



CLEVELAND HEIGHTS

Council Committee of the Whole

October 17, 2022

6:00 p.m.

City Hall – Executive Conference Room

Agenda

1. Review of August and/or September Financials with Auditor—Finance Committee (30 minutes)
 - a. Discuss Council Committee Structure (Finance/COTW)
2. Legislative Review/Caucus (15 minutes)
3. Continued discussion regarding MOU (20 minutes)
4. Executive Session (15 minutes)
 - a. *To consider the appointment of a public official(s).*
5. Discussion regarding December break (5 minutes)
6. Assignments (5 minutes)



CLEVELAND HEIGHTS

AGENDA (tentative) - CLEVELAND HEIGHTS CITY COUNCIL MEETING

Monday, October 17, 2022

Regular Meeting

7:30 p.m.

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

- 1) Meeting called to order by Council President**
- 2) Roll Call of Council Members**
- 3) Excuse absent members**
- 4) Approval of the minutes from previous meeting(s): September 6, 2022, September 19, 2022, October 3, 2022**
- 5) Communications from the Mayor**
- 6) Report of the Clerk of Council**

Notify Council that one notice has been received from the Ohio Division of Liquor Control advising that applications have been made by the following:

- Uptown Mart LLC, 1900 Lee Rd., Cleveland Heights, OH 44118 for a transfer of a C1/C2 permit to 1900 Mart Inc., 1900 Lee Rd., Cleveland Heights, OH 44118.

Matter of Record

Referred to: The Mayor, Chief of Police, and the Director of Law

- 7) Public Comment – Agenda Items Only**

(Note: Persons wishing to speak must register in advance. A 3-minute time limit applies. Council President reserves the right to reduce time limit based on the volume of business on the agenda. Comments unrelated to the agenda may be made after Committee Reports).

8) **LEGISLATION**

Note: The title for each piece of legislation contains a parenthetical reference to the Council Committee within which the subject matter of the legislation falls. Council Committees are abbreviated as follows: (AS)-Administrative Services; (COTW)-Committee of the Whole; (CRR)-Community Relations and Recreation; (F)-Finance; (HB)-Housing and Building; (MSES)-Municipal Services and Environmental Sustainability; (PD)-Planning and Development; (PSH)-Public Safety and Health. See Resolution 97-2022 for a list of Council Committee subject matter areas.

a. **First Readings – Consideration of Adoption Requested**

ORDINANCE NO. 155-2022(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 the necessity that this legislation become immediately effective as an emergency measure.

Introduced by Mayor Seren

Motion to Adopt/Second: _____ / _____

Vote: _____
For _____ Against _____ No. Reading _____

b. **First Readings Only**

RESOLUTION NO. 156-2022(MS): First Reading. A Resolution authorizing the Mayor to enter into a grant agreement with the Northeast Ohio Regional Sewer District to accept funds under the 2023 Member Community Infrastructure Grant program for the Cedar Glen Parkway Rehabilitation and Replacement Project; and declaring the necessity that this legislation become immediately effective as an emergency measure.

Introduced by Mayor Seren

RESOLUTION NO. 157-2022(MS): First Reading. A Resolution authorizing the Mayor to enter into a grant agreement with the Northeast Ohio Regional Sewer District to accept funds under the 2023 Member Community Infrastructure Grant Program for the design control of the SSOs CH-27 and CH-51 Project; and declaring the necessity that this legislation become immediately effective as an emergency measure.

Introduced by Mayor Seren

ORDINANCE NO. 158-2022(AS): First Reading. An Ordinance amending Chapter 767, "Tenant's Right to Pay to Stay," of the Codified Ordinances of the City of Cleveland Heights and declaring the necessity that this legislation become immediately effective as an emergency measure.

Introduced by President Melody Joy Hart

c. **Second Readings**

ORDINANCE NO. 148-2022(PD): Second Reading. An Ordinance declaring certain improvements to real property located in the City of Cleveland Heights, Ohio to be a public purpose; declaring such improvements to be exempt from real property taxation; making provision for the collection of service payment in lieu of taxes; establishing an urban redevelopment tax increment equivalent fund for the deposit of such service payments; authorizing a compensation agreement with the Cleveland Heights-University Heights School District; providing related authorizations pursuant to Ohio Revised Code Sections 5709.41, 5709.42, and 5709.43, and declaring the necessity that this legislation become immediately effective as an emergency measure.

Motion to Adopt/Second: _____ / _____

Vote: _____
For _____ Against _____ No. Reading _____

RESOLUTION NO. 152-2022(F): Second Reading. A Resolution approving the Mayor's appointment of Andrew Unetic as the Director of Finance, commencing October 24, 2022; and declaring the necessity that this legislation become immediately effective as an emergency measure.

Motion to Adopt/Second: _____ / _____

Vote: _____
For _____ Against _____ No. Reading _____

RESOLUTION NO. 153-2022(PSH): Second Reading. A Resolution adopting the 2022-2027 update of the *Cuyahoga County All-Hazards Mitigation Plan for Cuyahoga County*

(“AHMP”); and declaring the necessity that this legislation become immediately effective as an emergency measure.

Motion to Adopt/Second: _____ / _____

Vote: _____
For _____ Against _____ No. Reading _____

RESOLUTION NO. 154-2022(MSES): Second Reading: An Ordinance amending Section 303.08 “Impounding of Vehicles” of the Codified Ordinances of the City of Cleveland Heights so that the Ordinance will be consistent with current State and Local Law; and declaring the necessity that this legislation become immediately effective as an emergency measure.

Motion to Adopt/Second: _____ / _____

Vote: _____
For _____ Against _____ No. Reading _____

b. Fifth Readings

ORDINANCE NO. 78-2021(PSH): Fifth Reading. An Ordinance enacting and adopting Chapter 522 “Lead Hazards,” of Part Five, General Offenses Code, of the Codified Ordinances of the City of Cleveland Heights; repealing Chapter 1347, “Certificate of Occupancy,” of Part Thirteen, Building Code, of the Codified Ordinances of the City of Cleveland Heights, and adopting a replacement Chapter 1347, “Certificate of Occupancy,” and amending Section 1345.99, “Penalty,” of Chapter 1345, “Enforcement and Penalty,” of Part Thirteen, Building Code, of the Codified Ordinances of the City of Cleveland Heights.

Motion to Adopt/Second: _____ / _____

Vote: _____
For _____ Against _____ No. Reading _____

Committee Reports

- a) Municipal Services and Environmental Sustainability Committee**
 - Assignment(s): Sewer Rates
- b) Planning and Development Committee**
 - Assignment(s): GAP Financing
- c) Public Safety and Health Committee**
 - Assignment(s): Lead Safe Legislation
- d) Administrative Services Committee**
 - Assignment(s): Charter Review, Commission/Board Restructuring
- e) Community Relations and Recreation Committee**
- f) Finance Committee**
- g) Housing and Building Committee**
 - Assignments(s): Access by Political Candidates to Multi-Unit Dwellings (Cuda), Pay-to-Stay and Civil Option (Hart)
- h) Committee of the Whole**

10) Public Comment - General

(Note: Persons wishing to speak must register in advance. A 3-minute time limit applies. Council President reserves the right to reduce time limit based on the volume of business on the agenda.)

11) Old Business

12) New Business

13) Council Member Comments

(Note: A 3-minute time limit applies. Council President reserves the right to reduce time limit based on the volume of business on the agenda.)

14) Council President's Report

15) Adjournment

NEXT MEETING OF COUNCIL: MONDAY, NOVEMBER 7, 2022



CLEVELAND HEIGHTS

Tuesday, September 6, 2022 Minutes

CITY COUNCIL MEETING

7:54pm-9:41pm

President Hart Presiding

Roll Call: Present: Mattox, Moore, Russell, Cuda, Larson, Hart
Absent: Cobb*

Also Present: Mayor Seren, Director Hanna

***Vice President Cobb excused**

SWEARING IN OF NEW CLERK OF COUNCIL (ADDIE BALESTER):

- Director Hanna issued the oath of office

APPROVAL OF THE MINUTES FROM PREVIOUS MEETING(S):

- June 6, 2022—APPROVED
- June 14, 2022—APPROVED
- June 21, 2022—APPROVED

Motion to add Car Free Day legislation at the end of the first readings

Motion: Cuda
Second: Larson
Discussion: none

Ayes: 6
Nays: 0

COMMUNICATIONS FROM THE MAYOR:

- Highlighted Caledonia School which is in Cleveland Heights but is part of the East Cleveland School District. Got permission from ECSD Superintendent to use the school for ARPA meetings and got to tour the school. A few council members attended as well. Spoke to Superintendent to reach out to the rest of council to set up a tour.
- Youth internship program that the school and city has been working on has received grant funding.

- High Community Congress recognition/celebration of 50 years of work which has led to a diverse community that we are all proud of.
- **Proclamations from the Mayor:**
 - Lana Cowell
 - Linda Johnston
 - Suzanne Nigro
 - Family of Jeanne Martin-Diamond accepting on her behalf
 - Nancy Cappelletti
- **Ask Council to add RES 134-2022 to the agenda**
 - Motion: Hart
 - Second: Russell
 - Discussion: Cuda thanks Heights Community Congress on a personal level and thanks those he has worked with throughout his time living/working in the Heights
 - Ayes: 6
 - Nays: 0

Motion Passed

REPORT OF THE CLERK OF COUNCIL:

Notify Council that one notice has been received from the Ohio Division of Liquor Control advising that applications have been made by the following:

- WIZBANG Theatre LLC d/b/a WIZBANG Theatre, 2134 Lee Rd. Cleveland Heights, OH 44118 for a new D3 permit.

Matter of Record

PRESENTATION BY THE RACIAL JUSTICE TASK FORCE:

- Housing & Economic Mobility—Chairperson, Gary Benjamin
 - Develop initiatives, programs, and/or legislation that ensures existing and future tenants of rental properties to have access to legal representation while participating in eviction hearings or court proceedings to minimize the number of evictions within the city and reinforce long-term housing and residency
 - Expand the current Pay-to-Stay Legislation to minimize the number of evictions on a tenants record and reinforce long-term housing and residency
 - Enhance communication between city staff and minority business owners to offer resources that help increase ownership sustainability
- Health & Education—Chairperson, Lisa Hunt
 - Partner with Metro Health (Cleveland Heights Campus) to address health disparities among minorities within the community; strengthen existing collaborations; create an annual community health fair offering information and resources

- Strengthen partnership with Cuyahoga Board of Health to increase awareness and the use of available health and mental health resources among members of the community
- Partner with CH-UH Schools to establish youth advisory committee to work in partnership with Council and the RJTF to develop youth forums highlighting youth experiences related to diversity and racial inclusion in the education system and throughout the community.
- Public Safety—Chairperson, Robert Lampeley
 - Provide the community with an update and outcomes of the training the members of the police department received in Policy Analysis & Community Engagement, Data Analysis, and the Civilian Review Board from CSU
 - Promote departmental training specific to the City of Cleveland Heights in the areas of ***use of force*** and ***traffic stops***
 - Create a data collection process that identified specific reasons for traffic stops and demographics of individuals involved in traffic stops that may include, but not be limited to; *race, age, gender*
 - Schedule and implement monthly or bi-monthly ***anti-bias*** training sessions that allows open dialogue around significant police interactions with members of the community and how attitudes of a bias nature may influence these interactions
 - Include administrative and city staff persons in the same or similar training sessions

PUBLIC COMENT (AGENDA ITEMS ONLY):

- None

LEGISLATION:

First Readings

- a. ***First Readings-Consideration of Adoption Requested***

ORDINANCE NO. 122-2022 (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 the necessity that this legislation become immediately effective as an emergency measure.

Motion to Adopt by President Hart, Seconded by Councilor Moore

Voice Vote: Ayes: 6
 Nays: 0

Legislation Passed

RESOLUTION NO. 123-2022 (F): First Reading. A Resolution authorizing and directing the Mayor to enter into a contract with TimeZero Enterprises for Council retreat facilitation services, increasing Council's budget to provide funds therefor, and declaring the necessity that this Resolution become immediately effective as an emergency measure.

Motion to Adopt by President Hart, Seconded by Councilor More

Voice Vote: Ayes: 6
 Nays: 0

Legislation Passed

RESOLUTION NO. 124-2022 (F): *First Reading*. A Resolution approving the report of the Assessment Equalization Board appointed to hear objections to the estimated assessments for a portion of the expense of street lighting within the City of Cleveland Heights; and declaring the necessity that this legislation become immediately effective as an emergency measure.

Motion to Adopt by President Hart, Seconded by Councilor Moore

Voice Vote: Ayes: 6
 Nays: 0

Legislation Passed

ORDINANCE NO. 125-2022 (F): *First Reading*. An Ordinance determining to proceed with the assessment of a portion of the expense of street lighting within the City of Cleveland Heights; levying assessments for said purpose; and declaring the necessity that this legislation become immediately effective as an emergency measure.

Motion to Adopt by President Hart, Seconded by Councilor Moore

Voice Vote: Ayes: 6
 Nays: 0

Legislation Passed

RESOLUTION NO. 126-2022 (F): *First Reading*. A Resolution approving the report of the Assessment Equalization Board appointed to hear objections to the estimated assessments for a portion of the expense of improvement of streets and parkways including grading, draining, curbing, paving, repaving, repairing, sweeping or cleaning thereof, remove snow therefrom, and planting, maintaining and removing shade trees within the City of Cleveland Heights and declaring the necessity that this legislation become immediately effective as an emergency measure.

Motion to Adopt by President Hart, Seconded by Councilor Moore

Voice Vote: Ayes: 6
 Nays: 0

Legislation Passed

ORDINANCE NO. 127-2022 (F): *First Reading*. An Ordinance determining to proceed with the assessment of a portion of the expense of improvement of streets and parkways, including grading, draining, curbing, paving, repaving, repairing, sweeping or cleaning thereof, removing

snow therefrom, and planting, maintaining and removing shade trees thereon within the City of Cleveland Heights; levying assessments for said purpose; and declaring the necessity that this legislation become immediately effective as an emergency measure.

Motion to Adopt by President Hart, Seconded by Councilor Moore

Voice Vote: Ayes: 6
 Nays: 0

Legislation Passed

RESOLUTION NO. 128-2022 (F): *First Reading*. A Resolution approving the report of the Assessment Equalization Board appointed to hear objections to the estimated assessments for the public services plan for the Cedar Fairmount Special Improvement District and declaring the necessity that this legislation become immediately effective as an emergency measure.

Motion to Adopt by President Hart, Seconded by Councilor Moore

Voice Vote: Ayes: 6
 Nays: 0

Legislation Passed

ORDINANCE NO. 129-2022 (F): *First Reading*. An Ordinance determining to proceed with the implementation through assessment of a public services plan for the Cedar Fairmount Special Improvement District.

Motion to Adopt by President Hart, Seconded by

Voice Vote: Ayes: 6
 Nays: 0

Legislation Passed

RESOLUTION NO. 133-2022 (AS): *First Reading*. A Resolution recognizing September 22, 2022 as Car Free Day and Park(ing) Day 2022 in Cleveland Heights; and declaring the necessity that this legislation become immediately effective as an emergency measure.

Motion to Adopt by Councilman Mattox, Seconded by Councilwoman Russell

Voice Vote: Ayes: 6
 Nays: 0

Legislation Passed

RESOLUTION NO. 134-2022 (CRR): *First Reading*. A Resolution declaring September 19, 2022 to be Heights Community Congress Day; and declaring the necessity that this Resolution become immediately effective as an emergency measure.

Motion to Adopt by Councilwoman Russell, Seconded by Councilor Moore

Voice Vote: Ayes: 6
Nays: 0

Legislation Passed

b. *First Readings Only*

RESOLUTION NO. 130-2022 (F): *First Reading*. Resolution accepting the amounts and rates as determined by the Budget Commission, authorizing the necessary tax levies and certifying them to the County Fiscal Officer, and declaring the necessity that this Resolution become immediately effective as an emergency measure.

Legislation Introduced

RESOLUTION NO. 131-2022 (F): *First Reading*. Resolution requesting the County Fiscal Officer to advance taxes from the proceeds of the 2022 tax year collection pursuant to Section 321.34 of the Ohio Revised Code, and declaring the necessity that this Resolution become immediately effective as an emergency measure.

Legislation Introduced

RESOLUTION NO. 132-2022 (MS). *First Reading*. An Ordinance authorizing the Mayor to enter into an agreement for recycling processing services between the City of Cleveland Heights and Waste Management and declaring an emergency.

Legislation Introduced:
Moved to Committee (MSES)

c. *Second Readings*

ORDINANCE NO. 78-2021 (PSH) *Second Reading*. An Ordinance enacting and adopting Chapter 522 “Lead Hazards,” of Part Five, General Offenses Code, of the Codified Ordinances of the City of Cleveland Heights; repealing Chapter 1347, “Certificate of Occupancy,” of Part Thirteen, Building Code, of the Codified ordinances of the City of Cleveland Heights, and adopting a replacement Chapter 1347, “Certificate of Occupancy,” and amending Section 1345.99, “Penalty,” of Chapter 1345, “Enforcement and Penalty,” of Part Thirteen, Building Code, of the Codified Ordinances of the City of Cleveland Heights.

Legislation Moved to Third Reading

ORDINANCE NO. 121-2022 (AS), *Second Reading*. An Ordinance giving final approval of the compensation rates and benefits proposed by the tentative labor agreement with the Laborers’ Local 860 Laborers’ International Union of North America (Local 860) for the time period covering April 1, 2022 through March 31, 2025; giving the Mayor the authority to sign said agreement; and declaring the necessity that this legislation become immediately effective as an emergency measure.

