



CITY OF FAIRVIEW PARK CITY COUNCIL MEETING AGENDA

COMMITTEE MEETING
MONDAY, JANUARY 28, 2019
7:00 p.m.
Council Caucus Room

MEETING CALLED TO ORDER | ROLL CALL

EXECUTIVE SESSION

ENVIRONMENT, PUBLIC WORKS, PLANNING, ZONING AND DEVELOPMENT COMMITTEE - Councilman Minek, Chair

- ✧ Ord. 19-03 | Summerfest 2019 – Allowing Sale of Alcoholic Beverages
- ✧ Ord. 19-04 | Adopting County Solid Waste Plan Management Update (2019-2033)
- ✧ Issue: Lead Paint Safety

LOCAL GOVERNMENT AND COMMUNITY SERVICES COMMITTEE - Councilman McDonough, Chair

- ✧ Ord. 19-01 | Walter Drane Recodification

FINANCE COMMITTEE – Councilman Wojnar, Chair

- ✧ Ord. 19-02 | Issuance and Sale of Bond Notes for Gemini Roof Replacement Project

BOARD & COMMISSIONS REPORTS

ROUNDTABLE

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CITY OF FAIRVIEW PARK
ORDINANCE NO. 19-03
REQUESTED BY: COUNCILMAN MINEK
SPONSORED BY: CITY COUNCIL

AN ORDINANCE AMENDING SECTION 921.05 (a)(3) OF THE CODIFIED ORDINANCES OF THE CITY OF FAIRVIEW PARK TO PERMIT THE SALE OF BEER AND WINE COOLERS ONLY TO BE SOLD AND CONSUMED AT SUMMER FEST 2019 TO BE HELD IN BOHLKEN PARK ON JULY 25, 26, 27 and 28, 2019 AND DECLARING AN EMERGENCY

WHEREAS, the Fairview Park Municipal Foundation has requested this Council to permit the sale of beer and wine coolers only at Summer Fest 2019 to be held in Bohlken Park; and

WHEREAS, Section 921.05 (a)(3) of the Codified Ordinances of the City of Fairview Park prohibits alcoholic beverages in Bohlken Park; and

WHEREAS, the Council desires to permit the sale and consumption in Bohlken Park during the hours of Summer Fest 2019, which is to be held on July 25, 26, 27 and 28, 2019.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FAIRVIEW PARK, COUNTY OF CUYAHOGA AND STATE OF OHIO:

SECTION 1. Section 921.05 (a)(3) of the Codified Ordinances of the City of Fairview Park is hereby amended to permit the sale and consumption of beer and wine coolers only in Bohlken Park on July 25, 26, 27 and 28, 2019, during the published hours of Summer Fest, provided that the Fairview Park Municipal Foundation and or the organization it lawfully permits to do so, obtain the appropriate permit from the State of Ohio, Department of Commerce, Division of Liquor Control, comply with all legal requirements of said state permit, and that the Fairview Park Municipal Foundation and/or the organization it lawfully permits to do, provide the proper liability insurance as required by the City and naming the City as an additional insured.

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

SECTION 3. That this ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health, safety and welfare and so that the proper licensing can be obtained for the event, and provided it receives the affirmative vote of a majority plus one of the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor, otherwise from and after the earliest period allowed by law.

PASSED:
APPROVED:

1st reading: 01.22.19
2nd reading:
3rd reading:

Michael P. Kilbane, President of Council

Eileen Ann Patton, Mayor

Liz L. Westbrooks, Clerk of Council

CITY OF FAIRVIEW PARK
ORDINANCE NO. 19-04
REQUESTED BY: COUNCILMAN MINEK
SPONSORED BY: COUNCILMAN MINEK

AN ORDINANCE TO ADOPT THE SOLID WASTE MANAGEMENT PLAN FOR THE CUYAHOGA COUNTY SOLID WASTE MANAGEMENT DISTRICT AND DECLARING AN EMERGENCY

WHEREAS, City of Fairview Park is located within the jurisdiction of the Cuyahoga County Solid Waste Management District (District); and,

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

WHEREAS, the District provided a copy of the Cuyahoga County Solid Waste Management Plan Update (2019-2033) for ratification to each of the legislative authorities of the District; and

WHEREAS, City of Fairview Park must decide whether it approves of said Solid Waste Management Plan Update no later than April 11, 2019.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF CITY OF FAIRVIEW PARK, CUYAHOGA COUNTY, AND STATE OF OHIO:

SECTION 1. That City of Fairview Park approves the Cuyahoga County Solid Waste Management Plan Update.

