

RESOLUTION R-23-09

**ESTABLISHING A CITY REVITALIZATION GRANT REVIEW COMMITTEE; AND
AUTHORIZING SAID COMMITTEE TO ADOPT AN APPLICATION GUIDE FOR THE
CITY REVITALIZATION GRANT PROGRAM**

WHEREAS, the City of Wilmington revised the Hotel Lodging Tax Code of Regulations “REGULATIONS” by Ordinance O-16-40, adopted August 18, 2016; thereby providing for the retention of a percentage by the City of Wilmington of all lodging taxes collected; and

WHEREAS, said retained hotel lodging tax proceeds are designed to be utilized in furtherance of community endeavors that enhance and foster community bonds and quality of life; and

WHEREAS, the REGULATIONS state that 99% of the Retained Hotel Lodging Tax Account will be administered by City Council to support local governmental and/or non-profit functions, quality of life, and economic development; and

WHEREAS, City Council desires to create a City Revitalization Grant Review Committee (“CRGRC”) for the purpose of administrating and allocating the collected funds as intended; and

WHEREAS, City Council desires to grant the CRGRC the authority to create and modify an Application Guide outlining rules and policies for the program; to review, approve and/or deny applications; and to cause grants monies to be distributed.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF
WILMINGTON, STATE OF OHIO:**

Section 1. That a City Revitalization Grant Review Committee be and hereby is created. Members of the committee shall be as follows:

- a. The City Auditor or designee
- b. Executive Director of Clinton County Regional Planning or designee
- c. The Mayor or designee.

Section 2. That the CRGRC is authorized to administrate allocation of Retained Hotel Lodging Excise Tax Funds including creating and modifying Application Guidelines and Policies for the City Revitalization Grant; reviewing, denying and/or approving applications; and distributing grant funds.

Section 2. That the City Revitalization Grant Review Committee shall make report to City Council on an annual basis (or as requested by City Council) of all allocations made to grant recipients from the Retained Hotel Lodging Tax Fund.

Section 4. That it is found 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 that resulted in this formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 5. That this ordinance shall be effective from the earliest period allowed by law.

Passed this 16th day of February 2023.

President of Council

ATTEST:

Clerk of Council

Approved by me this 16th day of February 2023.

Mayor

CITY OF WILMINGTON, OHIO
ORDINANCE NO. O-23-06

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF NOTES IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$1,150,000, IN ANTICIPATION OF THE ISSUANCE OF BONDS, FOR THE PURPOSE OF PAYING AT MATURITY, TOGETHER WITH OTHER LAWFULLY AVAILABLE FUNDS OF THE CITY, THE CITY'S OUTSTANDING SERIES 2022 LANDFILL NOTES, AND PAYING RELATED LAWFUL COSTS OF ISSUANCE; AUTHORIZING A PURCHASE AGREEMENT AND A REGISTRAR AGREEMENT; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Wilmington, Ohio (the "City"), now owns and operates a municipal landfill facility (the "*Landfill Facility*"), the services of which are provided to persons and corporations both within and without the corporation limits of the City; and

WHEREAS, by passage of Ordinance No. O-20-05 (the "*Series 2020 Phase I Bridge Notes Ordinance*") and the Certificate of Award authorized thereby (together with the Series 2020 Phase I Bridge Notes Ordinance, the "*Series 2020 Phase I Bridge Notes Legislation*"), this Council determined it to be necessary and in the best interest of the City and its residents to acquire and construct an expansion bridge area to provide a connection between the existing Landfill Facility and a future additional expansion area for the Landfill Facility, together with all necessary appurtenances thereto (the "*Bridge Improvements*"), and to commence acquiring and constructing a portion of the Bridge Improvements to be known as the Phase I Bridge Improvements (the "*Phase I Bridge Improvements*"), and authorized the issuance of general obligation (limited tax) bond anticipation notes in the aggregate principal amount not to exceed \$2,000,000 (the "*Series 2020 Phase I Bridge Notes*") for the purpose of paying a portion of the costs of the Phase I Bridge Improvements and paying costs authorized by Chapter 133 of the Ohio Revised Code incident thereto and to the issuance of the Bonds, or notes issued in anticipation thereof; and

WHEREAS, the Series 2020 Phase I Bridge Notes were consolidated for purposes of sale with an issue of \$450,000 Landfill Facility Equipment General Obligation (Limited Tax) Bond Anticipation Notes, Series 2020 (the "*Series 2020 Landfill Equipment Notes*") into a consolidated single issue of bond anticipation notes comprising the City's Landfill Facility General Obligation (Limited Tax) Improvement and Refunding Bond Anticipation Notes, Series 2020 (the "*Series 2020 Landfill Notes*"), pursuant to Section 133.30(B) of the Ohio Revised Code; and

WHEREAS, by passage of Ordinance No. O-21-8 (the "*Series 2021 Phase I Bridge Notes Ordinance*") and the Certificate of Award authorized thereby (together with the Series 2021 Phase I Bridge Notes Ordinance, the "*Series 2021 Phase I Bridge Notes Legislation*"), this Council determined it to be necessary and in the best interest of the City and its residents to issue notes in anticipation of bonds in an aggregate amount not to exceed \$1,950,000 and titled, Landfill Facility General Obligation (Limited Tax) Refunding Bond Anticipation Notes, Series 2021 (the "*Series 2021 Landfill Notes*"), for the purpose of paying at maturity, together with other lawfully available funds of the City, the Series 2020 Phase I Bridge Notes component of the then outstanding Series 2020 Landfill Notes comprised of the Series 2020 Phase I Bridge Notes and the Series 2020 Landfill Equipment Notes, and paying costs authorized by Chapter 133 of the Ohio Revised Code incident thereto and to the issuance of the bonds or notes issued in anticipation thereof; and

WHEREAS, the Series 2020 Landfill Equipment Notes were paid at their maturity on April 14, 2021, from lawfully available funds of the City; and

WHEREAS, by passage of Ordinance No. O-22-05 (the "*Series 2022 Landfill Notes Ordinance*") and the Certificate of Award authorized thereby (together with the Series 2022 Landfill Notes Ordinance, the "*Series 2022 Landfill Notes Legislation*"), this Council determined it to be necessary and in the best interest of the City and its residents to issue notes in anticipation of bonds in an aggregate amount not to exceed \$1,550,000 and titled, Landfill Facility General Obligation (Limited Tax) Refunding Bond Anticipation Notes, Series 2022 (the "*Series 2022 Landfill Notes*"), for the purpose of paying at maturity,

together with other lawfully available funds of the City, the Series 2021 Landfill Notes, and paying costs authorized by Chapter 133 of the Ohio Revised Code incident thereto and to the issuance of the bonds or notes issued in anticipation thereof; and

WHEREAS, the Series 2022 Landfill Notes will mature on April 12, 2023 and must be paid at maturity; and

WHEREAS, this Council hereby finds and determines that it is in the best interest of the City to issue notes in anticipation of bonds in an aggregate amount not to exceed \$1,150,000 and titled, Landfill Facility General Obligation (Limited Tax) Refunding Bond Anticipation Notes, Series 2023 (the “*Series 2023 Landfill Notes*”), for the purpose of paying at maturity, together with other lawfully available funds of the City, the Series 2022 Landfill Notes, and paying costs authorized by Chapter 133 of the Ohio Revised Code incident thereto and to the issuance of the bonds or notes issued in anticipation thereof; and

WHEREAS, the City Auditor, as fiscal officer of this City, has certified to this Council that the estimated life or period of usefulness of the Phase I Bridge Improvements is at least five (5) years and that the estimated maximum maturity, calculated in accordance with Sections 133.19 and 133.20(E) of the Ohio Revised Code, of the Bonds (a) anticipated by the issuance of the Series 2023 Landfill Notes is at least twenty (20) years; and that the maximum maturity of the Series 2023 Landfill Notes is two hundred forty (240) months less such number of months in which bond anticipation notes issued for the purpose have been outstanding (the Series 2020 Phase I Bridge Notes dated April 15, 2020, comprised the initial issue of bond anticipation notes issued for the purpose); and

WHEREAS, this Ordinance constitutes an emergency measure necessary for the immediate preservation of the public peace, property, health, and safety of the City and for the further reason that this Ordinance is required to be immediately effective in order to enable the City to coordinate the issuance and sale of the Series 2023 Landfill Notes herein described in a timely manner to enable the City to discharge, together with other lawfully available funds of the City, the Series 2022 Landfill Notes at their maturity;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Wilmington (the “*City*”), County of Clinton, State of Ohio, that:

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

“*Authorized Denominations*” means the denomination of \$100,000 or any integral multiple of \$5,000 in excess of \$100,000.

“*Book entry form*” or “*book entry system*” means a form or system under which (a) the ownership of book entry interests in Series 2023 Landfill Notes and the principal of and interest on the Series 2023 Landfill Notes may be transferred only through a book entry, and (b) physical Series 2023 Landfill Note certificates in fully registered form are issued by the City only to a Depository or its nominee as registered owner, with the Series 2023 Landfill Notes “immobilized” in the custody of the Depository or its designated agent. The book entry maintained by others than the City is the record that identifies the owners of book entry interests in those Series 2023 Landfill Notes and that principal and interest.

“*Bonds*” means the bonds authorized in Section 2 of this Ordinance.