Motion to Adopt by Councilman Mattox, Seconded by Councilor Larson

Roll Call: Ayes: 6
 Nays: 0

Legislation Passed

COMMITTEE REPORTS

- a.) Administrative Services Committee (Vice President Cobb)
 - i. None.
- b.) Community Relations and Recreation Committee (Councilwoman Russell)
 - i. Wants to help with ARPA survey as far as the “digital divide” for those who do not have access to internet; an ARPA Fund survey weekend Saturday, September 17 and Sunday, September 18.
- c.) Finance Committee (President Hart)
 - i. None
- d.) Housing and Building Committee (Councilman Cuda)
 - i. Update from meeting today; Mayor and Director Butler attended, as well as Start Right CDC.
 - ii. Discussed many issues including vacant/abandoned housing
 - iii. Presentation from Start Right regarding housing rehabs and new builds they are working on
- e.) Municipal Services and Environmental Sustainability Committee (Councilor Moore)
 - i. MSES will meet next Monday, September 12 at 6pm to discuss waste management contract
 - ii. September 19 at 5pm regularly scheduled meeting will be held as normal
 - iii. Upcoming legislation: multi-unit building recycling program
- f.) Planning and Development Committee (Councilman Mattox)
 - i. Upcoming meeting this month will be a joint meeting with a developer to get updates on a project; stay tuned for date/time
- g.) Public Safety and Health Committee (Councilor Larson)
 - i. Encouraging people to come to the public meeting September 12, 7pm
- h.) Committee of the Whole (President Hart)

- i. None

PUBLIC COMMENT: GENERAL

- Lillian Hall: Concerned regarding the aquatics program; specifically with mismanagement by Parks and Rec Department regarding staffing. Asks City Council to investigate this mismanagement.
- Kimberly Ulatowski: Has some questions regarding the high school pool being used by residents; she was told the city could not offer programs due to budget cuts—wants to know what the cost is. She is also concerned about the privatization of services within the City
- Jonathan Slater: Advocating for dedicated bike lanes.
- Marianne Simon: Solution to the traffic pattern change on Cedar Hill; paint directly on the street, on each lane, what street that lane is directed to.
- Jennifer Shriver Lang: Advocating for reopening of the South Rink because it is a community asset that can earn revenue for the City.

OLD BUSINESS:

- None

NEW BUSINESS:

- None

COUNCIL MEMBER COMMENTS:

- Mattox: Continue to fill out ARPA surveys; next location Delisle Center on Taylor Rd. on September 21, 6:30pm
- Moore: Remind everybody that voter registration deadline is October 11; update your voter registration information if already registered. Heights Family Academy, Saturday September 10, 9am-12pm and Heights Music Hop, Saturday September 10, Lee Rd and Nobel Rd Neighborhood
- Russell: if other businesses or volunteers want to join ARPA survey weekend, you can call her at 216-333-3137 or email her council email address
- Cuda: Hopes a discussion on Charter Review will be placed on next COTW meeting; wants to welcome Addie Balester as new Clerk of Council; and is glad we will be addressing Appraisal Gap Legislation soon.
- Larson: Happy that Addie Balester has joined the team; and glad that Heights Community Congress was recognized tonight.
- Hart: Election is coming up, important to have good voter turn-out. October 11 is the last day to register, and if you have moved recently, you must change your address; wants to congratulate Heights Community Congress on their 50 years of work; she hopes to see

you all for the Heights Home tour on September 18; and wants to welcome Addie Balester as the new Clerk of Council.

COUNCIL PRESIDENT REPORT:

ADJOURNMENT

NEXT MEETING OF COUNCIL: MONDAY, SEPTEMBER 19, 2022



CLEVELAND HEIGHTS

Monday, September 19, 2022 Minutes

CITY COUNCIL MEETING

7:51pm-8:35pm

President Hart Presiding

Roll Call: Present: Mattox, Moore, Russell, Cuda, Larson, Cobb, Hart
Absent: None

Also Present: Mayor Seren, Director Hanna

APPROVAL OF THE MINUTES FROM PREVIOUS MEETING(S):

- June 27, 2022—APPROVED
- July 7, 2022—APPROVED
- August 1, 2022--APPROVED

COMMUNICATIONS FROM THE MAYOR:

- None

REPORT OF THE CLERK OF COUNCIL:

Notify Council that one notice has been received from the Ohio Division of Liquor Control advising that applications have been made by the following:

- Hunan Coventry Mingli, Inc. dba Hunan on Coventry, 1800 Coventry Rd. Cleveland Heights, OH 44118 for a transfer of a D5/D6 permit ot Hunan Coventry LLC, 1800 Coventry Rd. Cleveland Heights, OH 44118
 - Referred to : The Mayor, Chief of Police and the Director of Law
 - Clerk will request a 30 day extension as PD did not receive personal history background form as required.

Matter of Record

PUBLIC COMMENT (AGENDA ITEMS ONLY):

- Rosa Kovacevich: Here to talk about the Lead Safe Legislation and is happy Cleveland Heights is leading the way with this issue. She thinks it is important to acknowledge the imbalance that is present between tenants and landlords.

LEGISLATION:

First Readings

- a. *First Readings-Consideration of Adoption Requested*

ORDINANCE NO. 135-2022 (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 the necessity that this legislation become immediately effective as an emergency measure.

Motion to Adopt by President Hart, Seconded by Councilman Cuda

Voice Vote: Ayes: 7
 Nays: 0

Legislation Passed

ORDINANCE NO. 136-2022 (F): First Reading. An Ordinance to amend certain subparagraphs of Ordinance No. 139-2021 (F), relating to appropriation and other expenditures of the City of Cleveland Heights, Ohio for the fiscal year ending December 31, 2022; increasing Council's budget to provide funds for additional operating expenses, and declaring the necessity that this legislation become immediately effective as an emergency measure.

Motion to Adopt by President Hart, Seconded by Councilor Moore

Voice Vote: Ayes: 7
 Nays: 0

Legislation Passed

RESOLUTION NO. 137-2022 (PD): First Reading. A Resolution authorizing the Mayor to enter into an amendment to a lease agreement with WXZ CPV LLC; and declaring the necessity that this legislation become immediately effective as an emergency measure.

Motion to Adopt by Councilman Mattox, Seconded by Councilor Larson

Voice Vote: Ayes: 7
 Nays: 0

Legislation Passed

RESOLUTION NO. 138-2022 (PSH): *First Reading* A Resolution authorizing the Mayor to enter into an agreement with All City Management Services, Inc. for crossing guard services; providing compensation therefor; and declaring the necessity that this legislation become immediately effective as an emergency measure.

Legislation Introduced
***Second Reading Requested**

RESOLUTION NO. 138-2022 (MSES): *First Reading* A Resolution authorizing the Ohio Department of Transportation (“ODOT”) to provide Bridge Inspection Services within Cleveland Heights and authorizing the Mayor to enter into any contracts with ODOT needed to complete said project; and declaring that this legislation become immediately effective as an emergency measure.

Motion to Adopt by Councilor Moore, Seconded by Councilman Mattox

Voice Vote: Ayes: 7
 Nays: 0

Legislation Passed

RESOLUTION NO. 140-2022 (CRR): *First Reading* A Resolution authorizing the Mayor to file an application and enter into an agreement with the Ohio Department of Natural Resources for the purpose of acquiring funds through the Division of Forestry’s *Urban Forestry Assistance Program*; and declaring the necessity that this become immediately effective as an emergency measure.

Motion to Adopt by Councilwoman Russell, Seconded by Councilor Moore

Voice Vote: Ayes: 7
 Nays: 0

Legislation Passed

Second Readings

RESOLUTION NO. 130-2022 (F): *Second Reading* A Resolution accepting the amounts and rates as determined by the Budget Commission, authorizing the necessary tax levies and certifying them to the County Fiscal Officer, and declaring the necessity that this Resolution become immediately effective as an emergency measure.

Motion to Adopt by President Hart, Seconded by Councilor Larson

Voice Vote: Ayes: 7
 Nays: 0

Legislation Passed

RESOLUTION NO. 131-2022 (F): Second Reading. A Resolution requesting the County Fiscal Officer to advance taxes from the proceeds of the 2022 tax year collection pursuant to Section 321.34 of the Ohio Revised Code, and declaring the necessity that this Resolution become immediately effective as an emergency measure.

Motion to Adopt by President Hart, Seconded by Councilor Moore

Voice Vote: Ayes: 7
 Nays: 0

Legislation Passed

ORDINANCE NO. 131-2022 (MSES): Second Reading. An Ordinance authorizing the Mayor to enter into an agreement for recycling processing services between the City of Cleveland Heights and Waste Management and declaring the necessity that this Resolution become immediately effective as an emergency measure.

Motion to Adopt by Councilor Moore, Seconded by Councilman Cuda

Voice Vote: Ayes: 7
 Nays: 0

Legislation Passed

Third Reading

ORDINANCE NO. 78-2021 (PSH) Third Reading. An Ordinance enacting and adopting Chapter 522 “Lead Hazards,” of Part Five, General Offenses Code, of the Codified Ordinances of the City of Cleveland Heights; repealing Chapter 1347, “Certificate of Occupancy,” of Part Thirteen, Building Code, of the Codified ordinances of the City of Cleveland Heights, and adopting a replacement Chapter 1347, “Certificate of Occupancy,” and amending Section 1345.99, “Penalty,” of Chapter 1345, “Enforcement and Penalty,” of Part Thirteen, Building Code, of the Codified Ordinances of the City of Cleveland Heights.

Fourth Reading Requested
***Moved to PSH Committee**

Consent Agenda

RESOLUTION NO. 141-2022 (CRR): First Reading. A Resolution joining communities throughout the nation in proclaiming October, 2022 *National Breast Cancer Awareness Month*; October 13, 2022, *Metastatic Breast Cancer Awareness Day*; and October 21, 2022, *National Mammography Day*; and declaring the necessity that this legislation become immediately effective as an emergency measure.

RESOLUTION NO. 142-2022 (CRR): *First Reading*. A Resolution proclaiming October 2022 as *Domestic Violence Awareness Month*; and declaring the necessity that this legislation become immediately effective as an emergency measure.

Motion to Suspend Rules by Councilor Larson, Seconded by Councilor Moore

Voice Vote: Ayes: 7
 Nays: 0

Motion Passed

Motion to Adopt by Vice President Cobb, Seconded by Councilor Moore

Voice Vote: Ayes: 7
 Nays: 0

Legislation(s) Passed

COMMITTEE REPORTS

- a.)** Public Safety and Health Committee (Councilor Larson)
 - i. There was a good discussion regarding the Lead Safe Legislation in COTW tonight
- b.)** Community Relations and Recreation Committee (Councilwoman Russell)
 - i. October is Breast Cancer Awareness Month and Domestic Violence Awareness Month; wants women to make sure to take care of their health and mental health; wants to thank Council members for their help with the ARPA Weekend event she put on and thanks all the partners that shared their time (227 surveys submitted).
- c.)** Finance Committee (President Hart)
 - i. Hoping to have a Finance Committee meeting October 17, 2022 with auditors.
- d.)** Housing and Building Committee (Councilman Cuda)
 - i. Next meeting is October 3, 2022 at 5pm
- e.)** Municipal Services Committee (Councilor Moore)
 - i. The Committee met earlier this evening, and spoke about a few ideas that they are just starting to explore; anti-idling legislation and a way for people who participate in No-Mow May to not be penalized with nuisance citations.

- f.) Planning and Development Committee (Councilman Mattox)
 - i. Next regularly scheduled meeting on September 26 is being rescheduled due to holiday, but there is a special meeting coming up on 9/21/22 at 10am with a special presentation from the Park Synagogue developers.

- g.) Committee of the Whole (President Hart)
 - i. **None**

PUBLIC COMMENT: GENERAL

- Nelli Johnson: Kapparot, a ritual practiced by orthodox Jewish communities, including in our own community, which involves sacrifice of chickens which she believes is unethical.
- Jay Tekus: Advocating as President of the Cleveland Heights Youth Hockey Association, for the reopening of the South-Rink. Hundreds of families were affected by its closure. Data reveals that by renting the South Rink total cost was brought down by \$85,000 a year because of both rinks using a single compressor. It is cheaper to operate both rinks than just the North Rink alone.
- Cori Knol: Was unaware that Kapparot was going on around the corner from her house. Thinks people may not want to speak out about this because it is a religious ritual, but this isn't about religion it is about animal cruelty and is a health and safety issue.
- Amy Stewart: Thinks the practice of Kapparot is a horrible atrocity. Gives some background of what the ritual represents, including that the slaughtered chickens are supposed to be given to the poor but that isn't happening. Believes these Kapparot slaughtering facilities to be a wet-market like the one that caused COVID. There are safer and cleaner options. They have a petition online with about 500 signatures to get rid of this ritual sacrifice. Requests that the City asks the Jewish community to not partake this year

OLD BUSINESS:

- None

NEW BUSINESS:

- None

COUNCIL MEMBER COMMENTS:

- Mattox: Next public ARPA meeting is September 21, 2022 at 6:30 pm at the Delisle Center on Taylor.
- Moore: Remind everybody that we have an election coming up and to register or update your information. Monkeypox vaccine clinic 9am-12pm at the Community Center on September 23 and a COVID-19 vaccine clinic 5-7pm at the Community Center on September 28. Reminder that September 22, is Car Free Day, so if you can not use your car that day it would be great.

- Russell: Make sure if you haven't been vaccinated you go and do that; women please take care of yourself as the month of October is Breast Cancer Awareness and Domestic Violence Awareness Month
- Cobb: Admin Services Committee meeting will move from the 26th to the 28th due to the holiday, and will be looking at forming a charter review commission.
- Cuda: He has been to Nelli's lectures regarding veganism and there are a lot of restaurants in Cleveland Heights that cater to vegans, so urges people to try those out. Remembers a case regarding an animal sacrifice case, and the issue was that the law targeted the religion; if we do have anything in our health code that prohibits the slaughter of animals, that may be enforceable.
 - Director Hanna will not render a legal opinion at this time, however, believes the Supreme Court has upheld these practices as protected sacraments within the First Amendment, Freedom of Religion Clause.
- Larson: None

COUNCIL PRESIDENT REPORT:

- Tomorrow is National Registration Day, so register if you haven't, or get somebody who hasn't registered to register; deadline is October 11, 2022.
- Wants to address that Councilwoman Russell threw an event to get ARPA Survey input for those without access to internet etc. It was a great idea, but there has been some press, and some comments that have come in that thought this was a sponsored Council/City event, but wants to clarify that neither the Council/City sponsored this event, though many Council members showed up to help out.

ADJOURNMENT

NEXT MEETING OF COUNCIL: MONDAY, OCTOBER 3, 2022



CLEVELAND HEIGHTS

Monday, October 3, 2022 Minutes

CITY COUNCIL MEETING

8:09pm-9:12pm

President Hart Presiding

Roll Call: Present: Mattox, Moore, Russell, Cuda, Larson, Cobb, Hart
Absent: None

Also Present: Mayor Seren, Director Hanna

APPROVAL OF THE MINUTES FROM PREVIOUS MEETING(S):

- August 8, 2022—APPROVED AS REVISED
- August 15, 2022—APPROVED AS REVISED
- August 22, 2022—APPROVED AS REVISED

COMMUNICATIONS FROM THE MAYOR:

- Thank you to the participants of the Happy 5k/10k on October 2, 2022.

REPORT OF THE CLERK OF COUNCIL:

Notify Council that one notice has been received from the Ohio Division of Liquor Control advising that applications have been made by the following:

- Playa Inc. dba Social Room, 2261-63 Lee Rd. Cleveland Heights, OH 44118 for a stock transfer of a D1/D2/D3/D3A/D6 Permit.
 - Referred to: The Mayor, Chief of Police and the Director of Law—**NO OBJECTIONS**
- Hunan Coventry Mingli, Inc. dba Hunan on Coventry, 1800 Coventry Rd. Cleveland Heights, OH 44118 for a transfer of a D5/D6 permit ot Hunan Coventry LLC, 1800 Coventry Rd. Cleveland Heights, OH 44118 (30 day extension granted)

- Referred to: The Mayor, Chief of Police and the Director of Law—**NO OBJECTIONS**

Matter of Record

PUBLIC COMENT (AGENDA ITEMS and GENERAL combined)—3 minutes reduced to 2 minutes by President Hart:

- Cindy Evans: Is upset with what is happening in her neighborhood (Caledonia). They were promised 23 new homes earlier this year, with a deadline for 3 homes by the end of this year, but currently there are no new homes. No deadline was given to the Desota homes. The deadline for the Caledonia homes should be extended. There is discrimination happening; years ago, revitalization was supposed to happen in her area in 3 phases, but was stopped after phase 1. The city has no problem catering to Top of the Hill, CLM Project, Tudor-Taylor, or Park Synagogue projects, which are all a good thing, but the people in Caledonia are also part of Cleveland Heights. Believes the City is holding a grudge against Reverend Jimmy Hicks Jr. (timer sounded at 2 minutes, Ms. Evans was told her time was up). Feels neglect and redlining is occurring in her neighborhood and she is fed up.
 - Councilor Moore suggested we go back to 3 minutes as the people who came in tonight prepared for 3 minutes. President Hart agreed.
- Karen Winston-Carpenter: Thanks Councilor Larson for advocating for the Noble community. She has contacted inspectional services regarding a dilapidated property near her, and says there is clearly a human capacity issue. What are the proactive measures in place to staff and retain individuals, or start a grow-your-own program to recruit from within? Since there is not an Animal Warden, could we possibly partner with a neighborhood community?
- Peter DeGolia: Member of the Commission on Aging; wants to hold a listening forum at the end of October (October 24, at 10am) and get approval from Council and the Mayor.
 - Mayor believes the Commission can set up its own meetings and use one of them for a listening session—requests to speak offline with Mr. DeGolia.
- Rachel DeGolia: Came to represent Boulevard neighborhood to thank the city for helping move forward on all the development projects that are going on (Park Synagogue, Taylor-Tudor etc.). Feels their concerns are being heard and that things are moving forward and they want to work with the city to help anyway they can. Thankful for Director Zamft for spending time with them answering all their questions.
- Harriet Applegate: Implores this council to move its focus away from its own interactions and toward the goal we all share; to make this city function and to be the best it can possibly be. Feels City Council is too concerned defining and asserting its power and reining in the mayor's power.
- Eric Simmons: DNS; gave his 3 minutes to Karen Winston-Carpenter who restated her questions from her previous comment.