SECTION 2. That the Clerk of Council is hereby directed to send the District a copy of this Ordinance to the attention of Diane T. Bickett, Executive Director, Cuyahoga County Solid Waste Management District, 4750 East 131st Street, Garfield Heights, Ohio, 44105.

SECTION 3. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements including Sections 121.22 of the Ohio Revised Code.

SECTION 4. That this ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health, safety and welfare and express the immediate approval of the plan by the City, and provided it receives the affirmative vote of a majority plus one of the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor, otherwise from and after the earliest period allowed by law.

PASSED:
APPROVED:

1st reading: 01.22.19
2nd reading:
3rd reading:

Michael P. Kilbane, President of Council

Eileen Ann Patton, Mayor

Liz L. Westbrooks, Clerk of Council

CITY OF FAIRVIEW PARK
ORDINANCE NO. 19-01
REQUESTED BY: COUNCIL PRESIDENT KILBANE
SPONSORED BY: COUNCILMAN MCDONOUGH

AN ORDINANCE APPROVING THE EDITING AND INCLUSION OF CERTAIN ORDINANCES AS PARTS OF THE VARIOUS COMPONENT CODES OF THE CODIFIED ORDINANCES OF FAIRVIEW PARK, OHIO AND DECLARING AN EMERGENCY.

WHEREAS, various ordinances of a general and permanent nature have been passed which should be included in the Codified Ordinances of Fairview Park, Ohio;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FAIRVIEW PARK, OHIO:

SECTION 1. That the editing, arrangement and numbering of those ordinances enacted by Council from 11-7-17 to 12-31-18, as listed in the Comparative Section Table, are hereby approved and adopted as printed in the 2018 Replacement Pages to the Codified Ordinances so as to achieve uniformity of style and classification. A summary of such Replacement Pages are attached to this ordinance and incorporated as Exhibit "A" herein.

SECTION 2. The following sections of the Traffic and General Offenses Codes, as amended, are hereby approved and adopted as amended or enacted so as to conform to enactments of the Ohio General Assembly and are also contained in the summary of Replacement Pages attached to this ordinance and incorporated as Exhibit "A":

Traffic Code

- 301.53 Waste Collection Vehicle. (Added)
- 303.06 Freeway Use Restricted. (Amended)
- 303.991 Committing an Offense While Distracted Penalty. (Added)
- 313.01 Obedience to Traffic Control Devices. (Amended)
- 313.09 Driver's Duties Upon Approaching Ambiguous Traffic Signal. (Amended)
- 331.01 Driving Upon Right Side of Roadway; Exceptions. (Amended)
- 331.02 Passing to Right When Proceeding in Opposite Directions. (Amended)
- 331.03 Overtaking, Passing to Left; Driver's Duties. (Amended)
- 331.04 Overtaking and Passing Upon Right. (Amended)
- 331.05 Overtaking, Passing to Left of Center. (Amended)
- 331.06 Additional Restrictions on Driving upon Left Side of Roadway. (Amended)
- 331.07 Hazardous or No Passing Zones. (Amended)
- 331.08 Driving in Marked Lanes or Continuous Lines of Traffic. (Amended)
- 331.09 Following Too Closely. (Amended)
- 331.10 Turning at Intersections. (Amended)
- 331.12 "U" Turns Restricted. (Amended)
- 331.13 Starting and Backing Vehicles. (Amended)
- 331.14 Signals Before Changing Course, Turning or Stopping. (Amended)
- 331.15 Hand and Arm Signals. (Amended)
- 331.16 Right of Way at Intersections. (Amended)
- 331.17 Right of Way When Turning Left. (Amended)
- 331.18 Operation of Vehicle at Yield Signs. (Amended)
- 331.19 Operation of Vehicle at Stop Signs. (Amended)