“*Certificate of Award*” means the certificate authorized by Section 2, to be executed by the Chief Executive Officer and by the Fiscal Officer, setting forth and determining those terms or other matters pertaining to the Series 2023 Landfill Notes and their issuance, sale and delivery as this Ordinance requires or authorizes to be set forth or determined therein.

“*Chief Executive Officer*” means the Mayor of the City, and in his absence, means the President of City Council for the City.

“*Closing Date*” means the date of physical delivery of, and payment of the purchase price for, the Series 2023 Landfill Notes.

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

“*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 book entry interests in Series 2023 Landfill Notes or the principal of and interest on Series 2023 Landfill Notes, and to effect transfers of Series 2023 Landfill Notes, in book entry form, and includes and means initially The Depository Trust Company (a limited purpose trust company), New York, New York.

“*Fiscal Officer*” means the City Auditor, and in her absence, means the Deputy City Auditor for the City.

“*Note proceedings*” means, collectively, this Ordinance, the Certificate of Award, and such other proceedings of the City, including the Series 2023 Landfill Notes, that provide collectively for, among other things, the rights of holders and beneficial owners of the Series 2023 Landfill Notes.

“*Note Register*” means all books and records necessary for the registration, exchange and transfer of Series 2023 Landfill Notes as provided in Section 6.

“*Note Registrar*” means a bank or trust company authorized to do business in the State of Ohio and designated by the Chief Executive Officer and by the Fiscal Officer in the Certificate of Award pursuant to Section 6 as the initial authenticating agent, note registrar, transfer agent and paying agent for the Series 2023 Landfill Notes under the Registrar Agreement and until a successor Note Registrar shall have become such pursuant to the provisions of the Registrar Agreement and, thereafter, “*Note Registrar*” shall mean the successor Note Registrar.

“*Original Purchaser*” means PNC Capital Markets LLC, Columbus, Ohio.

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

“*Purchase Agreement*” means the Note Purchase Agreement between the City and the Original Purchaser, executed by the Chief Executive Officer and by the Fiscal Officer in accordance with Section 7 and filed with the Clerk of Council.

“*Registrar Agreement*” means the Note Registrar Agreement between the City and the Note Registrar, executed by the Chief Executive Officer and by the Fiscal Officer in accordance with Sections 4 and 6 and filed with the Clerk of Council.

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

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

Section 2. It is necessary and in the best interest of the City to issue and this Council hereby determines that bonds of the City shall be issued in an aggregate principal amount not to exceed \$1,150,000 (the “*Bonds*”), for the purpose of paying at maturity, together with other lawfully available funds of the City, the City’s outstanding Series 2022 Landfill Notes, and paying costs authorized by Chapter 133 of the Ohio Revised Code incident thereto and to the issuance of the Bonds, or notes issued in anticipation thereof.

The Bonds shall be dated approximately April 1, 2024, shall bear interest at a now estimated rate of interest of six percent (6%) per annum, payable semiannually until the principal amount is paid, and are now estimated to mature in twenty (20) annual principal installments on December 1 of each year, and in such amounts that the total principal and interest payments on the Bonds issued for the purpose shall, in any fiscal year in which principal is payable, be substantially equal. The first principal payment of the Bonds is estimated to be made on December 1, 2024. Debt charges on the Bonds as they become due, and financing costs related to the Bonds, shall be payable from the same sources specified in Section 9 hereof for payment of debt charges on the Series 2023 Landfill Notes, and this Council covenants to appropriate annually from such money such amount as is necessary to meet such debt charges and financing costs.

It is necessary to issue and this Council determines that notes in anticipation of the Bonds in an aggregate principal amount not to exceed \$1,150,000 (the “*Series 2023 Landfill Notes*”) shall be issued for the purpose described in this Section 2. The Series 2023 Landfill Notes shall be issued pursuant to Chapter 133 of the Ohio Revised Code, this Ordinance and the Certificate of Award.

The aggregate principal amount of the Series 2023 Landfill Notes to be issued *shall not exceed* the maximum principal amount specified in this Section 2 and shall be an amount determined on behalf of the City by the Chief Executive Officer and the Fiscal Officer in the Certificate of Award to be the aggregate principal amount of Series 2023 Landfill Notes which, along with other lawfully available funds of the City, is necessary for the purposes set forth in this Section 2.

The Series 2023 Landfill Notes shall be dated the date of issuance and shall mature April 11, 2024, provided that the Chief Executive Officer and the Fiscal Officer may, if it is deemed to be necessary or advisable to the sale of the Series 2023 Landfill Notes, establish a maturity date that is up to fifteen days prior to April 11, 2024, by setting forth that maturity date in the Certificate of Award. The Series 2023 Landfill Notes shall not be callable for early redemption.

The Series 2023 Landfill Notes shall bear interest at the rate per annum (computed on the basis of a 360-day year consisting of twelve 30-day months), as shall be determined by the Chief Executive Officer and by the Fiscal Officer in the Certificate of Award, provided that the true interest cost to the City shall not exceed four percent (5.00%) per annum. Interest on the Series 2023 Landfill Notes shall be payable at such rate at maturity, or until the principal amount is paid or provided for. The Series 2023 Landfill Notes shall bear interest from the most recent date to which interest has been paid or provided for or, if no interest has been paid or provided for, from their date.

The proceeds from the sale of the Series 2023 Landfill Notes received by the City (or withheld by the Original Purchaser for payment of financing costs on behalf of the City) shall be paid into the proper fund or funds, and those proceeds are appropriated and shall be used for the purpose for which the Series 2023 Landfill Notes are being issued. The Certificate of Award and the Purchase Agreement may authorize the Original Purchaser to withhold certain proceeds from the sale of the Series 2023 Landfill Notes to provide for the payment of certain financing costs related to the Series 2023 Landfill Notes on behalf of the City. Any portion of those proceeds that represents premium received by the City (after payment of those financing costs) shall be paid into the City’s Bond Retirement Fund and used to pay debt charges on the Series 2023 Landfill Notes. Any portion of those proceeds representing accrued interest on the Series 2023 Landfill Notes shall be paid into the City’s Bond Retirement Fund.

The Certificate of Award is hereby authorized and shall be executed by the Chief Executive Officer and by the Fiscal Officer, without further action of this Council, such approval to be evidenced conclusively by execution of the Certificate of Award.

Section 3. The Series 2023 Landfill Notes shall be of such number and denomination as requested by the Original Purchaser; provided that the Series 2023 Landfill Notes shall be issued only in Authorized Denominations. This Council hereby covenants that it will not exchange or reissue the Series 2023 Landfill Notes in less than Authorized

Denominations other than through a “primary offering,” as that term is defined in Securities & Exchange Commission Rule 15c2-12.

The Chief Executive Officer and the Fiscal Officer may withhold delivery of the Series 2023 Landfill Notes, and refuse payment therefore, unless and until the Original Purchaser delivers to the City a certificate acknowledging that the Original Purchaser will sell the Series 2023 Landfill Notes to no more than 35 persons, each of whom the Original Purchaser believes: (i) has such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of the prospective investment, and (ii) is not purchasing for more than one account or with a view to distributing the Series 2023 Landfill Notes.

Section 4. The debt charges on the Series 2023 Landfill 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 Chief Executive Officer and by the Fiscal Officer in the Certificate of Award, and shall be payable, without deduction for service charges at the office of a bank or trust company designated by the Chief Executive Officer and by the Fiscal Officer in the Certificate of Award. Notwithstanding the foregoing, if and so long as the Series 2023 Landfill Notes are issued in a book entry system, principal of and interest and any premium on the Series 2023 Landfill Notes shall be payable in the manner provided in any agreement entered into by the Fiscal Officer, in the name and on behalf of the City, in connection with the book entry system.

Section 5. If it is determined by the Chief Executive Officer and by the Fiscal Officer to be in the best interest of the City, to combine the issue of Series 2023 Landfill Notes with other securities of the City that are payable from property taxes into a consolidated single issue pursuant to Section 133.30(B) of the Ohio Revised Code, the sale of the Series 2023 Landfill Notes may be consolidated with another issue of bond anticipation notes of the City, and such consolidated issue shall be dated, mature and bear interest, be executed and be denominated in a manner consistent with the provisions of this Ordinance. The proceeds from the sale of such consolidated issue shall be apportioned, deposited and credited in accordance with Section 133.32 of the Ohio Revised Code to the respective purposes and funds in accordance with the amount of bond anticipation notes authorized. Any portion of those proceeds (after payment of financing costs as permitted by Section 2) representing premium and accrued interest shall be paid into the Bond Retirement Fund.

Section 6. The Series 2023 Landfill Notes shall be signed by the Chief Executive Officer and by the Fiscal Officer, in the name of the City and in their official capacities, provided that either or both of those signatures may be a facsimile. The Series 2023 Landfill Notes shall be issued in the Authorized Denominations and numbers as requested by the Original Purchaser and approved by the Fiscal Officer, shall be numbered as determined by the Fiscal Officer in order to distinguish each Series 2023 Landfill Note from any other Series 2023 Landfill Note, and shall express upon their faces the purpose, in summary terms, for which they are issued and that they are issued pursuant to Chapter 133 of the Ohio Revised Code, this Ordinance and the Certificate of Award.

