



# CLEVELAND HEIGHTS

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**Council Committee of the Whole**

**Monday, March 7, 2022**

**6:30 p.m.**

**City Hall – Executive Conference Room**

## **Agenda**

1. Legislation Review/Caucus
2. Executive Session
  - a. *To consider the appointment of a public official.*



## CLEVELAND HEIGHTS

### AGENDA (tentative) - CLEVELAND HEIGHTS CITY COUNCIL MEETING

**Monday, March 7, 2022**  
**Regular Meeting**  
**7:30 p.m.**

**Cleveland Heights City Hall**  
**Council Chambers**  
**40 Severance Circle**  
**Cleveland Heights, Ohio**

- 1) Meeting called to order by Council President**
- 2) Roll Call of Council Members**
- 3) Excuse absent members**
- 4) Personal Communications from citizens on Agenda Items only.**

(Note: Citizens wishing to speak must register beforehand, and comments are limited to 3 minutes per speaker. An opportunity for comments unrelated to agenda items will be provided following Committee Reports.)

- 5) Communications from the Mayor**
- 6) Report of the Clerk of Council**
- 7) Committee Reports**
  - a.) MUNICIPAL SERVICES COMMITTEE**
  - b.) PLANNING AND DEVELOPMENT COMMITTEE**

**ORDINANCE NO. 23-2022 (PD), *First Reading*.** An Ordinance authorizing the Mayor to enter into an agreement with Made Cleveland, LLC, for the lease of City-owned property located at 1807 Coventry Road for the operation of a retail store; and declaring an emergency.

Introduced by Mayor Seren

Vote \_\_\_\_\_  
For \_\_\_\_\_ Against \_\_\_\_\_ No. Reading \_\_\_\_\_

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

**d.) ADMINISTRATIVE SERVICES COMMITTEE**

**RESOLUTION 24-2022 (AS), *First Reading*.** A Resolution confirming the Mayor's appointment of Joseph E. Sinnott as City Administrator for the City of Cleveland Heights; and declaring the necessity that this Resolution become immediately effective as an emergency measure.

Introduced by Mayor Seren

Vote \_\_\_\_\_  
For \_\_\_\_\_ Against \_\_\_\_\_ No. Reading \_\_\_\_\_

**ORDINANCE NO. 25-2022 (AS), *First Reading*.** An Ordinance establishing salary schedules, position classifications and other compensation, and benefits for officers and employees of the City; and declaring an emergency.

Introduced by Mayor Seren

Vote \_\_\_\_\_  
For \_\_\_\_\_ Against \_\_\_\_\_ No. Reading \_\_\_\_\_

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

**RESOLUTION NO. 19-2022 (CRR), *Second Reading*.** A Resolution in support of the Medicare for All Act of 2021 (HR 1976); and declaring that universal access to quality healthcare is a human right.

Introduced by Mayor Seren, Council President Hart, Vice President Cobb, and Council Members Russell, Moore, Mattox, Cuda and Larson

Vote \_\_\_\_\_  
For \_\_\_\_\_ Against \_\_\_\_\_ No. Reading \_\_\_\_\_

**ORDINANCE NO. 26-2022 (CRR), *First Reading*.** An Ordinance authorizing and approving the presentation of entertainment programs in Cain Park for the year 2022.

Introduced by Mayor Seren

Vote \_\_\_\_\_  
For \_\_\_\_\_ Against \_\_\_\_\_ No. Reading \_\_\_\_\_

**f.) FINANCE COMMITTEE**

**RESOLUTION NO. 21-2022 (F), *Second Reading*.** A Resolution establishing the Flexible Spending Account Fund and affirming that funds received by the City as a payroll deduction from employees shall be used only to cover costs incurred by the City of Cleveland Heights consistent with Internal Revenue Code §125 and applicable law and regulations; and declaring an emergency.

Introduced by Mayor Seren

Vote \_\_\_\_\_  
For \_\_\_\_\_ Against \_\_\_\_\_ No. Reading \_\_\_\_\_

**ORDINANCE NO. 27-2022 (F), *First Reading*.** An Ordinance providing for the issuance and sale of not to exceed \$1,500,000 of economic development nontax revenue bonds for the purpose of paying a portion of the costs of the acquisition of a portion of, and redevelopment of the site generally known as “Top of the Hill” located on approximately four acres of land situated between Euclid Heights Boulevard and Cedar Road at the top of Cedar Hill in the City, and declaring an emergency.

Introduced by Mayor Seren

Vote \_\_\_\_\_  
For \_\_\_\_\_ Against \_\_\_\_\_ No. Reading \_\_\_\_\_

**ORDINANCE NO. 28-2022 (F), *First Reading*.** An ordinance to amend certain subparagraphs of Ordinance No. 139-2021 (F), relating to appropriations and other expenditures of the City of Cleveland Heights, Ohio for the fiscal year ending December 31, 2022 and declaring an emergency.

Introduced by Mayor Seren

Vote \_\_\_\_\_  
For \_\_\_\_\_ Against \_\_\_\_\_  
No. Reading \_\_\_\_\_

**g.) HOUSING AND BUILDING COMMITTEE**

**8) Personal Communications from citizens**

(Note: Citizens wishing to speak must register beforehand, and comments are limited to 3 minutes per speaker.)

**9) Old Business**

**10) New Business**

**11) Council Member Comments**

**12) Council President's Report**

**13) Adjournment**

**NEXT MEETING OF COUNCIL: MONDAY, MARCH 21, 2022**

Proposed: 2/22/2022

RESOLUTION NO. 19-2022, *Second Reading*

By Mayor Seren, Council President Hart,  
Vice President Cobb, and Council Members  
Russell, Moore, Mattox, Cuda, and Larson

A Resolution in support of the Medicare for All Act of 2021 (HR 1976); and declaring that universal access to quality healthcare is a human right.

WHEREAS, nearly 7% of Cleveland Heights residents, over 3,000 people, have no health insurance; and

WHEREAS, over 20% of Cleveland Heights residents, approximately 9,000 people, live below the poverty threshold; and

WHEREAS, average life expectancy varies widely, as much as 14 years, among different neighborhoods of Cleveland Heights, geographically correlated with race and income levels; and

WHEREAS, every person in Cleveland Heights deserves high quality health care and everyone's health is at risk when our neighbors cannot receive care; and

WHEREAS, the number of Americans without health insurance before the COVID-19 pandemic was nearly 30 million, with more than 40 million Americans underinsured, despite important gains made since the implementation of the Affordable Care Act; and

WHEREAS, the current COVID-19 pandemic has led to record levels of unemployment, loss of employer-sponsored health insurance, a severely strained health care system, widespread illness, and taken a profound toll on our community's mental health, all of which is placing significant demands on our health care system with the impacts most severe on our Black and brown neighbors; and

WHEREAS, many people delay seeking needed health care due to an inability to pay, leading to a sicker and poorer population in the long run; and

WHEREAS, such a population is significantly more likely to develop serious illness if exposed to COVID-19 and will subsequently face higher mortality rates from the disease; and

WHEREAS, without new strategies, the never-ending rising costs of health care will continue to challenge our already strained municipal budget and the small businesses that keep our community unique and thriving; and

WHEREAS in order to equitably and effectively address the health care burden of the COVID-19 crisis, we must urge the United States Congress to expand health insurance coverage

RESOLUTION NO. 19-2022, *Second Reading*

to provide comprehensive coverage to every resident of the United States without cost sharing requirements; and

WHEREAS the Medicare for All Act of 2021 would provide national health insurance for every person in the United States for all necessary medical care including diagnostic (e.g., virus) testing; prescription drugs; hospital, surgical and outpatient services; primary and preventive care; emergency services; reproductive care; dental and vision care; and long-term care; and

WHEREAS the Medicare for All Act of 2021 would provide coverage without copays, deductibles or other out-of-pocket costs, and would reduce bureaucracy, protect the doctor-patient relationship and assure patients a free choice of doctors; and

WHEREAS, recent polls show that a growing majority of Americans support Medicare for All; and

WHEREAS the Medicare for All Act of 2021 will guarantee that all residents of Cleveland Heights will be fully covered for health care without copays, deductibles or other out-of-pocket costs, and would save millions in taxpayer dollars now spent on premiums that provide often inadequate health insurance coverage; and

WHEREAS, the failure to provide affordable and appropriate preventative health care services places unnecessary and more costly demands upon Cleveland Heights emergency health care services.

WHEREAS, the quality of life for the residents of Cleveland Heights will vastly improve because everyone would be able to get preventative and ongoing care, when they need it to keep themselves and their neighbors healthy and avoid further burdening local resources;

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

SECTION 1. The Council and Mayor of the City of Cleveland Heights urge Congress to enact emergency legislation to provide universal, comprehensive health coverage with no cost-sharing requirements for patients during the healthcare crisis caused by the COVID-19 pandemic, enthusiastically support the Medicare for All Act of 2021 (H.R. 1976), and call on our federal legislators to work toward its immediate enactment, assuring appropriate and efficient healthcare for all residents of the United States.

SECTION 2. The Council and Mayor of the City of Cleveland Heights hereby declare that universal access to high quality healthcare is a human right and the responsibility of a modern society with the capacity to provide it.

SECTION 3. Upon passage of this Resolution, the Clerk of Council shall provide a copy of this Resolution to the Congressional Delegation representing the City of Cleveland Heights.

RESOLUTION NO. 19-2022, *Second Reading*

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.

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MELODY JOY HART  
President of Council

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AMY HIMMELEIN  
Clerk of Council

PASSED:

Presented to Mayor: \_\_\_\_\_

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

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KAHLIL SEREN  
Mayor

Proposed: 02/22/2022

RESOLUTION NO. 21-2022 (F), *Second Reading*

By Mayor Seren

A Resolution establishing the Flexible Spending Account Fund and affirming that funds received by the City as a payroll deduction from employees shall be used only to cover costs incurred by the City of Cleveland Heights consistent with Internal Revenue Code §125 and applicable law and regulations; and declaring an emergency.

WHEREAS, the City provides medical and dependent care flexible spending accounts as a benefit to employees; and

WHEREAS, employees participate in these benefits via a pre-tax payroll deduction in accordance with Internal Revenue Code §125; and

WHEREAS, these funds may only be used for qualifying medical and dependent care expenses as determined by the Internal Revenue Code §125; and

WHEREAS, Ohio Revised Code §5705.09 requires political subdivisions to establish separate funds for each class of revenue derived from a source other than the general property tax, which the law requires to be used for a particular purpose; and

WHEREAS, Ohio Revised Code §5705.12 further requires the taxing authority of a political subdivision to establish, with the approval of the Auditor of State, such other funds as desired, to deposit money derived from a source other than general property tax to be paid in to a separate fund.