Traffic Code (continued)

- 331.20 Emergency or Public Safety Vehicles at Stop Signals or Signs. (Amended)
- 331.22 Driving Onto Roadway From Place Other Than Roadway: Duty to Yield. (Amended)
- 331.23 Driving Onto Roadway From Place Other Than Roadway: Stopping at Sidewalk. (Amended)
- 331.24 Right of Way of Funeral Procession. (Amended)
- 331.26 Driving Upon Street Posted as Closed for Repair. (Amended)
- 331.27 Following and Parking Near Emergency or Safety Vehicles. (Amended)
- 331.28 Driving Over Fire Hose. (Amended)
- 331.29 Driving Through Safety Zone. (Amended)
- 331.30 One-Way Streets and Rotary Traffic Islands. (Amended)
- 331.31 Driving Upon Divided Roadways. (Amended)
- 331.33 Obstructing Intersection, Crosswalk or Grade Crossing. (Amended)
- 331.37 Driving Upon Sidewalks, Street Lawns or Curbs. (Amended)
- 333.01 Driving Under the Influence. (Amended)
- 333.03 Maximum Speed Limits. (Amended)
- 333.031 Approaching a Public Safety Vehicle. (Amended)
- 333.04 Stopping Vehicle. (Amended)
- 333.05 Speed Limitations Over Bridges. (Amended)
- 337.16 Number of Lights. (Amended)
- 337.28 Use of Sunscreening, Nontransparent and Reflectorized Materials. (Amended)
- 371.01 Right of Way in Crosswalk. (Amended)
- 371.02 Right of Way of Blind Person. (Amended)
- 371.07 Right of Way on Sidewalk. (Amended)

General Offenses Code

- 529.07 Open Container Prohibited. (Amended)
- 545.10 Misuse of Credit Cards. (Amended)
- 549.04 Improperly Handling a Firearm in a Motor Vehicle. (Amended)

SECTION 3. The cost of this update to the Codified Ordinances of the City of Fairview Park for edited pages, as well as fees to update and host the code on the internet shall be charged to the General Fund – Legislative (100-7780-5246000).

SECTION 4. It is 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 of its committees that resulted in such formal actions were in meetings open to the public in compliance with all legal requirements.

SECTION 5. That this ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health, safety and welfare and immediately provide for the updates to the Codified Ordinance of the City of Fairview Park, and provided it receives the affirmative vote of a majority plus one of the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor, otherwise from and after the earliest period allowed by law.

PASSED:
APPROVED:

1st reading: 01.07.19
2nd reading: 01.22.19
3rd reading:

Michael P. Kilbane, President of Council

Eileen Ann Patton, Mayor

Liz L. Westbrooks, Clerk of Council

Fairview Park, Ohio
Summary of 2018 Amendments and Replacement Pages of Codified Ordinances

OHIO REVISED CODE:

TRAFFIC CODE

301.53 Waste Collection Vehicle. (Adds definition of waste collection vehicle.)

303.06 Freeway Use Restricted. (Increases the penalty if offender commits the offense while distracted and the distracted activity is a contributing factor to the commission of the offense.)

303.991 Committing an Offense While Distracted Penalty. (Adds new section providing for an enhanced penalty for committing offenses while distracted.)

313.01 Obedience to Traffic Control Devices. (Increases the penalty if offender commits the offense while distracted and the distracted activity is a contributing factor to the commission of the offense.)

313.09 Driver's Duties Upon Approaching Ambiguous Traffic Signal. (Increases the penalty if offender commits the offense while distracted and the distracted activity is a contributing factor to the commission of the offense.)

331.01 Driving Upon Right Side of Roadway; Exceptions. (Increases the penalty if offender commits the offense while distracted and the distracted activity is a contributing factor to the commission of the offense.)