- President Hart says her questions are more administrative in nature. Mayor would like to speak offline to answer her questions.
- Brian West: Advocating for restoring the South Rink and expansion of skating programs in our community. Heights Youth Hockey is wanting to grow and expand and exposing as many community members as possible to what they believe is a great game. Hopes to work with other communities as well through community outreach within their program, which needs the South Rink to grow. The demand for ice is very high, and only one rink makes it hard to expand programs.

LEGISLATION:

First Readings

a. First Readings-Consideration of Adoption Requested

ORDINANCE NO. 143-2022 (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 the necessity that this legislation become immediately effective as an emergency measure.

Motion to Adopt by President Hart, Seconded by Vice President Cobb

Discussion: Larson—asks for some clarification; Mayor responds that the Mayor's office, Community Relations, and Finance department were budgeted for but did not need all of those funds, while fuel costs have sky rocketed. So, they are transferring personal services dollars that they don't have to use to fuel so we can maintain services. Larson—when we will receive August financials. Mayor—due to former Finance Director leaving this has been made more difficult and they may have to provide Council with a different form of report but will get it to Council asap.

Roll Call: Ayes: Mattox, Moore, Russell, Hart, Cobb, Cuda, Larson
 Nays: None

Legislation Passed

RESOLUTION NO. 144-2022 (CRR): *First Reading*. A Resolution declaring November 26, 2022, “Small Business Saturday;” and declaring the necessity that this legislation become immediately effective as an emergency measure.

Motion to Adopt by Councilwoman Russell, Seconded by Councilor Moore

Voice Vote: Ayes: 7
 Nays: 0

Legislation Passed

RESOLUTION NO. 145-2022 (PD): *First Reading*. A Resolution authorizing the Mayor to submit a joint application with the Cities of University Heights and South Euclid to the Northeast Ohio Area Wide Coordinating Agency (NOACA) for a grant under the Transportation for Livable Communities Initiative (TLCI) Implementation Grant Program to fund the Heights Regional Neighborhood Greenway Project/Initiative; and declaring the necessity that this legislation become immediately effective as an emergency measure.

Motion to Adopt by Councilman Mattox, Seconded by Councilor Moore

Discussion: Cuda—asked for an updated regarding a previous NOACA study and whether this is an extension; Mayor says this is a new grant, and can't answer with certainty about the older program and suggests this would be a great use of the new solution for Council to obtain information from staff per the MOU. Moore—ran into Councilor King from University Heights and they are both excited about what this is bringing into the region, asks the Mayor to give a little information about what this project will do for our community. Mayor explains the greenway project is really about connection and access to regional amenities and it intends to create these points of connection so that you aren't separating yourself and that part of the experience is the journey itself.

Voice Vote: Ayes: 7
Nays: 0

Legislation Passed

RESOLUTION NO. 146-2022 (PD): *First Reading*. A Resolution supporting and authorizing the Mayor to submit an application to the Cuyahoga County Planning Commission for a grant under the Community Planning Grant program to fund the Creation of a Template for Neighborhood Planning in Cleveland Heights; and declaring the necessity that this legislation become immediately effective as an emergency measure.

Discussion: Larson—will all the neighborhoods be included? Russell—wants some clarification. Mayor says this is intended to provide an ongoing process to develop a template for planning revitalization of neighborhoods. First isn't always best as you get better as you go along.

Motion to Adopt by Councilman Mattox, Seconded by Vice President Cobb

Voice Vote: Ayes: 7
Nays: 0

Legislation Passed

RESOLUTION NO. 147-2022 (PD): *First Reading*. A Resolution declaring October 2022 National Community Planning Month; and declaring the necessity that this legislation become immediately effective as an emergency measure.

Motion to Adopt by Councilman Mattox, Seconded by Vice President Cobb

Voice Vote: Ayes: 7
Nays: 0

Legislation Passed

b. First Readings Only

ORDINANCE NO. 148-2022 (PD): *First Reading*. An Ordinance declaring certain improvements to real property located in the City of Cleveland Heights, Ohio to be a public purpose; declaring such improvements to be exempt from real property taxation; making provision for the collection of service payment in lieu of taxes; establishing an urban redevelopment tax increment equivalent fund for the deposit of such service payments; authorizing a compensation agreement with the Cleveland Heights-University Heights School District; providing related authorizations pursuant to Ohio Revised Code Sections 5709.41, 5709.42, and 5709.43, and declaring the necessity that this legislation become immediately effective as an emergency measure.

ORDINANCE NO. 149-2022 (F): *First Reading*. An Ordinance authorizing the transfer of real property located at 3607 Randolph Road to Future Heights, Inc., for rehabilitation and resale; declaring the property no longer needed for a public purpose; and declaring the necessity that this legislation become immediately effective as an emergency measure.

Referred to PD Committee

ORDINANCE NO. 150-2022 (F): *First Reading*. An Ordinance authorizing the transfer of real property located at 2124 Rossmoor Road to Future Heights, Inc., for rehabilitation and resale; declaring the property no longer needed for a public purpose; and declaring the necessity that this legislation become immediately effective as an emergency measure.

Referred to PD Committee

ORDINANCE NO. 151-2022 (F): *First Reading*. An Ordinance authorizing the transfer of real property located at 901 Englewood Road to Future Heights, Inc., for rehabilitation and resale; declaring the property no longer needed for a public purpose; and declaring the necessity that this legislation become immediately effective as an emergency measure.

Referred to PD Committee

RESOLUTION NO. 152-2022 (F): *First Reading*. A Resolution approving the Mayor's appointment of Andrew Unetic as the Director of Finance, commencing October 24, 2022; and declaring the necessity that this legislation become immediately effective as an emergency measure

RESOLUTION NO. 153-2022: (PSH) *First Reading*. A Resolution adopting the 2022-2027 update of the *Cuyahoga County All-Hazards Mitigation Plan for Cuyahoga County* ("AHMP"); and declaring the necessity that this legislation become immediately effective as an emergency measure.

Referred to PSH Committee

ORDINANCE NO. 154-2022 (MSES): *First Reading*. An Ordinance amending Section 303.08 "Impounding of Vehicles" of the Codified Ordinances of the City of Cleveland Heights so that the Ordinance will be consistent with current State and Local Law; and declaring the necessity that this legislation become immediately effective as an emergency measure.

Referred to MSES Committee

Second Reading

RESOLUTION NO. 138-2022 (PSH): *Second Reading*. A Resolution authorizing the Mayor to enter into an agreement with All City Management Services, Inc. for crossing guard services; providing compensation therefor; and declaring the necessity that this legislation become immediately effective as an emergency measure.

Motion to Adopt by Councilor Larson, Seconded by Councilwoman Russell

Discussion: Mayor wants to address some questions Council Larson had (why is council approving a term of July 1, 2022-June 30, 2023 now?) Term was intended to be a full year term which encompassed the entire school year which doesn't align with a calendar year. Council is voting on it now because the Police Department was renegotiating contract. (Will this be a recurring contract arrangement?) There is an option for renewal but not automatic. (Was the cost already budgeted?) Yes, the money is budgeted, but if any point the money is not budgeted, a complementary budget would be needed. Cuda—wants to know what mechanism is there for a parent who is unhappy with a crossing

guard? Mayor suggests the parent reach out on the non-emergency line to the police department and if councilors get these questions, please forwarded it but also inform the resident of the most efficient way to provide those complaints to the police department.

Voice Vote: Ayes: 7
Nays: 0

Legislation Passed

Fourth Reading

ORDINANCE NO. 78-2021 (PSH) *Third Reading*. An Ordinance enacting and adopting Chapter 522 “Lead Hazards,” of Part Five, General Offenses Code, of the Codified Ordinances of the City of Cleveland Heights; repealing Chapter 1347, “Certificate of Occupancy,” of Part Thirteen, Building Code, of the Codified ordinances of the City of Cleveland Heights, and adopting a replacement Chapter 1347, “Certificate of Occupancy,” and amending Section 1345.99, “Penalty,” of Chapter 1345, “Enforcement and Penalty,” of Part Thirteen, Building Code, of the Codified Ordinances of the City of Cleveland Heights.

Referred to PSH Committee

COMMITTEE REPORTS

- a.) Planning and Development Committee (Councilman Mattox)**
 - i. Update from previous meeting regarding Park Synagogue development project; possible indoor poor at that development though not set in stone.
 - ii. Will have an October meeting.
- b.) Public Safety and Health Committee (Councilor Larson)**
 - i. Next meeting will be on 10/17/2022; will discuss legislation such as Lead Hazard, Crosswalks, All Hazard Mitigation Plan.
- c.) Administrative Services Committee**
 - i. Update from previous meeting; charter review commission plans continue to be discussed
 - ii. Commission on Aging Appointment of Alphredia Lacey:
 - 1. Motion made by Vice President Cobb
 - 2. Seconded by Councilman Mattox
 - 3. 7 Ayes, 0 Nays
- d.) Community Relations and Recreation Committee (Councilwoman Russell)**

- i. Vaccinations and boosters at the Community Center on the 4th Wednesdays of every month 5-7pm; October 8, Metro Health Behavior Health will be opening their doors; Happy 5k, 10k race had 431 check ins and 392 runners and wants to thank all the sponsor for the event; Meet the Police 10/6/22 6-8 at Noble Rd police academy; Community Shredding Day is 10/15/22 9am-12pm at City Hall; Noble Library will be showing the new plans tomorrow (10/4) at 7pm.
- e.) Finance Committee (President Hart)
 - i. Upcoming meeting on 10/17/22 meeting with auditors.
- f.) Housing and Building Committee (Councilman Cuda)
 - i. Update from 10/3/2022 meeting;
- g.) Municipal Services Committee (Councilor Moore)
 - i. Upcoming meeting date TBD
- h.) Committee of the Whole (President Hart)
 - i. MOU between Council and Mayor will continue at upcoming COTW meeting(s).

OLD BUSINESS:

- None

NEW BUSINESS:

- None

COUNCIL MEMBER COMMENTS:

- Larson: None
- Cuda: None
- Cobb: None
- Russell: Forgot to thank all the residents and staff that came out for the 5k-10k.
- Moore: 10/8/22 is Heights Eco-Fair (for Shaker and University Heights as well); Neighborhood Leadership Workshop Series Information Session hosted by Future Heights 10/12/22 4-5pm; Halloween is coming up and 10/15/22 from 4-7pm in the Cedar-Lee District is the Heights Halloween Festival.
- Mattox: Reminder to everybody to submit ARPA Surveys and the next ARPA meeting is 10/18/22 at 6:30pm at 914 Caledonia Ave.

COUNCIL PRESIDENT REPORT:

- Had a Council retreat on Saturday 10/1/22 and hopes to see a more cohesive Council moving forward.

ADJOURNMENT

NEXT MEETING OF COUNCIL: MONDAY, OCTOBER 3, 2022

Proposed: 10/17/2022

ORDINANCE NO. 155-2022(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 the necessity that this legislation become immediately effective as an emergency measure.

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. It is necessary that this Ordinance become immediately effective as an emergency measure 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 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.

MELODY JOY HART
President of Council

ORDINANCE NO. 155-2022(F)

ADDIE BALESTER
Clerk of Council

Passed:

Presented to Mayor: _____

Approved: _____

KAHLIL SEREN
Mayor

ORDINANCE NO. 155-2022(F)

Appropriation Adjustment Fiscal Year 2022

Exhibit 1

Fund	Department	Object	Reason	Requested			Net Effect to Budget
				Approved Budget	Change	Revised Budget	
101 - General	2108 - General Operations	Personal Services	Transfer for credit card processing fees.	6,520,005.00	(14,000.00)	6,506,005.00	Zero - Budget is being transferred.
			Transfer for a self insurance loss claim.	6,520,005.00	(3,506.50)	6,516,498.50	Zero - Budget is being transferred.
		O.T.P.S.	Transfer for credit card processing fees.	1,469,316.00	14,000.00	1,483,316.00	Zero - Budget is being transferred.
			Transfer for a self insurance loss claim.	1,469,316.00	3,506.50	1,472,822.50	Zero - Budget is being transferred.
	4101 - Law	Personal Services	Transfer for recodification attorney fees.	675,773.56	(10,122.74)	665,650.82	Zero - Budget is being transferred.
			Transfer for prosecutor fees.	675,773.56	(525.00)	675,248.56	Zero - Budget is being transferred.
		O.T.P.S.	Transfer for recodification attorney fees.	440,487.00	10,122.74	450,609.74	Zero - Budget is being transferred.
			Transfer for prosecutor fees.	440,487.00	525.00	441,012.00	Zero - Budget is being transferred.
	6207 - Vehicle Maintenance	Personal Services	Transfer for fuel.	762,887.00	(2,580.00)	760,307.00	Zero - Budget is being transferred.
			O.T.P.S.	1,302,956.00	2,580.00	1,305,536.00	Zero - Budget is being transferred.
			Transfer for fuel, materials, tools and supplies.	1,302,956.00	70,000.00	1,372,956.00	Zero - Budget is being transferred.
6208 - Street Maintenance	Personal Services	Transfer for fuel, materials, tools and supplies.	1,313,587.00	(90,000.00)	1,223,587.00	Zero - Budget is being transferred.	
		O.T.P.S.	Transfer for fuel, materials, tools and supplies.	311,557.00	20,000.00	331,557.00	Zero - Budget is being transferred.
	8201 - Public Prop/Park Maint	O.T.P.S.	Transfer for outside maintenance, tools, materials and supplies.	1,005,227.00	40,000.00	1,045,227.00	Zero - Budget is being transferred.
8403 - Swimming Pools	O.T.P.S.	Transfer for outside maintenance, tools, materials and supplies.	165,386.00	(40,000.00)	125,386.00	Zero - Budget is being transferred.	
8405 - Ice Programs	Personal Services	Transfer for credit card processing fees.	221,682.53	(8,466.00)	213,216.53	Zero - Budget is being transferred.	
8406 - General Recreation Prog	O.T.P.S.	Transfer for credit card processing fees.	47,250.00	8,466.00	55,716.00	Zero - Budget is being transferred.	
8501 - Office On Aging Admin	O.T.P.S.	Increase for speaker fees, offset by trivia challenge winnings by the Senior Center.	19,011.00	1,000.00	20,011.00	Zero - Revenue will cover the cost.	

ORDINANCE NO. 155-2022(F)

Exhibit 1

Fund	Department	Object	Reason	Requested			Net Effect to Budget
				Approved Budget	Change	Revised Budget	
140 - Federal Miscellaneous Grants	7201 - Police Admin	Personal Services	Increase for overtime, offset by SHEPE grant.	8,887.12	6,716.10	15,603.22	Zero - Grant funds will cover the cost.
605 - Refuse Fund	6203 - Refuse Call/Transfer Sta	Personal Services	Transfer for outside maintenance, yard waste, materials, tools and supplies.	2,556,581.00	(40,000.00)	2,516,581.00	Zero - Budget is being transferred.
		O.T.P.S.	Transfer for outside maintenance, yard waste, materials, tools and supplies.	1,314,716.00	40,000.00	1,354,716.00	Zero - Budget is being transferred.
Total				18,135,309.21	7,716.10	18,143,025.31	

Current General Fund Unbudgeted Revenue	-294,606.38
Changes to the General Fund	-1,000.00
Total	-295,606.38

Proposed:10/17/2022

RESOLUTION NO. 156-2022(MS), *First Reading*

By Mayor Seren

A Resolution authorizing the Mayor to enter into a grant agreement with the Northeast Ohio Regional Sewer District to accept funds under the 2023 Member Community Infrastructure Grant Program for the Cedar Glen Parkway Rehabilitation and Replacement Project; and declaring an emergency.

WHEREAS, the Northeast Ohio Regional Sewer District (“NEORSD”) is interested in assisting member communities with water quality issues associated with sewer infrastructure that adversely impact human health; and

WHEREAS, Ohio law authorizes regional water and sewer districts to enter into grant agreements with political subdivisions for water resource projects; and

WHEREAS, pursuant to Ohio Revised Code Chapter 6119, generally, and Ohio Revised Code Section 6119.06(F), NEORSD established a Member Community Infrastructure Program to provide water resource project funding opportunities to member communities or other eligible political subdivisions for sewer infrastructure projects in NEORSD’s service area; and

WHEREAS, the grant funds will provide partial funding to permit the City to replace and reline a seriously deteriorated century-old sewer pipe which carries wastewater for a significant portion of the southwestern part of Cleveland Heights, and the collapse of which would cause significant traffic and safety concerns; and

WHEREAS, NEORSD has determined, and this Council concurs, that the project will address water quality issues which are associated with sewer infrastructure and which adversely impact human health and the environment.

