilities, Accessory Equipment, and Wireless Support Structures.
- (9) “Facilities Operator” means the person or entity responsible for the installation, operation, maintenance, replacement, and modification of Facilities. Facilities Operator includes:
 - (i) Operators;
 - (ii) Applicants who applied for consent to Collocate a Small Cell Facility or to construct, maintain, modify, operate, or replace a new Wireless Support Structure pursuant to Ohio R.C. Section 4939.031(E) and who have obtained a Small Cell Use Permit; and
 - (iii) Applicants who applied for consent to Collocate a Small Cell Facility or to construct, maintain, modify, operate, or replace a new Wireless Support Structure pursuant to Ohio R.C. Section 4939.033 and who have obtained a Small Cell Use Permit.
- (10) “Historic District” means a building, property, or site, or group of buildings, properties, or sites that are either of the following:
 - (i) Listed in the national register of historic places or formally determined eligible for listing by the keeper of the national register, the individual who has been delegated the authority by the federal agency to list properties and determine their eligibility for the national register, in accordance with section VI.D.1.a.i-v of the nationwide programmatic agreement codified at 47 C.F.R. part 1, Appendix C;
 - (ii) A registered historic district as defined in section 149.311 of the Revised Code.
- (11) “Operator” means a wireless service provider, cable Operator, or a video service provider that operates a Small Cell Facility and provides wireless service, including a wireless service provider, cable operator, or a video service provider that provides information services as defined in the "Telecommunications Act of 1996," 110 Stat. 59, 47 U.S.C. 153(20), and services that are fixed in nature or use unlicensed spectrum.
- (12) “Public Way” or “Right-of-Way” means the surface of, and the space within, through, on, across, above or below, any public street, public road, public highway, public freeway, public lane, public path, public alley,

public court, public sidewalk, public boulevard, public parkway, public drive, public easement, and any other land dedicated or otherwise designated for a comparable public use, which is owned or controlled by the City or other public entity or political subdivision.

- (13) “Small Cell Facility” means a wireless facility:
- (i) That meets both of the following requirements:
 - (1) Each antenna is located inside an enclosure of not more than six (6) cubic feet in volume or, in the case of an antenna with exposed elements, the antenna and all of its exposed elements can fit within an enclosure of not more than six (6) cubic feet in volume; and
 - (2) All other wireless equipment associated with the facility is cumulatively not more than twenty-eight (28) cubic feet in volume. The calculation of equipment volume shall not include electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services; and
 - (ii) That includes a “Small Wireless Facility,” which is a type of Small Cell Facility (i) in which each antenna is located within an enclosure of not more than three (3) cubic feet in volume or, in the case of an antenna with exposed elements, the antenna and all of its exposed elements can fit within an enclosure of not more than three (3) cubic feet in volume, (ii) where such antenna is associated with a structure (a) 50 feet or less in height, including the antenna, or (b) that is not more than 10 percent taller than adjacent structures, or (c) is not extended by more than 10 percent or to a height exceeding 50 feet, whichever is greater, and (iii) that also otherwise satisfies the definition of “Small Wireless Facilities” found in the Federal Communication Commission’s September 26, 2018 Small Cell Order, FCC 18-133.
- (14) “Small Cell Equipment” means a Small Cell Facility and all Accessory Equipment.
- (15) “Small Cell Use Permit” means the permit granted by the City authorizing the Applicant to Collocate a Small Cell Facility or to construct, maintain, modify, operate, or replace a Wireless Support Structure in the Right-of-Way.
- (16) “Underground Area” means an area in the Right-of-Way where existing electric utilities, cable facilities, telecommunications facilities and other

facilities, other than structures and facilities owned by the City or a transit authority, are located underground.

- (17) “Wireless Support Structure” means a pole, such as a monopole, either guyed or self-supporting, street light pole, traffic signal pole, a fifteen (15) feet or taller sign pole, or utility pole capable of supporting Small Cell Facilities. As used in this Chapter, “Wireless Support Structure” excludes the following except in connection with a Small Wireless Facility, in which case the following are not excluded:
- (i) A utility pole or other facility owned or operated by a municipal electric utility; and
 - (ii) A utility pole or other facility used to supply traction power to public transit systems, including railways, trams, streetcars, and trolleybuses.

~~(c) The effective date of this Chapter shall be _____, 2019.~~

943.02 CONSENT REQUIRED

(a) Any person or entity seeking to Collocate a Small Cell Facility in the Right-of-Way, or to construct, maintain, modify, operate, or replace a Wireless Support Structure in the Right-of-Way, shall first file a written Application for a Small Cell Use Permit with the City Manager or designee in accordance with the requirements in this Chapter, including, but not limited to the Design Guidelines set forth in Sections 943.21 et seq. herein, Ohio R.C. Chapter 4939, and all applicable state and federal laws and regulations.

(b) Applicants are strongly encouraged to contact the City Manager or designee and request a pre-Application conference. This meeting will provide an opportunity for early coordination regarding proposed Facilities, locations, design, Application submittal, and the approval process in order to avoid any potential delays in the processing of an Application and deployment of Facilities in the City.

(c) A Small Cell Use Permit granted under this Chapter shall not convey any right, title or interest in the Right-of-Way, but shall be deemed a permit only to use and occupy the Public Ways for the limited purposes and term stated in the permit, this Chapter, and the Design Guidelines set forth in Sections 943.21 et seq. herein. Further, no Small Cell Use Permit shall be construed as any warranty of title.

943.03 PERMIT APPLICATION TYPES

Applicants shall classify their Application as one of the following types:

- (a) Type 1: Eligible Facilities Requests.
- (b) Type 2: Application for Collocation of Small Cell Equipment on a Wireless Support Structure that ~~does is~~ not ~~constitute~~ an Eligible Facilities Request.

- (c) Type 3: New Wireless Support Structure. Such applications will address construction, modification, replacement, or removal of a Wireless Support Structure within the Right-of-Way. At the time of Application, Applicants shall certify that Small Cell Equipment will be placed on the Wireless Support Structure within 180 days from the date the Small Cell Use Permit is issued.
- (d) For Type 2 and Type 3 Applications, Applicants shall indicate whether the Application ~~is or is not for~~ does or does not include or relate to a Small Wireless Facility.
 - (1) If an application involves a Small Wireless Facility, any related required permits will be issued within the designated review period set forth below, if complete applications for such permits are filed no later than the application for the Small Cell Facilities Use Permit.

943.04 CONSOLIDATED CONSENT APPLICATIONS

(a) Pursuant to Ohio R.C. Section 4939.0312, an Applicant may file one consolidated application for up to thirty (30) individual ~~small-cell~~ Small Cell Facilities or thirty (30) individual Wireless Support Structures as long as the facilities or structures for which consent is requested are substantially similar.

- (1) Small Cell Facilities shall be considered substantially similar when the Small Cell Equipment is identical in type, size, appearance and function.
- (2) Wireless Support Structures shall be considered substantially similar when the Wireless Support Structures are identical in type, size, appearance and function and are to be located in a similar location.
- (3) Applications for Small Cell Facilities ~~and cannot be combined with applications for~~ Wireless Support Structures cannot be commingled, unless the Small Cell Facility involved is a Small Wireless Facility as defined in Section 943(b)(13).
- (4) Applications for Small Wireless Facilities cannot be combined with applications for Small Cell Facilities and Equipment, or Wireless Support Structures, that do not involve Small Wireless Facilities.
- (5) If an application for a new Wireless Support Structure is related to an application for Small Wireless Facility antenna to be collocated thereupon, those applications may be filed on a consolidated basis but will be considered separate applications subject to separate application fees.

(b) The City may, at its discretion, require separate Applications for any Small Cell Facilities or Wireless Support Structures that are not substantially similar.

(c) Although applications ~~for involving~~ Small Wireless Facilities may be filed on a consolidated basis, such applications ~~involving Small Wireless Facilities~~ may not be commingled

with applications for ~~other Small Cell Facilities or collocation, or new~~ Wireless Support Structures, that do not involve a Small Wireless Facility. The limit on the number of applications that may be filed in a consolidated application pursuant to Section 943.04(a) shall not apply to applications for Small Wireless Facilities.

(1) There is no limit on the number of Small Wireless Facilities applications that may be consolidated.

943.05 APPLICATION FEE

(a) The fee for each application is Two Hundred Fifty Dollars (\$250.00). The City shall adjust the fee by ten percent (10%) every five (5) years, rounded to the nearest Five (5) Dollars, beginning in the year 2023.

(b) An Application shall not be deemed complete until the fee is paid.

(c) If Applications are consolidated, then the fee shall be the sum resulting from the fee set forth in subsection (a) multiplied by the total number of Facilities or Wireless Support Structures included in the consolidated Application. This provision also applies when an application for a new Wireless Support Structure is related to an application for a Small Wireless Facility to be collocated thereupon; that is, this situation requires two applications, with each application subject to the fee provided in Section 943.05(a).

943.06 ATTACHMENT FEE

(a) In addition to the Application Fee, an annual fee of Two Hundred Dollars (\$200.00) shall be paid to the City for each Small Cell Facility attached to a municipally-owned Wireless Support. The City shall adjust the attachment fee by ten percent (10%) every five years, rounded to the nearest five (5) dollars, beginning in the year 2023.

(b) The first-year attachment fee shall be paid when the collocation is complete, and no later than January 1 each year thereafter. The first-year attachment fee shall not be prorated, regardless of the date that the collocation is complete.

943.07 REQUIRED APPLICATION MATERIALS

The Applicant must submit the following documentation with each Application.

(a) Completed Application form including the identity, legal status and federal tax identification number of the Applicant, as well as all affiliates and agents of the Applicant that will use or be, in any way, responsible for the Facilities.

(b) The name, address, and telephone number of the local officer, agent, or employee responsible for the accuracy of the application to be notified in case of emergency.

(c) Fully dimensional scaled site plan (scale no smaller than one inch equals forty (40) feet). The site plan must include:

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- (1) The exact proposed location of the Facilities within the Right-of-Way by GPS coordinates and/or in degrees, minutes and seconds (“DMS”);
- (2) All existing Facilities with all existing transmission equipment;
- (3) The location of all overhead and underground public utilities, telecommunications, cable, water, sanitary sewer, and storm water drainage utilities in the Public Way within one hundred (100) feet surrounding the proposed Facilities;
- (4) The legal property boundaries within one hundred (100) feet surrounding the proposed Facilities;
- (5) Indication of distance between the Facilities and existing curbs, driveways, sidewalks, trees, utilities, other poles, and existing buildings within one hundred (100) feet surrounding the proposed Facilities; and
- (6) Access and utility easements within one hundred (100) feet surrounding the proposed Facilities.

(d) Elevation drawings (scale no smaller than one inch equals ten (10) feet) of the proposed Facilities.

(e) Evidence that the Applicant provided notice by mail to all property owners within three hundred (300) feet of the proposed Facilities prior to submitting the Application. The notice shall include:

- (1) Name of the Applicant;
- (2) Estimated date Applicant intends to submit the Application;
- (3) Detailed description of the proposed Facilities and the proposed location; and
- (4) Accurate, to-scale color photo simulation of the proposed Facilities. Scale shall be no smaller than one inch equals forty (40) feet and shall depict surrounding area within one hundred (100) feet of the proposed Facilities.

(h) A preliminary installation/construction schedule and completion date.

(i) Structural calculations prepared, stamped and signed by an engineer licensed and registered by the State of Ohio showing that the Wireless Support Structure can accommodate the weight of the proposed small cell equipment.

(j) Analysis demonstrating that the proposed Facilities do not interfere with the City’s public safety radio system, traffic and emergency signal light system, or other City safety communications components. It shall be the responsibility of the Applicant to evaluate, prior to

making the Application for a Small Cell Use Permit, the compatibility between the existing City infrastructure and Applicant's proposed Facilities.

- (k) A landscape plan that demonstrates screening of proposed small cell equipment.
- (l) Detailed and/or shop drawings of the proposed Facilities. For all equipment depicted, the Applicant must also include, if applicable:
 - (1) The manufacturer's name and model number;
 - (2) Physical dimensions, including, without limitation, height, width, depth and weight with mounts and other necessary hardware; and
 - (3) The noise level generated by the equipment, if any.
- (m) If the Applicant is not an Operator, then the Applicant must provide proof that the Applicant has been engaged by a wireless service provider who will be the end-user of the Facilities.

943.08 APPLICATION REVIEW

- (a) Applications shall be evaluated in the timeframes as follows:
 - (1) Type 1 Applications 60 days
 - (2) Type 2 Applications 90 days, except that for Small Wireless Facilities, that are not to be collocated upon a new Wireless Support Structure, the timeframe for a Type 2 Application shall be 60 days.
 - (3) Type 3 Applications 120 days, except that for new Wireless Support Structures upon which a Small Wireless Facility is to be mounted, the timeframe for a Type 3 Application shall be 90 days.
- (b) Applications shall be reviewed for completeness. If the Application is incomplete, then the Applicant shall be notified of the insufficiency, and the timeframes set forth in subsection (a) shall be tolled until the Application is made complete, as described below:
 - (1) To toll the time period for incompleteness, the City must provide written notice to the Applicant, specifically identifying all missing documents or information, within thirty (30) days after receiving the Application; except that where an Applicant has indicated that the Application is for a Small Wireless Facility, or a Wireless Support Structure upon which a Small Wireless Facility is to be mounted, the written notice shall be provided within ten (10) days after receiving the Application.
 - (A) In the case of a proper and timely initial written notice of incompleteness provided concerning an Application involving a Small Wireless Facility pursuant to subsection (b)(1), the time

period set forth in subsection (a) shall be deemed never to have started running at all until the Applicant provides a supplemental submission.

- (2) The time period set forth in subsection (a) will begin to run again when the Applicant provides a supplemental submission in response to the City's notice of incompleteness pursuant to subsection (b)(1), but may be tolled again if the City notifies the Applicant in writing, within ten (10) days of receiving a supplemental submission, that the Application remains incomplete and identifies which items specified in the original notice of incompleteness are still missing. Timely notice by the City of the deficiencies in a supplemental submission tolls the time period set forth in subsection (a) until the Applicant supplies the specified information

(c) The timeframes set out in subsection (a) may be tolled by mutual agreement between the Applicant and the City. The timeframes in subsections (a)(2) and (a)(3) may also be tolled as follows, except that where an Applicant has indicated that the Application is for a Small Wireless Facility, the provisions of subsections (c)(1) and (c)(2) below do not apply:

- (1) If the City receives between twenty-five (25) and forty (40) applications in a thirty (30) day period, then the City may toll for an additional twenty-one (21) days beginning with the twenty-sixth (26th) application.
- (2) If the City receives more than forty (40) applications in a thirty (30) day period, then the City may toll for an additional fifteen (15) days for every additional fifteen (15) applications received, up to a maximum tolling period of ninety (90) days, as indicated below:
 - (A) Applications 41-55: 36 additional days
 - (B) Applications 56-70: 51 additional days
 - (C) Applications 71-85: 66 additional days
 - (D) Applications 86-100: 81 additional days
 - (E) Applications 101+: 90 additional days.
- (3) When an Applicant submits an underground area waiver pursuant to Section 943.32(d) herein, in which case the City may toll for an additional fourteen (14) days.

(d) If two Applicants request to Collocate on the same Wireless Support Structure or two Wireless Support Structures are proposed within a distance that would violate the spacing requirements set forth in Section 943.16 here, then the City Manager or designee may resolve the conflict in any reasonable and nondiscriminatory manner.

(e) If a request for Small Cell Use Permit is denied, the City shall provide, in writing, its reasons for denying the request, supported by substantial, competent evidence. The denial of consent shall not unreasonably discriminate against the Applicant. Grounds for denying an Application may include, but are not limited to:

- (1) Failure to provide information required under Section 943.07;
- (2) Failure to comply with Design Guidelines set forth in set forth in Sections 943.21 et seq. herein;
- (3) Failure to provide financial surety pursuant to Section 943.15;
- (4) Failure to remove abandoned Facilities as required under Section 943.12;
- (5) Conflict with the historic nature or character of the surrounding area;
- (6) Conflict with planned future improvements in the Right-of-Way; and
- (7) Failure to comply with generally applicable health, safety, and welfare requirements.