331.02 Passing to Right When Proceeding in Opposite Directions. (Increases the penalty if offender commits the offense while distracted and the distracted activity is a contributing factor to the commission of the offense.)

331.03 Overtaking, Passing to Left; Driver's Duties. (Increases the penalty if offender commits the offense while distracted and the distracted activity is a contributing factor to the commission of the offense.)

331.04 Overtaking and Passing Upon Right. (Increases the penalty if offender commits the offense while distracted and the distracted activity is a contributing factor to the commission of the offense.)

331.05 Overtaking, Passing to Left of Center. (Increases the penalty if offender commits the offense while distracted and the distracted activity is a contributing factor to the commission of the offense.)

331.06 Additional Restrictions on Driving upon Left Side of Roadway. (Increases the penalty if offender commits the offense while distracted and the distracted activity is a contributing factor to the commission of the offense.)

331.07 Hazardous or No Passing Zones. (Increases the penalty if offender commits the offense while distracted and the distracted activity is a contributing factor to the commission of the offense.)

331.08 Driving in Marked Lanes or Continuous Lines of Traffic. (Increases the penalty if offender commits the offense while distracted and the distracted activity is a contributing factor to the commission of the offense.)

331.09 Following Too Closely. (Increases the penalty if offender commits the offense while distracted and the distracted activity is a contributing factor to the commission of the offense.)

331.10 Turning at Intersections. (Increases the penalty if offender commits the offense while distracted and the distracted activity is a contributing factor to the commission of the offense.)

331.12 “U” Turns Restricted. (Increases the penalty if offender commits the offense while distracted and the distracted activity is a contributing factor to the commission of the offense.)

331.13 Starting and Backing Vehicles. (Increases the penalty if offender commits the offense while distracted and the distracted activity is a contributing factor to the commission of the offense.)

331.14 Signals Before Changing Course, Turning or Stopping. (Increases the penalty if offender commits the offense while distracted and the distracted activity is a contributing factor to the commission of the offense.)

331.15 Hand and Arm Signals. (Increases the penalty if offender commits the offense while distracted and the distracted activity is a contributing factor to the commission of the offense.)

331.16 Right of Way At Intersections. (Increases the penalty if offender commits the offense while distracted and the distracted activity is a contributing factor to the commission of the offense.)

331.17 Right of Way When Turning Left. (Increases the penalty if offender commits the offense while distracted and the distracted activity is a contributing factor to the commission of the offense.)

331.18 Operation of Vehicle at Yield Signs. (Increases the penalty if offender commits the offense while distracted and the distracted activity is a contributing factor to the commission of the offense.)

331.19 Operation of Vehicle at Stop Signs. (Increases the penalty if offender commits the offense while distracted and the distracted activity is a contributing factor to the commission of the offense.)

331.20 Emergency or Public Safety Vehicles at Stop Signals or Signs. (Increases the penalty if offender commits the offense while distracted and the distracted activity is a contributing factor to the commission of the offense.)

331.22 Driving Onto Roadway From Place Other Than Roadway: Duty to Yield. (Increases the penalty if offender commits the offense while distracted and the distracted activity is a contributing factor to the commission of the offense.)

331.23 Driving Onto Roadway From Place Other Than Roadway: Stopping at Sidewalk. (Increases the penalty if offender commits the offense while distracted and the distracted activity is a contributing factor to the commission of the offense.)

331.24 Right of Way of Funeral Procession. (Increases the penalty if offender commits the offense while distracted and the distracted activity is a contributing factor to the commission of the offense.)

331.26 Driving Upon Street Posted as Closed for Repair. (Increases the penalty if offender commits the offense while distracted and the distracted activity is a contributing factor to the commission of the offense.)

331.27 Following and Parking Near Emergency or Safety Vehicles. (Increases the penalty if offender commits the offense while distracted and the distracted activity is a contributing factor to the commission of the offense.)

331.28 Driving Over Fire Hose. (Increases the penalty if offender commits the offense while distracted and the distracted activity is a contributing factor to the commission of the offense.)