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

SECTION 1. The Mayor is hereby authorized to enter into an agreement with the Northeast Ohio Regional Sewer District (“NEORSD”) to accept funds under the 2023 Member Community Infrastructure Grant Program in the amount of Six Hundred Nineteen Thousand, Three Hundred Dollars (\$619,300.00) for the Cedar Glen Rehabilitation and Replacement Project and to execute any and all related documents or agreements with NEORSD. The agreement and any related documents shall be approved as to form and subject to the final approval of the Director of Law.

RESOLUTION NO. 156-2022(MS)

SECTION 2. The City further agrees to pay One Hundred Percent (100%) of the cost over and above the maximum amount provided by NEORSD.

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.

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 timely enter into the above-mentioned grant agreement to begin the project described herein at the earliest time possible. Wherefore, provided it receives the affirmative vote of five or more of the members elected or appointed to this Council, this Resolution shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

MELODY JOY HART
President of Council

ADDIE BALESTAR
Clerk of Council

PASSED:

Presented to Mayor: _____

Approved: _____

KAHLIL SEREN
Mayor

Proposed:10/17/2022

RESOLUTION NO. 157-2022(MS), *First Reading*

By Mayor Seren

A Resolution authorizing the Mayor to enter into a grant agreement with the Northeast Ohio Regional Sewer District to accept funds under the 2023 Member Community Infrastructure Grant Program for the design control of the SSOs CH-27 and CH-51 Project; and declaring an emergency.

WHEREAS, the Northeast Ohio Regional Sewer District (“NEORSD”) is interested in assisting member communities with water quality issues associated with sewer infrastructure that adversely impact human health; and

WHEREAS, Ohio law authorizes regional water and sewer districts to enter into grant agreements with political subdivisions for water resource projects; and

WHEREAS, pursuant to Ohio Revised Code Chapter 6119, generally, and Ohio Revised Code Section 6119.06(F), NEORSD established a Member Community Infrastructure Program to provide water resource project funding opportunities to member communities or other eligible political subdivisions for sewer infrastructure projects in NEORSD’s service area; and

WHEREAS, the grant funds would allow the City through this project to manage a Design-Only MCIP Project, which generally consists of field investigation and flow monitoring/model update with the intent to reduce sanitary sewer overflows by the replacement of existing community infrastructure; and

WHEREAS, NEORSD has determined, and this Council concurs, that the project will address water quality issues which are associated with sewer infrastructure and which adversely impact human health and the environment.

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

SECTION 1. The Mayor is hereby authorized to enter into an agreement with the Northeast Ohio Regional Sewer District (“NEORSD”) to accept funds under the 2023 Member Community Infrastructure Grant Program in the amount of Four Hundred Ninety-eight Thousand Seven Hundred Dollars (\$498,700.00) for the design control of the SSOs CH-27 and CH-51 Project and any and all related documents or agreements with NEORSD. The agreement and any related documents shall be approved as to form and subject to the final approval of the Director of Law.

RESOLUTION NO. 157-2022(MS)

SECTION 2. The City further agrees to pay One Hundred Percent (100%) of the cost over and above the maximum amount provided by NEORSD.

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.

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 timely enter into the above-mentioned grant agreement to begin the project described herein at the earliest time possible. Wherefore, provided it receives the affirmative vote of five or more of the members elected or appointed to this Council, this Resolution shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

MELODY JOY HART
President of Council

ADDIE BALESTAR
Clerk of Council

PASSED:

Presented to Mayor: _____

Approved: _____

KAHLIL SEREN
Mayor

Proposed: 10/17/2022

ORDINANCE NO. 158-2022 (AS), *First Reading*

By: President Melody Joy Hart

An Ordinance amending Chapter 767, “Tenant’s Right to Pay to Stay,” of the Codified Ordinances of the City of Cleveland Heights and declaring the necessity that this legislation become immediately effective as an emergency measure.

WHEREAS, by Ordinance No. 79-2021, this Council adopted an Ordinance providing an affirmative defense for tenants in eviction actions based upon non-payment of rent of the right to tender the entire past-due rent, late fees and court costs; and

WHEREAS, the provisions of Ordinance No. 79-2021 are due to expire on December 31, 2022; and

WHEREAS, the Ordinance was enacted due to the unprecedented economic impacts of the pandemic; and

WHEREAS, the effects of the pandemic continue to cause disruption in the employment and housing markets, particularly for rental housing; and

WHEREAS, this Council believes that the renewal and permanent adoption of the provisions of Ordinance No. 79-2021 will provide stability in the rental housing market in the City and be of benefit to the City and its residents.

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

SECTION 1. The following provisions of Ordinance No. 79-2021, presently codified on a temporary basis as Chapter 767 of the Codified Ordinances, shall be and hereby are enacted on a permanent basis with said provisions to read as follows:

Chapter 767 Tenant’s Right to Pay to Stay

767.01 Definition

767.02 Tenant’s affirmative defense after tendering rent prior to the filing of an eviction action (Complaint for Forcible Entry and Detainer)

767.03 Tenant’s affirmative defense after tendering rent prior to an eviction judgment (Judgment for Restitution)

767.04 Rent receipt required

767.05 Other Causes for Eviction

767.06 Reasonable Fees

767.07 Severability

767.01 Definition

For the purposes of this Chapter, "Tenant" means a person entitled under a rental agreement to the use and occupancy of residential premises to the exclusion of others.

For the purposes of this Chapter, "Tender" means an offer of payment.

767.02 Tenant's right to pay to stay prior to the filing prior to the filing of an eviction action for non-payment of rent (Complaint for Forcible Entry and Detainer)

(a) At any time prior to the filing of an action under Ohio Revised Code 1923 for nonpayment of rent by a landlord, a tenant shall have the right to pay the landlord all past due rent with reasonable late fees to avoid the filing of such action for the restitution of the lands or tenements.

If the tenant tenders all past due rent and reasonable late fees to the landlord, the landlord shall accept the tendered payment and allow the tenant to maintain the tenancy.

(b) If the tenant tenders all past due rent with reasonable late fees to the landlord prior to the filing of an action under Ohio Revised Code 1923 and the landlord refuses the tender, the tenant's tender of all past due rent with reasonable late fees shall be an affirmative defense to any action filed by the landlord against the tenant for nonpayment of rent.

767.03 Tenant's right to pay to stay prior to an eviction judgment (Judgment for Restitution)

(a) After the filing of an action under Ohio Revised Code 1923 for nonpayment of rent but prior to a judgment, the tenant shall have the right to pay the landlord all past due rent, reasonable late fees and court costs so that the tenant may maintain the tenancy. If the tenant tenders all past due rent amounts, including late fees and court costs, the landlord must accept the payment. Upon receipt of the payment, the landlord shall dismiss the action against the tenant.

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(b) If the tenant tenders all past due rent with reasonable late fees and court costs to the landlord prior to a judgment and the landlord refuses the tender, the tenant's tender of all past due rent, reasonable late fees and court costs shall be an affirmative defense to the eviction action filed by the landlord against the tenant for nonpayment of rent.

767.04 Rent receipt required

The landlord shall provide the tenant with a signed receipt for the security deposit and all rental payments except for payments made by personal check of the tenant, at the time the security deposit or rental payments are made.

767.05 Reasonable Late Fees

No landlord may charge a tenant late fees that are not reasonable late fees. If a rental agreement includes a provision that authorizes the landlord to assess the tenant a fee for late payment of the monthly rent, to be considered "reasonable late fees" the total amount of that late payment fee for any month may not exceed the larger of: (i) twenty-five dollars (\$25.00); or (ii) five percent (5%) of the monthly contract rent.

767.06 Other Causes for Eviction

This Chapter in no way limits the ability of a landlord to initiate an eviction action for reasons other than solely for non-payment of rent.

767.07 Severability

If any provision of this ordinance is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, that invalidity shall not affect the remaining provisions of this ordinance which can be implemented without the invalid provisions and, to this end, the provisions of this ordinance are declared to be severable. Cleveland Heights City Council hereby declares that it would have adopted this ordinance and each provision thereof irrespective of whether any one or more provisions are found invalid, unconstitutional or otherwise unenforceable

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. It is necessary that this Ordinance become immediately effective as an emergency measure 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 or more of the members elected or appointed to this Council, this Ordinance shall take

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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.

MELODY JOY HART
President of the Council

ADDIE BALESTAR
Clerk of Council

PASSED:

Presented to Mayor: _____

Approved: _____

KAHLIL SEREN
Mayor

Proposed: 10/03/2022

ORDINANCE NO. 148-2022 (PD), *Second Reading*

By Mayor Seren

An Ordinance declaring certain improvements to real property located in the City of Cleveland Heights, Ohio to be a public purpose; declaring such improvements to be exempt from real property taxation; making provision for the collection of service payments in lieu of taxes; establishing an urban redevelopment tax increment equivalent fund for the deposit of such service payments; authorizing a compensation agreement with the Cleveland Heights-University Heights City School District; providing related authorizations pursuant to Ohio Revised Code Sections 5709.41, 5709.42 and 5709.43, and declaring an emergency.

WHEREAS, the City of Cleveland Heights (the “City”) owns certain parcels of real property known as the Cedar-Lee Meadowbrook parcels consisting of approximately 4.8 acres located between Cedar Road and Meadowbrook Road, as shown on Exhibit A hereto (collectively referred to herein as the “TIF Area,” with the parcels comprising the real property within the TIF Area, as improved, referred to herein as the “Parcels”); and

WHEREAS, Ohio Revised Code (“R.C.”) Section 5709.41 provides that this Council may, under certain circumstances, declare Improvements (as defined in R.C. Section 5709.41) to the Parcels be a public purpose, thereby exempting those Improvements from real property taxation; and

WHEREAS, pursuant to R.C. Section 5709.41, said exemption may not exceed 75% of such Improvements for up to ten (10) years without the approval of the board of education of the city, local or exempted village school district within the territory in which the Parcels are located; and

WHEREAS, the City has entered into a Development Agreement with F & C Development, Inc. (the “Developer”) pursuant to which the Developer will lease the Parcels from the City and improve the Parcels by building thereon a mixed-use development which will include construction of (a) one or more buildings of varying heights including approximately 200-225 market-rate apartments, (b) approximately 5,000-9,000 square feet of first floor non-residential space such as commercial, retail and/or restaurant space, (c) public gathering and green spaces, and (d) all private and public sidewalks, as well as driveways, access ways, street and parking lot lighting and utility connections and sanitary, stormwater drainage and other infrastructure improvements on the Project Site, all as further described in the Development Agreement (all of the foregoing being referred to herein collectively as the “Development”); and

WHEREAS, this Council has determined that it is necessary and appropriate and in the best interests of the City to provide that the owner of the Development (initially, the Developer) be required to make service payments in lieu of real property taxes (“Service Payments,” as further defined below) with respect to the Improvements located on the Parcels pursuant to R.C. Section 5709.42; and

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WHEREAS, this Council has determined that it is in the City's best interests for the City to enter into a compensation agreement (the "Compensation Agreement") with the Board of Education of the Cleveland Heights-University Heights City School District (the "School District"), which Compensation Agreement provides for the payment of compensation by the City to the School District; and

WHEREAS, in connection with the negotiation of the Compensation Agreement, the Board of Education of the School District has waived any notice periods prescribed in R.C. Section 5709.41 and 5709.83, approved a 100% exemption for the Improvements to the Parcels under R.C. Section 5709.41 for thirty (30) years and waived any other rights to compensation related to the grant of that exemption; and

WHEREAS, R.C. Section 5709.85(A) requires the legislative authority of any municipal corporation granting an exemption from taxation under R.C. Section 5709.41 to create a tax incentive review council ("TIRC"), which TIRC is required to perform an annual review of exemptions from taxation granted pursuant to R.C. Section 5709.41, and the City has previously created a TIRC; and

WHEREAS, as a result of the Development, certain surface parking spaces used by staff and students of the School District will be eliminated, and the City desires to allow staff and students of the School District to utilize certain additional parking spaces owned by the City in the vicinity of the Parcels in accordance with the terms of a School District Additional Parking Agreement; and

WHEREAS, an emergency exists in the usual daily operations of the City in that it is immediately necessary to approve tax exemptions for the Improvements for the preservation of the public health, peace, property and safety, that preservation being related to the need for the Development to move forward and for construction to commence at the earliest possible date;

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

SECTION 1. The Improvements (other than those Improvements, if any, to be used for residential purposes as such term is used in R.C. Section 5709.41(B)) to the Parcels on which the Developer will construct the Development are hereby declared to be a public purpose for purposes of R.C. Section 5709.41. One hundred percent (100%) of the increase in the assessed value of the Parcels (which increase in assessed value is an "Improvement" as defined in R.C. Section 5709.41) shall be exempt from real property taxation for a period of thirty (30) years commencing with tax year _____.

SECTION 2. As provided in R.C. Section 5709.42, the owner of the Development (initially, the Developer) is hereby required to make annual service payments for a period of thirty (30) years in lieu of taxes to the County Fiscal Officer on or before the final dates for payment of real property taxes. Each such payment (including interest and penalties) shall be charged and collected in the same manner and in the same amount as the real property taxes that would have been charged and payable if the Improvements were not exempt from taxation (with the payments in lieu of taxes, including any penalties, interest and rollback payments, collectively referred to as "PILOTS"). The County Fiscal Officer shall remit all PILOTS to the City. In addition to the payment of PILOTS described herein, in accordance with the Compensation Agreement, in connection with any TIF Debt (as defined in the Compensation Agreement), the owner(s) of the

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Development may also be required to make minimum service payments (the “Minimum Service Payments”) as described in the Compensation Agreement.

This Council hereby authorizes the Mayor or designee (the “Mayor”) or other appropriate officers of the City to provide such information and certifications and execute and deliver, or accept delivery of such instruments as are necessary and incidental to collect those PILOTS from the County Fiscal Officer or collect the Minimum Service Payments from the Developer and to make such arrangements as are necessary and proper for payment of the portion of PILOTS and/or Minimum Service Payments dedicated to TIF Debt to be paid, if appropriate, to the trustee for any TIF Debt. Any late payments of PILOTS shall be subject to penalty and bear interest at the then current rate established under R.C. Sections 323.121 and 5703.47, as may be amended from time to time, or any successor provisions thereto, as the same may be amended from time to time.

No Owner of any portion of the Development shall, under any circumstances, be required in any tax year to both pay PILOTS with respect to an Improvement or reimburse local taxing authorities for the amount of real property taxes that would have been payable to local taxing authorities had the Improvements not been exempted from taxation to the extent set forth in this Ordinance.

SECTION 3. The Mayor shall make payments to the School District as described in the Compensation Agreement.

SECTION 4. This Council hereby establishes pursuant to and in accordance with the provisions of R.C. Section 5709.43, the Cedar-Lee Meadowbrook Urban Redevelopment Tax Increment Equivalent Fund (the “Fund”), into which shall be deposited the PILOTS distributed to the City with respect to the Improvements on the Parcels by or on behalf of the County Fiscal Officer as provided in Section 5709.42 of the Revised Code. One hundred percent (100%) of the moneys collected shall be deposited in the Fund and shall be retained by the City and used for any or all of the following purposes:

(i) Payment of all costs associated with the construction of the Development, including costs incurred by the City, the State of Ohio or other governmental entity, and including debt service and related costs or obligations or loans issued by the City, the State of Ohio or other governmental entity;

(ii) Construction, operation and maintenance of public improvements and publicly-owned facilities on the Parcels, including, but not limited to, streets, storm and sanitary sewers, water treatment facilities and water transmission lines, sidewalks, curbs, street trees and furniture, transitway improvements, off-street parking facilities, street lighting and signalization, pedestrian walkways, and public parks and plazas, whether owned by the City or other governmental entity by agreement with the City, and associated land acquisition and demolition, planning and engineering costs;

(iii) Land and building acquisition, demolition, site preparation, and relocation expenses related to the Development;

(iv) Compensating the School District pursuant to the Compensation Agreement; and

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(v) Any other expenditures made with respect to the Parcels in accordance with the Development Agreement or other agreements entered into in connection with development of the Parcels provided such expenditures are otherwise permitted by law.

The Fund shall remain in existence so long as such PILOTS are collected, after which said Fund may be dissolved in accordance with said Section 5709.43 and transferred to the General Fund or any other fund as permitted by applicable law.

SECTION 5. The Compensation Agreement between the City and the School District, substantially in the form attached to this Ordinance as Exhibit B, is hereby approved and authorized, with changes or amendments thereto not inconsistent with this Ordinance and not substantially adverse to the City as determined by the Director of Law and which are approved by the Mayor. The Mayor, for and in the name of the City, is hereby authorized to execute that Compensation Agreement and any amendments thereto. The approval of changes or amendments by the Mayor, and the character of the changes or amendments as not being inconsistent with this Ordinance and not being materially adverse to the City, shall be evidenced conclusively by the execution thereof by the Mayor with the concurrence of the Director of Law. This Council further hereby authorizes and directs the Mayor to make such arrangements as are necessary and proper for payments to be made to the School District pursuant to the Compensation Agreement.

SECTION 6. The School District Additional Parking Agreement between the City and the School District, substantially in the form attached to this Ordinance as Exhibit C, is hereby approved and authorized, with changes or amendments thereto not inconsistent with this Ordinance and not substantially adverse to the City as determined by the Director of Law and which are approved by the Mayor. The Mayor, for and in the name of the City, is hereby authorized to execute that School District Additional Parking Agreement and any amendments thereto. The approval of changes or amendments by the Mayor, and the character of the changes or amendments as not being inconsistent with this Ordinance and not being materially adverse to the City, shall be evidenced conclusively by the execution thereof by the Mayor with the concurrence of the Director of Law.