943.09 PERMITTING PROCESS, DURATION, AND TERMINATION

(a) Upon approval of its Application, an Applicant shall receive a Small Cell Use Permit indicating that the City has granted the Applicant consent to occupy the Right-of-Way.

(b) A Small Cell Use Permit issued to an Operator shall have duration of ten (10) years. Permits may be renewed for five year terms.

(c) A Small Cell Use Permit issued to a Facilities Operator who is not an Operator shall have a term of ten (10) years or the duration of the Facilities Operator's agreement with a wireless service provider provided pursuant to Section 943.07(k), whichever is shorter.

(d) A Small Cell Use Permit shall not be renewed if the Facilities Operator or the Facilities are not in compliance with each and every applicable law and regulation.

(e) Pursuant to Ohio R.C. Section 4939.0314(E), a Small Cell Use Permit shall be deemed terminated if the Facilities Operator has not completed construction of the Facilities or has failed to attach Small Cell Equipment to a Wireless Support Structure within one hundred eighty (180) days of issuance of the permit, unless the delay is caused by:

- (1) Make-ready work for a municipally-owned Wireless Support Structure; or
- (2) Due to the lack of commercial power or backhaul availability at the site, provided that the Operator has made a request for commercial power or backhaul services within sixty (60) days after the Small Cell Use Permit was granted.

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If the additional time to complete the installation exceeds three hundred sixty days (360) after the issuance of the permit, then the permit shall be deemed terminated regardless of the cause of the delay.

(f) A Small Cell Use Permit for a new Wireless Support Structure shall be deemed terminated if the Facilities Operator fails to attach Small Cell Equipment to the new Wireless Support Structure within one hundred eighty (180) days of issuance of the Small Cell Use Permit.

(g) If the Facilities Operator fails to remit the annual attachment fee required pursuant to Section 943.06, then the Small Cell Use Permit will expire on the ninetieth (90th) day from the date the annual attachment fee was due.

(h) If the Facilities Operator fails to remit the annual registration required pursuant to Section 943.10, then the Small Cell Use Permit will expire on the ninetieth (90th) day from the date the annual registration was due.

(i) A Small Cell Use Permit may be terminated by the Facilities Operator at any time upon service of 60-days written notice to the City.

(j) Upon termination of a Small Cell Use Permit, the Facilities Operator shall restore and rehabilitate all City-owned Wireless Support Structures and the Right-of-Way to their former condition and utility.

(k) The City shall not issue any refunds for any amounts paid by the Facilities Operator upon termination of the permit.

943.10 ANNUAL REGISTRATION

Facilities Operators shall comply with the annual registration requirements set forth in Section 941.03 of Chapter 941, "Use of Public Ways by Service Providers."

943.11 NONCONFORMING FACILITIES

(a) Facilities in the Right-of-Way that are legally in existence on the date of the adoption of this Chapter but that do not comply with the requirements of this Chapter may remain in the Right-of-Way but shall be considered a Nonconforming Facility.

(b) Any person or entity who owns or operates a Nonconforming Facility shall register such facility pursuant to Section 941.03 by no later than November 1, 2018.

(c) If a Nonconforming Facility is damaged or destroyed beyond repair, any replacement facility must be designed in accordance with all provisions of this Chapter, the Design Guidelines established in Sections 943.21 et seq. herein, and state and federal law and regulations.

943.12 ABANDONED AND DAMAGED FACILITIES

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(a) A Facilities Operator shall provide written notice to the City of its intent to discontinue use of any Facilities. The notice shall include the date the use will be discontinued. If Facilities are not removed within three hundred sixty five (365) days from the date the use was discontinued, the City may remove the Facilities at the expense of the Facilities Operator after providing thirty (30) days written notice to the Facilities Operator of its intent to do so.

(b) In the event that Facilities are damaged, the Facilities Operator shall promptly repair the damaged Facilities. Damaged Facilities shall be repaired no later than thirty (30) days after obtaining written notice that the Facilities were damaged. If the damaged Facilities are not repaired within thirty (30) days, then the City may repair or remove the damaged Facilities at the expense of the Facilities Operator after providing thirty (30) days written notice to the Facilities Operator of its intent to do so.

943.13 INSURANCE REQUIREMENTS

Facilities Operators shall comply with the insurance requirements set forth in Subsection 941.02(e).

943.14 INDEMNIFICATION

A Facilities Operator shall indemnify, protect, defend, and hold the City and its elected officials, officers, employees, agents, and volunteers harmless against any and all claims, lawsuits, judgments, costs, liens, losses, expenses, fees to include reasonable attorney fees and costs of defense, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including personal or bodily injury or death, property damage or other harm for which recovery of damages is sought, resulting from or alleged to arise out of or result from the negligent, careless or wrongful acts, omissions, failure to act or misconduct of the Operator who owns or operates Small Cell Facilities and wireless service in the Right-of-Way, any agent, officer, director, representative, employee, affiliate, or subcontractor of the Operator, or their respective officers, agents, employees, directors, or representatives while installing, repairing, or maintaining Facilities in the Right-of-Way.

943.15 FINANCIAL SURETY

(a) Each Facilities Operator must procure and provide to the City a bond, escrow, deposit, letter of credit, or other financial surety to ensure compliance with this Chapter and Ohio R.C. Chapter 4939. The financial surety shall be in compliance with Subsection 941.02(g) or as otherwise determined reasonable by the City Manager or designee, such as being an amount sufficient to cover the cost of removal of all Facilities owned or operated by Facilities Operator.

(b) The City may, in its sole discretion, draw on the financial surety to remove abandoned, unused, or unsafe Facilities, remove or repair damaged Facilities, or to repair damage to any City property caused by the Facilities Operator or its agent. In such event, the Facilities Operator shall cause the financial surety be replenished to its prior amount within ten (10) business days after City notifies the Facilities Operator that it has drawn on the financial surety.

943.16 RESERVED SPACE

The City reserves the right to install, and permit others to install, Facilities in the Right-of-Way. The City may reserve space in the Right-of-Way and on Wireless Support Structures for future utility, safety, or transportation uses. Such space may be reserved in an ordinance or plan approved by the City Manager, City Council, Building Commissioner, or Planning Commission.

943.17 REMOVAL OR RELOCATION OF FACILITIES

(a) Consistent with R.C. 4939.08, the City may require a Facilities Operator to remove or relocate Facilities to accomplish construction and maintenance activities. The Facilities Operator shall remove or relocate the Facilities at no cost to the City. If the Facilities Operator fails to remove or relocate the Facilities within ninety (90) days of receiving a request to do so from the City, then the City may remove the Facilities at Facilities Operator's sole cost and expense, without further notice to the Facilities Operator.

(b) If the Facilities are placed in a location other than the location approved by the City, the Facilities Operator shall relocate the Facilities within thirty (30) days of receiving notice that the Facilities are located improperly.

943.18 NOTICE OF WORK

A Facilities Operator shall notify the City Manager or designee of all nonemergency work within ten (10) calendar days prior to performing any upgrades or maintenance on any Facilities, regardless of whether the work requires any permit or consent from the City.

943.19 CONSTRUCTION PERMIT

Facilities Operators are required to obtain a construction permit pursuant to Section 941.07 including, but not limited, to the construction bond set forth in Subsection 941.07(g), prior to commencing any of the following activities:

- (1) Collocation of small cell equipment on a Wireless Support Structure;
- (2) Replacement, modification, repair, or maintenance of small cell equipment;
- (3) Construction, replacement, modification, repair, or maintenance of a Wireless Support Structure associated with a small cell facility; and
- (4) Any excavation of the Right-of-Way in connection with the activities described in this Section.

943.20 EXCAVATION PERMIT.

If a Facilities Operator must construct, reconstruct, alter, repair, remove or replace any culvert, sidewalk or driveway in any public street or road Right-of-Way, then the Facilities Operator shall obtain the required permit pursuant to Section 941.07 including, but not limited, to the construction bond set forth in Subsection 941.07(g).

943.21 GENERAL DESIGN STANDARDS

(a) Facilities shall not be installed unless the Facilities are compliant with the Design Guidelines, set forth in Sections 943.21 et seq. herein, and any Application requirements, and all applicable local, state, and federal laws. Applicant shall have the burden to demonstrate by substantial and competent evidence that all Design Guidelines have been met.

(b) A Facilities Operator shall not construct, maintain, modify, operate, or replace any Facilities not clearly depicted in an Application for a Small Cell Use Permit.

(c) A Facilities Operator shall not construct, modify, or replace any Facilities without a construction permit pursuant to Section 941.07.

(d) All work shall be performed in a professional manner consistent with the highest standards of workmanship.

(e) Facilities shall be maintained in good and safe condition and in a manner that complies with all applicable federal, state and local requirements.

(f) Facilities shall not be installed in any location that causes any interference with the City's public safety radio system, traffic and emergency signal light system, or other City safety communications systems or system components.

(g) The City may propose an alternative location for proposed Facilities up to one hundred (100) feet from the proposed location or within a distance that is equivalent to the width of the Public Way, whichever is greater. The Facilities Operator shall utilize the alternative location unless the Facilities Operator shows that the alternative location is not technically feasible or would materially inhibit the provision of wireless services by the Facilities Operator within the City.

(h) Facilities shall not interfere with existing or planned City-owned trees.

(i) Signage shall be mounted on all new Facilities providing the Facilities Operator's name, an emergency contact phone number, an informational contact number, and all other information required by law. Unless otherwise prohibited by law, signage shall be discreet in color and shall match the Facilities and surrounding area and font size used on the sign shall be no smaller than 9 point font and no larger than 14 point font.

(j) Unless otherwise required by law, all manufacturer stickers and decals shall be removed from Facilities.

(k) A landscape plan, approved by the Director of Planning, shall be required for each Application. Facilities shall be camouflaged using existing land forms, vegetation, and structures to screen the Facilities from view and to blend in with the surrounding built and natural environment.

(l) The City may require the Facilities Operator to incorporate additional concealment elements before approving an Application. Concealment elements may include, but

shall not be limited to, fencing, public art, strategic placement, and placement within existing or replacement street furniture.

(m) Facilities shall not have any flashing lights, sirens or regular noise other than a cooling fan that may run intermittently.

(n) All hardware, including antenna mounting brackets and hardware, antenna mounting posts, cables, shrouds and other equipment mounted shall be painted in a color designated by the City, and the color shall match the Facilities. The City may require the Facilities Operator use a different, non-matching color on a case-by-case basis when the City determines a non-matching color would better fulfill the purposes of these Design Guidelines or match the surrounding area.

(o) A Facilities Operator shall remove or paint over any graffiti on the Facilities at Facility Operator's sole expense as soon as practicable, but no later than thirty (30) days from the date the Facilities Operator receives notice of the graffiti. The City shall remove graffiti at the expense of the Facilities Operator after the thirty (30) days expires.

943.22 DESIGN SPECIFICATIONS FOR COLLOCATION

(a) Small Cell Equipment shall not interfere with the primary purpose of a Wireless Support Structure.

(b) Small Cell Equipment to be attached to a Wireless Support Structure shall be attached at least eight (8) feet above ground level. If Small Cell Equipment is projecting toward the street then the Small Cell Equipment shall be installed no less than sixteen (16) feet above ground level.

943.23 DESIGN SPECIFICATIONS FOR ANTENNAS

(a) Antennas ~~and Accessory Equipment~~ must be capable of fitting within an enclosure not larger than six (6) cubic feet in volume.

(b) Antennas and Accessory Equipment shall not increase the overall height of an existing Wireless Support Structure by more than five (5) feet; provided, however, that the permissible increase in height resulting from collocation or installation of a Small Wireless Facility on a Wireless Support Structure shall be as provided in Section 943.01(b)(13).

(c) Antennas mounted on a Wireless Support Structure shall be enclosed inside the Wireless Support Structure whenever possible and otherwise within a canister or other shroud. All Accessory Equipment associated with the antenna shall be concealed and shall not visibly protrude from the shroud or canister.

(d) The width of the canister or other shroud encasing the antenna and Accessory Equipment shall not exceed the width of the narrowest portion of the Wireless Support Structure.

(e) The enclosure or shroud shall be painted to match or complement the Wireless Support Structure.

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(f) Antennas shall be installed in a manner that minimizes the visual impact to the general public.

(g) Antennas shall not impair light or substantially obstruct views from nearby window(s).

(h) Antennas located on the exterior of a Wireless Support Structure shall be top-mounted on a Wireless Support Structure. The City may approve a side-mounted antenna if, in the City's discretion, the side-mounted antenna would be more appropriate given the built environment, neighborhood character, overall site appearance or would otherwise promote the purposes in these Design Guidelines.

943.24 DESIGN SPECIFICATIONS FOR WIRELESS SUPPORT STRUCTURE-MOUNTED EQUIPMENT

(a) All Wireless Support Structure-mounted Small Cell Equipment other than the antenna(s) and electric meter must be concealed within an equipment cabinet.

(b) Equipment cabinets shall be mounted flush to the Wireless Support Structure.

(c) Equipment cabinets shall be stacked together on the same side of the Wireless Support Structure and oriented away from any windows and doorways to minimize visual impacts thereupon. The cabinet width shall not exceed the Wireless Support Structure's width unless technologically infeasible.

(d) The equipment cabinets must be non-reflective and painted, wrapped or otherwise colored to match the Wireless Support Structure.

943.25 DESIGN SPECIFICATIONS FOR GROUND-MOUNTED SMALL CELL EQUIPMENT

(a) The City shall not approve the proposed location of ground-mounted Small Cell Equipment unless the Applicant (1) proposes the ground-mounted equipment in connection with a Collocation, and (2) shows that the equipment cannot be feasibly placed on the Wireless Support Structure or in an underground vault.

(b) If technically feasible, Small Cell Equipment should be located in a vault buried underground rather than being ground-mounted. If underground placement is not technically feasible, ground-mounted Small Cell Equipment shall be contained in a shroud or cabinet.

(c) All ground-mounted Small Cell Equipment shall be installed in a manner that minimizes the visual and ingress/egress impact to the general public.

(d) Ground-mounted Small Cell Equipment shall be placed as far as practicable from pedestrian sidewalks and shall neither block nor be placed within the sidewalk in any way. The Small Cell Equipment's height, width, length and placement should be as inconspicuous and as visually compatible with its context as practicable.

943.26 DESIGN SPECIFICATIONS FOR CABLES

(a) All cables, conduit and wiring shall be located inside conduit and inside the Wireless Support Structure or an equipment cabinet.

(b) Excess cables and wiring shall not be spooled, coiled or otherwise stored on the exterior of the Wireless Support Structure unless within an enclosure. Cables shall not be externally visible.

943.27 DESIGN SPECIFICATIONS FOR ELECTRICAL METERS

(a) Facilities Operators shall use flat-rate electric service when available in order to eliminate the need for a meter.

(b) If a meter is required, then Facilities Operators shall use the smallest and least intrusive electric meter available. Whenever permitted by the electric service provider, the electric meter shall be painted to match the Wireless Support Structure.

943.28 DESIGN SPECIFICATIONS FOR UTILITY LINES

Service lines shall be underground to avoid additional overhead lines. The underground cables and wires must transition directly into the Wireless Support Structure base without any external junction box.

943.29 DESIGN SPECIFICATIONS FOR REPLACEMENT OF WIRELESS SUPPORT STRUCTURES

(a) Unless otherwise determined by City Manager or designee, a Facilities Operator shall be required to replace an existing Wireless Support Structure in the following circumstances:

- (1) The Wireless Support Structure upon which the Applicant has proposed to Collocate Small Cell Equipment is deemed incapable of bearing the added weight of the Small Cell Equipment; or
- (2) An existing Wireless Support Structure is located within one hundred (100) feet of the proposed site of a new Wireless Support Structure but the existing Wireless Support Structure is incapable of bearing the additional weight of the Small Cell Equipment.