The Chief Executive Officer and the Fiscal Officer shall designate the initial Note Registrar in the Certificate of Award, and shall sign and deliver, in the name and on behalf of the City, the Registrar Agreement between the City and the Note Registrar, in substantially the form as is now on file with the Clerk of Council. The Registrar Agreement is approved, together with any changes or amendments that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by the Chief Executive Officer and by the Fiscal Officer on behalf of the City, all of which shall be conclusively evidenced by the signing of the Registrar Agreement or amendments thereto. The Fiscal Officer shall provide for the payment of the services rendered and for reimbursement of expenses incurred pursuant to the Registrar Agreement, except to the extent paid or reimbursed by the Original Purchaser in accordance with the Purchase Agreement, from the proceeds of the Series 2023 Landfill Notes to the extent available and then from other money lawfully available which is hereby appropriated for that purpose.

No Series 2023 Landfill Note shall be valid or obligatory for any purpose or shall be entitled to any security or benefit under the Note proceedings unless and until the certificate

of authentication printed on the Series 2023 Landfill Note is signed by the Note Registrar as authenticating agent. Authentication by the Note Registrar shall be conclusive evidence that the Series 2023 Landfill Note so authenticated has been duly issued, signed and delivered under, and is entitled to the security and benefit of, the Note proceedings. The certificate of authentication may be signed by any authorized officer or employee of the Note Registrar or by any other person acting as an agent of the Note Registrar and approved by the Fiscal Officer on behalf of the City. The same person need not sign the certificate of authentication on all of the Series 2023 Landfill Notes. The entire principal amount of the Series 2023 Landfill Notes may be represented by a single Series 2023 Landfill Note and may be issued as fully registered securities and in book entry form or other uncertificated form in accordance with Section 9.96 and Chapter 133 of the Ohio Revised Code.

Notwithstanding any other provisions of this Ordinance, if the Chief Executive Officer and the Fiscal Officer determine in the Certificate of Award that it is in the best interest of and financially advantageous to the City, the Series 2023 Landfill Notes may be issued in book entry form in accordance with the following provisions of this Section.

The Series 2023 Landfill 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 Series 2023 Landfill 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 Series 2023 Landfill 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 Series 2023 Landfill 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 Series 2023 Landfill Notes for use in a book entry system, the Fiscal Officer may attempt to establish a securities depository/book entry relationship with another qualified Depository. If the Fiscal Officer does not or is unable to do so, the Fiscal Officer, after making provision for notification of the beneficial owners by the then Depository and any other arrangements deemed necessary, shall permit withdrawal of the Series 2023 Landfill Notes from the Depository, and shall cause the Series 2023 Landfill Notes in bearer or payable form to be signed by the officers authorized to sign the Series 2023 Landfill 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 Fiscal Officer may, and is hereby authorized and directed to, to the extent necessary or required, enter into any agreements, in the name and on behalf of the City that the Fiscal Officer determines to be necessary in connection with a book entry system for the Series 2023 Landfill Notes.

Section 7. The Series 2023 Landfill Notes shall be sold at not less than ninety-seven per cent of the aggregate principal amount thereof, as shall be determined by the Chief Executive Officer and by the Fiscal Officer in the Certificate of Award, plus accrued interest (if any) on the Series 2023 Landfill Notes from their date to the date of their delivery to the Original Purchaser, at private sale to the Original Purchaser as shall be determined by the Chief Executive Officer and by the Fiscal Officer in the Certificate of Award, and shall be awarded by the Chief Executive Officer and by the Fiscal Officer with and upon such other terms as are required or authorized by this Ordinance to be specified in the Certificate of Award, in accordance with law, the provisions of this Ordinance and the Purchase Agreement. The Chief Executive Officer and the Fiscal Officer shall sign and deliver the Certificate of Award and shall cause the Series 2023 Landfill Notes to be prepared and signed and delivered, together with a true transcript of proceedings with reference to the issuance of the Series 2023 Landfill Notes, to the Original Purchaser upon payment of the purchase price.

The Chief Executive Officer and the Fiscal Officer shall each sign and deliver, in the name and on behalf of the City, the Purchase Agreement between the City and the Original

Purchaser, in substantially the form now on file with the Clerk of Council, providing for the sale to, and the purchase by, the Original Purchaser of the Series 2023 Landfill Notes. The Purchase Agreement is approved, together with any changes or amendments thereto that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by the Chief Executive Officer and by the Fiscal Officer on behalf of the City, all of which shall be conclusively evidenced by the signing of the Purchase Agreement or amendments thereto.

If, in the judgment of the Fiscal Officer, the filing of an application for a rating on the Series 2023 Landfill Notes by one or more nationally-recognized rating agencies, is in the best interest of and financially advantageous to the City, the Fiscal Officer is authorized to prepare and submit those applications, to provide to each such agency such information as may be required for the purpose, and to provide further for the payment of the costs of obtaining each such rating, except to the extent paid in accordance with the Purchase Agreement from the proceeds of the Series 2023 Landfill Notes to the extent available and otherwise from any other lawfully available funds that are appropriated hereby for that purpose. Any prior action that the Fiscal Officer may have been taken with respect to obtaining such a rating is hereby approved and ratified.

Each of the Mayor, the President of Council, the City Auditor, the Deputy City Auditor, the Treasurer, the Law Director, the Clerk of Council, and other City officials, as appropriate, is 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.

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 Series 2023 Landfill Notes shall, to the extent necessary, be used to pay the debt charges on the Series 2023 Landfill Notes at maturity and are pledged for that purpose.

Section 9. That for the purpose of providing the necessary funds to pay debt charges on the Series 2023 Landfill Notes when and as due, there shall be levied on all the taxable property in the City, within the ten mill limitation, in addition to all other taxes, a direct tax annually which would have been levied if the Bonds had been issued without prior issuance of the Series 2023 Landfill Notes, which tax shall not be less than the interest and sinking fund tax required by Section 11 of Article XII of the Ohio Constitution. The amount of said tax to be levied or collected in any year shall be reduced by the amount to be available for the purpose of paying debt charges on the Series 2023 Landfill Notes from (a) any surplus in the City's Bond Retirement Fund, or (b) the proceeds of sale of (i) the Bonds, (ii) any bonds of the City issued for the purpose of retiring the Series 2023 Landfill Notes at maturity, or (iii) bond anticipation notes issued to retire the Series 2023 Landfill Notes at maturity. This Council reserves the right to make additional pledges on a parity with this pledge. Said tax 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 the year 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 are hereby required to be placed in the Bond Retirement Fund, which is irrevocably pledged for the payment of the debt charges on the Series 2023 Landfill Notes or the Bonds in anticipation of which they are issued when and as the same fall due.

To the extent other funds of the City, including, without limitation, receipts from the municipal income tax or revenues of the Landfill Facility, are available for the payment of the debt charges on the Series 2023 Landfill Notes or the Bonds and are appropriated for that purpose, the amount of the tax shall be reduced by the amount of those funds so available and appropriated in compliance with the covenant hereinafter set forth. To the extent necessary, the debt charges on the Series 2023 Landfill Notes and the Bonds shall be paid from municipal income taxes; and the City hereby covenants, subject and pursuant to such authority, including particularly Section 133.05(B)(7) of the Ohio Revised Code, to appropriate annually from such municipal income taxes, such amount as is necessary to meet such annual debt charges.

Nothing in the preceding paragraph in any way diminishes the irrevocable pledge of the full faith and credit and general property taxing power of the City to the prompt payment of the debt charges on the Series 2023 Landfill Notes.

Section 10. The City covenants that it will use, and will restrict the use and investment of, the proceeds of the Series 2023 Landfill Notes in such manner and to such extent as may be necessary so that (a) the Series 2023 Landfill Notes will not (i) constitute private activity bonds, arbitrage bonds or hedge bonds under Sections 141, 148 or 149 of the Code or (ii) be treated other than as bonds to which Section 103 of the Code applies, and (b) the interest on the Series 2023 Landfill Notes will not be an item of tax preference under Section 57 of the Code.

The City further covenants that (a) it will take or cause to be taken such actions that may be required of it for the interest on the Series 2023 Landfill Notes to be and remain excluded from gross income for federal income tax purposes, (b) it will not take or authorize to be taken any actions that would adversely affect that exclusion, and (c) it, or persons acting for it, will, among other acts of compliance, (i) apply the proceeds of the Series 2023 Landfill 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 Fiscal Officer, or any other officer of the City having responsibility for issuance of the Series 2023 Landfill 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 Series 2023 Landfill 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 Section 148(f)(4)(C) of the Code or available under Section 148 of the Code, for the purpose of assuring, enhancing or protecting favorable tax treatment or status of the Series 2023 Landfill 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 Series 2023 Landfill Notes, and (c) to give one or more appropriate certificates of the City, for inclusion in the transcript of proceedings for the Series 2023 Landfill Notes, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Series 2023 Landfill 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 Series 2023 Landfill Notes. The Fiscal Officer, or any other officer of the City having responsibility for issuance of the Series 2023 Landfill Notes, is hereby authorized to designate the Series 2023 Landfill Notes as “qualified tax-exempt obligations” if such designation is applicable and desirable, and to make necessary representations and covenants.

Section 11. The expenditure of the amounts necessary to pay any financing costs (as defined in Section 133.01 of the Ohio Revised Code) in connection with the Series 2023 Landfill Notes, to the extent not paid by the Original Purchaser in accordance with the Purchase Agreement, is authorized and approved, and the Fiscal Officer is authorized to provide for the payment of any such amounts and costs from the proceeds of the Series 2023 Landfill Notes to the extent available and otherwise from any other funds lawfully available that are hereby appropriated for that purpose.