SECTION 7. The Mayor is authorized and directed to sign any other documents, instruments or certificates as are necessary or appropriate to consummate or implement the actions described herein, or contemplated by this Ordinance, including an agreement or agreements with the Developer to provide for the payment of PILOTS and Minimum Service Payments described in this Ordinance and in the Compensation Agreement.

SECTION 8. Pursuant to R.C. Section 5709.41, the Mayor is hereby directed to deliver a copy of this Ordinance to the Director of Development Services of the State within fifteen days after its passage. On or before March 31 of each year that the exemption set forth in Section 3 hereof remains in effect, the Mayor or designee shall prepare and submit to the Director of Development Services of the State the status report required under R.C. Section 5709.41(E).

SECTION 9. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and any decision-making bodies of the City that resulted in such formal actions were in meetings open to the public and in compliance with all legal requirements.

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SECTION 10. 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 11. This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being the need for the Development to move forward and for construction to commence at the earliest possible date. 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.

President of the Council
MELODY JOY HART

Clerk of Council
ADDIE BALESTER

PASSED:

Presented to Mayor: _____ Approved by Mayor: _____

KAHLIL SEREN
Mayor

EXHIBIT A

DESCRIPTION OF PARCELS INCLUDED IN TIF AREA

(Identified by Parcel Number. See Separate Attachment.)

EXHIBIT B
COMPENSATION AGREEMENT

This Compensation Agreement (this "Agreement"), is made and entered into on this _____ day of _____, 2022, by and between the CITY OF CLEVELAND HEIGHTS, OHIO (the "City"), a municipal corporation organized and existing under the laws of the State of Ohio, and the BOARD OF EDUCATION OF THE CLEVELAND HEIGHTS-UNIVERSITY HEIGHTS CITY SCHOOL DISTRICT (the "School District"), a city school district organized and existing under the laws of the State of Ohio and joined by F & C DEVELOPMENT, INC., an Indiana Corporation ("FCD") as to Section 2(D)(2) herein (on behalf of the Project Improvement owners).

WITNESSETH:

WHEREAS, the City owns certain real property, and may acquire additional real property generally known as the "Cedar-Lee-Meadowbrook Property" (collectively herein, the "CLM Property" or "Property"), including a parcel located on the east side of Lee Road between Meadowbrook and Tullamore Roads and additional real property (12 – 16 existing parcels) located to the east of Lee Road between Tullamore and Cedar Roads (including a portion of Cedarbrook Road previously vacated by the City), as more particularly depicted and/or identified in Exhibit A attached hereto; and

WHEREAS, pursuant to (i) a development agreement relating to the CLM Property with FCD (the "Development Agreement") and (ii) one or more Ordinances to be introduced in Cleveland Heights City Council (collectively, with any amendments, the "TIF Ordinance"), the City proposes to:

- establish a tax increment financing area with respect to the CLM Property,
- exempt from real property taxation certain improvements (herein "TIF Improvements") to the CLM Property pursuant to Section 5709.41 of the Ohio Revised Code (together with related statutory provisions, the "TIF Statute"),
- lease the CLM Property (exclusive of the municipal public parking garage located thereon and constructed pursuant to a prior plan for the redevelopment of the CLM Property) to an entity created and controlled by FCD (together with any sublessee of all or substantially all of the CLM Property, "Leasehold Owner") for development of the Project Improvements (defined below),
- require the Leasehold Owner to make Service Payments In Lieu of Taxes in an amount equal to the amount of real property taxes that would have been payable if the TIF Improvements had not been exempted from taxation under the TIF Ordinance (those payments in lieu of taxes, together with any related penalties, interest and rollback payments, are collectively referred to herein as "PILOTs" or "Service Payments"), and
- require such PILOTs to be used to pay debt service on revenue bonds expected to be issued by the City (or another governmental authority designated by the City),

any related credit enhancement or administrative costs, and any other financing costs payable therefrom, and any renewals or refundings thereof (collectively, the "TIF Debt"), which may be issued or entered into to pay a portion of the cost of acquisition and construction of the Project Improvements; and

WHEREAS, by the TIF Ordinance, the City intends to exempt the TIF Improvements to all or a portion of the parcels included in the CLM Property (those parcels, collectively, are referred to herein as the "TIF Area"), with the parcels comprising the real property within the TIF Area, as improved, referred to hereinafter as the "Parcels" or "TIF Parcels"; and

WHEREAS, the City has provided information to the School District with respect to a proposed mixed-use development of the TIF Parcels which will include construction of one or more four-to-five-story buildings, including approximately 200 - 225 market-rate apartments, approximately 5,000 to 9,000 square feet of first floor commercial, retail and restaurant space, public gathering and green spaces, and any necessary infrastructure improvements (all of the foregoing being referred to herein collectively as the "Project Improvements"); and

WHEREAS, the City and the School District will derive substantial and significant benefits from the Project Improvements; and

WHEREAS, the City, in the TIF Ordinance, intends to declare the Project Improvements (other than those Project Improvements to be used for residential purposes as such term is used in the TIF Statute) to be in furtherance of urban redevelopment and for a "public purpose", to declare the TIF Improvements (the "improvements" under and as defined in the TIF Statute) to the TIF Parcels resulting from those Project Improvements to be a "public purpose" under the TIF Statute, and to exempt 100% of those TIF Improvements from real property taxation for a period not to exceed thirty (30) years in accordance with the TIF Statute; and

WHEREAS, on [], 2022, the Board of Education of the School District adopted a resolution (the "School District Resolution") approving this Agreement and the exemption of the TIF Improvements under the TIF Ordinance (the "TIF Exemption") and waiving any other or further rights to notice of the TIF Exemption and, except as provided in this Agreement, compensation in respect of the TIF Exemption or the approval thereof; and

WHEREAS, to facilitate the construction of the Project Improvements and to compensate the School District for a portion of the revenue that the School District would have received had the Project Improvements been made and the TIF Improvements not been exempted from taxation, the City and the School District have determined to enter into this Agreement on the terms hereinafter provided;

NOW, THEREFORE, in consideration of the premises and covenants contained herein, and to induce the City and FCD to proceed with the proposed development of the CLM Property and the Leasehold Owner to proceed with the construction of the Project Improvements, the parties hereto agree as follows:

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SECTION 12. Definitions. As used in this Agreement, the following terms shall have the meanings set forth below:

“Additional School District Millage” means, for any Exemption Year, any Total School District Millage in excess of the Base School District Millage.

“Base Value” means the assessed value (35% of market value under current law) of the Parcels to the extent that such value is not subject to the TIF Exemption and therefore remains subject to real property taxation during the period of the TIF Exemption, as determined by the Cuyahoga County Fiscal Officer consistent with the TIF Ordinance.

“Base School District Millage” means for any Exemption Year, the lesser of Total School District Millage and 99.444261 mills.

“Exempted Value” means the assessed value (35% of market value under current law) of the Parcels within the TIF Area in excess of the Base Value thereof, which is to be exempted from real estate taxation under the TIF Ordinance and the TIF Statute.

“Exemption Year” means, for any Parcel, any calendar/tax year in which TIF Improvements would be taxable but for the exemption from taxation pursuant to the TIF Ordinance.

“Excess PILOTs” means, for any year, an amount equal to the positive difference, if any, between (i) the aggregate amount of PILOTs attributable to the Exempted Value for an Exemption Year, less the amount of such PILOTs attributable to the Additional School District Millage, and (ii) the Projected PILOTs Threshold.

“Projected PILOTs” means the projected PILOTs based on the projected market value of the TIF Improvements, according to pro forma projections presented to both the City and the School District prior to the issuance of the TIF Debt.

“Projected PILOTs Threshold” means, for purposes of determining School Payments under Section 2(A) hereof, the initial Projected PILOTs based upon the Projected Valuation of the TIF Parcels and the applicable effective millage (for all overlapping subdivisions) for tax year 2021. The Projected PILOTs Threshold, based on available information as of May 4, 2022, is estimated to be \$1,252,706.

“Projected Valuation” means, for the Parcels within the TIF Area, the aggregate valuation of all of the TIF Parcels, as estimated and projected in the market value projections utilized for the Projected PILOTs, as described in Section 2(C) hereof.

“Total School District Millage” means, for any given Tax Year, the School District’s effective real property tax rate for Commercial Property applicable to the Parcels in that Tax Year, as determined for that Tax Year under the laws of the State of Ohio (currently pursuant to Ohio Revised Code Section 319.301).

SECTION 13. City Payments to School District. Unless otherwise agreed to in writing by the City and the School District, with respect to TIF Improvements within the

TIF Area, for each tax collection year following an Exemption Year for such TIF Improvements, the City agrees to pay to the School District, from the PILOTs, if any, the payments determined under subsection (A) of this Section 2 (referred to herein as the “School Payments”):

(i) School Payments. The School Payments shall include the amounts calculated under the following clauses for each tax collection year following an Exemption Year:

SECTION 1. For any Exemption Year, an annual payment equal to 33.883459% of the tax revenue that the School District would have received with respect to that Exemption Year on the Exempted Value but for the TIF Exemption, based on the Base School District Millage (the “Basic School Payments”).

SECTION 2. For any Exemption Year in which there are Excess PILOTs, an annual payment equal to 50.00% of the Excess PILOTs (the “Excess PILOT School Payments”).

(3) In addition to the Basic School Payments and Additional School Payments required by subsections (A)(1) and (A)(2) hereof, an annual payment equal to 100% of the tax revenue that the School District would have received with respect to that Exemption Year on the Exempted Value but for the TIF Exemption, based on the Additional School District Millage (the “Additional School Millage Payments”, and together with the Basic School Payments and the Excess PILOT School Payments, the “School Payments”).

See Exhibit B for examples.

(B) Timing of Payments. The City shall cause all School Payments for any Exemption Year to be paid within thirty-five (35) days after the end of the applicable tax collection year to the extent that PILOTs are received by the City from the Treasurer of Cuyahoga County, Ohio (the “Treasurer”) and available for such School Payments. Such School Payments shall be made to the School District by (or on behalf of) the City solely from the PILOTs it receives from the Treasurer. The City may provide that such School Payments be paid directly by the Treasurer, or by a corporate bond trustee or lender engaged in connection with the issuance of the TIF Debt, to the School District. Owing to the subordination of School Payments pursuant to Section 2(D) hereof, the City generally expects that all School Payments for any Exemption Year will, except in unusual circumstances, most likely be paid in a lump sum to the School District on or about February 1 following the end of the applicable tax collection year.

(C) Bond Issuance Test. Unless the School District consents as hereinafter described, no TIF Debt shall be issued by the City, the Cleveland-Cuyahoga County Port Authority or any such other governmental authority as may be designated by the City unless, at the time of authorization of the TIF Debt, the Projected PILOTs, which shall assume no growth in value, will result in a debt service coverage ratio of not less than 1.25:1 for all of the TIF Debt (except to the extent any TIF Debt payments are irrevocably funded at the time of issuance), including principal and interest, the replenishment of any required reserve funds and any administrative expenses of the City (or any other such governmental authority as may be designated by the City) with respect to the TIF Debt, including but not limited to the fees of the City, the issuer of the TIF Debt and any trustee for the TIF Debt (collectively, "Debt Service") (the "Minimum DSCR Requirement"). If the School District consents in writing, TIF Debt may be issued by the City, the Cleveland-Cuyahoga County Port Authority or any other such governmental authority as may be designated by the City even if the Minimum DSCR Requirement is not satisfied. Such consent by the School District is in the sole and absolute discretion of the School District. It is the intention of the parties hereto that there will always be sufficient PILOTs during any given calendar year to pay both the Debt Service described in Section 2(D)(1)(a) below and all School Payments as required by this Agreement.

(D) Subordination of School Payments; Minimum Service Payment; Deficiencies.

(1) The School District acknowledges and agrees that the right of the School District to receive School Payments is subordinate to the payment of the Debt Service on the TIF Debt and that the PILOTs will be applied in the following order:

- (a) First, to pay Debt Service on the TIF Debt.
- (b) Second, to pay to the School District the School Payments currently due under Section 2(A) hereof.
- (c) Third, for all other uses as authorized by law and as may be agreed upon by the City and the Developer.

(2) In consideration of the foregoing agreement of the School District to subordinate the School Payments to Debt Service, the City agrees that, in connection with any TIF Debt, the owners of the Project Improvements on the Parcels within the TIF Area (initially, the Leasehold Owner) will be required to pay so-called minimum service payments in an amount not less than the amount of PILOTs that would be payable had the market value of the Parcels in the TIF Area been equal to the Projected Valuation; provided that the payment of Minimum Service Payments by the owners of the Project Improvements on the Parcels within the TIF Area will not entitle the School District to School Payments in amounts greater than the amounts calculated as set forth in Section 2(A) hereof. Pursuant to Section 2(C) hereof, prior to the issuance of TIF Debt, the City shall notify, or cause to be notified, the School Board as to the Projected Valuation, the Projected PILOTs and the Projected PILOTs Threshold.

(3) In the event that the amounts paid to the School District for any tax collection year are not sufficient to pay the School Payments due for such year in accordance with this Agreement, any such School Payments not paid when due shall become a deficiency hereunder (each, a "Deficiency"). Notwithstanding anything to the contrary in this Agreement, in the event that one or more Deficiencies shall exist, in any tax collection year following an Exemption Year in which there are any Excess PILOTs, the Excess PILOTs not needed to pay School Payments under Section 2(A)(2) above shall be used first to pay any Deficiencies due to the School District under this Section 2(D)(3) (beginning with the oldest then-remaining Deficiency) and then, after payment of all such Deficiency amounts, the remainder shall be applied according to Section 2(D)(1) hereof.

(E) Income Tax Sharing. The City shall cause fifty percent (50%) of documented new income tax revenue of the City attributable to "new employees" (as defined in Section 5709.82, Revised Code) employed in the original construction of the Project Improvements to be paid to the School District as additional compensation for foregone real property tax revenues ("Income Tax Sharing Payment"). The City and the School District shall establish a mutually acceptable procedure for payment of the Income Tax Sharing Payment following execution of this Agreement.

(F) Termination of Agreement. After the Director of Finance has determined that (a) all of the payments and reimbursements described in the TIF Ordinance, including those then due and those coming due in the future, have been made or provided for, (b) the TIF Debt has been paid in full or otherwise discharged, and (c) all of the School Payments and Income Tax Sharing Payments then due under this Section 2 have been made or provided for, then the exemption from taxation pursuant to the TIF Ordinance and the PILOTs shall end, and this Agreement shall terminate.

SECTION 14. Review of Records. The School District may from time to time, with reasonable advance notice, review the records of the City relating to the receipt of PILOTs and income tax revenue subject to the Income Tax Sharing Payments. The City and School District shall work together and communicate as to the calculation of the payments required under Section 2, including exchanging information as to the valuation of the Parcels and applicable effective tax rates for all School District levies. Further, the City shall, upon request of the School District in writing, notify the School District as to the receipt of PILOTs and whether such PILOTs are sufficient to pay both the TIF Debt Service described in Section 2(D)(1)(a) and all School Payments as required by this Agreement.

SECTION 15. Reconciliation. The City and School District shall annually meet to review, calculate and reconcile payments to the School District and City.

SECTION 16. School District Consents and Waivers. In consideration of the compensation to be provided to it under this Agreement, the School District hereby:

(i) approves each TIF Exemption that may be granted under the TIF Ordinance as to all Parcels within the TIF Area for the number of years, commencing in

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the year or years specified, and for the percentage or percentages specified in the TIF Ordinance (collectively, the "TIF Exemptions");

(ii) waives any notice or other requirements set forth in Sections 5709.41, 5709.82, 5709.83 and 5715.27, Revised Code, with respect to the TIF Exemptions;

(iii) waives any School District rights pursuant to Section 5715.27, Revised Code; and

(iv) waives any defects or irregularities relating to the TIF Exemptions of the TIF Improvements, and agrees not to challenge, directly or indirectly, the validity of the TIF Exemption of any TIF Improvement.

SECTION 17. Application of Ohio Revised Code Section 5709.82. The School District acknowledges and agrees that this Agreement provides for the only compensation to be received by the School District from the City in connection with real property tax exemptions granted pursuant to the TIF Ordinance, that there will be no income tax sharing in connection with those exemptions, other than as described in Section 2(E) of this Agreement, and that the compensation provided for herein is in lieu of any other compensation that may be provided for in Section 5709.82, Revised Code.

SECTION 18. Amendment. This Agreement may be amended or modified by the parties only in writing, signed by both parties to the Agreement.

SECTION 19. Entire Agreement. This Agreement is executed pursuant to Sections 5709.41, 5709.82, 5709.83 and 5715.27(D) of the Ohio Revised Code, and sets forth the entire agreement and understanding between the parties as to the subject matter hereof, including without limitation all forms of compensation to be paid by the City to the School District pursuant to those sections, and merges and supersedes all prior discussions, agreements, and undertakings of every kind and nature between the parties with respect to the subject matter of this Agreement. It is understood by the parties hereto that if all or a portion of the Parcels are ever deemed to be exempt from real property taxes under any other section of the Revised Code, and if as a result, the City does not receive any PILOTs, the City's payment to the School District will terminate.

SECTION 20. Notices. All payments, certificates and notices which are required to or may be given pursuant to the provisions of this Agreement shall be sent by the United States ordinary mail, postage prepaid, and shall be deemed to have been given or delivered when so mailed to the following addresses:

If to the City:

City of Cleveland Heights
40 Severance Circle
Cleveland Heights, OH 44118
Attention: Director of Finance
Copy: Director of Law

If to the School District: **Board of Education of the
Cleveland Heights-University Heights
City School District
2155 Miramar Boulevard
University Heights, OH 44118
Attention: Scott Gainer, CFO/Treasurer**

With a copy to: David Seed, Esq.
Brindza, McIntyre & Seed LLP
1111 Superior Avenue, Suite 1025
Cleveland, OH 44114

Any party may change its address for receiving notices and reports by giving written notice of such change to the other parties.