331.29 Driving Through Safety Zone. (Increases the penalty if offender commits the offense while distracted and the distracted activity is a contributing factor to the commission of the offense.)

331.30 One-Way Streets and Rotary Traffic Islands. (Increases the penalty if offender commits the offense while distracted and the distracted activity is a contributing factor to the commission of the offense.)

331.31 Driving Upon Divided Roadways. (Increases the penalty if offender commits the offense while distracted and the distracted activity is a contributing factor to the commission of the offense.)

331.33 Obstructing Intersection, Crosswalk or Grade Crossing. (Increases the penalty if offender commits the offense while distracted and the distracted activity is a contributing factor to the commission of the offense.)

331.37 Driving Upon Sidewalks, Street Lawns or Curbs. (Increases the penalty if offender commits the offense while distracted and the distracted activity is a contributing factor to the commission of the offense.)

333.01 Driving Under Influence. (Deletes “as measured by gas chromatography mass spectrometry” in subsection (a)(1)J.8.; and adds new subsection (h)(7); renumbers former subsection (h)(7) as (h)(8).)

333.03 Maximum Speed Limits. (Increases the penalty if offender commits the offense while distracted and the distracted activity is a contributing factor to the commission of the offense.)

333.031 Approaching a Public Safety Vehicle. (Increases the penalty if offender commits the offense while distracted and the distracted activity is a contributing factor to the commission of the offense.)

333.04 Stopping Vehicle. (Increases the penalty if offender commits the offense while distracted and the distracted activity is a contributing factor to the commission of the offense.)

333.05 Speed Limitations Over Bridges. (Increases the penalty if offender commits the offense while distracted and the distracted activity is a contributing factor to the commission of the offense.)

337.16 Number of Lights. (Adds “stationary waste collection vehicles” to subsection (c)(1).)

337.28 Use of Sunscreening, Nontransparent and Reflectorized Materials. (Adds sentence to subsection (a)(1)A. and (b)(4) explaining how FMVSS 205 can be obtained.)

371.01 Right of Way in Crosswalk. (Increases the penalty if offender commits the offense while distracted and the distracted activity is a contributing factor to the commission of the offense.)

371.02 Right of Way of Blind Person. (Increases the penalty if offender commits the offense while distracted and the distracted activity is a contributing factor to the commission of the offense.)

371.07 Right of Way on Sidewalk. (Increases the penalty if offender commits the offense while distracted and the distracted activity is a contributing factor to the commission of the offense.)

General Offenses Code

529.07 Open Container Prohibited. (Rewrites subsection (c)(5) to clarify exception for an F-9 permit holder.)

545.10 Misuse of Credit Cards. (Adds subsection (a)(3).)

549.04 Improperly Handling Firearms in a Motor Vehicle. (Amends subsection (c)(3) to delete “electric-powered” and adds “on private or publicly owned lands” to subsection (c)(3)B.).

CODIFIED ORDINANCES OF FAIRVIEW PARK, OHIO

CHAPTER 129

Amending Section 129.01 Police Appointment Entrance Age Eligibility
(Ord. 18-59, passed 12.17.18)

CHAPTER 906

Enacting Chapter 906_Use of Public Ways for Small Cell Wireless Facilities and
Wireless Support Structures
(Ord 18-31 Amended, passed on 07.30.18)

CHAPTER 1137

Amending Chapter 1137 to Permit Mixed Use Structures in General Business
Districts_Lorain Road
(Ord. 18-12 Amended, passed 06.25.18, approved by voters on 11.06.18)

Changes not recodified in update:

CHAPTER 174

Amending Chapter 174 Municipal Income Tax
(Ord. 18-01, passed 01.16.18)

CITY OF FAIRVIEW PARK
ORDINANCE NO. 19-02
REQUESTED BY: MAYOR EILEEN ANN PATTON
SPONSORED BY: COUNCILMAN WOJNAR

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF NOT TO EXCEED \$1,250,000 OF NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, FOR THE PURPOSE OF CONSTRUCTING, RECONSTRUCTING, REPAIRING AND EQUIPPING THE ROOF OF THE CITY'S RECREATION COMPLEX, AND IMPROVEMENTS APPURTENANT THERETO, RELATED BUILDING AND SITE IMPROVEMENTS, AND DECLARING AN EMERGENCY.