Section 12. If deemed to be financially advantageous to the City by the Chief Executive Officer and the Fiscal Officer, the Chief Executive Officer and the Fiscal Officer are hereby authorized to apply for, to pay the fees for, and to enter into a Standby Note Purchase Agreement (“SNPA”) with the Treasurer of the State of Ohio (the “*State Treasurer*”) to provide credit enhancement of the Series 2023 Landfill Notes through the Ohio Market Access

Program (“OMAP”), as selected and negotiated by the Chief Executive Officer and the Fiscal Officer and as set forth in the Certificate of Award. Any actions heretofore taken by the Chief Executive Officer and/or the Fiscal Officer in making application to OMAP are deemed to have been in the best interest of the City and are hereby ratified. The SNPA is hereby authorized in the form on file with the Clerk of Council with such changes thereto not materially adverse to the City as may be approved by the Chief Executive Officer and the Fiscal Officer who are authorized to execute the SNPA on behalf of the City. The City acknowledges the agreement of the State Treasurer in the SNPA that, in the event the City is unable to repay the principal amount and accrued and unpaid interest on the Series 2023 Landfill Notes at their maturity, whether through lawfully available City funds or through the issuance of other obligations of the City, the State Treasurer agrees (a) to purchase the Series 2023 Landfill Notes from the Holders or beneficial owners thereof upon presentation to the State Treasurer for such purchase at a price of par plus accrued interest to maturity or (b) to purchase renewal bond anticipation notes of the City in a principal amount not greater than the principal amount of the Series 2023 Landfill Notes plus interest due at maturity, with such renewal notes bearing interest at the rate of the one-year benchmark on the Municipal Market Data (“MMD”) AAA scale on the date of passage of this Ordinance plus 400 basis points, or the highest rate as may then be permitted by law, whichever is lower (the “Renewal Note Rate”), maturing not more than one year after the date of their issuance, and being prepayable at any time with thirty (30) days’ notice, provided that in connection with the State Treasurer’s purchase of such renewal notes the City shall deliver to the State Treasurer an unqualified opinion of nationally recognized bond counsel that (i) such renewal notes are the legal, valid and binding general obligations of the City, and the principal of and interest on such renewal notes, unless paid from other sources, are to be paid from the proceeds of the levy of ad valorem taxes within the ten-mill limitation imposed by law on all property subject to ad valorem taxes levied by the City and (ii) interest on the renewal notes is excluded from gross income for federal tax purposes under Section 103 of the Internal Revenue Code as amended to the same extent that interest on the Series 2023 Landfill Notes is so excluded. The Renewal Note Rate shall be stated in the Certificate of Award authorized hereby. The officers signing the Series 2023 Landfill Notes are authorized to take all actions that may be, in their reasonable judgment, necessary to provide for such SNPA, including but not limited to, the inclusion of a notation on the form of the Series 2023 Landfill Notes providing notice to Holders or beneficial owners of the existence of the SNPA and providing instructions to such Holders or beneficial owners regarding the presentation of the Series 2023 Landfill Notes for purchase by the State Treasurer at stated maturity. If an SNPA is executed on behalf of the City, the following legend shall be included on the face of the Series 2023 Landfill Note forms: *The holder of this Series 2023 Landfill Note hereby consents to the registration of this Series 2023 Landfill Note in the name of the Treasurer of the State of Ohio upon the receipt from the State Treasurer of the full payment of principal and interest due at maturity on such Series 2023 Landfill Note on or before the date of maturity; provided that, in the case of a Series 2023 Landfill Note held in a book entry system by a depository, the interest of the State Treasurer shall be noted in accordance with the procedures established by the Depository. In the case of an unregistered Series 2023 Landfill Note, such registration in the name of the State Treasurer shall be demonstrated by a notation on the face of this Series 2023 Landfill Note of such transfer of ownership.*

Section 13. In connection with the issuance of the Series 2023 Landfill Notes herein authorized, the law firm of Locke Lord LLP is hereby retained to act as bond counsel to this City. Those legal services shall be in the nature of legal advice and recommendations as to the documents and the proceedings in connection with the authorization, sale and issuance of the Series 2023 Landfill Notes and securities issued in renewal of the Series 2023 Landfill Notes and rendering at delivery related legal opinions. In providing those legal services, as an independent contractor and in an attorney-client relationship, that firm shall not exercise any administrative discretion on behalf of this City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State, any county or municipal corporation or of this City, or the execution of public trusts. For those legal services that firm shall be paid just and reasonable compensation and shall be reimbursed for actual out-of-pocket expenses incurred in providing those legal fees. The Fiscal Officer is authorized and directed to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment as written statements are submitted by that firm.

Section 14. The Clerk of Council is directed to promptly deliver a certified copy of this Ordinance and a copy of the Certificate of Award, when executed, to the County Auditor of Clinton County, Ohio.

Section 15. This Council determines that all acts and conditions necessary to be performed by the City or to have been met precedent to and in the issuing of the Series 2023 Landfill Notes in order to make them legal, valid and binding general obligations of the City have been performed and have been met, or will at the time of delivery of the Series 2023 Landfill 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 of the City are pledged for the timely payment of the debt charges on the Series 2023 Landfill Notes; and that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Series 2023 Landfill Notes.

Section 16. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council or its committees and that all deliberations of this Council and of any committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law, including Section 121.22 of the Ohio Revised Code, except as otherwise permitted thereby.

Section 17. The preambles hereto are and shall for all purposes be construed to be integral and operative parts of this Ordinance.

Section 18. This Ordinance constitutes an emergency measure necessary for the immediate preservation of the public peace, property, health, and safety of the City and for the further reason that this Ordinance is required to be immediately effective in order to enable the City to timely coordinate the sale and issuance of the Series 2023 Landfill Notes to enable the City to discharge, together with other lawfully available funds of the City, the Series 2022 Landfill Notes at their maturity; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

Section 19. The Clerk of Council is hereby directed to cause a succinct summary of this Ordinance to be published in accordance with Section 731.21 of the Ohio Revised Code.

Passed: February 2, 2023

Mark W. McKay
President of Council

Attest:

Andrea Tacoronte
Clerk of Council

Approved: February 2, 2023

John M. Stanforth
Mayor

CERTIFICATE

The undersigned Clerk of Council of the City of Wilmington, Ohio, hereby certifies that the foregoing is a true copy of Ordinance No. O-23-06 passed by the Council of the City on February 2, 2023.

Andrea Tacoronte
Clerk of Council

RECEIPT OF COUNTY AUDITOR OF CLINTON COUNTY, OHIO

Received this _____ day of February 2023, a certified copy of the foregoing Ordinance No. O-23-06 of the Council of the City of Wilmington, Ohio.

Terence G. Habermehl
Clinton County Auditor

ORDINANCE NO. O-23-01

**AMENDING ORDINANCE NO. O-22-08 TO INCREASE WAGES UNDER THE
EMPLOYEE PAY PLAN FOR CALENDAR YEAR 2023, AND DECLARING AN
EMERGENCY, AS AMENDED**

WHEREAS, in March 2022 an additional 2% cost-of-living increase was implemented for the remainder of the year 2022 in ordinance number O-22-08.

WHEREAS, due to unexpected job-market wage growth, recruitment competition, improving economic conditions and a general appreciation for the outstanding service provided by the non-bargaining employees, the City of Wilmington desires to provide a 2% cost-of-living increase to all non-bargaining employees for the City of Wilmington for calendar year 2023.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WILMINGTON, STATE OF OHIO

Section 1. That Ordinance No. O-22-08 be, and the same hereby is, amended with respect to the non-bargaining employees pay plan therein provided, by generally increasing the hourly and annual wages paid under steps A, B, C, D, E, E+1 through E+10 therein provided in each of the various ranges, by the amount of two percent (2%), effective the first day of the pay period following the passage of this ordinance.

Section 2. That all actual adjustments and corrections are set forth on Exhibit A, which is attached hereto and incorporated herein by reference.

Section 3. That it is found 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 that resulted in this formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 4. That this Ordinance is hereby declared to be an emergency measure necessary to the immediate preservation of the public health, safety and welfare of the City and its inhabitants due the desire to adhere to deadlines, and accordingly, shall be in full force and effect immediately upon its passage.