SECTION 21. Change in Development.

(A) The City shall notify the School District if the Project Improvements to be constructed change substantially after the date of this Agreement, and if requested by the City or the School District, those parties agree to meet to discuss the implications of any such change.

(B) The City shall request the School District to reaffirm, amend or enter into a new Compensation Agreement in the event of (i) a deviation by FCD from the Final Development Plan (as defined in the Development Agreement) concerning the Project Improvements in any material fashion, (ii) the replacement or substitution of FCD (other than a related entity) as the Leasehold Owner and Developer, or (iii) the failure to approve the TIF Ordinance for the herein described Project Improvements on or prior to December 31, 2023. The purpose of this provision is to protect the intent of the parties in that the School District's approval of the TIF Exemption and this Agreement is based on the current description of the Project Improvements on the Property, including the intended developer and timing of those Project Improvements, as presented to the School District. The obligations of the City under this Section 10(B) shall terminate definitively upon the issuance of TIF Debt.

SECTION 22. Severability of Provisions. The invalidity of any provision of this Agreement shall not affect the other provisions of this Agreement, and this Agreement shall be construed in all respects as if any invalid portions were omitted.

SECTION 23. Counterparts. This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument, and any party to this Agreement may execute this Agreement by signing any such counterpart.

SECTION 24. Extent of Covenants; Binding Effect; No Personal Liability. All covenants, stipulations, obligations and agreements of the parties contained in this Agreement shall be effective to the extent authorized and permitted by applicable law.

Each provision of the Agreement is binding upon the officer(s) or other person(s) and any body or bodies as may from time to time have the authority under law to take the actions as may be necessary to perform all or any part of the duty required by a given provision of this Agreement. Each duty of the City and its bodies, officers and employees, undertaken pursuant to the Agreement, is established as a duty with the City and of each such officer, employee or body having authority to perform that duty, specifically enjoined by law resulting from an office, trust or station within the meaning of Section 2731.01, Revised Code, providing for enforcement by writ of mandamus. No such covenant, stipulation, obligation or agreement shall be deemed a covenant, stipulation, obligation or agreement of any present or future member, officer, agent, or employee of any of the parties in their individual capacity.

Section 14. No Other Real Property Tax Exemptions. The City shall not authorize a real property tax exemption for the CLM Property identified in Exhibit A other than the TIF Exemption, including as provided in Ohio law under Sections 3735.65 to 3735.70, 5709.40 and 5709.62, Revised Code, without the prior consent of the School District.

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ORDINANCE NO. 148-2022

CITY OF CLEVELAND HEIGHTS, OHIO

CLEVELAND HEIGHTS-UNIVERSITY
HEIGHTS CITY SCHOOL DISTRICT
BOARD OF EDUCATION

By: _____
Mayor

By: _____
President

By: _____
Superintendent

By: _____
Treasurer

Approved as to Form and Correctness:

Joined as to Section 2(D)(2) herein, on
behalf of the Project Improvement
owners)

F & C DEVELOPMENT, INC.

By: _____
City Law Director

By: _____
Chief Executive Officer

FISCAL OFFICER'S CERTIFICATE

The undersigned, [Acting/Interim] Director of Finance of the City of Cleveland Heights under the foregoing Agreement, certifies hereby that any moneys required to meet the obligations of the City during the year 2022 under the foregoing Agreement have been appropriated lawfully for that purpose, and are in the Treasury of the City or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

Dated: _____, 2022

[Acting/Interim] Director of Finance
City of Cleveland Heights, Ohio

FISCAL OFFICER'S CERTIFICATE

The undersigned, CFO/Treasurer of the Cleveland Heights-University Heights City School District under the foregoing Agreement, certifies hereby that the moneys required to meet any obligations of the School District during the year 2022 under the foregoing Agreement have been appropriated lawfully for that purpose, and are in the Treasury of the District or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

Dated: _____, 2022

Treasurer, Board of Education,
Cleveland Heights-University Heights
City School District, Ohio

EXHIBIT C

FORM OF SCHOOL DISTRICT ADDITIONAL PARKING AGREEMENT

SCHOOL DISTRICT ADDITIONAL PARKING AGREEMENT

THIS SCHOOL DISTRICT ADDITIONAL PARKING AGREEMENT (this "**Agreement**") has been executed as of _____, _____ (the "**Effective Date**"), by and between the CITY OF CLEVELAND HEIGHTS, OHIO, an Ohio municipal corporation, having an address at 40 Severance Circle, Cleveland Heights, Ohio 44118 (the "**City**") and the BOARD OF EDUCATION OF THE CLEVELAND HEIGHTS-UNIVERSITY HEIGHTS CITY SCHOOL DISTRICT (the "**School District**"), a city school district organized and existing under the laws of the State of Ohio.

RECITALS

A. The City has entered into a Development Agreement dated December 9, 2021 (as supplemented and amended, the "**Development Agreement**") with F&C Development, Inc. (the "**Developer**") pursuant to which the Developer or a designated affiliate expects to build a mixed-used development (the "**Project Improvements**") on certain parcels of land commonly known as the Cedar-Lee-Meadowbrook parcels (the "**Project Site**").

B. In connection with redevelopment of the Project Site, certain surface parking spaces used by staff and students of the School District will be eliminated, and the City desires to allow staff and students of the School District to utilize certain additional parking spaces controlled by the City in the vicinity of the Project Site in accordance with the terms this Agreement.

NOW, THEREFORE, in consideration of the above Recitals, which are incorporated in and made a part of this Agreement, and the covenants and conditions contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

ARTICLE I – USE OF CERTAIN CITY PARKING BY SCHOOL DISTRICT

Section 1. Permit Parking Spaces for School District Use. Beginning with the date Municipal Lot 5 (as depicted on Exhibit A) closes for construction of the Project Improvements and for the remaining duration of the Cedar-Lee-Meadowbrook Urban Redevelopment Tax Increment Finance District, the City agrees to make available to the School District a total of 50 parking passes for use in Municipal Parking Lot 34 (as depicted on Exhibit B). These permits shall be designated for Cleveland Heights High School (the "**High School**") students and staff for use during school hours (7:30am to 4:30pm) on days when school is in session. The permits shall be sold by the School District to staff and students with all collected funds being paid to the City. The permits shall be issued for each school semester at a rate equal to the City's quarterly senior citizen parking permit fee (currently \$34.50), as such rate may adjusted in the future. Along with the collected funds for the permits, the School District shall provide permit holder information to the City.

Section 2. Special Event Parking. Beginning with the date Municipal Lot 5 closes for construction of the Project Improvements, and for the remaining duration of the Cedar-Lee-Meadowbrook Urban Redevelopment Tax Increment Finance District, the City agrees to provide the School District access to parking spaces in Municipal Parking Lot 34 for use by attendees of special events at Cleveland Heights High School (the “High School”) at the same cost, if any, that such parking spaces are made available to the general public. These parking spaces are currently available to the public, but the City agrees to provide wayfinding signage designating Municipal Parking Lot 34 as special event parking for the High School during such special events. Additionally, the City agrees to review the current lighting of Municipal Parking Lot 34 and ensure adequate lighting is in place.

Section 3. Additional Parking. The City further agrees to work with the School District to identify and implement additional on-street parking options along Washington Boulevard adjacent to the High School and on other side streets in close proximity to the High School.

Section 4. Claims; Indemnity. The City shall not be liable for any damage or injury to School District staff or students utilizing the additional parking spaces described in this Agreement and the School District agrees to hold the City harmless for any staff or student claim for damages during the term of this Agreement, except to the extent such damage or injury is the result of the gross negligence of the City or any of the City’s agents. The City shall not be responsible for any theft, loss or damage to any vehicle or property left in any vehicle.

ARTICLE II – MISCELLANEOUS

Section 1. Term. The Term of this Agreement shall expire upon the expiration or termination of the Cedar-Lee-Meadowbrook Urban Redevelopment Tax Increment Finance District.

Section 2. Governing Law. This Agreement shall be governed by, and construed in accordance with the laws of the State of Ohio.

Section 3. Headings. Sections and paragraph headings in this Agreement are for convenience or reference only, and shall not affect the interpretation or construction of the provisions hereof.

Section 4. Severability. Invalidation of any of the provisions contained in this Agreement or the application thereof to any person by judgment or court order, shall in no way affect any of the other provisions hereof of the application thereof to any other person and the same shall remain in full force and effect.

Section 5. Amendment. This Agreement may be amended or modified by the parties only in writing, signed by both parties to the Agreement.

Section 6. Counterparts. This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument, and any party to this Agreement may execute this Agreement by signing any such counterpart.

Section 7. Extent of Covenants; Binding Effect; No Personal Liability. All covenants, stipulations, obligations and agreements of the parties contained in this Agreement shall be effective to the extent authorized and permitted by applicable law. Each provision of the Agreement is binding upon the officer(s) or other person(s) and any body or bodies as may from time to time have the authority under law to take the actions as may be necessary to perform all or any part of the duty required by a given provision of this Agreement. Each duty of the City and its bodies, officers and employees, undertaken pursuant to the Agreement, is established as a duty with the City and of each such officer, employee or body having authority to perform that duty, specifically enjoined by law resulting from an office, trust or station within the meaning of Section 2731.01, Revised Code, providing for enforcement by writ of mandamus. No such covenant, stipulation, obligation or agreement shall be deemed a covenant, stipulation, obligation or agreement of any present or future member, officer, agent, or employee of any of the parties in their individual capacity.

Section 8. Assignment. The City and the School District shall not assign their respective rights or interests under this Agreement without the prior written consent of the other party, which shall not be unreasonably withheld, delayed and conditioned.

(Remainder of Page Intentionally Left Blank)

ORDINANCE NO. 148-2022

IN WITNESS WHEREOF, the City and the School District have executed this Agreement on the day and year first above written.

Cleveland Heights-University Heights City City of Cleveland Heights, Ohio
School District Board Education

By: _____
President

By: _____
Its: _____

By: _____
Superintendent

The legal form and correctness
of this Agreement is hereby approved:

By: _____
Treasurer

Date: _____

(Signature Page to School District Additional Parking Agreement)

5683101.1

FISCAL OFFICER'S CERTIFICATE

The undersigned, [Acting/Interim] Director of Finance of the City of Cleveland Heights under the foregoing Agreement, certifies hereby that any moneys required to meet the obligations of the City during the year 2022 under the foregoing Agreement have been appropriated lawfully for that purpose, and are in the Treasury of the City or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

Dated: _____, 2022

[Acting/Interim] Director of Finance
City of Cleveland Heights, Ohio

(Fiscal Officer's Certificate to School District Additional Parking Agreement)

5683101.1

Proposed: 10/03/2022

RESOLUTION NO. 152-2022(F), *Second Reading*

By Mayor Seren

A Resolution approving the Mayor's appointment of Andrew Unetic as the Director of Finance, commencing October 24, 2022; and declaring the necessity that this legislation become immediately effective as an emergency measure

WHEREAS, pursuant to Article IV, Section 2 of the City's Charter, the Mayor is to appoint a director of each department who shall have the supervision and control of said department; and

WHEREAS, pursuant to the same Section of the Charter, the Mayor's appointment of the Director of Law, Director of Finance, and Director of Planning is effective only upon the approval of a majority of the members of council; and

WHEREAS, the Mayor has requested that this Council approve his appointment of Andrew Unetic as Director of Finance, with a start date of October 24, 2022

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

SECTION 2. This Council hereby approves the Mayor's appointment of Andrew Utanic as Director of Finance, effective October 24, 2022.

SECTION 3. It is necessary that this Resolution become immediately effective as an emergency measure 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 fill the vacancy in the position of Director of Finance at the earliest possible date. 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.

MELODY JOY HART
President of the Council

ADDIE BALESTER
Clerk of Council

RESOLUTION NO. 152-2022(F)

PASSED:

Presented to the Mayor: _____ Approved: _____

KAHLIL SEREN
Mayor

Proposed: 10/03/22

RESOLUTION NO. 153-2022(PSH) *Second Reading*

By Mayor Seren

A Resolution adopting the 2022-2027 update of the *Cuyahoga County All-Hazards Mitigation Plan for Cuyahoga County* ("AHMP"); and declaring the necessity that this legislation become immediately effective as an emergency measure.

WHEREAS, hazard mitigation is any sustainable action taken to reduce or eliminate damage from future disaster; and

WHEREAS, the federal Disaster Mitigation Act of 2000 requires all communities that desire to apply for federal mitigation programs to have an all-hazards mitigation plan; and

WHEREAS, the Disaster Mitigation Act of 2000 also requires communities to review and revise the plan at least every five (5) years to reflect changes in development, progress in local mitigation efforts, and changes in priorities in order to continue eligibility to apply for federal mitigation programs; and

WHEREAS, the all-hazard mitigation plan must meet the criteria established by the Federal Emergency Management Agency ("FEMA"); and

WHEREAS, for disasters that are declared after November 1, 2004 the local government must have an approved mitigation plan; and

WHEREAS, in collaboration with participating jurisdictions, the Cuyahoga County government, through the Cuyahoga Office of Emergency Management, has developed and maintains such a mitigation plan which is entitled the *Cuyahoga County All-Hazards Mitigation Plan* (hereafter the "Plan"); and

WHEREAS, the law requires documentation that the Plan has been formally adopted by the legislative authority of each jurisdiction requesting federal approval of the Plan; and

WHEREAS, approval of said Plan is in the best interests of the City and its residents.

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

SECTION 1. This Council does hereby adopt the 2022-2027 update of the *Cuyahoga County All-Hazards Mitigation*, a copy of which is on file with the Clerk of Council.

RESOLUTION NO. 153-2022(PSH)

SECTION 2. 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.

SECTION 3. It is necessary that this Resolution become immediately effective as an emergency measure 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 county and federal deadlines for approval of the *Cuyahoga County All-Hazards Mitigation Plan*. Wherefore, provided it receives the affirmative vote of five or more members elected or appointed to this Council, this Resolution shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

Melody Joy Hart
President of Council

Addie Balester
Clerk of Council

PASSED:

Presented to the Mayor: _____ Approved: _____

KAHLIL SEREN
Mayor

Proposed: 10/03/2022

ORDINANCE NO. 154-2022(MSES), *Second Reading*

By Mayor Seren

An Ordinance amending Section 303.08 “Impounding of Vehicles” of the Codified Ordinances of the City of Cleveland Heights so that the Ordinance will be consistent with current State and Local Law; and declaring the necessity that this legislation become immediately effective as an emergency measure.

WHEREAS, the Ohio Legislature made a change in State Law and no longer requires a vehicle to have a front license plate and Section 335.09 of the Cleveland Heights Codified Ordinances was recently amended to reflect this change; and

WHEREAS, Section 303.08(b)(2) of the Cleveland Heights Codified Ordinances currently authorizes towing a vehicle for only displaying one license plate, in conflict with other laws; and

WHEREAS, it would be in the best interest of the City and its residents to amend the Codified Ordinances so that City Ordinances are consistent with State Law.

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

SECTION 1. Section 303.08(b)(2) of the Codified Ordinances of the City of Cleveland Heights shall be and is hereby amended to read as follows: “When any vehicle on any street, park or other public property fails to display a current valid license plate.”

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. It is necessary that this Ordinance become immediately effective as an emergency measure 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 avoid conflict with general State law and prevent action based upon the currently existing ordinance. 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.

MELODY JOY HART
President of the Council

ORDINANCE NO. 154-2022(MSES)

ADDIE BALESTER
Clerk of Council

PASSED:

Presented to the Mayor: _____ Approved: _____

KAHLIL SEREN
Mayor

Proposed: 6/21/2021

ORDINANCE NO. 78-2021(PSH), *Fifth Reading,*
As Amended

By Council Member Seren

An Ordinance enacting and adopting Chapter 522, "Lead Hazards," of Part Five, General Offenses Code, of the Codified Ordinances of the City of Cleveland Heights; repealing Chapter 1347, "Certificate of Occupancy," of Part Thirteen, Building Code, of the Codified Ordinances of the City of Cleveland Heights, and adopting a replacement Chapter 1347, "Certificate of Occupancy"; and amending Section 1345.99, "Penalty," of Chapter 1345, "Enforcement and Penalty," of Part Thirteen, Building Code, of the Codified Ordinances of the City of Cleveland Heights.

WHEREAS, this Council desires to provide for the regulation of lead hazards, to require rental units to be certified lead-safe as condition of obtaining a rental occupancy permit, and to authorize the Cleveland Heights Building Commissioner to administer and enforce this requirement; and

WHEREAS, lead poisoning is a serious threat to the health of children which can cause learning disabilities, language delays, hearing problems, and behavioral problems; and

WHEREAS, children living in residential rental units built before 1978 are disproportionately at risk for unsafe levels of lead exposure from lead-based-paint hazards; and

WHEREAS, this Council has determined that requiring all residential rental units constructed before January 1, 1978 to have lead-safe certification will help to decrease the occurrence of lead poisoning in the children of Cleveland Heights.

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

SECTION 1. Chapter 522, "Lead Hazards," of Part Five, General Offenses Code, of the Codified Ordinances of the City of Cleveland Heights shall be and hereby is enacted and adopted to read in total as set forth in Exhibit A hereto.

SECTION 2. An amended Chapter 1347, "Certificate of Occupancy," of Part Thirteen, Building Code, of the Codified Ordinances of the City of Cleveland Heights, is hereby adopted to read in full as set forth in Exhibit B hereto.