(b) Designs for replacement of Wireless Support Structures shall be as architecturally similar as possible to the existing Wireless Support Structure to be replaced unless otherwise approved by the City.

- (1) All luminaire mast arms shall be the same length, arch, and style as the original luminaire arm, unless otherwise specified by the City.

- (2) The City may require the Facilities Operator to install a new metal Wireless Support Structure rather than a new wood support structure.

(c) Except in AA and A Single-Family Residential Districts, B Two-Family Residential Districts, and MF-1 Multiple-Family Residential District zoning districts, the overall height of a replacement Wireless Support Structure, including proposed Collocated antenna, shall not be more than forty (40) feet in height above ground level; provided, however, that the height of a Wireless Support Structure upon which a Small Wireless Facility is to be mounted shall be as provided in Section 943.01(b)(13). The overall height of a replacement Wireless Support Structure, including proposed Collocated antenna, shall not be more than thirty-five (35) feet in height above ground level in AA and A Single-Family Residential Districts, B Two-Family Residential Districts, and MF-1 Multiple-Family Residential District zoning districts so long as there is no Wireless Support Structure or utility pole taller than thirty feet located within three-hundred (300) feet of the location of the proposed replacement Wireless Support Structure. Unless technologically infeasible, all Small Cell Equipment, except for antennas and radios, shall be encapsulated within the Wireless Support Structure.

(d) All existing signs, traffic signals, emergency signal detection units, video detection cameras, video cameras, crosswalk service buttons, crosswalk signals, and any other pedestrian or traffic devices shall be reinstalled or replaced with new units by the Facilities Operator at no cost to the City.

(e) The concrete Wireless Support Structure foundation for the original Wireless Support Structure shall be removed either partially or completely by the Facilities Operator as instructed by the City.

- (1) If partially removed, the original Wireless Support Structure foundation shall be removed to a level that is twelve (12) inches below the existing grade and covered with four (4) inches of one-half ($\frac{1}{2}$) inch to three-quarter ($\frac{3}{4}$) inch rocks. The remaining eight (8) inches shall be topsoil.
- (2) If the entire original Wireless Support Structure foundation must be removed, then all foundation materials (concrete, rebar, metals, bolts, etc.) shall be removed. The Director of Planning shall determine the appropriate type of backfill material and compaction required in landscaped areas.

943.30 DESIGN SPECIFICATIONS FOR NEW WIRELESS SUPPORT STRUCTURES

(a) New Wireless Support Structures shall be designed and constructed to accommodate at least two sets of Small Cell Equipment on the same Wireless Support Structure.

(b) New Wireless Support Structures shall maintain a distance of three hundred (300) feet from existing monopoles, or utility poles unless otherwise determined by the City Manager or designee.

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(c) Unless technologically infeasible, all Small Cell Equipment, except for antennas and radios, shall be encapsulated within the Wireless Support Structure.

(d) In residential zoning districts, new Wireless Support Structures shall be located at the shared property line between two residential parcels near where the parcels intersect the Right-of-Way when available.

(e) In commercial zoning districts, new Wireless Support Structures shall be located between tenant spaces, storefront bays, or adjoining properties at the shared property lines near where the parcels intersect the Right-of-Way.

(f) In park zoning districts, new Wireless Support Structures shall be located in the least visible location practicable, as determined by the City Manager or designee.

(g) New Wireless Support Structures shall not interfere with any metered parking space.

(h) A new Wireless Support Structure shall not be located in front of a building entrance or exit.

(i) Except in the AA and A Single-Family Residential Districts, B Two-Family Residential Districts, and MF-1 Multiple-Family Residential District zoning districts, the overall height of a new Wireless Support Structure, including proposed Collocated antenna, shall not be more than forty (40) feet in height above ground level; provided, however, that the height of a Wireless Support Structure upon which a Small Wireless Facility is to be mounted shall be as provided in Section 943.01(b)(13). The overall height of a new Wireless Support Structure, including proposed Collocated antenna, shall not be more than thirty-five (35) feet in height above ground level in the AA and A Single-Family Residential Districts, B Two-Family Residential Districts, and MF-1 Multiple-Family Residential District zoning districts so long as there is no Wireless Support Structure or utility pole taller than thirty feet located within three-hundred (300) feet of the location of the proposed new Wireless Support Structure.

(j) The City may require the Facilities Operator to install a metal Wireless Support Structure rather than a wood Wireless Support Structure. Unless otherwise specified by the City, new wood Wireless Support Structures are prohibited in the following zoning districts:

(1) All residential zoning districts; and

(2) All commercial zoning districts.

(k) Facilities Operators shall be discouraged from installing a new Wireless Support Structure within one hundred (100) feet of a building designated to be of historic importance under local, state or federal laws.

943.31 HISTORIC DISTRICT DESIGN GUIDELINE REGULATIONS

Except antennas, all Small Cell Equipment to be located in the Right-of-Way in a Historic District including, but not limited to, Ambler Heights Historic District, Euclid Golf

Historic District, Euclid Heights Historic District, Fairhill Road Village Historic District, Fairmount Boulevard Historic District, Forest Hill Historic District, Herrick Mews (Overlook Road Carriage House) Historic District, Inglewood Historic District, Mayfield Heights Historic District, Shaker Farm Historic District, and Shaker Village Historic District, Nela Park Historic District, shall be located in an underground vault or shall be subject to such reasonable, technologically feasible, and non-discriminatory design or concealment measures as the City may specify, as long as such measures do not have the effect of prohibiting or materially inhibiting the Facilities Operator's provision of service. Such measures are not considered part of the small cell facility for purposes of facility size restrictions in this Chapter. A waiver submitted pursuant to Section 943.32(d) will be considered if such measures are shown to be technologically infeasible.

943.32 UNDERGROUND AREA DESIGN GUIDELINE REGULATIONS

(a) Subject to subsection (b), a Facilities Operator shall locate its Facilities underground in an Underground Area.

(b) A Facilities Operator may replace an existing Wireless Support Structure or Collocate Small Cell Facilities on an Existing Wireless Support Structure even if the Wireless Support Structure is located in an Underground Area.

(c) A Facilities Operator shall not install a new Wireless Support Structure in an Underground Area.

(d) An Operator may apply to the City Manager or designee for a waiver of the underground placement requirement if the Operator is unable to achieve its service objective under the following circumstances:

- (1) From a location in the public Right-of-Way where the prohibition does not apply;
- (2) From a utility easement the service provider has the right to access; and
- (3) From other suitable locations or structures made available by the City at reasonable rates, fees, and terms.

(e) Submission of a waiver pursuant to Subsection (d) herein is subject to the Facilities Operator's agreement to toll the timeframes set forth in Subsection 943.08(a) of the Codified Ordinances by fourteen (14) days.

943.33 DISCRETIONARY WAIVER

It is within the City Manager's reasonable discretion to waive a portion or portions of this Chapter, as permitted or warranted under state and federal law, where such requirements, in the City Manager's judgment, are not necessary and/or appropriate to protect the City's interests and/or not consistent with the purposes and intent of this Chapter.

943.99 PENALTIES; EQUITABLE REMEDIES.

(a) Criminal Penalties. Any Applicant of Operator or other Person acting as the agent of an Applicant or Operator who is found guilty of violating, disobeying, omitting, neglecting or refusing to comply with any of the provisions of this Chapter shall be guilty of a misdemeanor of the fourth (4th) degree. A separate and distinct offense shall be deemed committed each day on which a violation occurs or continues.

(b) Civil Violations and Forfeiture.

- (1) In lieu of the criminal penalties set forth above, the City Manager may make an initial finding of a civil violation by the Service Provider for violating, disobeying, omitting, neglecting or refusing to comply with any of the provisions of this Chapter.
- (2) The Civil Forfeiture shall be in an amount payable to the City of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) for each offense. A separate and distinct offense shall be deemed committed each day on which a violation occurs or continues.
- (3) An action for civil forfeiture shall be commenced by providing the Service Provider with written notice describing in reasonable detail the Service Provider's alleged violation of one or more provisions of this Chapter and the amount of the penalty that will be assessed against it.
- (4) The Service Provider shall have fifteen (15) days subsequent to receipt of the notice of violation in which to correct the violation before the City may assess penalties against the Service Provider. The time in which to cure the violation may be extended by the City if additional time is required to correct the violation; provided that the Service Provider commences corrective action within seven (7) days of the notice of violation and proceeds with reasonable diligence.
- (5) The Service Provider may dispute the alleged violation by providing the City with written notice within five (5) days of receipt of the notice of violation, setting forth in reasonable detail the reasons for its dispute. The City shall set a date for hearing of the alleged violation no sooner than thirty (30) days and no later than sixty (60) days from receipt of the notice of dispute.
- (6) The City shall issue a written decision on the Service Provider's alleged violation within thirty (30) days of the hearing, which decision shall be final and subject to the administrative appeal procedures under Ohio law. If the City finds after hearing that the alleged violation(s) did occur, the penalty shall be assessed starting fifteen (15) days from the notice of violation and shall continue until the violation has been corrected.

ORDINANCE NO. 54-2020 (MS)

(c) Other Remedies. Nothing in this Chapter shall be construed as limiting any judicial remedies that the City may have, at law or in equity, for enforcement of this Chapter.

Proposed: 06/01/2020

ORDINANCE NO. 108-2019 (AS), *Third Reading*

By Council Member Seren

An Ordinance amending Chapter 749, “Fair Practices” to include the nonconsensual dissemination of a person’s private sexual images as a prohibited, discriminatory rationale for the purposes of fair employment, education, and housing practices.

WHEREAS, the proposed changes to Chapter 749 will align Cleveland Heights’ fair practices policies with current technologies and social trends; and

WHEREAS, the Council has determined that these proposed amendments to Chapter 749 are in the best interest of the City, its residents, and the general goal of fair practices and the protection of civil rights.

BE IT ORDAINED by the Council of the City of Cleveland Heights, Ohio, that:

SECTION 1. Section 749.03(n), of the Codified Ordinances of Cleveland Heights shall be, and is hereby, amended to read as follows:

(n) The terms ‘Discriminate,’ ‘Discriminating,’ or ‘Discrimination,’ mean any act, policy, or practice that, regardless of intent, has or had the effect of subjecting any individual to different treatment as a result of that individual’s Age, race, color, religion, Sex, Familial Status, national origin, Disability, Sexual Orientation, ~~or~~ Gender Identity or Expression, or the nonconsensual dissemination of that individual’s private sexual images, except as otherwise set forth in this Chapter, and except that Age may be the basis of different treatment concerning Housing Practices (see Section 749.07) and/or Education Practices (see Section 749.14).

SECTION 2. Section 749.12(b), of the Codified Ordinances of Cleveland Heights shall be, and is hereby, amended to read as follows:

(b) To establish, announce, or follow a policy of denying or limiting the employment or employment opportunities of any individual or group of individuals because of race, color, religion, Sex, Familial Status, national origin, Disability, Sexual Orientation, ~~or~~ Gender Identity or Expression, or the nonconsensual dissemination of that individual’s or group of individuals’ private sexual images;

SECTION 3. Section 749.12(c), of the Codified Ordinances of Cleveland Heights shall be, and is hereby, amended to read as follows:

(c) Publish or cause to be published any notice or advertisement relating to employment or employment opportunities which contains any specification or limitation as to race, color, religion,

ORDINANCE NO. 108-2019 (AS)

Sex, Familial Status, national origin, Disability, Sexual Orientation,~~or~~ Gender Identity or Expression, or the nonconsensual dissemination of an individual's private sexual images;

SECTION 4. Section 749.12(d), of the Codified Ordinances of Cleveland Heights shall be, and is hereby, amended to read as follows:

(d) Require of any applicant as a condition of employment or employment opportunities any information concerning the applicant's age, race, color, religion, Sex, Familial Status, national origin, Disability, Sexual Orientation,~~or~~ Gender Identity or Expression, or the nonconsensual dissemination of that individual's private sexual images; or

SECTION 5. Section 749.13(a), of the Codified Ordinances of Cleveland Heights shall be, and is hereby, amended to read as follows:

(a) For any Educational Institution to deny, restrict, abridge, or condition the use of or access to any educational facilities or educational services to any individual who is otherwise qualified on account of race, color, religion, Sex, Familial Status, national origin, Disability, Sexual Orientation,~~or~~ Gender Identity or Expression, or the nonconsensual dissemination of that individual's private sexual images;

SECTION 6. Notice of the passage of this Ordinance shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

SECTION 7. This Ordinance shall take effect and be in force at the earliest time possible permitted by law.

JASON S. STEIN, Mayor
President of the Council

AMY HIMMELEIN
Clerk of Council

PASSED:

Proposed: 06/15/2020

ORDINANCE NO. 51-2020 (AS), *Third Reading*

By Council Member Seren

An Ordinance amending Section 111.21, "Voting," of Chapter 111, *Council*, of Part One, Administrative Code, of the Codified Ordinances of the City of Cleveland Heights to allow Council members to recuse themselves from voting due to a conflict of interest.

WHEREAS, the current Section 111.21, "Voting," of Chapter 111, *Council*, of Part One, Administrative Code, of the Codified Ordinances of the City of Cleveland Heights requires unanimous consent of other present Council members in order for a Council member to recuse himself or herself from voting on any question; and

WHEREAS, such unanimous consent should not be required where a Council member has a personal or financial interest in the matter under consideration or when the Council member reasonably believes that voting on a matter could constitute a violation of his or her ethical obligations under the law.

BE IT ORDAINED by the Council of the City of Cleveland Heights, Ohio, that:

SECTION 1. Section 111.21, "Voting," of Chapter 111, *Council*, of Part One, Administrative Code, of the Codified Ordinances of the City of Cleveland Heights shall be and hereby is amended to read as follows:

Every member present shall vote on any question on the call for ~~the "ayes" and "nays"~~ a voice or roll call vote unless ~~excused by the unanimous consent of the other members present, and any member not being so excused who fails or refuses to vote on any question when the "ayes" and "nays" are being taken shall be counted as voting in the affirmative.~~ the member recuses themselves. Whenever a member has a personal or financial interest in any matter under consideration or believes that voting on the matter could for any reason constitute a violation of an ethics law, the member shall disclose the interest or ethical concern and recuse themselves from voting. Any member present, not recusing themselves from voting, who fails or refuses to vote on any question when the voice or roll call vote is being taken shall be counted as voting in the affirmative.

SECTION 2. Notice of the passage of this Ordinance shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

SECTION 3. This Ordinance shall take effect and be in force at the earliest time possible permitted by law.

ORDINANCE NO. 51-2020 (AS)

JASON S. STEIN, Mayor
President of the Council

AMY HIMMELEIN
Clerk of Council

PASSED:

Proposed Amended 51-2020

Proposed: 06/15/2020

ORDINANCE NO. 51-2020 (AS), *Third Reading*

By Council Member Seren

An Ordinance amending Section 111.21, "Voting," of Chapter 111, *Council*, of Part One, Administrative Code, of the Codified Ordinances of the City of Cleveland Heights to allow Council members to recuse themselves from voting due to a conflict of interest.

WHEREAS, the current Section 111.21, "Voting," of Chapter 111, *Council*, of Part One, Administrative Code, of the Codified Ordinances of the City of Cleveland Heights requires unanimous consent of other present Council members in order for a Council member to recuse himself or herself from voting on any question; and

WHEREAS, such unanimous consent should not be required where a Council member has a personal or financial interest in the matter under consideration or when the Council member reasonably believes that voting on a matter could constitute a violation of his or her ethical obligations under the law.