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

SECTION 1. This Council hereby establishes a Flexible Spending Account Fund. The purposes of such fund shall be to account for revenues and expenditures related to the funds received by the City through payroll deductions from employees for medical and dependent care flexible spending accounts.

SECTION 2. This Council affirms that all funds received and deposited into said Flexible Spending Account Fund will be expended consistent with the requirements of the Internal Revenue Code §125 and any other applicable law, regulations, and guidance.

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

RESOLUTION NO. 21-2022 (F), *Second Reading*

SECTION 4. 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 create the new Flexible Spending Account Fund at the earliest time possible so that the City may accept and account for the monies it receives. 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.

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MELODY JOY HART  
President of Council

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AMY HIMMELEIN  
Clerk of Council

PASSED:

Presented to Mayor: \_\_\_\_\_

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

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KAHLIL SEREN  
Mayor

Proposed: 3/7/2022

ORDINANCE NO. 23-2022 (PD), *First Reading*

By Mayor Seren

An Ordinance authorizing the Mayor to enter into an agreement with Made Cleveland, LLC, for the lease of City-owned property located at 1807 Coventry Road for the operation of a retail store; and declaring an emergency.

WHEREAS, this Council has determined that said property is not presently used for municipal purposes and does not anticipate that it will be needed for a future municipal purpose; and

WHEREAS, this Council has determined that the proposed lease would be in the best interests of the City, its residents, and the Coventry Business District;

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

SECTION 1. The Mayor is authorized to enter into a lease agreement and all necessary related documents with Made Cleveland, LLC, for City-owned property located at 1807 Coventry Road to be used for the operation of a retail store. The lease agreement shall be for an initial term of 60 months commencing on April 1, 2022, and any properly exercised renewal options, unless earlier terminated in accordance with the lease agreement. The lease agreement shall be substantially in the same form as the draft lease agreement on file with the Clerk of Council. The lease agreement and any related documents shall be approved as to form by the Director of Law.

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 meet contractual deadlines. Wherefore, provided it receives the affirmative vote of five 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.

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MELODY JOY HART  
President of the Council

ORDINANCE NO. 23-2022 (PD), *First Reading*

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AMY HIMMELEIN  
Clerk of Council

PASSED:

Presented to Mayor: \_\_\_\_\_

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

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KAHLIL SEREN  
Mayor

Proposed: 3/7/2022

RESOLUTION NO. 24-2022 (AS), *First Reading*

By Mayor Seren

A Resolution confirming the Mayor's appointment of Joseph E. Sinnott as City Administrator for the City of Cleveland Heights; and declaring the necessity that this Resolution become immediately effective as an emergency measure.

WHEREAS, pursuant to Article IV, Section 4 of the Charter of the City of Cleveland Heights, the City Administrator shall be appointed by the Mayor, subject to confirmation by Council; and

WHEREAS, the Mayor has nominated Joseph E. Sinnott for appointment to the position of City Administrator on the basis of his executive and administrative training and experience; and

WHEREAS, the Council elects to confirm the Mayor's appointment of Joseph E. Sinnott to the position of City Administrator; and

WHEREAS, it is necessary that this Resolution become immediately effective in order to comply with Charter requirements and to provide for the uninterrupted, efficient provision of critical services by the City of Cleveland Heights and the effective daily operation of City government.

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

SECTION 1. The Council of the City of Cleveland Heights hereby confirms the Mayor's appointment of Joseph E. Sinnott to serve as the City Administrator upon his taking the oath of office.

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. It is necessary that this Resolution become immediately effective as an emergency measure for the immediate preservation of the public peace, health and safety of the City, such emergency being the need to appoint the City Administrator in a timely manner in order to provide for the effective daily operation of City government in accordance with the Charter. 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.

RESOLUTION NO. 24-2022 (AS), *First Reading*

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MELODY JOY HART  
President of Council

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AMY HIMMELEIN  
Clerk of Council

PASSED:

Presented to Mayor: \_\_\_\_\_

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

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KAHLIL SEREN  
Mayor

Proposed: 03/07/2022

ORDINANCE NO. 25-2022 (AS), *First Reading*

By Mayor Seren

An Ordinance establishing salary schedules, position classifications and other compensation, and benefits for officers and employees of the City; and declaring an emergency.

WHEREAS, Article 5, Section 4 of the Cleveland Heights Charter requires this Council to “fix by ordinance the salary, rate, or amount of compensation of all officers and employees of the City,” and

WHEREAS, Cleveland Heights Codified Ordinance Section 139.21 generally requires this Council to “establish employees’ wages, hours of work, sick leave benefits, paid hospitalization benefits, vacations, legal holidays, and all other forms of fringe benefits and other conditions of employment by ordinance.”

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

Except as otherwise specifically provided herein, effective the date stated in the separate sections hereof, the following salary schedules and other compensation for described position classifications will be in effect for such classifications as of April 1, 2022; provided, however, that if the revenues received by the City are not sufficient to meet the foregoing salaries, all salaries shall be reduced by the Mayor to a point which will not exceed the appropriated revenues of the City.

The salary of any officer or employee may, from time to time, be reduced or increased by the Mayor or his designee, but not below or above the amounts specifically fixed herein for such classifications.

Additional temporary classifications may be established by the Mayor when, in the judgment of the Mayor, job specifications and duties differ significantly from existing classifications as herein provided when a new temporary classification is warranted.

The Mayor shall advise Council when such new classification is warranted with the salary being determined by using the hourly rate for the full-time position as a maximum rate.

ORDINANCE NO. 25-2022 (AS), *First Reading*

**SECTION 1.** The following position classifications and salary schedules are hereby established.

Position	FLSA	SG	Min	Mid	Max
City Manager	E	50	\$105,314	\$136,949	\$168,585
City Administrator	E	49	\$94,030	\$122,276	\$150,522
Police Chief Fire Chief	E	48	\$83,956	\$109,175	\$134,395
Director(s) of: Communications & Public Engagement Economic Development Finance Housing Human Resources IT Law Parks & Recreation Planning Public Works/ Capital Projects	E	47	\$74,960	\$97,478	\$119,995
Assistant Finance Director Assistant Fire Chief Assistant Housing Director Assistant Law Director Assistant Public Works Director Business Development Manager Capital Projects Manager Utilities Commissioner	E	46	\$66,929	\$87,034	\$107,139
Facilities Superintendent Information Systems Manager	E	45	\$62,167	\$77,709	\$93,250
Financial Analyst	E	44	\$55,506	\$69,383	\$83,259

ORDINANCE NO. 25-2022 (AS), *First Reading*

Position	FLSA	SG	Min	Mid	Max
CDBG Program Coordinator/ Planner City Planner I City Planner II GIS Coordinator Manager - Cain Park Supervisor - Forestry <del>Supervisor - Office on Aging</del> Supervisor - Sanitation Supervisor - Streets Supervisor - Vehicle Maintenance Supervisor - Water/Sewer	E	43	\$49,559	\$61,949	\$74,339
Chief Housing Inspector Digital & Government TV Program Coordinator Parks & Recreation Assistant Commissioner Senior Housing Rehabilitation Specialist Supervisor - Utility Administration	E	42	\$44,249	\$55,312	\$66,374
Graphic Designer Public Relations Specialist	E	41	\$39,508	\$49,385	\$59,262
Office Manager Supervisor – Fitness Center Supervisor - General Recreation Supervisor - Ice Programs <del>Supervisor – Office on Aging</del> Supervisor - Recreation & Aquatics Supervisor - Sport Programs	E	40	\$35,275	\$44,094	\$52,913

ORDINANCE NO. 25-2022 (AS), *First Reading*

Position	FLSA	SG	Min	Mid	Max
	NE	20	\$27.75	\$34.69	\$41.63
Executive Assistant to Mayor	NE	19	\$24.78	\$30.98	\$37.17
Assistant Clerk of Council Housing Program Coordinator Housing Property Investigator Paralegal	NE	18	\$22.13	\$27.66	\$33.19
Engineer/Inspector Housing Inspector Housing Inspector/ Housing court Representative Housing Rehabilitation Specialist Human Resources Generalist Legal Secretary	NE	17	\$19.75	\$24.69	\$29.63
Accountant Assistant Clerk of Council Audio Engineer Camera Operator GIS Analyst Information Systems Technician Information Systems Technician - Senior Payroll Administrator Utility Inspector	NE	16	\$17.64	\$22.05	\$26.46
Accounts Payable Coordinator Community Relations Assistant Human Resources Coordinator Planning Technician Secretary to Director Special Projects Coordinator Social Media Coordinator Social Worker	NE	15	\$15.75	\$19.69	\$23.62
Administrative Assistant Mayor Intern Office Assistant Office Assistant II	NE	14	\$14.06	\$17.58	\$21.09

ORDINANCE NO. 25-2022 (AS), *First Reading*

Finance Clerk Receptionist Utility Billing Clerk	NE	13	\$12.55	\$15.69	\$18.83
		12	\$11.21	\$14.01	\$16.81
Building Attendant Cashier Head Cashier Laborer	NE	11	\$10.01	\$12.51	\$15.01
Front Desk Assistant Resident Services Supervisor Van Driver	NE	10	\$8.949.30	\$11.17	\$13.40

**ELECTED OFFICIALS:**

Mayor (As of 1/1/22)	\$115,000.00
Council Member	9,270.00
Council President	11,840.00

**SEASONAL POSITIONS:**

**RECREATION PROGRAMS: SWIMMING POOLS:**

Assistant Supervisor	9.36/hour	15.50/hour
Aquatic Program Supervisor	9.36/hour	13.48/hour
Cashier	8.809.30/hour	12.36/hour
Guard (A.L.S.)	8.809.30/hour	11.59/hour
Head Guard	10.00/hour	12.36/hour
Head Cashier	8.809.30/hour	12.36/hour
Head Coach (Summer)	364.14/ Per biweekly pay period	573.68/
Head Coach Assistant	260.10/ Per biweekly pay period	573.68/
Learn to Swim Coordinator	260.10/per season	573.68/season
Preschool Learn to Swim Coordinator	260.10/per season	573.68/season