SECTION 3. Current Chapter 1347 of the Codified Ordinance of the City of Cleveland Heights, as it existed prior to the effective date of the ordinance, is hereby repealed.

ORDINANCE NO. 78-2021(PSH)

SECTION 4. Section 1345.99, "Penalty," of Chapter 1345, "Enforcement and Penalty," of the Codified Ordinances of the City of Cleveland Heights shall be and hereby is amended to read as follows:

1345.99 PENALTY.

(a) A violation of Sections 1351.14, 1347.01, or 1347.04(a) and (b) or 1347.05(a) or (b) is hereby classified as a minor misdemeanor. Every day such violation occurs or continues shall constitute a separate offense.

SECTION 5. 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 6. This Ordinance shall take effect and be in force at the earliest time possible permitted by law.

MELODY JOY HART
President of Council

ADDIE BALESTER
Clerk of Council

PASSED:

Presented to Mayor: _____ Approved by Mayor: _____

KAHLIL SEREN
Mayor

EXHIBIT A

CHAPTER 522

Lead Hazards

522.01 Definitions

522.02 Lead Hazards Are A Nuisance

522.03 Prohibitions

522.04 Lead Abatement and Lead Hazard Control

522.05 Disclosures in Sale or Lease of Target Housing Regarding Lead Hazards

522.06 Residential Property Renovation; Paint Outlet Information Rule

522.07 Notice Requirements

522.08 Enforcement

522.99 Penalties

522.01 Definitions

As used in this chapter:

(a) "Clearance examination" means an examination, performed by a clearance technician, lead inspector, or lead risk assessor, to determine whether lead hazards in a residential unit, child day-care facility, or school have been sufficiently controlled. A clearance examination includes a visual assessment, collection and analysis of environmental samples.

(b) "Clearance technician" means a person, other than a licensed lead inspector or lead risk assessor, who is licensed under RC Chapter 3742 to perform a clearance examination.

(c) "Commissioner" means the Cleveland Heights Building Commissioner unless otherwise specified.

(d) "Division" means the Division of Building and Inspectional Services in the Department of Public Safety unless otherwise specified.

(e) "Interim controls" means a set of measures designed to temporarily reduce human exposure or likely exposure to lead-based paint hazards, including specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing lead hazard maintenance activities, and the establishment and operation of management and resident education programs.

(f) "Landlord" has the same meaning as in division (e) of Section 1347.01.

(g) "Lead Abatement" means a measure or a set of measures, designed for the single purpose of permanently eliminating lead hazards. "Lead abatement" includes all of the following:

- (1) Removal of lead-based paint and lead-contaminated dust;
- (2) Permanent enclosure or encapsulation of lead-based paint;
- (3) Replacement of surfaces or fixtures painted with lead-based paint;
- (4) Removal or permanent covering of lead-contaminated soil;
- (5) Preparation, cleanup, and disposal activities associated with lead abatement.

"Lead abatement" does not include any of the following:

EXHIBIT A

- (1) Residential rental unit lead-safe maintenance practices performed pursuant to RC 3742.41 and 3742.42;
- (2) Implementation of interim controls;
- (3) Activities performed by a property owner on a residential unit to which both of the following apply:
 - A. It is a freestanding single-family home used as the property owner's private residence;
 - B. No child under six (6) years of age who has lead poisoning resides in the unit.
- (4) Renovation, remodeling, landscaping or other activities, when the activities are not designed to permanently eliminate lead-based paint hazards, but, instead, are designed to repair, restore, or remodel a given structure or dwelling, even though these activities may incidentally result in a reduction or elimination of lead-based paint hazards. Abatement does not include operations and maintenance activities or other measures and activities designed to temporarily, but not permanently, reduce lead-based paint hazards. This definition shall not be interpreted to exempt any person from any requirement under State or federal law regarding lead abatement, including lead hazard control orders or requirements for full abatement of lead-based paint in certain federally-funded projects.

(h) "Lead-based paint" means any paint or other similar surface-coating substance containing lead at or in excess of the level that is hazardous to human health as set forth in Rule 3701-32-19 of the Ohio Administrative Code (OAC) as it may be hereafter amended.

(i) "Lead hazard" means material that is likely to cause lead exposure and endanger an individual's health as set forth in OAC Rule 3701-32-19. Lead hazard includes lead-based paint, lead-contaminated dust, lead-contaminated soil and lead-contaminated water pipes.

(j) "Lead hazard control" means measures taken to reduce or eliminate a lead hazard, which includes, but is not limited to, lead abatement, interim controls, or both, as appropriate.

(k) "Lead Poisoning" means a confirmed venous blood lead test level of lead in human blood of five micrograms per deciliter or greater.

(l) "Permanent" means an expected design life of at least twenty (20) years.

(m) "Rental agreement" has the same meaning described in division (m) of Section 1347.01 of the Codified Ordinances.

(n) "Target housing" means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any one or more children age six (6) years or under resides or is expected to reside in such housing) or any zero (0) bedroom dwelling.

(o) "Tenant" has the meaning described in division (o) of Section 1347.01 of the Codified Ordinances.

(p) "Zero (0) bedroom dwelling" means any residential dwelling in which the living areas are not separated from the sleeping area. The term includes efficiencies, studio apartments, dormitory or single room occupancy housing, military barracks, and rentals of individual rooms in residential dwellings.

522.02 Lead Hazards Are A Nuisance

- (a) This Council finds that lead hazards constitute a nuisance.

EXHIBIT A

(b) The Commissioner may determine that a nuisance is required to be immediately controlled under this section if, in the Commissioner's opinion, failure to immediately control the hazard may cause a serious risk to the health of the occupants of the property. In such a case, the Commissioner may require the owner or manager of the property to immediately control the nuisance or the Commissioner may, by his or her authorized representative, immediately control such nuisance.

522.03 Prohibitions

(a) No person shall do any of the following:

- (1) Violate any provision of RC Chapter 3742, as may be applicable, or the rules adopted pursuant to it;
- (2) Apply or cause to be applied any lead-based paint on or inside a residential unit, child day-care facility, or school, unless the Ohio director of health has determined by rule under RC 3742.45 that no suitable substitute exists;

(3) Interfere with an investigation conducted in accordance with this chapter or RC 3742.35 or by the Commissioner or the Commissioner's designee, any lead inspector or risk assessor.

(b) No person shall knowingly authorize or employ an individual to perform lead abatement on a residential unit, child day-care facility, or school unless the individual who will perform the lead abatement holds a valid license issued under RC 3742.05.

(c) No person shall do any of the following when a residential unit, child day-care facility, or school is involved:

(1) Perform a lead inspection without a valid lead inspector license issued under RC 3742.05;

(2) Perform a lead risk assessment without a valid lead risk assessor license issued under RC 3742.05, or provide professional advice regarding lead abatement without a valid lead risk assessor, lead abatement contractor, or lead abatement project designer license issued under RC 3742.05;

(3) Act as a lead abatement contractor without a valid lead abatement contractor's license issued under RC 3742.05;

(4) Act as a lead abatement project designer without a valid lead abatement project designer license issued under RC 3742.05;

(5) Perform lead abatement without a valid lead abatement worker license issued under RC 3742.05;

(6) Perform a clearance examination without a valid clearance technician license issued under RC 3742.05, unless the person holds a valid lead inspector license or valid lead risk assessor license issued under that section;

(7) Perform lead training for the licensing purposes of RC Chapter 3742 without a valid approval from the director of health under RC 3742.08.

(8) Perform interim controls without complying with 24 C.F.R. Part 35.

(9) Perform lead-safe maintenance practices without complying with RC 3742.41 and 3742.42.

EXHIBIT A

(d) No person shall manufacture, sell or hold for sale toys and other articles intended for use by children as defined in 16 C.F.R. 1303.2, or furniture as defined in 16 C.F.R. 1303.2, that bears paint containing lead in excess of 0.009 percent by weight of the total nonvolatile content of the paint or the weight of the dried paint film.

(e) No person shall sell or lease target housing in the City unless the owner, lessor, or agent of the target housing meets all applicable requirements of Section 522.06 regarding disclosures of lead hazards.

(f) No person renovating target housing in the City shall fail to comply with Section 522.07.

(g) No owner or manager of a retail or wholesale outlet of paint and paint-removal products shall violate division (b) of Section 522.07 by failing to provide an EPA-approved lead hazard information pamphlet.

(h) All power-assisted methods of lead-based paint removal are hereby prohibited, unless the standards and methods set forth in OAC Chapters 3701-30 or 3701-32, as applicable, are followed. Open flame burning is prohibited under any circumstances.

522.04 Lead Abatement and Lead Hazard Control

(a) The Commissioner is authorized to issue a stop work or cease and desist order to any person performing work in violation of RC Chapter 3742 or this chapter.

(b) No person shall fail to immediately stop lead abatement or control activities when ordered to do so under division (a) of this section. No person shall resume lead abatement or control activities except in conformance with all applicable standards and methods prescribed in RC Chapter 3742.

522.05 Disclosures in Sale or Lease of Target Housing Regarding Lead Hazards

(a) Disclosure in Purchase or Lease of Target Housing.

(1) A seller or lessor of target housing must disclose information concerning lead upon the transfer of any target housing pursuant to the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. 4852d, and shall adhere to all rules and regulations promulgated under the Act, as may be amended from time to time. Before a purchaser or tenant is obligated under a contract to purchase target housing or a rental agreement to lease target housing, the seller or lessor shall perform the activities and provide the disclosures described in this section:

A. Provide the purchaser or tenant with an EPA-approved lead hazard information pamphlet;

B. Disclose to the purchaser in writing in the sales contract, or to the tenant, in writing in the rental agreement: (i) the presence of any known lead-based paint, or any known lead-based paint hazards, in the housing; (ii) any additional information available concerning the known lead-based paint and/or lead-based paint hazards, such as the basis for the determination that lead-based paint and/or lead-based paint hazards exist, the location of the lead-based paint and/or lead-based paint hazards, and the condition of the painted surfaces; and (iii) whether the property or unit is under a lead hazard control order;

C. Disclose to the tenant a copy of the most recent clearance examination or lead risk assessment and, if applicable, the lead-safe certification;

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D. Provide to the purchaser or tenant any records or reports (including notices or letters of violation) available pertaining to lead-based paint or lead-based paint hazards in the target housing, including regarding common areas, and regarding other residential dwellings in multi-family target housing, provided that the information is part of an evaluation or reduction of lead-based paint and/or lead-based paint hazards in the target housing;

E. Permit the purchaser a ten (10) day period (unless the parties mutually agree in writing to a different period of time or to waive this requirement) to conduct a lead risk assessment or lead inspection for the presence of lead-based paint and/or lead-based paint hazards;

F. Include in the sale or rental agreement the Lead Warning Statement prescribed in 40 C.F.R. 745.113;

G. Include in the sale or rental agreement acknowledgments that the pamphlet, disclosures, ten (10) day period (if required) and warning required were provided.

(2) Discovery of Lead Hazards or Presumed Lead Hazards. If the owner of a residential unit learns of the presence of lead-based paint and/or lead-based paint hazards the owner shall notify each tenant of the presence of lead-based paint and/or lead-based paint hazards within ten (10) days of discovering its presence. In addition, the owner shall notify prospective tenants of presumed lead-based paint and shall provide each tenant with a Lead Warning Statement and the lead hazard information pamphlet, as prescribed by 42 U.S.C. 4852d(3)Compliance Assurance. Whenever a seller or lessor has entered into a contract with an agent for the purpose of selling or leasing a unit of target housing, the agent, on behalf of the seller or lessor, shall ensure compliance with the requirements of this section and 40C.F.R. 745 Subpart F; . An agent means any party who enters into a contract with a seller or lessor, including any party who enters into a contract with a representative of the seller or lessor, for the purpose of selling or leasing target housing. The term "agent" does not apply to purchasers or any purchaser's representative who receives all compensation from the purchaser. For the purposes of this subsection "ensure compliance" shall have the same meaning as provided in §745.115(a) of Subpart F of 40 CFR Part 745, and an agent who has fulfilled such responsibilities shall not be liable for the failure to disclose to a purchaser or lessee the presence of lead-based paint and/or lead based paint hazards known by a seller or lessor but not disclosed to the agent.

(b) Penalties for Violations.

(1) Criminal Penalty. Any person who knowingly fails to comply with any provision of this section shall be subject to the penalties provided in Section 522.99.

(2) The Commissioner is authorized to take lawful action as may be necessary to enforce this section or to enjoin any violation of it.

(3) Civil Liability. Any person who violates any provision of this section will be jointly and severally liable to the purchaser or lessee in an amount equal to one (1) month's rent or one (1) month's mortgage payment.

(4) In any action brought for damages under this section, the appropriate court may award court costs to the party commencing the action, together with reasonable attorney fees and any expert witness fees, if that party prevails.

(5) A non-profit environmental health or housing rights organization is authorized to bring an action under division (b)(3) of this section on behalf of an aggrieved individual or individual(s) for violations of this section. Such organization may recover its costs under the remedies provided in divisions (b)(3) and (b)(4) of this section if the organization demonstrates that it has exerted organizational resources, including staff time, to

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investigate the alleged non-compliance with this section.

(c) **Validity of Contracts and Liens.** Nothing in this section may affect the validity or enforceability of any sale or contract for the purchase and sale or lease of any interest in residential real property or any loan, loan agreement, mortgage, or lien made or arising in connection with a mortgage loan, nor may anything in this section create a defect in title.

522.06 Residential Property Renovation; Paint Outlet Information Rule

(a) All renovations, repair and painting performed for compensation in target housing shall be performed in compliance with 40 C.F.R. Part 745, Subpart E, Residential Property Renovation, as may be amended from time to time. Any person performing renovations, repair and painting shall provide to occupants of the residential property a renovation-specific pamphlet as required under 40 C.F.R. 745.81.

(b) All retail and wholesale outlets of paint and paint removal products shall distribute an EPA- approved lead hazard information pamphlet to each purchaser of paint and paint removal products.

522.07 Notice Requirements

(a) For any lead abatement, interim controls, lead-safe maintenance practices or lead-safe renovation work in a residential unit, child day-care facility or school, the owner shall provide seven (7) days advance written notice to all occupants of residential structures, or all parents, students, teachers, and staff of child day-care facilities or schools from which lead-based paint is to be removed, and to all occupants of residential structures which are within thirty (30) feet of the residential structure, child day-care facility or school from which the lead-based paint is to be removed. The notice shall be as prescribed by the Commissioner and shall include, at a minimum, the address at which the lead-based paint will be removed, the date of commencement of the lead-based paint removal, the anticipated length of time to complete the removal, and the method by which the lead-based paint will be removed. The notice shall include a copy of an EPA-approved lead hazard information pamphlet.

(b) The notice required under this section does not relieve any person from compliance with any other notice requirements under state or federal law, including when notice is required by a hazard control order.

522.08 Enforcement

(a) Whenever the Commissioner or a designee determines upon information, or by observation or inspection, that any provision of this chapter is being or has been violated, the official may issue a notice of violation to the owner, manager, or person in charge to correct the violation. If the violation constitutes a nuisance that, in the determination of the Commissioner or designee, may endanger the health or safety of any person, the notice of violation shall order the immediate abatement of the nuisance.

(b) In addition to any penalty for a violation of this chapter, the Commissioner or a designee may use any and all remedies in this Code, including Chapter 553, to prevent, terminate, or abate the nuisance, or to otherwise take action to control the nuisance, the costs and expense of which may be recovered as provided in RC 715.261, including

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certifying the costs and expense to the County Auditor, to be placed on the property as a lien to be collected as other taxes and returned to the City.

(c) In addition to any penalty for a violation of this chapter, the Commissioner or a designee may control such nuisance. The costs and expense of controlling the nuisance by the Commissioner or designee under this chapter may be recovered as provided in RC 715.261, including certifying the costs and expense to the County Auditor, to be placed on the property as a lien to be collected as other taxes and returned to the City.

(d) The authority described in division (c) to control such nuisance includes the authority to order the owner or manager to relocate the occupants of a residential unit, day-care facility, or school, until the property passes a clearance examination, if the Commissioner determines that the health of the occupants may be at risk during the lead hazard control work. The Commissioner may relocate the occupants until the residential unit, child day-care facility, or school passes a clearance examination. The costs and expense of the relocation may be recovered by certifying those costs to the County Auditor, to be placed on the property as a lien to be collected as other taxes and returned to the City.

(e) In the event of an actual or threatened violation of this chapter, or in an emergency situation, the Director of Law, in addition to other remedies provided by law, may institute a proper suit in equity or at law to prevent, terminate or otherwise remedy the violation.

(f) In addition to all other penalties and remedies provided by law, any person damaged by a nuisance caused by a violation of this chapter may institute a proper action in equity or at law to prevent, terminate or otherwise remedy the violation.

(g) The City has enacted and enforces the provisions of this chapter to promote and preserve the public peace, health, safety and welfare. The City does not assume, nor does it impose on its officers and employees, an obligation the breach of which causes it to be liable in money damages to any person who claims that such breach proximately caused injury. In addition, nothing in this chapter may be interpreted to limit the City's statutory immunity under RC Chapter 2744.

522.99 Penalties

(a) Whoever violates division (f) of Section 522.03 is guilty of a minor misdemeanor.

(b) Whoever violates any provision of Chapter 522 for which no other penalty is provided or rule or regulation or order under this chapter is guilty of a misdemeanor of the first degree. Except for a violation of division (f) of Section 522.03, each day during which noncompliance or a violation continues shall constitute a separate offense.