BE IT ORDAINED by the Council of the City of Cleveland Heights, Ohio, that:

SECTION 1. Section 111.21, "Voting," of Chapter 111, *Council*, of Part One, Administrative Code, of the Codified Ordinances of the City of Cleveland Heights shall be and hereby is amended to read as follows:

Every member present shall vote on any question on the call for ~~the "ayes" and "nays" a voice or roll call vote~~ unless ~~excused by the unanimous consent of the other members present, and any member not being so excused who fails or refuses to vote on any question when the "ayes" and "nays" are being taken shall be counted as voting in the affirmative.~~ ~~the member recuses themselves. Whenever a member has a personal or financial interest in any matter under consideration or believes that voting on the matter could for any reason constitute a violation of an ethics law, the member shall disclose the interest or ethical concern and recuse themselves from voting. Recusal shall require no further action of Council unless another member of Council questions the validity of the interest or conflict disclosed and moves for a vote on the request to be excused from voting, which motion need not be seconded and is immediately debatable. In this event, the affirmative vote of the majority of Council shall be required to approve recusal. Any member present, not recused as provided herein, who fails or refuses to vote on any question when the voice or roll call vote is being taken shall be counted as voting in the affirmative. Any member recused from voting as provided herein shall not be counted as a vote in the affirmative or negative on such matter.~~

ORDINANCE NO. 51-2020 (AS)

SECTION 2. Notice of the passage of this Ordinance shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

SECTION 3. This Ordinance shall take effect and be in force at the earliest time possible permitted by law.

JASON S. STEIN, Mayor
President of the Council

AMY HIMMELEIN
Clerk of Council

PASSED:

Proposed: 07/06/2020

ORDINANCE NO. 79-2020 (CRR)

By Council Member Russell

A Resolution to support Ohio House Bill 535, also known as the CROWN (“Creating A Respectful and Open Workplace for Natural Hair”) Act; and declaring an emergency.

WHEREAS, the City of Cleveland Heights is a community that prides itself on being composed of people who have a rich diversity of backgrounds, cultures, beliefs, and experiences; and

WHEREAS, appreciation for diversity in all forms strengthens a community, fosters a welcoming environment, and is a critical component of a thriving, successful city; and

WHEREAS, discrimination based upon natural hair texture and/or styles remains a source of racial bias, impacting employment and educational opportunities; and

WHEREAS, current state and federal law prohibit discrimination on the basis of race and ethnicity in employment, housing, and in schools, but does not offer protection to individuals with specific hair styles or texture related to race or ethnicity; and

WHEREAS, the states of California, Colorado, New Jersey, New York, Virginia, and Washington have all passed CROWN Act legislation that would prohibit discrimination based upon natural hair texture and/or styles; and

WHEREAS, the municipalities of Cincinnati and Akron in the State of Ohio have enacted legislation prohibiting discrimination based on natural hair styles and textures; and

WHEREAS, Ohio House Bill 535, commonly referred to as the “CROWN Act” seeks to update discrimination laws in the State of Ohio to provide protections based on natural hair styles and textures.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Cleveland Heights, Ohio that:

SECTION 1. The City encourages the Ohio General Assembly to consider Ohio House Bill 535 or other similar legislation to update discrimination laws to provide protections based on natural hair styles and textures.

SECTION 2. The Clerk of Council is hereby directed to forward certified copies of this Resolution to all Ohio State Representatives, Ohio State and U.S Senators and other relevant state public officials and organizations.

ORDINANCE NO. 79-2020 (CRR)

SECTION 3. Notice of the passage of this Resolution shall be given by publishing the title and abstract of its contents prepared by the Director of Law once in one newspaper of general circulation in the City of Cleveland Heights.

SECTION 4. This Resolution is declared to be an emergency measure immediately necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being the City's need to timely voice support in favor of Ohio House Bill 535. Wherefore, provided it receives the affirmative vote of five (5) or more of the members elected or appointed to this Council, this Resolution shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

JASON S. STEIN, Mayor
President of the Council

AMY HIMMELEIN
Clerk of Council

PASSED:

Proposed: 07/06/2020

RESOLUTION NO. 78-2020 (PSH)

By Council Members Hart, Russell, and Ungar

A Resolution condemning the murder of George Floyd by the Minneapolis Police Department, declaring racism a public health crisis, and expressing support for state-wide legislation to combat racism and implement best police practices to address racial bias and improve police-community relations; and declaring an emergency.

WHEREAS, the senseless death of George Floyd while in the custody of the Minneapolis Police Department, which has been ruled a homicide, shocks the conscience of our community and all of us on this Council; and

WHEREAS, the killing of George Floyd has set off an explosion of protests based on pent-up anger regarding brutal murders of many unarmed Blacks across the country and including 91 in Cleveland itself; and

WHEREAS, killings by Police who are sworn to serve and protect average a total of 1,000 per year nationwide with a significantly disproportionate number of those killings being of Black citizens; and

WHEREAS, these killings are a symptom of systemic racism that has plagued this country since 1619 when the first African slave was brought to our shores; and

WHEREAS, this systemic racism infests every sector of our society – housing, employment, health care, education, politics, wealth creation and maintenance, socialization and others; and

WHEREAS, the City of Cleveland Heights recognizes the deep anguish this tragedy has caused in our community and around the country, particularly among Blacks; and

WHEREAS, racial diversity and tolerance are historically woven into the fabric of our City, yet we know much more can and must be done to make the City a more inclusive community to ensure it is a place where racism does not exist in any place or form; and

WHEREAS, Cleveland Heights has long prided itself on having a diverse population including an almost equal number of Blacks and Caucasian Americans; and

WHEREAS, this City Council is aware of the effects of racism on the residents of Cleveland Heights who are Black; and

WHEREAS, the recent killings of George Floyd in Minneapolis; Ahmad Aubrey in Georgia; Breanna Taylor in Louisville; Tamir Rice in Cleveland; Rayshard Brooks in Atlanta and others across this country and protests mounted for each of them have made it clear that the

RESOLUTION NO. 78-2020 (PSH)

time for silence in the face of injustice is long past; and

WHEREAS, the Ohio State Senate and House are presently considering concurrent resolutions declaring the effects of racism a public health crisis and calling on those effects to be dealt with as a public health issue; and

WHEREAS, those concurrent resolutions call on the State to establish a commission to study the effects of racism and its structure to determine how to restructure state government and policies to combat the public health crisis caused by racism; and

WHEREAS, another bill pending in the Ohio House calls on the State to implement a system of health impact studies focusing on racial disparities to analyze every government action in light of its impact on minority communities remembering our racist past history in order to eliminate the effects of that history root and branch; and

WHEREAS, there have been multiple protests here in Cleveland Heights calling attention to local problems and asking our City government for solutions to the problem of racism in Cleveland Heights, and

WHEREAS, multiple suggestions have been made which this Council will consider enacting; and

WHEREAS, the City of Cleveland Heights supports the right of people to peaceably protest this tragedy and to call for needed change.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Cleveland Heights, Ohio, that:

SECTION 1. This Council condemns the murder of George Floyd and all other racial killings and brutality by Police and demands that the perpetrators be brought to justice.

SECTION 2. This Council is dedicated to ending our complicity in the system of structural racism and to building an agenda for our city to pursue the goal of justice for all.

SECTION 3. This Council strongly supports the passage of Senate Concurrent Resolution 14 and its companion, House Concurrent Resolution 31, as soon as possible so that the Commission called for in those resolutions can begin its work of determining how to combat racism on the State, County and Local levels.

SECTION 4. This Council endorses the joint efforts of The Ohio Mayors Alliance in forming a Police Reform Support Network to help cities across Ohio, including ours, assess, share and support efforts to implement best practices to address racial bias and improve police-community relations.

RESOLUTION NO. 78-2020 (PSH)

SECTION 5. We also call on the Legislature of the State of Ohio to enact HB 620 establishing that the Legislative Services Bureau shall examine each act of the State Legislature with regard to its impact on the health of minority communities and publish reports regarding that impact for each piece of legislation.

SECTION 6. This Council declares that the effects of racism in our community is a public health crisis negatively affecting our Black neighbors and that we will listen to the community to reform our city and establish our own task force to determine what we must do to combat the effects of racism in our city in honor of our diversity. Some items the task force may consider are the establishment of a community police oversight body; requiring an annual or more often accountability analysis regarding use of force by our officers; and conducting more effective training in community policing, among others.

SECTION 7. This Council is committed to a safe and healthy environment where everyone can thrive.

SECTION 8. This resolution is hereby adopted as an emergency measure immediately necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being the timely need to express positions on the foregoing matters. Provided it receives the affirmative vote of five (5) or more of the members elected or appointed to this Council, this ordinance shall take effect and be in force immediately upon its passage; otherwise it shall take effect and be in force from and after the earliest time allowed by law.

JASON S. STEIN, Mayor
President of the Council

AMY HIMMELEIN
Clerk of Council

PASSED:

Proposed: 06/15/2020

ORDINANCE NO. 57-2020 (F), *Second Reading*

By Council Member Hart

An Ordinance providing for the issuance and sale of \$1,105,000 of notes, in anticipation of the issuance of bonds, for the purpose of paying costs of (i) reconstructing, resurfacing and otherwise improving City streets, together with necessary appurtenances thereto, (ii) rebuilding Monticello Boulevard and Taylor Road, including engineering and planning costs with respect thereto, (iii) acquiring motorized equipment and appurtenances thereto, (iv) acquiring motor vehicles and equipment used in performing the functions of the City's Department of Public Works, Sewer Utilities Division, (v) acquiring motor vehicles and equipment used in performing the functions of the City's Department of Public Works, Forestry Division and (vi) acquiring mobile radios for use by the City's Police Department, together with the necessary related equipment, and declaring an emergency.

WHEREAS, pursuant to Ordinance Nos. 71-2010 and 72-2010, each passed on June 21, 2010, and Ordinance No. 84-2010, passed on July 6, 2010, there were issued \$1,635,000 of notes in anticipation of bonds for the purposes stated in clauses (i) and (ii) of Section 1 and other purposes, as part of a consolidated issue of \$1,850,000 Various Purpose General Obligation Bond Anticipation Notes, Series 2010, which notes were retired at maturity, together with other funds available to the City, with \$1,353,000 of notes issued in anticipation of bonds pursuant to Ordinance No. 88-2011, passed on July 18, 2011, as part of a consolidated issue of \$1,703,000 Various Purpose General Obligation Bond Anticipation Notes, Series 2011 (the 2011 Notes); and

WHEREAS, pursuant to Ordinance No. 89-2011, passed on July 18, 2011, there were issued \$350,000 of notes in anticipation of bonds for the purpose stated in clause (iii) of Section 1, as part of the consolidated issue of the 2011 Notes; and

WHEREAS, the 2011 Notes were retired at maturity, together with other funds available to the City, with the proceeds of \$1,351,000 of notes (the 2012 Refunding Notes) issued in anticipation of bonds pursuant to Ordinance No. 90-2012, passed on July 2, 2012, as part of a consolidated issue of \$2,126,000 Various Purpose Notes, Series 2012; and

WHEREAS, pursuant to Ordinance Nos. 88-2012 and 89-2012, each passed on July 2, 2012, there were issued \$775,000 of notes (the 2012 New Money Notes, and, together with the 2012 Refunding Notes, the 2012 Notes) in anticipation of bonds for the purpose stated in clause (iii) of Section 1 and other purposes, as part of the consolidated issue of the 2012 Notes; and

WHEREAS, the 2012 Notes were retired at maturity, together with other funds available to the City, with the proceeds of \$1,488,000 of notes (the 2013 Refunding Notes) issued in anticipation of bonds pursuant to Ordinance No. 120-2013, passed on July 15, 2013, as part of a consolidated issue of \$2,378,000 Various Purpose Notes, Series 2013; and

WHEREAS, pursuant to Ordinance Nos. 117-2013, 118-2013 and 119-2013, each passed on July 15, 2013, there were issued \$890,000 of notes (the 2013 New Money Notes, and, together with

ORDINANCE NO. 57-2020 (F), *Second Reading*

the 2013 Refunding Notes, the 2013 Notes) in anticipation of bonds for the purpose stated in clause (iii) of Section 1 and other purposes, as part of the consolidated issue of \$2,378,000 Various Purpose Notes, Series 2013, which 2013 Notes were retired at maturity, together with other funds available to the City, with the proceeds of \$2,151,000 Various Purpose Notes, Series 2014 (the 2014 Notes), issued in anticipation of bonds pursuant to Ordinance No. 89-2014, passed on July 7, 2014, which 2014 Notes were retired at maturity, together with other funds available to the City, with the proceeds of \$1,925,000 Various Purpose Notes, Series 2015 (the 2015 Notes), issued in anticipation of bonds pursuant to Ordinance No. 88-2015, passed on July 6, 2015, which 2015 Notes were retired at maturity, together with other funds available to the City, with the proceeds of \$1,700,000 Various Purpose Notes, Series 2016 (the 2016 Notes), issued in anticipation of bonds pursuant to Ordinance No. 57-2016, passed on July 5, 2016, which 2016 Notes were retired at maturity, together with other funds available to the City, with the proceeds of \$1,285,000 Various Purpose Notes, Series 2017 (the 2017 Notes), issued in anticipation of bonds pursuant to Ordinance No. 87-2017, passed on July 3, 2017, which 2017 Notes were retired at maturity, together with other funds available to the City, with the proceeds of \$722,000 Various Purpose Notes, Series 2018 (the 2018 Notes), issued in anticipation of bonds pursuant to Ordinance No. 78-2018, passed on June 18, 2018, which 2018 Notes were retired at maturity, together with other funds available to the City, with the proceeds of \$582,000 of notes (the 2019 Refunding Notes) issued in anticipation of bonds pursuant to Ordinance No. 62-2019, passed on July 1, 2019, and there were issued \$631,000 of notes (the 2019 New Money Notes) in anticipation of bonds for the purposes stated in clauses (iv), (v) and (vi) of Section 1 pursuant to Ordinance Nos. 60-2019, 61-2019 and 63-2019, each passed on July 1, 2019, with the 2019 Refunding Notes and the 2019 New Money Notes together constituting a consolidated issue of Various Purpose Notes, Series 2019 (the Outstanding Notes), which Outstanding Notes mature on July 21, 2020; and

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

WHEREAS, the Director of Finance, as fiscal officer of the City, has certified to this Council that the estimated life or period of usefulness of the improvements described in Section 1 is at least five years, the estimated maximum maturity of the Bonds described in clause (i) of Section 1 is nine years, in clause (ii) of Section 1 is 14 years, in clause (iii) of Section 1 (\$53,000 of the Notes) is one year, in clause (iii) of Section 1 (\$189,000 of the Notes) is two years and in clauses (iv), (v) and (vi) of Section 1 is 10 years, and the maximum maturity of the Notes described in Section 3, to be issued in anticipation of the Bonds described in clauses (i) and (ii) of Section 1 is August 4, 2030, in anticipation of \$53,000 of the Bonds described in clause (iii) of Section 1 is August 1, 2022, in anticipation of \$189,000 of the Bonds described in clause (iii) of Section 1 is July 31, 2023, and in anticipation of the Bonds described in clauses (iv), (v) and (vi) of Section 1 is July 22, 2034;

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

SECTION 1. Authorized Principal Amount of Anticipated Bonds; Purpose. It is necessary to issue bonds of the City in the aggregate principal amount of \$1,105,000 (the Bonds) for the purpose of paying costs of (i) reconstructing, resurfacing and otherwise improving City streets, together with necessary appurtenances thereto (\$86,000), (ii) rebuilding Monticello Boulevard and Taylor Road, including engineering and planning costs with respect thereto (\$146,000), (iii)

acquiring motorized equipment and appurtenances thereto (\$242,000), (iv) acquiring motor vehicles and equipment used in performing the functions of the City's Department of Public Works, Sewer Utilities Division (\$253,389), (v) acquiring motor vehicles and equipment used in performing the functions of the City's Department of Public Works, Forestry Division (\$214,412) and (vi) acquiring mobile radios for use by the City's Police Department, together with the necessary related equipment (\$163,199).

SECTION 2. Estimated Bond Terms. The Bonds shall be dated approximately July 1, 2021, shall bear interest at the now estimated rate of 5% per year, payable semiannually until the principal amount is paid, and are estimated to mature in eight annual principal installments on December 1 of each year that are in such amounts that the total principal and interest payments on the Bonds in any fiscal year in which principal is payable is substantially equal. The first interest payment on the Bonds is estimated to be December 1, 2021, and the first principal payment of the Bonds is estimated to be December 1, 2022.