ORDINANCE NO. 25-2022 (AS), *First Reading*

Pool Attendant	<u>8.809.30</u> /hour	10.33/hour
Pool Maintenance	<u>8.809.30</u> /hour	10.33/hour
Pool Manager	10.40/hour	16.07/hour
Private Instructor Fee	2/3 of private instruction; Fees charged and collected	
Security Guard	<u>8.809.30</u> /hour	9.53/hour
Sports Assistant	<u>8.809.30</u> /hour	11.33/hour
Sports Coordinator	10.40/hour	23.65/hour
Sports Supervisor	<u>8.809.30</u> /hour	23.65/hour
Tennis Court Attendant	<u>8.809.30</u> /hour	9.18/hour
Tennis Lesson Instructor	10.40/hour	17.22/hour
Tennis Program Coordinator	2,601.00/season	4,489.45/season
Umpire	10.40/hour	23.65/hour
Water Aerobics Instructor	182.07/per session	286.84/session

**PLAYGROUNDS:**

Private Instructor Fee (Tennis)	2/3 of private instruction; Fees charged and collected	
Summer Basketball Coordinator	13.53/hour	20.11/hour
Summer Basketball Counselor	11.44/hour	16.55/hour

**CAIN PARK THEATRE:**

Actor	300.00/week	500.00/week
Assistant Box Office Manager	350.00/week	550.00/week
Assistant Operations Manager	350.00/week	550.00/week
Assistant Production Manager	350.00/week	550.00/week
Assistant Stage Manager	350.00/week	550.00/week
Assistant to General Manager	400.00/week	600.00/week

ORDINANCE NO. 25-2022 (AS), *First Reading*

Box Office Manager	350.00/week	550.00/week
Box Office Staff	<u>8.809.30</u> /hour	12.36/hour
Carpenter	300.00/week	500.00/week
Costume Shop Manager	350.00/week	550.00/week
Electrician	350.00/week	550.00/week
Events Production Manager	400.00/week	600.00/week
General Technician	300.00/week	500.00/week
Hospitality Coordinator	300.00/week	500.00/week
House Manager	<u>8.809.30</u> /hour	12.36/hour
Maintenance	<u>8.809.30</u> /hour	12.36/hour
Operations Assistant	300.00/week	500.00/week
Operations Manager	450.00/week	650.00/week
PR/Marketing Assistant	400.00/week	650.00/week
PR/Marketing Coordinator	300.00/week	500.00/week
Sound Engineer	350.00/week	550.00/week
Stage Manager	350.00/week	600.00/week
Theater Production Manager	400.00/week	650.00/week
Master Wardrobe Coordinator	300.00/week	500.00/week
<b><u>ICE SKATING RINK:</u></b>		
Cashier	<u>8.809.30</u> /hour	12.36/hour
Hockey Director	2,184.84	2,300.00/season
Ice Safety Guard	<u>8.809.30</u> /hour	11.20/hour
Ice Professional Private	90% of private instruction fees charged and collected. Or a flat fee of \$75.00 (if instructor teaches a minimum of four Learn to Skate classes per session) or \$150.00 (if instructor does not teach or is no longer available for the minimum number of Learn to Skate classes)	

ORDINANCE NO. 25-2022 (AS), *First Reading*

Ice Professional Group	16.65/hour
57.31/hour	
Learn to Skate Coordinator	208.08/per week
	520.00/per week
Office Assistant	<del>8.809.30</del> /hour
	11.26/hour
Supervisor – Assistant	9.36/hour
	14.76/hour
Supervisor – Head	10.40/hour
	17.22/hour

**YOUTH SPORTS PROGRAMS:**

Youth Hockey Coach	10.40/hour 2,601.00/	22.96/hour or 4,592.00/season
Youth Hockey Program Coordinator	10.40/hour 2,601.00/	22.96/hour or 4,265.00/season
Youth Hockey Skating Instructor	10.40/hour	45.92/hour
Basketball Supervisor	<del>8.809.30</del> /hour 520.20/	13.91/hour or 2,296.00/season
Basketball Coordinator	10.40/hour 2,080.80/ 2,601.00/	22.96/hour or 3,171.00/winter 4,318.00/summer
Girls Softball League Supervisor	<del>8.809.30</del> /hour 1,040.40/	13.78/hour or 2,296.00/season
Youth Baseball League Supervisor	<del>8.809.30</del> /hour 1,040.40/	13.78/hour or 2,870.00/season
League / Program / Camp Assistant	<del>8.809.30</del> /hour	9.18/hour
Sports Camp Supervisor / Instructor	<del>8.809.30</del> /hour 2,601.00/	13.91/hour or 1,148.00/camp
Sports Coordinator	10.40/hour	23.65/hour
Sports Program Assistant	<del>8.809.30</del> /hour	11.33/hour

**ADULT SPORTS PROGRAMS:**

League / Program Supervisor	10.40/hour 1,040.40/	22.96/hour or 2,296.00/season
Softball Umpire-In-Chief / Assistant Umpire in Chief	10.40/hour	22.96/hour or

		1,040.40/	1,722.00/season
<b><u>FIELDHOUSE / FITNESS CENTER:</u></b>			
Fitness Center Assistant		8.70/hour	
11.07/hour			
Fitness Center Coordinator		9.50/hour	12.36/hour
Fieldhouse Instructor / Aerobics Instructor		10.40/hour	12.64/hour
Front Desk Assistant		<u>8.809.30</u> /hour	13.39/hour
Personal Trainer		10.40/hour	12.64/hour or 70% of rate charged by trainer
Head of Personal Training Services		Additional 5% of total personal training program revenue (3% city portion/ 2% trainer portion) for administration of the program.	

**MISCELLANEOUS:**

1. The Mayor shall also serve without additional compensation as Director of Public Safety and Director of Public Services.
2. The Director of Finance shall also serve without additional compensation as Clerk of Council.
3. In addition to the salary herein above provided, the Director of Law and the Assistant Law Directors may be compensated at an overtime rate of not to exceed \$250.00 per hour for time spent in representing the City in court appearances and special projects over and above the normal work hours as approved by the Mayor.
4. School Crossing Guard                    \$40.49 per day (based upon a 4-hour day)  
School Crossing Guard                    \$10.12 per hour
5. “Minimum” and “maximum” as used in this Section are deemed to be exclusive of provisions for longevity, sick leave and vacation conversion, health care, deferred compensation, and other forms of non-salary compensation for which express authority is provided by ordinance.

ORDINANCE NO. 25-2022 (AS), *First Reading*

6. To reduce criminal activity and promote safe neighborhoods, the Mayor may lease or transfer City-owned property to Basic Patrol Officers and/or members of the Classified Service of the Division of Police at fair market value.
7. The Mayor shall have the authority, when deemed in the best interests of the City, to issue a monetary car allowance in lieu of issuing a City-owned vehicle to an employee.
8. The Mayor shall have the authority, when deemed in the best interests of the City, to issue a cost of living adjustment in the form of a one-time lump sum payment to an employee.
9. The Mayor shall have the authority, when deemed in the best interests of the City, to grandfather an employee whose current rate of pay exceeds the maximum range of the salary grade identified in the 2018 Compensation Study.
10. The Mayor shall have the authority, when deemed in the best interest of the City, to issue a cost of living adjustment not to exceed 2% to a grandfathered employee whose rate of pay exceeds the maximum range of the salary grade identified in the 2018 Compensation Study.

**BOARD AND COMMISSION MEMBERS:**

- |   |   |
|---|---|
| 1. Architectural Board of Review,<br>Three members, each                  | \$90.00/meeting attended  |
| 2. Architectural Board of Review,<br>Two Alternate Members, each          | \$90.00/meeting attended<br>(at request of ABR Secretary)   |
| 3. Board of Zoning Appeals,<br>Five Members, each<br>One Alternate Member | \$90.00/meeting attended<br>(at request of Planning and Development Director)                                   |
| 4. Civil Service Commission,<br>Three Members, each                       | \$90.00/meeting attended  |
| 5. Planning Commission,<br>Seven Members, each                            | \$90.00/month<br>(provided the member attends at least one meeting, either regular or special during the month) |

**SECTION 2. POLICE**

ORDINANCE NO. 25-2022 (AS), *First Reading*

Sworn members of the Police Department who are members of the police bargaining units shall have the terms, conditions, and benefits of employment as described in the labor agreement and other related documents between the City of Cleveland Heights and the Northern Ohio Patrolmen's Benevolent Association. The agreement covers the period commencing August 2, 2021 through March 31, 2024 and may be extended by agreement of the parties. The fire arms proficiency, gun upon retirement, educational incentive bonus, and the clothing maintenance allowance shall apply to all sworn members of the Department. A copy of the labor agreement and related documents are on file in the Office of the Mayor.

**SECTION 3.        FIRE**

Sworn members of the Fire Department who are represented by the International Association of Fire Fighters shall have the terms, conditions, and benefits of employment as described in the labor agreement and other related documents between the City of Cleveland Heights and the International Association of Fire Fighters. The agreement covers the period commencing April 1, 2021 through March 31, 2024 and may be extended by agreement of the parties. The paramedic compensation, academic achievement bonus, and the clothing maintenance allowance shall apply to all sworn members of the Department. A copy of the labor agreement and other related documents are on file in the Office of the Mayor.

**SECTION 4.        PUBLIC WORKS and PARKS & RECREATION** Employees in the bargaining unit as described in the memorandum of understanding and other related documents between the City of Cleveland Heights and Laborer's International Union of North America, Laborer's Local 860 of Cleveland representing Service Employees, shall have the terms, conditions, and benefits of employment as described in said memorandum of understanding and other related documents. That agreement covers the time period commencing upon execution through March 31, 2022 and may be extended by agreement of the parties. A copy of the memorandum of understanding and other related documents are on file in the Office of the Mayor. Employees may be eligible for supervisor premium pay when such duties are assumed due to absence.

**SECTION 5.        MUNICIPAL COURT**

Judge: Base pay according to the Ohio Revised Code 1901.11 is \$61,750.00

Administrative Judge compensation: \$1,500.00

Total salary: \$63,250.00

	<u>Minimum</u>	<u>Maximum</u>
Acting Clerk of Court	51,000.00	65,402.00
Chief Bailiff	31,518.00	81,600.00

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Chief Deputy Clerk	35,700.00	66,300.00
Clerk of Court	45,900.00	91,800.00
Chief Accounting Clerk	25,500.00	40,800.00
Chief Probation Officer	30,600.00	71,400.00
Court Administrator	31,518.00	81,600.00
Deputy Bailiff	23,460.00	51,000.00
Deputy Clerk	23,460.00	44,800.00
Housing Specialist	30,600.00	61,900.00
Information Systems Technician	25,500.00	40,800.00
Law Clerk	10.30/hour	16.75/hour
Magistrate	35,700.00	96,645.00
Probation Officer	30,600.00	60,710.00
Secretary	23,460.00	44,166.00
Security	17.34/hour	25.50/hour

The compensation herein provided for and approved shall be payable in the manner and from the sources as provided for by applicable provisions of the Ohio Revised Code.