Passed: February 2, 2023

President of Council

Attest:

Clerk of Council

Approved: February 2, 2023

Mayor

Exhibit A
Ordinance O-23-01

2023 PAY PLAN	A	B	C	D	E	E+1	E+2	E+3	E+4	E+5	E+6	E+7	E+8	E+9	E+10
RANGE 1	12.79	13.43	14.10	14.81	15.55	15.63	15.70	15.78	15.86	15.94	16.02	16.10	16.18	16.26	16.34
RANGE 2	13.43	14.10	14.81	15.55	16.32	16.41	16.49	16.57	16.65	16.74	16.82	16.90	16.99	17.07	17.16
RANGE 3	14.10	14.81	15.55	16.32	17.14	17.23	17.31	17.40	17.49	17.57	17.66	17.75	17.84	17.93	18.02
RANGE 4	14.81	15.55	16.32	17.14	18.00	18.09	18.18	18.27	18.36	18.45	18.54	18.64	18.73	18.82	18.92
RANGE 5	15.55	16.32	17.14	18.00	18.90	18.99	19.09	19.18	19.28	19.38	19.47	19.57	19.67	19.77	19.86
RANGE 6	16.32	17.14	18.00	18.90	19.84	19.94	20.04	20.14	20.24	20.34	20.45	20.55	20.65	20.75	20.86
RANGE 7	17.14	18.00	18.90	19.84	20.83	20.94	21.04	21.15	21.25	21.36	21.47	21.58	21.68	21.79	21.90
RANGE 8	18.00	18.90	19.84	20.83	21.88	21.99	22.10	22.21	22.32	22.43	22.54	22.65	22.77	22.88	23.00
RANGE 9	18.90	19.84	20.83	21.88	22.97	23.09	23.20	23.32	23.43	23.55	23.67	23.79	23.91	24.03	24.15
RANGE 10	19.84	20.83	21.88	22.97	24.12	24.24	24.36	24.48	24.60	24.73	24.85	24.98	25.10	25.23	25.35
RANGE 11	20.83	21.88	22.97	24.12	25.32	25.45	25.58	25.71	25.84	25.96	26.09	26.22	26.36	26.49	26.62
RANGE 12	21.88	22.97	24.12	25.32	26.59	26.72	26.86	26.99	27.13	27.26	27.40	27.54	27.67	27.81	27.95
RANGE 13	22.97	24.12	25.32	26.59	27.92	28.06	28.20	28.34	28.48	28.63	28.77	28.91	29.06	29.20	29.35
RANGE 14	24.12	25.32	26.59	27.92	29.32	29.46	29.61	29.76	29.91	30.06	30.21	30.36	30.51	30.66	30.82
RANGE 15	25.32	26.59	27.92	29.32	30.78	30.94	31.09	31.25	31.40	31.56	31.72	31.88	32.04	32.20	32.36
RANGE 16	26.59	27.92	29.32	30.78	32.32	32.48	32.65	32.81	32.97	33.14	33.30	33.47	33.64	33.81	33.97
RANGE 17	27.92	29.32	30.78	32.32	33.94	34.11	34.28	34.45	34.62	34.79	34.97	35.14	35.32	35.50	35.67
RANGE 18	29.32	30.78	32.32	33.94	35.63	35.81	35.99	36.17	36.35	36.53	36.72	36.90	37.09	37.27	37.46
RANGE 19	30.78	32.32	33.94	35.63	37.42	37.60	37.79	37.98	38.17	38.36	38.55	38.75	38.94	39.13	39.33
RANGE 20	32.32	33.94	35.63	37.42	39.29	39.48	39.68	39.88	40.08	40.28	40.48	40.68	40.89	41.09	41.30
RANGE 21	33.94	35.63	37.42	39.29	41.25	41.46	41.67	41.87	42.08	42.29	42.50	42.72	42.93	43.15	43.36
RANGE 22	35.63	37.42	39.29	41.25	43.31	43.53	43.75	43.97	44.19	44.41	44.63	44.85	45.08	45.30	45.53
RANGE 23	37.42	39.29	41.25	43.31	45.48	45.71	45.94	46.17	46.40	46.63	46.86	47.10	47.33	47.57	47.81
RANGE 24	39.29	41.25	43.31	45.48	47.75	47.99	48.23	48.47	48.72	48.96	49.20	49.45	49.70	49.95	50.20
RANGE 25	41.25	43.31	45.48	47.75	50.14	50.39	50.64	50.90	51.15	51.41	51.66	51.92	52.18	52.44	52.71
RANGE 26	43.31	45.48	47.75	50.14	52.65	52.91	53.18	53.44	53.71	53.98	54.25	54.52	54.79	55.07	55.34
RANGE 27	45.48	47.75	50.14	52.65	55.28	55.56	55.84	56.11	56.40	56.68	56.96	57.25	57.53	57.82	58.11
RANGE 28	47.75	50.14	52.65	55.28	58.05	58.34	58.63	58.92	59.21	59.51	59.81	60.11	60.41	60.71	61.01
RANGE 29	50.14	52.65	55.28	58.05	60.95	61.25	61.56	61.87	62.18	62.49	62.80	63.11	63.43	63.75	64.06
RANGE 30	52.65	55.28	58.05	60.95	63.99	64.31	64.64	64.96	65.28	65.61	65.94	66.27	66.60	66.93	67.27

POLICE PROBATIONARY RATES – 2023

Rate of \$24.00/hour per WSA Agreement

January 1, 2023 – December 31, 2025

FIRE PROBATIONARY RATES – 2023

Rates for 2023

<u>Step A</u>	<u>Step B</u>	<u>Step C</u>
\$16.19/hour	\$17.04/hour	\$17.94/hour

Steps based on new employee's certifications and experience.

DISPATCH PROBATIONARY RATES – 2023

Rate of \$19.13/hour per FOP Agreement

January 1, 2022 – December 31, 2024

RESOLUTION NO. R-23-02

ADOPTING A REVISED CITY OF WILMINGTON PUBLIC RECORDS POLICY

WHEREAS, the City of Wilmington Public Records Policy provides a framework through which the City complies with the letter and spirit of Ohio's Public Records Act; and

WHEREAS, City Council last adopted a Public Records Policy by Resolution 2049 on September 20, 2007.

WHEREAS, Council wishes to adopt a revised City of Wilmington Public Records Policy, attached hereto and incorporated herein as **"Exhibit A."**

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WILMINGTON, STATE OF OHIO:

Section 1. That the City of Wilmington Public Records Policy attached hereto as **"Exhibit A,"** is hereby adopted.

Section 2. That it is found 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 that resulted in this formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 2. That this ordinance shall be effective from the earliest period allowed by law.

Passed this 2nd day of February 2023.

President of Council

ATTEST:

Clerk of Council

Approved by me this 2nd day of February 2023.

Mayor

City of Wilmington
Public Records Policy

Adopted: January 5, 2023
Resolution R-22-02

The City of Wilmington is committed to openness as a foundation for a better-informed citizenry, which leads to better government and better public policy. Consistent with the premise that government at all levels exists first and foremost to serve the interests of the people, it is the mission and intent of the City of Wilmington to at all times fully comply with and abide by both the spirit and the letter of Ohio's Public Records Act.

A copy of the most recent edition of the Ohio Sunshine Laws manual is available via the [Attorney General's website](#) for the purpose of keeping employees of the office and the public educated as to the office's obligations under the Ohio Public Records Act, Open Meetings Act, records retention laws, and Personal Information Systems Act. The Public Records Release Policy of the City of Wilmington does not supersede the Ohio Sunshine Laws and will always resort to following the laws first and foremost.

MANAGING RECORDS

All City of Wilmington records are subject to records retention schedules, which are updated regularly. The current retention schedules are available at City Hall, at a location readily available to the public, as required by §149.43(B)(2), Ohio Revised Code.

For a copy of our Public Records Policy please contact the Mayor's office. This schedule lists generally the types of records that are stored on a fixed medium (paper, computer, film, etc.) that are created, received, or sent under the jurisdiction of the City and document the organization, functions, policies, decisions, procedures, operations, or other activities of the City. The records maintained by the city and the ability to access them are means to provide trust between the public and the City.

1. Custodian of Public Records; When available

The Human Resources Director or designee is the official Public Records Custodian of all records which are centrally maintained by the City.

Department heads are the official custodians of all records maintained within their departments. Public records requests may be made directly to Department heads or through the Public Records Custodian.

Requests for records from the police department may be made directly to the police records clerk on the first floor of the City Building.

Public records requests will be accommodated during regular business hours when offices maintaining said records are open for business. Public records requests will not be accepted on weekends or holidays.

Section 1. Public records

Public records include the following: Any document – paper, electronic (including, but not limited to, e-mail), or other format – that is created or received by or comes under the jurisdiction of a public office that documents the organization, functions, policies, decisions, procedures, operations, or other activities of the office. All records of the City of Wilmington are public unless they are specifically exempt from disclosure under the Ohio Revised Code or Federal law.

Section 1.1

It is the policy of the City of Wilmington that records will be organized and maintained so that they are readily available for inspection and copying.

Section 2. Record requests

Each request for public records should be evaluated for a response using the following guidelines:

Section 2.1

Although no specific language is required to make a request, the requester must at least identify the records requested with sufficient clarity to allow the public office to identify, retrieve, and review the records. If it is not clear what records are being sought, the Public Records Custodian must contact the requester for clarification, and should assist the requestor in revising the request by informing the requestor of the manner in which the office keeps its records.

Section 2.2

The Public Records Custodian may ask the requester to put a verbal request in writing, may ask for the requester to give identifying information, or may inquire

about the intended use of the information; but a written request is not mandatory, identifying information is not required and the intended use does not have to be disclosed. However, providing such information would benefit the requester by enhancing the ability of the Public Records Custodian to identify, locate and deliver the public records requested. Some Departments have forms that the requester has the option of using in making the request.

Public records can be accessed by one of the following methods: a request to view public records in person; a request for copies of public records that the requester will personally pick up from the Public Records Custodian; or a request for copies of public records that the requester wants to have mailed or otherwise transmitted to the requester.

Public records must be made available for inspection promptly. Copies of public records must be made available within a reasonable period of time. “Prompt” and “reasonable” consider the volume of records requested; the proximity of the location where the records are stored; and the necessity for any legal review of the records requested.