(c) As provided by RC 2901.23 and 2929.31, organizations convicted of an offense are guilty of a misdemeanor of the first degree.

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CHAPTER 1347

Certificate of Occupancy and Lead-Safe Certification

1347.01 Definitions.

1347.02 Certificate of occupancy required.

1347.03 Certificate issuance, contents, term and revocation.

1347.0 Failure to apply for certificate; renewals.

1347.05 Posting and availability of certificate.

1347.06 Fees for original certificate.

1347.07 Changes; new certificate of occupancy; fees.

1347.08 Lead-safe certification required for residential rental units built before January 1, 1978

1347.09 INTERNAL REVIEW

1347.10 IMPACT OF LEAD-SAFE CERTIFICATION REQUIREMENT

1347.11 LEAD-SAFE ADVISORY BOARD

1347.12 RECORDS KEPT BY DEPARTMENT

1347.13 INSPECTIONS, RIGHT OF ENTRY

CROSS REFERENCES

Certificate of compliance required - see BLDG. 1311.02

1347.01 DEFINITIONS

For purposes of this chapter:

(a) "Clearance examination" means an examination, performed by a clearance technician, lead inspector, or lead risk assessor, to determine whether lead hazards in a residential unit have been sufficiently controlled. A clearance examination includes a visual assessment, collection and analysis of environmental samples.

(b) "Clearance technician" means a person, other than a licensed lead inspector or lead risk assessor, who is licensed under RC Chapter 3742 to perform a clearance examination.

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(c) "Lead-safe certification" means that the owner of a residential rental unit built before January 1, 1978 has provided to the Building Commissioner a clearance examination report or lead risk assessment that indicates that lead hazards are not identified in the unit. A lead-safe certification is valid for two (2) years from the date of the certification.

(d) "Building Commissioner" means the Building Commissioner or designee.

(e) "Landlord" means the owner, lessor, or sublessor of residential premises, his or her agent, or any person authorized by him or her to manage the premises or to receive rent from a tenant under a rental agreement.

(f) "Lead-based paint" means any paint or other similar surface-coating substance containing lead at or in excess of the level that is hazardous to human health as set forth in Rule 3701-32-19 of the Ohio Administrative Code (OAC) as it may be hereafter amended.

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lead inspection, provides professional advice regarding a lead inspection, or prepares a report explaining the results of a lead inspection.

(i) "Lead risk assessment" means an on-site investigation to determine and report the existence, nature, severity, and location of lead hazards in a residential unit including information gathering from the unit, current owner's knowledge regarding the age and painting history of the unit, and occupancy by children under six (6) years of age, visual inspection, limited wipe sampling or other environmental sampling techniques, and any other activity as may be appropriate.

(j) "Lead risk assessor" means a person licensed under RC Chapter 3742 who is responsible for developing a written inspection, risk assessment and analysis plan; conducting inspections for lead hazards in a residential unit; interpreting results of inspections or risk assessments; identifying hazard control strategies to reduce or eliminate lead exposures; and completing a risk assessment report.

(k) "Owner" means the person, partnership or corporation that holds title to the residential rental unit.

(l) "Permanent" means an expected design life of at least twenty (20) years.

(m) "Rental agreement" means any agreement or lease, written or oral, which establishes or modifies the terms, conditions, rules, or any other provisions concerning the use and occupancy of residential premises by one (1) of the parties.

(n) "Residential rental unit" means any part of a building being used, designed or intended to be used as an individual's private residence, including a unit occupied by one (1) or more persons regardless of whether the occupant pays rent or provides anything else of value to the titled owner in consideration for occupying the structure. A residential rental unit does not include a unit occupied by the titled owner.

(o) "Tenant" means a person entitled under a rental agreement to the use and occupancy of residential premises to the exclusion of others.

1347.02 CERTIFICATE OF OCCUPANCY REQUIRED.

On and after January 1, 1963, no owner, agent or person in charge of any dwelling structure used or designed, or intended to be used, as a two (2) family dwelling, double house or multiple dwelling, and after January 1, 1984, no owner, agent or person in charge of any dwelling structure used or designed or intended to be used as a single-family dwelling shall rent or lease such structure for residential occupancy unless the owner thereof holds a certificate of occupancy issued by the Building Commissioner for such structure, which certificate has not expired, been revoked or otherwise become null and void.

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1347.03 CERTIFICATE ISSUANCE, CONTENTS, TERM AND REVOCATION.

Application for a certificate of occupancy required by the provisions of this Housing Code shall be made annually by supplying necessary information to determine compliance with applicable laws, ordinances, rules and regulations for the existing use or occupancy or the intended use or occupancy on forms supplied by the Building Commissioner. Such information shall include, but need not be limited to, the name, address, telephone number, and email address of the owner of the property, the name, address, telephone number, and email address of the agent or person in charge of the property, the address of the property, the number of dwelling units contained in the dwelling structure, and a list of the persons living in each dwelling unit along with their telephone number, email address and the relationship of each person living in such unit. Should any of the required information change during the period for which a certificate is issued, such changes shall be conveyed to the Building Commissioner within thirty (30) days to allow for updating of records.

(a) The Building Commissioner may require the submission of a certificate of occupancy stating such information, and he may cause a general inspection of the structure or premises to be made; provided, however, that in the case of a double house or two (2) family house which has all of the separate units occupied by tenants in common, joint tenants, or other co-owners, the Commissioner shall not cause a general interior inspection of the structure other than upon request, complaint or under emergency situations. And further provided that, in situations where one (1) unit of such double house or two (2) family house is owner-occupied, with the remaining unit occupied by those persons identified by Section 1341.15(b) and (c), the Commissioner shall not cause a general interior inspection other than upon request, complaint or under emergency situations.

(b) If a building or other structure is found in compliance with the provisions of this Housing Code, and all other laws, ordinances, rules and regulations applicable thereto, the Building Commissioner shall issue a certificate of occupancy for such building or structure, which shall contain the following information:

- (1) The street address or other identifying characteristics of the building or other structure.
- (2) The name, address, telephone number, and email address of the owner and, if the owner does not reside on the premises, the name, address, telephone number, and email address of the resident agent in charge of the building or structure, and the name, address, telephone number, and email address of the nonresident agent, if any.

(3) The exact nature and extent of the use or occupancy authorized.

(4) The period for which such certificate of occupancy is issued.

(5) The lead-safe certification status, if applicable

Such certificate shall not be valid beyond December 31 of the calendar year in which the certificate is issued.

(c) The Building Commissioner shall have the power to revoke a certificate of occupancy if any false statement is made by the applicant in connection with the issuance of such certificate; for noncompliance of a structure or its use with the requirements of the Housing Code; if the owner, agent or person in charge of a structure refuses to comply with any applicable provisions of this Housing Code; or if the structure is being maintained or

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used in such a manner as to constitute a public nuisance. In the event the Building Commissioner determines to revoke a certificate of occupancy for the reason that the structure is being maintained in such a manner as to constitute a public nuisance, the owner of said structure shall have the right to appeal the revocation to the Nuisance Abatement Board of Appeals pursuant to Section 553.08 of the Codified Ordinances and the Notice of Revocation shall advise the owner of the right of appeal.

(d) An owner of a residential rental unit shall give notification of a change in the name, address, telephone number, and/or email address of a corporation, partnership or person listed on a certificate of occupancy to the Building Commissioner within fourteen (14) days after the change occurs. If the owner fails to give written notification as required in this section, the Building Commissioner may revoke the certificate of occupancy until the owner provides in writing the changed name, address, telephone number, and/or email address.

In addition to revocation of the certificate of rental registration, whoever violates this division (e) shall be fined not more than two hundred dollars (\$200.00). Each three (3) month period during which the violation continues is a separate offense.

(f) Notwithstanding any other provisions of this Chapter, no certificate of occupancy shall be issued by the Building Commissioner for any structure used or intended to be used for residential occupancy located on a parcel which:

(1) Has a certified delinquent property tax balance or other unpaid liens that appear on the Cuyahoga County Real Property Tax duplicate unless the property owner, agent, or person in charge of such structure provides documentation of being on a Delinquent Payment Plan in good standing with the Cuyahoga County Treasury; or

(2) Has an unpaid balance for nuisance abatement costs imposed by the City pursuant to Subsection 553.10(e) that has not been placed on the Cuyahoga County Real Property Tax duplicate.

If such structure as described above is determined by the Building Commissioner to be occupied by a tenant, the Building Commissioner shall provide notice to such tenant of the rejection of application for the issuance or renewal of a certificate of occupancy. Notice shall be by mail, hand delivery, or posting on the structure. Notwithstanding the requirement of notice provided herein, failure of the Building Commissioner to notify a tenant shall not preclude the enforcement of any provision of this Chapter.

1347.04 FAILURE TO APPLY FOR CERTIFICATE; RENEWALS.

(a) The owner of a dwelling structure which subsequently is completed and becomes available for occupancy shall apply for such certificate as soon as practicable, but in no event shall the structure be occupied in whole or in part until such certificate of occupancy has been issued. Failure to so apply shall be deemed to be a violation of this Housing Code and shall subject the owner of the structure to the legal action and penalty prescribed herein.

(b) For each twelve (12) month period beginning January 1, 1995, and for each year thereafter, the owner of a dwelling structure requiring a certificate of occupancy shall

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apply for such certificate on or before December 15 of the year immediately preceding the year in which the certificate is to be issued.

1347.05 POSTING AND AVAILABILITY OF CERTIFICATE.

(a) The owner, agent or person in charge of every multiple dwelling structure shall cause a certificate of occupancy to be posted conspicuously at all times at the main entrance of such structure. The certificate shall be provided with a protective covering and shall be securely affixed to the wall.

(b) The owner or owner's agent of a dwelling structure, other than a multiple dwelling structure, requiring a certificate of occupancy, shall have such certificate available on the licensed premises, or otherwise readily available, for exhibition to the Building Commissioner or other authorized City personnel.

1347.06 FEES FOR ORIGINAL CERTIFICATE.

(a) An application for a certificate of occupancy for any residential property in the City shall be accompanied by a fee of two hundred dollars (\$200.00) for the first dwelling unit in a building plus fifty dollars (\$50.00) for the second dwelling unit in the building and twenty-five dollars (\$25.00) for each additional dwelling unit in the building. The fee for a newly-rented residential property issued after June 30 of any year for the remainder of the calendar year shall be one hundred dollars (\$100.00) for the first dwelling unit in a building, twenty-five dollars (\$25.00) for the second dwelling unit in the building and twelve dollars and fifty cents (\$12.50) for each additional unit in the building. The fee for any one building shall not exceed the sum of one thousand two hundred twenty-five dollars (\$1,225.00) per year. All fees for certificates of occupancy shall be nonrefundable.

(Ord. 201-2013. Passed 12-16-13.)

(b) Any renewal application received after January 1 of any year shall incur a late fee of twenty-five dollars (\$25.00) per month for each month or portion thereof that the application and/or fee is delinquent.

1347.07 CHANGES; NEW CERTIFICATE OF OCCUPANCY; FEES.

(a) If there is a change in the resident agent or nonresident agent as shown by the certificate of occupancy, the owner shall notify the Building Commissioner in writing within thirty (30) days of such change, giving the name and address of the new resident agent or nonresident agent. Failure to notify the Building Commissioner within the specified time shall constitute a violation of this Housing Code.

(b) If there is a change in ownership of record, the certificate of occupancy issued under the provisions of this Housing Code to the former owner shall become null and void within thirty (30) days of the recorded date of such change of ownership, and a new certificate of occupancy must be obtained by the new owner. Application for such new certificate of occupancy shall be made not more than thirty (30) days after such change of ownership

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has occurred, on forms supplied by the Building Commissioner. A fee of fifty dollars (\$50.00) shall be paid upon application for each new certificate. A new certificate shall expire on the same date as that of the certificate which it replaces.

(c) Any change in the nature or extent of the use or occupancy as specified on the certificate of occupancy shall render the certificate of occupancy null and void upon the happening of such change. No such change is permissible under this Housing Code unless such change has been approved by the proper City authorities pursuant to this Housing Code, and unless a new certificate of occupancy, incorporating such change, has been issued. Any such change, without the approval of the proper City authorities, will subject the owner, operator or agent to the penalty provided in Section 1345.99.

(d) A fee of two dollars (\$2.00) shall be paid upon application for each such new certificate. If such change involves the addition of any dwelling units to the number of dwelling units previously authorized, an additional five dollars (\$5.00) shall be charged for each such additional dwelling unit, regardless of the date authorized. Such new certificate shall expire on the same date as that of the certificate which it replaces.

1347.08 LEAD-SAFE CERTIFICATION REQUIRED FOR RESIDENTIAL RENTAL UNITS BUILT BEFORE JANUARY 1, 1978

(a) *Presumption and Policy.* Any residential rental unit originally constructed prior to January 1, 1978 is presumed to have lead-based paint. It is the policy of the City to help prevent the poisoning of children by requiring that the presence of deteriorated lead-based paint on the interior and exterior of residential rental structures built before January 1, 1978 be identified and be correctly addressed by reducing and controlling lead-based paint hazards which may be present, in order to prevent human exposure to these hazards. Therefore, it is the further policy of the City to require all residential rental units in the City constructed prior to January 1, 1978 to have lead-safe certification no later than July 1, 2024.

(b) *Lead-Safe Certification.* Beginning July 1, 2023, all residential rental units constructed before January 1, 1978 shall have lead-safe certification from the Building Commissioner according to a schedule established by the Building Commissioner, but in no case later than July 1, 2024.

A lead-safe certification is valid for two (2) years from the date of issuance and will transfer to any subsequent purchaser within the two (2) year period. No earlier than thirty (30) days prior to expiration, an owner shall re-apply for a lead-safe certification by providing the necessary documentation as set forth in this section.

(1) To obtain a lead-safe certification, an owner of a residential rental unit constructed prior to January 1, 1978 shall provide to the Building Commissioner a copy of a clearance examination report or lead risk assessment, completed pursuant to applicable Ohio laws and rules, within ninety (90) days prior to the date of submission evidencing that lead hazards were not identified in the unit.

(2) For a structure constructed prior to January 1, 1978 that contains five (5) or more residential rental units to obtain a lead-safe certification, an owner shall provide to the

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Building Commissioner a copy of a report, completed pursuant to applicable law within ninety (90) days prior to the date of submission, that lead hazards were not identified in the minimum number of units tested relative to the total number of units in the structure, according to Federal HUD Guidelines, 2012 edition, as may be amended from time to time.

(c) *Exemption.* To be exempt from the lead-safe certification requirement set forth in this section, the owner of a residential rental unit originally constructed prior to January 1, 1978 shall submit a copy of a comprehensive lead risk assessment and paint inspection report, issued by a lead risk assessor verifying that the unit has been abated of lead hazards in accordance with 40 CFR 745.227 and applicable state law. The report shall have been completed within twenty (20) years prior to the date of submission to the Building Commissioner.

1347.09 INTERNAL REVIEW

The Building Commissioner, through a designated Lead-Safe Auditor, shall monitor the City lead-safe certification process to ensure efficiency and effectiveness. The Lead-Safe Auditor shall perform such other tasks as required by the Building Commissioner, including maintaining a list of certified inspectors and contractors and coordinating regular monitoring and reporting with the Lead-Safe Advisory Board and other appropriate entities.

1347.10 IMPACT OF LEAD-SAFE CERTIFICATION REQUIREMENT

Within one (1) year after implementation and yearly thereafter, the City shall review the impacts of the lead-safe certification requirement to determine if tenants have been unduly displaced and to identify any other negative unintended consequences that may have occurred due to implementation of the lead-safe certification requirement. If negative impacts are occurring or have occurred, the City will re-evaluate the program and work toward eliminating any negative impacts.

1347.11 LEAD-SAFE ADVISORY BOARD; RESPONSIBILITIES

(a) There is hereby established a Lead-Safe Advisory Board to consist of seven (7) members: the Mayor or their designee, and a member of Council appointed by Council (Ex Officio Members); and five (5) members appointed by the Mayor with approval of Council (Appointed Members). Of the Appointed Members, at least one (1) shall be a Tenant of a Residential Rental Unit within the City, and at least one (1) shall be a Landlord of a Residential Rental Unit within the City. Of the original Appointed Members, two (2) shall be appointed for terms of two (2) years and three (3) shall be appointed for terms of three (3) years. Thereafter, the terms shall be four (4) years. None of the Appointed Members shall be current employees of the City. The Lead-Safe Advisory Board shall meet as often as a majority of its members deems necessary, but at least quarterly in each calendar year. The Board shall establish its own rules.

(b) The responsibilities of the Lead-Safe Advisory Board shall be as follows: to provide recommendations for improvements to the City's lead-safe policies and procedures; to report, on a quarterly basis, progress and status of the City's Lead-

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Safe Certification requirement and other lead poisoning prevention related efforts to the Council.

1347.12 RECORDS KEPT BY DEPARTMENT

Copies of all applications, certificates of occupancy, and documents submitted for lead-safe certification are a public record and shall be kept on file by the Building Commissioner as required by applicable law.

1347.13 INSPECTIONS; RIGHT OF ENTRY

(a) All residential rental units shall be subject to inspection for the purpose of determining compliance with the provisions of this Housing Code, Chapter 521, and all other applicable laws, ordinances, rules and regulations. Inspections shall be conducted in accordance with the residential rental unit inspection schedule established by the Building Commissioner, or as may be necessary in the Building Commissioner's discretion pursuant to specific complaint received under this Code.

(b) The Building Commissioner and the Building Commissioner's duly authorized agents or inspectors may enter at reasonable times any residential rental unit registered under this Chapter in accordance with the right of entry defined in Chapter 1345.