**SECTION 6.                    VACATION**

(a) All full-time permanent city employees shall accrue vacation leave according to the following schedule:

ALL FULL-TIME PERMANENT CITY EMPLOYEES

<u>Length of Service</u>	<u>Accrual Per Pay Period</u>
Up to and including the sixth year	3.08 hours
7 up to and including 12 years	4.60 hours
13 up to and including 18 years	6.20 hours
19 years or more	7.70 hours

Accrual of vacation days shall be by pay period and begin in the pay period in which the employee's first day of employment occurs. Vacation leave requests will be granted by the department heads in line with the needs of the department. To accommodate scheduling needs,

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vacation leave may be taken before actually accrued upon approval of the Mayor. When an employee terminates his employment with the city, the Mayor shall deduct from the employee's final pay periods the number of hours of vacation leave taken but not yet accrued. No more than the amount of vacation accrued in the previous twelve-month period may be carried forward into the next calendar year.

Employees shall be paid for vacation leave accrued, but unused, at the time of separation provided the paid vacation does not exceed the employee's eligible annual accrual and further provided that such employee has worked six (6) months or more.

(b.) Permanent part-time employees with a base schedule of 20 or more hours per week will accrue vacation. Permanent part-time employees shall accrue hours based on the actual hours worked in the preceding pay period divided by 80 hours multiplied by the accrual per pay period.

<u>Period</u>	<u>Length of Service</u>	<u>Accrual Per Pay</u>
	Up to and including the fourth year	1.54 hours
	5 up to and including 6 years	3.08 hours
	7 up to and including 11 years	4.6 hours
	12 up to and including 17 years	6.2 hours
	18 years or more	7.7 hours

No more than the amount of vacation accrued in the previous twelve-month period may be carried forward into the next calendar year.

Employees shall be paid for vacation leave accrued, but unused, at the time of separation provided the paid vacation does not exceed the employee's eligible annual accrual and further provided that such employee has worked six (6) months or more.

All other full-time employees who transfer from any public agency in the State of Ohio to the City of Cleveland Heights may receive credit for the length of their consecutive service in the former public agency, in accordance with the provisions of the Administrative Code, for purposes of determining accrual of vacation leave during their employment with the City of Cleveland Heights. Accrual of vacation for transfer employees shall be determined according to the schedule set out in subsection (a). Employees who wish to receive credit for their prior public service shall obtain a certified copy of their employment record from their prior employer.

Vacation leave granted under this Section shall be administered pursuant to rules adopted by the Mayor.

(c) For purposes of this Section, the hourly rate of payment for accrued vacation leave shall be determined by the following formula: annual base pay at the time of employee separation divided by 2,080 hours.

## **SECTION 7. SICK LEAVE**

(a) Full-time permanent employees may be eligible for paid sick leave. Sick leave will be accrued at the rate of 4.6 hours per pay period. Approved sick leave taken shall be charged against the employee's accumulated sick leave.

The amount of unused sick leave accumulated as of December 17, 1976 by permanent full-time employees shall be determined under the applicable terms of the Ordinances of the City of Cleveland Heights.

Employees who transfer from any public agency in the State of Ohio to the City of Cleveland Heights may receive credit for unused sick leave accrued during such prior public employment, in accordance with the provisions of the Administrative Code. Credit for accrued sick leave shall not exceed the limits specified for all other employees in subsection (a). Employees who wish to receive credit for accrued sick leave under this subsection shall obtain a certified copy of their sick leave record from their former employer within thirty (30) days of hire. Documentation received after thirty (30) days will be accepted; however, any service accrual granted will start from the beginning of the pay period in which the documentation is received.

All full-time, permanent employees who are in the employ of the City and who have been in the employ of the City for over ten (10) consecutive years may be eligible for payment for accrued unused sick leave earned at the City of Cleveland Heights, accumulated from January 1, 1969 upon termination of their employment for other than disciplinary reasons. The aforesaid requirement that the sick leave be earned at the City of Cleveland Heights shall apply only to employees hired after April 1, 1990. An employee shall be paid out one-quarter (.25) or 25% of sick time accumulated with a maximum of 960 hours for payout purposes. Therefore, the maximum payout that could be achieved is 240 hours.

Accrued Sick Leave	Conversion Ratio
0 - 960 Hours	1/4
961+ Hours	Not Eligible

For purposes of this Section, the hourly rate of payment for accrued sick leave shall be determined by the following formula: annual base pay at the time of termination of employment divided by 2,080 hours.

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No employee shall be entitled to sick leave compensation in the event of injury, occupational disease or sickness resulting directly and proximately from the performance of any gainful employment or self-employment other than with the City of Cleveland Heights. A determination not to provide sick leave compensation under this Section shall be made by the Mayor, who shall adopt rules relating to the making of such determination.

Sick leave granted under this Section shall be administered pursuant to rules adopted by the Mayor.

**SECTION 8. LEGAL HOLIDAYS**

(a) The following-named days shall be deemed paid holidays for all employees. No employee shall be required to work on such holidays unless it is determined by the Mayor that public necessity requires his or her services.

1. The first day of January;
2. The third Monday in January;
3. The third Monday in February;
4. The last Monday in May;
5. The nineteenth day in June;
6. The fourth day of July;
7. The first Monday in September;
8. The eleventh day of November;
9. The fourth Thursday in November;
10. The fourth Friday in November;
11. The twenty-fifth day of December;
12. Personal Day;
13. Personal Day.

(b) If any such day falls upon a Sunday, the Monday following shall be deemed to be the holiday. If any such day falls upon a Saturday, the Friday immediately preceding shall be deemed to be the holiday.

(c) Employees paid by the day or hour may be granted leaves of absence with full pay on any holiday named herein when, in the judgment of the Mayor, the public service will not be impaired by their absence.

(d) The foregoing notwithstanding, officers and employees who are exempt employees under the Fair Labor Standards Act shall receive no extra compensation if required to work on any holiday named herein.

**SECTION 9. DEFERRED COMPENSATION PLANS**

(a) The City shall sponsor a 457(b) Plan through payroll deductions, through one or more vendors subject to Council approval.

(b) The administration of the Deferred Compensation Plans shall be under the direction of a committee of three (3) members which shall include the Director of Finance, the Mayor or her designee, and one other employee who shall be appointed by the Mayor and shall be a participating member of the Plan. Payroll deductions shall be made in each instance by the Director of Finance.

(c) The Deferred Compensation Plans hereby authorized shall exist and serve in addition to retirement, pension or benefit systems established for the benefit of employees of the City and no deferral of income under the Deferred Compensation Plans shall effect a reduction of any retirement, pension or other benefit provided by law. However, any sum deferred under a Deferred Compensation Plan shall not be included for the purposes of any taxes withheld on behalf of any such employee, except municipal income tax.

(d) In order to encourage and reward extraordinary employee dedication and performance, the Mayor may award a particular employee additional non-salary compensation through contributions to an employee's deferred compensation account.

## **SECTION 10. WORK DAYS AND WORK HOURS**

(a) City Hall shall be open from 8:30 a.m. to 5:00 p.m., Monday through Friday. Scheduling of employees to meet the needs of such hours of business shall be conducted through the Mayor.

(b) The normal work hours for employees of the following designated classifications shall be as follows:

1. Employees working in jobs classifications defined as exempt by the Fair Labor Standards Act, as determined by the Mayor after consultation with the Director of Law, shall work such hours as determined by the Mayor.

2. Employees working in jobs defined as non-exempt by the Fair Labor Standards Act, as determined by the Mayor after consultation with the Director of Law, shall work thirty-eight (38) hours to forty (40) hours per week as determined by the Mayor. Days of the week and work hours shall be in accordance with the needs of the city, which shall be determined by the Mayor.

3. The Clerk of Courts office shall be open from 8:30 a.m. through 5:00 p.m. or as otherwise determined by the Municipal Court Judge. Employees shall work such hours as established by the Municipal Court Judge.

## **SECTION 11. HEALTH CARE INSURANCE AND ANCILLARY BENEFITS**

(a) The City shall purchase or subscribe to and maintain in full force and effect for each full-time employee of the City a health care insurance plan, including medical-surgical protection, covering hospital and surgical benefits and related coverage, through one or more vendors subject to Council approval. Such health care insurance plan shall be maintained so long as such employee remains in the employ of the City. The City shall contribute eighty-eight percent (88%) of the cost of Base Plan B and the employee shall be responsible for any costs above the amount of established employer contribution, *i.e.*, twelve percent (12%) of the cost for coverage.

(b) All full-time employees shall be offered participation in a prescription plan through one or more vendors subject to Council approval.

(c) The City shall offer dental coverage for each full-time employee from one or more vendors subject to Council approval. Such coverage shall have a maximum benefit of \$1,500 per person. Coverage shall include two (2) yearly cleanings and check-up exams and coverage of eighty percent (80%) of basic and major services, less deductibles. Orthodontia benefits for dependents age 19 or younger also shall be offered with a \$1,000 maximum benefit per dependent.

(d) The City shall offer a vision plan for each full-time employee from one or more vendors subject to Council approval. Such coverage shall have a maximum reimbursement of \$150 per person.

(e) The City shall offer a Flexible Spending Account for qualified medical or dependent care expenses to be funded with employee gross earnings through one or more vendors subject to Council approval.

(f) The City shall offer all employees access to an Employee Assistance Program which offers short-term counseling; assistance with locating reliable childcare, general and special educational needs, and resources for the elderly; no cost attorney consultations with discount if retained; no cost financial consultations; nutritional coaching; and fitness coaching.

(g) The availability of health care insurance and ancillary benefits described in this Section to individual, part-time employees may be determined by Mayor pursuant to Codified Ordinance Section 139.20.

## **SECTION 12. LIFE INSURANCE**

(a) The City shall purchase or subscribe for and maintain in full force and effect life insurance of \$10,000.00 for each full-time employee until the employee reaches age 70; at age 70, benefits will be reduced by thirty-five percent (35%); and at age 75, benefits will be reduced an additional twenty percent (20%) through one or more vendors subject to Council approval.

(b) The City shall purchase or subscribe for and maintain in full force and effect for each full-time employee accidental death and dismemberment insurance at no cost to employee through one or more vendors subject to Council approval.