1. Request to view public records. The requester may make a request to view public records. The Public Records Custodian shall prepare the public records for inspection “promptly,” as required by the Ohio Revised Code. The actual time required to comply with the request may depend on the circumstances (such as the location of the records, the manner kept, or the volume of records requested).
2. Copies of public records. The requester may make a request to the Public Records Custodian to have copies of public records made.
3. Transmitting copies of public records. A requester may request that copies of public records be transmitted to him or her by U.S. Mail or by any other means of transmission that is available and is conducive to transmitting the public records. The cost of transmission must be paid by the requester before the public records will be provided. While the City is under no obligation to provide records in electronic format, it is the policy of the City to provide information to the public in the most practical and convenient manner, considering all of the circumstances. Therefore, if the City receives a request for information to be made available in an electronic format, such request will be forwarded to the Public Records Custodian for a

determination as to whether such information will be generated and released in an electronic format.

Section 2.3

Each request should be evaluated for an estimated length of time required to gather the records. Routine requests for records should be satisfied immediately if feasible to do so. Routine requests include, but are not limited to, meeting minutes (both in draft and final form), budgets, salary information, forms and applications, personnel rosters, etc. If fewer than 20 pages of copies are requested or if the records are readily available in an electronic format that can be e-mailed or downloaded easily, these should be made as quickly as the equipment allows.

Section 2.4

All requests for public records will be acknowledged by the public office within three business days following the office's receipt of the request if there is contact information provided. Copies will be made available by the Public Records Custodian or Alternate "within a reasonable time," as required by the Ohio Revised Code. The time for compliance will depend upon the availability of records and the volume of records requested. If a request is deemed significantly beyond "routine," such as the volume of records requested; the proximity of the location where the records are stored; and the necessity for any legal review of the records requested, the acknowledgement will include the applicable cause for the extended fulfillment time.

Section 2.5

Any denial of public records requested must include an explanation, including legal authority. If portions of a record are public and portions are exempt, the exempt portions are to be redacted and the rest released. If there are redactions, each redaction must be accompanied by a supporting explanation, including legal authority.

Section 3. Fees and Payment

Those seeking public records will be charged only the actual cost of making copies or printing pictures and shall also pay the market cost (e.g. postage) of delivery and other supplies used in mailing, delivery or transmission of the public record. Payment for public records requests may be required prior to the actual copying or printing of records.

Copies made on letter or legal-size paper are \$0.05 per page. If the Public

Records Custodian uses an outside copying service to make the copies, the requester will be required to pay the cost of the entire copying job, as billed by the copying service. Copies that are requested in some format other than normal letter or legal paper will be “at cost,” without considering employee time spent preparing the copies. (For example, public records in electronic format placed on a CD will be assessed the cost of the CD, plus the cost, if any, of creating the electronic copies.)

Public records will only be copied by the Public Records Custodian or other authorized officers, employees, or representatives. The Public Records Custodian may use an outside copying service to make the copies, at the Public Records Custodian’s discretion. Under no circumstances will the requester be permitted to make the copies himself or herself. The manner of copying is at the discretion of the Public Records Custodian. Requests to copy a certain number of public records on a given page, by “reducing” copy size or otherwise, may be met at the discretion of the Public Records Custodian.

Individual departments may adopt a policy that if fewer than 10 pages of copies are requested, no fee will be charged. All requests exceeding 10 pages will be charged a fee of \$0.05 per page for all pages copied. No receipt will be required to be issued for payments received of less than \$1.00.

Ohio law may provide for specific fees to be charged for certain records (e.g. police accident reports \$4.00 each, with photographs at an additional cost, pursuant to R.C. §5502.12).

Section 4. Denial of a Public Records Request

Under certain circumstances, records are not defined as “public records” under Ohio law or are exempt from disclosure under federal law. In these situations, the public record request will be denied on that basis. The Ohio Revised Code requires that any denial be supported by legal authority. A denial that is responding to a written public records request will also be given in writing. Written reasons for denial will not be required for verbal public records requests. Any denial of public records requested must include an explanation, including legal authority. If portions of a record are public and portions are exempt, the exempt portions are to be redacted and the rest released. If there are redactions, each redaction must be accompanied by a supporting explanation, including legal authority, unless federal or state law authorized or requires the redaction.

The Ohio Revised Code regards certain actions as being “denials” of public record requests. These situations are handled as follows:

1. Redaction. The Ohio Revised Code defines a “redaction” as “obscuring or deleting any information that is exempt from the duty to permit public inspection or copying from an item that otherwise meets the definition of a ‘record’ in section 149.011 of the Revised Code.” Examples of redaction are “blacking out” or “whiting out” or “cutting out” portions of a document.

When a public record contains information that is not within the definition of a “public record” as defined by law, or is exempt by law, the Public Records Custodian will make available that portion of the public record that does meet the definition of a “public record.” The Public Records Custodian shall make a copy of the public record, perform the redaction, then make a copy of that sheet and make the second copy available to the requester. The requester will not be charged for the first copy made. If practical, the first copy will be retained by the Public Records Custodian.

2. Requests that are ambiguous, overly broad, or are difficult to identify the public records requested. At times, a requester may make a public records request from which the Public Records Custodian cannot determine which public records are being sought. In such circumstances, the Public Records Custodian will inform the requester that the public records request is denied but will give the requester an opportunity to more accurately describe the public records sought. If the requester is seeking public records organized in a certain way, but the public records are not organized in that way, the Public Records Custodian will inform the requester of the manner that the public records of the office under discussion are maintained and accessed. The requester may then submit a public records request that more accurately reflects the actual organization of the public records sought.

Section 5. Compliance

The Public Records Custodian reserves the right to consult with legal counsel prior to the release of any public records. This is to allow the City to comply with laws regarding the release of certain records.

Section 6. Failure to respond to a public records request

The City of Wilmington recognizes the legal and non-legal consequences of failure to properly respond to a public records request. A public office’s failure to

comply with a request may result in remedies and damages according to R.C. 149.43.

END OF POLICY

ORDINANCE NO. O-23-04

AMENDING CERTAIN SECTIONS OF CHAPTER 133 - EMPLOYMENT PROVISIONS OF THE WILMINGTON CODIFIED ORDINANCES

WHEREAS, the City of Wilmington Water Plant is staffed 24 hours a day; and

WHEREAS, staffing the night shift at the plant has become increasingly difficult; and

WHEREAS, City Council desires to amend Section 133.20 SHIFT DIFFERENTIAL COMPENSATION of the Wilmington Codified Ordinances, in order to provide more time between the issuance of a utility bill and its due date.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WILMINGTON, STATE OF OHIO:

[Additions to the CODIFIED ORDINANCES are in **bold** and deletions are lined through or noted below]:

Section 1. That Section 133.20 SHIFT DIFFERENTIAL COMPENSATION be, and hereby is, amended to read in full as follows:

Section 131.20 SHIFT DIFFERENTIAL COMPENSATION

(a) Shift differential compensation shall be paid to all (full-time or part-time) non-bargaining, non-exempt unit employees whose departments operate on a 24-hour period schedule.

(b) No employee shall be entitled to shift differential compensation unless he/she has worked not less than eight hours in each regularly scheduled shift period for which shift differential compensation is sought.

(c) Shift differential compensation shall be paid only for actual time worked on the differential shift at the following rate:

(1) ~~Eighty cents per hour~~ **A ten percent (10%) hourly premium over the employee's regular rate** for any shift worked as a regularly scheduled shift by a non-exempt employee after 6:00 p.m.

(2) ~~Eighty cents per hour~~ **A ten percent (10%) hourly premium over the employee's regular rate** for any shift (consisting of at least five hours or more) worked as an additionally scheduled shift by a non-exempt employee after 6:00 p.m.

(d) Shift differential compensation shall not be paid for sick leave, disability leave, vacation, personal leave, holiday time off or compensation time off.

(e) Eligible shifts are designated shifts scheduled for hours after 6:00 p.m.

(f) Team members called to duty for special or emergency assignments will receive their regular pay unless overtime rules apply per the City of Wilmington Employee Handbook..

Section 2. That each and every section of Chapter 133, Employment Provisions, of the Codified Ordinances, except those sections identified and amended in Section 1 of this ordinance, are hereby ratified and republished and incorporated herein by reference as though fully rewritten herein.

Section 3. That it is found 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 that resulted in this formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 4. That this ordinance shall be effective from the earliest period allowed by law.

Passed this 2nd day of February 2023.

ATTEST:

President of Council

Clerk of Council

Approved by me this 2nd day of February 2023.

Mayor

ORDINANCE NO. O-23-07

AMENDING CERTAIN SECTIONS OF CHAPTER 935 CEMETERY RULES AND REGULATIONS OF THE WILMINGTON CODIFIED ORDINANCES

WHEREAS, City Council desires to amend certain sections of Chapter 935 Cemetery Rules and Regulations; and

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WILMINGTON, STATE OF OHIO:

[Additions to the CODIFIED ORDINANCES are in **bold** and deletions are ~~lined through~~ or noted below]:

Section 1. That Section 935.02 GENERAL POLICY be, and hereby is, amended to read in full as follows:

SEC. 935.02. GENERAL POLICY.