WHEREAS, this Council has requested that the Director of Finance, as fiscal officer of this City, certify the estimated life or period of usefulness of the improvements described in Section 1 and the estimated maximum maturity of the Bonds described in Section 1 and the Notes described in Section 3, to be issued in anticipation of the Bonds; and

WHEREAS, the Director of Finance has certified that the estimated life or period of usefulness of the improvements described in Section 1 is at least five years, the estimated maximum maturity of the Bonds described in Section 2 is twenty years, and the maximum maturity of the Notes described in Section 3 is twenty years;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FAIRVIEW PARK, CUYAHOGA COUNTY, OHIO, THAT:

SECTION 1. It is necessary to issue bonds of this City in an aggregate principal amount not to exceed \$1,250,000 (the Bonds) for the purpose of constructing, reconstructing, repairing and equipping the roof of the City's recreation complex, and improvements appurtenant thereto, related building and site improvements.

SECTION 2. The Bonds shall be dated approximately December 1, 2019, shall bear interest at the now estimated rate of 6% per year, payable semi-annually until the principal amount is paid, and are estimated to mature in twenty annual principal installments on December 1 of each year that are in such amounts that the principal and interest payments on the Bonds in any fiscal year in which principal is payable are substantially equal. The first interest payment on the Bonds is estimated to be June 1, 2020 and the first principal payment on the Bonds is estimated to be December 1, 2020.

SECTION 3. It is necessary to issue and this Council determines that notes in an aggregate principal amount not to exceed \$1,250,000 (the Notes) shall be issued in anticipation of the issuance of the Bonds. The Notes shall be dated the date of issuance and shall mature one year from the date of issuance; provided that the Director of Finance may, if it is determined to be necessary or advisable to the sale of the Notes, establish a maturity date that is any date not later than one year from the date of issuance by setting forth that maturity date in the in the certificate awarding the Notes in accordance with Section 6 of this Ordinance (the Certificate of Award). The Notes shall bear interest at a rate not to exceed 5% per year (computed on the basis of a 360-day year consisting of

twelve 30-day months), payable at maturity or at any date of earlier prepayment as provided for in Section 4 and until the principal amount is paid or payment is provided for. The rate of interest on the Notes shall be determined by the Director of Finance in the Certificate of Award.

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

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

As used in this Section and this ordinance:

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

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

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

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

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

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

SECTION 6. The Notes shall be sold at not less than par plus any accrued interest to the original purchaser identified by the Director of Finance in the Certificate of Award (the Original Purchaser) in accordance with law and the provisions of this ordinance. The Director of Finance shall sign the Certificate of Award evidencing that sale to the Original Purchaser, cause the Notes to be prepared, and have the Notes signed and delivered, together with a true transcript of proceedings with reference to the issuance of the Notes if requested by the Original Purchaser, to the Original Purchaser upon payment of the purchase price. The Mayor, the Director of Finance, the Clerk of Council, the Director of Law and other City officials, as appropriate, are each authorized and directed to sign any transcript certificates, financial statements and other documents and instruments and to take such

actions as are necessary or appropriate to consummate the transactions contemplated by this ordinance. The Director of Finance is authorized, if it is determined to be in the best interest of the City, to combine the issue of Notes with one or more other note issues of the City into a consolidated note issue pursuant to Section 133.30(B) of the Revised Code.

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

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

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

SECTION 10. The City covenants that it will use, and will restrict the use and investment of, the proceeds of the Notes in such manner and to such extent as may be necessary so that (a) the Notes will not (i) constitute private activity bonds, arbitrage bonds or hedge bonds under Sections 141, 148 or 149 of the Internal Revenue Code of 1986, as amended (the Code), or (ii) be treated other than as bonds to which Section 103(a) of the Code applies, and (b) the interest thereon will not be treated as a preference item under Section 57 of the Code.