(c) Each employee shall be provided the option to buy additional term insurance through payroll deductions through one or more vendors subject to City Council approval.

## **SECTION 13. LONGEVITY**

In addition to their regular salary permanent employees covered by this Ordinance shall be paid for each biweekly pay period additional compensation for length of service, as follows:

:Full Time Employees

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1 <sup>st</sup> through 5 <sup>th</sup> year of service	No entitlement
6 <sup>th</sup> through 10 <sup>th</sup> year of service, inclusive	16.92
11 <sup>th</sup> through 15 <sup>th</sup> year of service, inclusive	33.85
16 <sup>th</sup> through 20 <sup>th</sup> year of service, inclusive	51.24
21 <sup>st</sup> through 25 <sup>th</sup> year of service, inclusive	69.23
26 <sup>th</sup> year and thereafter	76.93

Part Time Employees

1 <sup>st</sup> through 5 <sup>th</sup> year	No entitlement
6 <sup>th</sup> through 10 <sup>th</sup> year	8.46
11 <sup>th</sup> through 15 <sup>th</sup> year	16.92
16 <sup>th</sup> through 20 <sup>th</sup> year	25.62
21 <sup>st</sup> through 25 <sup>th</sup> year	34.61
26 <sup>th</sup> year and thereafter	38.46

The longevity compensation shall take effect for the entire pay period following the employee's anniversary. All service on a full-time basis with the City shall be considered in applying this section and such service need not be continuous. For the purpose of determining credit for prior periods of employment, only full months of service shall be considered; credit shall be given for employment during authorized leaves of absence for military duty.

**SECTION 14. OVERTIME**

All employees working in job classifications defined as non-exempt by the Fair Labor Standards Act, as determined by the Mayor after consultation with the Director of Law, shall be compensated for overtime at a rate of one and one-half (1.5) times their regular hourly rate of pay. Overtime as used herein shall mean time actually worked over and above forty (40) hours per week when ordered to do so by the Mayor or his designee.

The Mayor shall have the authority, when deemed in the best interests of the City, to pay overtime to those individuals defined as exempt by the Fair Labor Standards Act, as determined by the Mayor in consultation with the Director of Law, at a rate not to exceed one and one-half (1.5) times their regular rate of pay.

**SECTION 15. EMPLOYEE INDEMNIFICATION**

The City shall comply with Chapter 2744 of the Ohio Revised Code relating to employee indemnification.

**SECTION 16. PENSION**

All employees shall be covered as required by law under the Public Employees Retirement System of Ohio unless covered by Ohio Police & Fire Pension Fund. The City shall make all contributions required by law.

**SECTION 17.**

To the extent that a provision in this Ordinance is covered by a separate labor agreement described in Sections 2, 3, 4 5, or 6 herein, the labor agreement shall supersede the provision of this Ordinance.

**SECTION 18.**

The provisions of this Ordinance shall be deemed to be in effect as of midnight, April 1, 2022. Effective midnight, April 1, 2022, Ordinance No. 20-2021 (AS) and all amendments thereto and provisions of all other ordinances heretofore adopted are repealed to the extent inconsistent herewith.

**SECTION 19.**

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

**SECTION 20.**

This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health and welfare of the inhabitants of the City of Cleveland Heights, such emergency being to provide a schedule of adequate compensation for various officers and employees of the City, in order that satisfactory personnel may be retained in the City employ. 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.

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MELODY HART  
President of the Council

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AMY HIMMELEIN  
Clerk of Council

PASSED:

Presented to Mayor: \_\_\_\_\_ Approved: \_\_\_\_\_

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KAHLIL SEREN  
Mayor

Proposed: 3/7/2022

ORDINANCE NO. 26-2022 (CRR), *First Reading*

By Mayor Seren

An Ordinance authorizing and approving the presentation of entertainment programs in Cain Park for the year 2022.

WHEREAS, this Council annually reviews its use and rentals of the theatres in Cain Park; and

WHEREAS, the Mayor recommends the use and rentals set forth herein.

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

SECTION 1. The City of Cleveland Heights shall sponsor and present in Cain Park and other locations to be determined, through the spring and summer of 2022, a program of entertainment in general accordance with plans therefor previously adopted by the City Manager and the Community Relations and Recreation Committee of Council.

SECTION 2. Stage productions will be presented in Cain Park. Admission charges for these productions will not exceed Two Hundred Dollars (\$200.00). Rates will be gradated according to seat location, with the designations subject to approval by the Mayor. Groups of twenty (20) or more may purchase tickets at a discount rate subject to the approval of the Mayor.

Musical concerts will be presented at times scheduled by the Mayor. Such programs may or may not be co-produced with an outside agency as deemed fit by the Mayor. Special arrangements may be made for ticket prices to exceed Two Hundred Dollars (\$200.00), with the proceeds of the box office split per an agreement approved by the Director of Law to accommodate costs of the concert.

SECTION 3. One or more plays (musicals) may be presented at times scheduled and at the theaters designated by the Mayor. The City's share in the cost of such programs is hereby approved and such expenditure is authorized in a total amount not to exceed Eighty Thousand Dollars (\$80,000.00) for the 2022 season.

The Mayor is hereby authorized and directed to enter into any and all agreements necessary for the presentation of summer concert and other non-theatrical programs at Cain Park. All agreements shall be in a form approved by the Director of Law.

To the extent possible, monies to pay for the aforesaid contracts shall be taken from the Cain Park Operating Fund and monies derived from Cain Park activities shall be placed in the Cain Park Operating Fund.

SECTION 4. (a) Such other programs and activities shall be presented as are approved by the Mayor and as are within the concept of the general program approved by the Community Relations and Recreation Committee of Council. Fees may be established by the Mayor to defray the cost of these new programs. Special promotions which reduce or eliminate ticket prices in exchange for media time, print advertising or other publicity may be arranged as approved by the Mayor.

(b) Except as otherwise provided herein, when any class or activity is offered which requires the use of materials to be furnished to the participant, the Mayor is authorized to establish a fee based upon actual costs, which shall be paid by each person at the time of registering for such activity.

(c) Special benefit performances either at Cain Park or elsewhere may be presented for the purpose of offsetting programs deemed appropriate by the Mayor with ticket prices not to exceed the sum of Two Hundred Dollars (\$200.00). These arrangements will be made as deemed appropriate by the Mayor.

SECTION 5. (a) In the event that it should become necessary, in the judgment of the Mayor, at any time to limit the number of persons in attendance at any concert, dance or other activity to which the public would otherwise be generally admitted, the Mayor is hereby authorized to establish and place in effect such regulations and restrictions as he may deem necessary for such activities to protect the safety and welfare of the public grounds, the community in general, and members of the public at large.

(b) Such regulations may include, but are not limited to, advance or on-the-spot limitation of admissions, including closing-off of admission, and may also include a requirement that admission be limited to persons who are bona fide residents of Cleveland Heights and are authorized holders of a proper Recreation I.D. Card issued by the City of Cleveland Heights, and such number of guests accompanied by such Cardholder as the Mayor shall establish.

(c) In the event that the Mayor shall determine, in his sole discretion, that the conduct of a given program, or a portion of the program, would endanger the safety and welfare of the public, then he shall have the authority to cancel any program and, at the earliest time possible, to give, by appropriate means, notice to persons wishing to participate in such activity of the fact that the program or activity has been canceled.

(d) Notwithstanding any other provision, the Mayor is hereby vested with authority to transfer the conduct of any portion of the summer program for the year 2022 to another facility in order to ensure the safety and/or convenience of the general public. At such time, the Mayor shall, by appropriate means, advise persons wishing to participate in such activities of the change of location.

ORDINANCE NO. 26-2022 (CRR), *First Reading*

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 permitted by law.

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MELODY JOY HART  
President of the Council

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AMY HIMMELEIN  
Clerk of Council

PASSED:

Presented to Mayor: \_\_\_\_\_

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

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KAHLIL SEREN  
Mayor

Proposed: 03/07/2022

ORDINANCE NO. 27-2022 (F), *First Reading*

By Mayor Seren

An Ordinance providing for the issuance and sale of not to exceed \$1,500,000 of economic development nontax revenue bonds for the purpose of paying a portion of the costs of the acquisition of a portion of, and redevelopment of the site generally known as “Top of the Hill” located on approximately four acres of land situated between Euclid Heights Boulevard and Cedar Road at the top of Cedar Hill in the City, and declaring an emergency.

WHEREAS, the City is authorized by virtue of the laws of the State of Ohio, including, without limitation, Section 13 of Article VIII of the Ohio Constitution and Chapter 165 of the Revised Code, among other things, to issue bonds or notes to acquire, construct, equip, furnish or improve a “project” as defined in Section 165.01 of the Revised Code and to refund any bonds or notes previously issued for those purposes, all for the purpose of creating or preserving jobs and employment opportunities and improving the economic welfare of the people of the City and of the State of Ohio; and

WHEREAS, for the purpose of creating or preserving jobs and employment opportunities and improving the economic welfare of the people of the City, pursuant to Ordinance No. 6-2020, passed on February 18, 2020, the City issued its \$1,850,000 Economic Development Nontax Revenue Notes, Series 2020 (Top of the Hill Project), in anticipation of the issuance of bonds for the purpose stated in Section 3, which notes were retired, together with other funds available to the City, with \$1,490,000 Economic Development Nontax Revenue Notes, Series 2021 (Top of the Hill Project) (the Outstanding Notes), issued in anticipation of bonds pursuant to Ordinance No. 10-21, passed on March 1, 2021, which Outstanding Notes mature on April 19, 2022; and

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

WHEREAS, this Council finds and determines that it is necessary and in the best interest of the City to issue the Bonds described in Section 3 to provide funds sufficient for that purpose, including the payment of expenses properly allocable to the issuance of the Bonds;

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

SECTION 1. Definitions and Interpretation. In addition to the words and terms elsewhere defined in this Ordinance, unless the context or use clearly indicates another or different meaning or intent:

“Act” means the laws of the State, including, without limitation, Section 13 of Article VIII of the Ohio Constitution and Chapter 165 of the Revised Code.

ORDINANCE NO. 27-2022 (F), *First Reading*

“Additional Bonds” means any additional bond anticipation notes or bonds of the City which may be subsequently issued and payable solely from the Nontax Revenues on parity with the Bonds.

“Authorized Denominations” means the denomination of \$100,000 or any whole multiple of \$1,000 in excess thereof.

“Bond Fund” means the Bond Fund described in Section 9.