- (a) The cemetery shall be open every day of the year from sunrise to sunset.
- (b) ~~The City shall be responsible only for markers and items installed to City specifications and approval pursuant to City ordinances.~~ **The City of Wilmington is not responsible for damages to headstones, vases, monuments, vaults, foundations, or mausoleums resulting from ordinary hazards of cemetery work, vandalism, or natural causes. Such items are personal property.**
- (c) The cemetery ground shall be sacredly devoted to the burial of the dead.
- (d) All work in the cemetery shall be done by employees of the City, or with authorization from the Director of Public Service **or designee**.
- (e) No person shall discharge any firearm within the cemetery grounds, except in case of military funerals and on Memorial Day, without the written permission of the Director of Public Service.
- (f) All visitors' vehicles shall remain on the driveways.
- (g) All debris, discarded flowers or decorations shall be placed in trash containers.
- (h) ~~Artificial flowers may be placed on graves between November 1 and April 1.~~ **All pets must be on leash. Pet owners must clean up after their pets. The cemetery staff reserves the right, at its discretion, to request an owner remove their pet from the premises.**
- (i) No person shall remove, cut, deface or destroy cemetery or City property without authorization from the Director of Public Service.
- (j) If at any time any object or structure, or any part of any structure, within the cemetery shall be deemed objectionable or unsightly, the Director of Public Service **or designee** shall have the authority to remove the same.
- (k) No person shall drive any vehicle faster than ten miles per hour within the cemetery or drive over any path or walkway.
- (l) Recreational use of the cemetery is subject to authorization from the Service Director.
- (m) No advertising shall be allowed in the cemetery.

Section 2. That Section 935.03 INTERMENTS be, and hereby is, amended to read in full as follows:

SEC. 935.03. INTERMENTS.

- (a) *Burials.*
 - (1) All remains can be permanently memorialized at Sugar Grove Cemetery by being deposited in an interment space in the earth.
 - (2) All interments on owner's lot shall be enclosed in an outer container of stone, concrete, steel, brick or synthetic material approved for burial purpose.
- (b) *Cremated remains.* Cremated remains being in an urn may be buried in space in the earth **or placed in approved niche**. Under no circumstances shall ~~the cemetery scatter~~ cremated remains **be scattered outside of designated scattering grounds**.

Section 3. That Section 935.04 DECORATIONS be, and hereby is, amended to read in full as follows:

SEC. 935.04. DECORATIONS.

- (a) Planting of flowers, flower pots, evergreens or bushy plants must be approved by Director of Public Service **or designee**.
- (b) ~~The cutting and trimming of grass is one of the largest and most costly maintenance activities of the cemetery.~~ For economy of maintenance during the growing season, it is desired that flowers be placed on graves only in approved containers.
- (c) The City shall have the right to remove all floral designs, flowers and other decorations of any kind from the cemetery if, in the judgment of the Director of Public Service **or designee**, they do not conform to the standards set forth herein.
- (d) Decorations placed upon lots and graves on special holidays during the growing season such as Easter, Mother's Day, Memorial Day, etc., ~~shall~~**may** be removed after a period of seven days to avoid the burning of the grass.
- (e) Winter decorations, such as natural wreaths placed on easels, and other approved arrangements shall be permitted from November 1 to April 1.
 - (1) Winter decorations shall be removed when they become unsightly.
 - (2) All winter decorations shall be removed April 1.
- (f) Articles made of concrete, benches, urns, boxes or the like shall not be permitted in the cemetery without the approval of the Director of Public Service **or designee**.

Section 4. That Section 935.07 FEES AND SERVICES be, and hereby is, amended to read in full as follows:

SEC. 935.07. FEES AND SERVICES.

- (a) A schedule of fees for all services provided by Sugar Grove Cemetery shall be set by the Director of Public Service and shall be made available through the Office of Public Services.
- (b) All funerals are to arrive at the Sugar Grove Cemetery no later than 2:45 p.m. on weekdays and by 12 noon on weekends. An additional charge, ~~of \$100.00 as set forth in the schedule of fees, will be applied~~ for the first hour and an additional ~~\$100.00 charge~~ for each subsequent hour will accrue on arrivals later than these times.
- (c) It is normally not the policy of the City to open or close graves on Holidays or Sundays, unless arrangements are made in advance with the approval of the Director of Public Service **or designee**.

Section 5. That each and every section of Chapter 935 CEMETERY RULES AND REGULATIONS of the Codified Ordinances, except those sections identified and amended in Sections 1,2 and 3 of this ordinance, are hereby ratified and republished and incorporated herein by reference as though fully rewritten herein.

Section 6. That it is found 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 that resulted in this formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 7. That this ordinance shall be effective from the earliest period allowed by law.

Passed this 16th day of February 2023.

President of Council

ATTEST:

Clerk of Council

Approved by me this 16th day of February 2023.

Mayor

ORDINANCE NO. O-23-08

**AMENDING CERTAIN SECTIONS OF CHAPTER 937 INDIGENT BURIAL
POLICY OF THE WILMINGTON CODIFIED ORDINANCES**

WHEREAS, City Council desires to amend certain sections of Chapter 937 Indigent Burial Policy of the Wilmington Codified Ordinances.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WILMINGTON, STATE OF OHIO:

[Additions to the CODIFIED ORDINANCES are in **bold** and deletions are ~~lined through~~ or noted below]:

Section 1. That Section 935.07 GENERAL POLICY be, and hereby is, amended to read in full as follows:

SEC. 937.06. POLICY.

- (a) *Authorization:* Upon finding that the deceased was a legal resident of the City and an indigent person, and where the deceased person is claimed by an indigent person, that the claimant is indigent, the Director of Public Service or designee shall authorize the funeral director or other party to cremate the decedent.
- (b) *Cost of cremation:* The City shall dispose of the remains of indigent persons by cremation only. The City shall pay a maximum of \$750.00 for the cremation and inurnment of the remains of the deceased. Said services shall include transportation of the deceased to the funeral home, necessary supplies and procedures, and provide a temporary urn for the storage of the deceased's cremated remains. The City of Wilmington is hereby authorized to pay such expenses, upon certification from the funeral director and receipt of an invoice or bill from the funeral director.
- (c) *Release to family:* The cremated remains of the deceased may **not** be released to the decedent's family.
- (d) *Burial for unclaimed remains:* If the cremated remains are not claimed, the Director of Public Service shall cause the remains to be buried, and the City of Wilmington is hereby authorized to pay such expenses, upon certification from the funeral director and receipt of an invoice or bill for the burial. The City shall also provide at the grave of the person's cremated remains, if such remains are buried, a ~~metal~~ marker on which the person's name and age, if known, and date of death shall be inscribed.

Section 2. That each and every section of Chapter 937 INDIGENT BURIAL RULES of the Codified Ordinances, except those sections identified and amended in Sections 1 of this ordinance, are hereby ratified and republished and incorporated herein by reference as though fully rewritten herein.

Section 3. That it is found 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 that resulted in this formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 4. That this ordinance shall be effective from the earliest period allowed by law.

Passed this 16th day of February 2023.

President of Council

ATTEST:

Clerk of Council

Approved by me this 16th day of February 2023.

Mayor

DRAFT

ORDINANCE NO. O-23-xx

AMENDING CERTAIN SECTIONS; AND ADDING CERTAIN SECTIONS TO CHAPTER 505 ANIMALS AND FOWL OF THE WILMINGTON CODIFIED ORDINANCES

WHEREAS, City Council desires to amend Chapter 505 ANIMALS AND FOWL of the Wilmington Codified Ordinances in order to support implementation of a feral/community cat control program and to remove obsolete sections from the codified ordinances; and

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WILMINGTON, STATE OF OHIO:

[Additions to the CODIFIED ORDINANCES are in **bold** and deletions are lined through or noted below]:

Section 1. That Section 505.01 DOGS AND OTHER ANIMALS RUNNING AT LARGE be, and hereby is, amended to read in full as follows:

SEC. 505.01. DOGS AND OTHER ANIMALS RUNNING AT LARGE.

- (a) No person, being the owner of or having charge of horses, mules, cattle, sheep, goats, geese, ducks, turkeys, chickens or other fowl or animals shall permit them to run at large upon any public place or upon any unenclosed lands within the City.
- (b) No person owning or harboring any dog, whether licensed or unlicensed, muzzled or unmuzzled, shall permit such dog at any time to run or be at large in any place within the City, other than the premises of such owner or harborer, unless such dog shall be under leash and accompanied by a responsible person having the same in charge and under effective restraint.
- (c) It shall be the duty of the Chief of Police, officer of the Police Department or other agent duly authorized by the Director of Public Safety to kill any ~~bitch in heat or~~ vicious animal found running at large on the streets or public grounds which is not accompanied by a person having the same lawfully in charge.
- (d) Whoever violates this section is guilty of a minor misdemeanor.