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

The Director of Finance, as the fiscal officer, or any other officer of the City having responsibility for issuance of the Notes is hereby authorized (a) to make or effect any election,

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

The Notes are hereby designated as “qualified tax-exempt obligations” for purposes of Section 265(b)(3) of the Code. In that connection, the City hereby represents and covenants that it, together with all its subordinate entities or entities that issue obligations on its behalf, or on behalf of which it issues obligations, in or during the calendar year in which the Notes are issued, (i) have not issued and will not issue tax-exempt obligations designated as “qualified tax-exempt obligations” for purposes of Section 265(b)(3) of the Code, including the Notes, in an aggregate amount in excess of \$10,000,000, and (ii) have not issued, do not reasonably anticipate issuing, and will not issue, tax-exempt obligations (including the Notes, but excluding obligations, other than qualified 501(c)(3) bonds as defined in Section 145 of the Code, that are private activity bonds as defined in Section 141 of the Code and excluding refunding obligations that are not advance refunding obligations as defined in Section 149(d)(5) of the Code) in an aggregate amount exceeding \$10,000,000, unless the City first obtains a written opinion of nationally recognized bond counsel that such designation or issuance, as applicable, will not adversely affect the status of the Notes as “qualified tax-exempt obligations”. Further, the City represents and covenants that, during any time or in any manner as might affect the status of the Notes as “qualified tax-exempt obligations”, it has not formed or participated in the formation of, or benefited from or availed itself of, any entity in order to avoid the purposes of subparagraph (C) or (D) of Section 265(b)(3) of the Code, and will not form, participate in the formation of, or benefit from or avail itself of, any such entity. The City further represents that the Notes are not being issued as part of a direct or indirect composite issue that combines issues or lots of tax-exempt obligations of different issuers.

SECTION 11. The Clerk of Council is directed to deliver a certified copy of this ordinance to the County Auditor.

SECTION 12. This Council determines that all acts and conditions necessary to be done or performed by the City or to have been met precedent to and in the issuing of the Notes in order to make them legal, valid and binding general obligations of the City of Fairview Park have been performed and have been met, or will at the time of delivery of the Notes have been performed and have been met, in regular and due form as required by law; that the full faith and credit and general

property taxing power (as described in Section 9) of the City are pledged for the timely payment of the debt charges on the Notes; and that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Notes.

SECTION 13. This Council finds and determines that all formal actions of this Council and of any of its committees concerning and relating to the passage of this ordinance were taken, and that all deliberations of this Council and of any committees that resulted in those formal actions were held, in meetings open to the public in compliance with the law.

SECTION 14. This ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the City, and for the further reason that this ordinance is required to be immediately effective in order to issue and sell the Notes, which is necessary to enable the City to timely enter into and meet its obligations under contracts for the construction which is urgently needed to enable the City to provide for the repair of the recreation center; wherefore, this ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED:
APPROVED:

1st reading: 01.07.19
2nd reading: 01.22.19
3rd reading:

Michael P. Kilbane, President of Council

Eileen Ann Patton, Mayor

Liz L. Westbrooks, Clerk of Council

FISCAL OFFICER'S CERTIFICATE

To the Council of the City of Fairview Park, Ohio:

As fiscal officer of the City of Fairview Park, I certify in connection with your proposed issue of not to exceed \$1,250,000 notes (the Notes), to be issued in anticipation of the issuance of bonds (the Bonds) for the purpose of constructing, reconstructing, repairing and equipping the roof of the City's recreation complex and related building and site improvements, that:

1. The estimated life or period of usefulness of the improvements described above is at least five years.
2. The estimated maximum maturity of the Bonds, calculated in accordance with Section 133.20 of the Revised Code, is twenty years, this being my estimate of the minimum period of life or usefulness of the improvements. If notes in anticipation of the Bonds are outstanding later than the last day of December of the fifth year following the year of issuance of the original issue of notes, the period in excess of those five years must be deducted from that maximum maturity of the Bonds.
3. The maximum maturity of the Notes is twenty years.

Dated: January 7, 2019



Director of Finance
City of Fairview Park, Ohio