“Bond Proceedings” means, collectively, this Ordinance, the Certificate of Award and such other proceedings of the City, including the Bonds, that provide collectively for, among other things, the rights of holders of the Bonds.

“Bond Register” means all books and records necessary for the registration, exchange and transfer of Bonds as provided in Section 6.

“Bond Registrar” means the Director of Finance, the Original Purchaser or a bank or trust company authorized to do business in the State and designated by the Director of Finance in the Certificate of Award pursuant to Section 5 as the initial authenticating agent, bond registrar, transfer agent and paying agent for the Bonds under the Certificate of Award and until a successor Bond Registrar shall have been designated by the City and, thereafter, “Bond Registrar” shall mean the successor Bond Registrar.

“Bonds” means the bonds of the City authorized in Section 3.

“Certificate of Award” means the certificate authorized by Section 7, to be executed by the Director of Finance, setting forth and determining those terms or other matters pertaining to the Bonds and their issuance, sale and delivery as this Ordinance requires or authorizes to be set forth or determined therein.

“City” means the City of Cleveland Heights, Ohio.

“City Administrator” means the City Administrator of the City or any person serving in an interim or acting capacity with respect to that office.

“Clerk of Council” means the Clerk of Council of the City or any person serving in an interim or acting capacity with respect to that office.

“Closing Date” means the date of physical delivery of, and payment of the purchase price for, the Bonds.

“Code” means the Internal Revenue Code of 1986, as amended, the Regulations (whether temporary or final) under that Code or the statutory predecessor of that Code, and any amendments of, or successor provisions to, the foregoing and any official rulings, announcements, notices, procedures and judicial determinations regarding any of the foregoing, all as and to the extent applicable. Unless otherwise indicated, reference to a Section of the Code includes any applicable

ORDINANCE NO. 27-2022 (F), *First Reading*

successor section or provision and such applicable Regulations, rulings, announcements, notices, procedures and determinations pertinent to that Section.

“Director of Finance” means the Director of Finance of the City or any person serving in an interim or acting capacity with respect to that office.

“Director of Law” means the Director of Law of the City or any person serving in an interim or acting capacity with respect to that office.

“Financing Costs” shall have the meaning given in Section 133.01 of the Revised Code.

“Interest Payment Dates” means, unless otherwise specified in the Certificate of Award, June 1 and December 1 of each year that the Bonds are outstanding, commencing on the date specified in the Certificate of Award.

“Mayor” means the Mayor of the City or any person serving in an interim or acting capacity with respect to that office.

“Nontax Revenues” means all moneys of the City which are not moneys raised by taxation, to the extent available for the purpose of paying debt service charges on the Bonds, including, but not limited to the following: (a) proceeds from the sale or lease of all or a portion of the Project site; (b) grants from the United States of America and the State; (c) payments in lieu of taxes now or hereafter authorized by State statute to the extent not pledged to pay debt charges on other City indebtedness; (d) fines and forfeitures which are deposited in the City’s General Fund; (e) fees deposited in the City’s General Fund for services provided and from properly imposed licenses and permits; (f) investment earnings on the City’s General Fund and which are credited to the City’s General Fund; (g) investment earnings on other funds of the City that are credited to the City’s General Fund; (h) proceeds from the sale of assets which are deposited in the City’s General Fund; (i) gifts and donations; and (j) all rental payments which are deposited in the City’s General Fund.

“Original Purchaser” means the purchaser of the Bonds specified in the Certificate of Award.

“Outstanding Nontax Revenue Bonds” means the City’s outstanding Economic Development Nontax Revenue Bonds, Series 2022 (Federally Taxable), dated February 16, 2022.

“Principal Payment Dates” means, unless otherwise specified in the Certificate of Award, December 1 in each of the years as determined necessary by the Director of Finance in the Certificate of Award; provided that the final Principal Payment Date shall be not later than 30 years from the Closing Date, which determination shall be made by the Director of Finance in the Certificate of Award in such manner as to be in the best interest of and financially advantageous to the City.

“Project” means the acquisition of a portion of, and redevelopment by F & C Development, Inc. (together with certain designated affiliates) of, the Project Site, with improvements to include (i) approximately 261 market-rate apartments, (ii) approximately 11,400 square feet of first floor restaurant, retail and commercial space, (iii) a public parking garage resulting in approximately

550 parking spaces, (iv) public gathering and green spaces and (v) all sidewalks, driveways, access ways and utility connections necessary for the improvements described in (i) through (iv) above.

“Regulations” means Treasury Regulations issued pursuant to the Code or to the statutory predecessor of the Code.

“State” means the State of Ohio.

Capitalized terms not otherwise defined in this Ordinance have the meanings assigned to them in the Act.

**SECTION 2. Council Determinations.** This Council hereby finds and determines that the Project is a “project” as in the Act and is consistent with the purposes of Section 13 of Article VIII of the Ohio Constitution; that the utilization of the Project is in furtherance of the purposes of the Act and has and will benefit the people of the City and of the State by creating and preserving jobs and employment opportunities and improving the economic welfare of the people of the City and of the State; and that the amount necessary to retire the Outstanding Notes, which were issued to retire prior bond anticipation notes issued to finance the Project, will require the issuance, sale and delivery of the Bonds, which Bonds shall be payable and secured as provided herein.

**SECTION 3. Authorized Principal Amount and Purpose; Application of Proceeds.** This Council determines that it is necessary and in the best interest of the City to issue bonds of this City in the maximum principal amount of \$1,500,000 (the Bonds) for the purpose of paying a portion of the costs of the Project and to retire, together with other funds available to the City, the Outstanding Notes. The Bonds shall be issued pursuant to the Act, the City’s Charter, this Ordinance and the Certificate of Award.

The principal amount of Bonds to be issued shall not exceed the maximum principal amount specified in this Section 3 and shall be an amount determined by the Director of Finance in the Certificate of Award to be the principal amount of Bonds that is required to be issued at this time for the purpose stated in this Section 3, taking into account other City moneys available for the purpose, the estimates of the Financing Costs and the interest rates on the Bonds.

The proceeds from the sale of the Bonds received by the City (or withheld by the Original Purchaser on behalf of the City) shall be paid into the proper fund or funds, and those proceeds are hereby appropriated and shall be used for the purpose for which the Bonds are being issued, including without limitation but only to the extent not paid by others, the payment of the costs of issuing and servicing the Bonds, printing and delivery of the Bonds, legal services including obtaining the approving legal opinion of bond counsel, fees and expenses of any placement agent, paying agent and all other Financing Costs and costs incurred incidental to those purposes. The Certificate of Award may authorize the Original Purchaser to withhold certain proceeds from the purchase price of the Bonds to provide for the payment of Financing Costs related to the Bonds on behalf of the City. Any portion of those proceeds received by the City representing premium (after payment of any Financing Costs identified in the Certificate of Award) shall be paid into the Bond Fund, with such determination being made by the Director of Finance in the Certificate of Award, consistent with the Director of Finance’s determination of the best interest of and financial

advantages to the City. Any portion of those proceeds received by the City representing accrued interest shall be paid into the Bond Fund.

SECTION 4. Denominations; Dating; Principal and Interest Payment and Redemption Provisions.

The Bonds shall be issued in one lot and only as fully registered bonds, in Authorized Denominations, but in no case as to a particular maturity date exceeding the principal amount maturing on that date. The Bonds shall be dated as provided in the Certificate of Award, provided that their dated date shall not be more than 60 days prior to the Closing Date. If requested by the Original Purchaser, the Director of Finance is hereby authorized to prepare a single registered Bond with multiple maturities of principal in Authorized Denominations as set forth in a payment schedule to be set forth in such Bond or attached thereto.

(a) Interest Rates and Payment Dates. The Bonds shall bear interest at the rate or rates per year and computed on the basis of a 360-day year consisting of 12 30-day months or as shall be determined by the Director of Finance, subject to subsection (c) of this Section 4, in the Certificate of Award. Interest on the Bonds shall be payable at such rate or rates on the Interest Payment Dates until the principal amount has been paid or provided for. The Bonds shall bear interest from the most recent date to which interest has been paid or provided for or, if no interest has been paid or provided for, from their date.

(b) Principal Payment Schedule. The Bonds shall mature on the Principal Payment Dates in principal amounts as shall be determined by the Director of Finance, subject to subsection (c) of this Section 4, in the Certificate of Award, which determination shall be in the best interest of and financially advantageous to the City.

(c) Conditions for Establishment of Interest Rates and Principal Payment Dates and Amounts. The rate or rates of interest per year to be borne by the Bonds and the principal amount of Bonds maturing on each Principal Payment Date shall be such that the true interest cost of the Bonds shall not exceed 5%.

(d) Payment of Debt Charges. The debt charges on the Bonds shall be payable in lawful money of the United States of America without deduction for the services of the Bond Registrar as paying agent. Principal of and any premium on the Bonds shall be payable when due upon presentation and surrender of the Bonds at the main office of the Bond Registrar; provided, however, to the extent that in the case of the final principal payment due hereunder, surrender of the Bond at the main office of the Bond Registrar. Interest on a Bond shall be paid on each Interest Payment Date by check or draft mailed to the person in whose name the Bond was registered, and to that person's address appearing, on the Bond Register at the close of business on the 15<sup>th</sup> day preceding that Interest Payment Date. Notwithstanding the foregoing, so long as the entire principal amount of the Bonds is represented by a single registered Bond, (i) the principal installments on the Bonds may be paid on each Principal Payment Date and any redemption date by (A) wire transfer of immediately available funds to the registered owner, without presentation or surrender thereof, to an account in the United States as such owner will direct in writing to the Bond Registrar or (B) check or draft mailed to the registered owner, provided that in connection with the payment or redemption of the final installment of principal of the Bonds, the registered owner thereof shall present and surrender its Bonds at the office of the Bond Registrar, and (ii) interest on the Bonds may be paid on each Interest Payment Date by (A) wire transfer of immediately available funds to the registered

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owner, without presentation or surrender thereof, to an account in the United States as such owner will direct in writing to the Bond Registrar or (B) check or draft mailed to the registered owner.

(e) Redemption Provisions. The Bonds shall be subject to redemption prior to stated maturity as follows:

(i) Optional Redemption. The Bonds of the maturities and interest rates specified in the Certificate of Award (if any are so specified) shall be subject to optional redemption by and at the sole option of the City, in whole or in part in Authorized Denominations, on the dates and at the redemption prices (expressed as a percentage of the principal amount to be redeemed), plus accrued interest to the redemption date, to be determined by the Director of Finance in the Certificate of Award; provided that the redemption price for any optional redemption date shall not be greater than 103%.