SECTION 3. Authorized Principal Amount of Notes; Dating; Interest Rate. It is necessary to issue and this Council determines that notes in the aggregate principal amount of \$1,105,000 (the Notes) shall be issued in anticipation of the issuance of the Bonds and to retire, together with other funds available to the City, the Outstanding Notes. The Notes shall be dated the date of issuance and shall mature one year from the date of issuance; provided that the Director of Finance may, if it is determined to be necessary or advisable to the sale of the Notes, establish a maturity date that is any date not later than one year from the date of issuance by setting forth that maturity date in the certificate signed in accordance with Section 6 (the Certificate of Award). The Notes shall bear interest at a rate not to exceed 5% per year (computed on the basis of a 360-day year consisting of 12 30-day months), payable at maturity and until the principal amount is paid or payment is provided for. The rate of interest on the Notes shall be determined by the Director of Finance in the Certificate of Award.

SECTION 4. Payment of Debt Charges; Paying Agent; Prepayment. The debt charges on the Notes shall be payable in lawful money of the United States of America or in Federal Reserve funds of the United States of America, as determined by the Director of Finance in the Certificate of Award, and shall be payable, without deduction for services of the City's paying agent, at the designated corporate trust office of U.S. Bank National Association, or at the principal corporate trust office or other office of a bank or trust company designated by the Director of Finance in the Certificate of Award, after determining that the payment at that bank or trust company will not endanger the funds or securities of the City and that proper procedures and safeguards are available for that purpose, or at the office of the Director of Finance if agreed to by the Director of Finance and the Original Purchaser (as defined in Section 6) (the Paying Agent). If agreed to by the Original Purchaser, the Notes shall be prepayable without penalty or premium at the option of the City at any time prior to maturity (the Prepayment Date) as provided in this Ordinance. Prepayment prior to maturity shall be made by deposit with the Paying Agent of the principal amount of the Notes together with interest accrued thereon to the Prepayment Date. The City's right of prepayment shall be exercised by mailing a notice of prepayment, stating the Prepayment Date and the name and address of the Paying Agent, by certified or registered mail to the Original Purchaser and to the Paying Agent not less than seven days prior to the Prepayment Date. If money for prepayment is on deposit with the Paying Agent on the Prepayment Date following the giving of that notice,

interest on the principal amount prepaid shall cease to accrue on the Prepayment Date. The Director of Finance may request the Original Purchaser to use its best efforts to arrange for the delivery of the Notes at the designated office of the Paying Agent for prepayment, surrender and cancellation.

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

As used in this section and this Ordinance:

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

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

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

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

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

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

SECTION 6. Award and Sale of the Notes.

(a) To the Original Purchaser. The Notes shall be sold at not less than par plus accrued interest to the original purchaser designated by the Director of Finance in the Certificate of Award (the Original Purchaser) in accordance with law and the provisions of this Ordinance and the Note Purchase Agreement (as defined below). The Director of Finance shall sign the Certificate of Award evidencing that sale to the Original Purchaser, cause the Notes to be prepared, and have the Notes signed and delivered, together with a true transcript of proceedings with reference to the issuance of the Notes if requested by the Original Purchaser, to the Original Purchaser upon payment of the purchase price. The City Manager, the Director of Finance, the Director of Law, the Clerk of Council (including any Acting or Interim Clerk of Council) and other City officials, as appropriate, are each authorized and directed to sign any transcript certificates, financial statements, paying agent agreement, placement agent agreement, term sheet and other commitments, documents and instruments and to take such actions as are necessary or appropriate to consummate the transactions contemplated by this Ordinance. The Director of Finance is authorized, if it is determined to be in the best interest of the City, to combine the issue of Notes with one or more other note issues of the City into a consolidated note issue pursuant to Section 133.30(B) of the Revised Code.

(b) Note Purchase Agreement. If requested by the Original Purchaser, the City Manager and the Director of Finance shall sign and deliver, in the name and on behalf of the City, the Note Purchase Agreement between the City and the Original Purchaser (the Note Purchase Agreement), in substantially the form as is now on file with the Clerk of Council, providing for the sale to, and the purchase by, the Original Purchaser of the Notes. The Note Purchase Agreement is approved, together with any changes or amendments that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by the Director of Finance on behalf of the City, all of which shall be conclusively evidenced by the signing of the Note Purchase Agreement or amendments thereto.

(c) Application for Rating; Financing Costs. The Director of Finance is authorized to request a rating for the Notes from one or more nationally-recognized rating agencies in connection

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

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

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

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

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

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

those proceeds, and, as applicable, of property financed with such proceeds, all in such manner and to the extent necessary to assure such exclusion of that interest under the Code.

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

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

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

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

SECTION 13. Retention of Bond Counsel. The legal services of Squire Patton Boggs (US) LLP, as bond counsel, be and are hereby retained. The legal services shall be in the nature

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

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

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

SECTION 16. Declaration of Emergency; Effective Date. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety of the City, and for the further reason that this Ordinance is required to be immediately effective in order to enable the City to sell the Notes at the earliest possible date, which is necessary to enable the City to timely retire the Outstanding Notes and thereby preserve its credit; wherefore, this Ordinance shall be in full force and effect immediately upon its passage, provided it receives the affirmative vote of five members of Council elected thereto; otherwise, it shall be in full force and effect from and after the earliest period allowed by law.

JASON S. STEIN, Mayor
President of Council

AMY HIMMELEIN
Clerk of Council

PASSED: _____, 2020

FISCAL OFFICER'S CERTIFICATE

TO THE COUNCIL OF THE CITY OF CLEVELAND HEIGHTS, OHIO:

As fiscal officer of the City of Cleveland Heights, Ohio, I certify in connection with your proposed issue of \$1,105,000 of notes (the Notes), to be issued in anticipation of the issuance of bonds (the Bonds), for the purpose of paying costs of (i) reconstructing, resurfacing and otherwise improving City streets, together with necessary appurtenances thereto (the 2010 Street improvements) (\$86,000 of the Notes), (ii) rebuilding Monticello Boulevard and Taylor Road, including engineering and planning costs with respect thereto (the 2010 Monticello/Taylor improvements) (\$146,000 of the Notes), (iii) acquiring motorized equipment and appurtenances thereto (as to \$53,000 of the Notes, the 2012 Motorized Equipment improvements, and as to \$189,000 of the Notes, the 2013 Motorized Equipment improvements), (iv) acquiring motor vehicles and equipment used in performing the functions of the City's Department of Public Works, Sewer Utilities Division (the 2019 Sewer Motor Vehicles and Equipment improvements) (\$253,389 of the Notes), (v) acquiring motor vehicles and equipment used in performing the functions of the City's Department of Public Works, Forestry Division (the 2019 Forestry Motor Vehicles and Equipment improvements) (\$214,412 of the Notes) and (vi) acquiring mobile radios for use by the City's Police Department, together with the necessary related equipment (the 2019 Police Radio improvements, and, collectively with the 2010 Street improvements, the 2010 Monticello/Taylor improvements, the 2012 Motorized Equipment improvements, the 2013 Motorized Equipment improvements, the 2019 Sewer Motor Vehicles and Equipment improvements and the 2019 Forestry Motor Vehicles and Equipment improvements, the improvements) (\$163,199 of the Notes), that:

1. The estimated life or period of usefulness of the improvements is at least five years.
2. The estimated maximum maturity of the Bonds, calculated in accordance with Section 133.20 of the Revised Code, is (i) 15 years as to the portion of the Bonds related to the 2010 Street improvements, (ii) 20 years as to the portion of the Bonds related to the 2010 Monticello/Taylor improvements, (iii) five years as to the portion of the Bonds related to the 2012 Motorized Equipment improvements and the 2013 Motorized Equipment improvements and (iv) 10 years as to the portion of the Bonds related to the 2019 Sewer Motor Vehicles and Equipment improvements, the 2019 Forestry Motor Vehicles and Equipment improvements and the 2019 Police Radio improvements. If notes in anticipation of the related Bonds are outstanding later than the last day of December of the fifth year following the year of issuance of the original issue of notes, the period in excess of those five years shall be deducted from that maximum maturity of the related Bonds. Thus, the maximum maturity of the Bonds related to the (A) 2010 Street improvements is nine years, (B) 2010 Monticello/Taylor improvements is 14 years, (C) 2012 Motorized Equipment improvements is one year and (D) 2013 Motorized Equipment improvements is two years.
3. The maximum maturity of the Notes is (i) August 4, 2030, as to the portion of the Notes related to the 2010 Street improvements and the 2010 Monticello/Taylor improvements, which date is 20 years from August 4, 2010, the date of issuance of the original notes issued for those purposes, (ii) August 1, 2022, as to portion of the Notes related to the 2012 Motorized Equipment

improvements, which date is 10 years from August 1, 2012, the date of issuance of the original notes issued for that purpose, (iii) July 31, 2023, as to portion of the Notes related to the 2013 Motorized Equipment improvements, which date is 10 years from July 31, 2013, the date of issuance of the original notes issued for that purpose, and (iv) July 22, 2034, as to portion of the Notes related to the 2019 Sewer Motor Vehicles and Equipment improvements, the 2019 Forestry Motor Vehicles and Equipment improvements and the 2019 Police Radio improvements, which date is 15 years from July 22, 2019, the date of issuance of the original notes issued for those purposes.

Dated: June 15, 2020

Director of Finance
City of Cleveland Heights, Ohio

Proposed: 07/06/2020

RESOLUTION NO. 80-2020 (CRR)

By Council Member

A Resolution proclaiming July 2020 to be *National Parks and Recreation Month* in the City of Cleveland Heights; and declaring an emergency.

WHEREAS, parks and recreation programs are an integral part of communities throughout this country, including the City of Cleveland Heights; and

WHEREAS, our parks and recreation are vitally important to establishing and maintaining the quality of life in our communities, ensuring the health of all citizens, and contributing to the economic and environmental well-being of a community and region; and

WHEREAS, parks and recreation programs build healthy, active communities that aid in the prevention of chronic disease, provide therapeutic recreation services for those who are mentally or physically disabled, and also improve the mental and emotional health of all citizens; and

WHEREAS, parks and recreation programs increase a community's economic prosperity through increased property values, expansion of the local tax base, increased tourism, the attraction and retention of businesses, and crime reduction; and

WHEREAS, parks and recreation areas are fundamental to the environmental well-being of our community; and

WHEREAS, parks and natural recreation areas improve water quality, protect groundwater, prevent flooding, improve the quality of the air we breathe, provide vegetative buffers to development, and produce habitat for wildlife; and

WHEREAS, our parks and natural recreation areas ensure the ecological beauty of our community and provide a place for children and adults to connect with nature and recreate outdoors; and

WHEREAS, the U.S. House of Representatives has designated July as *Parks and Recreation Month*; and

WHEREAS, the City of Cleveland Heights is honored to take part in the annual observance of *National Parks and Recreation Month* to distinguish Cleveland Heights as an attractive and desirable community to live, work, play, and visit.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Cleveland Heights, Ohio, that:

RESOLUTION NO. 80-2020 (CRR)

SECTION 1. This Council hereby proclaims July 2020 to be *National Parks and Recreation Month* in the City of Cleveland Heights and encourages residents to take advantage of the many opportunities to participate in parks and recreation programs and to enjoy the over 140 acres of parkland, multiuse paths, trails and playgrounds available throughout the City.

SECTION 2. Notice of the passage of this Resolution shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

SECTION 3. This Resolution is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being the need to recognize *National Parks and Recreation Month* on a timely basis. Wherefore, provided it receives the affirmative vote of five (5) or more members elected or appointed to this Council, this Resolution shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

JASON S. STEIN, Mayor
President of the Council

AMY HIMMELEIN
Acting Clerk of Council

PASSED:

Proposed: 07/06/2020

ORDINANCE NO. 81-2020 (F)

By Council Member

An Ordinance suspending the levying of admissions tax under Chapter 155, “Admissions Tax,” of Part One, *Administrative Code*, of the Codified Ordinances of the City of Cleveland Heights; placing a moratorium on the collection and remittance of the same; and declaring an emergency.

WHEREAS, the Home Rule amendment of the Ohio Constitution, Article XVIII, Section 3, provides that “[m]unicipalities shall have authority to exercise all powers of local self-government,” and the municipal taxing power is one of such powers of local self-government delegated by the people of the State to the people of municipalities.

WHEREAS, pursuant to Ohio Revised Code 715.013, municipalities may impose admissions tax upon certain establishments, and such taxes are entirely controlled by the municipality; and

WHEREAS, Chapter 155, “Admissions Tax,” of the Codified Ordinances of the City of Cleveland Heights levies taxes upon certain categories of businesses that charge for the right of privilege to enter into an establishment, as defined within the Code; and

WHEREAS, the World Health Organization, the President of the United States, the Governor of Ohio, the Director of the Ohio Department of Health, Cuyahoga County, and the City of Cleveland Heights have all declared a state of emergency that exists within the City due to the COVID-19 pandemic; and

WHEREAS, in response to the COVID-19 pandemic, Governor DeWine ordered the closures of all non-essential businesses; and

WHEREAS, the Director of the Ohio Department of Health later announced that although businesses may reopen, they must adhere to strict social distancing and other guidelines to mitigate the spread of the virus, including ensuring that patrons remain six feet apart and reducing maximum occupancy limits; and

WHEREAS, at present it is still unknown when the infection mitigation guidelines related to COVID-19 will be lifted; and

WHEREAS, businesses throughout the region have been severely and negatively impacted by the shutdown and the economic conditions created by the COVID-19 emergency; and

WHEREAS, this Council recognizes the financial burden that COVID-19 and the reopening guidelines place on businesses located within the City and wishes to alleviate some of that burden by temporarily suspending the levying of admissions taxes and placing a moratorium

ORDINANCE NO. 81-2020 (F)

on the collection and remittance of the same so that those businesses affected by such taxes can mitigate and recoup their financial losses; and

WHEREAS, in addition to the benefits received by businesses by taking such action, such action will further help stimulate the economy through increased activity involving these and ancillary local businesses.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Cleveland Heights, Ohio, that:

SECTION 1. This Council hereby suspends the levying of admissions tax under Chapter 155, "Admissions Tax," of Part One, *Administrative Code*, of the Codified Ordinances of the City of Cleveland Heights and places a moratorium on the collection and remittance of the same, from July 1, 2020 to December 31, 2020, which may be extended upon additional action by Council.

SECTION 2. Notice of the passage of this Ordinance shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

SECTION 3. This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being the need for all Cleveland Heights businesses to compete in the marketplace in light of the mandated restrictions and limitations imposed upon businesses to curtail the spread of COVID-19. Wherefore, provided it receives the affirmative vote of five (5) or more of the members elected or appointed to this Council, this Ordinance shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

JASON S. STEIN, Mayor
President of the Council

AMY HIMMELEIN
Clerk of Council

PASSED:

Proposed: 07/06/2020

RESOLUTION NO. 82-2020 (PSH)

By Council Member

A Resolution objecting to the renewal of all current liquor permits issued by the Ohio Department of Commerce, Division of Liquor Control to Zooz Limited dba City & East Hookah Bar, 2781 Euclid Heights Blvd., Cleveland Heights, Ohio 44106 and requesting that a hearing on the issue of renewal be held in Cuyahoga County, Ohio; and declaring an emergency.