Section 2. That Section 505.02 IMPOUNDING AND DISPOSITION: RECORDS be, and hereby is, rescinded in full as follows:

~~SEC. 505.02. IMPOUNDING AND DISPOSITION; RECORDS.~~

- ~~(a) It shall be the duty of any officer of the Police Department or other agent duly authorized by the Director of Public Safety to apprehend any dog found running at large contrary to the provisions of Section 505.01, or any vicious animal found not confined or not secured contrary to the provisions of Chapter 507, and to impound such dog or vicious animal in the City pound or other suitable place. The person impounding such dog or vicious animal shall make a complete registry, entering the breed, color and sex of such dog, and whether licensed, upon such impoundment. If licensed, he shall enter the name and address of the owner and the number of the license tag.~~
 - ~~(b) Not later than three days after the impounding of any dog or vicious animal, the owner shall be notified, in writing, or if the owner of the dog or vicious animal is unknown to the person impounding such dog or vicious animal, written notice describing the dog or vicious animal and the place and time of taking shall be posted at a conspicuous place in the City Building. The owner of any dog or vicious animal so impounded may reclaim such dog or vicious animal within three days after receipt or posting of notice upon payment of all costs and charges incurred by the City for impounding and maintenance of the dog or vicious animal with such payment to be made to the City into the General Fund.~~
 - ~~(c) It shall be the duty of the Chief of Police, or his designee, to keep all dogs and vicious animals so impounded for a period of six days. If, at the expiration of three days from the date of notice to the owner or the posting of notice, such dog or vicious animal shall not have been redeemed, it may be destroyed in a humane manner. Any dog or vicious animal determined by a veterinary to be suffering from rabies, mange or other infectious or dangerous disease shall not be released but may forthwith be destroyed.~~
- ~~(Ord. No. 2741, 6-18-87)~~

Section 3. That Section 505.04 ABANDONING ANIMALS be, and hereby is, amended to read in full as follows:

SEC. 505.04. ABANDONING ANIMALS.

- (a) No owner or keeper of a dog, cat or other domestic animal shall abandon such animal.
- (b) **This section does not apply to activities conducted as part of a City-Sponsored Animal Welfare Program, as defined in Section 505.071(a).**
- (c) Whoever violates this section is guilty of a misdemeanor of the second degree on a first offense and a misdemeanor of the first degree on each subsequent offense.

Section 4. That Section 505.071 CRUELTY TO COMPANION ANIMALS be, and hereby is, amended to read in full as follows:

SEC. 505.071. CRUELTY TO COMPANION ANIMALS.

- (a) As used in this section:
 - City-sponsored animal welfare program* means a program sponsored by and/or administrated by the Director of Public Safety that may include, but is not limited to, trapping, sterilizing, vaccinating for rabies, eartipping, and returning companion animals, particularly cats, to their original location.**
 - Companion animal* means any animal that is kept inside a residential dwelling and any dog or cat regardless of where it is kept, including a pet store as defined in Ohio R.C. 956.01. "Companion animal" does not include livestock or any wild animal.
 - Cruelty, torment and torture* have the same meanings as in Ohio R.C. 1717.01.
 - Dog kennel* means an animal rescue for dogs that is registered under Ohio R.C. 956.06, a boarding kennel or a training kennel.
 - Federal Animal Welfare Act* means the "Laboratory Animal Act of 1966", Pub. L. No. 89-544, 80 Stat. 350 (1966), 7 U.S.C.A. 2131 et seq., as amended by the "Animal Welfare Act of 1970", Pub. L. No. 91-579, 84 Stat. 1560 (1970), the "Animal Welfare Act Amendments of 1976", Pub. L. No. 94-279, 90 Stat. 417 (1976), and the "Food Security Act of 1985", Pub. L. No. 99-198, 99 Stat. 1354 (1985), and as it may be subsequently amended.
 - Practice of veterinary medicine* has the same meaning as in Ohio R.C. 4741.01.
 - Residential dwelling* means a structure or shelter or the portion of a structure or shelter that is used by one or more humans for the purpose of a habitation.
 - Serious physical harm* means any of the following:
 - (1) Physical harm that carries an unnecessary or unjustifiable substantial risk of death;
 - (2) Physical harm that involves either partial or total permanent incapacity;
 - (3) Physical harm that involves acute pain of a duration that results in substantial suffering or that involves any degree of prolonged or intractable pain;
 - (4) Physical harm that results from a person who confines or who is the custodian or caretaker of a companion animal depriving the companion animal of good, wholesome food and water that proximately causes the death of the companion animal.
 - Wild animal* has the same meaning as in Ohio R.C. 1531.01.
- (b) No person shall knowingly torture, torment, needlessly mutilate or maim, cruelly beat, poison, needlessly kill, or commit an act of cruelty against a companion animal.
- (c) No person who confines or who is the custodian or caretaker of a companion animal shall negligently do any of the following:
 - (1) Torture, torment or commit an act or cruelty against the companion animal;
 - (2) Deprive the companion animal of necessary sustenance, or confine the companion animal without supplying it during the confinement with sufficient quantities of good, wholesome food and water, if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the deprivation or confinement;
 - (3) Impound or confine the companion animal without affording it, during the impoundment or confinement, with access to shelter from heat, cold, wind, rain, snow, or excessive direct sunlight if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the lack of adequate shelter.

- (d) No owner, manager or employee of a dog kennel who confines or is the custodian or caretaker of a companion animal shall negligently do any of the following:
- (1) Torture, torment, or commit an act of cruelty against the companion animal;
 - (2) Deprive the companion animal of necessary sustenance, or confine the companion animal without supplying it during the confinement with sufficient quantities of good, wholesome food and water, if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the deprivation or confinement;
 - (3) Impound or confine the companion animal without affording it, during the impoundment or confinement, with access to shelter from heat, cold, wind, rain, snow or excessive direct sunlight if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the lack of adequate shelter.
- (e) Subsections (b), (c) and (d) of this section do not apply to any of the following:
- (1) A companion animal used in scientific research conducted by an institution in accordance with the federal animal welfare act and related regulations;
 - (2) The lawful practice of veterinary medicine by a person who has been issued a license, temporary permit, or registration certificate to do so under Ohio R.C. Chapter 4741;
 - (3) Dogs being used or intended for use for hunting or field trial purposes, provided that the dogs are being treated in accordance with usual and commonly accepted practices for the care of hunting dogs;
 - (4) The use of common training devices, if the companion animal is being treated in accordance with usual and commonly accepted practices for the training of animals;
 - (5) The administering of medicine to a companion animal that was properly prescribed by a person who has been issued a license, temporary permit, or registration certificate under Ohio R.C. Chapter 4741.
 - (6) Activities conducted as part of a City-Sponsored Animal Welfare Program as defined in 505.071(a).**
- (f) (1) Whoever violates subsection (b) hereof is guilty of a misdemeanor of the first degree on a first offense. On each subsequent offense such person is guilty of a felony and shall be prosecuted under appropriate State law.
- (2) Whoever violates subsection (c) hereof is guilty of a misdemeanor of the second degree on a first offense and a misdemeanor of the first degree on each subsequent offense.
- (3) Whoever violates subsection (d) hereof is guilty of a misdemeanor of the first degree.
- (4) a. A court may order a person who is convicted of or pleads guilty to a violation of this section to forfeit to an impounding agency, as defined in Ohio R.C. 959.132, any or all of the companion animals in that person's ownership or care. The court also may prohibit or place limitations on the person's ability to own or care for any companion animals for a specified or indefinite period of time.
- b. A court may order a person who is convicted of or pleads guilty to a violation of this section to reimburse an impounding agency for the reasonably necessary costs incurred by the agency for the care of a companion animal that the agency impounded as a result of the investigation or prosecution of the violation, provided that the costs were not otherwise paid under Ohio R.C. 959.132.
- (5) If a court has reason to believe that a person who is convicted of or pleads guilty to a violation of this section suffers from a mental or emotional disorder that contributed to the violation, the court may impose as a community control sanction or as a condition of probation a requirement that the offender undergo psychological evaluation or counseling. The court shall order the offender to pay the costs of the evaluation or counseling.

Section 5. That a new Section 595.081 OUTDOOR FEEDING PROHIBITED be, and hereby is, added to the Wilmington Codified Ordinances.

SEC 505.081 OUTDOOR FEEDING PROHIBITED

- (a) (1) **No person, unless authorized by law or through a City-Sponsored Animal Welfare Program as defined in Section 505.071(a), shall recklessly leave food or any other type of feed outdoors unattended so as to attract animals running at large. The feeding of one's own animal(s), wild birds, or feeding as**

described in Section 507.01(e) of the Wilmington Codified Ordinances, on their premises shall be the exception, so long as the feed does not create a nuisance as described in Section 505.08 of the Wilmington Codified Ordinances.

(2) It shall be prima facie evidence of willful violation of this section if a person, not authorized by law or acting through a City-Sponsored Animal Welfare Program as defined in Section 505.071(a), shall recklessly:

- a. Leave food or any other type of feed outdoors unattended and not in the presence of the owner's animal(s); or
- b. Allow animal(s) running at large or stray animals to feed on one's own property.
- b. By leaving food or any other type of feed outdoors unattended, which does attract animals running at large or strays, the person recklessly feeding the animals(s) shall be deemed to be the owner, keeper, harbinger or one who has charge of any such animals(s) running at large or stray for purposes of Sections 505.01, 505.04, and 505.08.
- c. Whoever violates this section as a first-time offender is guilty of a minor misdemeanor.
- d. Whoever violates any provision of this section in a second or subsequent offense shall be guilty of a fourth-degree misdemeanor.

Section 6. That each and every section of 505, Animals and Fowl, of the Codified Ordinances, except those sections identified and amended in Sections 1, 2, 3, 4, and 5 of this ordinance, are hereby ratified and republished and incorporated herein by reference as though fully rewritten herein.

Section 7. That it is found 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 that resulted in this formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 8. That this ordinance shall be effective from the earliest period allowed by law.

Passed this ____ day of _____ 2023

President of Council

ATTEST:

Clerk of Council

Approved by me this ____ day of _____ 2023

Mayor