(ii) Partial Redemption. If fewer than all of the outstanding Bonds are called for optional redemption at one time and Bonds of more than one maturity (or interest rate within a maturity if applicable) are then outstanding, the Bonds that are called shall be Bonds of the maturity or maturities and interest rate or rates selected by the City. If fewer than all of the Bonds of a single maturity (or interest rate within a maturity if applicable) are to be redeemed, the selection of Bonds of that maturity (or interest rate within a maturity if applicable) to be redeemed, or portions thereof in Authorized Denominations, shall be made by the Bond Registrar by lot in a manner determined by the Bond Registrar. In the case of a partial redemption of Bonds by lot when Bonds of denominations greater than the Authorized Denominations are then outstanding, each Authorized Denomination unit of principal thereof shall be treated as if it were a separate Bond of the Authorized Denomination. If it is determined that one or more, but not all, of the Authorized Denomination units of principal amount represented by a Bond are to be called for redemption, then, upon notice of redemption of an Authorized Denomination unit or units, the registered owner of that Bond shall surrender the Bond to the Bond Registrar (A) for payment of the redemption price of the Authorized Denomination unit or units of principal amount called for redemption (including, without limitation, the interest accrued to the date fixed for redemption and any premium), and (B) for issuance, without charge to the registered owner, of a new Bond or Bonds of any Authorized Denomination or Denominations in an aggregate principal amount equal to the unmatured and unredeemed portion of, and bearing interest at the same rate and maturing on the same date as, the Bond surrendered.

(iii) Notice of Redemption. The notice of the call for redemption of Bonds shall identify (A) by designation, letters, numbers or other distinguishing marks, the Bonds or portions thereof to be redeemed, (B) the redemption price to be paid, (C) the date fixed for redemption, and (D) the place or places where the amounts due upon redemption are payable. The notice shall be given by the Bond Registrar on behalf of the City by mailing a copy of the redemption notice by first-class mail, postage prepaid, at least 30 days prior to the date fixed for redemption, to the registered owner of each Bond subject to redemption in whole or in part at the registered owner's address shown on the Bond Register maintained by the Bond Registrar at the close of business on the 15<sup>th</sup> day preceding that

mailing. Failure to receive notice by mail or any defect in that notice regarding any Bond, however, shall not affect the validity of the proceedings for the redemption of any Bond.

(iv) Payment of Redeemed Bonds. In the event that notice of redemption shall have been given by the Bond Registrar to the registered owners as provided above, there shall be deposited with the Bond Registrar on or prior to the redemption date, moneys that, in addition to any other moneys available therefor and held by the Bond Registrar, will be sufficient to redeem at the redemption price thereof, plus accrued interest to the redemption date, all of the redeemable Bonds for which notice of redemption has been given. Notice having been mailed in the manner provided in the preceding paragraph hereof, the Bonds and portions thereof called for redemption shall become due and payable on the redemption date, and, subject to the provisions of Section 4(d), upon presentation and surrender thereof at the place or places specified in that notice, shall be paid at the redemption price, plus accrued interest to the redemption date. If moneys for the redemption of all of the Bonds and portions thereof to be redeemed, together with accrued interest thereon to the redemption date, are held by the Bond Registrar on the redemption date, so as to be available therefor on that date and, if notice of redemption has been deposited in the mail as aforesaid, then from and after the redemption date those Bonds and portions thereof called for redemption shall cease to bear interest and no longer shall be considered to be outstanding. If those moneys shall not be so available on the redemption date, or that notice shall not have been deposited in the mail as aforesaid, those Bonds and portions thereof shall continue to bear interest, until they are paid, at the same rate as they would have borne had they not been called for redemption. All moneys held by the Bond Registrar for the redemption of particular Bonds shall be held in trust for the account of the registered owners thereof and shall be paid to them, respectively, upon presentation and surrender of those Bonds; provided that any interest earned on the moneys so held by the Bond Registrar shall be for the account of and paid to the City to the extent not required for the payment of the Bonds called for redemption.

#### SECTION 5. Execution and Authentication of Bonds; Appointment of Bond Registrar.

The Bonds shall be signed by the Mayor and the Director of Finance, in the name of the City and in their official capacities; provided that either or both of those signatures may be a facsimile. The Bonds shall be issued in the Authorized Denominations and numbers as requested by the Original Purchaser and approved by the Director of Finance, shall be numbered as determined by the Director of Finance in order to distinguish each Bond from any other Bond and shall express upon their faces the purpose, in summary terms, for which they are issued and that they are issued pursuant to the Act, the City's Charter, this Ordinance and the Certificate of Award.

The Director of Finance is hereby authorized to designate in the Certificate of Award the Director of Finance, the Original Purchaser or a bank or trust company authorized to do business in the State to act as the initial Bond Registrar. The Director of Finance shall provide for the payment of the services rendered and for reimbursement of expenses incurred pursuant to the Certificate of Award, except to the extent paid or reimbursed by the Original Purchaser in accordance with the Certificate of Award, from the proceeds of the Bonds to the extent available and then from other money lawfully available and appropriated or to be appropriated for that purpose.

No Bond shall be valid or obligatory for any purpose or shall be entitled to any security or benefit under the Bond Proceedings unless and until the certificate of authentication printed on the Bond is signed by the Bond Registrar as authenticating agent. Authentication by the Bond Registrar shall be conclusive evidence that the Bond so authenticated has been duly issued, signed and delivered under, and is entitled to the security and benefit of, the Bond Proceedings. The certificate of authentication may be signed by any authorized officer or employee of the Bond Registrar or by any other person acting as an agent of the Bond Registrar and approved by the Director of Finance on behalf of the City. The same person need not sign the certificate of authentication on all of the Bonds.

**SECTION 6. Registration; Transfer and Exchange.**

(a) Bond Register. So long as any of the Bonds remain outstanding, the City will cause the Bond Registrar to maintain and keep the Bond Register at its main office. Subject to the provisions of Section 4(d), the person in whose name a Bond is registered on the Bond Register shall be regarded as the absolute owner of that Bond for all purposes of the Bond Proceedings. Payment of or on account of the debt charges on any Bond shall be made only to or upon the order of that person; neither the City nor the Bond Registrar shall be affected by any notice to the contrary, but the registration may be changed as provided in this Section 6. All such payments shall be valid and effectual to satisfy and discharge the City's liability upon the Bond, including interest, to the extent of the amount or amounts so paid.

(b) Transfer and Exchange. Any Bond may be exchanged for Bonds of any Authorized Denomination upon presentation and surrender at the main office of the Bond Registrar, together with a request for exchange signed by the registered owner or by a person legally empowered to do so in a form satisfactory to the Bond Registrar. A Bond may be transferred only on the Bond Register upon presentation and surrender of the Bond at the main office of the Bond Registrar together with an assignment signed by the registered owner or by a person legally empowered to do so in a form satisfactory to the Bond Registrar. Upon exchange or transfer the Bond Registrar shall complete, authenticate and deliver a new Bond or Bonds of any Authorized Denomination or Denominations requested by the owner equal in the aggregate to the unmatured principal amount of the Bond surrendered and bearing interest at the same rate and maturing on the same date.

If manual signatures on behalf of the City are required, the Bond Registrar shall undertake the exchange or transfer of Bonds only after the new Bonds are signed by the authorized officers of the City. In all cases of Bonds exchanged or transferred, the City shall sign and the Bond Registrar shall authenticate and deliver Bonds in accordance with the provisions of the Bond Proceedings. The exchange or transfer shall be without charge to the owner, except that the City and Bond Registrar may make a charge sufficient to reimburse them for any tax or other governmental charge required to be paid with respect to the exchange or transfer. The City or the Bond Registrar may require that those charges, if any, be paid before the procedure is begun for the exchange or transfer. All Bonds issued and authenticated upon any exchange or transfer shall be valid obligations of the City, evidencing the same debt, and entitled to the same security and benefit under the Bond Proceedings as the Bonds surrendered upon that exchange or transfer. Neither the City nor the Bond Registrar shall be required to make any exchange or transfer of (i) Bonds then subject to call for redemption between the 15<sup>th</sup> day preceding the mailing of notice of

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Bonds to be redeemed and the date of that mailing, or (ii) any Bond selected for redemption, in whole or in part.

SECTION 7. Sale of the Bonds to the Original Purchaser. The Director of Finance is authorized to sell the Bonds at private sale to the Original Purchaser at a purchase price, not less than 97% of the aggregate principal amount thereof, as shall be determined by the Director of Finance in the Certificate of Award, plus accrued interest (if any) on the Bonds from their date to the Closing Date, and shall be awarded by the Director of Finance with and upon such other terms as are required or authorized by this Ordinance to be specified in the Certificate of Award, in accordance with law and the provisions of this Ordinance.

The Director of Finance shall sign and deliver the Certificate of Award and shall cause the Bonds to be prepared and signed and delivered, together with a true transcript of proceedings with reference to the issuance of the Bonds, to the Original Purchaser upon payment of the purchase price.

The Mayor, the City Administrator, the Director of Finance, the Director of Law, the Clerk of Council and other City officials, as appropriate, are each authorized and directed to sign any transcript certificates, financial statements and other documents and instruments and to take such actions as are necessary or appropriate to consummate the transactions contemplated by this Ordinance. The actions of the Mayor, the City Administrator, the Director of Finance, the Director of Law, the Clerk of Council or other City official, as appropriate, in doing any and all acts necessary in connection with the issuance and sale of the Bonds are hereby ratified and confirmed.

SECTION 8. Federal Tax Considerations. The City covenants that it will use, and will restrict the use and investment of, the proceeds of the Bonds in such manner and to such extent as may be necessary so that (a) the Bonds will not (i) constitute private activity bonds or arbitrage bonds under Sections 141 or 148 of 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 Bonds 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 Bonds 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 Bonds 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 Bonds is hereby authorized (a) to make or effect any election, selection, designation (including specifically designation or treatment of the Bonds 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 Bonds 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 Bonds 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 Bonds, and (c) to give one or more appropriate certificates of the City, for inclusion in the transcript of proceedings for the Bonds, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Bonds, 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 Bonds.

Each covenant made in this section with respect to the Bonds is also made with respect to all issues any portion of the debt service on which is paid from proceeds of the Bonds (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 Bonds 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 Bonds.