WHEREAS, in the matter of Zooz Limited dba City & East Hookah Bar, 2781 Euclid Heights Blvd., Cleveland Heights, Ohio 44106, the applicant has operated the permit premises in a manner that demonstrates disregard for the laws, regulations, and local ordinances of the State of Ohio and the City of Cleveland Heights, the location of the establishment substantially interferes with public decency, sobriety, peace, and good order of the neighborhood where the premises is located, and the premises does not conform to the building, safety or health requirements of the City of Cleveland Heights; and

WHEREAS, the City Manager, Chief of Police, and Director of Law have determined that it would be in the best interests of the City and its residents to object to the renewal of all existing liquor permits for said establishment.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Cleveland Heights, Ohio, that:

SECTION 1. This Council hereby presents the objections and concerns of the officials of the City of Cleveland Heights, Ohio to the granting of the renewal of all current liquor permits issued by the Ohio Department of Commerce, Division of Liquor Control for the premises operated by Zooz Limited dba City & East Hookah Bar, 2781 Euclid Heights Blvd., Cleveland Heights, Ohio 44106, on the basis that the applicant has operated the liquor premises in a manner that demonstrates disregard for the laws, regulations, and local ordinances of the State of Ohio and City of Cleveland Heights, the location of said establishment substantially interferes with the public decency, sobriety, peace, and good order of the neighborhood where the premises is located, and the premises does not conform to the building, safety, or health requirements of the City of Cleveland Heights within the meaning of Division (A) of Section 4303.292 of the Ohio Revised Code.

SECTION 2. This Council basis its objections and concerns, in part, on Chief of Police Annette M. Mecklenburg's correspondence to the Clerk of Council, attached hereto and incorporated herein as Exhibit A. Specifically, this Council finds that there have been an overwhelming number of calls for police service to Zooz Limited dba City & East Hookah Bar, 2781 Euclid Heights Blvd., Cleveland Heights, Ohio 44106 during approximately a three-and-a-half-year period. This Council further finds that those calls for police service include numerous disturbances, fights, unruly patrons, and other criminal incidents, including a shooting that was precipitated by a physical altercation that occurred while waiting in line to enter the establishment.

RESOLUTION NO. 82-2020 (PSH)

SECTION 3. This Council hereby requests that a hearing on the issue of renewal be held in Cuyahoga County, Ohio.

SECTION 4. The Director of Law is specifically authorized to pursue this objection, or to resolve same, if in the best interest of the City.

SECTION 5. Notice of the passage of this Resolution shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

SECTION 6. This Resolution is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, and safety of the inhabitants of the City of Cleveland Heights, such emergency being the need to meet state deadlines for objection to renewal of permits. Wherefore, provided it receives the affirmative vote of five or more of the members elected or appointed to this Council, this Resolution shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

JASON S. STEIN, Mayor
President of the Council

AMY HIMMELEIN
Clerk of Council

PASSED:



*City of trees... symbol of a live
and growing community with
diverse roots founded in a rich
variety of cultural heritages...
thriving in the awareness of
the present and rising to the
challenge of the future*

CITY OF
CLEVELAND HEIGHTS
DIVISION OF POLICE

EXHIBIT A

40 SEVERANCE CIRCLE, CLEVELAND HEIGHTS, OHIO 44118 * Telephone (Area Code 216) 291-4974
ANNETTE M. MECKLENBURG, CHIEF

June 23, 2020

Amy Himmelein
Clerk of Council

Dear Ms. Himmelein,

As the Chief Law Enforcement Officer for the City of Cleveland Heights, please present to City Council my objection to the 2019-2020 renewal of a liquor permit Zooz Limited, for the premises located at 2781 Euclid Heights Blvd. dba City & East Hookah Bar ("City & East") for Permit #9961333.

Over the past several years, the Police Department has experienced a significant increase in the number of calls for service to City & East. In 2016, there were over 20 calls for service including no less than six disturbances, four reports of theft/missing property, and six follow-up investigations. In 2017, the Police Department experienced an increase in the number of calls for service from the previous year. The over 40 calls consisted of no less than 18 disturbances, three suspicious activity complaints, and two Assaults. In addition, Officers needed to respond back to this establishment on four additional occasions to conduct follow-up investigations. In 2018, the calls for service continued to increase. The over 65 calls for service included, in part, 22 disturbance complaints, four suspicious activity complaints, three follow-up investigations, five found/lost property calls, and one assault. In 2019, officers responded to over 44 calls for service to City & East. The calls consisted in part of 14 disturbances, four suspicious activity calls, three noise complaints and one felonious assault. In addition to the police calls for service, the Cleveland Heights Fire Department has also had to respond to City & East on multiple occasions, including three times in 2019, for intoxicated patrons who had to be transported to the hospital for medical treatment. As of March 1, 2020, officers had already responded to 12 calls for service to City & East, including three disturbances, one welfare check and one theft.

Furthermore, given the substantial increase in calls for service to City & East over the past couple years, it has become necessary for increased Officer patrols, presence, and business checks in the area of this establishment in order to keep the peace and maintain good order of the neighborhood in which City & East is located. It is worth noting that since March 1, 2020, the calls for service to City & East have essentially ceased due to the COVID-19 pandemic and they were forced to close the establishment.

Some of the more recent incidents at City & East include the following:

- On February 23, 2020, at 2:09 am an Officer called for assistance at City & East disorderly unwanted patron. As additional officers arrived, the male had already been escorted from the property. However, another disturbance between a male and female ensued while the large crowd was dispersing from the establishment. Officers were able to intervene and separate the two parties before it escalated and each party was issued a criminal violation citation for Disorderly Conduct.
- On February 9, 2020, at 1:54 am several officers responded to City & East to assist with a large unruly crowd leaving the establishment. While on scene Officers were notified by a highly intoxicated patron that he believed he had been pushed down the stairs by one of the bouncers. Officers attempted to investigate the claim, however the owner stated that the cameras were not working properly and there was no video available. While officers were dealing with other disturbances resulting from the crowd dispersing, the male who made the complaint left the scene. Officers continued to investigate the matter, however they were not able to substantiate the claim due to the intoxication level of the alleged victim.
- On September 20, 2019, at 1:58 am officers responded to City & East on a report of a fight. Upon arrival officers learned that a male and female were arguing as they were leaving the establishment. It was reported that the male slammed the female in the courtyard area after exiting City & East. Officers located the male walking away from the scene and when they attempted to stop him but he continued walking. The male then turned and pushed an officer. As officers were struggling with the male who was resisting arrest, a firearm fell from his person. The male was eventually subdued and placed under arrest. The firearm was fully loaded and it was learned that it had been reported stolen. The male was charged with Carrying a Concealed Weapon, Weapons Under Disability, Receiving Stolen Property, Obstructing Official Business and Resisting Arrest.
- On June 15, 2019, at 11:43 pm an assault occurred at City & East. While escorting two extremely intoxicated females from the establishment, one of the females struck a

security guard in the face. As additional officers arrived on the scene, one of the females refused to get into the police cruiser after being placed under arrest and kicked one of the arresting officers. Both females were arrested and charged with Disorderly Conduct-Intoxication and one was charged with Assaulting a Police Officer.

- On May 24, 2019, at 1:29 am a male was shot in the Courtyard outside City & East. Just prior to the shooting, the suspect and the victim were involved in a physical altercation while waiting in line to enter City & East. The males were separated and the suspect was escorted out of the building by an off-duty officer and the owner of City & East, Tony LaHood. A few minutes later the suspect returned to the lobby and punched the victim in the head. The suspect male was once again escorted out by the Mr. LaHood. Approximately 15 minutes later, the suspect once again returned and engaged in a physical altercation with the victim, during which he pulled out a gun and shot the victim in the leg. The suspect then fled the area. The suspect male was never identified after being escorted out of the lobby of City & East either time and he still has not been identified. This incident remains an open investigation.
- On April 11, 2019, at 11:34 pm Officers responded to City & East regarding a female patron who was disorderly inside the establishment and refusing to leave. The female, 18 years of age, was intoxicated and combative with the security guards who carried outside of the establishment because she refused to walk. Once outside, the female attempted to spit at one of the security guards. As officers attempted to arrest the female, she resisted and had to be subdued. The female was charged with Assault, Disorderly Conduct, and Resisting Arrest.
- On March 2, 2019 at 12:02 am Officers responded to a disturbance at City & East, during which one of the bouncers was struck in the face by a female patron. According to the employees the female was being removed from the establishment when she struck the bouncer, however he nor the owner wished to pursue criminal charges against the female.
- In the early morning hours of February 17, 2019, as patrons were leaving City and East, several fights and disturbances occurred that resulted in three arrests. One female and one male were both arrested for Disorderly Conduct. A third party, an 18 year old male, was also arrested for Disorderly Conduct – Intoxication and Underage Consumption of an Alcoholic Beverage.
- On June 14-15, 2018, Officers observed large crowds gathered immediately outside City & East, which eventually led to several fights. Due to the overwhelming amount

of persons gathered outside the establishment, twelve Officers from the Cleveland Heights Police Department, and numerous other Officers from surrounding municipalities (University Heights, Shaker Heights, and South Euclid) responded to the area. Officers estimated over 200 people exited the bar. Notwithstanding the vast amount of Officers on scene, it took over thirty minutes to disperse the large crowds from the area and restore the peace.

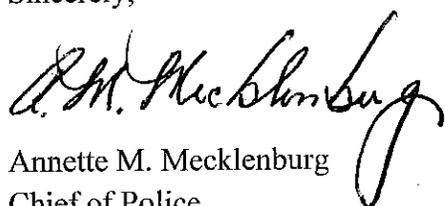
- On June 10, 2018, at 2:00 am Officers in the area of City & East witnessed a fight break out during which a male became extremely aggressive and made threats to get a gun. The male, who was intoxicated and trying to re-enter City & East, was arrested for disorderly conduct.
- On April 20, 2018, at 2:10 am Officers were flagged down regarding a disturbance at City & East, during which a male threatened to shoot everyone in the establishment. One male was arrested for Aggravated Menacing.
- On March 16, 2018, at 12:12 am Officers responded to City & East for a reported disturbance. Security guards on the scene advised that an intoxicated male attempted to cut in line to get in the establishment and was told to leave. When the male became combative, one of the security guards used a taser to subdue the male and then placed him in handcuffs. Upon police arrival, the security guard refused to pursue any criminal charges against the male. However, the male was arrested for voluntary intoxication and an outstanding warrant.
- On March 11, 2018, at 1:50 am a male reported to Officers that he was threatened by another male with a gun while leaving City & East.
- On February 23, 2018, at 1:49 am Officers in the area of City & East observed two females involved in an altercation out front. The females were both combative and one appeared to be intoxicated. Both had an "X" on their hand, which is used at City & East to indicate underage customers. The females were arrested for Disorderly Conduct and Underage Liquor Restrictions.
- On February 16, 2018, at 1:15 am Officers responded to a disturbance at City & East. It was reported that security guards encountered a problem with three patrons who were denied admission into the establishment. During an altercation with the three patrons, security guards pepper sprayed two of the parties. All three were arrested.
- On December 29, 2017, at 2:04 am Officers in the area observed a large crowd gathering in front of City & East and shortly thereafter an altercation ensued. Two

males were arrested; one for Carrying a Concealed Weapon (firearm) and Possession of Marijuana and the other for Underage Consumption of Liquor. It was later confirmed that both males had been inside City & East earlier and were escorted out by security following a disturbance.

- On June 30, 2017, at 12:05 am Officers responded to City & East after dispatch received information about an unknown person going to “shoot up” the establishment. Upon arrival Officers received a second call of a male claiming to have been assaulted by the security guards. Officers attempted to resolve the situation however one male was uncooperative and belligerent. He was issued a criminal violation for Disorderly Conduct.
- On April 1, 2017, at 11:19 pm Officers responded to a disturbance at City & East. Upon arrival Officers discovered that security guards were detaining a male on the ground after he was found to be in the bar drinking from his own personal alcohol bottle and became combative with security when being escorted out of the bar. The male was arrested for Criminal Trespass and Underage Persons Liquor Restrictions.

The Police Department has serious concerns about the renewal of the liquor permit for City & East, especially in light of the overwhelming number of calls for service that have been experienced in the past three-and-a-half years. The large disturbances that have occurred at this establishment require several officers to handle and at times even require the additional assistance of neighboring Police Departments to help disperse. In addition, the recent shooting at City & East has required numerous investigative hours by police personnel in an effort to identify and locate the suspect. Furthermore, many of these calls require follow-up investigation by officers and/or detectives, which is a strain on police resources. The renewal of City & East's liquor permit will only lead to continued interference with the safety and welfare of residents and require additional police resources in order to maintain peace and order to the area.

Sincerely,



Annette M. Mecklenburg
Chief of Police

June 24, 2020

ECONOMIC DEVELOPMENT DEPARTMENT

COVID-19: Expanded Outdoor Dining/Temporary Expansion Area Program

Purpose:

In order to be supportive of our small business community, legislation has been prepared to allow for expanded outdoor dining and other outdoor activities by interested businesses in order provide for additional seating and space for appropriate social distancing. While the majority of businesses are now permitted to be open, the guidelines and operating restrictions in place related to COVID-19 will limit the number of customers will be able to serve. This legislation would authorize the City Manager and her designees to establish a Temporary Expansion Area permit program for the expedited granting or expansion of outdoor dining and other conditional use permits in commercial districts.

This legislation also:

- Allows for these conditional use permits in “temporary expansion areas” to be administratively approved;
- Allows for administratively approved license agreements for these temporary expansion areas on City property or the right of way;
- Sets a sunset date of November 1, 2020 for the “temporary expansion areas.” The program may be extended by the City Manager for up to 12 months;
- Waives the current fee (\$75) to submit an application or fence permit fee for fences associated with an application under the temporary program;
- Waives the requirement of detailed architectural drawings and review by the Architectural Board of Review. A site plan and photos may be submitted in lieu of design drawings at the Planning Director’s discretion;
- Allows for outdoor entertainment/music within the limits of the City’s noise ordinances.

Proposed: 07/06/2020

RESOLUTION NO. 83-2020 (AS)

By Council Member

A Resolution authorizing the City Manager and her designees to establish a temporary permit program for the establishment or expansion of outdoor dining facilities and use of public and private property or right-of-way in response to the COVID-19 emergency and declaring an emergency.

WHEREAS, on March 9, 2020, Governor Mike DeWine declared a state of emergency in the State of Ohio due to confirmed cases of COVID-19 in the State of Ohio; and

WHEREAS, on March 15, 2020, in further response to the outbreak of COVID-19 within the State and to prevent and help control the spread of the virus, Governor Mike DeWine, through an Order issued by the Director of the Ohio Department of Health, mandated the indefinite closure of all Ohio bars and restaurants to in-house patrons, and subsequently extended that closure mandate to additional businesses within the State of Ohio; and

WHEREAS, on March 16, 2020, by way of Resolution No. 22-2020, this Council declared the existence of a local emergency due to the outbreak of COVID-19 within the State of Ohio and County of Cuyahoga; and

WHEREAS, in order to reopen, restaurants and other businesses are required to follow social distancing and other guidelines to mitigate the spread of the virus, including ensuring that patrons remain six feet apart, unless there is a physical barrier between parties; and

WHEREAS, this Council recognizes the burden that the on-going COVID-19 restrictions and safety guidelines place on bars, restaurants, and all other businesses located within the City and wishes to alleviate some of that burden by allowing for expanded use of outdoor areas by commercial businesses; and

WHEREAS, at present it is still unknown when the infection mitigation guidelines related to COVID-19 will be lifted; and

WHEREAS, the City of Cleveland Heights recognizes that restaurants and other businesses are critical to the vibrancy of Cleveland Heights and its commercial districts and that to ensure that our local businesses remain successful, and that the public feels safe patronizing them, the City of Cleveland Heights should provide more opportunities for businesses to expand their use of outdoor areas to promote compliance with the Governor's orders.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Cleveland Heights, Ohio, that:

SECTION 1. The City Manager and her designees (collectively, "City Manager"), to include the Planning Director and the Director of Economic Development, are hereby authorized to establish a temporary program for the creation or expansion of outdoor dining, entertainment and retail areas by permitting use of private property such as private parking lots, as well as City-

RESOLUTION NO. 83-2020 (AS)

owned property, streets and other public rights-of-way, including on-street parking areas, sidewalks, and parklets (Temporary Expansion Areas). The duration of the Temporary Expansion Area program shall be from the effective date of this resolution until no later than November 1, 2020.

SECTION 2. The City of Cleveland Heights hereby authorizes the City Manager to temporarily waive or modify the requirements of the Cleveland Heights Codified Ordinances, including Sections 110.05, 1131.02, 1131.11 and 1153.05, as necessary in order to expand outdoor/seasonal dining, entertainment, and retail opportunities during the COVID-19 Pandemic through the Temporary Expansion Area Program.

SECTION 3. The Planning Director or his designee shall review and may administratively approve applications for Temporary Expansion Area permits for new or additional outdoor -area. The applicant must certify that they will comply with all State of Ohio Department of Health orders and that adequate parking is available for the establishment without over burdening nearby residential neighborhoods. Review of a Temporary Expansion Area application will include consideration of whether the expanded - area and activity will negatively impact abutting residential neighborhoods.

SECTION 4. The application for a Temporary Expansion Area permit shall not require detailed architectural drawings and will not be subject to review by the Architectural Board of Review. However, a site plan and photos of the site maybe be required, at the Planning Director's discretion.

SECTION 5. There shall be no fee for a Temporary Expansion Area permit; further, there shall be no fee for a fence permit for a fence required in connection with the Temporary Expansion Area.

SECTION 6. The City Manager may enter into a license agreement with an applicant seeking to use City-owned property, public right of way, or on-street parking as a Temporary Expansion Area.

SECTION 7. Any Temporary Expansion Area located within a parking lot or public right of way, or where alcohol is served, shall require barricades. In addition, all Temporary Expansion Areas must comply with such rules and regulations for safety and for the protection of publicly owned property or public right of way as may be established by the Planning Director, who is hereby authorized to develop and promulgate such rules and regulations.

SECTION 8. Outdoor entertainment or the use of speakers may be permitted within a Temporary Expansion Area; provided, however, that outdoor entertainment or speakers must not violate the City's noise ordinance, Section 509.03(b) of the Cleveland Heights Codified Ordinances, and must be installed, operated and conducted in a manner that will minimize intrusion into neighboring properties or adverse community impacts.

SECTION 9. The applicant for a Temporary Expansion Area permit may request permission to use the Expansion Area until a specific hour. The hours permitted shall be specified in the permit, but in no event shall such area be used after 10:00 p.m.

RESOLUTION NO. 83-2020 (AS)

SECTION 10. Where a Temporary Expansion Area will extend into or occupy any public property or public right-of-way, the owner of the facility must obtain and maintain throughout the duration of the permit, a General Liability insurance policy in the amount of \$1 million per occurrence, in a form approved by the Director of Law, and must provide the City with a Certificate of Insurance naming the City as the certificate holder and as an additional insured.

SECTION 11. Any applicant with an existing conditional use permit for Outdoor Dining may apply to expand its Outdoor Dining Permit area under the Temporary Expansion Area program, without additional fee. If granted, any expansion area shall be subject to all provisions of this resolution.

SECTION 12. Applicants with a permitted use or an existing conditional use permit other than Outdoor Dining may also apply for expanded outdoor use in a Temporary Expansion Area under this program, without additional fee, subject to all applicable provisions of this Resolution.

SECTION 13. A Temporary Expansion Area permit may be terminated by the City Manager if any requirements/conditions are not followed and/or if the property is the subject of multiple complaints. Within 10 days of provision of written notice of such termination, the permittee may appeal such termination decision to the Cleveland Heights Planning Commission, which shall hold a public hearing within 30 days of the appeal and either uphold or deny the appeal.

SECTION 14. Upon 48 hours written notice, the City Manager may terminate or modify a Temporary Expansion Area, in order to facilitate a public improvement project or road closure or other proper public purpose. In the event of an emergency, less advance notice, or no notice, may be provided.

SECTION 15. The City may terminate or modify the Temporary Expansion Area program as necessary to advance the public interest, with such notice as is practicable under the circumstances.

SECTION 16. Notice of the passage of this Ordinance shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

SECTION 17. This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being the timely need to accept the grant funds described herein. Wherefore, provided it receives the affirmative vote of five (5) or more of the members elected or appointed to this Council, this Ordinance shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

RESOLUTION NO. 83-2020 (AS)

JASON S. STEIN, Mayor
President of the Council

AMY HIMMELEIN
Clerk of Council

PASSED:

Proposed: 07/06/2020

RESOLUTION NO. 84-2020, *First Reading*

By

A Resolution approving the adoption of the 2021 Tax Budget; and declaring an emergency.

WHEREAS, the City Manager has previously prepared and submitted to the Council a proposed 2021 Tax Budget for Council's review and evaluation; and

WHEREAS, the members of the Council have subsequently met with the City Manager and her staff for the purpose of review, evaluation, and to discuss their recommendations on the proposed Budget; and

WHEREAS, a copy of the proposed 2021 Tax Budget is available for inspection by the general public at the office of the Director of Finance at the City Hall; and

WHEREAS, a notice of public hearing (which will be held July 20, 2020 at 7:00 pm) will be given at least ten (10) days prior to the public hearing on said 2021 Tax Budget.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Cleveland Heights, Ohio, that:

SECTION 1. This Council hereby approves the adoption of the 2021 Tax Budget as is on file in the office of the Director of Finance, Clerk of Council.

SECTION 2. The Clerk of Council is hereby directed to make a copy of the approved 2021 Tax Budget a matter of record.

SECTION 3. The Director of Finance is hereby directed to file two (2) copies of the approved 2021 Tax Budget with the Cuyahoga County Budget Commission.

SECTION 4. Notice of the passage of this Resolution shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

SECTION 5. This Resolution is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being to permit its timely filing with the Budget Commission within the period permitted by law. Wherefore, provided it receives the affirmative vote of five or more of the members elected or appointed to this Council, this Resolution shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

RESOLUTION NO. 84-2020, *First Reading*

JASON S. STEIN, Mayor
President of the Council

AMY HIMMELEIN
Clerk of Council

PASSED:

MEMO

To: Tanisha Briley, City Manager
From: Brian Iorio, CDBG Coordinator
C.C.: Cleveland Heights City Council; Richard Wong; William Hanna

RE: CDBG-CV Emergency Rental Assistance Legislation

Legislation authorizing the City to contract with CHN Housing Partners is being requested in order to initiate the Emergency Rental Assistance Program whose budget was approved in May, under Resolution 041-2020. This program was created in collaboration with Cuyahoga County and the Cities of Cleveland, East Cleveland, Euclid, Lakewood, and Parma. The following is from a briefing that the County Administration provided County Council:

What the Program will do

The Emergency Rental Assistance Program will provide emergency, short term, rental assistance to prevent evictions for Cuyahoga County residents negatively impacted by the Covid-19 pandemic, resulting in the need for financial assistance.

The Emergency Rental Assistance Program will assist both the resident as it removes the stress of the financial burden; and the property owner through the maintenance of normal rent collection necessary to maintain the property in a safe and sanitary manner. Payment will only be made to the Owner, Management Company, or other identified entity on the current lease.

It is anticipated that at least 8,500 rental households throughout Cuyahoga County will be assisted.

Selection Process for Administrator

Non-profit organizations were asked by Cuyahoga County to submit proposals related to the administration of the Emergency Rental Fund.

Cuyahoga County received 6 proposals. (A 7th was submitted but withdrawn). Of the remaining 6 CHN Housing Partners was determined to be the organization with the strongest financial capacity and staff to administer a program of this scale.

Funding

\$600,000 of Cuyahoga County's current CDBG allocation plus \$1,200,000 of its CDBG-CV funds received for the express purpose of responding to Covid-19 and related economic downturn and recovery, available for residents of 51 suburbs making up the Cuyahoga Urban County.

\$5,000,000 of Coronavirus Relief Funds provided

through the CARES Act to State, Local, and Tribal governments navigating the impact of the COVID-19 outbreak, available Countywide.

Who will be Assisted

Assistance will be provided to renters throughout Cuyahoga County, who lost income due to the economic impact of COVID-19, for up to 3 months, based on need and income eligibility.

Eligibility will be based on the U. S. Department of Housing and Urban Development's (HUD) 2020 income limits for the Cleveland Metropolitan Statistical Area, up to 120% of the area median.

The monthly assistance limit is still being finalized, in the range between \$600 and \$800, to balance the need to provide assistance with the expected large number of applications.

It is expected that Cleveland Heights' CDBG-CV allocation of \$400,000 will assist an additional 200 to 250 low- and moderate-income households (up to 80% of area median income). Cuyahoga County Coronavirus Relief Fund (CRF) Funds will assist additional Cleveland Heights Residents up to 120% of area median income. For renters needing longer-term assistance, Emergency Solutions Grant funds are also available. These funds are administered through the Cuyahoga County Office of Homeless Services. Additionally, the City is exploring the use of HOME Investment Partnership funds to possibly aid renters in need of longer-term assistance.

Once the program is up and running, in addition to CHN Housing Partner's promotion activities, we expect to promote the program through the City's various communications channels and through our CDBG partners. We also plan on utilizing our expanded Housing Counseling partnership with the Home Repair Resource Center in order to assist prospective program participants to apply for the program.

Of course, please let me know if you have any questions. I can be contacted via email or through my cell phone at (440) 463-5948.

Proposed: 07/06/2020

RESOLUTION NO. 85-2020 (PD)

By Council Member

A Resolution authorizing the City Manager to enter into an agreement with Cleveland Housing Network Housing Partners, a non-profit corporation, for the use of Community Development Block Grant funds to provide emergency rental assistance to income-eligible tenants unable to pay their full monthly rent due to the economic impact from COVID-19; providing compensation therefor; and declaring an emergency.

WHEREAS, the Cleveland Housing Network Housing Partners already provides emergency rental assistance to needy families in the City of Cleveland; and

WHEREAS, the U.S. Census Bureau has conducted a scientific survey showing that over 21% of Ohio residents are currently unable to make their monthly housing payment when due; and

WHEREAS, the short-term eviction moratoriums protecting tenants from loss of their housing are now expiring; and

WHEREAS, the inability of lower income residents to pay their monthly rent also causes economic disruption for the owners of rental property; and

WHEREAS, Cleveland Heights is working in collaboration with the United States Department of Housing and Urban Development, Cuyahoga County and the Cities of Cleveland, East Cleveland, Euclid, Lakewood, and Parma to direct federal funds to a single uniform countywide system for emergency rental assistance to prevent homelessness; and

WHEREAS, there are monies available for such purpose from Community Development Block Grant CV funds originating from the Coronavirus Aid, Relief, and Economic Security Funds (CARES Act).

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Cleveland Heights, Ohio that:

SECTION 1. The City Manager be, and she is hereby authorized to enter into an agreement with the Cleveland Housing Network Housing Partners, a non-profit corporation, for assistance with the operating expenses of their emergency rental assistance program. The agreement shall provide for total funding in the amount of up to Four Hundred Thousand Dollars (\$400,000) from Community Development Block Grant CV funds. The services to be performed by the Cleveland Housing Network Housing Partners are set forth in the Statement of Work attached hereto as Exhibit A and incorporated herein. The agreement shall be for a one-year period commencing

RESOLUTION NO. 85-2020 (PD)

July 1, 2020, and terminating June 30, 2020, and shall be subject to the approval as to form by the Director of Law.

SECTION 2. Notice of the passage of this Resolution shall be given by publishing the title and abstract of its contents prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

SECTION 3. This Resolution is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being the need to allow the necessary services of the Cleveland Housing Network Housing Partner's Emergency Rental Assistance Program to begin immediately. Wherefore, provided it receives the affirmative vote of five (5) or more of the members elected or appointed to this Council, this Resolution shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

JASON S. STEIN, Mayor
President of the Council

AMY HIMMELEIN
Clerk of Council

PASSED:

EXHIBIT A
STATEMENT OF WORK

CLEVELAND HOUSING NETWORK HOUSING PARTNERS EMERGENCY RENTAL ASSISTANCE PROGRAM

Cleveland Housing Network Housing Partners will utilize Cleveland Heights CDBG-CV funding in order to offer emergency rental assistance to income eligible Cleveland Heights tenants, impacted by the COVID-19 Pandemic, for up to three months. The maximum subsidy to each participant in the program will be determined in consultation with Cuyahoga County and the Cities of Cleveland, East Cleveland, Euclid, Lakewood and Parma. It is expected that approximately 250 tenants will be assisted through Cleveland Heights' CDBG-CV funds. Other funding sources, administered by Cuyahoga County are expected to assist additional Cleveland Heights tenants.

The Cleveland Housing Network Housing Partners Emergency Rental Assistance Program's service area includes the cities of Cleveland, Cleveland Heights, East Cleveland, Euclid, Lakewood, Parma and the Urban County portion of Cuyahoga County. CDBG-CV funds will assist with payments to landlords and costs associated with the delivery of the program.



CLEVELAND HEIGHTS

Monday, June 15, 2020 Minutes

COMMITTEE OF THE WHOLE

6:44 – 8:23 p.m.

Mayor Stein presiding

Roll Call: Present: Dunbar, Hart, Russell, Seren, Stein, Ungar

Staff present: Anderson, Boland, Briley, Hanna, Himmelein, McRae, Niermann O’Neil

Topics discussed: Legislation, Outdoor Dining Update, Review of Street Closure for Pedestrian and Recreational Activity, and Racism as a Public Health Crisis

Executive Session

8:17 – 8:23 p.m.

Council Member Hart made a motion to begin Executive Session, which was seconded by Council Member Ungar to consider the appointment of a public official.

Roll Call: Ayes: Dunbar, Hart, Russell, Seren, Stein, Ungar
Nays: None

Council Member Dunbar made a motion to end Executive Session which was seconded by Council Member Hart.

Roll Call: Ayes: Dunbar, Hart, Russell, Seren, Stein, Ungar
Nays: None

CITY COUNCIL

8:31 – 9:34 p.m.

Mayor Stein presiding

Roll Call: Present: Dunbar, Hart, Russell, Seren, Stein, Ungar
Excused: None

Staff present: Briley, Hanna, Himmelein, Niermann O’Neil

Minutes from the City Council meeting held Monday, June 1, 2020, were approved with submitted edits.

Personal communications received from citizens (via electronic mail)

Since our last City Council meeting on June 1, 2020, we have received messages from the following individuals: Bridget Guhde (26 messages), Brandon Canady, Michelle Mate, Colleen Fitzpatrick, Carol Roe, Bruce Knarr, Matthew Habermusch, and Spencer Everhart.

Ms. Guhde, Mr. Canady, Ms. Mate, and Ms. Fitzgerald wrote to express their opposition to the installation of 5G/small cell technology.

Mr. Canady does not consent to 5g or cell towers and expressed it will cause harm to his body. He also expressed that facial recognition cameras in residential areas are invasive and affect his right to privacy.

Ms. Fitzgerald asked that there be safety studies conducted regarding health effects of electromagnetic radiation exposure completed prior to a decision to install this technology.

Ms. Mate vehemently opposes any measures that would lead to involuntary exposure of residents to the deadly radiation caused by 5G towers.

Ms. Guhde offered suggestions for legal representation for the City to oppose the installation of 5g/small cell technology, along with examples of sample resolutions calling for health and environmental studies and for installation to cease. She encourages the City to hire a lawyer with experience writing an Ordinance that will protect Cleveland Heights residents while also satisfying the current legislation in Ohio.

Ms. Roe commented that Ohio House Concurrent Resolution 31 and Ohio Senate Concurrent Resolution 14 declare Racism to be a public health crisis and requests the Governor to appoint a working group. She noted the current pandemic has accentuated the racial disparities in our health system and she urged the Cleveland Heights City Council to offer support for the resolutions.

Mr. Knarr wrote about his concern with the changing demographics and the degraded quality life in his neighborhood in the Noble/Warrensville corner. He was specifically concerned about the demographic that feels it ok to drive through once-quiet streets with their car and motorcycle stereos blasting with a large booming bass line that shakes the windows and sounds like thunder. He has seen motorcycles drive by with obnoxious music blasting and motorcycles with illegally modified exhaust which creates extreme noise. The problem has persisted for 2 years and has only grown worse. He requests that

City Council look into incentivizing the police to patrol Noble and Mayfield roads and the surrounding cut through streets to find and ticket noise violators.