**SECTION 9. Security for and Covenants Relating to Bonds.**

(a) The Bonds, together with the Outstanding Nontax Revenue Bonds and any Additional Bonds that may be issued concurrently or hereafter on a parity therewith, are special obligations of the City, and the principal and interest on the Bonds are payable solely from, and such payment is secured by a pledge of and lien on, those Nontax Revenues established by and as provided in this Ordinance which are on deposit in the Bond Fund, as described below.

There is hereby created a separate account or fund designated as the “Top of the Hill Bond Retirement Fund” (the “Bond Fund”) into which Nontax Revenues shall be deposited in accordance with the following provisions.

The City hereby covenants and agrees that on or before each Payment Date it shall deposit in the Bond Fund from Nontax Revenues selected by the City, an amount equal to the amount of principal and interest due on the Bonds on that Payment Date, less, in the discretion of the City, any interest earnings or other moneys accumulated in the Bond Fund which have not theretofore been used as a credit against a prior payment obligation. Moneys in the Bond Fund shall be used solely and exclusively to pay principal of and interest on the Bonds, the Outstanding Nontax Revenue Bonds, any parity obligations concurrently issued with the Bonds, and any hereafter designated Additional Bonds, all when due.

The City hereby covenants and agrees that so long as Bonds are outstanding, it will appropriate and maintain sufficient Nontax Revenues each year to make each payment due under this Section 9 and to pay principal and interest when due; provided, however, the payments due hereunder and under the Bonds are payable solely from Nontax Revenues, which Nontax Revenues

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are hereby selected by the City pursuant to Section 165.12 of the Revised Code as moneys that are not raised by taxation. The Bonds are not secured by an obligation or pledge of any moneys raised by taxation. The Bonds do not and shall not represent or constitute a debt or pledge of the faith or credit or taxing power of the City, and the owners of the Bonds have no right to have taxes levied by the City for the payment of principal and interest on the Bonds.

Nothing herein shall be construed as requiring the City to use or apply to the payment of principal and interest on the Bonds any funds or revenues from any source other than Nontax Revenues. Nothing herein, however, shall be deemed to prohibit the City, of its own volition, from using, to the extent that it is authorized by law to do so, any other resources for the fulfillment of any of the terms, conditions or obligations of this Ordinance or of the Bonds.

(b) The City will at all times faithfully observe and perform all agreements, covenants, undertakings, stipulations and provisions to be performed on its part under this Ordinance and the Bonds and under all proceedings of this Council pertaining thereto. The City represents that (i) it is, and upon delivery of the Bonds covenants that it will be, duly authorized by the Constitution and laws of the State including particularly and without limitation the Act, to issue the Bonds and to provide the security for payment of the debt service charges on the Bonds in the manner and to the extent set forth herein and in the Bonds; (ii) all actions on its part for the issuance of the Bonds have been or will be taken duly and effectively; and (iii) the Bonds will be valid and enforceable special obligations of the City according to their terms. Each obligation of the City required to be undertaken pursuant to this Ordinance and the Bonds is binding upon the City, and upon each officer or employee of the City as may from time to time have the authority under law to take any action on behalf of the City as may be necessary to perform all or any part of such obligation, as a duty of the City and of each of those officers and employee resulting from an office, trust or station within the meaning of Section 2731.01 of the Revised Code, providing for enforcement by writ of mandamus.

(c) All books and documents in the City's possession relating to the Nontax Revenues shall be open at all times during the City's regular business hours to inspection by such accountants or other agents of the owners of the Bonds as the owners may from time to time designate.

(d) The Clerk of Council, or another appropriate officer of the City, shall furnish to the Original Purchaser a true transcript of proceedings, certified by that officer, of all proceedings had with reference to the issuance of the Bonds along with such information from the records as is necessary to determine the regularity and validity of the issuance of the Bonds.

**SECTION 10. Financing Costs.** The expenditure of the amounts necessary to pay any Financing Costs in connection with the Bonds, to the extent not paid or reimbursed by the Original Purchaser in accordance with the Certificate of Award, 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 Bonds to the extent available, and otherwise from any other funds lawfully available that are appropriated or shall be appropriated for that purpose.

**SECTION 11. Additional Bonds.** The City shall have the right from time to time to issue Additional Bonds on a parity with the Bonds, which Additional Bonds shall be payable solely from the Nontax Revenues, and such payment shall be secured by a pledge of and a lien on the Nontax

Revenues as provided by the Act and by an ordinance passed by this Council authorizing the issuance of those Additional Bonds. Before any Additional Bonds are issued, the City shall be required to furnish a certificate of the Director of Finance showing that the maximum annual aggregate of estimated debt service charges on the Bonds, the Outstanding Nontax Revenue Bonds, any parity obligations delivered concurrently with or after the Bonds, and those Additional Bonds, or in the event that the Additional Bonds are to be issued as bond anticipation notes, the largest amount required to be paid in any succeeding calendar year to meet the estimated interest and principal maturities of the bonds anticipated by those bond anticipation notes, shall be not more than 50% of Nontax Revenues for the fiscal year immediately preceding the issuance of the proposed Additional Bonds (the Coverage Test).

Junior lien or other subordinate bonds payable from the Nontax Revenues may be issued without limitation.

The Additional Bonds shall bear such designation as may be necessary to distinguish them from the Bonds or other Additional Bonds having different provisions and shall have maturities, interest rates, interest payment dates, redemption provisions, denominations and other provisions as provided in the ordinances hereafter adopted providing for the issuance of the Additional Bonds; provided, however, that those terms and provisions shall not be inconsistent with this Ordinance to the extent it governs the issuance and terms of Additional Bonds.

**SECTION 12. Bond Counsel.** The legal services of the law firm of Squire Patton Boggs (US) LLP are hereby retained. Those legal services shall be in the nature of legal advice and recommendations as to the documents and the proceedings in connection with the authorization, sale and issuance of the Bonds and rendering at delivery related legal opinions, all as set forth in the form of engagement letter from that firm which is now on file in the office of the Clerk of Council. In providing those legal services, as an independent contractor and in an attorney-client relationship, that firm shall not exercise any administrative discretion on behalf of this City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State, any county or municipal corporation or of this City, or the execution of public trusts. For those legal services, that firm shall be paid just and reasonable compensation and shall be reimbursed for actual out-of-pocket expenses incurred in providing 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. The amounts necessary to pay those fees and any reimbursement are hereby appropriated from the proceeds of the Bonds, if available, and otherwise from available moneys in the General Fund.

**SECTION 13. Notification of Bond Issuance.** The Director of Finance is authorized and directed to provide the notification required by Section 165.03(D) of the Revised Code to the Director of the Ohio Development Services Agency.

**SECTION 14. Satisfaction of Conditions for Bond 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 Bonds in order to make them legal, valid and binding special obligations of the City have been performed and have been met, or will at the time of delivery of the Bonds have been performed and have been met, in regular and due form as required by law;

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that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Bonds; and that the Bonds are being authorized and issued pursuant to the Act, the City's Charter, this Ordinance, the Certificate of Award and other authorizing provisions of law.

SECTION 15. Prior Acts Ratified and Confirmed. Any actions previously taken by City officials or agents of the City in furtherance of the matters set forth in this Ordinance are hereby approved, ratified and confirmed.

SECTION 16. 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 17. 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 18. 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 provide for the sale and issuance of the Bonds, which is necessary to make their proceeds available 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.

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

Passed: \_\_\_\_\_

Amy Himmlein  
Clerk of Council

Presented to Mayor: \_\_\_\_\_

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

Kahlil Seren  
Mayor

Proposed: 3/7/2022

ORDINANCE NO. 28-2022 (F), *First Reading*

By Mayor Seren

An ordinance to amend certain subparagraphs of Ordinance No. 139-2021 (F), relating to appropriations and other expenditures of the City of Cleveland Heights, Ohio for the fiscal year ending December 31, 2022 and declaring an emergency.

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

SECTION 1. Certain subparagraphs of Ordinance No. 139-2021 (F) relating to appropriations for the current expenses and other expenditures of the City of Cleveland Heights, Ohio for the fiscal year ending December 31, 2022 be, and the same hereby are increased, decreased and/or transferred in the amounts set forth in Exhibit 1.

SECTION 2. All expenditures of the City of Cleveland Heights within the fiscal year ending December 31, 2022, shall be made within the appropriations herein provided. "Appropriation" as used herein means the total amount appropriated for the individual fund. Notwithstanding the financial detail herein presented within an individual fund, the Mayor is authorized to transfer budgeted amounts within each fund, so long as the total amount appropriated for each individual fund is not exceeded.

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

SECTION 4. This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of public peace, health, and safety of the inhabitants of the City of Cleveland Heights, such emergency being the ongoing and continuous need to preserve the faith and credit of the City. 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.

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MELODY JOY HART  
President of Council

ORDINANCE NO. 28-2022 (F), *First Reading*

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AMY HIMMELEIN  
Clerk of Council

Passed:

Presented to Mayor: \_\_\_\_\_

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

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KAHLIL SEREN  
Mayor

ORDINANCE NO. 28-2022 (F), *First Reading*

## Exhibit 1

Fund	Department	Object	Reason	Approved Budget	Requested Change	Revised Budget	Net Effect to Budget
101 - General	5101 - Planning	O.T.P.S.	Increase for the Home Heritage Program.	23,100.00	21,550.00	44,650.00	Increase - Unbudgeted cash will be used.
207 - Drug Law Enforcement	7206 - Drug Law Enforcement	O.T.P.S.	Increase to spend funds received from the U.S. Marshalls.	77,000.00	37,500.00	114,500.00	Zero - grant funds will cover the cost.
218 - Miscellaneous State Grants	7201 - Police Admin	Personal Services	Increase for training which will be offset by the State Attorney General's Office.	0.00	38,963.28	38,963.28	Zero - grant funds will cover the cost.
239 - Refuse Grant Fund	6203 - Refuse Coll/Transfer Sta	O.T.P.S.	Increase for printing of educational and promotional materials for the Recycling Partnership which will be offset by grant funds.	0.00	14,531.00	14,531.00	Zero - grant funds will cover the cost.
402 - Financed Capital Projects	3101 - Finance	Capital	Transfer for capital equipment purchases.	500,000.00	(310,000.00)	190,000.00	Zero - budget is being transferred.
	6208 - Street Maintenance	Capital	Transfer for capital equipment purchases.	0.00	275,000.00	275,000.00	Zero - budget is being transferred.
	8201 - Public Prop/Park Maint	Capital	Transfer for capital equipment purchases.	0.00	35,000.00	35,000.00	Zero - budget is being transferred.
<b>Total</b>				<b>600,100.00</b>	<b>112,544.28</b>	<b>712,644.28</b>	