Mr. Habermusch commented that he attended the June 3rd protest at City Hall where he felt there was a good conversation between residents, Police Chief Mecklenburg, and City Manager Briley and the officers. He also attended yesterday's protest and commended the new Safer Heights group for being a shining example of why he loves Cleveland Heights and why he wants to buy a home and live here for a very long time. He feels that Chief Mecklenburg has done a good job of reform over the past few years and while some things are on the right track, it is not enough. After talking with Chief Mecklenburg he believes she wants our community to be safer and hopes she will continue to strive for positive change. He stands with Safer Heights in making the following demands:

1. We demand an immediate demilitarization of police, divestment from the police budget, and reinvestment in educational resources, including nonviolent intervention specialists and social service programs that emphasize mental health support and rehabilitation.
2. We demand an immediate removal of police from schools.
3. We demand transparency on all police-citizen encounters via a quarterly report detailing all arrest and citation statistics, including offense, race, age, ability, gender, use of force, and ultimate case outcomes.
4. We demand that any police officer who has their body camera turned off or obstructs it during a civilian encounter must be immediately suspended without pay and fined.
5. We demand a civilian-led review of the Cleveland Heights Police Academy curriculum and for all classes to resume regardless of COVID-19, digitally if necessary, in order to provide the required continuing education of Officers as mandated by the State of Ohio.

Mr. Everhart lives and works in Cleveland Heights which he described as vibrant, diverse, and fosters an actual sense of community which makes him love it. Given recent events, he had concern for the city and what it claims to stand for. And the actions of those responsible for protecting it. He commented that the Cleveland Heights Police is broken, overfunded, and despite efforts by the Chief to improve, not held accountable enough to mitigate abuse. He believes the police in the Heights uphold a racist classist system and not enough is done to root out those who seek to abuse their power. He joined Mr. Habermusch in making the 5 demands outlined by Safer Heights.

Report of the City Manager

Request a motion to approve an emergency agreement made pursuant to Chapter 171.02 of the Cleveland Heights Codified Ordinances to secure a 12-month rate for power supply through Dynegy Energy Services.

Request a motion to approve an emergency agreement made pursuant to Chapter 171.02 of the Cleveland Heights Codified Ordinances to secure a 12-month rate for natural gas supply through VolunteerEnergy.

Matter of Record

Refer to: Municipal Services Committee

Council Member Dunbar moved to approve an emergency agreement made pursuant to Chapter 171.02 of the Cleveland Heights Codified Ordinances to secure a 12-month rate for power supply through Dynegy Energy Services. The motion was seconded by Council Member Russell.

Roll Call: Ayes: Dunbar, Hart, Russell, Seren, Stein, Ungar
 Nays: None

Motion Passed

Council Member Dunbar moved to approve an emergency agreement made pursuant to Chapter 171.02 of the Cleveland Heights Codified Ordinances to secure a 12-month rate for natural gas supply through VolunteerEnergy. The motion was seconded by Council Member Russell.

Roll Call: Ayes: Hart, Russell, Seren, Stein, Ungar, Dunbar
 Nays: None

Motion Passed

Tanisha Briley gave an overview of her report to Council which may be read in full at https://www.clevelandheights.com/DocumentCenter/View/7039/cc_packet_06102020?bidId=.

Council Member Hart asked if a meeting with the citizens was scheduled, as it was requested after the first protest. Tanisha Briley responded it is scheduled for next Thursday and the Chief would provide more details.

Report of the Chief of Police

Chief Mecklenburg stated she is committed to striving toward the best practices in law enforcement. She recognized that to be effective, the Police Department cannot operate alone and must have the active and consistent support of the community. She made a statement regarding deplorable high-profile events over the last few weeks and systemic racism. We are an Ohio Collaborative Law Enforcement Certified Agency and

recertification is broken into three categories, the first two groups including the following: creating and implementing policies around the use of force, hiring and recruitment, community engagement, and body-worn cameras. Group Three includes policies around bias-free policing and employee misconduct. We do have a policy on bias-free policing and are currently drafting a policy on employee misconduct. Chief Mecklenburg made a statement about policy review and consideration of new requests. There will be a virtual forum held on June 25 and additional details will be shared over the next few days.

Council Member Hart thanked the Chief.

Report of the Clerk of Council

Notify Council of one (1) Fiscal Officer's Certificate pertaining to proposed legislation to provide for the issuance of notes, in anticipation of the issuance of bonds, for the purpose of reconstructing, resurfacing and otherwise improving City streets, rebuilding Monticello Boulevard and Taylor Road, including engineering and planning costs with respect thereto, and acquiring motorized equipment and appurtenances, acquiring motor vehicles and equipment used in performing the functions of the City's Department of Public Works, Sewer Utilities Division, acquiring motor vehicles and equipment used in performing the functions of the City's Department of Public Works, Forestry Division, and acquiring mobile radios for use by the City's Police Department, together with the necessary related equipment, together with the necessary related equipment

Matter of Record

MUNICIPAL SERVICES COMMITTEE

ORDINANCE NO. 54-2020 (MS), *Second Reading.* An Ordinance amending Chapter 943, "Use of Public Ways for Small Cell Wireless Facilities and Wireless Support Structures," of Part Nine, Streets, Utilities and Public Services Code of the Codified Ordinances of Cleveland Heights

Second Reading by Council Member Dunbar

ORDINANCE NO. 56-2020 (MS). An Ordinance authorizing all actions necessary to accept Northeast Ohio Public Energy Council 2020 Energized Community Grant(s) Funds

Introduced by Council Member Dunbar, Seconded by Council Member Hart

Roll Call: Ayes: Russell, Seren, Stein, Ungar, Dunbar, Hart
 Nays: None

Legislation Passed

PLANNING AND DEVELOPMENT COMMITTEE

Council Member Ungar stated that all of the Planning and Development Committee legislation is on the consent agenda this evening. He thanked those who serve on the Citizens Advisory Committee for making recommendations on allocations possible.

Council Member Ungar gave a summary of the Planning and Development Committee meeting including outdoor dining, FutureHeights, Top of the Hill, Noble, and Taylor. He thanked everyone who participated.

He gave his condolences for the loss of the two sisters from the Scaravilli family.

ADMINISTRATIVE SERVICES COMMITTEE

ORDINANCE NO. 51-2020 (AS), *Second Reading.* An Ordinance amending Section 111.21, "Voting," of Chapter 111, Council, of Part One, Administrative Code, of the Codified Ordinances of the City of Cleveland Heights to allow Council members to recuse themselves from voting due to a conflict of interest.

Second Reading by Council Member Seren

Council Member Seren stated there will still be another reading of the legislation regarding the nonconsensual dissemination of intimate images and videos that would prohibit discrimination of revenge porn.

Council Member Seren gave an overview of the Administrative Services Committee meeting from the previous week including charter amendments that could potentially be on November's ballot, the transition, and mayoral salary.

There will be another Administrative Services Committee meeting on June 23 at 6:00 p.m. including those who have transitioned from Citizens for an Elected Mayor to helping with that transition.

Council Member Seren stated he went to the protest yesterday afternoon starting at the P.E.A.C.E Park and stopped on several occasions to talk to those that organized the protest about their ideas for police reform. He stated he looks forward to working with the entire community and hearing everyone's ideas about moving forward.

COMMUNITY RELATIONS AND RECREATION COMMITTEE

Council Member Russell stated that our playgrounds opened on June 10. Social distancing is still encouraged. The Community Center will have COVID-19 tests available June 25, 9:00 a.m. to 1:00 p.m., and RSVPs are required.

Council Member Russell encouraged Cleveland Heights residents to complete the census and stated we are still in a challenge with University Heights.

Council Member Russell stated she attended the first protest and spoke at a Mothers Cry March where mothers gathered who had lost children in police violence in some way. Council Member Hart attended the march as well. Council Member Russell stated it was a peaceful and moving protest and stated the importance of getting viewpoints from all parts of our city. She thanked Chief Mecklenburg for the forums on June 25 and June 11. The forum on June 11, hosted by, 'You Talk, I Listen,' will be youth-focused and youth-driven and the youth will work with the Chief in advance to plan the event.

FINANCE COMMITTEE

ORDINANCE NO. 57-2020 (F), First Reading. An Ordinance providing for the issuance and sale of \$1,105,000 of notes, in anticipation of the issuance of bonds, for the purpose of paying costs of (i) reconstructing, resurfacing and otherwise improving City streets, together with necessary appurtenances thereto, (ii) rebuilding Monticello Boulevard and Taylor Road, including engineering and planning costs with respect thereto, (iii) acquiring motorized equipment and appurtenances thereto, (iv) acquiring motor vehicles and equipment used in performing the functions of the City's Department of Public Works, Sewer Utilities Division, (v) acquiring motor vehicles and equipment used in performing the functions of the City's Department of Public Works, Forestry Division and (vi) acquiring mobile radios for use by the City's Police Department, together with the necessary related equipment

Introduced by Council Member Hart

Legislation Introduced

RESOLUTION 58-2020 (F). A Resolution requesting the City of Cleveland Heights's share of funds from the County Coronavirus Relief Distribution Fund and affirming that upon receipt thereof such funds shall be used only to cover costs incurred by the City of Cleveland Heights consistent with the requirements of applicable law and regulations

Introduced by Council Member Hart, Seconded by Council Member Ungar

Roll Call: Ayes: Ungar, Stein, Seren, Russell, Hart, Dunbar

Nays: None

Legislation Passed

Council Member Hart stated Council is working on legislation to declare racism a public health issue. Housing legislation has been distributed as a draft to Council and will be reviewed. It covers foreclosure bonds, vacant housing registry and will require out of town owners to register.

The Finance Committee meeting will be held on June 29. They will review budget scenarios and how COVID is impacting our budget.

Council Member Hart stated she was shocked by some of the stories she heard at the march and it's important to move toward resolution in this country.

Council Member Russell thanked Susanna for helping her with an interview to partner with Cleveland State University. She thanked the Leadership Institute for their participation and interest.

Consent Agenda

RESOLUTION NO. 59-2020 (PD). A Resolution authorizing the City Manager to enter into an agreement with the Bhutanese Community of Greater Cleveland, a non-profit corporation, for the use of Community Development Block Grant CV funds to provide additional assistance to their Refugee Assistance Program needed as a result of the COVID-19 Pandemic

RESOLUTION NO. 60-2020 (PD). A Resolution authorizing the City Manager to enter into an agreement with Family Connections of Northeast Ohio a non-profit corporation, for the use of Community Development Block Grant funds to provide funding for assistance with its Family School Connections Program; providing compensation therefor

RESOLUTION NO. 61-2020 (PD). A Resolution authorizing the City Manager to enter into an agreement with Family Connections of Northeast Ohio a non-profit corporation, for the use of Community Development Block Grant funds to provide funding for assistance with its Parent Café Program; providing compensation therefor

RESOLUTION NO. 62-2020 (PD). A Resolution authorizing the City Manager to enter into an agreement with FutureHeights, a non-profit corporation, for the use of Community Development Block Grant funds to provide funding for assistance with its Community Capacity Building Program; providing compensation therefor

RESOLUTION NO. 63-2020 (PD). A Resolution authorizing the City Manager to enter into an agreement with FutureHeights, a non-profit corporation, for the use of Community Development Block Grant funds to provide funding for assistance with its Cedar Lee Mini-Park Placemaking Project; providing compensation therefor

RESOLUTION NO. 64-2020 (PD). A Resolution authorizing the City Manager to enter into an agreement with FutureHeights, a non-profit corporation, for the use of Community Development Block Grant funds to provide funding for assistance with its FutureHomes Project; providing compensation therefor

RESOLUTION NO. 65-2020 (PD). A Resolution authorizing the City Manager to enter into an agreement with FutureHeights, a non-profit corporation, for the use of

Community Development Block Grant funds to provide funding for assistance with its Noble Road Corridor Early Action Project; providing compensation therefor

RESOLUTION NO. 66-2020 (PD). A Resolution authorizing the City Manager to enter into an agreement with Geshar, a non-profit corporation, for the use of Community Development Block Grant funds for the payment of operating expenses; providing compensation therefor

RESOLUTION NO. 67-2020 (PD). A Resolution authorizing the City Manager to enter into an agreement with Geshar, a non-profit corporation, for the use of Community Development Block Grant CV funds due to increased demand for their Benefits Referral Program due to the COVID-19 Pandemic; providing compensation therefor

RESOLUTION NO. 68-2020 (PD). A Resolution authorizing the City Manager to enter into an agreement with the Heights Emergency Food Center, a non-profit corporation, for the use of Community Development Block Grant funds for the payment of operating and capital improvement expenses; providing compensation therefor

RESOLUTION NO. 69-2020 (PD). A Resolution authorizing the City Manager to enter into an agreement with the Heights Emergency Food Center, a non-profit corporation, for the use of Community Development Block Grant CV funds for the payment of increased operating and capital improvement expenses due to the COVID-19 Pandemic; providing compensation therefor

RESOLUTION NO. 70-2020 (PD). A Resolution authorizing the City Manager to enter into an agreement with the Home Repair Resource Center (“HRRC”), a non-profit corporation, for the use of Community Development Block Grant Funds for assistance with HRRC’s housing counseling, home-repair and home-improvement programs; providing compensation therefor

RESOLUTION NO. 71-2020 (PD). A Resolution authorizing the City Manager to enter into an agreement with the Home Repair Resource Center (“HRRC”), a non-profit corporation, for the use of Community Development Block Grant Funds for assistance with HRRC’s Housing Counseling Program’s increased demand due to the COVID-19 Pandemic; providing compensation therefor

RESOLUTION NO. 72-2020 (PD). A Resolution authorizing the City Manager to enter into an agreement with Lake Erie Ink, a non-profit corporation, for the use of Community Development Block Grant funds to provide funding for assistance with the organization’s Ink Spot After School Program; providing compensation therefor

RESOLUTION NO. 73-2020 (PD). A Resolution authorizing the City Manager to enter into an agreement with the Open Doors Academy, a non-profit corporation, for the use of Community Development Block Grant funds to provide funding for assistance with the organization's Year-round Academic and Enrichment Programming for Disadvantaged Middle School Youth; providing compensation therefor

RESOLUTION NO. 74-2020 (PD). A Resolution authorizing the City Manager to enter into an agreement with the Open Doors Academy, a non-profit corporation, for the use of Community Development Block Grant funds to provide funding for assistance with the organization's Pathways to Independence Program at Cleveland Heights High School; providing compensation therefor

RESOLUTION NO. 75-2020 (PD). A Resolution authorizing the City Manager to enter into an agreement with the Severance Tower Local Advisory Council, a non-profit corporation, for the use of Community Development Block Grant funds to provide funding for assistance with its Accessible Community Garden Project; providing compensation therefor

RESOLUTION NO. 76-2020 (PD). A Resolution authorizing the City Manager to enter into an agreement with the Start Right Community Development Corporation, a non-profit corporation, for the use of Community Development Block Grant funds for the payment of operating expenses for their Food Bank Program; providing compensation therefor

RESOLUTION NO. 77-2020 (PD). A Resolution authorizing the City Manager to enter into an agreement with the Start Right Community Development Corporation, a non-profit corporation, for the use of Community Development Block Grant funds for the payment of operating expenses for their expanded Food Bank Program resulting from the COVID-19 Pandemic; providing compensation therefor

Motion to suspend rules by Council Member Ungar, Seconded by Council Member Hart

Roll Call: Ayes: Stein, Ungar, Dunbar, Hart, Russell, Seren
Nays: None

Motion Passed

Motion to adopt by Council Member Hart, Seconded by Council Member Dunbar

Roll Call: Ayes: Ungar, Dunbar, Hart, Russell, Seren, Stein
Nays: None

Mayor's Report

No report.

NEXT MEETING OF COUNCIL: MONDAY, JULY 6, 2020

Respectfully submitted,

Jason S. Stein, Mayor

Susanna Niermann O'Neil, Acting Clerk of Council
/jkc